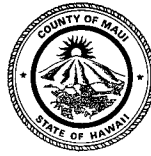


DANNY A. MATEO
County Clerk



JOSIAH K. NISHITA
Deputy County Clerk

OFFICE OF THE COUNTY CLERK

COUNTY OF MAUI
200 SOUTH HIGH STREET
WAILUKU, MAUI, HAWAII 96793
www.mauicounty.gov/county/clerk

August 25, 2015

Honorable Don S. Guzman, Chair
Committee of the Whole
Council of the County of Maui
Wailuku, Hawaii 96793

2015 AUG 25 PM 2:07
OFFICE OF THE
COUNTY COUNCIL

RECEIVED

Dear Chair Guzman:

Respectfully transmitted is a copy of COUNTY COMMUNICATION NO. 15-219, from Council Chair Mike White, that was referred to your Committee by the Council of the County of Maui at its meeting of August 25, 2015.

Respectfully,

A handwritten signature in black ink that reads "Danny A. Mateo". The signature is written in a cursive style with a large, sweeping flourish at the end.

DANNY A. MATEO
County Clerk

/jym

Enclosure

cc: Director of Council Services

Council Chair
Mike White

Vice-Chair
Don S. Guzman

Presiding Officer Pro Tempore
Michael P. Victorino

Councilmembers
Gladys C. Baisa
Robert Carroll
Elle Cochran
Don Couch
Stacy Crivello
Riki Hokama



Director of Council Services
David M. Raatz, Jr., Esq.

COUNTY COUNCIL
COUNTY OF MAUI
200 S. HIGH STREET
WAILUKU, MAUI, HAWAII 96793
www.MauiCounty.us

August 18, 2015

RECEIVED
2015 AUG 18 AM 11:52
OFFICE OF THE
COUNTY CLERK

Mr. Danny A. Mateo, County Clerk
Office of the County Clerk
County of Maui
Wailuku, Hawaii 96793

Dear Mr. Mateo:

SUBJECT: SPECIAL COUNSEL IN CHRISTOPHER SALEM V. COUNTY OF MAUI, ET AL.

May I request the attached proposed resolutions, entitled "AUTHORIZING THE EMPLOYMENT OF SPECIAL COUNSEL IN CHRISTOPHER SALEM V. COUNTY OF MAUI, ET AL." and "AUTHORIZING THE EMPLOYMENT OF SPECIAL COUNSEL FOR PATRICK WONG, IN HIS INDIVIDUAL CAPACITY, IN CHRISTOPHER SALEM V. COUNTY OF MAUI, ET AL.," be placed on the next Council meeting agenda.

Sincerely,

A handwritten signature in black ink, appearing to read "Mike White".

MIKE WHITE
Council Chair

chr:ltr:150818a:dr

Attachments

COUNTY COMMUNICATION NO. 15-219

Resolution

No. _____

AUTHORIZING THE EMPLOYMENT OF SPECIAL COUNSEL IN CHRISTOPHER SALEM V. COUNTY OF MAUI, ET AL.

WHEREAS, the Council is authorized to retain or employ special counsel by resolution adopted by a two-thirds vote, pursuant to Section 3-6(6) of the Revised Charter of the County of Maui (1983), as amended; and

WHEREAS, the Council finds that, because of a conflict of interests, there is a real necessity to retain special counsel to represent the County and, to the extent consistent with Hawaii Rules of Professional Conduct, other Defendants in Christopher Salem v. County of Maui, et al., an action filed in the Second Circuit Court for the State of Hawaii, alleging fraud and violations of the Charter; and

WHEREAS, based upon a preliminary investigation of this matter, it appears the allegations against individually named Defendants contained in the complaint are without merit; and

WHEREAS, in the opinion of the Department of the Corporation Counsel, Charter Section 8-2.3 and Rule 1.7 of the Hawaii Rules of Professional Conduct prevent the Corporation Counsel from representing the County's interests in this case; and

WHEREAS, it appears at this time it would be in the best interest of the County of Maui to authorize the employment of special counsel to represent the County and, to the extent consistent with Hawaii Rules of

Resolution No. _____

Professional Conduct, other Defendants in this case and that there is a real necessity to do so; and

