

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

April 26, 2024

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

Land Board Members:

SUBJECT: APPROVAL OF A MEMORANDUM OF UNDERSTANDING BETWEEN THE DIVISION OF FORESTRY AND WILDLIFE AND RESOURCES LEGACY FUND TO ADVANCE A PARTNERSHIP ON KOA REFORESTATION.

SUMMARY:

This Board Submittal requests approval of a Memorandum of Understanding (MOU) between the Division of Forestry and Wildlife (Division) and Resources Legacy Fund, a private non-profit 501(c)(3) organization, for the advancement of the Koa Reforestation partnership. Resources Legacy Fund (RLF) works with philanthropy and governments to support and perform essential services to promote natural resource conservation and social equity.

TERM OF MEMORANDUM OF UNDERSTANDING:

The terms of the Memorandum of Understanding shall remain in effect until canceled or modified.

BACKGROUND:

The State of Hawaii seeks to advance a well-coordinated, landscape-scale, scientifically and culturally informed statewide effort to restore critical native Hawaiian forests and simultaneously support Hawaii's communities and economy. The State of Hawaii Forest Action Plan (<https://dlnr.hawaii.gov/forestry/files/2013/09/Hawaii-Forest-Action-Plan-2016-FINAL.pdf>) articulates these goals, strategies, and related activities. The State also seeks to create educational and career pathways in forestry, natural resource management, and related fields that strengthen sustainable resource industries, nature-based economies, and forest management.

Resources Legacy Fund works with philanthropy and governments to support and perform services to promote natural resource conservation and social equity. RLF seeks to assist DLNR, cooperating agencies, and landowners in advancing the Koa

Reforestation Partnership. Consistent with its mission, RLF has developed and administered many strategic charitable programs to advance conservation objectives. Since 2019, RLF has assisted the State of Hawai'i with advancing its marine planning goals through the Holomua Marine Initiative.

DISCUSSION:

The Division is interested in a Memorandum of Understanding with the Resources Legacy Fund to assist with restoring Hawai'i's native forests so that the resources can help sustain communities by providing ecological services, including clean water, resilient landscapes, and jobs in the conservation and restoration economy. Koa wood, for example, is highly valued for its beauty in furniture and musical instruments such as guitars and ukuleles. By focusing on restoring Hawai'i's native forest abundance through responsible utilization of this value, Koa offers an economically sustainable pathway to ecological recovery, community vitality, and long-term native forest management. Developing a sustainable Koa industry, including associated educational and career paths that support healthy native forests, would provide much-needed economic diversification for Hawai'i.

RECOMMENDATIONS:

That the Board:

1. Authorize the Chairperson to negotiate, enter into, and amend a Memorandum of Understanding between the State of Hawai'i Division of Forestry and Wildlife and Resources Legacy Fund for partnership in developing pathways for Koa reforestation, subject to review and approval by the Department of the Attorney General

Respectfully submitted,



DAVID G. SMITH, Administrator

APPROVED FOR SUBMITTAL:



DAWN N. S. CHANG, Chairperson
Board of Land and Natural Resources

MEMORANDUM OF UNDERSTANDING TO ESTABLISH THE KOA REFORESTATION COLLABORATION

This Memorandum of Understanding (“MOU”) is made this _____ day of _____, 2024, is made and entered into by the State of Hawai‘i Department of Land and Natural Resources (DLNR) and Resources Legacy Fund, a California non-profit corporation (RLF). The signatories to this MOU may be referred to as “the Parties.”

1. RECITALS

- 1.1 Half of Hawai‘i’s native forests and 90 percent of its koa forests have been¹ lost, which has had numerous repercussions over the past century on the State and its people. Among the impacts of forest loss are watershed function, deterioration of habitat for species, and the proliferation of non-native plants.
- 1.3 Restoring Hawai‘i’s native forests can help sustain communities by providing ecological services including clean water, resilient landscapes, and jobs in the conservation and restoration economy. Koa wood, for example, is highly valued for its beauty in high-end furniture and sound quality in guitars and ukuleles. By focusing on restoring Hawai‘i’s native forest abundance through responsible utilization of this value, koa offers an economically sustainable pathway to ecological recovery, community vitality, and long-term native forest management. Developing a sustainable koa industry, including associated educational and career paths that support healthy native forests, would provide much-needed economic diversification for Hawai‘i.
- 1.4 The State of Hawai‘i seeks to advance a well-coordinated, landscape-scale, scientifically and culturally informed statewide effort to reverse centuries of damage to critical native Hawaiian forests while supporting Hawai‘i’s communities with opportunities to sustain customary practices and support their families. The State of Hawai‘i Forest Action Plan articulates these goals, strategies, and related activities. The State also seeks to create educational and career pathways in forestry, natural resource management, and related fields that strengthen our sustainable industries, economies, and forest management.
- 1.5 Resource Legacy Fund (RLF) works with philanthropy and governments to support and perform essential services to promote natural resource conservation and social equity. Consistent with its mission, RLF has developed and administered many strategic charitable programs to advance conservation objectives. Since 2019, RLF has assisted the State of Hawai‘i with advancing its marine planning goals through the Holomua Marine Initiative. RLF seeks to assist DLNR and cooperating agencies and landowners to advance the Koa Reforestation Partnership by providing technical assistance based on its experiences with similar initiatives, carrying out and overseeing collaborative activities, and increasing funding for koa and native forest reforestation.

