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GOVERNOR OF
HAWAII



DEPT. COMM. NO. 64

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LAND
STATE PARKS

**STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES**

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

December 5, 2018

The Honorable Ronald D. Kouchi,
President
and Members of the Senate
Thirtieth State Legislature
State Capitol, Room 409
Honolulu, Hawaii 96813

The Honorable Scott K. Saiki, Speaker
and Members of the House of
Representatives
Thirtieth State Legislature
State Capitol, Room 431
Honolulu, Hawaii 96813

Dear President Kouchi, Speaker Saiki, and Members of the Legislature:

For your information and consideration, I am transmitting a copy of the Relating To The Land Conservation Fund And The Legacy Land Conservation Program report, as required by Section 173A-5, Hawaii Revised Statutes (HRS). In accordance with Section 93-16, HRS, a copy of this report has been transmitted to the Legislative Reference Bureau and the report may be viewed electronically at <http://dlnr.hawaii.gov/reports/>.

Sincerely,

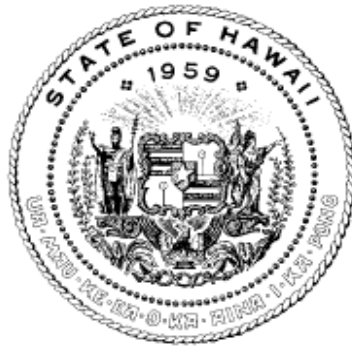
A handwritten signature in blue ink that reads "Suzanne D. Case".

SUZANNE D. CASE
Chairperson

Enclosure

**REPORT TO THE THIRTIETH LEGISLATURE
STATE OF HAWAII
2019 REGULAR SESSION**

**RELATING TO THE LAND CONSERVATION FUND
AND
THE LEGACY LAND CONSERVATION PROGRAM**



Prepared by

**STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES**

In response to Section 173A-5, Hawaii Revised Statutes

Honolulu, Hawaii

December 2018

RELATING TO THE LAND CONSERVATION FUND
AND
THE LEGACY LAND CONSERVATION PROGRAM

PURPOSE

The Legislature established the Land Conservation Fund (“Fund”) in 2005 to provide permanent adequate funding for land conservation by dedicating proceeds from the real estate conveyance tax to the Fund. *See* 2005 Hawai‘i Session Laws Act 156, Section 1 at 387. Recognizing that despite “the value of Hawai‘i’s natural resources to its economy, culture, and quality of life . . . an alarmingly small amount of money is invested each year to protect our natural capital base,” the 2005 Legislature, per Act 156, also found that:

- The preservation, protection, and enhancement of the State’s land, coastal areas, and natural resources are of central importance for current and future residents and for the state economy.
- Article XI, Section 1 of the Constitution of the State of Hawai‘i sets forth the State’s duty to conserve and protect Hawai‘i’s natural beauty.
- Adequate funding to conserve land for watershed protection, coastal preservation, flood prevention, parks, habitat protection, cultural preservation, agricultural production, and open space and scenic resources is necessary to ensure protection of these lands and resources for future generations.

The enabling statute for the Land Conservation Fund, Chapter 173A, Hawai‘i Revised Statutes (“HRS”), provides that the Fund shall be used for:

- (1) the acquisition of interests or rights in land having value as a resource to the State;
- (2) the payment of debt service on state financial instruments relating to the acquisition of interests or rights in land having value as a resource to the State;
- (3) annual administration costs for the Land Conservation Fund; and
- (4) costs related to the operation, maintenance, and management of lands acquired by way of the Land Conservation Fund.

Subsection 173A-5(h), HRS.

Section 173A-2 explains that “‘land having value as a resource to the State’ includes land having natural, environmental, recreational, scenic, cultural, agricultural production, or historic value, and may also include park and trail systems that provide access to any such land.” Subsection 173A-5(i) and Section 173A-9 establishes a land acquisition grant program that is open to state agencies, counties, and nonprofit land conservation organizations.

