

COUNCIL OF THE COUNTY OF MAUI
POLICY COMMITTEE

April 10, 2012

**Committee
Report No.** _____

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

Chair and Members:

Your Policy Committee, having met on February 29, 2012, and March 14, 2012, makes reference to County Communication 12-18, 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 UNITED STATES AIR FORCE, DETACHMENT 15, REGARDING THE AIR FORCE RESEARCH LABORATORY; MAUI SPACE SURVEILLANCE CENTER".

The purpose of the proposed bill is to authorize the Mayor to enter into a three-year intergovernmental agreement with the United States Air Force for mutual aid in routine and emergency response assistance for the Maui Space Surveillance Center at the summit of Mount Haleakala, Maui, Hawaii.

Your Committee received a revised proposed bill entitled "A BILL FOR AN ORDINANCE AUTHORIZING THE MAYOR OF THE COUNTY OF MAUI TO ENTER INTO AN INTERGOVERNMENTAL AGREEMENT WITH THE AIR FORCE RESEARCH LABORATORY; MAUI SPACE SURVEILLANCE COMPLEX". The revised proposed bill corrects the name of the facility, modifies the Department of Police's agreement concerning emergency radio communications, and incorporates nonsubstantive revisions.

Your Committee heard from representatives of the Department of Police, the United States Air Force, and the National Park Service, who clarified the jurisdiction of the entities with respect to the Maui Space Surveillance Complex and areas immediately surrounding the summit of Mount Haleakala. The representatives also noted cooperative working relationships in handling various types of incidents in adjacent areas within Science City and other areas within the National Park.

A Lieutenant Colonel with the United States Air Force confirmed that the agreement would benefit the Maui Space Surveillance Complex and allow the Air Force to formalize an existing arrangement with the County for mutual aid. He noted that both

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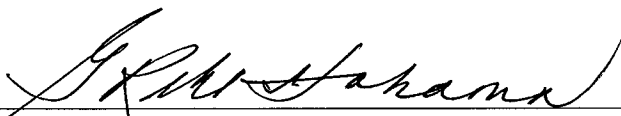
military and civilian enforcement efforts occur at the site, and that the County would not be contributing any funds to the Air Force as a result of the agreement.

Your Committee voted 7-0 to recommend passage of the revised proposed bill on first reading and filing of the communication. Committee Chair Hokama and members Baisa, Cochran, Mateo, Pontanilla, Victorino, and White voted "aye". Committee Vice-Chair Carroll and member Couch were excused.

Your Policy Committee RECOMMENDS the following:

1. That Bill _____ (2012), as revised herein and attached hereto, entitled "A BILL FOR AN ORDINANCE AUTHORIZING THE MAYOR OF THE COUNTY OF MAUI TO ENTER INTO AN INTERGOVERNMENTAL AGREEMENT WITH THE AIR FORCE RESEARCH LABORATORY; MAUI SPACE SURVEILLANCE COMPLEX", be PASSED ON FIRST READING and be ORDERED TO PRINT; and
2. That County Communication 12-18 be FILED.

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



G. RIKI HOKAMA, Chair

ORDINANCE NO. _____

BILL NO. _____ (2012)

A BILL FOR AN ORDINANCE AUTHORIZING THE MAYOR OF THE COUNTY OF MAUI TO ENTER INTO AN INTERGOVERNMENTAL AGREEMENT WITH THE AIR FORCE RESEARCH LABORATORY; MAUI SPACE SURVEILLANCE COMPLEX

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

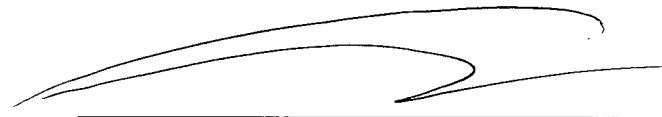
SECTION 1. Purpose. The County of Maui and United States Air Force wish to enter into an Intergovernmental Agreement entitled "Memorandum of Agreement Between: the Air Force Research Laboratory; Maui Space Surveillance Complex and Maui Police Department" ("Memorandum of Agreement") to establish a contractual relationship between the parties to coordinate and execute routine and emergency assistance for mutual aid in police protection for the Maui Space Surveillance Complex, in addition to the purposes outlined in Sections 4 and 5 of the Memorandum of Agreement. A copy of the proposed Memorandum of Agreement is attached hereto and incorporated by reference herein as Exhibit "1".

