

REQUEST FOR LEGAL SERVICES

Date: April 30, 2024
From: Yuki Lei K. Sugimura, Chair
Budget, Finance, and Economic Development Committee

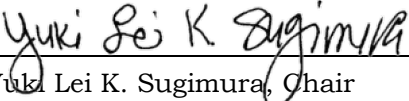
TRANSMITTAL

Memo to: DEPARTMENT OF THE CORPORATION COUNSEL
Attention: Kristina Toshikiyo, Esq.

Subject: AUTHORIZED USE OF GENERAL EXCISE TAX SURCHARGE REVENUES (BFED-1)
(CC-12)

Background Data: Please see attached request for a written legal opinion. Please submit your response to bfed.committee@mauicounty.us with a reference to BFED-1; CC-12.

Work Requested: FOR APPROVAL AS TO FORM AND LEGALITY
 OTHER: Legal opinion

Requestor's signature  Yuki Lei K. Sugimura, Chair	Contact Person <u>Carla Nakata</u> (Telephone Extension: <u>5519</u>)
---	--

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): May 6, 2024
REASON: To review prior to posting deadline for committee report for first reading.

FOR CORPORATION COUNSEL'S RESPONSE

ASSIGNED TO:	ASSIGNMENT NO.	BY:
--------------	----------------	-----

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)

bfed:2025bgt:240428acc01:cmn

Attachment

At its meeting of April 26, 2024, the Budget, Finance, and Economic Development Committee considered Administration's proposal to make adjustments to the Fiscal Year 2025 Budget in light of the County's failure to obtain the \$130,000,000 in State funding and the \$20,000,000 State Security Grant the Mayor had anticipated.

Two proposed appropriations from the General Excise Tax ("GET") Fund are as follows:

- (2) Up to \$33,400,000 must be for construction, permitting, operations, and maintenance of the wildfire permanent disposal site.
- (3) Up to \$2,000,000 must be for wildfire debris removal.

May I please request a written legal opinion on the following:

1. Because Maui County is authorized to use GET surcharge revenues only for housing infrastructure under Section 46-16.8, Hawaii Revised Statutes,¹ could you please explain whether the Department of the Corporation Counsel interprets the above proposed uses as housing infrastructure?
2. If the Department interprets the above uses to be authorized, please explain how the first use fits within the statutory definition of "housing infrastructure."
3. Please also explain how operations and maintenance (identified functions under the first use) are being considered housing infrastructure. What, if any, limitations are being placed on the use of GET surcharge revenues for operations and maintenance?
4. Could you please also explain how the second use fits within the statutory definition of "housing infrastructure"?
5. Is there a distinction being drawn between the housing (residential) components of each proposed use and the non-housing (commercial or other) components? Please explain.

bfd:2025bgt:240428acc01_Attachment

¹ It appears the State Legislature is poised to pass S.B. 1099, S.D. 1, H.D. 2, C.D. 1, Session Laws of Hawaii 2024, to be effective July 1, 2024.