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

April 27, 2021

Director of Council Services
Traci N. T. Fujita, Esq.

RECEIVED

2021 APR 27 PM 3:47

OFFICE OF THE
COUNTY CLERK

The Honorable Alice L. Lee
Council Chair
County of Maui
Wailuku, Hawaii 96793

Dear Chair Lee:

SUBJECT: **SPECIAL COUNSEL FOR CHARTER COMMISSION**
(PAF 21-076)

May I request the attached proposed resolution, entitled "AUTHORIZING THE RETENTION OF SHERRY BRODER AS SPECIAL COUNSEL FOR THE CHARTER COMMISSION," be placed on the next Council meeting agenda.

Sincerely,

A handwritten signature in black ink, appearing to read "Keani N.W. Rawlins-Fernandez".

KEANI N.W. RAWLINS-FERNANDEZ
Council Vice-Chair

paf:rem:21-076f

Enclosure

COUNTY COMMUNICATION NO. 21-227

Resolution

No. _____

AUTHORIZING THE RETENTION OF SHERRY BRODER AS SPECIAL COUNSEL FOR THE CHARTER COMMISSION

WHEREAS, under Section 3-6 of the Revised Charter of the County of Maui (1983), as amended, the Maui County Council alone is authorized to retain special counsel as legal representative for any special matter presenting a real necessity for such employment upon a resolution adopted by a two-thirds vote; and

WHEREAS, according to correspondence dated April 5, 2021 (Exhibit "A"), the Charter Commission has requested special counsel to opine as to the application of Chapter 50, Hawaii Revised Statutes; and

WHEREAS, the National Civic League, at page 14 of its "Guide for Charter Commissions" (6th edition), advises that it is important for any charter commission to be staffed by "a knowledgeable, state-specific legal advisor," such as an attorney who "has experience drafting charters or charter revisions," perhaps including "outside legal counsel"; and

WHEREAS, attorney Sherry Broder of O`ahu is uniquely qualified to serve as the Charter Commission's special counsel based, in part, on her experience as analyst to the Maui County Charter Commission and counsel to the City and County of Honolulu Charter Review Commission;

WHEREAS, because of the unique, independent work required of the Charter Commission, and to provide the Charter Commission with legal services by a knowledgeable legal advisor with experience drafting charter revisions, there is a real necessity to retain special counsel for the Charter Commission; now, therefore,

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

1. That the Council authorizes the retention of Sherry Broder as special counsel to provide legal representation to the Charter Commission, including legal advice but not including legal advocacy in the adversary system;
2. That the special counsel's total compensation must not exceed \$50,000;

Resolution No. _____

3. That compensable costs include fees for necessary printing and copying and pre-approved travel;
4. That non-compensable costs include telephone calls, facsimile charges, postal charges, messenger charges, fees for computerized legal research, and other costs reasonably considered part of a lawyer's or law firm's overhead;
5. That the Corporation Counsel is requested to cooperate with the special counsel in legal representation of the Charter Commission; and
6. That certified copies of this resolution be transmitted to the Chair of the Charter Commission, the Council Chair, the Mayor, the Corporation Counsel, the Director of Council Services, the Director of Finance, and Sherry Broder, Esq.

APPROVED AS TO FORM AND LEGALITY

Richelle M. Thomson

RICHELLE M. THOMSON
First Deputy Corporation Counsel
County of Maui

paf:rem:21-076e

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CHARTER COMMISSION
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April 5, 2021

Alice L. Lee
Chair
Maui County Council
200 South High Street
Wailuku, HI 96793

via electronic mail
Alice.Lee@mauicounty.us

Re: Request for Approval to Retain Special Counsel

Dear Chair Lee,

At its April 1, 2021 meeting, the Charter Commission voted to request the Maui County Council authorize, pursuant to Section 3-6 of the Charter, the retaining of special counsel as its legal representative regarding the applicability of Chapter 50, HRS, or any portions thereof, to the work of the Charter Commission.

The Commission has been presented with conflicting legal opinions by, on the one hand, the Department of Corporation Counsel, and on the other, its chairperson, the Attorney General of Hawai'i, and the Office of Council Services regarding the applicability of Chapter 50, HRS to the Commission's structure, organization and operation, including but not limited to the time in which the commission may conduct its work and the propriety of its members being compensated. These matters implicate a real necessity for such employment because of the short time for the commission's work and the uncertainty that surrounds what law controls the commission's conduct, among others.

"Exhibit A"

Council Chair Lee
April 5, 2021
Page 2

The Commission seeks to obtain representation to get independent advice and will separately seek authorization from the Council, if it decides based upon this advice, whether litigation is necessary or prudent.

Very truly yours,

A handwritten signature in black ink, appearing to read "Lance D. Collins". The signature is fluid and cursive, with a large initial "L" and a distinct "D" at the end.

Lance D. Collins
Chair

cc: All Councilmembers (*via electronic mail*)
Moana Lutey, Corporation Counsel (*via electronic mail*)
Traci Fujita-Villarosa, Director of Council Services (*via electronic mail*)