



RESOLUTION

TO RETAIN THE SERVICES OF COX FRICKE LLP AS SPECIAL COUNSEL TO REPRESENT DEFENDANT CHARLES W. TOTTO IN A LEGAL ACTION ENTITLED KEALOHA, ET AL. V. TOTTO, ET AL., CV16-1-1166-6 GWBC.

WHEREAS, Plaintiffs Louis M. Kealoha, Katherine E. Kealoha, and Kristina Kealoha have named Charles W. Tutto, individually and as Executive Director and Legal Counsel of the Honolulu Ethics Commission; Letha A.S. Decaires, individually and as investigator for the Honolulu Ethics Commission; Honolulu Ethics Commission; and The City and County of Honolulu, as defendants in a civil lawsuit entitled Kealoha, et al. v. Tutto, et al., CV16-1-1166-6 GWBC ("Lawsuit"); and

WHEREAS, pursuant to Section 5-203 of the Revised Charter of the City and County of Honolulu 1973 (2000 ed.), as amended ("RCH"), the Corporation Counsel "shall represent the city in all legal proceedings, except as otherwise provided in this charter. The corporation counsel shall perform all other services incident to the office as may be required by this charter or by law[;]" and

WHEREAS, the Department of Corporation Counsel has determined that it is disqualified from representing Defendant Charles W. Tutto in the Lawsuit; and

WHEREAS, based upon the foregoing, it is necessary to retain special counsel to represent Defendant Charles W. Tutto in the Lawsuit; and

WHEREAS, pursuant to Section 5-204.3, RCH, "Where the corporation counsel has been disqualified, special counsel may be retained by any officer or employee in matters relating to the official powers and duties of such officer or employee.... The council shall appropriate the necessary funds to pay reasonable fees for such legal services[;]" and

WHEREAS, the Department of the Corporation Counsel seeks to retain Fricke Cox LLP to represent Defendant Charles W. Tutto in the Lawsuit; now, therefore,

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RESOLUTION

BE IT RESOLVED by the Council of the City and County of Honolulu that:

1 Pursuant to Sections 5-203 and 5-204.3, RCH, the City Council hereby authorizes the retention of the law firm of Cox Fricke LLP as Special Counsel to represent Defendant Charles W. Totto; and

2. The City and County of Honolulu shall pay the Special Counsel at the rate of \$250.00 per hour for partners including Robert K. Fricke, Esq., \$200.00 per hour for associates, and \$85.00 per hour for paralegals, for preparation, research, and representation in legal proceedings, with these rates to apply at least through the conclusion of any court proceedings, together with reasonable costs incurred in connection with the litigation and appellate proceedings, but not to exceed the total sum of One Hundred Thousand Dollars (\$100,000.00), provided that this total amount may be increased by the Council if it is satisfied with the justification made upon the recommendation of the Corporation Counsel for an increase in the stated maximum amount;

3. The Special Counsel may be paid monthly for its services, provided that it submits to the Corporation Counsel an itemized monthly statement reflecting the specific services rendered, together with the total number of hours billed for the specific services at one-tenth of an hour, and such monthly statements shall be reviewed and approved by the Corporation Counsel before any payments are made by the City;

4. The Director of Budget and Fiscal Services is authorized to execute a contract with Cox Fricke LLP for the legal representation of Defendant Charles W. Totto in the Lawsuit and for the scope specified above; and

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RESOLUTION

BE IT FINALLY RESOLVED by the Council that the Clerk be and is hereby directed to transmit copies of this Resolution to the Department of the Corporation Counsel and the law firm of Cox Fricke LLP, 500 Ala Moana Blvd, Suite 3-499, Honolulu, Hawaii 96813.

INTRODUCED BY:

 (or)

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DATE OF INTRODUCTION:

**AUG 24 2016**

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Honolulu, Hawaii

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Councilmembers

CITY COUNCIL  
CITY AND COUNTY OF HONOLULU  
HONOLULU, HAWAII  
CERTIFICATE

**RESOLUTION 16-222**

Introduced: 08/24/16 By: RON MENOR – BY REQUEST Committee: EXECUTIVE MATTERS AND LEGAL AFFAIRS

Title: RESOLUTION TO RETAIN THE SERVICES OF COX FRICKE LLP AS SPECIAL COUNSEL TO REPRESENT DEFENDANT CHARLES W. TOTTO IN A LEGAL ACTION ENTITLED KEALOHA, ET AL. V. TOTTO, ET AL., CV16-1-1166-6 GWBC.

Voting Legend: \* = Aye w/Reservations

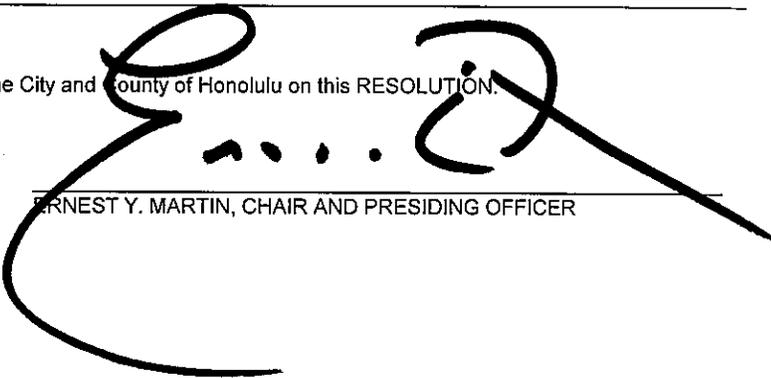
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08/23/16	EXECUTIVE MATTERS AND LEGAL AFFAIRS (EXECUTIVE SESSION)	CR-254 – RESOLUTION REPORTED OUT OF COMMITTEE FOR ADOPTION.
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09/07/16	COUNCIL	CR-254 AND RESOLUTION 16-222 WERE ADOPTED. 9 AYES: ANDERSON, ELEFANTE, FUKUNAGA, KOBAYASHI, MANAHAN, MARTIN, MENOR, OZAWA, PINE.

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I hereby certify that the above is a true record of action by the Council of the City and County of Honolulu on this RESOLUTION.

  
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GLEN I. TAKAHASHI, CITY CLERK

  
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ERNEST Y. MARTIN, CHAIR AND PRESIDING OFFICER