

COUNCIL OF THE COUNTY OF MAUI

POLICY AND INTERGOVERNMENTAL AFFAIRS COMMITTEE

May 7, 2013

**Committee
Report No.** _____

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

Chair and Members:

Your Policy and Intergovernmental Affairs Committee, having met on April 12, 2013, makes reference to County Communication 13-41, from Council Chair Gladys C. Baisa, regarding litigation matters.

By correspondence dated April 3, 2013, the Department of the Corporation Counsel requested consideration of a proposed resolution entitled "AUTHORIZING THE EMPLOYMENT OF SPECIAL COUNSEL ORTIZ & KATANO, A LAW CORPORATION, IN THE CLAIM OF BRIDGET NAKAMA AGAINST THE COUNTY OF MAUI". Attached to the request is a copy of the claim and a statement of qualifications for the firm Ortiz & Katano, A Law Corporation. The purpose of the proposed resolution is to authorize the employment of Ortiz & Katano, A Law Corporation, as special counsel in the case for a total compensation of \$60,000.

The claim alleges that on September 4, 2011, Ms. Nakama sustained injuries when she was hit by a police vehicle while walking in a crosswalk at the War Memorial Stadium in Wailuku, Hawaii.

A Deputy Corporation Counsel gave a brief overview of the case and recommended your Committee consider the matter in an executive meeting. Your Committee voted to convene an executive meeting, closed to the public, pursuant to Section 92-5(a)(4), Hawaii Revised Statutes ("HRS"), to consult with legal counsel on questions and issues pertaining to the powers, duties, privileges, immunities, and liabilities of the County, the Council, and the Committee; and Section 92-5(a)(8), HRS, to deliberate or make a decision upon a matter that requires the consideration of information that must be kept confidential pursuant to a State or Federal law, or a court order.

Following the executive meeting, your Committee reconvened in regular session. Based on the information received and the recommendation of the Department of the

COUNCIL OF THE COUNTY OF MAUI
**POLICY AND INTERGOVERNMENTAL
AFFAIRS COMMITTEE**

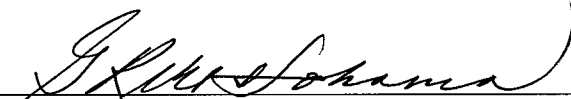
Page 2

**Committee
Report No.** _____

Corporation Counsel, your Committee voted 7-0 to recommend adoption of the proposed resolution. Committee Chair Hokama, Vice-Chair Couch, and members Carroll, Cochran, Crivello, Guzman, and White voted "aye". Committee members Baisa and Victorino were excused.

Your Policy and Intergovernmental Affairs Committee RECOMMENDS that Resolution _____, attached hereto, entitled "AUTHORIZING THE EMPLOYMENT OF SPECIAL COUNSEL ORTIZ & KATANO, A LAW CORPORATION, IN THE CLAIM OF BRIDGET NAKAMA AGAINST THE COUNTY OF MAUI", be ADOPTED.

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



G. RIKI HOKAMA, Chair

Resolution

No. _____

AUTHORIZING THE EMPLOYMENT OF SPECIAL COUNSEL
ORTIZ & KATANO, A LAW CORPORATION, IN
THE CLAIM OF BRIDGET NAKAMA AGAINST THE COUNTY OF MAUI

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 ORTIZ & KATANO, A LAW CORPORATION (the firm) as special counsel to represent the County of Maui in the claim of Bridget Nakama because of a conflict of interest; 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 the Council hereby authorizes the employment of the firm ORTIZ & KATANO, A LAW CORPORATION as special counsel to represent the County of Maui in the claim of Bridget Nakama; and

2. That the total compensation for the employment of the firm ORTIZ & KATANO, A LAW CORPORATION as special counsel shall not exceed \$60,000; and

3. That Jonathan L. Ortiz of ORTIZ & KATANO, A LAW CORPORATION shall perform all duties required in the defense of

Resolution No. _____

this claim; and

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

5. That the compensable costs shall include: (1) fees for printing and witnesses; (2) fees for copies necessarily obtained for use in the case; (3) fees of the clerk and marshall; (4) fees of the court reporter for necessary transcripts; (5) docket fees; and (6) compensation of court-appointed experts and interpreters; and

6. That the non-compensable costs shall include: (1) telephone calls; (2) facsimile charges; (3) postal charges; (4) messenger charges; (5) fees for computerized legal research; (6) travel, unless justified by extraordinary or compelling circumstances; (7) investigative expenses; (8) other costs reasonably considered part of a law firm's overhead; and

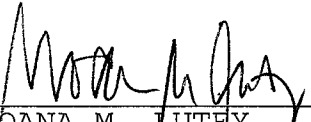
7. That in instances of travel, both inter-island and out-of-state travel includes travel on regular coach economy fare and must be pre-approved by the Corporation Counsel; and

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

Resolution No. _____

9. 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:



MOANA M. LUTEY
Deputy Corporation Counsel
County of Maui

S:\ALL\MML\Claims\2011 Claims\Nakama\reso.special counsel.wpd