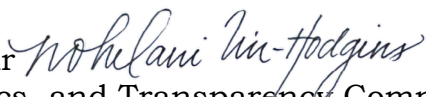


August 20, 2024, Committee meeting

GOVERNMENT RELATIONS, ETHICS, AND TRANSPARENCY
COMMITTEE
Amendment Summary Form

Legislation: Resolution 24-105, 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’AHIAOLOPAKAAMELEHUA-NANI EVANS-DUMARAN, DECEASED, vs. SCOTT MARTIN, CIVIL NO. 2CCV-24-0000034.”

Proposer: Nohelani U‘u-Hodgins, Chair 
Government Relations, Ethics, and Transparency Committee

Description: Amends Resolution 24-105, with a proposed CD1 version incorporating several substantive revisions including:

- In the first WHEREAS provision, including a citation to Section 3-6(6) of the Revised Charter of the County of Maui (1983), as amended, as the legal basis for special counsel authorization;
- In the second WHEREAS provision, clarifying the necessity for special counsel appointment to avoid the presence or appearance of a conflict of interest, and identifying Department of Fire & Public Safety employee Scott Martin as the defendant;
- In the third WHEREAS provision, clarifying that it is special counsel’s responsibility to minimize costs and fees; and
- Clarifying several BE IT RESOLVED provisions related to the responsibilities of special counsel, such as:
 - Including a Council reporting requirement;
 - Clarification on the invoicing of expenditures;

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- A prohibition on block billing entries; and
- Clarification on compensable and non-compensable costs related to travel.

The proposed CD1 version also includes several non-substantive revisions.

Motions: Move to substitute Resolution 24-105 with the attached proposed CD1 version.

Attachments: Proposed CD1 version of Resolution 24-105.

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Resolution

No. 24-105, CD1

AUTHORIZING THE EMPLOYMENT OF SPECIAL COUNSEL ES&A, INC., A LAW CORPORATION, IN CHELSEIE 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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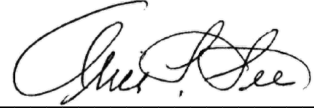
13. That the expenditures of additional funds or substantial changes to the responsibilities of the parties shall require Council approval;
14. That the expenditures of additional funds or substantial changes to the ES&A, Inc. staff assigned to this matter in accordance with this resolution requires 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.