



## RESOLUTION

TO REQUEST ADDITIONAL FUNDS FOR THE SERVICES OF CARLSMITH BALL LLP AS SPECIAL DEPUTY CORPORATION COUNSEL TO REPRESENT THE CITY AND COUNTY OF HONOLULU IN MATTERS RELATING TO THE ENVIRONMENTAL IMPACT ASSESSMENT PROCESS FOR THE HONOLULU HIGH CAPACITY TRANSIT CORRIDOR PROJECT, A FIXED GUIDEWAY TRANSIT SYSTEM PROJECT.

WHEREAS, the City and County of Honolulu (the "City") has commenced work on the Honolulu High Capacity Transit Corridor Project, a fixed guideway transit system project ("HHCTCP" or "Project"), which is a Federal Transit Administration ("FTA") New Starts project; and

WHEREAS, as part of the approval process for the Project, the City has completed the environmental impact assessment process for the Project in compliance with the National Environmental Policy Act ("NEPA") and the Hawaii Environmental Policy Act ("HEPA"), Chapter 343, Hawaii Revised Statutes; and

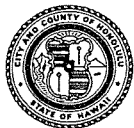
WHEREAS, by Resolution No. 09-295, adopted October 27, 2009, the City Council authorized the retention of the law firm of Carlsmith Ball LLP to serve as Special Deputy Corporation Counsel in representing the City and County of Honolulu in legal challenges regarding the City's compliance with NEPA and HEPA; and

WHEREAS, Resolution No. 09-295 authorized a maximum of \$250,000.00 for legal fees; and

WHEREAS, a complaint was filed in the Circuit Court of the First Circuit against City officials and entities, as well as State of Hawaii officials and entities, in the lawsuit entitled, Kaleikini v. Yoshioka et al., Civil No. 11-1-0206-01 GWBC; and

WHEREAS, the Special Deputy Corporation Counsel represented the City officials and entities in the aforesaid lawsuit and the First Circuit Court granted summary judgment in favor of the City, and the Plaintiff has appealed; and

WHEREAS, a complaint was also filed in the U.S. District Court for the District of Hawaii against the City and a City official, in the lawsuit entitled HonoluluTraffic.com et al. v. Federal Transit Administration, et al., Civil No. 11-00307 AWT, which challenges the Project's compliance with NEPA and other environmental laws.



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WHEREAS, by Resolution No. 11-139, adopted May 11, 2011, the City Council authorized the allotment of additional funds in the amount of \$200,000.00; and

WHEREAS, by Resolution No. 11-292, adopted November 2, 2011, the City Council authorized the allotment of additional funds in the amount of \$150,000.00; and

WHEREAS, it is in the City's best interests to continue to retain the services of the law firm of Carlsmith Ball LLP as Special Deputy Corporation Counsel to represent the City in the above-described matters; and

WHEREAS, the Special Deputy Corporation Counsel's performance has met the City's expectations and the City requires the continued services of the Special Deputy Corporation Counsel in representing the City in the appeal in the Kaleikini case, and in the HonoluluTraffic.com case; and

WHEREAS, additional funds are required for legal fees and expenses of said Special Deputy Corporation Counsel, for services rendered in representing the City in the aforesaid lawsuits; and

WHEREAS, based on the above, it appears that an increase in the maximum amount of fees is warranted; and

WHEREAS, the Corporation Counsel recommends the allotment of additional funds for the contract; now, therefore,

BE IT RESOLVED by the City Council of the City and County of Honolulu that an additional \$400,000.00 be allotted for the payment of said Special Deputy Corporation Counsel to represent the City in the appeal of the First Circuit Court's ruling in Kaleikini v. Yoshioka et al., Civil No. 11-1-0206-01 GWBC, and in the case entitled HonoluluTraffic.com et al. v. Federal Transit Administration, et al., Civil No. 11-00307 AWT, in accordance with all the terms and conditions set forth in Resolution No. 09-295, bringing the total maximum authorized amount to \$1,000,000.00; and



RESOLUTION

BE IT FINALLY RESOLVED by the Council that the Clerk be and is hereby directed to transmit copies of this Resolution to the Corporation Counsel and the special deputy corporation counsel, the law firm of Carlsmith Ball LLP, American Savings Bank Tower, 1001 Bishop Street, Suite 2200, Honolulu, Hawaii 96813.

INTRODUCED BY:

*Romy M. Loh* (CB/R)

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Councilmembers

DATE OF INTRODUCTION:

**JAN 12 2012**

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Honolulu, Hawaii