

**COUNCIL OF THE COUNTY OF MAUI**  
**HOUSING, HUMAN SERVICES, AND**  
**TRANSPORTATION COMMITTEE**

February 26, 2016

**Committee**  
**Report No. \_\_\_\_\_**

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

Chair and Members:

Your Housing, Human Services, and Transportation Committee, having met on January 7, 2016, January 21, 2016, and February 4, 2016, makes reference to County Communication 15-294, from the Director of Transportation, transmitting the following:

1. A proposed bill entitled "A BILL FOR AN ORDINANCE AMENDING TITLE 2, MAUI COUNTY CODE, TO ESTABLISH THE MAUI METROPOLITAN PLANNING ORGANIZATION" ("Title 2 bill"). The purpose of the proposed bill is to amend Title 2, Maui County Code ("MCC"), to establish the Maui Metropolitan Planning Organization ("MPO"), an organization whose purpose is to conduct transportation planning.
  
2. 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 TO ESTABLISH THE MAUI METROPOLITAN PLANNING ORGANIZATION TO FULFILL FEDERAL AND STATE TRANSPORTATION PLANNING REQUIREMENTS" ("Intergovernmental Agreement bill"). The purpose of the proposed bill is to authorize the Mayor to enter into an agreement relating to the Maui MPO, in the form attached as Exhibit "A" to the proposed bill ("Agreement"), pursuant to Section 2.20.020, MCC.

At the request of the Chair of your Committee, the Department of the Corporation Counsel transmitted revised proposed bills, approved as to form and legality, incorporating nonsubstantive revisions, including a

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revision to the title of the Intergovernmental Agreement bill to read, "A BILL FOR AN ORDINANCE AUTHORIZING THE MAYOR OF THE COUNTY OF MAUI TO ENTER INTO AN INTERGOVERNMENTAL AGREEMENT WITH THE STATE OF HAWAII TO FULFILL FEDERAL AND STATE TRANSPORTATION PLANNING REQUIREMENTS RELATING TO THE MAUI METROPOLITAN PLANNING ORGANIZATION."

Your Committee notes the 2010 United States Census found the geographic area encompassing Kahului, Wailuku, and Paia to have a population exceeding 50,000, thus constituting an "urbanized area," pursuant to 23 United States Code ("U.S.C.") Section 134(b)(7) and 49 U.S.C. Section 5303(b)(7). Federal laws governing metropolitan transportation planning and Chapter 279D, Hawaii Revised Statutes ("HRS"), require an MPO be designated for an urbanized area. The MPO would act as a decision-making agency and receive certain funds for transportation planning.

The Deputy Director of Public Works noted the deadline to create the MPO was in 2013. Your Committee notes it did not receive the proposed bills to provide for a Maui MPO until December 2015.

Your Committee further notes, although there is an Oahu MPO, this is the first such organization for Maui.

As a part of its due diligence, your Committee sought input on the revised proposed bills from representatives of the County Departments of Transportation, Public Works, Planning, and Finance; the State Department of Transportation, Highways Division, Planning Branch; and the U.S. Department of Transportation, Federal Highway Administration, Hawaii Division.

Your Committee questioned the impact of forming an MPO on anticipated funding for highways and transit projects, and associated funding and staff support to be requested of the County.

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The County Director of Transportation provided a breakdown of Federal transportation planning funds the Department anticipates receiving for the Maui MPO for Federal Fiscal Years 2013 through 2015, totaling \$1,167,405. He noted an understanding, following initial discussions with the State Department of Transportation, that the State and the County would each provide a ten-percent match to access Federal funds available to the MPO. He said once the MPO is created, the Department will gain over \$5 million in Federal funds for those three Federal Fiscal Years. He also said the State Department of Transportation advised if the Maui MPO is not created, the County stands to lose over \$200 million in Federal funds for County projects.

In response to your Committee's questions, the Deputy Director of Public Works informed your Committee there is also a potential for reimbursement to the County for the South Maui Regional Traffic Master Plan if the Maui MPO is in place soon and its Policy Board supports the project.

The Deputy Director of Transportation noted once the Agreement is approved, the Department would prepare a financial supplemental agreement to be presented to the Council for review.

