

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
Division of Conservation and Resources Enforcement
Honolulu, HI 96813

January 10, 2014

Board of Land and Natural Resources
State of Hawaii
Honolulu, HI

SUBJECT: REQUEST APPROVAL TO SEEK THE GOVERNOR'S APPROVAL TO INDEMNIFY THE KAUAI POLICE DEPARTMENT AND THE COUNTY OF KAUAI FOR THE USE OF THE KAUAI POLICE DEPARTMENT RANGE

The Division of Conservation and Resources Enforcement (DOCARE) conducts firearms training and evaluations on an ongoing basis to fulfill various training and evaluation requirements. Although the Division has been using the range for many years, the County is now requiring that the State agree to indemnify the County of Kauai. DOCARE requests that the Board of Land and Natural Resources approve its request to seek the Governor's approval to indemnify the Kauai Police Department and the County of Kauai for the use of the Kauai Police Department Shooting Range for the period of January 01, 2014 through December 31, 2014.

This facility is owned by the County. In order to use the facility, the County will require the State to agree to the following indemnification provision:

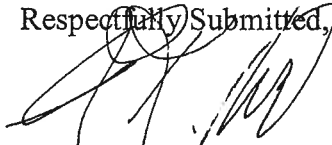
The State shall indemnify, defend, and hold harmless the Kauai Police Department and the County of Kauai, its officers, employees, and agents, from any and all claims of liability for any damage to real or personal property or injury to or death of any persons when such damage, injury or death arises out of the action or omission of the State, its officers, employees, agents, consultants, contractors, or invitees in conjunction with firearms training to be held at the Kauai Police Department shooting Complex, County of Kauai, Hawaii, for the period of January 1, 2014 through December 31, 2014, provided that the State shall not be required to indemnify, defend, or hold harmless, the Kauai Police Department and County of Kauai, its officers, employees, and agents, from any claims of liability for any damages to real or personal property or injury to or death of any persons, when such damage, injury or death arises out of the action or omission of the County of Kauai, and/or its officers, employees, agents, consultants, contractors, or invitees, regarding the maintenance and repair of the above mentioned facility/property. This provision shall not be read or interpreted to create any liability of the State or any person or entity to any person or entity, except for the duties to indemnify, defend, and hold harmless set forth herein. This provision is not intended to and shall not be interpreted to benefit any third person, or to benefit or create any third-party beneficiary.

Under §46-71.5, HRS, the State may agree to indemnify, defend, and hold harmless a county agency if certain preconditions are satisfied: 1) The Governor approves the State's proposed indemnification; and 2) The Comptroller, pursuant to Section 41D-8.5, HRS, has (a) obtained an insurance policy in an amount sufficient to cover reasonably anticipated liability of the State that may arise or (b) determined that obtaining such a policy is not in the best interest of the State.

RECOMMENDATION:

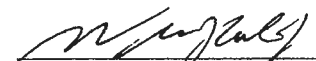
1. That the Board approve the request to seek the Governor's approval to indemnify the Kauai Police Department and Kauai County, for the DOCARE's use of the Kauai Police Department Shooting Complex for firearms training and evaluations for the period January 1, 2014 through December 31, 2014.
2. That the Board authorize the Chairperson to seek all necessary approvals and execute all documents related to the indemnification, subject to review and approval by the Department of the Attorney General.

Respectfully Submitted,



RANDY K. AWO
Enforcement Chief

Approved for Submittal:



WILLIAM J. AILA, JR., Chairperson
Board of Land and Natural Resources