

Resolution

No. 23-225

AUTHORIZING THE EMPLOYMENT OF SPECIAL COUNSEL
MCCORRISTON MILLER MUKAI MACKINNON, LLP, 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 or employ special counsel as legal representation for any matter presenting a real necessity for such employment upon a resolution adopted by two-thirds vote; and

WHEREAS, through his Third Emergency Proclamation Relating to Wildfires dated August 15, 2023 (“Third Proclamation”), the Mayor suspended Section 3-6(6) of the Charter, eliminating the prerequisite Council approval prior to retaining special counsel; 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, reinstating the requirement for Council approval for retention of special counsel; and

WHEREAS, the Council finds that there is a necessity and a public purpose to retain the firm of McCorriston Miller Mukai Mackinnon, LLP, (“Firm”) as special counsel to represent the County of Maui as a defendant in current and anticipated legal actions relating to the Wildfires because of the complexity and anticipated volume of the litigation; 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 attorney’s 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:

1. That it hereby authorizes the retention of McCorriston Miller Mukai Mackinnon, LLP as special counsel to represent the County of Maui in litigation matters as described in this resolution;

2. That total compensation for the employment of McCorriston Miller Mukai Mackinnon, LLP as special counsel shall not exceed \$150,000;

3. That partner David J. Minkin, Esq. shall provide the bulk of the legal services in the actions;

4. That the hourly rates for partners, associates, and paralegal staff shall be at rates as set forth an executive meeting of the Government, Relations, Ethics, and Transparency Committee;

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

6. That the compensable costs shall 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;

7. 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) investigative expenses; and (g) other costs reasonably considered part of a law firm's overhead;

8. 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;

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

10. 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:



VICTORIA J. TAKAYESU
Corporation Counsel
County of Maui

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INTRODUCED BY:

A handwritten signature in cursive script, appearing to read "Alice L. Lee".

ALICE L. LEE

Upon the request of the Mayor.