

MOANA M. LUTEY
County Clerk



RICHELLE M. THOMSON
Deputy County Clerk

OFFICE OF THE COUNTY CLERK
COUNTY OF MAUI
200 SOUTH HIGH STREET
WAILUKU, MAUI, HAWAII 96793
www.mauicounty.gov/county/clerk

December 4, 2023

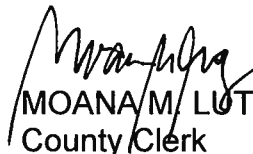
Honorable Nohelani U'u-Hodgins, Chair
Government Relations, Ethics,
and Transparency Committee
Council of the County of Maui
Wailuku, Hawaii 96793

Dear Chair U'u-Hodgins:

As requested at its meeting of December 1, 2023, the Council discharged the Government Relations, Ethics, and Transparency Committee from further consideration of a proposed resolution entitled "AUTHORIZING THE EMPLOYMENT OF SPECIAL COUNSEL BARON & BUDD, P.C., IN LITIGATION MATTERS ARISING FROM THE AUGUST 2023 WILDFIRES ON THE ISLAND OF MAUI".

Please be informed that following this action, the Council waived the requirement of committee report, amended the resolution, and the resolution was then adopted. A copy of Resolution No. 23-224, CD1, FD1 is enclosed for your information.

Respectfully,


MOANA M. LUTEY
County Clerk

/lks

Enclosure

cc: Director of Council Services

OFFICE OF THE
COUNTY CLERK

2023 DEC -4 PM 5:10

RECEIVED

Resolution

No. 23-224, CD1, FD1

AUTHORIZING THE EMPLOYMENT OF SPECIAL COUNSEL
BARON & BUDD, P.C., IN LITIGATION MATTERS ARISING
FROM THE AUGUST 2023 WILDFIRES ON THE ISLAND OF MAUI

WHEREAS, in August of 2023, several large wildfires (“Wildfires”) devastated the island of Maui causing significant loss of life, immense damage to public and private property, and untold economic damage; and

WHEREAS, under Section 3-6 of the Revised Charter of the County of Maui (1983), as amended (“Charter”), the Maui County Council alone is authorized to retain, employ, or designate special counsel as legal representative for any special matter presenting a real necessity for such employment by resolution adopted with a two-thirds vote of its entire membership; and

WHEREAS, under Section 127A-13(b)(2), Hawai‘i Revised Statutes, the Mayor may suspend any County law that impedes or tends to impede, or that may be detrimental to, the expeditious and efficient execution of, or conflict with, emergency functions; and

WHEREAS, through his Third Emergency Proclamation Relating to Wildfires dated August 15, 2023, the Mayor, on advice of Corporation Counsel, suspended Section 3-6(6) of the Charter, to eliminate the Council’s exclusive authority to retain, employ, or designate special counsel; and

WHEREAS, the Mayor, or his designee, signed a representation agreement on August 23, 2023, with Baron & Budd, P.C. (“Firm”), relating to litigation matters arising from the August 2023 wildfires on the island of Maui; and

WHEREAS, through his Fourth Emergency Proclamation Relating to Wildfires dated September 8, 2023, the Mayor lifted the suspension of Section 3-6(6) of the Charter, to reinstate the Council’s exclusive authority to retain, employ, or designate special counsel; and

WHEREAS, the Council wishes to ratify the Mayor’s employment of the Firm, and finds that there is a necessity and a public purpose to retain the Firm as special counsel to represent the County of Maui as the plaintiff in legal actions against Maui Electric Company, Limited, Hawaiian Electric Company, Inc., and any other potentially liable third parties for damages arising from the Wildfires because of the complexity of the litigation; and

Resolution No. 23-224, CD1, FD1

WHEREAS, the Firms' conduct in this matter must reflect the Firms' 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:

1. That it ratifies and authorizes, as of August 23, 2023, the retention of Baron & Budd, P.C., as special counsel, to represent the County of Maui in litigation as described in this Resolution;
2. That the total contingent-fee compensation for employment of Baron & Budd, P.C., as special counsel, must not exceed 18 percent of amounts recovered by the County;
3. That partner John Fiske, Esq., of Baron & Budd, P.C. must provide the bulk of the legal services in this matter;
4. That substantial changes to the responsibilities of Baron & Budd, P.C., or John Fiske, Esq., requires prior Council approval; and
5. That certified copies of this Resolution be transmitted to the Mayor, the Corporation Counsel, the Director of Finance, and Baron & Budd, P.C.

APPROVED AS TO FORM AND LEGALITY:



VICTORIA J. TAKAYESU
Corporation Counsel
County of Maui

great:misc:011(31)areso05:rem

INTRODUCED BY:

A handwritten signature in cursive script, appearing to read "Alice L. Lee", positioned above a horizontal line.

ALICE L. LEE

Upon the request of the Mayor.

COUNCIL OF THE COUNTY OF MAUI

WAILUKU, HAWAII 96793

CERTIFICATION OF ADOPTION

It is HEREBY CERTIFIED that RESOLUTION NO. 23-224, CD1, FD1 was adopted by the Council of the County of Maui, State of Hawaii, on the 1st day of December, 2023, by the following vote:

MEMBERS	Alice L. LEE Chair	Yuki Lei K. SUGIMURA Vice-Chair	Tom COOK	Gabriel JOHNSON	Natalie A. KAMA	Tamara A. M. PALTIN	Keani N. W. RAWLINS- FERNANDEZ	Shane M. SINENCI	Nohelani U'U-HODGINS
ROLL CALL	Aye	Aye	Aye	Aye	Aye	Aye	Aye	Aye	Aye



COUNTY CLERK