

ORDINANCE NO. _____

BILL NO. 27 (2019)

A BILL FOR AN ORDINANCE AUTHORIZING THE MAYOR OF THE
COUNTY OF MAUI TO ENTER INTO AN INTERGOVERNMENTAL AGREEMENT
WITH THE HAWAII HOUSING FINANCE AND DEVELOPMENT CORPORATION
REGARDING THE CONSTRUCTION OF EMERGENCY HOUSING AT THE
UNIVERSITY OF HAWAII, MAUI COLLEGE, DORM SITE

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

SECTION 1. Purpose. The Hawaii Housing Finance and Development Corporation ("HHFDC"), may have funds available in its Dwelling Unit Revolving Fund ("DURF"). In order to receive DURF Funds, HHFDC and the County of Maui through its Department of Housing and Human Concerns desire to enter into a Memorandum of Understanding ("MOU"). Due to time constraints and contemporaneous reviews of the document by the HHFDC Board, a draft of the MOU is attached hereto and incorporated herein as Exhibit "A".

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 to execute the MOU, provided that the final MOU is in the same or substantially the same form as the draft MOU, all other necessary documents

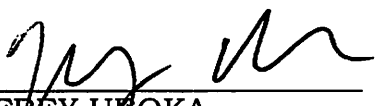
relating to the MOU, and any amendments thereto, subject to the additional provisions listed in Section 3.

SECTION 3. Additional provisions. The Council's authorization of the Mayor's execution of the MOU is contingent upon the following additional provisions, or substantially similar provisions, being included:

1. The project's units must be affordable to households at 80 percent or below the United States Department of Housing and Urban Development's area median income.
2. The administration must report to the Council with plans for approval via a resolution after the engineer completes the structural assessment study.

SECTION 4. Effective date. This ordinance shall take effect upon its approval.

APPROVED AS TO FORM
AND LEGALITY:



JEFFREY ULOKA
Deputy Corporation Counsel
County of Maui
LF2019-0158
2019-04-15 HHFDC IGA Ordinance

paf:ans:19-225a

04/09/2019

MEMORANDUM OF UNDERSTANDING
KAHULUI EMERGENCY HOUSING

THIS MEMORANDUM OF UNDERSTANDING, dated as of _____ ("MOU") made by and between the HAWAII HOUSING FINANCE AND DEVELOPMENT CORPORATION, a public body and a body corporate and politic of the State of Hawaii ("HHFDC"), doing business at 677 Queen Street, Suite 300, Honolulu, Hawaii, 96813, and the COUNTY OF MAUI, a municipal corporation of the State of Hawaii ("County"), doing business at 200 South High Street, Wailuku, Hawaii, 96793.

WITNESSETH:

WHEREAS, the County owns fee simple title to a parcel of land of 8.804 acres at the northwestern corner of the intersection of Kaahumanu Avenue and Wahinepio Avenue, identified as tax map key (2) 3-8-007:117 ("County Property"); and

WHEREAS, pursuant to a lease dated December 15, 1980 ("University Lease"), the County and the University entered into a fifty five year (55) lease for administrative, educational, and student and faculty housing purposes, including the management and operation of a hospitality training center and/or a visitor industry learning lab covering a 4.045 acre portion of the County Property ("Leased Premises"), as described on **Exhibit A** and shown on **Exhibit B**, attached hereto and hereby incorporated by reference; and

WHEREAS, the University previously improved the Leased Premises by constructing student housing facilities; and

WHEREAS, the University's student housing facilities (collectively the "Housing Facilities") are presently vacant and the County and HHFDC desire to convert such facilities, or demolish and construct new replacement facilities, for permanent housing and support services/facilities for homeless families and individuals ("Project") pursuant to this MOU and a development agreement with a proposed sub-sublessee, developer, and/or service provider ("Service Provider") for the site investigation, planning, design, renovation, construction, and operation of the Project; and

WHEREAS, the Governor issued an emergency proclamation for homelessness dated December 14, 2018, as supplemented on February 12, 2019 ("Proclamation"), effective through April 13, 2019, as may be extended, ("Expiration Date"), that suspends Hawaii Revised Statutes ("HRS") Chapter 103D, Chapter 104, HRS, and Chapter 343, HRS, and other state and county laws , statutes, and ordinances , where any contracts entered into by reasons of the provisions of the Proclamation may continue beyond the Expiration Date but is limited to a period not to exceed twelve (12) months beyond the contract date, provided that such contracts may be

extended for additional terms, but the total terms with extensions shall not exceed thirty six (36) months from the contract date; and

WHEREAS, HHFDC may earmark, up to \$5,000,000 from the Dwelling Unit Revolving Fund ("DURF") for the Project, subject to appropriation of DURF funds by the Hawai'i State Legislature, compliance with DURF program requirements, and approvals by the HHFDC Board of Directors and the Governor (collectively the "DURF Approvals"); and

WHEREAS, HHFDC and the County wish to enter into this MOU to better describe their respective roles and responsibilities with respect to the Project, including, without limitation, the site investigation, planning, design, development, construction, renovation, operation, and funding for the Project;

NOW, THEREFORE, the parties hereby agree as follows, unless otherwise agreed to by the parties:

- I. HHFDC Obligations. HHFDC agrees to the following:
 - A. Use of DURF funding. Subject to the availability of DURF funds and DURF Approvals, HHFDC agrees to receive and administer the disbursement of DURF funds for use by the County for the Project in accordance with this MOU.
 1. The DURF funds may be used for any Project related expense, as approved by HHFDC;
 2. HHFDC will make payments from the DURF funds to the County upon receipt of payment requests described hereinbelow;
 3. HHFDC reserves the right to withhold from the DURF funds necessary Project related expenses, including but not limited to HHFDC administrative costs;
 4. Any amendments to the budget of the DURF funds shall be subject to HHFDC approval; and
 5. Any payments from the DURF funds shall be made payable to the County, for payment to the Service Provider or other vendor.
 - B. Seek HHFDC Board approval. Seek approval from the HHFDC Board of Directors for the following:
 1. Execution of this MOU;
 2. Use of up to \$5,000,000 in DURF funds for the Project, subject to DURF Approvals;
 3. Enter into a lease with the County in a form acceptable to HHFDC and the County¹ ("Lease"), to be executed prior to the start of any Project construction or renovation work; and

¹ For the remaining term of the University Lease of December 15, 2035.