DLNR’s Legacy Land Conservation Program conducts an extensive public process, annually, to review, vet, prioritize, and fund grant applications for use of the Land Conservation Fund. The process includes:

- application review, field visit reports, public testimony, and recommendations provided by the Legacy Land Conservation Commission, which the Legislature established in 2006 (*see* 2006 Hawai‘i Session Laws Act 254, Section 1 at 1088-1089);
- consultation with the President of the Senate and the Speaker of the House of Representatives (*see* Subsection 173A-5(i) and Section 173A-9, HRS);
- review, public testimony, and approval provided by the Board of Land and Natural Resources (*Id.*);
- review and approval by the Department of Budget and Finance; and
- review and approval by the Governor (*see* Section 173A-9, HRS).

PROGRAM HISTORY – LEGACY LAND CONSERVATION

The Department of Land and Natural Resources (“DLNR”) administers and manages the Land Conservation Fund (“Fund”) and the Legacy Land Conservation Program (“LLCP”) in accordance with:

- Chapter 173A, Hawai‘i Revised Statutes (“HRS”), Acquisition of Resource Value Land;
- Chapter 13-140, Hawai‘i Administrative Rules, Legacy Land Conservation Program Rules; and
- other state and federal governing authorities, particularly:
 - Chapter 171, HRS (Public Lands, Management and Disposition of);
 - Chapter 198, HRS (Conservation Easements);
 - rules of a partnering federal land conservation program that would govern a transfer of a permanent conservation easement, *see* Section 173A-9, HRS.

In 2006, the DLNR secured approval from the Board of Land and Resources (“BLNR”) and from the Governor for the inaugural use of the Fund to acquire land having value as a resource to the State, in accordance with terms specified by the legislature for expending its initial appropriation from the Fund. *See* 2005 Hawai‘i Session Laws Act 156, Section 9. Since that time, the LLCP processed 87 completed grant applications for land acquisition. BLNR—based on recommendations from the Legacy Land Conservation Commission, DLNR’s Division of Forestry and Wildlife, and public testimony—approved 61 of these 87 applications for funding. The Governor approved 58 of the 61 applications that the BLNR approved, which resulted in releases of funding for the acquisition of 55 properties (two properties funded through multiple applications). Among these 55 properties, the LLCP completed 29 acquisitions, 17 acquisitions remain active, and nine acquisitions were discontinued by applicants.

For detailed information about the Legacy Land Conservation Program, please visit dlnr.hawaii.gov/ecosystems/llcp, or contact:

Legacy Land Conservation Program
 Telephone: (808) 586-0921
 Email: legacyland@hawaii.gov

ANNUAL REPORT

Subsection 173A-5(1), Hawai‘i Revised Statutes (“HRS”), paragraph (2), requires that the Board of Land and Natural Resources (“BLNR”) “[p]repare and submit an annual report to the governor and the legislature at least twenty days prior to the convening of each regular session [that] shall include:

- (A) A summary of all interests or rights in land acquired during the preceding fiscal year;
- (B) A summary of what value each newly acquired land has as a resource to the State;
- (C) Proposals for future land acquisitions, including a summary of the resource value that the land may possess;
- (D) A financial report for the preceding fiscal year; and
- (E) Objectives and budget projections for the following fiscal year.”

In accordance with subsection 173A-5(1), HRS, paragraph (3), BLNR makes copies of the annual report available to the public via the Department of Land and Natural Resources website (*available at* <http://dlnr.hawaii.gov/reports>) and upon request.

(A) and (B) INTERESTS OR RIGHTS IN LAND ACQUIRED DURING THE PRECEDING FISCAL YEAR AND RESOURCE VALUE SUMMARY

During Fiscal Year 2018, the Land Conservation Fund (“LCF”) contributed \$1,500,000 from Fiscal Year 2018 funds to pay for debt service on one state financial instrument relating to the acquisition of interests or rights in land having value as a resource to the State (please see resource value summary for LLCP 18-00, below). Several land acquisitions neared completion during Fiscal Year 2018, however the Land Conservation Fund did not close on any acquisition of interests or rights in land during Fiscal Year 2018.