The Director of Transportation said the Maui MPO would receive about \$400,000 per year for its operation; costs for the Maui MPO Executive Director and staff would come from MPO Federal funding and from County matching funds of approximately \$50,000 per year. He said the Department would possibly house Maui MPO personnel in County facilities, which would be used as an in-kind contribution for a portion of the County's share of matching funds. He also said the County's matching funds of \$50,000 have already been approved in the Fiscal Year 2016 Budget. Your Committee requested a written response as to how the State's matching funds would be provided to the County for the Maui MPO.

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Your Committee questioned whether the Agreement, which the Council is being requested to authorize under Section 2.20.020, MCC, should reference the financial obligations being imposed upon the County.

The Department revised the Agreement to state the Federal government's share of the cost of an activity funded using amounts made available under 49 U.S.C. Section 5305 may not exceed 80 percent of the cost of the activity.

At your Committee's request, the Department also revised the Agreement to require the annual reports submitted by the Maui MPO to the State Legislature also be submitted to the County.

Your Committee was informed the Maui MPO would be an independent board, not a County board. Your Committee, therefore, questioned the need to establish the Maui MPO in the Maui County Code. Your Committee also noted the Agreement provides the County may administratively support the Maui MPO through its Departments of Transportation, Public Works, and Planning.

A Deputy Corporation Counsel explained there is a Federal mandate to enter into this Agreement because an urbanized area exists, and advised Section 279D-3(c)(3), HRS, provides an MPO shall be placed within a state or county agency, as appropriate, for administrative purposes only.

Your Committee also questioned whether creation of the Maui MPO or designation of a Metropolitan Planning Area ("MPA") would impact the availability of other Federal funds such as Community Development Block Grant and U.S. Department of Agriculture funds. The Deputy Director of Public Works informed your Committee she had spoken with Mark Chandler, U.S. Department of Housing and Urban Development, and was advised "MPO status" would not impact the availability of Community Development Block Grant funds. Your Committee requested written confirmation from the appropriate Federal agencies that neither the

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establishment of an MPO, nor the designation of the island of Maui as an MPA, would impact the County's receipt of other Federal funds.

Your Committee questioned the effect of the June 18, 2013, correspondence executed by the Governor, the State Director of Transportation, and the Mayor, a copy of which is attached to the revised proposed bills. Notably, the correspondence states, "At this time, it has been agreed to by the State Department of Transportation (DOT) and Maui County that to ensure a coordinated and integrated planning effort, the MPA is designated to encompass the entire island of Maui."

Your Committee notes 23 U.S.C. Section 134(b) and 49 U.S.C. Section 5303(b) define a "metropolitan planning area" to mean "the geographic area determined by agreement between the metropolitan planning organization for the area and the Governor." Your Committee, therefore, asked how the MPA could have been designated when the MPO had not yet been created.

The Deputy Director of Transportation noted the MPO and the Governor would need to decide on the MPA, so there is no official designation of the MPA as yet. The Deputy Corporation Counsel advised, consistent with Federal law, the MPO would need to be involved in the designation of the MPA and it appeared the June 2013 correspondence expressed a desire for a certain outcome. Your Committee recommended the Title 2 bill be revised by deleting reference to the correspondence, to the island of Maui having been designated an MPA, and to the Maui MPO applying to the entire island of Maui. Your Committee also recommended the Agreement be revised by deleting reference to the entire island of Maui having been identified as an MPA.

Your Committee discussed the operation and structure of the Maui MPO, which would have a Policy Board, Executive Director, and staff. As initially proposed, the Maui MPO Policy Board would have five voting members – the State Director of Transportation or appropriate successor, a Councilmember, and the directors of the County Departments of

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Planning, Public Works, and Transportation, with two Councilmembers serving as ex-officio members. Your Committee recommended the membership be changed to seven voting members, with three Councilmembers serving as voting members. Your Committee also recommended the membership of the Policy Board be incorporated in proposed Chapter 2.35 of the Title 2 bill.

In response to your Committee's concerns about Sunshine Law restrictions limiting Councilmember participation, the Deputy Corporation Counsel advised your Committee that Chapter 279D, HRS, allows for certain exceptions to the Sunshine Law, and the provisions on page 4 of the Agreement are consistent with those exceptions.