4. Upon execution of the Lease, issue a Right of Entry to the County, including its consultants, contractors and/or persons acting for, or on the County's behalf ("ROE Permittee"), for the site investigation, planning, design, renovation, construction, and operation of the Project ("Right of Entry").
 5. Following completion of construction, enter into a sublease with the County for the sub-leasehold ownership,² maintenance, and operation of the Project, in a form acceptable to HHFDC and the County ("Sublease").
- C. Issue Right of Entry. Upon execution of the Lease issue the Right of Entry to the ROE Permittee for the site investigation, planning, design renovation, construction and operation of the Project.
 - D. Issue Sublease to County. Following completion of construction, issue the Sublease to the County for maintenance, ownership and operation of the Project.
 - E. Consent to Sub-Sublease. After the issuance of the Sublease to the County, consent to a sub-sublease from the County to the Service Provider or other County designee, as applicable, for the operation of the Project.
 - F. Planning and Development Assistance. Subject to the provisions of sections II. F. and G., and as mutually agreed upon by HHFDC and the County, assist the County with development tasks relating to planning and development of the project which may include preparation of studies, master planning, design, and other tasks to further development of the project.
- II. County Obligations. The County agrees to the following:
- A. Contract with Service Provider. Procure and contract with a Service Provider for the site investigation, planning, design, renovation, construction, ownership and operation of the Project.
 - B. Identify scope of work. Together with the Service Provider, identify the necessary scope of work for renovation of the existing Housing Facilities and/or construction of new facilities for development of the Project.
 - C. Submit DURF funding requests to HHFDC. After DURF Approvals have been obtained, submit requests for payments from the DURF funds to HHFDC (no more than once a month), accompanied by the worksheets, invoices and information supporting the withdrawal, in forms attached hereto as **Exhibit C**, and hereby incorporated by reference, or as otherwise approved by HHFDC; supporting information shall include the DURF funds budget, amount of the DURF funds paid to

² HHFDC will be the owner of the improvements, but the County will repair and maintain the Leased Premises and improvements.

date, amount of the payment requested, and amount of the DURF funds budget remaining.

- D. Obtain a Right-of-Entry from the University for Planning. Prior to the cancellation of the University Lease, obtain a right-of-entry from the University, as necessary, for site investigation and planning of the Project.
- E. Cancel Existing University Lease /Issue New Lease/Agree to the Right of Entry/Agree to Sublease/Issue Sub-Sublease. Cancel the existing University Lease, issue a new Lease to HHFDC in a form acceptable to HHFDC and the County, agree to the Right of Entry, and upon completion of construction, agree to the Sublease from HHFDC and maintain and operate the Project. After the Sublease, issue a sub-Sublease to the Service Provider or other County designee operation of the Project, as applicable.
- F. Fund HHFDC Contracts Prior to DURF Approvals. Prior to DURF Approvals, HHFDC shall not enter into any contracts for the Project, until HHFDC is fully satisfied that the County funding for such contracts are available to HHFDC without restrictions for HHFDC payment under the proposed contract or reimbursement to HHFDC.
- G. Reimburse HHFDC Costs. Secure the funds necessary to reimburse the HHFDC for administrative costs, and other development costs mutually agreed to by HHFDC and the County.
- H. Agree to affordability thresholds. Agree that except for a manager's unit, the Project shall be affordable to households at 140% or below the U.S. Department of Housing and Urban Development ("HUD") area median income for thirty (30) years from the date of the completion of renovation of the last building in the Project, and agree that the fee simple title of the Lease Premises shall be encumbered with HHFDC's affordability restrictions to secure compliance with this requirement.
- I. Accept improvements. Accept all improvements constructed on the Lease Premises upon expiration of the Lease.
- J. Obtain necessary governmental approvals. Be responsible for obtaining necessary permits, approvals, and entitlements which may include a Chapter 343, Hawaii Revised Statutes ("HRS"), Environmental Assessment, exemptions from zoning pursuant to 201H-38, HRS, a Special Management Area Use permit, and building permits to allow for continued operation of the Project beyond the term of the Proclamation within the time period provided for in the Proclamation, including extensions.
- K. Assume liability and indemnify HHFDC. Assume sole and complete liability for and indemnify, defend and hold HHFDC and the State of Hawaii harmless from and

against any loss, liability, claim or demand for property damage, personal injury, and death arising out of any act or omission of the County and the County's contractors under this MOU to the extent permitted by law and subject to approval by the Maui County Council. This provision shall survive the expiration or earlier termination of this MOU, notwithstanding any other provision to the contrary.

