

ORDINANCE NO. \_\_\_\_\_

BILL NO. 115 (2018)

A BILL FOR AN ORDINANCE AUTHORIZING THE MAYOR  
OF THE COUNTY OF MAUI TO ENTER INTO AN  
INTERGOVERNMENTAL AGREEMENT WITH THE HAWAII EMERGENCY  
MANAGEMENT AGENCY, DEPARTMENT OF DEFENSE, STATE OF HAWAII  
FOR PRE-DISASTER MITIGATION GRANT FUNDS

BE IT ORDAINED BY THE PEOPLE OF THE COUNTY OF MAUI:

SECTION 1. Purpose. The Hawaii Emergency Management Agency, Department of Defense, State of Hawaii (HEMA), is the recipient of a Pre-Disaster Mitigation Grant from the Federal Emergency Management Agency (FEMA). The County of Maui Emergency Management Agency (MEMA) is a sub-recipient of the FEMA grant funds managed by HEMA, and has been awarded \$121,000.00 of the FEMA grant funds, which requires the County of Maui to provide a \$41,000.00 match, as more fully described in Exhibit "1", attached hereto and incorporated herein. These grant funds will support MEMA's development of a mitigation project entitled "County of Maui Multi-Hazard Mitigation Plan Update", for long-term strategies to reduce the risks of natural hazards which may threaten the property, safety and well-being of citizens and communities in Maui County.

Section 2.20.020, Maui County Code, provides that, unless authorized by ordinance, the Mayor shall not enter into any intergovernmental agreement or any amendment thereto which places a financial obligation upon the county or any department or agency thereof.

SECTION 2. Council authorization. Pursuant to Section 2.20.020, Maui County Code, the Council of the County of Maui hereby authorizes the Mayor to execute the Agreement, all other necessary documents relating to the Agreement, and any amendments thereto.

SECTION 3. Effective date. This ordinance shall take effect upon its approval.

APPROVED AS TO FORM  
AND LEGALITY:

A handwritten signature in cursive script, appearing to read "J. Sheppard", is written over a horizontal line.

JERRIE L. SHEPPARD  
Deputy Corporation Counsel  
County of Maui

2018-1259  
2018-11-14 IGA Ord revised

MEMORANDUM OF AGREEMENT

Between

HAWAII EMERGENCY MANAGEMENT AGENCY  
DEPARTMENT OF DEFENSE  
STATE OF HAWAII

and the

EMERGENCY MANAGEMENT AGENCY  
COUNTY OF MAUI

1. This MEMORANDUM OF AGREEMENT (MOA) is effective \_\_\_\_\_ and entered into by and between the Department of Defense, State of Hawaii, on behalf of its Hawaii Emergency Management Agency, hereinafter referred to as "RECIPIENT," and the County of Maui, Emergency management Agency, hereinafter referred to as "SUBRECIPIENT."
2. The purpose of this MOA is to support the project objective of and activities related to the mitigation project entitled "County of Maui Multi-Hazard Mitigation Plan Update". This project ensures implementation of a complete update of County of Maui Multi-Hazard Mitigation Plan of 2015. The project supports State and County commitments toward long-term strategies to reduce the risks of natural hazards.
3. Period of Performance. This MOA covers the effective date and ends January 30, 2021.
4. Modifications. Any extensions, changes or alterations to the MOA shall be agreed to by both parties in writing before being undertaken and the same shall be evidenced by written amendment to this MOA.
5. Project Budget. The RECIPIENT, through the FEMA Pre-Disaster Mitigation Program (PDM), shall provide a maximum amount of \$121,000 for the project, and the SUBRECIPIENT shall provide the required match of \$41,000 through County funds and/or in-kind activities. The SUBRECIPIENT shall maintain accountability of activities that contribute to the use of the RECIPIENT funds. All activities shall be associated with the categories of activities cited in paragraph 2.
6. Subcontracts. If the SUBRECIPIENT subcontracts any or all of the work required under this Agreement, the SUBRECIPIENT agrees to include in the subcontract that the subcontractor is bound by the same terms and conditions of the Agreement with SUBRECIPIENT. A copy of the executed subcontract must be forwarded to the RECIPIENT within ten (10) days of the execution of said contract. Contractual agreement shall in no way relieve the SUBRECIPIENT of its

Exhibit "1"

responsibilities to ensure that all funds issued pursuant to this grant be administered in accordance with all state laws, regulations, and requirements. The SUBRECIPIENT may not subcontract any work required by this Agreement to any external individual or entity who participated in the development of the application for the mitigation project covered by this Agreement.

