MEMORANDUM OF AGREEMENT

BETWEEN HAWAIʻI VOLCANOES NATIONAL PARK

AND THE

STATE OF HAWAIʻI PRESERVATION OFFICER

REGARDING THE REHABILITATION OF THE KĪLAUEA VISITOR CENTER

WHEREAS, Hawaiʻi Volcanoes National Park (HAVO) plans to rehabilitate the historic Kīlauea Visitor Center (KVC) building to increase the visitor capacity of the facility to make up for the loss of services available at the Jaggar Museum which formerly served as a secondary visitor center. The undertaking will expand the building's capacity through the removal of some of the interior office spaces; the removal of the existing non-contributing lanai; the deconstruction of the existing non-contributing restroom facility; the construction of a new outdoor hālau on the west side of the KVC; and the construction of a new restroom facility on the east side of the KVC; and

WHEREAS, this undertaking is a direct result of the Disaster Recovery (DR) project that is occurring in response to the 2018 seismic and eruptive event. The DR project resulted in the development of a Programmatic Agreement (Agreement) that was developed under Section 106 of the National Historic Preservation Act of 1966, as amended, among the National Park Service Hawaiʻi Volcanoes National Park (HAVO), US. Geological Survey (USGS); Hawaiʻi State Historic Preservation Officer (SHPD); and the Advisory Council on Historic Preservation (ACHP). The stipulations in the Agreement were developed as mitigations to the adverse effect that would occur to historic properties within the park as a result of the Disaster Recovery project. Included in the Agreement in stipulation II.D., ...the "NPS will be considering options to replace the visitor service functions from the Jaggar Museum in the future, which may include reconfigurations of portions of the Kīlauea Visitor Center interior. Any alternate use of, changes to, or rehabilitation of this building will be subject to a future separate NHPA Section 106 consultation under 36 CFR 800.3-800.6" of which this Memorandum of Agreement addresses; and

WHEREAS, this action constitutes an undertaking as defined by the implementing regulations for Section 106 of the National Historic Preservation Act (NHPA), found at 36 CFR Part 800; and

WHEREAS, HAVO has defined the undertaking's area of potential effect (APE) as 4.75 acres including the Kīlauea Visitor Center; the adjacent KVC comfort station; the front, back and overflow parking areas of the KVC; a 0.1 mile section of Crater Rim Drive; and the 1877

Volcano House (see page 9, APE map); and

WHEREAS, the Kīlauea Visitor Center is a contributing structure located within the Kīlauea Administration and Employee Housing Historic District which has been determined eligible for the National Register of Historic Places; and

WHEREAS, in the course of consultation, the HAVO Kūpuna consultation group expressed the strong sentiment to include architecture for the new exterior hālau addition to be reminiscent of the late 19th century Kingdom of Hawai‘i architecture. The Kūpuna consultation group feels the style will assist in conveying to visitors the sense of arrival in a sacred Hawaiian space of the surrounding park lands. As expressed by the HAVO Kūpuna consultation group, the architecture will serve to honor the indigenous culture of the Hawaiian Islands, represent the Native Hawaiian host culture in the forefront of the park, and convey this to visitors through the architectural form; and

WHEREAS, HAVO has determined that the undertaking would have an adverse effect on the Kīlauea Visitor Center and the Kīlauea Administration and Employee Housing Historic District which are both eligible for listing in the National Register of Historic Places and has consulted with the State of Hawai‘i Historic Preservation Division pursuant to 36 CFR Part 800, the regulations implementing Section 106 of the National Historic Preservation Act (54 U.S.C. § 306108); and

WHEREAS, HAVO has consulted with the Office of Hawiian Affairs (OHA), as the lands that make up the park have religious and cultural significance to Native Hawaiians, and OHA has agreed to participate as consulting party on this MOA**;** and

WHEREAS, HAVO has consulted with the Historic Hawai‘i Foundation (HHF) regarding the effects of the undertaking on historic properties and has received notification on November 6, 2023, that HHF has chosen to participate as a concurring party on this MOA**;** and