2. PARTIES

- 2.1 The Department of Land and Natural Resources is a department of the State of Hawai‘i whose

¹ *Hawai‘i Department of Land and Natural Resources (DLNR):
<https://storymaps.arcgis.com/stories/c42c0cdd5ace4044ba679d6a74e8f6be>

mission includes protecting and managing natural and cultural resources.

- 2.2 Resources Legacy Fund is a 501(c)(3) nonprofit organization
- 2.3 Through this MOU, the Parties acknowledge and seek to build on cooperative actions and relationships to advance this Koa Reforestation Collaboration. The Parties recognize that caring for and restoring native forests is a collective responsibility and invite and encourage sustained engagement of these entities and others in the Koa Reforestation Collaboration.

3. SHARED VISION

This MOU aims to support the Parties in pursuing and guiding additional expertise and resources to help advance collaboration, coordination, and outreach; developing and implementing policies to support state goals; and securing funding to help achieve landscape-scale koa reforestation across the State of Hawai'i.

The Parties agree to cooperate to pursue the following activities ("Partnership Activities") as resources become available to the extent deemed feasible by each Party at the Party's sole discretion:

- 3.1 Increase public and private landowners' ability to access information and enhance understanding of koa growth and yield potential, financial models, and sustainable harvest approaches.
- 3.2 Increase public and private landowners' access to restoration and landscape management tools and services, including but not limited to disease-resistant koa seed, nursery resources, and fencing supplies and information.
- 3.3 Conduct outreach to landowners, agencies, and institutions about the potential for koa reforestation, available resources, interest in collaboration, and funding opportunities.
- 3.4 Identify opportunities and develop partnerships to support public and private landowners interested in pursuing koa reforestation.
- 3.5 Endeavor to coordinate koa reforestation efforts and explore the need for and structure of a koa reforestation coordinating entity.
- 3.6 Encourage collaboration and coordination between Hawai'i landowners, restoration entities, nurseries, and partners to develop restoration workforce, seed collection, facilities, labor, and equipment.
- 3.7 Encourage the development and implementation of state policies, budgets, and programs favoring native forest restoration and sustainable forestry in service of state goals.
- 3.8 Encourage the development of statewide incentive programs, including but not limited to a revolving loan fund, to help landowners pay for capital expenses and maintenance costs associated with addressing natural resource concerns and threats, e.g., excluding ungulates.
- 3.9 Develop guidelines for responsible forest restoration, harvest, and management.
- 3.10 Endeavor toward a coordinated approach to identify and develop potential public and private funding sources for reforestation activities.

4. DLNR COMMITMENTS

- 4.1 In service of the shared vision, DLNR commits to use its best efforts in its sole discretion to:
- a. Maintain adequate capacity to ensure it can actively participate in the Koa Reforestation Partnership.
 - b. Participate in quarterly convenings to discuss progress on Partnership Activities. DLNR may engage and convene representatives of public or private entities other than the Parties at these meetings to participate in the discussions. At the meetings, the Parties will report on their activities representing progress toward or impediments to advancing Partnership priorities.
 - c. Endeavor to identify and pursue new resources from both the public and private sectors to advance the collaborative vision.
 - d. Share public information with its landowner and agency networks regarding koa reforestation needs and opportunities, including, but not limited to, technical models, state and federal funding opportunities, and nursery and workforce development needs and opportunities.
 - e. Engage in discussions regarding improvements in policies to advance koa reforestation.

