

REQUEST FOR LEGAL SERVICES

Date: September 30, 2015
From: Don S. Guzman, Chair
Committee of the Whole

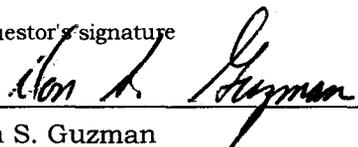
TRANSMITTAL

Memo to: DEPARTMENT OF THE CORPORATION COUNSEL
Attention: Brian Bilberry, Esq.

Subject: SPECIAL COUNSEL AUTHORIZATION: CHRISTOPHER SALEM V. COUNTY OF MAUI, ET AL. (COW-5)

Background Data: Attached revised proposed resolution incorporates revisions made by the Committee at its meeting of September 23, 2015. For ease of reference, a "clean" version and a track-changes version are attached.

Work Requested: FOR APPROVAL AS TO FORM AND LEGALITY
 OTHER:

Requestor's signature  Don S. Guzman	Contact Person <u>Carla Nakata</u> (Telephone Extensions: 7659)
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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): October 7, 2015
REASON: For posting on October 16, 2015, Council agenda.

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)

cow:ltr:005acc01:cmn

Attachments

Resolution

No. _____

AUTHORIZING THE EMPLOYMENT OF SPECIAL COUNSEL IN
CHRISTOPHER SALEM V. COUNTY OF MAUI, ET AL.,
CIVIL 15-1-0496(3)

WHEREAS, the Council is authorized to retain or employ special counsel by resolution adopted by a two-thirds vote, pursuant to Section 3-6(6) of the Revised Charter of the County of Maui (1983), as amended; and

WHEREAS, the Council finds that, because of conflicts and potential conflicts of interests, and to the extent consistent with the Hawaii Rules of Professional Conduct, there is a real necessity to retain special counsel to represent certain Defendants in Christopher Salem v. County of Maui, et al., Civil 15-1-0496(3); and

WHEREAS, based upon a preliminary reading of the Complaint filed in Civil 15-1-0496(3) on September 18, 2015, it appears the allegations against individually named Defendants are questionable; and

WHEREAS, in the opinion of the Department of the Corporation Counsel, Charter Section 8-2.3 and Rule 1.7 of the Hawaii Rules of Professional Conduct may require special counsel to represent certain of the Defendants in this case; and

WHEREAS, to the extent consistent with the Hawaii Rules of Professional Conduct it appears at this time there is a real necessity and it would be in the best interest of the County of Maui to authorize the

Resolution No. _____

employment of special counsel to represent certain of the Defendants;
and

WHEREAS, special counsel shall be selected in a procedure in compliance with the Hawaii Public Procurement Code; and

WHEREAS, special counsel shall take all possible steps to minimize attorneys' fees and costs; and

WHEREAS, the Department of the Corporation Counsel shall provide necessary support services to special counsel and, if consistent with the Hawaii Rules of Professional Conduct, joint legal representation, along with special counsel; now, therefore,

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

1. That the Council hereby authorizes the employment of special counsel for Christopher Salem v. County of Maui, et al., Civil 15-1-0496(3); and

2. That total compensation for the employment of all special counsel employed to represent Defendants in this case, pursuant to this resolution, shall not exceed \$75,000; and

3. That the hourly rate of compensation for special counsel shall not exceed \$250; and

4. That the compensability of costs shall be in general accord with the intent of 28 U.S.C. § 1920; and

5. That the compensable costs shall include: (a) fees for printing and witnesses; (b) fees for copies necessarily obtained for use in

Resolution No. _____

the case; (c) fees of the clerk and marshal; (d) fees of the court reporter for necessary transcripts; (e) docket fees; and (f) compensation of court-appointed experts and interpreters; and

6. That the non-compensable costs shall include: (a) telephone calls; (b) facsimile charges; (c) postal charges; (d) messenger charges; (e) fees for computerized legal research; (f) travel, unless justified by extraordinary or compelling circumstances; (g) investigative expenses; and (h) other costs reasonably considered part of a law firm's overhead; and

7. That the expenditures of additional funds or substantial changes to the responsibilities of the parties shall require prior Council approval; and

8. That the special counsel for the County shall regularly report directly to the Council Chair and the Council's Committee of the Whole on the status of the case and the County's legal strategy; and

9. That certified copies of this resolution be transmitted to the Mayor, the Corporation Counsel, and the Director of Finance.

