

Rail's legal bills total \$1.87M so far

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An artist's rendering shows the proposed rail station at Leeward Community College.

The city has spent more than \$1.87 million and hired seven private law firms to handle legal work related to its rail project.

In addition to the money already spent, the City Council on Wednesday authorized the corporation counsel to pay an additional \$400,000 in anticipated new legal costs. That money will be used to defend against lawsuits challenging the rail project.

Opponents, including former Gov. Ben Cayetano, have sued in federal court to try to block the project's construction, arguing its environmental impact statement is inadequate.

The city is also paying to fight a separate lawsuit pending before the state Supreme Court that



seeks to halt all work on the project until the city completes an archaeological survey along the entire 20-mile route.

The Council Wednesday approved the additional funds for legal costs despite objections from Budget Chairwoman Ann Kobayashi, who said she is concerned that "no matter how much they budgeted for legal fees, you know, it doesn't mean anything because they'll just keep spending."

Kobayashi said early estimates put the total cost of the rail system at about \$3 billion, and now the city estimates the

project will cost \$5.27 billion.

"The spending of the money is just out of control, and I just worry for all of our residents," Kobayashi said.

Councilman Tom Berg also voted against the additional funding, saying he would rather the city revisit the environmental impact statement and adopt a different rail technology such as magnetic levitation.

Legal expenses related to the project are generally paid by the Honolulu Authority for Rapid Transportation from funds designated for rail.

A statement HART released Wednesday night said that "while we are conscientious about all expenses incurred, please note that the \$1.87 million spent to date on legal contracts make up less than 1/2 percent of all (general excise tax) revenue spent on the project."

A breakdown of rail-related legal costs released this week to the Star-Advertiser by the corporation counsel shows the city hired outside law firms to handle legal work ranging from procurement challenges to advice on labor agreements and utility issues.

The Council has also authorized city lawyers to pay private firms hundreds of thousands of dollars in additional legal fees if necessary.

The legal fees paid by the city and the money authorized so far include:

- » \$449,512 paid to the Hawaii-based firm Carlsmith Ball LLP to defend against lawsuits filed in state and federal court over the EIS. With the Council action Wednesday, the city has now authorized a total of \$1 million for Carlsmith Ball to defend against the two lawsuits, but most of that money has not yet been spent.
- » \$571,374 to the national law firm Nossaman LLP for advice on federal transit issues and development of the EIS.

The city also paid Nossaman another \$309,750 to defend against the federal lawsuit over the EIS, according to the city. The Council has authorized up to \$400,000 to be paid to Nossaman for that legal work, but not all of that money has been spent.

- » \$335,290 for the Hawaii-based firm Kobayashi Sugita & Goda, which was hired to defend procurement process challenges that led to the selection of Ansaldo Honolulu JV for a core systems contract. The firm also provided the city advice on issues related to bonds.

The \$1.4 billion core systems contract calls for Ansaldo to build train cars and operate the rail system, and is the largest contract in city history.

Unsuccessful bidder Bombardier Transportation (Holdings) USA filed a challenge to the contract award, but that was rejected in state court. Bombardier later filed an appeal, which is pending before the state Intermediate Court of Appeals.

The Council has authorized up to \$400,000 to pay Kobayashi Sugita & Goda for that legal work, but not all of that money has been spent.

- » \$59,052 to pay the Honolulu law firm McCorriston Miller Mukai MacKinnon to defend against a protest in connection with an effort to contract with an insurance broker to handle an Owner Controlled Insurance Program for the rail project.

The city canceled the insurance contract award because of irregularities in the evaluation process. The bid dispute was later dropped, and the contract with the McCorriston firm was closed.

- » \$95,073 to the national law firm Ogletree Deakins for advice on project labor agreements. This contract was later closed.
- » \$42,448 to the Honolulu law firm Yamamoto & Settle for advice on utility issues.
- » \$4,393 to the firm Orrick Herrington & Sutcliffe LLP for advice on bond financing.
- » The Council also authorized up to \$141,500 to pay Kobayashi Sugita & Goda to defend against a complaint filed against the city by Communications Pacific Inc. in connection with a dispute about the 2005 city contract awarded for the rail system alternatives analysis.