

# REQUEST FOR LEGAL SERVICES

**Date:** September 10, 2019

**From:** Shane M. Sinenci, Chair

**Environmental, Agricultural, and Cultural Preservation Committee**

TRANSMITTAL


**Memo to:** DEPARTMENT OF THE CORPORATION COUNSEL  
Attention: Richelle Thomson, Esq.

**Subject:** ESTABLISHING AN AGENCY TO ADDRESS CLIMATE CHANGE, SUSTAINABILITY, AND RESILIENCY (EACP-26)

**Background Data:** Please review the attached proposed alternative resolutions, and if appropriate, approve the resolutions as to form and legality. Please provide hard copies of the proposed resolutions with your response. Please disregard the Request for Legal Services on the same subject matter, dated August 27, 2019.

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

☐ OTHER:

Requestor's signature  Shane M. Sinenci	Contact Person  Kasie Apo Takayama (Telephone Extension: 7665)
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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): September 17, 2019 at 9:00am

REASON: For reference at the September 17<sup>th</sup> EACP Committee meeting

## 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): \_\_\_\_\_

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DEPARTMENT OF THE CORPORATION COUNSEL

Date \_\_\_\_\_

By \_\_\_\_\_

(Rev. 7/03)

eacp:ltr:026acc02:kmat

Attachments

# Resolution

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

PROPOSING AN AMENDMENT TO THE  
REVISED CHARTER OF THE COUNTY OF MAUI  
(1983), AS AMENDED, RELATING TO  
ESTABLISHING A DEPARTMENT OF CLIMATE  
CHANGE, SUSTAINABILITY, AND RESILIENCY

WHEREAS, Maui County is experiencing and is vulnerable to the impacts of climate change and sea level rise; and

WHEREAS, creating a Department of Climate Change, Sustainability, and Resiliency, with defined responsibilities, will promote stewardship of natural resources, increase community preparedness through coordinated policies and actions, and strengthen resiliency of communities and coastal areas; now, therefore,

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

1. That, pursuant to Section 14-1(1), Revised Charter of the County of Maui (1983), as amended ("Charter"), it hereby proposes that Article 8, of the Charter, be amended by adding a new chapter to read as follows:

**"CHAPTER 18**  
**DEPARTMENT OF CLIMATE CHANGE, SUSTAINABILITY, AND**  
**RESILIENCY**

**Section 8-18.1. Organization.** There shall be a department of climate change, sustainability, and resiliency consisting of a director and the necessary staff.

**Section 8-18.2. Director of Climate Change, Sustainability, and Resiliency.** The director of climate change, sustainability, and resiliency shall be appointed by the mayor with the approval of the council and may be removed by the mayor. The director shall have a minimum of five years of experience in an administrative capacity, either in public service or private business, or both. The director

shall have a bachelor's degree in sustainability or a related field.

**Section 8-18.3. Powers, Duties, and Functions.** The director of climate change, sustainability, and resiliency shall:

1. Seek information from scientists and track climate change science and potential impacts on county infrastructure and resources.
2. Coordinate actions and policies of county departments to:
  - a. Increase community preparedness.
  - b. Protect economic and social prosperity.
  - c. Protect the coastal areas and beaches.
  - d. Develop resilient infrastructure in response to climate change.
3. Develop and coordinate county policies and programs that will improve environmental performance of county operations and advance environmental priorities.
4. Integrate sustainable and environmental values into county plans, programs, and policies.
5. Promote resiliency of communities and coastal areas.
6. Report to the mayor and council regarding the county's overall performance in meeting sustainability and environmental targets and objectives.
7. Coordinate with federal and state agencies regarding climate change, sustainability, and the environment.

**Section 8-18.4. Climate Change, Sustainability, and Resiliency Commission.** The climate change, sustainability, and resiliency commission shall consist of nine members, appointed by the mayor with the approval of the council.

The climate change, sustainability, and resiliency commission shall:

1. Meet no less than six times annually.
2. Gather the latest science and information on climate change effects in the county.
3. Providing advice, as is deemed appropriate, to the mayor, council, executive departments of the county, and the director of climate change, sustainability, and resiliency on issues concerning climate change, sustainability, and resiliency law and policy.
4. Annually review and evaluate the performance of the director of climate change, sustainability, and resiliency and submit a report to the mayor and the council.

