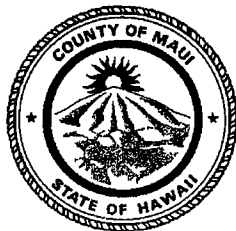


ALAN M. ARAKAWA
Mayor



PATRICK K. WONG
Corporation Counsel

EDWARD S. KUSHI
First Deputy

LYDIA A. TODA
Risk Management Officer
Tel. No. (808) 270-7535
Fax No. (808) 270-1761

DEPARTMENT OF THE CORPORATION COUNSEL
COUNTY OF MAUI
200 SOUTH HIGH STREET, 3RD FLOOR
WAILUKU, MAUI, HAWAII 96793
EMAIL: CORPCOUN@MAUICOUNTY.GOV
TELEPHONE: (808) 270-7740
FACSIMILE: (808) 270-7152

August 29, 2017

MEMORANDUM

TO: Donald S. Guzman, Chair
Parks, Recreation, Energy, and Legal Affairs Committee

FROM: Moana M. Lutey, Deputy Corporation Counsel *ML*

SUBJECT: Litigation Matters – Settlement of Claims and Lawsuits (PRL-1)
AUTHORIZING SETTLEMENT OF CLAIM NO. II038632
OF ISLAND INSURANCE COMPANY, LTD., ON BEHALF OF ITS
INSURED, PAT'S QUALITY ROOFING INC.

OFFICE OF THE
COUNTY COUNCIL

2017 AUG 29 PM 2:50

RECEIVED

Pursuant to Section 3.16.020B of the Maui County Code, our department respectfully requests authorization to discuss settlement of the aforementioned claim. It is anticipated that an executive session may be necessary to discuss questions and issues pertaining to the powers, duties, privileges, immunities, and liabilities of the County, the Council, and the Committee. There is no immediate deadline to this matter.

A copy of the proposed resolution is enclosed. We request that a representative from the Risk Management Services Section be in attendance during discussion of this matter. If you have any questions, or concerns, please do not hesitate to contact me.

Thank you for your attention to this matter.

MML:chs
Enclosure

cc: Susan Pacheco, Loss Control Specialist

Resolution

No. _____

AUTHORIZING SETTLEMENT OF THE COUNTY OF MAUI'S
CLAIM NO. II038632 AGAINST ISLAND INSURANCE COMPANY, LIMITED

WHEREAS, the COUNTY OF MAUI filed Claim No. II038632 on March 3, 2016, against Island Insurance Company, Limited for damages caused to the Department of Motor Vehicle facility at Maui Mall, Kahului, Hawaii, on February 16, 2016 and March 8, 2016 as a result of roof damage; and

WHEREAS, the County of Maui and Island Insurance Company, Limited, to avoid incurring expenses and the uncertainty of a judicial determination of the parties' respective rights and liabilities, have reached a proposed resolution of this claim by way of a negotiated settlement; and

WHEREAS, having reviewed the facts and circumstances regarding this matter and being advised of attempts to reach resolution of this claim by way of a negotiated settlement by the Department of the Corporation Counsel, the Council wishes to authorize settlement; now, therefore,

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

1. That it hereby approves settlement of Claim No. II038632 in the amount of ONE HUNDRED EIGHTY THREE THOUSAND SEVEN HUNDRED SIXTY SEVEN DOLLARS AND 84/100 (\$183,767.84) to be paid by Island Insurance Company, Limited to the County of Maui; and

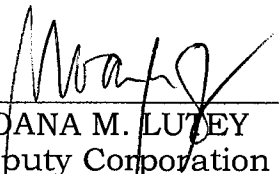
2. That it hereby authorizes the Mayor to execute the Settlement Agreement on behalf of the County of Maui for this Claim, under such terms

Resolution No. _____

and conditions as may be imposed, and agreed to, by the Corporation Counsel;
and

3. That certified copies of this resolution be transmitted to the Mayor,
the Director of Finance, and the Corporation Counsel.

APPROVED AS TO FORM AND LEGALITY:



MOANA M. LUDEY
Deputy Corporation Counsel
County of Maui
RISK 2016-0581

DMV – KAHULUI DOL 2/16/16 RISK 2016-0551
 DMV – KAHULUI DOL 3/8/16 RISK 2016-0581

Total Damages Costs: \$266,919.38

Mitigation Costs paid by Island Insurance (2 losses): \$41,391.47

No #	Date	Invoice #	From	Amount	Description
1	3/16/16	15409	Maui Fire & Flood, LLC	\$34,637.52 - \$2,648.28 = \$31,989.24	2/16/16 DMV Mitigation
2	3/25/16	15450	Maui Fire & Flood, LLC	\$9,402.23	3/8/16 DMV Mitigation

Construction and Repair Costs: \$62,690.23

No #	Date	Invoice #	From	Amount	Description
3	6/23/16	356 & 358	Cabingas Construction, LLC	\$15,752.00 + \$154.16 = \$15,906.16	Repair ceiling tile and base work DMV A16
4	6/21/16	0537 & 0538	Central Construction Inc.	\$21,385.00 + \$55.78 = \$21,440.78	Repair gypboard, ceiling tiles in lobby area, check electrical fixtures and outlets, Lito's office and road test counter
5	6/23/16	357	Cabingas Construction, LLC	\$999.97	80 plus holes
6	7/20/16	360	Cabingas Construction, LLC	\$4,380.00	RPT ceiling tile replacement
7	8/30/16	362 & 363	Cabingas Constructon, LLC	\$19,600.00 + \$363.32 = \$19,963.32	Repairs to PMVI DMV A14

