

REQUEST FOR LEGAL SERVICES

Date: May 3, 2018
From: Riki Hokama, Chair
Budget and Finance Committee

RECEIVED

By Department of the Corporation Counsel at 3:32 pm, May 03, 2018

TRANSMITTAL

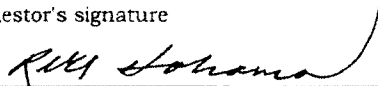
Memo to: DEPARTMENT OF THE CORPORATION COUNSEL
Attention: Jeffrey Ueoka, Esq.

Subject: **FISCAL YEAR 2019 BUDGET** (BF-1) (CC-25)

Background Data: Please review attached marked-up copy of proposed Bond bill, revised to reflect committee recommendations and, if appropriate, approve it as to form and legality. A hard copy of the approved bill is requested with your response.

Work Requested: ☒ FOR APPROVAL AS TO FORM AND LEGALITY

☐ OTHER:

Requestor's signature  Riki Hokama	Contact Person Traci Fujita (Telephone Extension: 7687)
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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): May 4, 2018

REASON: For posting on the May 18 Council meeting agenda

FOR CORPORATION COUNSEL'S RESPONSE

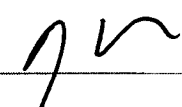
ASSIGNED TO: JTU	ASSIGNMENT NO. 2018-0310	BY:
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TO REQUESTOR: ☐ APPROVED ☐ DISAPPROVED ☐ OTHER (SEE COMMENTS BELOW)
☐ RETURNING--PLEASE EXPAND AND PROVIDE DETAILS REGARDING ITEMS AS NOTED

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

DEPARTMENT OF THE CORPORATION COUNSEL

Date 5/3/18

By  (Rev. 7/03)

bf:2019bgt:180502acc02:tnf

Attachment

ORDINANCE NO. _____

BILL NO. ____ (2018)

A BILL FOR AN ORDINANCE AUTHORIZING THE
ISSUANCE OF SIXTY-FIVE MILLION SEVEN HUNDRED NINETY-
FIVE THOUSAND DOLLARS (\$65,795,000) AGGREGATE
PRINCIPAL AMOUNT OF GENERAL OBLIGATION BONDS OF THE
COUNTY OF MAUI FOR THE PURPOSE OF PROVIDING FUNDS TO
PAY ALL OR A PART OF THE COST OF APPROPRIATIONS FOR
PUBLIC IMPROVEMENTS OF AND FOR THE COUNTY OF MAUI;
FIXING THE FORM, DENOMINATIONS AND CERTAIN OTHER
FEATURES OF SUCH BONDS AND PROVIDING FOR THEIR SALE;
AUTHORIZING THE DIRECTOR OF FINANCE TO DETERMINE
CERTAIN DETAILS OF THE BONDS; AUTHORIZING THE
ISSUANCE AND SALE OF A LIKE PRINCIPAL AMOUNT OF
GENERAL OBLIGATION BOND ANTICIPATION NOTES IN
ANTICIPATION OF THE ISSUANCE AND SALE OF SUCH BONDS;
AND PROVIDING FOR OTHER ACTIONS RELATED TO THE
ISSUANCE, SALE AND DELIVERY OF SAID BONDS

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

SECTION 1. Authorization of General Obligation Bonds. Pursuant to Chapter 47, Hawaii Revised Statutes, as amended, and particularly Part I thereof, there are hereby authorized to be issued and sold from time to time general obligation bonds of the County of Maui, State of Hawaii (the "County") in an aggregate principal amount not to exceed \$65,795,000 (the "Bonds"), the proceeds derived from the sale of which shall be used to pay all or part of the cost of appropriations for the public improvements of the County described in Section 2 hereof.

