

1 **MEMORANDUM OF AGREEMENT**

2
3 Among the
4 **U.S. DEPARTMENT OF TRANSPORTATION**
5 **FEDERAL HIGHWAY ADMINISTRATION, STATE OF HAWAII DEPARTMENT OF**
6 **TRANSPORTATION,**
7 And the
8 **HAWAII STATE HISTORIC PRESERVATION OFFICER**
9

10 Regarding the
11 **HAKALAU STREAM BRIDGE REHABILITATION PROJECT**
12 Hilo, Hawaii

13 **PURSUANT TO 36 CFR § 800.6**

14
15 **WHEREAS,** the Federal Highway Administration (FHWA) plans to provide funding for the
16 Hakalau Stream Bridge Rehabilitation Project (the Project) pursuant to the Federal-aid Highway
17 program as described in 23 U.S.C. 101 et. seq.; and

18 **WHEREAS,** the FHWA has determined that the Project is an undertaking, as defined in 36 CFR
19 § 800.16(y) and thus is subject to review under Section 106 of the National Historic Preservation
20 Act (NHPA), 54 U.S.C. § 306108, its implementing regulations, 36 CFR § 800; and

21 **WHEREAS,** the State of Hawaii Department of Transportation (HDOT), proposes to design and
22 construct the Project, which involves replacing the existing deteriorated steel trestles with new
23 concrete trestles in approximately the same location. The concrete trestles will be supported on
24 new drilled shaft foundations. Additional work items include soil remediation and resurfacing of
25 Old Mamalahoa Highway and Old Mill Access Road. The figures in Appendix A show the bridge
26 location, proposed bridge plans, and proposed soil remediation; and

27 **WHEREAS,** the FHWA has defined the Area of Potential Effect (APE) for the Project in
28 accordance to 36 CFR § 800.4.(a)(1). The APE as shown in Appendix B is an area of
29 approximately 14.45 acres along Hawaii Belt Road (Route 19) on the island of Hawaii and is
30 further defined to include staging and storage areas, access, and areas affected by the permanent
31 and temporary [platform] construction. The APE was concurred upon by the Department of Land
32 and Natural Resources, State Historic Preservation Officer (SHPO) by letter (Doc. No. 2311SH06)
33 dated November 21, 2023; and

34 **WHEREAS,** the FHWA has determined that the Hakalau Stream Bridge is individually nominated
35 for listing on the National Register of Historic Places (NRHP) and also nominated as a part of the
36 Multiple Property nomination for “Steel Trestle Bridges in the Hamakua Coast” under Criterion
37 A (associated with the Hilo Railroad Company), Criterion B (associated with the founders of the
38 Hilo Railroad Company: Benjamin Dillingham, Lorrin Thurston, and Mark Robinson) and
39 Criterion C (as rare remaining examples of steel girder and trestle railroad bridge construction);
40 and

41 **WHEREAS**, the Project is for the HDOT owned Hakalau Stream Bridge, located within HDOT
42 right-of-way and does not include the County of Hawaii owned bridge named Hakalau Stream
43 Bridge located within the County right-of-way; and

44 **WHEREAS**, the FHWA has determined that the Project may have an adverse effect on the existing
45 Hakalau Bridge; and

46 **WHEREAS**, the Hakalau Sugar Mill was established in 1890 on the shore of Hakalau Bay. It
47 was severely damaged by the 1946 tsunami but was rebuilt and resumed operation until 1974. In
48 1979 the mill structures were demolished leaving concrete slabs, partial walls, and remnants of
49 the mill's cart rail and flume. The parcel was donated to the County of Hawaii in 2006; and

50 **WHEREAS**, the remnants of the Hakalau Sugar Mill are located in the APE and is an
51 individually eligible historic site; and

52 **WHEREAS**, the FHWA has determined that the Hakalau Sugar Mill is individually eligible for
53 listing on the NRHP under Criteria A (for its association with the Hakalau Sugar Plantation) and
54 Criteria D (for its potential to yield important information about the area's historic plantation
55 era); and

56 **WHEREAS**, another historic resource within the APE for the Hakalau Bridge is the Old
57 Mamalahoa Highway. The Hawaii State Historic Bridge Inventory & Evaluation (2013)
58 proposed the identification and potential eligibility of a Mamalahoa Highway Historic Bridge
59 District comprised of 44 bridges and 13 culverts along approximately 60 miles of the Old
60 Mamalahoa Highway (Hawaii Belt Road FAP 19) from Hilo to mile point 52 in Kamuela; and