WHEREAS, HAVO has consulted with the National Trust for Historic Preservation (NTHP) regarding the effects of the undertaking on historic properties and has received notification on April 8, 2024, that NTHP would like to to participate as a concurring party on this MOA **;** and

WHEREAS, HAVO has consulted with the United States Geologic Survey (USGS) regarding the effects of the undertaking on historic properties and has received notification April 10, 2024, that USGS has chosen to participate as a concurring party on this MOA**;** and

WHEREAS, in accordance with 36 CFR § 800.6(a)(1), HAVO has notified the Advisory Council on Historic Preservation (ACHP) of its ***adverse effect*** determination with specified documentation on February 14, 2024, and on March 3, 2024, the ACHP has chosen not to participate in the consultation, pursuant to 36 CFR § 800.6(a)(1)(iii); and

NOW, THEREFORE, HAVO and the SHPO agree that the undertaking shall be implemented in accordance with the following stipulations in order to take into account the effect of the undertaking on historic properties.

STIPULATIONS

The NPS shall ensure that the following measures are carried out:

I. STANDARDS AND QUALIFICATIONS

Pursuant to Section 112(a)(1)(A) of the National Historic Preservation Act (54 U.S.C. § 306131(a)(1)(A) and 36 CFR § 800.2(a)(1), the Park will ensure that all work carried out in accordance with this agreement will be done by or under the direct supervision of appropriate historic preservation professionals who meet the *Secretary of the Interior's Professional Qualifications Standards*. The Park will ensure that contractors retained for services also meet these professional qualifications standards.

II. DESIGN REVIEW

A. The NPS shall send the physical material board when available to the Consulting Parties for a 14-day calendar review. Comments received on the material boards will be considered prior to finalizing. The NPS shall provide the Consulting Parties with the final drawings and material boards for their information.

B. The NPS will notify the Consulting Parties if there are substantive changes during the design development or construction such as those that affect siting, footprint, massing, materials, site plan, building orientation, substantive architectural detailing, and/or substantive change(s), the reason for the change, and any changed or additional effects on historic properties that may occur as a result of the change. NPS shall provide the revised design plans to the Consulting Parties. If the changes are expected to have no additional adverse effects, the NPS shall provide the revised design plans to the Consulting Parties for a 14-day calendar review and comment period. If the changes are likely to have an additional adverse effect the NPS shall provide the revised design plan to the Consulting Parties for a 30-day calendar review and comment period. NPS shall take into account any comments prior to approving changes. If NPS or a Consulting Party identifies additional or expanded adverse effects as a result of the changes, NPS shall consult to resolve the additional effects, including considering design changes to avoid or minimize the effect.

III. MITIGATION MEASURES

A. The NPS shall prepare a National Register nomination for the Kīlauea Administration and Employee Housing Historic District for listing on the National Register, to incorporate historic resources identified in the 2006 Cultural Landscape Inventory (CLI) report, including any changes subsequent to the original drafting of the CLI and the changes that occur as a result of this undertaking;

1. The preparation of the nomination will reflect the post project condition of the district including documention of the changes that occur at the KVC and shall be conducted by or under the direct supervision of individuals who meet the Secretary of the Interior's (SOI) Professional Qualifications Standards for Landscape Architecture, as outlined in the 1997 proposed changes to the Federal Register, vol. 62, 234, no. 119, p. 33708-33723.

2. Within 1 year of the completion of the undertaking, the NPS shall provide copies of the draft nomination to the SHPO and the Consulting Parties for a 60-calendar day review and comment period.

3. NPS shall take all comments into consideration, and within six months finalize the revised nomination. Within six months of receiving the final draft, the NPS shall submit the nomination for listing in the National Register of Historic Places in accordance with 36 CFR§ 60.