SECTION 2. Disposition of Bond Proceeds. All or any portion of the proceeds derived from the sale of the Bonds or any notes issued in anticipation of the Bonds shall be used to pay all or part of the cost of any of the public improvements listed below in accordance with appropriations contained in the Fiscal Year 2019 Budget, including amendments and supplements thereto, duly approved by the Council of the County (the "Council") for the fiscal year ending June 30, 2019 (the "Fiscal Year 2019 Budget"); provided, however, that pursuant to Section 47-5, Hawaii Revised Statutes, the part of such proceeds which are in excess of the amounts required for the purposes for which the Bonds are initially issued from time to time, or which may not be applied to such purposes, or which the Council deems should not be applied to such purposes, may be applied to finance such other public improvements of the County as the Council shall, by ordinance approved by an affirmative vote of two-thirds of all of its members, determine; and provided further that the actual use and application of the proceeds of Bonds issued pursuant to this ordinance shall not in any way affect the validity or legality of such Bonds. No proceeds of the Bonds shall be applied to any public improvement listed in this section unless and until there

shall be a valid appropriation of general obligation bond proceeds in effect for such public improvement. The public improvements provided for or to be provided for in the Fiscal Year 2019 Budget, to be financed with proceeds from the sale of the Bonds, are as follows:

Public Improvements:

Estimated Project Cost

<u>PROJECT TITLE</u>	<u>APPROPRIATION</u>
A. Department of Environmental Management	
1. Hana Community Plan Area	
a. Sanitation	
(1) Hana Landfill Makai Berm Waste Removal	1,000,000
2. Wailuku-Kahului Community Plan Area	
a. Drainage	
(1) Central Maui Landfill Stormwater Management Improvements	750,000
b. Sanitation	
(1) Central Maui Landfill Monitoring Well Design/Construction	500,000
(2) Central Maui Landfill Land Purchase	250,000
(3) Central Maui Landfill Phase III	250,000
B. Department of Finance	
1. Countywide	
a. Other Projects	
(1) Countywide Equipment	4,320,000
2. Wailuku-Kahului Community Plan Area	
a. Government Facilities	
(1) Wailuku Civic Complex	40,000,000
C. Department of Management	
1. Countywide	
a. Other Projects	
(1) Public Safety Radio System Replacement	1,200,000
D. Department of Parks and Recreation	
1. Makawao-Pukalani-Kula Community Plan Area	
a. Parks and Recreation	
(1) Waiakoa Gym Improvements	175,000

2.	Paia-Haiku Community Plan Area	
a.	Parks and Recreation	
(1)	Alfred "Flako" Boteilho, Sr. Gym Improvements	1,500,000
3.	Wailuku-Kahului Community Plan Area	
a.	Parks and Recreation	
(1)	War Memorial Complex Paving Improvements	500,000
E.	Department of Public Works	
1.	Countywide	
a.	Drainage	
(1)	Countywide Drainage Improvements	1,300,000
b.	Road Improvements (and related improvements, beautification, sidewalks, bike paths, drainage, bridge repairs and maintenance, safety and utilities, accessibility for persons with disabilities) including:	
(1)	Countywide Federal Aid Program	2,000,000
2.	Hana Community Plan Area	
a.	Drainage	
(1)	Mahalawa Bridge Replacement	250,000
b.	Road Improvements (and related improvements, beautification, sidewalks, bike paths, drainage, bridge repairs and maintenance, safety and utilities, accessibility for persons with disabilities) including:	
(1)	Kalepa Revetment and Seawall Repairs	500,000
(2)	Maka'ala Road Resurfacing	550,000
3.	Kihei-Makena Community Plan Area	
a.	Drainage	
(1)	South Maui Drainline Repairs	2,300,000
b.	Road Improvements (and related improvements, beautification, sidewalks, bike paths, drainage, bridge repairs and maintenance, safety and utilities, accessibility for persons with disabilities) including:	
(1)	North South Collector Road (Nanau Place to Kulanihako Street)	500,000
4.	Molokai Community Plan Area	
a.	Drainage	
(1)	Kaunakakai Drainage System B	2,000,000