- L. Obtain payment/performance bonds. Obtain payment and performance bonds naming HHFDC and the State of Hawaii as additional co-obligees for the proposed renovation and any new construction work relating to the Housing Facilities at the Leased Premises.
- M. Require pollution liability insurance coverage. Require any general contractor contracted for the construction or substantial renovation of the Project to obtain and maintain Pollution Liability Insurance covering its liability for bodily injury, property damage and environmental damage resulting from sudden accidental and gradual pollution and related cleanup costs arising out of or caused by the operations and construction activities of said general contractor. Combined single limit per occurrence shall not be less than \$3,000,000 and aggregate limit of not less than \$5,000,000. The policy shall have tail coverage extending 5 years beyond the completion of the work contemplated by the applicable construction contract. The policy shall name HHFDC and the State of Hawaii as additional insured parties.
- N. Maintain insurance for MOU term. Maintain insurance acceptable to HHFDC in full force and effect throughout the term of this MOU as set forth in Exhibit D, which is attached and incorporated by reference and name the State of Hawai'i and HHFDC as additional indemnitees and additional insured parties for all contracts. The County of Maui is Self-Insured. Require any contractor or service provider to name the State of Hawai'i and HHFDC as additional indemnitees and additional insured parties for all contracts, and maintain insurance in amounts and on terms acceptable to HHFDC for the duration of the contracts.
- O. Satisfy preconditions to construction. Agree not to commence renovation or new construction of the Project prior to the fulfillment to HHFDC's satisfaction of the following conditions precedent, unless otherwise approved by HHFDC:
 - 1. Lease. The County and HHFDC have executed a Lease in a form and content acceptable to both parties;
 - 2. Right of entry issued. HHFDC has issued the Right of Entry to the ROE Permittee for the site investigation, planning, design, development, construction and operation of the Project;
 - 4. County approved construction plans submitted. A "pdf" electronic file on CD of the set of plans and specifications for the proposed construction approved by the County has been submitted to HHFDC;

5. Building permit submitted. A copy of the Building Permit for the proposed work has been submitted to HHFDC;
 6. Notice of General Permit Coverage submitted. Evidence of Notice of General Permit Coverage approved by the Department of Health for the type of discharge(s) for the Project authorized by a National Pollution Discharge Elimination System ("NPDES") General Permit has been submitted to HHFDC, if applicable;
 7. Construction contract submitted. A copy of the construction contract for the proposed work to be commenced ("Construction Contract") has been submitted to HHFDC; and
 8. Performance/payment bonds submitted. A copy of a performance and payment bond equal to 100% of the Construction Contract for the work to be commenced has been submitted to HHFDC. The contractor shall be the principal, and the surety shall be a corporate surety satisfactory to HHFDC. The bond shall be conditioned upon the full and proper performance of the work in accordance with the plans and specifications approved by the County upon the payment of all materials and labor in connection with the development and construction of the Project. HHFDC and the State of Hawaii shall be co-obligees on the bonds.
- III. Proclamation. This MOU is entered into pursuant to the Proclamation which suspends a number of statutory provisions, including, but not limited to:
- A. HRS Chapter 343 for Environmental Assessments/Environmental Impact Statements;
 - B. HRS Chapter 103D, Procurement;
 - C. HRS Chapter 104, Wages and Hours of Employees on Public Works, and
 - D. HRS Chapter 46, Counties.
- IV. Deadline for Completion. All activities contemplated under this MOU, except the continued operation of the Project, shall be completed prior to the expiration of this MOU.
- V. Termination. This MOU shall terminate upon the earliest to occur of the following:
- A. Any party's discretion. Any party may terminate this MOU with sixty (60) days prior written notice to the other party; or
 - B. Funding. This Agreement shall automatically terminate in the event that a legislative appropriation for DURF is not received by HHFDC for fiscal year 2019-2020 or the County is unable to obtain funds to fully fund the cost reimbursement to HHFDC.
 - C. Natural expiration. Twelve (12) months from the date of this MOU, with two options to extend for additional 12-month terms at the sole discretion of HHFDC, but the total term of this MOU, with extensions, shall not exceed 36 months from the date of this MOU; or
 - D. Mutual agreement. Fulfillment of its objectives or mutual agreement of all parties.

Upon termination of this MOU, the HHFDC and the County shall be released from any further obligations hereunder.

- VI. Amendments, Waiver. This MOU can only be changed by an instrument in writing signed by HHFDC and the County. The terms of this MOU may not be waived, modified, or in any way changed by implication, through conduct, correspondence, or otherwise, unless such waiver, modification, or change shall be specifically agreed to in writing by HHFDC and the County. Any waiver in whole or in part to any of the terms and conditions hereunder shall be specific, in writing, and not general. Each waiver shall only apply to specific conditions and circumstances.
- VII. Binding Effect of Agreement. This MOU shall be binding upon and inure to the benefit of HHFDC and the County, and their respective successors and assigns.
- VIII. Gender and Number. The use of any pronoun in reference to HHFDC and the County shall be construed to mean the singular or plural, the masculine, feminine or neuter, as the instrument and context may require.
- IX. No Party Deemed Drafter. The parties agree that neither HHFDC nor the County shall be deemed to be the drafter of this MOU and in the event this MOU is ever construed by a court of law, such court shall not construe this MOU or any provision hereof against any party as the drafter of this MOU.
- X. Counterparts. This MOU may be executed in any number of counterparts. Each such counterpart hereof shall be deemed to be an original instrument, but all such counterparts together shall constitute but one MOU.
- XI. Invalidity of Provision. If any provision of this MOU shall be held to be invalid or unenforceable for any reason, the remaining provisions shall continue to be valid and enforceable. If a court finds that any provision of this MOU is invalid or unenforceable, but that by limiting such provision it would become valid and enforceable, then such provision shall be deemed to be written, construed and enforced as so limited.
- XII. Applicable Law. This MOU shall be governed, enforced, and interpreted in accordance with the laws of the State of Hawaii as such laws are construed and amended from time to time.
- XIII. Notices. Any written notice required to be given by any party to this MOU shall be (a) delivered personally or (b) sent by United States first class mail, postage prepaid. A notice shall be deemed to have been received three (3) days after mailing or at the time of actual receipt, whichever is earlier. The parties are responsible for notifying each other in writing of any change of address.

Notice to HHFDC shall be addressed to:

Executive Director
Hawaii Housing Finance and Development Corporation
677 Queen Street, Suite 300
Honolulu, Hawaii 96813

Notice to the County shall be addressed to:

Mayor
County of Maui
200 South High Street
Wailuku, Hawaii 96793

[The remainder of this page is blank. The next page is a signature page.]

