

MICHAEL P. VICTORINO
Mayor

MOANA M. LUTEY
Corporation Counsel

RICHELLE M. THOMSON
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LYDIA A. TODA
Risk Management Officer



**DEPARTMENT OF THE CORPORATION COUNSEL
COUNTY OF MAUI**

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December 22, 2020

MEMO TO: Mike Molina, Chair
Governance, Ethics, and Transparency Committee

FROM: Brian A. Bilberry, Deputy Corporation Counsel

SUBJECT: Litigation Matter – Settlement Authorization GET-11(39)
*Avid Amiri, Individually and as Trustee of the Deutsche International
Trust II vs. County of Maui; Civil 19-cv-00373*
U.S. District Court, District of Hawaii

Our Department is requesting the opportunity to discuss the above referenced case with the Committee, to provide a status of the litigation, and discuss settlement options. We would like this matter to be heard at the next committee meeting, and reasonably in advance of a settlement conference scheduled with the federal court magistrate set for January 28, 2021.

Attached is the proposed Resolution; a copy of the Complaint was previously submitted to the GET Committee on May 19, 2020.

It is anticipated that an executive session will be necessary to discuss a settlement offer received from Mr. Amiri's lawyer.

Should you have any questions or concerns, please do not hesitate to contact our office.

cc: Michele McLean, Director, Department of Planning,
Rowena Dagdag-Andaya, Director, Department of Public Works

Resolution

No. _____

AUTHORIZING SETTLEMENT OF
AVID AMIRI, INDIVIDUALLY AND AS TRUSTEE OF
THE DEUTSCHE INTERNATIONAL TRUST II VS.
COUNTY OF MAUI, CIVIL 19-CV-00373

WHEREAS, Plaintiff Avid Amiri filed a complaint in the United States District Court for the District of Hawai'i on July 11, 2019, Civil 19-CV-00373, against the County of Maui, related to the construction, inspection, maintenance and repair of a culvert and roadway providing access to residential property located at 372 Puu Way, Haiku, Maui, Hawaii; 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 set forth in an executive meeting before the Governance, 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,

Resolution No. _____

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

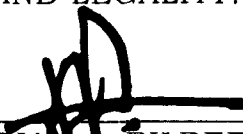
1. That it approves settlement of AVID AMIRI, INDIVIDUALLY AND AS TRUSTEE OF THE DEUTSCHE INTERNATIONAL TRUST II VS. COUNTY OF MAUI under the terms set forth in an executive meeting before its Governance, Ethics, and Transparency Committee;

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

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



BRIANNA BILBERRY
Deputy Corporation Counsel
County of Maui
Lit 6017