

# REQUEST FOR LEGAL SERVICES

**Date:** April 18, 2017  
**From:** Riki Hokama, Chair  
Budget and Finance Committee

TRANSMITTAL

**Memo to:** DEPARTMENT OF THE CORPORATION COUNSEL  
Attention: Jeffrey Ueoka, Esq.

**Subject:** **FISCAL YEAR 2018 BUDGET** (CC-10) (BF-1)

**Background Data:** Please review proposed revisions to General Budget Provisions and advise if the provisions are acceptable.

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

Requestor's signature  Riki Hokama	Contact Person Carla Nakata or Traci Fujita (Telephone Extension: 7659 or 7687, respectively)
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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): April 21, 2017  
REASON: In preparation for decision-making week on the FY 2018 Budget.

## 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)

bf:2018bgt:170417acc02:cmn

Attachment

## GENERAL BUDGET PROVISIONS

SECTION 5. As used herein, an "E/P" or equivalent personnel is the decimal equivalent of a full-time position. A full-time position is equal to 2,080 scheduled hours of work during the fiscal year. All positions are computed as an equivalent of 2,080 scheduled hours of work; 1.0 E/P equals 2,080 hours. This method of computing the number of authorized personnel in a department or program shall not be construed to grant to an incumbent in a position any rights beyond those already provided by law or collective bargaining contract. All positions shall be identified by an E/P designation. Disbursement shall be limited to the total number of E/Ps identified in a program appropriation. Any transfer of E/Ps from one program to another shall be approved by ordinance. As used herein, "LTA" or Limited Term Appointment means an appointment that is made from an eligible list or through a non-competitive promotion, transfer, or demotion for a specified temporary period.

SECTION 6. Appropriations for salaries and premium pay may be disbursed within the pertinent office, department, agency, or program for the following: (1) a temporary position to functionally replace a permanent employee who is on long-term leave, or who has been temporarily assigned to replace a permanent employee who is on long-term leave; provided that disbursement shall be limited in duration to the leave of the permanent employee who is on long-term leave; and (2) trainee positions for which there is an existing or anticipated vacancy for which hiring and replacing is critical to continued operations, provided, that funds are available.

SECTION 7. Unless otherwise provided herein, appropriations for each program may be disbursed for the following categories of use: (a) salaries, premium pay, or reallocation pay, (b) operations or services, and (c) equipment; provided that the disbursement is within the program and category of use for which it was appropriated. Disbursements for salaries, premium pay, and reallocation pay shall include temporary assignment pay, overtime pay, night differential pay, hazardous pay, standby pay, emergency call back pay, reallocations, and reclassifications. Funds shall not be disbursed for reallocations and reclassifications that involve a change in supervisory duties and responsibilities until the County Council receives written notice setting forth: (1) an explanation of the reasons for the change, and (2) organizational charts showing the existing organization and the proposed organization of the department, as it relates to the positions involved. The County Council shall receive notice of any reallocation or reclassification when a position is transferred from the blue collar compensation plan, white collar non-professional compensation plan, white collar professional compensation plan, uniformed fire

compensation plan, or uniformed police compensation plan to a different compensation plan. The County Council shall receive notice of any temporary assignment, temporary transfer, and temporary allocation that is expected to be in effect for more than thirty (30) days with an explanation of the action. Receipt of written notice by the County Clerk shall constitute receipt by the County Council.

A. Notwithstanding the provisions contained in Section 7, appropriations may be disbursed by a department to reimburse another department for work performed.

SECTION 8. General obligation bonds appropriated in this ordinance need not be authorized contemporaneously with this ordinance to be included as estimated revenues. Any increase or decrease in revenues or any increase or decrease in appropriations to any department or program, or any transfer of funds from one department to another, or any transfer of funds within a department, shall be made in accordance with law.

SECTION 9. All provisions of law contained in the Maui County Code and Hawaii Revised Statutes, both as amended, that affect the expenditure of the revenues from the rates, fees, assessments and taxes herein adopted, are incorporated herein and made a part hereof. All provisions of law limiting the expenditure of fund revenues are incorporated herein and made a part hereof.

SECTION 10. The capital improvement projects as described in Appendix "C," attached hereto, are incorporated herein by reference and made a part hereof, except as otherwise provided for in other sections of this ordinance.

