

COUNCIL OF THE COUNTY OF MAUI
GOVERNANCE, ETHICS, AND
TRANSPARENCY COMMITTEE

November 22, 2019

Committee
Report No. _____

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

Chair and Members:

Your Governance, Ethics, and Transparency Committee, having met on November 4, 2019, makes reference to County Communication 19-397, from the Chair, Board of Ethics, and the Department of the Corporation Counsel, transmitting a proposed resolution entitled "AUTHORIZING THE RETENTION OF SPECIAL COUNSEL FROM THE OFFICE OF THE CORPORATION COUNSEL, COUNTY OF HAWAII TO ADVISE THE MAUI COUNTY BOARD OF ETHICS IN THE MATTER OF COMPLAINT NO. 19-05 ALLEGING VIOLATIONS OF THE MAUI COUNTY CODE OF ETHICS, BY OFFICERS AND EMPLOYEES OF THE COUNTY OF MAUI."

The purpose of the proposed resolution is to authorize the retention of a Deputy Corporation Counsel from the Office of the Corporation Counsel, County of Hawaii, to serve as special counsel to advise the Maui County Board of Ethics on matters related to Complaint 19-05, to avoid potential conflicts of interest, consistent with Rules 1.7 and 1.11 of the Hawaii Rules of Professional Conduct.

A Deputy Corporation Counsel advised your Committee that attorneys in the Department of the Corporation Counsel are unable to advise the Board of Ethics on Complaint 19-05 because the Corporation Counsel, who manages all of the attorneys, is a subject of the complaint.

He further advised that no compensation would be provided to the special counsel, though travel costs of up to \$1,000 would be covered by the County of Maui.

Your Committee expressed its support for approving special counsel for the Board of Ethics.

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Your Committee voted 7-0 to recommend adoption of the proposed resolution and filing of the communication. Committee Chair Molina, Vice-Chair Rawlins-Fernandez, and members Kama, Lee, Paltin, Sinenci, and Sugimura voted "aye." Committee members Hokama and King were excused.

Your Governance, Ethics, and Transparency Committee
RECOMMENDS the following:

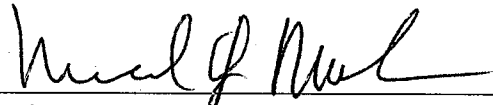
1. That Resolution _____, attached hereto, entitled "AUTHORIZING THE RETENTION OF SPECIAL COUNSEL FROM THE OFFICE OF THE CORPORATION COUNSEL, COUNTY OF HAWAII TO ADVISE THE MAUI COUNTY BOARD OF ETHICS IN THE MATTER OF COMPLAINT NO. 19-05 ALLEGING VIOLATIONS OF THE MAUI COUNTY CODE OF ETHICS, BY OFFICERS AND EMPLOYEES OF THE COUNTY OF MAUI," be ADOPTED; and
2. That County Communication 19-397 be FILED.

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

A handwritten signature in black ink, appearing to read "Michael J. Molina", written over a horizontal line.

MICHAEL J. MOLINA, Chair

get:cr:19011(27)aa:dr

Resolution

No. _____

AUTHORIZING THE RETENTION OF SPECIAL COUNSEL FROM THE
OFFICE OF THE CORPORATION COUNSEL, COUNTY OF HAWAII TO ADVISE
THE MAUI COUNTY BOARD OF ETHICS IN THE MATTER OF COMPLAINT
NO. 19-05 ALLEGING VIOLATIONS OF THE MAUI COUNTY CODE OF ETHICS,
BY OFFICERS AND EMPLOYEES OF THE COUNTY OF MAUI

WHEREAS, the Council of the County of Maui ("Council") alone is authorized to hire and retain special counsel or outside attorneys upon a resolution passed by two-thirds vote; and

WHEREAS, Complaint No. 19-05 has been filed with the Maui County Board of Ethics ("Board"), alleging that the Corporation Counsel and two Deputies Corporation Counsel, among other Maui County officers, violated the Maui County Code of Ethics; and

WHEREAS, the Board is advised by the Department of the Corporation Counsel ("Department"), through an assigned Deputy Corporation Counsel; and

WHEREAS, the Department, consistent with the Hawaii Rules of Professional Conduct, Rules 1.7 and 1.11, is required to seek the assistance of special counsel in order to avoid potential conflicts of interest; and

WHEREAS, the Department, consistent with the Code of Professional Conduct, shall provide necessary support services in this matter and take all possible steps to minimize costs; and

WHEREAS the Office of the Corporation Counsel, County of Hawaii has agreed to serve as special counsel to the Board without compensation, provided that it is reimbursed for its expenses; and

WHEREAS, the Office of the Corporation Counsel, County of Hawaii has the requisite skill and experience to serve as special counsel to the Board; and

Resolution No. _____

WHEREAS, Special Counsel's conduct in this matter shall reflect the understanding that the County of Maui is a public entity that has obligations, concerns, and interests that may extend beyond those of a similarly situated private litigant; and

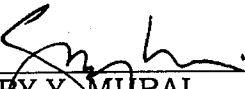
WHEREAS, the Council finds there is a real necessity to retain the Office of the Corporation Counsel, County of Hawaii to advise the Board in the matter of Complaint No. 19-05 filed against officers and employees of the County of Maui, including the Corporation Counsel and two Deputies Corporation Counsel; now therefore,

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

1. That the Council hereby authorizes the retention of an attorney from the Office of the Corporation Counsel, County of Hawaii, to serve as special counsel to advise the Board on matters related to Complaint No. 19-05; and
2. That total costs shall not exceed \$1,000.00; and
3. The compensable costs shall include: (1) necessary air and ground transportation to attend meetings; and (2) fees for special counsel per diem; and
4. That certified copies of this resolution be transmitted to the Mayor, the Corporation Counsel of the County of Maui, the Corporation Counsel for the County of Hawaii, the Maui County Board of Ethics, and the Director of Finance County of Maui.

Resolution No. _____

APPROVED AS TO FORM AND LEGALITY:



GARY Y. MURAI
Deputy Corporation Counsel
County of Maui
2014-2819