

REQUEST FOR LEGAL SERVICES

Date: February 6, 2017
From: RIKI HOKAMA, Chair
Budget and Finance Committee

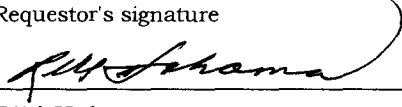
TRANSMITTAL

Memo to: DEPARTMENT OF THE CORPORATION COUNSEL
Attention: Patrick K. Wong, Esq.

Subject: Concessions and Sponsorships in County Parks and Recreational Facilities
(BF-129)

Background Data: Review and approve revised bill. Electronic markup version of revised bill has been transmitted with this request. In your response, please provide an original, signed hard copy.

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

Requestor's signature  Riki Hokama	Contact Person <u>Traci Fujita</u> (Telephone Extension: <u>7687</u>)
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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): February 7, 2017
REASON: Budget and Finance Committee posting for February 14, 2017 meeting

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:ltr:129acc01

Attachment

ORDINANCE NO. _____

BILL NO. _____ (2017)

A BILL FOR AN ORDINANCE RELATING TO CONCESSIONS AND SPONSORSHIPS IN COUNTY PARKS AND RECREATIONAL FACILITIES

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

SECTION 1. Purpose. The purpose of this ordinance is to establish a policy for the Department of Parks and Recreation's awarding and administering of concessions and sponsorships and the establishment of a fund for the deposit of all funds received from concessions and sponsorships.

SECTION 2. Section 13.04A.030, Maui County Code, is amended by adding new definitions to be appropriately inserted and to read as follows:

"Concession" has the same meaning as defined in section 3.40.030 of this code.

"Concessionaire" means a person or entity having a concession agreement with the County under this chapter.

"Naming rights" means a type of sponsorship in which a person purchases the exclusive right to name a County park, recreational facility, program, equipment, or tangible property, not including the naming of a mere component (such as a bench in a park or a specific room in a building).

"Sponsor" means a person or entity having a sponsorship agreement with the County under this chapter.

"Sponsorship" means the funds, products, or services provided by a person or entity to the County in consideration of an opportunity for the person or entity to promote its name, product, or service in conjunction with a County program or event."

SECTION 3. Chapter 13.04A, Maui County Code, is amended by adding a new article to be appropriately designated and to read as follows:

"Article VIII. Concessions, Sponsorships, and Donations.

13.04A.410 Policy. A. Policy. Concessions, sponsorships, and donations in County parks, facilities, and other areas controlled by the department shall be awarded and administered as provided for by this article.

B. Authority. The director shall have the authority to negotiate concession and sponsorship agreements for concessions, sponsorships, and donations at or in County parks, recreational facilities, and other areas controlled by the department.

1. Notwithstanding the requirements of chapter 3.56 of this code, the director may accept donations with a value not exceeding \$5,000. All donations valued in excess of \$5,000 shall be subject to council approval by resolution.

2. The director may enter into agreements for sponsorships with a value not exceeding \$5,000. All sponsorship agreements valued in excess of \$5,000 shall be subject to council approval by resolution.

3. Concession awards and grants shall be processed in accordance with chapter 3.40 of this code.

4. Refreshment concessions. Refreshment concessions in parks or recreational facilities shall be administered by the director of finance as follows:

a. The director of finance shall designate buildings within parks and recreational areas that are suitable for permanent refreshment concession facilities.

b. Permanent refreshment concession facilities shall be administered in accordance with chapter 3.40 of this code.

c. Temporary refreshment concessions may be authorized in accordance with section 3.40.190(A)(7) of this code by the director of finance in conjunction with a permit issued pursuant to this chapter for the use of parks and recreational facilities which are not designated as permanent refreshment concessions.

C. Facilities. Subject to written approval by the director of finance, on or before March 1 of each year, the director shall designate parks and buildings within the County parks and recreational areas that are suitable for concession facilities and sponsorships.

13.04A.420 Sponsorship agreements. A. Content.

1. Sponsorship agreements may be exclusive or non-exclusive and may include, but shall not be limited to:

a. Naming rights for a County park or recreational facility;

b. Advertising rights at or in a County park, recreational facility, program, or event;

c. Presenting a sponsor for a signature event or festival;

d. Appropriate mention in media releases and promotional materials as a sponsor of a program or event;

e. Recognition on the program website as a sponsor;

f. An adopt-a-park or adopt-a-facility program; or

g. Other appropriate benefits as determined by the director.

2. Sponsorship agreements shall not include:

a. Use of the County name, seal, or other insignia;

b. Political campaign speech;

c. Religious speech that advocates or opposes a religion or religious belief; or

d. Entities that practice or promote discrimination based on race, color, creed, religion, sex, national origin, sexual orientation, gender identity, disability, marital status, socioeconomic status, or age.

3. Sponsorship agreements shall be consistent with the image, values, and objectives of the County, as reflected in the Countywide Policy Plan.

B. Advertising. For purposes of this section, advertising includes:

1. Sponsor signs and banners;

2. Sponsor logos on publicity materials, including programs, posters, advertisements, and tickets;

3. Acknowledgment in news releases and media;

4. Verbal announcements;

5. On-site displays;

6. Product sampling and other merchandizing;

7. Exclusivity for product or service; or

8. Hospitality, including designated parking, seating, and tickets.

C. Value. Sponsorship agreements shall be valued by the director in an amount commensurate with the relative value of the benefit conferred upon the sponsor.

D. Approval. All sponsorship agreements made pursuant to this section shall be subject to prior approval by the corporation counsel, as to form and legality, and the director.

E. All advertising shall be submitted to the director prior to approval in sufficient detail to determine content and final general appearance.

F. Reports. On or before March 1 of each year, the director shall provide to the council a detailed report on the financial activities, revenues, and status of each sponsorship award during the prior year.

13.04A.430 Indemnity; Insurance. All concessionaires and sponsors shall be required to execute an indemnity agreement with the County and maintain insurance policies with coverage in amounts determined by the County.

13.04A.440 County parks special revolving fund. A. There is established and created a fund to be known as the "County parks special revolving fund," into which all proceeds received by the department under this article shall be deposited.

B. All proceeds collected by the department under this article are deemed appropriated upon receipt, and may be expended for purposes relating to the implementation of this chapter, such as the provision of salaries, the purchase of equipment, and the maintenance of County property."

SECTION 4. Section 13.04A.140, Maui County Code, is repealed.

[13.04A.140 Refreshment concessions. Refreshment concessions in parks or recreational facilities shall be administered by the director of finance as follows:

A. The director of finance shall designate buildings within parks and recreational areas that are suitable for permanent refreshment concession facilities.

B. Permanent refreshment concession facilities shall be administered in accordance with chapter 3.40 of this code.

C. Temporary refreshment concessions may be authorized in accordance with section 3.40.190(A)(7), by the director of finance in conjunction with a permit issued pursuant to this chapter for the use of parks and recreational facilities which are not designated as permanent refreshment concessions.]

SECTION 5. Material to be repealed is bracketed. New material is underscored. In printing this bill, the County Clerk need not include the brackets, the bracketed material, or the underscoring.

SECTION 6. This ordinance shall take effect upon its approval.

APPROVED AS TO FORM AND LEGALITY:

JEFFREY UEOKA
Department of the Corporation Counsel
County of Maui

bf:misc:129abill01