Your Committee recommended Section 2 of the Intergovernmental Agreement bill be revised to delete reference to the Council authorizing the Mayor to enter into other documents relating to the Agreement or any amendments to the Agreement without first obtaining Council approval.

Your Committee voted 5-0 to recommend passage of the revised proposed bills on first reading and filing of the communication. Committee Chair Crivello and members Carroll, Couch, Guzman, and Hokama voted "aye." Committee Vice-Chair Baisa and member Victorino were excused.

Your Committee is in receipt of revised proposed bills, approved as to form and legality by the Department of the Corporation Counsel, incorporating your Committee's recommended revisions and nonsubstantive revisions.

Your Housing, Human Services, and Transportation Committee RECOMMENDS the following:

1. That Bill \_\_\_\_\_ (2016), as revised herein and attached hereto, entitled "A BILL FOR AN ORDINANCE AMENDING TITLE 2, MAUI COUNTY CODE, TO ESTABLISH THE MAUI

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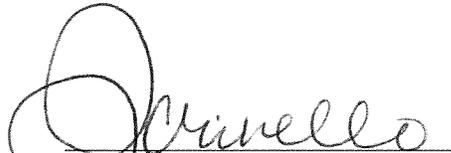
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METROPOLITAN PLANNING ORGANIZATION,” be PASSED  
ON FIRST READING and be ORDERED TO PRINT;

2. That Bill \_\_\_\_\_ (2016), 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 STATE OF HAWAII TO FULFILL FEDERAL AND STATE TRANSPORTATION PLANNING REQUIREMENTS RELATING TO THE MAUI METROPOLITAN PLANNING ORGANIZATION,” be PASSED ON FIRST READING and be ORDERED TO PRINT; and
3. That County Communication 15-294 be FILED.

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

  
\_\_\_\_\_  
STACY CRIVELLO, Chair

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ORDINANCE NO. \_\_\_\_\_

BILL NO. \_\_\_\_\_ (2016)

A BILL FOR AN ORDINANCE AMENDING TITLE 2, MAUI COUNTY CODE, TO  
ESTABLISH THE MAUI METROPOLITAN PLANNING ORGANIZATION

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

SECTION 1. Purpose. The Council finds that 23 United States Code sections 134-135 and 49 United States Code sections 5303-5304, as amended, the implementing federal regulations, and Chapter 279D, Hawaii Revised Statutes, require that a metropolitan planning organization be designated for an “urbanized area” (a geographic area of more than fifty thousand people, as determined by the United States Bureau of the Census) to act as a decision-making agency and receive certain funds for the purposes of carrying out a continuing, cooperative, and comprehensive transportation planning process.

In the 2010 United States Census, the geographic area encompassing Kahului, Wailuku, and Paia was found to have a population exceeding the threshold of fifty thousand.

The purpose of this ordinance is to establish the Maui Metropolitan Planning Organization.

SECTION 2. Title 2, Maui County Code, is amended by adding a new chapter to be appropriately designated and to read as follows:

## **“Chapter 2.35**

### **MAUI METROPOLITAN PLANNING ORGANIZATION**

Sections:

- 2.35.010 Purpose and intent.
- 2.35.020 Establishment.
- 2.35.030 Organization, powers, duties, and functions.
- 2.35.040 Policy board membership.
- 2.35.050 Rules.

**2.35.010 Purpose and intent.** A. Federal law requires the designation of an entity known as a metropolitan planning organization, or MPO, for each urbanized area with a population of more than 50,000 individuals to qualify the area to receive federal funding for transportation planning, to act as a decision-making agency, and to carry out a continuing, cooperative, and comprehensive transportation planning process with governmental agencies.

B. The intent of this chapter is to establish the Maui MPO.

**2.35.020 Establishment.** The Maui metropolitan planning organization is hereby established as provided by law (23 U.S.C. sections 134-135 and 49 U.S.C. sections 5303-5304, as amended, the implementing federal regulations, and chapter 279D, Hawaii Revised Statutes).

