

COUNCIL OF THE COUNTY OF MAUI

**PARKS, RECREATION, ENERGY, AND
LEGAL AFFAIRS COMMITTEE**

February 17, 2017

**Committee
Report No. _____**

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

Chair and Members:

Your Parks, Recreation, Energy and Legal Affairs Committee, having met on January 31, 2017, makes reference to County Communication 17-62, from the Fire Chief, transmitting a proposed resolution entitled "AUTHORIZING THE COUNTY TO ENTER INTO AN AGREEMENT REGARDING THE PLACEMENT AND MAINTENANCE OF RESCUE TUBES AT MAUI COUNTY BEACH PARKS."

The purpose of the proposed resolution is to authorize the County to enter into an agreement with the Rotary Club of Kihei Wailea ("Club") to provide rescue tube flotation devices at seven Maui County beach parks to be deployed by beachgoers to assist distressed swimmers while they await rescue.

At the request of your Committee, the Department of the Corporation Counsel transmitted a revised proposed resolution, approved as to form and legality, to extend the term of the agreement, attached as Exhibit "1," to December 31, 2017.

The Battalion Chief informed your Committee that exhaustion is usually the cause of drowning. A rescue tube is a flotation device that aids a victim until help arrives. Rescue tubes also prevent double drownings – an incident where both the victim and the rescuer drown. Rescue tubes are designed to help keep afloat up to three people and, therefore, protect rescuers as well as swimmers in distress.

COUNCIL OF THE COUNTY OF MAUI
PARKS, RECREATION, ENERGY, AND
LEGAL AFFAIRS COMMITTEE

Page 2

Committee
Report No. _____

The Battalion Chief further informed your Committee that rescue tubes were first used on Kauai in 2008. In 2012, rescue tubes were used on Maui by the Royal Lahaina Resort. Currently, rescue tubes are available along the Kaanapali shoreline, fronting the Kealani Hotel, and at canoe clubs on Maui.

A Club representative informed your Committee that providing rescue tubes for South Maui and Hana is their signature club project. Fifty rescue tubes were purchased by the Club at a cost of approximately \$107 each. The goal is for other Rotary clubs on Maui to expand the rescue tube program to other areas of the island.

Your Committee recommended extending the term of the agreement to three years to support the Club's efforts to maintain the rescue tubes at Kalama Beach, Cove Beach, Charley Young Beach, Kamaole I, Kamaole II, Kamaole III, and Hana Bay Beach parks. Your Committee recommended that at the end of the three-year term, the Council should consider extending the agreement.

Your Committee voted 8-0 to recommend adoption of the revised proposed resolution and filing of the communication. Committee Chair Guzman, Vice-Chair King, and members Atay, Carroll, Crivello, Hokama, Sugimura, and White voted "aye." Committee member Cochran was excused.

Your Parks, Recreation, Energy, and Legal Affairs Committee **RECOMMENDS** the following:

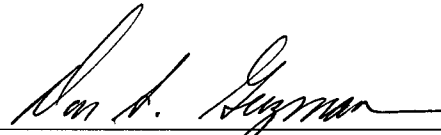
1. That Resolution _____, as revised herein and attached hereto, entitled "AUTHORIZING THE COUNTY TO ENTER INTO AN AGREEMENT REGARDING THE PLACEMENT AND MAINTENANCE OF RESCUE TUBES AT MAUI COUNTY BEACH PARKS," be ADOPTED; and
2. That County Communication 17-62 be FILED.

