

ORDINANCE NO. _____

BILL NO. **77, FD1** (2025)

A BILL FOR AN ORDINANCE AUTHORIZING THE MAYOR TO ENTER INTO AN INTERGOVERNMENTAL AGREEMENT WITH THE FEDERAL EMERGENCY MANAGEMENT AGENCY TO ALLOW THE USE OF COUNTY PROPERTY ON LUAKINI STREET, LAHAINA, HAWAI'I, FOR A TEMPORARY HOUSING PROJECT

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

SECTION 1. The County of Maui and the Federal Emergency Management Agency seek to enter into an agreement to allow FEMA to use the County property identified for Real Property Tax purposes as Tax Map Keys (2) 4-6-009:058 and 061, known as 767 Luakini Street, Lahaina, Hawai'i, and an adjacent parcel on Luakini Street, respectively, to operate a temporary housing project for up to three years, as described in the License/Use Agreement for Use of Real Property attached as Exhibit "1."

Section 2.20.020, Maui County Code, provides, "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. Under Section 2.20.020, Maui County Code, the Council authorizes the Mayor to execute the License/Use Agreement for Use of Real

Property and any amendments consistent with the purpose and scope of the License/Use Agreement for Use of Real Property that do not increase the County's financial obligation or the agreement's duration.

SECTION 3. This Ordinance takes effect on approval.


APPROVED AS TO FORM AND LEGALITY:

/s/ Michael J. Hopper

Department of the Corporation Counsel
County of Maui

paf:cmn:25-148a

INTRODUCED BY:

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

Upon the request of the Mayor.

EXHIBIT "I"



FEMA

DEPARTMENT OF HOMELAND SECURITY FEDERAL EMERGENCY MANAGEMENT AGENCY LICENSE/USE AGREEMENT – USE OF REAL PROPERTY

I. LICENSE/USE AGREEMENT FOR USE OF REAL PROPERTY

The undersigned offers to donate the temporary use of the following land without facility, described below, to the Federal Emergency Management Agency (FEMA), Department of Homeland Security (DHS), or to the US Fire Administration, for carrying out the purposes of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, Pub. L. No. 93-288, §§ 621(d), 701(b) (1974) (codified as amended at 42 U.S.C. §§ 5197(d), 5201(b)), 42 U.S.C. §§ 5121-5207, et seq. (Stafford Act), the Earthquake Hazards Reduction Act, Pub. L. No. 95-124, § 9 (1977) (codified as amended at 42 U.S.C. § 7705c), and/or the Fire Prevention and Control Act, Pub. L. No. 93-498, § 21(b)(2) (1974) (codified as amended at 15 U.S.C. § 2218(b)(2)).

II. PARTIES

The Parties to this Agreement are the Federal Emergency Management Agency (FEMA), Department of Homeland Security, and County of Maui (Licensor.)

III. PURPOSE

FEMA desires to use, and the Licensor agrees to license and permit FEMA to use the following described property (hereinafter referred to as the "Premises") at no cost to FEMA:

767 Luakini Street situated in Lahaina, Maui, Hawaii, comprised of tax map key parcels: (2) 4-6-009: 058 and 061, of approximately 0.2 acres of land, shown on Exhibit "A".

FEMA shall be authorized to use the designated site for the purpose of providing temporary housing to eligible disaster survivors for a period not to exceed three years from the date of execution of this Agreement.

IV. SCOPE

The Licensor will authorize FEMA the use of the premises identified above for the following purposes:

To establish a temporary group housing site consisting of approximately four temporary housing units to provide interim housing for survivors of the 2023 Lahaina wildfire.

V. DURATION

This Agreement shall become effective upon execution and expire no later than August 31, 2028. FEMA may, at its sole discretion, relinquish the site and associated housing units to the Licensor at any time prior to the expiration of this Agreement. This Agreement may be extended by mutual consent of the parties.

VI. DUTIES AND RESPONSIBILITIES

a. Licensor shall:

- i. Provide FEMA with any keys or other instruments necessary to access the Premises, as needed by FEMA, and coordinate with FEMA to assist with limiting the access of third parties;
- ii. Permit FEMA to install, if necessary, fencing, portable toilets, additional lighting, generators, temporary guard shelters, signage and other removable property necessary to carry out the intended use of the Premises; and
- iii. Maintain insurance for liability, and for loss of or damage to the Premises unrelated to FEMA's temporary housing project arising from the wrongful or negligent acts or omissions of third parties. The County will not be responsible for loss or damage related to the temporary housing project that will be undertaken by FEMA on the Premises, as described in Paragraphs III and IV above. FEMA will remain responsible for any claims related to that project, subject to the provisions of the Federal Tort Claims Act (FTCA), as described in Paragraph VIII of this Agreement.

b. FEMA shall:

- i. Maintain the Premises in clean and orderly condition for the duration of the Agreement;
- ii. Provide for any required security, cleaning, or utility services for the Premises under separate contract at FEMA expense;
- iii. Permit the Licensor to enter the Premises with approval of the designated FEMA Point of Contact, or as otherwise coordinated for routine entry or shared use, as described in paragraph III of this Agreement;
- iv. Surrender the Premises at the conclusion of FEMA's use and occupancy; and
- v. Enter into a separate agreement with the Licensor to determine final disposition of any improvements and/or any utility infrastructure, no later than 60 days prior to the termination of this Agreement.