**2.35.030 Organization, powers, duties, and functions.**

A. The Maui MPO shall operate according to executed comprehensive agreements between the State, County, other operators of public transportation receiving federal funds, and other entities as appropriate. The organization, powers, duties, and functions of the Maui MPO shall be as provided by law.

B. The Maui MPO shall have its own policy board, executive director, and staff, except the County department of transportation may provide administrative support pursuant to a supplemental administrative agreement.

C. Decisions by the Maui MPO policy board shall be the result of a continuing, cooperative, and comprehensive transportation planning process.

D. The Maui MPO may engage the services of consultants on a contractual basis for rendering professional and technical assistance and advice.

E. The Maui MPO may contract for or accept revenues, compensation, proceeds, and gifts, donations, or grants in any form from any public agency.

F. The Maui MPO shall meet all requirements of 23 United States Code sections 134 and 135, 49 United States Code sections 5303 and 5304, and the implementing federal regulations; chapter 279D, Hawaii Revised Statutes; and any other relevant requirements.

**2.35.040 Policy board membership.** The policy board shall be composed of seven members. The policy board shall include:

A. The director of the State Department of Transportation or any successor department thereof with primary responsibility for statewide transportation project implementation.

B. Three members of the Maui County Council appointed by the council chair.

C. The director of the County department of planning.

D. The director of the County department of public works.

E. The director of the County department of transportation.

**2.35.050 Rules.** The Maui MPO may adopt administrative rules of practice and procedure pursuant to chapter 91, Hawaii Revised Statutes.”

SECTION 3. Chapter 2.40, Maui County Code, is amended by adding a new section to be appropriately designated and to read as follows:

**“2.40.230 Maui metropolitan planning organization.**  
There is established a Maui metropolitan planning organization as provided by law. See 23 U.S.C. section 134(d), 49 U.S.C. section 5303(d), chapter 279D, Hawaii Revised Statutes, and chapter 2.35 of this title.”

SECTION 4. New material is underscored. In printing this bill the County Clerk need not include the underscoring.

SECTION 5. This ordinance shall take effect upon its approval.

APPROVED AS TO FORM  
AND LEGALITY:

  
\_\_\_\_\_  
JERRIE L. SHEPPARD  
Deputy Corporation Counsel  
(LF 2014-1954)

ORDINANCE NO. \_\_\_\_\_

BILL NO. \_\_\_\_\_ (2016)

A BILL FOR AN ORDINANCE AUTHORIZING THE MAYOR OF THE COUNTY OF MAUI TO ENTER INTO AN INTERGOVERNMENTAL AGREEMENT WITH THE STATE OF HAWAII TO FULFILL FEDERAL AND STATE TRANSPORTATION PLANNING REQUIREMENTS RELATING TO THE MAUI METROPOLITAN PLANNING ORGANIZATION

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

SECTION 1. Purpose. Metropolitan planning organizations designated pursuant to 23 United States Code section 134(d) shall meet all requirements of 23 United States Code sections 134-135 and 49 United States Code sections 5303-5304, as amended, and any federal regulations adopted pursuant thereto. In the State, a metropolitan planning organization is also required to comply with Chapter 279D, Hawaii Revised Statutes. Section 279D-3, Hawaii Revised Statutes, provides that a metropolitan planning organization shall operate according to executed comprehensive agreements, including any supplemental agreements, between the State, County, and other operators of public transportation receiving federal funds.

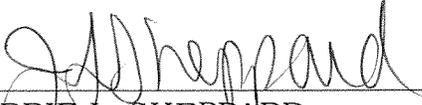
To enable the County to receive federal funding for transportation planning, the Maui Metropolitan Planning Organization has been designated as the agency to carry out the “continuing, cooperative and comprehensive” transportation planning process, in accordance with the terms set forth in the Maui Metropolitan Planning Organization Comprehensive Agreement, attached hereto and incorporated herein by reference as Exhibit “A.”

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. Pursuant to Section 2.20.020, Maui County Code, the Council of the County of Maui hereby authorizes the Mayor to enter into an intergovernmental agreement, in the form attached hereto as Exhibit "A."