IN WITNESS THEREOF, the undersigned have executed these presents as of the day and year first written above.

Approved as to Form:

Hawaii Housing Finance and Development
Corporation

Deputy Attorney General
Representing HHFDC

By _____
Craig K. Hirai
Executive Director

Approved as to Form and Legality:

County of Maui

Corporation Counsel
County of Maui

By _____
Michael P. Victorino
Mayor

Approval Recommended:

Director of Parks and Recreation

By _____
Director of Finance



STATE OF HAWAII

SURVEY DIVISION

DEPT. OF ACCOUNTING AND GENERAL SERVICES
HONOLULU

November 20, 1979

C.S.F. No. 18,799

MAUI COMMUNITY COLLEGE STUDENT HOUSING PROJECT

PORTION OF PARCEL 3-B-1

Owa and Kalua, Kahului, Wailuku, Maui, Hawaii

Being portions of R.P. 4475, L.C.Aw. 7713, Ap. 23 to V. Kamamalu and R.P. 1996, L.C.Aw. 420 to Kuihelani conveyed to the County of Maui by Alexander and Baldwin, Inc. by deed dated January 28, 1974 and recorded in Liber 9745, Page 358.

Beginning at the southeast corner of this parcel of land, the southwest corner of Maui Community College Site and on the north side of Kaahumanu Avenue, Federal Aid Project F-032-1 (3), the coordinates of said point of beginning referred to Government Survey Triangulation Station "LUKE" being 3183.15 feet North and 4452.87 feet East, thence running by azimuths measured clockwise from True South:-

1. 90° 00' 15" 60.00 feet along the north side of Kaahumanu Avenue, Federal Aid Project F-032-1 (3);
2. 90° 00' 15" 275.00 feet along the north side of Kaahumanu Avenue, Federal Aid Project F-032-1 (3);
3. 180° 00' 15" 62.72 feet along the remainders of R.P. 4475, L.C.Aw. 7713, Ap. 23 to V. Kamamalu and R.P. 1996, L.C.Aw. 420 to Kuihelani;
4. Thence along the remainder of R.P. 1996, L.C.Aw. 420 to Kuihelani, on a curve to the right with a radius of 1441.35 feet, the chord azimuth and distance being:
190° 25' 15" 521.21 feet;
5. 290° 50' 15" 335.00 feet along the remainder of Parcel 3-B-1 of Maui Community College Student Housing Project;
6. Thence along Maui Community College Site, on a curve to the left with a radius of 1106.35 feet, the chord azimuth and distance being:
10° 25' 15" 400.07 feet;
7. 0° 00' 15" 62.72 feet along Maui Community College Site to the point of beginning and containing an AREA OF 4.045 ACRES.

November 20, 1979

Vehicle access shall not be permitted into and from Kaahumanu Avenue, Federal Aid Project F-032-1 (3) over and across Course 2 of the above-described parcel of land.

The above-described Portion of Parcel 3-B-1 is subject, however, to the Proposed South Papa Avenue Extension and more particularly described as follows:-

Beginning at the southeast corner of this parcel of land, the southwest corner of Maui Community College Site and on the north side of Kaahumanu Avenue, F.A.P. F-032-1 (3), the coordinates of said point of beginning referred to Government Survey Triangulation Station "LUKE" being 3183.15 feet North and 4452.87 feet East, thence running by azimuths measured clockwise from True South:

