

COUNCIL OF THE COUNTY OF MAUI
BUDGET AND FINANCE COMMITTEE

October 6, 2017

Committee
Report No. _____

Honorable Chair and Members
of the County Council
County of Maui
Wailuku, Maui, Hawaii

Chair and Members:

Your Budget and Finance Committee, having met on September 19, 2017, makes reference County Communication 17-351, from the Chief of Police, transmitting a proposed bill entitled "A BILL FOR AN ORDINANCE AUTHORIZING THE MAYOR OF THE COUNTY OF MAUI TO ENTER INTO AN INTERGOVERNMENTAL AGREEMENT WITH THE STATE OF HAWAII, DEPARTMENT OF HEALTH."

The purpose of the proposed bill is to authorize the Mayor to enter into an intergovernmental agreement with the State of Hawaii, Department of Health, to enforce state laws prohibiting the sale of tobacco and electronic smoking devices to persons under the age of twenty-one through a Memorandum of Agreement.

A representative from the Department of Police said the Memorandum of Agreement reduces the minimum number of enforcement operations per year from four to three.

He said the Department receives \$8,000 from the State Department of Health. The funds are used for the cost of overtime for plain clothes police officers to observe tobacco and electronic smoking device purchases attempted by persons under the age of twenty-one. He said the costs of the decoys are paid by the state agency.

The representative said the officers accompany personnel from the State Department of Health to observe the operation. He said if a violation occurs, the establishment is fined and the penalty is determined by the citation.

Your Committee voted 7-0 to recommend passage of the proposed bill on first reading and filing of the communication. Committee Chair

COUNCIL OF THE COUNTY OF MAUI
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Page 2

**Committee
Report No.** _____

Hokama and members Atay, Cochran, Crivello, Guzman, King, and Sugimura voted "aye." Committee Vice-Chair White and member Carroll were excused.

Your Budget and Finance Committee RECOMMENDS the following:

1. That Bill _____ (2017), attached hereto, entitled "A BILL FOR AN ORDINANCE AUTHORIZING THE MAYOR OF THE COUNTY OF MAUI TO ENTER INTO AN INTERGOVERNMENTAL AGREEMENT WITH THE STATE OF HAWAII, DEPARTMENT OF HEALTH," be PASSED ON FIRST READING and be ORDERED TO PRINT; and
2. That County Communication 17-351 be FILED.

This report is submitted in accordance with Rule 8 of the Rules of the Council.



RIKI HOKAMA, Chair

bf:cr:17084aa:mmmy

ORDINANCE NO. _____

BILL NO. _____ (2017)

A BILL FOR AN ORDINANCE AUTHORIZING THE MAYOR OF THE
COUNTY OF MAUI TO ENTER INTO AN INTERGOVERNMENTAL AGREEMENT
WITH THE STATE OF HAWAII, DEPARTMENT OF HEALTH

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

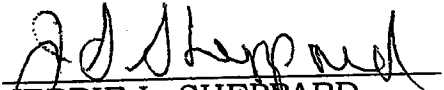
SECTION 1. The State of Hawaii, Department of Health, (DOH) has partnered with the Maui Police Department (MPD) to enforce state laws prohibiting sale of tobacco and electronic smoking devices to persons under the age of twenty-one through a Memorandum of Agreement. DOH provides annual grant funds to implement this program. The Memorandum of Agreement, attached hereto as Exhibit "1", reduces the minimum number of enforcement operations per year from four to three, and updates the governing Hawaii Revised Statutes Section to 712-1258. MPD desires to continue performing this program in partnership with DOH as long as DOH grants annual funds as reflected in the County's annual budget ordinance.

Section 2.20.020, Maui County Code, 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. Council Authorization. The Council hereby authorizes the Mayor, on behalf of the County of Maui, through the Chief of Police, to execute the Memorandum of Agreement with the Department of Health, and all amendments thereto.

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

APPROVED AS TO FORM
AND LEGALITY:



JERRIE L. SHEPPARD
Deputy Corporation Counsel
County of Maui
LF 2017-0689

**MEMORANDUM OF AGREEMENT
BETWEEN THE
DEPARTMENT OF HEALTH AND THE COUNTY OF MAUI
FOR THE ENFORCEMENT OF THE STATE LAW PROHIBITING TOBACCO
AND ELECTRONIC SMOKING DEVICES SALES
TO PERSONS UNDER THE AGE OF TWENTY-ONE**

THIS MEMORANDUM OF AGREEMENT (hereinafter "MOA"), executed on the respective date of the signatures of the parties shown hereafter, is effective as of September 1, 2017, between the DEPARTMENT OF HEALTH, CHRONIC DISEASE PREVENTION AND HEALTH PROMOTION DIVISION (hereinafter "CDPHPD"), by its CHRONIC DISEASE PREVENTION AND HEALTH PROMOTION DIVISION ADMINISTRATOR (hereinafter "ADMINISTRATOR"), and the Maui County Police Department (hereinafter "CONTRACTOR"), a local government body, under the laws of the State of Hawaii, whose business address and taxpayer identification number are as follows: **55 Mahalani Street, Wailuku, Hawaii 96793-2530, taxpayer identification number # 99-6000618.**

RECITALS

A. The STATE is in need of the goods or services, or both, described in this MOA and its attachments. The CONTRACTOR is agreeable to providing the goods and services.

