

# REQUEST FOR LEGAL SERVICES

**D a t e:** May 26, 2023

**F r o m:** Nohelani U'u-Hodgins, Chair

Government Relations, Ethics, and Transparency Committee

TRANSMITTAL

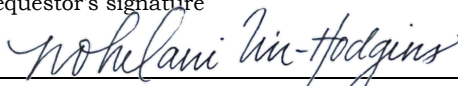
**Memo to:** DEPARTMENT OF THE CORPORATION COUNSEL  
Attention: Brian A. Bilberry, Esq.

**Subject:** LITIGATION MATTERS (RESOLUTION 23-88, RELATING TO SETTLEMENT AUTHORIZATION: ONO GELATO OF PAIA, LLC, A HAWAI'I LIMITED LIABILITY COMPANY V. COUNTY OF MAUI; CIVIL 2CCV-22-0000258) (GREAT-11(16))

**Background Data:** Please see attached resolution. Please submit your response to great.committee@mauicounty.us with a reference to GREAT-11(16).

**Work Requested:** ☒ [X] FOR APPROVAL AS TO FORM AND LEGALITY

☐ [ ] OTHER:

Requestor's signature  Nohelani U'u-Hodgins, Chair	Contact Person <u>Kasie Apo Takayama or David Raatz</u> (Telephone Extension: <u>7665 or 7664, respectively</u> )
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☐ [ ] ROUTINE (WITHIN 15 WORKING DAYS)

☐ [ ] RUSH (WITHIN 5 WORKING DAYS)

☐ [ ] PRIORITY (WITHIN 10 WORKING DAYS)

☐ [ ] URGENT (WITHIN 3 WORKING DAYS)

☒ [X] SPECIFY DUE DATE (IF IMPOSED BY SPECIFIC CIRCUMSTANCES): May 30, 2023, at 9:00 a.m.

REASON: For posting on June 6, 2023, Council meeting agenda.

## FOR CORPORATION COUNSEL'S RESPONSE

ASSIGNED TO: <u>VJT</u>	ASSIGNMENT NO. <u>2023-0138</u>	BY: <u>TLM</u>
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TO REQUESTOR: ☒ [X] APPROVED ☐ [ ] DISAPPROVED ☐ [ ] OTHER (SEE COMMENTS BELOW)

☐ [ ] RETURNING--PLEASE EXPAND AND PROVIDE DETAILS REGARDING ITEMS AS NOTED

COMMENTS (NOTE - THIS SECTION NOT TO BE USED FOR LEGAL ADVICE): \_\_\_\_\_

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\_\_\_\_\_

DEPARTMENT OF THE CORPORATION COUNSEL

Date 05/28/2023

By 

(Rev. 7/03)

great:ltr:011(16)acc01:kmatt

Attachment

# Resolution

No. 23-88, CD1

AUTHORIZING SETTLEMENT OF ONO GELATO OF PAIA, LLC V.  
COUNTY OF MAUI, CIVIL 2CCV-22-0000258

WHEREAS, Ono Gelato of Paia, LLC filed a lawsuit in the Second Circuit Court of the State of Hawai'i on November 4, 2022, Civil 2CCV-22-0000258, against the County of Maui for negligent misrepresentation and nondisclosure, tortious interference with business relations, violation of due process and equal protection, and unequal enforcement of law and to recover economic losses located at 115 Hāna Highway, Unit D, Pā'ia, Hawai'i; 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 stated in an executive meeting before the Government Relations, Ethics, and Transparency Committee; and

WHEREAS, Section 3.16.020(B), Maui County Code, requires Council authorization for any settlement of claims or civil litigation in excess of \$7,500; 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 settlement; now, therefore,

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

1. That, under Section 3.16.020(B), Maui County Code, it approves settlement of Ono Gelato of Paia, LLC v. County of Maui, Civil 2CCV-22-0000258, under the terms stated in an executive meeting before the Government Relations, Ethics, and Transparency Committee;
2. That it authorizes the Mayor to execute a Release and Settlement Agreement on behalf of the County in this case;
3. That it authorizes the Director of Finance to satisfy settlement of this case; and

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

APPROVED AS TO FORM AND LEGALITY:



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Victoria J. Takayesu  
Corporation Counsel  
County of Maui

great:misc:011(16)areso01:dr

INTRODUCED BY:

A handwritten signature in black ink, appearing to read "Alice L. Lee", written in a cursive style.

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ALICE L. LEE

Upon the request of the Mayor.