

**COUNCIL OF THE COUNTY OF MAUI**  
**PARKS, RECREATION, ENERGY, AND**  
**LEGAL AFFAIRS COMMITTEE**

September 7, 2018

**Committee**  
**Report No. \_\_\_\_\_**

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

Chair and Members:

Your Parks, Recreation, Energy, and Legal Affairs Committee, having met on August 21, 2018, makes reference to County Communication 17-6, from Council Chair Mike White, relating to litigation matters.

By correspondence dated August 14, 2018, the Department of the Corporation Counsel transmitted a proposed resolution, entitled "AUTHORIZING THE EMPLOYMENT OF SPECIAL COUNSEL CHUN KERR LLP, A LIMITED LIABILITY LAW PARTNERSHIP, TO REPRESENT THE COUNTY OF MAUI BEFORE STATE AND FEDERAL TAXING AUTHORITIES AND IN ANTICIPATION OF RELATED LITIGATION," along with a resume for Ray Kamikawa, Esq.

The purpose of the proposed resolution is to authorize the employment of Chun Kerr LLP, A Limited Liability Law Partnership, as special counsel to represent the County before State and Federal taxing authorities and in anticipation of related litigation, for a total compensation not to exceed a flat fee of \$150,000.

By correspondence dated August 20, 2018, the Department transmitted a revised proposed resolution removing the reference to a flat fee, but leaving the total compensation at an amount not to exceed \$150,000. The revised proposed resolution also sets forth the hourly rates of the prospective attorneys.

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**PARKS, RECREATION, ENERGY, AND**  
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**Committee**  
**Report No. \_\_\_\_\_**

Your Committee notes Section 3-6(6) of the Revised Charter of the County of Maui (1983), as amended, authorizes the Council to retain or employ, by a vote of two-thirds of its entire membership, special counsel for any special matter presenting a real necessity for such employment. Charter Section 3-6(6) further requires that any such employment specify the compensation, if any, to be paid for the services.

A Deputy Corporation Counsel said no litigation is currently pending. However, approximately one month before your Committee's meeting, the Department was advised of potential litigation on tax-related matters.

The Deputy explained the Department is requesting special counsel be appointed because of the complexity of the tax issues involved. The Department recommended Ray Kamikawa and the firm Chun Kerr LLP because of Mr. Kamikawa's background in government tax work.

The Deputy requested the opportunity to convene an executive meeting.

Your Committee voted to convene an executive meeting, closed to the public, to consult with legal counsel on questions and issues pertaining to the powers, duties, privileges, immunities, and liabilities of the County, the Council, and the Committee, pursuant to Section 92-5(a)(4), Hawaii Revised Statutes.

Following the executive meeting, your Committee reconvened in regular session. Based on the information received and the recommendation of the Department, your Committee voted 6-0 to recommend adoption of the revised proposed resolution. Committee Chair Guzman, Vice-Chair King, and members Atay, Crivello, Hokama, and Sugimura voted "aye." Committee members Carroll, Cochran, and White were excused.

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**PARKS, RECREATION, ENERGY, AND  
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**Committee  
Report No. \_\_\_\_\_**

Your Parks, Recreation, Energy, and Legal Affairs Committee RECOMMENDS that Resolution \_\_\_\_\_, attached hereto, entitled "AUTHORIZING THE EMPLOYMENT OF SPECIAL COUNSEL CHUN KERR LLP, A LIMITED LIABILITY LAW PARTNERSHIP, TO REPRESENT THE COUNTY OF MAUI BEFORE STATE AND FEDERAL TAXING AUTHORITIES AND IN ANTICIPATION OF RELATED LITIGATION," be ADOPTED.

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



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DON S. GUZMAN, Chair

# Resolution

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

AUTHORIZING THE EMPLOYMENT OF SPECIAL COUNSEL CHUN KERR LLP, A LIMITED LIABILITY LAW PARTNERSHIP, TO REPRESENT THE COUNTY OF MAUI BEFORE STATE AND FEDERAL TAXING AUTHORITIES AND IN ANTICIPATION OF RELATED LITIGATION

WHEREAS, the Council alone is authorized to retain or employ special counsel by resolution adopted by a two-thirds vote; and

WHEREAS, the Council finds that there is a real necessity to retain the firm of Chun Kerr LLP, A Limited Liability Law Partnership (the "firm"), as special counsel to represent the County of Maui before state and federal taxation authorities and in anticipation of related litigation, because of the complexity of legal issues; and

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

WHEREAS, the firm and the Department of the Corporation Counsel shall work as a team in this matter and take all possible steps to minimize the level of attorneys' fees and costs; and

WHEREAS, the firm's conduct in this matter shall reflect the firm's understanding that the County of Maui 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:

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

1. That the Council hereby authorizes the employment of the firm Chun Kerr LLP, A Limited Liability Law Partnership, as special counsel to represent the County of Maui before state and federal taxation authorities and in anticipation of related litigation; and

2. That the total compensation for the firm Chun Kerr LLP, A Limited Liability Law Partnership, as special counsel shall not exceed \$150,000.00; and

3. That Ray Kamikawa, Esq., shall perform the bulk of the legal services in this matter; and

4. That Ray Kamikawa, Esq., shall direct the legal services as lead counsel at an hourly rate not to exceed \$385.00; and

5. That associate Joseph Dane, Esq., shall provide legal services at an hourly rate not to exceed \$284.00; and

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

7. That the compensable costs shall include: (1) fees for printing and witnesses; (2) fees for copies necessarily obtained for use in the case; (3) fees of the clerk and marshall; (4) fees of the court reporter for necessary transcripts; (5) docket fees; and (6) compensation of court-appointed experts and interpreters; and

8. That the non-compensable costs shall include: (1) telephone calls; (2) facsimile charges; (3) postal charges; (4) messenger charges; (5) fees for computerized legal research; (6) travel, unless justified by extraordinary or compelling circumstances; (7) investigative expenses; (8)

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

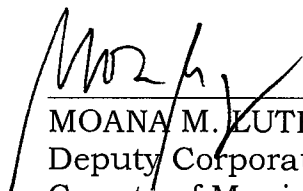
other costs reasonably considered part of a law firm's overhead; and (9) electronic research; and

9. That in instances of travel, both inter-island and out-of-state travel must be pre-approved by the Corporation Counsel; and

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

11. 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:

  
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MOANA M. LUTEY  
Deputy Corporation Counsel  
County of Maui  
LF2018-0967