

# REQUEST FOR LEGAL SERVICES

**Date:** April 12, 2019  
**From:** Michael J. Molina, Chair  
Governance, Ethics, and Transparency Committee

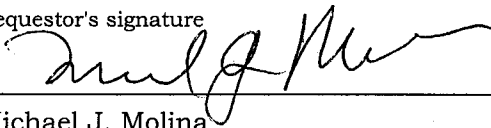
**TRANSMITTAL**

**Memo to:** DEPARTMENT OF THE CORPORATION COUNSEL  
Attention: Edward S. Kushi, Jr., Esq.

**Subject:** APPOINTMENT AND REMOVAL OF ADMINISTRATIVE HEADS OF DEPARTMENTS (CORPORATION COUNSEL) (GET-1(2))

**Background Data:** Please revise the proposed resolution to approve the appointment of Moana M. Lutey as Corporation Counsel, as noted in the attached markup. Please also review the attached proposed resolution to disapprove the appointment. If appropriate, please review as to form and legality, and include a hard copy of each with your response.

**Work Requested:** ☒ FOR APPROVAL AS TO FORM AND LEGALITY  
☐ OTHER:

Requestor's signature  Michael J. Molina	Contact Person <u>Shelly Espeleta</u> (Telephone Extension: <u>7134</u> )
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☐ ROUTINE (WITHIN 15 WORKING DAYS) ☐ RUSH (WITHIN 5 WORKING DAYS)  
☐ PRIORITY (WITHIN 10 WORKING DAYS) ☐ URGENT (WITHIN 3 WORKING DAYS)

☒ SPECIFY DUE DATE (IF IMPOSED BY SPECIFIC CIRCUMSTANCES): April 24, 2019, 10:00 a.m.  
REASON: To post for GET Committee meeting of May 2, 2019.

**FOR CORPORATION COUNSEL'S RESPONSE**

ASSIGNED TO:	ASSIGNMENT NO.	BY:
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TO REQUESTOR: ☐ APPROVED ☐ DISAPPROVED ☐ OTHER (SEE COMMENTS BELOW)  
☐ RETURNING--PLEASE EXPAND AND PROVIDE DETAILS REGARDING ITEMS AS NOTED

COMMENTS (NOTE - THIS SECTION NOT TO BE USED FOR LEGAL ADVICE): \_\_\_\_\_

DEPARTMENT OF THE CORPORATION COUNSEL

Date \_\_\_\_\_

By \_\_\_\_\_

(Rev. 7/03)

get:ltr:001(2)acc01:ske

Attachments

# Resolution

No. \_\_\_\_\_

## DISAPPROVING THE MAYOR'S APPOINTMENT OF MOANA M. LUTEY FOR CORPORATION COUNSEL

WHEREAS, by letter dated April 10, 2019, received by the Council on April 11, 2019, Mayor Michael P. Victorino notified the Council he appointed Moana M. Lutey as the Corporation Counsel, pursuant to Sections 6-2(5) and 8-2.2 of the Revised Charter of the County of Maui (1983), as amended ("Charter"); and

WHEREAS, Charter Section 6-2(5) requires the Council to confirm or deny the appointment within sixty days after receiving notice of the appointment by the Mayor; and

WHEREAS, Charter Section 8-2.2 states: "The corporation counsel shall be appointed by the mayor with the approval of the council"; now, therefore,

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

1. That it hereby disapproves the appointment of Moana M. Lutey as the Corporation Counsel; and

**Resolution No. \_\_\_\_\_**

2. That a certified copy of this resolution be transmitted to the Mayor.

APPROVED AS TO FORM AND LEGALITY

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Department of the Corporation Counsel  
County of Maui

get:misc:001(2)areso03:ske

# Resolution

No. \_\_\_\_\_

## APPROVING THE MAYOR'S APPOINTMENT OF MOANA M. LUTEY ~~AS THE~~ CORPORATION COUNSEL

*FOR*

WHEREAS, by letter dated April <sup>10</sup>~~9~~, 2019, Mayor Michael P. Victorino notified the Council he appointed Moana M. Lutey <sup>the</sup>~~as~~ Corporation Counsel, pursuant to Sections 6-2(5) and 8-2.2 of the Revised Charter of the County of Maui (1983), as amended<sup>("Charter")</sup>; and

WHEREAS, Charter Section 6-4 authorized the Council to establish specific qualifications for administrative heads appointed by the Mayor in addition to any set forth in the Charter; and

WHEREAS, Section 2.14.100, Maui County Code, attached hereto as Exhibit "A," establishes additional qualifications for the Corporation Counsel effective January 2, 2019; and

WHEREAS, Charter Section 6-2(5) requires the Council to confirm or deny the appointment within sixty days after receiving notice of the appointment by the Mayor; and

WHEREAS, Charter Section 8-2.2 states: "The corporation counsel shall be appointed by the mayor with the approval of the council;" now, therefore,

**Resolution No. \_\_\_\_\_**

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

1. That it deems Moana M. Lutey to have satisfied the minimum qualifications for the position of Corporation Counsel;
2. That it hereby approves the appointment of Moana M. Lutey as the Corporation Counsel; and
3. That a certified copy of this resolution be transmitted to the Mayor.

APPROVED AS TO FORM AND LEGALITY



Department of the Corporation Counsel  
County of Maui

2019-1911

2019-04-10 Corp Counsel Approval Reso (Lutey)

#### **2.14.100 – Corporation counsel.**

The corporation counsel shall have the following minimum qualifications:

1. As set forth in the charter, the corporation counsel shall be an attorney licensed to practice and in good standing before the Hawaii supreme court.
2. As set forth in the charter, the corporation counsel shall have engaged in the practice of law for five years.
3. As a part of or in addition to the five years of experience in the practice of law, three years of civil litigation experience.
4. As a part of or in addition to the five years of experience in the practice of law, three years of responsible managerial and budgetary experience.
5. As a part of or in addition to the five years of experience in the practice of law, three years of experience in one or more of the following functions:
  - a. Serving as chief legal advisor or legal representative of a municipality or other governmental entity, its departments, boards and commissions, or officers and employees in matters relating to their official duties.
  - b. Representing a public or private entity in legal proceedings., designing, building, operating, or maintaining sewer treatment plants, pump stations, sewer lines, reclaimed water distribution systems, and related programs.