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

January 22, 2016

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

Board Members:

SUBJECT: REQUEST APPROVAL TO AMEND A FISCAL YEAR 2015 GRANT FROM THE LEGACY LAND CONSERVATION PROGRAM TO LIVABLE HAWAII KAI HUI BY REVISING THE REQUIRED TERMS OF A CONSERVATION EASEMENT FOR THE PROTECTION OF RESOURCE VALUES AS STATED IN THE PROJECT APPLICATION

AND

REQUEST APPROVAL FOR THE BOARD TO ENTER INTO A NONDISTURBANCE AND ATTORNMENT AGREEMENT WITH LIVABLE HAWAII KAI HUI, THE TRUST FOR PUBLIC LAND, AND THE CITY AND COUNTY OF HONOLULU CONCERNING THE LAND TO BE ACQUIRED UNDER A FISCAL YEAR 2015 GRANT FROM THE LEGACY LAND CONSERVATION PROGRAM TO LIVABLE HAWAII KAI HUI

AND

REQUEST AUTHORIZATION FOR THE CHAIRPERSON TO APPROVE THE AMENDMENT, IF NECESSARY, OF FOUR GRANTS FROM THE LEGACY LAND CONSERVATION PROGRAM BY REVISING THE REQUIRED TERMS OF A CONSERVATION EASEMENT FOR THE PROTECTION OF RESOURCE VALUES STATED IN THE PROJECT APPLICATIONS

AND

REQUEST AUTHORIZATION FOR THE CHAIRPERSON, ON BEHALF OF THE BOARD, TO ENTER INTO A NONDISTURBANCE AND ATTORNMENT AGREEMENT WITH THE PARTIES TO A CONSERVATION EASEMENT FOR THE PROTECTION OF RESOURCE VALUES STATED IN A PROJECT APPLICATION, CONCERNING THE

ITEM C-7

LANDS TO BE ACQUIRED WITH A GRANT FROM THE LEGACY LAND CONSERVATION PROGRAM

SUMMARY:

The Division of Forestry and Wildlife seeks to amend existing grants received by nonprofit land conservation organizations from the Legacy Land Conservation Program, and to enter into additional agreements with the parties to the conservation easement that is conveyed as part of each land transaction, in order to facilitate the provision of matching funds by the City and County of Honolulu for the acquisition of interests and rights in land having value as a resource to the State.

BACKGROUND:

The Legacy Land Conservation Program provides grants from the Land Conservation Fund for "[t]he acquisition of interests or rights in land having value as a resource to the State." Hawai'i Revised Statutes (HRS) Chapter 173A-5(h)(1). "Where the recipient of a grant is a county agency or nonprofit land conservation organization, the board shall require additional matching funds of at least twenty-five per cent of the total project costs." HRS Chapter 173A-5(j).

On April 10, 2015, the Board of Land and Natural Resources (BLNR), through the Fiscal Year 2015 Legacy Land Conservation Program (LLCP), approved a $1 million grant from the Land Conservation Fund to Livable Hawaii Kai Hui (LHKH) for the purchase of Ka Iwi Coast Mauka Lands (181.14 acres in Ko'olaupoko, Island of O'ahu) for the protection of scenic and cultural resources (Minutes of April 10, 2015, Item C-2; *see* Exhibit I, attached). The Board awarded the grant subject to conditions, including "insertion of LLCP restrictions into the deed as a condition of contractual agreements with the grant recipients" and "such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State," and "exempt[ed the] project from any additional conservation easements that may be required under Section 173A-4, HRS."

The City and County of Honolulu (CCOH), through its Fiscal Year 2016 Clean Water and Natural Lands Program, appropriated $2.5 million from its Clean Water and Natural Lands Fund (CWNLF) for the preservation of the same Ka Iwi Coast Mauka Lands (Bill 14 (15), CD2, Relating to the Executive Capital Budget and Program for the Fiscal Year July 1, 2015 to June 30, 2016, page C-25). The total appraised value of the Ka Iwi Coast Mauka Lands is $3.81 million (Stellmacher & Sadoyama, Ltd., Appraisal Reports of the Fee Simple Interest In 98.459 Acres of Land Identified as First Division Tax Map Key 3-9-10, Parcel 47, and 83.142 Acres of Land Identified as First Division Tax Map Key 3-9-10, Parcel 50, Hawaii-Kai, Honolulu, Hawaii; July 31, 2014). The LHKH will purchase the Ka Iwi Coast Mauka Lands for $3.65 million, with $1 million from State LLCP funding, $2.5 million from City CWNLF funding, and $150,000 from private funds raised by LHKH and The Trust for Public Land (TPL).

CCOH generally requires fee ownership of, or a conservation easement over, any property acquired with its CWNLF (Letter dated September 9, 2014 from CCOH staff to Legacy Land Conservation Commission; *see* Exhibit I, attached (Livable Hawaii Kai Hui Project Application, Exhibit A)). Therefore, when a LLCP grant to a nonprofit land conservation organization for the acquisition of fee ownership is matched by funds from the CWNLF—as with LHKH's LLCP grant for Ka Iwi Coast Mauka Lands—CCOH typically receives a conservation easement over the property. BLNR's grant agreement with LHKH requires that LHKH transfer a conservation easement to CCOH for the protection of resource values stated in LHKH's LLCP application, and the document of conveyance from LHKH to CCOH include paragraphs that establish certain rights and obligations of BLNR, LHKH, and CCOH, and certain covenants that run with the land acquired under the grant agreement (Exhibit I, Grant Agreement for Contract Number 64306, attached; *see* Attachment 1, Scope of Performance).

During LHKH's due diligence for its acquisition of Ka Iwi Coast Mauka Lands, CCOH raised concerns that a conservation easement that includes the standard terms and conditions of a LLCP grant agreement would lead CCOH to interpret the conservation easement as an Inter-Governmental Agreement (IGA) that requires approval by CCOH's City Council.

DISCUSSION:

To avoid delays and other related complications with seeking approval of an IGA, CCOH and TPL initiated discussion with the Department and the Attorney General's office. Based on this discussion, all parties agreed to proposed modifications of LLCP grant agreements that would limit the potential for interpreting a conservation easement as a CCOH IGA, while still accomplishing the State's mandated obligations under Chapter 173A, HRS.

The Division seeks approval to amend the LLCP grant agreement with LHKH to (1) designate TPL as the Administrative Holder of the conservation easement and CCOH as the Co-holder of the conservation easement, and (2) modify the requirements of the conveyance document from LHKH to TPL and CCOH to facilitate the provision of matching funds by CCOH for the acquisition of interests and rights in land having value as a resource to the State.

(1) Administrative Holder and Co-holder of conservation easement

The BLNR's LLCP grant agreement with LHKH, similar to other LLCP grant agreements, requires that the document of conveyance for a conservation easement include a statement that "[t]he 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." CCOH's analysis of the terms and conditions of the LLCP grant agreement—in CCOH's role as "holder"—would require CCOH to enter into an Inter-Governmental Agreement (IGA) with BLNR. The CCOH City Council did not authorize an IGA as part of the Ka Iwi Coast CWNLF appropriation. Therefore, amending the grant agreement to designate a nonprofit land conservation organization as the Administrative Holder and CCOH as the Co-holder allows for segregation of required rights and obligations that would

not require CCOH to enter into an IGA, while necessary LLCP deed restrictions and covenants remain intact.

A draft conservation easement conveyance document prepared by LHKH, TPL, CCOH, and DOFAW is attached (Exhibit II). Throughout the draft document, terms such as "Administrative Holder", "Co-holder", and "Holders" appear in bold font to highlight content that addresses the segregation and unification of required rights and obligations.

(2) Paragraphs to be included in the document of conveyance for conservation easement

In the draft conservation easement, ramseyer formatting in Section E shows the differences between the paragraphs to be included per the existing LLCP grant agreement and the amendments now requested by DOFAW. In addition to amendments that distinguish between the Administrative Holder and Co-holder of a conservation easement—and for the same reason as discussed in (1) above—the amendment removes the following paragraph:

> The City and County of Honolulu further covenants that if the conservation easement is sold, leased, rented, or otherwise disposed of by the City and County of Honolulu, 25% of the net proceeds (sale price less actual expenses of sale) of such sale, rental, or proceeds, i.e., the proportion that the state grant bears to the original cost of the unrestricted fee interest, shall be paid to the State of Hawaii.

and inserts a new paragraph:

> 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 addition to this amendment, and to achieve the purpose of the deleted paragraph and the requirements of Chapter 173A, HRS, CCOH proposes that the parties to the conservation easement and BLNR enter into a Nondisturbance and Attornment Agreement (draft attached as Exhibit III) that includes language that addresses the distribution of proceeds from the sale of the property (Exhibit III, section 4.c, pages 2-3):

> If the Encumbered Fee Interest is sold, or the Co-Holder's interest in the Conservation Easement is sold, and for each such sale, and notwithstanding anything to the contrary in the Deed, the Conservation Easement, or the LLCP Agreement, the net sales proceeds (the "Net Sales Proceeds") shall be distributed among Fee Owner, Co-Holder and the State of Hawaii as follows:
>
> - Twenty-five percent (25%) to the State of Hawaii;
> - Sixty-two and one-half percent (62.5%) to Co-Holder; and
> - Twelve and one-half percent (12.5%) to Fee Owner

The Agreement (Exhibit III) also states:

> The above provisions of this paragraph 4 are intended to be consistent with Consenting Party's [State's] rights and obligations under Chapter 173A, Hawaii Revised Statutes and said provisions are not intended to, nor shall they be deemed to, constitute a waiver of Consenting Parties rights or obligations under said Chapter.

The Division, in consultation with the Land Division and the Attorney General's office, agree that the revised language of the LLCP grant agreement and the conservation easement, along with the provisions of the Nondisturbance and Attornment Agreement and the maintenance of the State's rights and obligations under Chapter 173A, HRS, provide adequate protection of the State's interest in this transaction. In particular, HRS section 173A-10 provides that:

> Whenever any such land 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. In the event any such land or other property is leased, rented, or otherwise disposed of, that portion of the rental or proceeds 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. Any proceeds received by the State pursuant to this section that were originally paid out of the fund pursuant to section 173A-9 shall be redeposited in or credited to the fund. This section shall not apply to rents of property protected by permanent conservation easements established by grants from the fund.

The Division seeks approval for the Board of Land and Natural Resources to enter into a Nondisturbance and Attornment Agreement with Livable Hawaii Kai Hui, The Trust for Public Land, and the City and County of Honolulu that concerns the rights and obligations of the parties, and certain covenants that run with the land, with respect to the land acquired under the LLCP grant agreement.

Further, as the LLCP has similar grant agreements with nonprofit organizations that include matching funds from CCOH CWNLF and will face similar issues with grant agreement language and IGA, the Division requests authorization for the Chairperson to amend, if necessary, similar, existing LLCP grant agreements in the same manner as that approved for the subject LLCP grant agreement with LHKH, including authorization for the Chairperson to negotiate and enter into a Nondisturbance and Attornment Agreement with the parties to a conservation easement, concerning the lands acquired with the LLCP grant. In order to facilitate the provision of matching funds by the City and County of Honolulu for the acquisition of interests and rights in land having value as a resource to the State, DOFAW seeks to amend, if necessary, four existing LLCP grants received by nonprofit land conservation organizations in the same manner as that approved for Legacy Land Conservation Program Grant Agreement for Contract Number 64306, Ka Iwi Coast Mauka Lands, as follows:

1. Legacy Land Conservation Program Grant Agreement for Contract Number 63424, Ho'oulu Ola
2. Legacy Land Conservation Program Grant Agreement for Contract Number 63824, Hakipu'u Lo'i Kalo
3. Legacy Land Conservation Program Grant Agreement for Contract Number 60811, Turtle Bay Mauka
4. Legacy Land Conservation Program Grant Agreement for Contract Number 59422, Fong Plantation

RECOMMENDATIONS:

That the Board:

1. Approve the amendment of the Legacy Land Conservation Program Grant Agreement for Contract Number 64306 with Livable Hawaii Kai Hui to (a) designate The Trust for Public Land as the Administrative Holder of the required conservation easement; (b) designate the City and County of Honolulu as the Co-holder of the conservation easement; and (c) modify the language to be included in the document of conveyance from Livable Hawaii Kai Hui to The Trust for Public Land and the City and County of Honolulu in order to facilitate the provision of matching funds by the City and County of Honolulu, (d) subject to approval by the Attorney General.

2. Approve entry into a Nondisturbance and Attornment Agreement with Livable Hawaii Kai Hui, The Trust for Public Land, and the City and County of Honolulu, subject to review and approval by the Attorney General.

3. Authorize the Chairperson to amend, if necessary, four existing Legacy Land Conservation Program grant agreements with nonprofit land conservation organizations for acquisitions that include matching funds from the City and County of Honolulu, as listed below, by (a) designating a nonprofit land conservation organization as the Administrative Holder of a conservation easement for the protection of resources values stated in the project application; (b) designating the City and County of Honolulu as the Co-holder of the conservation easement; and (c) modifying the language to be included in the document of conveyance to the Administrative Holder and the City and County of Honolulu in order to facilitate the provision of matching funds by the City and County of Honolulu, (d) subject to review and approval by the Attorney General.

    1. Legacy Land Conservation Program Grant Agreement for Contract Number 63424, Ho'oulu Ola
    2. Legacy Land Conservation Program Grant Agreement for Contract Number 63824, Hakipu'u Lo'i Kalo
    3. Legacy Land Conservation Program Grant Agreement for Contract Number 60811, Turtle Bay Mauka
    4. Legacy Land Conservation Program Grant Agreement for Contract Number 59422, Fong Plantation

4. Authorize the Chairperson, on behalf of the Board, to negotiate and enter into, if necessary, a Nondisturbance and Attornment Agreement with the parties to a conservation easement, in conjunction with the amendment of an existing Legacy Land Conservation Program grant agreement, subject to review and approval by the Attorney General.

Respectfully submitted,

Sheri Mann, Acting Administrator
Division of Forestry and Wildlife

APPROVED FOR SUBMITTAL:

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

Exhibit I: Legacy Land Conservation Program Grant Agreement, Contract Number 64306

Exhibit II: Draft Conservation Easement from Livable Hawaii Kai Hui to The Trust for Public Land and the City and County of Honolulu

Exhibit III: Draft Nondisturbance and Attornment Agreement between Livable Hawaii Kai Hui, The Trust for Public Land, the City and County of Honolulu, and the Board of Land and Natural Resources

EXHIBIT I

STATE OF HAWAII
LEGACY LAND CONSERVATION PROGRAM
GRANT AGREEMENT

This Agreement, entered into on November 10, 2015, 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 Livable Hawaii Kai Hui ("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: PO BOX 25493, Honolulu HI 96825 State W66539147

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FORESTRY & WILDLIFE
STATE OF HAWAII

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-15-317-514) in the following maximum amount: One Million and No/100 Dollars ($1,000,000);

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 Elizabeth Reilly
Its President *
(Title)
Livable Hawai'i Kai Hui

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 31st day of August, 2015, before me personally appeared Elizabeth Reilly, to me personally known, who being by me duly sworn, did say that ~~he~~/she is the President of Livable Hawaii Kai Hui, 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.

KIMBERLY MARR NOTARY 06-161 PUBLIC STATE OF HAWAII

Kimberly Marr
Notary Public, State of Hawaii

Kimberly Marr
Notary Public, State of Hawaii
Commission expires March 19, 2018

My commission expires:

Notary Seal Affixed:

Doc. Date: not dated at time of notarization #Pages: 3
Notary Name: Kimberly Marr First Circuit
Doc. Description: State of Hawaii Legacy Land Conservation Program Grant Agreement
Kimberly Marr August 31, 2015
Notary Signature Date

KIMBERLY MARR NOTARY 06-161 PUBLIC STATE OF HAWAII

Attachment 1

SCOPE OF PERFORMANCE

Project Description

The AWARDEE shall use funds from the Legacy Land Conservation Program ("LLCP") for land acquisition of: 181.14 acres, more or less, in Ko'olaupoko, Island of Oahu, including the transfer of a conservation easement to the City and County of Honolulu ("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 Livable Hawaii Kai Hui.

3. The document of conveyance to Livable Hawaii Kai Hui 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 NOV 10, 2015 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 Livable Hawaii Kai Hui, 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.
>
> Livable Hawaii Kai Hui, 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 Livable Hawaii Kai Hui, 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 Livable Hawaii Kai Hui, to place on the property, a deed restriction or covenant to protect the resource values for which Livable

Hawaii Kai Hui 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.

Livable Hawaii Kai Hui further covenants that if the property is sold, leased, rented, or otherwise disposed of by the Livable Hawaii Kai Hui, 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 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 November 10, 2015, 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 City and County of Honolulu, 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 City and County of Honolulu further covenants that if the conservation easement is sold, leased, rented, or otherwise disposed of by the City and County of Honolulu, 25% of the net proceeds (sale price less actual expenses of sale) of such sale, rental, or proceeds, i.e., the proportion that the state grant bears to the original cost of the unrestricted fee interest, shall be paid to the State of Hawaii.

Attachment 2

TIME SCHEDULE

This Agreement shall be in effect beginning November 10, 2015. AWARDEE shall complete acquisition of the Property and record the conveyance no later than November 10 2017. If any of the performances required in the Scope of Performance are not completed within the time stated, AWARDEE 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 AWARDEE in writing 90 days prior to November 10, 2017, or they will not be considered.

Attachment 3

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-15-317-514), 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 October 27, 2017. A single payment or multiple payments, not exceeding the total amount of One Million and No/100 Dollars ($1,000,000), 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 DLIR Certificate of Compliance.

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:

- Identify costs,
- 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 November 10, 2017 AWARDEE shall submit to the STATE a copy of the recorded conveyance document transferring ownership of the 181.14 acres, more or less, in Ko'olaupoko, Island of Oahu, including the transfer of a conservation easement to the City and County of Honolulu, 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.

Attachment 4

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 Livable Hawaii Kai Hui, 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 Elizabeth Reilly
(Signature)

Print Name Elizabeth R Reilly

Print Title President

Name of AWARDEE

Livable Hawaii Kai Hui

Date Sept 11/2015

Attachment 5
(rev. 8-8-2008)

GENERAL CONDITIONS FOR LEGACY LAND CONSERVATION PROGRAM GRANT AGREEMENTS

1. Awardee's Qualifying Standards.

   a. The AWARDEE is a state agency, county, or a nonprofit land conservation organization.

   b. If the AWARDEE is a non-profit land conservation organization, the AWARDEE has been determined by the Internal Revenue Service to be a non-profit organization, and AWARDEE has a governing board whose members have no material conflict of interest and serve without compensation.

2. Recordkeeping Requirements. The AWARDEE 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 AWARDEE's performance under this Agreement. The AWARDEE shall retain all records related to the AWARDEE's performance under this Agreement for at least three (3) years after the date of submission of the AWARDEE's Final Project Report.

3. Audit of AWARDEE. The AWARDEE 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 AWARDEE 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 AWARDEE, shall engage in any discrimination that is prohibited by any applicable federal, state, or county law.

5. Inspection of Property. The AWARDEE 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 AWARDEE forty-eight hours prior to entering the Property.

6. Conflicts of Interest. The AWARDEE represents that neither the AWARDEE, nor any employee or agent of the AWARDEE, 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 AWARDEE's performance under this Agreement.

7. Compliance with Laws. The AWARDEE 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 AWARDEE's performance under this Agreement.

8. Indemnification and Defense. The AWARDEE 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 AWARDEE or AWARDEE'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 AWARDEE in connection with this Agreement, the AWARDEE shall pay all costs and expenses incurred by or imposed on the STATE, including attorneys' fees.

10. Title insurance. AWARDEE must obtain title insurance in the full amount of the purchase price, insuring that the title to the Property is vested in the AWARDEE.

11. Relationship of Parties; Independent Contractor Status and Responsibilities, Including Tax Responsibilities.

    a. In the performance of this Agreement, the AWARDEE 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 AWARDEE is in compliance with this Agreement.

    b. The AWARDEE and the AWARDEE's employees and agents are not by reason of this Agreement, agents or employees of the STATE for any purpose, and the AWARDEE, and the AWARDEE'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 AWARDEE shall be responsible for the accuracy, completeness, and adequacy of AWARDEE's performance under this Agreement. Furthermore, the AWARDEE intentionally, voluntarily, and knowingly

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

d. The AWARDEE shall be responsible for payment of all applicable federal, state, and county taxes and fees which may become due and owing by the AWARDEE 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 AWARDEE is also responsible for obtaining all licenses, permits, and certificates that may be required in order to perform this Agreement.

e. The AWARDEE 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 AWARDEE 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 AWARDEE have been paid and submit the same to the STATE prior to commencing any performance under this Agreement. The AWARDEE 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 AWARDEE 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 AWARDEE may submit proof of compliance through the State Procurement Office's designated certification process.

h. The AWARDEE is responsible for securing all employee-related insurance coverage for the AWARDEE and the AWARDEE'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 AWARDEE 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 AWARDEE shall not refer to the STATE, or any office, agency, or officer thereof, or any state employee, in any of the AWARDEE's brochures, advertisements, or other publicity of the AWARDEE without consultation and written permission from the Public Information Office of the State of Hawaii, Department of Land and Natural Resources.

b. The AWARDEE consents to the STATE's use of AWARDEE 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 AWARDEE by virtue of this Agreement, which is identified as proprietary or confidential information, will be safeguarded by the AWARDEE 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 AWARDEE 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 AWARDEE. Upon receipt of said notice, the AWARDEE shall immediately comply with said notice and suspend all performance under this Agreement at the time stated.

b. If, for any cause, the AWARDEE breaches this Agreement by failing to satisfactorily fulfill in a timely or proper manner the AWARDEE'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 AWARDEE 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 AWARDEE of such termination at least thirty (30) calendar days before the effective date of such termination.

c. Upon termination of the Agreement, the AWARDEE, 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 AWARDEE 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 AWARDEE under this Agreement.

d. If this Agreement is terminated for cause, the AWARDEE shall not be relieved of liability to the STATE for damages sustained because of any breach by the AWARDEE of this Agreement. In such event, the STATE may retain any amounts which may be due and owing to the AWARDEE until such time as the exact amount of damages due to the STATE from the AWARDEE 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 AWARDEE until after the AWARDEE'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 AWARDEE's written request whichever comes first. While the CHAIRPERSON considers the AWARDEE's written request, the AWARDEE agrees to proceed diligently with the performance necessary to complete the Project unless otherwise instructed in writing by the CHAIRPERSON.

17. State Remedies. The AWARDEE 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 AWARDEE 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 are 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 AWARDEE 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.

Exhibit A

Livable Hawaii Kai Hui
Project Application

Legacy Land Conservation Program
2014 - 2015 (Fiscal Year 2015)

THE TRUST *for* PUBLIC LAND

LAND FOR PEOPLE

Livable Hawai'i Kai Hui

Ka Iwi Coalition
SAVE SANDY BEACH

Legacy Land Conservation Program
Attn: Molly Schmidt, Program Coordinator
State Department of Land and Natural Resources, DOFAW
Kalanimoku Building, Room 325
1151 Punchbowl Street
Honolulu, Hawai'i 96813

March 26, 2015

Aloha Ms. Schmidt,

The Trust for Public Land and Livable Hawai'i Kai Hui are writing to request that the Board of Land and Natural Resources approve, with two changes, the funding recommended for the purchase and protection of the Ka Iwi Coast Mauka Lands by the Legacy Land Conservation Commission. The first change is that the 501(c)3 nonprofit organization Livable Hawai'i Kai Hui would be the future owner rather than a co-holder of the conservation easement. The second change is that due to the Ka Iwi properties being part of a federal court bankruptcy case, The Trust for Public Land may have to purchase the property as a bridge-owner before the State and City can release their funding, and then be reimbursed when the State and City funding is available.

Future Ownership and Care in Livable Hawai'i Kai Hui

For over thirty years, a diverse grassroots group called Ka Iwi Coalition has advocated for the protection of the Ka Iwi Coast spanning from Hanauma Bay to Makapu'u. Ka Iwi Coalition now functions under the 501(c)3 nonprofit organization Livable Hawai'i Kai Hui. Like the many previous conservation efforts along Ka Iwi Coast, the effort to preserve the last two threatened parcels on the Coast – the Ka Iwi Coast Mauka Lands – is also community-driven. The community's longstanding intention was for the Ka Iwi Coast Mauka Lands to be a community-owned and managed cultural heritage preserve, under the ownership and stewardship of Livable Hawai'i Kai Hui. In 2011, Livable

Hawai'i Kai Hui asked The Trust for Public Land for help to purchase and permanently protect the properties. The Trust for Public Land and Ka Iwi Coalition under Livable Hawai'i Kai Hui began to bring community leaders onto the properties and received feedback that the community would like to see native revegetation projects there to provide additional habitat for pueo and native and migratory sea and shorebirds. Excited about possible partnership opportunities with native species experts at DLNR's Division of Forestry and Wildlife (DOFAW), we began discussing ways to partner with DOFAW. We discussed the possibility of DLNR ownership, if there was a way to ensure that the community through Livable Hawai'i Kai Hui had a permanent role and voice in Ka Iwi Coast Mauka Land's future.

Through discussions with the City, and former DLNR leadership, we decided on a partnership between DLNR as owner, the City as a co-holder of a conservation easement (a requirement of City Clean Water and Natural Lands funding), and Livable Hawai'i Kai Hui as a co-holder of the conservation easement. Under this scenario, Livable Hawai'i Kai Hui would add value to both the City and State as a co-holder of the conservation easement as it would assist the City in monitoring the property per the conservation easement, potentially aid the State in management and stewardship, and ensure that the community always stays involved in the property's care. All three parties would contribute funding to the acquisition and/or land stewardship. The Trust for Public Land, Livable Hawai'i Kai Hui, and the Department of Land and Natural Resources submitted a joint application to the State Legacy Land Conservation Program with the aforementioned project structure. Livable Hawai'i Kai Hui and the City & County of Honolulu submitted letters of willingness to co-hold the conservation easement as part of the application. After the Legacy Land Conservation Commission ranked the Ka Iwi Coast Mauka Lands project #2 and recommended the $1,000,000 funding request in December 2014, DLNR informed our organizations that a nonprofit could not hold a conservation easement on land owned by the State.

We want to preserve the community-State-City partnership to quickly safeguard and provide the best future care for the Ka Iwi Coast Mauka Lands. With Livable Hawai'i Kai Hui as owner, the State as a conservation funding partner with a deed restriction on the land, and the City as the conservation easement holder, the property will be permanently protected as a community-owned and managed cultural heritage preserve that benefits Hawai'i's current and future generations. We ask that the Board of Land and Natural Resources allow the recommended funding to move forward with this change in project structure.

Livable Hawai'i Kai Hui is an established landowner and steward, and is prepared to take on the kuleana of ownership and stewardship of Ka Iwi Coast Mauka Lands for the benefit of all of the people of Hawai'i. Livable Hawai'i Kai Hui is the owner and steward of Hāwea heiau complex and Ke'awa'awa wetland, a property thankfully protected and funded in part by the Legacy Land Conservation Program. Under Livable Hawai'i Kai Hui's effective and loving care, the property has gone from a former dumping ground to a welcoming respite where 'alae 'ula (Hawaiian Moorhen) thrive, neighbors gather to regularly remove invasive species and plant natives, and hālau hula conduct ceremonies.

Livable Hawai'i Kai Hui is also the appointed steward of Pahua heiau owned by the Office of Hawaiian Affairs, manages a nursery focused on native plants in Kamilo Nui Valley, and is a cooperator with the South O'ahu Soil & Water Conservation District. The Trust for Public Land and Livable Hawai'i Kai Hui have committed to raising at least $100,000 for Livable Hawai'i Kai Hui to initiate stewardship studies and practices on the properties, including an archaeological study, a management plan, and a native reforestation project. Livable Hawai'i Kai Hui looks forward to further involving other community groups, schools, and ancestral descendants into the future care of the Ka Iwi Coast Mauka Lands, and also looks forward to continuing to partner with DLNR in natural resource management.

Potential Need for The Trust for Public Land to Act as a Bridge-Owner

The property is part of a federal bankruptcy case and is currently listed for sale by a court-appointed Receiver. We have a once in a lifetime opportunity to purchase and preserve the last undeveloped privately-held parcels on the cherished and culturally significant Ka Iwi Coast. The Receiver has sold all properties involved in the bankruptcy case except for the Ka Iwi Coast Mauka Lands, and the court expects the Receiver to sell the Ka Iwi Coast Mauka Lands in the next few months. To preserve Hawai'i's opportunity to secure the lands, and for less than the tax-assessed value, The Trust for Public Land may need to take out a loan to purchase and hold the properties until later in 2015 when the City and State can release the funds.

We are requesting that the Board of Land and Natural Resources approve the $1,000,000 in Ka Iwi Coast Mauka Lands funding, whether the current landowner or The Trust for Public Land owns the properties at the time that the City and State can release the funds. The Trust for Public Land understands that the Governor typically releases approved Legacy Land Conservation funds in the summer, and that we may need to hold the properties until approximately the end of 2015 to allow the City and State adequate time to conduct their due diligence review. The Trust for Public Land views our ability to take out a loan and act as a bridge-owner as part of our public-private partnership with the State.

Mahalo for your attention to this important matter,

Laura H. E. Kaakua

Laura H. E. Kaakua, Native Lands Project Manager

The Trust for Public Land
1003 Bishop Street, Pauahi Tower, Suite 740
Honolulu, Hawai'i 96813
Ph: (808)524-8562
Email: laura.kaakua@tpl.org
Website: tpl.org

Kind regards,

Elizabeth C. Reilly

Elizabeth Reilly, President

Livable Hawai'i Kai Hui
P.O. Box 25493
Honolulu, Hawai'i 96825
Ph: (808)864-8081
Email: hawaiikaihui@aol.com
Website: hawaiikaihui.org

Legacy Land Conservation Program
Hawai'i Department of Land and Natural Resources

Legacy Land Conservation Program 2014-2015 (Fiscal Year 2015) Land Acquisition Grant Application

Please read the instructions within the Land Acquisition Grant Guide, available at http://dlnr.hawaii.gov/ecosystems/llcp/apply/**, prior to completing this Grant Application Form.** The signed Grant Application Form and Required Preliminary Documentation must be sent by **September 15, 2014, 4:30 p.m.**, Hawaii-Aleutian Standard Time (HST), online and **in** hardcopy **format** (postmarked or hand-delivered) to:

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

For best results when printing, please return to Menu and use "Print" function to print the application.

Please download the Certification Form using this link, fill it in, sign it, and attach it using the link below.

Certification Form

SECTION A. APPLICANT INFORMATION

1. Project Title	Ka Iwi Coast Mauka Lands
2. District & Island	Ko`olaupoko, O`ahu
3.a. Applicant Name (agency or organization)	Trust for Public Land, State of Hawai`i (DLNR), Livable HI Kai Hui
3.b. Mailing Address (P.O. box or street, city, state, zip)	1003 Bishop St., Suite 740, Honolulu, HI 96813
3.c. Contact Person (name and title)	Laura Kaakua, Native Lands Project Manager
3.d. Phone numbers (best contact, work, cell)	(808) 534-8562 (work forwards to cell)
3.e. Email address	Laura.Kaakua@tpl.org
3.f. Agency or organization website (please include URL to any specific pages regarding this project)	http://www.tpl.org; http://dlnr.hawaii.gov; http://hawaiikaihui.org
4. Priority Checklist. Please indicate which of the following	Lands having exceptional value due to the presence of unique aesthetic resources, unique and valuable cultural or archaeological

Legacy Land acquisition priorities this project will meet. Explain and demonstrate your answer while filling out the application.	resources, or habitats for threatened or endangered species of flora, fauna, or aquatic resources. Lands that are in imminent danger of development. Lands that are in imminent danger of being modified, changed, or used in a manner to diminish its value. Lands providing critical habitats for threatened or endangered species that are in imminent danger of being harmed or negatively impacted. Lands containing cultural or archaeological sites or resources that are in danger of theft or destruction.

