

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

September 25, 2020

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

Land Board Members:

SUBJECT: APPROVE DISPOSITIONS OF LAND THAT WAI'ANAE COMMUNITY RE-DEVELOPMENT CORPORATION ACQUIRED WITH A GRANT FROM THE LAND CONSERVATION FUND AT WAI'ANAE, O'AHU, TAX MAP KEY NUMBER (1) 8-6-008:004

SUMMARY

The Division recommends that the Board approve a request from Wai'anae Community Re-development Corporation (WCRC) for dispositions of land acquired with a grant from the Land Conservation Fund (LCF) at Wai'anae, O'ahu, Tax Map Key Number (1) 8-6-008:004. WCRC would buy back 1/3 of an acre out of 11 acres funded by the LCF, leaving 10-2/3 acres available for agricultural production, so that it can build a new building on the 1/3 acre for agricultural products processing to support the farm. The requested dispositions would facilitate efforts by MA'O Organic Farms to construct a new building for agricultural produce processing and farmer training—using grant funds from the U.S. Department of Commerce, Economic Development Administration—by creating a two-unit condominium property regime over the existing property. The new building would be sited on the smaller of the two units, and WCRC would buy back the State's interest in that unit, removing it from the jurisdiction of the Legacy Land Conservation Program and Chapter 173A, Hawai'i Revised Statutes, with repayment deposited into the LCF. The larger of the two units would remain under Legacy Land Conservation Program restrictions, and WCRC would continue to manage the larger unit consistently with the purposes for which it was awarded a Legacy Land Conservation Program grant and Chapter 173A, Hawai'i Revised Statutes. The Division believes that completing the proposed dispositions would enhance the success, sustainability, and public benefit of WCRC, dba MA'O Organic Farms; constitutes a necessary, useful, and convenient thing to do in connection with the administration, maintenance, and management of lands having value as a resource to the State; and would be in the best interests of the State.

BACKGROUND

On May 9, 2008, under agenda item C-1, the Board awarded a \$737,300 grant from the Land Conservation Fund (LLCP 08-01) to Wai'anae Community Re-development Corporation (WCRC) for purchasing 11 acres at Wai'anae, O'ahu (the "Property") for the protection of agricultural resource values as stated in WCRC's grant application (please see Exhibit I). On June 30, 2008, the Board and WCRC entered into a Legacy Land Conservation Program (LLCP) Grant Agreement (Contract No.

57620). WCRC completed its purchase of the Property on January 30, 2009 for \$959,000, with the LLCP grant accounting for 76.88 % of the purchase price.

The Grant Agreement states that "Property acquired with LLCP funding from the Land Conservation Fund shall be held and managed in a manner designated to protect the Property's resource values." LLCP confirmed, through several lines of evidence, that WCRC continues to hold and manage the Property for the protection of its agricultural resources. For example:

- Over the last twelve years, MA'O Organic Farms (MA'O) transformed the Property from vacant, overgrown land with neglected structures into a full-on organic farming operation with repaired, renovated, and rebuilt structures.
- As a result of its successes, WCRC was able to purchase three additional properties that enlarged MA'O's organic farming capacity, including:
  - a 7.6 acre parcel, adjacent to the subject Property, that was the site of MA'O's initial farm operations (originally farmed by MA'O under a lease from the former landowner);
  - a nearby 21.1 acre parcel along Lualualei Naval Road, acquired with a grant from the Land Conservation Fund (LLCP 18-01a) that the Board approved on April 27, 2018 (Item C-1). Agricultural resource values of this property are further protected by a conservation easement, held by Hawaiian Islands Land Trust. The Land Conservation Fund now receives substantial licensing revenue generated by this property (and shared with WCRC) through payments from the operators of a two-acre solar farm, as approved by the Board on February 8, 2019 (Item C-1); and
  - across the street from the 21.1 acre parcel, a 236.2 acre parcel that joins State Forest Reserve lands at its mauka extent.
- LLCP staff and a sub-group of the Legacy Land Conservation Commission visited the Property in the fall of 2017, in conjunction with investigating WCRC's grant application for the nearby 21.1 acre parcel.
- Beginning in 2016, LLCP assisted WCRC with securing a \$675,000 loan from the U.S. Department of Agriculture (Rural Development Community Facilities Construction and Renovation). WCRC used this loan to upgrade the aging facilities that came with the subject Property, and has repaid the loan in full. Before and after photos of the upgrades are included in a LLCP Grant Recipient Self-Report Form dated February 5, 2018 (please see Exhibit II).

WCRC now has an opportunity to expend \$1,600,000 in grant funds secured from the U.S. Department of Commerce, Economic Development Administration (EDA, Public Works and Economic Development Facilities Program) for constructing a brand new building on the Property that would be used for agricultural produce processing and farmer training. EDA grant conditions require—with limited exceptions—that EDA maintain a first lien position against its investment in the conserved property, secured by a mortgage in favor of EDA, during the useful life of the constructed building (20 years). However, the Division's interpretation of LLCP statutory requirements is that the State must always hold the first lien position against any disposition of a property acquired with a grant from the Land Conservation Fund.

Section 173A-9, Hawai'i Revised Statutes, provides that "[a]ny land acquired by any nonprofit land conservation organization under this chapter may be sold, leased, or otherwise disposed of with the prior written approval of the board," and Section 13-140-34(a), Hawai'i Administrative Rules

requires that "[p]rior to any disposal of lands acquired with moneys from the fund, awardees must seek the written approval of the board. Such requests for approval shall be submitted to the department in writing." In seeking to facilitate the EDA grant award process and the construction of a new agricultural produce processing and farmer training facility, WCRC submitted a request for Board approval of two proposed dispositions of the Property (please see Exhibit III).

## DISCUSSION

### Establishing the Condominium Property Regime

The first of the two-part series of dispositions that Wai'anae Community Re-development Corporation (WCRC) requests would create a separate title to a portion of the Property that is planned as the site for construction of a new, federally-funded building. As sketched out in Exhibit IV, WCRC would establish a two-unit condominium property regime over the existing Property, with each unit owned by WCRC. A new building, funded by the grant from the federal Economic Development Administrations (EDA), would be sited on the smaller of the two units (Unit 2, approximately 0.344 acres), and WCRC would buy back the State's interest in that smaller unit so that EDA could retain a first lien position against its investment there. The larger of the two units (Unit 1, approximately 10.656 acres) would remain within the regulatory jurisdiction of the Legacy Land Conservation Program (LLCP), subject to Chapter 173A, Hawai'i Revised Statutes (Haw. Rev. Stat.) and the deed restrictions currently in place over the Property that maintain the State's first lien position against the larger unit (please see Exhibit V).

### Appraising the Value of the State's Interest

The second of the two-part series of dispositions that WCRC requests would repay the State for the value of the State's interests in Unit 2, thus removing that unit from the restrictions currently imposed upon it under the LLCP and Chapter 173A, Haw. Rev. Stat. The estimated area of Unit 2 accounts for approximately 3.13% of the total area of the existing Property, and the State's interest in the existing Property is 76.88%. Thus the repayment amount would be approximately 2.4% of the valuation basis for the entire existing property ( $0.0313 \times 0.7688$ ), paid to the Land Conservation Fund.

In 2008, the appraisal approved by the Department estimated the market value of the Property at \$1,030,000 for unencumbered fee title to the "vacant land" (\$958,000 land value) as serviced by two 1.5" water meters, along with a residence structure and two large steel frame chicken ranch structures (total \$72,000 in depreciated value of improvements), assuming a highest and best use of the land and existing improvements together as "farming and organic farming." The 2008 purchase price was \$959,000.

Section 173A-10, Haw. Rev. Stat., requires that "[w]henver any such land [land acquired with a grant from the Land Conservation Fund] is sold by any state agency, county, or nonprofit land conservation organization, that portion of the net proceeds (sale price less actual expenses of sale) of such sale equal to the proportion that the grant by the State bears to the original cost of the land or other property shall be paid to the State." The Division believes that a buyout of the State's interest in the subject Property is equivalent to a sale, and that the valuation basis for the buyout price should be established by first appraising the entire Property. To maintain consistency with the valuation process that was the basis for the State's initial investment in the Property, the Division has suggested that WCRC provide a new appraisal report covering the Property as it exists today, with an assumption

that "[t]he highest and best use of the land and existing improvements together is farming and organic farming," while disregarding the existing LLC deed restrictions (please see Exhibit III page 3, and Exhibit VI).

As noted by WCRC in Exhibit III (please see page 3), the requested dispositions would "allow EDA to record a real interest in that smaller unit [Unit 2] for a period of 20-year[s], the project's estimated useful life." Because the EDA's recorded interest in Unit 2 would dissolve at the close of that 20-year useful life period, it would be possible thereafter for the State to step back in and reassume its first lien position against Unit 2, and for Unit 2 to come back under the restrictions imposed by the LLC and Chapter 173A, Haw. Rev. Stat. Based on this possibility, WCRC is requesting that the Board apply an appropriate discount factor to the repayment amount (please see Exhibit 3, page 3). The Division believes that discounting is a reasonable approach under the circumstances, if WCRC provides adequate assurances that (1) it will perform the agreement for Unit 2 to come back into LLC, and (2) a mechanism exists that allows the State to recover the full repayment amount if WCRC and EDA do not perform as expected under WCRC's grant agreement with EDA and in accordance with the Board's approval of WCRC's requested dispositions of the Property acquired with a grant from the Land Conservation Fund.

