

COUNCIL OF THE COUNTY OF MAUI

BUDGET AND FINANCE COMMITTEE

August 3, 2018

**Committee
Report No.** _____

Honorable Chair and Members
of the County Council
County of Maui
Wailuku, Maui, Hawaii

Chair and Members:

Your Budget and Finance Committee, having met on July 11, 2018, makes reference to County Communication 18-221, from the Director of Finance, transmitting a proposed resolution entitled "AUTHORIZING THE EMPLOYMENT OF SPECIAL COUNSEL HAWKINS, DELAFIELD & WOOD LLP, FOR THE COUNTY OF MAUI 2018 GENERAL OBLIGATION BOND ISSUANCE."

The purpose of the proposed resolution is to authorize the employment of Hawkins Delafield & Wood LLP ("firm"), as Bond and Disclosure Counsel to represent the County of Maui during its 2018 General Obligation Bond Issuance, for total compensation not to exceed \$85,000.

Your Committee notes Section 3-6(6) of the Revised Charter of the County of Maui (1983), as amended ("Charter"), authorizes the Council to retain or employ, by a vote of two-thirds of its entire membership, special counsel for any special matter presenting a real necessity for such employment. Section 3-6(6) of the Charter further requires that any such employment shall specify the compensation, if any, to be paid for the services.

Your Committee also notes the Council previously authorized employment of the firm for the issuance of the County's 2015 general obligation bonds by Resolution 15-97, for a total compensation not to exceed \$70,000 and expenses not to exceed \$2,500.

The Director of Finance said the County could issue a general obligation bond in September 2018 for approximately \$80 million. As part of the issuance, the County is required to hire a bond and disclosure counsel to provide legal and tax advice, and to draft the necessary bond and bond sale documents.

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The Deputy Corporation Counsel explained the role of the bond counsel is to ensure the County proceeds through the bond issuance in a legal manner. He added the bond counsel also advises on municipal tax-exempt bonds and prepares the disclosure statement. The disclosure statement provides background information about the County and the proposed bond issuance for the approved projects appropriated in the fiscal year budget.

The Director said the County's Municipal Advisor ("Advisor") is responsible for the vetting of the projects to make sure bond financing is appropriate and the expenses and reimbursements qualify under bond funds.

He explained the fee of \$85,000 is based on the dollar amount of the bond, the number of issuances under the bond, and the number of older or higher interest bonds that are refunded.

Your Committee questioned the impact on the County if the State's proposal regarding a real property tax surcharge on investment property to support the State Department of Education moves forward. The Advisor said the matter would be included in the bond official statement so that investors would be aware of the issue.

The Advisor explained approximately 80 percent of the County's money is generated through real property tax. The proposed surcharge on investment property to fund schools is significant. He said from a bond rating agency or investor standpoint, the surcharge could have an impact on the County's flexibility to adjust real property tax rates should there be financial stress or a downturn in the economy. He could not confirm the surcharge would result in a rating downgrade for the County.

Your Committee questioned the ability of the County to sell over \$80 million in municipal bonds. The Advisor said the risk to sell bonds would be very low because of the County's high bond rating, a strong bond market, and a low volume of available bonds on the market. He said the real property tax surcharge may have an effect on the interest rates of the bond by a couple of percentage points, but he did not see a disinterest by investors in the County's bonds.

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The Director said the firm was the winning bidder in the County's procurement process. Your Committee was satisfied with the qualifications and performance of the firm in its prior representations of the County, and recommended the firm be retained.

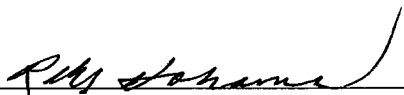
Your Committee voted 8-0 to recommend adoption of the proposed resolution and filing of the communication. Committee Chair Hokama, Vice-Chair White, and members Atay, Carroll, Cochran, Crivello, King, and Sugimura voted "aye." Committee member Guzman was excused.

Your Committee is in receipt of a revised proposed resolution entitled "AUTHORIZING THE EMPLOYMENT OF SPECIAL COUNSEL HAWKINS DELAFIELD & WOOD LLP, FOR THE COUNTY OF MAUI 2018 GENERAL OBLIGATION BOND ISSUANCE," approved as to form and legality by the Department of the Corporation Counsel, incorporating nonsubstantive revisions.

Your Budget and Finance Committee RECOMMENDS the following:

1. That Resolution _____, as revised herein and attached hereto, entitled "AUTHORIZING THE EMPLOYMENT OF SPECIAL COUNSEL HAWKINS DELAFIELD & WOOD LLP, FOR THE COUNTY OF MAUI 2018 GENERAL OBLIGATION BOND ISSUANCE," be ADOPTED; and
2. That County Communication 18-221 be FILED.

This report is submitted in accordance with Rule 8 of the Rules of the Council.



RIKI HOKAMA, Chair

Resolution

No. _____

AUTHORIZING THE EMPLOYMENT OF SPECIAL COUNSEL
HAWKINS DELAFIELD & WOOD LLP, FOR THE
COUNTY OF MAUI 2018 GENERAL OBLIGATION BOND ISSUANCE

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 HAWKINS DELAFIELD & WOOD LLP to represent the County of Maui as Bond and Disclosure Counsel; and

WHEREAS, the Department of Finance issued a Request for Proposal for Qualified Bond and Disclosure Counsel; and

WHEREAS, HAWKINS DELAFIELD & WOOD LLP was selected by the Department of Finance; now, therefore,

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

1. That the Council hereby authorizes the employment of the firm HAWKINS DELAFIELD & WOOD LLP, as Bond and Disclosure Counsel to represent the County of Maui during its 2018 General Obligation Bond Issuance; and

2. That the total compensation for the employment of the firm HAWKINS DELAFIELD & WOOD LLP, as Bond and Disclosure Counsel shall not exceed \$85,000; and


3. That expenses for HAWKINS DELAFIELD & WOOD LLP, shall be limited to \$2,500; and

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4. That the expenditures of additional funds shall require prior Council approval; and

5. 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:



JEFFREY UEOKA
Deputy Corporation Counsel
County of Maui
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