SECTION B. TYPE OF ACQUISITION

1. Indicate the type of interest being acquired.	Fee simple interest in private lands
2. Name of entity that will hold land:	DLNR will own fee with conservation easement co-held by County/Hui
3. The holder of the property is:	An agency of the State of Hawaii A county within the State of Hawaii A nonprofit land conservation organization

If the intended holder of the interest in land is an entity other than the applicant, the entity that will hold title to the interest in land must be a co-applicant and supply all required documentation for application, and must also attach a letter acknowledging its participation int the project (attach this letter in the Required Preliminary Documentation section at the end of the application).

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"):	Maunalua ahupua`a in Ko`olaupoko, O`ahu, between Sandy Beach and Makapu`u, mauka of the highway
2. Tax map key(s). Use the following format: "(4) 5-6-007:008".	(3) 9-010:047 (98 acres), (3) 9-010:50 (83.14 acres)
3. Size of property (in acres).	181.14
4. Easements. What types of easement(s) are located on the property? For example: vehicular, pedestrian for beach access, utility, etc.	Utility - HECO, Hawaiian Telecom, BWS. More details in attached title report.
5. Title. Does the seller have full undivided fee ownership of property ("clear title")? If not, please explain.	Yes

Attach a preliminary title report (in the Required Preliminary Documentation section at the end of this application).

6. Public Access. Will the public have access to the property?	Yes

7. Land use & zoning. Please provide the following land use information:

7.a. State Land Use Designation	Urban
7.b. County Zoning	P-2/P-1
7.c. County General / Community Plan Designation	Preservation
7.d. Flood Zone Designation	D
8. SMA. Is the property located within a Special Management Area?	No
9. Structures. Please describe any structures (including size, location, use, and condition) on the property.	Numerous walls, paths, and stacked boulders in traditional drystack Hawaiian architecture throughout both properties. A cement + large rock rectangular structure next to large ancient rock wall.
10. Uses and Activities. What kinds of land uses/activities are underway on the property? Please describe land uses/activities underway on the subject property and on bordering properties.	Occasional hikers may use property. The western property is located mauka of the Hawai`i Kai Golf Course, and the eastern property is located between the course and Makapu'u directly mauka of the highway.
11. Assessments, Surveys, Permits. What types of surveys or documented analyses, if any, have been conducted regarding the property?	The property is the subject of a conditional use application for proposed vacation cabins. Studies: Ka Iwi Park Master Plan, and Reconnaissance Survey Study of Management Alternatives: Ka Iwi Shoreline Study

For example: environmental assessments, cultural assessments, environmental impact statements, biological field surveys, archaeological surveys, Special Management Area permit applications).

SECTION D. PRESERVATION PURPOSES

Instructions: Check the box(es) below in "1. Preservation Purposes" to indicate the resources that the property will be acquired to protect. Then, provide more information regarding the preservation purposes in numbers 2 through 10 (for checked areas only). Please provide the following information for each respective resource (if checked).

1. Preservation Purposes	Watershed protection Parks Coastal areas, beaches and ocean access Natural areas Habitat protection Cultural and historical sites Open spaces and scenic resources Recreational and public hunting areas

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.).

Watershed protection (character	The properties range from the 80 to 720 foot elevation comprising the

limit 1,200):

low lying southern tip of the Ko`olau Range. The vegetation is largely non-native, with `ilima as the dominant native groundcover. A perennial stream runs through the western property and empties into Wawamalu, creating an estuary known as Kaloko. The properties are the mauka end of the low and shallow valley of Wawamalu. The makai portion of Wawamalu is undeveloped and part of a protected state park with a sandstone and tide pool coastline, patches of sandy beach, and native coastal vegetation. Preventing development of the mauka properties will prevent further degradation of the coastal and marine resources of Wawamalu, and prevent runoff from grading and development. This project will maintain and potentially improve (through management) the water quality of the stream, the Kaloko estuary, and nearshore waters.

3. Coastal areas, beaches and ocean access. Please describe the environmental 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.

Coastal areas, beaches and ocean access (character limit 1,200):

The properties are directly mauka of 7 miles of Ka Iwi shoreline, including numerous intertidal areas, the Kaloko estuary, sandy pocket beaches, sandstone and tidepool coastline, with native coastal vegetation. The properties once consisted of native coastal strand on the majority of the properties, with native cliff dwelling species that thrive in strong winds on the cliffs. Protection of the properties offers opportunities for management and restoration. For example, restoring native habitat for seabird populations such as the `Ua`u Kani (Wedge-tailed Shearwater/Puffinus Pacificus) that nest in nearby Makpu`u, or Koa`e `ula (Red-tailed Tropicbird/Phaethon rubricauda) that inhabit the rocky cliffs above Halona Blowhole near the west end of and above Sandy Beach. As discussed in question 2, preventing development of these mauka properties will prevent further degradation of the coastal and marine resources of Wawamalu, and prevent runoff from grading and development.

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.

Habitat Protection (character limit 1,200):

Although the top story of of both properties contains largely non-native species dominated by kiawe (Prosopis pallida) and koa haole (Leucaena leucocephala), the indigenous `Ilima (Sida fallax) dominates the understory. Other native plants found on the properties include endemic Naio (Myoporum sandwicense), endemic Pa`u o Hi`iaka (Jacquemontia sandwicensis), and indigenous `Uhaloa (Waltheria indica). The endemic shrub Shiedea globosa lives right beyond the Eastern property's northern boundary, and pockets of rarer native plants such as nehe (Lipchaeta lobata) are thought to be in the area. Pueo (Asio flammeus sandwichensis), Manu O Ku (Gygis alba), and `Iwa (Frigata Minor) are seen overhead. During the fledgling season, the `Ua`u Kani or Wedge-tailed Shearwater frequently land on these properties and in the surrounding area. Pueo and Shearwaters are highly affected by city lights - Shearwaters often become entangled in power lines and die. By keeping the land

undeveloped and free of light, we can prevent further negative impacts on these native birds. The protection of the land also provides opportunity for management that can improve these native species' habitat and survival.

5. Cultural and historic sites: Please identify the presence, location and condition of cultural or historic structures or sites (e.g., heiau, lo`i, burials, 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.

Cultural and historic sites (character limit 1,200):	There are a number of undocumented Hawaiian cultural sites on both properties that appear to be ancient due to their traditional Hawaiian drystack style, and the style of pohaku lele (floating/balancing rocks) seen in other valleys in Maunalua. These sites include rock walls, pathways, terraces, and enclosures. There are at least two pohaku lele on the properties where massive boulders have been purposely propped up on top of smaller stones - an architectural style also found in Wailupe and Niu Valleys nearby. There is also a footpath around the Eastern property that is lined with coral, a flat area on a small ridge that is graveled with coral and shells, and a post-contact structure where stones from an adjacent massive drystack stone wall were mixed with concrete. In addition to the cultural and historic sites, the properties are part of a largely unbroken cultural landscape which serves to preserve stories of traditional Hawaiian gods, and preserve the sense of place that those who spend time on the Ka Iwi Coast appreciate. Please see Section I for mo`olelo (stories) of the landscape and its broader cultural context

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?

Recreational and public hunting areas (character limit 1,200):	The Ka Iwi Coast is enjoyed by many residents and visitors who sightsee, hike, fish, surf, explore the tidepools, and enjoy the natural undeveloped environment. The properties are part of a larger landscape of views that people cherish as they hike the trail to Makapu`u Lighthouse, picnic and swim at Wawamalu, body surf at Sandy Beach Park, or whale watch at one of the Ka Iwi Coast scenic lookouts. Except for Kalaniana`ole Highway, which runs through the land, Wawamalu is undeveloped, making the recreational experiences along the Ka Iwi Coast unique and enjoyable. These natural experiences would be preserved by this project. The project also offers the opportunity for managed public access for activities such as studying the stars for Hawaiian navigation, or a secluded area for Hawaiian traditional practices such as oli (chant) or pule (prayer). The Maunalua and Waimanalo communities and many others who have advocated for the protection of the Ka Iwi Coastline want to secure the breathtaking undeveloped views of the Coast, which the protection of these properties will accomplish.

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

Parks (character limit 1,200):	Yes. The western property is located mauka of the Hawai`i Kai Golf Course, and the eastern property is located between the golf course and Makapu'u directly mauka of the highway. Across the highway is a state park called the Ka Iwi State Scenic Shoreline. The state park

includes the paved Makapu'u Point Lighthouse Trail and a natural walking path that runs along the coast at Wawamalu. The properties are prominently viewed from both trails. To the southwest of the properties is the popular Sandy Beach Park (City and County of Honolulu), and further west is the Koko Crater Botanical Garden (City), and the Koko Head Regional Park (City). The eastern property's northern boundary overlooks Makapu`u Bay & Beach Park.

8. Natural Areas. 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.)?

Natural Areas (character limit 1,200):	A perennial stream runs through the western property and empties into Wawamalu, creating an estuary known as Kaloko. The properties make up the mauka end of the low and shallow valley of Wawamalu. The makai portion of Wawamalu is undeveloped and part of a protected state park with a sandstone and tide pool coastline, patches of sandy beach, native coastal vegetation such as 'Ohai (Sesbania tomentosa), and monk seals and green sea turtles. Preventing development of the mauka properties will prevent further degradation of the coastal and marine resources of Wawamalu, and prevent runoff from grading and development. This project will maintain and potentially improve (through management) the water quality of the stream, the Kaloko estuary, and nearshore waters. `Ua`u Kani (Shearwaters) fledglings that live on the Manana and Kaohikaipu State Bird Sanctuaries off Makapu`u often get distracted by city lights and land on the properties and surrounding area. The properties are also part of the geologic Koko Rift that contains virtually all types of Honolulu volcanic series activity, including lava flows, tuff and ash cones, and cinder cones.

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.

Agricultural Production (character limit 1,200):	Although the properties were likely cultivated in pre-contact times (the area was well known for `uala/sweet potato), and possibly ranched thereafter, the property has not been actively cultivated or ranched for many decades.

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?

Open spaces or scenic resources (character limit 1,200)	The Ka Iwi Coast is enjoyed by many residents and visitors who sightsee, hike, fish, surf, explore the tidepools, and enjoy the natural undeveloped environment. The properties are part of a larger landscape of views that people cherish as they hike the trail to Makapu`u Lighthouse, picnic and swim at Wawamalu, body surf at Sandy Beach Park, or whale watch at one of the Ka Iwi Coast scenic lookouts. Many also enjoy seeing Moloka'i and Maui across the Kaiwi Channel on a clear day. Except for Kalaniana`ole Highway which runs through the land, Wawamalu is undeveloped, making the recreational experiences along the Ka Iwi Coast unique and enjoyable. The views along the Ka Iwi Coast are so spectacular that

in 2014 the State Department of Transportation designated the section of Kalaniana`ole Highway running from Hawai`i Kai Drive, past the Ka Iwi Coast Mauka Lands, to the Makai Pier in Waimanalo, as the Maunalua-Makapu`u Scenic Byway - one of only eight State Scenic Byways in Hawai`i. These natural experiences would be preserved and enhanced by this project.

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 in the space below.	The features of the property's surface are potentially hazardous (i.e. uneven, rocky, or fallow terrain, overgrowth of flora, etc.).
Describe any potential or suspected hazards on the property.	Unmanaged invasive plant species may be a fire hazard.

SECTION F. FUNDING REQUEST

1. What is the fair market value of the fee simple property?	$4,000,000
2. What is the fair market value of the conservation or agricultural easement?	$3,000,000
3. How were the estimated values determined?	Other (describe below)
List dates and authors for any reports or other methods used.	Landowner's confidential appraisal report; estimated value of CE at 75% of fee value as it will remove all or almost all development rights
4. Is the property or easement currently listed for sale or has it been listed for sale within the past two years?	Yes
If so, what is/was the asking price?	
5. Please provide an estimated timeline for acquisition (note that funding will expire two years from date of award agreement).	CWNL application submitted 8/14; CWNL ranking hearing 9/26/14; Legacy application submitted 9/15/14; Legacy ranking meeting 12/14; Purchase/Option Agreement Executed 12/14; Prelim. Appraisal 12/14; BLNR approval of Legacy 3/15; CWNL & Legacy monies approved/released 6/15; Conservation Easement Terms Negotiated and Finalized 6/15; Final Appraisal for Fee and CE 10/15; Baseline Monitoring Report 10/15; Closing 12/15
6.a. What is the total estimated cost for acquisition?	$4,027,800

6.b. Please download the Excel template using this link, fill it in, and attach it using the link below.

Projects Costs Table

7.a. What is the total amount of anticipated matching funds?	$3,027,800
7.b. What amount is being requested from Legacy Land?	$1,000,000

7.c. Please download the Excel template using this link, fill it in, and attach it using the link below.

Matching Funds Table

7.d. Please describe the current status of any pending funds and indicate the date that any pending funds will become available if they are awarded.	CWNL (Honolulu) - 7/1/2015 (pending) Private donation - 12/31/2015 (pending) TPL - secured and available

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 G.1. and G.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.).

Please attach answers to Section G.

SECTION H. STEWARDSHIP AND MANAGEMENT

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

1. 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. Will any intended activities on the land require permits? What entity (if not the applicant) will manage the property/easement? Please describe the expertise and experience of the managing entity. How will any cultural resources that are present integrate into the overall preservation/protection and use of the property?

Please attach answer to Section H.

SECTION I. CULTURAL AND HISTORICAL SIGNIFICANCE

Please attach an answer to the question below in a separate document and attach it to the application form. Please limit the length of your answer to Question I.1. to two single-spaced page, Times New Roman 12-point font, 1 inch margins.

1. Briefly describe the cultural significance and historic uses of the property. As guidance, please consider the following information:

a. Name of area; translation and possible interpretation;

b. Known pre-contact history and land uses; and

c. Neighboring areas/ahupua`a information and its relationship to the site being considered.

The following resources are available to assist in research: Office of Hawaiian Affairs (OHA), State of Hawaii Historic Preservation Division (SHPD), University of Hawaii Center for Hawaiian Studies, Kamehameha Schools/Bishop Estate, Bishop Museum.

Please attach answer to Section
I.

SECTION J. LEGAL RESTRICTIONS AFFECTING TITLE

In addition to the deed restrictions that will be imposed by the Legacy Land Conservation Program, what legal restrictions, if any, will be placed on the property to protect its resources? Please explain, and note the following requirements:

- Projects incorporating a conservation easement or an agricultural easement must include a signed letter from the intended holder of the easement, stating willingness to hold the easement.
- Eligible holders of conservation easements and agricultural easements are:
  - For State and county projects:
    - The Department of Land and Natural Resources, the Agribusiness Development Corporation, the Department of Agriculture
    - A county, State, or federal natural resource conservation agency
    - A land conservation organization
  - For nonprofit land conservation organization projects:
    - The Department of Land and Natural Resources, the Agribusiness Development Corporation, the Department of Agriculture
    - A county, State, or federal natural resource conservation agency
    - A land conservation agency
- The Board of Land and Natural Resources may elect to hold or co-hold any easement.
- ALL AGENCIES AND NONPROFIT CONSERVATION ORGANIZATIONS applying for fee acquisitions must either incorporate a conservation easement to an eligible holder, or specifically address why an exemption from this requirement is needed.

Enter answer to Section J.
(character limit 1,200)

In this case, the fee holder would be the State of Hawai'i Department of Land and Natural Resources. Thus, a conservation easement owned by the State would not be necessary.

The City and County of Honolulu generally requires that it hold a conservation easement on any land acquired with Clean Water & Natural Lands funds. A signed letter from the City and County of Honolulu is attached.

The Ka Iwi Coalition (under the non-profit Livable Hawai`i Kai Hui) would likely co-hold the City's conservation easement to relieve the monitoring burden from the City. A signed letter from the Ka Iwi Coalition under the non-profit Livable Hawai'i Kai Hui is attached.

SECTION K. STATE AGENCY CONSULTATION

Please note that a lack of response from an agency during the agency consultation process will not negatively impact the consideration of the application by the Legacy Land Conservation Commission (provided that the applicant has submitted the Agency Consultation Form by deadline).

1. Please explain the public benefits of your project and explain where public access may be practicable or not practicable and why.	The Ka Iwi Coast is enjoyed by many residents and visitors who sightsee, hike, fish, surf, explore the tidepools, and enjoy the natural undeveloped environment. The properties are part of a larger landscape of views that people cherish as they hike the trail to Makapu`u Lighthouse, picnic and swim at Wawamalu, body surf at Sandy Beach Park, or whale watch at one of the Ka Iwi Coast scenic lookouts. Except for Kalaniana`ole Highway which runs through the land, Wawamalu is undeveloped, making the recreational experiences along the Ka Iwi Coast unique and enjoyable. These natural experiences would be preserved by this project. The project also offers the opportunity for managed public access for activities such as studying the stars for Hawaiian navigation, or a secluded area for Hawaiian traditional practices such as oli (chant) or pule (prayer). The Maunalua and Waimanalo communities and many others who have advocated for the protection of the Ka Iwi Coastline want to secure the breathtaking undeveloped views of the Coast, which the protection of these properties will accomplish.
2. Please explain whether the applicant has adapted the project proposal in response to the consultation provided by the three agencies consulted.	DLNR's comments reveal that there is internal discussion within DLNR as to the most effective division to receive title to the properties. Currently, staff from Division of Forestry and Wildlife and (DOFAW) the Land Division, Ka Iwi Coalition (under Livable Hawai`i Kai Hui), and The Trust for Public Land are discussing whether the community's vision of an undeveloped Ka Iwi Coast would best be met with the properties managed under DOFAW or Land Division. One idea in discussion is that the properties could be leased to the Ka Iwi Coalition (under Livable Hawai`i Kai Hui) for management and stewardship per the City and State restrictions. By the time of the December 2014 ranking meeting, DLNR hopes to have a more definitive answer as to which division will receive title to the land. In response to DLNR's comments that TMK (1)3-9-010:050 is marked as TMK (1)3-9-010:046 in OCCL records, see the attached Plat Map in the Maps Section showing a change from TMK (1)3-9-010:046 to TMK (1)3-9-010:050.

REQUIRED PRELIMINARY DOCUMENTATION

Check the boxes if the following items are attached and provide an explanation if they are not.

Required Preliminary Documentation	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

	Nonprofits - a copy of the organization's mission statement and IRS 501 (c) (3) or (c) (1) non-profit status determination letter Where the intended holder of the property is other than the applicant - the intended holder must sign this form as a co-applicant and provide any forms required of applicants AND provide a letter indicating willingness to participate A preliminary title report Three separate agency consultation forms and any accompanying consultation provided to the applicant by the Department of Land and Natural Resources, the Department of Agriculture, and the Agribusiness Development Corporation
Required Preliminary Documentation - Please explain any missing documents.	
Letter from landowner	
General location map and parcel map	
Photos of property (maximum of three)	
Nonprofit mission statement & determination letter	
Holder letter (if the holder is not the only applicant)	
Preliminary Title Report	
Agency Consultation Form Replies (three)	

Other Documentation (please see instructions for details).

Please provide an index that shows the titles of documents in the order that they are attached.	Maps/Photos Willing Seller Ltr. Willing Owner Ltr. (State DLNR) Willing CE Holder Ltrs. (City & KIC/LHKH) Non-Profit Docs Title Report TPL Transparency Ltr. Waimanalo & Hawai`i Kai Neighborhood Board Resos Support Ltrs. Mo'olelo Ka Iwi - Stories of Ka Iwi Agency Consultation
Other Documentation	

Estimated Acquistions Costs Form (FY15 LLCP)

Estimated Acquisition Cost Worksheet				
		% of costs to be paid by:		
Expense Item	Estimated Cost	Land Owner	Applicant	Other (specify)
Appraisal reports (fee and CE)	$10,000.00		100.00%	
Title report and title insurance	$4,800.00		100.00%	
Property survey				
Escrow fees	$3,000.00			
Environmental investigation	$5,000.00		100.00%	
Baseline documentation	$5,000.00		100.00%	
Attorney's fees (drafting)				
Subtotal	$27,800.00			
Estimated Value of Property	$4,000,000.00			
TOTAL	$4,027,800.00			

Estimated Matching Funds Worksheet (FY15 LLCP)

Estimated Matching Funds Worksheet				
Type (cash, grant, in-kind, land value)	$ Amount	%	Source of Funds or Basis of Valuation	Status* (Secured/Pending)
Grant	$2,500,000.00		CWNL (Honolulu)	Pending
Private cash donations	$500,000.00		Foundations/individual	Pending
Cash	$27,800.00		TPL	Secured
TOTAL MATCHING FUNDS	**$3,027,800.00**	**75%**		
REQUESTED FROM LEGACY LAND	**$1,000,000.00**	**25%**		
TOTAL ESTIMATED COST OF ACQUISITION	**$4,027,800.00**	**100%**		

G. Project Description

1. Briefly describe the overall significance and importance of the property.

The Ka Iwi Coast is the favorite scenic drive or hike of many, a daily surf or fishing ritual to others, and a treasured landscape for all of Hawai'i. Nowhere is the change from City to Country more striking than the sudden transition one experiences upon reaching Hanauma Bay nestled below Kuamo'o o Kāne (Koko Head) and Kohelepelepe (Koko Crater), which marks the beginning of one of O'ahu's cherished resources, the seven miles between Kuamo'o o Kāne (Koko Head) and Waimānalo known as the Ka Iwi Coast. Drivers pass spouting Hālona Blowhole, scenic views of Kohelepelepe (Koko Crater), bodyboarders and surfers at Sandy Beach (where historians believe Kamehameha I landed in 1795), beachgoers enjoying Wāwamalu (Queen's Beach) where an ancient fishing village once stood that was famed for its 'uala (sweet potato), the undeveloped gently sloping valleys of the Ka Iwi Coast Mauka Lands, hikers traversing storied Makapu'u with its picturesque lighthouse, and residents and visitors enjoying views of the impressive Waimānalo pali and white sands and turquoise waters of Makapu'u, Kaupō, Waimānalo and Kailua. In 2014, the State designated this cherished viewplane as the Maunalua-Makapu'u Scenic Byway for its exceptional scenic, natural, and cultural resource values. The byway starts at Hawai'i Kai Drive and Kalaniana'ole Hwy., and runs past the above landmarks and the Ka Iwi Coast Mauka Lands, curving around Makapu'u Bay, and ending at the Makai Pier in Waimānalo.

Once these last two threatened parcels are protected, the Ka Iwi Coast will remain undeveloped, natural, and wild for future generations to enjoy. Protection will keep intact the viewplanes and historic relationships between each celebrated place along the Coast. Maintaining this connection will perpetuate the mo'olelo or stories of this land – where Chief Mo'ikeha's sisters Makapu'u and 'Ihi'ihilauākea reside, and where a man named Ha'ikamalama at Hanauma heard the pahu (drum) of Mo'ikeha's son Chief La'amaikahiki and rushed past the properties to Makapu'u to investigate the source. Acquisition would also safeguard the numerous 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 a religious significance where a large boulder or boulders have been placed on smaller supporting rocks, 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. There is a great need in many Hawaiian cultural practices for an undeveloped vista that links so many culturally important landmarks. Protection of these lands would protect the Eastern point of the island, and balance the equally culturally important, and already protected, western point of Ka'ena.

2. Identify any conditions that threaten the significance and importance of the subject site.

Proposed development is the greatest threat to the property. Thousands of residents have advocated against various development proposals from a golf academy to vacation cabins to a recreational center and facilities. Development of this natural, scenic, and wild coastline is strongly opposed by the community. The property is also threatened by invasive species – protection of the property would provide an opportunity to manage the property, restoring native plants, preventing runoff into the stream and nearshore waters of Wāwamalu and Kaloko, and providing additional habitat for native seabirds.

Section H. Stewardship and Management

1. **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. Will any intended activities on the land require permits? What entity (if not the applicant) will manage the property/easement? Please describe the expertise and experience of the managing entity. How will any cultural resources that are present integrate into the overall preservation/protection and use of the property?**

The primary goal is to fulfill the community's wishes by protecting the land as undeveloped open space and removing it from the development equation forever. In the short term, the property will be passively managed and left in its current state as management needs for the property are low. The community and State will have the opportunity to conduct archaeological surveys and natural resource management and/or restoration activities on the properties, but active management is not essential to achieve the community's natural lands, open space, and cultural landscape preservation goals. With the State DLNR as the intended owner, and the City and County of Honolulu and likely the Ka Iwi Coalition (under the non-profit Livable Hawai'i Kai Hui) as co-holders of the conservation easement, the project will have access to experts in native plants and birds, leaders in community building and stewardship, and volunteers and Hawaiian cultural practitioners who want to provide appropriate and dedicated care to cultural sites and cultural landscapes, and public access when appropriate, ensuring great public benefit,.

Ka Iwi Coalition is particularly interested in how the properties might support various Hawaiian cultural practitioners that require more secluded undeveloped areas for their cultural practices. For example, Ka Iwi Coalition has started initial conversations with area community members involved with traditional voyaging groups about the Ka Iwi Coast Mauka Lands as a place to study the night sky for navigation. The Makapu'u Point Lighthouse Trail closes at night and the strong light from the lighthouse obscures the night sky. Students and their teacher studying the night sky for navigation were recently ticketed for "loitering" at Halona Cave nearby, so there is a community desire to have a dedicated and approved place for studying the night sky. Likewise, Hawaiian cultural practitioners from Maunalua and Waimanalo have expressed frustration with not having a quiet place where they can offer pule, oli, and engage in traditional protocol without disruption. The Ka Iwi Coast Mauka Lands could serve that purpose while still being open to the public through scheduled managed access. The Ka Iwi Coast Mauka Lands are uniquely situated as the perfect place where the Waimānalo and Maunalua communities could come together for various Hawaiian cultural practices. Actively practicing the Hawaiian culture in this center of so many formative Hawaiian stories and legends would maintain the important historic connection between Maunalua and Waimānalo, and greatly help to ensure that Hawaiian practices and values carry on in perpetuity.

The applicants are continuing discussion on how the public-private partnership with Ka Iwi Coalition can best lessen management burden and liability from the City (as conservation easement holder) and the State (as owner). Ka Iwi Coalition has functioned as the eyes and ears for the protection of the Ka Iwi Coast for over thirty years, a role it would continue as a co-holder of a Conservation Easement with the City. It is anticipated that Ka Iwi Coalition would

conduct annual monitoring of the properties and report back to both the City and the State. It is also anticipated that the majority of public access to the properties would be arranged through and supervised by Ka Iwi Coalition (under Livable Hawai'i Kai Hui). DLNR may decide to enter into a stewardship agreement or lease with Ka Iwi Coalition (under Livable Hawai'i Kai Hui) to steward and manage the properties.

Livable Hawai'i Kai Hui owns and stewards Hāwea heiau complex & Keawawa wetland and has extensive experience in caring for cultural sites and natural resources in a culturally appropriate manner. Livable Hawai'i Kai Hui has struck a nice balance between protecting the cultural sites and native wetland species at Hāwea, and welcoming the public to Hāwea through monthly community open houses and work days, regular daily volunteers and Hawaiian cultural practitioners, and many visiting school and community groups. Members of Livable Hawai'i Kai Hui's Cultural Committee also take care of and conduct protocol at Pahua heiau in the area. Livable Hawai'i Kai Hui also brings with it experience in propagating native plants as it sponsors Aloha 'Āina O Kamilo Nui, which grows native plants and supports other area farmers at a nursery in nearby Kamilo Nui Valley.

Section I. Cultural and Historical Significance

1. Briefly describe the cultural significance and historic uses of the property.

Wahi Inoa (Place Names)

The properties are located mauka of the ancient fishing village Wāwamalu within the coastal plain Ke Kula o Kamauwai, between Makapu'u and Kohelepelepe (Koko Crater), along the Ka Iwi Coast, in the Maunalua ahupua'a (at one time an 'ili of the Waimānalo ahupua'a), in the Ko'olaupoko moku, O'ahu. Wāwamalu is also known as Awāwamalu or Awaawamalu and means the shaded or protected valley or gulch. Ke Kula o Kamauwai is the name of the coastal plain known for its 'uala (sweet potato) running from Kealakipapa (the ancient road East of the properties) to Kamiloiki Valley (West of the properties). Ka Iwi, meaning the bone, is the name of the coastline and the channel between O'ahu and Moloka'i. Ka Iwi could reference the many buried along the coast – some drowned in Kaiwi Channel and swept onto Ka Iwi's shores - giving the area its great mana. Ka Iwi could also refer figuratively to O'ahu's foundational history as Hanauma Bay - the first O'ahu place Pele struck her 'ō'ō (digging stick) before it was filled with her sister Nāmakaokaha'i's raging waters. Others propose the kupuna may have named the coast Ka Iwi because the raw landscape rising from the sea reminded them of the exposed bones of the earth. The wind and rain of Kaiwi is Kualau or Kuakualau; a strong wind and rain in Kaiwi Channel and blowing onto the Ka Iwi shores. Maunalua's literal translation is "two mountains" in reference to Kohelepelepe (Koko Crater) and Kuamo'o o Kāne (Koko Head) that one sees upon entering the area. Waimānalo, meaning potable water, is said to derive its name from the mauka spring near the eastern property's northern boundary.

Mo'olelo Ka Iwi (Stories of Ka Iwi)

Nestled between Makapu'u and Kohelepelepe (Koko Crater), the properties are part of a largely unbroken cultural landscape which serves to preserve stories of Hawaiian gods, and the sense of place that all who spend time on the Ka Iwi Coast appreciate. Pre-contact Native Hawaiians occupied the area from Kuamo'o o Kāne (Koko Head) to Makapu'u Point, where the properties are located. The Makapu'u Point area, for example, was once the site of sacred stones, such as the Makapu'u and Mālei stones, that are significant to the history of O'ahu. These sites, as well as fishing shrines, stone sites, the Kealakipapa Valley road (a stone paved road constructed during the reign of Kamehameha II by an ali'i who lived at Wāwamalu), the massive upright stone formation at the southern point of Makapu'u known as Pele's Chair, and the legendary balancing stones in the Wāwamalu (Queen's Beach) area are all part of a culturally significant landscape. Some historians believe that Kamehmeha I landed at Sandy Beach ('Oku'u) in 1795 in his conquest of the island of O'ahu which ended in the Battle of Nu'uanu. Wāwamalu (Queen's Beach) was an ancient fishing village that was well known for its 'uala (sweet potato). Mo'olelo (stories) of the land say that Chief Mo'ikeha's sisters, Makapu'u and 'Ihi'ihilauakea resided here at places named after them. A man named Ha'ikamalama at Hanauma heard the pahu (drum) of Mo'ikeha's son Chief La'amaikahiki and rushed past the two properties to Makapu'u to investigate the source. (For more cultural stories, see the document "Mo'olelo Ka Iwi (Stories of Ka Iwi)" attached as supplementary material.)