#### Board Approval

The dispositions requested by WCRC present a case of first impression for the LLC and the Board, and the LLC's governing authorities provide limited guidance for Board decisionmaking. Under Haw. Rev. Stat. § 173A-11, the Board's general powers allow it to "do all things necessary, useful, and convenient in connection with the acquisition, administration, maintenance, and management of lands having value as a resource to the State, subject to all applicable laws . . . ." In deciding to approve a disposition from one entity to another, such as via sale or lease, the Board may consider, under Section 13-140-(c)(1), Hawai'i Administrative Rules (Haw. Admin. R.):

- (A) Whether the disposition will be to an agency or organization that is eligible to receive awards under this chapter and chapter 173A, HRS;
- (B) Whether the new landowner will be capable of managing the land in accordance with the purposes for which the board awarded a grant; and
- (C) Whether the net proceeds of the sale will allow the State to recover its appropriate portion of the funds that were originally contributed pursuant to section 173A-10, HRS.

Based on WCRC's track record and the structure of the proposed buyout transaction, the Division believes that each of these factors deserves positive consideration from the Board.

Under Haw. Admin. R. § 130-140-(c)(3), the Board may also consider "[a]ny other factors that may help determine the best interests of the State under chapter 173A, HRS. In determining these factors, the board may use criteria listed under section 13-140-39," which were adopted as criteria that the Legacy Land Conservation Commission may consider in forming its recommendations for land acquisitions. Under the circumstances of WCRC's proposed dispositions, the Division believes that the criteria listed under § 13-140-39 that are most applicable to Board approval include:

- (3) Linkage of protected acreage of similar resources;
- (4) Opportunities for appropriate public access and enjoyment;
- (9) Urgency of need to acquire;
- (10) Status and adequacy of management planning;
- (11) Community support for acquisition;



- (13) Connection to regional planning and protection efforts; and
- (14) Capacity for long-term management.

and that each of these criteria deserves positive consideration from the Board, based on:

- the geography of protected agricultural resources in the Wai'anae region;
- WCRC's track record of public engagement, public involvement, and community support;
- urgency associated with the need to timely complete the EDA grant project;
- WCRC's track record of successful management planning and WCRC's growing capacity for long-term management; and
- the strength of WCRC's connections with youth education, youth leadership, youth employment, resource stewardship, and food security that are key components for the success of regional planning and protection efforts.

Finally, Haw. Admin. R. § 13-140-34(b) provides that "[a]s a condition of approval of disposition, the board may require that the new landowner, and any subsequent landowner, enter into a contract with the board for the protection of the resource value." The dispositions requested by WCRC would be (1) from the existing landowner to itself, with WCRC's existing contract with the Board continuing to be effective over nearly the entire Property, and (2) from the State to the landowner (basically a divesting of a portion of the State's interests back to the landowner), which may, depending upon financing arrangements, require a contract that provides for the protection of the resource value after EDA's lien interest in Unit 2 expires.

#### Chapter 343, Hawai'i Revised Statutes, Environmental Review

The Board's approval of the requested dispositions would not trigger environmental review requirements under subsection 343-5(a), Hawai'i Revised Statutes.

#### RECOMMENDATIONS

That the Board:

- (1) Approve, in writing, the creation of a two-unit condominium property regime (CPR) over land that Wai'anae Community Re-development Corporation (WCRC) acquired with a grant from the Land Conservation Fund at Wai'anae, O'ahu, Tax Map Key Number (1) 8-6-008:004, as described in the submittal, with each new unit to be owned by WCRC (the Dispositions), subject to Board approval of the following documents to be provided by WCRC:
  - (a) an appraisal report that estimates the present market value of the property, without Legacy Land deed restrictions, prepared in accordance with Uniform Standards of Professional Appraisal (USPAP);
  - (b) a desk review of the appraisal report that is completed pursuant to Recommendation (1)(b) above, prepared in accordance with USPAP;
  - (c) a fresh preliminary title report (less than 90 days old) that shows WCRC as the owner of the existing property;
  - (d) draft final CPR governing documents;
  - (e) draft final CPR conveyance documents, including (i) a restatement of Legacy Land deed restrictions attached to Unit 1 and (ii) the absence of Legacy Land deed

- restrictions for Unit 2;
- (f) transaction instructions that require WCRC to pay to the State, at closing, for WCRC's buyback of the State's interest in Unit 2, in an amount calculated as the product of (i) the present market value of the existing property (as approved pursuant to Recommendation (1) above), times (ii) the proportional area occupied by Unit 2 (as indicated in the appraisal report and draft final CPR documents pursuant to Recommendation (1), above), times (iii) the proportion of funding provided by the State for WCRC's 2008 purchase price for the property (set by the State at 76.88%); and
  - (g) other transactional documents and financing arrangements that may be necessary to carry out the Dispositions as approved by the Board.
- (2) Require, as a condition its approvals, that WCRC submit to the Board, within thirty days of recording the CPR conveyance documents, a copy of each final CPR governing document and conveyance document, as recorded.
- (3) Authorize the Chairperson to:
- (a) approve, on behalf of the Board, the Dispositions, documents, and arrangements listed in Recommendation (1) above, including such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State;
  - (b) determine for the Board whether or not a substantive discrepancy exists between a draft final document and a final recorded document, and to pursue available remedies accordingly.
  - (c) proceed with all due diligence and negotiations that may be necessary to carry out the Dispositions approved by the Board.

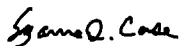
Respectfully submitted,



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DAVID G. SMITH, Administrator

APPROVED FOR SUBMITTAL:



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

ATTACHMENTS:

- Exhibit I: Legacy Land Conservation Program Grant Application  
Exhibit II: Grant Recipient Self-Report Form, Legacy Land Conservation Program

- Exhibit III: Request to Approve Dispositions of Land Acquired with a Grant from the Land Conservation Fund
- Exhibit IV: Sketch of the proposed two-unit condominium property regime
- Exhibit V: Existing Warranty Deed
- Exhibit VI: Appraisal Report (to be distributed)



# Exhibit I





NO PANIC...  
GO ORGANIC

**MA'O Organic Farm**

P.O. Box 441, Wai'anae, Hawai'i 96792  
Tel/Fax: 808.696.5569 (farm)  
waianaeorganic@hawaii.rr.com  
www.waianaeorganic.com

an 'aina based project of the Wai'anae Community Re-Development Corporation

October 17<sup>th</sup>, 2007

Ms. Molly Schmidt  
Coordinator  
Legacy Land Conservation Program  
Department of Land and Natural Resources  
115 Punchbowl Street, Room 325  
Honolulu, Hawai'i 96813

Dear Ms. Schmidt:

It is with great pleasure we present to the Legacy Lands Conservation Program our application for funding, specifically to assist purchase of prime agriculture land in Lualualei Valley, O'ahu. Please see attached the required materials as per the checklist supplied in the application packet.

The Wai'anae Community Re-Development Corporation's mission is to provide educational and employment opportunities to the Wai'anae community, especially youth, primarily through the development and implementation of MA'O Organic Farms, a 5-acre certified organic farm. At the core of MA'O's cultural, educational, and economic development strategy is a concerted effort to help Wai'anae's youth become more self-sufficient, entrepreneurial, and to prepare for leadership roles critical to development of productive and sustainable food systems for the people of the Wai'anae Coast.

Our work has been guided by an *`olelo no`eau* passed down from our kupuna and it states that: "*Ne huli ka lima ihuna, pololi ka opu; Ne huli ka lima ilalo, piha ka opu.*" This translates into English as "When your hands are turned up, you will be hungry, when your hands are turned to the soil you will be full." This proverb we believe sums up perfectly our mission, and our future work on the land – to reconnect, *malama*, and aloha the *`aina* for the betterment of our community and ourselves. This land represents significant positive steps for our community.

We would be delighted to host yourself and the Commissioners at the current farm location, and this might be a good time to inspect the adjacent property, which we intend to purchase with the support of Legacy Lands.

Please do not hesitate to call me if you need more information.

Sincerely,

Gary Maunakea-Forth  
MA'O ORGANIC FARMS  
WAI'ANAЕ COMMUNITY RE-DEVELOPMENT CORP.

