

Resolution

No. 23-116

AMENDING RESOLUTION 22-255 AND AUTHORIZING THE EMPLOYMENT OF SPECIAL COUNSEL RELATED TO THE ENERGY PERFORMANCE CONTRACT

WHEREAS, Mayor Richard T. Bissen, Jr. has made energy savings and fiscal responsibility a priority of his administration; and

WHEREAS, by Resolution 22-255, the Council previously authorized the employment of Katten Muchin Rosenman LLP as special counsel to represent and advise the County for the general obligation bond issuance; and

WHEREAS, amendments to the Energy Performance Contract, Contract No. C7619 between the County of Maui and Johnson Controls, Inc., dated May 6, 2022, involved the issuance of bonds; and

WHEREAS, Katten Muchin Rosenmann LLP has provided legal advice on a similar contract with Johnson Controls, Inc. to another municipality in the State of Hawai'i; and

WHEREAS, the Council finds that there is a real necessity to again retain the firm of Katten Muchin Rosenmann LLP, as special counsel to represent the County in negotiating amendments to the Energy Performance Contract because of the complexity of the contract and the unique experience and expertise of Katten Muchin Rosenman LLP; and

Resolution No.: 23-116

WHEREAS, Katten Muchin Rosenmann LLP and the Department of the Corporation Counsel will work as a team in this matter, with the Department acting as chief legal advisor and representative of the County under Section 8-2(3), of the Charter of the County of Maui; and

WHEREAS, this Resolution is time sensitive because the County is negotiating amendments to the Energy Performance Contract; and

WHEREAS, Katten Muchin Rosenmann LLP's conduct in this matter will reflect its 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 the Council authorizes the employment of Katten Muchin Rosenman LLP as special counsel to represent the County in reviewing and negotiating amendments to Contract No. C7619, the Energy Performance Contract between the County of Maui and Johnson Controls, Inc.;

2. That the total compensation for the employment of the firm Katten Muchin Rosenman LLP for this matter will not exceed \$30,000, and will be paid by Johnson Controls, Inc. as part of the costs associated with the Energy Performance Contract;

3. The Department of Corporation Counsel is responsible for reviewing all bills from Katten Muchin Rosenman LLP for work relating to amendments to Contract No. C7619;

Resolution No.: 23-116

4. That the expenditures of additional funds requires Council approval;
5. That the Department of the Corporation Counsel update the Council's leadership on the matter; and
6. That certified copies of this resolution be transmitted to the Mayor, the Director of Finance, the Corporation Counsel, and Katten Muchin Rosenman LLP.

APPROVED AS TO FORM
AND LEGALITY:



KEOLA R. WHITTAKER
Deputy Corporation Counsel
LF2022-1142
2023-01-26 Reso Amd Reso 22-255.docx

INTRODUCED BY:

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

ALICE L. LEE

Upon the request of the Mayor.