

Report to the Legislature

State of Hawai'i

Regular Session of 2009

In response to Act 158, SLH 2008

Prepared by:

Hawai'i Tourism Authority
February 13, 2009

This report is prepared pursuant to Section 4 of Act 158 Session Laws of Hawai'i 2008, the Supplemental Appropriations Act of 2008, which provided that of the special fund appropriation for tourism (BED-113), the sum of \$1,000,000 from fiscal year 2008-2009 be expended for beach restoration; provided further that restoration projects on resort beaches shall be matched dollar-for-dollar from private sources and shall be on beaches with public access; and provided further for the department to submit a detailed expenditure report to the Legislature.

Background

During the 2008 legislative session, H.B. 2323 relating to beaches was introduced. The initial purposes of this measure included the following:

- Establish a visitor area beach restoration fund;
- Dedicate moneys in tourism special fund to visitor area beach restoration fund; and
- Appropriate moneys from the special fund to pay a beach restoration project fronting Royal Hawaiian Hotel on Waikīkī Beach.

While the measure was going through session last year, the Hawai'i Tourism Authority (HTA), developed a Beach Restoration Program on March 12, 2008, to provide for the restoration of visitor area resort beaches through public and private funding. The HTA also established a financial account in which to deposit up to \$2,000,000 of its funds for the purpose of this Program (see Attachment 1).

Following the development of this Program, the HTA entered into a Memorandum of Understanding (MOU) with the Department of Land and Natural Resources (DLNR) on April 29, 2008 as it related to the development and restoration of visitor area resort beaches (see Attachment 2). The MOU which is effective from April 29, 2008 through June 30, 2010 identifies the specific criteria that DLNR must satisfy in order for HTA to fund such projects:

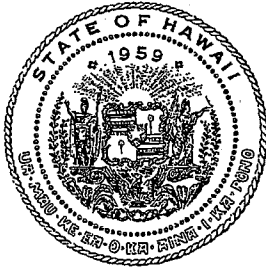
- DLNR shall match funding by HTA on a 1:1 ratio;
- Funding from any private sector entity using non-state funds shall match, at minimum, the total funding from DLNR and HTA on a 1:1 ratio; and
- HTA funds shall be used solely for the development and restoration of a visitor area resort beach; and that said restored beach shall be free and clear of any barriers, ropes, or signs unlawfully denying or restricting access or use of the beach by any resident, visitor and the general public.

While the MOU's provisions were prepared using the provisions contained in H.B. 2323, eventually this measure was not passed by the Legislature. However, a proviso of \$1,000,000 and the appropriation was inadvertently left in the budget bill (H.B. 2500, H.D. 1, S.D. 1, C.D. 1) and eventually became Section 4 of Act 158, SLH 2008.

The budget worksheets for BED-113 added the funds from the Tourism Special Fund for beach restoration to be used by DLNR. Under LNR101 Seq # 100-001, the funds from HTA were to be expended by DLNR provided that they were matched by private contributions. As such, DLNR was to be the expending agency.

Conclusion

As of the writing of this report, the funds have not been requested by DLNR and as a result not transferred by the HTA. Additionally, due to the significant reduction in transient accommodations tax (TAT) revenues collected in FY 2009 and the anticipated downward trend of TAT revenue projections in FY 2010, current and future expenditures by HTA for its various marketing initiatives and non-marketing programs have been restricted, including the expenditure for the beach restoration initiative provided in the MOU. As a result, the HTA has provided notification to DLNR that the MOU has been terminated effective February 13, 2009, due to lack of TAT revenues to fund the MOU (Attachment 3).