**GRANT APPLICATION FORM**  
**Legacy Land Conservation Program Funding**  
 September 2007



**Forms and Required Preliminary Documentation must be postmarked or hand delivered by October 17, 2007, 4:30 p.m. HST to (refer to Application Instructions for more information):**

Department of Land and Natural Resources  
 Legacy Land Conservation Program  
 1151 Punchbowl Street, Room 325  
 Honolulu, Hawaii 96813  
 Phone: (808) 586-0921  
 Web: [www.hawaii.gov/dlnr/dofaw/lhcp](http://www.hawaii.gov/dlnr/dofaw/lhcp)

**APPLICATION PACKAGE CHECKLIST (check the boxes if the following items are attached and provide an explanation if they are not):**

- ☒ Letter from current landowner acknowledging project and indicating willingness to sell
- ☒ A general location map and a parcel map
- ☒ At least one (1), but no more than three (3) photos of the property
- ☒ Any concise and relevant appended/supplementary materials (optional)
- ☒ FOR NONPROFIT LAND CONSERVATION ORGANIZATIONS
  - ☐ Copy of mission statement and
  - ☐ IRS 501 (c) (3) or (c) (1) non-profit status determination letter
- ☒ WHERE INTENDED HOLDER OF PROPERTY IS OTHER THAN APPLICANT:  
 a letter from the intended holder of the property interest indicating willingness to participate

**CERTIFICATION:**

*I/We hereby certify that the statements and information contained in this Legacy Land Conservation Program Grant Application, including all attachments, are true and accurate to the best of my/our knowledge and understand that if any statements are shown to be false or misrepresented, this application may be rejected.*

KUKUI MAUNAKEA-FORTH

EXECUTIVE DIRECTOR

\_\_\_\_\_  
 Name (please type)

\_\_\_\_\_  
 Title

(An authorized person must sign here, such as the applicant's executive director, county commission chairperson, or State agency director.)



OCTOBER 16, 2007

\_\_\_\_\_  
 Signature (sign after printing)

\_\_\_\_\_  
 Date

**SECTION A. APPLICANT INFORMATION**

Agency / Organization Name	WAI'ANAE COMMUNITY RE-DEVELOPMENT CORPORATION
Mailing Address (PO Box or Street, City, State, Zip)	P.O. BOX 441, WAI'ANAE HI 96792
Contact Person and Title	GARY MAUNAKEA-FORTH, DIRECTOR OF AGRICULTURE OPERATIONS
Phone Numbers (best contact, work, cellular)	808-696-556 (FARM) 808-478-0316 (CELL) Farm: 696-5569
Email Address	waianaorganic@hawaii.rr.com
Agency / Organization Website (include URL to any specific pages regarding this project)	www.waianaorganic.com

**SECTION B. TYPE OF ACQUISITION**

1. We are requesting funding for the acquisition of:

Fee simple interest in private land	<input checked="" type="checkbox"/>
Permanent conservation easement	<input type="checkbox"/>

2. We intend for the property interest to be held by:

State of Hawaii	<input type="checkbox"/>
County of:	<input type="checkbox"/>
Other (indicate entity)*: WAI'ANAE COM. RE-DEV. CORP.	<input checked="" type="checkbox"/>

\* If the intended holder of the interest is an entity other than the applicant, please supply a letter from this entity acknowledging its participation in the project.

### SECTION C. DESCRIPTION OF LAND (SUMMARY)

1. Location of property (please be as specific as possible; for example, "Moloaa, makai, located on the north shore of Kauai"):

86-148 PUHAWAI RD, LUALUALEI VALLEY  
WAI'ANAE, HAWAII

2. Tax Map Key(s) (use the following format: "(4) 5-6-007:008"):

8-6-008:004

3. Size of property (indicate acreage or square footage):

11-ACRES

4. What types of easement(s) are located on the property? (for example: vehicular, pedestrian for beach access, utility, etc.):

VEHICULAR FOR FARM OPERATIONS

5. Will the public have access to property or easement? ☐ Yes ☒ No

6. Please provide the following land use information:

State Land Use Designation	AGRICULTURE DISTRICT
County Zoning	AG-1 RESTRICTED AGRICULTURAL
County General /Community Plan Designation	AGRICULTURE
Flood Zone Designation	FIRM ZONE D

7. Is property located in a Special Management Area? ☐ Yes ☒ No

8. Please describe any structures (e.g. size, location, use, condition, etc.) on the property.

1,700 SQUARE FOOT, 3-BEDROOM HOUSE, OCCUPIED BY SELLER, "AS-IS" CONDITION  
3 X 8,000 SQUARE FOOT CHICKEN SHEDS (200 X 40), UNUSED SINCE LATE 1980'S

9. What kinds of land uses/activities are underway on the property? Please describe the any kinds of land uses/activities are underway the subject property and on bordering properties.

NO ACTIVITES CURRENT OR UNDERWAY. PROPERTY IS A FORMER CHICKEN FARM, FROM 1950'S - 1980'S NOW DERELICT, AS ARE MANY OF SURROUNDING PROPERITES. APPLICANT LEASES 5-ACRES OF NEIGHBORING PROPERTY.



10. What types of surveys or documented analyses, if any, have been conducted regarding the property (e.g. environmental assessments, cultural assessments, environmental impact statements, biological field surveys, archeological surveys, Shoreline Management Area permit applications)?

NO SURVEYS DONE AS YET, BUT APPLICANT CONDUCTED A HUD-APPROVED ENVIRONMENTAL REVIEW FOR NEIGHBORING PROPERTY IN 2003.

#### SECTION D. PRESERVATION PURPOSES

1. We propose that the property be acquired for the following preservation purpose(s) (check all that apply, and then provide more information regarding the preservation purposes in numbers 2 through 10 below for *checked areas only*):

Watershed protection	<input type="checkbox"/>	Parks	<input type="checkbox"/>
Coastal areas, beaches and ocean access	<input type="checkbox"/>	Natural areas	<input type="checkbox"/>
Habitat protection	<input type="checkbox"/>	Agricultural production	<input checked="" type="checkbox"/>
Cultural and historical sites	<input type="checkbox"/>	Open spaces and scenic resources	<input type="checkbox"/>
Recreational and public hunting areas	<input type="checkbox"/>		

2. Watershed Protection: Please describe the watershed function of this property: (elevation gradient, type/condition of vegetation, presence of perennial or ephemeral streams or drainage channels, other water bodies, etc.).

N/A.

3. Coastal areas, beaches and ocean access: Please describe the coastal significance of this property (e.g. length of shoreline, intertidal areas, type/amount of beach, coastal strand vegetation, extent of erosion, etc.). Please describe the type and extent of ocean access.

N/A.

4. Habitat Protection: Please describe the types of habitat present within the property, including the types of wildlife species that use the area and the elevation range of the property. Describe the condition of habitat, including the presence of both threatened & endangered and invasive species. Describe the size/diversity of wildlife populations. Note if the habitat is formally designated (e.g. critical habitat, wildlife refuge, etc.). Note also the condition and extent of wildlife habitat on adjacent lands.

N/A.

5. Cultural and historic sites: Please identify the presence, location and condition of cultural or historic structures or sites (e.g., heiau, lo'i, burial caves, dunes, or remnant walls) on the property. Identify any sites that are listed on or eligible for the National Register of Historic Places.

N/A.

6. Recreational and public hunting areas: Please identify ongoing types and levels of public recreational activity on the property and describe the level of public access. Please identify the types of activities anticipated after acquisition of the property. Is public hunting currently underway on the property? Is the property within a Game Management Area?

N/A

7. Parks: Is the parcel within or adjacent to a Federal, State or County Park? If so, please describe.

N/A

8. Natural Area: Please describe the natural resources on the property (e.g. streams, estuaries, anchialine ponds, dunes, caves, forest, etc.). Is the property within or adjacent to a formally designated natural area (e.g., Natural Area Reserve, Refuge, Sanctuary, etc.)?

N/A.

9. Agricultural Production: Please describe the types and extent of agricultural activities underway on the property or adjacent to the property. Note if there is a record of past agricultural activities.

THERE HAS BEEN NO AGRICULTURAL ACTIVITY SINCE THE LATE 1980'S WHEN THE FAMILY FARMED CHICKENS AND RAISED ORNAMENTAL PLANTS. THE MAUKA 4-ACRES WAS SUB-LET ALSO IN THE 1980'S FOR CROP PRODUCTION.

10. Open spaces or scenic resources: Please describe the open space values of the property.

Is the property readily visible from surrounding and/or distant areas? Describe the view plane from the property. Does the property itself have unusual or exceptional value as a site from which to view and appreciate scenic vistas?

N/A.