61 **WHEREAS**, the FHWA has determined that the Old Mamalahoa Highway is eligible for listing
62 on the NRHP under Criteria A (for its association with important late 19th and early 20th century
63 events which established a regional transportation network) and Criteria D (for its potential to
64 yield important information about the area's traditional and historic eras); and

65
66 **WHEREAS**, the FHWA has determined that the Project will have no adverse effect on the Old
67 Mamalahoa Highway and the remnants of the Hakalau Sugar Mill since the work on the bridge
68 and lead remediation efforts will not result in a loss of historic integrity of location, design,
69 workmanship, or materials. While there will be some loss of integrity of setting, association, and
70 feeling resulting from the loss of the historic bridge, the Old Mamalahoa Highway and the
71 remnants of the Hakalau Sugar Mill will retain sufficient integrity and significance such that they
72 will remain eligible and listed on the NRHP; and

73 **WHEREAS**, the FHWA has consulted with the SHPO as documented in Appendix C, and the
74 SHPO concurred with the adverse effect determination by letter dated August 12, 2024 (Project
75 No. 2022PR00590, Doc No. 2408SH05) as documented in Appendix D; and

76 **WHEREAS**, the HDOT, as the state recipient of Federal Funds, is responsible for ensuring that
77 Federal funds are expended in accordance with applicable Federal laws and regulations, as
78 described in Title 23 USC § 106(g), participated in consultation, is an invited signatory to this
79 Memorandum of Agreement (MOA); and

80 **WHEREAS**, in accordance with 36 CFR § 800.6(a)(1), the FHWA has notified the Advisory
81 Council on Historic Preservation (ACHP) of its adverse effect determination and the ACHP has
82 chosen not to participate in the consultation pursuant to 36 CFR §800.6(a)(1)(iii) as documented
83 in Appendix E; and

84 **WHEREAS**, the FHWA and HDOT have consulted with various Native Hawaiian Organizations
85 (NHOs) and other organizations further identified in Appendix F between August 9, 2022 and
86 March 18, 2024; and

87 **WHEREAS**, the Historic Hawaii Foundation has requested to be a consulting party to the Project
88 and has been invited to comment on this MOA; and

89 **NOW, THEREFORE**, the FHWA, the HDOT, and the SHPO, agree that the Project shall be
90 implemented in accordance with the following stipulations in order to take into account the effect
91 of the Project on historic properties.

93 **STIPULATIONS**

94 The FHWA shall ensure that the following measures are carried out:

95 **I. MITIGATION MEASURES**

96 A. Historic American Engineering Record (HAER) Documentation

- 97 1. HDOT shall prepare a HAER document for recordation of the Hakalau Bridge
98 as mitigation to address the adverse effect caused by the bridge rehabilitation.
99 The HAER document shall be prepared in accordance with the Secretary of
100 Interior's (SOI) Standards and Guidelines for Archaeology and Historic
101 Preservation for Architectural and Engineering Documentation and by a
102 historic preservation professional meeting the SOI Professional Qualifications
103 Standards (36 CFR 61) for History, Architectural History, Architecture, or
104 Historic Architecture.
- 105 2. HAER documentation standard format will be determined through HDOT
106 consultation with the National Park Service (NPS). In the event that NPS does
107 not have an interest in receiving the HAER documents, the SHPO will
108 determine the level of standard HAER documentation format.
- 109 3. HDOT shall send the HAER documents to SHPO for a 30 calendar day review.
110 HDOT shall address SHPO's written comments, if any, before submitting to the
111 Historian at the Heritage Documentation Program of the National Park Service,
112 Pacific West Region (located 1111 Jackson Street, Suite 7000, Oakland
113 California 94607) for inclusion in the HABS/HAER/HALS collection at the
114 Library of Congress. HDOT shall submit to the SHPO for review prior to the
115 completion of the bridge rehabilitation project.
- 116 4. Upon acceptance and approval by the NPS, HDOT shall provide digital copies
117 of the approved HAER document to the signatories and concurring parties
118 identified in this MOA, as well as to members of the public upon request.