b. Government Facilities		
(1) Molokai Baseyard		250,000
5. Wailuku-Kahului Community Plan Area		
a. Drainage		
(1) Central Maui Drainline Repairs		1,500,000
(2) Central Maui Drainline Assessment		700,000
(3) Hauoli Street Drainage Basin & Outlet Repair		1,000,000
(4) Iao Stream Bank Stabilization at Millyard		500,000
b. Road Improvements (and related improvements, beautification, sidewalks, bike paths, drainage, bridge repairs and maintenance, safety and utilities, accessibility for persons with disabilities) including:		
(1) Waiale Road Improvements (Kaohu Street to Waiinu Road)		150,000
6. West Maui Community Plan Area		
a. Road Improvements (and related improvements, beautification, sidewalks, bike paths, drainage, bridge repairs and maintenance, safety and utilities, accessibility for persons with disabilities) including:		
(1) Front Street Breakwall Repair Fronting Lahaina Center		500,000
(2) Front Street Deck and Rail Repair Near Lahainaluna Road		700,000
F. Department of Transportation		
1. Wailuku-Kahului Community Plan Area		
a. Government Facilities		
(1) Central Maui Transit Hub		650,000

The cost of issuance of the Bonds or any series thereof, including without limitation, the initial fee of paying agents and registrars, the fees of financial consultants and bond counsel, the cost of preparation of any Official Statement relating to the Bonds, any notices of sale and forms of bid and the definitive Bonds, and the costs of publication of any notices of sale, may be paid from the proceeds of the Bonds or any series thereof and such costs shall be allocated pro rata to each of the foregoing projects financed from such proceeds.

SECTION 3. Details of Bonds. The Bonds authorized for issuance and sale in Section 1 hereof shall be issued and sold in their entirety at one time, as a separate issue or as part of an issue of general obligation bonds of the

County, or from time to time in part in series, as shall be determined by the Director of Finance to be in the best interest of the County; provided, however, nothing herein shall prohibit or be deemed to prohibit the issuance and sale of all or part of the Bonds contemporaneously with the issuance and sale of other authorized general obligation bonds either as part of the same series or as separate series. The Bonds shall be issued in fully registered form without coupons and in the denomination of \$5,000 or any integral multiple thereof. The Bonds of a given series shall be numbered in any manner as the Director of Finance shall determine. The Bonds shall mature annually in substantially equal installments of principal or in substantially equal installments of principal and interest, the first of such maturities to be not later than five years from the date thereof and the last of such maturities to be not later than twenty-five (25) years from the date thereof, shall be dated, may be redeemable prior to their stated maturities at any time or times on and after five (5) years from their date at prices not exceeding 104% of the principal amount thereof, and shall bear interest at such rate or rates per annum, not exceeding twelve per centum (12%) per annum, as shall be specified in the contract approved or the bid accepted for the purchase of the Bonds of such series, if any contract therefor be approved or any bid therefor be accepted, such interest being payable on a date not more than six (6) months from the date of the Bonds of such series and semiannually thereafter. The Director of Finance is hereby authorized to determine, in accordance with and subject to the provisions of this ordinance, the series designation of the Bonds; the date of the Bonds; the principal and interest payment dates of the Bonds and the record dates of holders of the Bonds entitled to receive such interest payments; the maturity dates of the Bonds; the amount of principal of the Bonds maturing on each maturity date; the place or places at which the Bonds may be paid or registered, which may include the office of the Director of Finance; whether the Bonds shall be in book-entry form; and whether or not the Bonds shall be subject to redemption prior to their stated maturities and, if subject to such prior redemption, the provisions for such prior redemption, the premiums (if any) payable upon such redemption and the respective periods in which such premiums are payable.

SECTION 4. Redemption of Bonds. If any Bond (or portion thereof in installments of \$5,000 or any integral multiple thereof) is to be redeemed, notice of redemption shall be given in such manner as the Director of Finance shall determine. If any Bond shall have been duly called for redemption and notice of such redemption duly given as aforesaid, and if moneys for the payment of such Bond at the then applicable redemption price and the interest accrued on the principal amount thereof to the date of redemption are made or duly provided for by the County, interest on such Bond shall cease to accrue and become payable from and after the date fixed for redemption.