#### SECTION E. ENVIRONMENTAL HAZARDS

1. If there are suspected or potential hazards associated on or related to this property, please check all the following that apply and describe each:

There are no known hazards.	<input checked="" type="checkbox"/>
The property is a designated brownfield (former industrial use)	<input type="checkbox"/>
There has been illegal dumping /hazardous materials.	<input type="checkbox"/>
The property is prone to flooding or is a natural drainage basin.	<input type="checkbox"/>
The property is prone to falling rocks or mudslides.	<input type="checkbox"/>
The property lays fallow/overgrown and ground is not level (rocky)	<input type="checkbox"/>
Other suspected or potential hazards:	<input type="checkbox"/>

#### SECTION F. FUNDING REQUEST

1. What is the fair market value of the fee simple property?

\$ 959,300

2. What is the fair market value of the conservation / agricultural easement?

\$ 0

3. How were the estimated values determined?

	<u>Fee Simple</u>	<u>Easement</u>
Appraisal Report (please indicate date & author of report)	(appraisal report pending, conducted 10/10/07)	
Current County Tax Assessed Value	959,300	
Other (please specify)		

4. Is the property or easement currently listed for sale or has it been listed for sale within the past two years?

☐ Yes. Asking price:

\$

☒ No

5. What is the total estimated cost for acquisition? Please use the table below:

Estimated Acquisition Cost Worksheet				
Expense Item	Estimated Cost	% of Costs to be Paid by:		
		Land Owner	Applicant	Other (specify)
Appraisal report	4,000		100	
Title report	2,000		100	
Property survey	6,000		100	
Subdivision	0		100	
Environmental investigation	6,000		100	
Other:	10,000			
Other:				
Other:				
Other:				
Total Estimated Acquisition	\$ 28,000			
Estimated Value of Property	\$ 959,300			
<b>TOTAL ANTICIPATED COST OF ACQUISITION</b>	<b>\$ 987,300</b>	<b>%</b>	<b>%</b>	<b>%</b>

6. What are the anticipated matching funds? Please use table below:

<b>Estimated Matching Funds Worksheet</b>			
Type	\$ Amount	Source of Funds or Basis of Valuation	Status* (Secured/Pending)
Private funds	250,000	PROJECT APPLICANT	SECURED
Public/other funds			
Public/other funds			
Public/other funds			
Public/other funds			
Land value donation (can include bargain sale reduction in price from fair market value in this category)			
In-kind contributions			
<b>TOTAL MATCHING FUNDS</b>	<b>\$ 250,000</b>		
<b>AMOUNT BEING REQUESTED FROM THE LEGACY LAND PROGRAM</b>	<b>\$ 737,300</b>		
<b>TOTAL ANTICIPATED PROJECT FUNDING</b>	<b>\$ 987,300</b>		

\* Please describe the current status of any pending funds and indicate the date that any pending funds will become available if they are awarded:

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7. Please provide an estimated timeline for acquisition (note that funding will expire two years from date of award agreement):

SEPT. 2007 - NOV. 2007 -- APPRASIAL  
DEC. 2007 -- LEGAL DOCUMENTATION, TITLE, ETC.  
JAN 2008 - JUNE 2008 -- ENVIRONMENTAL REVIEW  
DEC. 2008 -- DEED SIGNED OVER TO WCRC

PLEASE NOTE: CURRENT OWNER HAS AGREED TO PROVIDE AT LEAST 24-MONTHS FOR WCRC TO COMPLETE TRANSACTION

## **SECTION G. PROJECT DESCRIPTION**

Please attach answers to the questions below on a separate sheet and attach it to the application form. Make sure to number your answers so they correlate with the numbered questions below. Please limit the length of your answers to Questions 1 and 2 to one single-spaced page, Times New Roman 12-point font, 1 inch margins.

1. Briefly describe the overall significance and importance of the property and/or easement.
2. Identify any conditions that threaten the significance and importance of the subject site. This may include anticipated uses of neighboring lands, environmental conditions (e.g. sedimentation, runoff, invasive species, conflicting activities, etc.).

## **SECTION H. STEWARDSHIP AND MANAGEMENT**

Please attach an answer to the question below on a separate sheet and attach it to the application form. Please limit your answer to Question 3 to one single-spaced page, Times New Roman 12-point font, 1 inch margins.

3. Briefly describe the proposed use of the acquired property or easement including any short and long term goals, resource management plan, sources of start up funding, operation and maintenance funding. Disclose any intended commercial uses. What entity (if not the applicant) will manage the property/easement? Please describe the expertise and experience of the managing entity.

## SECTION G.

### PROJECT DESCRIPTION

*1. Briefly describe the overall significance and importance of the property and/or easement.*

Lualualei Valley has a rich history of agricultural production but over the past three decades many farmers have gone out of business and younger generations have been encouraged to seek employment away from the hard life of agriculture. From the 1950's through to the mid 1980's the Takahasi's farmed the property being purchased by WCRC and were one of O'ahu's largest chicken broiler operations. They also diversified into nursery plants and at one time sub-leased portions of the land to family members for truck farming operations. Due to financial reasons, and a desire to leave the agriculture sector, the family closed the farm. Today, the farm is overgrown with invasive grasses and weeds, the farm road within the property is inaccessible due to large haole koa trees, and like much of Lualualei Valley the agriculture operation is long gone.

However, this property is significant for the following reasons:

1. It is located on the Lualualei vertisol series soils and according to the USDA's National Resource Conservation Service this is prime agriculture land; and
2. The applicant, WCRC, is recognized as one of Hawai'i's leading organic farms, as well as being an educator and this property represents much needed stimulus for agriculture in this low-income rural community.

*2. Identify any conditions that threaten the significance and importance of the subject site. This may include anticipated uses of neighboring lands, environmental conditions (e.g. sedimentation, runoff, invasive species, conflicting activities, etc.).*

Like much of Hawai'i's rural areas Lualualei Valley is threatened by the pressure's of urban development. Within two miles of the property a new 125-homes development is being completed by Mark development. There are two situations occurring that are of greater and immediate threat to this property and to agriculture in general in Lualualei Valley.

1. Non-agriculture land use on agriculture zoned lands. A 3.5-mile drive from Farrington Highway to Puhawai Road, along Halona Road, will easily identify three major sites where construction companies are basing their operations on agriculture-zoned lands. A large trucking company is located one block away and dozens of trucks haul construction waste within the valley; and
2. Illegal dumping on agriculture zoned lands. There are numerous instances of illegal dumping on public streets in the valley (Mailiili Road for example) and there are two properties on Kuwale Rd, two blocks from the property. One of these was Wayne's Dairy, former dairy farm, that dumped approximately 500 tons of waste on agriculture-zoned lands (<http://starbulletin.com/2004/09/01/news/story5.html>).

There are numerous other illegal activities (such as chicken fighting and promotion of drugs) that threaten the valley.

## **SECTION H. STEWARDSHIP AND MANAGEMENT**

**LAND PURCHASE GOALS:** The objectives in purchasing this property are as follows:

1. Increase production of certified organic fruits and vegetables;
2. Provide a working example of a biologically-diverse organic farm production techniques especially cover cropping, use of green manures, and composting;
3. Commence research efforts into organic livestock production; and
4. Increase education programs in organic agriculture and community food security.

**RESOURCE MANAGEMENT PLAN:** WCRC intends to manage the property according to our organic farm plan as detailed in our organic farm certification, which we have attached here.

**SOURCES OF FUNDING:** WCRC has had great success in developing institutionalized sources of funding for both farm operations start-up/expansion and education programs this includes:

- Leeward Community College provides \$75,000 per year as a UH budget line item
- Department of Health and Human Service's Administration for Native Americans awarded a grant in the amount of \$443,000 to develop youth entrepreneurship in agriculture programs. We are anticipating, based on productive discussions with the program's administrator, additional funding for expansion in late 2008;
- Every year for the past 3-years small local foundations have committed support this includes American Savings Bank (\$20,000), Hawaiian Electric (\$20,000), Campbell Foundation (\$20,000), we anticipate this continuing;
- The Omidyar Network, a social venture foundation developed by E-Bay founder Pierre Omidyar, will provide start-up seed money in the form of a low-interest loan; and
- Earned income is projected at \$150,000 in 2007 farming 3-acres, we will treble this on the new land within 3-years.

**COMMERCIAL USES:** Non-profit organizations have been challenged by conventional sources of funding (foundation, government) to raise a portion of their budgets in earned income. WCRC has met this challenge raising 33% of our overall budget through the sale of organic fruits and vegetables. This will continue on the purchased lands.

**EXPERTISE/EXPERIENCE OF MANAGEMENT TEAM:** The non-profit Board of Directors includes Cris Akao, branch manager of American Savings Bank; William Aila, a DLNR Wai'anae boat harbor master; and Kaimana Pine, a local business owner. Kukui Maunakea-Forth is Executive Director of WCRC guiding administration and development of the organization. She has been with the farm since the start guiding program development, fundraising, program implementation, and program review for multiple state and federal grants. Gary Maunakea-Forth is MA'O Organic Farm's director of agriculture and together were recently awarded with a Ho'okele Award by the Wallace Alexander Gerbode Foundation and the Hawai'i Community Foundation, which pays tribute to leaders from the nonprofit sector. Working in close consultation with the executive director is education director Summer Shimabukuro. Summer, recently earned her MA in curriculum development from the UH Manoa College of Education and joined the team in 2006 to guide educational programs. WCRC and the farm were recently awarded a non-profit environmental leader award by Hawai'i Home and Remodeling.



**Takeno Takahashi Trust  
86-148 Puhawai Rd  
Wai`anae HI 96792**

October 3, 2007

Commissioners  
Department of Land and Natural Resources  
Legacy Land Conservation Program  
115 Punchbowl Street, Room 325  
Honolulu, Hawai`i 96813

To the Legacy Lands Conservation Program Commissioners

The Takeno Takahashi Trust has agreed to sell our 11-acre property located at 86-148 Puhawai Road (TMK 8-6-008:004) to the Wai`anae Community Re-Development Corporation (WCRC), a non-profit 501(c)3 corporation. We understand that WCRC wishes to expand their MA`O Organic Farms project which grows organic fruits and vegetables while also providing training and employment for youth in the Wai`anae community.