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 2014-1954)

**MAUI METROPOLITAN PLANNING ORGANIZATION  
COMPREHENSIVE AGREEMENT**

THIS COMPREHENSIVE AGREEMENT ("Comprehensive Agreement") is made and entered into on the \_\_\_ day of \_\_\_\_\_, 2016, between the County of Maui by its Mayor, and the State of Hawaii by its Governor. (Appendix A, attached hereto, provides a list of abbreviations for reference.)

WITNESSETH:

WHEREAS, 23 United States Code (U.S.C.) §§ 134-135, and 49 U.S.C. §§ 5303-5304, as amended, federal regulations adopted pursuant thereto, and other federal laws, require that a Metropolitan Planning Organization (MPO) be designated based on a qualifying population threshold, to act as a decision-making agency and receive certain funds to carry out a "continuing, cooperative, and comprehensive" transportation planning process (3-C Planning Process), including development of a Long Range Transportation Plan (LRTP) and a Transportation Improvement Program (TIP); and

WHEREAS, the federal transportation planning statutes noted above, and Chapter 279D, Hawaii Revised Statutes (HRS), require the State to coordinate the Statewide transportation planning process for metropolitan planning areas (MPAs); and

WHEREAS, in the 2010 United States Census, the geographic area encompassing Kahului, Wailuku, and Paia was found to have a population

**EXHIBIT " A "**

greater than 50,000 individuals, thus qualifying as an “urbanized area,” eligible for designation as an MPO; and

WHEREAS, on June 18, 2013, the Governor, the State Director of Transportation, and the Mayor of the County of Maui, sent to the Federal Highway Administration (FHWA) and the Federal Transit Administration (FTA), a letter stating the urbanized area of Kahului, Wailuku, and Paia was “determined eligible for and shall be designated as a Metropolitan Planning Organization” (a copy of the letter is attached hereto as Exhibit “1”); and

WHEREAS, 23 U.S.C. § 134 and 49 U.S.C. § 5305(d), as amended, require federal funds be made available to the designated MPO to support the 3-C Planning Process, and provides that such funds not used by the MPO may be transferred to the State to fund activities under 23 U.S.C. § 135, only upon written concurrence by the MPO; and

WHEREAS, 23 C.F.R. § 450.314 requires the State, County, and MPO, by written agreement, to cooperatively determine their mutual responsibilities in carrying out the 3-C Planning Process; and

WHEREAS, Chapter 279D, HRS, recognizes the federal mandate that MPOs act as independent decision-making entities in order to receive and administer federal transportation planning funds, with an independent policy board, an Executive Director, and staff; and

WHEREAS, the County of Maui may administratively support the Maui MPO through its Departments of Transportation, Public Works, and Planning, even though the Maui MPO will have its own Policy Board, Executive Director,

and staff; and

WHEREAS, 23 C.F.R. § 450.310 permits an MPO to use the staff and resources of other agencies, non-profit organizations, or contractors to carry out selected elements of the planning process, and allows such use by the MPO to be set forth in a supplemental administrative agreement; and

WHEREAS, projects to be implemented using federal aid transportation funds (other than Federal Lands Highway program projects) shall be selected by the State and the County, in cooperation with the Maui MPO, from the approved TIP pursuant to 23 C.F.R. § 450.330.

NOW THEREFORE, the parties hereto do mutually agree as follows:

**I. ORGANIZATION OF THE MAUI MPO**

**A. Maui MPO Structure and Policy Board.**

Pursuant to 23 U.S.C. § 134, the 3-C Planning Process for Maui shall be vested in the Maui MPO, which shall abide by all applicable federal, state, and county laws and requirements. The Maui MPO shall consist of a Policy Board, an Executive Director, and staff, as established in Chapter 2.35, Maui County Code, this Agreement, and any Maui MPO bylaws, administrative rules, and other governing documents.

**B. Maui MPO Policy Board Responsibilities.**

The Policy Board is responsible for developing the metropolitan transportation planning process and shall assure full compliance with the requirements of 23 U.S.C. §§ 134 and 135, 49 U.S.C. §§ 5303 and 5304, 23 C.F.R. Part 450 Subpart C, 2 C.F.R. Part 200, HRS Chapter 279D, and all other

applicable federal and State laws and regulations. The Policy Board shall be the decision-maker for use of federal-aid transportation funds provided under this Comprehensive Agreement.