SECTION 5. Registration, Exchange and Transfer of Bonds. At all times during which any Bond of any series remains outstanding and unpaid, the registrar for such series shall keep or cause to be kept at its designated office bond registration books for the registration, exchange and transfer of such series of Bonds. Upon presentation at its designated office for such purpose the registrar, under such reasonable provisions as it may prescribe, shall register, exchange or transfer, or cause to be registered, exchanged or transferred, on the bond registration books the Bonds of such series as hereinbefore set forth. The bond registration books shall at all times be open for inspection by the County or any duly authorized officer thereof.

Any Bond of any series may be exchanged at the designated office of the registrar for such series of Bonds for a like aggregate principal amount of such Bonds in other authorized principal sums of the same series, interest rate and maturity. Any Bond of any series may, in accordance with its terms, be transferred upon the bond registration books by the person in whose name it is registered, in person or by such person's duly authorized agent, upon surrender of such Bond to the registrar for such series for cancellation, accompanied by a written instrument of transfer duly executed by the registered owner in person or by such owner's duly authorized agent, in form satisfactory to the registrar.

All transfers or exchanges pursuant to this Section shall be made without expense to the holder of such Bonds, except as otherwise herein provided, and except that the registrar for such series of Bonds shall require the payment by the holder of the Bond requesting such transfer or exchange of any tax or other governmental charges required to be paid with respect to such transfer or exchange. All Bonds surrendered pursuant to this Section shall be canceled.

No transfer or exchange of Bonds shall be required to be made during the fifteen (15) days next preceding an interest payment date for such series of Bonds, nor during the forty-five (45) days next preceding the date fixed for redemption of such Bonds.

Whenever any Bond of a series shall be surrendered for transfer or exchange, the County shall execute and deliver at the designated office of the registrar for such series, and the registrar shall prepare and authenticate, and send by registered mail to the owner or new owner thereof at such owner's request, risk and expense, a new duly executed Bond or Bonds of the same series, interest rate and maturity and for the like aggregate principal sum registered on the bond registration books in such manner as the owner or transferee, as the case may be, may request.

SECTION 6. Execution and Form of Fully Registered Bonds. The Bonds shall bear the manual or facsimile signatures of the Director of Finance or the

Deputy Director of Finance and the Mayor of the County and shall be sealed with the seal or a facsimile seal of the County. The Director of Finance may, at the Director's election, sign or direct the Deputy Director of Finance to sign such number of Bonds of any series as the Director of Finance shall determine and deliver such signed Bonds to the registrar for such series for safekeeping prior to the time such Bonds are actually issued, exchanged or transferred. Unless the Director of Finance is the registrar, the Director of Finance shall direct the registrar for the Bonds of a given series to authenticate such Bonds and no such Bond shall be valid or obligatory for any purpose unless and until the certificate of authentication endorsed on each Bond shall have been manually executed by any authorized officer of the registrar. It shall not be necessary that any Bonds which are manually signed by the Director of Finance, and for which the Director of Finance is the registrar, bear any such certificate of authentication. Upon the registration of any Bonds the registrar shall insert on such Bonds the date as of which such Bonds are registered.

Bonds may be printed, typewritten or otherwise produced. The form of the Bonds, the registrar's certificate of authentication and the instrument of assignment shall be substantially as follows with such appropriate insertions, variations, and omissions as are required with respect to a particular series of Bonds:

(FORM OF BOND)

"UNITED STATES OF AMERICA

STATE OF HAWAII
COUNTY OF MAUI
GENERAL OBLIGATION BOND,
_____ SERIES _____

No. _____

\$_____,000

INTEREST
RATE:

DATED
DATE:

MATURITY
DATE:

CUSIP

REGISTERED HOLDER:
PRINCIPAL SUM:

The County of Maui (hereinafter called the "County"), State of Hawaii, for value received hereby promises to pay to the Registered Holder named above, or registered assigns, on the Maturity Date specified above (unless this bond shall be subject to prior redemption and shall have theretofore been called for previous redemption and the payment of the redemption price duly made or provided) the Principal Sum specified above upon presentation and surrender of this bond at the office of _____, as Registrar, and to pay interest on said principal sum by check or draft mailed to the person in whose name this bond is registered in the bond registration books kept and maintained by the Registrar, as of the close of business on the fifteenth day (whether or not a business day) of the calendar month next preceding each interest payment date, from the date hereof or from the interest payment date next preceding the date of authentication hereof to which interest shall have been paid, unless such date of authentication is an interest payment date, in which case from such date, provided that such interest shall be payable from the Dated Date specified above if the date of authentication is prior to _____, until payment of said principal sum in full at the Interest Rate per annum specified above, payable on _____ and _____ in each year, commencing _____, _____. The principal of, _____ premium, if any, and interest on this bond are payable in any coin or currency of the United States of America which at the time of payment is legal tender for public and private debts.