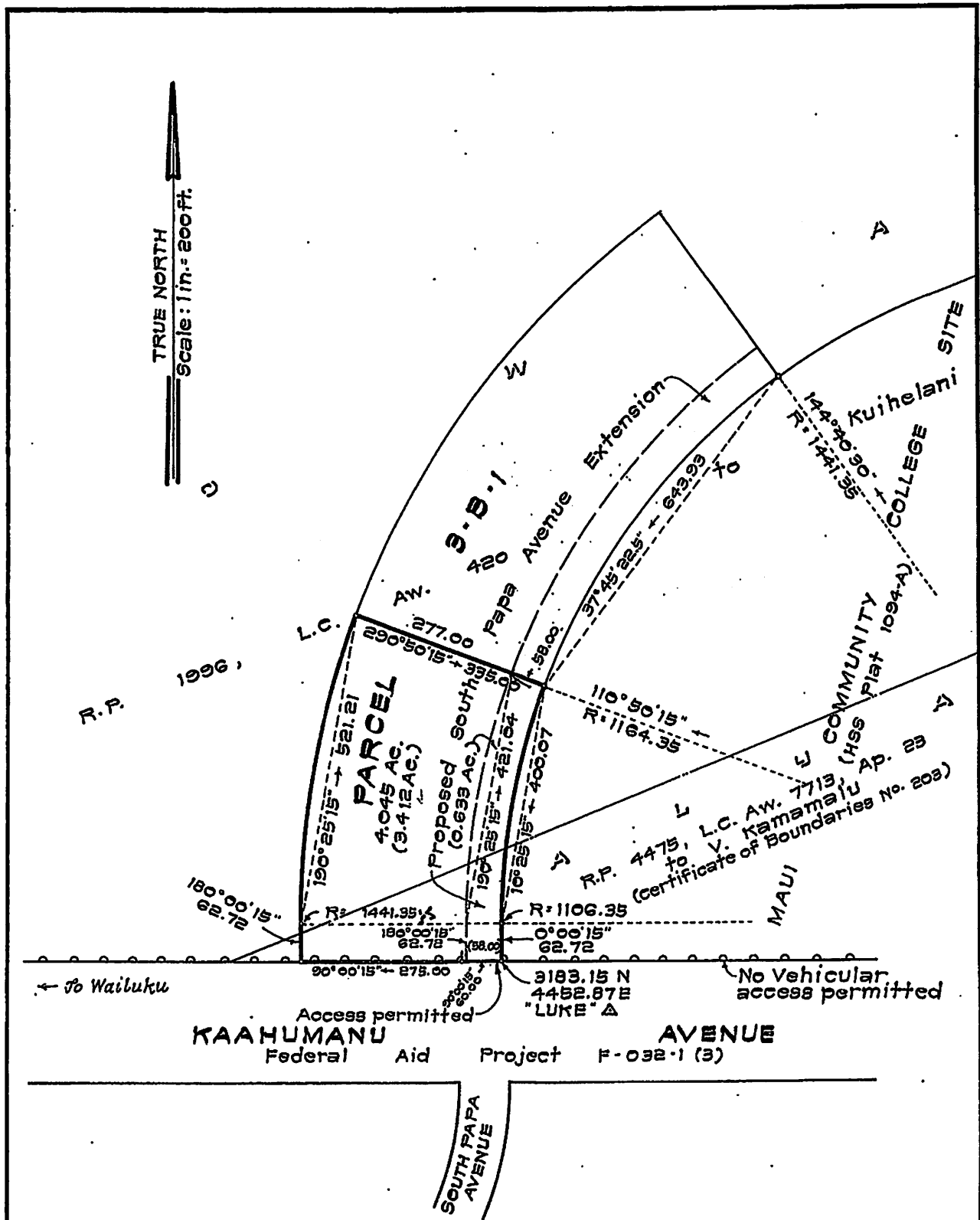
1. 90° 00' 15" 58.00 feet along the north side of Kaahumanu Avenue, Federal Aid Project F-032-1 (3);
2. 180° 00' 15" 62.72 feet along the remainder of R.P. 4475, L.C.Aw. 7713, Ap. 23 to V. Kamamalu;
3. Thence along the remainders of R.P. 4475, L.C.Aw. 7713, Ap. 23 to V. Kamamalu and R.P. 1996, L.C.Aw. 420 to Kuihelani, on a curve to the right with a radius of 1164.35 feet, the chord azimuth and distance being:
190° 25' 15" 421.04 feet;
4. 290° 00' 15" 58.00 feet along the remainder of a portion of Parcel 3-B-1 of Maui Community College Student Housing Project;
5. Thence along Maui Community College Site, on a curve to the left with a radius of 1106.35 feet, the chord azimuth and distance being:
10° 25' 15" 400.07 feet;
6. 0° 00' 15" 62.72 feet along Maui Community College Site, to the point of beginning and containing an AREA OF 0.633 ACRES.

SURVEY DIVISION
DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES
STATE OF HAWAII

By: Raymond S. Nakamura
Raymond S. Nakamura
Land Surveyor

Compiled from map
by Norman Saito,
Calc. by J. Chrystal, Jr.,
HSS Plat 1094-A and
Govt. Survey Records.

ac



**MAUI COMMUNITY COLLEGE
STUDENT HOUSING PROJECT
PORTION OF PARCEL 3-B-1**

Owa and Kalua, Kahului, Wailuku, Maui, Hawaii
Scale: 1 inch = 200 feet

EXHIBIT B

JOB MA-440 (79)
C. BK 4, CHRYSTAL

— denotes access permitted
— denotes no vehicle access permitted

TAX MAP 3-B-07.

**SURVEY DIVISION
DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES
STATE OF HAWAII**

GNK Nov. 20, 1979

DRAFT 3/12/19

COUNTY OF MAUI
200 South High Street
Wailuku, Hawaii 96793

Date: _____

DRAW REQUEST AND CERTIFICATION

Hawaii Housing Finance and Development Corporation
677 Queen Street, Suite 300
Honolulu, Hawaii 96813
ATTN: Stan S. Fujimoto, Project Manager

Subject: Draw Request No. _____
DURF Funds
Kahului Emergency Housing
Kaahumanu Avenue and Wahinepio Street
Kahului, Maui, Hawaii

We request payment for the attached invoices in the following total amount for the above subject
Kahului Emergency Housing Project on Kaahumanu Avenue and Wahinepio Street in Kahului,
Maui, Hawaii, TMK No. (2) 3-8-007: 117 (portion of):

\$_____ From DURF Funds

We hereby certify that all of the requested items have been paid or are due and payable in
connection with the Project pursuant to the Project documents including the following:

- HHFDC For Action dated _____
- Governor's approval of release of DURF Funds for the Project dated _____; and
- MOU between the County, University of Hawaii and HHFDC for the DURF Funds for the Project dated _____;

After disbursement of the amount requested, the total amount disbursed, and the balance of
proceeds remaining after this disbursement will be as stated in the attached worksheets for the
DURF Funds for the Project.

Sincerely,

COUNTY OF MAUI

By _____
Name:
Title:

COUNTY MOU - DURF FUNDS FOR KAHULUI EMERGENCY HOUSING
SUMMARY OF INVOICES
DRAW REQUEST NO. _____

		Invoice		CIP	Other		Total
Budget Item	Vendor	Date		Funds	Funds		Draw
	Total			0.00	0.00		0.00