Section 2.20.020 of the 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. Authorization. The Council hereby authorizes the Mayor to execute the Memorandum of Agreement, all other necessary documents relating to the Memorandum of Agreement, and any amendments thereto.

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

APPROVED AS TO FORM
AND LEGALITY:



SCOTT K. HANANO
Deputy Corporation Counsel
County of Maui

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**MEMORANDUM OF AGREEMENT BETWEEN:
THE AIR FORCE RESEARCH LABORATORY;
MAUI SPACE SURVEILLANCE COMPLEX AND MAUI POLICE DEPARTMENT**

1. PURPOSE:

- a. The purpose of this memorandum of agreement (MOA) is to outline the agreement for mutual aid in routine and emergency assistance for the Maui Space Surveillance Complex (MSSC) atop Mt. Haleakala USAF, Detachment 15, AFRL (AFRL) and the Maui Police Department (MPD).
- b. The physical location at Maui Space Surveillance Complex (MSSC) sits on 4.5 of the 18.1 acres of land granted to the University of Hawaii atop Mt. Haleakala, Maui, Hawaii. (See Figure 2-1, attached). The Air Force (AF) has not asserted any right to exclusive federal jurisdiction over the site, thus state criminal law applies to all acts and individuals on the property. However, within the confines of the actual governmental facilities, which are designated as federal property subject to proprietary jurisdiction, individuals could possibly be prosecuted under federal law, depending on the crime committed. However, AFRL is aware of no reason why anyone found engaging in criminal activities at the site or facilities would be immune from prosecution under state criminal code.

2. AUTHORITY:

- a. DODI 4000.19, Inter-service and Intra-governmental Support, August 9, 1995.
- b. Public law 93-288 and Public Law 46-84th Congress approved on 27 May 1955, Chapter 105, Section 1, 69 statue 66, 42 USC Section 1856, a, b, c, and d authorize the execution of mutual aid agreements between agencies of the United States and other agencies and instrumentalities for mutual aid in the police protection.
- c. Charter of the County of Maui §7-5.16, Maui County Code §2.20.020

3. BACKGROUND, SCOPE AND APPROACH:

- a. Department of Air Force Civilian Police (DAF CP) maintains a twenty-four hour armed presence at the site. The area identified as MSSC, is property leased by the Department of the Air Force and is the area in which the DAF CP have been granted, under federal statute, the authority to perform law enforcement duties.
- b. The DAF CP have no authority to enforce state criminal code, however do hold a proprietary right under federal statute to detain suspected violators for a reasonable time until appropriate law enforcement authorities can respond and assume control of the situation. If Air Force personnel suspect a violation of state or local ordinances at MSSC, they will contact the Maui Police Department.

- c. If DAF CP suspects a violation of federal law (e.g., vandalism, theft, sabotage or damage to federal governmental property) they may also contact the Federal Bureau of Investigation or other appropriate federal agency such as the Air force Office of Special Investigations.

4. EMERGENCY AND NON-EMERGENCY RESPONSE AGREEMENT:

- a. AFRL designates the DAF CP, to be the law enforcement entity at MSSC providing 24/7 on-site security for the personnel and assets assigned to MSSC.
- b. AFRL hereby grants to the MPD the right to enter AFRL property, either (a) at the request of Air Force personnel or (b) upon MPD own initiative based upon probable cause or suspected criminal activity. In the event that occurs, MPD personnel will contact AFRL security personnel as soon as practical.
- c. The DAF CP agree to:
 - i. Notify MPD of routine activities that would require MPD response via the non-emergency telephone contact number or via Pacific Land Mobile Based Radio (PLMR). DAF CP will inform the dispatcher of the specific details of the situation and the location.
 - ii. Notify MPD via 911 or via PLMR in the event that emergency services are requested, DAF CP will inform dispatch that the situation is at the Observatory atop Haleakala and may request emergency services from Haleakala National Park Services (NPS) through MPD until MPD authorizes arrive and assume command of the situation.
 - iii. Provide escort duties for MPD when responding to Remote Maui Experimental (RME) facility in Kihei for emergency services and/or alarm activations.
 - iv. Gain control of a situation using appropriate levels of force which include the detention of individual(s) involved until responding authorities arrive.
 - v. Notify MPD when conducting training (Active Shooter Scenarios, Red Man Training Suit, etc) and permit MPD to utilize the training equipment along with DAF CPs.
 - vi. Schedule range utilization and range classroom with MPD for the Air Force weapon qualifications firing courses.
- d. The Maui Police Department agrees to:
 - i. Dispatch patrols to respond to MSSC to the same extent they would respond to any other location within their jurisdiction. This agreement does not establish any heightened priority or preference for AFRL over other community needs.
 - ii. When responding to emergency or life-threatening situations, MPD agrees to, based on the threat or situation, notify NPS that an emergency situation has arisen at MSSC, and request they dispatch an NPS Officer to MSSC.
 - iii. Along with DAF CP, respond to alarm activations to the Kihei site when notified by DAF CP.