119 B. Video Documentary featuring Ethnographic Documentation

- 120 1. HDOT shall contract with a video production company to create a documentary
121 for the purpose of recording and interpreting the historical and cultural
122 significance of the Hilo Railroad Company bridges, the 1946 tsunami, and the
123 Hamakua coastline communities to mitigate the effect to the Hakalau Bridge
124 and Mamalahoa Highway.
- 125 2. The documentary shall be prepared by a qualified production company in
126 consultation with the SHPO and other relevant interested parties. The
127 documentary shall include interviews of recognized engineering experts,
128 historians, and *kupuna* with knowledge of the subject matter and area. At least
129 one consultation meeting shall be held during video pre-production. This may
130 be the same community meeting provided for in Stipulation C.3. A draft of the

- 131 video shall be shared with the SHPO and any other consulting parties to this
132 MOA for a 14 calendar day review prior to finalization.
- 133 3. Consultation for the documentary shall begin within 24 months of execution of
134 the MOA. The documentary shall be completed within 12 months of the final
135 draft video approval.
- 136 4. The video documentary shall be publicly distributed for public use through the
137 University of Hawaii at Hilo and at least two (2) other local historical societies,
138 libraries, museums, and/or educational institutions.
- 139 5. HDOT shall coordinate at least two (2) public showings of the documentary at
140 a public location(s) in East Hawaii within at least one (1) year of completion of
141 the bridge rehabilitation project. At least one showing shall be timed in
142 coordination with the Hamakua Sugar Days Festival, Merrie Monarch, or other
143 such public arts and culture event in East Hawaii.

144 C. Interpretive Signage

- 145 1. HDOT shall develop a minimum of eight (8) educational and interpretive
146 signage for the project area. Such signage shall highlight the history of the
147 bridge, any Hawaiian cultural history, and inform the public of the ways in
148 which they can help protect the valued natural and cultural resources in the area.
- 149 2. The interpretive signage shall include a summary of the history of the Hamakua
150 Coast and Hakalau Historic District, including but not limited to:
- 151 • A discussion of Native Hawaiian history within the area
 - 152
 - 153 • Discussion of the historic landscapes affected
 - 154
 - 155 • A summary of the HAER documentation for the Hakalau Stream Bridge as
156 well as its role in the development of the plantation era
 - 157
 - 158 • Significance of the Hilo Railroad Company bridges
 - 159
 - 160 • A discussion of the 1946 tsunami.
- 161 3. HDOT shall consult with the SHPO and consulting parties during the
162 development of the interpretive signage.
- 163 • HDOT shall develop an outline which summarizes the contents of the
164 interpretive signage to be developed.
 - 165 • HDOT shall initiate consultation within 24 months of execution of the MOA.
166 HDOT shall hold at least one (1) public meeting with the SHPO, consulting
167 parties, and the East Hawaii local community prior to interpretive signage

development. This meeting will provide an opportunity for the collection of oral history to be included within the interpretive signage.

- Draft reviews of the interpretive signage with the SHPO and consulting parties shall be conducted at the preliminary and prefinal draft completion milestones. The SHPO and consulting parties shall be afforded 14 calendar days to review and provide written comments on the design and content of the interpretive signage. If no written comments are received within 14 calendar days, HDOT reserves the right to proceed to the next phase of development unless otherwise advised by FHWA.

4. HDOT shall coordinate with the County of Hawaii Department of Parks and Recreation, SHPO and consulting parties to identify appropriate sites for installing the interpretive signage within the Hakalau Beach Park below the bridge.

5. Signs shall be no smaller than 36" x 24". The signs shall be completed within 12 months after approval of the prefinal draft, with installation of the signage occurring within 90 calendar days after the completion of the bridge rehabilitation project.

6. The final design of the interpretive signs (including the location, materials, dimensions, general appearance, and manufacturing specifications) shall consider the following:

- a. Safety for users of the facility, including potential conflicts with vehicles, pedestrians, bicyclists, or other constraints.
- b. Quality of the design, including readability and usefulness of the interpretive signs to convey information.
- c. Compatibility of the interpretive signs with the rural and natural environmental character of the area.
- d. Durability and life expectancy of the interpretive signs.
- e. Feasibility of installation and maintenance.
- f. Cost

7. HDOT and FHWA shall have final approval authority over the content and design of the interpretative signs.

208 D. Evaluation of Hakalau Historic District

- 209
- 210 1. HDOT shall commission a reconnaissance level survey (RLS) to identify and
- 211 evaluate the potential existence of a Hakalau Historic District. The RLS shall
- 212 be completed by a SOI qualified architectural historian within 24 months after
- 213 the execution of this MOA and submitted to SHPO.
- 214