#### GRANT REVENUES

SECTION 11. The grant revenues, which include revenues from grants and revenues with restricted uses, set forth in Appendix A, Part I (attached hereto and made a part hereof), are expected to be derived by the County from Federal, State, or private sources during Fiscal Year 2018. These grant revenues are hereby appropriated in the amounts set forth in Appendix A, Part I, to the programs and uses identified therein; provided, that disbursement is conditioned on: (1) receipt of a notification of grant award from the grantor, or receipt of notification from the grantor that the grant award will be forthcoming and that the County is authorized to incur costs pursuant to such grant award; and (2) written notice to the County Council, to which a copy of the notification from the grantor is attached. When a specific amount from a grant is appropriated for a specific position, the individual in that position shall be paid only the amount so specified during this fiscal year and no more, notwithstanding that the terms or rules and regulations of the grant may allow additional pay for said position.

Unless specifically authorized, grant revenues shall not be used for salaries and personnel services for a County position. Except as provided for above, grant revenues may be disbursed for operations, services, or equipment. In addition, any amounts appropriated as County matching funds may also be encumbered or disbursed for operations, services, or equipment.

A. Subject to the requirements of this section, the Mayor is hereby authorized to execute any documents to receive and expend the funds for the grants and programs identified in Part I of Appendix A.

B. Grant revenues derived during Fiscal Year 2018 that are not included in Part I of Appendix A shall be subject to Sections 12 and 13, as may be appropriate.

SECTION 12. Whenever the County is notified that grant revenues are available from Federal or State sources for programs other than those identified in Part I of Appendix A, the County Council may authorize the acceptance of such revenues by adding the revenues to Part I of Appendix A. The following procedure shall apply.

A. These grant revenues are deemed appropriated upon enactment of an ordinance adding the estimated revenues to Part I of Appendix A; provided, that disbursement is conditioned on: (1) receipt of a notification of grant award from the grantor, or receipt of notification from the grantor that the grant award will be forthcoming and that the County is authorized to incur costs pursuant to such grant award; and (2) written notice to the County Council, to which a copy of the notification from the grantor is attached.

B. Subject to the requirements of this Section, the Mayor is hereby authorized to execute any documents to receive and expend the funds for the programs identified in the grant award.

SECTION 13. Whenever the County receives donations of monies from private sources not provided for in Part I of Appendix A, the County Council may approve its acceptance and authorize its expenditure in accordance with Chapter 3.56, Maui County Code.

SECTION 14. The special purpose revenues set forth in Appendix A, Part II (attached hereto and made a part hereof), are expected to be on hand as of June 30, 2017, or derived by the County during Fiscal Year 2018, from the programs or activities described in the Revised Charter of the County of Maui (1983), as amended, the Maui County Code, or the Hawaii Revised Statutes, at the references set forth under A through S therein. The balance remaining in each of the revolving or special funds as of June 30, 2017, is hereby re-appropriated to the particular fund for expenditure for the purposes identified in the ordinance establishing the revolving or special fund. Revenues derived from

the particular program or activities during the fiscal year are hereby appropriated for expenditure for the purposes identified in the ordinance establishing the revolving or special fund. Notwithstanding the foregoing, appropriations from the revolving or special funds shall be specifically identified in the budget ordinance.

#### FEES, RATES, ASSESSMENTS AND TAXES

SECTION 15. The fees, rates, assessments and taxes as set forth in Appendix B (attached hereto and made a part hereof) are hereby adopted and set in accordance with Section 9-7 of the Revised Charter of the County of Maui (1983), as amended.

#### CONCESSIONS, LEASES AND LICENSES

SECTION 16. The schedule of the County of Maui's concessions, leases and licenses are set forth in Appendix B-1 (attached hereto and made a part hereof).

#### ENCUMBERED AND UNENCUMBERED FUNDS

SECTION 17. The several amounts listed below are declared to be the estimated encumbered County Funds as of June 30, 2017 and unencumbered County Funds on hand as of July 1, 2017. The estimated amounts set forth in this section are shown in accordance with Section 9-3 of the Revised Charter of the County of Maui (1983), as amended. The actual amounts of any encumbered and unencumbered funds that the County will have on hand as of June 30, 2017, will be set forth in the Comprehensive Annual Financial Report.