**KAHULUI EMERGENCY HOUSING
TOTAL BUDGET
Payment Request**

4/15/2019
2:24 PM

SCOPE OF WORK	INITIAL APPROVED BUDGET	CURRENT APPROVED BUDGET	% COMP	COST TO DATE PREVIOUS	COST TO DATE NEW	BALANCE	THIS DRAW REQUEST #
LAND							
Land	\$0.00	\$0.00		\$0.00	\$0.00	0.00	0.00
FOR SITE WORK							
Sitework Costs	\$0.00	\$0.00		\$0.00	\$0.00	0.00	0.00
NEW CONSTRUCTION							
Construction	\$0.00	\$0.00		\$0.00	\$0.00	0.00	0.00
Equipment	\$0.00	\$0.00		\$0.00	\$0.00	0.00	0.00
CONTINGENCY							
Construction Contingency	\$0.00	\$0.00		\$0.00	\$0.00	0.00	0.00
Soft Cost Contingency	\$0.00	\$0.00		\$0.00	\$0.00	0.00	0.00
ARCHITECTURAL & ENGINEERING FEES							
Plans	\$0.00	\$0.00		\$0.00	\$0.00	0.00	0.00
Design	\$0.00	\$0.00		\$0.00	\$0.00	0.00	0.00
Environmental Assessment (EA)	\$0.00	\$0.00		\$0.00	\$0.00	0.00	0.00
Engineering Fees	\$0.00	\$0.00		\$0.00	\$0.00	0.00	0.00
Landscape Architect	\$0.00	\$0.00		\$0.00	\$0.00	0.00	0.00
LEED Certification	\$0.00	\$0.00		\$0.00	\$0.00	0.00	0.00
Reimbursables	\$0.00	\$0.00		\$0.00	\$0.00	0.00	0.00
INTERIM COSTS							
Construction Insurance	\$0.00	\$0.00		\$0.00	\$0.00	0.00	0.00
Construction Interest	\$0.00	\$0.00		\$0.00	\$0.00	0.00	0.00
Construction Loan Origination Fee	\$0.00	\$0.00		\$0.00	\$0.00	0.00	0.00
Construction Credit Enhancement	\$0.00	\$0.00		\$0.00	\$0.00	0.00	0.00
Payment and Performance Bond	\$0.00	\$0.00		\$0.00	\$0.00	0.00	0.00
Real Property Tax & Other Taxes	\$0.00	\$0.00		\$0.00	\$0.00	0.00	0.00
PERMITS AND FEES							
Building Permits	\$0.00	\$0.00		\$0.00	\$0.00	0.00	0.00
BWS Fees	\$0.00	\$0.00		\$0.00	\$0.00	0.00	0.00
DOE Fee	\$0.00	\$0.00		\$0.00	\$0.00	0.00	0.00
Special Inspections	\$0.00	\$0.00		\$0.00	\$0.00	0.00	0.00
SOFT COSTS							
Planning	\$0.00	\$0.00		\$0.00	\$0.00	0.00	0.00
Property Appraisal	\$0.00	\$0.00		\$0.00	\$0.00	0.00	0.00
Market Study	\$0.00	\$0.00		\$0.00	\$0.00	0.00	0.00
Environmental Report	\$0.00	\$0.00		\$0.00	\$0.00	0.00	0.00
HHFDC LIHTC Fee/(Good Faith Deposit)	\$0.00	\$0.00		\$0.00	\$0.00	0.00	0.00
Advertising/Marketing	\$0.00	\$0.00		\$0.00	\$0.00	0.00	0.00
Furnishings	\$0.00	\$0.00		\$0.00	\$0.00	0.00	0.00
Survey	\$0.00	\$0.00		\$0.00	\$0.00	0.00	0.00
Accounting/Cost Certification	\$0.00	\$0.00		\$0.00	\$0.00	0.00	0.00
Working Capital	\$0.00	\$0.00		\$0.00	\$0.00	0.00	0.00
SYNDICATION COSTS							
Organizational (Partnership)	\$0.00	\$0.00		\$0.00	\$0.00	0.00	0.00
FINANCING FEES & EXPENSES							
Permanent Loan Origination Fee	\$0.00	\$0.00		\$0.00	\$0.00	0.00	0.00
Title and Recording	\$0.00	\$0.00		\$0.00	\$0.00	0.00	0.00
Counsel's Fee	\$0.00	\$0.00		\$0.00	\$0.00	0.00	0.00
Lender's Counsel	\$0.00	\$0.00		\$0.00	\$0.00	0.00	0.00
Lender's Out of Pocket	\$0.00	\$0.00		\$0.00	\$0.00	0.00	0.00
DEVELOPER'S FEES							
Developer's Overhead	\$0.00	\$0.00		\$0.00	\$0.00	0.00	0.00
Developer's Fee	\$0.00	\$0.00		\$0.00	\$0.00	0.00	0.00
TOTAL COST BEFORE RESERVE	\$0.00	\$0.00		\$0.00	\$0.00	\$0.00	\$0.00
PROJECT RESERVES							
Operating Reserves	\$0.00	\$0.00		\$0.00	\$0.00	0.00	0.00
Escrows	\$0.00	\$0.00		\$0.00	\$0.00	0.00	0.00
TOTAL PROJECT COST	\$0.00	\$0.00		\$0.00	\$0.00	\$0.00	\$0.00

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**KAHULUI EMERGENCY HOUSING
COUNTY FUNDS
Payment Request**