Turtle Bay Makai – Kahuku Kawela Forever, Ko‘olauloa District, O‘ahu Island (LLCP 18-00)



Applicant: State Department of Land and Natural Resources (“DLNR”)
Partners: The Trust for Public Land, North Shore Community Land Trust, Turtle Bay Resort, City and County of Honolulu
Conservation purpose: Protect natural resources, maintain public access (Act 121, 2015)
LCF \$: \$ 1,500,000 for the annual payment of debt service on state financial instruments relating to the acquisition of interests or rights in land having value as a resource to the State

Turtle Bay Makai is a highly significant and important property for residents and visitors on the North Shore of O‘ahu. The property acquired by the State includes 52+ acres of land (fee simple) at Kawela Bay—which the State leased back to the Turtle Bay Resort (“TBR”) for 65 years—and a perpetual conservation easement over 568+ acres, all fronted by about five miles of undeveloped shoreline. Treasured and beloved for its natural beauty, habitat for native species, recreational value, and rich cultural history, community members fought for decades to limit resort development in the area. This ground-breaking and innovative acquisition is part of a broader State, County, community, and nonprofit effort to work out a voluntary negotiated solution with the landowner to conserve sensitive natural areas and widely used recreational areas.

During Fiscal Year 2018, TBR sold its holdings at Turtle Bay to BRE Turtle Bay Resort (“BRE-TBR”), and the State Board of Land and Natural Resources approved TBR’s request to assign its State lease to BRE-TBR. Under this assignment, BRE-TBR is now the entity responsible for managing the State land for public access and recreation, while its existing commercial activities there—such as horseback riding, disc golf, and parking/staging for surf lessons, picnics, jogging, and hiking—may continue. Similarly, the land under the conservation easement is permanently restricted from further development, while BRE-TBR’s existing commercial uses there—such as golf course, golf clubhouse, and restaurant—may continue. DLNR’s Division of Forestry and Wildlife (DOFAW) holds the conservation easement, and monitors it in partnership with North Shore Community Land Trust. DLNR’s Land Division has jurisdiction over the State fee simple land at Kawela Bay, where DOFAW assists with the management and enforcement of BRE-TBR’s lease. Funding for this landmark conservation transaction included a \$35 million state bond issue and \$2.5 million that The Trust for Public Land (“TPL”) secured from the U.S. Army Compatible Use Buffer Program. In accordance with Chapter 173A-13, Hawai‘i Revised Statutes, TPL submitted the required yearly debt service grant application for \$1.5 million from the Land Conservation Fund.

(C) PROPOSALS FOR FUTURE LAND ACQUISITIONS, INCLUDING A SUMMARY OF THE RESOURCE VALUE THAT THE LAND MAY POSSESS

For the 2017-2018 application cycle, the Legacy Land Conservation Program advertised the availability of approximately \$4.5 million in grant funding from the Land Conservation Fund for the purchase of lands having value as a resource to the State. Nonprofit land conservation organizations and state agencies applied for funding for six separate resource land acquisitions and for the payment of debt service on a recent State land acquisition (Turtle Bay Makai, LLC 18-00, as summarized in sections (A) and (B) above), totaling \$8,096,860.

After conducting field visits and public decision-making meetings, the Legacy Land Conservation Commission recommended full funding for two land acquisition grants (up to \$1,500,000 total, as funds are available), and recommended three additional land acquisition grants as back-ups/contingencies for the available funding, as presented below:

- 1a. **MA‘O Organic Farms - Palikea, Wai‘anae, O‘ahu (full funding)**
- 1b. **Amy B.H. Greenwell Ethnobotanical Garden, Kona, Hawai‘i (full funding)**
- 3. *Kamehamenui Forest, Kula, Maui (back-up/contingent funding)*
- 4a.&4b. *Ho‘omau Forest and Ranch, Kona, Hawai‘i (back-up/contingent funding)*