Mālama ʻĀina & Nā Kahua Kahiko (Land Use & Cultural and Historic Sites)
Since the properties are mauka of the highway, and likely avoided the 1946 tsunami, numerous undocumented cultural sites remain on both properties. Almost all of the rock walls, pathways, terraces, and enclosures appear to be ancient due to their traditional Hawaiian drystack craftsmanship. There are at least two pōhaku lele (floating/balancing rocks) on the properties where massive boulders have been purposely propped up on top of smaller stones. Similar pōhaku lele have been seen in other valleys in Maunalua such as Wailupe and Niu. Hawaiian cultural practitioners have shared that pōhaku lele all have religious significance, and that the larger the rock on top is, the more mana the site has. Both known pōhaku lele on the properties have massive boulders suspended on smaller rocks. There is also a footpath around the Eastern property that is lined with coral, a flat area on a small ridge that is graveled with coral and shells, and a post-contact structure where stones from an adjacent massive drystack stone wall were mixed with concrete.

In 1930, McAllister found more than 30 archeological sites in this landscape – remnants of heiau (temples), koʻa (shrines), house sites and platforms, rock walls, enclosures and shelters, midden areas and rockshelter dwelling sites, burial mounds or cultivation mounds, the Kealakipapa Valley stone-paved road, a habitation cave said to be used for refuge in times of war, a canoe house, and petroglyphs indicated permanent habitation of small fishing villages scattered along the coastline with crop cultivation inland. Archaeologists over the years have found that traditional Hawaiian settlement in Maunalua-Makapuʻu consisted of coastal settlement (house sites, koʻa, canoe sheds, and heiau) with agricultural features in the plains and valleys behind the coast. People used natural rock shelters as temporary habitation or activity areas as well as burials. They also constructed heiau in the interior. Many of the surface sites along the Ka Iwi coastline were destroyed by the 1946 tsunami. In the early 19th century, fishing families probably still continued to live along the coast, and may have harvested a native sandalwood tree (naio) and perhaps beach sandalwood in the area during the 1820s. Throughout the 1840s and 1850s, portions of this area were used for cultivating sweet potato (ʻuala) to supply whaling ships. From the late 1850s until after World War II, cattle ranching became the primary use of Wāwamalu. Maunalua Ranch had cattle in the area between 1900-1926. In 1909, the U.S. built Makapuʻu Lighthouse above Makapuʻu Point. It was one of the most important navigational aids for shipping into and out of Honolulu. Until 1974 lighthouse keepers manned it and lived in three stone houses, since demolished, on Makapuʻu. The lighthouse is now listed on the National Register of Historic Places. In 1932, Alan Sanford Davis established Wāwamalu Ranch at Wāwamalu, and may have ranched the makai end of the two properties. Davis built a home and 'swimming pool' near the shore at Kaʻiliʻili, and ranch infrastructure, such as corrals, walls, and water tanks at Kaloko inlet. Most of the ranching facilities were also destroyed by the 1946 tsunami. As farmers were evicted from other communities being developed, they moved to Kalama and Wāwamalu valleys, possibly on the lower portion of the properties. An unimproved path/road ran from Kuapā Fishpond to the west, between Kamehame ridge and Kohelepelepe (Koko crater), past Sandy Beach and the properties, and around Makapuʻu into Waimānalo. Kalanianaʻole Highway finished construction in 1932, and was reconstructed further inland to its current location – the southern boundary of the eastern property - following the 1946 tsunami. Views of the properties have been enjoyed by many from afar over the years, but they have not been used, other than by the occasional hiker or cultural practitioner, since ranching and farming likely ended on the makai portions of the properties around the time of the 1946 tsunami.

Legacy Land Conservation Program 2014-2015 (Fiscal Year 2015)

Land Acquisition Grant Application Certification Form

Please submit this certification form online and in hard copy with the grant application. ATTENTION: This request for applications may be cancelled and any or all proposals rejected in whole or in part, without liability, when it is determined to be in the best interest of the State. Final awards are subject to the availability of funds and are also subject to budget restrictions and procedures implemented under Executive Biennium Budget Instructions.

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.

Laura Kaakua	Native Lands Project Manager, TPL
Name* (please type)	Title
Laura H E Kaakua	9.9.14
Signature* (sign after printing)	Date

Co-applicant (if applicable):

William J. Aila, Jr.	Chairperson, DLNR
Name* (please type)	Title
	9/14/14
Signature* (sign after printing)	Date

** Must be authorized to sign on behalf of agency or organization.*

Legacy Land Conservation Program 2014-2015 (Fiscal Year 2015)

Land Acquisition Grant Application Certification Form

Please submit this certification form online and in hard copy with the grant application. ATTENTION: This request for applications may be cancelled and any or all proposals rejected in whole or in part, without liability, when it is determined to be in the best interest of the State. Final awards are subject to the availability of funds and are also subject to budget restrictions and procedures implemented under Executive Biennium Budget Instructions.

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.

Elizabeth Reilly — President, Livable Hawaii Kai-Hui

Name* (please type) — Title

Elizabeth Reilly — 9.11.14

Signature* (sign after printing) — Date

Co-applicant (if applicable):

Name* (please type) — Title

Signature* (sign after printing) — Date

** Must be authorized to sign on behalf of agency or organization.*

Ka Iwi Coast Mauka Lands General Location Map

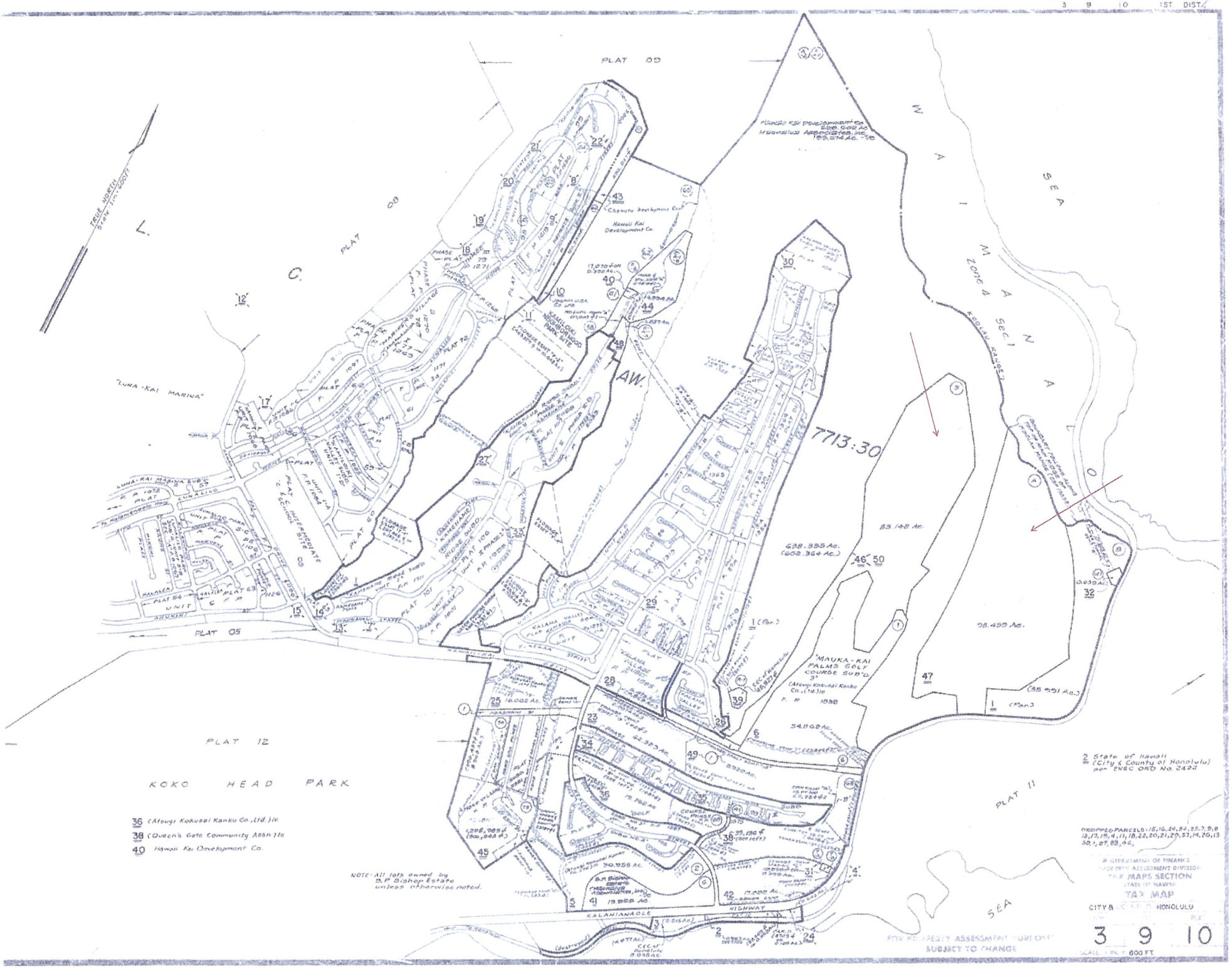
KA IWI COAST MAUKA LANDS

ISLAND OF O'AHU, HAWAI'I

THE TRUST *for* PUBLIC LAND

LAND FOR PEOPLE

September 10, 2014


PLAT 09
PLAT 08
PLAT 05
PLAT 12
PLAT 11
KOKO HEAD PARK
"LUNA-KAI MARINA"
KALANIANAOLE HIGHWAY
SEA
7713:30
638.388 Ac.
(602.364 Ac.)
83.142 Ac.
28.455 Ac.
(85.951 Ac.)
54.868 Ac.
"MAUKA-KAI PALMS GOLF COURSE SUB'D."
Hawaii Kai Development Co.
36 (Atsugi Kokusai Kanko Co.,Ltd.)le
38 (Queen's Gate Community Assn.)le
40 Hawaii Kai Development Co.
NOTE: All lots owned by B.P. Bishop Estate unless otherwise noted.
2 State of Hawaii (City & County of Honolulu) per EXEC ORD No. 2422
DEPARTMENT OF FINANCE
PROPERTY ASSESSMENT DIVISION
MAPS SECTION
STATE OF HAWAII
TAX MAP
CITY & COUNTY OF HONOLULU
3 9 10
SCALE 1 IN. = 600 FT.
FOR PROPERTY ASSESSMENT PURPOSES
SUBJECT TO CHANGE

NEIL ABERCROMBIE
GOVERNOR OF HAWAII

WILLIAM J. AILA, JR.
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

JESSE K. SOUKI
FIRST DEPUTY

WILLIAM M. TAM
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

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

September 10, 2014

Mr. Kaiwi Nui Yoon, Chair
Legacy Land Conservation Commission
Department of Land and Natural Resources (DLNR)
1151 Punchbowl Street, Room 325
Honolulu, Hawai'i 96813

Dear Chair Yoon and Legacy Land Conservation Commission Members,

The State of Hawaii, Department of Land and Natural Resources, is a willing future owner of the Ka Iwi Coast Mauka Lands; two parcels mauka of Kalaniana'ole Highway in Maunalua, O'ahu, TMKs: (1) 3-9-010:047 and (1) 3-9-010:050, totaling approximately 181 acres. These two properties, as well as surrounding properties, have been the subject of various controversial developments. The Waimanalo and Maunalua communities, and others that enjoy the Ka Iwi shoreline, have passionately opposed all proposed developments along the Coast, including the most recent development proposal of vacation cabins and visitor facilities on the two subject properties.

Over the years, both the State and the City have played leadership roles in protecting the Ka Iwi Coast's natural beauty, cultural resources, and recreational assets – from the City rezoning Queen's Beach (Awawamalu) between Sandy Beach and Makapu'u in 1983 in response to longstanding community concerns over a planned hotel development, to the State buying Queen's Beach from Bishop Estate in 2001, and rezoning the land from urban to conservation in 2011.

The mission of the Department of Land and Natural Resources is "Enhance, protect, conserve and manage Hawai'i's unique and limited natural, cultural and historic resources held in public trust for current and future generations of the people of Hawai'i nei, and its visitors, in partnership with others from the public and private sectors." We are pleased to work with the City and County of Honolulu, The Trust for Public Land, and Ka Iwi Coalition under the nonprofit Livable Hawaii Kai Hui to protect the Ka Iwi Coast Mauka Lands with high natural, cultural and historic resource values.

Over the next few months we will evaluate and share with this Commission the properties' resources and the shared management goals of the Department, the City and the community.

Mahalo for your consideration and service on this commission.

Sincerely,

WILLIAM J. AILA, Jr.
Chairperson

September 9, 2014

Mr. Kaiwi Nui Yoon, Chair
And Members
Legacy Land Conservation Commission
Department of Land and Natural Resources (DLNR)
1151 Punchbowl Street, Room 325
Honolulu, Hawai'i 96813

Subject: Ka Iwi Coast Mauka Lands, Maunalua, Waimanalo, O'ahu
TMK: (1)3-9-010:047 and (1)3-9-010:050

Aloha Chair Yoon and Commission Members,

The State Department of Land and Natural Resources, The Trust for Public Land, and Ka Iwi Coalition (under Livable Hawai'i Kai Hui) have applied for funding from the City and County of Honolulu's Clean Water and Natural Lands Program. The City and County of Honolulu generally requires fee ownership of, or a conservation easement over, any property acquired with Clean Water and Natural Lands funds.

If the Clean Water and Natural Lands Commission recommends the Ka Iwi Coast Mauka Lands project for funding in September 2014, the next steps generally would be: 1) City Council appropriates funds for Ka Iwi Coast Mauka Lands in the City budget in June 2015; 2) City Administration perform due diligence to ensure that expenditure is justified by the property appraisal and the projected benefit to the public; 3) Parties negotiate the terms of the conservation easement (with the State as the fee owner, the City and most likely Ka Iwi Coalition as co-easement holders, and The Trust for Public Land as facilitator); 4) City Administration complete due diligence review; and 4) Mayor approve and release funding for the project.

Please feel free to contact me at 768-4052 or via email at esniffen@honolulu.gov should you have any questions.

Mahalo,

Edwin Sniffen
Executive Assistant to the Managing Director and Chief of Staff

Livable Hawaii Kai Hui

Ka Iwi Coalition
SAVE SANDY BEACH

LIVABLE HAWAI'I KAI HUI BOARD OF DIRECTORS
2014

Elizabeth Reilly
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Allen Tateishi
Vice President

Suzanne Gordon Roig
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Ann Marie Kirk
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Director

Gayle G. Carr
Director, Website
www.hawaiikaihui.org

Kaiwi Nui Yoon, Chair
Legacy Land Conservation Commission
Department of Land and Natural Resources (DLNR)
1151 Punchbowl Street, Room 325
Honolulu, Hawai'i 96813

September 3, 2014

Aloha Chair Yoon and Commission Members:

Livable Hawai'i Kai Hui and the Ka Iwi Coalition are working with The Trust for Public Land, the State of Hawai'i Department of Land and Natural Resources, and the City and County of Honolulu to protect the Ka Iwi Coast Mauka Lands in Maunalua, O'ahu, TMKs: (1)3-9-010:047 and (1)3-9-010:050. Ka Iwi Coalition is a diverse group of people that has been working to keep the Ka Iwi Coast in its wild and natural state for over thirty years. Livable Hawai'i Kai Hui is a 501(c)(3) nonprofit that supports the protection of the Ka Iwi Coast and Ka Iwi Coalition's efforts, and now functions as Ka Iwi Coast's fiscal sponsor or nonprofit umbrella organization. Both organizations support protecting the properties as natural open space under State Department of Land and Natural Resources ownership. Both organizations understand that the City holds a conservation easement on all properties acquired with City Clean Water and Natural Lands funding. Ka Iwi Coalition under Livable Hawai'i Kai Hui is willing to be a co-holder of the conservation easement with the City and County, to assist the City in monitoring the property per the conservation easement, and to aid the State in management and stewardship. In preliminary discussions, both the City Administration and the Department of Land and Natural Resources were supportive of Ka Iwi Coalition assisting the City and State as a co-holder of the conservation easement.

Livable Hawai'i Kai Hui (LHKH) is a non-profit, nonpartisan community action group serving East Honolulu. We strive to promote sensible growth and respect for the land as well as upholding the integrity of the East Honolulu Sustainable Communities Plan.

Livable Hawaii Kai Hui | P.O. Box 25493 | Honolulu, Hawaii 96825
Email: hawaiikaihui@aol.com | Website: www.hawaiikaihui.org | Phone: (808) 864-8081

Thanks in great part to the dedication and vision of this Commission, and many State leaders and staff, Livable Hawai'i Kai Hui is the grateful steward owner of Hāwea heiau complex & Keawawa wetland in Maunalua, O'ahu. Supported by funding from the State Legacy Land Conservation Fund and the City Clean Water and Natural Lands Fund, The Trust for Public Land purchased the property and transferred the property to Livable Hawai'i Kai Hui in early 2014. The City holds the conservation easement over the property. The once threatened Hāwea heiau property is now a community-owned and managed cultural heritage preserve that regularly hosts numerous school and community groups, and welcomes all to visit and volunteer every second Saturday morning. We would love to see all of you at Hāwea as you played a fundamental role in its protection. The State Legacy Land Conservation Program is critical to land protection efforts throughout Hawai'i, and we look forward to again working with this Commission and the State Department of Land and Natural Resources to protect the Ka Iwi Coast Mauka Lands.

Kind regards,

Elizabeth C. Reilly

Elizabeth Reilly, President
Livable Hawai'i Kai Hui

Mahalo,

Curt Sanburn
Ka Iwi Coalition

Enclosed: Ka Iwi Coalition flyer with key historic dates

Livable Hawai'i Kai Hui (LHKH) is a non-profit, nonpartisan community action group serving East Honolulu. We strive to promote sensible growth and respect for the land as well as upholding the integrity of the East Honolulu Sustainable Communities Plan.

Livable Hawaii Kai Hui | P.O. Box 25493 | Honolulu, Hawaii 96825
Email: hawaiikaihui@aol.com | Website: www.hawaiikaihui.org | Phone: (808) 864-8081

DEFEND
SANDY BEACH – KA IWI COASTLINE
Hanauma Bay to Makapu'u

If we lose the beauty of our coastline,
we lose what it means to live in Hawai'i.

A Quick History

1983: The City of Honolulu rezones Queen's Beach in response to a ten-year effort by the community to stop major hotel development on the coast between Sandy Beach and Makapu'u. After a long court fight, the Hawaii Supreme Court finally affirmed the rezoning in 1991.

1987: The City and County of Honolulu lists O'ahu's important scenic resources in its "Coastal View Study." Section 8.2 cites the "Koko Head Viewshed" from Hanauma Bay to Makapu'u and notes that it "has long been recognized for its unique visual and environmental qualities," and that it is "the crescendo of a continuous visual sequence" from Hawai'i Kai and Waimanalo.

1988: After an intense grassroots campaign involving hundreds of volunteers, O'ahu citizens vote overwhelmingly to rezone land near Sandy Beach Park to save it from development as a luxury residential subdivision.

Responding to community pressure, the state Legislature unanimously passes a resolution asking the Department of Land and Natural Resources to develop a park plan for the "Ka Iwi coast."

1995: Landowners and developers work out a deal with the city that would have allowed them to develop 12 parcels in the Hawai'i Kai-to-Makapu'u area. Community groups led by the Ka Iwi Action Council organize to oppose the scheme, and it is eventually dropped.

The state releases a draft environmental impact statement and Master Plan for the proposed Ka Iwi State Park.

Late 1990s: The state condemns and buys Queen's Beach for incorporation into the proposed Ka Iwi State Park, while the city completes the purchase of the land near Sandy Beach Park once targeted for development.

2006: Developers announce plans for a complex of 180 "resort cabins" on the remaining undeveloped mauka ridges above the Ka Iwi coast. Responding to community opposition organized by the Ka Iwi Coalition, the city of Honolulu tightens rules for developing preservation-zoned land.

Ka Iwi Coalition
SAVE SANDY BEACH

2009: A Utah-based developer purchases 181 acres of mauka ridge lands at Ka Iwi for a *questionable* $9 million and announces plans to build a "golf academy" and visitor facilities.

2010: The state of Hawaii protects its makai lands at Queen's Beach by re-designating them from "urban" to "conservation." The League of Women Voters – ED Fund of Honolulu announces that the Ka Iwi Coalition is the first group/organization recipient of the 2011 Astrid and Donald Monson Community Action Award.

"Keep the Ka Iwi coast in its natural and wild state."

July 31, 2014

Mrs. Laura Kaakua
Native Lands Project Manager
The Trust for Public Land
1003 Bishop Street, Suite 740
Honolulu, Hawaii 96813

Re: Ka Iwi Coast Properties

Dear Mrs. Kaakua,

I am the Federal Court-appointed Receiver tasked with selling the real estate property of Kulia I Ka Nuu Estates, LLC, including two properties along the Ka Iwi Coast on Oahu, TMK: (1)3-9-010:047 and (1)3-9-010:050, totaling approximately 181 acres. As Receiver, I have the responsibility to operate Kulia I Ka Nuu Estates, LLC to maximize and protect the company's assets to ensure that the defrauded investors and creditors of Kulia I Ka Nuu Estates, LLC, receive back as much of what they are owed as possible. Therefore, I have listed the properties for sale. I am willing to sell the properties to The Trust for Public Land, in partnership with the State of Hawaii and the Ka Iwi Coalition, if we can reach an agreement and receive court approval as to price, closing date, and other purchase terms.

Sincerely,

Gil A. Miller, in his sole capacity as Receiver

Gil A. Miller, Receiver
Management Solutions Receivership
215 South State, Suite 550
Salt Lake City, Utah 84111

THE
TRUST
for
PUBLIC
LAND

HAWAI'I

TPL NATIONAL MISSION STATEMENT:
The Trust for Public Land conserves land for people to enjoy as parks, gardens, and other natural places, ensuring livable communities for generations to come.

TPL HAWAI'I MISSION STATEMENT:
Protecting shorelines, heritage, and working lands for the future of Hawai'i's people. TPL works with local communities and agency partners in Hawai'i to conserve: (1) shoreline/coastal lands, (2) native heritage lands that perpetuate Hawai'i's culture, and (3) working lands that help Hawai'i replace imports, and lead it to self-sufficiency in food, water, energy, and other goods.[1]

[1] This mission statement was developed with the help of a local Hawaiian Islands Advisory Council in 2010, including Timothy E. Johns (Chair), Dr. Noa Emmett Aluli, Kimo Campbell, Anthony R. Guerrero, Jr., Kahikūkalā Hoe, Louise K.Y. Ing, John Morgan, Edmund C. Olson (Big Island), William W. Paty, Jr., Michael S. Spalding (Maui), Stacy Sproat-Beck (Kaua'i), Gregg H. Takara (Kaua'i), William M. Tam, and Carol Wilcox.

Internal Revenue Service

Date: May 27, 2004

The Trust For Public Land
116 New Montgomery St.
San Francisco, CA 94105-3607

Department of the Treasury
P. O. Box 2508
Cincinnati, OH 45201

Person to Contact:
Tracy Garrigus #31-07307
Customer Service Representative
Toll Free Telephone Number:
8:00 a.m. to 6:30 p.m. EST
877-829-5500
Fax Number:
513-263-3756
Federal Identification Number:
23-7222333
Group Exemption Number:
2659

Dear Sir or Madam:

This is in response to your request of May 27, 2004 regarding a copy of your organization's group exemption letter.

In February 1978 we issued a determination letter that recognized your organization as exempt from federal income tax. Our records indicate that your organization is currently exempt under section 501(c)(3) of the Internal Revenue Code.

Based on the information supplied, we recognized the subordinates named on the list your organization submitted as exempt from federal income tax under section 501(c)(3) of the Code. Additionally, we have classified the subordinates your organization operates, supervises, or controls, and which are covered by written notification to us, as organizations that are not private foundations because they are organizations of the type described in sections 509(a)(1) and 170(b)(1)(A)(vi) of the Code.

Donors may deduct contributions to your organization's subordinates as provided in section 170 of the Code. Bequests, legacies, devises, transfers or gifts to the subordinates or for their use are deductible for federal estate and gift tax purposes if they meet the applicable provisions of sections 2055, 2106, and 2522 of the Code.

Your organization and its subordinates are required to file Form 990, *Return of Organization Exempt from Income Tax*, only if the gross receipts each year are normally more than $25,000. If a return is required, it must be filed by the 15th day of the fifth month after the end of the organization's annual accounting period. The law imposes a penalty of $20 a day, up to a maximum of $10,000, when a return is filed late, unless there is reasonable cause for the delay.

Your organization and its subordinates are not required to file federal income tax returns unless subject to the tax on unrelated business income under section 511 of the Code. If subject to this tax, the organization must file an income tax return on Form 990-T, *Exempt Organization Business Income Tax Return*. In this letter, we are not determining whether any of your organization or its subordinates' present or proposed activities are unrelated trade or business as defined in section 513 of the Code.

The Trust For Public Land
23-7222333

Unless specifically excepted, your organization and its subordinates are liable for taxes under the Federal Insurance Contributions Act (social security taxes) on remuneration of $100 or more paid to each of its employees during a calendar year. Your organization and its subordinates are not liable for the tax imposed under the Federal Unemployment Tax Act (FUTA).

Each year, at least 90 days before the end of your organization's annual accounting period, please send the following items to the Internal Revenue Service Center at the address shown below:

1. A statement describing any changes during the year in the purposes, character, or method of operation of your organization's subordinates;

2. A list showing the names, mailing addresses (including Postal Zip Codes), actual addresses if different, and employer identification numbers of subordinates that:

   a. Changed names or addresses;

   b. Were deleted from the roster; or

   c. Were added to the roster.

3. For subordinates to be added, attach:

   a. A statement that the information on which your organization's present group exemption letter is based applies to the new subordinates;

   b. A statement that each has given your organization written authorization to add its name to the roster;

   c. A list of those to which the Service previously issued exemption rulings or determination letters;

   d. A statement that none of the subordinates is a private foundation as defined in section 509(a) of the Code if the group exemption letter covers organizations described in section 501(c)(3);

   e. The street address of subordinates where the mailing address is a P.O. Box; and

The Trust For Public Land
23-7222333

f. The information required by Revenue Procedure 75-50, 1975-2 C.B. 587 for each subordinate that is a school claiming exemption under section 501(c)(3). Also include any other information necessary to establish that the school is complying with the requirements of Revenue Ruling 71-447, 1971-2 C.B. 230. This is the same information required by Schedule A, Form 1023, Application for Recognition of Exemption Under Section 501(c)(3) of the Internal Revenue Code.

4. If applicable, a statement that your organization's group exemption roster did not change since the previous report.

The above information should be sent to the following address:

Internal Revenue Service Center
Attn: Entity Control Unit
Ogden, UT 84409

Section 6104 of the Internal Revenue Code requires you to make your organization's annual return available for public inspection without charge for three years after the due date of the return. The law also requires organizations that received recognition of exemption on July 15, 1987, or later, to make available for public inspection a copy of the exemption application, any supporting documents and the exemption letter to any individual who requests such documents in person or in writing. Organizations that received recognition of exemption before July 15, 1987, and had a copy of their exemption application on July 15, 1987, are also required to make available for public inspection a copy of the exemption application, any supporting documents and the exemption letter to any individual who requests such documents in person or in writing. For additional information on disclosure requirements, please refer to Internal Revenue Bulletin 1999 - 17.

If you have any questions, please call us at the telephone number shown in the heading of this letter.

Sincerely,

Janna K. Skufca

Janna K. Skufca, Director, TE/GE
Customer Account Services

THE TRUST *for* PUBLIC LAND

LAND FOR PEOPLE

Our history. The Trust for Public Land creates parks and protects land for people, ensuring healthy, livable communities for generations to come. Founded in 1972, we are a national nonprofit that has been conserving land for people in Hawai'i since 1979 - over 30 years. The Trust for Public Land's first project in the Hawaiian Islands expanded the Hawai'i Volcanoes National Park by 269 acres. We opened a Hawai'i office in downtown Honolulu in 1998, and have closed 28 projects conserving 42,062 acres and counting on the islands of Hawai'i, O'ahu, Kaua'i, Maui, and Moloka'i.

Our mission in Hawai'i. We actively work to conserve the landscapes of Hawai'i. Through our projects we seek to engage local residents in protecting resources that are special and significant to their communities. Coastal lands, working lands that contribute to Hawai'i's self sufficiency, and lands that perpetuate Hawaiian culture are our immediate priority.

Our projects. The Trust for Public Land has helped conserve these special places in Hawai'i *(indicates acreage)*:

Maui
Ka'āpahu, Haleakalā National Park (1,475)
Mū'olea Point, Hana (73)
Paukūkalo Coastal Wetlands, Wailuku (64)

Kaua'i
Kīlauea Point NWR (131)
Limahuli Gardens (2)
Lumaha'i Beach (40)

Moloka'i
Hālawa Valley (4)

Hawai'i
Kalapana, Hawai'i Volcanoes NP (267)
Honu'apo Fishpond, Ka'ū (225)
Wao Kele o Puna (25,856)
Queen's Bath, Puna (890)
Ki'ilae, Pu'uhonua O Hōnaunau NHP (238)
Pāo'o, North Kohala (11)
Lapakahi, North Kohala (17)
Kāwā Bay, Ka'ū (550)
Kauhola Point, North Kohala (28)

O'ahu
Waiāhole Beach Park, Kāne'ohe Bay (77)
Ka'ala Farm, Wai'anae (8)
Waimea Valley (1,875)
Moanalua Valley (3,716)
Pūpūkea-Paumalū, North Shore (1,129)
MA'O Farms, Wai'anae (18)
Honouliuli Preserve, Wai'anae (3,592)
Sunset Ranch, North Shore (27)
Galbraith Estate, Wahiawa (1,723)
Hāwea Heiau and Keawawa Wetlands, Hawai'i Kai (5)

Our community partners. Community support and vision is a vital element of any successful project. We have wide experience in working with local community partners such as the North Shore Community Land Trust, the Pele Defense Fund, Na Mamo o Mū'olea, the Waiāhole-Waikāne Community Association, the Hawaiian Islands Land Trust, Ka 'Ohana O Honu'apo, and others.

Our landowner partners. Our projects would not happen without landowners willing to sell land or easements. We educate landowners, appraisers, and brokers regarding the tax benefits to land conservation, and seek mutually beneficial outcomes.

Our governmental partners. We work with government agencies and provide technical support to access available federal, state, and county public funding.

Our donors. We work with private foundations and individual donors to raise funds for land conservation specifically in Hawai'i.

Our staff. Our small staff of four understand the unique history and sensitivity of Hawai'i land issues, and value the inherent connection of land and culture.

Our expertise. Nationwide, The Trust for Public Land has conserved over 3 million acres of land at a fair market value of over $5 billion. Blending local and national staff expertise , we bring our real estate transaction, negotiation, and funding skills to the table, leveraging public and private resources.

To learn more about The Trust for Public Land, visit www.tpl.org

The Trust for Public Land
1003 Bishop St., Pauahi Tower, Ste. 740, Honolulu, HI 96813
808.524.8560

Our Hawaii Team:
Lea Hong, State Director (lea.hong@tpl.org), **Leslie Uptain, Director of Philanthropy** (leslie.uptain@tpl.org),
Laura Kaakua, Native Lands Project Manager (laura.kaakua@tpl.org), **Steve Rafferty, Project Manager** (stephen.rafferty@tpl.org)

Livable Hawaii Kai Hui

MISSION STATEMENT:

SAID CORPORATION IS ORGANIZED FOR CHARITABLE, EDUCATIONAL, AND SCIENTIFIC PURPOSES, INCLUDING ENCOURAGING GRASS ROOTS ORGANIZATION, COMMUNITY AWARENESS AND EDUCATION OF LAWS, RULES AND REGULATIONS THAT GUIDE SENSIBLE GROWTH AND DEVELOPMENT TO ENHANCE THE QUALITY OF LIFE FOR RESIDENTS, FOCUSING ON THE PRESERVATION OF THE AGRICULTURAL LANDS IN KAMILONUI VALLEY, NATURAL WATERSHEDS AND ADEQUATE OPEN SPACES AND COMMUNITY STEWARDSHIP FOR THE PROTECTION OF WATERSHEDS, WETLANDS, NATURAL AND SCENIC RESOURCES AND CULTURAL AND HISTORIC AREAS IN EAST HONOLULU.

