

State of Hawai'i
DEPARTMENT OF LAND AND NATURAL RESOURCES
Division of Forestry and Wildlife
Honolulu, Hawai'i 96813

January 25, 2019

Chairperson and Members
Board of Land and Natural Resources
State of Hawai'i
Honolulu, Hawai'i

Board Members:

SUBJECT: APPROVE EXPENDITURES OF FISCAL YEAR 2017 AND FISCAL YEAR 2018 ENCUMBRANCES FOR LEGACY LAND CONSERVATION PROGRAM GRANT AGREEMENT WITH WAIPĀ FOUNDATION FOR LAND ACQUISITION AT HALELE'A, KAUA'I, TAX MAP KEY NUMBER (4) 5-6-004:010, LLCP 15-01,

AND

APPROVE AN EXPENDITURE OF FISCAL YEAR 2017 ENCUMBRANCE FOR LEGACY LAND CONSERVATION PROGRAM GRANT AGREEMENT WITH HI'IPAKA LLC FOR LAND ACQUISITION AT KO'OLAULOA, O'AHU, TAX MAP KEY NUMBER (1) 6-1-002:005, LLCP 16-01.

SUMMARY

The Division requests that the Board re-approve funding from the Land Conservation Fund that is already encumbered under contracts for two grants for important land acquisitions, so that the Board's approvals will match the fiscal years of the existing encumbrances and facilitate completion of the pending conservation transactions.

BACKGROUND

A recent performance audit of the Department's Legacy Land Conservation Program (LLCP), *available at* <http://files.hawaii.gov/auditor/Reports/2019/19-01.pdf>, includes findings that question LLCP funding mechanisms for certain grants. In response to this finding, LLCP determined that previous Board approval of funding for two grants—for which funding from the Land Conservation Fund is already encumbered under contracts with the two grantees—was limited to the fiscal year in progress at the time of Board approvals in Fiscal Years 2015 and 2016 (FY15 and FY16). Due to a lapse of FY15 funding, an unforeseen funding gap that occurred during FY16, and an unexpected legal delay for one grant (willing seller's Quiet Title Action), LLCP later encumbered available, appropriated funds during Fiscal Years 2017 and 2018 (FY17 and FY18) in order to honor grantee acceptance of the original award offers.

LLCP 15-01, GRANT AGREEMENT WITH WAIPĀ FOUNDATION
FOR LAND ACQUISITION AT HALELE‘A, KAUA‘I,
TAX MAP KEY NUMBER (4) 5-6-004:010

On February 27, 2015, under agenda item C-1, the Board approved the Division’s recommendation to authorize the Chairperson to enter into agreements and encumber \$398,250 in Fiscal Year 2015 (FY15) funds with Waipā Foundation for purchase of 1.8 acres in Hanalei, Island of Kaua‘i, for the protection of cultural resources, agricultural resources and natural wetland habitat, subject to standard conditions, including “execution of a grant agreement with the BLNR;” “the availability of funds;” “the approval of the Governor;” and “such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State” (Attachment 1, pages 8-9). The Legacy Land Conservation Commission ranked this acquisition as the highest priority for the FY15 application cycle, and when the acquisition is completed this would be just the second property conserved on Kaua‘i with a grant from the Land Conservation Fund.

The Division’s submittal to the Board (Attachment 1, page 3) indicated that:

Kaluanono at Waipā is habitat for the endangered Koloa Maoli (Hawaiian Duck), ‘Alae ‘Ula (Hawaiian Moorhen), ‘Alae Ke‘oke‘o (Hawaiian Coot), Ae‘o (Hawaiian Stilt), Nēnē (Hawaiian Goose), and the native Auku‘u (Black-crowned Night Heron). These native wetland birds traverse Kaluanono’s shallow stream banks, and the , , and have been seen nesting on the property.

Kaluanono is a mo‘o kalo (narrow strip of land cultivated in taro) that is bounded by other lo‘i kalo (wetland taro patches), a pond called Kalokowai and Waipa Stream, and an ancient ‘auwai. The southern and southwest boundaries of Kaluanono are Waipā Foundation’s farm lots.

Waipa Foundation will hold the property and manage the natural, cultural, and agricultural resources. Kaluanono would provide Waipā Foundation a place to teach students about native wetland species and the importance of a healthy ahupua‘a, and an opportunity to expand its existing wetland bird curriculum for youth. Acquisition would allow Waipā Foundation to expand its current agricultural activities on the property, possibly planting an orchard with ground crops on the southern portion adjoining Waipā Foundation’s existing farm lots, and reopening lo‘i kalo . . . on the northern portion. Waipā Foundation will review agricultural plans with native wetland bird experts to prevent impacts on the property’s resources and wetland bird behavior. Waipā Foundation envisions a learning shelter in the middle of the property for visitors and students to observe and discuss the wetland habitat and agricultural activities.

After Board approval, the Governor granted the Department’s request for approval and release of the grant funds on June 3, 2015 (Attachment 2), and on June 12, 2015, Waipā Foundation accepted the Department’s offer of \$398,250 from the Land Conservation Fund for the approved acquisition (Attachment 3). Based on the approvals and acceptance, the Division blanket encumbered the \$398,250 in grant funds before June 30, 2015 (the close of FY15).

In September 2015, the long-standing LLCP Program Specialist resigned, beginning a thirteen-month period of vacancy for this position, accompanied by vacancies up through supervisory chain (Native Ecosystems Program Manager and Division Administrator) and by

turnover in key positions in the Administrative Services Office. In December 2015, Waioli Corporation (the willing seller in the grant application) filed a Quiet Title Action for the property against a group of defendants. During the pendency of this action, Waipā Foundation and the LLCP agreed to refrain from entering into a grant agreement until after a final judgment in the Quiet Title Action. However, as of July 1, 2016, in the absence of a contract between Waipā Foundation and the State, the FY15 blanket encumbrance lapsed.

The Fifth Circuit Court issued its final judgement in the Quiet Title Action, in favor of willing seller Waioli Corporation, on September 9, 2016, after which Waipā Foundation indicated its interest in proceeding to acquire the property. At the close of FY17, LLCP blanket encumbered \$83,944.22 in available FY17 funds for the grant, and on September 20, 2017, after sufficient FY18 funds became available, Waipā Foundation entered into a contract with the State that encumbered FY17 and FY 18 funds for the acquisition (Attachment 4). The contract requires that Waipā Foundation, in completing its acquisition of the property, record a document of conveyance of a conservation easement to the County of Kaua‘i (Attachment 4, page 5).

The County of Kaua‘i, under a new administration, is now re-evaluating its process for using the County Public Access, Open Space, and Natural Resources Preservation Fund as a source of matching funds for the Legacy Land grant to Waipā Foundation. The Division notes that at this time next year, the grant to Waipā Foundation, if continued, will be eligible for annual review as a project that has been pending for more than five years.

LLCP 16-01, GRANT AGREEMENT WITH HI‘IPAKA LLC FOR LAND ACQUISITION AT KO‘OLAULOA, O‘AHU, TAX MAP KEY NUMBER (1) 6-1-002:005

On February 19, 2016, two months after the Legacy Land Conservation Commission had ranked this acquisition as the highest priority for the FY16 application cycle, The Trust for Public Land exercised its option agreement with the landowner and purchased the property. On April 8, 2016, under agenda item C-3, the Board approved the Division’s recommendation to authorize the Chairperson to enter into agreements and encumber \$175,000 in Fiscal Year 2016 (FY16) funds with Hi‘ipaka LLC for acquisition of 3.75 acres in Waimea Valley, Island of O‘ahu, subject to standard conditions, including “execution of a grant agreement with the BLNR;” “the availability of funds;” “the approval of the Governor;” and “such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State” (Attachment 5, pages 8-9). When the acquisition is completed it will complete a consolidation of land holdings in Waimea Valley under a single, conservation-minded landowner whose mission is to preserve and perpetuate the human, cultural and natural resources of Waimea for generations through education and stewardship.

The Division’s submittal to the Board (Attachment 5, page 3) indicated that:

Waimea Valley has a rich history of native Hawaiian inhabitants and traditional religious leaders. Despite the many changes, Waimea is still respected today as a sacred and powerful valley filled with history. Now that the vast majority of Waimea has been returned to, and is thriving under, Hawaiian stewardship, it is hoped that the general area believed to contain Hewahewa’s final resting place can be protected and cared for from mauka to makai. Apart from cultural resources, Pu‘ukua likely functions as a buffer zone and filter to decrease any runoff from the adjacent parking lots from entering Waimea

River, which is home to almost a dozen of the few hundred endangered 'ālae 'ula (Hawaiian moorhen) left

Hi'ipaka LLC and The Trust for Public Land's priority short term goal is to protect Pu'ukua's cultural sites, and ensure that they are under the care of a culturally knowledgeable and respectful entity that has trust and relationships with the Native Hawaiian community, and ancestral descendants. Hi'ipaka, LLC's longterm goal is to achieve the permanent protection of the cultural sites, maintain and strengthen relationships with the Pu'ukua's descendants, create the right ano (feeling or environment) at Pu'ukua so that it is a respite for Hawaiian spirituality and traditions as the greater Waimea Valley is.

After Board approval, the Governor granted the Department's request for approval and release of the grant funds on May 27, 2016 (Attachment 6), and on June 9, 2016, Hi'ipaka LLC accepted the Department's offer of \$175,000 from the Land Conservation Fund for the approved acquisition (Attachment 7). Based on the approvals and acceptance, the Department initiated a request to blanket encumber the \$175,000 in grant funds before June 30, 2016 (the close of FY16). The unfortunate, intervening timing of other draws on FY16 funds that were not initiated or controllable by LLCP (primarily the erroneous Departmental payment of administrative assessment of central service fees on special fund revenue) resulted in only \$5,336.50 of FY16 funding secured under that blanket encumbrance. The Division notes that all of the activity discussed above transpired during a prolonged period of vacancy for the LLCP Program Specialist position, accompanied by vacancies up through the supervisory chain (Native Ecosystems Program Manager and Division Administrator) and by turnover in key positions in the Administrative Services Office.

On April 26, 2017, after sufficient funding for the grant became available in FY17, Hi'ipaka entered into a contract with the State that encumbered \$175,000 in FY17 funds for the acquisition (Attachment 8). On May 25, 2017, after realizing the partial funding was already encumbered in FY16, Hi'ipaka and the State amended the contract to reduce the encumbrance of FY17 funds from \$175,000 to \$169,663.50 (Attachment 8). The Trust for Public Land is holding title to Pu'ukua until Hi'ipaka LLC can complete its purchase, and the City and County of Honolulu is now poised to provide matching funds from its Clean Water and Natural Lands Fund. Before closing the transaction, LLCP and Hi'ipaka will complete one final amendment to the grant agreement with which is intended to further protect the State's interests in a grant awarded to a limited liability company. In conjunction with closing, Hi'ipaka LLC will deed a conservation easement across the property to co-holders North Shore Community Land Trust and City County of Honolulu.

DISCUSSION

At issue is the expenditure of \$567,914 from the Land Conservation Fund to fulfill public purposes specified in two grant applications, as previously recommended by the Legacy Land Conservation Commission—with no objections from legislative leadership—and as previously approved by the Board and the Governor. If the Department does not expend these funds for the two subject land acquisitions, then the money will become part of the unencumbered cash balance of the Land Conservation Fund, currently estimated at over \$23.7 million, and cannot be used for grant awards unless/until the Legislature restores its availability for grant purposes through a future appropriation. If the Board approves this expenditure, then it will increase the

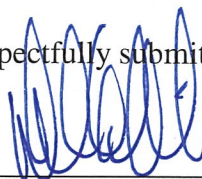
possibility of completing the two subject acquisitions in a timely fashion, with no intervening delays for the grantee to secure new sources of funding to replace the existing grants from the Land Conservation Fund.

RECOMMENDATIONS

That the Board:

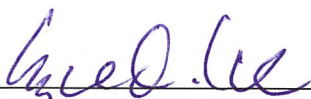
- 1) Approve expenditures of \$83,944.22 from the Fiscal Year 2017 Land Conservation Fund and \$314,305.78 from the Fiscal Year 2018 Land Conservation Fund (total \$398,250.00) for contract number 66451 with Waipā Foundation for land acquisition at Halele‘a, Kaua‘i, Tax Map Key Number (4) 5-6-004:010.
- 2) Approve an expenditure of \$169,663.50 from the Fiscal Year 2017 Land Conservation Fund for contract number 65721 with Hi‘ipaka LLC for land acquisition at Ko‘olauloa, O‘ahu, Tax Map Key Number (1) 6-1-002:005.

Respectfully submitted,



DAVID G. SMITH, Administrator

APPROVED FOR SUBMITTAL:



SUZANNE D. CASE, Chairperson
Board of Land and Natural Resources

ATTACHMENTS:

- Attachment 1: Board submittal for Item C-1, February 27, 2015 (without attachments)
- Attachment 2: Request for approval of Fiscal Year 2015 Legacy Land Conservation Program grants (without attachments)
- Attachment 3: Waipā Foundation acceptance of grant offer
- Attachment 4: Legacy Land Conservation Program Grant Agreement with Waipā Foundation
- Attachment 5: Board submittal for Item C-3, April 8, 2016 (without attachments)
- Attachment 6: Request for approval of Fiscal Year 2016 Legacy Land Conservation Program grants (without attachments)
- Attachment 7: Hi‘ipaka LLC acceptance of grant offer
- Attachment 8: Legacy Land Conservation Program Grant Agreement with Hi‘ipaka LLC, as amended

ATTACHMENT 1
January 25, 2019

State of Hawai'i
DEPARTMENT OF LAND AND NATURAL RESOURCES
Division of Forestry and Wildlife
Honolulu, Hawai'i 96813

February 27, 2015

Chairperson and Members
Board of Land and Natural Resources
State of Hawaii
Honolulu, Hawai'i

Board Members:

SUBJECT: REVIEW OF PROJECT RECOMMENDATIONS FOR FUNDING FROM THE FISCAL YEAR 2015 LEGACY LAND CONSERVATION PROGRAM (LAND CONSERVATION FUND) AND APPROVAL OF THE FOLLOWING GRANTS:

KALUANONO AT WAIPA; WAIPA FOUNDATION, AT \$398,250 FOR PURCHASE OF 1.8 ACRES IN HANALEI, ISLAND OF KAUAI;

KA IWI COAST MAUKA LANDS; DEPARTMENT OF LAND AND NATURAL RESOURCES, DIVISION OF FORESTRY AND WILDLIFE, AT \$1,000,000 FOR ACQUISITION OF 181.14 ACRES IN KO'OLAUPOKO, ISLAND OF OAHU;

WAI'OPAE; COUNTY OF HAWAII, AT \$1,330,000 FOR ACQUISITION OF 322.167 ACRES IN PUNA, ISLAND OF HAWAII;

PUAHALA WATERSHED ACQUISITION; DEPARTMENT OF LAND AND NATURAL RESOURCES, DIVISION OF FORESTRY AND WILDLIFE, AT \$855,625 FOR ACQUISITION OF 800 ACRES IN KAMALO, ISLAND OF MOLOKAI;

KALUAAHA RANCH CONSERVATION EASEMENT; MOLOKAI LAND TRUST, AT \$500,000 FOR ACQUISITION OF A CONSERVATION EASEMENT OVER 969 ACRES IN MOLOKAI DISTRICT, ISLAND OF MOLOKAI; AND

PUPUKEA MAUKA; DEPARTMENT OF LAND AND NATURAL RESOURCES, DIVISION OF FORESTRY AND WILDLIFE, AT \$416,125, FOR ACQUISITION OF 3,716 ACRES IN WAIALUA, ISLAND OF OAHU.

SUMMARY:

Pursuant to H.R.S., section 173A-2.5, the Legacy Land Conservation Commission (the Commission) has produced recommendations to the Board of Land and Natural Resources on project selection for Fiscal Year 2015 (FY15) funding from the Legacy Land Conservation Program (LLCP). Pursuant to H.R.S., section 173A-5, the Department has sought and received the consultation of the Senate President and Speaker of the House of Representatives. This submittal summarizes these

ITEM C-1

recommendations for the Board's review and requests approval for projects to receive FY15 LLCP funding.

BACKGROUND:

Legacy Land Conservation Commission Recommendations:

In June, 2014, the LLCP announced available FY15 funding from the Land Conservation Fund (LCF) for projects proposing the purchase of lands having value as a resource to the State. Nonprofit land conservation organizations, county agencies, and State agencies applied for funding for seven separate resource land acquisition projects for the September 15, 2014, application deadline. On December 5, 2014, at a public meeting, the Commission ranked the projects and recommended that they be funded in the order ranked, to the extent that funds are available.

The result of this recommendation would be full awards of to the first five projects listed below, and a partial award of \$416,125 to the sixth project listed.

1. Kaluanono at Waipa; Waipa Foundation, at \$398,250 for purchase of 1.8 acres in Hanalei, Island of Kauai, for the protection cultural resources, agricultural resources and natural wetland habitat.
2. Ka Iwi Coast Mauka Lands; Department of Land and Natural Resources, Division of Forestry and Wildlife, at \$1,000,000 for acquisition of 181.14 acres in Ko'olaupoko, Island of Oahu, for the protection of scenic and cultural resources.
3. Wai'opae; County of Hawaii, at \$1,330,000 for acquisition of 322.167 acres in Puna, Island of Hawaii, for the protection of coastal, natural, and cultural resources
4. Puaahala Watershed Acquisition; Department of Land and Natural Resources, Division of Forestry and Wildlife, at \$855,625 for acquisition of 800 acres in Kamalo, Island of Molokai, for the protection of watershed and natural habitat.
5. Kaluaaha Ranch Conservation Easement; Molokai Land Trust, at \$500,000 for acquisition of a conservation easement over 969 acres in Molokai district, Island of Molokai, for the protection of watershed, natural areas, and habitat.
6. Pupukea Mauka; Department of Land and Natural Resources, Division of Forestry and Wildlife, at \$416,125 (of \$1,000,000 request) for acquisition of 3,716 acres in Waialua, Island of Oahu, for the protection of watershed and natural areas.

Details on each project are included in the discussion, maps and photos are attached as part of Attachment I.

Legislative Consultation

Following the Commission meeting, the Department and the Commission Chair sought the consultation of Senate President Donna Mercado Kim and the Speaker of the House of Representatives Joseph Souki regarding the Commission's recommendations, pursuant to H.R.S. Chapter 173A. The Senate President and Speaker of the House of Representatives offered no

objections or comments to the projects listed as recommended by the Commission in letters dated January 12, 2015, and January 22, 2015, respectively (Attachments II and III).

DISCUSSION:

The following discussion describes the details surrounding each of the Legacy Land Conservation Commission's recommended projects.

Kaluanono at Waipa

Trust for Public Land (TPL) and Waipa Foundation applied for \$398,250 for the purchase of 1.8 acres in Hanalei, Island of Kauai, for the protection of cultural resources, agricultural resources and natural wetland habitat. Waipa Foundation and TPL will seek the matching funds to cover the remaining 25 percent of project costs from the Kauai County open space fund and TPL. The County of Kauai anticipates holding conservation easement over the land as a condition of grant funding.

