

State of Hawaii
DEPARTMENT OF LAND AND NATURAL RESOURCES
Engineering Division

August 26, 2022

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

Delegation of Authority to the Chairperson to Enter into a Memorandum of Understanding with The Friends of Iolani Palace for the Iolani Palace State Monument Improvements Project, Honolulu, Oahu, Hawaii, TMK: (1) 2-1-25:2

The Department of Land and Natural Resources (DLNR) desires to enter into a Memorandum of Understanding (MOU) with The Friends of Iolani Palace (FOIP) to memorialize the use of National Park Services Grant funds in conjunction with State CIP funding to provide improvement to the roofing system and other miscellaneous work. The Iolani Palace State Monument is under the jurisdiction of DLNR, Division of State Parks but is managed by the FOIP under a long-term lease.

BACKGROUND:

FOIP engaged the services of a historical architectural preservation company, to identify and assess the ongoing and deteriorating circumstances related to the leaks and structural corrosion in the roof. The investigative report documents the source, nature, extent, and severity of the roof condition. The report enabled FOIP to obtain public funds from the US National Park Service, under the stipulation that the Grant Funds totaling approximately \$500,000 be supplemented by a cost match with State Funds. The State of Hawaii has appropriated \$1,000,000 for the Project. Thus, the purpose of the MOU is to provide the mechanism by which FOIP will incrementally deposit Grant Funds with DLNR to cover costs of construction, construction monitoring, and environmental monitoring for the Project.

The intent of the Project is to preserve and improve the Iolani Palace roof covering and various roof structures that are in disrepair and in need of rehabilitation. The last time the roof had any significant repair work done was in 1974. The most evident leaks appear to be concentrated around the juncture between the vertical sidewalls and the sloped roofing on the Makai side. However, it is not possible to determine the extent of deterioration and address the leaks because visibility of subsurface water intrusion is covered by the existing slate roof and only the areas of extensive damage can be readily assessed. In order to properly address and correct the deterioration of the roof, the entire slate roof must be removed to visibly identify and improve all the locations where attention is required.

PROPOSED AGREEMENT:

DLNR will manage planning, permitting, construction, and payments for the Project. All procurements will be made in accordance with the State Procurement Code, Hawaii Revised Statutes (HRS) Chapter 103D and the Project will comply with applicable provisions of HRS Chapter 343, and Title 11, Chapter 200.1 Hawaii Administrative Rules (HAR).

The MOU would remain in effect until DLNR's final acceptance of and final payment for contracted MOU work. Any unused Grant Financing from the US National Park Service would be returned to the FOIP under the conditions outlined in the MOU. A copy of the draft MOU, which is subject to change, is attached as EXHIBIT A.

RECOMMENDATION:

That the Board of Land and Natural Resources:

1. Delegate authority to the Chairperson, subject to review and approval as to form by the Department of the Attorney General, to enter into the MOU between DLNR and FOIP, as needed, to carry out the intent of the project scope of work, collect funds from FOIP, and make payments to the Contractor.
2. Delegate authority to the Chairperson to approve, award and enter into a construction contract and, if necessary, supplemental agreements, in accordance with HRS Chapter 103D for this project and authorize the Chairperson to sign the necessary documents pertaining to this project, subject to available funding, and review and approval as to form by the Department of the Attorney General.

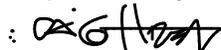
Respectfully submitted,



CARTY CHANG
Chief Engineer

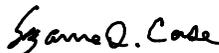
Attachment:
MOU-FOIP-DLNR

Requested by:

: 

Curt A. Cottrell, Administrator
Division of State Park

Approved for Submittal:



SUZANNE D. CASE, Chairperson
Board of Land and Natural Resources

MEMORANDUM OF UNDERSTANDING
(IOLANI PALACE STATE MONUMENT IMPROVEMENTS, PHASE 1 PROJECT)

This Memorandum of Understanding (“MOU”) dated _____, outlines the agreement between the State of Hawaii, Department of Land and Natural Resources (“DLNR”) and The Friends of Iolani Palace (“FOIP”) regarding the *Iolani Palace State Monument Improvements, Phase 1* project at Honolulu, Oahu, Hawaii.