VII. NON-FUND OBLIGATING AGREEMENT

Nothing in the Agreement shall authorize FEMA to obligate or transfer any funds in connection with FEMA's use and occupancy of the Premises. Any additional work or activity that would require the transfer of funds or the provision of goods or services among the parties will require execution of a separate agreement and will be contingent upon the availability of the appropriated funds. Such activity must be independently authorized by appropriate statutory authority. This Agreement does not provide such authority.

VIII. LIABILITY

Licensor and the United States each agree to be responsible for the negligent or wrongful acts or omissions of their respective employees arising under this agreement. The parties agree – subject to any limitations imposed by law, rule, or regulation – to cooperate in good faith to resolve any claims promptly and, whenever appropriate, without litigation. For all claims or suits arising under this agreement, each party's designated legal representatives will, within seven (7) calendar days of receipt, provide each other's designated legal representatives copies of any documents memorializing such claims. Nothing in this Agreement shall be construed as a waiver of any sovereign immunity of the United States. The Federal Tort Claims Act (FTCA), 28 U.S.C. §§ 1346(b), 2671-2680 provides the exclusive monetary damages remedy for allegedly wrongful or negligent acts or omissions by federal employees within the scope of their employment.

IX. COMPLIANCE WITH APPLICABLE LAW

Proposed Alternative:

The Licensor shall comply with all Federal, State and local laws applicable to the Licensor as owner, or Licensor, or both of the Premises, including, without limitation, laws applicable to construction, ownership, alteration or operation of both or either thereof, and will obtain and maintain all required permits, licenses and similar items, at no cost to FEMA. Licensor will not be responsible for any Federal, State, or local requirements stemming from FEMA's installation of improvements and/or infrastructure in support of FEMA's temporary housing project. United States law will be applied to resolve any dispute or claim.

X. PROPER USE OF PREMISES

The Licensor warrants that the Premises may be used for the purposes intended by FEMA as described in this Agreement. Nothing in this Agreement shall be construed to create a duty on FEMA to inspect for toxic material or latent environmental conditions which could be affected by FEMA's intended use of the Premises. Any known environmental conditions which could affect FEMA's use of the Premises, known to the Licensor, must be disclosed to FEMA.

XI. USE OF DHS SEAL/FEMA MARK AND TRADEMARKS

The Licensor may use FEMA's name, not stylized and not with the DHS Seal, in factual recounting, reporting, or otherwise describing the donation as reflected in this Agreement only, including in promotional materials. The Licensor must not utilize FEMA's name in such a way that expresses or implies that FEMA endorses the Licensor or its products. Any other use by the Licensor requires the express written consent of FEMA.

XII. INTEGRATED AGREEMENT

This Agreement contains the entire agreement of the parties. No agreement outside of this document can alter these provisions. Any changes to this Agreement must be made in writing with the mutual consent of the parties.

XIII. POINTS OF CONTACT

a. The FEMA Point of Contact is:

Forrest Lanning
Response Division, FEMA Region 9
1111 Broadway, #1200, Oakland, CA 94607
Phone: (202) 372-7811
Email: Forrest.Lanning@fema.dhs.gov

b. The Licensor's Point of Contact is:

Wendy Taomoto
Engineering Program Manager, Department of Management
200 South High Street, 9th Floor, Wailuku, HI 96793
Phone: (808) 270-7855
Email: Wendy.Taomoto@co.maui.hi.us

XIV. OTHER PROVISIONS

Nothing in this agreement is intended to conflict with current law or regulations or the directives of DHS/FEMA. If a term of this agreement is inconsistent with any such authority, then that term shall be invalid, but the remaining terms and conditions of this agreement shall remain in full force and effect.

XV. EFFECTIVE DATE

The terms of this agreement will become effective on the date of signature of the authority representatives of all parties.

XVI. MODIFICATION

This agreement may be modified upon the mutual written consent of the parties.

