Resolution

No. 26-128

AUTHORIZING SETTLEMENT OF *CONSERVATION COUNCIL FOR HAWAI'I 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, filed a Complaint in the United States District Court, District of Hawai'i on November 19, 2024, in Civil Case1:24-cv-00494-MWJS-WRP, against Defendants Hawaiian Electric Company, Inc., Maui Electric Company Ltd. and the County of Maui, alleging that the street lights owned and operated by the Company for the County of Maui threaten the continued survival and recovery of three critically imperiled seabirds that are native to Hawai'i and that are protected under the federal Endangered Species Act 16 U.S.C. § 1531 *et seq.*; 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 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 Section 3.16.020, Maui County Code, it approves settlement of *Conservation Council for Hawai'i 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, 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, Director of Finance, and Corporation Counsel.

APPROVED AS TO FORM AND LEGALITY:

BRIAN A. BILBERRY

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

INTRODUCED BY:

Upon the request of the Mayor.