The Department of Land and Natural Resources (“DLNR”) consulted with the Senate President and the Speaker of the House of Representatives regarding the Commission’s recommendations, in accordance with Chapter 173A, Hawai‘i Revised Statutes (“HRS”). The legislators responded in writing, offering no objections or other comments regarding the recommendations of the Commission. Then, the Board of Land and Natural Resources, and lastly, Governor Ige, approved one grant for full funding (\$750,000 for 1a, MA‘O Organic Farms - Palikea) and one grant for partial funding (up to \$750,000 for 1b, Amy B.H. Greenwell Ethnobotanical Garden), based on the total funds available from the Fiscal Year 2018 budget allotment. Because DLNR used a portion of Fiscal Year 2018 funds to fill a funding gap for land acquisition grants awarded in previous funding cycles, the total Fiscal Year 2018 funding available for 2017-2018 applicants for land acquisition grants was limited to \$840,515.

**1a. MA‘O Organic Farms - Palikea
Wai‘anae District, O‘ahu Island (LLCP 18-01a)**

Applicant:	Wai‘anae Community Re-development Corporation
Partner:	The Trust for Public Land
Acreage:	21.1 (fee simple + conservation easement)
Easement holder:	The Trust for Public Land (or qualified designee)
Funding requested:	\$ 750,000
FY18 Funding awarded:	\$ 750,000 (full funding)
Matching \$ secured:	\$ 0
Matching \$ pending:	\$ 550,000 (private funds)
Conservation purpose:	See 173A-5(g), HRS:
	(8) Agricultural production
	(9) Open spaces and scenic resources



Palikea separates Lualualei from the ‘Ewa district, framing wondrous mountain views and sunrises. The property is flat farmland that has access to utilities and water. The application states that “[e]nsuring land of this quality is put into agricultural production is of paramount importance both for food security and for maintaining the agricultural character of Lualualei Valley.” With the addition of the Palikea property, MA‘O expects to increase its organic food production capacity and youth empowerment impact by 75%.

The mission of the Wai‘anae Community Re-Development Corporation, through MA‘O Organic Farms and related programs, is to provide integrated educational and community-based economic development projects on the Wai‘anae Coast of O‘ahu that train and mentor participants, especially youth, so as to develop leaders that will empower the community to become more self-sufficient, and to facilitate a just, sustainable and resilient Wai‘anae moku, O‘ahu, and Hawai‘i.

The application explains that the Palikea parcel likely became part of the McCandless Cattle Ranch during the nineteenth century, and that Mr. Ryoei Higa started farming the property in 1978, growing vegetables without chemical inputs. A former landowner evicted him in 1988 to pursue rezoning for a golf course, and Mr. Higa retorted with his now-famous slogan, “NO CAN EAT GOLF BALLS.” Suitable land for agriculture is increasingly difficult to find in leeward O‘ahu because of competition from real estate development interests and speculators, and the primary threat to the Palikea property is that it is listed for sale and could be acquired for conversion to non-agricultural uses. Preventing conversion of this parcel while concurrently putting it into agricultural production will preserve the agricultural aesthetic of Lualualei, and will hopefully provide incentives for others to continue or begin agricultural operations in the area that will stabilize it against encroaching development over the valley's healthy, fertile soils.

After the Board of Land and Natural Resources approved this grant, The Trust for Public Land bought the property for \$1,060,000, to hold it until the applicant raises sufficient funds for acquisition.

**1b. Amy B.H. Greenwell Ethnobotanical Garden
Kona District, Hawai‘i Island (LLCP 18-01b)**

Applicant:	Friends of Amy B.H. Greenwell Ethnobotanical Garden	
Acreage:	13.6	(fee simple + conservation easement)
Easement holder:	County of Hawai‘i (or other suitable entity)	
Funding requested:	\$ 750,000	
FY18 Funding awarded:	\$ 90,515	
Matching \$ secured:	\$ 16,951	(in-kind volunteer hours; membership donations)
Matching \$ pending:	\$ 910,000	(County of Hawai‘i grant; land value donation)

Conservation purpose: See 173A-5(g), HRS:

- (3) Habitat protection
- (4) Cultural and historical sites
- (5) Recreational and public hunting areas
- (6) Parks
- (7) Natural areas
- (8) Agricultural production
- (9) Open spaces and scenic resources

The Garden’s mission is “to support Hawaiian cultural traditions of land use and plants and conserve the plant resources of traditional Hawaiian cultural activities.”





