

Resolution

No. 25-128

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,
CIVIL 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 Civil 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.*, Civil 1:24-cv-00494-

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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 Corporation Counsel.

APPROVED AS TO FORM AND LEGALITY:



BRIAN A. BILBERRY
Department of the Corporation Counsel
County of Maui
LF-8067

INTRODUCED BY:

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

Upon the request of the Mayor.