B. The NPS shall develop a web page to be hosted on the National Park Service, Hawai'i Volcanoes National Park web site dedicated to interpreting the history of the Civilian Conservation Corps (CCC). The web page will be developed by HAVO digital media staff and NPS Cultural Resource staff and will include an overview history of the CCC program, and the legacy they left behind at HAVO by highlighting their accomplishments throughout the park. The NPS shall develop an interactive story map that can be accessed through the HAVO CCC web page. The story map will include brief descriptive overviews of their projects accompanied with historical photographs tied to project locations within the park. The work the CCC completed within the Kīlauea Administration and Employee Housing Historic District will be included as well as the Kīlauea Visitor Center building, which was the last large CCC construction project that occurred at the park before the program dissolved. The information will reach a broad audience through the park-managed web page as the HAVO web page is one of the highest visited National Park web pages within the NPS system.

The first draft of the web page will be sent to the Consulting Parties for a 30-day review period. Comments will be considered for the development of the final web page. The final link will be sent to the Consulting Parties for their information

and a informative QR code will be posted in the lobby/exhibit space of the Kīlauea Visitor Center to provide visitors with the opportunity to learn about the history of the CCC and the Kīlauea Visitor Center building. HAVO NPS public information staff will post the wepbage link to social media periodically to prompt visitor traffic on the webpage.

C. Monitoring of Ground Disturbing Activities- The NPS shall include the following provisions in construction contract stipulations for this project for the treatment of unanticipated archeological discoveries, including human remains, during deconstruction, excavation, new construction, or other ground-disturbing activities within the APE.

1. A qualified Archeological Monitor that meets or is directly supervised by an individual that is qualified under the SOI Standards for Archeology as outlined in the 1983 Federal Register, vol. 48, no. 190 and has a minimum of two years of Hawaiian archeology experience will complete the archeological monitoring and archeological monitoring report. The monitor(s) will be available for approved work during all of the ground disturbing activities during the project. NPS shall conduct archeological monitoring as needed for ground disturbing activities in these areas including, but not limited, to the following:

    - Revegetation
    - Soil preparation
    - Utility installation
    - Foundation excavation if the need arises
    - Grading and subgrade preparation

   It is not expected for any monitoring to be required for construction staging areas as they have been designated on previously disturbed lands within existing parking areas (see the APE map on page 9 for staging area locations).

2. Post Construction Reports

   The NPS shall ensure that an archaeological monitoring report will be completed within 90-calendar days of the completion of all construction activity that requires archaeological monitoring. The NPS will submit a copy of the report to the SHPO for its library. Any findings of archeological resources/sites will be given a State Inventory of Historic Places (SIHP) number, the boundaries determined in consultation between NPS and SHPD. Sub-meter accuracy GPS equipment will be utilized during archeological monitoring for data collection.

3. Inadvertent Discoveries

   In the event that a previously unidentified archeological resource(s) is discovered during project activities, the Qualified Archeological Monitor is

responsible for notifying construction personnel and shall immediately halt ground-disturbing activities in the area of the resource(s) and in the surrounding area (within 50 meters) where further subsurface remains can reasonably be expected to occur, and they shall immediately notify the NPS.

In the event that human remains, funerary objects, sacred objects, and/or objects of cultural patrimony are encountered during the course of activities associated with the undertaking, the NPS shall ensure that they are treated with respect and in a manner consistent with the provisions of the Native American Graves Protection and Repatriation Act (25 USC 3001).

D. Preservation of Historic Features

1. All of the historic curbstones located within the parking areas shall be preserved. If curbstones need to removed for construction work, they shall be numbered and placed back in the same location they were removed from once the construction is complete.
2. The fireplace located within the KVC lobby area will be preserved in place and be visible.
3. Any lava stone removed for the installation of new doors will be salvaged for use in the hālau.
4. The original wainscot that is located in the KVC building will be removed and reinstalled in the new hallway. One of the original windows that will be removed from the east side of the building to accommodate space for the new entryway into the bookstore of the building will be reinstalled in the rear elevation of the building to replace the jalousie window. This salvaged use of the historic materials will be clearly marked on the final architectural drawings.
5. Exterior character defining features of the building will be retained to the greatest extent possible. This includes the flag pole, the monuments, the siding, the gutter boxes and downspouts, the horizontal clapboard siding, shingle roof, the large stone chimney, the soffets, original windows and vents, and the stone veneer.
6. Salvaged original interior doors will be either stored for re-use within the park or for re-use by a non-profit such as Re-Use Hawai‘i.
7. To the greatest extent that is feasible, the NPS will ensure that the stone removed from the Uēkahuna summit buildings that cannot be used as veneer for the new USGS facility being constructed adjacent to the Kilauea Military Camp ballfield will be reused in the new hālau and comfort station.

