

MICHAEL P. VICTORINO
Mayor

BRADFORD K. VENTURA
Fire Chief

GAVIN L.M. FUJIOKA
Deputy Fire Chief



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2022 SEP -9 AM 11:45

DEPARTMENT OF FIRE & PUBLIC SAFETY
COUNTY OF MAUI
200 DAIRY ROAD
KAHULUI, HI 96732

OFFICE OF THE
COUNTY CLERK

September 2, 2022

Ms. Michele Yoshimura *WY*
Budget Director, County of Maui
200 South High Street
Wailuku, HI 96793

APPROVED FOR TRANSMITTAL

Honorable Michael P. Victorino
Mayor, County of Maui
200 South High Street
Wailuku, HI 96793

Michael P. Victorino 9/7/22

Mayor Date

For transmittal to:

Honorable Alice L. Lee
And Members of the Maui County Council
200 South High Street
Wailuku, HI 96793

Dear Chair Lee and Members:

SUBJECT: GRANT REVENUE – STATE OF HAWAII, DEPARTMENT OF LAND AND NATURAL RESOURCES, LIFEGUARD SERVICES FOR MAKENA STATE BEACH PARK

In accordance with Ordinance No. 5392, Bill 69, CD 1, FD2 (2022), Fiscal Year 2023 Budget, the Department of Fire & Public Safety are hereby transmitting a copy of the finalized Memorandum of Agreement (MOA) for Lifeguard Services at Makena State Beach Park for July 1, 2022 through June 30, 2023. The State of Hawaii, Department of Land and Natural Resources grant funds totals \$1,610,237 (subject to availability).

If you have any questions, please contact the Office of the Fire Chief at (808) 270-7561.

Sincerely,

Bradford K. Ventura

BRADFORD K. VENTURA
Fire Chief

COUNTY COMMUNICATION NO. 22-219

DAVID Y. IGE
GOVERNOR OF HAWAII



**STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES**

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

August 8, 2022

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

ROBERT K. MASUDA
FIRST DEPUTY

M. KALEO MANUEL
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

VIA U.S.P.S and EMAIL

MAUI FIRE DEPARTMENT
County of Maui
Attn: Fire Chief Bradford Ventura
200 Dairy Road
Kahului, Hawaii 96732-2978

RE: Lifeguard Memorandum of Agreement (MOA) Fiscal Year 2023 for Mākena Beach,
Mākena State Park

Dear Fire Chief Ventura:

Attached is the 15th amendment to the Fiscal Year (FY) 2023 Lifeguard Memorandum of Agreement (MOA) for your signature. Please route and once fully signed send the original MOA to our office.

If you have any questions, contact Curt Cottrell at (808) 587-0290 or email at Curt.A.Cottrell@hawaii.gov.

Sincerely,

A handwritten signature in blue ink, appearing to read "Curt A. Cottrell".

Curt A. Cottrell
Administrator
DLNR/Division of State Parks

cc: Mayor Michael Victorino

DAVID Y. IGE
GOVERNOR OF HAWAII



**STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES**

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

July 25, 2022

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

ROBERT K. MASUDA
FIRST DEPUTY

M. KALEO MANUEL
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

Fire Chief Bradford Ventura
Maui Fire Department
200 Dairy Road
Kahului, Hawaii 96732

Dear Chief Ventura:

The purpose of this letter is to serve as the fifteenth 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, June 17, 2016, August 22, 2017, October 5, 2017, March 23, 2018, June 10, 2019, August 6, 2019, and June 25, 2021 between the State of Hawaii and the County of Maui for Mākena Beach, Mākena State Park.

The available funding is limited to \$1,610,237, subject to availability of funds, to provide lifeguard services under the following conditions:

1. This amendment will be for lifeguard services at Mākena Beach, Mākena State Park, Island of Maui, from July 1, 2022 through June 30, 2023, provided that the parties 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, 2022.
4. Funds to be transmitted to the County under this amendment shall total \$1,610,237, subject to availability of funds.
5. The County will submit a quarterly report of rescues at Mākena Beach with the quarterly invoice and financial statement indicating the staffing paid under the invoice for the quarter. Due to the availability of funds, it is important to submit the quarterly invoice and reports in a timely manner.

6. The County of Maui shall install their own electric meter at Mākena Beach, Mākena State Park and obtain any required building permits associated with its installation at their expense. All monthly electricity expenses used to service the two onsite lifeguard office containers shall be paid for by the County of Maui.
7. All other terms and conditions of the MOA shall remain unchanged with the exceptions of language in Section C. The following language is changed:
 2. Scope of Services. During Fiscal Year 2023 from July 1, 2022 to June 30, 2023, the County shall provide lifeguard services at Mākena Beach, Mākena State Park.

The following language is deleted:

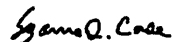
In accordance with Act 170, Session Laws of Hawaii 2002, as amended by Act 152, Session Laws of Hawaii 2007, and Act 81, Session Laws of Hawaii 2009, "a county lifeguard, the employing county, and the State shall not be liable for any civil damages resulting from any act or omission of the lifeguard 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."

The following language is added:

In accordance with Hawaii Revised Statutes Section 662-1, as amended, "Employees of the State"...includes persons employed by a County of this State as lifeguards and designated to provide lifeguard services at a designated State beach park under an agreement between the State and that County."

Please sign and date below and return the original to Department of Land and Natural Resources, Division of State Parks. If there are any questions, your staff may contact Mr. Curt A. Cottrell at (808) 587-0290.

Sincerely,



SUZANNE D. CASE
Chairperson
Board of Land and Natural Resources

APPROVED AS TO FORM:



DEPUTY ATTORNEY GENERAL
Office of the Attorney General

Date Aug 8, 2022

APPROVED AS TO FORM
AND LEGALITY:



Deputy Corporation Counsel
County of Maui

Date 8/11/22

ACKNOWLEDGED:
COUNTY OF MAUI

By Michael P. Victorino
Michael P. Victorino
Mayor
County of Maui

Date 8/11/22

ACKNOWLEDGED:
COUNTY OF MAUI

By Bradford Ventura
Bradford Ventura, Fire Chief
Maui Fire Department
County of Maui

Date 8/10/22