

# Resolution

**No.** 25-231

AUTHORIZING THE EMPLOYMENT OF  
BEST BEST & KRIEGER LLP AS SPECIAL COUNSEL TO  
ASSIST AND REPRESENT AS CO-COUNSEL THE DEPARTMENT  
OF ENVIRONMENTAL MANAGEMENT, COUNTY OF MAUI, WITH THE  
PERMITTING PROCESS AND ANY LEGAL CHALLENGES ARISING OUT  
OF THE ISSUANCE OF A NPDES PERMIT FOR THE LAHAINA  
WASTEWATER FACILITY (NPDES PERMIT NO. HI 0021848)

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

WHEREAS, the Council finds that there is necessity and a  
public purpose to retain the firm of Best Best & Krieger LLP as special  
counsel to assist and represent as co-counsel the Department of  
Environmental Management, County of Maui, with the permitting  
process and any legal challenges arising out of the issuance of an  
NPDES permit for the Lahaina Wastewater Facility (NPDES PERMIT  
NO. HI 0021848); 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 employment of the firm  
Best Best & Krieger LLP as special counsel to assist and  
represent as co-Counsel the Department of Environmental  
Management, County of Maui, with the permitting process  
and any legal challenges arising out of the issuance of a  
NPDES permit for the Lahaina Wastewater Facility (NPDES  
PERMIT NO. HI 0021848);
2. That total compensation for the employment of the firm  
Best Best & Krieger LLP as special counsel shall not  
exceed \$500,000.00;

3. That Partners Shawn D. Hagerty, Esq. and Wendy Wang, Esq. shall provide the majority of the legal services in this matter;
4. That the hourly rate for partners shall not exceed \$650.00;
5. That the hourly rate for associates shall not exceed \$550.00;
6. That the hourly rate for paralegal staff shall not exceed \$260.00;
7. That the compensability of costs shall be in general accord with the Intent of 28 U.S.C. § 1920;
8. 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;
9. 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;
10. 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;
11. That the expenditures of additional funds or substantial changes to the responsibilities of the parties shall require Council approval; and
12. That certified copies of this resolution be transmitted to the Mayor, the Corporation Counsel, the Director of Finance and Best Best & Krieger LLP.

APPROVED AS TO FORM AND LEGALITY:

**BRIAN A. BILBERRY**

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BRIAN A. BILBERRY  
Deputy Corporation Counsel  
County of Maui  
Lit 9030