

# REQUEST FOR LEGAL SERVICES

**Date:** December 10, 2019  
**From:** Michael J. Molina, Chair  
Governance, Ethics, and Transparency Committee

TRANSMITTAL


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

**Subject:** INTERGOVERNMENTAL AGREEMENTS WITH THE STATE OF HAWAII, DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS, HAWAII OCCUPATIONAL SAFETY AND HEALTH DIVISION, FOR THE SETTLEMENT OF ALLEGED VIOLATIONS AT THE KAHULUI, KIHAI, AND LAHAINA WASTEWATER RECLAMATION FACILITIES

(GET-11(26))

**Background Data:** Please review the attached revised proposed bill and, if appropriate, approve as to form and legality. A hard copy of the revised proposed bill is requested with your response.

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

Requestor's signature  Michael J. Molina	Contact Person <u>Lesley Milner</u> (Telephone Extension: 7886)
--	---

☐ 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): December 11, 2019  
REASON: For possible posting on December 20, 2019 Council meeting agenda.

## FOR CORPORATION COUNSEL'S RESPONSE

ASSIGNED TO:	ASSIGNMENT NO.	BY:
--------------	----------------	-----

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)

ORDINANCE NO. \_\_\_\_\_

BILL NO. \_\_\_\_\_ (2019)

A BILL FOR AN ORDINANCE AUTHORIZING THE MAYOR TO ENTER INTO  
INTERGOVERNMENTAL AGREEMENTS WITH THE STATE OF HAWAII,  
DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS, HAWAII  
OCCUPATIONAL SAFETY AND HEALTH DIVISION, FOR THE SETTLEMENT OF  
ALLEGED VIOLATIONS AT THE KAHULUI, KIHEI, AND LAHAINA  
WASTEWATER RECLAMATION FACILITIES

BE IT ORDAINED BY THE PEOPLE OF THE COUNTY OF MAUI:

SECTION 1. Purpose. The State of Hawaii, Department of Labor and Industrial Relations, Hawaii Occupational Safety and Health Division (“HIOSH”), alleged violations of the Hawaii Occupational Safety and Health Standards at the Kahului Wastewater Reclamation Facility, Kihei Wastewater Reclamation Facility, and Lahaina Wastewater Reclamation Facility regarding the handling and recordkeeping of chlorine gas, during inspections held in August 2018 (“Alleged Violations”), as described in the respective Citation(s) and Notification of Penalty, attached as Exhibits “1” through “3.”

The County and HIOSH, to avoid incurring expenses and the uncertainty of an administrative and judicial determination of the parties’ respective rights and liabilities, will attempt to reach a resolution of the Alleged Violations by way of negotiated settlements, the terms, conditions, ramifications, and consequences which will be discussed in an executive meeting before the Governance, Ethics, and Transparency Committee.

In accordance with Section 2.20.020, Maui County Code, unless authorized by ordinance, the Mayor must not enter into any intergovernmental

agreement or any amendment which places a financial obligation on the county or any department or agency.

In accordance with Section 3.16.020(B), Maui County Code, any settlement in excess of \$7,500 requires Council authorization. The Department of the Corporation Counsel has requested authority to settle the Alleged Violations under the terms presented in executive session as described above.

SECTION 2. Authorization. The Council approves settlement of the Alleged Violations under the terms discussed in an executive meeting before the Governance, Ethics, and Transparency Committee. The Council authorizes the Mayor to execute agreements reflecting those terms, all other necessary documents relating to the agreements, and any amendments imposed, and agreed to, by the Corporation Counsel. The Council further authorizes the Director of Finance to satisfy the settlement in these matters.

SECTION 3. Effective date. This ordinance takes effect upon its approval.

APPROVED AS TO FORM AND LEGALITY:

---

Department of the Corporation Counsel  
County of Maui

get:misc:011(26)abill01