Kaluanono at Waipā is habitat for the endangered Koloa Maoli (Hawaiian Duck), 'Alae 'Ula (Hawaiian Moorhen), 'Alae Ke'oke'o (Hawaiian Coot), Ae'o (Hawaiian Stilt), Nēnē (Hawaiian Goose), and the native Auku'u (Black-crowned Night Heron). These native wetland birds traverse Kaluanono's shallow stream banks, and the 'Alae 'Ula, 'Alae Ke'oke'o, and Nēnē have been seen nesting on the property.

Kaluanono is a mo'o kalo (narrow strip of land cultivated in taro) that is bounded by other lo'i kalo (wetland taro patches), a pond called Kalokowai and Waipa Stream, and an ancient 'auwai. The southern and southwest boundaries of Kaluanono are Waipā Foundation's farm lots.

Waipa Foundation will hold the property and manage the natural, cultural, and agricultural resources. Kaluanono would provide Waipā Foundation a place to teach students about native wetland species and the importance of a healthy ahupua'a, and an opportunity to expand its existing wetland bird curriculum for youth. Acquisition would allow Waipā Foundation to expand its current agricultural activities on the property, possibly planting an orchard with ground crops on the southern portion adjoining Waipā Foundation's existing farm lots, and reopening lo'i kalo (wetland taro patches) on the northern portion. Waipa Foundation will review agricultural plans with native wetland bird experts to prevent impacts on the property's resources and wetland bird behavior. Waipā Foundation envisions a learning shelter in the middle of the property for visitors and students to observe and discuss the wetland habitat and agricultural activities.

Waipa Foundation is a nonprofit organization, tax-exempt under 501(c)(3) of the Internal Revenue Code (IRC); its mission is to restore Waipā's vibrant natural systems and resources; inspire healthy, thriving communities connected to their resources; and lead by example.

Ka Iwi Coast Mauka Lands

The Department of Land and Natural Resources, Livable Hawaii Kai Hui, and The Trust for Public Land applied for \$1,000,000 for the acquisition of 181.14 acres in Ko'olaupoko, Island of Oahu, for the protection of scenic and cultural resources. The Department, Livable Hawaii Kai Hui, and TPL intend to secure 75% of the matching funds for this project from the City and County of Honolulu Clean Water Natural Land Program, private donations, and TPL. The Department will consider

granting a conservation easement to the City and County of Honolulu, which typically requires a conservation easement a condition of grant funding for its Clean Water and Natural Lands Program.

The Ka Iwi Coast Mauka Lands are part of a scenic landscape that can be seen from the trail to Makapu'u Lighthouse, Wawamalu (Queen's Beach), Sandy Beach Park, and the various Ka Iwi Coast scenic lookouts. In 2014, the State designated portions of this land as the Maunalua-Makapu'u Scenic Byway for its exceptional scenic, natural, and cultural resource values. Acquisition of these lands would safeguard undocumented ancient and post-contact cultural sites found on the properties. Sites that would be protected include traditional Hawaiian drystack rock walls, paths, enclosures and terraces, at least two pōhaku lele (balancing or floating rocks) that have religious significance, and a coral pathway and coral covered area. Protection of the properties also allows for managed public access with a focus on providing a peaceful and more secluded place for various Hawaiian cultural practices such as studying the night sky for voyaging, and offering oli and pule.

The Department will hold the property and manage it as an open space Forest Reserve. The primary goal of acquisition is to protect the land as undeveloped open space. In the short term, the property will be passively managed and left in its current state. Long term management would include a planning process and low-impact uses in consultation with the community. The Department will consider the involvement of the Ka Iwi Coalition, under the non-profit Livable Hawai'i Kai Hui, as a potential partner in management of the land. The Ka Iwi Coalition has had a role in caring for the area for over thirty years. As partners through an agreement, the organizations could connect the Department to additional expertise in native plants and birds, leaders in community building and stewardship, and volunteers and Hawaiian cultural practitioners that are interested in providing appropriate and dedicated care to cultural sites and landscapes.

Wai'opae

The County of Hawaii applied for \$1,330,000 for acquisition of 322.167 acres in Puna, Island of Hawaii, for the protection of coastal, natural, and cultural resources. The County has secured 50% of the grant funds from the County's Public Access, Open Space, and Natural Resource Preservation Program.

Wai'opae is contiguous with the Marine Life Conservation District and supports anchialine pools and tide pools fed by springs that support a diverse coral reef community and a nursery for juvenile fish as well as an occasional resting place for the Hawaiian Monk Seal. The coastal tide pools that border this property are popular for snorkeling and swimming with local residents as well as tourists. The property also contains diverse native coastal wet forest, lava flows recently colonized by native plants, and caves and burial sites. The native lowland forest is rare in the Hawaiian Islands and provides habitat for native birds.

Acquisition would allow the County of Hawaii to protect this property from potential development into a subdivision in the lower elevation land along the coastline. The property is at low elevation in some areas (sea level to 20 ft. in the front third) and includes a long coastline (approximately 4,000 ft.) is therefore subject to rising sea levels, subsidence, and tsunami and storm surge inundation. In addition to preserving a natural and recreational resource, protection of the property prevents the potential financial cost to the County to provide infrastructure and the protection of the residents in this high hazard zone and the subsequent repairs when natural disasters strike.

Puaahala Watershed Acquisition

The Department of Land and Natural Resources, Division of Forestry and Wildlife, applied for \$855,625 for acquisition of 800 acres in Kamalo, Island of Molokai, for the protection of watershed and natural habitat. The Division will seek the 75% of the total project costs as from two federal land acquisition programs with consistent purposes (Forest Legacy and Recovery Land Acquisition Program).

The Puaahala acquisition contains virtually an entire ahupuaa, including a critical watershed area with portions of the highest quality remaining native watershed forest on Molokai. Puaahala receives some of Molokai's highest rainfall, at over 2,500 millimeters per year, and significantly contributes to the "Molokai Sole Source Aquifer," designated by the State Commission on Water Resource Management (CWRM) as a "groundwater management area," in which CWRM has determined that water resources are threatened by existing and/or proposed water withdrawals or diversions. Puaahala contains "Priority 1 Watersheds" designated in DLNR's "The Rain Follows the Forest" plan.

The ahupua'a includes habitat for 48 listed species, including designated or proposed critical habitat for 40 species. The highest elevation portions of this habitat include ohia montane wet and mesic forest – prime habitat for native forest birds, the ao and uau, part of critical habitat for future recovery of the akohekohe, and kiwikiu, and the opeapea. Further downslope, vegetation transitions to an aalii dry shrubland, then mixed alien/ilima shrubland, and then non-native shrubland and unvegetated areas. The coastal parcels contain estuarine and intertidal ecosystems and the largest freshwater pond on Molokai. This rare ecosystem is only found in five locations on the island.

The Department will designate the mauka parcels as Forest Reserve and the makai parcels as Wildlife Sanctuary. The acquisition will enable the Department to install a planned fence for watershed protection and will allow the Department to provide access to the East Molokai Watershed Partnership to restore and manage the watershed values on this land along with the contiguous parcels it currently manages. The Department will ensure public access in perpetuity to high value coastal areas along with restoration of the coastal wetland habitat for indigenous species.

Kaluaaha Ranch Conservation Easement

The Molokai Land Trust (MLT) applied for \$500,000 for acquisition of a conservation easement over 969 acres in Molokai district, Island of Molokai, for the protection of watershed, natural areas, and habitat. MLT will seek 68% of the total project costs from the U.S. Fish and Wildlife Service's Recovery Lands Acquisition Program.

Associated with the conservation easement (inside or within a three mile radius) are at least 64 populations of 41 federally listed rare or endangered species. The U.S. Fish and Wildlife Service ("USFWS") has designated critical habitat for eight endangered plant species in the conservation easement, with critical habitat for 18 more in a three mile radius. USFWS Recovery Plans identify nesting, transitory corridor (*e.g.*, nest to sea), and/or attractant (features that attract nearby species) for the Nene (Hawaiian Goose), Hawaiian Waterbirds, Hawaiian Dark-Rumped Petrel and Newell's Manx Shearwater, and Hawaiian Forest Birds. The Moloka'i Plant Clusters Recovery Plan identifies seven included species near the conservation easement.

The conservation easement will also help to preserve and improve the watershed, which spans the ahupua'a and descends from over 4000 feet to near sea level before emptying into a vibrant

nearcoastal ecosystem that includes fishponds and a live, 35 mile fringing reef. From the native forest in the upper conservation easement to scrubland and grasslands below, retention of falling and flowing water will aid aquifer recharge essential to Molokai's fresh water supply and furthermore minimize the amount of sediment impacting the near-coastal environment and marine habitat.

MLT will manage the conservation easement in accordance with the restrictions of the Recovery Land Acquisition Program. The short-term plan is to fence portions of the upper KRCE and begin ungulate control. Kalua'aha Ranch joined the East Moloka'i Watershed Partnership in 2012; the watershed partnership will begin fencing approximately 500 acres of the upper conservation easement as early as 2015. The long-term goals of the conservation easement are to control ungulates and other feral animals as necessary within the fenced upper conservation easement, eradicate targeted invasive plant species in conjunction with Moloka'i Maui Invasive Species Committee (MoMISC), and to restore and create native habitat, focusing on appropriate critical habitat for endangered species associated with the conservation easement.

MLT is a nonprofit organization, tax-exempt under 501(c)(3) of the Internal Revenue Code (IRC) and its mission is to protect and restore the land, natural, and cultural resources of Moloka'i, and to promote, educate, and perpetuate the unique Native Hawaiian traditions and character of the island for the benefit of the future generations of all Moloka'i, particularly Native Hawaiians.

Pupukea Mauka

Pupukea Mauka; Department of Land and Natural Resources, Division of Forestry and Wildlife, at \$416,125 (out of an initial \$1,000,000 request), Waialua, Island of Oahu, for the protection of watershed and natural areas. The Division proposed to provide 79% of the total project costs; it has secured Recovery Lands Acquisition Funding and will also seek Army Compatible Use Buffer Program funding and Capital Improvement Project (CIP) funding from the 2015 Legislature.

The property's elevation ranges from 600 to 2,266 feet and contains the two perennial headwater tributaries of Kamananui Stream which feeds Waimea Falls and enters into the marine protected area at Waimea Bay. The parcel provides excellent watershed function and is listed as Priority I watershed area under the Watershed Initiative plan. It is comprised of lowland wet forest and shrubland dominated by ohia, koa, and uluhe native forest and mountainous stream habitat. Twenty-five species of listed threatened or endangered plants or animals have been recorded as existing on this parcel and DOFAW anticipates that additional surveys will reveal many more rare species in this area.

DOFAW would designate the parcel as Forest Reserve and Public Hunting Area and would add trails to the Na Ala Hele Trail and Access system. Short term management goals would be to develop a comprehensive management plan for the parcel and secure implementation funding. Long term goals likely to be identified in the plan would be establishment of additional trails, picnic and camping sites, and establishment of a public hunting area to increase limited hunting opportunities. In addition to base operational funds from the State, DOFAW would apply for management funding from U.S. Fish and Wildlife endangered species grants and State CIP. The planning effort would include writing of an Environmental Assessment to assess and minimize impacts of these uses.

In summary, in its recommendations below, DOFAW advises the Board to approve the six projects selected by the Commission and approved by the legislators, amounting to a total of \$4,500,000 in awarded funding from the Land Conservation Fund. This amount will fund the first three listed

projects at the requested amounts, and provide a partial award of \$416,125 to the Pupukea Mauka project.

Hawaii Revised Statutes, section 173A-4

Section 173A-4, HRS, sets forth two requirements for the Legacy Land grant process: it requires applicants to seek consultation of certain State agencies prior to submitting an application, and it sets forth in detail the framework for what type of deed restriction (including covenants, agricultural easements, conservation easements) may be required over properties being acquired with funds from the LLCP.

Agency Consultation Process

Section 173A-4, HRS, requires applicants to the LLCP to seek the consultation of this Department, the Department of Agriculture, and the Agribusiness Development Corporation with regard to the maximization of public benefits of each proposed land acquisition project. Consulting agencies can also provide input regarding other aspects of the project, including the level of legal protection on the land (e.g., whether a conservation easement is appropriate and what agency or organization ought to hold the conservation easement). Using forms supplied by the Department, FY15 applicants consulted these agencies prior to application deadline, and then included the results of this consultation to the LLCP along with the application form.

Conservation Easements, Agricultural Easements, Deed Restrictions, and Covenants

Section 173A-4, HRS, requires that organizations and agencies receiving funds under this chapter provide a conservation easement, agricultural easement, deed restriction, or covenant to the Department or another eligible agency. The law also provides that the Board shall be an owner of a conservation easement as a condition of the receipt of funding, and states that the Board or any agency or organization required to hold an easement may provide an exemption from that requirement.

To date, the Department has required all recipients of funds through this program to record restrictions in the deed of conveyance for the property. Similar to many federal programs, the Legacy Land restrictions for county and nonprofit grantees reference the grant agreement that is executed between the Board and the grantee, and also include the statutory restrictions on the transfer of the land provided within Chapter 173A, HRS. These statutory restrictions include payback provisions and mandatory Board approval for any subsequent transfer of the property. Per the restrictions, the owner must manage the land in a manner consistent with the protection of the resources as described in the original grant application.

While the Board currently possesses the optional authority to impose conservation easements on lands acquired by other entities, the Department advises that the deed restrictions imposed in previous years are more appropriate for the recommended Fiscal Year 2015 projects. Of the six projects being recommended, three are fee acquisitions to be held by the State, one is a fee acquisition to be held by a county, and one is a conservation easement to be held by a nonprofit. The one project that is a fee acquisition held by a nonprofit organization anticipates incorporating a conservation easement held by the County of Kauai.

Chapter 343, Hawaii Revised Statutes: Environmental Assessment

Class 1, Exemption 15, on the June 12, 2008, Division of Forestry and Wildlife Exemption List, states, "The award of grants under H.R.S., Chapter 173A, for the acquisition of interests in land, provided that the acquisition does not cause any material change of use of land or resources beyond that previously existing." DOFAW advises declaring awards exempt from the preparation of an environmental assessment pursuant to this exemption.

RECOMMENDATIONS:

That the Board:

1) Approve the acquisition of the following parcels and authorize the Chairperson to execute a letter of offer to the landowner and encumber funds, under the FY15 LLCP ceiling, from the LCF for the following Department projects:

- a. Ka Iwi Coast Mauka Lands; Department of Land and Natural Resources, Division of Forestry and Wildlife, at \$1,000,000 for acquisition of 181.14 acres in Ko'olaupoko, Island of Oahu, for the protection of scenic and cultural resources.
- b. Puaahala Watershed Acquisition; Department of Land and Natural Resources, Division of Forestry and Wildlife, at \$855,625 for acquisition of 800 acres in Kamalo, Island of Molokai, for the protection of watershed and natural habitat.
- c. Pupukea Mauka; Department of Land and Natural Resources, Division of Forestry and Wildlife, at \$416,125 (of \$1,000,000 request), Waialua, Island of Oahu, for the protection of watershed and natural areas.

Using a total of **\$2,271,750** from the LCF, subject to compliance with H.R.S., Chapter 173A, and the normal process and procedures for the acquisition of lands by the State.

2) Authorize the Chairperson to enter into agreements and encumber FY15 funds with the listed grant recipients for the following grants to State nonprofit land conservation organizations and counties:

- d. Kaluanono at Waipa; Waipa Foundation, at \$398,250 for purchase of 1.8 acres in Hanalei, Island of Kauai, for the protection cultural resources, agricultural resources and natural wetland habitat.
- e. Wai'opae; County of Hawaii, at \$1,330,000 for acquisition of 322.167 acres in Puna, Island of Hawaii, for the protection of coastal, natural, and cultural resources
- f. Kaluaaha Ranch Conservation Easement; Molokai Land Trust, at \$500,000 for acquisition of 969 acres in Molokai district, Island of Molokai, for the protection of watershed, natural areas, and habitat.

using a total of **\$2,228,500** from the LCF, subject to:

- a. compliance with H.R.S., Chapter 173A;
- b. compliance with H.R.S., Chapter 343;

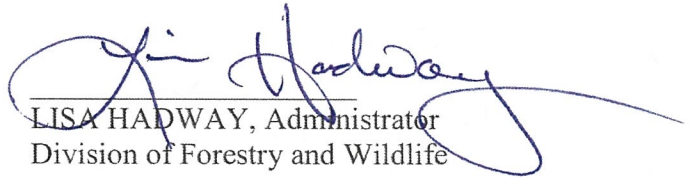
- c. execution of a Grant Agreement with the BLNR;
- d. certification of an appraisal for each project by the Department;
- e. insertion of Legacy Land Conservation Program restrictions into the deed as a condition of contractual agreements with the grant recipients;
- f. approval of the Grant Agreement and of the Deed by the Attorney General's office;
- g. the availability of funds;
- h. the approval of the Governor; and
- i. such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.

3) Require the imposition of Legacy Land Conservation Program restrictions into the deeds as a condition of contractual agreements with the grant recipients and exempt projects from any additional conservation easements that may be required under Section 173A-4, HRS.

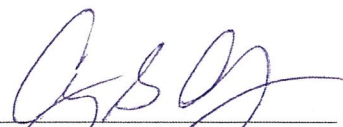
4) Declare these awards of funds exempt in accordance with Class 1, Exemption 15, on the June 12, 2008, Division of Forestry and Wildlife Exemption List.

5) Authorize the Department to proceed with all due diligence and negotiations that may be necessary to carry out the grants and acquisitions mentioned above.

Respectfully submitted,


LISA HADWAY, Administrator
Division of Forestry and Wildlife

APPROVED FOR SUBMITTAL:


CARTY S. CHANG, Acting Chairperson
Board of Land and Natural Resources

ATTACHMENTS:

Attachment I: Table of recommended awards for the Fiscal Year 2015 Legacy Land Conservation Program with project maps and photos attached

ATTACHMENT 2
January 25, 2019

DAVID Y. IGE
GOVERNOR OF HAWAII



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

CARTY S. CHANG
INTERIM CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

KEKOA KALUHIWA
FIRST DEPUTY

W. ROY HARDY
ACTING DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES
BOATING AND OCEAN RECREATION
BUREAU OF CONVEYANCES
COMMISSION ON WATER RESOURCE MANAGEMENT
CONSERVATION AND COASTAL LANDS

CONSERVATION AND RECREATION DEVELOPMENT
LAND USE
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
KAHOOAWAI ISLAND RESERVE COMMISSION
LAND
STATE PARKS

B+F 3240

S: 4/30/15

April 10, 2015

MEMORANDUM

TO: THE HONORABLE DAVID Y. IGE
Governor, State of Hawaii

THROUGH: THE HONORABLE WESLEY MACHIDA
Department of Budget and Finance

FROM: CARTY S. CHANG, Interim Chairperson
Department of Land and Natural Resources

SUBJECT: Request for approval and release of grants from the Land Conservation Fund for
Fiscal Year 2015 Legacy Land Conservation Program land acquisition projects

The Department of Land and Natural Resources (Department) requests approval and release of funding for six grants, totaling \$4,500,000, from the Land Conservation Fund to State agencies and nonprofit land conservation organizations for the protection, through acquisition, of lands having value as a resource to the State. The funding is provided through the annual Legacy Land Conservation Program (LLCP), authorized by Chapter 173A, Hawaii Revised Statutes (HRS).