5. Have such other powers and duties as may be provided by law."; and

2. That new material is underscored; and

3. That, pursuant to Section 14-2(1) of the Charter, this resolution be submitted to the voters of the County of Maui at the next general election; and

4. That the County Clerk prepare the necessary ballot for presentation to the voters at the next general election; and

5. That, pursuant to Section 14-1(1) of the Charter, it hereby proposes that the following question be placed on the next general election ballot:

"Shall the Charter be amended, effective July 1, 2021, to establish a Department of Climate Change, Sustainability, and Resiliency, and a respective commission, to promote stewardship of the County's natural resources and strengthen resiliency of communities and coastal areas?"; and

6. That, pursuant to Section 14-2(2) of the Charter, the County Clerk shall publish the proposed amendment as set forth in this resolution in its entirety in a newspaper of general circulation; and

7. That, upon approval by the majority of the voters voting on the proposed amendment, the amendment proposed herein shall take effect as of July 1, 2021; and

8. That certified copies of this resolution be transmitted to the Mayor and the Corporation Counsel.

APPROVED AS TO FORM AND LEGALITY

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Richelle Thomson  
Department of the Corporation Counsel  
County of Maui

eacp:misc:026areso01:kmatt

# Resolution

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

PROPOSING AN AMENDMENT TO THE  
REVISED CHARTER OF THE COUNTY OF MAUI  
(1983), AS AMENDED, RELATING TO  
ESTABLISHING AN OFFICE OF COUNTY  
SUSTAINABILITY

WHEREAS, Maui County is vulnerable to and is experiencing the impacts of climate change and sea level rise; and

WHEREAS, creating an Office of County Sustainability, with defined responsibilities and regulatory authority, would promote stewardship of natural resources, increase community preparedness through coordinated policies and actions, and strengthen resiliency of communities and coastal areas; now, therefore,

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

1. That, pursuant to Section 14-1(1), Revised Charter of the County of Maui (1983), as amended (“Charter”), it hereby proposes that Section 3-9 of the Charter be amended to read as follows:

**“Section 3-9.4. [Definitions.** For the purpose of this section, the following definitions shall apply:

“Agency or operation of the county” includes any executive agency, semi-autonomous agency, council office, and other establishment of county government supported, in whole or in part, by county or public funds

“Council office” includes the council itself, the office of a council member and the council member’s immediate staff, the office of the county clerk, and the office of council services. This definition shall not be construed as excluding the office of the county auditor from the legislative branch.

“Record” includes any account, book, paper, and document, and any financial affair, notwithstanding whether any of the preceding is stored on paper or electronically.]

**Office of County Sustainability.**

## Resolution No. \_\_\_\_\_

1. There is established an office of county sustainability, consisting of a director of county sustainability and the necessary staff. The director shall be appointed by the county council, by a majority vote of its membership, and shall serve for a term of six years. The council may re-appoint the director or appoint a successor for a term of six years. The director may hold over until a successor is appointed. The salary commission shall determine the salary of the director. The council, by two-thirds vote of its membership, may remove the director from office at any time for cause. The director shall be exempt from civil service.

2. The director shall have a minimum of five years of experience in an administrative capacity, either in public service or private business, or both. The director shall have a bachelor's degree in sustainability or a related field.

3. Except for exercising the right to vote, neither the director nor any staff member of the office of county sustainability shall support, advocate, or aid in the election or defeat of any candidate for county public office.

4. The director shall appoint the necessary staff as shall be authorized by law. Staff shall be exempt from civil service and shall serve at the pleasure of the director.

5. The office of county sustainability shall have the duty and power to:

a. Seek information from scientists and track climate change science and potential impacts on county infrastructure.

b. Increase community preparedness; maximize economic, social, and environmental sustainability; and develop resilient infrastructure in response to the effects from climate change.

c. Provide advice, as deemed appropriate, regarding county policies and programs that will improve environmental performance of county operations and advance environmental priorities.

d. Integrate sustainable and environmental values into county plans, programs, and policies.

e. Promote resiliency of communities and coastal areas.

## Resolution No. \_\_\_\_\_

f. Report to the council regarding overall performance in meeting sustainability and environmental targets and objectives.

g. Coordinate with federal and state agencies regarding climate change, sustainability, and the environment.

**Section 3-9.5. Definitions.** For the purpose of this section, the following definitions shall apply:

“Agency or operation of the county” includes any executive agency, semi-autonomous agency, council office, and other establishment of county government supported, in whole or in part, by county or public funds.

“Council office” includes the council itself, the office of a council member and the council member’s immediate staff, the office of the county clerk, and the office of council services. This definition shall not be construed as excluding the office of the county auditor from the legislative branch.