The application explains that Amy B.H. Greenwell Ethnobotanical Garden (Greenwell Garden), located in the heart of Captain Cook, Hawai‘i, is set amongst remnants of the Kona Field System of traditional Hawaiian agriculture, and contains over 250 native plant species, many of which are rare and endangered. The property to be conserved includes five parcels, three of which are contiguous, and includes Pa‘ikapahu Heiau, located on a separate small parcel about one mile south of the main garden areas.

In addition to plant collections and well-documented archaeological sites, existing facilities include trails, signage, and fences; a visitor center built in 2011, including bathrooms, offices, and exhibit area; one residence (Amy Greenwell home); a greenhouse and nursery operations shop; and an old office building built in 1949. The Friends of Amy B.H. Greenwell Ethnobotanical Garden (Friends) formed in 2016 after the current Garden owner, Bernice P. Bishop Museum, closed the Garden to public visitors and indicated its intent to sell the property. During Fiscal Year 2018, the Museum listed three of the five parcels for sale for nearly \$2 million. The Friends hope to step in, re-open the garden to visitors, and reinstate successful programs such as plant sales, tours, educational and research opportunities, and use for special events and celebrations.

3. *Kamehamenui Forest, Kula, Maui*

The 2018 legislative session resulted in a \$3,000,000 appropriation from the Land Conservation Fund towards DLNR acquisition of fee simple title to 3,277 acres in upcountry Maui for addition to the Kula Forest Reserve for reforestation and public recreation and benefit (Capital Improvement Project EO2A LNR101). This appropriation, if expended, would come from the unencumbered cash balance in the Land Conservation Fund, above and independent from the Fiscal Year 2018 spending ceiling for the Legacy Land Conservation Program, which covers competitive grants from the Land Conservation Fund.

GRANT ADMINISTRATION – LAND ACQUISITION

The Department of Land and Natural Resources (“DLNR”), Division of Forestry and Wildlife—with assistance from DLNR-Land Division, DLNR-Administrative Services Office, and the Department of the Attorney General—administers approved grant awards in accordance with numerous legal requirements and program procedures. At the close of Fiscal Year 2018, eighteen funded awards remained open (for the acquisition of fifteen properties, total), including:

- ten awards for seven state agency land acquisitions (all fee simple)
- one award for county land acquisition (fee simple)
- seven awards for nonprofit land acquisition (five fee simple, two conservation easements).

DLNR anticipates that awardees may be able complete as many as seven of these open grants during the next fiscal year, covering two state agency land acquisitions (three grants total) and four nonprofit land acquisitions. However, completion of two of these nonprofit land acquisitions depends upon the receipt of matching contributions from the City and County of Honolulu Clean Water and Natural Lands Fund, which has been slowed by revised administrative requirements that resulted from recent amendments to the City Charter.

A land acquisition grant to a State agency remains open until the agency grantee completes or discontinues the conservation transaction. In order to complete a State agency transaction, the agency grantee works with DLNR-Land Division staff to perform buyer’s due diligence according to “Standard BLNR Acquisition Procedures,” subject to final approvals from the Department of the Attorney General and the Board of Land and Natural Resources (“BLNR”). DLNR administers a grant to a county or a nonprofit land conservation organization through a contractual grant agreement that has an initial two-year performance period, which DLNR may choose to extend for additional one-year periods. In order to complete a county/nonprofit land acquisition, the grantee works with DLNR-Division of Forestry and Wildlife staff to perform buyer’s due diligence according to the “Checklist for Legacy Land Conservation Program (LLCP) Projects” (which is part of the grantee’s contract with the State), subject to final approvals from the BLNR Chairperson, the Department of the Attorney General, and the DLNR-Division of Forestry and Wildlife Administrator.

