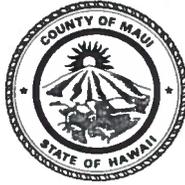


ALAN M. ARAKAWA
Mayor

STEWART STANT
Director

MICHAEL MIYAMOTO
Deputy Director



MICHAEL RATTE
Solid Waste Division

ERIC NAKAGAWA, P.E.
Wastewater Reclamation Division

RECEIVED

2016 JUN 21 PM 6:00

COUNTY OF MAUI OFFICE OF THE MAYOR
DEPARTMENT OF
ENVIRONMENTAL MANAGEMENT
2050 MAIN STREET, SUITE 2B
WAILUKU, MAUI, HAWAII 96793

June 21, 2016

Mayor Alan M. Arakawa
County of Maui
200 South High Street
Wailuku, Hawaii 96793

For transmittal to:

Mike White, Chair
Maui County Council
200 South High Street
Wailuku, Hawaii 96793

RECEIVED
2016 JUN 24 AM 9:44
OFFICE OF THE
COUNTY CLERK

APPROVED FOR TRANSMITTAL

Alan Arakawa 6/24/16

Mayor Date

SUBJECT: RESOLUTION AUTHORIZING SITE LEASE RELATED TO AN ELECTRICITY GENERATING FACILITY AT THE WAILUKU-KAHULUI WASTEWATER RECLAMATION FACILITY

Mayor Arakawa,

Please transmit the following request to Council Chair Mike White at your earliest convenience.

The Department of Environmental Management respectfully requests the opportunity to present to the Council for referral to the Budget & Finance Committee a resolution authorizing the County to enter into a site lease related to an electricity generating facility at the Wailuku-Kahului Wastewater Reclamation Facility.

The Budget & Finance Committee is best positioned to vet this site lease, as it is ancillary to a Power Purchase Agreement, which will affect this Department's budget for the duration of the project.

For background, the Department's Charter-mandated responsibilities include guiding efforts to optimize opportunities for environmental, natural resource protection, sustainability, conservation, and restoration. Important to this mandate is creating a long-term clean energy strategy and electric grid

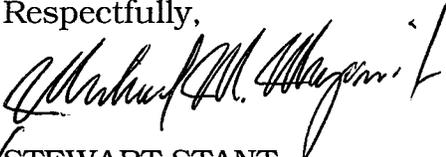
COUNTY COMMUNICATION NO. 16-134

Chair Mike White
Resolution re Site Lease at KWRRF
June 21, 2016
Page 2

independence, with the goal of utilizing renewable energy wherever economically and practically feasible. Toward these goals, the Department issued a request for proposals in the first quarter of 2016 and has issued a notice of intent to award a project at the Wailuku-Kahului Wastewater Reclamation Facility. The project includes an anaerobic digester, which will convert energy crops and other alternatives into methane gas, which in turn will be used to fuel a turbine engine that will generate electricity to power the needs of the wastewater facility. The Power Purchase Agreement includes a fixed energy price escalation, providing energy security and financial stability for this facility's operations. This project will also incorporate a "Sludge Dryer" that uses the heat generated from the turbine to dry the sewage sludge from the existing 80% wet to 20%, making the end result Class A dried bio-solids that may be used as fertilizer at County facilities or potentially as landfill cover, reducing costs for the current method for managing sludge and provision of cover material, as well as producing a usable end product. Sludge from the Kihei and Lahaina facilities also may be transported to the sludge dryer at the Kahului facility.

Because the Power Purchase Agreement is confidential as it presently is under negotiation and is dependent upon the Council's approval of the site lease, I anticipate that an executive session may be necessary to answer the Council's questions and issues pertaining to matters that must be kept confidential pursuant to Section 92-5.a.8, Hawaii Revised Statutes.

Respectfully,



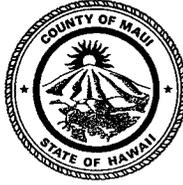
STEWART STANT
Director

Enclosure

ALAN M. ARAKAWA
Mayor

STEWART STANT
Director

MICHAEL MIYAMOTO
Deputy Director



MICHAEL RATTE
Solid Waste Division
ERIC NAKAGAWA, P.E.
Wastewater Reclamation Division

**COUNTY OF MAUI
DEPARTMENT OF
ENVIRONMENTAL MANAGEMENT**

2050 MAIN STREET, SUITE 2B
WAILUKU, MAUI, HAWAII 96793

June 20, 2016

Mike White, Chair
Maui County Council
200 South High Street
Wailuku, Hawaii 96793

**SUBJECT: RESOLUTION AUTHORIZING SITE LEASE RELATED TO
AN ELECTRICITY GENERATING FACILITY AT THE
WAILUKU-KAHULUI WASTEWATER RECLAMATION
FACILITY**

Dear Chair White,

The Department of Environmental Management respectfully requests the opportunity to present to the Council for referral to the Budget & Finance Committee a resolution authorizing the County to enter into a site lease related to an electricity generating facility at the Wailuku-Kahului Wastewater Reclamation Facility.

The Budget & Finance Committee is best positioned to vet this site lease, as it is ancillary to a Power Purchase Agreement, which will affect this Department's budget for the duration of the project.