Livable Hawai'i Kai Hui (LHKH) is a non-profit, nonpartisan community action group serving East Honolulu. We strive to promote sensible growth and respect for the land as well as upholding the integrity of the East Honolulu Sustainable Communities Plan.

Livable Hawaii Kai Hui | P.O. Box 25493 | Honolulu, Hawaii 96825
Email: hawaiikaihui@aol.com | Website: www.hawaiikaihui.org | Phone: (808) 864-8081

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

DEPARTMENT OF THE TREASURY

Date: FEB 2 0 2008

LIVABLE HAWAII KAI HUI
C/O TAI HONG
6600 KALANIANAOLE HWY STE 116
HONOLULU, HI 96825

Employer Identification Number:
26-0090676
DLN:
17053255316007
Contact Person:
ALICE T LI ID# 95032
Contact Telephone Number:
(877) 829-5500
Accounting Period Ending:
DECEMBER 31
Public Charity Status:
170(b)(1)(A)(vi)
Form 990 Required:
NO
Effective Date of Exemption:
JUNE 08, 2004
Contribution Deductibility:
YES
Addendum Applies:
NO

Dear Applicant:

We are pleased to inform you that upon review of your application for tax exempt status we have determined that you are exempt from Federal income tax under section 501(c)(3) of the Internal Revenue Code. Contributions to you are deductible under section 170 of the Code. You are also qualified to receive tax deductible bequests, devises, transfers or gifts under section 2055, 2106 or 2522 of the Code. Because this letter could help resolve any questions regarding your exempt status, you should keep it in your permanent records.

Organizations exempt under section 501(c)(3) of the Code are further classified as either public charities or private foundations. We determined that you are a public charity under the Code section(s) listed in the heading of this letter.

Please see enclosed Publication 4221-PC, Compliance Guide for 501(c)(3) Public Charities, for some helpful information about your responsibilities as an exempt organization.

If you distribute funds to other organizations, your records must show whether they are exempt under section 501(c)(3). In cases where the recipient organization is not exempt under section 501(c)(3), you must have evidence the funds will be used for section 501(c)(3) purposes.

If you distribute funds to individuals, you should keep case histories showing the recipient's name and address; the purpose of the award; the manner of selection; and the relationship of the recipient to any of your officers, directors, trustees, members, or major contributors.

RECEIVED FEB 2 5 2008

LIVABLE HAWAII KAI HUI

We have sent a copy of this letter to your representative as indicated in your power of attorney.

Sincerely,

Robert Choi
Director, Exempt Organizations
Rulings and Agreements

Enclosures: Publication 4221-PC

Ka Iwi Coast Mauka Lands Photos

Father and son enjoying the view of the properties from Wāwamalu

View from Eastern property to Wāwamalu with pōhaku lele (balancing rock in foreground) and Kaloko inlet in background

Traditional Hawaiian Drystack Rock Wall on Property

First American Title Insurance Company National Commercial Services

560 South 300 East
Salt Lake City, UT 84111

February 24, 2012

Order Number: NCS-529827-SLC1

Escrow Officer: Cathy Prestwich
Phone: (801)578-8887
Fax No.: (866)344-5051
E-Mail: cprestwich@firstam.com

Buyer: TO BE DETERMINED

Owner: Kulia I Ka Nu'u Estates, LLC

Property: An address has not yet been assigned

PRELIMINARY REPORT

In response to the above referenced application for a policy of title insurance, this company hereby reports that it is prepared to issue, or cause to be issued, as of the date hereof, a Policy or Policies of Title Insurance describing the land and the estate or interest therein hereinafter set forth, insuring against loss which may be sustained by reason of any defect, lien or encumbrance not shown or referred to as an Exception below or not excluded from coverage pursuant to the printed Schedules, Conditions and Stipulations of said Policy forms.

The printed Exceptions and Exclusions from the coverage and Limitations on Covered Risks of said policy or policies are set forth in Exhibit A attached. *The policy to be issued may contain an arbitration clause. When the Amount of Insurance is less than that set forth in the arbitration clause, all arbitrable matters shall be arbitrated at the option of either the Company or the Insured as the exclusive remedy of the parties.* Limitations on Covered Risks applicable to the CLTA and ALTA Homeowner's Policies of Title Insurance which establish a Deductible Amount and a Maximum Dollar Limit of Liability for certain coverages are also set forth in Exhibit A. Copies of the policy forms should be read. They are available from the office which issued this report.

Please read the exceptions shown or referred to below and the exceptions and exclusions set forth in Exhibit A of this report carefully. The exceptions and exclusions are meant to provide you with notice of matters which are not covered under the terms of the title insurance policy and should be carefully considered.

It is important to note that this preliminary report is not a written representation as to the condition of title and may not list all liens, defects, and encumbrances affecting title to the land.

This report (and any supplements or amendments hereto) is issued solely for the purpose of facilitating the issuance of a policy of title insurance and no liability is assumed hereby. If it is desired that liability be assumed prior to the issuance of a policy of title insurance, a Binder or Commitment should be requested.

Dated as of February 10, 2012 at 8:00 A.M.

The form of Policy of title insurance contemplated by this report is:

ALTA Owner Policy (Standard Coverage) - 2006

A specific request should be made if another form or additional coverage is desired.

Title to said estate or interest at the date hereof is vested in:

Kulia I Ka Nu'u Estates LLC, a Hawaii limited liability company

The estate or interest in the land hereinafter described or referred to covered by this Report is:

As to Item I; Parcel First and II:

A Fee

As to Item I; Parcel Second:

An Easement.

The Land referred to herein is described as follows:

(See attached Legal Description)

At the date hereof exceptions to coverage in addition to the printed Exceptions and Exclusions in said policy form would be as follows:

1. Real property tax assessments for the fiscal year 2011-2012:

Tax Map Key No.:	(1) 3-9-010-050-0000 (As to Item I)
Class No.:	6
First Installment:	$18,956.49, DELINQUENT
Penalty:	$1,895.65
Interest:	$1,251.13
Amount Paid:	$0.00
Amount Due:	$22,103.27, through February 2011
Second Installment:	$18,956.49, PAYABLE

Delinquent taxes for prior year(s):

Fiscal Year(s) 2009-2010:	$11,128.68
Penalty:	$1,112.86
Interest:	$1,858.86

Amount due:	$14,100.40, through February 2011
Tax Map Key No.:	(1) 3-9-010-047-0000 (As to Item II)
Class No.:	6
First Installment:	$2,244.95, DELINQUENT
Penalty:	$224.50
Interest:	$148.17
Amount Paid:	$0.00
Amount Due:	$2,617.62, through February 2011
Second Installment:	$2,244.94, PAYABLE

Delinquent taxes for prior year(s):

Fiscal Year(s) 2009-2010:	$3,001.22
Penalty:	$300.11
Interest:	$664.50
Amount due:	$3,965.83, through February 2011

Note: Possible roll back taxes for real property classified as Class 5 or 6.

2. Title to all mineral and metallic mines reserved to the State of Hawaii.

3. As to Item I; Parcel First:

   (A) A Grant of Easement for utility purposes, in favor of Hawaiian Electric Company, Limited, and Hawaiian Telephone Company, now known as Hawaiian Telcom, Inc., recorded as Book 3356 page 128 of Official Records.

   (B) A Grant of Easement for utility purposes, in favor of Hawaiian Electric Company, Limited, and Hawaiian Telephone Company, now known as Hawaiian Telcom, Inc., recorded as Book 6204 page 176 of Official Records.

   (C) A Grant of Easement for utility purposes, in favor of Hawaiian Electric Company, Inc., recorded as Book 9998 page 303 of Official Records.

   (D) A Grant of Easement for utility purposes, in favor of City and County of Honolulu and the Board of Water Supply, recorded July 31, 1975 as Book 10816 page 186 of Official Records.

4. As to Item II:

   (A) A Grant of Easement for utility purposes, in favor of Hawaiian Electric Company, Limited, and Hawaiian Telephone Company, now known as Hawaiian Telcom, Inc., recorded as Book 6204 page 176 of Official Records.

5. An unrecorded Agreement as disclosed by the Instrument recorded November 17, 1992 as Regular System Document No. 92-186490 of Official Records.

6. Any and all leases, subleases and/or tenancy agreements, the rights thereunder and encumbrances thereto.

7. Discrepancies, conflicts in boundary lines, shortage in area, encroachments, or any other facts which a correct survey would disclose, and which are not shown by public records.

8. As to Item I; Parcel First and Item II

   (A) Terms, provisions, reservations, covenants, conditions and restrictions, but deleting any of the aforementioned indicating a preference, limitation or discrimination based on race, color, religion, sex, handicap, familial status, national origin, sexual orientation, marital status, ancestry, source of income or disability, to the extent such covenants, conditions or restrictions violate Title 42, Section 3604(c), of the United States Codes or Chapter 515 of the Hawaii Revised Statutes, as contained in the Limited Warranty Deed Subject to Covenants Running with the Land recorded July 11, 2008 as Regular System Document No. 2008-111751 of Official Records.

   (B) Terms, provisions, reservations, covenants, conditions and restrictions, but deleting any of the aforementioned indicating a preference, limitation or discrimination based on race, color, religion, sex, handicap, familial status, national origin, sexual orientation, marital status, ancestry, source of income or disability, to the extent such covenants, conditions or restrictions violate Title 42, Section 3604(c), of the United States Codes or Chapter 515 of the Hawaii Revised Statutes, as contained in the Limited Warranty Deed recorded July 11, 2008 as Regular System Document No. 2008-111754 of Official Records.

9. As to Item I; Parcel Second

   (A) Terms, provisions, reservations, covenants, conditions and restrictions, but deleting any of the aforementioned indicating a preference, limitation or discrimination based on race, color, religion, sex, handicap, familial status, national origin, sexual orientation, marital status, ancestry, source of income or disability, to the extent such covenants, conditions or restrictions violate Title 42, Section 3604(c), of the United States Codes or Chapter 515 of the Hawaii Revised Statutes, as contained in the Quitclaim Deed Subject to Covenants Running with the Land recorded July 11, 2008 as Regular System Document No. 2008-111752 of Official Records.

   (B) Terms, provisions, reservations, covenants, conditions and restrictions, but deleting any of the aforementioned indicating a preference, limitation or discrimination based on race, color, religion, sex, handicap, familial status, national origin, sexual orientation, marital status, ancestry, source of income or disability, to the extent such covenants, conditions or restrictions violate Title 42, Section 3604(c), of the United States Codes or Chapter 515 of the Hawaii Revised Statutes, as contained in the Quitclaim Deed Subject to Covenants Running with the Land recorded July 11, 2008 as Regular System Document No. 2008-111755 of Official Records.

INFORMATIONAL NOTES

Note: The policy to be issued may contain an arbitration clause. When the Amount of Insurance is less than the certain dollar amount set forth in any applicable arbitration clause, all arbitrable matters shall be arbitrated at the option of either the Company or the Insured as the exclusive remedy of the parties. If you desire to review the terms of the policy, including any arbitration clause that may be included, contact the office that issued this Commitment or Report to obtain a sample of the policy jacket for the policy that is to be issued in connection with your transaction.

The map attached, if any, may or may not be a survey of the land depicted hereon. First American expressly disclaims any liability for loss or damage which may result from reliance on this map except to the extent coverage for such loss or damage is expressly provided by the terms and provisions of the title insurance policy, if any, to which this map is attached.

LEGAL DESCRIPTION

Real property in the County of Honolulu, State of Hawaii, described as follows:

ITEM I:

PARCEL FIRST:

ALL OF THAT CERTAIN PARCEL OF LAND (BEING PORTION OF THE LAND(S) DESCRIBED IN AND COVERED BY ROYAL PATENT 4475, LAND COMMISSION AWARD NUMBER 7713, APANA 30 TO VICTORIA KAMAMALU) SITUATE, LYING AND BEING AT MAUNALUA, HONOLULU, STATE OF HAWAII, LOT 3 OF "MAUUWAI", AND THUS BOUNDED AND DESCRIBED:

BEGINNING AT THE SOUTHWEST CORNER OF THIS PARCEL OF LAND, ON THE SOUTHERLY SIDE OF MOKUHANO STREET, THE COORDINATES OF WHICH BEING REFERRED TO GOVERNMENT SURVEY TRIANGULATION STATION "KOKO HEAD #3" BEING 12,081.83 FEET NORTH AND 12,278.97 FEET EAST, AND RUNNING BY AZIMUTHS MEASURED CLOCKWISE FROM TRUE SOUTH:

1. 173° 20' 44.00 FEET ALONG THE END OF MOKUHANO STREET;

2. 273° 24' 40" 40.65 FEET ALONG REMAINDER OF R.P. 4475, L. C. AW. 7713, AP. 30 TO VICTORIA KAMAMALU;

3. 206° 00' 186.30 FEET ALONG REMAINDER OF R.P. 4475, L. C. AW. 7713, AP. 30 TO VICTORIA KAMAMALU;

4. 169° 40' 232.52 FEET ALONG REMAINDER OF R.P. 4475, L. C. AW. 7713, AP. 30 TO VICTORIA KAMAMALU;

5. 202° 00' 310.00 FEET ALONG REMAINDER OF R.P. 4475, L. C. AW. 7713, AP. 30 TO VICTORIA KAMAMALU;

6. 183° 30' 692.00 FEET ALONG REMAINDER OF R.P. 4475, L. C. AW. 7713, AP. 30 TO VICTORIA KAMAMALU;

7. 177° 40' 570.00 FEET ALONG REMAINDER OF R.P. 4475, L. C. AW. 7713, AP. 30 TO VICTORIA KAMAMALU;

8. 188° 50' 623.26 FEET ALONG REMAINDER OF R.P. 4475, L. C. AW. 7713, AP. 30 TO VICTORIA KAMAMALU;

9. 183° 30' 520.39 FEET ALONG REMAINDER OF R.P. 4475, L. C. AW. 7713, AP. 30 TO VICTORIA KAMAMALU;

10. 156° 50' 730.00 FEET ALONG REMAINDER OF R.P. 4475, L. C. AW. 7713, AP. 30 TO VICTORIA KAMAMALU;

11. 181° 20' 1,130.00 FEET ALONG REMAINDER OF R.P. 4475, L. C. AW. 7713, AP. 30 TO

VICTORIA KAMAMALU;

12. 205° 40' 710.00 FEET ALONG REMAINDER OF R.P. 4475, L. C. AW. 7713, AP. 30 TO VICTORIA KAMAMALU;

13. 270° 00' 217.22 FEET ALONG REMAINDER OF R.P. 4475, L. C. AW. 7713, AP. 30 TO VICTORIA KAMAMALU;

14. 324° 30' 902.89 FEET ALONG REMAINDER OF R.P. 4475, L. C. AW. 7713, AP. 30 TO VICTORIA KAMAMALU;

15. 333° 41; 209.78 FEET ALONG REMAINDER OF R.P. 4475, L. C. AW. 7713, AP. 30 TO VICTORIA KAMAMALU;

16. 0° 38' 1,488.74 FEET ALONG REMAINDER OF R.P. 4475, L. C. AW. 7713, AP. 30 TO VICTORIA KAMAMALU;

17. 270° 38' 106.88 FEET ALONG REMAINDER OF R.P. 4475, L. C. AW. 7713, AP. 30 TO VICTORIA KAMAMALU;

18. 10° 29' 315.00 FEET ALONG REMAINDER OF R.P. 4475, L. C. AW. 7713, AP. 30 TO VICTORIA KAMAMALU;

19. 350° 00' 251.00 FEET ALONG REMAINDER OF R.P. 4475, L. C. AW. 7713, AP. 30 TO VICTORIA KAMAMALU;

20. 337° 00' 20" 189.86 FEET ALONG REMAINDER OF R.P. 4475, L. C. AW. 7713, AP. 30 TO VICTORIA KAMAMALU;

21. 127° 00' 144.00 FEET ALONG LOT 1 OF FILE PLAN 1838, REMAINDER OF R.P. 4475, L. C. AW. 7713, AP. 30 TO VICTORIA KAMAMALU;

22. 58° 44' 66.00 FEET ALONG LOT 1 OF FILE PLAN 1838, REMAINDER OF R.P. 4475, L. C. AW. 7713, AP. 30 TO VICTORIA KAMAMALU;

23. 357° 16' 147.00 FEET ALONG LOT 1 OF FILE PLAN 1838, REMAINDER OF R.P. 4475, L. C. AW. 7713, AP. 30 TO VICTORIA KAMAMALU;

24. 8° 12' 519.00 FEET ALONG LOT 1 OF FILE PLAN 1838, REMAINDER OF R.P. 4475, L. C. AW. 7713, AP. 30 TO VICTORIA KAMAMALU;

25. 78° 10' 214.00 FEET ALONG LOT 1 OF FILE PLAN 1838, REMAINDER OF R.P. 4475, L. C. AW. 7713, AP. 30 TO VICTORIA KAMAMALU;

26. 155° 21' 360.00 FEET ALONG LOT 1 OF FILE PLAN 1838, REMAINDER OF R.P. 4475, L. C. AW. 7713, AP. 30 TO VICTORIA KAMAMALU;

27. 175° 14' 541.00 FEET ALONG LOT 1 OF FILE PLAN 1838, REMAINDER OF R.P. 4475, L. C. AW. 7713, AP. 30 TO VICTORIA KAMAMALU;

28. 130° 50' 156.00 FEET ALONG LOT 1 OF FILE PLAN 1838, REMAINDER OF R.P. 4475, L. C. AW. 7713, AP. 30 TO VICTORIA KAMAMALU;

29. 38° 38' 376.52 FEET ALONG LOT 1 OF FILE PLAN 1838, REMAINDER OF R.P. 4475, L. C. AW.

7713, AP. 30 TO VICTORIA KAMAMALU;

30. 358° 42' 30" 103.02 FEET ALONG LOT 1 OF FILE PLAN 1838, REMAINDER OF R.P. 4475, L. C. AW. 7713, AP. 30 TO VICTORIA KAMAMALU;

31. 312° 27' 30" 70.25 FEET ALONG LOT 1 OF FILE PLAN 1838, REMAINDER OF R.P. 4475, L. C. AW. 7713, AP. 30 TO VICTORIA KAMAMALU;

32. 355° 37' 294.01 FEET ALONG LOT 1 OF FILE PLAN 1838, REMAINDER OF R.P. 4475, L. C. AW. 7713, AP. 30 TO VICTORIA KAMAMALU;

33. 11° 50' 30' 162.49 FEET ALONG LOT 1 OF FILE PLAN 1838, REMAINDER OF R.P. 4475, L. C. AW. 7713, AP. 30 TO VICTORIA KAMAMALU;

34. 350° 40' 40" 436.49 FEET ALONG LOT 1 OF FILE PLAN 1838, REMAINDER OF R.P. 4475, L. C. AW. 7713, AP. 30 TO VICTORIA KAMAMALU;

35. 18° 51' 653.00 FEET ALONG LOT 1 OF FILE PLAN 1838, REMAINDER OF R.P. 4475, L. C. AW. 7713, AP. 30 TO VICTORIA KAMAMALU;

36. 0° 00' 170.00 FEET ALONG LOT 1 OF FILE PLAN 1838, REMAINDER OF R.P. 4475, L. C. AW. 7713, AP. 30 TO VICTORIA KAMAMALU;

37. 3° 24' 40" 632.87 FEET ALONG LOT 1 OF FILE PLAN 1838, REMAINDER OF R.P. 4475, L. C. AW. 7713, AP. 30 TO VICTORIA KAMAMALU;

38. 93° 24' 40" 239.78 FEET ALONG LOT 1, REMAINDER OF R.P. 4475, L. C. AW. 7719, AP. 30 TO VICTORIA KAMAMALU TO THE POINT OF BEGINNING AND CONTAINING AN AREA OF 83.142 ACRES, MORE OR LESS.

PARCEL SECOND:

EASEMENT "A", FOR ACCESS PURPOSES, IN FAVOR OF LOT 3, AFFECTING LOT 1 OF "MAUUWAI", MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWEST CORNER OF THIS EASEMENT, BEING ALSO THE SOUTHWEST CORNER OF LOT 3 MAUUWAI, ON THE SOUTH SIDE OF MOKUHANO STREET, THE COORDINATES OF WHICH BEING REFERRED TO GOVERNMENT SURVEY TRIANGULATION STATION "KOKO HEAD #3" BEING 12,081.83 FEET NORTH AND 12,278.97 FEET EAST, AND RUNNING BY AZIMUTHS MEASURED CLOCKWISE FROM TRUE SOUTH:

1. 273° 24' 40" 239.78 FEET ALONG LOT 3, REMAINDER OF ROYAL PATENT 4475, LAND COMMISSION AWARD 7713, APANA 30 TO VICTORIA KAMAMALU;

2. 3° 24' 40" 96.89 FEET ALONG LOT 1 OF FILE PLAN 1838, REMAINDER OF R.P. 4475, L.C. AW. 7713, AP. 30 TO VICTORIA KAMAMALU;

THENCE ALONG LOT 6 OF FILE PLAN 1341, REMAINDER OF R.P. 4475, L.C. AW. 7713, AP. 30 TO VICTORIA KAMAMALU, ON A CURVE TO THE RIGHT WITH A RADIUS OF 2,356.60 FEET, THE CHORD AZIMUTH AND DISTANCE BEING:

3. 85° 47' 01" 23.33 FEET;

4. 77° 56' 10" 51.92 FEET ALONG LOT 6 OF FILE PLAN 1341, REMAINDER OF R.P. 4475, L.C.

AW. 7713, AP. 30 TO VICTORIA KAMAMALU;

THENCE ALONG LOT 6 OF FILE PLAN 1341, REMAINDER OF R.P. 4475, L.C. AW. 7713, AP. 30 TO VICTORIA KAMAMALU, ON A CURVE TO THE RIGHT WITH A RADIUS OF 2,354.60 FEET, THE CHORD AZIMUTH AND DISTANCE BEING;

5. 88° 04' 23" 62.75 FEET;

6. 88° 50' 27.32 FEET ALONG LOT 6 OF FILE PLAN 1341, REMAINDER OF R.P. 4475, L.C. AW. 7713, AP. 30 TO VICTORIA KAMAMALU;

7. 91° 21' 50" 129.87 FEET ALONG LOT 6 OF FILE PLAN 1341, REMAINDER OF R.P. 4475, L.C. AW. 7713, AP. 30 TO VICTORIA KAMAMALU;

8. 98° 57' 20" 52.75 FEET ALONG LOT 6 OF FILE PLAN 1341, REMAINDER OF R.P. 4475, L.C. AW. 7713, AP. 30 TO VICTORIA KAMAMALU;

9. 88° 50' 491.65 FEET ALONG LOT 6 OF FILE PLAN 1341, REMAINDER OF R.P. 4475, L.C. AW. 7713, AP. 30 TO VICTORIA KAMAMALU;

10. 89° 07' 161.42 FEET ALONG LOT 6 OF FILE PLAN 1341, REMAINDER OF R.P. 4475, L.C. AW. 7713, AP. 30 TO VICTORIA KAMAMALU;

THENCE ALONG LOT 6 OF FILE PLAN 1341, REMAINDER OF R.P. 4475, L.C. AW. 7713, AP. 30 TO VICTORIA KAMAMALU, ON A CURVE TO THE RIGHT WITH A RADIUS OF 178.50 FEET, THE CHORD AZIMUTH AND DISTANCE BEING:

11. 132° 53' 57.56 FEET;

12. 145° 20' 19.47 FEET ALONG LOT 6 OF FILE PLAN 1341, REMAINDER OF R.P. 4475, L.C. AW. 7713, AP. 30 TO VICTORIA KAMAMALU;

13. 269° 07' 213.54 FEET ALONG REMAINDER OF R.P. 4475, L.C. AW. 7713, AP. 30 TO VICTORIA KAMAMALU;

14. 268° 50' 491.65 FEET ALONG REMAINDER OF R.P. 4475, L.C. AW. 7713, AP. 30 TO VICTORIA KAMAMALU;

15. 278° 57' 20" 52.72 FEET ALONG REMAINDER OF R.P. 4475, L.C. AW. 7713, AP. 30 TO VICTORIA KAMAMALU;

16. 271° 21' 50" 57.38 FEET ALONG REMAINDER OF R.P. 4475, L.C. AW. 7713, AP. 30 TO VICTORIA KAMAMALU;

17. 183° 24' 40" 68.63 FEET ALONG REMAINDER OF R.P. 4475, L.C. AW. 7713, AP. 30 TO VICTORIA KAMAMALU TO THE POINT OF BEGINNING AND CONTAINING AN AREA OF 1.652 ACRES, MORE OR LESS.

ITEM II:

ALL OF THAT CERTAIN PARCEL OF LAND (BEING PORTION OF THE LAND(S) DESCRIBED IN AND COVERED BY ROYAL PATENT NUMBER 4475, LAND COMMISSION AWARD NUMBER 7713, APANA 30 TO V. KAMAMALU) SITUATE, LYING AND BEING AT MAUNALUA, HONOLULU, CITY AND COUNTY OF HONOLULU, STATE OF HAWAII, BEING LOT A OF "QUEEN'S RISE", AND THUS

BOUNDED AND DESCRIBED AS PER SURVEY DATED MARCH 30, 1998, TO-WIT:

BEING AT THE SOUTHEAST CORNER OF THIS PARCEL OF LAND, ON THE NORTHWESTERLY SIDE OF KALANIANAOLE HIGHWAY, THE COORDINATES OF SAID POINT OF BEGINNING REFERRED TO GOVERNMENT SURVEY TRIANGULATION STATION "KOKO HEAD 3" BEING 13,876.23 FEET NORTH AND 15,158.09 FEET EAST AND RUNNING BY AZIMUTHS MEASURED CLOCKWISE FROM TRUE SOUTH:

1. 65° 58' 50" 155.73 FEET ALONG KALANIANAOLE HIGHWAY;

2. THENCE ALONG KALANIANAOLE HIGHWAY, ON A CURVE TO THE LEFT WITH A RADIUS OF 1,462.69 FEET, THE CHORD AZIMUTH AND DISTANCE BEING: 61° 51' 18" 210.46 FEET;

3. 147° 43' 46" 249.00 FEET ALONG THE REMAINDER OF ROYAL PATENT 4475, LAND COMMISSION AWARD 7713, APANA 30 TO V. KAMAMALU;

4. 70° 30' 320.00 FEET ALONG THE REMAINDER OF ROYAL PATENT 4475, LAND COMMISSION AWARD 7713, APANA 30 TO V. KAMAMALU;

5. 37° 40' 200.00 FEET ALONG THE REMAINDER OF ROYAL PATENT 4475, LAND COMMISSION AWARD 7713, APANA 30 TO V. KAMAMALU;

6. 80° 50' 104.00 FEET ALONG THE REMAINDER OF ROYAL PATENT 4475, LAND COMMISSION AWARD 7713, APANA 30 TO V. KAMAMALU;

7. 161° 08' 551.74 FEET ALONG THE REMAINDER OF ROYAL PATENT 4475, LAND COMMISSION AWARD 7713, APANA 30 TO V. KAMAMALU;

8. THENCE ALONG THE REMAINDER OF ROYAL PATENT 4475, LAND COMMISSION AWARD 7713, APANA 30 TO V. KAMAMALU, ON A CURVE TO THE LEFT WITH A RADIUS OF 6,800.00 FEET, THE CHORD AZIMUTH AND DISTANCE BEING: 176° 57' 18.25" 2,193.47 FEET;

9. 167° 40' 25" 956.91 FEET ALONG THE REMAINDER OF ROYAL PATENT 4475, LAND COMMISSION AWARD 7713, APANA 30 TO V. KAMAMALU;

10. THENCE ALONG TOP OF MAIN RIDGE OF KOOLAU RANGE, FOR THE NEXT FIVE (5) COURSES, THE DIRECT AZIMUTHS AND DISTANCES BETWEEN POINTS ON SAID TOP OF MAIN RIDGE BEING:

11. 277° 45' 182.11 FEET;

12. 338° 58' 50" 250.00 FEET;

13. 276" 53' 30" 490.00 FEET;

14. 316° 53' 50" 690.00 FEET;

15. 243° 00' 72.21 FEET;

16. THENCE ALONG THE REMAINDER OF PATENT 4475, LAND COMMISSION AWARD 7713, APANA 30 TO V. KAMAMALU, ON A CURVE TO THE RIGHT WITH A RADIUS OF 3,380.00 FEET, THE CHORD AZIMUTH AND DISTANCE BEING: 330° 35' 20" 1,423.24 FEET;

17. THENCE ALONG THE REMAINDER OF PATENT 4475, LAND COMMISSION AWARD 7713,

APANA 30 TO V. KAMAMALU, ON A CURVE TO THE LEFT WITH A RADIUS OF 470.00 FEET, THE CHORD AZIMUTH AND DISTANCE BEING: 327° 57' 10" 239.96 FEET;

18. 29° 40' 769.47 FEET ALONG THE REMAINDER OF ROYAL PATENT 4475, LAND COMMISSION AWARD 7713, APANA 30 TO V. KAMAMALU;

19. 63° 30' 439.14 FEET ALONG THE REMAINDER OF ROYAL PATENT 4475, LAND COMMISSION AWARD 7713, APANA 30 TO V. KAMAMALU;

20. 335° 58' 50" 348.16 FEET ALONG THE REMAINDER OF ROYAL PATENT 4475, LAND COMMISSION AWARD 7713, APANA 30 TO V. KAMAMALU, TO THE POINT OF BEGINNING AND CONTAINING AN AREA OF 98.459 ACRES, MORE OR LESS.

AS TO ITEMS I AND II:

BEING ALL OF THE PREMISES CONVEYED BY LIMITED WARRANTY DEED RECORDED JULY 11, 2008 AS REGULAR SYSTEM DOCUMENT NO. 2008-111754 OF OFFICIAL RECORDS.
GRANTOR: QRM, LLC, A HAWAII LIMITED LIABILITY COMPANY
GRANTEE: KULIA I KA NU'U ESTATES LLC, A HAWAII LIMITED LIABILITY COMPANY.

AS TO ITEM I; PARCEL SECOND:

BEING ALL OF THE PREMISES CONVEYED BY QUITCLAIM DEED SUBJECT TO COVENANTS RUNNING WITH THE LAND RECORDED JULY 11, 2008 AS REGULAR SYSTEM DOCUMENT NO. 2008-111755 OF OFFICIAL RECORDS.
GRANTOR: QRM, LLC, A HAWAII LIMITED LIABILITY COMPANY
GRANTEE: KULIA I KA NU'U ESTATES LLC, A HAWAII LIMITED LIABILITY COMPANY.

