

COUNCIL OF THE COUNTY OF MAUI
**ECONOMIC DEVELOPMENT, ENERGY,
AGRICULTURE, AND RECREATION
COMMITTEE**

December 16, 2016

**Committee
Report No. _____**

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

Chair and Members:

Your Economic Development, Energy, Agriculture, and Recreation Committee, having met on November 29, 2016, makes reference to County Communication 16-217, from Council Chair Mike White, transmitting the matter relating to the transfer of equipment from the New Energy and Industrial Technology Development Organization to the County of Maui.

By correspondence dated November 16, 2016, the Economic Development Director transmitted a proposed resolution, entitled "AUTHORIZING ACCEPTANCE OF A DONATION OF JUMP SMART MAUI PROJECT EQUIPMENT TO THE COUNTY OF MAUI, PURSUANT TO CHAPTER 3.56, MAUI COUNTY CODE," and a proposed equipment transfer agreement.

The purpose of the proposed resolution is to authorize the Mayor to enter into an agreement to accept certain equipment provided as part of the Jump Smart Maui Project.

Your Committee notes Chapter 3.56, Maui County Code, requires Council approval of any gift or donation of more than \$750.

Your Committee notes Resolution 15-28, adopted by the Council on March 20, 2015, authorized the grant of a license of County real property to Hitachi Advanced Clean Energy Corporation for the installation, operation, and maintenance of electric vehicle quick chargers and local battery units at the Haiku Community Center, Kihei Community Center, Lahaina Aquatic Center, and County of Maui's Kalana Pakui building in Wailuku. The grant was part of the Jump Smart Maui Project, a collaborative program to demonstrate smart-grid technology and test how

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electric vehicles and stationary devices, including chargers and batteries, can stabilize Maui's electric power grid and support the use of higher levels of renewable energy on Maui.

Your Committee notes the license agreement, extended by Council Resolution 16-144 adopted on October 21, 2016, will expire on March 31, 2018.

The Maui County Energy Commissioner informed your Committee the project was undertaken by Hitachi in collaboration with the New Energy and Industrial Technology Development Organization, a Japanese, semi-governmental organization promoting the development and introduction of new energy technologies. He added the project has been a useful economic activity, bringing more than 700 clean vehicles to the County.

The Commissioner said the equipment to be transferred consists of a Static Var Compensator at the Department of Public Works, Makawao Garage, and a Battery Energy Storage System at the Kihei Waste Water Treatment Plant. He added the Office of Economic Development is negotiating with Maui Electric Company, Ltd., for the use and maintenance of the equipment.

Your Committee expressed its gratitude to Hitachi for its contribution to the County of Maui.

Your Committee voted 5-0 to recommend adoption of the proposed resolution and filing of the communication. Committee Chair Guzman, Vice-Chair Cochran and members Crivello, Hokama, and White voted "aye." Committee members Couch and Victorino were excused.

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Your Economic Development, Energy, Agriculture, and Recreation Committee RECOMMENDS the following:

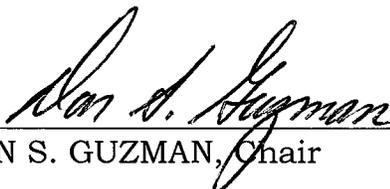
1. That Resolution _____, attached hereto, entitled "AUTHORIZING ACCEPTANCE OF A DONATION OF JUMP SMART MAUI PROJECT EQUIPMENT TO THE COUNTY OF MAUI, PURSUANT TO CHAPTER 3.56, MAUI COUNTY CODE," be ADOPTED; and
2. That County Communication 16-217 be FILED.