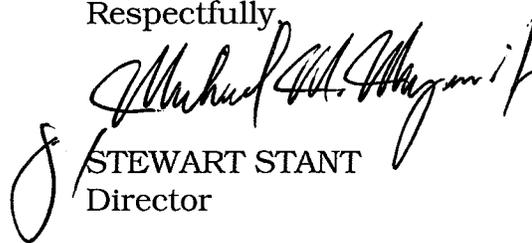
For background, the Department's Charter-mandated responsibilities include guiding efforts to optimize opportunities for environmental, natural resource protection, sustainability, conservation, and restoration. Important to this mandate is creating a long-term clean energy strategy and electric grid independence, with the goal of utilizing renewable energy wherever economically and practically feasible. Toward these goals, the Department issued a request for proposals in the first quarter of 2016 and has issued a notice of intent to award a project at the Wailuku-Kahului Wastewater Reclamation Facility. The project includes an anaerobic digester, which will convert energy crops and other alternatives into methane gas, which in turn will be used to fuel a turbine engine that will generate electricity to power the needs of the wastewater facility. The Power Purchase Agreement includes a fixed energy price escalation, providing energy security and financial stability

Chair Mike White
Resolution re Site Lease at KWRRF
June 20, 2016
Page 2

for this facility's operations. This project will also incorporate a "Sludge Dryer" that uses the heat generated from the turbine to dry the sewage sludge from the existing 80% wet to 20%, making the end result Class A dried bio-solids that may be used as fertilizer at County facilities or potentially as landfill cover, reducing costs for the current method for managing sludge and provision of cover material, as well as producing a usable end product. Sludge from the Kihei and Lahaina facilities also may be transported to the sludge dryer at the Kahului facility.

Because the Power Purchase Agreement is confidential as it presently is under negotiation and is dependent upon the Council's approval of the site lease, I anticipate that an executive session may be necessary to answer the Council's questions and issues pertaining to matters that must be kept confidential pursuant to Section 92-5.a.8, Hawaii Revised Statutes.

Respectfully



STEWART STANT
Director

Enclosure

Resolution

No. _____

AUTHORIZING SITE LEASE RELATED TO AN ELECTRICITY GENERATING FACILITY AT THE WAILUKU-KAHULUI WASTEWATER RECLAMATION FACILITY

WHEREAS, the County desires a long-term clean energy strategy and electric grid independence, with the goal of utilizing renewable energy, as defined in Section 196-11, Hawaii Revised Statutes, wherever feasible; and

WHEREAS, the County of Maui, Department of Environmental Management (“Department”), issued a request for proposals related to the design, construction, maintenance, and operation of a facility for generation and sale of electricity (“Project”) to the County for purposes of meeting the energy needs of the Wailuku-Kahului Wastewater Reclamation Facility, located at 281 Amala Place, Kahului, Hawaii, and described as tax map key (2)3-8-001:188 (“KWWRF”), under a 20-year power purchase agreement and Site Lease, which proposed Site Lease is attached hereto as Exhibit 1; and

WHEREAS the Project consists of an anaerobic digester, which will convert energy crops and other alternatives into methane gas, which will be utilized in turbines to produce electrical energy to meet the power needs of the KWWRF. Additionally, the Project consists of a sludge dryer, which will reduce current

operational costs and render the dried organic material usable for beneficial purposes; and

WHEREAS, the KWWRF property is owned by the State of Hawaii and leased to the County under Executive Order No. 3006, attached hereto as Exhibit 2, and the Department intends to seek the State of Hawaii Board of Land and Natural Resources' ("BLNR") consent to lease approximately one acre of the KWWRF property for the Project; and

WHEREAS, Anaergia Services, LLC was selected as the winning proposer and has been issued a Notice of Intent to Award, with finalization and execution of the PPA predicated upon approval of the Site Lease by the Council and consent to lease by BLNR; and

WHEREAS, in accordance with Section 3.40.040.A, the Council may authorize a lease in excess of five years when such period is in the public interest and the terms of the proposed contract require the contractor to expend the sum of twenty-five thousand dollars or more for capital improvements; now, therefore,

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

1. That the Council hereby authorizes the Site Lease and authorizes the Department to obtain consent to lease from the State of Hawaii Board of Land and Natural Resources; and

2. That it does hereby authorize the Director of Finance, or the Director's duly authorized representative, to execute the Site Lease; and

3. That certified copies of this resolution be transmitted to the Director of Finance, the Director of Environmental Management, and the Corporation Counsel.

APPROVED AS TO FORM
AND LEGALITY:



RICHELLE M. THOMSON
Deputy Corporation Counsel
County of Maui

SITE LEASE

This SITE LEASE ("Lease") is made effective this ____ day of _____, 20__, by and between SPE, LLC, a _____ limited liability company, and its successors and assigns ("SPE"), and the County of Maui ("County"), a political subdivision of the State of Hawaii. SPE and County are sometimes individually referred to herein as a "Party" and collectively as the "Parties."

RECITALS

WHEREAS, County is the lessee of certain real property in Kahului, Maui, Hawaii, more particularly shown in Exhibit A (the "Property"), upon which there are erected certain improvements including the building or buildings and certain improved land operated as the Wailuku-Kahului Wastewater Reclamation Facility ("KWWRF");

WHEREAS, SPE owns certain equipment that produces electricity from anaerobic digester gas or other fuels, and dries sludge from wastewater reclamation facilities; and

WHEREAS, subject to the terms and conditions of a certain Service Agreement for production and sale of electricity and drying services for sludge dated as of even date herewith between County and SPE (as amended, modified and in effect from time to time, the "Service Agreement"), County has engaged SPE to install, operate and maintain a system that produces electricity and dry sludge (as further described in the Service Contract, the "System") within a portion of the Property, which is more particularly shown in Exhibit A (the "Site") for the purpose of providing electricity to County.

NOW, THEREFORE, in consideration of the promises and the mutual covenants contained herein, the sufficiency of which is acknowledged by both Parties, the Parties do hereby agree as follows:

ARTICLE 1 DEFINED TERMS

Capitalized terms used but not defined herein shall have the same meanings given such terms in the Service Agreement.

ARTICLE 2 LEASE

County does hereby lease to SPE and SPE does hereby lease from County the Site in accordance with the terms and conditions set forth herein. SPE hereby covenants to pay County on or before the Commercial Operation Date as and for full consideration of this

lease \$10.00 (ten) dollars. SPE may offset this amount against payments due under the Service Agreement.