Cleaning Costs Prior to Reopening: \$4,999.97

No #	Date	Invoice #	From	Amount	Description
8	6/23/16	195733	People Who Clean	\$4,999.97	Pre-opening janitorial cleaning

Rental of One Main Plaza and Parking: \$70,775.57

No #	Date	Invoice #	From	Amount	Description
9	4/1/16	One-com100-2	Maui Office, LLC	\$26,176.63	Rent One Main Plaza 3/14/16 to 4/30/16
10	5/1/16	168	Maui Office, LLC	\$16,560.73	Rent One Main Plaza for May 2016
11	6/1/16	169	Maui Office, LLC	\$16,560.73	Rent One Main Plaza for June 2016
12	7/1/16	170	One Main Plaza	\$16,560.73	Rent One Main Plaza for July 2016
13	8/22/16	Check #3814	One Main Plaza	(\$5,713.25)	Credit Rent (Pro Rata) For July 2016
14	4/27/16	15156	Standard Parking	\$315.00	Parking for May 2016
15	5/16/16	15163	Standard Parking	\$315.00	Parking for June 2016

Items Damaged in Flood: \$9,549.29

No #	Date	Invoice #	From	Amount	Description
16	4/7/16	1604761	Menehune Water Company, Inc.	\$107.50	Water for Employees
17	8/23/16	1394444	Smart Source	\$2,182.54	Certificate of Titles 15 cases damaged
18	6/25/15	71946	Maui Printing Co.	\$218.75	Window Envelopes 3 boxes of 500
19	12/16/14	81676	Maui Print Works	\$509.73	Bicycle/Moped Applications

					2 cases of 6400
20	6/15/15	403227	Maui Chemical & Paper Products Inc	\$95.79	Thermal Paper Roll 2 cases
21	6/15/15	403227	Maui Chemical & Paper Products Inc	\$99.79	Adding Machine Roll 2 cases
22	12/3/12	227791	Office Max	\$1,267.76	2 Office work chairs
23	5/20/15	TK00940	Qmatic	\$616.12	Thermal Ticket Rolls 2 cases
24	6/30/16	NA	Annual Detail Inventory of Property	\$959.40	1992 IBM Wheelwrite 30 Series, 11TL191
25	6/25/16	10116209	Security Resources Pacific, Inc	\$997.13	Test Area Camera
26	6/30/16	PO#342192	Security Resources Pacific, Inc	\$2,494.78	Security Cameras

Employee Overtime: \$35,752.78

No #	Date	Invoice #	From	Amount	Description
27	3/9/16 to 7/17/16	1326 hours	Employee Overtime	\$35,752.78	Employee Overtime

Mold Not Covered: \$39,650.07

No #	Date	Invoice #	From	Amount	Description
28	6/13/16	15700	Maui Fire & Flood (for ENPRO Environmental)	\$2,648.28	2/19/16 testing
29	3/22/16	1603-119MCK	ENPRO Environmental	\$1,063.12	3/14/16 inspection for DMV A16
30	3/21/16	1603-120MCK	ENPRO Environmental	\$781.87	3/14/16 inspection for DMV A18
31	4/15/16	1603-138FIV	ENPRO Environmental	\$5,675.59	3/28/16 and 3/29/16 fungal inspection for DMV A16 & A18

32	4/4/16	1603-133-02	ENPRO Environmental	\$838.12	3/31/16 inspection
33	4/12/16	1603-137-01	ENPRO Environmental	\$1,681.86	3/31/16 air sampling DMV A18
34	4/19/16	1603-137-02	ENPRO Environmental	\$1,963.11	4/14/16 inspection for DMV A18
35	4/28/16	1603-133-04	ENPRO Environmental	\$838.12	4/21/16 inspection
36	5/26/16	T16-019	MEV, LLC. dba Malama Environmental	\$560.00	Mold sampling of insulation
37	7/1/16	A16-0023	MEV, LLC. dba Malama Environmental	\$22,250.00	Loft insulation removal and haul
38	8/3/16	T16-030	MEV, LLC. dba Malama Environmental	\$1,350.00	7/13/16 Final mold testing

Air Conditioning not covered: \$2,110.00

No #	Date	Invoice #	From	Amount	Description
39	6/16/16	1001975	Maeda Sheet Metal & Air Conditioning, Inc	\$305.00	Galvanized duct
40	6/29/16	1001999	Maeda Sheet Metal & Air Conditioning, Inc	\$1,805.00	Safety pan

SUMMARY:

MITIGATION PAID BY ISLAND: **\$41,391.47**

CONSTRUCTION COSTS: \$62,690.23
CLEANING COSTS TO REOPEN: \$ 4,999.97
RENTAL ONE MAIN PLAZA: \$70,775.57
ITEMS DAMAGED IN FLOOD: \$ 9,549.29
EMPLOYEE OVERTIME: \$35,752.78

TOTAL AMOUNT RECOVERY: **\$183,767.84**

MOLD NOT COVERED: \$39,650.07
A/C NOT COVERED: \$ 2,110.00

TOTAL NOT COVERED: **\$41,760.07**

TOTAL DAMAGES COSTS: \$266,919.38