TMK(S): (1) 3-9-010-050-0000 (As to Item I)
3-9-010-047-0000 (As to Item II)

EXHIBIT A
LIST OF PRINTED EXCEPTIONS AND EXCLUSIONS (BY POLICY TYPE)

1. EAGLE PROTECTION OWNER'S POLICY

CLTA HOMEOWNER'S POLICY OF TITLE INSURANCE - 1998
ALTA HOMEOWNER'S POLICY OF TITLE INSURANCE - 1998

Covered Risks 14 (Subdivision Law Violation). 15 (Building Permit). 16 (Zoning) and 18 (Encroachment of boundary walls or fences) are subject to Deductible Amounts and Maximum Dollar Limits of Liability

EXCLUSIONS

In addition to the Exceptions in Schedule B, you are not insured against loss, costs, attorneys' fees, and expenses resulting from:

1. Governmental police power, and the existence or violation of any law or government regulation. This includes ordinances, laws and regulations concerning:
   a. building
   b. zoning
   c. land use
   d. improvements on the land
   e. land division
   f. environmental protection

   This exclusion does not apply to violations or the enforcement of these matters if notice of the violation or enforcement appears in the Public Records at the Policy Date.
   This exclusion does not limit the coverage described in Covered Risk 14, 15, 16, 17 or 24.
2. The failure of Your existing structures, or any part of them, to be constructed in accordance with applicable building codes. This Exclusion does not apply to violations of building codes if notice of the violation appears in the Public Records at the Policy Date.
3. The right to take the Land by condemning it, unless:
   a. a notice of exercising the right appears in the Public Records at the Policy Date; or
   b. the taking happened before the Policy Date and is binding on You if You bought the Land without Knowing of the taking.
4. Risks:
   a. that are created, allowed, or agreed to by You, whether or not they appear in the Public Records;
   b. that are Known to You at the Policy Date, but not to Us, unless they appear in the Public Records at the Policy Date;
   c. that result in no loss to You; or
   d. that first occur after the Policy Date - this does not limit the coverage described in Covered Risk 7, 8.d, 22, 23, 24 or 25.
5. Failure to pay value for Your Title.
6. Lack of a right:
   a. to any Land outside the area specifically described and referred to in paragraph 3 of Schedule A; and
   b. in streets, alleys, or waterways that touch the Land.
   This exclusion does not limit the coverage described in Covered Risk 11 or 18.

LIMITATIONS ON COVERED RISKS

Your insurance for the following Covered Risks is limited on the Owner's Coverage Statement as follows:

Covered Risk 14, 15, 16 and 18, Your Deductible Amount and Our Maximum Dollar Limit of Liability shown in Schedule A.

The deductible amounts and maximum dollar limits shown on Schedule A are as follows:

	Your Deductible Amount	Our Maximum Dollar Limit of Liability
Covered Risk 14:	1% of Policy Amount or $5,000.00 (whichever is less)	$10,000.00
Covered Risk 15:	1% of Policy Amount or $5,000.00 (whichever is less)	$25,000.00
Covered Risk 16:	1% of Policy Amount or $5,000.00 (whichever is less)	$25,000.00
Covered Risk 18:	1% of Policy Amount or $2,500.00 (whichever is less)	$5,000.00

2. SECOND GENERATION EAGLE LOAN POLICY AMERICAN LAND TITLE ASSOCIATION EXPANDED COVERAGE RESIDENTIAL LOAN POLICY (10/13/01)

EXCLUSIONS FROM COVERAGE

The following matters are expressly excluded from the coverage of this policy and the Company will not pay loss or damage, costs, attorneys' fees or expenses which arise by reason of:

1. (a) Any law, ordinance or governmental regulation (including but not limited to building and zoning laws, ordinances, or regulations) restricting, regulating, prohibiting or relating to (i) the occupancy, use, or enjoyment of the Land; (ii) the character, dimensions or location of any improvement now or hereafter erected on the Land; (iii) a separation in ownership or a change in the dimensions or area of the Land or any parcel of which the Land is or was a part; or (iv) environmental protection, or the effect of any violation of these laws, ordinances or governmental regulations, except to the extent that a notice of the enforcement thereof or a notice of a defect, lien or encumbrance resulting from a violation or alleged violation affecting the Land has been recorded in the Public Records at Date of Policy. This exclusion does not limit the coverage provided under Covered Risks 12, 13, 14 and 16 of this policy.
   (b) Any governmental police power not excluded by (a) above, except to the extent that a notice of the exercise thereof or a notice of a defect, lien or encumbrance resulting from a violation or alleged violation affecting the land has been recorded in the Public Records at Date of Policy. This exclusion does not limit the coverage provided under Covered Risks 12, 13, 14 and 16 of this policy.
2. Rights of eminent domain unless notice of the exercise thereof has been recorded in the Public Records at Date of Policy, but not excluding from coverage any taking which has occurred prior to Date of Policy which would be binding on the rights of a purchaser for value without Knowledge.
3. Defects, liens, encumbrances, adverse claims or other matters:
   (a) created, suffered, assumed or agreed to by the Insured Claimant;
   (b) not Known to the Company, not recorded in the Public Records at Date of Policy, but Known to the Insured Claimant and not disclosed in writing to the Company by the Insured Claimant prior to the date the Insured Claimant became an Insured under this policy;
   (c) resulting in no loss or damage to the Insured Claimant;
   (d) attaching or created subsequent to Date of Policy (this paragraph does not limit the coverage provided under Covered Risks 8, 16, 18, 19, 20, 21, 22, 23, 24, 25 and 26); or
   (e) resulting in loss or damage which would not have been sustained if the Insured Claimant had paid value for the Insured Mortgage.
4. Unenforceability of the lien of the Insured Mortgage because of the inability or failure of the Insured at Date of Policy, or the inability or failure of any subsequent owner of the indebtedness, to comply with applicable doing business laws of the state in which the Land is situated.
5. Invalidity or unenforceability of the lien of the Insured Mortgage, or claim thereof, which arises out of the transaction evidenced by the Insured Mortgage and is based upon usury, except as provided in Covered Risk 27, or any consumer credit protection or truth in lending law.
6. Real property taxes or assessments of any governmental authority which become a lien on the Land subsequent to Date of Policy. This exclusion does not limit the coverage provided under Covered Risks 7, 8 (e) and 26.
7. Any claim of invalidity, unenforceability or lack of priority of the lien of the Insured Mortgage as to advances or modifications made after the Insured has Knowledge that the vestee shown in Schedule A is no longer the owner of the estate or interest covered by this policy. This exclusion does not limit the coverage provided in Covered Risk 8.
8. Lack of priority of the lien of the Insured Mortgage as to each and every advance made after Date of Policy, and all interest charged thereon, over liens, encumbrances and other matters affecting title, the existence of which are Known to the Insured at:
   (a) The time of the advance; or
   (b) The time a modification is made to the terms of the Insured Mortgage which changes the rate of interest charged, if the rate of interest is greater as a result of the modification than it would have been before the modification.
   This exclusion does not limit the coverage provided in Covered Risk 8.
9. The failure of the residential structure, or any portion thereof to have been constructed before, on or after Date of Policy in accordance with applicable building codes. This exclusion does not apply to violations of building codes if notice of the violation appears in the Public Records at Date of Policy.

3. AMERICAN LAND TITLE ASSOCIATION OWNER'S POLICY - 2006
EXCLUSIONS FROM COVERAGE

The following matters are expressly excluded from the coverage of this policy and the Company will not pay loss or damage, costs, attorneys' fees or expenses which arise by reason of:

1. (a) Any law, ordinance, permit, or governmental regulation (including those relating to building and zoning) restricting, regulating, prohibiting, or relating to
   (i) the occupancy, use, or enjoyment of the Land;
   (ii) the character, dimensions, or location of any improvement erected on the Land;
   (iii) the subdivision of land; or
   (iv) environmental protection;
   or the effect of any violation of these laws, ordinances, or governmental regulations. This Exclusion 1(a) does not modify or limit the coverage provided under Covered Risk 5.
   (b) Any governmental police power. This Exclusion 1(b) does not modify or limit the coverage provided under Covered Risk 6.
2. Rights of eminent domain. This Exclusion does not modify or limit the coverage provided under Covered Risk 7 or 8.
3. Defects, liens, encumbrances, adverse claims, or other matters
   (a) created, suffered, assumed, or agreed to by the Insured Claimant;
   (b) not Known to the Company, not recorded in the Public Records at Date of Policy, but Known to the Insured Claimant and not disclosed in writing to the Company by the Insured Claimant prior to the date the Insured Claimant became an Insured under this policy;

(c) resulting in no loss or damage to the Insured Claimant;

(d) attaching or created subsequent to Date of Policy (however, this does not modify or limit the coverage provided under Covered Risks 9 and 10); or

(e) resulting in loss or damage that would not have been sustained if the Insured Claimant had paid value for the Title.

4. Any claim, by reason of the operation of federal bankruptcy, state insolvency, or similar creditors? rights laws, that the transaction vesting the Title as shown in Schedule A, is

(a) a fraudulent conveyance or fraudulent transfer; or

(b) a preferential transfer for any reason not stated in Covered Risk 9 of this policy.

5. Any lien on the Title for real estate taxes or assessments imposed by governmental authority and created or attaching between Date of Policy and the date of recording of the deed or other instrument of transfer in the Public Records that vests Title as shown in Schedule A.

4. AMERICAN LAND TITLE ASSOCIATION LOAN POLICY - 2006
EXCLUSIONS FROM COVERAGE

The following matters are expressly excluded from the coverage of this policy, and the Company will not pay loss or damage, costs, attorneys' fees, or expenses that arise by reason of:

1. (a) Any law, ordinance, permit, or governmental regulation (including those relating to building and zoning) restricting, regulating, prohibiting, or relating to

   (i) the occupancy, use, or enjoyment of the Land;

   (ii) the character, dimensions, or location of any improvement erected on the Land;

   (iii) the subdivision of land; or

   (iv) environmental protection;

   or the effect of any violation of these laws, ordinances, or governmental regulations. This Exclusion 1(a) does not modify or limit the coverage provided under Covered Risk 5.

   (b) Any governmental police power. This Exclusion 1(b) does not modify or limit the coverage provided under Covered Risk 6.

2. Rights of eminent domain. This Exclusion does not modify or limit the coverage provided under Covered Risk 7 or 8.

3. Defects, liens, encumbrances, adverse claims, or other matters

   (a) created, suffered, assumed, or agreed to by the Insured Claimant;

   (b) not Known to the Company, not recorded in the Public Records at Date of Policy, but Known to the Insured Claimant and not disclosed in writing to the Company by the Insured Claimant prior to the date the Insured Claimant became an Insured under this policy;

   (c) resulting in no loss or damage to the Insured Claimant;

   (d) attaching or created subsequent to Date of Policy (however, this does not modify or limit the coverage provided under Covered Risk 11, 13, or 14); or

   (e) resulting in loss or damage that would not have been sustained if the Insured Claimant had paid value for the Insured Mortgage.

4. Unenforceability of the lien of the Insured Mortgage because of the inability or failure of an Insured to comply with applicable doing-business laws of the state where the Land is situated.

5. Invalidity or unenforceability in whole or in part of the lien of the Insured Mortgage that arises out of the transaction evidenced by the Insured Mortgage and is based upon usury or any consumer credit protection or truth-in-lending law.

6. Any claim, by reason of the operation of federal bankruptcy, state insolvency, or similar creditors' rights laws, that the transaction creating the lien of the Insured Mortgage, is

   (a) a fraudulent conveyance or fraudulent transfer, or

   (b) a preferential transfer for any reason not stated in Covered Risk 13(b) of this policy.

7. Any lien on the Title for real estate taxes or assessments imposed by governmental authority and created or attaching between Date of Policy and the date of recording of the Insured Mortgage in the Public Records. This Exclusion does not modify or limit the coverage provided under Covered Risk 11(b).

5. REGIONAL EXCEPTIONS

When the American Land Title Association policy is issued as a Standard Coverage Policy and not as an Extended Coverage Policy the exclusions set forth above are used and the following exceptions to coverage appear in the policy.

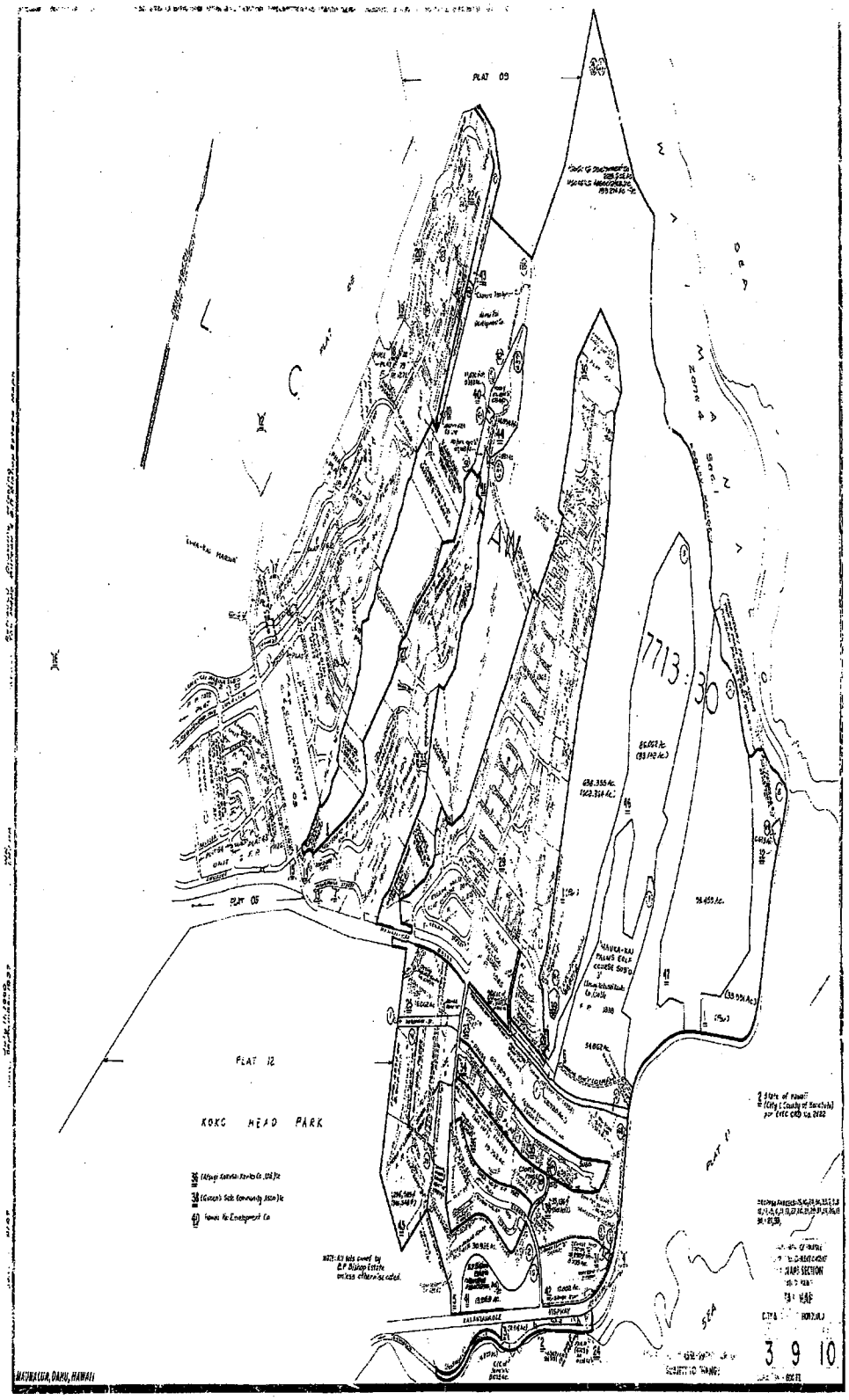
SCHEDULE B

Part One:

1. Taxes or assessments that are not shown as existing liens by the records of any taxing authority that levies taxes or assessments on real property or by the Public Records; (b) proceedings by a public agency that may result in taxes or assessments, or notices of such proceedings, whether or not shown by the records of such agency or by the Public Records.

2. Any facts, rights, interests, or claims that are not shown by the Public Records but that could be ascertained by an inspection of the Land or that may be asserted by persons in possession of the Land.

3. Easements, liens or encumbrances, or claims thereof, not shown by the Public Records.
4. Any encroachment, encumbrance, violation, variation, or adverse circumstance affecting the Title that would be disclosed by an accurate and complete land survey of the Land and not shown by the Public Records.
5. Unpatented mining claims; (b) reservations or exceptions in patents or in Acts authorizing the issuance thereof; (c) water rights, claims or title to water, whether or not the matters excepted under (a), (b), or (c) are shown by the Public Records.


PLAT 09
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7713:30
3 9 10
MAUNALUA, OAHU, HAWAII

PRIVACY POLICY

We Are Committed to Safeguarding Customer Information

In order to better serve your needs now and in the future, we may ask you to provide us with certain information. We understand that you may be concerned about what we will do with such information – particularly any personal or financial information. We agree that you have a right to know how we will utilize the personal information you provide to us. Therefore, together with our parent company, The First American Corporation, we have adopted this Privacy Policy to govern the use and handling of your personal information.

Applicability

This Privacy Policy governs our use of the information which you provide to us. It does not govern the manner in which we may use information we have obtained from any other source, such as information obtained from a public record or from another person or entity. First American has also adopted broader guidelines that govern our use of personal information regardless of its source. First American calls these guidelines its *Fair Information Values*, a copy of which can be found on our website at www.firstam.com.

Types of Information

Depending upon which of our services you are utilizing, the types of nonpublic personal information that we may collect include:

- Information we receive from you on applications, forms and in other communications to us, whether in writing, in person, by telephone or any other means;
- Information about your transactions with us, our affiliated companies, or others; and
- Information we receive from a consumer reporting agency.

Use of Information

We request information from you for our own legitimate business purposes and not for the benefit of any nonaffiliated party. Therefore, we will not release your information to nonaffiliated parties except: (1) as necessary for us to provide the product or service you have requested of us; or (2) as permitted by law. We may, however, store such information indefinitely, including the period after which any customer relationship has ceased. Such information may be used for any internal purpose, such as quality control efforts or customer analysis. We may also provide all of the types of nonpublic personal information listed above to one or more of our affiliated companies. Such affiliated companies include financial service providers, such as title insurers, property and casualty insurers, and trust and investment advisory companies, or companies involved in real estate services, such as appraisal companies, home warranty companies, and escrow companies. Furthermore, we may also provide all the information we collect, as described above, to companies that perform marketing services on our behalf, on behalf of our affiliated companies, or to other financial institutions with whom we or our affiliated companies have joint marketing agreements.

Former Customers

Even if you are no longer our customer, our Privacy Policy will continue to apply to you.

Confidentiality and Security

We will use our best efforts to ensure that no unauthorized parties have access to any of your information. We restrict access to nonpublic personal information about you to those individuals and entities who need to know that information to provide products or services to you. We will use our best efforts to train and oversee our employees and agents to ensure that your information will be handled responsibly and in accordance with this Privacy Policy and First American's *Fair Information Values*. We currently maintain physical, electronic, and procedural safeguards that comply with federal regulations to guard your nonpublic personal information.

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Legacy Land Conservation Program
Agency Consultation Form, Fiscal Year 2015 (rev 4/2014)

TO: William J. Aila, Jr., Department of Land and Natural Resources
director/chair and agency

FROM: Laura Kaakua, The Trust for Public Land
applicant (contact person and agency/organization)

DATE: 7/1/2014

SUBJECT: Consultation request regarding a Legacy Land Conservation Program application for Ka Iwi Coast Mauka Lands
project title

Chapter 173A, Hawaii Revised Statutes, requires applicants to the Legacy Land Conservation Program to seek the consultation of the Department of Land and Natural Resources, Department of Agriculture, and the Agribusiness Development Corporation with regard to the maximization of public benefits of each proposed land acquisition project. Consulting agencies may 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).

A summary of the applicant's proposed project is attached. Please respond directly to the applicant on agency letterhead, and attach a copy of this form. Please submit comments by August 15, 2014. If no response is received by this date, we will assume your agency has no comments. Please note that a lack of response from an agency (where the applicant has submitted the Consultation Request Form by deadline) will not negatively impact the consideration of the project application by the Legacy Land Conservation Commission.

Please contact the applicant directly with questions regarding the proposed project, and contact the Program Coordinator at 586-0921, with any questions regarding the agency consultation requirement or the Legacy Land Conservation Program.

- [ ] We have no objections.
- [ ] We have no comments.
- [x] Comments are attached.

Signed: [signature]

Title: Chairperson, DLNR

Date: 8/14/14

Legacy Land Conservation Program
Agency Consultation Form, Fiscal Year 2015 (rev 4/2014)

Consultation request to: William J. Aila, Jr., Department of Land and Natural Resources
Submitted by: Laura Kaakua, The Trust for Public Land
Regarding a grant proposal to the Legacy Land Conservation Program, DLNR/DOFAW

Project summary: (to be completed by applicant)

Applicant: State DLNR, Ka Iwi Coalition under Livable Hawaii Kai Hui, and The Trust for Public Land
Address: TPL: 1003 Bishop St. Ste. 740, Honolulu, HI 96813
Contact name, phone, email: TPL: Laura Kaakua, 524-8562, laura.kaakua@tpl.org
Acres: 181.14 Type of interest to be acquired: Fee simple
Tax map key(s): (1)3-9-010:047 and (1)3-9-010:050
If the acquisition is a fee acquisition, will a conservation easement be provided to another agency or nonprofit organization? If so, which agency/organization? It is anticipated that a conservation easement will be provided to the City & County of Honolulu as a condition of receiving Clean Water & Natural Lands funding. Ka Iwi Coalition may be a co-holder of the easement.

Location (describe briefly and attach a location map and parcel map):

The properties are in Southeast Oahu, in the Koolaupoko moku, Maunalua ahupuaa. The properties are mauka of Kalanianaole Hwy. between the Hawaii Kai Golf Course and Makapuu.

Resources to be protected:

Ka Iwi means the bones and the entire Ka Iwi Coastline is culturally significant for its past and current Hawaiian cultural uses. The properties are part of the cherished Ka Iwi Coastline viewplane of undeveloped ocean cliffs and sandy beaches rising up to wahi pana of Kohelepelepe, the gently rising base of the Koolau Range, and Makapuu. The properties may also provide habitat for native seabirds and migratory birds, and discussions with biologists in the area will provide more information.

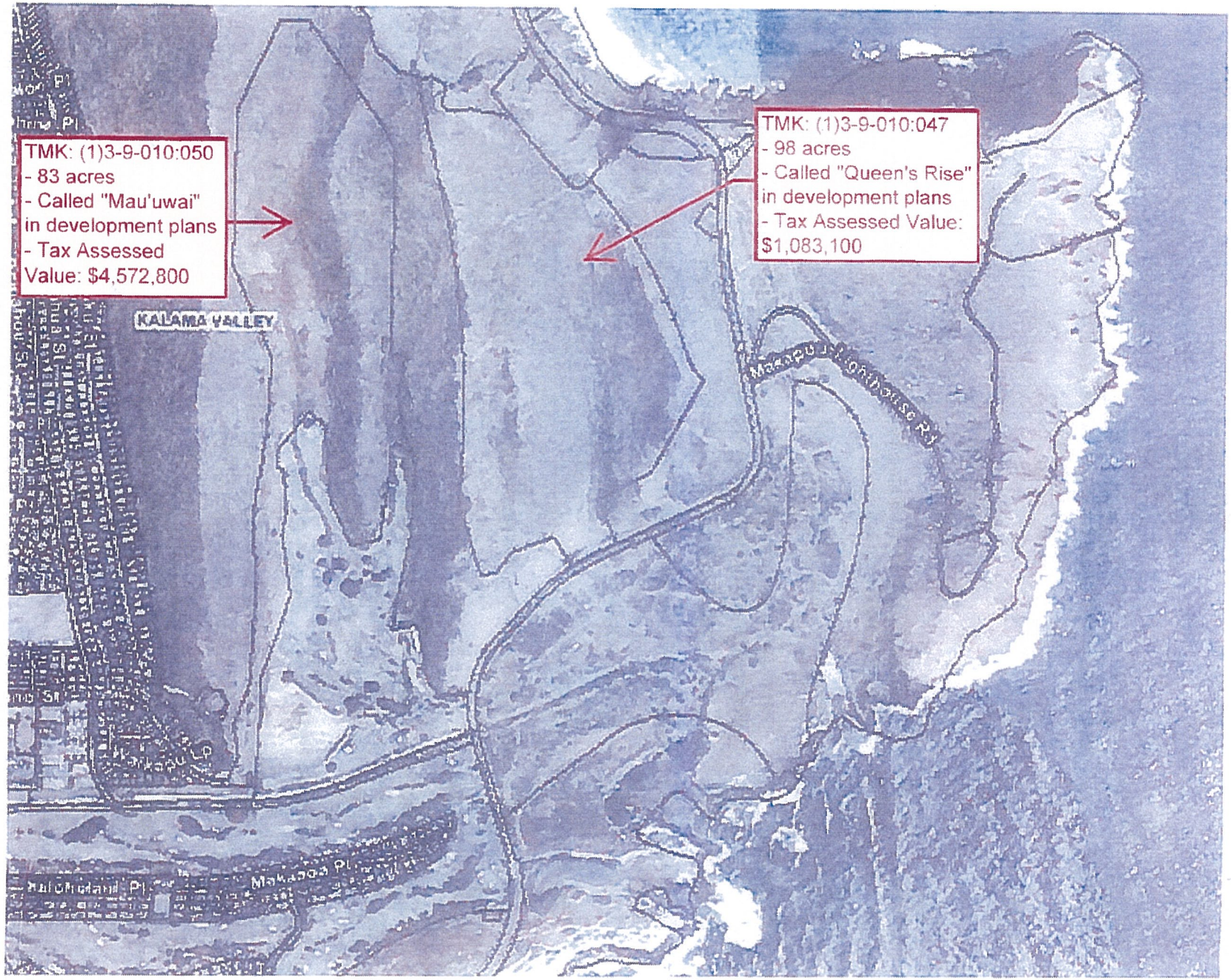
Public benefits:

The public has advocated for the protection of the Ka Iwi Coastline for over 40 years in various initiatives and community groups such as Friends of Queen's Beach, the "Save Sandy Beach Initiative" and the Ka Iwi Coalition. Protecting the Ka Iwi Coast Mauka Lands will preserve the stunning viewplane from Kohelepelepe (Koko Crater), Makapuu, Kalanianaole Hwy. and from the popular waters of Sandy Beach. Acquisition of the properties will also protect the entire area as a Hawaiian cultural landscape, and allow for the study of cultural sites, Hawaiian cultural practices, and possibly limited recreational use.

Plans for management:

The properties will be owned by either the State of Hawaii under the Department of Land and Natural Resources, or if the State decides against ownership, by Ka Iwi Coalition under the nonprofit umbrella organization Livable Hawaii Kai Hui. The properties will be kept undeveloped and passively managed. There are opportunities for access for Hawaiian cultural practices, and managed educational access, but the properties will not be regularly held open to the public for recreation.

Please return form and comments to the applicant at the address listed above. Thank you.


TMK: (1)3-9-010:050
- 83 acres
- Called "Mau'uwai"
in development plans
- Tax Assessed
Value: $4,572,800
TMK: (1)3-9-010:047
- 98 acres
- Called "Queen's Rise"
in development plans
- Tax Assessed Value:
$1,083,100
KALAMA VALLEY

NEIL ABERCROMBIE
GOVERNOR OF HAWAII

WILLIAM J. AILA, JR.
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

JESSE K. SOUKI
FIRST DEPUTY

WILLIAM M. TAM
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

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

August 7, 2014

TO: Laura Kaakua, Native Lands Project Manager
The Trust for Public Land

FROM: William J. Aila, Jr., Chairperson

SUBJECT: Comments regarding request for consultation on a summary for a proposal to the Legacy Land Conservation Program

The following comments were received from Divisions within the Department regarding the proposal summary by the Department, Ka Iwi Coalition under Livable Hawaii Kai Hui, and The Trust for Public Land for the Ka Iwi Coast Mauka Lands project:

Division of Forestry and Wildlife:

- Oahu Branch supports to Ka Iwi Coast Mauka Lands proposal.

Land Division:

- It's not clear how the property would be managed if owned by DLNR, from the information provided. The applications should confirm which division will manage and that it will not remain unencumbered land.

Division of State Parks:

- The Division of State Parks supports the preservation of this land, but does not have the resources to assume the management of the area.

Office of Conservation and Coastal Lands:

- Please note that TMK (1) 3-9-010:050 is marked as TMK (1) 3-9-010:046 in OCCL records; contact Alex Roy at 587-0316 or alex.j.roy@hawaii.gov with questions or concerns.

Thank you for the opportunity to provide consultation on this proposal.

"0103
Earl

Legacy Land Conservation Program
Agency Consultation Form, Fiscal Year 2015 (rev 4/2014)

HAWAII DEPT OF AGR
2014 JUL -2 AM 11:49

TO: Scott Enright ~~Russell S. Kokubun~~, Department of Agriculture
director/chair and agency

FROM: Laura Kaakua, The Trust for Public Land
applicant (contact person and agency/organization)

DATE: 7/1/2014

SUBJECT: Consultation request regarding a Legacy Land Conservation Program application for Ka Iwi Coast Mauka Lands
project title

Chapter 173A, Hawaii Revised Statutes, requires applicants to the Legacy Land Conservation Program to seek the consultation of the Department of Land and Natural Resources, Department of Agriculture, and the Agribusiness Development Corporation with regard to the maximization of public benefits of each proposed land acquisition project. Consulting agencies may 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).

A summary of the applicant's proposed project is attached. Please respond directly to the applicant on agency letterhead, and attach a copy of this form. Please submit comments by August 15, 2014. If no response is received by this date, we will assume your agency has no comments. Please note that a lack of response from an agency (where the applicant has submitted the Consultation Request Form by deadline) will not negatively impact the consideration of the project application by the Legacy Land Conservation Commission.

Please contact the applicant directly with questions regarding the proposed project, and contact the Program Coordinator at 586-0921, with any questions regarding the agency consultation requirement or the Legacy Land Conservation Program.

- [ ] We have no objections.
- [x] We have no comments. The Hawaii Department of Agriculture does not view this application as an agricultural activity or resource matter.
- [ ] Comments are attached.

Signed: [signature]

Title: Chairperson, Hawaii Dept. of Agriculture

Date: August 18, 2014

Legacy Land Conservation Program
Agency Consultation Form, Fiscal Year 2015 (rev 4/2014)

HI DEPT OF AGRICULTURE
AGRIBUSINESS DEV CORP

2014 JUL -2 P 2:51

TO: James Nakatani, Agribusiness Development Corp
director/chair and agency

FROM: Laura Kaakua, The Trust for Public Land
applicant (contact person and agency/organization)

DATE: 7/1/2014

SUBJECT: Consultation request regarding a Legacy Land Conservation Program application for Ka Iwi Coast Mauka Lands
project title

Chapter 173A, Hawaii Revised Statutes, requires applicants to the Legacy Land Conservation Program to seek the consultation of the Department of Land and Natural Resources, Department of Agriculture, and the Agribusiness Development Corporation with regard to the maximization of public benefits of each proposed land acquisition project. Consulting agencies may 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).

A summary of the applicant's proposed project is attached. Please respond directly to the applicant on agency letterhead, and attach a copy of this form. Please submit comments by August 15, 2014. If no response is received by this date, we will assume your agency has no comments. Please note that a lack of response from an agency (where the applicant has submitted the Consultation Request Form by deadline) will not negatively impact the consideration of the project application by the Legacy Land Conservation Commission.

Please contact the applicant directly with questions regarding the proposed project, and contact the Program Coordinator at 586-0921, with any questions regarding the agency consultation requirement or the Legacy Land Conservation Program.