For good and valuable consideration, the receipt of which is hereby acknowledged, County hereby also grants to SPE (i) a non-exclusive license to construct, install, operate, maintain, improve and replace the System at the Site in accordance with the terms of this Lease and the Service Contract and to run wires and conduits from the System to the electrical panel and other areas within the Property as are required or appropriate for the installation, operation, maintenance, improvement and replacement of the System, (ii) a non-exclusive license to access the Site from time to time as reasonably necessary or appropriate for SPE (including SPE's affiliates and subcontractors, or assignees if any) to provide County with electricity under the terms of the Service Agreement, and (iii) a contractual right of access to, on, over and through the Property to access the Site, at such times and under such circumstances as are reasonable for SPE to perform its obligations and to exercise its rights under the Service Agreement.

County shall provide access to the Property and the Site pursuant to the foregoing grants shall at all times be subject to compliance with (i) the reasonable policies adopted from time to time by the County and provided in writing to SPE regarding health and safety at the Property or as are necessary to provide for the safe operation of the Property and the KWWRF; and (ii) all regulatory and permitting requirements applicable to the Property and the Site.

SPE shall provide County with plans and specifications necessary for installation of the System and any broadband connection for approval prior to commencement of work, which approval shall not be unreasonably conditioned, withheld or delayed. County will maintain the Site in good condition and repair pursuant to the Service Contract.

Subsequent to the initial installation of the System as described herein, and subject to Article 10 of this Agreement, SPE shall provide County with prior notification regarding any substantial repair or replacement required to the Property or the Site with respect to the System. The Parties SPE acknowledge that the Site and the System will be functioning components of the KWWRF and that County retains the right to access the Site for the purpose of ensuring the proper operation and function of the KWWRF. Notwithstanding the foregoing, County shall not shut down the System without prior notification and approval from SPE unless such action is reasonably necessary to (i) protect the basic integrity of the KWWRF; (ii) to avoid the imminent violation of a regulatory requirement pursuant to sub-section (d)(ii); or (iii) to protect public health and safety.

ARTICLE 3 TERM

The term of this Lease shall commence on the Effective Date and shall terminate three (3) months following the termination or expiration of the Service Contract, including any

extensions (the "Term"). Notwithstanding the foregoing, County shall provide SPE access to the Site following termination or expiration of this Lease Agreement according to the terms herein, to the extent necessary to allow SPE to exercise any obligation or right it may have under the Service Contract to remove the System from the Site as discussed in sub-section (b) below. The date on which the Term of this Lease ends is referred to herein as the "Expiration Date."

If the System is removed by SPE pursuant to the Service Agreement, SPE shall: (i) remove the System within a timeframe mutually agreed upon by the Parties; and (ii) return the Site to a good and usable condition, except for ordinary wear and tear. Within a commercially reasonable time after the Expiration Date, SPE shall record a quit claim deed to County of any and all of its right, title and interest in and to the Property. Notwithstanding the System's presence as personal property and not as a fixture on the Site, SPE shall be entitled to remove the System or any part thereof and any related equipment from the Site at any time allowed by the Service Agreement, provided, however, SPE shall not be entitled to remove the System so long as County has a right to purchase the System pursuant to the Service Agreement.

ARTICLE 4 USE OF THE SITE

SPE shall have access to and use of the Site for the erection, installation, ownership, operation, maintenance, repair, replacement, improvement and removal of the System as well as for all other activities to be conducted by SPE in connection with the performance of its obligations and exercise of its rights under the Service Agreement. SPE will comply with all laws, ordinances, orders, rules and regulations (state, federal or local), specifically including all environmental and occupational, health and safety requirements relating to SPE's use or occupancy of the Site and the System and the operation thereof.

ARTICLE 5 INGRESS AND EGRESS

County agrees to provide and maintain all roads, driveways and walkways that are now and may be located in and around the Site or on the grounds of the Property that are necessary or appropriate for proper ingress and egress to and from, and occupancy of, the Site. SPE will observe all speed limits and other rules and regulations established by County with respect to such roads and driveways existing on the Property which are used to access the Site.

ARTICLE 6 FACILITY SITE UTILITIES

County shall provide certain SPE specified utilities to the Site in connection with SPE's construction, start-up, maintenance, repair, replacement and operation of the System. In connection therewith, SPE's use of the Site shall include the non-exclusive

appurtenant right to the use of natural gas lines, digester gas lines, water lines, sewer lines, storm water lines, power lines, fuel lines, telephone and communication lines, pipelines, conveyors and drainage ditches for the purpose of constructing, starting up, maintaining, repairing, replacing and operating the System. SPE shall maintain and repair all utilities running from the System up to the Interconnection Point(s) (as defined in the Service Agreement), and County shall maintain and repair all utilities, including all pipes, conduits, ducts, electric or other utilities, sinks or other apparatus through which any utility services are provided, at and from the Delivery Point through the remainder of the Property.

ARTICLE 7 CONSTRUCTION STAGING AREA

Provided that such use does not interfere with the normal operations of the KWWRF, the County shall provide the Site and an area within the Property, reasonable in size for the performance of SPE's obligations under the Service Agreement and in close proximity to the Site, for the storage and assemblage of materials to construct, erect and install the System. Upon the completion of any activity requiring the use of such site, SPE shall remove all remaining materials from such site and shall restore such site as nearly as is reasonably possible to the condition in which it existed immediately prior to the commencement of such activity subject to ordinary wear and tear.

ARTICLE 8 PROPERTY RIGHTS

County acknowledges and agrees that the System is not a fixture on the Site, provided however, that notwithstanding that the System is not a fixture on the Site, SPE is the exclusive owner and operator of the System, and that the System may not be sold, leased, assigned, mortgaged, pledged, or otherwise alienated or encumbered by or on behalf of County, with the fee interest of, or leasehold rights to, the Property, except that SPE and its successors and assigns may assign and otherwise encumber its interests in this Lease and in the System in accordance with the provisions of Article II hereof.