5. RLF COMMITMENTS

- 5.1 In service of the shared commitments above, RLF commits to use its best efforts to:
- a. Convene the Parties quarterly to discuss progress on and impediments to Partnership Activities.
 - b. Obtain philanthropic support to fulfill the objectives of this MOU.
 - c. Oversee grants and contracts with community organizations, nonprofit groups, and other skilled service providers to advance Partnership Activities.
 - d. Share information about progress on Partnership Activities with partner organizations, interested landowners, and state and federal agencies.
 - e. Periodically convene other interested agencies, landowners, and organizations to discuss koa reforestation opportunities.
 - f. Coordinate outreach to share new information, resources, and relevant opportunities and resources with interested partners.

6. OTHER TERMS

- 6.1 The signatories of this MOU may adjust tasks, deliverables, objectives, and agreements contained in this MOU and in any appendices to this MOU by mutual consent through a written amendment to this MOU. Each Party to this MOU will notify all the other Party in writing if a Party determines that

- any of the commitments made in this MOU are not likely to be met, accompanied by a written proposal to address the delay or shortfall.
- 6.2 Neither this MOU nor any provision hereof may be waived, modified, amended, or discharged except by an instrument in writing signed by the Parties.
- 6.3 This MOU constitutes the entire agreement of the Parties with respect to the matters set forth herein and it supersedes all prior or contemporaneous understandings or agreements among the Parties with respect to the subject matter of the MOU.
- 6.4 If a court of competent jurisdiction determines that a provision included in this MOU is legally invalid, illegal, or unenforceable, and such decision becomes final, such provision shall be deemed to be severed and deleted from this MOU and the balance of the MOU shall be reasonably interpreted to achieve the intent of the Parties. The Parties further agree to replace such void or unenforceable provision of this MOU with a valid and enforceable provision that will achieve, to the extent possible, the purposes of the void or unenforceable provision.
- 6.5 This MOU and any amendment may be executed in two or more counterparts and by each Party on a separate counterpart, each of which, when executed and delivered, shall be an original and all of which together shall constitute one instrument, with the same force and effect as though all signatures appeared on a single document. Amendments to this MOU, when executed by the Parties, may be added as operative provisions by attachment(s) to the MOU without the necessity for re-circulation and signature of the original MOU in its entirety.
- 6.6 Neither Party may assign any rights granted by this MOU without prior written approval of the other Party. Approval of assignment may be granted or withheld in either Party's reasonable discretion. Upon execution of this MOU, it shall be effective from that date through December 31, 2028. The Parties may extend the MOU by written amendment.
- 6.7 RLF accepts responsibility for any property damage, injury or death that occurs in connection with its implementation of this MOU to the extent that such damage, injury or death is caused by its own negligent acts or omissions, or willful misconduct, or the negligent acts, omissions, or willful misconduct of its officers, employees and/or agents acting within the scope of their employment, agency or official capacity, to the fullest extent permitted by law.
- 6.8 DLNR shall be responsible for damage or personal injury resulting from acts or omissions of state employees while acting within the scope of their employment to the extent that DLNR's liability for such damage or injury has been determined by a court or otherwise agreed to by the State. DLNR shall pay for such damages and injury to the extent that funds have been authorized and appropriated by the Legislature for such purpose, and the funds have been allocated by the executive budget process.
- 6.9 Either Party may terminate this MOU by providing ten days written notice to the other Party. The only remedy of any Party for a breach of this MOU is termination of the MOU as set forth herein. Under no circumstances shall either Party be liable to the other Party in connection with this MOU for any direct, indirect, incidental, or consequential damages or be entitled to any legal or equitable relief other than termination of this MOU.

Nothing in this MOU shall be deemed to create a partnership or any other trust relationship between the Parties, it being expressly understood and agreed that the Parties' obligations to each other under this MOU are not fiduciary in nature.

6.10 Each signatory below attests that he or she is duly authorized to execute this MOU on behalf of the Party he or she represents.

6.11 DLNR's Financial Obligation and Commitment. Nothing in this MOU shall be construed as DLNR making a financial obligation or financial commitment. Nothing in this MOU shall be construed to require DLNR to commit any resources, including personnel, toward the vision or the provisions contained in this MOU.

SIGNATURES

IN WITNESS of the foregoing provisions, the Parties have signed the MOU below:

STATE OF HAWAI'I DEPARTMENT OF LAND AND NATURAL RESOURCES

Dawn N.S. Chang, Chairperson

Date

RESOURCES LEGACY FUND

Avi Garbow, President

Date

APPROVED AS TO FORM:

Deputy Attorney General

Date: _____