IV. **ADMINISTRATIVE STIPULATIONS**

A. DURATION

This MOA will expire if its terms are not carried out within five (5) years from the date of its execution. Prior to such time, HAVO may consult with the other signatories to reconsider the terms of the MOA and amend it in accordance with Stipulation IV.D below.

B. MONITORING AND REPORTING AND COMMUNICATIONS

Each year following the execution of this MOA until it expires or is terminated, HAVO shall provide all parties to this MOA a summary report detailing work undertaken pursuant to its terms. Such report shall include any scheduling changes proposed, any problems encountered, and any disputes and objections received in the HAVO's efforts to carry out the terms of this MOA. The report will be issued by the 30th day of June each year.

HAVO will submit the annual report and all other documents to HI-SHPO through the HICRIS intake system as a "supplemental submittal" via HICRIS Project # 2023PR00650. Once submitted to HI-SHPO via HICRIS, HAVO will forward confirmation email with "token number" to the Hawaii State Historic Preservation Division Archaeology Branch Chief and Architecture Branch Chief to expedite processing.

C. DISPUTE RESOLUTION

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

1. Forward all documentation relevant to the dispute, including HAVO's proposed resolution, to the ACHP. The ACHP shall provide HAVO with its advice on the resolution of the objection within thirty (30) days of receiving adequate documentation. Prior to reaching a final decision on the dispute, HAVO 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. HAVO will then proceed according to its final decision.

2. If the ACHP does not provide its advice regarding the dispute within the thirty

(30) day time period, HAVO may make a final decision on the dispute and proceed accordingly. Prior to reaching such a final decision**,** HAVO shall prepare a written response that takes into account any timely comments regarding the dispute from the signatories and concurring parties to the MOA and provide them and the ACHP with a copy of such written response.

3. HAVO's responsibility to carry out all other actions subject to the terms of this MOA that are not the subject of the dispute remain unchanged.

D. **AMENDMENTS**

This MOA may be amended when such an amendment is agreed to in writing by all signatories. The amendment will be effective on the date a copy signed by all of the signatories is filed with the ACHP.

E. **TERMINATION**

If any signatory to this MOA determines that its terms will not or cannot be carried out, that party shall immediately consult with the other parties to attempt to develop an amendment per Stipulation IV.D**,** above. If within thirty (30) days an amendment cannot be reached, any signatory may terminate the MOA upon written notification to the other signatories.