County agrees that this Lease Agreement and the other rights established or granted in this Lease shall run with the Property and survive any transfer of the Property. County represents and warrants to SPE that as of the date hereof there are no matters which interfere with the rights of SPE under this Lease or the Service Agreement, including the rights of any lien holder, lessor, or creditor. County shall not suffer or permit the System to become subject to any lien or encumbrance for debt of any kind that may be owed by or demanded of County. County represents and warrants that it now has, and it covenants to use its best efforts to maintain for the term of this Lease, a valid leasehold and possessory interest in the Site and full right to enter into this Lease. County further represents and warrants that there are no existing conditions or use restrictions that prevent the construction, installation or operation of the System on the Site. County's interest in the Site is subject to, but SPE is not responsible for,

Executive Order No. 3006 issued by the State of Hawaii (dated April 9, 1980) ("Executive Order"). The Site may be subject to liens, mortgages, security interests, easements, covenants, rights of way, conditions, restrictions and other encumbrances of record as of the date of this Lease as set forth in the title report attached as Exhibit ____ and incorporated herein by reference ("Existing Title Encumbrances"). This Lease is subject to the Executive Order No. 3006, as amended, between State of Hawaii, County and SPE.

ARTICLE 9 QUIET ENJOYMENT

County covenants and agrees that SPE, provided it remains in compliance with its obligations under this Lease Agreement, shall lawfully and quietly have, hold, occupy and enjoy the Site and the appurtenant rights thereto in accordance with the terms hereof throughout the entire term of this Lease free from any claim of any entity or person of superior title thereto without hindrance to, interference with or molestation of SPE's use and enjoyment thereof, whether by County or any of its agents, employees or independent contractors or by any entity, person or persons having or claiming an interest in the Site.

ARTICLE 10 PRIOR USES

In entering into this Lease, County does not seek to make SPE liable for any conditions existing prior to the construction of the System, past contamination or pollution or breach of environmental laws, if any, located on or related to the Property, including the Site and the land beneath. Accordingly, County agrees to assume full responsibility for (and protect, indemnify and defend SPE against) any costs and expenses relating to remediating conditions prior to the construction of the System, liability or cleanup obligations for any contamination or pollution or breach of environmental laws related to the Property, including the Site, unless attributable to the actions of SPE in which event, SPE shall assume full responsibility for (and protect, indemnify and defend County against) any liability or clean up obligations for any contamination, pollution or breach of environmental laws related to the Property.

ARTICLE 11 ASSIGNMENT

This Lease and all the provisions hereof will be binding upon and inure to the benefit of the Parties and their respective successors and assigns. This Lease and the rights of SPE hereunder may be assigned by SPE and/or County concurrent with any assignment which is permitted pursuant to the Service Agreement. Any other assignment shall require the prior written consent of the other Party.

Notwithstanding the foregoing, (i) County acknowledges that SPE may finance the acquisition and installation of the System through a loan or lease from one or more

financial institutions and that SPE's obligations may be secured by, among other collateral, a lien on or encumbrance of the leasehold established hereunder, a pledge or collateral assignment of this Lease Agreement, and a first priority security interest in the System. In order to facilitate any such transaction, and with respect to any such financial institutions of which SPE has notified County in writing (each, a "Lender" or "Lessor"), County hereby consents to the lien on or encumbrance of the leasehold established hereunder, the collateral assignment by SPE to the Lender or Lessor of SPE's right, title and interest in and to this Lease and a first security interest in the System. SPE shall be entitled to otherwise assign its right, title and interest in and to this Lease to an affiliate or institutional investor with notice to but without the prior written consent of County.

ARTICLE 12 INSURANCE

The County and SPE shall each maintain the insurance coverage as described in the Service Agreement, which insurance shall also apply to the activities to be conducted and permitted under this Lease Agreement.

ARTICLE 13 INDEMNIFICATION AND LIMITATION OF LIABILITY

In addition to the County's indemnification of SPE (Article 10 – Prior Uses), and SPE's indemnification obligations (Article 16-No Liens), the indemnification and limitations of liability provisions within the Service Agreement shall apply to this Lease.

ARTICLE 14 OWNERSHIP OF THE SYSTEM

County acknowledges that SPE is the exclusive owner of the System, the electricity generated by the System and one hundred percent (100%) of the Environmental Attributes, Environmental Financial Incentives, Rebates and Reporting Rights until such energy reaches the Delivery Point.

In addition to the improvements made on the Site as of the Operations Commencement Date (as defined in the Service Agreement), SPE may construct additional improvements upon the System and on the Site as may be desired for SPE's performance of the Service Contract.

ARTICLE 15 RELOCATION OF PROPERTY SUBJECT TO LEASE

The System may be moved to a different location or modified within the KWWRF or relocated to another location owned or occupied by right by the County pursuant to the terms of the Service Agreement.

ARTICLE 16
MISCELLANEOUS PROVISIONS

Applicable Law

This Lease shall be interpreted and governed by the laws of State of Hawaii, without regard to conflict of laws provisions. Any Dispute shall be resolved in accordance with the applicable provisions of the Service Agreement.

Interpretation Rules

Titles and headings are included in this Lease for convenience only, and shall not be used for the purpose of construing and interpreting this Lease. Words in the singular also include the plural and vice versa where the context requires.

Severability

In the event that any provisions of this Lease are held to be unenforceable or invalid by any court or regulatory agency of competent jurisdiction, County and SPE shall use good faith efforts to negotiate an equitable adjustment in the provisions of this Lease with a view toward effecting the purposes of this Lease, and the validity and enforceability of the remaining provisions hereof shall not be affected thereby.