RECITALS

- A. FOIP and DLNR enter into this MOU regarding the joint project funding of the construction, construction monitoring, and environmental monitoring of the *Iolani Palace State Monument Improvements, Phase 1* (the “Project”).
- B. The Project entails planning, design, permitting, construction, construction monitoring, environmental monitoring, and contractor’s as-built drawings from the executed project work.
- C. The intent of the Project is to preserve and repair the Iolani Palace roof covering and various roof structures that are in disrepair and in need of serious attention. The last time the roof had any significant repair work done was in 1974. The leaks that are most evident appear to be concentrated around the juncture between the vertical sidewalls and the sloped roofing on the Makai side. However, it is not possible to determine the extent of deterioration and address the leaks because visibility of subsurface water intrusion is covered by the existing slate roof and only the areas of extensive damage can be readily assessed. The entire slate roof should be removed to visibly identify and repair all the locations where repair is required.
- D. FOIP engaged the services of a historical preservation architectural company, to identify and assess the ongoing and deteriorating circumstances related to the leaks and structural corrosion in the roof. Their report forms the basis for documenting the source, nature, extent, and severity of the roof condition. The State of Hawaii has appropriated \$1,000,000 for the Project, of which a public funding cost match of \$499,629 has been procured and administered by FOIP. Thus, the purpose of the MOU is to provide the mechanism by which FOIP will deposit approved funds to a State trust account (“Trust Account”) to cover the costs of construction, construction monitoring, and environmental monitoring for the Project. The source of public funds for the cost match is from FOIP through grant funding from Saving America’s Treasures administered by the US National Park Service (NPS).
- E. DLNR will manage planning, permitting, and construction for the Project. All procurements will be made in accordance with the State Procurement Code, Hawaii Revised Statutes (HRS) Chapter 103D and the Project will comply with applicable provisions of HRS Chapter 343, and Title 11, Chapter 200.1 Hawaii Administrative Rules (HAR)

- F. DLNR and FOIP desire to memorialize their understanding of the terms and conditions upon which DLNR and FOIP will fund the construction, construction monitoring, and environmental monitoring for the Project.

Now, THEREFORE, the terms of the MOU are as follows:

1. Estimated Cost of Project: The current estimated cost for the construction, construction monitoring, and environmental monitoring for the Project (“MOU Work”) is approximately ONE MILLION FOUR HUNDRED THOUSAND DOLLARS (\$1,400,000.00).
2. Joint Funding of the Project: DLNR and FOIP agree to jointly fund the MOU Work, with FOIP expending the available grant funds and DLNR funding the remainder of the Project cost.
3. Contribution: FOIP agrees to contribute to DLNR, FOUR HUNDRED NINETY-NINE THOUSAND SIX HUNDRED TWENTY-NINE and NO/100 DOLLARS (\$499,629.00) (the “FOIP Contribution”), upon and subject to the terms and conditions set forth in this MOU.
4. Use of FOIP Contribution: FOIP Contribution shall be used solely as set forth in the MOU to fund the MOU Work qualified by NPS approval.
5. Deposit of FOIP Contribution: FOIP Contribution shall be held in a separate account and shall not be commingled with other funds of the State. FOIP shall deposit FOIP Contribution upon receipt of construction contractor submitted invoice provided through DLNR to FOIP. FOIP shall make every effort to ensure timely submittal of funds into the Trust Account to ensure that payment delay costs are not accrued by the State.
6. Payment of Money for MOU Work: DLNR shall make each progress payment for the MOU Work by making payments by or on behalf of DLNR and from the Trust Account in equal amounts until the FOIP account has been depleted.
7. Return of Funds: FOIP Contribution or any portion thereof remaining, as the situation may be, shall be returned to FOIP as set forth herein below:
 - a. If for any reason DLNR is unable to award a contract for the MOU Work, DLNR shall provide written notification to FOIP and shall promptly return any unused portion of FOIP Contribution to FOIP.
 - b. If for any reason a contract for the MOU Work is awarded but there are circumstances that arise and prevent or otherwise make impracticable the contract’s completion, then upon termination or cancellation of the contract, DLNR shall promptly return any unused portion of FOIP Contribution to FOIP.