215 E. Bridge Rehabilitation Design Review

- 216
- 217 1. HDOT shall provide the SHPO and consulting parties copies of the bridge
- 218 rehabilitation draft plans for review. Draft design reviews shall be conducted
- 219 at the 60% and 90% completion milestones.
- 220
- 221 2. SHPO and the consulting parties shall provide written comments to the
- 222 drawings within 14 calendar days of receipt. If no written comments are
- 223 received within 14 calendar days, HDOT reserves the right to proceed to the
- 224 next phase of development.
- 225
- 226 3. HDOT shall provide a complete set of as-built drawings of the bridge
- 227 rehabilitation to the SHPO and consulting parties within 12 months of the
- 228 completion of the bridge rehabilitation project.
- 229

230 **II. DURATION**

231 This MOA will expire if its terms are not carried out within five (5) years from the date of

232 its execution. Prior to such time, FHWA may consult with the other signatories and

233 consulting parties to reconsider the terms of the MOA and amend it in accordance with

234 Stipulation VII.

235 **III. POST-REVIEW DISCOVERIES AND UNEXPECTED EFFECTS**

- 236 A. If previously unidentified archaeological or historic properties, or unanticipated
- 237 effects, are discovered, the HDOT shall follow Hawaii Administrative Rules (HAR)
- 238 Chapter 13-280 "Rules for Governing General Procedures for Inadvertent
- 239 Discoveries of Historic Properties During a Project Covered by the Historic
- 240 Preservation Review Process".
- 241 B. If cultural materials are discovered during construction, all earth-moving activity
- 242 within and around the immediate discovery area will be diverted until a SOI qualified
- 243 archaeologist can assess the nature and significance of the find. Additionally, HDOT
- 244 shall consult with NHOs or other appropriate ethnic groups that may attach traditional
- 245 cultural and religious significance to the discovered property.
- 246 C. HDOT will consult with SHPO and NHOs, as appropriate to record, document, and
- 247 evaluate NRHP eligibility of the property and the project's effect on the property, and
- 248 to design a plan for avoiding, minimizing, or mitigating adverse effects on the eligible
- 249 property.

- D. If neither SHPO nor a NHO files a written objection within 72 hours of HDOT's plan for addressing the discovery, HDOT may carry out the requirements of 36 CFR 800.13 on behalf of FHWA, and the ACHP does not need to be notified.

IV. IDENTIFICATION AND TREATMENT OF HUMAN REMAINS

If human remains are inadvertently discovered, HDOT shall follow the procedures in HAR Title 13, Subtitle 13, Chapter 300 (HAR § 13-300) in which further disturbances and activities shall cease in any area or nearby area suspected to overlie remains. SHPO and the Police Department will then be contacted immediately. In addition, the remains shall be covered and protected in place in such a way that minimizes further exposure or damage. Procedures in conformance with HAR § 13-300 Subchapter 4 "Procedures for Property Treatment of Burial Sites and Human Skeletal Remains" shall be followed.

V. MONITORING AND REPORTING

On an annual basis, following the execution of this MOA until it expires or is terminated, HDOT shall provide all parties to this MOA, a summary report detailing work undertaken pursuant to its terms. The report shall include any scheduling changes proposed, any problems encountered, and any disputes and objections received in FHWA or HDOT's efforts to carry out the terms of this MOA. A review meeting may be called by the FHWA or HDOT upon request of a signatory, invited signatory or concurring party to this MOA. A final report shall be prepared and transmitted to the parties participating in this MOA at the time of its expiration.

VI. DISPUTE RESOLUTION

Should any signatory, invited signatory, or concurring party to this MOA object at any time to any actions proposed or the manner in which the terms of this MOA are implemented, the objecting party shall notify FHWA in writing and FHWA shall consult with such party to resolve the objection. If the FHWA determines that such objection cannot be resolved, the FHWA will:

A. Forward all documentation relevant to the dispute, including the FHWA's proposed resolution, to the ACHP. The ACHP shall provide the FHWA with its advice on the resolution of the objection within 30 calendar days of receiving adequate documentation. Prior to reaching a final decision on the dispute, the FHWA shall prepare a written response that takes into account any timely advice or comments regarding the dispute from the ACHP, signatories and concurring parties, and provide them with a copy of this written response. The FHWA will then proceed according to its final decision.

B. If the ACHP does not provide its advice regarding the dispute within the 30 calendar day period, FHWA may make a final decision on the dispute and proceed accordingly. Prior to reaching its final decision, FHWA shall prepare a written response that takes into account any timely comments regarding the dispute from the

290 signatories and concurring parties to the MOA, and provide them and the ACHP with
291 a copy of such written response.