- [x] We have no objections.
- [x] We have no comments.
- [ ] Comments are attached.

Signed: [signature]

Title: Executive Director

Date: August 11, 2014

Legacy Land Conservation Program
Agency Consultation Form, Fiscal Year 2015 (rev 4/2014)

Consultation request to: James Nakatani, Agribusiness Development Corporation

Submitted by: Laura Kaakua, The Trust for Public Land

Regarding a grant proposal to the Legacy Land Conservation Program, DLNR/DOFAW

Project summary: (to be completed by applicant)

Applicant: State DLNR, Ka Iwi Coalition under Livable Hawaii Kai Hui, and The Trust for Public Land

Address: TPL: 1003 Bishop St. Ste. 740, Honolulu, HI 96813

Contact name, phone, email: TPL: Laura Kaakua, 524-8562, laura.kaakua@tpl.org

Acres: 181.14 Type of interest to be acquired: Fee simple

Tax map key(s): (1)3-9-010:047 and (1)3-9-010:050

If the acquisition is a fee acquisition, will a conservation easement be provided to another agency or nonprofit organization? If so, which agency/organization? It is anticipated that a conservation easement will be provided to the City & County of Honolulu as a condition of receiving Clean Water & Natural Lands funding. Ka Iwi Coalition may be a co-holder of the easement.

Location (describe briefly and attach a location map and parcel map):

The properties are in Southeast Oahu, in the Koolaupoko moku, Maunalua ahupuaa. The properties are mauka of Kalanianaole Hwy. between the Hawaii Kai Golf Course and Makapuu.

Resources to be protected:

Ka Iwi means the bones and the entire Ka Iwi Coastline is culturally significant for its past and current Hawaiian cultural uses. The properties are part of the cherished Ka Iwi Coastline viewplane of undeveloped ocean cliffs and sandy beaches rising up to wahi pana of Kohelepelepe, the gently rising base of the Koolau Range, and Makapuu. The properties may also provide habitat for native seabirds and migratory birds, and discussions with biologists in the area will provide more information.

Public benefits:

The public has advocated for the protection of the Ka Iwi Coastline for over 40 years in various initiatives and community groups such as Friends of Queen's Beach, the "Save Sandy Beach Initiative" and the Ka Iwi Coalition. Protecting the Ka Iwi Coast Mauka Lands will preserve the stunning viewplane from Kohelepelepe (Koko Crater), Makapuu, Kalanianaole Hwy. and from the popular waters of Sandy Beach. Acquisition of the properties will also protect the entire area as a Hawaiian cultural landscape, and allow for the study of cultural sites, Hawaiian cultural practices, and possibly limited recreational use.

Plans for management:

The properties will be owned by either the State of Hawaii under the Department of Land and Natural Resources, or if the State decides against ownership, by Ka Iwi Coalition under the nonprofit umbrella organization Livable Hawaii Kai Hui. The properties will be kept undeveloped and passively managed. There are opportunities for access for Hawaiian cultural practices, and managed educational access, but the properties will not be regularly held open to the public for recreation.

Please return form and comments to the applicant at the address listed above. Thank you.

NEIL ABERCROMBIE
GOVERNOR OF HAWAII

WILLIAM J. AILA, JR.
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

JESSE K. SOUKI
FIRST DEPUTY

WILLIAM M. TAM
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

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES

STATE HISTORIC PRESERVATION DIVISION
601 KAMOKILA BOULEVARD, ROOM 555
KAPOLEI, HAWAII 96707

August 26, 2014

Log No. 2014.3365
Doc No. 1408TD03

MEMORANDUM

TO: Molly Schmidt, Legacy Land Conservation Program Coordinator
Division of Forestry and Wildlife
1151 Punchbowl Street, Room 325
Honolulu, Hawai'i 96813
(Molly.E.Schmidt@hawaii.gov)

FROM: Theresa K. Donham, Archaeology Branch Chief

SUBJECT: **Chapter 6E-8 Historic Preservation Review –**
Legacy Land Conservation Program Applicants for Fiscal Year 2015
O'ahu, Maui, Moloka'i, Kaua'i and Hawai'i Islands

Thank you for requesting comments on the eight proposed Legacy Land Conservation Program applications, received by our office July 22, 2014. The applications are as follows:

- Ka Iwi Coast Mauka, O'ahu, TMK (1) 3-9-010:047 & 050, 181.14 acres (viewplane, seabird conservation)
- Loko O Mokuhinia, Lahaina, Maui (2) 4-6-007:037 & 038, 1 acre (wetland and habitat restoration)
- Pua'ahala Ahupua'a, East Moloka'i (2) 5-6-005, 006, 007 var., 800 acres (wildlife sanctuary)
- Kalua'aha Ranch, East Moloka'i (2) 5-7-005:001 por, 907 acres (conservation easement)
- Kapoho Makai (Wai'opae), Hawai'i (3)1-4-002:022, 322.2 acres (shoreline access, habitat conservation)
- Kaunamano Ahupua'a, Ka'ū, Hawai'i (3) 9-5-011, 012, var., 1,363 acres (traditional cultural preservation)
- Waipake Makai, East Kaua'i (4) 5-1-003:006, 181 acres (wildlife sanctuary)
- Waipa Stream Wetlands, Kaua'i (4) 5-6-004:010, 1.8 acres (habitat for endangered nesting wetland birds)

The State Historic Preservation Division (SHPD) has no concerns or objections to the designation of the above properties as Legacy Lands. This designation will certainly be instrumental in preserving historic and cultural resources located on these lands. Many of these applications contain numerous historic properties that will retain greater significance if preserved within a natural, undeveloped landscape. For historic preservation value, the applications from Hawai'i and Moloka'i Islands have the greatest potential to provide preservation of traditional cultural landscapes with numerous intact historic properties.

Exhibit B

Checklist for Legacy Land Conservation Program (LLCP) Projects

The following items must be completed to the STATE's satisfaction prior to the final award:

☐ Title report review A current title report of the Property must be submitted to and reviewed through the Department of Land and Natural Resources, Land Division ("LD").

☐ Appraisal certification. AWARDEE shall first supply LD a current title report, then contact LD regarding certification requirements prior to issuing appraisal instructions for a new appraisal or ordering an update of a pre-existing appraisal. An appraisal of the Property must be done and submitted to the LLCP and the Awardee must produce an independent review report using specific instructions from LLCP and LD, with final approval by the Chairperson of the Board of Land and Natural Resources.

☐ Matching funds and project accounting. Evidence of matching funds, as required by law, must be provided to LLCP. AWARDEE must provide an accounting of all LLCP grant funds to be expended, evidenced by supporting documentation.

☐ Escrow. Funds that are to be used for the purchase of property will be deposited directly into escrow by LLCP. AWARDEE must provide a copy of the escrow instructions, the account number, and a tentative buyer's statement to the LLCP.

☐ Title insurance. AWARDEE must obtain title insurance in the full amount of the purchase price, insuring that the title to the Property is vested in the AWARDEE.

☐ Environmental inspection. AWARDEE must conduct an environmental inspection to determine whether there is any environmental contamination or potential for contamination on the property. One or more Environmental Site Assessment(s) (ESA) may be required by STATE. If an environmental condition is found, a Phase II and appropriate remediation (at the cost of awardee) will be required prior to disbursal of funds. AWARDEE must complete the form supplied by the LLCP and return to the LLCP before funds may be disbursed.

☐ Chapter 343, HRS, compliance. An Environmental Assessment and/or Cultural Assessment as may be required by law.

☐ Resource value documentation. AWARDEE shall submit a written statement and photographs that reflect the current status and condition of the resources for which the land is to be protected. The statement shall be certified by AWARDEE and the photographs shall be taken from identifiable locations on the Property.

☐ Purchase and Sale Agreement. AWARDEE shall submit a copy of the purchase and sale agreement in final draft form.

☐ Deed. AWARDEE shall submit a copy of proposed deed prior to execution of deed for review and approval by STATE. The purchase price of the property must be included in the deed.

Livable Hawaii Kai Hui

Sensible Growth, Respect for the land

Livable Hawaii Kai Hui
P.O. Box 25493
Honolulu, Hawaii 96825

I, Suzanne Roig Gordon, Secretary of Livable Hawaii Kai Hui, a 501(c)3 Hawaii Corporation, do hereby certify that the following is a full, true and correct copy of a resolution duly adopted by the Board of Directors of Livable Hawaii Kai Hui at its meeting duly called and held at 7177 Kamilo Street, Honolulu Hawaii 96825 on the 27th day of December 2012, at which a quorum was present and acting throughout, and that said resolution has not been modified or rescinded and continues in force and effect:

"The Board of Directors authorize the president of Livable Hawaii Kai Hui to perform any and all such acts, including execution of any and all documents and certificates, as said officer shall deem necessary to purchase Ka Iwi mauka lands including engagement with The Trust for Public Land, enter into a State of Hawaii Legacy Land Conservation Fund grant agreement and City and County of Honolulu Clean Water and Natural Lands Funds agreement."

The names and addresses of current officers of Livable Hawaii Kai Hui are:

President Elizabeth Reilly
7177 Kamilo Street
Honolulu, Hawaii 96825

Vice President Allen Tateishi
7245 Kamilo Street
Honolulu, Hawaii 96825

Treasure Marian Grey
243 Ainahou Street
Honolulu, Hawaii 96825

Secretary Suzanne Roig Gordon
345 Honono Street
Honolulu, Hawaii 96825

Suzanne Roig Gordon 9/15/15

Suzanne Roig Gordon, Secretary Date

STATE OF HAWAII
STATE PROCUREMENT OFFICE

CERTIFICATE OF VENDOR COMPLIANCE

This document presents the compliance status of the vendor identified below on the issue date with respect to certificates required from the Hawaii Department of Taxation (DOTAX), the Internal Revenue Service, the Hawaii Department of Labor and Industrial Relations (DLIR), and the Hawaii Department of Commerce and Consumer Affairs (DCCA).

Vendor Name: **LIVABLE HAWAII KAI HUI**

DBA/Trade Name: **LIVABLE HAWAII KAI HUI**

Issue Date: **09/10/2015**

Status: **Compliant**

Hawaii Tax#: W66539147-01
FEIN/SSN#: XX-XXX0676
UI#: No record
DCCA FILE#: 208496

Status of Compliance for this Vendor on issue date:

Form	Department(s)	Status
A-6	Hawaii Department of Taxation	Compliant
	Internal Revenue Service	Compliant
COGS	Hawaii Department of Commerce & Consumer Affairs	Exempt
LIR27	Hawaii Department of Labor & Industrial Relations	Compliant

Status Legend:

Status	Description
Exempt	The entity is exempt from this requirement
Compliant	The entity is compliant with this requirement or the entity is in agreement with agency and actively working towards compliance
Pending	The entity is compliant with DLIR requirement
Submitted	The entity has applied for the certificate but it is awaiting approval
Not Compliant	The entity is not in compliance with the requirement and should contact the issuing agency for more information

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

April 10, 2015

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

Board Members:

SUBJECT: REVIEW OF PROJECT RECOMMENDATION FOR FUNDING FROM THE FISCAL YEAR 2015 LEGACY LAND CONSERVATION PROGRAM (LAND CONSERVATION FUND) AND RECOMMENDATION TO DENY AMENDMENT AND APPROVAL OF THE FOLLOWING GRANT:

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.

AND RECOMMENDATION TO APPROVE THE FOLLOWING GRANTS:

PUPUKEA MAUKA; DEPARTMENT OF LAND AND NATURAL RESOURCES, DIVISION OF FORESTRY AND WILDLIFE, AT $583,875 FOR ACQUISITION OF 3,716 ACRES IN WAIALUA, ISLAND OF OAHU.

HELEMANO; DEPARTMENT OF LAND AND NATURAL RESOURCES, DIVISION OF FORESTRY AND WILDLIFE, AT $416,125 FOR ACQUISITION OF 1,420 ACRES IN WAIALUA, ISLAND OF OAHU.

SUMMARY:

Pursuant to H.R.S., section 173A-2.5, the Legacy Land Conservation Commission (the Commission) produced recommendations to the Board of Land and Natural Resources (Board) 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 of Land and Natural Resources (Department) sought and received the consultation of the Senate President and Speaker of the House of Representatives. On February 27, 2015, the Board reviewed and approved FY15 project funding recommendations, excepting one deferred project. This submittal presents the deferred project, titled "Ka Iwi Coast Mauka Lands" for the Board's review.

BACKGROUND:

On February 27, 2015, the Board approved grant funding for five of six recommended projects (Attachment I), and, per the request of the Division of Forestry and Wildlife (Division) deferred its

decision on the Ka Iwi Coast Mauka Lands grant. The Division requested the deferral on behalf of the Livable Hawaii Kai Hui (LHKH), a co-grantee with the Department in this project. For the purposes of this project, LHKH represents the Ka Iwi Coalition, a group of community members that have been involved in protection efforts for the property.

Ka Iwi Coast Mauka Project Description

In September 2014, the Department, LHKH, and The Trust for Public Land (TPL) applied to LLCP 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, LHKH, and TPL intended 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 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 primary management goal described in the project application 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.

For the purposes of this project, LHKH is representing the Ka Iwi Coalition, which has had a role in caring for the area for over thirty years. As a property owner or manager, the organization offers 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.

LHKH is a nonprofit organization, tax-exempt under 501(c)(3) of the Internal Revenue Code (IRC); its mission is "said corporation is organized for charitable, education, and scientific purposes, including encouraging grass roots organization, community awareness and education of laws, rules and regulations that guide sensible growth and development to enhance the quality of life for residents, focusing on the preservation of the agricultural lands in Kamilonui Valley, natural watershed and adequate open spaces and community stewardship for the protection of watersheds, wetlands, natural and scenic resources and cultural and historic areas in East Honolulu.

Ka Iwi Coast Mauka Lands Acquisition and Ownership Discussions

The Department, LHKH, and the Trust for Public Land (TPL) submitted the Ka Iwi Mauka Lands application requesting funds for the project in September 2014. The project application identified different scenarios for ownership. It presented the Department as the intended owner with the City and County of Honolulu and "likely the Ka Iwi Coalition (under the non-profit Livable Hawai'i Kai Hui) as co-holders of the conservation easement." The application stated that the applicants were

discussing whether the community's vision of an undeveloped Ka Iwi Coast would best be met with the properties managed under Division of Forestry and Wildlife or Land Division, and were exploring the possibility that the property could be leased to the Ka Iwi Coalition (under Livable Hawai`i Kai Hui) for management and stewardship per the City and State restrictions.

As of the date of the application, the Department had signed the application and written a letter of general support as a potential landowner and manager; however, a managing division had not been assigned. Following discussions with State Parks and Land Division representatives, TPL and LHKH approached the Division with the request that it become the fee owner of the property. Shortly before the Commission meetings, the Division consented to holding and managing the property as an open space Forest Reserve.

After the Commission meetings, DOFAW reviewed the specifics of the acquisition prior to seeking Board approval. Although the State has not previously placed conservation easements over State-held lands, DOFAW planned to investigate the feasibility of granting a conservation easement to the City and County of Honolulu in order to be eligible for funding from the City's Clean Water and Natural Lands Program, which typically requires a conservation easement a condition of funding. DOFAW also planned to consider the Ka Iwi Coalition, under LHKH, as a potential partner in managing the land. While Ka Iwi Coalition had expressed interest in co-holding a conservation easement with the City, DOFAW determined that it would not be feasible to place public Forest Reserve lands under a conservation easement co-held by a private nonprofit entity.

Following the communication of DOFAW's position to LHKH, the nonprofit requested deferral of the Ka Iwi Mauka Lands item, and the Division agreed. On March 5, 2015, representatives of LHKH and TPL met with DOFAW to discuss the co-ownership of a conservation easement by LHKH. At this meeting, LHKH stated that the nonprofit would not be interested in having the State own the fee unless the nonprofit was allowed to co-hold the conservation easement. LHKH stated that it would like to amend its project application in two ways: (1) to have LHKH replace the Department as the fee holder of the property, subject to a conservation easement held by the County, and (2) to have the Trust for Public Land identified as the landowner from which the land would be acquired. Per a letter from LHKH to the Division, dated March 26, 2015, the first change would ensure that the property is managed in a way that is consistent with the community's intentions, and the second change would allow TPL to purchase the property as an interim owner in order to secure the protection of the property until LHKH is able to assume title (Attachment II).

DISCUSSION:

The Division is tasked with administering the LLCP efficiently to achieve its statutory goals, while maintaining a fair and open grants process, ensuring compliance with program laws and rules, and overseeing responsible management of taxpayer funds. Pursuant to Chapter 173A, HRS, in order to award funds, applications are reviewed by the Commission, the Senate President and House Speaker provide consultation on the Commission's recommendations, and the Board may then approve awards, which are subject to the final approval of the Governor. Additional program procedures are established in administrative rule (at Chapter 13-140, Hawaii Administrative Rules). Regarding the Ka Iwi Mauka Lands project, at this point in the FY15 grant cycle, the Commission and Senate President and House Speaker have acted, and the matter is now before the Board. The Division encourages the protection of Ka Iwi Mauka Land properties and supports the goals of this project; however, it does not recommend LHKH's proposal to amend its project application be approved due to procedural and fairness issues with operation of the LLCP.

Typically, when an applicant seeks to change a substantive item in the project application after the annual deadline, the Division only allows an applicant to do so if the change is submitted in writing prior to the Commission's final decision-making meeting. The reason for this policy is that the Commission makes recommendations pursuant to criteria that are set in administrative rule (HAR §13-140-39). The Commission uses these criteria to rank each project, which produces a prioritized list. Changing substantive aspects of a project that are considered by the criteria would likely change the outcome of the Commission's recommendations.[1] Since the process is competitive, going back to the LLCC for only one project would be unfair to other applicants, and re-hosting the entire Commission decision-making process is neither feasible nor practical.

Since the Division is tasked with administering the LLCP and supporting the LLCC on behalf of the Department, it is the Division's responsibility to establish and oversee a clear and fair process. In the interest of administering the LLCP fairly and maintaining the integrity of the Commission's decision-making procedure, the Division recommends disallowing project applicants to substantively change their proposals after the Commission has provided recommendations; specifically, the Division recommends disallowing LHKH and TPL to substantively change its proposal following Commission review. Under this recommendation, the LHKH and co-applicants would be able to apply on behalf of the Ka Iwi Mauka Lands project in the Fiscal Year 2016 Legacy Land Conservation Program grant cycle, and Fiscal Year 2015 funding would go to other eligible projects as ranked by the Commission. Under the December 5, 2014, recommendations of the Commission, the projects are recommended to be funded in the order ranked, to the extent that funds are available. Funds would be recommended for award to the projects that are ranked sixth and seventh, that is:

6. Pupukea Mauka; Department of Land and Natural Resources, Division of Forestry and Wildlife, at $583,875 for acquisition of 3,716 acres in Waialua, Island of Oahu, for the protection of watershed and natural areas. (The project initially received a partial award at $416,125 of the initial $1,000,000 request; the $583,875 reflects the remaining amount).

7. Helemano; Department of Land and Natural Resources, Division of Forestry and Wildlife, at $416,125 (a partial award of a total request for $1,777,500) for acquisition of 1,420 acres in Waialua, Island of Oahu, for the protection of recreational resources and public hunting access.

Please see Attachment IV for project descriptions, maps, and photographs relating to these projects.

While the Division does not support approving substantive changes to project proposals following Commission review, the Division notes that the Commission and Division are solely advisory to the Board. Under Chapter 173A, Hawaii Revised Statutes, the ultimate decision-making authority for awarding grants through the LLCP rests with the Board, subject to the approval of the Governor. If the Board wishes to approve funding for the Ka Iwi Mauka Lands project, the relevant actions would be:

1) Approve amendments to the Ka Iwi Mauka Lands project application as described herein.

---

[1] In this situation, one aspect of the proposed project change relates directly to the Commission's criteria, and may have affected the outcome. For example, "Capacity for long-term management" is a criterion that relates directly to the management capabilities of the intended landowner, and the landowner is one aspect of the project that LHKH proposes to change (HAR §13-140-39(14)).

2) Authorize the Chairperson to enter into agreements and encumber FY15 funds with the listed grant recipients for the following grant to a nonprofit land conservation organization:

a. 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.

using a total of $1,000,000 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
f. condition of contractual agreements with the grant recipients;
g. approval of the Grant Agreement and of the Deed by the Attorney General's office;
h. the availability of funds;
i. the approval of the Governor; and
j. 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 project 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.

In summary, the Board has the authority, subject to the approval of the Governor, to fund the Ka Iwi Mauka Lands project, or, alternatively, the Board may elect to follow the recommendation of the Division to deny LHKH's request to amend a project proposal for the 2015 grant cycle. The Division notes that the outcome of following the Division's recommendation would be increased funding to the Division's own projects; however, the Division emphasizes that its recommendation is based solely on procedural considerations in administering the LLCP. The Division has previously informed applicants for funding that a substantive change in a project proposal must be completed prior to the Commission's review and recommendation. In the interest of fairness to program applicants, the Division elects to maintain a consistent policy.

RECOMMENDATIONS:

That the Board:

1) Deny the request of the Livable Hawaii Kai Hui to amend a project proposal for the Fiscal Year 2015 Legacy Land Conservation Program grant cycle.

2) 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:

6. Pupukea Mauka; Department of Land and Natural Resources, Division of Forestry and Wildlife, at $583,875 for acquisition of 3,716 acres in Waialua, Island of Oahu, for the protection of watershed and natural areas. (The project initially received a partial award at $416,125 of the initial $1,000,000 request; the $583,875 reflects the remaining amount).

7. Helemano; Department of Land and Natural Resources, Division of Forestry and Wildlife, at $416,125 (a partial award of a total request for $1,777,500) for acquisition of 1,420 acres in Waialua, Island of Oahu, for the protection of recreational resources and public hunting access.

Using a total of $1,000,000 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.

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: February 27, 2015, Board of Land and Natural Resources Submittal Item C-1

Attachment II: March 26, 2015, letter from The Trust for Public Land and Livable Hawaii Kai Hui

Attachment III: List of Fiscal Year 2015 Applications as Ranked by the Legacy Land Conservation Commission

Attachment IV: Project summaries, photos, and maps for the following projects:

Pupukea Mauka; Department of Land and Natural Resources, Division of Forestry and Wildlife, at $583,875 for acquisition of 3,716 acres in Waialua, Island of Oahu.

Helemano; Department of Land and Natural Resources, Division of Forestry and Wildlife, at $416,125 for acquisition of 1,420 acres in Waialua, Island of Oahu.

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;

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;

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.

<u>SUMMARY:</u>

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

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

Fiscal Year 2015 Legacy Land Conservation Commission Project Rankings (12/5/2014)

Rank	Project Title	Applicant	District & Island	Fee or CE	Size (acres)	Match($)	Legacy Land request ($)	Total Project Cost ($)
1	Kaluanono at Waipa	Waipa Foundation & The Trust for Public Land	Hanalei, Kaua'i	Fee	1.8	132,750.00	398,250.00	531,000.00
2	Ka Iwi Coast Mauka Lands	The Trust for Public Land, DLNR, & Livable HI Kai Hui	Ko`olaupoko, O`ahu	Fee	181.14	3,027,800.00	1,000,000.00	4,027,800.00
3	Wai'opae	County of Hawaii	Puna, Hawaii	Fee	322.167	1,330,000.00	1,330,000.00	2,672,901.64
4 & 5 (TIED)	Puaahala Watershed Acquisition	DLNR, DOFAW	Kamalo, Molokai	Fee	800	2,566,875.00	855,625.00	3,422,500.00
4 & 5 (TIED)	Kalua'aha Ranch Conservation Easement	The Trust for Public Land & Molokai Land Trust	Moloka'i District, Moloka'i	CE	969	1,080,000.00	500,000.00	1,580,000.00
6	Pupukea Mauka	DLNR, DOFAW	Waialua, Oahu	Fee	3,716	3,712,500.00	1,000,000.00	4,712,500.00

At its meeting on December 5, 2014, the Legacy Land Conservation Commission recommending that the Board of Land and Natural Resources fun the projects listed above in the order ranked, to the extent that funds are available, through the Fiscal Year 2015 Legacy Land Conservation Progran

Currently, the estimated funding available is $4,500,000. With this estimate, funding the projects as listed would result in awards of the requested amounts for the first five projects listed, and a partial award of $416,125 to the sixth project listed. If an applicant should reject funding in whole or in part prior to the final grant approval of the Board of Land and Natural Resources, the available funds would go to the other projects in the order c ranked priority (i.e., to the sixth project and then the seventh project).

Attachment 1
Table of Awards

MINUTES FOR THE
MEETING OF THE
BOARD OF LAND OF NATURAL RESOURCES

DATE: FRIDAY, APRIL 10, 2015
TIME: 9:00 A.M.
PLACE: KALANIMOKU BUILDING
LAND BOARD CONFERENCE ROOM 132
1151 PUNCHBOWL STREET
HONOLULU, HAWAI'I 96813

Acting Chairperson Carty Chang called the meeting of the Board of Land and Natural Resources to order at 9:00 a.m. The following were in attendance:

MEMBERS

Carty S. Chang
Stanley Roehrig
Christopher Yuen
James Gomes
Thomas Oi
Keone Downing

STAFF

Sam Lemmo-OCCL
Maria Carnavale-PMNM
Curt Cottrell-PARKS
Ed Underwood-DOBOR
Andrew Chow-DOCARE
Steve Soares-PARKS
Chris Takashige-ENG
Russell Tsuji-LAND
Lisa Hadway-DOFAW
Kevin Moore-LAND
Molly Schmidt-DOFAW
Dietra Myers-DOFAW
Alotn Miyasaka-DAR

OTHER

Bill Wynhoff/Deputy AG
Dan Purcell/ F-6,J-1,C-2, D-11 to D 13
Kristi Arakaki/ J-1
Laura Kaakua/ C-2
Laura Thompson/ C-2
Ann Marie Kirk/C-2
Moani Cullens/ D-11 to D-13
Hope McKeen/D-2
Sam Kahng/F-5
Anne Shigi/DOT-AIR
Ethan Tomokiyo/M-4 to M-8
Jacqueline Gardner/ J-1
Elizabeth Riley/ C-2
Jessica Kirk/ C-2
Donald Neveau/C-2
Allen Okamoto/D-11 to D-13
Scotty Smith/D-9

Chairman Carty Chang introduced Kenoe Downing as the newest Board member. He also acknowledged Member Chris Yuen and Member Ulalia Woodside who were also confirmed by the Senate last week.

APPROVED BY THE BOARD
AT ITS MEETING HELD ON
JUL 2 4 2015

11:43AM RECESS

2:33 PM RECONVENE

Item C-2 **Review of Project Recommendation for Funding from the Fiscal Year 2015 Legacy Land Conservation Program (Land Conservation Fund) and Recommendation to Deny Amendment and Approval of the Following Grant: 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 O'ahu.**

And Recommendation to Approve the Following Grants: Pūpūkea Mauka; Department of Land and Natural Resources, Division of Forestry and Wildlife, at $583,875 for Acquisition of 3,716 Acres in Waiālua, Island of O'ahu. Helemano; Department of Land and Natural Resources, Division of Forestry and Wildlife, at $416,125 for Acquisition of 1,420 Acres in Waiālua, Island of O'ahu.

Written testimony was submitted by Trevor Ozawa.

Lisa Hadway Administrator for the Division of Forestry and Wildlife-DOFAW explained that this was part of the legacy land program and back on February 27, 2015 the Board took up approval of funding 5 of the 6 recommended projects of the 2015 fiscal year. The Ka Iwi Coast mauka land was deferred and DOFAW was present today to present that. The original application for the project went in in September 2014 with the DLNR being the fee owner in the application process in partnership with the City & County (C&C) of Honolulu and the Ka Iwi Coalition also known as the Livable Hawaii Kai Hui. At that time the Chair, William Aila wrote a letter of support but it didn't define which division within the department would be the managing entity. It also did not state how that would happen. So it was left open in the application. Post application, come December 2014 when the Legacy Land Conservation Commission took up the application DOFAW agreed to be the managing entity and the fee holder with the idea that it would become a forest reserve. As it proceeded DOFAW also needed to consider the conservation easement. It was recommended by the attorney generals that a nonprofit not hold a conservation easement over a State designated forest reserve. That was the original proposal in February. The Livable Hawaii Kai Hui requested that the item be deferred so that DOFAW could work with them in a stewardship agreement in either a lease, or a memorandum of understanding (MOU). After the deferral DOFAW met with Livable Hawaii Kai Hui and Trust for Public Lands, the Hui made it clear that they would like to have the fee themselves which is fine, but it is a substantive change to the application to the project. DOFAW received a letter in March 2015 requesting that the Board change the fee ownership from State of Hawaii DLNR Division of Forestry and Wildlife to Livable Hawaii Kai Hui. Based on program procedures and fairness in process and fairness in other projects, DOFAW is requesting to deny change,because this is a substantive change that arose after the Legacy Land Conservation Commission's approval. Hadway said that it wasn't because they don't value the importance of this project, it is a very important project. DOFAW is requesting the denial of the change and also requesting with the approval of two additional projects, to add #6 and #7 which would add

three thousand seven hundred and sixteen acres at Pupukea Mauka and also Helemano which would be over 14 hundred acre addition that would provide lots of great recreational uses including public hunting access. Hadway noted that the Legacy Land Commission and staff's recommendations are advisory and the Board has the authority to make the decision. Molly Schmidt who oversees the Legacy Land Program was present to answer any questions.

Chair Chang why a nonprofit cannot be the owner can't hold the easement of a conservation easement. Schmidt explained that her understanding of one of the issues was if you're going to have a forest reserve with forest reserve administrative rules and you're going to have a private non-governmental entity holding part of that land interest weather those two scenarios are compatible.

Member Yuen asked how often the Legacy Lands Commission meets. Schmidt said they meet about 6 times a year, it's an annual grant program so they make recommendations on projects once a year in December.

Member Yuen asked if this could go to the Legacy Lands Commission and we ask them weather they cared or not. Schmidt said that they did do that. The process is the applications come in in September 2014, the commissioners go out for site visits in October and they make their decisions in two public meetings in December 2014. At that time the applicants are to present their projects and any substance changes to projects must be made prior to the voting meeting. In March 2015 there was a meeting for a different issue and it was brought to the commission. Staff recommended that the Legacy Land Commission don't act on this because it interferes with their process. The commissioners discussed it among themselves and came up with this specific recommendation which was; "the Commission has been briefed on this issue and affirms its support of the protection of the Ka Iwi Coast".

Member Gomes asked if the Board denies this request per the recommendation, it's not saying that next year they can't apply to come back. Schmidt confirmed and pointed out that the commission and DOFAW are advisory to the Board. The Board is the final decision maker.

Member Downing asked even though DOFAW went to the Legacy Land Commission with the substantive change, they still agree that they still want Ka Iwi to be done? Schmidt said they were briefed them on the project and DOFAW recommended that they not reconsider one project apart from and after the other projects and their answer was the commission was briefed on this issue and confirms its support for protection of Ka Iwi Coast. Schmidt thought they really supported the project and protection of the area; they don't want to harm the integrity of the procedures that they have established.

Member Downing asked who the substantial change came from. Hadway said the substantive change came from a request from a letter date March 26, 2015 from the Trust for Public Land and the Livable Hawaii Kai Hui requesting that the Board take up the consideration of the changing the application which stated that DLNR would be the fee owner to Livable Hawaii Kai being the fee owner.