- iv. At the request from DAF CP, schedule and provide range utilization and range classroom for DAF CP weapons qualification courses.
- v. Provide transportation and confinement of individuals that have been detained by the DAF CP.

5. EMERGENCY RADIO COMMUNICATIONS:

- a. The AF agrees to provide one (1) Pacific Land Mobile Radio (PLMR), Motorola Astro XTL 5000 digital mobile radio and antenna.
 - i. The radio shall have a standard 4 wire interface to connect to the MPD communication system.
 - ii. The radio shall have a standard 120v power interface.
 - iii. The radio shall be rack mountable.
 - iv. The AF is responsible for all maintenance of the radio including initial installation, replacement, and future upgrade.
 - v. The radio shall be programmed for a single talk group that will only be used in the event of an emergency situation. Only appropriate AF personnel have access to this talk group.
- b. The MPD agree to:
 - i. Monitor the radio and respond appropriately.
 - 1. DAF CP will conduct radio checks once per shift (three times per day) with MPD
 - ii. To escort the AF or AF contractor in the event that the radio requires maintenance. The AF will need to gain escorted access to MPD radio facility and will coordinate with MPD Radio Shop. Upon being notified by the AF of a communication failure, MPD will provide escorted access to the facility with advanced coordination with MPD Radio Shop.

6. ADMINISTRATION:

- a. Pursuant to Department of Defense Instruction 4000.19, *Interservice and Intragovernmental Support*, 4.5.2, 9 Aug 95, (available at <http://www.dtic.mil/whs/directives/corres/ins1.html>) this is a “not cost” service understanding.
- b. The Maui Police Department neither assume nor incurs any liability as a result of their actions taken pursuant to this MOA beyond that normally incurred as a result of similar activities.

7. TERMS OF AGREEMENT:

- a. The term of this MOA is for a period of 3 years, commencing on the date of the last signature affixed below. Any party may terminate this MOA earlier upon delivery of written notice at least 30 days in advance. Modifications will be made by mutual written agreement only. If either party desires a modification of this agreement, the parties shall, upon reasonable notice of the

proposed modification by the party desiring the change, confer in good faith to determine the feasibility of such modification. Modifications shall not be effective until duly authorized representatives of the parties sign a written amendment. This MOA will be reviewed annually in writing by each party's designated organizational MOA POC (Point of Contact).

8. POINTS OF CONTACT AND DISTRIBUTION:

- a. United States Air Force contacts are:
 - i. Mr. Larry Wallman, Chief of Security, (808) 874-1508
 - ii. Mr. Matthew Mitchell, Supervisor, DAF Civilian Police, (808) 874-1589
 - iii. MSSC Desk Sergeant, 24/7 manned, (808) 249-1701
- b. Maui Police Department contacts are:
 - i. Asst. Chief Victor Ramos, Uniformed Services, (808) 244-6420
 - ii. Asst. Chief Lawrence Hudson, Support Services, (808) 244-6415
 - iii. Lt. James Fletcher, Communications Commander, (808) 244-6375
 - iv. RTO Supervisor, 24/7 manned, (808)-244-6406
- c. Distribution to all contacts.

9. RECORD OF CHANGES:

- a. All MOA changes and supplements are posted when received and recorded below:

Change/Supplement#	Date Posted	Posted By
_____	_____	_____
_____	_____	_____

10. RECORD OF REVIEW:

- a. Air Force Research Laboratory/RDSMP (Division Identification) is responsible for ensuring all original coordinating agencies are reminded to complete an annual review of this MOA to ensure continued accuracy. The triennial review will normally be completed by the 3-year anniversary of this MOA's original effective date and will be documented below.

<u>Reviewed by:</u>	<u>Date Reviewed</u>	<u>Remarks:</u>
_____	_____	_____
_____	_____	_____

11. APPROVAL AUTHORITIES:

- a. This Memorandum of Agreement provides guidance and documents agreement for support between AFRL/RDSMP and Maui Police Department. This MOA will be renewed on a triennial basis or upon concurrence of the signatories based on mission changes. The undersigned representatives have reviewed and agreed on the conditions set forth in this MOA.

