

COUNCIL OF THE COUNTY OF MAUI
**GOVERNANCE, ETHICS, AND
TRANSPARENCY COMMITTEE**

July 24, 2020

**Committee
Report No.** _____

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

Chair and Members:

Your Governance, Ethics, and Transparency Committee, having met on July 7, 2020, makes reference to County Communication 19-29, from Council Chair Kelly T. King, relating to litigation matters.

By correspondence dated August 27, 2019, the Department of the Corporation Counsel requested consideration of a proposed resolution entitled "AUTHORIZING SETTLEMENT OF CLAIM NO. 30192754170-0001 OF BACON UNIVERSAL CO., INC."

The purpose of the proposed resolution is to authorize the Department to settle the claim for \$121,181.88.

The Department also transmitted a copy of the claim and documentation relating to damages associated with the claim.

Your Committee notes the claim alleges property damage to a dozer owned by Bacon Universal, Co., Inc. that was being rented by the County and used at the Central Maui Landfill on December 24, 2018.

In addition, your Committee notes, according to the State Department of Commerce and Consumer Affairs' website, the claimant's official name is Bacon-Universal Company, Inc. References to "Bacon Universal Co., Inc." and "Bacon Universal" in the resolution are intended to encompass Bacon-Universal Company, Inc.

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. He said the incident involved a dozer that rolled over while being operated by a County employee. The dozer sustained significant damage but was not a total loss. The claim does not involve a bodily injury claim. The dozer was being driven by an employee of the Department of Environmental Management. The employee sustained injuries and was treated at Kula Hospital.

The Director of Environmental Management said that tests for drugs and alcohol for the County employee were not performed. Your Committee requested more information from the Director regarding accidents that require mandatory testing for drugs and alcohol.

Based on advice from the Department of the Corporation Counsel, your Committee concluded it would be prudent to recommend adoption of the resolution and authorize the proposed settlement.

Your Committee voted 9-0 to recommend adoption of the proposed resolution. Committee Chair Molina, Vice-Chair Rawlins-Fernandez, and members Hokama, Kama, King, Lee, Paltin, Sinenci, and Sugimura voted "aye."

Your Governance, Ethics, and Transparency Committee RECOMMENDS that Resolution _____, attached hereto, entitled "AUTHORIZING SETTLEMENT OF CLAIM NO. 30192754170-0001 OF BACON UNIVERSAL CO., INC.," be ADOPTED.

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



MICHAEL J. MOLINA, Chair

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Resolution

No. _____

AUTHORIZING SETTLEMENT OF CLAIM NO. 30192754170-0001 OF
BACON UNIVERSAL CO., INC.

WHEREAS, BACON UNIVERSAL CO., INC. filed Claim No. 30192754170-0001 on May 31, 2019, against the County of Maui for damage to their property that was being rented by the County and being used at the Central Maui Landfill on December 24, 2018; and

WHEREAS, the County of Maui and Bacon Universal, 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 negotiated settlement; and

WHEREAS, having reviewed the facts and circumstances regarding this claim 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 the settlement; now, therefore,

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

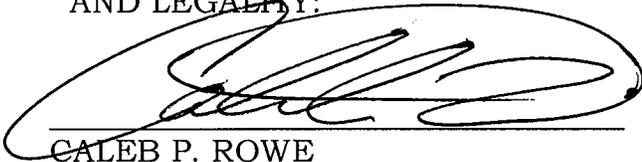
1. That it hereby approves settlement of Claim No. 30192754170-0001 in the amount of \$121,181.88; and

Resolution No. _____

2. That payment is authorized to satisfy settlement of this claim following the execution of the Release of Property Damage Claim by a representative of Bacon Universal; and

3. 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:

A handwritten signature in black ink, appearing to read 'Caleb P. Rowe', is written over a horizontal line. The signature is enclosed within a large, hand-drawn oval.

CALEB P. ROWE
Deputy Corporation Counsel
County of Maui
RISK 2019-0134