This bond is one of a series designated "General Obligation Bonds, _____ Series _____" of like date and tenor, except as to number, denomination, interest rate and maturity. This series of bonds is authorized by the Council to be issued to provide funds for various public improvements in

the County. This bond and the series of which it is a part are issued under and pursuant to and in full compliance with the Constitution and statutes of the State of Hawaii, including Part I of Chapter 47, Hawaii Revised Statutes, as amended, the Revised Charter of the County of Maui (1983), as amended, and proceedings of the aforesaid Council duly taken thereunder. This bond is a general obligation of the County, and the payment of the principal and interest hereof is a first charge on the general fund of the County. The full faith and credit of the County are irrevocably pledged of the punctual payment of the principal of and interest on this bond according to its terms.

[The bonds of the series of which this bond is one (or portions of the principal amount thereof in installments of \$5,000 or any integral multiple thereof) maturing after _____, _____, are subject to redemption at the option of the County prior to the respective stated maturities thereof, on and after _____, _____, in whole at any time, and in part from time to time on any interest payment date and in inverse order of maturities, at the principal amount thereof (or the portion of the principal amount thereof to be redeemed), the interest accrued thereon to the date fixed for redemption and the following redemption premiums expressed as a percentage of the principal amount redeemed: [____% if redeemed during the period _____, _____ to _____, _____, both inclusive; ____% if redeemed during the period _____, _____ to _____, _____, both inclusive; ____% if redeemed during the period _____, _____ to _____, _____, both inclusive; ____% if redeemed during the period _____, _____ to _____, _____, both inclusive; and no premium if redeemed on or after _____, _____.] If less than all the bonds of any maturity are called for redemption, the bonds of such maturity to be redeemed (or portions thereof to be redeemed) shall be selected by lot.

In the event this bond is redeemable, as aforesaid, and this bond (or any portion of the principal sum hereof) shall be called for redemption, notice of the redemption hereof shall be given not less than [thirty (30)] days prior to the date fixed for redemption by [first class] mail to the person whose name appears in the bond registration books as the registered owner of this bond as of the [forty-fifth (45th)] day (whether or not a business day) preceding the date fixed for such redemption; *provided, however*, that the failure to receive such notice by any holder hereof or any defect in such notice shall not affect the sufficiency of the proceedings for the redemption of this bond. [Insert any publication option.] If this bond be redeemable and this bond (or any portion of the principal sum hereof) shall have been duly called for redemption and notice of the redemption hereof given as aforesaid, and if on or before the date fixed for such redemption payment hereof shall be duly made or provided for, interest hereon shall cease from and after the redemption date hereof.]

[If this bond be of a denomination in excess of \$5,000, portions of the principal sum hereof in installments of \$5,000 or any integral multiple thereof may be redeemed, and if less than all of the principal sum hereof is to be redeemed, in such case upon the surrender of this bond at the principal office of the Registrar, there shall be issued to the registered owner, without charge therefor, for the then unredeemed balance of the principal sum hereof, a bond or bonds of like series, maturity and interest rate in the denominations of \$5,000 or any integral multiple of \$5,000.]

The bonds of the series of bonds of which this Bond is a part are issuable as fully registered bonds without coupons in the denomination of \$5,000, and any integral multiples thereof. Subject to the limitations and upon payment of the charges, if any, bonds may be exchanged at the principal office of the Registrar, in _____, for a like aggregate principal amount of bonds of other authorized principal sums and of the same series, interest rate and maturity.

