

A MEMORANDUM OF AGREEMENT

**PURSUANT TO THE
NATIONAL MARINE SANCTUARIES ACT**

BETWEEN THE

**U.S. DEPARTMENT OF COMMERCE
NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION
NATIONAL OCEAN SERVICE
OFFICE OF NATIONAL MARINE SANCTUARIES**

AND THE

**TRI-ISLE RESOURCE CONSERVATION AND DEVELOPMENT
COUNCIL, INC.**

**FOR THE PURPOSE OF ESTABLISHING A FRAMEWORK FOR JOINT
COLLABORATION**

NOS Agreement Code: MOA-2013-102/8822

I. PARTIES AND PURPOSE

- A. This Memorandum of Agreement (Agreement) is between the U.S. Department of Commerce (DOC), National Oceanic and Atmospheric Administration (NOAA), National Ocean Service (NOS), through the Office of National Marine Sanctuaries (ONMS), Pacific Islands Regional Office (PIR), and the Tri-Isle Resource Conservation and Development Council, Inc. (TIRCDC).
- B. The purpose of the Agreement is to establish a broad framework for joint participation among the Parties for marine collaboration. This Agreement provides the framework to identify and support collaborative work between the Parties for the mutual of conservation of marine resources.

II. BACKGROUND

- A. The National Marine Sanctuaries Act (16 U.S.C. 1431 et seq.) was enacted into law in 1972 to protect and preserve underwater environments and maritime heritage artifacts of national and international significance. The two largest marine areas managed by ONMS (Papahānaumokuākea Marine National Monument [PMNM] and the National Marine Sanctuary of American Samoa [NMSAS]) along with the only single species site, the Hawaiian Islands Humpback Whale National Marine Sanctuary are located with the PIR.
- B. In 1962, Congress established a unique program within the U.S. Department of Agriculture that empowered rural communities to improve themselves while protecting and developing their natural resources. Local councils provide direction, planning, coordination, and implementation of specific projects within their boundaries. The focus on local direction and control made Resource Conservation and Development (RC&D) one of the most successful rural development programs of the Federal Government. To date, three hundred seventy five RC&D areas have been authorized throughout the Country. Over 100,000 projects have been completed nationwide. In 2011, Congress eliminated funding for the federal side of the partnership, but RC&Ds continue as independent non-profit corporations. Hawaii's four RC&Ds, cover all the major Islands. Through the leadership of Maui County's five Soil and Water Conservation Districts and with assistance from the Soil Conservation Service, Tri-Isle RC&D Council, Inc., the oldest of the Hawaii RC&D areas, was established in 1970.

III. AUTHORITIES

- A. The legal authority for the ONMS, and TIRCDC to enter into this Agreement is the National Marine Sanctuaries Act (NMSA), 16 U.S.C. 1442(a) which allows the Secretary of Commerce, whenever appropriate to enter into an agreement with a State, local governments, regional agencies, interstate agencies, or other persons to carry out the purposes and polices of the NMSA.

- B. The programmatic authority for the ONMS is the NMSA, 16 U.S.C. 1431 et seq., including:
1. Section 1431 (b)(7) stating as one of the Purposes and Policies of the NMSA, to develop and implement coordinated plans for the protection and management of marine areas of special national significance with appropriate Federal agencies, State and local governments, Native American tribes and organizations, international organizations, and other public and private interests concerned with the continuing health and resilience of these marine areas;
 2. Section 1431(b)(4) stating as another of the Purposes and Policies, the enhancement of public awareness, understanding, appreciation, and wise and sustainable use of the marine environment, and the natural, historical, cultural, and archeological resources of the National Marine Sanctuary System; and
 3. Section 1440, directing the Secretary of Commerce to conduct research and education programs to carry out the policies of the NMSA, and to conduct, support and coordinate the use of National Marine Sanctuaries for research, monitoring and education, and the development of interpretive facilities.