At two meetings on February 27, 2015, and April 10, 2015, the Board of Land and Natural Resources approved funding for six project proposals that were submitted to the Legacy Land Conservation Program by the Fiscal Year 2015 application deadline. These projects were selected through a process that included review and recommendations from the Legacy Land Conservation Commission (§173A-2.5, HRS) and consultation with the Senate President and Speaker of the House of Representatives (§173A-9, HRS). The approved projects are listed below in the order of priority given by the Legacy Land Conservation Commission.

1. **Kaluanono at Waipa**; Waipa Foundation, at \$398,250 for purchase of 1.8 acres in Hanalei, Island of Kauai, for the protection cultural resources, agricultural resources and natural wetland habitat.

2. **Ka Iwi Coast Mauka Lands**; Livable Hawaii Kai Hui, at \$1,000,000 for acquisition of 181.14 acres in Ko'olaupoko, Island of Oahu, for the protection of scenic and cultural resources.
3. **Wai'opae**; County of Hawaii, at \$1,330,000 for acquisition of 322.167 acres in Puna, Island of Hawaii, for the protection of coastal, natural, and cultural resources
4. **Puaahala Watershed Acquisition**; Department of Land and Natural Resources, Division of Forestry and Wildlife, at \$855,625 for acquisition of 800 acres in Kamalo, Island of Molokai, for the protection of watershed and natural habitat.
5. **Kaluaaha Ranch Conservation Easement**; Molokai Land Trust, at \$500,000 for acquisition of a conservation easement over 969 acres in Molokai district, Island of Molokai, for the protection of watershed, natural areas, and habitat.
6. **Pupukea Mauka**; Department of Land and Natural Resources, Division of Forestry and Wildlife, at \$416,125 (of \$1,000,000 request) for acquisition of 3,716 acres in Waialua, Island of Oahu, for the protection of watershed and natural areas.

The Commission recommended these six projects for funding, as funds are available, in the order ranked above at a public meeting on December 5, 2014. Following the Commission meeting, the Department and the Commission Chair sought the consultation of Senate President Donna Mercado Kim and Speaker of the House of Representatives Joseph Souki regarding the Commission's recommendations, pursuant to Chapter 173A, HRS. The legislators had no comments or objections to these projects. The Senate President and Speaker of the House of Representatives offered no objections or comments to the projects listed as recommended by the Commission in letters dated January 12, 2015, and January 22, 2015, respectively (included as part of Attachment 2).

The Board of Land and Natural Resources approved funding for five of the six recommended projects on February 27, 2015, and deferred consideration of a single project, the Ka Iwi Mauka Lands project, for a future meeting. On April 10, 2015, after reviewing a proposed amendment¹ to the deferred project, the Board approved the amendment and approved funding the project as amended.

The Department requests approval and release of funds for the grants listed above. This request includes six grants, totaling \$4,500,000, from the Land Conservation Fund to three nonprofit land conservation organizations, one State agency, and one county agency and for the protection, through acquisition, of lands having value as a resource to the State.

¹ Subsequent to the December 5, 2014, Legacy Land Conservation Commission meeting and recommendations, the Livable Hawaii Kai Hui and The Trust for Public Land requested to amend the Ka Iwi Mauka Lands project proposal by changing the fee landowner of the lands from the Department of Land and Natural Resources to the Livable Hawaii Kai Hui, with a conservation easement held by the City and County of Honolulu. The Commission is solely advisory to the Board; therefore, the Board of Land and Natural Resources, pursuant to its authority under Chapter 173A, HRS, was able to authorize this project amendment and approve funding for the amended project at its meeting on April 10, 2015.

The commitment of these funds will help secure an estimated \$11,849,925 in matching federal, county, and private funds towards the protection approximately 5,990 acres of threatened or unique natural, cultural, recreational, and agricultural resources. The Department would be pleased to provide additional information. Please contact Lisa Hadway, Administrator, Division of Forestry and Wildlife, at 587-4181, for any questions regarding these grants.

Attachments:

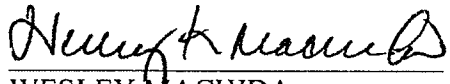
Attachment 1: Table of projects recommended by the Legacy Land Conservation Commission

Attachment 2: Board of Land and Natural Resources submittal (Item C-1), approved February 27, 2015, and Board of Land and Natural Resources submittal (Item C-2), approved April 10, 2015

RECOMMEND:

APPROVED

DISAPPROVED



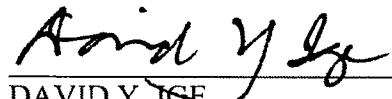
WESLEY MACHIDA
Director, Dept. of Budget and Finance

4/27/15

Date

APPROVED

DISAPPROVED



DAVID Y. IGE
Governor, State of Hawaii

JUN - 3 2015

Date

State of Hawaii
Schedule of Expenditures of Federal Awards
Year Ended June 30, 2017

Federal Grantor / Pass-through Grantor and Program Title (Pass-through Identifying Number)	Federal CFDA Number	Federal Expenditures	Amount Provided to Subrecipients
U.S. DEPARTMENT OF EDUCATION			
Pass-through from the State Department of Education Title I State Agency Program for Neglected and Delinquent Children and Youth (S013A150011)	84.013A	178,042	-
Pass-through from the State Department of Human Services Rehabilitation Services Vocational Rehabilitation Grants to States (DHS 16VR-3117, 16VR-3107 and 17VR-4151)	84.126	732,695	-
Pass-through from the State University of Hawaii Career and Technical Education - Basic Grants to States (V048A40011)	84.048A	49,462	-
Total U.S. Department of Education		960,199	-
U.S. ELECTION ASSISTANCE COMMISSION			
U.S. Election Assistance Commission Direct Program Help America Vote Act Requirements Payments	90.401	611,553	-
Total U.S. Election Assistance Commission		611,553	-
U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES			
U.S. Department of Health and Human Services Direct Programs Special Programs for the Aging Title IV and Title II Discretionary Projects Affordable Care Act (ACA) Grants to States for Health Insurance Premium Review	93.048	2,781	-
State Planning and Establishment Grants for the ACA Exchanges	93.511	878,214	-
Refugee and Entrant Assistance - State Administered Programs	93.525	1,408,860	253,858
Community Services Block Grant	93.566	85,878	72,512
ACA - State Innovation Models: Funding for Model Design and Model Testing Assistance	93.569	3,106,387	2,847,777
	93.624	245,309	-
Total U.S. Department of Health and Human Services Direct Programs		5,727,429	3,174,147
Pass-through from the State Department of Human Services Temporary Assistance for Needy Families (TANF Cluster) (DHS-16-ETP0-3064)	93.558	738,677	123,981
Total U.S. Department of Health and Human Services		6,466,106	3,298,128
U.S. DEPARTMENT OF HOMELAND SECURITY			
U.S. Department of Homeland Security Direct Programs Boating Safety Financial Assistance	97.012	1,166,146	-
Community Assistance Program State Support Services Element	97.023	65,754	-
Disaster Grants - Public Assistance (Presidentially Declared Disasters)	97.036	69,888	62,891
Hazard Mitigation Grant	97.039	773,548	-
National Dam Safety Program	97.041	41,472	-
Emergency Management Performance Grants	97.042	3,631,418	713,641
Cooperating Technical Partners	97.045	165,204	-
Port Security Grant Program	97.056	10,649	-
Homeland Security Grant Program	97.067	4,542,807	4,079,302
Buffer Zone Protection Program	97.078	124,897	-
Earthquake Consortium	97.082	1,389	-
Total U.S. Department of Homeland Security		10,593,172	4,855,834
Total Expenditures of Federal Awards		\$ 293,179,007	\$ 21,855,364

(concluded)

See accompanying notes to the schedule of expenditures of federal awards.

State of Hawaii
Schedule of Expenditures of Federal Awards
Year Ended June 30, 2017

Federal Grantor / Pass-through Grantor and Program Title (Pass-through Identifying Number)	Federal CFDA Number	Federal Expenditures	Amount Provided to Subrecipients
U.S. DEPARTMENT OF TRANSPORTATION			
U.S. Department of Transportation Direct Program			
Space Transportation Infrastructure Matching Grants	20.110	5,292	-
Highway Planning and Construction Cluster			
Recreational Trails Program	20.219	1,378,149	-
Total Highway Planning and Construction Cluster		1,378,149	-
Total U.S. Department of Transportation Direct Programs		1,383,441	-
Pass-through from the State Department of Transportation			
Federal Transit Cluster			
Federal Transit – Capital Investment Grants (HI-03-0038-00)	20.500	1,586,079	-
Total U.S. Department of Transportation		2,969,520	-
U.S. DEPARTMENT OF THE TREASURY			
U.S. Department of Treasury Direct Program			
State Small Business Credit Initiative	21.U01	1,432,099	1,432,099
Total U.S. Department of the Treasury		1,432,099	1,432,099
U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION			
U.S. Equal Employment Opportunity Commission Direct Program			
Employment Discrimination – State and Local Fair Employment Practices Agency Contracts	30.002	176,064	-
Total U.S. Equal Employment Opportunity Commission		176,064	-
U.S. GENERAL SERVICES ADMINISTRATION			
U.S. General Services Administration Direct Program			
Donation of Federal Surplus Personal Property	39.003	426,082	-
Total U.S. General Services Administration		426,082	-
U.S. NATIONAL ENDOWMENT FOR THE ARTS			
U.S. National Endowment for the Arts Direct Program			
Promotion of the Arts – Partnership Agreements	45.025	685,833	219,339
Total U.S. National Endowment for the Arts		685,833	219,339
U.S. SMALL BUSINESS ADMINISTRATION			
U.S. Small Business Administration Direct Program			
State Trade Expansion	59.061	726,158	98,550
Total U.S. Small Business Administration		726,158	98,550
U.S. ENVIRONMENTAL PROTECTION AGENCY			
U.S. Environmental Protection Agency Direct Program			
Performance Partnership Grants	66.605	183,609	-
Total U.S. Environmental Protection Agency		183,609	-
U.S. DEPARTMENT OF ENERGY			
U.S. Department of Energy Direct Programs			
State Energy Program	81.041	239,638	-
Weatherization Assistance for Low-Income Persons	81.042	184,716	159,065
State Energy Program Special Projects	81.119	119,705	10,053
Total U.S. Department of Energy		544,059	169,118

(continued)

See accompanying notes to the schedule of expenditures of federal awards.

ATTACHMENT 3
January 25, 2019

DAVID Y. IGE
GOVERNOR OF HAWAII



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

SUZANNE D. CASE
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

KEKOA KALUHIWA
FIRST DEPUTY

W. ROY HARDY
ACTING DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES
BOATING AND OCEAN RECREATION
BUREAU OF CONVEYANCES
COMMISSION ON WATER RESOURCE MANAGEMENT
CONSERVATION AND COASTAL LANDS
CONSERVATION AND RESOURCES ENFORCEMENT
ENGINEERING
FORESTRY AND WILDLIFE
HISTORY PRESERVATION
KAIKOLOA ISLAND RESERVE COMMISSION
LAND
STATE PARKS

June 4, 2015

Stacy Sproat-Beck
Waipā Foundation
P.O. Box 1189
Hanalei, Hawaii 96714

Dear Ms. Sproat-Beck,

Subject: Grant from the Hawaii State Land Conservation Fund to Waipā Foundation
at \$398,250 for the acquisition of 1.8 acres in Hanalei, Island of Kauai

At its meeting of February 27, 2015, under agenda item C-1, the Board of Land and Natural Resources (BLNR) approved a grant of \$398,250 from the State Land Conservation Fund, to the Waipā Foundation for the acquisition of 1.8 acres, Tax Map Key (4) 5-6-004:010, in Hanalei, Island of Kauai, subject to certain terms and conditions.

The release of this grant funding to the Waipā Foundation is conditioned upon the approval of the Governor of the release of funds for award and the completion, to the satisfaction of the Board of Land and Natural Resources (BLNR), of the following terms and conditions for the provision of this grant:

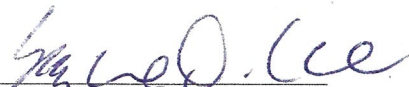
- 1) the inclusion of deed restrictions to ensure protection and management of the identified resources having value to the State;
- 2) the provision, to the State, of documented proof of required cost share for the purchase;
- 3) coverage of costs that the Waipā Foundation indicated responsibility for in the proposal;
- 4) the satisfaction of all conditions of Hawaii Revised Statutes, Chapter 173A;
- 5) the execution of a Legacy Land Conservation Program Grant Agreement between the BLNR and the Waipā Foundation;
- 6) any other conditions and/or provisions as detailed in the attached project proposal (Attachment 1) and BLNR approval (Attachment 2); and
- 7) any other terms and/or conditions which will best serve the interests of the State.

The amount of the award is the approved amount listed above, or the State's appropriate share of the appraised fair market value of the acquired interest in land, whichever is less, subject to the discretion of the State. The Waipā Foundation acknowledges and agrees that the availability of funds from the Land Conservation Fund established under the laws of the State of Hawaii shall be

subject to the approval and release of the budgeted funds by the Governor of the State of Hawaii. If insufficient funds are released or otherwise made available to the Department to pay the amount of the award, the Department may, without liability to the State and the Department, reduce or eliminate the amount of the award. The grant remains subject to review and approval by the Department of the Attorney General.

Please indicate your acceptance or rejection of this offer by completing the following and **returning the original** signed copy to the Legacy Land Conservation Program office, 1151 Punchbowl Street, Rm. 325, Honolulu, Hawaii, 96813, no later than June 12, 2015.


Sincerely,


Suzanne D. Case, Chairperson
Board of Land and Natural Resources

The Undersigned:

- Accepts** the State of Hawaii, Department of Land and Natural Resources' offer of \$398,250 from the State Land Conservation Fund, to the Waipā Foundation for the acquisition of 1.8 acres, Tax Map Key (4) 5-6-004:010, in Hanalei, Island of Kauai.
- Rejects** the State of Hawaii, Department of Land and Natural Resources' offer of \$398,250 from the State Land Conservation Fund, to the Waipā Foundation for the acquisition of 1.8 acres, Tax Map Key (4) 5-6-004:010, in Hanalei, Island of Kauai.


Signature
Waipā Foundation
Title/Organization 

6/12/15
Date 

STATE OF HAWAII
LEGACY LAND CONSERVATION PROGRAM
GRANT AGREEMENT

This Agreement, entered into on September 20, 2017, by and between the BOARD OF LAND AND NATURAL RESOURCES, STATE OF HAWAII ("STATE"), by its Chairperson, whose address is 1151 Punchbowl Street, Honolulu, Hawaii 96813, and The Waipa Foundation ("AWARDEE"), a nonprofit corporation under the laws of the State of Hawaii, whose business address and federal and state taxpayer identification numbers are as follows: Post Office Box 1189, Hanalei, HI 96714; FEIN 99-0313224; GE-204-606-8736-01.

EXHIBITS

- Exhibit A Project Application
- Exhibit B Checklist for Legacy Land Conservation Program Projects

Exhibits A and B are hereby made a part of this Agreement.

RECITALS

WHEREAS, Chapter 173A, Hawaii Revised Statutes ("HRS"), establishes standards for disbursing public funds to state agencies, counties, and nonprofit land conservation organizations to fulfill public purposes;

WHEREAS, the AWARDEE has requested funding from the STATE for the project described in Exhibit A and Attachment 1 of this Agreement;

WHEREAS, the STATE finds that the AWARDEE's performance as described in Attachment 1 of this Agreement will fulfill the public purpose set forth therein;

WHEREAS, the STATE desires to contract with the AWARDEE to fulfill the specified public purpose, and the AWARDEE is agreeable to performing under this Agreement;

WHEREAS, money is available to fund this Agreement pursuant to: Chapter 173A, HRS, LNR 101 (S-17-317-514 and S-18-317-514) in the following maximum amounts: Eighty Three Thousand Nine Hundred and Forty Four and 22/100 Dollars (\$83,944.22) from S-17-317-514 and Three Hundred and Fourteen Thousand Three Hundred and Five and 78/100 Dollars (\$314,305.78) from S-18-317-514, totaling Three Hundred and Ninety Eight Thousand Two Hundred and Fifty and No/100 Dollars (\$398,250.00);

NOW, THEREFORE, in consideration of the promises contained in this Agreement, the STATE and the AWARDEE agree as follows:

A. SCOPE OF PERFORMANCE

The AWARDEE shall perform, in a proper and satisfactory manner as determined by the STATE, the project described in the "Scope of Performance" set forth in Attachment 1, which is hereby made a part of this Agreement.

B. TIME OF PERFORMANCE

The performance required of the AWARDEE under this Agreement shall be completed in accordance with the "Time Schedule" set forth in Attachment 2, which is hereby made a part of this Agreement.

C. COMPENSATION

Subject to the availability of funds, the AWARDEE shall be compensated for performance of the project under this Agreement according to the "Compensation and Payment Schedule," set forth in Attachment 3, which is hereby made a part of this Agreement.

D. STANDARDS OF CONDUCT DECLARATION


The "Standards of Conduct Declaration" by AWARDEE, set forth in Attachment 4, is hereby made a part of this Agreement.

E. OTHER TERMS AND CONDITIONS

The "General Conditions for Legacy Land Conservation Program Grant Agreements," set forth in Attachment 5, is hereby made a part of this Agreement.

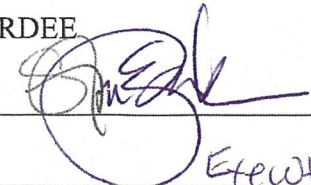
IN WITNESS WHEREOF, the STATE and the AWARDEE have executed this Agreement effective as of the date first above written.

STATE




Chairperson
Board of Land and Natural Resources

AWARDEE

By  _____
Its _____ Executive Director
(Title)

*Evidence of authority of the AWARDEE's representative to sign this Agreement for the AWARDEE must be attached.

APPROVED AS TO FORM:




Deputy Attorney General

AWARDEE'S ACKNOWLEDGMENT

STATE OF HAWAII)
)
) COUNTY OF Kauai) SS.

On this 30 day of August, 2017, before me personally appeared STACY SPROAT-BECK, to me personally known, who being by me duly sworn, did say that he/she is the EXECUTIVE DIRECTOR of THE WAIPA FOUNDATION the AWARDEE named in the foregoing instrument, and that he/she is authorized to sign said instrument on behalf of the AWARDEE, and acknowledges that he/she executes said instrument as the free act and deed of the AWARDEE.