“Record” includes any account, book, paper, and document, and any financial affair, notwithstanding whether any of the preceding is stored on paper or electronically.”;  
and

2. That material to be repealed is bracketed and new material is underscored; and

3. That, pursuant to Section 14-2(1) of the Charter, this resolution be submitted to the voters of the County of Maui at the next general election; and

4. That the County Clerk prepare the necessary ballot for presentation to the voters at the next general election; and

5. That, pursuant to Section 14-1(1) of the Charter, it hereby proposes that the following question be placed on the next general election ballot:

“Shall the Charter be amended, effective July 1, 2021, to establish an Office of County Sustainability to promote stewardship of the County’s natural resources and

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

strengthen resiliency of communities and coastal areas?";  
and

6. That, pursuant to Section 14-2(2) of the Charter, the County Clerk shall publish the proposed amendment as set forth in this resolution in its entirety in a newspaper of general circulation; and

7. That, upon approval by the majority of the voters voting on the proposed amendment, the amendment proposed herein shall take effect as of July 1, 2021; and

8. That certified copies of this resolution be transmitted to the Mayor and the Corporation Counsel.

APPROVED AS TO FORM AND LEGALITY

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Richelle Thomson  
Department of the Corporation Counsel  
County of Maui

eacp:misc:026areso02:kmatt



# Resolution

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

PROPOSING AN AMENDMENT TO THE  
REVISED CHARTER OF THE COUNTY OF MAUI  
(1983), AS AMENDED, RELATING TO  
ESTABLISHING AN OFFICE OF ECONOMIC  
DEVELOPMENT AND AN OFFICE OF CLIMATE  
CHANGE, SUSTAINABILITY, AND RESILIENCY

WHEREAS, Maui County is vulnerable to and is experiencing the impacts of climate change and sea level rise; and

WHEREAS, creating an Office of Economic Development, and an Office of Climate Change, Sustainability, and Resiliency, with defined responsibilities and regulatory authority, would promote stewardship of economic development, natural resources, increase community preparedness through coordinated policies and actions, and strengthen resiliency of communities and coastal areas; now, therefore,

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

1. That, pursuant to Section 14-1(1), Revised Charter of the County of Maui (1983), as amended ("Charter"), it hereby proposes that Article 7 of the Charter, be amended by adding two new chapters to read as follows:

**"Section 7-7. Office of Economic Development.**

There shall be an office of economic development headed by an executive who shall be appointed by the mayor with the approval of the council and may be removed by the mayor. The executive for economic development shall work with the director of finance to:

1. Adopt administrative rules necessary to strengthen and diversify the County's economy.
2. Support existing County businesses.
3. Promote job creation.
4. Attract new businesses, industry, construction, and events that will foster economic development in the County.

## Resolution No. \_\_\_\_\_

5. Improve the overall economic and social well-being of the County.

**Section 7-8. Office of Climate Change, Sustainability, and Resiliency.** There shall be an office of climate change, sustainability, and resiliency headed by an executive for climate change, sustainability, and resiliency who shall be appointed by the mayor with the approval of the council and may be removed by the mayor. The executive for climate change, sustainability, and resiliency shall:

1. Seek information from scientists and track climate change science and potential impacts on county facilities.
2. Coordinate actions and policies of county departments to increase community preparedness; maximize economic, social, and environmental sustainability; and develop resilient infrastructure in response to the effects from climate change.
3. Develop and coordinate county policies and programs that will improve environmental performance of county operations and advance environmental priorities.
4. Integrate sustainable and environmental values into county plans, programs, and policies.
5. Promote resiliency of communities and coastal areas.
6. Report to the council regarding overall performance in meeting sustainability and environmental targets and objectives.
7. Coordinate with federal and state agencies regarding climate change, sustainability, and the environment.
8. Convene a climate change commission consisting of nine members with expertise in climate change in Hawaii, which commission shall meet no less than twice annually for the purpose of gathering the latest science and information on climate change effects in the county and providing advice as is deemed appropriate to the executive, the

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

mayor, council, and executive departments of the county."; and

2. That new material is underscored; and
3. That, pursuant to Section 14-2(1) of the Charter, this resolution be submitted to the voters of the County of Maui at the next general election; and
4. That the County Clerk prepare the necessary ballot for presentation to the voters at the at the next general election; and
5. That, pursuant to Section 14-1(1) of the Charter, it hereby proposes that the following question be placed on the next general election ballot:

“Shall the Charter be amended, effective July 1, 2021, to establish an Office of Economic Development, to strengthen and diversify the County’s economy, and an Office of Climate Change, Sustainability, and Resiliency, and a respective commission, to promote stewardship of the County’s natural resources and strengthen resiliency of communities and coastal areas?”; and
6. That, pursuant to Section 14-2(2) of the Charter, the County Clerk shall publish the proposed amendment as set forth in this resolution in its entirety in a newspaper of general circulation; and
7. That, upon approval by the majority of the voters voting on the proposed amendment, the amendment proposed herein shall take effect as of July 1, 2021; and

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

8. That certified copies of this resolution be transmitted to the Mayor and the Corporation Counsel.

APPROVED AS TO FORM AND LEGALITY

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Richelle Thomson  
Deputy Corporation Counsel  
County of Maui

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