

COUNCIL OF THE COUNTY OF MAUI
PARKS, RECREATION, ENERGY, AND
LEGAL AFFAIRS COMMITTEE

December 11, 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 October 30, 2018, makes reference to County Communication 17-6, from Council Chair Mike White, relating to litigation matters.

By correspondence dated October 22, 2018, the Department of the Corporation Counsel requested consideration of the possible settlement of Claim 30154560286-0001 of Zita Mendoza Morales. Attached to the request is a proposed resolution, entitled "AUTHORIZING SETTLEMENT OF CLAIM NO. 30154560286-0001 OF ZITA MENDOZA MORALES," and a copy of the claim.

The purpose of the proposed resolution is to authorize the Department to settle the claim. The claim alleges bodily injuries sustained from a collision involving a Department of Police vehicle on Kaahumanu Avenue, Kahului, Maui, Hawaii, on August 8, 2015.

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.

Your Committee further notes the Council's Committee of the Whole (2015-2017 Council term) previously reported on the property damage component of this claim through Committee Report 16-40, which recommended that a proposed resolution, entitled "AUTHORIZING SETTLEMENT OF CLAIM NO. 30154560286-0001 OF FIRST INSURANCE COMPANY OF HAWAII, LTD., ON BEHALF OF ITS INSURED, ZITA MENDOZA MORALES," be adopted. At its meeting of

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March 18, 2016, the Council adopted the recommendation in Committee Report 16-40 (Resolution 16-36).

A Deputy Corporation Counsel provided a brief overview of the case. She said on August 8, 2015, a police officer ran a red light on Kaahumanu Avenue and struck Ms. Morales's vehicle on the passenger side. She said Ms. Morales has incurred medical expenses associated with her injuries from the accident.

Because the case involves ongoing litigation and confidential medical information, 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; and to deliberate or make a decision upon a matter that requires the consideration of information that must be kept confidential pursuant to a State or Federal law, or a court order, pursuant to Section 92-5(a)(8), Hawaii Revised Statutes.

Following the executive meeting, your Committee reconvened in regular session. Based on the information received and the recommendation of the Department of the Corporation Counsel, your Committee voted 5-0 to recommend adoption of the proposed resolution. Committee Chair Guzman and members Atay, Crivello, Hokama, and Sugimura voted "aye." Committee Vice-Chair King and members Carroll, Cochran, and White were excused.

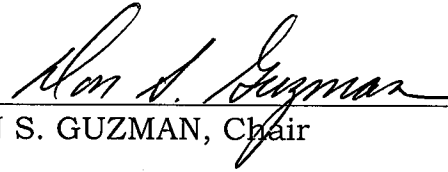
Your Parks, Recreation, Energy, and Legal Affairs Committee RECOMMENDS that Resolution _____, attached hereto, entitled "AUTHORIZING SETTLEMENT OF CLAIM NO. 30154560286-0001 OF ZITA MENDOZA MORALES," be ADOPTED.

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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 CLAIM NO. 30154560286-0001
OF ZITA MENDOZA MORALES

WHEREAS, Zita Mendoza Morales filed Claim No. 30154560286-0001 on September 8, 2015, against the County of Maui for bodily injuries she sustained from a collision involving a Maui County fleet vehicle on August 8, 2015; and

WHEREAS, the County of Maui and Zita Mendoza Morales, 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, the Department of the Corporation Counsel has requested authority to settle this case under the terms set forth in an executive meeting before the Parks, Recreation, Energy, and Legal Affairs Committee; 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. 30154560286-0001 under the terms set forth in an executive meeting before the Parks, Recreation, Energy, and Legal Affairs Committee; and

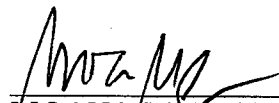
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2. That payment is authorized to satisfy settlement of this claim following the execution of the "Release and Indemnity Agreement" by Zita Mendoza Morales; and

3. That it hereby authorizes the Director of Finance to satisfy said settlement of this claim, 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 Chief of Police, and the Corporation Counsel.

APPROVED AS TO FORM
AND LEGALITY:



MOANA M. LUTEY
Deputy Corporation Counsel
County of Maui
RISK 2015-0381