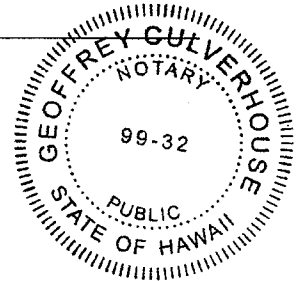
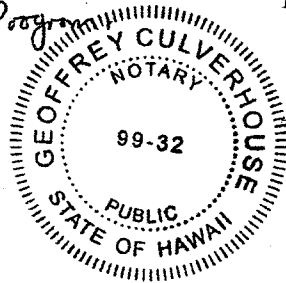
Notary Public, State of Hawaii
My commission expires _____
GEOFFREY CULVERHOUSE
Notary Public, State of Hawaii
Notary Seal Affixed
Commission expires 01/31/2019

Doc. Date: undated # Pages: 78
Name: Geoffrey Culverhouse S/K Circuit
Doc. Description: Self

Legacy Bond Conservator Program

G. Culverhouse 8-30-17
Signature Date

NOTARY CERTIFICATION



SCOPE OF PERFORMANCE

Project Description

The AWARDEE shall use funds from the Legacy Land Conservation Program (“LLCP”) for land acquisition of: 1.8 acres, more or less, in Hanalei, Island of Kauai, including the transfer of a conservation easement to the County of Kauai (“Property”) for the protection of resource values stated in Sections “C,” “D,” and “G” of the Project Application attached hereto as Exhibit A. Property acquired with LLCP funding from the Land Conservation Fund shall be held and managed in a manner designed to protect the Property’s resource values.

Performance

The AWARDEE is required to do the following:

1. Submit a request for payment containing all documentation required in Attachment 3 (“Compensation and Payment Schedule”) to the satisfaction of the STATE.
2. Complete acquisition of the Property and record a document of conveyance of the Property to The Waipa Foundation and record a document of conveyance of a conservation easement to the County of Kauai.
3. The document of conveyance to The Waipa Foundation shall include the following paragraphs:

"The Property (1) has been acquired with funds from a grant by the State of Hawaii, Department of Land and Natural Resources, Legacy Land Conservation Program (“LLCP”) through grant agreement number _____, dated September 20, 2017; (2) is subject to all of the terms and conditions of the grant agreement; and (3) shall be managed consistently with the purposes for which it was awarded a LLCP grant and Chapter 173A, Hawaii Revised Statutes. Title of the Property conveyed by this deed shall vest in The Waipa Foundation, subject to disposition instructions from the State of Hawaii, Department of Land and Natural Resources (“DLNR”), or its successor agencies.

The Waipa Foundation, for itself, its successors and assigns, and in consideration of the LLCP grant, does hereby covenant that it shall not dispose of, encumber its title or other interests in, or convert the use of this property without the written approval of the DLNR or its successor agencies. Upon notice from The Waipa Foundation, that it intends to dispose of, encumber the title or other interests in, or convert the use of the property, the DLNR may:

1. Require The Waipa Foundation, to place on the property, a deed restriction or covenant to protect the resource values for which The Waipa Foundation was awarded a LLCP grant, to an appropriate land conservation organization or county, state, or federal resource conservation agency. The deed restriction or covenant shall run with the land and be recorded with the appropriate state agency.
2. Require to be placed on the property, a conservation easement or agricultural easement under Chapter 198, Hawaii Revised Statutes, to an appropriate land conservation organization or county, state, or federal resource conservation agency, that shall run with the land and be recorded with the appropriate state agency.
3. Require subsequent landowners to enter into a contract with the DLNR for the protection of the resource values consistent with the purposes for which the LLCP grant was awarded.

The Waipa Foundation further covenants that (a) whenever the Property is sold by The Waipa Foundation, that portion of the net proceeds (sale price less actual expenses of sale) of such sale, equal to the proportion that the state grant bears to the original cost of the property, shall be paid to the State of Hawaii, and (b) if the Property is leased, rented, or otherwise disposed of by The Waipa Foundation, other than by sale, that portion of the gross proceeds of such disposition, equal to the proportion that the state grant bears to the original cost of the Property, shall be paid to the State of Hawaii."

4. Cooperate with the STATE in all efforts to document the condition and status of the resource values for which the grant funds were provided.
5. Any substantive changes to the Project Application must be agreed to by the AWARDEE and the Chairperson of the Board of Land and Natural Resources in writing.
6. The AWARDEE shall maintain the same proportion of matching funds to awarded funds as set forth in Section F. of the Project Application, attached hereto as Exhibit A.
7. The document of conveyance to the County of Kauai shall include the following paragraphs:

"The fee interest that this conservation easement encumbers has been acquired with funds from a grant by the State of Hawaii, Department of Land and Natural Resources, Legacy Land Conservation Program ("LLCP") through grant agreement number _____, dated September 20, 2017, and is subject to all of the terms and conditions of the grant agreement.

The holder of the conservation easement shall also be subject to the terms and conditions of the grant agreement to the extent applicable under the holder's rights and responsibilities under the conservation easement.

The Grantor covenants that the property shall be managed consistently with the purposes for which it was awarded a LLCP grant and Chapter 173A, Hawaii Revised Statutes.

The County of Kauai, for itself, its successors and assigns, and in consideration of the LLCP grant, does hereby covenant that it shall not dispose of, encumber its title or other interests in, or convert the use of this conservation easement without the written approval of the DLNR or its successor agencies.

The County of Kauai further covenants that whenever this conservation easement is sold by the County of Kauai, that portion of the net proceeds (sale price less actual expenses of sale) of such sale, equal to the proportion that the state grant bears to the original cost of the property, shall be paid to the State of Hawaii."

TIME SCHEDULE

This Agreement shall be in effect beginning September 20, 2017. AWARDDEE shall complete acquisition of the Property and record the conveyance no later than September 20, 2019. If any of the performances required in the Scope of Performance are not completed within the time stated, AWARDDEE may be required to return all funds previously received by it pursuant to this Agreement. The Chairperson of the Board of Land and Natural Resources may extend the time for performance of any requirement. Requests for extension must be submitted by AWARDDEE in writing 90 days prior to September 20, 2019, or they will not be considered.

COMPENSATION AND PAYMENT SCHEDULE

In full consideration of the services to be performed under this Agreement, from Chapter 173A, Hawaii Revised Statutes, and LNR 101 (S-17-317-514 and S-18-317-514), the STATE and the AWARDEE agree to the following:

- a) AWARDEE's requests for payment, in the form of either a single invoice or multiple invoices, shall be delivered personally or sent by United States first class mail, postage prepaid to:

Legacy Land Conservation Program
Division of Forestry and Wildlife
Department of Land and Natural Resources
1151 Punchbowl Street, Room 325
Honolulu, Hawaii 96813

The STATE may withhold any portion of the payment until all commitments are verified as complete to the satisfaction of the STATE.

Reimbursement will be the method for all costs except for grant funds used to purchase land. All requests for payment must be received by the LLCP by September 3, 2019. A single payment or multiple payments, not exceeding the total amount of Three Hundred and Ninety Eight Thousand Two Hundred and Fifty and No/100 Dollars (\$398,250.00), shall be made upon:

- i. AWARDEE's completion of the Checklist for Legacy Land Conservation Program Projects attached hereto as Exhibit B to the satisfaction of the STATE;
- ii. AWARDEE's compliance with all LLCP policies and practices;
- iii. the STATE's receipt of an original invoice and copies of all bills, invoices, and receipts; and
- iv. the STATE's receipt of AWARDEE's tax clearances from the Hawaii State Department of Taxation and the Internal Revenue Service and of AWARDEE's Certificate of Compliance from the Hawaii State Department of Labor and Industrial Relations (DLIR).

The STATE may accept from AWARDEE a current Certificate of Vendor Compliance from Hawaii Compliance Express (HCE) as a substitute for the Hawaii State Department of Taxation and the Internal Revenue Service tax clearances and DLIR Certificate of Compliance.

All invoices should:

- o Identify costs,
- o Reference the contract number, and

- Have a line that states “this is an original invoice” with a signature (in a pen color other than black) to certify this statement.
The final invoice should be marked as “Final” when submitted and should be accompanied by a Certification of Compliance for Final Payment.
- b) Within thirty (30) days of acquiring the Property, but no later than October 21, 2019, AWARDEE shall submit to the STATE a copy of the recorded conveyance document transferring ownership of the 1.8 acres, more or less, in Hanalei, Island of Kauai, including the transfer of a conservation easement to the County of Kauai, to AWARDEE. AWARDEE shall also submit any other documentation of the transaction that is requested by the STATE.
- c) The total amount awarded under this Agreement will be dependent upon the project being completed with no substantive changes to the Project Application. The amount of the award shall not be increased, but the STATE may reduce the award if the project changes in any way that the STATE deems substantial. For example, a reduction in acreage, purchase price, or fair market value may be deemed substantial and sufficient justification for a reduction in the award. The AWARDEE is shall maintain the same proportion of matching funds to awarded funds as set forth in Section F. of the Project Application, attached hereto as Exhibit A.
- d) All payments under this Agreement are subject to availability of funds and allotment by the Director of Finance in accordance with chapter 37, HRS. Furthermore, all payments shall be made in accordance with and subject to chapter 40, HRS.

The AWARDEE acknowledges and agrees that the availability of funds from the Land Conservation Fund established under the laws of the State of Hawaii shall be subject to the approval and release of the budgeted funds by the Governor of the State of Hawaii. If insufficient funds are released or otherwise made available to the STATE to pay the AWARDEE, the STATE may, without liability to the STATE, reduce or eliminate the amount of compensation to the AWARDEE, upon written notification by the STATE to the AWARDEE.

STANDARDS OF CONDUCT DECLARATION

For the purposes of this declaration:

“Agency” means and includes the State, the legislature and its committees, all executive departments, boards, commissions, committees, bureaus, offices; and all independent commissions and other establishments of the state government but excluding the courts.

“Controlling interest” means an interest in a business or other undertaking which is sufficient in fact to control, whether the interest is greater or less than fifty per cent (50%).

“Employee” means any nominated, appointed, or elected officer or employee of the State, including members of boards, commissions, and committees, and employees under contract to the State or of the constitutional convention, but excluding legislators, delegates to the constitutional convention, justices, and judges. (Section 84-3, HRS).


On behalf of Waipa Foundation, AWARDEE, the undersigned does declare as follows:

1. AWARDEE is is not a legislator or an employee or a business in which a legislator or an employee has a controlling interest. (Section 84-15(a), HRS).
2. AWARDEE has not been represented or assisted personally in the matter by an individual who has been an employee of the agency awarding this Agreement within the preceding two years and who participated while so employed in the matter with which the Agreement is directly concerned. (Section 84-15(b), HRS).
3. AWARDEE has not been assisted or represented by a legislator or employee for a fee or other compensation to obtain this Agreement and will not be assisted or represented by a legislator or employee for a fee or other compensation in the performance of this Agreement, if the legislator or employee has been involved in the development or award of the Agreement. (Section 84-14(d), HRS).
4. AWARDEE has not been represented on matters related to this Agreement, for a fee or other consideration by an individual who, within the past twelve (12) months, has been an agency employee, or in the case of the Legislature, a legislator, and participated while an employee or legislator on matters related to this Agreement. (Sections 84-18(b) and (c), HRS).

AWARDEE understands that the Agreement to which this document is attached is voidable on behalf of the STATE if this Agreement was entered into in violation of any provision of chapter 84, Hawaii Revised Statutes, commonly referred to as the Code of Ethics, including the provisions which are the source for the declarations above.

Additionally, any fee, compensation, gift, or profit received by any person as a result of a violation of the Code of Ethics may be recovered by the STATE.

AWARDEE:

By  _____
(Signature)

Print Name Stacy Sprout-Beck

Print Title Executive Director

Name of AWARDEE _____

The Waipā Foundation

Date 8/30/17

**GENERAL CONDITIONS FOR LEGACY LAND
CONSERVATION PROGRAM GRANT AGREEMENTS**

1. Awardee's Qualifying Standards.
 - a. The AWARDDEE is a state agency, county, or a nonprofit land conservation organization.
 - b. If the AWARDDEE is a non-profit land conservation organization, the AWARDDEE has been determined by the Internal Revenue Service to be a non-profit organization, and AWARDDEE has a governing board whose members have no material conflict of interest and serve without compensation.
2. Recordkeeping Requirements. The AWARDDEE shall, in accordance with generally accepted accounting practices, maintain fiscal records and supporting documents and related files, papers, receipts, reports, and other evidence that sufficiently and properly reflect all direct and indirect expenditures and management and fiscal practices related to the AWARDDEE's performance under this Agreement. The AWARDDEE shall retain all records related to the AWARDDEE's performance under this Agreement for at least three (3) years after the date of submission of the AWARDDEE's Final Project Report.
3. Audit of AWARDDEE. The AWARDDEE shall allow the STATE full access to records, reports, files, and other related documents and information for purposes of monitoring, measuring the effectiveness, and assuring the proper expenditure of the grant. This right of access shall last as long as the records and other related documents are retained. The AWARDDEE shall respond to any requests from the STATE for information regarding monitoring, measuring the effectiveness, and assuring the proper expenditure of the grant within 60 days.
4. Nondiscrimination. No person performing work under this Agreement, including any employee or agent of the AWARDDEE, shall engage in any discrimination that is prohibited by any applicable federal, state, or county law.
5. Inspection of Property. The AWARDDEE shall permit the STATE and its agents and representatives, at all reasonable times, the right to enter and examine the Property to ensure compliance with chapter 173A, Hawaii Revised Statutes, and the terms of this Agreement. The STATE shall provide either written or verbal notice to the AWARDDEE forty-eight hours prior to entering the Property.
6. Conflicts of Interest. The AWARDDEE represents that neither the AWARDDEE, nor any employee or agent of the AWARDDEE, presently has any interest, and

promises that no such interest, direct or indirect, shall be acquired, that would or might conflict in any manner or degree with the AWARDDEE's performance under this Agreement.

7. Compliance with Laws. The AWARDDEE shall comply with chapter 173A, Hawaii Revised Statutes, chapter 343, Hawaii Revised Statutes, and all federal, state, and county laws, ordinances, codes, rules, and regulations, as the same may be amended from time to time, that in any way affect the AWARDDEE's performance under this Agreement.
8. Indemnification and Defense. The AWARDDEE shall defend, indemnify, and hold harmless the State of Hawaii, the contracting agency, and their officers, employees, and agents from and against all liability, loss, damage, and cost, and expense, including all attorneys' fees, and all claims, suits, and demands therefore, arising out of or in resulting from the acts or omissions of the AWARDDEE or AWARDDEE's employees, officers, or agents under this Agreement. The provisions of this paragraph shall remain in full force and effect notwithstanding the expiration or early termination of this Agreement.
9. Cost of Litigation. In case the STATE shall, without any fault on its part, be made a party to any litigation commenced by or against the AWARDDEE in connection with this Agreement, the AWARDDEE shall pay all costs and expenses incurred by or imposed on the STATE, including attorneys' fees.
10. Title insurance. AWARDDEE must obtain title insurance in the full amount of the purchase price, insuring that the title to the Property is vested in the AWARDDEE.
11. Relationship of Parties; Independent Contractor Status and Responsibilities, Including Tax Responsibilities.
 - a. In the performance of this Agreement, the AWARDDEE is an "independent contractor," with the authority and responsibility to control and direct the performance required under this Agreement; however, the STATE shall have a general right of inspection to determine whether, in the STATE's opinion, the AWARDDEE is in compliance with this Agreement.
 - b. The AWARDDEE and the AWARDDEE's employees and agents are not by reason of this Agreement, agents or employees of the STATE for any purpose, and the AWARDDEE, and the AWARDDEE's employees and agents shall not be entitled to claim or receive from the STATE any vacation, sick leave, retirement, workers' compensation, unemployment insurance, or other benefits provided to state employees.
 - c. The AWARDDEE shall be responsible for the accuracy, completeness, and adequacy of AWARDDEE's performance under this Agreement. Furthermore, the AWARDDEE intentionally, voluntarily, and knowingly

assumes the sole and entire liability to the AWARDDEE's employees and agents, and to any individual not a party to this Agreement, for all loss, damage, or injury caused by the AWARDDEE, or the AWARDDEE's employees or agents, in the course of their employment.

- d. The AWARDDEE shall be responsible for payment of all applicable federal, state, and county taxes and fees which may become due and owing by the AWARDDEE by reason of this Agreement, including but not limited to (i) income taxes, (ii) employment related fees, assessments, and taxes, (iii) general excise taxes, (iv) real property taxes, and (v) conveyance taxes. The AWARDDEE is also responsible for obtaining all licenses, permits, and certificates that may be required in order to perform this Agreement.
- e. The AWARDDEE shall obtain a general excise tax license from the Department of Taxation, State of Hawaii, in accordance with section 237-9, Hawaii Revised Statutes, and shall comply with all requirements thereof. The AWARDDEE shall obtain a tax clearance certificate from the Director of Taxation, State of Hawaii, and the Internal Revenue Service, U.S. Department of the Treasury, showing that all delinquent taxes, if any, levied or accrued under state law and the Internal Revenue Code of 1986, as amended, against the AWARDDEE have been paid and submit the same to the STATE prior to commencing any performance under this Agreement. The AWARDDEE shall also be solely responsible for meeting all requirements necessary to obtain the tax clearance certificate required for final payment under sections 103-53 and 103D-328, Hawaii Revised Statutes.
- f. The AWARDDEE shall obtain a certificate of compliance issued by the Department of Labor and Industrial Relations, State of Hawaii, in accordance with section 103D-310, Hawaii Revised Statutes, and section 3-122-112, Hawaii Administrative Rules, that is current within six months of the date of issuance.
- g. In lieu of the above-certificates from the Department of Taxation and the Department of Labor and Industrial Relations, the AWARDDEE may submit proof of compliance through the State Procurement Office's designated certification process.
- h. The AWARDDEE is responsible for securing all employee-related insurance coverage for the AWARDDEE and the AWARDDEE's employees and agents that is or may be required by law, and for payment of all premiums, costs, and other liabilities associated with securing the insurance coverage.

12. Payment Procedures: Tax Clearance. All payments under this Agreement shall be

made only upon submission by AWARDDEE of (i) original invoices specifying the amount due and certifying that it has completed performance in accordance with the Agreement, and (ii) tax clearances from the Hawaii State Department of Taxation and the Internal Revenue Service. Such payments are subject to availability of funds and allotment by the Director of Finance in accordance with chapter 37, Hawaii Revised Statutes. Further, all payments shall be made in accordance with and subject to chapter 40, Hawaii Revised Statutes.

13. Publicity.

- a. The STATE Legacy Land Conservation Program shall be credited as a sponsor on all advertising and promotional materials and activities wherever and whenever possible. The AWARDDEE shall not refer to the STATE, or any office, agency, or officer thereof, or any state employee, in any of the AWARDDEE's brochures, advertisements, or other publicity of the AWARDDEE without consultation and written permission from the Public Information Office of the State of Hawaii, Department of Land and Natural Resources.
- b. The AWARDDEE consents to the STATE's use of AWARDDEE and the Property's name, photograph, image, or likeness in brochures, advertisements, or other publicity relating to the Legacy Land Conservation Program. The STATE shall have complete ownership of all material which is developed, prepared, assembled, or conceived for brochures, advertisements, or other publicity relating to the Legacy Land Conservation Program.