APPROVED AS TO FORM AND LEGALITY

Brian A. Bilberry
Deputy Corporation Counsel
County of Maui

Resolution

No. _____

AUTHORIZING THE EMPLOYMENT OF SPECIAL COUNSEL IN
CHRISTOPHER SALEM V. COUNTY OF MAUI, ET AL.,
CIVIL 15-1-0496(3)

WHEREAS, the Council is authorized to retain or employ special counsel by resolution adopted by a two-thirds vote, pursuant to Section 3-6(6) of the Revised Charter of the County of Maui (1983), as amended; and

WHEREAS, the Council finds that, because of conflicts and potential conflicts of interests, and to the extent consistent with the Hawaii Rules of Professional Conduct, there is a real necessity to retain special counsel to represent certain Defendants in ~~the anticipated lawsuit~~ Christopher Salem v. County of Maui, et al., Civil 15-1-0496(3) ~~The lawsuit is expected to be filed in the Second Circuit Court for the State of Hawaii, alleging fraud and violations of the Charter;~~ and

WHEREAS, based upon a preliminary reading of the ~~draft complaint, received by the Department of the Corporation Counsel on August 17, 2015~~ Complaint filed in Civil 15-1-0496(3) on September 18, 2015, it appears the allegations against individually named Defendants are questionable; and

WHEREAS, in the opinion of the Department of the Corporation Counsel, Charter Section 8-2.3 and Rule 1.7 of the Hawaii Rules of

Resolution No. _____

Professional Conduct may require special counsel to represent certain of the Defendants in this case; and

WHEREAS, to the extent consistent with the Hawaii Rules of Professional Conduct it appears at this time there is a real necessity and it would be in the best interest of the County of Maui to authorize the employment of special counsel to represent certain of the Defendants; and

WHEREAS, special counsel shall be selected in a procedure in compliance with the Hawaii Public Procurement Code; and

WHEREAS, special counsel shall take all possible steps to minimize attorneys' fees and costs; and

WHEREAS, the Department of the Corporation Counsel shall provide necessary support services to special counsel and, if consistent with the Hawaii Rules of Professional Conduct, joint legal representation, along with special counsel; now, therefore,

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

1. That the Council hereby authorizes the employment of special counsel for ~~the anticipated lawsuit~~ Christopher Salem v. County of Maui, et al., Civil 15-1-0496(3); and

2. That total compensation for the employment of all special counsel employed to represent Defendants in this case, pursuant to this resolution, shall not exceed \$75,000; and

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3. That the hourly rate of compensation for special counsel shall not exceed \$250; and

4. That the compensability of costs shall be in general accord with the intent of 28 U.S.C. § 1920; and

5. That the compensable costs shall include: (a) fees for printing and witnesses; (b) fees for copies necessarily obtained for use in the case; (c) fees of the clerk and marshal; (d) fees of the court reporter for necessary transcripts; (e) docket fees; and (f) compensation of court-appointed experts and interpreters; and

6. That the non-compensable costs shall include: (a) telephone calls; (b) facsimile charges; (c) postal charges; (d) messenger charges; (e) fees for computerized legal research; (f) travel, unless justified by extraordinary or compelling circumstances; (g) investigative expenses; and (h) other costs reasonably considered part of a law firm's overhead; and

7. That the expenditures of additional funds or substantial changes to the responsibilities of the parties shall require prior Council approval; and

8. That the special counsel for the County shall regularly report directly to the Council Chair and the Council's Committee of the Whole on the status of the case and the County's legal strategy; and

9. That certified copies of this resolution be transmitted to the Mayor, the Corporation Counsel, and the Director of Finance.

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APPROVED AS TO FORM AND LEGALITY

Brian A. Bilberry
Deputy Corporation Counsel,
-County of Maui

[cow:misc:005areso02](#)