Member Yuen said one option would be to do what the submittal says, kick them off, move up the other two and have them come in the next grant cycle. The other option, let Livable Hawaii Kai be the fee owner, and the department is okay with that except for the procedural issue. Hadway confirmed.

Schmidt explained that the C&C natural lands program would hold the conservation easement over that project. The Legacy Land Program puts restrictions in the deed that require if the property if it is ever sold the owner must come back to the Board to ask approval of the Sale in whole or in part of any interest of that property. A proceed of that portion would come back to land conservation fund. They must also manage the land consistently for the purposes which were awarded the grant. A third option would be the department takes title, does not enter into a conservation easement, but enters into some type of management agreement with Livable Hawaii Kai.

Member Roehrig asked if the Board had the authority to do one of those three. Hadway believed yes, and DOFAW would want to be sure that Livable Hawaii would enter into a stewardship agreement with the department without the conservation easement. Livable Hawaii was present.

Laura Kaakua with the Trust for Public Land explained that they were a non-profit organization that helps public agencies and community groups to protect their special natural places. They were asked by the Ka Iwi Collation to see if there was some way Trust for Public Land would be able to assist the community to protect the Ka Iwi Coast Mauka lands. They were presented the opportunity to purchase the property came up last year, and that is how they reengaged with Ka Iwi Collation under Livable Hawaii Kai Hui.

Elizabeth Riley President of Livable Hawaii Kai Hui acknowledged some kupuna from the area; Laura Thompson, the Weatherfords, and Aunty Jessica Kirk. Riley thanked them for being present, they have taught her about Ka Iwi.

Kaakua presented a slideshow of the property.

Member Downing asked if everyone was in agreement. Kaakua said that they were, it's all outlined on page #4.

Laura Thompson, Ann Marie Kirk, Donald Neveau and Dan Purcell all testified in support.

Member Roehrig made a motion to delete recommendation in #1 and substitute the language in page #4 and #5 until number #5. Member Downing seconded.

The Board approved the following:

> **1) Approve amendments to the Ka Iwi Mauka Lands project application as described herein.**

2) Authorize the Chairperson to enter into agreements and encumber FY15 funds with the listed grant recipients for the following grant to a nonprofit land conservation organization:

a. 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.

using a total of $1,000,000 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
f. condition of contractual agreements with the grant recipients;
g. approval of the Grant Agreement and of the Deed by the Attorney General's office;
h. the availability of funds;
i. the approval of the Governor; and
j. 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 project 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.

Unanimously approved amended (Roehrig, Downing)

Item D-10 **Issuance of Land Patent in Confirmation of Land Commission Award No. 7825 to Ka'aukai situate at Paalaea 3rd, District of Hamakua, Hawaii, Tax Map Key: (3) 4-5-002:021 and 084, (portion of).**

Item D-11 **Issuance of Land Patent in Confirmation of Land Commission Award No. 7802 to Kaheana situate at Papa'anui, District of Hāmākua, Island of Hawai'i, Tax Map Key: (3) 4-5-002: 024 and (3) 4-5-002:082 (portion of).**

DAVID Y. IGE
GOVERNOR OF HAWAII

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 RESOURCES ENFORCEMENT
ENGINEERING
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

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 amendment[1] 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

Fiscal Year 2015 Legacy Land Conservation Commission Project Rankings (12/5/2014)

Rank	Project Title	Applicant	District & Island	Fee or CE	Size (acres)	Match($)	Legacy Land request ($)	Total Project Cost ($)
1	Kaluanono at Waipa	Waipa Foundation & The Trust for Public Land	Hanalei, Kaua'i	Fee	1.8	132,750.00	398,250.00	531,000.00
2	Ka Iwi Coast Mauka Lands	The Trust for Public Land, DLNR, & Livable HI Kai Hui	Ko`olaupoko, O`ahu	Fee	181.14	3,027,800.00	1,000,000.00	4,027,800.00
3	Wai'opae	County of Hawaii	Puna, Hawaii	Fee	322.167	1,330,000.00	1,330,000.00	2,672,901.64
4 & 5 (TIED)	Puaahala Watershed Acquisition	DLNR, DOFAW	Kamalo, Molokai	Fee	800	2,566,875.00	855,625.00	3,422,500.00
4 & 5 (TIED)	Kalua'aha Ranch Conservation Easement	The Trust for Public Land & Molokai Land Trust	Moloka'i District, Moloka'i	CE	969	1,080,000.00	500,000.00	1,580,000.00
6	Pupukea Mauka	DLNR, DOFAW	Waialua, Oahu	Fee	3,716	3,712,500.00	1,000,000.00	4,712,500.00

At its meeting on December 5, 2014, the Legacy Land Conservation Commission recommending that the Board of Land and Natural Resources fund the projects listed above in the order ranked, to the extent that funds are available, through the Fiscal Year 2015 Legacy Land Conservation Program.

Currently, the estimated funding available is $4,500,000. With this estimate, funding the projects as listed would result in awards of the requested amounts for the first five projects listed, and a partial award of $416,125 to the sixth project listed. If an applicant should reject funding in whole or in part prior to the final grant approval of the Board of Land and Natural Resources, the available funds would go to the other projects in the order of ranked priority (i.e., to the sixth project and then the seventh project).

EXHIBIT III

Return by Mail ( ) Pickup (X) To:
Department of the Corporation Counsel
City and County of Honolulu
530 South King Street, Room 110
Honolulu, Hawaii 96813
Attention: Corporation Counsel

Tax Map Keys: (1) 3-9-010:047 and (1) 3-9-010:050 Total Pages: _____

Title of Document:	NONDISTURBANCE AND ATTORNMENT AGREEMENT
Fee Owner:	LIVABLE HAWAII KAI HUI
Administrative Holder:	TRUST FOR PUBLIC LAND
Co-Holder:	CITY AND COUNTY OF HONOLULU
Consenting Party:	STATE OF HAWAII BOARD OF LAND AND NATURAL RESOURCES

NONDISTURBANCE AND ATTORNMENT AGREEMENT;
AGREEMENT REGARDING DISTRIBUTION OF SALES PROCEEDS; CONSENT

THIS NONDISTURBANCE AND ATTORNMENT AGREEMENT; AGREEMENT REGARDING DISTRIBUTION OF SALES PROCEEDS; CONSENT, is made and entered into as of the _____ day of _____, 2016 (this "Agreement"), by and between **Livable Hawaii Kai Hui**, a Hawaii nonprofit corporation, whose address is P.O. Box 25493, Honolulu, Hawaii 96825-0493 ("Fee Owner"); **The Trust for Public Land**, a California nonprofit corporation, whose address is 1003 Bishop Street, Suite 740, Honolulu, Hawaii 96813 ("Administrative Holder"); **The City and County of Honolulu**, a municipal corporation of the State of Hawaii, whose address is 530 South King Street, Honolulu, Hawaii 96813 ("Co-Holder," and together with Administrative Holder, collectively referred to as "Holders"); and the **State of Hawaii, Board of Land and Natural Resources,** whose address is P.O. Box 621, Honolulu, Hawaii 96809 ("Consenting Party") .

W I T N E S S E T H, that:

WHEREAS, Fee Owner acquired that certain real property (the "Property") described in Exhibit A attached hereto and made a part hereof in part with funds from a grant by the State of Hawaii, Department of Land and Natural Resources, Legacy Land Conservation Program ("LLCP") through grant number 64306, dated November 10, 2015, subject to the terms and conditions of that certain State of Hawaii Legacy Land Conservation Program Grant Agreement dated _____, 2015, by and between Consenting Party and Fee Owner (the "LLCP Agreement");

WHEREAS, the ____ Deed, dated _____, 2016, by which Fee Owner obtained title to the Property contains various terms, covenants and conditions imposed by the Consenting Party in connection with or arising from the LLCP Agreement, or pursuant to Hawaii Revised Statutes Chapter 173A or Title 13 of the Hawaii Administrative Rules (the "Deed");

WHEREAS, Co-Holder is willing to pay Two Million Five Hundred Thousand Dollars and 00/100 ($2,500,000) (the "Conservation Easement Payment") to Fee Owner in exchange for the granting by Fee Owner of a Grant of Conservation Easement dated the date of this Agreement and recorded substantially concurrent herewith ("Conservation Easement"), in favor of Co-Holder that encumbers the Property;

WHEREAS, in consideration of Co-Holder's payment to Fee Owner of the Conservation Easement Payment, Co-Holder requires that Fee Owner and Consenting Party agree, for themselves and their respective successors and assigns, to the terms and conditions of this Agreement;

WHEREAS, Fee Owner, Co-Holder, Administrative Holder and Consenting Party are executing this Agreement, and Co-Holder is paying the Conservation Easement Payment, in exchange for the Conservation Easement, in reliance upon the promises contained in this Agreement;

NOW, THEREFORE, in consideration of the Conservation Easement Payment, the terms, conditions and covenants set forth in this Agreement and other good and valuable

consideration, the receipt and sufficiency of which are hereby acknowledged by each party hereto, it is hereby agreed as follows:

1. **Nondisturbance of Co-Holder**. Fee Owner, Consenting Party and Administrative Holder agree that, in the event Consenting Party should exercise any of its rights or remedies against Fee Owner, or its successors or assigns, under the LLCP Agreement or the Deed, or pursuant to Hawaii Revised Statutes Chapter 173A or Title 13 of the Hawaii Administrative Rules or at law or in equity ("Consenting Party's Remedies"), Co-Holder's rights, interests and privileges under the Conservation Easement and this Agreement shall not be terminated, cancelled, diminished or interfered with by Consenting Party, Fee Owner or Administrative Holder, nor shall Co-Holder be disturbed in the exercise of its rights and privileges thereunder.

2. **Consenting Party to Respect the Conservation Easement.** If the interests of Fee Owner in the Property shall be transferred in any manner to Consenting Party or to any other party (Consenting Party or such other party being called the "Transferee") by operation of any of Consenting Party's Remedies, (1) Fee Owner's interests, rights, and obligations under the Conservation Easement shall also be transferred to Transferee, (2) Transferee shall attorn and be bound to Holders under and pursuant to the terms, covenants, and conditions of the Conservation Easement, said attornment to be effective and self-operative immediately upon such transfer, and (3) the respective rights and obligations of Transferee on such attornment shall be the same as those of Fee Owner, as "Owner" or "Grantor" under the Conservation Easement, it being the intention of the parties hereto for this purpose to incorporate the Conservation Easement in this Agreement by reference with the same force and effect as if set forth at length herein.

3. **Consent by Consenting Party.** Consenting Party hereby acknowledges, consents and agrees to this Agreement and to the recordation of this Agreement against the Property, and further agrees that any Consenting Party's Remedies that Consenting Party may take against Fee Owner, or its successors or assigns, will neither affect, nor derogate the rights and privileges of the Holders under the Conservation Easement. Fee Owner and Consenting Party further acknowledge and agree that nothing in the Conservation Easement or in this Agreement shall require or be deemed to require Co-Holder to undertake any of the terms, covenants or conditions set forth in the LLCP Agreement or the Deed.

4. **Proceeds of Sale of the Property.**

a. Fee Owner shall not voluntarily sell the fee interest in the Property (together with Fee Owner's interests, rights, and obligations under the Conservation Easement as set forth above, the "Encumbered Fee Interest") without the prior written consent of the Co-Holder, its successors and assigns, and Consenting Party and its successor agencies.

b. The Administrative Holder shall not voluntarily sell or transfer its interest in the Conservation Easement without the prior written consent of the Co-Holder and of Consenting Party and its successors and assigns.

c. If the Encumbered Fee Interest is sold, or the Co-Holder's interest in the Conservation Easement is sold, and for each such sale, and notwithstanding anything to the contrary in the Deed, the Conservation Easement, or the LLCP Agreement, the net sales proceeds (the "Net Sales Proceeds") shall be distributed among Fee Owner, Co-Holder and the State of Hawaii as follows:

- Twenty-five percent (25%) to the State of Hawaii;
- Sixty-two and one-half percent (62.5%) to Co-Holder; and
- Twelve and one-half percent (12.5%) to Fee Owner.

None of the Net Sales Proceeds shall be distributed to Administrative Holder.

The above provisions of this paragraph 4 are intended to be consistent with Consenting Party's rights and obligations under Chapter 173A, Hawaii Revised Statutes and said provisions are not intended to, nor shall they be deemed to, constitute a waiver of Consenting Parties rights or obligations under said Chapter.

Notwithstanding anything to the contrary contained in the LLCP Agreement, the Deed, the Conservation Easement or this Agreement, if the Encumbered Fee Interest in the Property is sold or transferred, the Conservation Easement shall continue to burden the Property.

5. Covenant Running with the Land. This Agreement and each and every covenant, agreement, and other provision hereof shall burden and run with the Property and be binding upon the parties hereto and their administrators, representatives, successors and assigns,

6. Choice of Law. This Agreement is made and executed under and in all respects is to be governed and construed by the laws of the State of Hawaii.

7. Captions and Headings. The captions and headings of the various sections of this Agreement are for convenience only and are not to be construed as confining or limiting in any way the scope or intent of the provisions hereof. Whenever the context requires or permits, the singular shall include the plural, the plural shall include the singular, and the masculine, feminine, and neuter shall be freely interchangeable.

8. Notices. Any notice which any party hereto may desire or may be required to give to any other party shall be in writing, and the mailing thereof by certified mail, or equivalent, or personal delivery, to the addresses as set forth above or to such other places as any party hereto may by notice in writing designate shall constitute service of notice hereunder.

9. **Counterparts.** This 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 WITNESS WHEREOF, the parties hereto have each caused this Agreement to be executed as of the date first above written.

FEE OWNER:

LIVABLE HAWAII KAI HUI,
a Hawaii nonprofit corporation

By _____
Its _____

ADMINISTRATIVE HOLDER:

THE TRUST FOR PUBLIC LAND,
a California nonprofit corporation

By _____
Its _____

CO-HOLDER:

CITY AND COUNTY OF HONOLULU,
a municipal corporation of the State of Hawaii

By _____
Its _____

APPROVED AS TO FORM AND LEGALITY:

By _____
BARRETT W. FRANCIS
Deputy Corporation Counsel

CONSENTING PARTY:

STATE OF HAWAII, BOARD OF LAND AND NATURAL RESOURCES

By _____

Its _____

APPROVED AS TO FORM:

By _____

Deputy Attorney General

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

On this _____ day of _____, 20___, before me appeared _____, personally known, who being by me duly sworn, did say that he/she is the _____ of **LIVABLE HAWAII KAI HUI**, and that this _____-page _____, undated at time of notarization, was signed on behalf of said _____, and said _____ acknowledged the instrument to be the free act and deed of said _____, in the First Circuit of the State of Hawaii by _____.

_____
Notary Public, State of Hawaii

My Commission Expires:

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

On this _____ day of _____, 20___, before me appeared _____, personally known, who being by me duly sworn, did say that he/she is the _____ of **THE TRUST FOR PUBLIC LAND**, and that this _____-page _____, undated at time of notarization, was signed on behalf of said _____, and said _____ acknowledged the instrument to be the free act and deed of said _____, in the First Circuit of the State of Hawaii by _____.

_____
Notary Public, State of Hawaii

My Commission Expires:

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

On this _____ day of _____, 20___, before me appeared _____, personally known, who being by me duly sworn, did say that he/she is the _____ of the **CITY AND COUNTY OF HONOLULU**, and that this _____-page _____ _____, undated at time of notarization, was signed on behalf of said _____, and said _____ acknowledged the instrument to be the free act and deed of said _____, in the First Circuit of the State of Hawaii by _____.

_____
Notary Public, State of Hawaii

My Commission Expires:

Insert Exhibit A

:

EXHIBIT II

(See Section E, pages 9-10, that shows differences between the existing Legacy Land Conservation Program grant agreement and the proposed amended agreement)

:

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:

:

LAND COURT SYSTEM REGULAR SYSTEM

Return by Mail (X) Pickup ( ) To:

Livable Hawaii Kai Hui
P.O. Box 25493
Honolulu, HI 96825-0493

TMKs: (1) 3-9-010:047 and (1) 3-9-010:050 Total No. of Pages: _____

GRANT OF CONSERVATION EASEMENT

This Grant of Conservation Easement ("Easement") is made this _____ day of _____, 2016 by and between Livable Hawaii Kai Hui, a Hawaii nonprofit corporation whose mailing address is P.O. Box 25493, Honolulu, HI 96825-0493 ("Grantor" or "Owner"), the Trust for Public Land a California nonprofit corporation, whose mailing address is 1003 Bishop Street Suite 740, Honolulu Hawaii, 96813 ("**Administrative Holder**"), and the City and County of Honolulu, a political subdivision of the State of Hawaii, 530 South King Street, Honolulu, Hawaii 96813 ("**Co-Holder**", and together with **Administrative Holder** collectively referred to as "Grantees" or "**Holders**").

RECITALS

WHEREAS, Grantor is the fee simple owner of all of those certain parcels of land (being portion(s) of the land(s) described in and covered by Royal Patent Number 4475, Land Commission Award 7713, Apana 30 to Victoria Kamamalu) situate, lying and being at Maunalua, City and County of Honolulu, Island of Oahu, State of Hawaii, being

LOT 3 of "Mauuwai", bearing TMK: (1) 3-9-010:047, and LOT A of "Queen's Rise", bearing TMK: (1) 3-9-010:050, more specifically described in Exhibit "A" attached hereto and made a part hereof ("the Property"); and

WHEREAS, the source of funding by Grantor for the acquisition of the Property and securing this Easement came through public and private funding sources as more particularly described in Exhibit "B" attached hereto and made a part hereof; and

WHEREAS, Grantor and Grantees recognize the natural, scenic views, open space, endemic plants habitats, cultural, and historic importance of the Property as generally described in Exhibit "C" attached hereto and made a part hereof; and

WHEREAS, Grantor and Grantees collectively desire to conserve, preserve, and protect in perpetuity the natural, scenic views, open space, endemic plants habitats, cultural, and historic values of the Property; and

WHEREAS, Grantor intends to establish a baseline management plan to ensure the conservation, preservation, and protection of the natural, scenic views, open space, endemic plants habitats, cultural, and historic values the Property; and

WHEREAS, Grantor and Grantees understand that in establishing a baseline management plan it will take time and resources to conduct the necessary studies and surveys concerning the lands and their natural, scenic views, open space, endemic plants habitats, the archaeological and cultural, historic features of the Property; and the best feasible means of ensuring the conservation, preservation, and protection of all these elements concerning the Property; and

WHEREAS, Grantor and Grantees desire to establish this conservation easement as the primary foundation to perpetuate the conservation, preservation, and protection of the natural, scenic views, open space, endemic plant habitats, cultural, and historic values of the Property.

AGREEMENT

NOW, THEREFORE, in consideration of Grantee providing to Grantor a portion of the funding source for Grantor's acquisition of the Property, together with other good and valuable consideration, the adequacy and receipt of which are hereby acknowledged, and the covenants, terms, conditions, and restrictions contained herein, Grantor hereby grants, creates, conveys, and establishes a perpetual conservation easement for and in favor of Grantees, severally, including each of their successors and assigns, upon the Property, which shall run with the land and be binding upon Grantor, including its successor and assigns, and shall remain in full force and effect forever, subject to the following terms, covenants, conditions and restrictions:

COVENANTS AND RESTRICTIONS

A. **Purpose and Declaration**.

Grantor and Grantees affirm that the Property shall be managed and utilized in a manner consistent with this Easement. Grantor and Grantees agree that the purposes of this Easement are to conserve, preserve and protect in perpetuity the natural, scenic views, open space, endemic plant habitats, cultural, and historic values of the Property in perpetuity (sometimes referred to herein as the "Purpose").

Grantor agrees to establish a viable baseline land management plan in the manner as set forth below in Section B.2 for said Property to be managed by Grantor in coordination with and oversight by Grantees.

For all the purposes set forth in herein, Grantor hereby declares and agrees that the Property is and shall be in perpetuity dedicated to the conservation, preservation, and protection of the natural, scenic views, open space, endemic plant habitats, cultural, and historic elements of the Property and shall be held, maintained, utilized, operated, or otherwise managed by the Grantor, its successors and assigns, in a manner consistent with the law, and further subject to the declarations, covenants, conditions and restrictions as set forth in this Easement. This Easement shall run with the Property in perpetuity.

B. **Use of the Property**.

1. *Compliance with the Law and Easement.* Grantor acknowledges and agrees to use the Property in a manner consistent with all federal, state, and county laws including, without limitation, land use and zoning laws, rules, and regulations, (collectively referred to herein as the "law") and further subject to the declarations, covenants, conditions, and restrictions set forth in this Easement.

2. *Baseline Land Management Plan.* Grantor agrees to develop, at its sole cost and expense, a written baseline land management plan for the Property ("Management Plan") in accordance with the following parameters.

a. Timing. Grantor shall strive to develop the Management Plan within three (3) years from the Effective Date. In developing the Management Plan, Grantor agrees to consult with the **Holders** during all major phases in the development of the Management Plan. The final adoption of the Management Plan shall be by consensus involving Grantor and Grantees. The failure or inability of the Parties to agree on the Land Management Plan shall not invalidate this Easement.

b. Management Plan Elements. The baseline elements of the Management Plan ("Elements") shall be comprised of the following components:

i. Baseline studies and surveys to the extent that resources permit:

1. A geological and topographical survey;

2. A terrestrial flora and fauna survey;

3. Archaeological, cultural, and historic survey; and

4. A Phase 1 environmental site assessment.

These baseline studies and surveys shall form the basis upon which the following plans shall be developed.

ii. Plan for the conservation, preservation, and protection of the natural, scenic views, open space, endemic plants habitats, cultural, and historic elements and values of the Property.

iii. Plan for securing the Property to the extent feasible.

iv. Plan for restoration, to the extent applicable, of any discovered archaeological, cultural, or historic features that may be discovered during the baseline study and survey period.

v. Plan for the restoration and propagation of endemic plant species.

vi. Plan for the reception of and protocols regarding Hawaiian cultural practitioners who wish to access the Property to engage in their cultural and religious practices and beliefs.

vii. Guidelines and standards for the possible establishment in the future of any interpretive center within an area of up to five (5) contiguous acres appropriately designated within the Property; cultural structures, interpretive trails, educational programs, and other community access opportunities, all of which must (a) preserve the sense of place within the Property and (b) promote the conservation, preservation, and protection of the natural, scenic views, open space, endemic plants habitats, cultural, and historic elements and values of the Property. These five (5) acres are further described in Section C., 4. below.

c. Management Plan Review and Adoption. The standards and guidelines under which the parties agree to review and ultimately adopt by consensus the Management Plan are as follows:

i. The Management Plan must fulfill the Purpose of this Easement.

ii. The Management Plan shall include all of the Elements.

iii. The Management Plan shall include a projected cost of management.

iv. The Management Plan shall incorporate the Important Values of the Property as set forth in Exhibit C attached hereto and made a part hereof.

d. Annual Report. Grantor shall provide **Holders** with a copy of each annual report it submits to the State Legacy Land Conservation Program, promptly upon such submittal. Grantor's annual written report will assist **Holders** to monitor compliance with this Easement and will not create significant additional work for Grantor.

e. 10-Year Review. Grantor shall review The Management Plan at least every ten (10) years commencing from the adoption of the Management Plan. Owner shall not engage in any action that materially deviates from the Management Plan unless adopted by consensus among the parties hereto.

3. Public Access Days. Within two (2) years from the Effective Date, Grantor shall open the Property to the general public at least four (4) days per year to further the Purpose. Grantor shall, at least sixty (60) days prior to the second anniversary of the Effective Date, provide Grantees with notice as to such selected four (4) days.

C. **Restrictions in Use of the Property.**

The following activities and uses are prohibited or restricted unless an exception is expressly provided:

1. *Land Use and Zoning Restrictions.* Grantor shall not use the Property in any manner inconsistent with this Easement, including without limitation all of its declarations, covenants, conditions, and restrictions, as well as all other applicable federal, state and county land use and zoning restrictions that apply to the Property.

2. *Subdivision.* Grantor shall not seek to subdivide the Property.

3. *Dwelling or Lodging Units, Cabins.* Grantor shall not construct any dwelling unit or lodging unit, including cabins or other temporary lodging, on the Property.

4. *Commercial Activities.* Grantor shall not engage in any commercial activities on the Property, except that Grantor may conduct film and photography conducted in a manner not inconsistent with the Purpose and that does not disturb the conservation, preservation, and protection of the natural, scenic views, open space, endemic plants habitats, cultural, and historic elements and values of the Property. Prohibited commercial activities shall not include programs and activities on the Property that promote the Purpose of this Easement. Grantor may also designate up to five (5) acres within the Property that may be utilized for programs, services, and an interpretive center and other specified facilities in a manner that (a) preserves a sense of place

within the Property and (b) perpetuates the Purpose of this Easement. The set aside of this 5-acre area and its precise location and uses shall require advance written approval by **Holders**, pursuant to Section B., 2., b., vii., above, and, upon such approval, any activity within the designated area consistent with such approval shall not be treated as commercial activities under this Section C.4.

5. *Entrance fees.* No fees shall be charged for entrance or admission to the Property. Entrance fees shall not include nominal fees or donations associated with programs and materials provided by Grantor.

6. *Agriculture Activities:* Grantor shall not engage in any agriculture activities on the Property, except to the extent that such agriculture activity is in support of the Purpose of this Easement.

7. *Recreational:* Grantor shall not use the Property for golf course or any outdoor recreation facility.

8. *Social and Civic Service:* Grantor shall not use the Property for cemeteries and columbaria, hospitals, prisons, or universities or colleges.

9. *Up-Zoning:* Grantor shall not seek any higher zoned use than the present zoning of the Property.

D. **Affirmative Rights Conveyed to Holders.**

Administrative Holder shall ensure Owner's compliance with this Easement, including without limitation, the declarations, covenants, conditions, and restrictions set forth in this Easement. **Administrative Holder** shall monitor and enforce this Easement.

1. ***Administrative Holder's and Co-Holder's Rights and Obligations.*** The **Administrative Holder** shall have the responsibility for the stewardship and monitoring of this Easement, determining if a violation has occurred, and for approving any proposal pursuant to the Easement except for any proposal under the Easement that also requires **Co-Holder**'s approval. These duties may be fulfilled directly by the **Administrative Holder** or its agent or the **Administrative Holder** may request that **Co-Holder** fulfill these duties, and **Co-holder** shall have the right to agree or not agree to such request in **Co-Holder**'s sole and absolute discretion. The **Administrative Holder** will share with **Co-Holder** monitoring and stewardship information, including but not limited to written notices to **Administrative Holder** and monitoring reports.

As between **Administrative Holder** and **Co-Holder**, **Administrative Holder** is responsible for any costs incurred in enforcing the terms of this Easement, including any attorney's fees and any costs of suit. **Administrative Holder** can recover costs from Owner or a third party as described in **Holder**'s Remedies below. The **Administrative Holder** and **Co-Holder** shall make good faith effort to determine a unified course of action should a potential or actual violation of the easement arise.

Co-Holder shall have the right, but not the obligation, to enforce the terms of the Easement if the **Administrative Holder** becomes unable or refuses to enforce the Easement, or if the **Co-Holder** in its sole discretion finds that the **Administrative Holder**'s enforcement action or consent fails to protect the Purpose of the Easement. **Co-Holder** shall notify Owner in writing in accordance with Section F.4 of such determination in advance of exercising its rights under Section F.4 below. In such cases, as between **Administrative Holder** and **Co-Holder**, **Co-Holder** is responsible for any costs incurred in enforcing the terms of the Easement, including attorney's fees and any costs of suit. In such event **Co-holder**'s actions are in its capacity as **Co-Holder** and do not constitute an undertaking of the **Administrative Holder** role.

2. *Protection.* **Holders** have the right jointly and individually to preserve and protect in perpetuity, to prevent any use of, or activity on, the Property that will significantly impair or interfere with the Purpose.

3. *Access.* Subject to the limitations set forth below, **Holders** or their agents have the right to enter the Property for the purpose of making inspections to monitor compliance with this Easement and for enforcement purposes:

a. Annual Monitoring. Upon fourteen (14) days prior Notice to Owner (in the manner set forth set forth in Section F.4), and without unreasonably interfering with Owner's use of the Property, **Holders** have the right to enter upon the Property, at reasonable times and in a reasonable manner in order to monitor Owner's compliance with, and otherwise enforce the terms of, this Easement; provided that in the absence of evidence which gives **Holders** a reasonable basis to believe there has been a violation of the provisions of this Easement (which evidence shall be made available to Owner at the time of such Notice and request to enter the Property), such entry shall not occur more often than once per year.

b. Emergency Entry. Where **Holders** have a reasonable belief that there is a significant and imminent threat to the Purpose, each of the **Holders** has the right to enter the Property without notice. However, where time permits, **Holders** shall make good faith efforts to provide at least twenty-four hours' Notice to Owner in the manner set forth in Section F.4 for emergencies.

4. *Enforcement.* **Holders** have the right to enforce this Easement and the covenants and restrictions herein, including, but not limited to, the right to enjoin any use of, or activity on, the Property that is inconsistent with the Purpose of this Easement, and to require the restoration of such areas or features of the Property as may be damaged by uses or activities inconsistent with the provisions of this Easement.

a. Notice of Violation, Corrective Action, Opportunity to Cure. If **Holders** collectively determine that Owner is in violation of the terms of this Easement or that a violation is threatened, **Holders** shall give written Notice to Owner (in the manner set forth in Section F.4) of such violation and may demand corrective action sufficient to cure the violation (within the permitted time periods set forth in Section F.4) and, where the

violation involves injury to the Property resulting from any use or activity inconsistent with the Purpose of this Easement, require Owner to restore the portion of the Property so injured to its prior condition in accordance with a plan approved by **Holders**.

b. Owner's Failure to Cure. **Holders** may bring an action as provided in this Section if Owner:

i. Fails to cure the violation within thirty (30) days after receipt of Notice thereof from **Holders**; or

ii. Under circumstances where the violation cannot reasonably be cured within the thirty (30) day period, fails to begin curing such violation within the thirty (30) day period and fails to continue diligently to cure such violation until finally cured.

5. ***Holders'** Remedies; Damages.*

Subject to the limitations set forth in Section F.1, **Holders'** rights and remedies identified in this Section apply equally in the event of either actual or threatened violations of the terms of this Easement and shall be cumulative and shall be in addition to all remedies now or hereafter existing at law or in equity.

a. Injunctive Relief. **Holders** (jointly or individually) may bring an action at law or in equity to enforce the terms of this Easement:

i. To enjoin the violation -- including ex parte, to the extent permitted by procedural rules of the court -- by temporary, preliminary or permanent injunction; and

ii. To require the restoration of the Property to the condition that existed prior to any such injury.

b. Damages. **Holders** shall be entitled to recover damages for any breach by Owner of the terms of this Easement to the extent such damages may be ascertained, including without limitation, any and all costs or enforcement of the terms so breached. Without limiting Owner's liability in any way, **Holders**, in their sole discretion, may apply any damages recovered to the cost of undertaking corrective or restoration action on the Property. Owner is barred from using this provision regarding damages as an affirmative defense against **Holders'** rights to injunctive relief.

c. No Bond Required. Any action for injunctive relief or damages may be taken without **Holders** being required to post bond or provide other security.