14. Confidentiality of Material.

- a. All material given to or made available to the AWARDDEE by virtue of this Agreement, which is identified as proprietary or confidential information, will be safeguarded by the AWARDDEE and shall not be disclosed to any individual or organization without the prior written approval of the STATE.
- b. All information, data, or other material provided by the AWARDDEE to the STATE shall be subject to the Uniform Information Practices Act, chapter 92F, Hawaii Revised Statutes.

15. Suspension and Termination of Agreement.

- a. The STATE reserves the right at any time and for any reason to suspend this Agreement for any reasonable period, upon written notice to the AWARDDEE. Upon receipt of said notice, the AWARDDEE shall immediately comply with said notice and suspend all performance under this Agreement at the time stated.

- b. If, for any cause, the AWARDDEE breaches this Agreement by failing to satisfactorily fulfill in a timely or proper manner the AWARDDEE's obligations under this Agreement or by failing to perform any of the promises, terms, or conditions of this Agreement, and having been given reasonable notice of and opportunity to cure such default, fails to take satisfactory corrective action within the time specified by the STATE, the STATE shall have the right to terminate this Agreement by giving written notice to the AWARDDEE of such termination at least seven (7) calendar days before the effective date of such termination. Furthermore, the STATE may terminate this Agreement without statement of cause at any time by giving written notice to the AWARDDEE of such termination at least thirty (30) calendar days before the effective date of such termination.
 - c. Upon termination of the Agreement, the AWARDDEE, within thirty (30) calendar days of the effective date of such termination, shall compile and submit in an orderly manner to the STATE an accounting of the work performed up to the date of termination. In such event, the AWARDDEE shall be paid for the actual cost of the services rendered, if any, but in no event more than the total compensation payable to the AWARDDEE under this Agreement.
 - d. If this Agreement is terminated for cause, the AWARDDEE shall not be relieved of liability to the STATE for damages sustained because of any breach by the AWARDDEE of this Agreement. In such event, the STATE may retain any amounts which may be due and owing to the AWARDDEE until such time as the exact amount of damages due to the STATE from the AWARDDEE has been determined. The STATE may also set off any damages so determined against the amounts retained.
16. Disputes. No dispute arising under this Agreement may be sued upon by the AWARDDEE until after the AWARDDEE's written request to the Chairperson of the Board of Land and Natural Resources ("CHAIRPERSON") to informally resolve the dispute is rejected, or until ninety (90) calendar days after the CHAIRPERSON's receipt of the AWARDDEE's written request whichever comes first. While the CHAIRPERSON considers the AWARDDEE's written request, the AWARDDEE agrees to proceed diligently with the performance necessary to complete the Project unless otherwise instructed in writing by the CHAIRPERSON.
17. State Remedies. The AWARDDEE understands that in the event that it no longer meets all of the standards set forth in paragraph 1 of these General Conditions, or in the event that AWARDDEE fails to comply with any of the other requirements, provisions, or conditions set forth in this Agreement, that the STATE may refuse to make further payments to AWARDDEE or may seek reimbursement for

payments made to AWARDDEE under this Agreement. In addition to the remedies set forth above, the STATE shall be entitled to pursue any other remedy available at law or in equity.

18. Modifications of Agreement. Any modification, alteration, amendment, change, or extension of any term, provision, or condition of this Agreement permitted by this Agreement shall be made by written amendment to this Agreement, signed by the AWARDDEE and the STATE.
19. Notices. Any written notice required to be given by a party to this Agreement shall be (a) delivered personally, or (b) sent by United States first class mail, postage prepaid, to the CHAIRPERSON at the CHAIRPERSON's office in Honolulu, Hawaii or to the AWARDDEE at the AWARDDEE's address as indicated in the Agreement. A notice shall be deemed to have been received three (3) days after mailing or at the time of actual receipt, whichever is earlier. The AWARDDEE is responsible for notifying the CHAIRPERSON in writing of any change of address.
20. Waiver. Prior to the disbursement of funds, the CHAIRPERSON, in his or her discretion, may waive certain conditions set forth in this Agreement. No waiver shall be effective unless in writing executed by the CHAIRPERSON. The failure of the STATE to insist upon the strict compliance with any term, provision, or condition of this Agreement shall not constitute or be deemed to constitute a waiver or relinquishment of the STATE's right to enforce the same in accordance with this Agreement. The fact that the STATE specifically refers to one section of the Hawaii Revised Statutes, and does not include other statutory sections in this Agreement shall not constitute a waiver or relinquishment of the STATE's rights or the AWARDDEE's obligations under the statutes.
21. Severability. In the event that any provision of this Agreement is declared invalid or unenforceable by a court, such invalidity or unenforceability shall not affect the validity or enforceability of the remaining terms of this Agreement.
22. Governing Law. The validity of this Agreement and any of its terms or provisions, as well as the rights and duties of the parties to this Agreement, shall be governed by the laws of the State of Hawaii. Any action at law or in equity to enforce or interpret the provisions of this Agreement shall be brought in a state court of competent jurisdiction in Honolulu, Hawaii.
23. Survival. AWARDDEE's obligations and the STATE's remedies shall survive the funding of the grant and the acquisition of this Property by AWARDDEE.
24. Entire Contract. This Contract sets forth all of the agreements, conditions, understandings, promises, warranties, and representations between the STATE and the AWARDDEE relative to this Agreement. This Agreement supersedes all prior agreements, conditions, understandings, promises, warranties, and

representations, which shall no further force or effect. There are no agreements, conditions, understandings, promises, warranties, or representations, oral or written, express or implied, between the STATE and the AWARDEE other than as set forth or as referred to herein.

25. Counterparts. Furthermore, the parties agree that this Agreement may be executed in counterparts, each of which shall be deemed an original, and said counterparts shall together constitute one and the same agreement, binding all of the parties hereto, notwithstanding all of the parties are not signature to the original or the same counterparts. For all purposes, duplicate unexecuted and unacknowledged pages of the counterparts may be discarded and the remaining pages assembled as one document.
26. Suspension. Upon a breach of this Agreement, the STATE may impose sanctions against AWARDEE, including, but not limited to: suspension of all grant payments; and suspension of the AWARDEE's participation in STATE grant programs; until such time as all breaches are cured to the STATE's satisfaction. Sanctions may also include repayment of all state funds expended and any sanctions included as provisions herein.

State of Hawai'i
DEPARTMENT OF LAND AND NATURAL RESOURCES
Division of Forestry and Wildlife
Honolulu, Hawai'i 96813

April 8, 2016

Chairperson and Members
Board of Land and Natural Resources
State of Hawai'i
Honolulu, Hawai'i

As amended
Approved by the Board of
Land and Natural Resources
at its meeting held on

Apr: 18, 2016

Board Members:

SUBJECT: REVIEW OF PROJECT RECOMMENDATIONS FOR FUNDING FROM THE FISCAL YEAR 2016 LEGACY LAND CONSERVATION PROGRAM (LAND CONSERVATION FUND) AND APPROVAL OF THE FOLLOWING GRANTS:

PU'UKUA; HI'IPAKA LLC AND THE TRUST FOR PUBLIC LAND, AT \$175,000 FOR ACQUISITION OF 3.75 ACRES IN WAIMEA VALLEY, ISLAND OF O'AHU

KANEWAI SPRING; MAUNALUA FISHPOND HERITAGE CENTER AND THE TRUST FOR PUBLIC LAND, AT \$1,300,000 FOR ACQUISITION OF 0.77 ACRES IN KULI'OU'OU, KO'OLAUPOKO, ISLAND OF O'AHU

HELEMANO WILDERNESS RECREATION AREA; THE TRUST FOR PUBLIC LAND AND THE DIVISION OF FORESTRY AND WILDLIFE, AT \$1,500,000 FOR ACQUISITION OF 3,027 ACRES, ISLAND OF O'AHU

TURTLE BAY MAKAI – KAHUKU KAWELA FOREVER; THE TRUST FOR PUBLIC LAND AND THE DIVISION OF FORESTRY AND WILDLIFE, AT \$1,500,000 FOR ACQUISITION OF 53 ACRES, AND ACQUISITION OF A CONSERVATION EASEMENT OVER 605.996 ACRES, KO'OLAULO, NORTH SHORE, ISLAND OF O'AHU

ADDITION TO MAUNA KEA FOREST RESERVE, UPPER KŪKA'IAU RANCH ACQUISITION; THE DIVISION OF FORESTRY AND WILDLIFE, AT \$25,000 FOR ACQUISITION OF 4,469.585 ACRES IN HĀMĀKUA, ISLAND OF HAWAI'I

SUMMARY:

Pursuant to H.R.S., section 173A-2.5, the Legacy Land Conservation Commission (the Commission) has produced recommendations to the Board of Land and Natural Resources on project selection for Fiscal Year 2016 (FY16) funding from the Legacy Land Conservation Program (LLCP). Pursuant to H.R.S., section 173A-5, the Department has sought and received the consultation of the Senate President and Speaker of the House of Representatives. This submittal summarizes these

recommendations for the Board's review and requests approval for projects to receive FY16 LLCP funding.

BACKGROUND:

Legacy Land Conservation Commission Recommendations:

In June, 2015, the LLCP announced available FY16 funding from the Land Conservation Fund (LCF) for projects proposing the purchase of lands having value as a resource to the State. Nonprofit land conservation organizations, county agencies, and State agencies applied for funding for six separate resource land acquisition projects for the September 15, 2015, application deadline. One of these projects, 'Preserving Moanalua Gardens for Future Generations', removed its application, leaving a total of five projects. On December 3, 2015, at a public meeting, the Commission ranked the projects and recommended that they be funded in the order ranked, to the extent that funds are available.

The result of this recommendation would be full awards to the first four projects listed below, and a partial award of \$25,000 to the fifth project listed.

1. Pu'ukua; Hi'ipaka LLC and the Trust for Public Land, at \$175,000 for acquisition of 3.75 acres in Waimea Valley, Island of O'ahu, for the protection of cultural resources, aesthetic resources, and potential agricultural resources (among others).
2. Kanewai Spring; Maunalua Fishpond Heritage Center and the Trust for Public Land, at \$1,300,000 for acquisition of 0.77 acres in Kuli'ou'ou, Ko'olaupoko, Island of O'ahu, for the protection of aquatic habitat for threatened or endangered species and cultural resources (among others).
3. Helemano Wilderness Recreation Area; The Trust for Public Land and the Division of Forestry and Wildlife, at \$1,500,000 for acquisition of 3,027 acres, Island of O'ahu, for the protection of watersheds, parks, recreational areas and natural areas and habitat (among others).
4. Turtle Bay Makai – Kahuku Kawela Forever; The Trust for Public Land and the Division of Forestry and Wildlife, at \$1,500,000 for acquisition of 53 acres, and acquisition of a conservation easement over 605.996 acres, Ko'olaupoko, North Shore, Island of O'ahu, for the protection of parks, coastal areas, and natural areas and habitat (among others).
5. Addition to Mauka Kea Forest Reserve, Upper Kūka'iau Ranch Acquisition, The Division of Forestry and Wildlife, at \$25,000 for acquisition of 4,469.585 acres in Hāmākua, Island of Hawai'i, for the protection of watersheds, habitat and natural areas, agricultural production and open spaces and scenic resources (among others).

Details on each project are included in the discussion, maps and photos are attached as part of Attachment I.

Legislative Consultation

Following the Commission meeting, the Department and the Commission Chair sought the consultation of Senate President Ronald Kouchi and the Speaker of the House of Representatives

Joseph Souki regarding the Commission's recommendations, pursuant to H.R.S. Chapter 173A. The Speaker of the House of Representatives and Senate President offered no objections or comments to the projects listed as recommended by the Commission in letters dated February 1, 2016, and February 24, 2016, respectively (Attachments II and III).

DISCUSSION:

The following discussion describes the details surrounding each of the Legacy Land Conservation Commission's recommended projects.

1. Pu'ukua

Waimea Valley has a rich history of native Hawaiian inhabitants and traditional religious leaders. Despite the many changes, Waimea is still respected today as a sacred and powerful valley filled with history. Now that the vast majority of Waimea has been returned to, and is thriving under, Hawaiian stewardship, it is hoped that the general area believed to contain Hewahewa's final resting place can be protected and cared for from mauka to makai. Apart from cultural resources, Pu'ukua likely functions as a buffer zone and filter to decrease any runoff from the adjacent parking lots from entering Waimea River, which is home to almost a dozen of the few hundred endangered 'alae 'ula (Hawaiian moorhen) left.

Matching funds to cover 60% of the estimated cost of acquisition are being sought, with a total of 18% from Hi'ipaka LLC and The Trust for Public Land secured, 40% recommended to be sought from the City and County of Honolulu Clean Water and Natural Lands Fund and 2% pending from the landowner.

Hi'ipaka, LLC and The Trust for Public Land have had an initial conversation with the City Administration regarding the City holding or co-holding the conservation easement. The City is currently evaluating the most efficient way to run its Clean Water and Natural Lands Program, and what role it would like to play in future Clean Water and Natural Lands funded projects. One viable option is for the City and the North Shore Community Land Trust to co-hold the conservation easement.

Hi'ipaka, LLC and The Trust for Public Land's priority short term goal is to protect Pu'ukua's cultural sites, and ensure that they are under the care of a culturally knowledgeable and respectful entity that has trust and relationships with the Native Hawaiian community, and ancestral descendants. Hi'ipaka, LLC's longterm goal is to achieve the permanent protection of the cultural sites, maintain and strengthen relationships with Hewahewa's descendants, find and build positive and trusting relationships with Pu'ukua's descendants, create the right ano (feeling or environment) at Pu'ukua so that it is a respite for Hawaiian spirituality and traditions as the greater Waimea Valley is.

Hi'ipaka LLC is a nonprofit, limited liability company created to nurture and care for Waimea Valley; its mission is to Preserve and perpetuate the human, cultural and natural resources of Waimea for generations through education and stewardship.

2. Kanewai Spring

Kānewai Spring is one of the last remaining freshwater springs in Honolulu. The mixing of fresh and salt water between Kānewai Spring and Kānewai Fishpond provides the fertile estuary that is the source of life for a wide variety of native species, including rare freshwater limpets pipiwai and hapawai, native shrimp 'opae 'oeha'a and 'opae huna, native goby fish 'o'opu 'akupa, and 'ama'ama and 'aholehole which feed on the treasured limu 'ele'ele many of which are rarely seen today. It is the source of abundant freshwater and marine life.

The health of Kānewai Spring directly affects the health of the waters into which it flows: Kānewai Fishpond, Paikō Wildlife Sanctuary, and Maunalua Bay. Archaeological and cultural sites surround the spring, the acquisition of which is a rare opportunity to protect a healthy natural spring. Ownership and stewardship of Kānewai Spring by Maunalua Fishpond Heritage Center will not only safeguard the health and function of this precious freshwater source, but will provide opportunities for educational access for schools, community groups and the public. Convenient access to a spring and fishpond in Honolulu opens the door for more field trips, placebased education, regular scientific monitoring, and various Hawaiian cultural practices.

Matching funds totaling 42% of the estimated cost of acquisition are being sought, with approximately 1% from The Trust for Public Land and the landowner secured, and approximately 41% recommended to be sought from the City and County of Honolulu Clean Water and Natural Lands Fund.

It is anticipated that the City & County of Honolulu will hold or co-hold the conservation easement. However, the City & County is currently re-evaluating the structure of its Clean Water and Natural Lands Program to make it more efficient for the City, and it is possible that it may choose to have another entity hold the conservation easement.

Although the property protected by this project is small in acreage, an entire ecosystem will be enhanced. The property will be owned and stewarded by Maunalua Fishpond Heritage Center (MFHC). MFHC is a proven steward that has brought community, life and health back to Kānewai Spring in just five years. When MFHC received permission to enter and clean the property in 2010, invasive species had overtaken Kānewai Spring, the mākāhā, kū'ula stone (fishing shrine), and coconut grove. MFHC's management plan for Kānewai Spring centers around the protection and health of the Spring. MFHC will continue to educate school children and community about all of Kānewai Spring Complex's resources through mālama 'āina actions.

Maunalua Fishpond Heritage Center is a 501(c)(3) nonprofit organization; its mission is to preserve and mālama Honolulu's last fishponds for community education.

3. Helemano Wilderness Recreation Area

The Trust for Public Land and Hawaii's Division of Forestry and Wildlife are working to protect approximately 3,027 acres of Dole Food Company lands for the public to enjoy, to secure critical watersheds and native species habitat, and to create a hub for local forestry products that will supply artisans and cultural practitioners with much-needed materials.

Despite substantial demand, there are only two public camping areas in the mountains of O‘ahu. Access for hunters and hikers is often blocked by private ownership of lands or access routes to public lands. Access to the Poamoho Ridge Trail, a premier route to summit the Ko‘olau Mountains, has been blocked – sometimes for years – by private ownership. After acquisition, these 3,027 acres of land will be secured in perpetuity for daily public use by hunters, hikers, and other outdoor enthusiasts. Access will also be secured to the Poamoho Ridge Trail and an additional 4,600 acres of the ‘Ewa Forest Reserve. The project’s central location will provide opportunities for schools and students to easily access the mountains to learn about watersheds, native species, and sustainable forestry. This project will also secure critical portions of the Paukauila and Ki‘iki‘i Watersheds, the largest drainage basin on O‘ahu and supply of fresh drinking water.

Matching funds totaling 90% of the estimated cost of acquisition are being sought, with approximately 0.2% from The Trust for Public Land and the landowner secured, 1.7% awarded during the FY14 Legacy Land process and an estimated 57.3% pending from USFS Forest Legacy, US Navy REPI, Wal-Mart Acres, and City and County of Honolulu. The remaining funds will be requested from additional grants in FY16 and 17.

The Hawai‘i Department of Land and Natural Resources intends to include the Helemano Wilderness Recreation Area in the State Forest Reserve System as an addition to the Poamoho section of ‘Ewa Forest Reserve. DLNR plans to designate a Timber Management Area, a Public Hunting Area, and roads and trails that will be added to the Na Ala Hele Trail and Access System. The Division of Forestry and Wildlife, O‘ahu District will be responsible for the day-to-day management of the area.

Short-term goals are to provide continued public access to the Poamoho Ridge Trail, open up areas for hunting, and initiate planning for picnic grounds and the creation of campsites and multi-use recreation areas.

Longer-term goals are to establish camping areas (including providing ADA accessible sites), and sustainable trails for mountain bike and ATV use, reducing pressures on more sensitive coastal areas like Ka‘ena Point.