292 C. The FHWA's responsibility to carry out all other actions subject to the terms of this
293 MOA that are not the subject of the dispute remain unchanged.

294 **VII. AMENDMENT**

295 This MOA may be amended when such an amendment is agreed to in writing by all
296 signatories. Prior to executing the amendment, signatories shall consult with concurring
297 parties regarding the proposed amendment and afford concurring parties the opportunity to
298 review the changes. The amendment will be effective on the date a copy of the agreement,
299 signed by all signatories, is filed with the ACHP. Copies of the amended MOA will be
300 provided to all signatories.

301 **VIII. TERMINATION**

302 If any signatory to this MOA determines that its terms will not or cannot be carried out,
303 that party shall immediately consult with the other signatories to attempt to develop an
304 amendment per Stipulation VII, above. If within 30 calendar days (or another time period
305 agreed to by all signatories) an amendment cannot be reached, any signatory may terminate
306 the MOA upon written notification to the other signatories.

307 Once the MOA is terminated, and prior to work continuing on the Project, the FHWA must
308 either (a) execute an MOA pursuant to 36 CFR § 800.6 or (b) request, take into account,
309 and respond to the comments of the ACHP under 36 CFR § 800.7. The FHWA shall notify
310 the signatories as to the course of action it will pursue.

311 **IX. CONFIDENTIALITY**

312 All parties to this MOA acknowledge that information about historic properties, potential
313 historic properties, or properties considered historic for purposes of this MOA are, or may
314 be, subject to the provisions of Section 304 of the NHPA. Section 304 allows the FHWA
315 and SHPO to withhold from disclosure to the public, information about the location,
316 character, or ownership of a historic resource if FHWA or SHPO and the Secretary of the
317 Interior determine that disclosure may 1) cause a significant invasion of privacy; 2) risk
318 harm to the historic resource; or 3) impede the use of a traditional religious site by
319 practitioners. Having so acknowledged, all parties to this MOA will ensure that all actions
320 and documentation prescribed by this MOA are, where necessary, consistent with the
321 requirements of Section 304 of the NHPA.

322 **X. EXECUTION OF THIS AGREEMENT IN COUNTERPARTS**

323 This MOA may be executed in counterparts with a separate page for each signatory, invited
324 signatory, and concurring party. FHWA shall ensure that each signatory, invited signatory,
325 and concurring party is provided with an electronic copy of the fully executed MOA.

326 Execution of this MOA by FHWA, HDOT, SHPO, and ACHP and implementation of its
327 terms evidence that FHWA has taken into account the effects of this Project on historic
328 properties and afforded the ACHP an opportunity to comment.

SIGNATORY PAGE
AMONG THE U.S. DEPARTMENT OF TRANSPORTATION, FEDERAL HIGHWAY
ADMINISTRATION, THE HAWAII STATE HISTORIC PRESERVATION OFFICER,
AND
THE ADVISORY COUNCIL ON HISTORIC PRESERVATION
REGARDING THE
HAKALAU STREAM BRIDGE REHABILITATION PROJECT
Hilo, Hawaii

SIGNATORY:

U.S. DEPARTMENT OF TRANSPORTATION, FEDERAL HIGHWAY
ADMINISTRATION

By  Date 12/16/2024

Richelle Takara, Division Administrator

Federal Highway Administration

SIGNATORY PAGE
AMONG THE U.S. DEPARTMENT OF TRANSPORTATION, FEDERAL HIGHWAY
ADMINISTRATION, THE HAWAII STATE HISTORIC PRESERVATION OFFICER,
AND
THE ADVISORY COUNCIL ON HISTORIC PRESERVATION
REGARDING THE
HAKALAU STREAM BRIDGE REHABILITATION PROJECT
Hilo, Hawaii

SIGNATORY:

DEPARTMENT OF LAND AND NATURAL RESOURCES

By  Date Dec 30, 2024

Dawn Chang, State Historic Preservation Officer

DLNR Chairperson

SIGNATORY PAGE
AMONG THE U.S. DEPARTMENT OF TRANSPORTATION, FEDERAL HIGHWAY
ADMINISTRATION, THE HAWAII STATE HISTORIC PRESERVATION OFFICER,
AND
THE ADVISORY COUNCIL ON HISTORIC PRESERVATION
REGARDING THE
HAKALAU STREAM BRIDGE REHABILITATION PROJECT
Hilo, Hawaii

INVITED SIGNATORY:

HAWAII DEPARTMENT OF TRANSPORTATION

By  Date Dec 13, 2024

Edwin H. Sniffen, Director