



## RESOLUTION

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TO RETAIN THE SERVICES OF A PRIVATE ATTORNEY AS SPECIAL DEPUTY CORPORATION COUNSEL FOR THE CITY AND COUNTY OF HONOLULU IN LEGAL PROCEEDINGS ARISING OUT OF THE NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMIT REAPPLICATION PROCESS.

WHEREAS, the Department of Environmental Services ("ENV"), City and County of Honolulu, is currently engaged in two ongoing contested case proceedings to challenge permit conditions inappropriately imposed by the Department of Health, State of Hawaii ("DOH"), in National Pollutant Discharge Elimination System ("NPDES") final permits affecting the City and County of Honolulu's Kailua Regional and Honouliuli Wastewater Treatment Plants ("WWTPs"); and

WHEREAS, DOH issued the NPDES public notice permit for the Sand Island WWTP on August 20, 2014, and a contested case proceeding may be necessary in the event that DOH imposes inappropriate permit conditions in the Sand Island WWTP final permit; and

WHEREAS, the City and County of Honolulu's failure to challenge – and its failure to prevail in challenging – DOH's imposition of inappropriate or incorrect permit conditions may result in unnecessary costs to the City and its ratepayers in the form of fines and/or treatment facility upgrades, and may adversely impact permit conditions across the City and County of Honolulu's eight wastewater treatment plants; and

WHEREAS, the instant legal proceedings involve complex issues of law and fact pertaining to environmental law and require specialized legal knowledge and expertise in those areas; and

WHEREAS, the law firm of Edgcomb Law Group, LLP, possesses the specialized legal knowledge and expertise in environmental litigation and has assisted in the evaluation of these claims and is, therefore, familiar with this matter; and

WHEREAS, pursuant to Section 5-204 of the Revised Charter of the City and County of Honolulu 1973 (2000 Edition, as amended) ("RCH"), the Corporation Counsel has determined that because the cases require expertise and experience in the area of environmental law and will involve an extensive and complex review and analysis of a substantial volume of technical documents relating to the federal Clean Water Act permit writing process for establishing water quality-based effluent limitations, and because the resources currently available in the Department of the Corporation Counsel to handle these matters are limited, it is necessary to retain attorneys with expertise and experience in the subject area to effectively defend and advocate the City and County of Honolulu's position in mediation and litigation; and



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WHEREAS, it is in the City and County of Honolulu's best interests to retain the law firm of Edgcomb Law Group, LLP, as special deputy corporation counsel to represent the City and County of Honolulu in the above-described matter; and

WHEREAS, the Department of the Corporation Counsel seeks to retain the services of the law firm of Edgcomb Law Group, LLP, to represent the City and County of Honolulu in the lawsuit as special deputy; and

WHEREAS, Section 5-204.1, RCH, provides that special deputies may be appointed by the Corporation Counsel with the approval of the City Council; now, therefore,

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

(1) Pursuant to Sections 5-203 and 5-204.1, RCH, the City Council authorizes the retention of the law firm of Edgcomb Law Group, LLP, as special deputy corporation counsel, to represent the City in legal proceedings arising out of the NPDES permit reapplication process, at the rate of \$375.00 per hour for partners including Nancy Wilms, Esq. and Tiffany Hedgpeth, Esq., \$300.00 per hour for associates, and \$140.00 per hour for paralegals for preparation, research, and representation in legal proceedings, with these rates to apply at least through the conclusion of any Circuit Court proceedings, together with reasonable costs incurred in connection with the litigation and appellate proceedings, but not to exceed the total sum of Nine Hundred Thousand Dollars (\$900,000), provided that this total amount may be increased by the Council if it is satisfied with the justification for such increase; and

(2) The Special Deputy Corporation Counsel shall also be allowed reimbursement for reasonable costs incurred in connection with its services; and

(3) The Special Deputy Corporation Counsel shall be responsible for the retention of consultants and expert witnesses and for insuring that consultant and expert fees for services rendered do not exceed the contract amount; and

(4) The Special Deputy Corporation 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 statement shall be reviewed and approved by the Corporation Counsel before any payments may be made by the City.



RESOLUTION

BE IT FINALLY RESOLVED by this Council that the Clerk be and is hereby directed to transmit copies of this resolution to the law offices of Edgcomb Law Group, LLP, 333 N. Glenoaks Boulevard, Suite 610, Burbank, California 91502 and to the Corporation Counsel.

INTRODUCED BY:

*John M. ...* (br)

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Councilmembers

DATE OF INTRODUCTION:

**SEP 17 2014**

Honolulu, Hawaii

RECEIVED  
CITY AND COUNTY OF HONOLULU  
CORPORATION COUNSEL  
SEP 17 6 41 13 PM '14

CITY COUNCIL  
CITY AND COUNTY OF HONOLULU  
HONOLULU, HAWAII  
CERTIFICATE

**RESOLUTION 14-215**

Introduced: 09/17/14 By: RON MENOR (BR)

Committee: EXECUTIVE MATTERS  
AND LEGAL AFFAIRS

Title: RESOLUTION TO RETAIN THE SERVICES OF A PRIVATE ATTORNEY AS SPECIAL DEPUTY CORPORATION COUNSEL FOR THE CITY AND COUNTY OF HONOLULU IN LEGAL PROCEEDINGS ARISING OUT OF THE NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMIT REAPPLICATION PROCESS.

Voting Legend: \* = Aye w/Reservations

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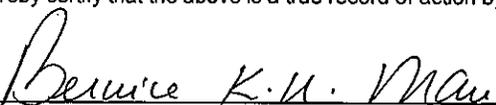
09/16/14 EXECUTIVE CR-271 – RESOLUTION REPORTED OUT OF COMMITTEE FOR ADOPTION.  
MATTERS AND  
LEGAL AFFAIRS  
(EXECUTIVE  
SESSION)

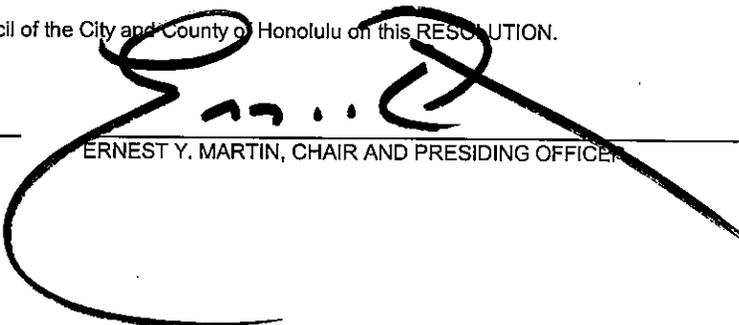
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10/08/14 COUNCIL CR-271 AND RESOLUTION 14-215 WERE ADOPTED.  
9 AYES: ANDERSON, CHANG, FUKUNAGA, HARIMOTO, KOBAYASHI, MANAHAN,  
MARTIN, MENOR, PINE.

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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.

  
BERNICE K. N. MAU, CITY CLERK

  
ERNEST Y. MARTIN, CHAIR AND PRESIDING OFFICER