4. Turtle Bay Makai – Kahuku Kawela Forever

The property is highly significant and important to residents of and visitors to the North Shore of O‘ahu. The property includes approximately five miles of undeveloped shoreline that is treasured and beloved for its natural beauty, its habitat for native species, its recreational value, and its rich cultural history. Community members have fought since the 1970/80s to limit the resort development in the area. This ground-breaking and innovative project is part of a broader State, City, community, and non-profit effort to work out a voluntary negotiated solution with the landowner to conserve the most sensitive conservation areas and the most beloved and used recreation areas of this undeveloped shoreline.

\$2,500,000 in matching funds has been secured from Army Buffer / The Trust for Public Land funds. The State General Obligation Bond has secured \$35 million as a debt service to be paid by \$1.5 million of Legacy Land funding and \$1.5 million of transient accommodation tax

every year. Various other funding relating to acquisition costs has also been secured from sources including the state, Trust for Public Land and the Landowner.

The approximately 53 acres of fee-simple land acquired by the State at Kawela Bay will be leased back to the Turtle Bay Resort for 65-years. Under the lease, the Resort will be responsible for managing the land for public access and recreation, but will be allowed to continue existing commercial activities such as horseback riding, disc golf, parking/staging for surf lessons, picnics, jogging, hiking, and other outdoor activities. The land under the conservation easement will be permanently restricted from further development, but existing commercial uses (e.g., golf course, golf clubhouse and restaurant) would be allowed to continue. The Resort has been managing this land for over four decades since the Turtle Bay Resort was built. The Resort has all required permits to conduct all commercial activities on the land. The State of Hawai'i Department of Land and Natural Resources, Division of Forestry and Wildlife (DLNR/DOFAW) will own/hold and monitor the conservation easement in partnership with the North Shore Community Land Trust.

5. Addition to Mauka Kea Forest Reserve, Upper Kūka'iau Ranch Acquisition

Upper Kūka'iau Ranch is an iconic property that holds deep cultural and historical significance and hosts a wide and valuable array of natural resources, including critical habitat for the endangered palila bird. DOFAW's proposed acquisition of the property is strongly supported by the U.S. Fish and Wildlife Service through its Endangered Species Recovery Land Acquisition Program; the National Fish and Wildlife Foundation through its WalMart Acres for America program; and The Nature Conservancy, which created the Conservation Easement that it purchased from the landowner. The property also holds great potential for expanding public access to adjacent public hunting areas and for enhancing on-site and off-site outdoor recreation opportunities.

Matching funds to cover the remaining 57% of the estimated cost of acquisition are being sought from the U.S. Fish and Wildlife Service Recovery Land Acquisition grant, The Nature Conservancy, DLNR Forest Legacy funding (secured) and Walmart Acres for America, landowner donation and state staff time (pending).

The Nature Conservancy currently holds a Conservation Easement that restricts development and management activities.

A Multi-Resource Management Plan (MRMP) has been completed, which DOFAW may seek to change after acquisition. The Mauna Kea Watershed Alliance (MKWA)—created to foster and coordinate management to reduce the threats posed by introduced ungulates, fire, and weeds—participates in DOFAW's Watershed Partnership Program, and is interested in making an agreement with the landowner to provide management services in accordance with the MRMP. A public/private partnership to reforest substantial acreage with koa and other native forest trees has also been proposed.

In summary, in its recommendations below, DOFAW advises the Board to approve the five projects selected by the Commission and approved by the legislators, amounting to a total of \$4,500,000 in awarded funding from the Land Conservation Fund. This amount will fund the first four listed projects at the requested amounts, and provide a partial award of \$25,000 to the Addition to Mauka

Kea Forest Reserve, Upper Kūka‘iau Ranch Acquisition. Although this amount is much smaller than this project’s initial request, it would still be helpful in terms of funding requests from other entities. If any of the fully-funded projects were to fail prior to closing, the funding would be redirected to this project.

Hawaii Revised Statutes, section 173A-4

Section 173A-4, HRS, sets forth two requirements for the Legacy Land grant process: it requires applicants to seek consultation of certain State agencies prior to submitting an application, and it sets forth in detail the framework for what type of deed restriction (including covenants, agricultural easements, conservation easements) may be required over properties being acquired with funds from the LLCP.

Agency Consultation Process

Section 173A-4, HRS, requires applicants to the LLCP to seek the consultation of this Department, the Department of Agriculture, and the Agribusiness Development Corporation with regard to the maximization of public benefits of each proposed land acquisition project. Consulting agencies can also provide input regarding other aspects of the project, including the level of legal protection on the land (e.g., whether a conservation easement is appropriate and what agency or organization ought to hold the conservation easement). Using forms supplied by the Department, FY16 applicants consulted these agencies prior to application deadline, and then included the results of this consultation to the LLCP along with the application form.

Conservation Easements, Agricultural Easements, Deed Restrictions, and Covenants

Section 173A-4, HRS, requires that organizations and agencies receiving funds under this chapter provide a conservation easement, agricultural easement, deed restriction, or covenant to the Department or another eligible agency. The law also provides that the Board shall be an owner of a conservation easement as a condition of the receipt of funding, and states that the Board or any agency or organization required to hold an easement may provide an exemption from that requirement.

To date, the Department has required all recipients of funds through this program to record restrictions in the deed of conveyance for the property. Similar to many federal programs, the Legacy Land restrictions for county and nonprofit grantees reference the grant agreement that is executed between the Board and the grantee, and also include the statutory restrictions on the transfer of the land provided within Chapter 173A, HRS. These statutory restrictions include payback provisions and mandatory Board approval for any subsequent transfer of the property. Per the restrictions, the owner must manage the land in a manner consistent with the protection of the resources as described in the original grant application.

While the Board currently possesses the optional authority to impose conservation easements on lands acquired by other entities, the Department advises that the deed restrictions imposed in previous years are more appropriate for the recommended Fiscal Year 2016 projects. Of the five projects being recommended, three are fee acquisitions to be held by the State (Turtle Bay Makai being both fee and conservation easement), one is a fee acquisition to be held by a county, and one is a fee acquisition to be co-held by a county and a nonprofit.

Chapter 343, Hawaii Revised Statutes: Environmental Assessment

Class 1, Exemption 15, on the June 12, 2008, Division of Forestry and Wildlife Exemption List, states, "The award of grants under H.R.S., Chapter 173A, for the acquisition of interests in land, provided that the acquisition does not cause any material change of use of land or resources beyond that previously existing." DOFAW advises declaring awards exempt from the preparation of an environmental assessment pursuant to this exemption.

RECOMMENDATIONS:

That the Board:

1) Approve the acquisition of the following parcels and authorize the Chairperson to execute a letter of offer to the landowner and encumber funds, under the FY16 LLCP ceiling, from the LCF for the following Department projects:

- a. Helemano Wilderness Recreation Area; The Trust for Public Land (holder Division of Forestry and Wildlife), at \$1,500,000 for acquisition of 3,027 acres, Island of O'ahu
- b. Turtle Bay Makai – Kahuku Kawela Forever; The Trust for Public Land (holder Division of Forestry and Wildlife), at \$1,500,000 for acquisition of 53 acres, and acquisition of a conservation easement over 605.996 acres, Ko'olauloa, North Shore, Island of O'ahu
- c. Addition to Mauka Kea Forest Reserve, Upper Kūka'iau Ranch Acquisition, Division of Forestry and Wildlife, at \$25,000 for acquisition of 4,469.585 acres in Hāmākua, Island of Hawai'i

Using a total of **\$3,025,000** from the LCF, subject to compliance with H.R.S., Chapter 173A, and the normal process and procedures for the acquisition of lands by the State.

2) Authorize the Chairperson to enter into agreements and encumber FY16 funds with the listed grant recipients for the following grants to nonprofit land conservation organizations and counties:

- a. Pu'ukua; Hi'ipaka LLC, at \$175,000 for acquisition of 3.75 acres in Waimea Valley, Island of O'ahu
- b. Kanewai Spring; Maunalua Fishpond Heritage Center, at \$1,300,000 for acquisition of 0.77 acres in Kuli'ou'ou, Ko'olaupoko, Island of O'ahu

using a total of **\$1,475,000** from the LCF, subject to:

- a. compliance with H.R.S., Chapter 173A;
- b. compliance with H.R.S., Chapter 343;
- c. execution of a Grant Agreement with the BLNR;
- d. certification of an appraisal for each project by the Department;
- e. insertion of Legacy Land Conservation Program restrictions into the deed as a condition of contractual agreements with the grant recipients;
- f. approval of the Grant Agreement and of the Deed by the Attorney General's office;
- g. the availability of funds;

- h. the approval of the Governor; and
- i. such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.

3) In the event that one of the approved projects or agreements fails prior to closing, authorize the Chairperson to redirect the funding from the failed project to fund up to the requested amount for project 1) c: Addition to Mauna Kea Forest Reserve, Upper Kūka'iau Ranch Acquisition.

4) Require the imposition of Legacy Land Conservation Program restrictions into the deeds as a condition of contractual agreements with the grant recipients and exempt projects from any additional conservation easements that may be required under Section 173A-4, HRS.

5) Declare these awards of funds exempt in accordance with Class 1, Exemption 15, on the June 12, 2008, Division of Forestry and Wildlife Exemption List.

6) Authorize the Department to proceed with all due diligence and negotiations that may be necessary to carry out the grants and acquisitions mentioned above.

Respectfully submitted,

DAVID SMITH, Administrator
Division of Forestry and Wildlife

APPROVED FOR SUBMITTAL:

SUZANNE D. CASE, Chairperson
Board of Land and Natural Resources

ATTACHMENTS:

- Attachment I: Table of recommended awards for the Fiscal Year 2016 Legacy Land Conservation Program with project maps and photos attached
 - Attachment II: February 1, 2016, letter from the Speaker of the House of Representatives
 - Attachment III: February 24, 2016, letter from the Senate President
- Land Board Meeting: April 8, 2016; C-3: Approved as amended.
Approved as amended. See attached page.

Land Board Meeting April 8, 2016; C-3: Approved as amended.

- 1) **Approved as amended. The Nature Conservancy currently holds a Conservation Easement that restricts development and management activities; it is planned to be transferred to the Division of Forestry and Wildlife.**

- 2) **Approved as amended. 3) In the event that one of the approved projects or agreements fails prior to closing, authorize the Chairperson to redirect the funding from the failed project to fund up to the requested amount for project 1) c: Addition to Mauna Kea Forest Reserve, Upper Kūka'iau Ranch Acquisition.**

ATTACHMENT 6
January 25, 2019

DAVID Y. IGE
GOVERNOR OF
HAWAII



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

SUZANNE D. CASE
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

KEKOA KALUHIWA
FIRST DEPUTY

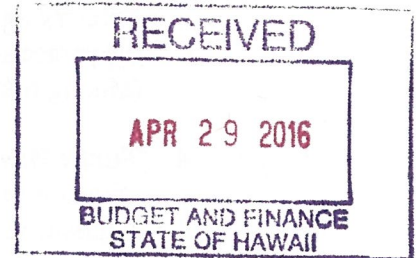
JEFFREY T. PEARSON, P.E.
DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES
BOATING AND OCEAN RECREATION
BUREAU OF CONVEYANCES
COMMISSION ON WATER RESOURCE MANAGEMENT
CONSERVATION AND COASTAL LANDS
CONSERVATION AND RESOURCES ENFORCEMENT
ENGINEERING
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

B+F 3974
S: 5/6/16

April 28, 2016, Memorandum from the Department of Land and Natural Resources
Request for approval of Fiscal Year 2016 Legacy Land Conservation Program grants

April 28, 2016



MEMORANDUM

TO: THE HONORABLE DAVID Y. IGE
Governor, State of Hawaii

THROUGH: THE HONORABLE WESLEY MACHIDA
Department of Budget and Finance

FROM: SUZANNE D. CASE, Chairperson *WMC*
Department of Land and Natural Resources *D603*

SUBJECT: Request for approval and release of grants from the Land Conservation Fund for
Fiscal Year 2016 Legacy Land Conservation Program land acquisition projects

The Department of Land and Natural Resources (Department) requests approval and release of funding for five grants, totaling \$4,500,000, from the Land Conservation Fund to State agencies and nonprofit land conservation organizations for the protection, through acquisition, of lands having value as a resource to the State. The funding is provided through the annual Legacy Land Conservation Program (LLCP), authorized by Chapter 173A, Hawaii Revised Statutes (HRS).

At a meeting on April 8, 2016, the Board of Land and Natural Resources approved funding for five project proposals that were submitted to the Legacy Land Conservation Program by the Fiscal Year 2016 application deadline. These projects were selected through a process that included review and recommendations from the Legacy Land Conservation Commission (§173A-2.5, HRS) and consultation with the Senate President and Speaker of the House of Representatives (§173A-9, HRS). The approved projects are listed below in the order of priority given by the Legacy Land Conservation Commission.

1. **Pu'ukua;** Hi'ipaka LLC and the Trust for Public Land, at \$175,000 for acquisition of 3.75 acres in Waimea Valley, Island of O'ahu, for the protection of cultural resources, aesthetic resources, and potential agricultural resources (among others).
2. **Kanewai Spring;** Maunalua Fishpond Heritage Center and the Trust for Public Land, at \$1,300,000 for acquisition of 0.77 acres in Kuli'ou'ou, Ko'olaupoko, Island of O'ahu, for the protection of aquatic habitat for threatened or endangered species and cultural resources (among others).
3. **Helemano Wilderness Recreation Area;** The Trust for Public Land and the Division of Forestry and Wildlife, at \$1,500,000 for acquisition of 3,027 acres, Island of O'ahu, for the protection of watersheds, parks, recreational areas and natural areas and habitat (among others).
4. **Turtle Bay Makai – Kahuku Kawela Forever;** The Trust for Public Land and the Division of Forestry and Wildlife, at \$1,500,000 for acquisition of 53 acres, and acquisition of a conservation easement over 605.996 acres, Ko'olaupoko, North Shore, Island of O'ahu, for the protection of parks, coastal areas, and natural areas and habitat (among others).
5. **Addition to Mauka Kea Forest Reserve, Upper Kūka'iau Ranch Acquisition;** The Division of Forestry and Wildlife, at \$25,000 for acquisition of 4,469.585 acres in Hāmākua, Island of Hawai'i, for the protection of watersheds, habitat and natural areas, agricultural production and open spaces and scenic resources (among others).

The Commission recommended these five projects for funding, as funds are available, in the order ranked above at a public meeting on December 3, 2015. Following the Commission meeting, the Department and the Commission Chair sought the consultation of Speaker of the House of Representatives Joseph Souki and Senate President Ronald Kouchi regarding the Commission's recommendations, pursuant to Chapter 173A, HRS. The legislators had no comments or objections to these projects. The Speaker of the House of Representatives and Senate President offered no objections or comments to the projects listed as recommended by the Commission in letters dated February 1, 2016, and February 24, 2016, respectively (included as part of Attachment 2).

The Board of Land and Natural Resources approved funding for the recommended projects on April 8, 2015.

The Department requests approval and release of funds for the grants listed above. This request includes five grants, totaling \$4,500,000, from the Land Conservation Fund to two nonprofit land conservation organizations, and one State agency (multiple projects) for the protection, through acquisition, of lands having value as a resource to the State.

The commitment of these funds will help secure an estimated \$55,927,344 in matching federal, county, and private funds towards the protection of approximately 8,160 acres of threatened or

unique natural, cultural, recreational, and agricultural resources. The Department would be pleased to provide additional information. Please contact David Smith, Administrator, Division of Forestry and Wildlife, at 225-5614, for any questions regarding these grants.

Attachments:


Attachment 1: Table of projects recommended by the Legacy Land Conservation Commission

Attachment 2: Board of Land and Natural Resources submittal (Item C-3), approved with amendments to original submittal, April 8, 2016

RECOMMEND:

APPROVED

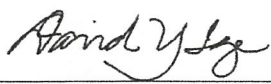
DISAPPROVED


WESLEY MACHIDA
Director, Dept. of Budget and Finance

5/11/16
Date

APPROVED

DISAPPROVED


DAVID Y. IGE
Governor, State of Hawaii

May 27, 2016
Date

ATTACHMENT 7
January 25, 2019

DAVID Y. IGE
GOVERNOR OF
HAWAII



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

SUZANNE D. CASE
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

KEKOA KALUHIWA
FIRST DEPUTY

JEFFREY T. PEARSON, P.E.
DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES
BOATING AND OCEAN RECREATION
BUREAU OF CONVEYANCES
COMMISSION ON WATER RESOURCE MANAGEMENT
CONSERVATION AND COASTAL LANDS
CONSERVATION AND RESOURCES ENFORCEMENT
ENGINEERING
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
KAIHOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

June 3, 2016

Richard Pezzulo
Executive Director, Hi'ipaka, LLC
59-864 Kamehameha Hwy.
Haleiwa, HI 96712

Dear Richard Pezzulo,

Subject: Grant from the Hawaii State Land Conservation Fund to Hi'ipaka LLC at
\$175,000 for acquisition of 3.75 acres in Waimea Valley, Island of O'ahu

At its meeting of April 8, 2016, under agenda item C-3, the Board of Land and Natural Resources (BLNR) approved a grant of \$175,000 from the State Land Conservation Fund, to Hi'ipaka LLC for the acquisition of 3.75 acres, Tax Map Key (1) 6-1-002:005 in Waimea Valley, Island of O'ahu, subject to certain terms and conditions.

The release of this grant funding to Hi'ipaka LLC is conditioned upon the approval of the Governor of the release of funds for award and the completion, to the satisfaction of the Board of Land and Natural Resources (BLNR), of the following terms and conditions for the provision of this grant:


1. the inclusion of deed restrictions to ensure protection and management of the identified resources having value to the State;
2. the provision, to the State, of documented proof of required cost share for the purchase;
3. coverage of costs that Hi'ipaka LLC indicated responsibility for in the proposal;
4. the satisfaction of all conditions of Hawaii Revised Statutes, Chapter 173A;
5. the execution of a Legacy Land Conservation Program Grant Agreement between the BLNR and Hi'ipaka LLC.
6. any other conditions and/or provisions as detailed in the attached project proposal (Attachment 1) and BLNR approval (Attachment 2); and
7. any other terms and/or conditions which will best serve the interests of the State.

The amount of the award is the approved amount listed above, or the State's appropriate share of the appraised fair market value of the acquired interest in land, whichever is less, subject to the discretion of the State. Hi'ipaka LLC acknowledges and agrees that the availability of funds from the Land Conservation Fund established under the laws of the State of Hawaii shall be subject to the approval and release of the budgeted funds by the Governor of the State of Hawaii.

If insufficient funds are released or otherwise made available to the Department to pay the amount of the award, the Department may, without liability to the State and the Department, reduce or eliminate the amount of the award. The grant remains subject to review and approval by the Department of the Attorney General.

Please indicate your acceptance or rejection of this offer by completing the following and **returning the original** signed copy to the Legacy Land Conservation Program office, 1151 Punchbowl Street, Rm. 325, Honolulu, Hawaii, 96813, no later than June 8, 2016.