This bond is transferable upon the bond registration books by the registered holder hereof, in person or by such holder's agent duly authorized in writing, at the aforementioned offices of the Registrar but only in the manner, subject to the limitations and upon payment of the charges, if any, provided in the proceedings authorizing this bond, and upon the surrender hereof to the Registrar for cancellation, together with a written instrument of transfer satisfactory in form to the Registrar duly executed by the registered holder or by such holder's duly authorized agent, which may be the form endorsed hereon. Upon such transfer a new bond or bonds of authorized denomination and of the same aggregate principal amount, series, interest rate and maturity as the bond surrendered, will be issued to the transferee in exchange herefor.

[This bond shall not be valid or obligatory unless the Certificate of Authentication hereon shall have been manually signed by an authorized officer of the Registrar.]

It is hereby certified, recited and declared that all conditions, acts and things essential to the validity of this bond and the series of which it forms a part exist, have happened and have been done; that every requirement of law affecting the issuance thereof has been duly complied with; and that the amount of this bond and the series of which it forms a part, together with all other indebtedness of the County, is not in excess of any statutory or constitutional limitation of indebtedness.

IN WITNESS WHEREOF, the County of Maui has caused this bond to be signed by the [manual/facsimile] signatures of its [Deputy] Director of Finance and of its Mayor, and to be sealed with [a facsimile of] its seal, and this bond to be dated as of the Dated Date specified above.

[Deputy] Director of Finance
of the County of Maui

Mayor of the County of Maui"

[(FORM OF CERTIFICATE OF AUTHENTICATION)]

"Certificate of Authentication"

This bond is one of the bonds delivered pursuant to the within-mentioned proceedings.

_____, Registrar

By: _____
[Authorized Officer]

Date of Registration: _____

(FORM OF ASSIGNMENT)

For value received _____ hereby sells, assigns and transfers unto _____ the within-mentioned bond and hereby irrevocably constitutes and appoints _____, Agent, to transfer the same on the books of registration in the office of the Registrar with full power of substitution in the premises.

Dated: _____

Registered Owner

Witness: _____

NOTE: The signature to this assignment must correspond with the name as written on the face of the within bond in every particular, without alteration, enlargement or any change whatsoever."

SECTION 7. Sale of Bonds. Without any further authorization from or action by the Council, but subject to the provisions hereof including in particular those limitations set forth in Section 3 and of applicable law, the Director of Finance is hereby authorized to issue and sell the Bonds at one time or from time to time in series at competitive sale or at negotiated sale in accordance with Section 47-8, Hawaii Revised Statutes, as amended, in each

case at such price or prices and upon such terms and conditions as the Director of Finance shall approve and determine to be in the best interest of the County. Without limiting the generality of the foregoing, with respect to the sale of the Bonds or of portions of the Bonds, the Director of Finance is hereby authorized to retain bond counsel, paying agents, registrars and financial and accounting consultants, upon such terms and conditions as the Director of Finance shall deem advisable and in the best interest of the County, to select the date for such sale, to publish and distribute a Notice of Sale or to enter into a contract for the sale of the Bonds or portions thereof, in each case in such form and containing such terms and conditions as the Director of Finance shall approve and deem advisable, to distribute an Official Statement and such other information relating to the Bonds as the Director of Finance may deem advisable, to receive bids for the sale of the Bonds or the portion thereof being offered and to award the sale of the Bonds or the portion thereof being offered to the bidder offering the lowest interest cost therefor, in accordance with the applicable Notice of Sale, if any; provided that the Director of Finance may reserve the right to reject any and all bids. Subject to the provisions of Section 3 hereof, without further action of the Council, the Bonds shall bear interest at the rates per annum as specified in the contract or contracts approved or in the bid or bids accepted.

The Director of Finance and all officials of the County are hereby authorized to take such action and execute such orders, receipts and other documents as may be necessary in order to effectuate the sale of the Bonds or any portion thereof, and, if any contract therefor be approved or any bid therefor be accepted, the preparation, execution and delivery thereof, in accordance with the provisions hereof and applicable law. Subsequent to the sale of the Bonds, the Director of Finance shall report the results of such sale to the Council by letter.

