OFFICE OF THE GOVERNOR
STATE OF HAWAIʻI

PROCLAMATION

By the authority vested in me by the Constitution and laws of the State of Hawaiʻi, in order to provide relief for disaster damages, losses, and suffering, and to protect the health, safety, and welfare of the people, I, DAVID Y. IGE, Governor of the State of Hawaiʻi, hereby determine, designate and proclaim as follows:

WHEREAS, Hawaiʻi is currently experiencing heavy rains beginning December 4, 2021, and based upon all available scientific information and expertise available, Hawaii is in danger of a disaster occurrence of heavy rains, flooding, high winds, and high surf which are forecast to continue through December 8, 2021, with anticipated localized flooding, lingering saturated ground conditions, and periods of heavy rains and flooding which are expected to cause extensive damage to public and private property, impacting the counties of Hawaiʻi, Maui, Kalawao, Kauaʻi, and the City and County of Honolulu, State of Hawaiʻi, thereby endangering the health, safety, and welfare of the people; and

WHEREAS, this occurrence of a severe, sudden, and extraordinary event of heavy rains, flooding, high winds, and high surf that threatens to cause damages, losses, and suffering of such character and magnitude to affect the health, welfare, and living conditions of a substantial number of persons, and to affect the economy of the State, and is expected to be of such a nature as to warrant rehabilitative assistance from the State; and

WHEREAS, the Legislature of the State of Hawaiʻi has appropriated from the general revenues of the State monies as may be necessary for expenditure by or under the direction of the Governor for the immediate relief of the conditions created by the emergency; and

WHEREAS, in expending such monies, the Governor may allot any portion to any agency, office, or employee of the state or to any county for the most expeditious and efficient relief of the conditions created by the emergency; and

WHEREAS, pursuant to sections 127A-14 and 127A-16, Hawaii Revised Statutes, the Governor may determine whether an emergency or disaster has occurred, or whether there is an imminent danger or threat of an emergency or disaster and authorize actions under chapter 127A, Hawaii Revised Statutes, and the expenditure of funds thereunder; and

WHEREAS, pursuant to section 127A-13(a)(3), Hawaii Revised Statutes, the Governor may suspend any law that impedes or tends to impede or is detrimental to the expeditious and efficient execution of, or that conflicts with, emergency functions, including laws specifically made applicable to emergency personnel; and

WHEREAS, pursuant to section 127A-13(a)(2), Hawaii Revised Statutes, the Governor may relieve hardships and inequities, or obstructions to the public health, safety, and welfare found by the Governor to exist in the laws and to result from the operation of federal programs or measures taken under chapter 127A, Hawaii Revised Statutes, by suspending laws, in whole or in part, or by alleviating the provisions of laws on such terms and conditions as the Governor may impose; and

WHEREAS, pursuant to section 127A-12(b)(8), Hawaii Revised Statutes, the Governor may suspend chapter 103D and sections 103-50, 103-53, 103-55, 105-1 to 105-10, and 464-4, Hawaii Revised Statutes, in whole or in part, if these provisions impede or tend to impede the expeditious discharge of emergency disaster relief functions for this occurrence and that compliance therewith is impracticable due to existing conditions; and

WHEREAS, pursuant to section 127A-12(b)(16), Hawaii Revised Statutes, the Governor may order and direct government agencies, officials, officers, and employees of the State, to take such action and employ such measures for law enforcement, medical, health, firefighting, traffic control, warnings and signals, engineering, rescue, construction, emergency housing, other welfare, hospitalization, transportation, water supply, public information, training, and other emergency functions as may be necessary, and utilize the services, materials, and facilities of the agencies and officers; and

WHEREAS, pursuant to section 127A-12(b)(5), Hawaii Revised Statutes, the Governor may take possession of, use, manage, control, and reallocate any public property of the State, real or personal, required by the governor for the purposes of this chapter, including airports, parks, playgrounds, and schools, and other public buildings; and

WHEREAS, pursuant to section 127A-12(b)(9), Hawaii Revised Statutes, the Governor may appoint, employ, train, equip, and maintain, with compensation, or on a volunteer basis without compensation and without regard to chapters 76, 78, and 88, such agencies, officers, and other persons as the Governor deems necessary to carry out emergency management functions; determine to what extent any law prohibiting the holding of more than one office or employment applies to the agencies, officers, and other persons; and subject to the provisions of chapter 127A, Hawaii Revised Statutes, provide for the interchange of personnel, by detail, transfer, or otherwise, between agencies or departments of the State; and

WHEREAS, pursuant to section 127A-12(b)(19), Hawaii Revised Statutes, the Governor may take any and all steps necessary or appropriate to carry out the purposes of chapter 127A, Hawaii Revised Statutes, notwithstanding that powers in section 127A-13(a) may only be exercised during an emergency period; and

NOW, THEREFORE, I, DAVID Y. IGE, Governor of the State of Hawaiʻi, hereby determine that an emergency or disaster contemplated by section 127A-14, Hawaii Revised Statutes, has occurred in or threatens the counties of Hawaiʻi, Maui, Kalawao, Kauaʻi, and the City and County of Honolulu, State of Hawaiʻi, and do hereby authorize and invoke the following emergency provisions which are expressly invoked, if not already in effect upon this declaration of an emergency:

I. Invocation of Laws

Section 127A-16, HRS, by activating the Major Disaster Fund.