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



DON S. GUZMAN, Chair

ear:cr:16070aa:scb

Resolution

No. _____

AUTHORIZING ACCEPTANCE OF A DONATION OF JUMP SMART MAUI
PROJECT EQUIPMENT TO THE COUNTY OF MAUI,
PURSUANT TO CHAPTER 3.56, MAUI COUNTY CODE

WHEREAS, New Energy and Industrial Technology Development Organization has offered to transfer ownership of various equipment from its Jump Smart Maui Project to the County; and

WHEREAS, the equipment along with the terms of the transfer are described in more detail in the Jump Smart Maui Project on the Island of Maui Equipment Transfer Agreement, attached hereto and incorporated herein as Exhibit "A"; and

WHEREAS, Chapter 3.56, Maui County Code, authorizes the Council of the County of Maui to accept gifts and donations on behalf of the County; now, therefore,

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

1. That it hereby expresses its appreciation and accepts the aforesaid donation on behalf of the County of Maui; and
2. That it authorizes the Mayor or the Mayor's authorized representative to execute all documents pertaining to said donation; and

Resolution No. _____

3. That certified copies of this resolution be transmitted to the Mayor, the Director of Finance, the Director of Environmental Management, the Director of Public Works, and the New Energy and Industrial Technology Development Organization.

APPROVED AS TO FORM
AND LEGALITY:



JERRIE L. SHEPPARD
Deputy Corporation Counsel
County of Maui
2016-1580

**JUMP SMART MAUI PROJECT
ON THE ISLAND OF MAUI**

EQUIPMENT TRANSFER AGREEMENT

This equipment transfer agreement (hereinafter referred to as the "AGREEMENT") for the Jump Smart Maui Project on the Island of Maui (hereinafter referred to as the "PROJECT") which will be completed on February 28, 2017, is made and executed on the date of the last signature of all copies by the parties (hereinafter referred to as the "EFFECTIVE DATE"), by and between the New Energy and Industrial Technology Development Organization (hereinafter referred to as "NEDO") and the County of Maui (hereinafter referred to as "MAUI").

This AGREEMENT is designed to ensure the effective use of the equipment provided by NEDO, as listed in Exhibit "1", attached hereto and made a part hereof, (hereinafter referred to as the "EQUIPMENT"), for the PROJECT pursuant to a memorandum of understanding (hereinafter referred to as the "NEDO AND HAWAII MOU"), executed on November 22, 2011, between NEDO and the State of Hawaii, Department of Business, Economic Development & Tourism (hereinafter referred to as "SOH/DBEDT"), and the memorandum of understanding (hereinafter referred as "NEDO AND MAUI MOU"), executed on June 14, 2013, between NEDO and MAUI, upon completion of the PROJECT.

The EQUIPMENT is currently installed on MAUI property as part of a BATTERY LICENSE AGREEMENT and SVC LICENSE AGREEMENT between MAUI and HITACHI ADVANCE CLEAN ENERGY CORPORATION, as amended by Resolutions 14-134 and 14-135 respectively, and shall terminate upon the TRANSFER DATE set forth in this AGREEMENT.

NEDO and MAUI hereby agree as follows:

1. Subject to and in accordance with the terms and conditions set forth in this AGREEMENT, at the time the PROJECT is completed NEDO shall transfer as a donation to MAUI the ownership of the EQUIPMENT at no cost in its then existing condition. The date of completion of the PROJECT is hereinafter referred as the "TRANSFER DATE."
2. On the TRANSFER DATE, ownership of the EQUIPMENT shall automatically be transferred from NEDO to MAUI pursuant to this AGREEMENT without any further action by NEDO or MAUI.
3. NEDO and MAUI acknowledge and agree that the EQUIPMENT represents part of the equipment as provided for in Article 7 of the NEDO AND HAWAII MOU and in Article 4 of the NEDO AND MAUI MOU.
4. NEDO shall not assume any responsibility for warranty, maintenance, refurbishment, or any other costs, losses, or liabilities pertaining to the EQUIPMENT upon and subsequent to the

EXHIBIT " A "

transfer of its ownership of the EQUIPMENT to MAUI. All operation and maintenance costs after the EQUIPMENT is transferred to MAUI shall be borne by MAUI, or by a third party operation and maintenance company assigned by MAUI.

