

COUNCIL OF THE COUNTY OF MAUI

**PARKS, RECREATION, ENERGY, AND  
LEGAL AFFAIRS COMMITTEE**

February 16, 2018

**Committee  
Report No. \_\_\_\_\_**

Honorable Chair and Members  
of the County Council  
County of Maui  
Wailuku, Maui, Hawaii

Chair and Members:

Your Parks, Recreation, Energy, and Legal Affairs Committee, having met on January 30, 2018, makes reference to County Communication 17-6, from Council Chair Mike White, relating to litigation matters.

By correspondence dated April 29, 2016, the Department of the Corporation Counsel requested consideration of the possible settlement of County of Maui v. Lanai Waste Removal, Inc., et al., Civil 15-1-0476(2). Attached to the request is a proposed resolution, entitled "AUTHORIZING SETTLEMENT OF COUNTY OF MAUI V. LANAI WASTE REMOVAL, INC., ET AL., CIVIL NO. 15-1-0476(2)," and a copy of the complaint. The purpose of the proposed resolution is to authorize the Department to settle the case.

Your Committee notes the complaint alleges Defendants Lanai Waste Removal, Inc.; Lanai Trucking, Inc.; Charlene Amoral; and Manuel Amoral, Jr. have, as of the date of the filing of the complaint, accumulated \$321,019.22 in past-due tipping (commercial landfill disposal) fees owed to the County for the disposal of waste at the Lanai Landfill at Kaumalapau Highway, Lanai, Hawaii. The complaint also alleges the Defendants are in breach of a Repayment Agreement previously entered into with the County.

Your Committee notes the Council's Committee of the Whole (2015-2017 Council term) met on September 13, 2016.

Your Committee notes Section 3.16.020(B), Maui County Code, requires Council authorization for any settlement of claims or civil litigation in excess of \$7,500.

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A Deputy Corporation Counsel provided a brief overview of the case. She said the case involves a collection action for delinquent payments to the County's Department of Environmental Management, Solid Waste Division.

Because the case involves ongoing litigation, the Deputy requested the opportunity to convene an executive meeting.

Your Committee voted to convene an executive meeting, closed to the public, to consult with legal counsel pursuant to Section 92-5(a)(4), Hawaii Revised Statutes.

Following the executive meeting, your Committee reconvened in regular session. Based on the information received and the recommendation of the Department, your Committee voted 7-0 to recommend adoption of the proposed resolution to authorize settlement of the case. Committee Chair Guzman and members Atay, Carroll, Crivello, Hokama, Sugimura, and White voted "aye." Committee Vice-Chair King and member Cochran were excused.

Your Committee is in receipt of a revised proposed resolution, approved as to form and legality by the Department of the Corporation Counsel, incorporating a nonsubstantive revision.

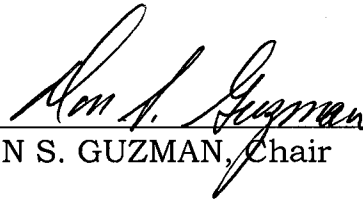
Your Parks, Recreation, Energy, and Legal Affairs Committee **RECOMMENDS** that Resolution \_\_\_\_\_, attached hereto, entitled "AUTHORIZING SETTLEMENT OF COUNTY OF MAUI V. LANAI WASTE REMOVAL, INC., ET AL., CIVIL NO. 15-1-0476(2)," be **ADOPTED**.

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This report is submitted in accordance with Rule 8 of the Rules of the Council.



\_\_\_\_\_  
DON S. GUZMAN, Chair

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# Resolution

No. \_\_\_\_\_

AUTHORIZING SETTLEMENT OF  
COUNTY OF MAUI V. LANAI WASTE REMOVAL, INC., ET AL.,  
CIVIL NO. 15-1-0476(2)

WHEREAS, Plaintiff County of Maui (“County”) filed a Complaint against Lanai Waste Removal, Inc.; Lanai Trucking, Inc.; Charlene Amoral; and Manuel Amoral, Jr. (“Defendants”) in the Circuit Court of the Second Circuit, State of Hawaii, on September 3, 2015, which has been designated as Civil No. 15-1-0476(2); and

WHEREAS, Defendant Charlene Amoral has been dismissed from this action; and

WHEREAS, remaining Defendants have, as of the date of the filing of the Complaint, accumulated \$321,019.22 in past-due tipping fees owed to the County; and

WHEREAS, remaining Defendants previously entered into a Repayment Agreement with the County and eventually fully abandoned their payment obligations; and

WHEREAS, having reviewed the facts and circumstances regarding this case and being advised of all previous attempts to reach a resolution of this case by way of a negotiated settlement, the Council wishes to authorize the settlement; now, therefore,

**Resolution No. \_\_\_\_\_**

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


1. That it hereby approves settlement of this case under the terms set forth in an executive meeting before the Parks, Recreation, Energy, and Legal Affairs Committee; and

2. That it hereby authorizes the Mayor to execute a Release and Settlement Agreement on behalf of the County of Maui in this case, under such terms and conditions as may be imposed, and agreed to, by the Corporation Counsel; and

3. That it hereby authorizes the Director of Finance of the County of Maui to accept payment of said settlement of this case, under such terms and conditions as may be imposed, and agreed to, by the Corporation Counsel; and

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

APPROVED AS TO FORM AND LEGALITY:

  
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KRISTIN K. TARNSTROM  
Deputy Corporation Counsel  
County of Maui