Sections 127A-12 and 127A-13, HRS, in order for county and state agencies to provide emergency relief and engage in emergency management functions as defined in section 127A-2, HRS, as a result of and in response to this event.

Sections 127A-3, 127A-12(a)(5), 127A-13(a)(5), and 127A-13(a)(6), HRS, and the Director of Hawai‘i Emergency Management and the Administrator of Emergency Management are directed to take appropriate actions to direct or control, as may be necessary for emergency management:

a. Alerts, warnings, notifications, and activations;

b. Warnings and signals for alerts and any type or warning device, system, or method to be used in connection therewith;

c. Partial or full mobilization of personnel in advance of or in response to an actual emergency or disaster;

d. The conduct of civilians and the movement and cessation of movement of pedestrians and vehicular traffic during, before, and after alerts, emergencies, or disasters;

e. Shut off water mains, gas mains, electric power connections, or suspension of other services; and

f. Mandatory evacuation of the civilian population.

Section 127A-13(a)(1), HRS, and I find that the dangerous conditions of certain reservoirs in the State of Hawai‘i and erosion, and fear of dam failure in certain reservoirs constitute a public nuisance which are dangerous to the public health or safety or to property and hereby authorize the Director of Hawai‘i Emergency Management or the Administrator of Emergency Management to direct that any public nuisances be summarily abated, and if need be that the property be destroyed, by any police officer or any authorized person in order to protect the public health and safety.

Section 127A-12(b)(13), HRS, requiring each public utility, or any person owning, controlling, or operating a critical infrastructure, to protect and safeguard its or the person’s property, or to provide for the protection and safeguarding thereof, and provide for the protection and safeguarding of all critical infrastructure and key resources; provided that without prejudice to the generality of the foregoing two clauses, the protecting or safeguarding may include the regulation or prohibition of public entry thereon, or the permission of the entry upon terms and conditions as I may prescribe.

Section 127A-12(b)(16), HRS, directing all state agencies and officers to cooperate and extend their services, materials, and facilities as may be required to assist in emergency response efforts.

II. Suspension of Laws

The following specific provisions of law are suspended, as allowed by federal law, pursuant to section 127A-13(a)(3), Hawaii Revised Statutes, to the extent that the law impedes or tends to impede or be detrimental to the expeditious and efficient execution of, or to conflict with, emergency functions, including laws which by Chapter 127A, Hawaii Revised Statutes, specifically are made applicable to emergency personnel to the extent necessary for county and state agencies to implement and accomplish the emergency management functions contemplated under this Proclamation for the protection and relief from damages, losses, and suffering from the emergency:

Chapter 6E, Hawaii Revised Statutes, **historic preservation**, to the extent that compliance requires additional time detrimental to the expeditious and efficient execution of emergency repairs.

Section 37-41, Hawaii Revised Statutes, **appropriations to revert to state treasury; exceptions,** to the extent that appropriations lapse at the end of the fiscal year prior to completion of the emergency repairs.

Section 37-74(d), Hawaii Revised Statutes, **program execution**, except for sub-sections 37-74(d)(2) and 37-74(d)(3), Hawaii Revised Statutes, and any such transfers or changes considered to be authorized transfers or changes for purposes of section 34-74(d)(1) for legislative reporting requirements, to the extent that legislative authorization would likely delay appropriation transfers or changes between programs to provide necessary funding to complete the emergency repairs.

Section 40-66, Hawaii Revised Statutes, **lapsing of appropriations**, to the extent that the timing of the procurement of any emergency permanent repairs may occur the fiscal year following the original emergency proclamation.

Chapter 46, Hawaii Revised Statutes, **county organization and administration** with respect to any county ordinance, rule, regulation, law, or provision in any form

relating to county permitting, licensing, zoning, variance, processes, procedures, fees, or any other requirements that hinders, delays, or impedes the purpose of this Proclamation.

Chapter 89, Hawaii Revised Statutes, **collective bargaining in public employment**, to the extent that compliance or any provision relating to collective bargaining hinders, delays, or impedes the purpose of this Proclamation.

