

COUNCIL OF THE COUNTY OF MAUI
POLICY COMMITTEE

March 18, 2011

**Committee
Report No.** _____

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

Chair and Members:

Your Policy Committee, having met on March 2, 2011, makes reference to County Communication No. 11-30, from Council Chair Danny A. Mateo, regarding litigation matters.

By correspondence dated November 29, 2010, the Department of the Corporation Counsel requested consideration of the possible settlement of Leis Family Limited Partnership v. Insituform Technologies, Inc. and County of Maui, Civil No. 09-1-0356(3). Attached to the request is a copy of the complaint and a proposed resolution entitled "AUTHORIZING SETTLEMENT OF LEIS FAMILY LIMITED PARTNERSHIP V. INSITUFORM TECHNOLOGIES, INC. AND COUNTY OF MAUI, CIVIL NO. 09-1-0356(3)". The purpose of the proposed resolution is to authorize the Department of the Corporation Counsel to settle the case.

Your Committee notes that the complaint alleges general and special damages as the result of a sewage spill of untreated wastewater on November 13, 2008, affecting property located at 2121 Iliili Road, Kihei, Hawaii, known as Lihi Kai Cottages.

Your Committee received a revised proposed resolution incorporating nonsubstantive revisions.

A Deputy Corporation Counsel provided an overview of the case and requested the opportunity to discuss the matter in an executive meeting, closed to the public.

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 of the Corporation Counsel, your Committee voted 6-0 to recommend adoption of the revised proposed resolution to authorize the settlement of the matter under the terms proposed in the executive meeting. Committee Chair Hokama, Vice-Chair Carroll, and members

COUNCIL OF THE COUNTY OF MAUI
POLICY COMMITTEE

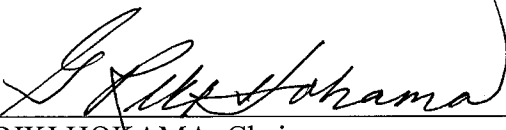
March 18, 2011
Page 2

Committee
Report No. _____

Baisa, Cochran, Couch, and White voted "aye". Committee members Mateo, Pontanilla, and Victorino were excused.

Your Policy Committee RECOMMENDS that Resolution No. _____, as revised herein and attached hereto, entitled "AUTHORIZING SETTLEMENT OF LEIS FAMILY LIMITED PARTNERSHIP V. INSITUFORM TECHNOLOGIES, INC. AND COUNTY OF MAUI, CIVIL NO. 09-1-0356(3)" be ADOPTED.

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



G. RIKI HOKAMA, Chair

Resolution

No. _____

AUTHORIZING SETTLEMENT OF
LEIS FAMILY LIMITED PARTNERSHIP V.
INSITUFORM TECHNOLOGIES, INC. AND COUNTY OF MAUI,
CIVIL NO. 09-1-0356(3)

WHEREAS, Plaintiff Leis Family Limited Partnership (hereinafter "Plaintiff") filed a lawsuit in the Second Circuit Court on May 8, 2009, Civil No. 09-1-0356(3), against Insituform Technologies, Inc. and the County of Maui claiming general and special damages as the result of an incident on November 13, 2008; and

WHEREAS, the County of Maui, to avoid incurring expenses and the uncertainty of a judicial determination of the parties' respective rights and liabilities, has attempted to reach a resolution of this case 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 Policy Committee; and

WHEREAS, having reviewed the facts and circumstances regarding this case and being advised of attempts by the Department of the Corporation Counsel to reach resolution of this case by way of a negotiated settlement, 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 this case under the terms set forth in an executive meeting before the Policy Committee; and

2. That it hereby authorizes the Mayor to execute a Release and Settlement Agreement on behalf of the County 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 satisfy 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, and the Corporation Counsel.

APPROVED AS TO FORM
AND LEGALITY:



CHERYL TIPTON
Deputy Corporation Counsel
County of Maui