6. *Owner's Remedies; Damages.*

Owner's rights and remedies identified in this Section apply equally in the event of either actual or threatened breach by **Holders** of the terms of this Easement and shall be cumulative and shall be in addition to all remedies now or hereafter existing at law or in equity.

a. Injunctive Relief. Owner may bring an action at law or in equity to enforce the terms of this Easement.

b. Damages. Owner shall be entitled to recover damages for any breach by **Holders** of the terms of this Easement to the extent such damages may be ascertained. **Holders** are barred from using this provision regarding damages as an affirmative defense against Owner's rights to injunctive relief.

c. No Bond Required. Any action for injunctive relief or damages may be taken without Owner being required to post bond or provide other security.

7. ***Holder's** Forbearance.* Forbearance by **Holders** to exercise their rights under this Easement in the event of any breach of any terms of this Easement by Owner, its agents, employees, contractors, invitees or licensees shall not be deemed or construed to be a waiver by **Holders** of such term or any of **Holders**' rights under this Easement. No delay or omission by **Holders** in the exercise of any right or remedy upon any breach by Owner shall impair such right or remedy or be construed as a waiver.

8. *Waiver of Certain Defenses.* Owner acknowledges that it has carefully reviewed this Easement and has consulted with and been advised by counsel of its terms and requirements. In full knowledge of the provisions of this Easement, Owner hereby waives any claim or defense it may have against **Holders** under or pertaining to this Easement based upon waiver, laches, estoppel, or prescription.

9. *Acts Beyond Owner's Control; Emergency Conditions.* Nothing contained in this Easement shall be construed to entitle **Holders** to bring any action against Owner to abate, correct, or restore any condition on the Property or to recover damages for any injury to or change in the Property resulting from causes beyond Owner's control, including, without limitation, fire, flood, storm, earth movement, tsunami, vandalism, terrorism, any other act of God, or for acts of trespassers, that Owner could not reasonably have anticipated or prevented, or from any prudent action taken by Owner under emergency conditions to prevent, abate, or mitigate significant injury to the Property resulting from such causes or to protect bona fide public health or safety in an emergency situation.

E. **Provisions Required by the Board of Land and Natural Resources.**

Owner and the State of Hawaii Board of Land and Natural Resources have entered into an agreement relating to the Property, identified as "State of Hawaii Legacy Land Conservation Program Grant Agreement," dated _____, 2015 ("LLCP Agreement"). Section 7 of Attachment 1 of the LLCP Agreement requires Owner to include the following additional terms in this Easement, which are by incorporation below and made a part hereof:

> "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 _____, 2015, and is subject to all of the terms and conditions of the grant agreement and Chapter 173A, Hawaii Revised Statutes.

The **Administrative** **H**[~~h~~]**older** of the conservation easement shall also be subject to the terms and conditions of the grant agreement to the extent applicable under the **Administrative** **H**[~~h~~]**older**'s rights and responsibilities under the conservation easement.

[~~The Grantor~~]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 [~~City and County of Honolulu~~]**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.

[~~The City and County of Honolulu further covenants that if the conservation easement is sold, leased, rented, or otherwise disposed of by the City and County of Honolulu, 25% of the net proceeds (sale price less actual expenses of sale) of such sale, rental, or proceeds, i.e., the proportion that the state grant bears to the original cost of the unrestricted fee interest, shall be paid to the State of Hawaii.~~]

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 _____, 2016, 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 LLCP Agreement or Chapter 173A, Hawaii Revised Statutes, on the other hand, this Easement shall control.

F. **Approval; Breach; Compliance Certificates.**

1. *Approval by **Holders**.* Whenever this Easement requires Owner to obtain **Holders**' Approval before taking an action, Owner shall follow the procedures set forth in this Section.

a. Approval Procedures. Owner shall request approval from the **Administrative Holder** in writing and shall submit a copy of said request to **Co-Holder**. The request for approval shall describe the nature, scope, location, timetable, identify its conformity with this Easement, and, when applicable, evidence conformity with existing land use regulations, and any other material aspect of the proposed activity. Delivery of the request shall conform to the service methods set forth in Section F.4. The **Administrative Holder** shall have sixty (60) days from receipt of the request in which to approve, disapprove, or approve subject to modification, the request. In the case of withholding of approval, the **Administrative Holder** shall notify Owner in writing with reasonable specificity of the reasons for withholding of approval, and the conditions, if any, on which approval might otherwise be given. If the **Administrative Holder** fails to provide a written response to Owner's request within sixty (60) days of receipt of said request, the proposed enterprise, use or activity shall automatically be deemed approved.

b. Standard of Approval. The **Administrative Holder** shall not unreasonably withhold or delay approval of a proposed use or activity requiring approval under this Conservation Easement where the proposed activity or use will not significantly impact the Conservation Values, or this Easement's managed public access requirements.

2. *Breach of Approval Provisions.* If Owner undertakes without approval any action for which **Holders**' Approval is required under this Easement, Owner shall be deemed to be in material breach of this Easement and **Holders** shall be entitled to such rights or remedies as may be available under Section D of this Easement. Should such a material breach occur, Owner and **Holders** may, at **Holders**' sole and absolute discretion, discuss whether a cure of the breach is possible and, if so, under what circumstances.

3. *Compliance Certificates.* The **Administrative Holder**, or its successor, as the steward and enforcer of this Easement shall, within sixty (60) days of a request by Owner, which request shall be copied as notice to **Co-Holder** in order to be effective, execute and deliver to Owner, or to any party designated by Owner, any document, including an estoppel certificate, that certifies Owner's compliance or lack thereof with any obligation of Owner contained in this Easement and otherwise evidences the status of this Easement. Such certificate shall be binding upon **Holders**. Such certification shall be limited to the condition of the Property as of the most recent inspection carried out by the **Administrative Holder**. If Owner requests more current documentation, the **Administrative Holder** shall conduct an inspection, at Owner's expense, within sixty (60) days of receipt of Owner's written request.

4. *Notices and Responses.* Any notice, demand, request, consent, approval, or communication (collectively "Notice") that either party desires or is required to give to the other shall be in accordance with the following procedures.

a. In ordinary circumstances, the Notice shall be in writing and either served personally or sent by certified mail, return receipt requested, postage prepaid, with a copy by electronic mail, addressed to the appropriate party, at the appropriate address set forth below in this Section. Where Notice is served by certified mail, the receipt of Notice shall be considered to have occurred upon the elapse of six days after mailing.

b. In emergency circumstances, the party shall provide Notice by electronic mail and shall also make best efforts to deliver the Notice in writing personally. Where Notice is served by electronic mail, the party serving the Notice shall, in addition, make concurrent attempts to notify the other party by telephone of the Notice, and attempt to receive oral or written confirmation from the party or the party's attorney that the Notice has been received.

c. Notices may also be served by any other method mutually agreed to between the parties in writing, signed by all parties.

d. Notices shall be served at the following addresses or to such other address as the parties from time to time shall designate by written notices to the others:

To Owner:

Livable Hawaii Kai Hui
Attn: Elizabeth Reilly, President
P.O. Box 25493
Honolulu, HI 96825-0493

Phone: (808) 864-8081
Email: hawaiikaihui@aol.com

To **Administrative Holder**:

The Trust for Public Land
Attn: Laura Kaakua
(Regarding Ka Iwi Coast Mauka Lands)
1003 Bishop Street, Suite 740
Honolulu, Hawaii 96813

Phone: (808)524-8562
Email: laura.kaakua@tpl.org

To **Co-Holder**:

City and County of Honolulu
Office of the Mayor
Attn: Ray Soon, Chief of Staff or other Clean Water and Natural Lands Program Point of Contact
(Regarding Ka Iwi Coast Mauka Lands)
530 S. King Street, Rm. 300
Honolulu, HI 96813

Phone: (808) 768-4141
Email: mayor@honolulu.gov

With a copy sent to: the City's Clean Water and Natural Lands Program point of contact.

With an additional copy to:

Department of the Corporation Counsel
Attn: Clean Water and Natural Lands Program:
(Regarding Ka Iwi Coast Mauka Lands)
530 S. King Street, Room 110
Honolulu, HI 96813

Phone: (808) 768-5100
Fax: (808) 768-5105
Email: cor@honolulu.gov

G. **Costs, Liabilities and Insurance, Taxes, Environmental Compliance and Indemnification.**

1. *Costs, Legal Requirements, Liabilities and Insurance.* Owner retains all responsibilities and shall bear all costs and liabilities of any kind related to the ownership, operation, upkeep, and maintenance of the Property, including the maintenance of insurance coverage that is reasonable under the circumstances. Owner shall cause, at Owner's expense, for **Holders** to be named as additional insureds on the policy or policies obtained. Owner and **Holders** release and relieve the other, and waive their entire right to recover for loss or damage to the extent that the loss or damage is covered by proceeds of the injured party's insurance. This waiver applies whether or not the loss is due to the negligent acts or omissions of Owner or **Holder**. Owner remains solely responsible for obtaining any applicable governmental permits and approval for any activity or use permitted by this Easement, and any such activity or use shall be undertaken in accordance with all applicable federal, state, and local laws, regulations, and requirements. Nothing in this Easement shall relieve Owner of complying with all applicable federal, state, and local laws, regulations, and requirements.

2. *Indemnity.*__Owner shall indemnify and hold harmless **Holders**, their officers, directors, employees, agents, invitees, and contractors of **Holders**, and each of the heirs, successors, and assigns of such parties (collectively "**Holders**' Parties"), for any and all liabilities, claims, demands, losses, expenses, damages, fines, fees, penalties, suits, proceedings, actions and causes of action or sanctions asserted by or on behalf of any person or governmental authority, and other liabilities (whether legal or equitable in nature and including, without limitation, court costs, and reasonable attorneys' fees and attorneys' fees on appeal) to which **Holders** or **Holders** Parties may be subject or incur relating to the Property, which may arise from Owner, its officers, directors, employees, agents, invitees, contractors of Owners, and each of the heirs, successors, and assigns of such parties (collectively "Owners' Parties") negligent acts or omissions of Owner's or Owners' Parties breach of any representation, warranty, covenant, agreements contained in this Easement, or violations of any federal, state or local laws, including all Environmental Laws.

3. *Taxes.* Owner shall pay before delinquency all taxes, assessments, fees, and charges of whatever description levied on or assessed against the Property by competent authority (collectively "Taxes"), including any taxes imposed upon, or incurred as a result of, this Easement. If Owner fails to pay any Taxes when due, **Holders** are authorized, but in no event obligated, to make or advance such payment of Taxes upon three (3) days prior written Notice to Owner, in accordance with any bill, statement, or estimate procured from the appropriate authority, without inquiry into the validity of the Taxes or the accuracy of the bill, statement or estimate, and the obligation created by such payment shall bear interest until paid by Owner at the maximum rate allowed by law.

4. *Environmental Warranty and Remediation.*

a. **Holders** acknowledge and understand that Owner has taken ownership of the Property on the assumption that the Property is basically in a natural state without any existing environmental condition. Owner warrants that Owner has no actual knowledge of a release or threatened release of any Hazardous Materials on, at, beneath or from the Property exceeding regulatory limits. Owner has obtained a Phase I Environmental Site Assessment dated November 27, 2015 which found *"no evidence of recognized environmental conditions, as defined by ASTM."*

b. Owner shall be responsible for any Hazardous Materials contributed after the Effective Date. .

c. If at any time, there occurs, or has occurred, a release in or on the Property of a Hazardous Material, Owner agrees to take all steps necessary to assure its containment and remediation, including any cleanup that may be required, unless the release was caused by **Holders**.

d. For purposes of this Easement, "Hazardous Materials" means a*ny materials, discharges or other substance governed by the Comprehensive Environmental Response, Compensation, and Liability Act , 42 U.S.C. Sec. 9601 et. seq. ("CERCLA"), The Resource Conservation and Recovery Act, 42 U.S.C sec. 6901 et. seq. ("RCRA") The Superfund*

Amendments and Reauthorization Act, 42 U.S.C. Sec. 9601 et. seq. ("SARA") or any other federal or state based statutory, regulatory or common law cause of action) related to environmental matters or liability with respect to or affecting the Property

H. **Transfer; Amendment; Extinguishment.**

1. *Transfer of Property.* Owner may not transfer, assign, or otherwise convey the Property without the prior written consent of the **Holders**.

2. *Limitations on Amendment.* This Easement may only be amended or modified by a writing signed by the **Holders** and Grantor.

3. *Limitations on Extinguishment.* If circumstances arise in the future that render the Purpose of this Easement impossible to accomplish, this Easement can only be terminated or extinguished, whether with respect to all or part of the Property, by judicial proceedings in a court of competent jurisdiction.

4. *Condemnation.* If all or any part of the Property is proposed to be taken under the power of eminent domain, Owner and **Holders** shall work with the State of Hawaii and join in appropriate proceedings at the time of such proposed taking to recover the full value of their respective interests in the Property subject to the taking and all incidental or direct damages resulting from the taking. All expenses reasonably incurred by the parties to this Easement in connection with such taking shall be paid out of the recovered proceeds.

I. **Holder's Assignment and Succession.**

1. *Assignment.* Subject to the following conditions, **Holders** may assign their respective rights and obligations under this Easement to qualified organizations, as described below:

a. **Holders** may assign this Easement only to an organization that is at the time of the assignment a "qualified organization" within the meaning of Section 170(h) of the Code, has a Hawaii presence, and is, in addition, authorized to acquire and hold conservation easements under HRS Chapter 198;

b. The assignment shall be subject to the terms of succession referenced in Section I.2;

c. The **Holder** assigning its rights shall require the assignee to exercise its rights under the assignment consistent with the Purpose of this Easement;

d. The **Holders** assigning their rights shall consult with Owner about the assignee organization, or possible assignee organizations, and shall seek to find an assignee organization with a collaborative working relationship with Owner; provided, however, that this provision shall not require Owner's approval of such assignee.

e. Any such assignment of the **Administrative Holder**'s position and rights shall require the advance written consent and approval of **Co-Holder**, subject to "I.1.d." above. Any such assignment of **Co-Holder**'s position and rights may be made by **Co-Holder** alone, subject to "I.1.d." above.

2. *Succession.* If at any time it becomes impossible for a **Holder** to ensure compliance with the covenants, terms, conditions and restrictions contained in this Easement and a successor organization has not been named as provided in "I. 1.", above, or if any **Holder** shall cease to exist or to be a qualified organization under Section 170(h) of the Code or to be authorized to acquire and hold conservation easements under HRS Chapter 198, then said **Holder**'s rights and obligations under this Easement shall vest in such organization as a court having jurisdiction shall direct, pursuant to the applicable Hawaii law and the Code and with due regard to the Purpose of this Easement.

J. **General Provisions**

1. *Reasonableness Standard.* Owner and **Holders** shall follow a reasonableness standard and shall use their best efforts to make any determinations that are necessary or are contemplated to be made by them (either separately or jointly) under this Easement in a timely manner and shall cooperate with one another and shall take all other reasonable action suitable to that end.

2. *Controlling Law.* The interpretation and performance of this Easement shall be governed by the laws of the State of Hawaii and any applicable federal law.

3. *Liberal Construction.* Any general rule of construction to the contrary notwithstanding, this Easement shall be liberally construed to fulfill the Purpose of this Easement and the policy and purpose of HRS Chapter 198. If any provision in this instrument is found to be ambiguous, an interpretation consistent with the Purpose of this Easement that would render the provision valid shall be favored over any interpretation that would render it invalid.

4. *Severability.* If any provision of this Easement, or its application to any person or circumstance, is found to be invalid, the remainder of the provisions of this Easement, or the application of such provision to persons or circumstances other than those as to which it is found to be invalid, as the case may be, shall not be affected.

5. *Entire Agreement.* This instrument sets forth the entire agreement of the parties with respect to the Property and supersedes all prior discussions, negotiations, understandings, or agreements between Owner and **Holder** relating to the Property, all of which are merged into this Easement. No alteration or variation of this instrument shall be valid or binding unless contained in an amendment that complies with Section H.2.

6. *No Forfeiture.* Nothing contained in this Easement shall result in a forfeiture or reversion of Owner's title in any respect.

7. *Successors and Assigns; Runs with Land.* The covenants, terms, conditions, and restrictions of this Easement shall be binding upon, and inure to the benefit of, the parties to this Easement and their respective successors, and assigns, and shall continue as a servitude running in perpetuity with the Property.

8. *Termination of Rights and Obligations.* A party's rights and obligations under this Easement terminate upon transfer of the party's interest in the Easement or Property, except that liability for acts or omissions occurring prior to transfer shall survive transfer.

9. *Counterparts.* The parties may execute this instrument in two or more counterparts. Each counterpart shall be deemed an original instrument as against any party who has signed it. In the event of any disparity between the counterparts produced, the recorded counterpart shall be controlling.

10. *Effective Date.* This Easement shall be effective as of the date on which this Easement is recorded in the State of Hawaii Bureau of Conveyances (if Regular System) or with the Assistant Registrar of the Land Court of the State of Hawaii (if Land Court System) (referred to in this Easement as the "Effective Date").

11. *No Merger.* **Holders** agree to take whatever steps are necessary to ensure that merger of the fee and Easement estates does not occur in order to ensure the continued viability of this Easement.

OWNER:

LIVABLE HAWAII KAI HUI

By: _____

Name: Elizabeth Reilly

Its: President

CO-HOLDER:

THE CITY AND COUNTY OF HONOLULU

By: _____

Name: Kirk Caldwell

Its: Mayor

Approved as to form and legality

By: _____

Name: _____

Its: Corporation Counsel

ADMINISTRATIVE HOLDER:

THE TRUST FOR PUBLIC LAND

By: _____

Name: Gilman Miller

Its: Senior Counsel

EXHIBIT A

Legal Description

TMK(s): (1) 3-9-008-010-050 and 047

Parcel I:
Lot 1 (Mauuwai Lot 3)
All of that certain parcel of land (being a portion of the land(s) described in and covered by Royal Patent Number 4475, Land Commission Award Number 7713, Apana 30 to Victoria Kamamalu) situate, lying and being at Maunalua, Honolulu, Oahu, State of Hawaii, Lot 3 of Mauuwai and thus bounded and described:

Beginning at the southwest corner of this parcel of land, on the southerly side of Mokuhano Street, the coordinates of which being referred to Government Survey Triangulation Station "Koko Head #3" being 12, 081.83 feet north and 12,278.97 feet ease, and running by azimuths measured clockwise from true south:

1. 173° 20' 44.00 feet along the end of Mokuhano Street;
2. 273° 24' 40" 40.65 feet along remainder of R. P. 4475, L. C. Aw. 7713, Ap. 30 to Victoria Kamamalu;
3. 206° 00' 186.30 feet along remainder of R. P. 4475, L. C. Aw. 7713, Ap. 30 to Victoria Kamamalu;
4. 169° 40' 232.52 feet along remainder of R. P. 4475, L. C. Aw. 7713, Ap. 30 to Victoria Kamamalu;
5. 202° 00' 310.00 feet along remainder of R. P. 4475, L. C. Aw. 7713, Ap. 30 to Victoria Kamamalu;
6. 183° 30' 692.00 feet along remainder of R. P. 4475, L. C. Aw. 7713, Ap. 30 to Victoria Kamamalu;
7. 177° 40' 570.00 feet along remainder of R. P. 4475, L. C. Aw. 7713, Ap. 30 to Victoria Kamamalu;
8. 188° 50' 623.26 feet along remainder of R. P. 4475, L. C. Aw. 7713, Ap. 30 to Victoria Kamamalu;
9. 183° 30' 520.39 feet along remainder of R. P. 4475, L. C. Aw. 7713, Ap. 30 to Victoria Kamamalu;
10. 156° 50' 730.00 feet along remainder of R. P. 4475, L. C. Aw. 7713, Ap. 30 to Victoria Kamamalu;
11. 181° 20' 1,130.00 feet along remainder of R. P. 4475, L. C. Aw. 7713, Ap. 30 to Victoria Kamamalu;
12. 205° 40' 710.00 feet along remainder of R. P. 4475, L. C. Aw. 7713, Ap. 30 to Victoria Kamamalu;
13. 270° 00' 217.22 feet along remainder of R. P. 4475, L. C. Aw. 7713, Ap. 30 to Victoria Kamamalu;
14. 324° 30' 902.89 feet along remainder of R. P. 4475, L. C. Aw. 7713, Ap. 30 to Victoria Kamamalu;
15. 333° 41' 209.78 feet along remainder of R. P. 4475, L. C. Aw. 7713, Ap. 30 to Victoria Kamamalu;
16. 0° 38' 1,488.74 feet along remainder of R. P. 4475, L. C. Aw. 7713, Ap. 30 to Victoria Kamamalu;
17. 270° 38' 106.88 feet along remainder of R. P. 4475, L. C. Aw. 7713, Ap. 30 to Victoria Kamamalu;
18. 10° 29' 315.00 feet along remainder of R. P. 4475, L. C. Aw. 7713, Ap. 30 to Victoria Kamamalu;
19. 350° 00' 251.00 feet along remainder of R. P. 4475, L. C. Aw. 7713, Ap. 30 to Victoria Kamamalu;
20. 377° 00' 20" 189.86 feet along remainder of R. P. 4475, L. C. Aw. 7713, Ap. 30 to Victoria Kamamalu;
21. 127° 00' 144.0 feet along Lot 1 of File Plan 1838, remainder of R. P. 4475, L. C. Aw. 7713, Ap. 30 to Victoria Kamamalu;
22. 58° 44' 66.00 feet along Lot 1 of File Plan 1838, remainder of R. P. 4475, L. C. Aw. 7713, Ap. 30 to Victoria Kamamalu;
23. 357° 16' 147.00 feet along Lot 1 of File Plan 1838, remainder of R. P. 4475, L. C. Aw. 7713, Ap. 30 to Victoria Kamamalu;
24. 8° 12' 519.00 feet along Lot 1 of File Plan 1838, remainder of R. P. 4475, L. C. Aw. 7713, Ap. 30 to Victoria Kamamalu;
25. 78° 10' 214.00 feet along Lot 1 of File Plan 1838, remainder of R. P. 4475, L. C. Aw. 7713, Ap. 30 to Victoria Kamamalu;
26. 155° 21' 360.00 feet along Lot 1 of File Plan 1838, remainder of R. P. 4475, L. C. Aw. 7713, Ap. 30 to Victoria Kamamalu;
27. 175° 14' 541.00 feet along Lot 1 of File Plan 1838, remainder of R. P. 4475, L. C. Aw. 7713, Ap. 30 to Victoria Kamamalu;
28. 130° 50' 156.00 feet along Lot 1 of File Plan 1838, remainder of R. P. 4475, L. C. Aw. 7713, Ap. 30 to Victoria Kamamalu;

29. 38° 38' 376.52 feet along Lot 1 of File Plan 1838, remainder of R. P. 4475, L. C. Aw. 7713, Ap. 30 to Victoria Kamamalu;
30. 358° 42' 30" 103.02 feet along Lot 1 of File Plan 1838, remainder of R. P. 4475, L. C. Aw. 7713, Ap. 30 to Victoria Kamamalu;
31. 312° 27' 30" 70.25 feet along Lot 1 of File Plan 1838, remainder of R. P. 4475, L. C. Aw. 7713, Ap. 30 to Victoria Kamamalu;
32. 355° 37' 294.01 feet along Lot 1 of File Plan 1838, remainder of R. P. 4475, L. C. Aw. 7713, Ap. 30 to Victoria Kamamalu;
33. 11° 50' 30" 162.49 feet along Lot 1 of File Plan 1838, remainder of R. P. 4475, L. C. Aw. 7713, Ap. 30 to Victoria Kamamalu;
34. 350° 40' 40" 436.49 feet along Lot 1 of File Plan 1838, remainder of R. P. 4475, L. C. Aw. 7713, Ap. 30 to Victoria Kamamalu;
35. 18° 51' 653.00 feet along Lot 1 of File Plan 1838, remainder of R. P. 4475, L. C. Aw. 7713, Ap. 30 Victoria Kamamalu;
36. 0° 00' 170.00 feet along Lot 1 of File Plan 1838, remainder of R. P. 4475, L. C. Aw. 7713, Ap. 30 to Victoria Kamamalu;
37. 3° 24' 40" 632.87 feet along Lot 1 of File Plan 1838, remainder of R. P. 4475, L. C. Aw. 7713, Ap. 30 to Victoria Kamamalu;
38. 93° 24' 40" 239.78 feet along Lot 1 of File Plan 1838, remainder of R. P. 4475, L. C. AW. 7713, Ap. 30 to Victoria Kamamalu;

Parcel II:
Lot 2 (Queen's Rise)
All of that certain parcel of land (being a portion of the land(s) described in in and covered by Royal Patent Number 4475, Land Commission Award Number 7713, Apana 30 to V. Kamamalu) situate, lying and being at Munalua, Honolulu, Oahu, State of Hawaii, Lot A of Queen's Rise and thus bounded and described as per survey dated March 30, 1998, to-witt;

Being at the southeast corner of this parcel of land, on the northwesterly side of Kalanianaole Highway, the coordinates of said point of beginning referred to Government Survey Triangulation Station "Kokohead 3" being 13,876.23 feet north and 15,158.09 feet ease and running by azimuths measured clockwise from true south:

1. 65° 58' 50" 155.73 feet along Kalanianaole Highway;
2. Thence along Kalanianaole Highway, on a curve to the left with a radius of 1,462.69 feet , the chord azimuth and distance being : 61° 51' 18" 210.46 feet ;
3. 147° 43' 46" 249.00 feet along the remainder of Royal Patent 4475, Land Commission Award 7713, Apana 30 to V. Kamamalu;
4. 70° 30' 320.00 feet along the remainder of Royal Patent 4475, Land Commission Award 54475, Land Commission Award 7713, Apana 30 to V. Kamamalu;
5. 37° 40' 200.00 feet along the remainder of Royal Patent 4475, Land Commission Award 7713, Apana 30 to V. Kamamalu;
6. 80° 50' 104.00 feet along the remainder of Royal Patent 4475, Land Commission Award 7713, Apana 30, to V. Kamamalu;
7. 161° 08' 551.74 feet along the remainder of Royal Patent 4475, Land Commission Award 7713, Apana 30, to V. Kamamalu;
8. Thence along the remainder of Royal Patent 4475, Land Commission Award 7713, Apana 30 to V. Kamamalu, on a curve to the left with a radius of 6,800.00 feet, the chord azimuth and distance being: 176° 57' 18.25" 2,193.47 feet;
9. 167° 40' 25" 956.91 feet along the remainder of Royal Patent 4475, Land Commission Award 7713, Apana 30 to V. Kamamalu;
10. Thence along top main ridge of Koolau Range, for the next five (5) courses, the direct azimuths and distances between points on said top of main ridge being:
11. 277° 45' 182.11 feet;

12. 338° 58' 50" 250.00 feet;
13. 276° 53' 30" 490.00 feet;
14. 316° 53' 50" 690.00 feet;
15. 243° 00' 72.21 feet;
16. Thence along the remainder of Patent 4475, Land Commission Award 7713, Apana 30 to V. Kamamalu, on a curve to the right with a radius of 3,380.00 feet, the chord azimuth and distance being: 330° 35' 20" 1,423.24 feet;
17. Thence along the remainder of Patent 4475, Land Commission Award 7713, Apana 30 to V. Kamamalu, on a curve to the left with a radius of 470.00 feet, the chord azimuth and distance being: 327° 57' 10" 239.96 feet;
18. 29° 40' 769.47 feet along the remainder of Royal Patent 4475, Land Commission Award 7713, Apana 30 to V. Kamamalu;
19. 63° 30' 439.14 feet along the remainder of Royal Patent 4475, Land Commission Award 7713, Apana 30 to V. Kamamalu;
20. 335° 58' 50" 348.16 feet along the remainder of Royal Patent 4475, Land Commission Award 7713, Apana 30 to V. Kamamalu, to the point of beginning and containing an area of 98.459 acres, more or less.

Being a portion the land conveyed,
To: **Kulia I Ka Nu'u Estates LLC, a Hawaii limited liability company, as Tenants by the Entirety**
By: Limited Warranty Deed
Dated: July 11, 2008
Recorded/Filed: July 11, 2008
Document No.: 2008-111754

Exhibit B

Funding Sources

Funding for the purchase of the Property by Owner and this Easement granted by Owner to **Holders** comes from the following public and private sources:

A. *The Clean Water Natural Lands Fund ("CWNLF").* Established by Honolulu Ordinance 07-18, the purpose of CWNLF includes acquiring real estate interests in land conservation in the City and County of Honolulu (**Holder**) for, among other purposes: preservation of historic or culturally important land areas and sites; protection of significant habitats or ecosystems, including buffer zones; conservation of land in order to reduce erosion, floods, landslides, and runoff; and acquisition of public access to public land and open space.

B. *The Legacy Land Conservation Program ("LLCP").* Established by HRS 173A, this program provides funding for unique and fragile places and resources in the State of Hawaii, including, among other things, watersheds protection, and cultural and historic sites. The LLCP is administered by the Hawaii Department of Land and Natural Resources ("DLNR").

C. *Private Funding Through the Trust for Public Land.* Owner and The Trust for Public Land, **Administrative Holder**, partnered to raise private funding for the purchase and conservation easement. Individuals, businesses and foundations made donations to The Trust for Public Land, a 501(c)(3) nonprofit corporation.

Exhibit C

Important Values of the Property

1. Conservation of Natural Open Space: The Property has high conservation value as it completes the protection of the 7-mile Ka Iwi Coastline spanning from Kawaihoa (Portlock) to Makapuu, which offers Oahu residents and visitors stunning open and natural view planes from mauka to makai just a short drive from town. The Ka Iwi Coast is beloved by visitors from all over the world, residents from all over Oahu, volunteers and members of the Owner.

2. Protection and Propagation of Native Plants: The Property also includes native plants such as Ilima, Mao, Naio, and Pauohiiaka, and native birds such as Koae ula, Iwa, Manu o Ku, and Pueo are frequently seen flying above the Property. With restoration, the Property has the potential to provide habitat to these native birds and other native, migratory and shore birds.

3. Preservation of Historical and Archaeological Sites: The Property includes numerous undocumented historic and/or archaeological features including pohaku lele (balancing stones of possible religious significance), stone terracing, and a large stone structure built in the traditional Hawaiian drystack style.

4. Permit Cultural Practitioners: Native Hawaiian cultural practitioners may have access to the Property may offer oli and pule (chant and prayer), and gather plant materials for their cultural practice.

5. Perpetuation of Scenic Views: Protection of the Property will perpetuate the open and natural sweeping scenic viewplane for drivers along Kalanianaole Highway, and recreational and cultural users of Ka Iwi Coast who see the Property as they fish, paddle, hike, surf, swim and enjoy themselves along Ka Iwi Coast. Proper care of the Property's resources will preserve and potentially enhance these scenic views. The Property's undeveloped and open viewplane connecting cultural landmarks from Makapuu to Kohelepelepe to Halona, native plants and birds, and numerous Hawaiian cultural sites create a perfect environment for learning and cultural practice. Whether on the Property, or at Awawamalu makai of the Property and looking up at the Property, the historic stories of the area come alive with 360 degree undeveloped views.

6. Integrated Educational Landscape: Preservation of the Property will also provide education and cultural opportunities through interpretive signage, managed opportunities to steward and restore the Property's resources, and managed educational access. Owner describes the Property as a community-owned and managed Hawaiian cultural heritage preserve. Limiting development of the Property secures the open viewplane and protection of the native wildlife and cultural sites which comprise this special natural classroom right outside of town. Strict development restrictions through this easement will aid in the study, protection, and monitoring of the Property's many undocumented archaeological sites and native species.

APPENDIX I

Current Land Use on the Property and Surrounding Areas, & Current Land Use, Environmental, Historic Preservation, and Hawaiian Rights Laws

To be added

[Where is this referenced in the Easement? DL]