Encumbered funds	\$89,636,362
Unencumbered funds (carryover/savings)	\$31,655,611

#### FINANCIAL PROCEDURES

SECTION 18. For the purpose of this section, "County fund" excludes pension or retirement funds, funds under the control of any independent board or commission, funds set aside for the redemption of bonds or the payment of interest thereon, park dedication funds, or special purpose funds. In the event there are monies in any County fund that, in the judgment of the Director of Finance, are in excess of the amounts necessary for the immediate requirements

of the respective funds, and where in the judgment of the Director of Finance, such action will not impede the necessary or desirable financial operation of the County, the Director of Finance may make temporary transfers or loans therefrom without interest to the Bond Fund or the Housing Interim Financing and Buy-Back Revolving Fund. The amount of such temporary transfers or loans shall not exceed the amount of general obligation bonds or notes authorized but not issued. At any time the aggregate amount of such transfers and loans that shall be unreimbursed shall not exceed \$55,000,000. Monies transferred or loaned shall be expended only for appropriations from the Bond Fund or the Housing Interim Financing and Buy-Back Revolving Fund, which are specified to be financed from the sale of general obligation bonds or notes. The fund from which transfers or loans are made shall be reimbursed, from time to time in whole or in part based on expenditures or anticipated expenditures, by the Director of Finance from the proceeds of the sale of general obligation bonds or notes upon the eventual issuance and sale of such bonds or notes. Within 30 days after each transfer or loan, the Director of Finance shall report to the County Council on: (1) the amount of transfer or loan requirement; (2) the reason or justification for the transfer or loan; (3) the source of funding to reimburse or repay the transfer or loan; and (4) the time schedule proposed for reimbursement or repayment of the transfer or loan. The transfer or loan shall be reimbursed or repaid within twenty-four (24) months after the later of: (i) the date of the transfer or loan; or (ii) the date that the public improvement funded by the transfer or loan was placed in service, but in no event later than three (3) years after the expenditure has been made.

At the close of each quarter, the Director of Finance shall submit to the County Council a Combined Statement of Cash Receipts and Disbursements showing for each month for each individual fund the cash balance at the start of the accounting period, the cash receipts and disbursements during the period, and the cash balance at the end of the period. Within forty-five (45) days after the close of each quarter, the Director of Finance shall submit a separate report showing the accumulated balance of any fund or account which exceeds \$100,000, and which would be available for appropriation upon certification by the Mayor.

SECTION 19. The Director of Finance is hereby authorized to establish appropriate individual and separate accounts for receipts and expenditures except as otherwise provided herein.

SECTION 20. The Director of Finance is further authorized to establish accounts for items of receipt and expenditures for the departments, agencies, or divisions as required by law in order to establish accounting and financial procedures under utility and other enterprise fund accounting. The Director of Finance is authorized to transfer appropriations from programs under

countywide costs to departments where generally accepted accounting principles require such transfer to properly reflect the financial accounting of such department; provided, however, that the total appropriation transferred shall not exceed the appropriation of the respective program in countywide costs; and provided, further, that the County Council shall receive notice of such transfer with an explanation of the action. Receipt of said written notices by the County Clerk shall constitute receipt by the County Council.

SECTION 21. Whoever intentionally or knowingly violates this ordinance shall be fined not more than \$1,000 or imprisoned not more than thirty (30) days or both.

SECTION 22. If any appropriation set forth in this ordinance is held invalid by a court of competent jurisdiction, the Self Insurance fund appropriation shall be adjusted to the extent necessary to maintain the equality of estimated revenues, proposed expenditures and total appropriations, as required by Section 9-5 of the Revised Charter of the County of Maui (1983), as amended.

SECTION 23. If any provision of this ordinance or the application thereof to any person or circumstance, is held invalid by a court of competent jurisdiction, the invalidity does not affect other provisions or applications of the ordinance, which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are severable.

SECTION 24. This ordinance shall take effect on July 1, 2017.

APPROVED AS TO FORM AND LEGALITY:

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Department of the Corporation Counsel  
County of Maui