Counterparts

This Lease may be executed in counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same agreement.

Entire Agreement, Amendments and Waivers

This Lease constitutes the entire agreement between the Parties with respect to the subject matter hereof, and supersedes the terms of any previous agreements or understandings, oral or written. Any waiver or amendment of this Lease must be in writing. Either Party's waiver of any breach or failure to enforce any of the terms of this Lease shall not affect or waive that Party's right to enforce any other term of this Lease.

Further Assurances

Either Party shall execute and deliver such further instruments as may be reasonably requested by the other Party or any title company designated by a Party in order to carry out the terms of this Lease Agreement.

Recordation

The parties hereto acknowledge that this Lease may be recorded by the County, SPE,

or any title company or agent designated by SPE, in the State of Hawaii Bureau of Conveyances.

Taxes

County is responsible for all assessments, real estate taxes, liens and encumbrances on the Site that become due. Parties acknowledge the SPE is leasing the land free and clear of liens and encumbrances that may have been created and/or incurred by County or a third party prior to the Term of this Lease.

Estoppel

Either Party hereto, without charge, at any time and from time to time, within five (5) business days after receipt of a written request by the other Party hereto, shall deliver a written instrument, duly executed, certifying to such requesting Party, or any other person, firm, or corporation specified by such requesting Party: (i) that this Lease is unmodified and in full force and effect, or if there has been any modification, that the same is in full force and effect as so modified, and identifying any such modification; (ii) whether or not to the knowledge of any such Party there are then existing any offsets or defenses in favor of such Party against enforcement of any of the terms, covenants and conditions of this Lease and, if so, specifying the same and also whether or not to the knowledge of such Party the other Party has observed and performed all of the terms, covenants and conditions on its part to be observed and performed, and of not, specifying the same; and (iii) such other information as may be reasonably requested by a Party hereto. Any written instrument given hereunder may be relied upon by the recipient of such instrument, except to the extent the recipient has actual knowledge of facts contained in the certificate.

No Liens

SPE shall not directly or indirectly cause, create, incur, assume or suffer to exist any mortgage, pledge, lien (including mechanics', labor or materialman's lien), charge, security interest, encumbrance or claim of any nature ("Liens") on or with respect to the Site or its interest therein; provided that this Section 15.1 shall not limit Liens on the System. If SPE breaches its obligations under this Section 15.1, it shall immediately notify County in writing, shall promptly cause such Lien to be discharged and released of record without cost to County, and shall defend and indemnify County against all costs and expenses (including reasonable attorneys' fees and court costs at trial and on appeal) incurred in discharging and releasing such Lien.

County shall not directly or indirectly cause, create, incur, assume or suffer to exist any Liens on or with respect to any System or any interest therein. County also shall pay promptly before a fine or penalty may attach to any System any taxes, charges or fees of whatever type of any relevant Governmental Authority for which County is responsible under this Lease or the Service Agreement. If County breaches its obligations under this Section 15.1, it shall immediately notify SPE in writing, shall

promptly cause such Lien to be discharged and released of record without cost to SPE, and shall indemnify SPE against all costs and expenses (including reasonable attorneys' fees and court costs at trial and on appeal) incurred in discharging and releasing such Lien.

SPE shall be entitled to, and is hereby authorized to, file one or more precautionary UCC financing statements or fixture filings, as applicable, which are consistent herewith, in such jurisdictions as it deems appropriate with respect to the System in order to protect its rights in the System.

Cooperation

The Parties agree to cooperate in good faith with each other in connection with the construction, ownership, operation and maintenance of the System, including, but not limited to, County's reasonable assistance in ensuring that trees, vegetation, additions, or alterations to the County's existing buildings or other moveable obstructions do not unreasonably interfere with the operation and maintenance of the System.

ARTICLE 16 NOTICES

Except as otherwise provided in this Lease Agreement, or as the addressee may later specify in a written notice, all notices or other communications hereunder shall be in writing and deemed given if delivered personally or to a nationally recognized overnight delivery service, addressed as follows:

SPE:

SPE, LLC
5780 Fleet Street, Suite 310
Carlsbad, CA 92011
Phone: (760) 436 8870
Fax: (760) 454 2887

COUNTY:

County of Maui
200 S. High Street
Wailuku, Hawaii 96793
Attn: Director of Finance

With copy to: Department of Environmental Management
2050 Main Street, Suite 2B
Wailuku, Hawaii 96793

[EXECUTION PAGES TO FOLLOW]

IN WITNESS WHEREOF, SPE and County have executed this Lease Agreement as of the date first above written.

COUNTY OF MAUI

By _____
DANILO F. AGSALOG
Its Director of Finance

SPE, LLC

By _____
Print name:
Its _____

APPROVAL RECOMMENDED:

STEWART STANT
Director of Environmental
Management

APPROVED AS TO FORM
AND LEGALITY:

RICHELLE M. THOMSON
Deputy Corporation Counsel

STATE OF _____)
COUNTY OF _____) SS.

On this _____ day of _____, 20____, before me personally appeared, _____ to me known, who, being by me duly sworn or affirmed, did say that such person executed the foregoing instrument as the free act and deed of such person, and if applicable, in the capacity shown, having been duly authorized to execute such instrument in such capacity.

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

[Stamp or Seal]

Notary Public, State of _____

Print Name: _____

My commission expires: _____

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

_____	[Stamp or Seal]
Notary Signature: _____	
Date: _____	

STATE OF HAWAII)
) SS.
 COUNTY OF MAUI)

On this ___ day of _____, 20___, before me appeared DANILO F. AGSALOG, to me personally known, who being by me duly sworn, did say that he is the Director of Finance 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 pursuant to Section 9-18 of the Charter of the County of Maui; and the said DANILO F. AGSALOG 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.