For land acquisition grants, Chapter 173A, Hawai‘i Revised Statutes (“HRS”), establishes requirements for:

- a conservation easement, agricultural easement, deed restriction, or covenant that shall run with the land and be recorded with the land to ensure the long-term protection of land having value as a resource to the State and preserve the interests of the State (Section 173A-4);
- a county or a nonprofit grantee to provide matching funds of at least twenty-five per cent of the total project costs (Section 173A-5);
- BLNR approval of a sale, lease, or other disposition of the acquired property (Section 173A-9); and
- sharing the proceeds of a sale, lease, or other disposition of the acquired property with the State (Section 173A-10).

In addition, Chapter 13-140, Hawai‘i Administrative Rules, authorizes DLNR to monitor the status of resource values protected under the terms of a grant agreement by requiring a grantee to submit documentation thereof, and by conducting site visits for the purpose of inspecting the condition of the property and resources (Sections 140-32 and 140-33, respectively). Sections 140-55 and 140-56 provide remedies for a breach of a grant agreement or a deed restriction, respectively, and Section 140-57 sets forth BLNR’s enforcement authority (*see also* Section 173-11, HRS, General Powers).

(D) FINANCIAL REPORT FOR THE PRECEDING FISCAL YEAR

Of the conveyance taxes that the State collects each fiscal year, ten percent or \$6,800,000, whichever is less, is credited to the Land Conservation Fund. *See* subsection 247-7(1), Hawai‘i Revised Statutes (“HRS”). During Fiscal Year 2018 (FY18), conveyance tax credits to the Land Conservation Fund reached the \$6,800,000 revenue cap before the end of the third quarter.

Status of Land Conservation Fund (“LCF”) for FY18:

Beginning cash balance of LCF on July 1, 2017	\$ 20,067,920
Revenue to LCF in FY18 (from conveyance tax)	\$ 6,800,000
Revenue to LCF in FY18 (from interest)	\$ 117,409
Revenue to LCF in FY18 (from discontinued acquisitions that were funded in prior years)	\$ 1,646,000
Revenue to LCF in FY18 (from adjustment of FY17 central service fees)	\$ 14,126
Previously authorized transfers in FY18	(\$ 2,000,000)
Expenditures during FY18	(\$ 1,855,815)
Outstanding previous year encumbrances	(\$ 3,438,944)
FY18 outstanding encumbrances at year end	(\$ 3,264,820)
Cash balance minus outstanding encumbrances	\$ 18,620,967

During FY18, LCF revenues totaled \$8,577,535. Expenditures and encumbrances for the Legacy Land Conservation Program totaled \$5,120,635, which—when reduced to \$5,106,509 through an adjustment of prior year central service fees—did not exceed the authorized allotment of \$5,119,930. The Department of Land and Natural Resources (DLNR) encumbered or expended \$4,764,820 as awards to state agencies, counties, and nonprofit land conservation organizations for the acquisition of interest or rights in lands having value as resource to the State, including debt service obligations. DLNR expended \$232,076 on salaries and administrative costs, and the Department of Budget and Finance levied \$123,739 for special fund assessments (central service fees on revenues and expenditures).

Under subsection 173A-5(h), HRS, paragraph (3), annual administration costs for the LCF may not exceed five per cent of annual LCF revenues from the previous year. In addition to salary costs, the FY18 administrative budget funded staff training at the 2017 National Land Conservation Conference (Deputy Attorney General) and the 2018 Conservation Finance Bootcamp (Program Specialist); travel costs for four Legacy Land Conservation Commission meetings and for seven field visits by Commission permitted interaction groups; one contract for program support services; subscription and membership fees; and office supplies and equipment.

