RESOLUTION

TO RETAIN THE SERVICES OF MCCORRISTON MILLER MUKAI & MACKINNON LLP AS SPECIAL DEPUTY CORPORATION COUNSEL TO REPRESENT CHIEF LOUIS M. KEALOHA IN A LEGAL ACTION ENTITLED CHRISTOPHER BAKER V. LOUIS M. KEALOHA, ET AL., CIVIL NO. CV11-00528 ACK-KSC

WHEREAS, Louis M. Kealoha, Chief of Police of the Honolulu Police Department ("Chief Kealoha") is named in his official and individual capacity as a defendant in a civil lawsuit entitled Christopher Baker v. Louis Kealoha, et al., CV11-00528 ACK-KSC ("Baker Lawsuit"); and

WHEREAS Chief Kealoha subsequently named Charles W. Totto, individually and as Executive Director and Legal Counsel of the Honolulu Ethics Commission; Honolulu Ethics Commission; and the City and County of Honolulu, as defendants in a civil lawsuit entitled Louis M. Kealoha, et al. v. Charles W. Totto, et al., Civil No. 16-1-1166-6 GWBC ("Totto 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 there is a potential conflict between its representation of the City and County of Honolulu in the Totto Lawsuit and its representation of Chief Kealoha in the Baker Lawsuit; and

WHEREAS the Department of Corporation Counsel attempted to, but was unable to obtain a waiver of said potential conflict from Chief Kealoha; and

WHEREAS representation of Chief Kealoha is otherwise impractical due to the Totto Lawsuit and communication issues arising out of that lawsuit; and

WHEREAS, pursuant to RCH Section 5-204, "Special deputies may be appointed by the corporation counsel, with the approval of the city council[" and

WHEREAS, based upon the foregoing, it is necessary to appoint and retain a special deputy corporation counsel to represent and defend Chief Kealoha in the Baker Lawsuit; and

BAKER.R16.1
WHEREAS, McCorriston Miller Mukai MacKinnon LLP possesses the specialized legal knowledge and expertise to defend Chief Kealoha, as special deputy corporation counsel ("Special Deputy") in this lawsuit; now therefore,

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

1. Pursuant to RCH Section 5-204, the City Council authorizes the appointment and retention of the law firm of McCorriston Miller Mukai MacKinnon LLP as Special Deputy to represent Chief Kealoha in the defense of, and any appellate proceedings arising out of, the above-referenced matter;

2. The total sum to be expended to pay Special Deputy shall not exceed Fifty Thousand Dollars ($50,000.00), but this 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. Special Deputy may be paid monthly for its services, provided that it submits to the Department of 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 the Department of the Corporation Counsel reviews and approves the statements before any payments may be made by the City; and

4. The Director of Budget and Fiscal Services is authorized to execute a contract with the law firm of McCorriston Miller Mukai MacKinnon LLP for the legal representation of Chief Kealoha in the above-referenced matter; and
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 McCorriston Miller Mukai MacKinnon LLP, 5 Waterfront Plaza, 4th Floor, 500 Ala Moana Boulevard, Honolulu, Hawaii 96813.

INTRODUCED BY: 

DATE OF INTRODUCTION: 

NOV 17 2016
Honolulu, Hawaii
RESOLUTION 16-303

EXECUTIVE MATTERS AND LEGAL AFFAIRS

Title: RESOLUTION TO RETAIN THE SERVICES OF MCCORRISTON MILLER MUKAI & MACKINNON LLP AS SPECIAL DEPUTY CORPORATION COUNSEL TO REPRESENT CHIEF LOUIS M. KEALOHA IN A LEGAL ACTION ENTITLED CHRISTOPHER BAKER V. LOUIS M. KEALOHA, ET AL., CIVIL NO. CV11-00528 ACK-KSC.

Voting Legend: * = Aye w/Reservations

11/15/16 EXECUTIVE MATTERS AND LEGAL AFFAIRS (EXECUTIVE SESSION) CR-347 – RESOLUTION REPORTED OUT OF COMMITTEE FOR ADOPTION.

12/01/16 COUNCIL CR-347 AND RESOLUTION 16-303 WERE ADOPTED.
9 AYES: ANDERSON, ELEFANTE, FUKUNAGA, KOBAYASHI, MANAHAN, MARTIN, MENOR, OZAWA, PINE.

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.

[Signatures]

GLEN I. TAKAHASHI, CITY CLERK

ERNEST Y. MARTIN, CHAIR AND PRESIDING OFFICER