Chapter 89C, Hawaii Revised Statutes, **public officers and employees excluded from collective bargaining**, to the extent that compliance or any provision relating to collective bargaining hinders, delays, or impedes the purpose of this Proclamation.

Section 103-2, Hawaii Revised Statutes, **general fund**, to the extent that compliance results in any additional delays.

Section 103-53, Hawaii Revised Statutes, **contracts with the State or counties; tax clearances, assignments**, to the extent that compliance results in any additional delays.

Section 103-55, Hawaii Revised Statutes, **wages, hours, and working conditions of employees of contractors performing services**, to the extent that compliance results in any additional delays.

Chapter 103D, Hawaii Revised Statutes, **Hawaii public procurement code**, to the extent that compliance results in any additional delays involved in meeting procurement requirements for selecting contractors in a timely manner to respond to emergency situations.

Chapter 104, Hawaii Revised Statutes, **wages and hours of employees on public works**, to the extent that compliance with this chapter requires additional time detrimental to the expeditious and efficient execution of emergency repairs.

Sections 105-1 to 105-10, Hawaii Revised Statutes, **use of government vehicles, limitations.**

Sections 142-2 to 142-12, Hawaii Revised Statutes, as these sections may apply to the arrival of dogs used by search and rescue teams approved by the State of Hawaiʻi, Department of Defense.

Chapter 171, Hawaii Revised Statutes, **public lands, management and disposition of**, to the extent that compliance results in any additional delays involved with securing approvals from the Department of Land and Natural Resources.

Chapter 174C, Hawaii Revised Statutes, **state water code**, to the extent that compliance results in any additional delays involved with securing approvals from state or county agencies.

Chapter 179D, Hawaii Revised Statutes, **dams and reservoirs**, to the extent that compliance results in any additional delays involved with securing approvals from state or county agencies.

Chapter 180C, Hawaii Revised Statutes, **soil erosion and sediment control**, to the extent that compliance results in any additional delays involved with securing approvals from state or county agencies.

Chapter 183, Hawaii Revised Statutes, **forest reserves, water development, zoning**, to the extent that any repair, reconstruction, improvement, or work is located within a forest reserve.

Chapter 183C, Hawaii Revised Statutes, **conservation district**, to the extent that any repair, reconstruction, improvement, or work is located within the conservation district.

Chapter 205A, Hawaii Revised Statutes, **coastal zone management**, to the extent that compliance results in any additional delays involved with securing approvals from the counties or the Department of Land and Natural Resources for work within the special management area.

Chapter 264, Hawaii Revised Statutes, **highways**, to the extent that compliance results in any additional delays involved with securing approvals from the Department Transportation.

Chapter 286, Hawaii Revised Statutes, **highway safety**, to the extent that compliance results in any additional delays.

Chapter 341, Hawaii Revised Statutes, **environmental quality control**, to the extent that compliance results in any additional delays involved with securing approvals from the Office of Environmental Quality Control.

Chapter 342B, Hawaii Revised Statutes, **air pollution control control**, to the extent that compliance results in any additional delays involved with securing approvals from the Department of Health.

Chapter 342D, Hawaii Revised Statutes, **water pollution control**, to the extent that compliance results in any additional delays involved with securing approvals from the Department of Health.

Chapter 342E, Hawaii Revised Statutes, **non-point source pollution management and control**, to the extent that compliance results in any additional delays involved with securing approvals from the Department of Health.

Chapter 342F, Hawaii Revised Statutes, **noise pollution control**, to the extent that compliance results in any additional delays involved with securing approvals from the Department of Health.

Chapter 342H, Hawaii Revised Statutes, **solid waste pollution control**, to the extent that compliance results in any additional delays involved with securing approvals from the Department of Health.

Chapter 343, Hawaii Revised Statutes, **environmental impact statements**, to the extent that compliance results in any additional delays involved with the environmental review process.

Chapter 344, Hawaii Revised Statutes, **state environmental policy**, to the extent that compliance results in any additional delays involved with the environmental review process.

Section 464-4, Hawaii Revised Statutes, **public works required to be supervised by certain professionals**, to the extent that compliance results in any additional delays involved with the completing of construction drawings to the point of stamping and signature by a professional engineer

III. Severability

If any provision of this Proclamation is rendered or declared illegal for any reason, or shall be invalid or unenforceable, such provision shall be modified or deleted, and the remainder of this Proclamation and the application of such

provision to other persons or circumstances shall not be affected thereby but shall be enforced to the greatest extent permitted by applicable law.

I FURTHER DECLARE that the disaster emergency relief period shall commence immediately and continue through December 10, 2021, unless terminated or superseded by separate proclamation, whichever shall occur first.

Done at the State Capitol, this
6th day of December, 2021.

DAVID Y. IGE,
Governor of Hawai'i

APPROVED:

Clare E. Connors
Attorney General
State of Hawai'i