[Stamp or Seal]

 Notary Public, State of Hawaii

Print Name: _____

My commission expires: _____

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

[Stamp or Seal]	
Notary Signature: _____	
Date: _____	

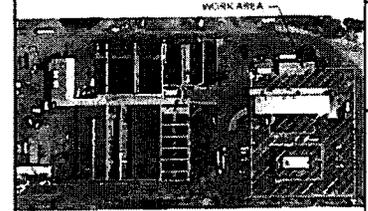
PRELIMINARY - NOT FOR CONSTRUCTION

EXHIBIT A

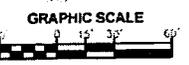


EQUIPMENT LIST

- 100 YD ENERGY CROP RECEPTION LINE 30 IN DIA 3 FT DEEP PIT
- ENERGY CROP FEED TO DIGESTER 1 FT CONVEYOR
- DIGESTER FEEDER AUGER
- ENERGY CROP ANAEROBIC DIGESTER INPT 20
- DIGESTATE DISCHARGE PUMP
- TANKER TRUCK
- SLUDGE TRUCK ON ACCESS RAMP
- 30 YD SLUDGE RECEPTION LINE 30 IN DIA 3 FT DEEP PIT
- TRANSFER SCREW CONVEYOR
- 115 YD³ SLUDGE STORAGE BIN
- WAS TRANSFER PUMP
- SLUDGE DRYER
- DRYER FAN GAS SCRUBBER
- CHP UNIT (ENGINE)
- PROPANE STORAGE ARER
- BIOGAS EMERGENCY FLARE
- BIOGAS COMPRESSION AND CONDITIONING



KEY PLAN
N.T.S.



REV	DESCRIPTION	DRWN BY	CHKD BY	DATE
A	ISSUED FOR INTERNAL REVIEW	RN	SL	2016/05/15
B	ISSUED FOR PERMITAL	RN	SL	2016/05/20

ATTENTION

 IF THIS BAR DOES NOT MEASURE 1" @ 21-14' THEN DRAWING IS NOT TO SCALE - SCALE ACCORDINGLY

Anaergia
 Breaking Barriers to Sustainability

The entire content of this drawing and any related documents are and shall remain the intellectual property of Anaergia, Inc., and shall not be used for any commercial or non-commercial purpose except as authorized in written agreement with or other written consent granted by said company. This drawing and all related documents are protected to all levels not known or heretofore divulged. Users may not copy, reproduce, use or in whole or in part of such drawing or related documents, except as authorized in a written agreement with or other written consent granted by said company.

DRAWN:	RN
CHECKED:	SL
APPROVED:	JJ
PROJECT NO.:	
SCALE:	1" = 30'

**WAIUKU-KAHULUI
 WASTEWATER RECLAMATION FACILITY**

**SITE PLAN
 SCENARIO 3**

DRAWING NUMBER
C-3
 REV
B

Executive Order No. 3006

Setting Aside Land for Public Purposes

By this Executive Order, I, the undersigned, Governor of the State of Hawaii, by virtue of the authority in me vested by Section 171-11, Hawaii Revised Statutes, and every other authority me hereunto enabling, do hereby order that the public land hereinafter described be, and the same is, hereby set aside for the following public purposes:

FOR SEWAGE TREATMENT PLANT PURPOSES, to be under the control and management of the County of Maui, Department of Public Works, and being designated the Wastewater Treatment Plant Site, containing an area of 18.755 acres, more or less, and Easement 10, containing an area of 8,666 square feet, more or less, situate at Kahului, Wailuku, Maui, Hawaii, said land being more particularly described in Exhibit "A" and delineated on Exhibit "B", both of which are attached hereto and made parts hereof, said exhibits being respectively, a survey description and survey map prepared by the Survey Division, Department of Accounting and General Services, State of Hawaii, both being designated C.S.F. No. 18,099 and dated April 26, 1978.

SUBJECT, HOWEVER, to the following:

1. Unrestricted access to the easement area by members of the staff of the Department of Land and Natural Resources and the Department of Transportation.
2. Disapproval by the legislature by two-thirds vote of either the Senate or the House of Representatives or by majority vote of both, in any regular or special session next following the date of this Executive Order.

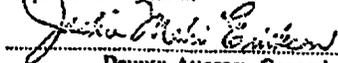
In Witness Whereof, I have hereunto set my hand and caused the Great Seal of the State of Hawaii to be affixed.

Done at the Capitol at Honolulu this 9th day of April, Nineteen Hundred and 80



Governor of the State of Hawaii

Approved as to form:


Deputy Attorney General

Dated: MAR 6 1980

EXHIBIT " 2 "

State of Hawaii

Office of the Lieutenant Governor

2006

This is to Certify That the within is a true copy of Executive Order No.
setting aside land for public purposes, the original of which is on file in this office.

In Testimony Whereof, the Lieutenant Governor of the
State of Hawaii, has hereunto subscribed his name
and caused the Great Seal of the State to be affixed.

DONE in Honolulu, this day of
..... A.D. 19.....

Executive Order No. 2006

Setting Aside Land for
Public Purposes

Land
Purpose
Date



STATE OF HAWAII
 SURVEY DIVISION
 DEPT. OF ACCOUNTING AND GENERAL SERVICES
 HONOLULU

April 26, 1978

S.P. No. 18:089

WASTEWATER TREATMENT PLANT SITE
 AND
 EASEMENT 10

Kahului, Wailuku, Maui, Hawaii

Being a portion of Grant 3343 to Claus Sprackels conveyed as follows:

- (a) Portion of Parcel 1 of the former Naval Air Station at Kahului, conveyed to the Territory of Hawaii by the United States of America by Quitclaim Deed dated December 10, 1956, recorded in Liber 4250, Page 299 and modified by instrument dated August 11, 1965 (Land Office Deeds 16432 and S-18727).
- (b) Quitclaim Deed dated November 7, 1968, releasing Easement 2 reserved for railroad purposes, from Alexander and Baldwin, Inc., successor to Hawaiian Commercial and Sugar Co., Ltd. to the State of Hawaii, recorded in Liber 6301, Page 402 (Land Office Deed S-24630).