Although we have not agreed on an exact sales price, we will be seeking to determine the fair market value of the property as provided by an approved appraisal to be completed before November 15<sup>th</sup>, 2007. Until that time, we understand that for a point of reference the City's "Total Property Assessed Value" is \$959,300.00.

We understand that WCRC is currently applying to the Legacy Lands Conservation Program for partial funding. Our family has been farming this property for many years, and places high value in the education of our youth. We would like to ensure that the agricultural use of this property continues by supporting WCRC's agricultural and educational mission. In this regard, we wish to support their efforts to purchase the property including allowing WCRC up to 24-months, beginning September 1, 2007, to complete the sales agreement. We will also arrange for WCRC to utilize the property for agriculture purposes in the interim period.

Although further steps need to be taken in finalizing the sales agreement, we look forward to working with WCRC on this matter. If you have any question please contact my daughter Tammy Keller at 808-741-3341, or myself at 808-386-3341.

Sincerely,



Patrick Takahashi

Google  
Maps

LOCATION MAP  
86-148 PUKAHAI RD  
LUALUALEI VALLEY  
WAIHANA

Save trees. Go green!  
Download Google Maps for mobile  
Text maps to 466453









**NO PANIC...  
GO ORGANIC**

**MA'O Organic Farm**

P.O. Box 441, Wai'anae, Hawaii 96792  
Tel/Fax: 808.696.5569 (farm)  
walanaeorganic@hawaii.rr.com  
www.walanaeorganic.com

an 'o'leina based project of the Wai'anae Community Re-Development Corporation

## PHOTOS FOR LEGACY LANDS APPLICATION

October 17<sup>th</sup>, 2007

1. Rear of property looking makai.
2. Rear of property looking toward Mt. Ka'ala.
3. Front entrance of property, looking mauka.





## **MA`O COMMUNITY FOOD SECURITY INITIATIVE**

### ***Growing Social Enterprise to Produce Transformative Community Development***

#### **INTRODUCTION**

Established in 2001, the MA`O Community Food Security Initiative has achieved ground-breaking success in creating a social enterprise venture, growing high quality organic foods while simultaneously working with young people to produce new leaders empowered to solve the root causes of Hawai`i's social problems. In Wai`anae, a community with numerous social deficits, MA`O was conceived as a community-based social enterprise, merging comprehensive middle school to college leadership training programs and real-world entrepreneurship. Young people are challenged to co-manage, lead and expand a working certified organic farm. With grounding values rooted in Hawaiian culture, youth as young as 12, and through to 25 are immersed in an environment that nurtures creativity while demanding excellence.



#### **HISTORY AND MISSION**

After 2-years of planning and alliance development, a group of community residents established the Wai`anae Community Re-Development Corporation (WCRC) to mobilize young people to become the agents of community change, immersing them in an environment and culture of new ideas, innovation, planning, hard-work, and collaboration. WCRC established programs that merged education, economic development, and Hawaiian culture elements with the goal to make the community more self sufficient through the development of our core asset, young people.

WCRC's strategic mission is to plan and implement community-based economic development projects in the Leeward O`ahu community of Wai`anae, that create employment opportunities through education and empowerment. The MA`O Community Food Security Initiative's specific mission is to build a movement to develop a comprehensive and living local food system -- educating youth, fighting hunger, improving health and nutrition, growing the organic agriculture industry -- to empower our community to move towards self-sufficiency. MA`O is the acronym for *mala`ai`opio*, which translates as "the youth food garden",

#### **BREAKING THE CYCLE – THE MA`O APPROACH TO COMMUNITY DEVELOPMENT**

There are a myriad of obstacles facing young people in Hawai`i today especially growing up on the Leeward Coast. Comprising 45% of Wai`anae's 45,000 population, young people are on a downward spiral; youth exhibit the State's highest rates of teen pregnancy, school suspensions, drunk or high conditions at school, and arrests. At Wai`anae High School nearly half the students drop out between freshman and senior year, and fewer than eight public school-educated youth graduate from college each year. Multiple generations have become dependent on welfare, while the aspirations and creativity of the next generation are stymied in an environment of mediocrity. It is difficult to imagine any young people rising to break this cycle and lead a movement to better their own lives and improve social, economic, and environmental conditions of the community.



Formed as a Hawai'i non-profit 501(c)3 corporation, WCRC is devoted to triple bottom-line principles. Programs systematically provide a pathway for young people to break the cycle of mediocrity, improve their lives and lead both the organization and the community. Facets to highlight include:

- The first-step introduction to MA'O is the 'Ai Pohaku Workshop, a hands-on, culturally based program that engages over 500-youth and families through traditional Hawaiian agriculture and food practices; a 9-week standards-based Pacific Islands course of study; work/study/entrepreneurship in a school-based edible organic garden; internships; field trips, and community projects.
- At Wai'anāe High School, partnering with the Natural Resources Academy Agriculture Program, we increase momentum with hands-on projects that balance the study of contemporary agricultural science with knowledge and traditions from Native Hawaiian culture. Utilizing peer-to-peer mentoring, youth operate an on-site organic garden, growing and selling vegetables, and aspiring students are selected for internship programs at MA'O.
- To fully empower out-of-school young adults we established the MA'O Youth Leadership Training, a partnership with Leeward Community College (LCC) that offers a 2-year Associates of Arts degree with a specialization in community food systems (CFS). Structured as a paid internship, the catalyst for learning is co-management of the organic farm, and the experience includes many unique components including an Individual Development Account (IDA) for college savings, internships working in the community, economic literacy classes, and educational trips abroad. The goal is to produce young adults able to matriculate into 4-year college, business development, career employment, leadership of MA'O and the community.
- The Wai'anāe Organic Agriculture Center ("Ag Center"), ties the school—community—business elements together and works with LCC and the University of Hawai'i's College of Tropical Agriculture to expand organic agriculture, and broaden the conversation and action to improve Hawai'i's food security. Community organizations on all the islands and from Guam have been mentored by the Ag Center, and two conferences have enabled 400-youth to begin work in their respective communities.



The core vehicle for operation of educational programs and the pivotal element to long-term sustainability is MA'O Organic Farms, a 5-acre working certified organic farm, producing and selling

over twenty-five different varieties of organic fruits and vegetables. Products are sold at farmer's markets, small natural food stores and also to award winning restaurants, including Alan Wong's and Town in Honolulu.

#### SUCCESS TO DATE

Over the past 5-years we've worked to grow close to 2,300 young people:

- Forty post-secondary youth graduated from our paid work experience program;
- Over 200 high school youth trained in organic agriculture and entrepreneurship;
- Over 2,000 intermediate school youth completed the 'Ai Pohaku workshop; and
- Three 20-something youth have assumed leadership roles in managing MA'O.

One hundred tons of organic food has been produced, with earned income reinvested in the organization. To further involve/empower young people we have worked with Leeward Community College to establish the State's first college program in community food systems, and we currently have 16 young people enrolled.

We are now working to secure more land for a permanent home base and to increase agriculture production so as to increase the number of youth involved.

INTERNAL REVENUE SERVICE  
P. O. BOX 2508  
CINCINNATI, OH 45201

DEPARTMENT OF THE TREASURY

Date: **APR 29 2005**

WAI-ANAE COMMUNITY RE-DEVELOPMENT  
CORPORATION  
PO BOX 441  
WAIANAE, HI 96792-0000

Employer Identification Number:  
99-0350803  
DAN:  
17053078767025  
Contact Person: ID# 31122  
DAN W BERRY  
Contact Telephone Number:  
(877) 829-5500  
Public Charity Status:  
170(b)(1)(A)(vi)

Dear Applicant:

Our letter dated FEBRUARY 2001, stated you would be exempt from Federal income tax under section 501(c)(3) of the Internal Revenue Code, and you would be treated as a public charity, rather than as a private foundation, during an advance ruling period.

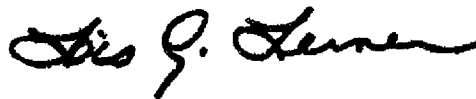
Based on the information you submitted, you are classified as a public charity under the Code section listed in the heading of this letter. Since your exempt status was not under consideration, you continue to be classified as an organization exempt from Federal income tax under section 501(c)(3) of the Code.

Publication 557, Tax-Exempt Status for Your Organization, provides detailed information about your rights and responsibilities as an exempt organization. You may request a copy by calling the toll-free number for forms, (800) 829-3676. Information is also available on our Internet Web Site at [www.irs.gov](http://www.irs.gov).

If you have general questions about exempt organizations, please call our toll-free number shown in the heading between 8:30 a.m. - 5:30 p.m. Eastern time.

Please keep this letter in your permanent records.

Sincerely yours,



Lois G. Lerner  
Director, Exempt Organizations  
Rulings and Agreements

Letter 1050 (DO/CG)



## **Exhibit II**



**GRANT RECIPIENT SELF-REPORT FORM**

(rev. 11/2014)

Legacy Land Conservation Program

**Complete this form and submit to:**

Legacy Land Conservation Program  
1151 Punchbowl Street, Rm. 325  
Honolulu, HI 96813

Project title: MA`OGrant amount: \$737,300Awardee / grant recipient: WCRC-MA`O Organic FarmsGrant agreement number: 08-01Fiscal Year of Award: 2008

**Please respond to the following questions, providing a complete answer for each question.  
Reference any attached documents under the appropriate question.**

1. Is the property being used for the purposes intended and allowed, as described in the grant application and grant agreement? Please explain.

