

COUNCIL OF THE COUNTY OF MAUI

POLICY AND INTERGOVERNMENTAL AFFAIRS COMMITTEE

November 7, 2014

**Committee
Report No.** _____

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

Chair and Members:

Your Policy and Intergovernmental Affairs Committee, having met on September 29, 2014, makes reference to County Communication 13-314, from the Chief of Police, transmitting a copy of an executed Memorandum of Agreement between the County of Maui ("Maui") and the County of Kauai ("Kauai"), dated September 11, 2013 ("Agreement"). The Agreement allows Maui to share 800-megahertz frequencies assigned to Kauai, as identified in Exhibit "A" to the Agreement, for public-safety radio-system operations.

A Captain, Department of Police, explained there is a plan in place for sharing available 800-megahertz frequencies in the State. Maui has used its entire allocation of those frequencies and needs to expand. The plan allows Maui to borrow a sister county's allocation of frequencies, provided that if Maui's use causes interference, its use would need to stop. The Captain noted Maui does not pay Kauai for such use.

Your Committee notes Section 2.20.020, Maui County Code, provides, "Unless authorized by ordinance, the mayor shall not enter into any intergovernmental agreement or any amendment thereto which places a financial obligation upon the county or any department or agency thereof."

Your Committee notes paragraph 9 of the Agreement requires the County to bear responsibility for the entire cost involved with any Federal Communications Commission modification that may be required for its secondary reuse of the frequencies. It also requires, subject to Council approval, that Maui indemnify, defend, and hold harmless Kauai from any liability or damages resulting from Maui's use of Kauai's radio frequencies as provided for in the Agreement.

Your Committee asked the Department of the Corporation Counsel whether either provision creates a financial obligation, requiring the Council to have first authorized the Mayor to enter into the Agreement by ordinance.

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The Department of the Corporation Counsel advised that neither provision creates a financial obligation on the part of the County under the circumstances. By making the need to indemnify subject to Council approval, no financial obligation is created.

Your Committee voted 7-0 to recommend filing of the communication. Committee Chair Hokama, Vice-Chair Couch, and members Baisa, Carroll, Crivello, Victorino, and White voted "aye". Committee members Cochran and Guzman were excused.

Your Policy and Intergovernmental Affairs Committee RECOMMENDS that County Communication 13-314 be FILED.

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



G. RIKI HOKAMA, Chair