Hawai'i Tourism Authority

Hawai'i Convention Center, 1801 Kalākaua Avenue, Honolulu, Hawai'i 96815
 Website: www.hawaii-tourismauthority.org

LINDA LINGLE
 Governor

REX D. JOHNSON
 President and Chief Executive Officer

Telephone: (808) 973-2255
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BEACH RESTORATION PROGRAM

I. Background.

The Hawai'i Tourism Strategic Plan: 2005-2015 ("Tourism Strategic Plan") has identified various strategic directions for implementing the Natural Resources strategic initiative by providing as an objective the exploration of innovative means to repair, maintain and improve Hawai'i's natural resources by seeking additional sources of public and private funding to maintain and improve Hawai'i's natural resources. Although the Tourism Strategic Plan has identified the Department of Land and Natural Resources ("DLNR") as one of the lead agencies to implement the Natural Resources initiative, the Hawai'i Tourism Authority ("HTA") has been identified as a supporting agency.

The DLNR and HTA has recognized that Hawai'i's beaches are unique natural attributes that make the Islands a wonderful place for residents to live and an attractive destination for tourists to visit.

HTA desires to support efforts to provide for the restoration, improvement and maintenance of visitor area resort beaches. (For purposes of this Program, "visitor area resort beaches" means sandy resort beaches accessible by the public.)

II. Purpose.

Provide for the restoration of visitor area resort beaches through public and private funding.

III. Expectations.

The Beach Restoration Program shall achieve the following expectations:

- The establishment of a process for selecting and funding projects for the development and restoration of visitor area resort beaches;
- The maintenance of a financial account established by the HTA for the purpose of restoring visitor area resort beaches; and,
- Improved levels of resident and visitor satisfaction with Hawai'i's visitor area resort beaches.

IV. Program Requirements.

The Beach Restoration Program shall include the following requirements for the funding of projects to develop and restore visitor area resort beaches:

- DLNR shall identify the visitor area resort beaches requiring restoration;
- DLNR shall solicit and recommend for HTA approval any proposal for collaboration between the public and/or private sectors for funding the restoration of visitor area resort beaches;
- DLNR shall execute and manage contracts for the restoration of visitor area beaches;
- HTA shall establish a financial account for the deposit and expenditure of funds for the restoration of visitor area resort beaches, provided that any funds not expended upon termination of this Program shall revert or be reallocated to other programs or initiatives funded by the HTA; and,
- HTA shall provide DLNR its share or portion of funding for a project on a matching basis.

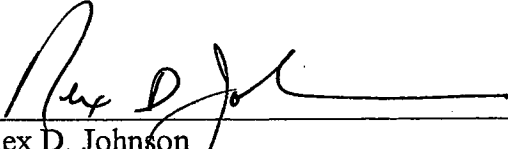
V. Funding.

A financial account has been established by the HTA to deposit funds and expended for the purposes of this Program. The HTA shall deposit into said financial account an amount not to exceed \$2,000,000 between the date this Program has been established and until June 30, 2010.

A proposal for funding by HTA shall satisfy the following criteria:

- DLNR shall match funding by HTA on a 1:1 ratio;
- Funding from any public and/or private sector entity shall match the total funding from DLNR and HTA on a 1:1 ratio;
- HTA funds shall be used solely for the development and restoration of visitor area resort beaches; and,
- The project for the restoration of a visitor area resort beach will increase the levels of resident and visitor satisfaction with Hawai'i's visitor area resort beaches.

Dated: Honolulu, Hawai'i, 3-12, 2008.



Rex D. Johnson
President & CEO



March 4, 2008

Mr. Lloyd Unebasami, Chief Administrative Officer
Hawaii Tourism Authority
1801 Kalakaua Avenue
Honolulu, Hawaii 96815

Re: Beach Restoration Fund

Dear Mr. Unebasami:

This will confirm that we have established the Hawaii Tourism Authority – Beach Restoration Fund investment account number #135 244 200 today, as requested by your office.

The account is ready for funding.

Should you have any questions, please call me at 694-4005 directly.

Sincerely,

A handwritten signature in cursive script that reads 'David D. W. Chung'.