**C. Meetings of the Policy Board.**

**1. Meetings.**

Meetings of the Policy Board, advisory committees, or subcommittees shall be subject to part I of Chapter 92, HRS, also known as the “Sunshine Law,” provided that participation by members of the Maui County Council in a meeting of the Policy Board shall be a permitted interaction as provided in Section 279D-9(b), HRS.

**2. Quorum.**

A majority of the voting members of the Policy Board (i.e., five voting members) or an advisory committee or subcommittee shall constitute a quorum to do business.

**3. Exception.**

Less than a quorum of Policy Board members may discuss Maui MPO business, without limitation, outside of a duly noticed meeting of the Policy Board, pursuant to Section 279D-9(c), HRS.

**D. Composition and Authority.**

**1. Members.**

The Policy Board shall be composed of seven members. The Policy Board shall include:

- a) The director of the State Department of Transportation or any successor department thereof with primary responsibility for statewide transportation project implementation;
- b) Three members of the Maui County Council appointed by the Council Chair;
- c) The director of the County Department of Planning;
- d) The director of the County Department of Public Works; and
- e) The director of the County Department of Transportation.

**2. Powers and Duties.**

The Policy Board shall have overall responsibility for the implementation of this Comprehensive Agreement, including coordination of the Maui MPO's efforts and the responsibilities of the Technical Advisory Committee (TAC), the review and approval of the Maui LRTP (MLRTP) and TIP, and the development and adoption of the Maui MPO's Unified Planning Work Program (UPWP). Specifically, the Policy Board shall:

- a) Appoint and determine the powers and duties of the Executive Director. Maui MPO staff shall be hired by the Executive Director and be subject to the Executive Director's direction. Pursuant to

Section 279D-7(b), HRS, the Executive Director and Maui MPO staff shall be exempt from Chapter 76, HRS.

- b) Establish a TAC to advise the Policy Board and Executive Director on technical matters, including implementation of the 3-C Planning Process. The TAC shall keep the Policy Board informed as to the technical merits and issues of any plan, study, project, or other product or process of the Maui MPO. The TAC may recommend that the Policy Board take specific action. The Policy Board shall determine the members of the TAC, the chair of which may be a voting member of the Policy Board. The Policy Board shall identify the TAC's purpose. Support services for the TAC will be provided by Maui MPO staff.
- c) Provide policy direction to the TAC in its function of reviewing all Maui MPO-related transportation plans, programs, and funding requirements. The Policy Board shall provide input to the transportation planning efforts performed by the State or the County, which shall be reviewed by the TAC.
- d) Formulate transportation planning policy and objectives and monitor the implementation of MPA transportation activities and projects to ensure conformance with State and federal transportation and local land use guidelines and requirements.
- e) Direct, adopt, and update the UPWP in accordance with the guidelines set forth by the Metropolitan Planning and Programming

Regulations (23 C.F.R. Part 450 Subpart C) to the extent applicable to the Maui MPO, including major planning issues to be addressed, available resources, operating procedures, funding estimates, timetables, task status, and any subsequent amendments or revisions.

- f) Prepare and approve all financial and related operating agreements. Arrange for third-party financial participation in the planning process, including other funding sources.
- g) Provide overall direction to the TAC including guidance on project alternative plan formation, assessment, development of feasible strategies, and report preparation.
- h) Develop and implement the Public Participation Plan (PPP) during the Maui MPO transportation planning process. The Maui County Council's or Council committee's annual budget meetings for the Departments of Planning, Public Works, and Transportation may serve as citizen forums.
- i) Identify and publicize issues, and generate findings, periodic progress reports, conclusions, other pertinent planning process information, and all federally required MPO work products.
- j) Ensure the preparation and approval of a TIP and an MLRTP conforming to federal law. The Policy Board shall annually review its transportation plans and programs and certify that the Maui MPO planning process is being carried out in conformance with all

applicable requirements of federal law (including 49 U.S.C. §§ 5303–5306 and 23 U.S.C. §§ 134-135, 23 C.F.R. Part 450, Subpart C, and 40 C.F.R. Part 93). The MLRTP formulation shall be consistent with the County’s long-range transportation planning process.