WASTEWATER TREATMENT PLANT SITE:

Beginning at the southwest corner of this parcel of land, the coordinates of said point of beginning referred to Government Survey Triangulation Station "PUU.NENE" being 1257.74 feet South and 21,111.97 feet West, thence running by azimuths measured clockwise from True South:-

- 1. 172° 47' 39" 725.01 feet along the remainder of Parcel A, Kahului Airport (Governor's Executive Order 2427);

Thence along highwater mark at seashore as of November 22, 1977, for the next eleven (11) courses, the direct azimuths and distances between points along said highwater mark at seashore being:

- 2. 272° 00' 60.52 feet;
- 3. 272° 25' 240.00 feet;
- 4. 275° 21' 156.00 feet;
- 5. 283° 03' 123.00 feet;
- 6. 274° 17' 113.00 feet;

April 26, 1978

7. 288° 26' 210.00 feet;
8. 274° 07' 61.00 feet;
9. 269° 06' 125.00 feet;
10. 271° 24' 154.00 feet;
11. 278° 50' 184.00 feet;
12. 283° 14' 131.00 feet;
13. 352° 47' 39" 340.00 feet along the remainder of Parcel A, Kahului Airport (Governor's Executive Order 2427);
14. 82° 47' 39" 1500.00 feet along the remainder of Parcel A, Kahului Airport (Governor's Executive Order 2427) to the point of beginning and containing an AREA OF 18.755 ACRES.

EASEMENT 10: Non-exclusive easement (15-foot wide) for wastewater force mains.

Beginning at the northwest corner of this easement, the coordinates of said point of beginning referred to Government Survey Triangulation Station "PUU NENE" being 1336.30 feet South and 21,515.95 feet West, thence running by azimuths measured clockwise from True South:-

1. 262° 44' 09" 532.24 feet along the remainder of Parcel A, Kahului Airport (Governor's Executive Order 2427);
2. 172° 44' 09" 26.73 feet along the remainder of Parcel A, Kahului Airport (Governor's Executive Order 2427);
3. 262° 47' 39" 15.00 feet along the Wastewater Treatment Plant Site;
4. 352° 44' 09" 41.72 feet along the remainder of Parcel A, Kahului Airport (Governor's Executive Order 2427);
5. 82° 44' 09" 554.48 feet along the remainder of Parcel A, Kahului Airport (Governor's Executive Order 2427);

C.S.P. No. 18,099

April 26, 1978

6. 198° 30'

16.66 feet along the remainder of Grant 3343 to
Claus Spreckels to the point of beginning
and containing an AREA OF 8,666 SQUARE
FEET.

SURVEY DIVISION
DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES
STATE OF HAWAII

By: James Chrystal Jr.
James Chrystal, Jr.
Land Surveyor.

Compiled from maps by
Wright-Harvey & Wright
dated Jan. 29, 1972, Reg.
Map 4132 and Govt. Survey
Records.

fb

Executive Order No. 3096

Setting Aside Land for Public Purposes

By this Executive Order, I, the undersigned, Governor of the State of Hawaii, by virtue of the authority in me vested by Section 171-11, Hawaii Revised Statutes, and every other authority me hereunto enabling, do hereby order that the public land hereinafter described be, and the same is, hereby set aside for the following public purposes:

FOR SEWAGE TREATMENT PLANT PURPOSES, to be under the control and management of the County of Maui, Department of Public Works, and being designated the Wastewater Treatment Plant Site, containing an area of 18.755 acres, more or less, and Easement 10, containing an area of 8,666 square feet, more or less, situate at Kahului, Wailuku, Maui, Hawaii, said land being more particularly described in Exhibit "A" and delineated on Exhibit "B", both of which are attached hereto and made parts hereof, said exhibits being respectively, a survey description and survey map prepared by the Survey Division, Department of Accounting and General Services, State of Hawaii, both being designated C.S.F. No. 18,099 and dated April 26, 1978.

SUBJECT, HOWEVER, to the following:

1. Unrestricted access to the easement area by members of the staff of the Department of Land and Natural Resources and the Department of Transportation.
2. Disapproval by the legislature by two-thirds vote of either the Senate or the House of Representatives or by majority vote of both, in any regular or special session next following the date of this Executive Order.

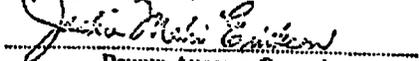
In Witness Whereof, I have hereunto set my hand and caused the Great Seal of the State of Hawaii to be affixed.

Done at the Capitol at Honolulu this 9th day of April, Nineteen Hundred and 80



Governor of the State of Hawaii

Approved as to form:


Deputy Attorney General

Dated: MAR 6 1980

State of Hawaii

Office of the Lieutenant Governor

3006

This is to Certify That the within is a true copy of Executive Order No.....
setting aside land for public purposes, the original of which is on file in this office.

In Testimony Whereof, the Lieutenant Governor of the
State of Hawaii, has hereunto subscribed his name
and caused the Great Seal of the State to be affixed.

DONE in Honolulu, this day of
....., A.D. 19.....

Executive Order No. 3006

Setting Aside Land for
Public Purposes

Land

Purpose

Date



STATE OF HAWAII
 SURVEY DIVISION
 DEPT. OF ACCOUNTING AND GENERAL SERVICES
 HONOLULU

April 26, 1978

S.P. No. 18:089

WASTEWATER TREATMENT PLANT SITE
 AND
 EASEMENT 10

Kahului, Wailuku, Maui, Hawaii

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- (b) Quitclaim Deed dated November 7, 1968, releasing Easement 2 reserved for railroad purposes, from Alexander and Baldwin, Inc., successor to Hawaiian Commercial and Sugar Co., Ltd. to the State of Hawaii, recorded in Liber 6301, Page 402 (Land Office Deed S-24630).

