

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

December 8, 2022

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

Land Board Members:

SUBJECT: REQUEST APPROVAL TO AUTHORIZE THE CHAIRPERSON TO NEGOTIATE, ENTER INTO, AMEND, EXTEND, AND TERMINATE A MEMORANDUM OF AGREEMENT BETWEEN THE STATE OF HAWAII DEPARTMENT OF LAND AND NATURAL RESOURCES DIVISION OF FORESTRY AND WILDLIFE AND THE NATIONAL PARK SERVICE/ALA KAHAKAI NATIONAL HISTORIC TRAIL, DR. PHIL FOTI, AND MR. JORDAN MEDEIROS, FOR HISTORIC SITE RESTORATION WORK ON TMK: (3) 8-7-005:029, 'ALA'Ē 1<sup>st</sup> and 2<sup>nd</sup>, SOUTH KONA;

SUMMARY

This Memorandum of Agreement aims to rectify and mitigate damages to a historic state-owned trail, site 24136, TMK (3) 8-7-005:029. The adjacent landowners encroached and damaged a section of a state-owned historic trail while dozing a perimeter fence. As a part of the original subdivision process and public access plan, the County of Hawai'i issued a Notice of Violation and Order ZCV-2020-131W with corrective actions to repair the trail, per State Historic Preservation Division (SHPD) specifications. The Department of Land and Natural Resources (Department) Division of Forestry and Wildlife and the National Park Service Ala Kahakai National Historic Trail program will offer technical support.

BACKGROUND

On May 29, 2019, a site visit was conducted by representatives of the Division of Forestry and Wildlife's Nā Ala Hele Program, Ala Kahakai National Historic Trail, State Historic Preservation Division, and the Hawai'i County Planning Department, and it was determined by those representatives that there is a fence line with grading encroached onto a state-owned historic trail site 24136, and breached the historic trail property.

On September 24, 2021, the County of Hawai'i Planning Department issued Corrective Actions relating to a Notice of Violation and Order ZCV-2020-131W (Exhibit 2), as the

breach also violated conditions of the original subdivision permit (SUB-06-000435) and Special Management Area Permit (SMM-07-000051). These corrective actions aim to rectify and repair damages to the historic trail.

Under Hawai'i Revised Statute (HRS) §264-1 and §198D, the State of Hawai'i (through the Department's Land Division) has ownership jurisdiction of Historic Trail Site 24136 as a trail. Under HRS §6E, SHPD has jurisdiction on the trail as a historic property. Under HRS §198D, the Nā Ala Hele Trail and Access Program serves as the trail consulting agency for the State. The Ala Kahakai National Historic Trail is also recognized by the State and County of Hawai'i, via a Memorandum of Understanding, as a stewardship stakeholder of the Ala Kahakai National Historic Trail network mandated by the United States Department of Interior.

Together, through this Agreement, the damage to the trail can be repaired and the trail restored creating a benefit to the public while holding the violators accountable.

#### CHAPTER 343 ENVIRONMENTAL REVIEW

In accordance with the requirements of Chapter 343, HRS, an environmental assessment is not required as this request does not include approval of an action, pursuant to §§343-2 and 343-5(a).

#### RECOMMENDATIONS

That the Board:

1. Approve that the Department enter into Memorandums of Agreement with
  - a. Ala Kahakai National Historic Park, National Park Service
  - b. Dr. Phil Foti
  - c. Mr. Jordan Medeiros
  
2. Authorize the Chairperson to negotiate, amend to include any terms as may be appropriate, finalize, and execute the draft Memorandum of Agreement, subject to approval as to form by the Department of the Attorney General.

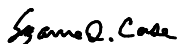
Respectfully submitted,



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David G. Smith, Administrator

APPROVED FOR SUBMITTAL:



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