

Resolution

No. 26-15

AUTHORIZING THE EMPLOYMENT OF MCCORRISTON MILLER MUKAI MACKINNON LLP, AS SPECIAL COUNSEL IN *TODD P. LYNAM, ET AL. V. COUNTY OF MAUI, ET AL.*, CIVIL CASE 2CCV-25-0003780, AND IN ANY FUTURE LITIGATIONS CHALLENGING ORDINANCE 5909 (2025)

WHEREAS, Section 3-6(6) of the Revised Charter of the County of Maui (1983), as amended, provides that the Council has the power to retain or employ special counsel as legal representative for any special matter presenting a real necessity for such employment, by two-thirds vote; and

WHEREAS, the Council finds that there is necessity and a public purpose to retain McCorriston Miller Mukai Mackinnon LLP, for their specialized experience in class actions, complex litigations, and land use regulations as special counsel to assist and represent as co-counsel, the County of Maui; Department of Planning, and Kate Blystone, in her official capacity, or her successor, as Director of Planning, in *Todd P. Lynam, et al., v. County of Maui, et al.*, Civil Case 2CCV-25-0003780 and in any future litigations challenging Ordinance 5909 (2025); and

WHEREAS, the Department of the Corporation Counsel will work with special counsel as a team in this matter and take all possible steps to minimize the level of attorney's fees and costs; and

WHEREAS, the firm's conduct in this matter will reflect the firm's understanding that the County is a public entity that has obligations, concerns, and interests that may extend beyond those of a similarly situated private litigant; now therefore,

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

1. That it authorizes the employment of the firm McCorriston Miller Mukai Mackinnon LLP, as special counsel to assist and represent as co-counsel, the County of Maui, Department of Planning, and Kate Blystone, in her official capacity, or her successor, as Director of Planning in the case of *Todd P. Lynam, et al., v. County of Maui, et al.*, Civil Case 2CCV-25-0003780 and any other future litigations challenging

Ordinance 5909 (2025) under Charter Section 3-6(6);

2. That total compensation for the employment of the firm McCorriston Miller Mukai Mackinnon LLP, as special counsel, must not exceed \$250,000;
3. That Senior Partner David J. Minken, Esq., and Junior Partner Jordan K. Inafuku, will provide the majority of the legal services in this matter;
4. That the hourly rate for senior partners must not exceed \$400;
5. That the hourly rate for junior partners must not exceed \$350;
6. That the hourly rate for counsel must not exceed \$350;
7. That the hourly rate for associates must not exceed \$275;
8. That the hourly rate for paralegal staff must not exceed \$100;
9. That the compensability of costs will be in accord with the intent of 28 U.S.C. § 1920;
10. That the compensable costs must include: (a) fees for printing and witnesses; (b) fees of the clerk and marshal; (c) fees of the court reporter for necessary transcripts; (d) docket fees; and (e) compensation of court-appointed experts and interpreters;
11. That the non-compensable costs may include: (a) telephone calls; (b) facsimile charges; (c) postal charges; (d) messenger charges; (e) fees for computerized legal research; (f) investigative expenses; and (g) other costs reasonably considered part of a law firm's overhead;
12. That in instances of travel, both inter-island and out-of-state travel, includes travel on regular coach economy fare and must be pre-approved by the Corporation Counsel;
13. That the expenditures of additional funds or substantial changes to the responsibilities of the parties will require Council approval; and
14. That certified copies of this Resolution be transmitted to the Mayor, Corporation Counsel, Director of Planning, and Senior Partner David J. Minken, Esq., and Junior Partner Jordan K. Inafuku, Esq., of McCorriston Miller Mukai MacKinnon LLP.

APPROVED AS TO FORM AND LEGALITY:

/s/ Kristin K. Tarnstrom
KRISTIN K. TARNSTROM
Deputy Corporation Counsel
County of Maui
Lit 9142

INTRODUCED BY:

A handwritten signature in cursive script, appearing to read "John Lee", written over a horizontal line.

Upon the request of the Mayor.