- c. If, after the DLNR's final acceptance of the MOU Work and DLNR's final payment is made, there is an unused portion of FOIP Contribution, DLNR shall promptly return any unused portion of FOIP Contribution to FOIP.

8. Miscellaneous Provisions:

- a. Partial Invalidity: If any provision of the MOU or its application to any person or circumstance shall to any extent be invalid or unenforceable, the remaining provisions of this MOU, or the application of such provision to person or circumstances other than those as to which it is invalid or unenforceable, shall not be affected.
- b. Governing Law: This MOU shall be construed, interpreted, and applied in accordance with the laws of the State of Hawaii.
- c. No Warranty: Nothing in this MOU shall be construed as a warranty or guaranty of the successful or full completion of the Project or the MOU Work, or of the quality of the Project or the MOU Work.
- d. No Third-Party Beneficiaries: No term or provision of the MOU is intended to be, or shall it be, for the benefit of any person, firm, organization, or corporation not a party hereto, and no such other person, firm, organization, or corporation shall have any right or cause of action hereunder.
- e. No Partnership: Any intention to create a joint venture or partnership relation between the parties hereto is hereby expressly disclaimed.
- f. Modifications: This MOU may not be modified except by a written agreement signed by both parties.
- g. Binding on and Inuring to Benefit of Successors and Assigns: This MOU shall be binding upon, and shall inure to the benefit of the parties, and their respective successors and assigns.
- h. Notices: All notices and other communications in connection with this MOU shall be in writing and shall be deemed to have been received by a party when received in the case of hand delivery, facsimile transmission, e-mail, or internationally recognized courier services, or three (3) days after being sent by United States mail using the information of the DLNR and FOIP as shown below. Any refusal to accept delivery of a written notice delivered or mailed to the addresses set forth below resulting in non-operation of the receiving party's facsimile equipment, shall be deemed to be receipt of such notice for the purpose of this MOU.

DLNR: Department of Land and Natural Resources
Engineering Division
1151 Punchbowl Street, Room 221
Honolulu, Hawaii 96813
Attention: Mr. Steve Ozoa
Telephone: (808) 587-0256
Email: steve.h.ozoa@hawaii.gov
Facsimile: (808) 587-0283

FOIP: The Friends of Iolani Palace
364 South King Street
Honolulu, Hawaii 96813
Attention: Paula Akana Guanzon
Telephone: (808) 522-0822
Email: paula@iolanipalace.org

i. Counterparts; Facsimile or Email Execution: The parties hereto agree that this instrument may be executed in counterparts, each of which shall be deemed an original, and said counterparts shall together constitute one and the same agreement, binding upon all the parties hereto, notwithstanding that all of the parties are not signatory to the original or the same counterparts. For all purposes, including, without limitation, recordation, filing and delivery of this instrument, duplicate unexecuted and unacknowledged pages of the counterparts may be discarded, and the remaining pages assembled as one document. An executed counterpart of this instrument transmitted and received by facsimile or email shall be deemed for all purposes to be an original, executed counterpart thereof.

Memorandum of Understanding
Iolani Palace State Monument Improvements, Ph.1 Project

IN WITNESS WHEREOF, DLNR and FOIP have executed this Memorandum of Understanding as of the date stated above.

The Friends of Iolani Palace

By: _____
Title: _____

Approved as to form:

**State of Hawaii, Department of Land and
Natural Resources**

Name: _____
Deputy Attorney General

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

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

BLNR Submittal L-1 8-26-22

Final Audit Report

2022-08-02

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 Agreement completed.
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