Grant awards	
Total grant expenditures and encumbrances	\$ 4,764,820
Salary costs	
Salaries	\$ 209,199
Administrative expenses	
Commission and staff training and travel	\$ 15,704
Fees, notices, services, equipment	\$ 7,173
Special Fund Assessment	
B&F Central Service Fees	\$ 123,739
Total expended/encumbered	\$ 5,120,635

(E) **OBJECTIVES AND BUDGET PROJECTIONS FOR THE FOLLOWING FISCAL YEAR**

Objectives

The highest priority for the Fiscal Year 2019 (“FY19”) budget was to raise the FY19 spending ceiling for the Legacy Land Conservation Program (“LLCP”) to match the total revenue received in Fiscal Year 2017. The Governor included this one-time increase in the Executive Budget Request and the Legislature approved it in the 2018 legislative session, resulting in an FY19 appropriation of \$6,965,748. Key objectives for implementing the Legacy Land Conservation Program in FY19 are:

- (1) complete prior-year grants for State agency land acquisitions;
- (2) provide support for completing prior-year grants for county and nonprofit land acquisitions;
- (3) coordinate the award, encumbrance, and expenditure of FY19 grant funds towards the acquisition of lands having value as a resource to the State;
- (4) cooperate with the State Office of the Auditor in finalizing a performance audit of the Land Conservation Fund and the Legacy Land Conservation program (*see* 2017 Hawai‘i Session Laws, Act 209); and
- (5) continually improve program operations, including:
 - training additional staff as back-up for program operations;
 - adjusting the grant application schedule so that recommendations from the Legacy Land Conservation Commission are available to inform budget planning and decisionmaking prior to, rather than during, each fiscal year; and
 - implementing audit recommendations, as appropriate.

Budget Projections

As of September 6, 2018, the State Council on Revenues estimates that general fund revenue derived from real estate conveyance tax revenue in Fiscal Year 2019 (“FY19”) will be 6.3% greater than in Fiscal Year 2018 (“FY18”), exceeding the 5% projected growth rate for all FY19 general fund revenue. *See* http://files.hawaii.gov/tax/useful/cor/2018gf09-06_attach_1.pdf. Therefore, the Department of Land and Natural Resources (“DLNR”) anticipates that ongoing vigor in real estate markets in FY19 will again generate \$6,800,000 of conveyance tax revenue to the Land Conservation Fund, which is the maximum amount authorized by statute. During FY18, DLNR returned \$2,146,000 to the Land Conservation Fund from three discontinued grants, bringing the accumulated funding returned from discontinued grants for all previous fiscal years to \$5,311,495. DLNR expects to return at least another \$3,193,346 from discontinued grants during FY19, raising the accumulated funding returned from discontinued grants for all previous fiscal years to \$8,504,841.

Given the ongoing rise in property values and land acquisition costs, and the steady flow of applications for worthy uses of the Land Conservation Fund, DLNR recommends that the Legislature raise the spending ceiling of the Land Conservation Fund for future years in order to help this important and popular program maintain its purchasing power and meet public demand. Under present circumstances, DLNR’s working formula for its annual budget request is to match, at least, (1) total Land Conservation Fund revenue from the most recently completed fiscal year (conveyance tax revenue plus investment pool interest) plus (2) one-sixth of the accumulated, unencumbered funding returned to the Land Conservation Fund from discontinued grants and lapsed legislative appropriations (CIP and special legislation) for acquisition of resource-value lands.

CONCLUSION

During Fiscal Year 2018 (“FY18”), the Land Conservation Fund contributed \$1,500,000 from FY18 funds to pay for debt service on one state financial instrument relating to the acquisition of interests or rights in land having value as a resource to the State (Turtle Bay, O’ahu). The Legacy Land Conservation Program (“LLCP”) encumbered \$840,515 in FY18 funds for two newly-approved grants for future land acquisitions (MA’O Organic Farms – Palikea, O’ahu, full award; Amy B.H. Greenwell Ethnobotanical Garden, Hawai’i, partial award) valued at \$2,976,951 (estimated total costs), that will conserve 34.7 acres (total area). The LLCP encumbered \$2,424,306 in FY18 funds to enable full funding for three grants for future land acquisitions that were approved during previous application cycles (Waikapuna, Hawai’i, FY17; Kepler Ke’anae Lo’i Easement, Maui, FY17; and Kaluanono, Kaua’i, FY15). The LLCP also administered existing grant awards, contracts, and state financial accounts that would provide \$11,441,796 from previous fiscal years for fifteen pending land acquisitions valued at \$46,548,318 (estimated total costs) and conserving 15,549 additional acres (total area).