7. This Agreement is entered into and awarded under the FEMA 2017 Pre-Disaster Mitigation Program award. The SUBRECIPIENT certifies compliance with all other applicable rules and regulations regarding State statutes, regulations and guidelines and any and all other provisions of law that are applicable to this award.
8. Nothing in this Agreement shall be construed as an indemnification by one party or another for liabilities of a party or third persons for property loss or damage or death or personal injury arising out of and during performance of this Agreement. Any liabilities or claims for property loss or damage or for death or personal injury by a party or its agents, employees, contractors, or assigns or by third persons, arising out of and during the performance of this Agreement shall be determined according to applicable law. However, SUBRECIPIENT shall require its Contractors to indemnify, defend, and hold harmless the SUBRECIPIENT and the STATE, including any officers and employees, from all claims and actions arising out of the subcontractors' entry onto and activities upon, within, or near the projects as a result of this Agreement.
9. The SUBRECIPIENT shall require its consultants, contractors, and subcontractors (together subcontractors) to procure and maintain during the term of each contract and any extension thereof, from an insurance company or companies licensed or authorized to do business in the State of Hawaii with an AM Best rating of not less than "A-VIII" or other comparable and equivalent industry rating, a policy or policies of general liability insurance covering bodily injury and property damage with limits not less than \$1,000,000 combined single limit per occurrence and \$2,000,000 in the aggregate. All required policies of insurance shall name the SUBRECIPIENT and the State of Hawaii, and their elected and appointed officials, officers, and employees as additional insured and provide that the policy will not be canceled, terminated, lapsed, or materially changed without 30 days' prior written notice to SUBRECIPIENT and the STATE. The adequacy of the coverage afforded by the said liability and property damage insurance shall be subject to review by SUBRECIPIENT and the STATE from time to time. The SUBRECIPIENT's subcontractors shall provide SUBRECIPIENT and the STATE with a certificate of insurance evidencing coverage prior to any work.
10. Method of Payment. Payment is made on a reimbursable basis, from the RECIPIENT to the SUBRECIPIENT. If other payment arrangements for costs incurred as a result of this MOA are desired, agreement must be reached after consultation between the RECIPIENT and SUBRECIPIENT.


11. Quarterly Reports. The SUBRECIPIENT is required to submit to the RECIPIENT a quarterly financial and performance report. Report dates are March 30, June 30, September 30, and December 30 of each year. The first report is due on September 30, 2018.
12. Termination. Either party to this MOA shall have the privilege, with or without cause, to terminate this MOA at any time upon written notice given thirty (30) days in advance of such termination. Upon termination, the total amount to be paid to the SUBRECIPIENT shall be determined on the basis of the total work completed up to the date of such termination.

IN WITNESS THEREOF, the parties have executed this MEMORANDUM OF AGREEMENT on the day, month, and year mentioned above.

EMERGENCY MANAGEMENT AGENCY  
COUNTY OF MAUI

COUNTY OF MAUI

\_\_\_\_\_  
ALAN M. ARAKAWA  
Its Mayor

By  10/16/18  
HERMAN ANDAYA Date  
Administrator

APPROVED AS TO FORM  
AND LEGALITY

  
Jerrie L. Sheppard  
Deputy Corporation Counsel  
County of Maui

HAWAII EMERGENCY MANAGEMENT AGENCY  
DEPARTMENT OF DEFENSE  
STATE OF HAWAII (STATE)

APPROVED AS TO FORM:

By \_\_\_\_\_

**THOMAS L. TRAVIS**  
**Administrator**

**Date**

**Deputy Attorney General**

DIGEST

ORDINANCE NO. \_\_\_\_\_  
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INTERGOVERNMENTAL AGREEMENT WITH THE HAWAII EMERGENCY  
MANAGEMENT AGENCY, DEPARTMENT OF DEFENSE, STATE OF HAWAII  
FOR PRE-DISASTER MITIGATION GRANT FUNDS

This bill proposes to authorize the Mayor of the County of Maui to enter into an intergovernmental agreement with the State of Hawaii Emergency Management Agency, Department of Defense, for pre-disaster mitigation funds.

I, DENNIS A. MATEO, County Clerk of the County of Maui, State of Hawaii, DO HEREBY CERTIFY that the foregoing BILL NO. 115 (2018) was passed on First Reading by the Council of the County of Maui, State of Hawaii, on the 15th day of November, 2018, by the following vote:

AYES: Councilmembers Alike Atay, Eleanora Cochran, S. Stacy Crivello, Donald S. Guzman, G. Riki Hokama, Kelly T. King, Yuki Lei K. Sugimura, Vice-Chair Robert Carroll, and Chair Michael B. White.

NOES: None.

DATED at Wailuku, Maui, Hawaii, this 16th of November, 2018.



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DENNIS A. MATEO, COUNTY CLERK  
COUNTY OF MAUI, STATE OF HAWAII

Copies of the foregoing Bill, in full, are on file in the Office of the County Clerk, County of Maui, for use and examination by the public.