

# REQUEST FOR LEGAL SERVICES


**Date:** June 1, 2018  
**From:** Stacy Crivello, Chair  
Housing, Human Services, and Transportation Committee

TRANSMITTAL  
**Memo to:** DEPARTMENT OF THE CORPORATION COUNSEL  
Attention: Mimi DesJardins, Esq.

**Subject:** AUTHORIZING THE PURCHASE OF REAL PROPERTY IN WAIKAPU GARDENS PHASE II (HHT-41)

**Background Data:** The attached revised proposed resolution incorporates the revisions made at the May 31, 2018 Housing, Human Services, and Transportation Committee meeting, and nonsubstantive revisions. A marked-up version is included for your ease of reference. Please approve the revised proposed resolution as to form and legality and include the signed copy in your response. A hard copy is requested with your response.

**Work Requested:**  FOR APPROVAL AS TO FORM AND LEGALITY  
 OTHER:

Requestor's signature  Stacy Crivello	Contact Person <u>Saumalu Mataafa</u> (Telephone Extension: <u>7665</u> )
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ROUTINE (WITHIN 15 WORKING DAYS)       RUSH (WITHIN 5 WORKING DAYS)  
 PRIORITY (WITHIN 10 WORKING DAYS)       URGENT (WITHIN 3 WORKING DAYS)

SPECIFY DUE DATE (IF IMPOSED BY SPECIFIC CIRCUMSTANCES): June 6, 2018

REASON: To meet posting deadlines for June 15, 2018 Council meeting.

## FOR CORPORATION COUNSEL'S RESPONSE

ASSIGNED TO:	ASSIGNMENT NO.	BY:
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TO REQUESTOR:  APPROVED  DISAPPROVED  OTHER (SEE COMMENTS BELOW)  
 RETURNING--PLEASE EXPAND AND PROVIDE DETAILS REGARDING ITEMS AS NOTED

COMMENTS (NOTE - THIS SECTION NOT TO BE USED FOR LEGAL ADVICE): \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

DEPARTMENT OF THE CORPORATION COUNSEL

Date \_\_\_\_\_

By \_\_\_\_\_

(Rev. 7/03)

# Resolution

No. \_\_\_\_\_

AUTHORIZING THE PURCHASE OF THE REAL PROPERTY IDENTIFIED AS TAX MAP KEY NUMBER (2) 3-5-036:046 AND AN UNDIVIDED INTEREST IN THE REAL PROPERTY IDENTIFIED AS TAX MAP KEY NUMBER (2) 3-5-036:057 PURSUANT TO THE BUYBACK PROVISIONS CONTAINED IN THE WAIKAPU GARDENS PHASE II AFFORDABLE HOUSING AGREEMENT, AS AMENDED

WHEREAS, the Council of the County of Maui, through Resolution 13-112, approved with modifications the Waikapu Gardens Phase II 201H project; and

WHEREAS, Chapter 201H, Hawaii Revised Statutes, for projects approved by the County of Maui, requires that for a period of ten years after purchase, if the purchaser desires to sell the property, the County shall have the first option to purchase the property; and

WHEREAS, the owner of the real property identified as Tax Map Key Number (2) 3-5-036:046, located at 95 Ohana Hana Loop, Wailuku, Hawaii 96793, desires to sell the property; and

WHEREAS, the owner also possesses an undivided one-half interest in the shared driveway identified as Tax Map Key Number (2) 3-5-036:057, which the County would also acquire; and

WHEREAS, the residential workforce housing agreement executed for the Waikapu Gardens Phase II project, and any amendments thereto (“RWHA”), sets

**Resolution No. \_\_\_\_\_**

the County's purchase price at the sum of the original purchase price, the cost of any improvements, and simple interest on the purchaser's cash equity at the rate of four percent per year; and

WHEREAS, the County's purchase price for the real property is FIVE HUNDRED NINETEEN THOUSAND EIGHT HUNDRED EIGHTY TWO AND 93/100 DOLLARS (\$519,882.93); and

WHEREAS, pursuant to the RWHA the County has ninety (90) days upon notice of owner's intent to sell to complete the purchase; and

WHEREAS, the County received notice from the owner on April 18, 2018, therefore the County has until July 17, 2018, to complete the purchase; and

WHEREAS, the Director of Finance did not obtain an appraisal for this acquisition as there was no negotiation in price, as purchase price was set by the terms of the RWHA; and

WHEREAS, Chapter 3.44, Maui County Code, requires Council authorization for any purchase of real property where the purchase price exceeds TWO HUNDRED AND FIFTY THOUSAND DOLLARS (\$250,000); now, therefore,

BE IT RESOLVED by the Council of the County of Maui:

