

ORDINANCE NO. _____

BILL NO. 86 (2017)

A BILL FOR AN ORDINANCE AUTHORIZING THE MAYOR OF THE
COUNTY OF MAUI TO ENTER INTO AN INTERGOVERNMENTAL
AGREEMENT AMENDING THE MEMORANDUM OF AGREEMENT FOR
LIFEGUARD SERVICES BETWEEN THE STATE OF HAWAII AND THE COUNTY
OF MAUI FOR MAKENA BEACH PARK

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

SECTION 1. Purpose. On July 3, 2008, the State of Hawaii and the County of Maui entered into an agreement where the County would provide lifeguard services at Makena Beach Park. The State of Hawaii and the County of Maui have amended this Agreement over the years to continue the practice of providing County lifeguard services at Makena Beach. The protections afforded by Act 170, Session Laws of Hawaii 2002, as amended, expired on July 1, 2017. The removal of these protections affects a significant section of the original agreement and therefore the proposed Amendment to the Memorandum Agreement, attached hereto as Exhibit "1", has the potential to place a financial obligation on the County. Section 2.20.020, Maui County Code ("MCC"), 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. Authorization. The Council hereby authorizes the Mayor or his authorized representative to execute the Amendment to the Memorandum of Agreement, and any further amendments thereto.

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

APPROVED AS TO FORM
AND LEGALITY:



JEFFREY UEOKA
Deputy Corporation Counsel
County of Maui
LF 2015-4654
2017-08-30 Ordinance MOA

DAVID Y. IGE
GOVERNOR OF
HAWAII



SUZANNE D. CASE
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

ROBERT K. MASUDA
FIRST DEPUTY

JEFFREY T. PEARSON, P.E.
DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES
BOATING AND OCEAN RECREATION
BUREAU OF CONVEYANCES
COMMISSION ON WATER RESOURCE MANAGEMENT
CONSERVATION AND COASTAL LANDS
CONSERVATION AND RESOURCES ENFORCEMENT
ENGINEERING
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

August 22, 2017

Fire Chief Jeffery Murray
Maui Fire Department
200 Dairy Road
Kahului, Hawaii 96732

Dear Fire Chief Murray:

The purpose of this letter is to serve as the ninth written amendment to the Memorandum of Agreement for Lifeguard Services (MOA) made and entered into on July 3, 2008, as amended on July 22, 2009, June 28, 2010, June 16, 2011, June 8, 2012, June 7, 2013, May 14, 2014, June 1, 2015, and June 17, 2016 between the State of Hawaii and the County of Maui for Makena Beach.

The available funding is limited to \$264,014.66 for this amendment. Division of State Parks understands you are able to continue to provide lifeguard services at Makena under the following conditions:

1. This amendment will be for lifeguard services at Makena Beach State Recreation Area, Island of Maui, from July 1, 2017 through September 30, 2017, provided that the State may cancel the contract at any time with 30 days written notice.
2. Funding under this amendment can be used solely for Water Safety Officer positions until further discussion and concurrence.
3. The effective date of this amendment is July 1, 2017.

EXHIBIT " 1 "

4. Funds to be transmitted to the County of Maui under this amendment shall total \$264,014.66.

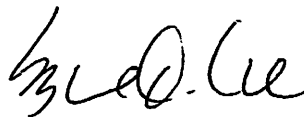
Employee	Annual Salary	Benefits	Total	Quarter
OSO IV Captain SR21 G	\$	\$	\$	\$ 30,026.54
OSO III Lieutenant SR19 F	\$	\$	\$	\$ 26,697.57
OSO II SR17 H	\$	\$	\$	\$ 26,697.57
OSO II SR17 G	\$	\$	\$	\$ 25,672.01
OSO II SR17 F	\$	\$	\$	\$ 24,679.35
OSO II SR17 F	\$	\$	\$	\$ 24,679.35
OSO II SR17 F	\$	\$	\$	\$ 24,679.35
OSO II SR17 E	\$	\$	\$	\$ 23,752.50
OSO II SR17 E	\$	\$	\$	\$ 23,752.50
OSO II SR17 D (half-time)	\$	\$	\$	\$ 11,424.50
OSO II SR17 C	\$	\$	\$	\$ 21,953.65
Total	\$577,681.00	\$478,377.64	\$1,056,058.64	\$264,014.66

5. All other terms and conditions of the MOA shall remain unchanged with the exception of Section C. The following language is deleted:

In accordance with Act 170, Session Laws of Hawaii 2002, as amended by Act 152, Session Laws of Hawaii 2007, and Act 81, Session Laws of Hawaii 2009, "a county lifeguard, the employing county, and the State shall not be liable for any civil damages resulting from any act or omission of the lifeguard while providing rescue, resuscitative, or other lifeguard services on the beach or in the ocean in the scope of employment as a county lifeguard. This exception from liability, however, shall not apply when the claim for civil damages results from a county lifeguard's gross negligence or wanton act or omission."

Please sign and date below and return the original to us. Your staff may call Mr. Curt A. Cottrell at 587-0290, if there are any questions.

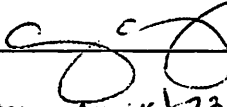
Sincerely,



SUZANNE D. CASE
 Chairperson
 Board of Land and Natural Resources

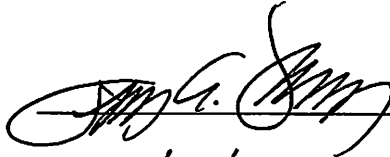
Fire Chief Jeffery Murray
MOA, 9th Amendment

APPROVED AS TO FORM:



Date: August 23, 2017
Deputy Attorney General
Office of the Attorney General

RECOMMEND APPROVAL:



Date: 8/20/2017
FIRE CHIEF JEFFERY MURRAY
Maui Fire Department
County of Maui

ACKNOWLEDGED:

Date: _____
ALAN M. ARAKAWA
Mayor
County of Maui

APPROVED AS TO
FORM AND LEGALITY:

Deputy Corporation Counsel
County of Maui
Date: _____

DIGEST

ORDINANCE NO. _____
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This bill proposes to authorize the Mayor to enter into an intergovernmental agreement to amend the Memorandum of Agreement with the State Department of Land and Natural Resources for lifeguard services at the State-owned Makena Beach Park for the period July 1, 2017 through September 30, 2017.

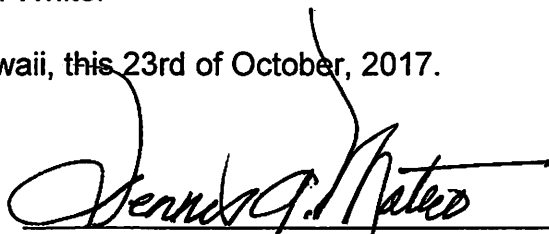
I, DENNIS A. MATEO, County Clerk of the County of Maui, State of Hawaii, DO
HEREBY CERTIFY that the foregoing BILL NO. 86 (2017) was passed on First Reading
by the Council of the County of Maui, State of Hawaii, on the 20th day of October, 2017,
by the following vote:

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

NOES: None.

EXCUSED: Chair Michael B. White.

DATED at Wailuku, Maui, Hawaii, this 23rd of October, 2017.



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.