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DEPARTMENT OF THE CORPORATION COUNSEL
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August 19, 2024

Via email only at GREAT.committee@mauicounty.us

Honorable Nohelani U'u-Hodgins, Chair
Government Relations, Ethics, and Transparency
Committee, County of Maui
Wailuku, Hawai'i 96793

SUBJECT: RESOLUTION 24-105, CD 1 - AUTHORIZING THE EMPLOYMENT OF SPECIAL COUNSEL ES&A, INC., A LAW CORPORATION, IN CHELSIE EVANS, INDIVIDUALLY AND AS THE PERSONAL REPRESENTATIVE OF THE ESTATE OF TRE' PU'UWAILA'AHIAOLOPAKAAMELEHUANANI EVANS-DUMARAN, DECEASED, V. SCOTT MARTIN, CASE NO. 2CCV-24-0000034 (GREAT-11(43))

Dear Chair U'u-Hodgins:

Please find attached revisions to Resolution 24-105, CD 1 entitled "AUTHORIZING THE EMPLOYMENT OF SPECIAL COUNSEL ES&A, INC., A LAW CORPORATION, IN CHELSIE EVANS, INDIVIDUALLY AND AS THE PERSONAL REPRESENTATIVE OF THE ESTATE OF TRE' PU'UWAILA'AHIAOLOPAKAAMELEHUANANI EVANS-DUMARAN, DECEASED, V. SCOTT MARTIN, CASE NO. 2CCV-24-0000034." The original bill had various drafting errors which we have corrected here.

Should you have any questions or concerns, please do not hesitate to contact us. Thank you for your anticipated assistance in this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Glen R. Pascual".

GLEN R. PASCUAL
Deputy Corporation Counsel

GRP:ceb
LF #LIT-8076

Attachments

Resolution

No. 24-105, CD1

AUTHORIZING THE EMPLOYMENT OF SPECIAL COUNSEL ES&A, INC., A LAW CORPORATION, IN CHELSIE EVANS, INDIVIDUALLY AND AS THE PERSONAL REPRESENTATIVE OF THE ESTATE OF TRE' PU'UWAILA'AHIAOLOPAKAAMELEHUANANI EVANS-DUMARAN, DECEASED, vs. SCOTT MARTIN, CIVIL NO. 2CCV-24-0000034.

WHEREAS, the Council alone is authorized to retain or employ special counsel by resolution adopted by two-thirds vote under Section 3-6(6) of the Revised Charter of the County of Maui (1983), as amended; and

WHEREAS, the Council finds that, to avoid the presence or appearance of a conflict of interest, and to the extent consistent with the Hawai'i Rules of Professional Conduct, there is a necessity and it would be in the best interest of the County of Maui to retain the firm of ES&A, Inc., A Law Corporation ("Firm"), as special counsel to represent defendant Scott Martin, an employee of the Department of Fire & Public Safety, in the case Chelsie Evans, Individually and as the Personal Representative of the Estate of Tre' Pu'uwaila'ahiaolopakaamelehuanani Evans-Dumaran, Deceased, vs. Scott Martin, Civil No. 2CCV-24-0000034; and

WHEREAS, the Firm as special counsel must take all possible steps to minimize the level of attorney's fees and costs; and

WHEREAS, the Firm's conduct in this matter shall reflect the understanding that the County of Maui is a public entity that has obligations, concerns, and interests that may extend beyond those of a similarly situated private litigant; now therefore,

BE IT RESOLVED by the Council of the County of Maui:

1. That it hereby authorizes the employment of ES&A, Inc., A Law Corporation as special counsel to represent defendant Scott Martin, an employee of the Department of Fire & Public Safety, in the case of Chelsie Evans, Individually and as the Personal Representative of the Estate of Tre' Pu'uwaila'ahiaolopakaamelehuanani Evans-Dumaran, Deceased vs. Scott Martin, Civil No. 2CCV-24-0000034;
2. That total compensation for the employment of ES&A, Inc., A Law Corporation, as special counsel shall not exceed \$50,000;

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3. That partner Anna Elento-Sneed, Esq. shall provide the bulk of the legal services in this matter;
4. That the hourly rate for partners shall not exceed \$375;
5. That the hourly rate for associates shall not exceed \$300;
6. That the hourly rate for paralegal staff shall not exceed \$140;
7. That the compensability of costs shall be in a general accord with the intent of 28 U.S.C. § 1920;
8. That ES&A, Inc. must initially prepare and present to Council following approval of this resolution an initial case assessment and litigation costs assessment to include settlement options;
9. That all invoices presented by ES&A, Inc., to the County of Maui for payment in this matter must identify each task performed, by whom, when, and over what duration of time without any block billing entries;
10. That compensable costs include: (a) fees for printing and witnesses; (b) fees of the clerk and marshal; (c) fees of the court reporter for necessary transcripts; (d) docket fees; (e) compensation of court-appointed experts and interpreters; and (f) travel related expenses when pre-approved by the Department of Corporation Counsel;
11. That non-compensable costs include: (a) telephone calls; (b) facsimile charges; (c) postal charges; (d) messenger charges; (e) fees for computerized legal research; (f) travel related expenses not pre-approved by the Department of Corporation Counsel, (g) investigative expenses; and (h) all other costs reasonably considered part of a law firm's overhead;
12. That in instances of travel, both inter-island and out-of-state travel includes travel on regular coach economy fare and must be pre-approved by the Corporation Counsel;

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13. That the expenditures of additional funds or substantial changes to the responsibilities of the parties shall require Council approval;
14. That the expenditures of additional funds or substantial changes to the ES&A, Inc. staff assigned to this matter in accordance with this resolution requires prior Council approval; and
15. That certified copies of this resolution be transmitted to the Mayor, the Corporation Counsel, the Director of Finance, and ES&A, Inc., A Law Corporation.

APPROVED AS TO FORM AND LEGALITY:



GLEN R. PASCUAL
Deputy Corporation Counsel
County of Maui
LF #LIT-8076

INTRODUCED BY:

A handwritten signature in cursive script, appearing to read "Alice L. Lee".

ALICE L. LEE

Upon the request of the Mayor.