- k) Establish other advisory committees, at its discretion and upon the approval of a majority of its voting members. The purpose of an advisory committee is to evaluate and advise the Policy Board as to the merits and issues of any plan, study, project, or process of the Maui MPO. The Policy Board shall determine the members of any advisory committee, the chair of which may be a voting member of the Policy Board. An advisory committee may recommend the Policy Board take specific action. An advisory committee may form, upon approval by a majority of its members, one or more subcommittees. Support services for advisory committees will be provided by Maui MPO staff.
- l) Be authorized to designate a substitute as detailed in paragraph 3 below.

**3. Delegation.**

In the event that a Policy Board member is unavailable to attend a Policy Board meeting, written notice of their unavailability shall be provided to the Maui MPO Executive Director in advance of the meeting. The unavailable Policy Board member may designate a substitute for that meeting as follows:

- a) The State Department of Transportation member may designate a substitute from the State Department of Transportation at their discretion, provided the designee is not serving on the TAC or other subcommittee of the MPO.
- b) The Department Directors may designate their Deputy Director.

**4. Elections.**

The Chair and Vice-Chair of the Policy Board shall be elected annually by its members and shall serve until their respective successors are appointed.

**II. ADMINISTRATION OF THE MAUI MPO**

**A. Supplemental Agreements for Administrative Assistance.**

The Maui MPO may enter into supplemental agreements with the County Department of Transportation (MDOT), assigning responsibility for administrative tasks between the MDOT and the Maui MPO. The Maui MPO may also enter into other supplemental agreements regarding use of staff or resources of other agencies, non-profit organizations, or contractors to carry out selected elements of the metropolitan planning process.

**B. Fiscal and Funding Responsibilities.**

Funding for the Maui MPO shall be identified in the UPWP, which shall be developed by the Maui MPO in accordance with federal regulations and shall be submitted by the Chair of the Policy Board for FHWA and FTA approval. Pursuant to 49 U.S.C. §5305(f) the Federal government's share of the cost of an activity funded using amounts made available under 49 U.S.C. §5305 may not exceed 80 percent of the cost of the activity.

### **III. 3-C PLANNING PROCESS**

The 3-C Planning Process is a “continuing, cooperative and comprehensive” transportation planning process which encourages and promotes the safe and efficient development, management, and operation of surface transportation systems to serve the mobility needs of people and freight, including accessible pedestrian walkways and bicycle transportation facilities, and financial plans that support the TIP and the MLRTP (23 C.F.R. Part 450, § 314(a).) The early and ongoing involvement of the public is a key part of this process, and shall be integrated throughout the development of all Maui MPO activities and work products. The Policy Board will adopt a PPP in support of this policy.

### **IV. MAUI MPO WORK PRODUCTS**

The Maui MPO is responsible for developing four primary planning and programming work products, pursuant to 23 C.F.R. Part 450 and 49 C.F.R. Part 613, as follows:

- a) The Maui Long Range Transportation Plan (MLRTP)
- b) The Transportation Improvement Plan (TIP)
- c) The Unified Planning Work Program (UPWP)
- d) The Public Participation Plan (PPP)

## **V. MANAGEMENT OF THIS AGREEMENT**

### **A. Revisions, Additions, or Modifications.**

Any revisions, additions, or modifications to this Comprehensive Agreement are subject to the written approval of all parties. This Comprehensive Agreement will be reviewed and reevaluated periodically by the parties to this agreement to ensure the Maui MPO is meeting the needs of the parties.

### **B. Disputes.**

The parties hereto shall make a good-faith effort to resolve any disputes related to the Maui MPO Comprehensive Agreement.

## **VI. CERTIFICATION OF PLANNING PROCESS**

Federal laws and regulations require the State and the Maui MPO certify compliance with all applicable requirements for MPAs concurrent with the submission of the entire proposed TIP to the FHWA and the FTA as part of the Statewide Transportation Improvement Program approval, and at least every four years during the metropolitan planning process.

## **VII. ANNUAL REPORTS**

All annual reports submitted to the legislature pursuant to Section 279D-11, HRS, shall also be submitted to the Maui County Council no later than two business days after submission to the legislature.