B. This MOA is for (check one box):

[] (1) an emergency procurement of goods and services;

[] (2) a small purchase procurement of goods and services; or

[X] (3) a procurement expenditure of public funds for goods and services

that is expressly exempt from public bidding by Section 103D-102(b), Hawaii Revised Statutes.

C. Money is available to fund this MOA in the following amounts:

(1) State \$8,000.00 [X] General or [] Special

DOH REF. NO TPEP18M

1

DOH-MOA

EXHIBIT " 1 "

NOW, THEREFORE, in consideration of the promises contained in this MOA, CDPHPD and the CONTRACTOR agree as follows:

1. Scope of Services. The CONTRACTOR shall, in a proper and satisfactory manner as determined by CDPHPD, provide all the goods and services set forth in Attachment 1, which is hereby made a part of this MOA.
2. Time of Performance. The performance required of the CONTRACTOR under this MOA shall be completed in accordance with the Time of Performance Schedule set forth in Attachment 2, which is hereby made a part of this MOA.
3. Compensation. The CONTRACTOR shall be compensated in accordance with the Compensation and Payment Schedule set forth in Attachment 3, which is hereby made a part of this MOA.
4. Other Terms and Conditions. Any other applicable terms and conditions set forth in Attachment 4, are hereby made a part of this MOA.
5. Budget. The budget for the provision of enforcement for retail tobacco outlets from September 1, 2017 to August 31, 2018 set forth in the Budget, Attachment 5, is hereby made a part of this MOA.

IN VIEW OF THE ABOVE, the parties execute this MOA by their signatures, on the dates below, to be effective as of the date of the first above written.

STATE

By: _____

Print Name: Lola Irvin

Title: CDPHPD Administrator

Date: _____

CONTRACTOR

By: _____

Print Name: Alan Arakawa

Title: Mayor

Date: _____

Recommended Approval:

By: *Tivoli S Faamu*

Print Name: Tivoli Faamu

Title: Chief of Police

Date: 8/16/17

APPROVED AS TO FORM
AND LEGALITY

By: Jd Sheppard

Print Name: Jerrie Sheppard

Title: Deputy Corporation Counsel

Date: 8/14/2017

SCOPE OF SERVICES

This Memorandum of Agreement sets forth the responsibilities and finances for a cooperative agreement between the County of Maui, Maui County Police Department (the "CONTRACTOR") and the State of Hawaii, Department of Health, Chronic Disease Prevention and Health Promotion Division ("CDPHPD") to enforce Chapter 712.1258, HRS, the State law prohibiting tobacco and electronic smoking device sales to any person under the age of twenty-one (21) years.

The CONTRACTOR shall:

- a. Conduct a minimum of three (3) enforcement operations using plain clothes officers to observe tobacco and electronic smoking device purchase attempts by underage participants and cite retail store personnel who are found making illegal sales to persons under the age of twenty-one (21) years;
- b. Establish procedures to orient and supervise youth and adult volunteers to ensure their safety and compliance with operational procedures;
- c. Assign planning and supervisory staff to the project to ensure that operations are carried out in accordance with State law and the Maui County Police Department procedures;
- d. Provide CDPHPD with timely invoices on dates of operations, officer names, base salary rate, overtime-hourly rate, and overtime pay charged to this Agreement; and
- e. Provide CDPHPD with timely information on dates of operations, number of sites inspected and citations issued.

CDPHPD, through a separate agreement with the University of Hawaii, shall:

- a. Recruit and train underage and adult participants to assist the CONTRACTOR;
and
- b. Provide information to the CONTRACTOR on names and locations of retail outlets selling tobacco products and electronic smoking devices in Maui County.

TIME OF PERFORMANCE

The CONTRACTOR shall provide the services required under this MOA from September 1, 2017 to and including August 31, 2018, unless this MOA is sooner terminated.

COMPENSATION AND PAYMENT SCHEDULE

Upon receipt of a signed memorandum of agreement by the ADMINISTRATOR, the CONTRACTOR shall submit monthly invoices to CDPHPD for costs associated with this MOA, the total sum of which shall not exceed EIGHT THOUSAND AND NO/100 DOLLARS (\$8,000.00). This final invoice shall be submitted to CDPHPD no later than September 1, 2018.

All invoices shall be sent to:

Department of Health
Chronic Disease Prevention and Health Promotion Division
Attn: Tobacco Prevention and Education Program
1250 Punchbowl Street Rm. 217
Honolulu, Hawaii 96813.

OTHER TERMS AND CONDITIONS

Amendment Procedures. All amendments to this Agreement shall be made in writing and mutually agreed upon by the CONTRACTOR and CDPHPD.

Campaign Contributions by State and County Contractors. Contractors are hereby notified of the applicability of Section 11.205.5 HRS, which states that campaign contributions are prohibited from specified State or county government contractors during the term of the contract if the contractors are paid with funds appropriated by a legislative body.

Option to Extend. Unless terminated, this MOA may be extended by the State for a specified period of time not to exceed one (1) year or for not more than one (1) additional twelve (12) month period upon mutual agreement and the execution of a supplemental agreement. The MOA price may be adjusted at the beginning of the extension period and shall be subject to allotment and availability of general funds.

BUDGET

September 1, 2017 to August 31, 2018

Provide enforcement of retail tobacco outlets in the County of Maui for enforcing the prohibition of tobacco and electronic smoking devices sales to persons under twenty-one (21) years of age.	\$8,000.00
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SOURCE OF FUNDS:

G 18 101 H 064 590 GR

DOH REF. NO TPEP18M