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SCOPE OF WORK	INITIAL APPROVED BUDGET	PROPOSED BUDGET	% COMP	COST TO DATE PREVIOUS	COST TO DATE NEW	BALANCE	THIS REQUEST
							#
LAND							
Land	\$0.00	\$0.00		\$0.00	\$0.00	\$0.00	\$0.00
FOR SITE WORK							
Sitework Costs	\$0.00	\$0.00		\$0.00	\$0.00	\$0.00	\$0.00
NEW CONSTRUCTION							
Construction	\$0.00	\$0.00		\$0.00	\$0.00	\$0.00	\$0.00
Equipment	\$0.00	\$0.00		\$0.00	\$0.00	\$0.00	\$0.00
CONTINGENCY							
Construction Contingency	\$0.00	\$0.00		\$0.00	\$0.00	\$0.00	\$0.00
Soft Cost Contingency	\$0.00	\$0.00		\$0.00	\$0.00	\$0.00	\$0.00
ARCHITECTURAL & ENGINEERING FEES							
Planning	\$0.00	\$0.00		\$0.00	\$0.00	\$0.00	\$0.00
Design	\$0.00	\$0.00		\$0.00	\$0.00	\$0.00	\$0.00
Environmental Assessment (EA)	\$0.00	\$0.00		\$0.00	\$0.00	\$0.00	\$0.00
Engineering Fees	\$0.00	\$0.00		\$0.00	\$0.00	\$0.00	\$0.00
Landscape Architect	\$0.00	\$0.00		\$0.00	\$0.00	\$0.00	\$0.00
LEED Certification	\$0.00	\$0.00		\$0.00	\$0.00	\$0.00	\$0.00
Reimbursables	\$0.00	\$0.00		\$0.00	\$0.00	\$0.00	\$0.00
INTERIM COSTS							
Construction Insurance	\$0.00	\$0.00		\$0.00	\$0.00	\$0.00	\$0.00
Construction Interest	\$0.00	\$0.00		\$0.00	\$0.00	\$0.00	\$0.00
Construction Loan Origination Fee	\$0.00	\$0.00		\$0.00	\$0.00	\$0.00	\$0.00
Construction Credit Enhancement	\$0.00	\$0.00		\$0.00	\$0.00	\$0.00	\$0.00
Payment and Performance Bond	\$0.00	\$0.00		\$0.00	\$0.00	\$0.00	\$0.00
Real Property Tax & Other Taxes	\$0.00	\$0.00		\$0.00	\$0.00	\$0.00	\$0.00
PERMITS AND FEES							
Building Permits	\$0.00	\$0.00		\$0.00	\$0.00	\$0.00	\$0.00
BWS Fees	\$0.00	\$0.00		\$0.00	\$0.00	\$0.00	\$0.00
DOE Fee	\$0.00	\$0.00		\$0.00	\$0.00	\$0.00	\$0.00
Special Inspections	\$0.00	\$0.00		\$0.00	\$0.00	\$0.00	\$0.00
SOFT COSTS							
Planning	\$0.00	\$0.00		\$0.00	\$0.00	\$0.00	\$0.00
Property Appraisal	\$0.00	\$0.00		\$0.00	\$0.00	\$0.00	\$0.00
Market Study	\$0.00	\$0.00		\$0.00	\$0.00	\$0.00	\$0.00
Environmental Report	\$0.00	\$0.00		\$0.00	\$0.00	\$0.00	\$0.00
HHFDC LIHTC Fee/(Good Faith Deposit)	\$0.00	\$0.00		\$0.00	\$0.00	\$0.00	\$0.00
Advertising/Marketing	\$0.00	\$0.00		\$0.00	\$0.00	\$0.00	\$0.00
Furnishings	\$0.00	\$0.00		\$0.00	\$0.00	\$0.00	\$0.00
Survey	\$0.00	\$0.00		\$0.00	\$0.00	\$0.00	\$0.00
Accounting/Cost Certification	\$0.00	\$0.00		\$0.00	\$0.00	\$0.00	\$0.00
Working Capital	\$0.00	\$0.00		\$0.00	\$0.00	\$0.00	\$0.00
SYNDICATION COSTS							
Organizational (Partnership)	\$0.00	\$0.00		\$0.00	\$0.00	\$0.00	\$0.00
	\$0.00	\$0.00		\$0.00	\$0.00	\$0.00	\$0.00
FINANCING FEES & EXPENSES							
Permanent Loan Origination Fee	\$0.00	\$0.00		\$0.00	\$0.00	\$0.00	\$0.00
Title and Recording	\$0.00	\$0.00		\$0.00	\$0.00	\$0.00	\$0.00
Counsel's Fee	\$0.00	\$0.00		\$0.00	\$0.00	\$0.00	\$0.00
Lender's Counsel	\$0.00	\$0.00		\$0.00	\$0.00	\$0.00	\$0.00
Lender's Out of Pocket	\$0.00	\$0.00		\$0.00	\$0.00	\$0.00	\$0.00
DEVELOPER'S FEES							
Developer's Overhead	\$0.00	\$0.00		\$0.00	\$0.00	\$0.00	\$0.00
Developer's Fee	\$0.00	\$0.00		\$0.00	\$0.00	\$0.00	\$0.00
TOTAL COST BEFORE RESERVE	\$0.00	\$0.00		\$0.00	\$0.00	\$0.00	\$0.00
PROJECT RESERVES							
Operating Reserves	\$0.00	\$0.00		\$0.00	\$0.00	\$0.00	\$0.00
Escrows	\$0.00	\$0.00		\$0.00	\$0.00	\$0.00	\$0.00
TOTAL PROJECT COST	\$0.00	\$0.00		\$0.00	\$0.00	\$0.00	\$0.00

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INSURANCE REQUIREMENTS KAHULUI EMERGENCY HOUSING PROJECT

The County of Maui is self-insured. The policy or policies of insurance maintained by the County's consultants, contractors and/or persons acting for, or on the County's behalf ("County Permittees") shall provide the following minimum policy limits and coverages:

Coverage	Minimum Policy Limits
Commercial General Liability and Automobile Insurance	The County Permittees' commercial general liability and automobile liability, including products and completed operations coverage, and automobile liability insurance shall be written on occurrence form and contain broad form property damage and bodily injury coverage of a combined single limit of not less than \$3,000,000 per occurrence and \$5,000,000 in the aggregate arising out of or in connection with operations performed under this MOU. Automobile insurance, and basic no-fault and personal injury protection as required by Hawaii laws, shall be no less than \$1,000,000 per accident. If the County Permittees do not own automobiles, they shall maintain Hired & Non-owned Automobile Liability coverage.
Pollution Liability	The County Permittees shall obtain at the County Permittees' expense, and shall keep in effect during this MOU, Pollution Liability Insurance covering the County Permittees' liability for bodily injury, property damage and environmental damage resulting from sudden accidental and gradual pollution and related cleanup costs incurred by the County Permittees all arising out of the County Permittees' use of the Lease Premises. Combined single limit per occurrence may not be less than \$3,000,000. Annual aggregate limit may not be less than \$3,000,000. The policy shall name HHFDC and the State of Hawaii as additional insured parties.
Workers' Compensation	As required by Hawaii laws
Property	Including Windstorm written on a replacement cost basis in an amount not less than 100% of the replacement cost of the buildings and contents, including betterments and improvements, made by the County or County Permittees, located on the premises. The County Permittees shall be