**VIII. ALL OTHER PROCEDURES, POLICIES, AND REPORTING REQUIREMENTS**

Details of other procedures, policies, and reporting requirements will be developed as needed and in compliance with applicable Federal and State laws and regulations.

STATE OF HAWAII:

By \_\_\_\_\_  
DAVID IGE  
Its Governor

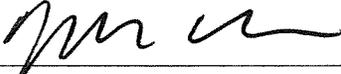
APPROVED AS TO FORM:

\_\_\_\_\_  
Deputy Attorney General

COUNTY OF MAUI:

By \_\_\_\_\_  
ALAN M. ARAKAWA  
Its Mayor

APPROVED AS TO FORM AND LEGALITY:

*for*   
\_\_\_\_\_  
JERRIE L. SHEPPARD  
Deputy Corporation Counsel  
(LF 2014-1954)

## **Appendix A**

### **Defined Terms**

As used in this Comprehensive Agreement, unless the context clearly indicates otherwise:

“3-C Planning Process” means a “continuing, cooperative, and comprehensive” multimodal transportation planning process.

“C.F.R.” means the Code of Federal Regulations.

“Executive Director” means the administrative head of the Maui MPO.

“FHWA” means the Federal Highway Administration of the United States Department of Transportation.

“FTA” means the Federal Transit Administration of the United States Department of Transportation.

“HRS” means the Hawaii Revised Statutes.

“LRTP” means the Long Range Transportation Plan.

“MDOT” means the County of Maui Department of Transportation.

“MLRTP” means the Maui Long Range Transportation Plan.

“Maui County Council” means the legislative, governing body as outlined in the Maui County Charter.

“Maui MPO” means the Maui Metropolitan Planning Organization.

“MPA” means the Metropolitan Planning Area.

“MPO” means the Metropolitan Planning Organization.

“Policy Board” means the Maui MPO Policy Board.

“PPP” means the Public Participation Plan.

“TAC” means the Technical Advisory Committee to the Maui MPO.

“TIP” means the Transportation Improvement Program for the Maui MPO.

“UPWP” means the Unified Planning Work Program.

“U.S.C.” means the United States Code.



**EXECUTIVE CHAMBERS**

HONOLULU

**NEIL ABERCROMBIE**  
GOVERNOR

STP 8 1238

**June 18, 2013**

**Mr. Abraham Wong**  
Division Administrator  
U. S. Department of Transportation  
Federal Highway Administration  
300 Ala Moana Boulevard, Room 3-308  
P. O. Box 50208  
Honolulu, Hawaii 96850

and

**Mr. Leslie T. Rogers**  
Regional Administrator  
Federal Transit Administration, Region IX  
201 Mission Street, Suite 1650  
San Francisco, California 94105

**Dear Messrs. Wong and Rogers:**

Pursuant to 23 USC 134 (d)(1) and 49 USC 5303 (d)(1), and as determined under the 2010 United States Census and 23 USC 134 (b)(7) and 49 USC 5302 (2), Maui County's urbanized area of Kahului/Waituku/Pala is determined eligible for and shall be designated as a Metropolitan Planning Organization. At this time, it has been agreed to by the State Department of Transportation (DOT) and Maui County that to ensure a coordinated and integrated planning effort, the Metropolitan Planning Area (MPA) is designated to encompass the entire island of Maui.

The Metropolitan Planning Organization (MPO) for Maui shall be developed and operated in accordance with all applicable Federal, State, and local laws. We will be working with representatives from your respective staff on the details for the establishment of this Metropolitan Planning Organization.

**EXHIBIT " 1 "**

STP 8.1238

Mr. Abraham Wong  
Mr. Leslie T. Rogers  
June 18, 2013  
Page 2

If there are any questions or concerns you wish to discuss regarding this matter please contact our State Director of Transportation, Mr Glenn M. Okimoto at telephone number (808) 587-2150.

Sincerely,



NEIL ABERCROMBIE  
Governor, State of Hawaii



GLENN M. OKIMOTO, Ph.D.  
Director of Transportation



ALAN ARAKAWA  
Mayor, County of Maui