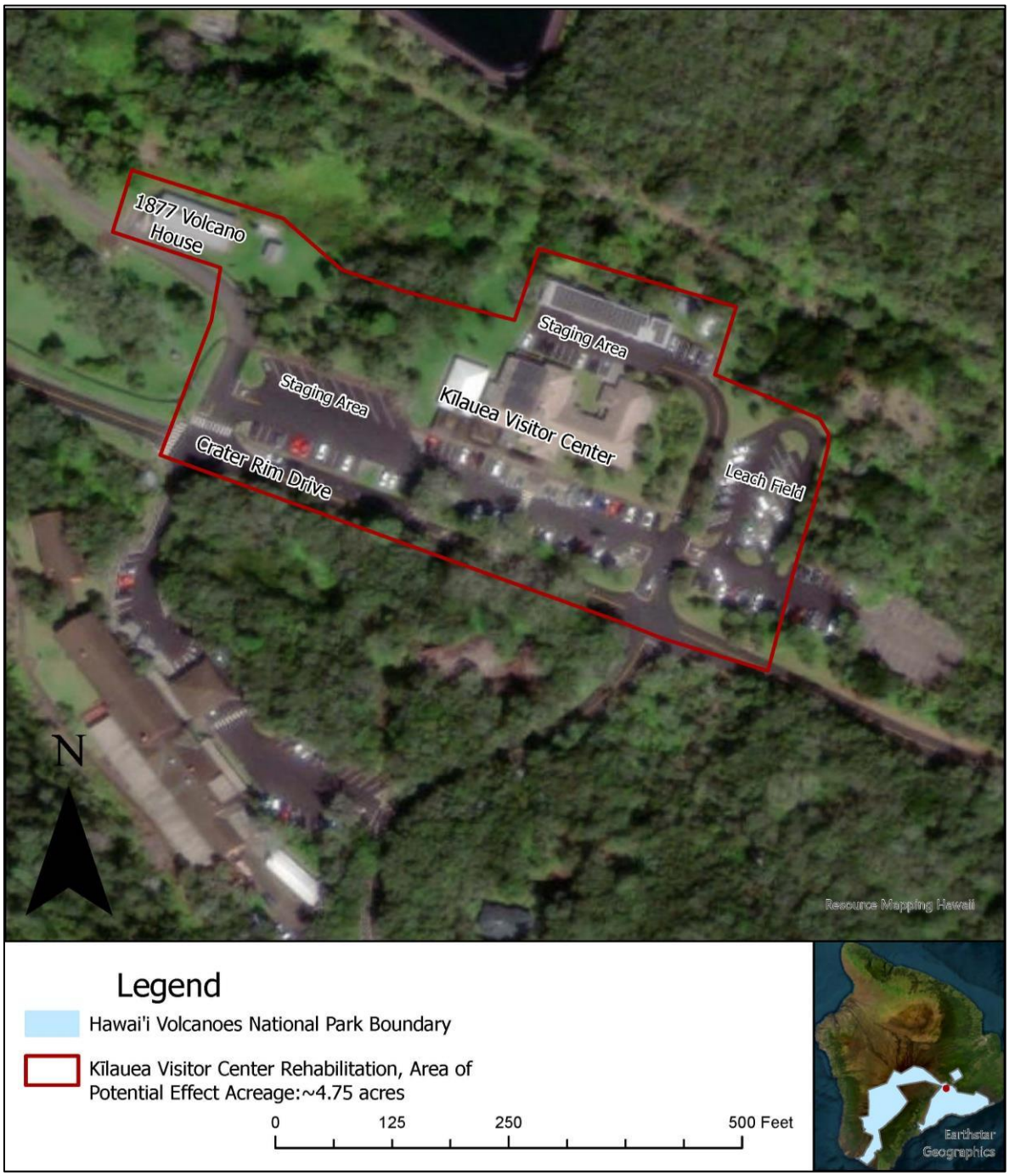
Once the MOA is terminated, and prior to work continuing on the undertaking, HAVO must either (a) execute an MOA pursuant to 36 CFR § 800.6 or (b) request, take into account, and respond to the comments of the ACHP under 36 CFR § 800.7. HAVO shall notify the signatories as to the course of action it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

F. **ANTI-DEFICIENCY**

All actions taken by HAVO in accordance with this MOA are subject to the availability of funds, and nothing in this MOA shall be interpreted as constituting a violation of the Anti-Deficiency Act.

Execution of this MOA by HAVO and **S**HPO and implementation of its terms are evidence that HAVO has taken into account the effects of this undertaking on historic properties and afforded the ACHP an opportunity to comment.

Kīlauea Visitor Center Rehabilitation Project, Area of Potential Effect Map, acreage ~4.75 acres (TMK 3-9-9-001-001)



SIGNATORIES:

Hawai‘i Volcanoes National Park

JAMES SUTTON Digitally signed by JAMES SUTTON Date: 2024.04.29 14:08:05 -10'00' Date

James Sutton, Park Superintendent

State of Hawai’i Historic Preservation Division

_____**Date** May 2, 2024

Dawn Chang, Chairperson of Department of Land and Natural Resources

CONCURRING PARTIES:

Historic Hawai‘i Foundation

_____Date
Kiersten Faulkner, Historic Hawai'i Foundation

National Trust for Historic Preservation

_____Date
Betsy Merritt, Deputy General Counsel, National Trust for Historic Preservation

United States Geological Survey

_____Date
Martin Smith, Architect, U.S. Geological Survey