XVII. APPROVED BY

For the Licensor:

Signature of Licensor	Print Name	Date
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Approval Recommended:

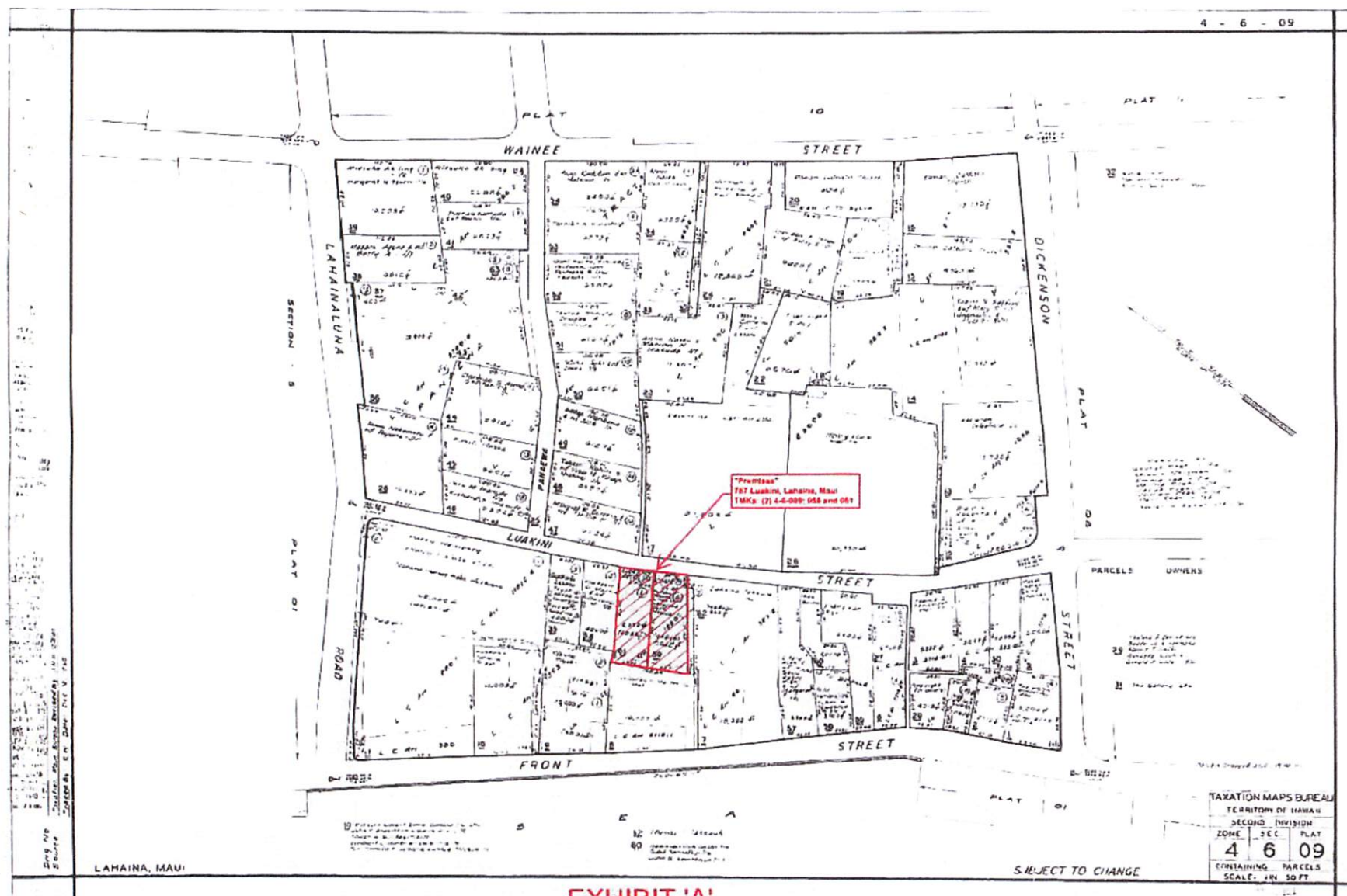
Signature	Print Name	Date
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Approved as to Form and Legality:

Signature	Print Name	Date
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For the Federal Emergency Management Agency:

Signature of FEMA Official	Print Name	Date
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DIGEST

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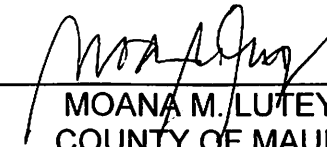
This bill proposes to authorize the County of Maui and the Federal Emergency Management Agency "FEMA" to enter into an agreement to allow FEMA to install 4 temporary housing units on County property, located at 767 Luakini Street, Lahaina, which was the former site of County's Crossroads Apartments.

I, MOANA M. LUTEY, County Clerk of the County of Maui, State of Hawaii, DO
HEREBY CERTIFY that the foregoing BILL NO. 77, FD1 (2025) was passed on First
Reading by the Council of the County of Maui, State of Hawaii, on the 6th day of June,
2025, by the following vote:

AYES: Councilmembers Tom Cook, Gabriel Johnson, Natalie A. Kama,
Keani N. W. Rawlins-Fernandez, Tamara A. M. Paltin, Shane M.
Sinenci, Nohelani U'u-Hodgins, Vice-Chair Yuki Lei K. Sugimura,
and Chair Alice L. Lee.

NOES: None.

DATED at Wailuku, Maui, Hawaii, this 13th of June, 2025.



MOANA M. LUTEY, 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.