



RESOLUTION

TO RETAIN THE SERVICES OF MCCORRISTON MILLER MUKAI MACKINNON AS SPECIAL DEPUTY CORPORATION COUNSEL FOR THE CITY AND COUNTY OF HONOLULU WITH REGARD TO THE PROCUREMENT BID PROTEST FILED BY AON RISK SERVICES, INC. OF HAWAII

WHEREAS, Section 5-203 of the Revised Charter of the City and County of Honolulu (RCH) 1973 (Supp. 1993) provides:

The corporation counsel shall serve as the chief legal adviser and legal representative of all agencies, the council and all officers and employees in matters relating to their official powers and duties. Except as otherwise provided by federal or state law, the determination whether a matter relates to official powers and duties shall be made by the corporation counsel and shall include, among other things, consideration of case law applicable to the concept of course and scope of employment. 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, RCH 5-204.1 provides that:

Special deputies may be appointed by the corporation counsel, with the approval of the city council. Such appointments shall be based on a contract specifying the compensation, if any, to be paid a special deputy. The compensation shall be based on the prevailing rate for the specified services to be rendered.

and

WHEREAS, the City issued a solicitation for broker services for the Owner Controlled Insurance Program (OCIP) for the Honolulu High-Capacity Transit Corridor Project for the City and County of Honolulu, RFP-BFS-174907, and the contract was awarded to Marsh USA Inc. ("Marsh") on July 28, 2009.

WHEREAS, a bid protest was filed by Aon Risk Services, Inc. of Hawaii ("Aon") on August 7, 2009 through its attorneys, the Law Offices of Cades Schutte, in connection with the award of Contract No. CT-BFS-0900306 to Marsh for Owner-Controlled Insurance



RESOLUTION

Program (OCIP) Broker Services for the Honolulu High Capacity Transit Corridor Project;
and

WHEREAS, the bid protest asserts multiple grounds for its claims that Marsh's proposal should have been rejected and the contract awarded to Aon; and

WHEREAS, pursuant to Hawaii Revised Statutes (HRS) Section 103D-701 and Hawaii Administrative Rules (HAR) Section 3-126-7, a decision on the bid protest shall be issued by the City and County's Chief Procurement Officer or designee ("CPO") after reviewing and evaluating the bid protest; and

WHEREAS, the Department of the Corporation Counsel has been requested to provide legal assistance to and representation of the CPO in responding to the bid protest;
and

WHEREAS, pursuant to HRS Sections 103D-709 and 103D-712, an offeror or person aggrieved by a determination of the CPO in response to a bid protest under HRS Section 103D-701 may initiate an administrative proceeding for review by the Office of Administrative Hearings of the Department of Commerce and Consumer Affairs (DCCA) within seven (7) calendar days of the issuance of the CPO's written determination; and

WHEREAS, under new legislation, Act 175, signed into law on July 13, 2009 and effective as of July 1, 2009, DCCA hearing schedules have been expedited such that a hearing to review the appeal must commence within twenty-one calendar days of the receipt of the appeal, and the hearings officer must issue a written decision not later than forty-five days from the receipt of the appeal; and

WHEREAS, pursuant to the Revised Charter of the Honolulu 2000 Edition, Section 5-204, the Department of the Corporation Counsel has determined that because of the expertise and experience required in the area of procurement law, the amount of time required for assistance, the complexity of review and analysis required of the issues, evidence and materials, the resources currently available in the Department of the Corporation Counsel, and the constraint in time imposed by Act 175, it is necessary to retain attorneys with expertise and experience in the area of procurement to effectively assist, evaluate, defend and advocate the City's position in responding to the bid protest and, if necessary, in any administrative, judicial and litigation proceedings; and

WHEREAS, the Department of the Corporation Counsel seeks to retain the services of the law firm of McCorriston Miller Mukai MacKinnon to represent the City and County of Honolulu in matters involving bid protests filed in connection with Contract No.



RESOLUTION

CT-BFS-0900306, RFP-BFS-174907, Owner-Controlled Insurance Program (OCIP) Broker Services for the Honolulu High Capacity Transit Corridor Project; and

WHEREAS, the law firm of McCorrison Miller Mukai MacKinnon possesses the specialized legal knowledge and expertise in procurement law; and

WHEREAS, the Department of the Corporation Counsel seeks to retain the services of the law firm of McCorrison Miller Mukai MacKinnon to represent the CPO of the City and County of Honolulu in any bid protests and resulting administrative, judicial or litigation proceedings related to Contract No. CT-BFS-0900306, RFP-BFS-174907, Owner-Controlled Insurance Program (OCIP) Broker Services for the Honolulu High Capacity Transit Corridor Project; now, therefore,

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

(1) Pursuant to the Sections 5-203 and 5-204.1 of the Revised Charter of the City and County of Honolulu 1973 (Supp. 1993), it authorizes the retention of the law firm of McCorrison Miller Mukai MacKinnon as special deputy corporation counsel to represent the CITY AND COUNTY OF HONOLULU in any bid protests filed in connection with Contract No. CT-BFS-0900306, RFP-BFS-174907, Owner-Controlled Insurance Program (OCIP) Broker Services for the Honolulu High Capacity Transit Corridor Project, at the rate of \$295.00 per hour for review, evaluation, consultation, drafting of letters, preparation, research, and representation, including in any administrative, judicial and litigation proceedings, together with reasonable costs incurred in connection with the representation, but not to exceed the total sum of Fifty Thousand and 00/100 Dollars (\$ 50,000.00); 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 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 McCorrison Miller Mukai MacKinnon (Address: Five Waterfront Plaza, 4th Floor, 500 Ala Moana Boulevard, Honolulu, Hawaii 96813) and the Corporation Counsel.

INTRODUCED BY:

Councilmembers

DATE OF INTRODUCTION:

SEP 3 2009

Honolulu, Hawaii

CITY COUNCIL
CITY AND COUNTY OF HONOLULU
HONOLULU, HAWAII
CERTIFICATE

RESOLUTION 09-268

Introduced: 09/03/09 By: CHARLES DJOU (BR)

Committee: EXECUTIVE MATTERS
AND LEGAL AFFAIRS

Title: RESOLUTION TO RETAIN THE SERVICES OF MCCORRISTON MILLER MUKAI MACKINNON AS SPECIAL DEPUTY CORPORATION COUNSEL FOR THE CITY AND COUNTY OF HONOLULU WITH REGARD TO THE PROCUREMENT BID PROTEST FILED BY AON RISK SERVICES, INC. OF HAWAII.

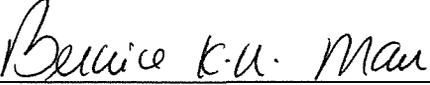
Links: [RES09-268](#)
[CR-309](#)

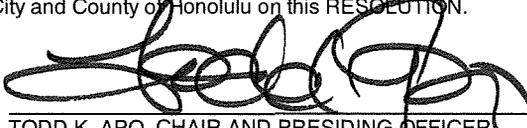
EXECUTIVE 09/02/09 CR-309 – RESOLUTION REPORTED OUT OF COMMITTEE FOR ADOPTION.
MATTERS AND
LEGAL AFFAIRS
(EXECUTIVE
SESSION)

COUNCIL 09/16/09 CR-309 AND RESOLUTION 09-268 ADOPTED.

ANDERSON	Y	APO	Y	CACHOLA	Y	DELA CRUZ	Y	DJOU	Y
GARCIA	Y	KOBAYASHI	Y	OKINO	Y	TAM	Y		

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


TODD K. APO, CHAIR AND PRESIDING OFFICER