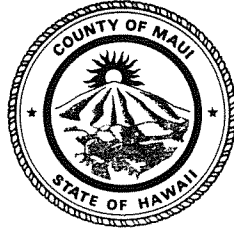


ALAN M. ARAKAWA
Mayor



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COUNTY COUNCIL

August 20, 2018

MEMO TO: Don S. Guzman, Chair
Parks, Recreation, Energy, and Legal Affairs Committee

FROM: Moana M. Lutey, Deputy Corporation Counsel

SUBJECT: LITIGATION MATTERS (SPECIAL COUNSEL AUTHORIZATION:
COUNTY OF MAUI REQUEST FOR RETENTION OF TAX COUNSEL)
(PRL-1(44))

Our Department respectfully requests the opportunity to present a resolution authorizing the employment of special counsel related to representation of the County of Maui before state and federal taxation authorities.

We would like to request that this matter be taken up at the August 21, 2018 PRL Committee meeting, or as soon as possible as this matter is time sensitive.

It is anticipated that an executive session will be necessary to discuss questions and issues pertaining to the powers, duties, privileges, immunities, and liabilities of the County, the Council, and the Committee.

Should you have any questions or concerns, please do not hesitate to contact me. Thank you for your anticipated assistance with this matter.

MML:cs
Enclosures

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. _____

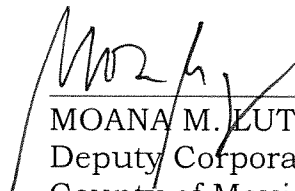
other costs reasonably considered part of a law firm's overhead; and (9) electronic research; and

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:



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