

Resolution

No. 24-18

AUTHORIZING SETTLEMENT OF MAUI ELECTRIC COMPANY,
LIMITED'S CROSS-CLAIM AGAINST THE COUNTY OF MAUI IN
YOGI, TERENCE & DIANE v. E.H. a minor, et. al.,
CASE NO. 2CC-18-000408

WHEREAS, Plaintiffs Terence Yogi and Diane Yogi filed a Second Amended complaint in the Second Circuit Court, State of Hawaii on September 8, 2020, Case No. 2CC-18-000408, against Defendant E. H., a minor, Defendant Brittany Harris, Defendant County of Maui and Defendant Maui Electric Company, Limited alleging a wrongful death claim arising from an incident that occurred on Hansen Road in Kahului, Maui County, Hawaii on September 11, 2020; and

WHEREAS, Maui Electric Company, Limited filed a Cross-Claim against the County of Maui on October 15, 2020, to which the County of Maui filed an answer on December 1, 2020, disputing and denying Maui Electric Company, Limited's allegations; and

WHEREAS, Plaintiffs Terence Yogi's and Diane Yogi's Second Amended Complaint against the County of Maui was dismissed with prejudice by the Second Circuit Court on November 25, 2020; and

WHEREAS, Plaintiffs Terence Yogi and Diane Yogi, Defendant E. H., Defendant Brittany Harris, and Defendant Maui Electric Company, Ltd.

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negotiated a settlement of Plaintiffs' claims by and between themselves;
and

WHEREAS, Maui Electric Company, Limited recently made a demand for settlement of its Cross-Claim against the County of Maui; and

WHEREAS, the County of Maui, to avoid incurring expenses and the uncertainty of a judicial determination of the parties' respective rights and liabilities, will attempt to reach a resolution of this case by way of a negotiated settlement or Offer of Judgment; and

WHEREAS, the Department of the Corporation Counsel has requested authority to settle this case under the terms presented in an executive meeting before the Government Relations, Ethics, and Transparency Committee; and

WHEREAS, having reviewed the facts and circumstances regarding this case and being advised of attempts to reach resolution of this case by way of a negotiated settlement or Offer of Judgment by the Department of the Corporation Counsel, the Council wishes to authorize the settlement;
Now; therefore,

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

1. That it approves settlement of Maui Electric Company, Limited's Cross-Claim against the County of Maui under the terms discussed in an executive meeting before its Government Relations, Ethics, and Transparency Committee;

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2. That it authorizes the Mayor to execute a Release and Settlement Agreement on behalf of the County in this case, under terms and conditions as may be imposed by the Corporation Counsel consistent with the Council's settlement authority;

3. That it authorizes the Director of Finance to satisfy settlement of this case, under terms and conditions as may be imposed by the Corporation Counsel consistent with the Council's settlement authority; and

4. That certified copies of this Resolution be transmitted to the Mayor, the Director of Finance, the Director of Public Works, and the Corporation Counsel.

APPROVED AS TO FORM AND LEGALITY:

A handwritten signature in black ink, appearing to read "John J. Gores", is written over a horizontal line.

JOHN J. GORES
Deputy Corporation Counsel
County of Maui
LIT-6152

INTRODUCED BY:

A handwritten signature in cursive script, appearing to read "Shirley Lee", is written over a horizontal line.

Upon the request of the Mayor.