COUNCIL OF THE COUNTY OF MAUI
**PARKS, RECREATION, ENERGY, AND
LEGAL AFFAIRS COMMITTEE**

Page 3

**Committee
Report No.** _____

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



DON S. GUZMAN, Chair

prl:cr:17022aa:tnf

Resolution

No. _____

AUTHORIZING THE COUNTY TO ENTER INTO
AN AGREEMENT REGARDING THE PLACEMENT AND
MAINTENANCE OF RESCUE TUBES AT MAUI COUNTY BEACH PARKS

WHEREAS, the Rotary Club of Kihei Wailea (“RCKW”) desires to place Rescue Tubes at County beach parks; and

WHEREAS, the County of Maui sees the potential benefit of Rescue Tubes being placed at County beach parks; and

WHEREAS, the details of the arrangement are set forth in the Agreement Regarding the Placement and Maintenance of Rescue Tubes at Maui County Beach Parks, attached hereto and incorporated herein as Exhibit “1”; and

WHEREAS, Section 4-1 of the Revised Charter of the County of Maui (1983), as amended, authorizes the Council to act by resolution; now, therefore,

BE IT RESOLVED by the Council of the County of Maui:


1. That it hereby expresses its appreciation for the Rotary Club of Kihei Wailea’s willingness to undertake the placement and maintenance of rescue tubes at County beach parks; and

2. That it authorizes the Mayor, or the Mayor’s authorized representative, to execute any documents related to the fulfillment of the intent of this resolution; and

Resolution No. _____

3. That certified copies of this resolution be transmitted to the Mayor, the Fire Chief, the Director of Parks and Recreation, and the Rotary Club of Kihei Wailea.

APPROVED AS TO FORM AND LEGALITY:



JEFFREY UEOKA
Deputy Corporation Counsel
County of Maui

prl:misc:022areso01

AGREEMENT REGARDING THE PLACEMENT AND MAINTENANCE
OF RESCUE TUBES AT MAUI COUNTY BEACH PARKS

This Agreement made this _____ day of _____, 20____ by and between the County of Maui, a political subdivision of the State of Hawaii, whose address is 200 South High Street, Wailuku, Maui, Hawaii 96793 ("County"), and the Rotary Club of Kihei Wailea, a Hawaii nonprofit corporation, whose mailing address is P.O. Box 175, Kihei, Maui, Hawaii 96753; hereinafter collectively referred to as the "Parties".

R E C I T A L S

WHEREAS, Rescue Tubes are flotation devices intended to be deployed by beachgoers to assist distressed swimmers while they await rescue; and

WHEREAS, Rescue Tubes are typically affixed to stands on the beach in areas where they can be accessed by beachgoers in emergency situations; and

WHEREAS, Rotary Club of Kihei Wailea ("RESCUE TUBE GROUP") desires to place and maintain Rescue Tube Stations at various Maui County beach parks; and

WHEREAS, County sees the potential benefit of Rescue Tubes being placed at Maui County beach parks.

NOW, THEREFORE, County and the RESCUE TUBE GROUP hereby agree as follows:

1. Term: This Agreement shall commence upon execution and expire on December 31, 2020. This Agreement may be renewed for additional three (3) year terms upon written agreement of the Parties and approval by the Maui County Council. This Agreement shall automatically terminate upon failure to renew prior to the expiration of the term.

2. Scope: This Agreement shall only pertain to the County Beach Parks listed herein and shall not be interpreted to grant permission to or authorize the placement of Rescue Tubes or Rescue Tube Stations at any other areas.

3. Costs: RESCUE TUBE GROUP shall be responsible for all costs and expenses in relation to this Agreement.

4. Rescue Tube Stations: RESCUE TUBE GROUP shall be responsible for the construction, placement, and maintenance of the Rescue Tube Stations. RESCUE TUBE GROUP shall be responsible for the design and function of all Rescue Tube Stations. RESCUE TUBE GROUP shall use its

AGREEMENT REGARDING THE PLACEMENT AND MAINTENANCE
OF RESCUE TUBES AT MAUI COUNTY BEACH PARKS

reasonable best efforts to ensure that the Rescue Tube Stations are safe and easily usable by beachgoers. RESCUE TUBE GROUP shall use its reasonable best efforts to ensure that the Rescue Tube Stations are placed in safe areas that will provide reasonable access for beachgoers. RESCUE TUBE GROUP shall consult with the County of Maui Department of Parks and Recreation ("Parks") and the County of Maui Department of Fire and Public Safety ("Fire") in regards to the locations where the Rescue Tube Stations shall be placed. RESCUE TUBE GROUP shall acquire all necessary permits and receive all necessary approvals regarding installation and placement of the Rescue Tube Stations. RESCUE TUBE GROUP shall coordinate with Parks for the physical placement of the Rescue Tube Stations. RESCUE TUBE GROUP shall be responsible for ensuring that Rescue Tubes are available at all Rescue Tube Stations.