Yes. The property was intended for agriculture purpose and is being used as such. After the 11-acres site was cleared of invasive plants, and the remnants of the chicken operation that had closed in 1985 were cleaned-up, we went about re-mediating the soil for organic crop production. Composted chicken manure and cover crops (e.g. crotonia aka Sunn Hemp) were used. A wind break of bamboo was installed and today organic vegetables and trees are grown on almost all of the 11-acres. The property was certified for organic production in 2009.

2. List and describe all major activities that occur on the land and give a quantitative estimate of annual use for each.

(1) Organic fruit and vegetable production. 5-net acres are used to produce vegetables with approx. 80,000 pounds produced annually. Another 2-3 acres is in tree production, 10,000 pounds of fruits produced annually.

(2) The entire parcel is also used as a place-based experiential education site to nurture a new generation of young farmers, some of the the derelict chicken sheds were renovated and are now used as teaching spaces.

3. What level of public access is currently allowed or provided for?

Public access is created through three mechanism:

(1) Monthly work days invite community members to learn about organic agriculture.

Approximately 300 community members visit the farm each year;

(2) School groups visits through are farm-to-fork program which provides places based experiential to local school groups. Approximately 1,800 youth visit each year; and

(3) Young people from the community work in internship programs on the farm. Annually

**GRANT RECIPIENT SELF-REPORT FORM**  
Legacy Land Conservation Program

(rev. 4/2011)

4. Have any events, intentional or uncontrollable, altered the site substantially since the land was acquired using Legacy Land Conservation Program funds? What has been the impact of each alteration on the resources referenced in the grant application and grant agreement? Please provide photographic evidence and explain.

As mentioned in part 1 the lands were re-mediated and existing facilities were cleaned and renovated. See before and after pictures attached.

5. Do plans exist for the alteration of the site in the next two years? Please explain. What will be the impact of each alteration on the resources referenced in the grant application and grant agreement?

The renovated chicken sheds have a limited life so we plan to build a new facility to wash and pack vegetables. We were able recently awarded \$1.6 million in grant funds from the federal Dept of Commerce Economic Development Administration to develop the facility. The facility will expand our capacity to carry-out our non-profit mission: it increase our ability to grow and process more vegetables, which includes on adjacent lands. Since the Legacy funds were awarded we have purchased the neighboring 8-acres property and that has also been put into certified organic agriculture production. We are also about to close on another 21-acre parcel with assistance from Legacy Lands and the Freeman Foundation.

6. What is the name, telephone number, and email address of the preferred contact for arranging site visits?

Gary Maunakea-Forth. 808-696-5569 / 808-478-0316. gary@maoorganicfarms.org

**Certification:**

I hereby swear and affirm that that I am authorized to certify that the information contained in this document and listed attachments and that the above information is true and complete to the best of my knowledge.

AWARDEE:	<u>Gary Maunakea-Forth</u>	<u>2/5/2018</u>
	Signature	Date
	<u>GARY MAUNAKEA-FORTH</u>	<u>Managing Director</u>
	Typed or printed name	Title













# Exhibit III





## WAI'ANAE COMMUNITY RE-DEVELOPMENT CORPORATION MA'O Organic Farms

P.O. Box 441, Wai'anae, Hawai'i 96792 • Tel/Fax. 808-696-5569 • [info@maoorganicfarms.org](mailto:info@maoorganicfarms.org)

SEP 7, 2020

Suzanne D. Case, Chairperson  
BOARD OF LAND and NATURAL RESOURCES  
1151 Punchbowl Street, Room 130  
HONOLULU, HAWAII 96813

**Subject:** Request for: dispositions of land acquired with a grant from the Land Conservation Fund at Wai'anae, O'ahu, Tax Map Key Number (1) 8-6-008:004. The requested dispositions would facilitate efforts by the Wai'anae Community Re-Development Corporation (dba) MA'O Organic Farms to construct a new building for agricultural produce processing and farmer training—using grant funds from the U.S. Department of Commerce, Economic Development Administration—by creating a two-unit condominium property regime over the existing property, whereby the larger of the two units would remain within the purview of the Legacy Land Conservation Program, and Wai'anae Community Re-Development Corporation would continue to manage the larger unit consistent with the purposes for which it was awarded a Legacy Land Conservation Program grant and Chapter 173A .

**Location:** 86-148 Pūhāwai Rd. Wai'anae, O'ahu. 96792  
TMK: (1) 8-6-008:004

Dear Chair Case and Board members:

In 2008, the Legacy Lands Conservation Program (LLCP) granted MA'O Organic Farms \$727,300, which helped to purchase an 11-acre parcel in Lualualei Valley adjacent to a 5-acre parcel we had been leasing. That purchase catalyzed an incredible 12-year period of growth for our farm and youth leadership programs. With that initial purchase, we

- grew over 1,000,000 lbs of organic fruits & vegetables for O'ahu
- empowered 133 Leeward coast youth to graduate with an Associate's degree and 43 to achieve a Bachelor's degrees
- partnered with, supported and advocated for more 'āina-based learning opportunities throughout Hawai'i
- leveraged our experience transforming that once-fallow and overgrown parcel into the purchase of an additional 265-acres of fallow lands in Lualualei Valley that we are incrementally integrating for food production, agro-forestry or reforestation.



To facilitate MA'O's scaling, we applied for and were awarded in 2017 a \$1.6 Million grant from the U.S. Department of Commerce Economic Development Agency to construct a new, food-safety certified vegetable processing and farmer training facility, for which we have secured an additional \$606,000 in matching funds from local foundations. Having already outgrown our current facilities, which were old chicken sheds adapted for re-use in 2009, this new facility will allow MA'O to process several tons of produce daily in an environment that adheres to the latest food-safety requirements for a farm our size.

As the major funder for this project, EDA has two requirements to release funding that are in-conflict with the State's interest in this parcel:

1) *EDA Standard Terms and Conditions for Construction Projects, Section L, 3.a "General - Evidence of Title"*

"Before advertising for construction bids or at such other time as EDA requires, the Recipient must furnish evidence, satisfactory in form and substance to the Government, that title to real property required for the Project (other than property of the United States and as provided in 13 CFR § 314.7(c) ("Title")) is vested in the Recipient and that such easements, rights-of-way, State or local government permits, long-term leases, or other items required for the Project have been or will be obtained by the Recipient within an acceptable time, as determined by the Government. All liens, mortgages, other encumbrances, reservations, reversionary interests, or other restrictions on title or the Recipient's interest in the property must be disclosed to EDA..."

2) *EDA Standard Terms and Conditions for Construction Projects, Section L, 3.b. "Recording EDA's interest in real property"*

"i. For all Projects involving the acquisition, construction, or improvement of a building, as determined by EDA, the Recipient shall execute and furnish to the Government, prior to initial Award disbursement, a lien, covenant, or other statement, satisfactory to EDA in form and substance, of EDA's interest in the property acquired or improved in whole or in part with the funds made available under this Award. EDA may require such statement after initial Award disbursement in the event that grant funds are being used to acquire such property. The statement must specify the estimated useful life of the Project and shall include but not be limited to the disposition, encumbrance, and the Federal Share compensation requirements. See 13 CFR §§ 314.1 ("Definitions") and 314.8(a) ("Recorded statement for real property"). See also 2 CFR § 200.316 ("Property trust relationship").

ii. This lien, covenant, or other statement of the Government's interest must be perfected and placed of record in the real property records of the jurisdiction in which the property is located, all in accordance with applicable law. EDA may require an opinion of counsel for the Recipient to substantiate that the document was validly executed and properly recorded. See 13 CFR § 314.8(b)."

Both DLNR and EDA have upheld their requirements with relation to holding a position on title to this parcel. Since no simple and immediate resolution could be found for the two agencies to allow MA'O to access their EDA grant funds, in late 2018, MA'O engaged attorney David Austin to assist with a solution.

After over 18-months of back-and-forth between EDA and DLNR, MA'O has gotten EDA to agree to creating a two-unit condominium property regime over the existing property. The new building would be sited on the smaller of the two units, and WCRC would buy back the State's interest in that unit, removing it from the jurisdiction of the LLC and Chapter 173A, Hawai'i Revised Statutes. This would allow MA'O to provide evidence of good title to the smaller unit to EDA, and allow EDA to record a real interest in that smaller unit for a period of 20-year, the project's estimated useful life.