	<p>responsible for any deductible or self-insurance retention, and to provide these coverages on a primary basis. HHFDC and the State of Hawaii shall be loss payees under the Property Insurance. Coverage should be evidenced on form Acord 27 – Evidence of Property Insurance.</p>
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The Commercial General Liability Insurance and the Automobile Insurance shall contain the following provisions:

1. It is agreed that any insurance maintained by the State of Hawaii shall apply in excess of and not contribute with insurance provided by this policy.
2. HHFDC and the State of Hawaii are added as additional insured parties for operations performed on the Project under this MOU.
3. Insurance shall include a cross liability or severability of interest clause.
4. The County shall require its County Permittees to immediately provide written notice to HHFDC should any of the insurance policies evidenced on the County Permittees' Certificate of Insurance form be cancelled, limited in scope, or not renewed upon expiration.

The above required insurance shall be primary and shall cover the insured for all operations to be performed under this MOU and on the Project, all operations performed incidentally, directly or indirectly connected with all operations to be performed under this MOU and on the Project, including operations performed outside the work area and all change order work.

The County agrees to require its County Permittees to a Waiver of Subrogation for each required policy described herein. When required by the insurer, or should a policy condition not permit the County Permittee to enter into a pre-loss agreement to waive subrogation without an endorsement, the County shall require its County Permittees to notify the insurer and request that the policy be endorsed with a Waiver of Transfer of Rights of Recovery Against Others, or its equivalent. This Waiver of Subrogation requirement shall not apply to any policy, which includes a condition specifically prohibiting such an endorsement, or voids coverage should the County Permittees enter into such an agreement on a pre-loss basis.

The County agrees to require its County Permittees to deposit with HHFDC, on or before the Effective Date of this MOU, certificates of insurance necessary to satisfy HHFDC that the insurance provisions of this MOU have been complied with. The County further agrees to require its County Permittees to keep such insurance in effect and current certificates of insurance on deposit with HHFDC during the entire term of this MOU. The certificates of insurance shall refer to this MOU.

HHFDC shall retain the right at any time to review and approve coverage, form, and amount of the insurance required by this MOU. If, in the reasonable opinion of HHFDC, the insurance provisions in this MOU do not provide adequate protection for HHFDC,

HHFDC may require the County to require its County Permittees to obtain insurance sufficient in coverage, form, and amount to provide adequate protection. HHFDC's requirements shall be reasonable but shall be designed with due regard to the then prevailing prudent business practice in the State of Hawaii to assure protection from and against the kind of and the extent of risks which exist at the time a change in insurance is required.

HHFDC shall notify the County in writing of any changes in the insurance requirements desired by HHFDC. If the County Permittees do not deposit copies of insurance policies with HHFDC incorporating such changes requested by HHFDC within sixty (60) days of receipt of such notice, this MOU shall be in default without further notice to the County and HHFDC shall be entitled to all legal remedies, including termination of this MOU, and the County shall be liable for all damages, costs, and fees. If any such insurance changes shall not be available at commercially reasonable rates, the County shall have the right to contest HHFDC's request.

The procuring of the required policy or policies of insurance shall not be construed to limit the County's liability under this MOU nor to fulfill the indemnification provisions and requirements of this MOU. Notwithstanding the policy or policies of insurance, the County shall be obligated for the total amount of any damage, injury, or loss incurred under or related to this MOU to the extent the County is liable therefor under this MOU.

All rights or claims of subrogation against HHFDC and the State of Hawaii, their officers, employees, and agents are waived.

The County shall require its County Permittees to procure from each of the insurers under all policies of insurance obtained pursuant to the provisions of this MOU, including but not limited to public liability and fire insurance, a waiver of all rights of subrogation which said insurer might otherwise have, as against the other party hereto, said waiver to be in writing and for the express benefit of the other.

DIGEST

ORDINANCE NO. _____
BILL NO. 27 (2019)

A BILL FOR AN ORDINANCE AUTHORIZING THE MAYOR OF THE
COUNTY OF MAUI TO ENTER INTO AN INTERGOVERNMENTAL AGREEMENT
WITH THE HAWAII HOUSING FINANCE AND DEVELOPMENT CORPORATION
REGARDING THE CONSTRUCTION OF EMERGENCY HOUSING AT THE
UNIVERSITY OF HAWAII, MAUI COLLEGE, DORM SITE

This bill proposes to authorize the Mayor to enter into an intergovernmental agreement with the Hawaii Housing Finance and Development Corporation under Section 2.20.020, Maui County Code, regarding the construction of emergency housing at the University of Hawaii, Maui College, Dorm Site.

I, JOSIAH K. NISHITA, County Clerk of the County of Maui, State of Hawaii, DO
HEREBY CERTIFY that the foregoing BILL NO. 27 (2019) was passed on First Reading
by the Council of the County of Maui, State of Hawaii, on the 17th day of May, 2019, by
the following vote:

AYES: Councilmembers Natalie A. Kama, Alice L. Lee, Tamara A. M. Paltin,
Shane M. Sinenci, Yuki Lei K. Sugimura, Vice-Chair Keani N. W.
Rawlins-Fernandez, and Chair Kelly T. King.

NOES: Councilmember Michael J. Molina.

EXCUSED: Councilmember G. Riki Hokama.

DATED at Wailuku, Maui, Hawaii, this 28th of May, 2019.



JOSIAH K. NISHITA, 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.