5. After the transfer of ownership to MAUI pursuant to paragraph 2., MAUI shall make its reasonable best efforts to continue to operate each item of the EQUIPMENT in a manner consistent with its original purpose and maintain the EQUIPMENT in as usable a condition as it was at the time of the transfer of ownership for four (4) years from the respective date of acquisition as noted in Exhibit "1". For this purpose, MAUI may assign the operation and maintenance work to a third party. In the event that MAUI wishes to alter how the EQUIPMENT is used, MAUI shall consult with NEDO in advance and obtain NEDO's agreement prior to such alteration.
6. MAUI shall prepare annual reports on the status of each item of the EQUIPMENT for four (4) years from the respective date of acquisition noted in Exhibit "1", based on an April to March time period. MAUI shall submit these annual reports to NEDO if so requested.
7. After the transfer of ownership to MAUI, NEDO may access the site during normal business hours, subject to reasonable conditions, where the EQUIPMENT is located when necessary to confirm the operational status of the EQUIPMENT for four (4) years from the respective date of acquisition as noted in Exhibit "1". For this limited purpose, MAUI does hereby give and grant to NEDO, its contractors and agents, the right to enter the sites of the EQUIPMENT for a period not to exceed four years from the respective date of acquisition noted in Exhibit "1".
8. MAUI shall make its reasonable best efforts to ensure that the EQUIPMENT continues to be operated and maintained safely and reliably, with the understanding that MAUI is self-insured, upon the effective date of this AGREEMENT.
9. NEDO shall make its reasonable best efforts to provide operation and maintenance manuals and maintenance records which are in its possession or control to MAUI or its designee, including any third party operation and maintenance company, upon the transfer of ownership of the EQUIPMENT to MAUI, or as soon as reasonably practical thereafter, to assist MAUI's proper operation of the EQUIPMENT and for MAUI's consultation with any third party operation and maintenance company in establishing its ability to operate the EQUIPMENT.
10. Any problems resulting from or anything unspecified in this AGREEMENT shall be resolved through amicable consultation based on the principles of mutual benefit, equality, cooperation and trust.
11. This AGREEMENT may be amended by mutual written agreement of NEDO and MAUI.
12. This AGREEMENT embodies the entire agreement of the parties and shall become effective upon the EFFECTIVE DATE. The SVC LICENSE AGREEMENT and its first amendment,

and the BATTERY LICENSE AGREEMENT and its first amendment, shall terminate upon the TRANSFER DATE.

13. It is expressly understood that the County does not in any way or for any purpose become a partner of NEDO in the conduct of its business or otherwise or a joint venturer or a member of a joint enterprise with NEDO.
14. This Agreement may be executed in counterparts, each of which shall be deemed an original and said counterparts shall together constitute one and the same instrument.

IN WITNESS WHEREOF, NEDO and MAUI have executed two (2) originals of this AGREEMENT by their duly authorized representatives, and shall each retain one (1) original.

NEW ENERGY AND INDUSTRIAL
TECHNOLOGY DEVELOPMENT
ORGANIZATION:

Date

KAZUYUKI TAKADA
Director, New Energy and Industrial
Technology Development Organization
Japan

COUNTY OF MAUI

Date

By: _____
ALAN M. ARAKAWA
Its Mayor

APPROVAL RECOMMENDED:

FREDERICK REDELL
Energy Commissioner, Office of Economic Development

APPROVED AS TO FORM
AND LEGALITY:

JERRIE L. SHEPPARD
Deputy Corporation Counsel
County of Maui
2016-1580

STATE OF HAWAII)
) SS.
COUNTY OF MAUI)

On this ____ day of _____, 20____, before me personally appeared ALAN M. ARAKAWA, to me personally known, who being by me duly sworn, did say that he is the Mayor of the County of Maui, a political subdivision of the State of Hawaii, and that the seal affixed to the foregoing instrument is the lawful seal of the said County of Maui, and that the said instrument was signed and sealed on behalf of said County of Maui by authority of its Charter; and the said ALAN M. ARAKAWA acknowledged the said instrument to be the free act and deed of said County of Maui.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.

Notary Public, State of Hawaii

Print Name: _____

My commission expires: _____

NOTARY PUBLIC CERTIFICATION	
Doc. Date: _____	# Pages: _____
Notary Name: _____	Judicial _____
Doc. Description: _____	Circuit: _____

Notary Signature: _____	
Date: _____	

List of EQUIPMENT TO BE Transferred by NEDO

Item	Quantity	Location	Acquisition Date	Serial Number
Lead Battery System	1	Kihei Waste Water Treatment Plant	2013/12/17	112001020
Static Var Compensator System	1	Makawao Garage	2013/12/17	112001021