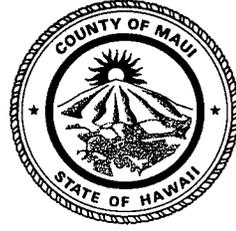


ALAN M. ARAKAWA  
Mayor



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First Deputy

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Risk Management Officer  
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DEPARTMENT OF THE CORPORATION COUNSEL  
COUNTY OF MAUI  
200 SOUTH HIGH STREET, 3<sup>RD</sup> FLOOR  
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COUNTY COUNSEL

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

F R O M: Moana M. Lutey, Deputy Corporation Counsel

DATE: October 4, 2018

SUBJECT: **PRL-1 Litigation Matters**  
Special Counsel Authorization: Hawaii Wildlife Fund, et al., v. County of Maui, Docket No. 15-17447, United States Court of Appeals for the Ninth Circuit

Our Department respectfully requests the opportunity to present the attached proposed resolution regarding an increase in funding related to employment of special counsel for appellate work in the above-referenced matter. We also request the opportunity to provide a status update on the case. This matter is time sensitive; therefore, we request that the matter be scheduled at the earliest opportunity.

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.

Thank you for your anticipated assistance in this matter.

# Resolution

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

AUTHORIZING AN INCREASE IN FUNDING RELATED TO  
THE EMPLOYMENT OF SPECIAL COUNSEL HUNTON ANDREWS KURTH LLP,  
IN HAWAII WILDLIFE FUND, ET AL. V. COUNTY OF MAUI,  
DOCKET NO. 15-17447, UNITED STATES COURT OF APPEALS  
FOR THE NINTH CIRCUIT

WHEREAS, by Resolution No. 12-127, the Council authorized the employment of special counsel HUNTON ANDREWS KURTH LLP, formerly known as HUNTON & WILLIAMS LLP ("special counsel"), to represent the County of Maui in matters relating to Hawaii Wildlife Fund, et al. v. County of Maui; and

WHEREAS, by Resolution Nos. 14-52, 14-99, 14-137, 15-35, 15-74, 15-101, 16-3, 16-69, 17-133, and 18-61, the Council authorized increases in total compensation for trial preparation, motions, appeal and, if necessary, trial, for a total compensation of \$3,800,000; and

WHEREAS, on February 1, 2018, a three-judge panel of the United States Court of Appeals for the Ninth Circuit, entered judgment against the County in Docket No. 15-17447, upholding the Hawaii District Court's judgment in Civil No. 1:12-CV-00198 SOM-BMK; and

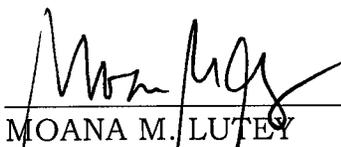
WHEREAS, on August 27, 2018, the County filed its Petition for Writ of Certiorari in the Supreme Court of the United States, Case No. 18-260; and

WHEREAS, the Corporation Counsel has requested authorization to raise the compensation limit for the employment of special counsel by an additional \$250,000 for appeal, for a total compensation not exceeding \$4,050,000; now, therefore,

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

1. That the Council hereby approves and authorizes an increase in compensation for the employment of special counsel by \$250,000, for a total compensation not exceeding \$4,050,000; and
2. 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  
LIT-4996