1. That it finds this acquisition of real property is in the public interest;
- and
2. That it authorizes the acquisition of the real property identified as

**Resolution No. \_\_\_\_\_**

Tax Map Key Number (2) 3-5-036:046 and the undivided one-half interest in Tax Map Key Number (2) 3-5-036:057 for FIVE HUNDRED NINETEEN THOUSAND EIGHT HUNDRED EIGHTY TWO AND 93/100 DOLLARS (\$519,882.93) along with any applicable closing costs; and

3. That it hereby authorizes the Mayor or the Mayor's duly authorized representative, to execute all necessary documents to effectuate the intent of this Resolution; and

4. That certified copies of this Resolution be transmitted to the Mayor and the Director of Housing and Human Concerns.

APPROVED AS TO FORM  
AND LEGALITY:

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MIMI DESJARDINS  
Deputy Corporation Counsel  
County of Maui  
hht:misc:041reso01:ssm

# Resolution

No. \_\_\_\_\_

AUTHORIZING THE PURCHASE OF THE REAL PROPERTY IDENTIFIED AS TAX MAP KEY NUMBER (2) 3-5-036:-046 AND AN UNDIVIDED INTEREST IN THE REAL PROPERTY IDENTIFIED AS TAX MAP KEY NUMBER (2) 3-5-036:-057 PURSUANT TO THE BUYBACK PROVISIONS CONTAINED IN THE WAIKAPU GARDENS PHASE II AFFORDABLE HOUSING AGREEMENT, AS AMENDED

WHEREAS, the Council of the County of Maui, through Resolution 13-112, approved with modifications the Waikapu Gardens Phase II 201H project; and

WHEREAS, Chapter 201H, Hawaii Revised Statutes, for projects approved by the County of Maui, requires that for a period of ten years after purchase, if the purchaser desires to sell the property, the County shall have the first option to purchase the property; and

WHEREAS, the owner of the real property identified as Tax Map Key Number (2)3-5-036:-046, located at 95 Ohana Hana Loop, Wailuku, Hawaii 96793, desires to sell the property; and

WHEREAS, the owner also possesses an undivided [one-half](#) interest in the shared driveway identified as Tax Map Key Number (2)3-5-036:-057, which the County would also acquire; and

WHEREAS, the residential workforce housing agreement executed for the Waikapu Gardens Phase II project, and any amendments thereto (“RWHA”), sets

**Resolution No.** \_\_\_\_\_

the County's purchase price at the sum of ~~the~~ original purchase price, the cost

\_\_\_\_\_

**Resolution No. \_\_\_\_\_**

of any improvements, and simple interest on the purchaser's cash equity at the rate of four percent per year; and

WHEREAS, the County's purchase price for the real property is FIVE HUNDRED NINETEEN THOUSAND EIGHT HUNDRED EIGHTY TWO AND 93/100 DOLLARS (\$519,882.93); and

WHEREAS, pursuant to the RWHA the County has ninety (90) days upon notice of owner's intent to sell to complete the purchase; and

WHEREAS, County received notice from owner on April 18, 2018, therefore the County has until July 17, 2018, to complete the purchase; and

WHEREAS, the Director of Finance did not obtain an appraisal for this acquisition as there was no negotiation in price, as purchase price was set by the terms of the RWHA; and

WHEREAS, Chapter 3.44, Maui County Code, requires Council authorization for any purchase of real property where the purchase price exceeds TWO HUNDRED AND FIFTY THOUSAND DOLLARS (\$250,000); now, therefore,

BE IT RESOLVED by the **Council of the** County of Maui:

1. That it finds this acquisition of real property is in the public interest; and

2. That it authorizes the acquisition of the real property identified as Tax Map Key Numbers (2) 3-5-036:-046 and **the undivided one-half interest in**

**Resolution No. \_\_\_\_\_**

Tax Map Key Number (2) ~~3-5-036:057-057~~ for FIVE HUNDRED NINETEEN THOUSAND EIGHT HUNDRED EIGHTY TWO AND 93/100 DOLLARS (\$519,882.93) along with any applicable closing costs; and

3. That it hereby authorizes the Mayor or the Mayor's duly authorized representative, to execute all necessary documents to effectuate the intent of this Resolution; and

4. That certified copies of this Resolution be transmitted to the Mayor and the Director of ~~the Department of~~ Housing and Human Concerns.

APPROVED AS TO FORM  
AND LEGALITY:

~~JEFF UEOKAMIMI DESJARDINS~~  
Deputy Corporation Counsel  
County of Maui  
~~2018-0478~~  
~~2018-04-30 Resolution~~ hht:misc:041reso01:ssm