David D. W. Chung
Vice President & Senior Trust Officer
Institutional Client Services

DDWC/bh

MEMORANDUM OF UNDERSTANDING
Between the
HAWAI'I TOURISM AUTHORITY
And the
DEPARTMENT OF LAND AND NATURAL RESOURCES

**Relating to Providing Funding for the Development and Restoration of Visitor Area
Resort Beaches**

This Memorandum of Understanding ("MOU"), is effective as of 4/29/08, 2008, between the HAWAI'I TOURISM AUTHORITY, STATE OF HAWAI'I ("HTA"), by its President and Chief Executive Officer, Rex D. Johnson, whose business address is 1801 Kalākaua Avenue, Honolulu, Hawai'i, 96815, and the DEPARTMENT OF LAND AND NATURAL RESOURCES, STATE OF HAWAII ("DLNR"), by and through its Board of Land and Natural Resources, whose business address is 1151 Punchbowl Street, Kalanimoku Building, Room 130, Honolulu, Hawai'i, 96816.

RECITALS

WHEREAS, the HTA has established a Beach Restoration Program for the purpose of providing funds for the restoration of visitor area resort beaches through public and private funding; and, that HTA has established a financial account at the Bank of Hawai'i to deposit funds and expend funds for purposes of its Beach Restoration Program;

WHEREAS, the DLNR desires funds to provide for the development and restoration of visitor area resort beaches, including the maintenance of any improvements placed on visitor area resort beaches or in nearshore waters, as determined by DLNR, including debt service on any capital expenditures projects and the contracting for services related to said development and restoration of visitor area resort beaches; and,

WHEREAS, the HTA intends to support DLNR's desire by providing funds for the development and restoration of visitor area resort beaches; provided that as used herein, "visitor area resort beaches" means sandy beaches that provide public access, including without limitation, Gray's Beach, located in Waikīkī on the island of O'ahu and Kā'anapali Beach located on the island of Maui.

NOW, THEREFORE, in consideration of the promises provided herein, the HTA and the DLNR hereby acknowledge and agree as to the terms and conditions stated below.

1. DLNR shall determine the visitor area resort beaches requiring development and restoration.

2. DLNR shall obtain the prior approval of the HTA to fund projects related to the development and restoration of visitor area resort beaches by satisfying the following criteria:

- a. DLNR shall match funding by HTA on a 1:1 ratio;
- b. Funding from any private sector entity using non-state funds shall match, at minimum, the total funding from DLNR and HTA on a 1:1 ratio; and,
- c. HTA funds shall be used solely for the development and restoration of a visitor area resort beach; and, that said restored beach shall be free and clear of any barriers, ropes, or signs unlawfully denying or restricting access or use of the beach by any resident, visitor, and the general public.

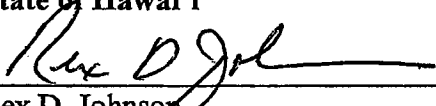
3. DLNR shall execute and manage all capital expenditure projects and the contracting for services related to the development and restoration of visitor area resort beaches.

4. Upon approval of a proposal, HTA shall provide DLNR its share or portion of funding for a project on a 1:1 matching basis with DLNR.

5. Notwithstanding any provision to the contrary, DLNR acknowledges and agrees that HTA's total financial obligation under this Memorandum of Understanding shall not exceed TWO MILLION AND NO/100 DOLLARS (\$2,000,000.00) beginning from the effective date of this Memorandum and until June 30, 2010; provided that the termination date may be extended upon mutual agreement of both parties or upon a determination that DLNR may require additional time to complete a project for the restoration of a visitor area resort beach.

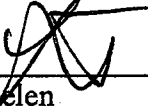
IN VIEW OF THE ABOVE, the undersigned parties execute this MEMORANUM OF UNDERSTANDING, by and through their respective duly authorized undersigned official.