SECTION 8. Authorization of Bond Anticipation Notes. General obligation bond anticipation notes are hereby authorized for issuance and sale by the Director of Finance in anticipation of the issuance and sale of the general obligation bonds authorized herein. The issuance and details of the notes shall be governed by the provisions of Section 47-16, Hawaii Revised Statutes, as amended. Bonds in anticipation of which bond anticipation notes are issued pursuant to this section may be issued and sold in accordance with the provisions of this ordinance at any time within five years of the date of issuance of the first notes issued in anticipation of such Bonds.

The proceeds derived from the sale of any notes issued in anticipation of the Bonds shall be used to pay all or part of the cost of any appropriation for the various public improvements set forth in Section 2.

SECTION 9. Security for the Bonds. The full faith and credit of the County are hereby pledged to the payment of the principal of and interest on

the Bonds and the principal and interest payments shall be a first charge on the General Fund of the County.

SECTION 10. Tax Covenant and Approval of Issuance of Bonds as Tax-Exempt, Taxable, Build America Bonds or Recovery Zone Economic Development Bonds. The Bonds (and any previously authorized but unissued general obligation bonds) (the "Authorized Bonds") are hereby authorized to be issued, in whole or in part, and in any combination, including one or more separate issues or series, as either tax-exempt bonds ("Tax-Exempt Bonds"), federally taxable bonds ("Taxable Bonds"), build America bonds ("BABs") or Recovery Zone Economic Development Bonds ("RZEDBs"). The Director of Finance shall determine and elect, based on the best interests of the County, which portions of the Authorized Bonds (including any previously authorized but unissued general obligation bonds) shall be designated and issued as Tax-Exempt Bonds, Taxable Bonds, BABs or RZEDBs. Previously authorized but unissued general obligation bonds are hereby expressly authorized to be issued as Tax-Exempt Bonds, Taxable Bonds, BABs or RZEDBs and in this regard any portion of any ordinance or resolution of the County in conflict with this Section is hereby amended.

For Authorized Bonds (including any previously authorized but unissued general obligation bonds) that are designated and issued as Tax-Exempt Bonds, the County hereby covenants and agrees to comply with the provisions of Sections 103 and 141-150 of the Internal Revenue Code of 1986, as amended ("Code"), and the applicable Treasury Regulations if and to the extent required to maintain the exclusion from gross income of interest on the Tax-Exempt Bonds for federal income tax purposes for so long as any Tax-Exempt Bond shall be outstanding.

For Authorized Bonds (including any previously authorized but unissued general obligation bonds) that are designated and issued as Taxable Bonds, the interest on such Taxable Bonds shall not be excluded from gross income for federal income tax purposes.

For Authorized Bonds (including any previously authorized but unissued general obligation bonds) that are designated and issued as BABs, the County covenants to do all things necessary and appropriate to ensure such Bonds qualify as "build America bonds" under Section 54AA of the Code and "qualified bonds" under Sections 6431 and 54AA(g) of the Code, and to treat such Bonds as "build America bonds" issued pursuant to Section 54AA of the Code and eligible for the refundable credit authorized under Code Section 6431 equal to thirty-five percent (35%) of the interest payable on qualified bonds issued under Code Section 54AA.

For Authorized Bonds (including any previously authorized but unissued general obligation bonds) that are designated and issued as RZEDBs, the County covenants to do all things necessary and appropriate to ensure such Bonds qualify as "recovery zone economic development bonds" under Section 1400U-2 of the Code and "qualified bonds" under Sections 6431 and 54AA(g) of the Code, and to treat such Bonds as "recovery zone economic development bonds" issued pursuant to Section 1400U-2 of the Code and eligible for the refundable credit authorized under Code Section 6431 equal to forty-five percent (45%) of the interest payable on qualified bonds issued under Code Section 1400U-2.

SECTION 11. Reimbursement of expenditures. The County expects that it will pay certain capital expenditures in connection with the public improvements of the County described in Section 2 hereof prior to the issuance of the Bonds, and reasonably expects to reimburse such expenditures from the proceeds of such Bonds. The County hereby declares its official intent to use proceeds of the Bonds to reimburse itself for future expenditures in connection with such public improvements. This Ordinance is adopted in part for purposes of establishing compliance with the requirements of Section 1.150-2 of the Treasury Regulations.