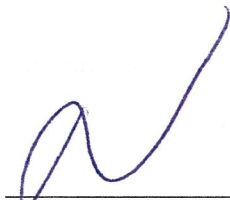
Sincerely,


Suzanne D. Case, Chairperson
Board of Land and Natural Resources

The Undersigned:

Accepts the State of Hawaii, Department of Land and Natural Resources' offer of \$175,000 from the State Land Conservation Fund, to Hi'ipaka LLC for the acquisition of 3.75 acres, Tax Map Key (1) 6-1-002:005 in Waimea Valley, Island of O'ahu.

Rejects the State of Hawaii, Department of Land and Natural Resources' offer of \$175,000 from the State Land Conservation Fund, to Hi'ipaka LLC for the acquisition of 3.75 acres, Tax Map Key (1) 6-1-002:005 in Waimea Valley, Island of O'ahu.



Signature

6/9/2016

Date

R. David Perez Executive Director
Title/Organization Hi'ipaka LLC

CONTRACT NO.
STATE OF HAWAII

65721

LEGACY LAND CONSERVATION PROGRAM
GRANT AGREEMENT

This Agreement, entered into on April 26, 2017, by and between the BOARD OF LAND AND NATURAL RESOURCES, STATE OF HAWAII ("STATE"), by its Chairperson, whose address is 1151 Punchbowl Street, Honolulu, Hawaii 96813, and Hi'ipaka LLC ("AWARDEE"), a nonprofit corporation under the laws of the State of Hawaii, whose business address and federal and state taxpayer identification numbers are as follows:
59-864 Kamehameha Hwy., Haleiwa, Hawaii 96712; _____; W62730841-01

EXHIBITS

Exhibit A Project Application

Exhibit B Checklist for Legacy Land Conservation Program Projects

Exhibits A and B are hereby made a part of this Agreement.

RECITALS

WHEREAS, Chapter 173A, Hawaii Revised Statutes ("HRS"), establishes standards for disbursing public funds to state agencies, counties, and nonprofit land conservation organizations to fulfill public purposes;

WHEREAS, the AWARDEE has requested funding from the STATE for the project described in Exhibit A and Attachment 1 of this Agreement;

WHEREAS, the STATE finds that the AWARDEE's performance as described in Attachment 1 of this Agreement will fulfill the public purpose set forth therein;

WHEREAS, the STATE desires to contract with the AWARDEE to fulfill the specified public purpose, and the AWARDEE are agreeable to performing under this Agreement;

WHEREAS, money is available to fund this Agreement pursuant to: Chapter 173A, HRS, LNR 101 (S-17-317-514) in the following maximum amount: One Hundred and Seventy-Five Thousand and No/100 Dollars (\$175,000);

NOW, THEREFORE, in consideration of the promises contained in this Agreement, the STATE and the AWARDEE agree as follows:

A. SCOPE OF PERFORMANCE

The AWARDEE shall perform, in a proper and satisfactory manner as determined by the STATE, the project described in the "Scope of Performance" set forth in Attachment 1, which is hereby made a part of this Agreement.

B. TIME OF PERFORMANCE

The performance required of the AWARDEE under this Agreement shall be completed in accordance with the "Time Schedule" set forth in Attachment 2, which is hereby made a part of this Agreement.

C. COMPENSATION

Subject to the availability of funds, the AWARDEE shall be compensated for performance of the project under this Agreement according to the "Compensation and Payment Schedule," set forth in Attachment 3, which is hereby made a part of this Agreement.

D. STANDARDS OF CONDUCT DECLARATION


The "Standards of Conduct Declaration" by AWARDEE, set forth in Attachment 4, is hereby made a part of this Agreement.

E. OTHER TERMS AND CONDITIONS

The "General Conditions for Legacy Land Conservation Program Grant Agreements," set forth in Attachment 5, is hereby made a part of this Agreement.

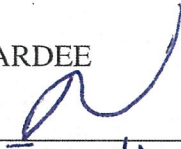
IN WITNESS WHEREOF, the STATE and the AWARDEE have executed this Agreement effective as of the date first above written.

STATE




Chairperson
Board of Land and Natural Resources

AWARDEE

By 

Its Executive Director *
(Title)

APPROVED AS TO FORM:



Deputy Attorney General

*Evidence of authority of the AWARDEE's representative to sign this Agreement for the AWARDEE must be attached.

AWARDEE'S ACKNOWLEDGMENT

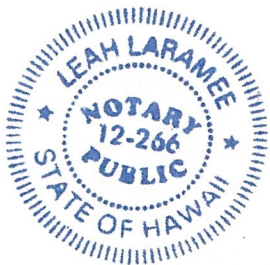
STATE OF HAWAII)
)
City ? COUNTY OF Honolulu) SS.

On this 13th day of March, 2017, before me personally appeared Richard Pezzulo, to me personally known, who being by me duly sworn, did say that he/she is the Executive Director of Hiiipaka LLC, the AWARDEE named in the foregoing instrument, and that he/she is authorized to sign said instrument on behalf of the AWARDEE, and acknowledges that he/she executes said instrument as the free act and deed of the AWARDEE.

Leah Laramee
Notary Public, State of Hawaii

My commission expires: 8-5-2020

Notary Seal Affixed:



Doc. Date: undated # Pages 96

Notary Name: LEAH LARAMEE 1st Circle

Doc. Description Legacy Land

Conservation Program Grant Agreement

Leah Laramee 3-13-17
Notary Signature Dr.

SCOPE OF PERFORMANCE

Project Description

The AWARDEE shall use funds from the Legacy Land Conservation Program ("LLCP") for land acquisition of: 3.75 acres, more or less, in Waimea Valley, Island of O'ahu, including the transfer of a conservation easement to the North Shore Community Land Trust as Administrative Holder and the City and County of Honolulu as Co-Holder ("Property") for the protection of resource values stated in Sections "C," "D," and "G" of the Project Application attached hereto as Exhibit A. Property acquired with LLCP funding from the Land Conservation Fund shall be held and managed in a manner designed to protect the Property's resource values.

Performance

The AWARDEE is required to do the following:

1. Submit a request for payment containing all documentation required in Attachment 3 ("Compensation and Payment Schedule") to the satisfaction of the STATE.
2. Complete acquisition of the Property and record a document of conveyance of the Property to Hi'ipaka LLC.
3. The document of conveyance to Hi'ipaka LLC shall include the following paragraphs:

"The property has been acquired with funds from a grant by the State of Hawaii, Department of Land and Natural Resources, Legacy Land Conservation Program ("LLCP") through grant agreement number _____, dated April 26, 2017, and is subject to all of the terms and conditions of the grant agreement. Title of the property conveyed by this deed shall vest in Hi'ipaka LLC, subject to disposition instructions from the State of Hawaii, Department of Land and Natural Resources ("DLNR"), or its successor agencies. The property shall be managed consistently with the purposes for which it was awarded a LLCP grant and Chapter 173A, Hawaii Revised Statutes.

Hi'ipaka LLC, for itself, its successors and assigns, and in consideration of the LLCP grant, does hereby covenant that it shall not dispose of, encumber its title or other interests in, or convert the use of this property without the written approval of the DLNR or its successor agencies. Upon notice from Hi'ipaka LLC, that it intends to dispose of, encumber the title or other interests in, or convert the use of the property, the DLNR may:

1. Require Hi'ipaka LLC, to place on the property, a deed restriction or covenant to protect the resource values for which Hi'ipaka LLC was awarded a LLCP grant, to an appropriate land conservation organization

or county, state, or federal resource conservation agency. The deed restriction or covenant shall run with the land and be recorded with the appropriate state agency.

2. Require to be placed on the property, a conservation easement or agricultural easement under Chapter 198, Hawaii Revised Statutes, to an appropriate land conservation organization or county, state, or federal resource conservation agency, that shall run with the land and be recorded with the appropriate state agency.
3. Require subsequent landowners to enter into a contract with the DLNR for the protection of the resource values consistent with the purposes for which the LLCP grant was awarded.

Hi'ipaka LLC further covenants that if the property is sold, leased, rented, or otherwise disposed of by Hi'ipaka LLC, that portion of the net proceeds (sale price less actual expenses of sale) of such sale, rental, or proceeds equal to the proportion that the state grant bears to the original cost of the property shall be paid to the State of Hawaii."

4. Cooperate with the STATE in all efforts to document the condition and status of the resource values for which the grant funds were provided.
5. Any substantive changes to the Project Application must be agreed to by the AWARDEE and the Chairperson of the Board of Land and Natural Resources in writing.
6. The AWARDEE shall maintain the same proportion of matching funds to awarded funds as set forth in Section F. of the Project Application, attached hereto as Exhibit A.
7. The document of conveyance to North Shore Community Land Trust and the City and County of Honolulu shall include the following paragraphs:

"The fee interest that this conservation easement encumbers has been acquired with funds from a grant by the State of Hawaii, Department of Land and Natural Resources, Legacy Land Conservation Program ("LLCP") through grant agreement number _____, dated April 26, 2017, and is subject to all of the terms and conditions of the grant agreement and Chapter 173A, Hawaii Revised Statutes.

The Administrative Holder of the conservation easement shall also be subject to the terms and conditions of the grant agreement to the extent applicable under the Administrative Holder's rights and responsibilities under the conservation easement.

Owner (Awardee under the LLCP Agreement) covenants that the property shall be managed consistently with the purposes for which it was awarded an LLCP grant and Chapter 173A, Hawaii Revised Statutes.

The Administrative Holder, for itself, its successors and assigns does hereby covenant that it shall not dispose of, encumber its title or other interests in, or convert the use of this conservation easement without the written approval of the Department of Land and Natural Resources or its successor agencies.

Nothing in this conservation easement is intended as, nor shall it be deemed to constitute, a waiver by the State of its rights or obligations under Chapter 173A, Hawaii Revised Statutes.

In the event of a sale or transfer of the fee interest in the Property, which sale or transfer would be subject to the applicable covenants and restrictions in the deed to Owner and in the Nondisturbance and Attornment Agreement dated on or about the date of this Easement, this Easement shall continue to burden the Property inasmuch as this Easement is a covenant running with the land in perpetuity. With regard to Co-Holder's rights and obligations under this Easement, in the event of a conflict between this Easement on the one hand, and the LLC Agreement or Chapter 173A, Hawaii Revised Statutes, on the other hand, this Easement shall control."

8. Owner (Awardee under the LLC Agreement) covenants that the property shall be managed consistently with the purposes for which it was awarded an LLC grant and Chapter 173A, Hawaii Revised Statutes.

TIME SCHEDULE

This Agreement shall be in effect beginning April 26, 2017. AWARDDEE shall complete acquisition of the Property and record the conveyance no later than April 26, 2019. If any of the performances required in the Scope of Performance are not completed within the time stated, AWARDDEE may be required to return all funds previously received by it pursuant to this Agreement. The Chairperson of the Board of Land and Natural Resources may extend the time for performance of any requirement. Requests for extension must be submitted by AWARDDEE in writing 90 days prior to April 26, 2019, or they will not be considered.

COMPENSATION AND PAYMENT SCHEDULE

In full consideration of the services to be performed under this Agreement, from Chapter 173A, Hawaii Revised Statutes, and LNR 101 (S-17-317-514), the STATE and the AWARDDEE agree to the following:

- a) AWARDDEE's requests for payment, in the form of either a single invoice or multiple invoices, shall be delivered personally or sent by United States first class mail, postage prepaid to:

Legacy Land Conservation Program
Division of Forestry and Wildlife
Department of Land and Natural Resourcesq
1151 Punchbowl Street, Room 325
Honolulu, Hawaii 96813

The STATE may withhold any portion of the payment until all commitments are verified as complete to the satisfaction of the STATE.

Reimbursement will be the method for all costs except for grant funds used to purchase land. All requests for payment must be received by the LLCPP by April 12, 2019. A single payment or multiple payments, not exceeding the total amount of One Hundred and Seventy-Five Thousand and No/100 Dollars (\$175,000), shall be made upon:

- i. AWARDDEE's completion of the Checklist for Legacy Land Conservation Program Projects attached hereto as Exhibit B to the satisfaction of the STATE;
- ii. AWARDDEE's compliance with all LLCPP policies and practices;
- iii. the STATE's receipt of an original invoice and copies of all bills, invoices, and receipts; and
- iv. the STATE's receipt of AWARDDEE's tax clearances from the Hawaii State Department of Taxation and the Internal Revenue Service and DLIR Certificate of Compliance.

The STATE may accept from AWARDDEE a current Certificate of Vendor Compliance from Hawaii Compliance Express (HCE) as a substitute for the Hawaii State Department of Taxation and the Internal Revenue Service tax clearances and DLIR Certificate of Compliance.

All invoices should:

- o Identify costs,
- o Reference the contract number, and
- o Have a line that states "this is an original invoice" with a signature (in a pen color other than black) to certify this statement.

The final invoice should be marked as "Final" when submitted and should be accompanied by a Certification of Compliance for Final Payment.

- b) Within thirty (30) days of acquiring the Property, but no later than May 26, 2019, AWARDDEE shall submit to the STATE a copy of the recorded conveyance document transferring ownership of the 3.75 acres, more or less, in Waimea Valley, Island of O'ahu, including the transfer of a conservation easement to the North Shore Community Land Trust as Administrative Holder and the City and County of Honolulu as Co-Holder to AWARDDEE. AWARDDEE shall also submit any other documentation of the transaction that is requested by the STATE.
- c) The total amount awarded under this Agreement will be dependent upon the project being completed with no substantive changes to the Project Application. The amount of the award shall not be increased, but the STATE may reduce the award if the project changes in any way that the STATE deems substantial. For example, a reduction in acreage, purchase price, or fair market value may be deemed substantial and sufficient justification for a reduction in the award. The AWARDDEE shall maintain the same proportion of matching funds to awarded funds as set forth in Section F. of the Project Application, attached hereto as Exhibit A.
- d) All payments under this Agreement are subject to availability of funds and allotment by the Director of Finance in accordance with chapter 37, HRS. Furthermore, all payments shall be made in accordance with and subject to chapter 40, HRS.

The AWARDDEE acknowledges and agrees that the availability of funds from the Land Conservation Fund established under the laws of the State of Hawaii shall be subject to the approval and release of the budgeted funds by the Governor of the State of Hawaii. If insufficient funds are released or otherwise made available to the STATE to pay the AWARDDEE, the STATE may, without liability to the STATE, reduce or eliminate the amount of compensation to the AWARDDEE, upon written notification by the STATE to the AWARDDEE.

STANDARDS OF CONDUCT DECLARATION

For the purposes of this declaration:

“Agency” means and includes the State, the legislature and its committees, all executive departments, boards, commissions, committees, bureaus, offices; and all independent commissions and other establishments of the state government but excluding the courts.

“Controlling interest” means an interest in a business or other undertaking which is sufficient in fact to control, whether the interest is greater or less than fifty per cent (50%).

“Employee” means any nominated, appointed, or elected officer or employee of the State, including members of boards, commissions, and committees, and employees under contract to the State or of the constitutional convention, but excluding legislators, delegates to the constitutional convention, justices, and judges. (Section 84-3, HRS).

On behalf of Hi‘ipaka LLC, AWARDEE, the undersigned does declare as follows:

1. AWARDEE is is not a legislator or an employee or a business in which a legislator or an employee has a controlling interest. (Section 84-15(a), HRS).
2. AWARDEE has not been represented or assisted personally in the matter by an individual who has been an employee of the agency awarding this Agreement within the preceding two years and who participated while so employed in the matter with which the Agreement is directly concerned. (Section 84-15(b), HRS).
3. AWARDEE has not been assisted or represented by a legislator or employee for a fee or other compensation to obtain this Agreement and will not be assisted or represented by a legislator or employee for a fee or other compensation in the performance of this Agreement, if the legislator or employee has been involved in the development or award of the Agreement. (Section 84-14(d), HRS).
4. AWARDEE has not been represented on matters related to this Agreement, for a fee or other consideration by an individual who, within the past twelve (12) months, has been an agency employee, or in the case of the Legislature, a legislator, and participated while an employee or legislator on matters related to this Agreement. (Sections 84-18(b) and (c), HRS).

AWARDEE understands that the Agreement to which this document is attached is voidable on behalf of the STATE if this Agreement was entered into in violation of any provision of chapter 84, Hawaii Revised Statutes, commonly referred to as the Code of Ethics, including the provisions which are the source for the declarations above.

Additionally, any fee, compensation, gift, or profit received by any person as a result of a violation of the Code of Ethics may be recovered by the STATE.

AWARDEE:

By  _____

(Signature)

Print Name Richard Pezzulo

Print Title Executive Director

Name of AWARDEE _____

Hi'ipaka LLC

Date 3/12/2017

**GENERAL CONDITIONS FOR LEGACY LAND
CONSERVATION PROGRAM GRANT AGREEMENTS**

1. Awardee's Qualifying Standards.
 - a. The AWARDDEE is a state agency, county, or a nonprofit land conservation organization.
 - b. If the AWARDDEE is a non-profit land conservation organization, the AWARDDEE has been determined by the Internal Revenue Service to be a non-profit organization, and AWARDDEE has a governing board whose members have no material conflict of interest and serve without compensation.
2. Recordkeeping Requirements. The AWARDDEE shall, in accordance with generally accepted accounting practices, maintain fiscal records and supporting documents and related files, papers, receipts, reports, and other evidence that sufficiently and properly reflect all direct and indirect expenditures and management and fiscal practices related to the AWARDDEE's performance under this Agreement. The AWARDDEE shall retain all records related to the AWARDDEE's performance under this Agreement for at least three (3) years after the date of submission of the AWARDDEE's Final Project Report.
3. Audit of AWARDDEE. The AWARDDEE shall allow the STATE full access to records, reports, files, and other related documents and information for purposes of monitoring, measuring the effectiveness, and assuring the proper expenditure of the grant. This right of access shall last as long as the records and other related documents are retained. The AWARDDEE shall respond to any requests from the STATE for information regarding monitoring, measuring the effectiveness, and assuring the proper expenditure of the grant within 60 days.
4. Nondiscrimination. No person performing work under this Agreement, including any employee or agent of the AWARDDEE, shall engage in any discrimination that is prohibited by any applicable federal, state, or county law.
5. Inspection of Property. The AWARDDEE shall permit the STATE and its agents and representatives, at all reasonable times, the right to enter and examine the Property to ensure compliance with chapter 173A, Hawaii Revised Statutes, and the terms of this Agreement. The STATE shall provide either written or verbal notice to the AWARDDEE forty-eight hours prior to entering the Property.
6. Conflicts of Interest. The AWARDDEE represents that neither the AWARDDEE, nor any employee or agent of the AWARDDEE, presently has any interest, and

promises that no such interest, direct or indirect, shall be acquired, that would or might conflict in any manner or degree with the AWARDDEE's performance under this Agreement.