The larger of the two units would remain within the purview of the Legacy Land Conservation Program, and Wai'anae Community Re-Development Corporation would continue to manage the larger unit consistently with the purposes for which it was awarded a Legacy Land Conservation Program grant and Chapter 173A. At the recommendation of LLC staff, the buy-back price for the smaller unit would be calculated based on:

- appraised value of the entire parcel
- % of 11-acres occupied by the square footage of the new building footprint + access road
  - 15,024 sq ft / 11-acres = 3.13% (see attached draft condominium map)
- % of the total original purchase price that DLNR's Legacy Lands grant fund covered
  - \$737,300 award / \$959,000 purchase price = 76.88%

Per EDA's Special Award Conditions, the useful life of this project is determined to be 20 years and *EDA Standard Terms and Conditions for Construction Projects, Section L, 3.d. "Recording EDA's interest in real property"* state:

The Recipient acknowledges that the Government retains an undivided equitable reversionary interest in property acquired or improved in whole or in part with grant funds made available through this Award throughout the estimated useful life (as determined by EDA) of the Project, except in applicable instances set forth at 13 CFR § 314.7(c) ("Title"). See 13 CFR § 314.2(a) ("Federal interest").

Because the EDA's interest in the property/unit will dissolve after 20years, and whereas DLNR/LLC's interest in the property is in-perpetuity, further to LLC's staff recommendation, we also request a discount be applied to the calculation to factor in the limited 20-year period of EDA's interest.

At its own cost MA'O has engaged Bobby Hastings of Hawaii Valuations to conduct an appraisal in accordance with Uniform Standards of Professional Appraisal (USPAP) to estimate the present day market value of the entire property, without the existing LLC deed restrictions. A copy of this appraisal will be provided to Chair Case, LLC staff and the Board upon completion.

MA'O has worked diligently and in good-faith with both agencies, incurring attorney and other professional fees to get to this point. Without this, or an alternative agreement in-place soon, the \$2.206 million committed for this project from federal and other sources will not be able to be deployed and the further delay in bringing a new food processing facility on-line will further hamper our ability to accelerate local food production.

We respectfully request Chair Case and the Board approve, without delay, our request to proceed with creating a two-unit condominium property regime over the existing property as a means of satisfying both EDA and DLNR agency title requirements.

Mahalo for your consideration,

A handwritten signature in black ink, reading "J. Kukui Maunakea-Forth". The signature is written in a cursive, flowing style.

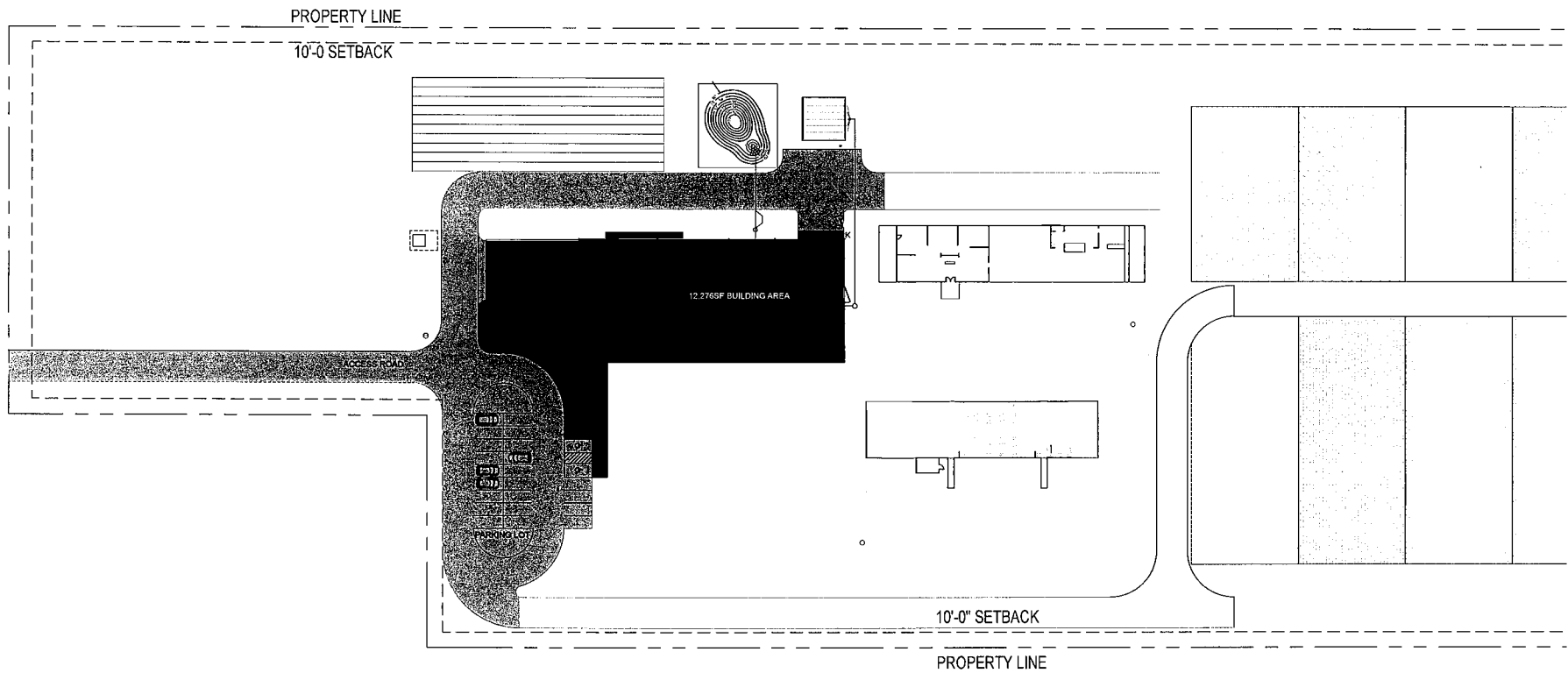
J. Kukui Maunakea-Forth  
Executive Director  
MA'O Organic Farms/WCRC

Cc: Chris Lobasco, Project Engineer, Economic Development Administration  
Jamie Lipsey, Attorney, Economic Development Administration



## **Exhibit IV**





1 SITE PLAN  
SCALE: 1/32" = 1'-0"



A A/E  
2945 South King Street #202  
Honolulu HI 96826-8004-202

MA'O ORGANIC FARMS FACILITY - 86-148 PUHAWAI RD. WAIANAE, HI 96792  
CPR PLAN  
09.04.2020



## **Exhibit V**





R-86

STATE OF HAWAII  
BUREAU OF CONVEYANCES  
RECORDED  
JAN 30, 2009 08:01 AM  
Doc No(s) 2009-012623



/s/ NICKI ANN THOMPSON  
REGISTRAR  
CTax (25): \$2397.50

20 2/2 22

LAND COURT ✓ REGULAR SYSTEM  
AFTER RECORDATION, RETURN BY: MAIL (X) PICK-UP ( )

MS KUKUI MAUNAKEA FORTH  
WAI'ANAE COMMUNITY RE-DEVELOPMENT  
CORPORATION  
P O BOX 441  
WAIANAE, HI 96792

TG: 200828866A  
TGE: A81012081 RS  
Barbara T. Paulo (2)

Tax Map Key No.: Oahu 8-6-008-004

Total Pages: 9

**WARRANTY DEED****PARTIES TO DOCUMENT:**

**GRANTOR:** TAKENO TAKAHASHI and PATRICK ALVIN TORAO TAKAHASHI,  
Co-Trustees of the Takeno Takahashi Revocable Living Trust  
Agreement dated October 29, 1986, as amended, with full powers  
to sell, mortgage, lease or otherwise deal with the land

**GRANTEE:** WAI'ANAE COMMUNITY RE-DEVELOPMENT CORPORATION, a  
Hawai'i nonprofit corporation

THIS DEED, made this JAN 27 day of JAN, 2009, by  
TAKENO TAKAHASHI and PATRICK ALVIN TORAO TAKAHASHI, Co-Trustees of  
the Takeno Takahashi Revocable Living Trust Agreement dated October 29, 1986,  
as amended, with full powers to sell, mortgage, lease or otherwise deal with the land,  
whose address is 86-148 Puhawai Road, Waianae, Hawai'i 96792, hereinafter  
called the "Grantor," in favor of WAI'ANAE COMMUNITY RE-DEVELOPMENT  
CORPORATION, a Hawai'i nonprofit corporation, whose address is P.O. Box 441,  
Waianae, Hawai'i 96792, hereinafter called the "Grantee;"

WITNESSETH:

That for TEN AND NO/100 DOLLARS (\$10.00), and other valuable consideration paid by the Grantee, the receipt of which is hereby acknowledged, the Grantor does hereby grant, bargain, sell and convey unto the Grantee, as **TENANT IN SEVERALTY**, in fee simple:

All of that certain real property and personal property (if any) described in Exhibit "A" attached hereto and made a part hereof.

And the reversions, remainders, rents, issues and profits thereof and all of the estate, right, title and interest of the Grantor, both at law and in equity, therein and thereto;

TO HAVE AND TO HOLD the same, as to said real property, together with all buildings, improvements, rights, easements, privileges and appurtenances thereon and thereto belonging or appertaining or held and enjoyed therewith, unto the Grantee absolutely and according to the tenancy herein set forth, and as to said personal property (if any), absolutely and forever.