This Ordinance shall be reasonably available for inspection by the general public during normal business hours at the offices of the County Clerk, located at 200 South High Street, Wailuku, Maui, Hawaii, commencing within fifteen (15) days after the approval hereof by the Council.

SECTION 12. CUSIP Identification Numbers. The Director of Finance may authorize the printing of CUSIP identification numbers upon the Bonds. Such numbers and the printing thereof shall be subject in all respects to the provisions of Section 47-10, Hawaii Revised Statutes, as amended.

SECTION 13. Bond Insurance. If the original purchaser of the Bonds, or any portion thereof, shall procure insurance for the payment of the principal of and interest on such Bonds and desires that a statement with respect to such insurance shall be printed upon such Bonds, space shall be provided on the backs of the printed Bonds for the printing of such statement. The cost, if any, of the printing of any such statement upon the Bonds shall be at the expense of such original purchaser, and the County shall not have any liability with respect thereto. Should the procuring of such insurance or the printing of a statement of such insurance upon the back of the Bonds cause a delay either in the printing of the Bonds or in the delivery of and payment therefor, the County, after notifying the original purchaser of the same, shall proceed with the printing of such Bonds without a copy of such statement thereon, or shall proceed with the delivery of such Bonds without such insurance having been obtained, as the case may be, unless an agreement is reached between the County and the original purchaser of such Bonds extending the date of delivery of and payment for such Bonds. Neither the failure by the original purchaser

of the Bonds to obtain any such insurance nor the failure to print on any Bonds a copy of a statement of insurance or any error with respect thereto shall constitute cause for failure or refusal by the original purchaser of the bonds to accept delivery of and pay for such Bonds. If any such insurance on the Bonds shall be obtained by the original purchaser of such Bonds, (a) such insurance shall not constitute a part of the contract by and with the County evidenced by a particular Bond or constitute a part of the proceedings providing for the issuance thereof, and (b) no liability or responsibility shall attach to the County or any officer or agent thereof in any way by reason of any such insurance, including, without limiting the foregoing, with respect to the procuring, maintenance, enforcement or collection thereof. Without limiting the effect of the provisions of the preceding sentence, the County shall be under no obligation to take or refrain from taking any action by reason of the existence of such insurance or any of the provisions thereof, even though the taking or refraining from taking of such action may result in or be cause for cancellation or cessation of such insurance.

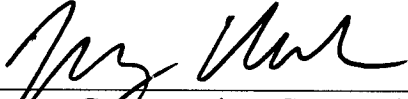
SECTION 14. Refunding Bonds. Pursuant to Chapter 47, Hawaii Revised Statutes, as amended, and particularly Section 47-17, there are hereby authorized for issuance and sale at one time or from time to time general obligation refunding bonds of the County (the "Refunding Bonds") in one or more series for the purpose of refunding in advance of their maturity all or part of any outstanding general obligation bonds of the County as the Director of Finance shall determine to be in the best interest of the County, and to pay all costs incurred in the issuance thereof and the refunding of such outstanding bonds, and shall be in any amount necessary for such purposes. The proceeds of the Refunding Bonds of any particular series shall be applied to the payment of the principal of, and redemption premium, if any, and interest on the bonds to be refunded and to the payment of all costs incurred in the issuance of such Refunding Bonds and the interest accrued on the Refunding Bonds to the date of delivery thereof and payment therefor, all as determined by the Director of Finance.

SECTION 15. Effect of Section Headings. The headings or titles of the several Sections hereof shall be solely for convenience of reference and shall not affect the meaning, construction, interpretation or effect of this ordinance.

SECTION 16. Repeal of Inconsistent Ordinance and Resolution. Any ordinance or resolution of the County, or any portion thereof, in conflict or inconsistent with this ordinance is hereby repealed to the extent of such conflict or inconsistency.

SECTION 17. Effective Date. This ordinance shall take effect on July 1, 2018.

APPROVED AS TO FORM
AND LEGALITY:



Deputy Corporation Counsel
County of Maui

2018-0310

2018-05-03 Go Bond Initial