5. County Beach Parks: RESCUE TUBE GROUP may place Rescue Tubes and Rescue Tube Stations at the following beach parks:

Kalama Beach Park
Cove Beach Park
Charley Young Beach Park
Kamaole Beach Park I
Kamaole Beach Park II
Kamaole Beach Park III
Hana Bay Beach Park

6. Maintenance: RESCUE TUBE GROUP shall be responsible for the maintenance of the Rescue Tubes and the Rescue Tube Stations. RESCUE TUBE GROUP shall be responsible to conduct, at a minimum, monthly inspections of the Rescue Tubes and the Rescue Tube Stations. RESCUE TUBE GROUP shall keep a maintenance log for the term of this Agreement, including renewal terms, and shall produce it to County upon request. County shall have the right, but not the obligation, to inspect the Rescue Tubes and Rescue Tube Stations and request that maintenance be performed by RESCUE TUBE GROUP and RESCUE TUBE GROUP shall perform requested maintenance within a reasonable time period.

7. Replacement of Rescue Tubes: In the event that the Rescue Tubes are missing or need to be replaced, RESCUE TUBE GROUP shall be responsible for replacement.

AGREEMENT REGARDING THE PLACEMENT AND MAINTENANCE
OF RESCUE TUBES AT MAUI COUNTY BEACH PARKS

8. Park Hours: All activities occurring in County Beach Parks shall take place during hours in which the respective County Beach Parks are open to the public, unless another agreement is made, in writing with Parks.

9. Public Education: RESCUE TUBE GROUP shall be required to provide public education in regards to the Rescue Tubes and Rescue Tube Stations as it sees fit.

10. Relocation: RESCUE TUBE GROUP may relocate its Rescue Tube Stations upon consultation with Parks and Fire. Upon request of County, within 30 calendar days, RESCUE TUBE GROUP shall be required to relocate any Rescue Tube Station at RESCUE TUBE GROUP's own cost and expense.

11. Removal: Upon request of County, RESCUE TUBE GROUP shall remove any Rescue Tube Stations within 30 calendar days of receipt of written notice. Upon termination or cancellation of this Agreement, as provided herein, RESCUE TUBE GROUP shall remove all Rescue Tubes and Rescue Tube Stations within five (5) business days and return the area to its original condition, repairing any damage, and removing all debris.

12. Public Notice: RESCUE TUBE GROUP shall be responsible for providing adequate notice to the public upon relocation, removal, or maintenance of the Rescue Tubes or the Rescue Tube Stations at County Beach Parks.

13. Notice: All notices required under this Agreement shall be in writing and addressed to the party to be notified at the following address:

If to County, then to:
Director
Department of Parks and Recreation
700 Halia Nako Street, Unit 2
Wailuku, Hawaii 96793

cc: Fire Chief
Department of Fire and Public Safety
200 Dairy Road
Kahului, Hawaii 96732

AGREEMENT REGARDING THE PLACEMENT AND MAINTENANCE
OF RESCUE TUBES AT MAUI COUNTY BEACH PARKS

If to Rotary Club of Kihei Wailea, then to:
President
Rotary Club of Kihei Wailea
P.O. Box 175
Kihei, Hawaii 96753

14. Insurance: Unless otherwise approved in writing and jointly agreed to by the Director of Parks and Recreation, the Fire Chief and the Director of Finance the policy or policies of insurance maintained by Rotary Club of Kihei Wailea shall provide the following minimum limit(s) and coverage(s) as specified herein and be placed with an insurance carrier authorized to do business in the State of Hawaii and rated A – VII by A M Best. Rotary Club of Kihei Wailea shall procure and maintain and at its sole expense, at all times during the term of this Agreement coverage for injuries to persons or damages to property which may arise from Rotary Club of Kihei Wailea’s performance of the work as set forth in this Agreement. This coverage shall be on a primary basis and any insurance or self-insurance program purchased by the County shall not respond except on an excess basis. The coverage will be written on an occurrence form with dedicated limits to this Agreement. The procurement of this insurance, as well as the County’s acceptance of the insurance maintained by Rotary Club of Kihei Wailea is not intended to and shall not in any manner limit or quantify the liabilities or obligations assumed by Rotary Club of Kihei Wailea under this Agreement. Defense cost shall be outside the limits and will not erode the limit of liability. The policy shall provide the following minimum limits:

- i. Bodily Injury and Property Damage Combined Single Limit;
- ii. \$1,000,000 per occurrence; and
- iii. \$2,000,000 aggregate.

Rotary Club of Kihei Wailea shall agree to endorse the policy naming the County of Maui, its elected and appointed officials, directors and employees as an Additional Insured under the policy with a CG 026 Additional Insured – Designated Person or Organization endorsement or its equivalent. Rotary Club of Kihei Wailea shall provide the County with the original certificate and endorsements evidencing the required coverage. The Certificate of insurance shall be provided during the renewal of the policy term and/or at the extension of this Agreement.

If during the term, or any additional terms, of this Agreement higher limits of insurance than those mentioned herein above shall be appropriate, customary

AGREEMENT REGARDING THE PLACEMENT AND MAINTENANCE
OF RESCUE TUBES AT MAUI COUNTY BEACH PARKS

and generally recommended for similar properties utilized for similar uses in the County of Maui, then upon request by County, Rotary Club of Kihei Wailea shall promptly procure such higher limits.

15. Indemnification: RESCUE TUBE GROUP shall indemnify, defend, and hold harmless the County, its directors, employees, and agents, from and against any and all liability, including serious bodily injury and death, in relation to any and all claims, suits, and demands, arising out of, or in connection with this Agreement. RESCUE TUBE GROUP further agrees to be responsible for any and all costs incurred by County, including Attorney's fees, arising out of, or in connection with this Agreement. The provisions of this paragraph shall survive the termination or cancellation of this Agreement.

16. Cancellation: Either party may, with or without cause, cancel this Agreement with five (5) business days, written notice.

17. Governing Law: This Agreement and the rights and obligations of the Parties shall be interpreted in accordance with the laws of the State of Hawaii and any applicable federal law.

18. Severability: If any provision of this Agreement or the application thereof to any person or circumstance shall be invalid or unenforceable to any extent, the remainder of this Agreement and the application of such provision to other persons or circumstances shall not be affected thereby.

19. Counterparts: This Agreement may be executed in one or more counterparts, each of which shall be deemed an original and all of which, when taken together, shall constitute one and the same instrument.

20. Assignment: This Agreement may not be assigned to another party without the written consent of the County.

21. No Property Rights: Nothing in this Agreement shall be interpreted or construed to transfer of any property rights to RESCUE TUBE GROUP. This Agreement is not intended to be a lease, license, easement, permit, concession, or right of entry.

22. Effective Date: This Agreement shall be effective as of the date first written above.

AGREEMENT REGARDING THE PLACEMENT AND MAINTENANCE
OF RESCUE TUBES AT MAUI COUNTY BEACH PARKS

IN WITNESS WHEREOF, the Parties have executed this Agreement on the
date first written above.

[EXECUTION PAGES TO FOLLOW]

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AGREEMENT REGARDING THE PLACEMENT AND MAINTENANCE
OF RESCUE TUBES AT MAUI COUNTY BEACH PARKS

APPROVAL RECOMMENDED:

COUNTY OF MAUI

JEFFREY A. MURRAY
Fire Chief

By _____
ALAN M. ARAKAWA
Its Mayor

BUTCH KAALA BUENCONSEJO
Director of Parks and Recreation

ROTARY CLUB OF KIHEI WAILEA

By _____
(Signature)

(Print Name)

Its _____
(Title)

APPROVED AS TO FORM
AND LEGALITY:

JEFFREY UEOKA
Deputy Corporation Counsel
County of Maui

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