

COUNCIL OF THE COUNTY OF MAUI

GOVERNMENT RELATIONS, ETHICS, AND TRANSPARENCY COMMITTEE

March 7, 2025

**Committee
Report No. _____**

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

Chair and Members:

Your Government Relations, Ethics, and Transparency Committee, having met on February 18, 2025, makes reference to Resolution 25-46, entitled “AUTHORIZING SETTLEMENT OF CONSERVATION COUNCIL FOR HAWAII AND AMERICAN BIRD CONSERVANCY v. HAWAIIAN ELECTRIC COMPANY, INC. AND MAUI ELECTRIC COMPANY LTD. AND COUNTY OF MAUI, CASE NO. 1:24-cv-00494-MWJS-WRP.”

Resolution 25-46’s purpose is to authorize settlement of the claim filed on November 19, 2024, under terms discussed in an executive meeting.

By correspondence dated January 30, 2025, the Department of the Corporation Counsel requested consideration of Resolution 25-46, with a copy of the claim.

Your Committee notes Subsection 3.16.020(B), Maui County Code, requires Council authorization for any settlement of claims or civil litigation in excess of \$25,000.

A Deputy Corporation Counsel provided a brief overview of the claim in open session. The claim alleges that streetlights owned by Hawaiian Electric Company, Inc. and Maui Electric Company, Ltd. and operated on the County’s behalf are a threat to the survival and recovery of three critically imperiled seabirds that are native to Hawai‘i and protected under the Endangered Species Act.

The Deputy Corporation Counsel requested an executive meeting to discuss confidential information related to the claim.

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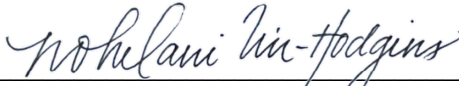
Your Committee voted to convene an executive meeting, closed to the public, to consult with legal counsel in accordance with Sections 92-5(a)(4) and 92-5(a)(8), Hawai'i Revised Statutes.

Following the executive meeting, your Committee reconvened in open session.

Based on information received in the executive meeting and the recommendation of the Department, your Committee voted 7-0 to recommend adoption of Resolution 25-46. Committee Chair U'u-Hodgins, Vice-Chair Paltin, and members Cook, Johnson, Kama, Rawlins-Fernandez, and Sugimura voted "aye." Committee members Lee and Sinenci were excused.

Your Government Relations, Ethics, and Transparency Committee RECOMMENDS that Resolution 25-46, attached, entitled "AUTHORIZING SETTLEMENT OF CONSERVATION COUNCIL FOR HAWAII AND AMERICAN BIRD CONSERVANCY v. HAWAIIAN ELECTRIC COMPANY, INC. AND MAUI ELECTRIC COMPANY LTD. AND COUNTY OF MAUI, CASE NO. 1:24-cv-00494-MWJS-WRP," be ADOPTED.

This report is submitted in accordance with Rule 3 of the Rules of the Council.



NOHELANI U'U-HODGINS, Chair

Resolution

No. 25-46

AUTHORIZING SETTLEMENT OF CONSERVATION COUNCIL FOR HAWAII AND AMERICAN BIRD CONSERVANCY v. HAWAIIAN ELECTRIC COMPANY, INC. AND MAUI ELECTRIC COMPANY LTD. AND COUNTY OF MAUI,
CASE NO. 1:24-cv-00494-MWJS-WRP

WHEREAS, Plaintiffs Conservation Council for Hawai'i and American Bird Conservancy ("Plaintiffs"), filed a Complaint in the United States District Court, District of Hawai'i on November 19, 2024 in Case No. 1:24-cv-00494-MWJS-WRP, against Defendants Hawaiian Electric Company, Inc. and Maui Electric Company Ltd. (collectively "the Company") and the County of Maui, in which Plaintiffs allege that the Company-owned street lights operated by the Company for the County of Maui is a threat to the continued survival and recovery of three critically imperiled seabirds that are native to Hawai'i and are protected under the federal Endangered Species Act 16 U.S.C. § 1531 *et seq.*; and

WHEREAS, that 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 presented in an executive meeting before the Government Relations, 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,

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

1. That, under Chapter 3.16 Maui County Code, it approves settlement of Conservation Council for Hawai'i, et al. v. Hawaiian Electric Company, Inc. et al., Case No. 1:24-cv-

Resolution No. 25-46

00494-MWJS-WRP, under the terms discussed in an executive meeting before its 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, under terms and conditions as may be imposed by the Corporation Counsel consistent with the Council's settlement approval;
3. That it authorizes the Director of Finance to satisfy settlement of this case, under terms and conditions as may be imposed 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, and the Corporation Counsel.

APPROVED AS TO FORM AND LEGALITY:



BRIAN A. BILBERRY
Deputy Corporation Counsel
County of Maui
L.F. 8067

INTRODUCED BY:

A handwritten signature in cursive script, appearing to read "Peter Lee", is written over a horizontal line.

Upon the request of the Mayor.