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COUNTY COUNCIL

COUNTY OF MAUI
200 S. HIGH STREET
WAILUKU, MAUI, HAWAII 96793
www.MauiCounty.us

October 28, 2020

MEMO TO: Moana M. Lutey
Corporation Counsel

F R O M: Michael J. Molina, Chair
Governance, Ethics, and Transparency Committee

A handwritten signature in black ink, appearing to read "Michael J. Molina", is written over the text of the "F R O M" line.

SUBJECT: **APPOINTMENT AND REMOVAL OF ADMINISTRATIVE HEADS OF DEPARTMENTS (PROSECUTING ATTORNEY)** (GET-1(3))

At its meeting of November 5, 2020, the Governance, Ethics, and Transparency Committee is planning to consider a proposed resolution entitled "APPROVING THE REMOVAL OF PROSECUTING ATTORNEY DONALD S. GUZMAN."

In preparation for the Committee's planned meeting of November 5, 2020, may I please request you respond to the following:

Factual Documentation

1. What intermediary steps has the Administration taken prior to the Mayor recommending the removal of the Prosecuting Attorney?
2. Was there an investigation that resulted in the Mayor's recommendation to remove the Prosecuting Attorney? If so, when did it begin and who was responsible for leading it? Did the Administration employ an outside contractor? If so, please provide a copy of the contract.
3. Approximately how much did the investigation, if any, cost the County? Provide an approximate breakdown of the costs involved, including the total number of labor hours incurred.

4. Was a decision made to place the Prosecuting Attorney on administrative leave? What is the duration of the leave? Please also indicate whether the administrative leave, if any, is paid or unpaid.
5. Provide copies of documents and reports, redacted as necessary, that support the Mayor's recommendation to remove the Prosecuting Attorney.
6. The second Whereas paragraph of the proposed resolution attached to correspondence dated October 21, 2020, from the Mayor, references an October 19, 2020 letter from the Mayor notifying the Council of the removal of the Prosecuting Attorney. Please provide a copy of the October 19, 2020 letter or transmit a revised proposed resolution correcting the date in the second Whereas paragraph to October 21, 2020.

Legal Advice

7. Who will lead the Department of the Prosecuting Attorney should the removal of the Prosecuting Attorney be approved?
8. Does the Committee have the right or obligation to meet in executive session with employees of the Department of Prosecuting Attorney, authors of any investigation, or those interviewed in accordance with any investigation? Please explain.
9. Please identify any statutory or constitutional limitations on the Council's ability as a policymaker to adopt or not adopt the resolution.
10. Does the Committee have the right or obligation to limit the scope of testimony? Please explain.
11. Who does your Department advise in this matter? Does your Department have any conflicts of interest?

I would appreciate receiving a response by **November 3, 2020**. To ensure efficient processing, please include the relevant Committee item number in the subject line of your response.

Moana M. Lutey
October 28, 2020
Page 3

Should you have any questions, please contact me or the Committee staff (Shelly Espeleta at ext. 7134, or Pauline Martins at ext. 8039).

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cc: Mayor Michael P. Victorino
Deputy Corporation Counsel Gary Murai