HAWAI'I TOURISM AUTHORITY
State of Hawai'i

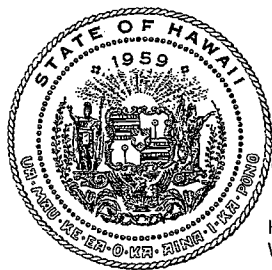


Rex D. Johnson
President & CEO

**DEPARTMENT OF LAND AND
NATURAL RESOURCES**
State of Hawai'i



Laura H. Thielen
Chairperson
Board of Land and Natural Resources



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LINDA LINGLE
Governor

LLOYD I. UNEBASAMI
Interim President and
Chief Executive Officer

February 13, 2009

Ms. Laura H. Thielen
Chairperson
Board of Land and Natural Resources
Kalanimoku Building
1151 Punchbowl Street
Honolulu, Hawai'i 96813

Dear Ms. Thielen:

Re: Memorandum of Understanding Relating to Providing Funding for the
Development and Restoration of Visitor Area Resort Beaches ("MOU")

In our memorandum to you dated May 9, 2008, we confirmed that the above-referenced MOU was executed as a means to implement the passage of Section 4, Act 158, SLH 2008, the Supplemental Appropriations Act of 2008, which provided authorization for the Hawai'i Tourism Authority (HTA) to expend \$1 million during fiscal year 2009 for restoration of beaches with public access that is matched dollar-for-dollar from private sources. (A copy of the memorandum dated May 9, 2008 and the above-referenced MOU is attached.)

As you know, the State of Hawai'i is responding to severe recessionary economic conditions experienced on a global basis. These global economic conditions have resulted in a significant reduction in the number of visitors traveling for leisure. Consequently, the actual collection of Transient Accommodation Tax (TAT) revenues are less than originally projected by the Council on Revenues when the Fiscal Year 2009 State Budget was enacted.

Due to a significant reduction in TAT revenues collected in FY 2009 and the anticipated downward trend of TAT revenue projections into FY 2010, the HTA must restrict its current and future expenditures for various marketing initiatives and non-marketing programs, including our expenditure for the beach restoration initiative provided in the MOU. Please be advised that the HTA will not be able to provide any funds for the beach restoration initiative described in the MOU. Consequently, we must terminate the MOU due to the lack of TAT revenues to fund the MOU and that the termination shall be effective as of the date of this letter.

Should you have any questions or objections to our termination of the MOU, please do not hesitate to contact me.

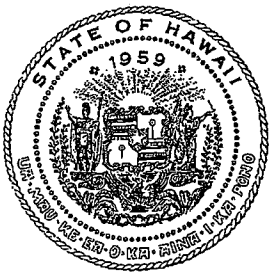
Very truly yours,

A handwritten signature in black ink, appearing to read "Lloyd I. Unebasami". The signature is fluid and cursive, with a large initial "L" and "U".

Lloyd I. Unebasami
Interim President & CEO

Enclosures

- c: The Honorable Colleen Hanabusa
 Senate President
- The Honorable Calvin Say
 Speaker of the House of Representatives



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May 9, 2008

TO: Laura H. Thielen
Chairperson
Board of Land and Natural Resources

FROM: Rex D. Johnson
President & CEO
Hawai'i Tourism Authority

RE: Memorandum of Understanding Between the Hawai'i Tourism Authority and the Department of Land and Natural Resources Relating to Providing Funding for the Development and Restoration of Visitor Area Resort Beaches (MOU)

In your memorandum dated April 30, 2008, we received the above-referenced MOU signed by you and a request that we return the original MOU with my signature. Although I have signed the original MOU, our office will also require an original for our files as an expending agency. Our office will retain this original MOU for our files.

I have taken the liberty of enclosing another MOU executed by me and request that you sign the MOU as a second original, which you may retain for your files. You should also include the effective date of "4/29/08" that you provided in the original MOU. (A copy of the original MOU executed by me is enclosed.)

Finally, I note the passage of H.B. 2500, H.D. 1, S.D. 1, C.D. 1, the Supplemental Appropriations Act of 2008, which included in Section 4 a provision authorizing HTA to expend \$1 million during fiscal year 2009 for restoration of beaches with public access that is matched dollar-for-dollar from private sources. We are confirming that the MOU will be utilized as the process for HTA to expend the appropriation authorized by H.B. 2500.

We look forward to our joint efforts to implement this project.