IV. TERMS AND CONDITIONS

- A. Work together to support marine conservation, research, education, and outreach needs of the American public as prescribed in the ONMS's authority, and as is consistent with the mission and purpose of TIRCDC;
- B. Assess, periodically, collaborations between the Parties; and
- C. Meet at a minimum twice yearly to review the progress of this Agreement.

V. FUNDING ARRANGEMENTS

- A. This Agreement defines in general terms the basis on which the Parties will cooperate, and as such, does not constitute a financial obligation to serve as the basis for expenditures. Any activities involving reimbursement or transfer of funds between the Parties to this Agreement will be handled in accordance with applicable laws, regulations, and procedures. Such activities will be documented in a separate legal instrument.
- B. Expenditures of funds, human resources, equipment, supplies, facilities, training, public information, and technical expertise will be provided by each Party to the

extent that their participation is required and resources available.

- C. This Agreement does not restrict the Parties from participating in similar activities or arrangements with other public or private agencies, organizations, or individuals.
- D. This Agreement does not obligate the Parties to expend funds or to enter into any other agreements, contracts, or other obligations.

VI. CONTACTS

- A. The points of contact for coordinating activities under this Agreement are:

Office of National Marine Sanctuaries
Allen Tom
Regional Director, PIR
726 S. Kihei Rd.
Kihei, HI 96753
818-879-2818 x25

Tri-Isle Resource Conservation
and Development Council, Inc.
John Tomoso
Executive Director
PO Box 338
Kahului, HI 96733
808-871-1010

- B. The Parties agree that if there is any change regarding the information in this section, the Party making the change will notify the other Party in writing of such change. A change to this section will not require an amendment.

VII. THIRD PARTY LIABILITY

The TRCDC shall hold and save DOC, NOAA, NOS, ONMS, and PIR, its officers, agency, and employees harmless from liability of any nature of kind, including costs and expenses to which they may be subject, for or on account of any or all suits or damages of any character whatsoever resulting from injuries or damages sustained by any person or persons or property by virtue of performance of this Agreement, arising or resulting in whole or in part from the fault, negligence, wrongful act, or wrongful omission of the TRCDC, any of its subcontractors, employees, or agents.

VIII. DURATION OF AGREEMENT, AMENDMENTS, OR TERMINATION

- A. This Agreement will become effective after execution of all Parties and will expire on September 30, 2018.
- B. This Agreement may be amended within its scope or renewed prior to the expiration date through the written mutual consent of the Parties.
- C. This Agreement may be terminated by (1) mutual written consent, (2) one Party's written notice 30 days in advance, or (3) completion of the Terms and Conditions of this Agreement.

D. The Parties will review this Agreement at least once every three years to determine whether it should be revised or terminated.

IX. OTHER PROVISIONS AND DISPUTE RESOLUTION

If the Parties disagree over how to interpret this Agreement, they shall present their differences to each other in writing, and they shall discuss them. If the Parties fail to resolve their differences within 30 days, they may refer the matter to higher level of authority within their respective organizations.

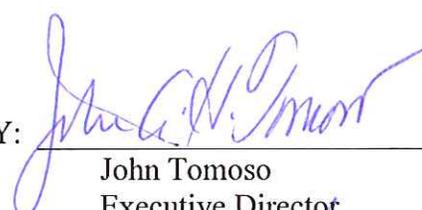
IX. APPROVALS

ACCEPTED AND APPROVED FOR THE
US DEPARTMENT OF COMMERCE
NATIONAL OCEANIC AND
ATMOSPHERIC ADMINISTRATION
NATIONAL OCEAN SERVICE

BY: 
for Daniel J. Basta
Director
Office of National Marine Sanctuaries

DATE: 12/4/2013

ACCEPTED AND APPROVED FOR
TRI-ISLE RESOURCE
CONSERVATION AND
DEVELOPMENT COUNCIL, INC.

BY: 
John Tomoso
Executive Director

DATE: 12/12/13