AND, in consideration of the premises, the Grantor does hereby covenant and agree to and with Grantee that Grantor is lawfully seized in fee simple of the real property described in Exhibit "A" and is the absolute owner of all of said personal property (if any) and that Grantor's title to all of said property is free and clear of and from all encumbrances other than those mentioned in Exhibit "A"; that Grantor has good right to sell and convey said property as aforesaid and that Grantor will WARRANT and DEFEND the same unto Grantee against the lawful claims and demands of all persons except as aforesaid.

The conveyance herein set forth and the warranties of the Grantor concerning the same are expressly declared to be in favor of the Grantee, and the Grantee's heirs, personal representatives, and assigns.

The property has been acquired with funds from a grant by the State of Hawai'i, Department of Land and Natural Resources, Legacy Land Conservation Program ("LLCP") through grant agreement number 57620, dated June 30, 2008, 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 Grantee, subject to disposition instructions from the State of Hawai'i, 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, Hawai'i Revised Statutes.



Grantee, 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 Grantee 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 Grantee to place on the property, a deed restriction or covenant to protect the resource values for which Grantee 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, Hawai'i 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.

Grantee further covenants that if the property is sold, leased, rented, or otherwise disposed of by Grantee, 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 Hawai'i.

The terms "Grantor" and "Grantee", as and when used herein, or any pronouns used in place thereof, shall mean and include the masculine, feminine or neuter, the singular or plural number, individuals, partnerships, trustees, corporations or limited liability companies, and their and each of their respective successors, heirs, personal representatives, successors in trust and assigns, according to the context thereof. All covenants and obligations undertaken by two or more persons shall be deemed to be joint and several unless a contrary intention is clearly expressed elsewhere herein.

The parties hereto agree that this instrument 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 signatory to the original or the same counterparts. For all purposes, including, without limitation, recordation, filing and delivery of this instrument, duplicate unexecuted and unacknowledged pages of the counterparts may be discarded and the remaining pages assembled as one document.

[END OF TEXT, CONTINUED ON NEXT PAGE]

IN WITNESS WHEREOF, the parties have executed these presents on the day and year first above written.

  
\_\_\_\_\_  
TAKENO TAKAHASHI  
Co-Trustee as aforesaid

  
\_\_\_\_\_  
PATRICK ALVIN TORAO TAKAHASHI  
Co-Trustee as aforesaid

"Grantor"

WAI'ANAE COMMUNITY RE-DEVELOPMENT  
CORPORATION, a Hawai'i nonprofit corporation

By \_\_\_\_\_  
Name:  
Its:

"Grantee"


IN WITNESS WHEREOF, the parties have executed these presents on the day and year first above written.

\_\_\_\_\_  
TAKENO TAKAHASHI  
Co-Trustee as aforesaid

\_\_\_\_\_  
PATRICK ALVIN TORAO TAKAHASHI  
Co-Trustee as aforesaid

"Grantor"

WAI'ANAE COMMUNITY RE-DEVELOPMENT  
CORPORATION, a Hawai'i nonprofit corporation

By   
Name: J.K. MAUNAKEA-FORTH  
Its: EXECUTIVE DIRECTOR

"Grantee"

STATE OF HAWAII

CITY AND COUNTY OF HONOLULU

} SS:

On this 27th day of Jan., 2009, before me  
personally appeared PATRICK ALVIN TORAO TAKAHASHI, to me personally known,  
who being by me duly sworn or affirmed, did say that such person executed the  
foregoing instrument as the free act and deed of such person, and if applicable, in the  
capacity shown, having been duly authorized to execute such instrument in such  
capacity.

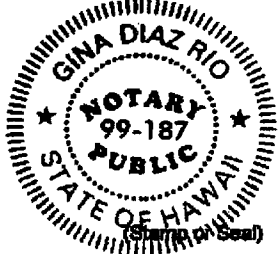


Gina Diaz Rio  
Notary Public, State of Hawaii

GINA DIAZ RIO  
Expiration Date: April 25, 2011

Printed Name of Notary

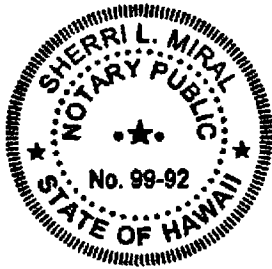
My commission expires: \_\_\_\_\_

Doc. Date: <u>not dated</u>	# Pages: <u>9</u>
Notary Name: <u>Gina Diaz Rio</u>	<u>1st</u> Circuit
Doc. Description: <u>Warranty Deed</u>	
<u>Gina Diaz Rio</u> Notary Signature	<u>1/27/09</u> Date
	
NOTARY CERTIFICATION	



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

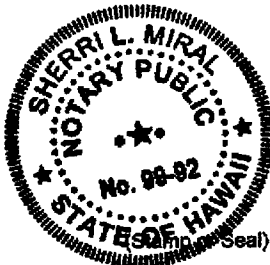
On this 22<sup>nd</sup> day of January, 2009, before me  
personally appeared JK Maunakea Gorth, to me personally  
known, who being by me duly sworn or affirmed, did say that such person executed the  
foregoing instrument as the free act and deed of such person, and if applicable, in the  
capacity shown, having been duly authorized to execute such instrument in such  
capacity.



Sherri L. Miral  
Notary Public, State of Hawai'i

Sherri L. Miral  
Printed Name of Notary

My commission expires: 2.23.11

Doc. Date: <u>Govr undated</u>	# Pages: <u>9</u>
Notary Name: <u>Sherri L. Miral</u>	<u>First</u> Circuit
Doc. Description: <u>warranty deed</u>	
 <u>Sherri L. Miral</u> <u>1/22/09</u> Notary Signature Date	
	
NOTARY CERTIFICATION	

### EXHIBIT "A"

All of that certain parcel of land (being portion(s) of the land(s) described in and covered by Land Patent Grant Number 9214 to Keawe Aiko) situate, lying and being on the easterly side of Puhawai Road approximately 1000 feet from the east corner of Paheehee and Puhawai Roads at Lualualei, District of Waianae, City and County of Honolulu, State of Hawaii, being LOT 150-B, same being a portion of Lot 150 of the "LUALUALEI HOMESTEADS, 3RD SERIES" and thus bounded and described:

Beginning at the northwest corner of this piece of land, the southwest corner of Lot 149 of Lualualei Homesteads (3rd Series), the coordinates of said point of beginning referred to Government Survey Triangulation Station "PAHEEHEE UKA" being 2192.78 feet north and 3506.44 feet east, and running by true azimuths measured clockwise from South:

- |    |      |     |         |  |
|----|------|-----|---------|--|
| 1. | 258° | 35' | 1300.00 | feet along Lot 149 of Lualualei Homesteads (3rd Series) to a + on rock;          |
| 2. | 348° | 35' | 400.00  | feet along Lot 137 of Lualualei Homesteads (3rd Series) to a pipe;               |
| 3. | 78°  | 35' | 1030.00 | feet along Lot 151 of Lualualei Homesteads (3rd Series) to a pipe;               |
| 4. | 168° | 35' | 150.00  | feet to a pipe;  |
| 5. | 78°  | 35' | 270.00  | feet to a pipe;  |
| 6. | 168° | 35' | 250.00  | feet to the point of beginning, containing an area of 11.00 acres, more or less. |

#### BEING THE PREMISES ACQUIRED BY WARRANTY DEED

GRANTOR : TAKENO TAKAHASHI, widow

GRANTEE : TAKENO TAKAHASHI, as Trustee of the Takeno Takahashi Revocable Living Trust Agreement dated October 29, 1986, with full powers to sell, mortgage, lease or otherwise deal with the land

DATED : October 29, 1986  
RECORDED : Liber 20124, Page 401

**NOTE:** The Takeno Takahashi Revocable Living Trust Agreement dated October 29, 1986, was amended by unrecorded First Amendment dated May 13, 1998 to appoint PATRICK ALVIN TORAO TAKAHASHI, as Co-Trustee, to act jointly and severally with the Trustee of said Trust, as contained in instrument dated August 4, 2007, recorded as Document No. 2007-143270.

**SUBJECT, HOWEVER, to the following:**

1. Any lien for real property taxes not yet delinquent.  
(Tax Map Key: Oahu 8-6-005-004)
2. Structure position discrepancies as shown on the survey map prepared by Jaime F. Alimboyoguen, Land Surveyor, with Jaime F. Alimboyoguen, LLC, dated August 15, 2008, as follows:
  - (A) Wire fence on subject Lot 150-B extends approx. 0.2 ft. into Lot 150-A.
3. Encroachment(s) as shown on the survey map prepared by Jaime F. Alimboyoguen, Land Surveyor, with Jaime F. Alimboyoguen, LLC, dated August 15, 2008, as follows:
  - (A) Wire fence crosses the boundary line, it extends approx. 1.9 ft. into subject into subject Lot 150-B and 0.8 ft. into Lot 149-B-2.
  - (B) Wire fence extends approx. 0.8 ft. into Lot B.
  - (C) Chain-link fence on Lot 151-B-2 extends from 0.3 ft. to 1.8 ft. into subject Lot 150-B.

**TOGETHER WITH, any and all improvements and personal property presently located on the property.**

**END OF EXHIBIT "A"**



**Exhibit VI**  
**(To be distributed)**