WHEREAS, special counsel shall be selected in a procedure in compliance with the Hawaii Public Procurement Code; and

WHEREAS, special counsel take all possible steps to minimize attorneys' fees and costs; and

WHEREAS, the Department of the Corporation Counsel, particularly including Deputy Corporation Counsel without conflicts of interests in this case and legal support staff, shall provide necessary support services to special counsel and, if consistent with the Hawaii Rules of Professional Responsibility, joint legal representation, along with special counsel; now, therefore,

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

1. That the Council hereby authorizes the employment of special counsel in Christopher Salem v. County of Maui, et al.;

2. That total compensation for the employment of special counsel shall not exceed \$75,000;

3. That the hourly rate of compensation for special counsel shall not exceed \$250;

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

5. That the compensable costs shall include: (a) fees for printing and witnesses; (b) fees for copies necessarily obtained for use in

Resolution No. _____

the case; (c) fees of the clerk and marshal; (d) fees of the court reporter for necessary transcripts; (e) docket fees; and (f) compensation of court-appointed experts and interpreters;

6. 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) travel, unless justified by extraordinary or compelling circumstances; (g) investigative expenses; and (h) other costs reasonably considered part of a law firm's overhead;

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

8. 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

Department of the Corporation Counsel
County of Maui

chr:misc:150818b

Resolution

No. _____

AUTHORIZING THE EMPLOYMENT OF SPECIAL COUNSEL FOR
PATRICK WONG, IN HIS INDIVIDUAL CAPACITY, IN
CHRISTOPHER SALEM V. COUNTY OF MAUI, ET AL.

WHEREAS, the Council is authorized to retain or employ special counsel by resolution adopted by a two-thirds vote, pursuant to Section 3-6(6) of the Revised Charter of the County of Maui (1983), as amended; and

WHEREAS, the Council finds that, because of a conflict of interests, there is a real necessity to retain special counsel to represent Patrick Wong, Corporation Counsel, who has been named as a Defendant in his individual capacity, in Christopher Salem v. County of Maui, et al., an action filed in the Second Circuit Court for the State of Hawaii, alleging fraud and violations of the Charter; and

WHEREAS, based upon a preliminary investigation of this matter, it appears the allegations contained in the complaint are without merit; and

WHEREAS, in the opinion of the Department of the Corporation Counsel, Charter Section 8-2.3 and Rule 1.7 of the Hawaii Rules of Professional Conduct prevent the Corporation Counsel from representing his individual interests and the County's interests in this case; and

Resolution No. _____

WHEREAS, it appears at this time it would be in the best interest of the County of Maui to provide special counsel to Patrick Wong, Corporation Counsel, to represent him in his individual capacity in this case and that there is a real necessity to do so; and

WHEREAS, special counsel shall be selected in a procedure in compliance with the Hawaii Public Procurement Code; and

WHEREAS, special counsel take all possible steps to minimize attorneys' fees and costs; and

WHEREAS, the Department of the Corporation Counsel, particularly including Deputy Corporation Counsel without conflicts of interests in this case and legal support staff, shall provide necessary support services to special counsel and, if consistent with the Hawaii Rules of Professional Responsibility, joint legal representation of Patrick Wong, in his individual capacity, along with special counsel; now, therefore,

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

1. That the Council hereby authorizes the employment of special counsel to represent Patrick Wong, Corporation Counsel, in his individual capacity, in Christopher Salem v. County of Maui, et al.;

2. That total compensation for the employment of special counsel shall not exceed \$75,000;

3. That the hourly rate of compensation for special counsel shall not exceed \$250;

Resolution No. _____

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

5. That the compensable costs shall include: (a) fees for printing and witnesses; (b) fees for copies necessarily obtained for use in the case; (c) fees of the clerk and marshal; (d) fees of the court reporter for necessary transcripts; (e) docket fees; and (f) compensation of court-appointed experts and interpreters;

6. 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) travel, unless justified by extraordinary or compelling circumstances; (g) investigative expenses; and (h) other costs reasonably considered part of a law firm's overhead;

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

8. 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

Department of the Corporation Counsel
County of Maui

chr:misc:150818