AIR FORCE RESEARCH
LABORATORY:

(Signature)

(Print Name)

(Title)

APPROVAL RECOMMENDED:

COUNTY OF MAUI:

GARY YABUTA
Chief of Police

ALAN M. ARAKAWA
Mayor

APPROVED AS TO FORM &
LEGALITY:

SCOTT K. HANANO
Deputy Corporation Counsel

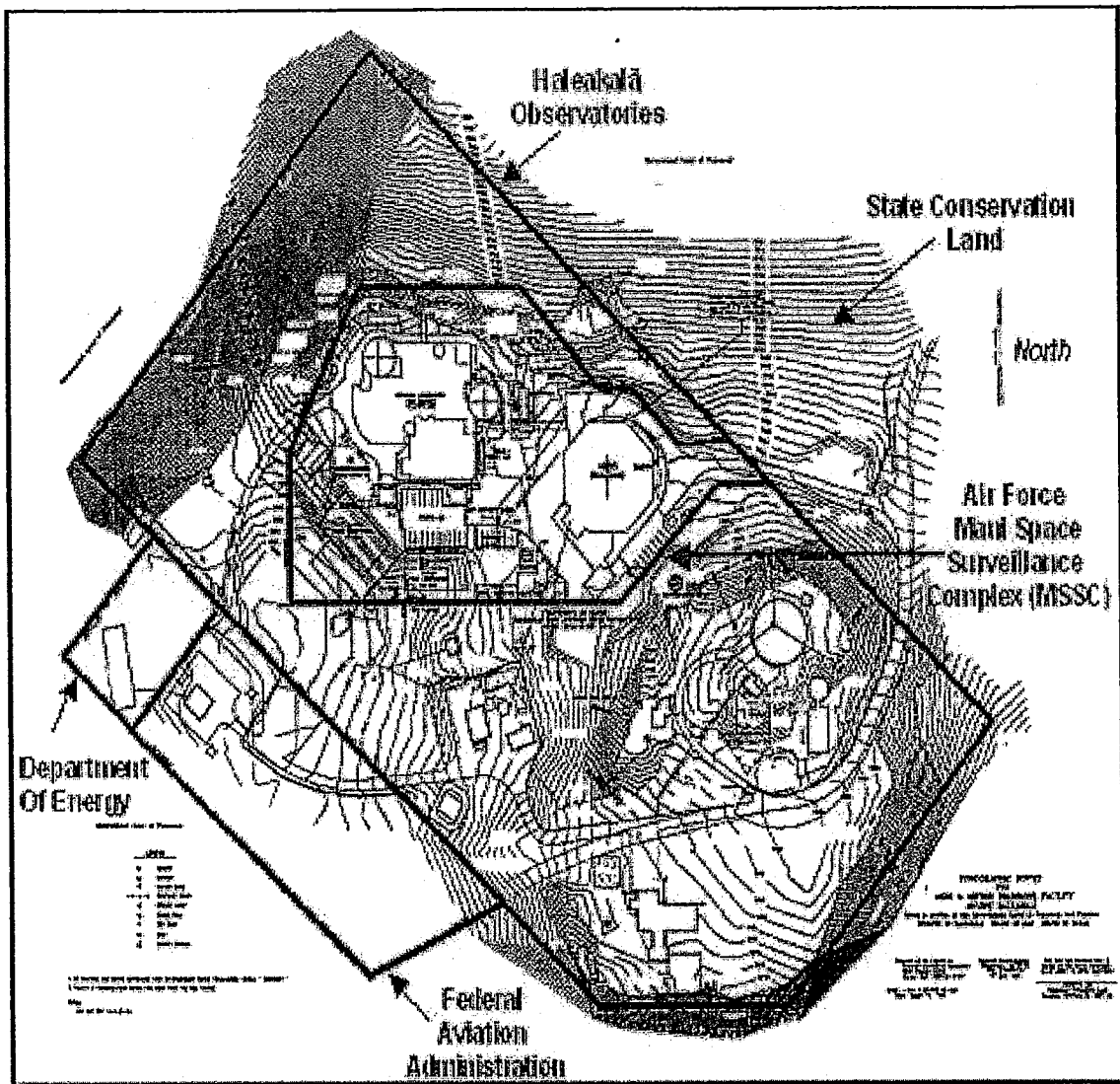


Figure 2-1. University of Hawai'i Haleakalā Observatories and Adjacent Properties