7. Compliance with Laws. The AWARDDEE shall comply with chapter 173A, Hawaii Revised Statutes, chapter 343, Hawaii Revised Statutes, and all federal, state, and county laws, ordinances, codes, rules, and regulations, as the same may be amended from time to time, that in any way affect the AWARDDEE's performance under this Agreement.
8. Indemnification and Defense. The AWARDDEE shall defend, indemnify, and hold harmless the State of Hawaii, the contracting agency, and their officers, employees, and agents from and against all liability, loss, damage, and cost, and expense, including all attorneys' fees, and all claims, suits, and demands therefore, arising out of or in resulting from the acts or omissions of the AWARDDEE or AWARDDEE's employees, officers, or agents under this Agreement. The provisions of this paragraph shall remain in full force and effect notwithstanding the expiration or early termination of this Agreement.
9. Cost of Litigation. In case the STATE shall, without any fault on its part, be made a party to any litigation commenced by or against the AWARDDEE in connection with this Agreement, the AWARDDEE shall pay all costs and expenses incurred by or imposed on the STATE, including attorneys' fees.
10. Title insurance. AWARDDEE must obtain title insurance in the full amount of the purchase price, insuring that the title to the Property is vested in the AWARDDEE.
11. Relationship of Parties; Independent Contractor Status and Responsibilities, Including Tax Responsibilities.
 - a. In the performance of this Agreement, the AWARDDEE is an "independent contractor," with the authority and responsibility to control and direct the performance required under this Agreement; however, the STATE shall have a general right of inspection to determine whether, in the STATE's opinion, the AWARDDEE is in compliance with this Agreement.
 - b. The AWARDDEE and the AWARDDEE's employees and agents are not by reason of this Agreement, agents or employees of the STATE for any purpose, and the AWARDDEE, and the AWARDDEE's employees and agents shall not be entitled to claim or receive from the STATE any vacation, sick leave, retirement, workers' compensation, unemployment insurance, or other benefits provided to state employees.
 - c. The AWARDDEE shall be responsible for the accuracy, completeness, and adequacy of AWARDDEE's performance under this Agreement. Furthermore, the AWARDDEE intentionally, voluntarily, and knowingly

assumes the sole and entire liability to the AWARDDEE's employees and agents, and to any individual not a party to this Agreement, for all loss, damage, or injury caused by the AWARDDEE, or the AWARDDEE's employees or agents, in the course of their employment.

- d. The AWARDDEE shall be responsible for payment of all applicable federal, state, and county taxes and fees which may become due and owing by the AWARDDEE by reason of this Agreement, including but not limited to (i) income taxes, (ii) employment related fees, assessments, and taxes, (iii) general excise taxes, (iv) real property taxes, and (v) conveyance taxes. The AWARDDEE is also responsible for obtaining all licenses, permits, and certificates that may be required in order to perform this Agreement.
- e. The AWARDDEE shall obtain a general excise tax license from the Department of Taxation, State of Hawaii, in accordance with section 237-9, Hawaii Revised Statutes, and shall comply with all requirements thereof. The AWARDDEE shall obtain a tax clearance certificate from the Director of Taxation, State of Hawaii, and the Internal Revenue Service, U.S. Department of the Treasury, showing that all delinquent taxes, if any, levied or accrued under state law and the Internal Revenue Code of 1986, as amended, against the AWARDDEE have been paid and submit the same to the STATE prior to commencing any performance under this Agreement. The AWARDDEE shall also be solely responsible for meeting all requirements necessary to obtain the tax clearance certificate required for final payment under sections 103-53 and 103D-328, Hawaii Revised Statutes.
- f. The AWARDDEE shall obtain a certificate of compliance issued by the Department of Labor and Industrial Relations, State of Hawaii, in accordance with section 103D-310, Hawaii Revised Statutes, and section 3-122-112, Hawaii Administrative Rules, that is current within six months of the date of issuance.
- g. In lieu of the above-certificates from the Department of Taxation and the Department of Labor and Industrial Relations, the AWARDDEE may submit proof of compliance through the State Procurement Office's designated certification process.
- h. The AWARDDEE is responsible for securing all employee-related insurance coverage for the AWARDDEE and the AWARDDEE's employees and agents that is or may be required by law, and for payment of all premiums, costs, and other liabilities associated with securing the insurance coverage.

12. Payment Procedures: Tax Clearance. All payments under this Agreement shall be made only upon submission by AWARDDEE of (i) original invoices specifying the amount due and certifying that it has completed performance in accordance with the Agreement, and (ii) tax clearances from the Hawaii State Department of Taxation and the Internal Revenue Service. Such payments are subject to availability of funds and allotment by the Director of Finance in accordance with chapter 37, Hawaii Revised Statutes. Further, all payments shall be made in accordance with and subject to chapter 40, Hawaii Revised Statutes.
13. Publicity.
 - a. The STATE Legacy Land Conservation Program shall be credited as a sponsor on all advertising and promotional materials and activities wherever and whenever possible. The AWARDDEE shall not refer to the STATE, or any office, agency, or officer thereof, or any state employee, in any of the AWARDDEE's brochures, advertisements, or other publicity of the AWARDDEE without consultation and written permission from the Public Information Office of the State of Hawaii, Department of Land and Natural Resources.
 - b. The AWARDDEE consents to the STATE's use of AWARDDEE and the Property's name, photograph, image, or likeness in brochures, advertisements, or other publicity relating to the Legacy Land Conservation Program. The STATE shall have complete ownership of all material which is developed, prepared, assembled, or conceived for brochures, advertisements, or other publicity relating to the Legacy Land Conservation Program.
14. Confidentiality of Material.
 - a. All material given to or made available to the AWARDDEE by virtue of this Agreement, which is identified as proprietary or confidential information, will be safeguarded by the AWARDDEE and shall not be disclosed to any individual or organization without the prior written approval of the STATE.
 - b. All information, data, or other material provided by the AWARDDEE to the STATE shall be subject to the Uniform Information Practices Act, chapter 92F, Hawaii Revised Statutes.
15. Suspension and Termination of Agreement.
 - a. The STATE reserves the right at any time and for any reason to suspend this Agreement for any reasonable period, upon written notice to the AWARDDEE. Upon receipt of said notice, the AWARDDEE shall

immediately comply with said notice and suspend all performance under this Agreement at the time stated.

- b. If, for any cause, the AWARDDEE breaches this Agreement by failing to satisfactorily fulfill in a timely or proper manner the AWARDDEE's obligations under this Agreement or by failing to perform any of the promises, terms, or conditions of this Agreement, and having been given reasonable notice of and opportunity to cure such default, fails to take satisfactory corrective action within the time specified by the STATE, the STATE shall have the right to terminate this Agreement by giving written notice to the AWARDDEE of such termination at least seven (7) calendar days before the effective date of such termination. Furthermore, the STATE may terminate this Agreement without statement of cause at any time by giving written notice to the AWARDDEE of such termination at least thirty (30) calendar days before the effective date of such termination.
 - c. Upon termination of the Agreement, the AWARDDEE, within thirty (30) calendar days of the effective date of such termination, shall compile and submit in an orderly manner to the STATE an accounting of the work performed up to the date of termination. In such event, the AWARDDEE shall be paid for the actual cost of the services rendered, if any, but in no event more than the total compensation payable to the AWARDDEE under this Agreement.
 - d. If this Agreement is terminated for cause, the AWARDDEE shall not be relieved of liability to the STATE for damages sustained because of any breach by the AWARDDEE of this Agreement. In such event, the STATE may retain any amounts which may be due and owing to the AWARDDEE until such time as the exact amount of damages due to the STATE from the AWARDDEE has been determined. The STATE may also set off any damages so determined against the amounts retained.
16. Disputes. No dispute arising under this Agreement may be sued upon by the AWARDDEE until after the AWARDDEE's written request to the Chairperson of the Board of Land and Natural Resources ("CHAIRPERSON") to informally resolve the dispute is rejected, or until ninety (90) calendar days after the CHAIRPERSON's receipt of the AWARDDEE's written request whichever comes first. While the CHAIRPERSON considers the AWARDDEE's written request, the AWARDDEE agrees to proceed diligently with the performance necessary to complete the Project unless otherwise instructed in writing by the CHAIRPERSON.
17. State Remedies. The AWARDDEE understands that in the event that it no longer meets all of the standards set forth in paragraph 1 of these General Conditions, or in the event that AWARDDEE fails to comply with any of the other requirements,

provisions, or conditions set forth in this Agreement, that the STATE may refuse to make further payments to AWARDEE or may seek reimbursement for payments made to AWARDEE under this Agreement. In addition to the remedies set forth above, the STATE shall be entitled to pursue any other remedy available at law or in equity.

18. Modifications of Agreement. Any modification, alteration, amendment, change, or extension of any term, provision, or condition of this Agreement permitted by this Agreement shall be made by written amendment to this Agreement, signed by the AWARDEE and the STATE.
19. Notices. Any written notice required to be given by a party to this Agreement shall be (a) delivered personally, or (b) sent by United States first class mail, postage prepaid, to the CHAIRPERSON at the CHAIRPERSON's office in Honolulu, Hawaii or to the AWARDEE at the AWARDEE's address as indicated in the Agreement. A notice shall be deemed to have been received three (3) days after mailing or at the time of actual receipt, whichever is earlier. The AWARDEE is responsible for notifying the CHAIRPERSON in writing of any change of address.
20. Waiver. Prior to the disbursement of funds, the CHAIRPERSON, in his or her discretion, may waive certain conditions set forth in this Agreement. No waiver shall be effective unless in writing executed by the CHAIRPERSON. The failure of the STATE to insist upon the strict compliance with any term, provision, or condition of this Agreement shall not constitute or be deemed to constitute a waiver or relinquishment of the STATE's right to enforce the same in accordance with this Agreement. The fact that the STATE specifically refers to one section of the Hawaii Revised Statutes, and does not include other statutory sections in this Agreement shall not constitute a waiver or relinquishment of the STATE's rights or the AWARDEE's obligations under the statutes.
21. Severability. In the event that any provision of this Agreement is declared invalid or unenforceable by a court, such invalidity or unenforceability shall not affect the validity or enforceability of the remaining terms of this Agreement.
22. Governing Law. The validity of this Agreement and any of its terms or provisions, as well as the rights and duties of the parties to this Agreement, shall be governed by the laws of the State of Hawaii. Any action at law or in equity to enforce or interpret the provisions of this Agreement shall be brought in a state court of competent jurisdiction in Honolulu, Hawaii.
23. Survival. AWARDEE's obligations and the STATE's remedies shall survive the funding of the grant and the acquisition of this Property by AWARDEE.
24. Entire Contract. This Contract sets forth all of the agreements, conditions, understandings, promises, warranties, and representations between the STATE

and the AWARDDEE relative to this Agreement. This Agreement supersedes all prior agreements, conditions, understandings, promises, warranties, and representations, which shall no further force or effect. There are no agreements, conditions, understandings, promises, warranties, or representations, oral or written, express or implied, between the STATE and the AWARDDEE other than as set forth or as referred to herein.

25. Counterparts. Furthermore, the parties agree that this Agreement may be executed in counterparts, each of which shall be deemed an original, and said counterparts shall together constitute one and the same agreement, binding all of the parties hereto, notwithstanding all of the parties are not signature to the original or the same counterparts. For all purposes, duplicate unexecuted and unacknowledged pages of the counterparts may be discarded and the remaining pages assembled as one document.
26. Suspension. Upon a breach of this Agreement, the STATE may impose sanctions against AWARDDEE, including, but not limited to: suspension of all grant payments; and suspension of the AWARDDEE's participation in STATE grant programs; until such time as all breaches are cured to the STATE's satisfaction. Sanctions may also include repayment of all state funds expended and any sanctions included as provisions herein.

**STATE OF HAWAII
AMENDMENT NO. 1
TO LEGACY LAND CONSERVATION PROGRAM GRANT AGREEMENT
(CONTRACT NO. 65721)**

This Amendment, entered into on July 12, 2018, by and between the BOARD OF LAND AND NATURAL RESOURCES, STATE OF HAWAII (“STATE”), by its Chairperson, whose address is 1151 Punchbowl Street, Honolulu, Hawaii 96813, and Hi‘ipaka LLC (“AWARDEE”), a nonprofit corporation under the laws of the State of Hawaii, whose business address and federal and state taxpayer identification numbers are as follows:

59-864 Kamehameha Hwy., Haleiwa, Hawaii 96712; _____ ; W62730841-01
Business address *Federal and state taxpayer identification numbers*

RECITALS

A. WHEREAS, the STATE and the AWARDEE entered into a State of Hawaii Legacy Land Conservation Program Grant Agreement dated April 26, 2017 (hereinafter referred to as the “Agreement”), whereby the AWARDEE agreed to the terms described in the Agreement; and

B. WHEREAS, money is available to fund this Agreement pursuant to: Chapter 173A, HRS, LNR 101 (S-17-317-514) and (S-16-317-514) in the following maximum amounts: One Hundred and Sixty Nine Thousand Six Hundred and Sixty Three and 50/100 Dollars (\$169,663.50) from S-17-317-514 and Five Thousand Three Hundred and Thirty Six and 50/100 Dollars (\$5,336.50) from S-16-317-514, totaling One Hundred and Seventy Five Thousand and No/100 Dollars (\$175,000.00);

C. WHEREAS, the STATE and the AWARDEE now desire to amend the agreement to (1) incorporate the revised sources of funding for the grant, and (2) clarify the scope of performance required by the Agreement,

NOW, THEREFORE, the STATE and the AWARDEE mutually agree to amend the Agreement as follows:

1. Scope of Performance set forth as Attachment 1 to the Agreement is hereby amended to substitute the following language for the corresponding part 3 of the Performance section:

"The property has been acquired with funds from a grant by the State of Hawaii, Department of Land and Natural Resources, Legacy Land Conservation Program (“LLCP”) through grant agreement number 65721, dated April 26, 2017, as amended, and is subject to all of the terms and conditions of the grant agreement. Title of the property conveyed by this deed shall vest in Hi‘ipaka LLC, subject to

disposition instructions from the State of Hawaii, Department of Land and Natural Resources (“DLNR”), or its successor agencies. The property shall be managed consistently with the purposes for which it was awarded a LLCP grant and Chapter 173A, Hawaii Revised Statutes.

Hi‘ipaka LLC, for itself, its successors and assigns, and in consideration of the LLCP grant, does hereby covenant that it shall not dispose of, encumber its title or other interests in, or convert the use of this property without the written approval of the DLNR or its successor agencies. Upon notice from Hi‘ipaka LLC, that it intends to dispose of, encumber the title or other interests in, or convert the use of the property, the DLNR may:

1. Require Hi‘ipaka LLC, to place on the property, a deed restriction or covenant to protect the resource values for which Hi‘ipaka LLC was awarded a LLCP grant, to an appropriate land conservation organization or county, state, or federal resource conservation agency. The deed restriction or covenant shall run with the land and be recorded with the appropriate state agency.
2. Require to be placed on the property, a conservation easement or agricultural easement under Chapter 198, Hawaii Revised Statutes, to an appropriate land conservation organization or county, state, or federal resource conservation agency, that shall run with the land and be recorded with the appropriate state agency.
3. Require subsequent landowners to enter into a contract with the DLNR for the protection of the resource values consistent with the purposes for which the LLCP grant was awarded.

Hi‘ipaka LLC further covenants that (a) whenever the Property is sold by Hi‘ipaka LLC, that portion of the net proceeds (sale price less actual expenses of sale) of such sale, equal to the proportion that the state grant bears to the original cost of the property, shall be paid to the State of Hawaii, and (b) if the Property is leased, rented, or otherwise disposed of by Hi‘ipaka LLC, other than by sale, that portion of the gross proceeds of such disposition, equal to the proportion that the state grant bears to the original cost of the Property, shall be paid to the State of Hawaii.”

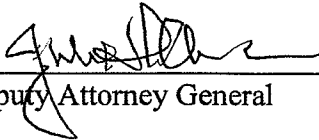
The entire Agreement, as amended herein, shall remain in full force and effect.

This Amendment to the Agreement may be executed in counterparts, each of which shall be deemed to be an original, but all of which, taken together, shall constitute one and the same agreement.

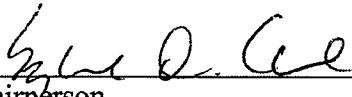
IN VIEW OF THE ABOVE, the parties execute this Amendment by their signatures, to be effective as of the date first above written.

APPROVED AS TO FORM:

STATE

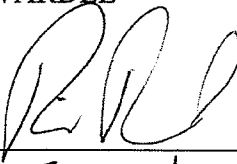


Deputy Attorney General



Chairperson
Board of Land and Natural Resources

AWARDEE

By 

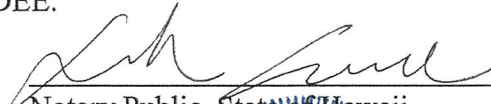
Its Executive Director *
(Title)

*Evidence of authority of the AWARDEE's representative to sign this amended agreement for the AWARDEE must be attached.

AWARDEE'S ACKNOWLEDGMENT

STATE OF HAWAII)
) SS.
CITY AND COUNTY OF HONOLULU)

On this 5th day of July, 2018, before me personally appeared Richard Pezzolo, to me personally known, who being by me duly sworn, did say that he/she is the Executive Director of Hi'ipaka LLC, the AWARDEE named in the foregoing instrument, and that he/she is authorized to sign said instrument on behalf of the AWARDEE, and acknowledges that he/she executes said instrument as the free act and deed of the AWARDEE.




Notary Public, State of Hawaii

My commission expires: 8-5-2020

Notary Seal Affixed



Doc. Date: undated # Pages 4
Notary Name: LEAH LARAMÉE 1st Circuit
Doc. Description: Amendment No. 1 to Legacy Land Conservation Program Grant Agreement (Contract No. 65721)



Notary Signature



7-5-18

Date



WAIMEA VALLEY

HI'IPAKA LLC

CERTIFICATE OF RESOLUTION

I, Lisa Victor, of Hi'ipaka LLC ("Company"), do hereby certify that the following is a full, true and correct copy of a resolution duly adopted by the Managers of said domestic limited liability company, at its meeting duly called at 560 North Nimitz Highway #200, Honolulu, HI 96817, on the 29th day of May, 2018, at which a quorum was present and acting throughout; and that said resolution has not been modified, amended or rescinded and continues in full force and effect.

RESOLVED that Hi'ipaka LLC is hereby authorized:

A. To acquire the Pu'ukua property, Tax Map Key (1) 6-1-02-05 (the "Property") from the Trust for Public Lands as generally evidenced by the draft Deed attached hereto as Exhibit A;

B. To grant the North Shore Community Land Trust and the City & County of Honolulu a conservation easement over the Property as generally set forth in that draft Grant of Conservation Easement attached hereto as Exhibit B; and

C. That the Executive Director, is hereby authorized to take all commercially reasonable and necessary actions to implement these aforementioned objectives, including the execution on behalf of the Company any bid, proposal or contract for services to be performed by the Company, and the execution of any bond required by any such bid, proposal or contract with the State of Hawai'i or County or any department or sub-division of any of them.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the company seal of said Company, Hi'ipaka LLC, this 29th day of May, 2018.


Lisa Victor, Hi'ipaka LLC Manager