WASTEWATER TREATMENT PLANT SITE:

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Thence along highwater mark at seashore as of November 22, 1977, for the next eleven (11) courses, the direct azimuths and distances between points along said highwater mark at seashore being:

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- 5. 283° 03' 123.00 feet;
- 6. 274° 17' 113.00 feet;

April 26, 1978

- | | | |
|-----|--------------|--|
| 7. | 288° 26' | 210.00 feet; |
| 8. | 274° 07' | 61.00 feet; |
| 9. | 269° 06' | 125.00 feet; |
| 10. | 271° 24' | 154.00 feet; |
| 11. | 278° 50' | 184.00 feet; |
| 12. | 283° 14' | 131.00 feet; |
| 13. | 352° 47' 39" | 340.00 feet along the remainder of Parcel A,
Kahului Airport (Governor's Executive
Order 2427); |
| 14. | 82° 47' 39" | 1500.00 feet along the remainder of Parcel A,
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C.S.F. No. 18,099

April 26, 1978

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SURVEY DIVISION
DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES
STATE OF HAWAII

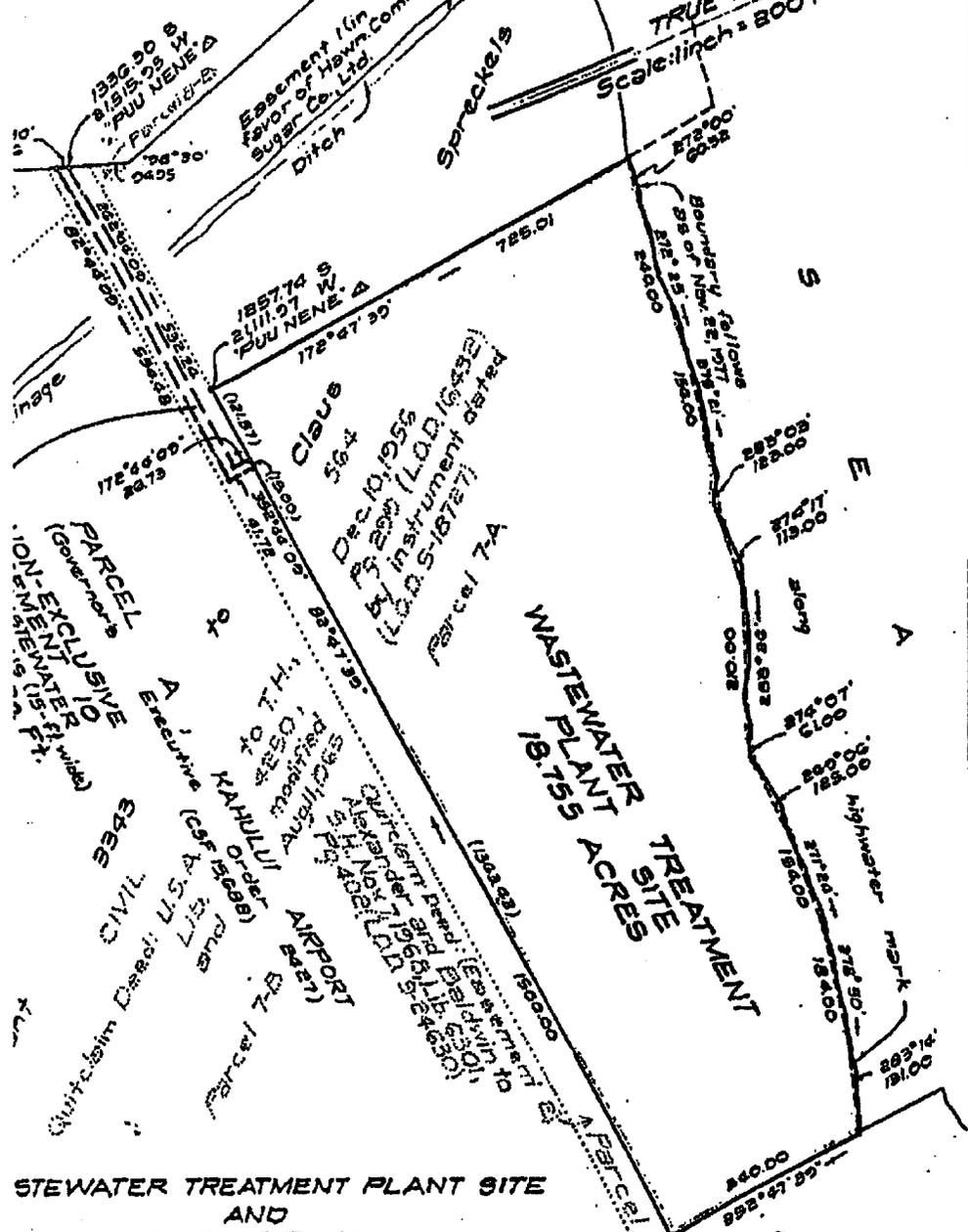
By: James Chrystal Jr.
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Land Surveyor.

Compiled from maps by
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dated Jan. 29, 1972, Reg.
Map 4132 and Govt. Survey
Records.

fb

KAHALUI TOWNSITE

TRUE NORTH
Scale: 1 inch = 800 feet



**SEWATER TREATMENT PLANT SITE
AND
EASEMENT TO
Kahului, Wailuku, Maui, Hawaii**
Scale: 1 inch = 800 feet

7085
Calc. Folder 3

Field survey by County of
Maui, Public Works Dept., Nov. 1977