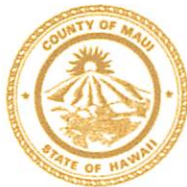


MICHAEL P. VICTORINO
Mayor

SANANDA K. BAZ
Managing Director



COUNTY OF MAUI
OFFICE OF THE MAYOR
200 SOUTH HIGH STREET
WAILUKU, MAUI, HAWAII 96793

October 16, 2020

Honorable Michael P. Victorino
Mayor, County of Maui
200 South High Street
Wailuku, Hawaii 96793

APPROVED FOR TRANSMITTAL

Michael P. Victorino 10/16/20
Mayor Date

OFFICE OF THE
COUNTY CLERK

2020 OCT 16 AM 10:34

RECEIVED

For Transmittal to:

Honorable Alice Lee, Chair
and Members of the Council
Maui County Council
200 South High Street
Wailuku, HI 96793

Dear Chair Lee and Members:

**SUBJECT: RESOLUTION APPROVING CONCESSION
AGREEMENTS WITH HAWAIIAN ELECTRIC TO
UPGRADE DC FAST CHARGING ELECTRIC VEHICLE
CHARGING STATIONS AT THREE COUNTY SITES**

Pursuant to Sections 3.40.200 and 3.36.090, Maui County Code, I am herewith transmitting a proposed resolution entitled "AUTHORIZING THE OPERATION OF ELECTRIC VEHICLE DC FAST CHARGER CONCESSIONS BY HAWAIIAN ELECTRIC COMPANY AT THE LAHAINA AQUATIC CENTER, HAIKU COMMUNITY CENTER, AND KALANA O MAUI BUILDING."

The purpose of the proposed resolution is to approve the concession agreements for Hawaiian Electric Company to upgrade and operate DC fast charging (DCFC) electric vehicle (EV) charging stations at three properties owned by the County of Maui. These upgrades would replace DCFC EV charging units that have reached the end of their useful lives and were originally installed under the JumpSmartMaui program and then operated under the EVohana program. The three County properties for which concession agreements with Hawaiian Electric are proposed are the Lahaina Aquatic Center (LAC), the Haiku Community Center (HCC), and the Kalana O Maui Building (KOM). These

COUNTY COMMUNICATION NO. 20-524

Alice L. Lee, Chair
October 16, 2020
Page 2

upgrades will significantly contribute to addressing community needs for EV charging and will come at nominal cost to Maui County taxpayers under PUC approved EV-Maui and EV-U tariffs. The County of Maui is committed to achieve 100% clean ground transportation by 2045 and to converting the County vehicle fleet to 100% clean ground transportation by 2035.

Also attached is a summary overview for the charging station upgrades and the Concession Agreements for HCC, LAC, and KOM.

I respectfully request that this matter be expedited for review and action, as our community needs EV charging infrastructure as soon as possible. Furthermore, Hawaiian Electric faces a deadline to procure and install upgraded DCFC EV chargers within this calendar year.

Thank you for your attention to this matter. If you have any questions or require additional information, please contact me at ext. 7203.

Sincerely,

A handwritten signature in black ink, appearing to read 'Alex De Roode', written in a cursive style.

ALEX DE ROODE
Energy Commissioner

Attachments

cc: Scott K. Teruya, Director of Finance
Michele M. Yoshimura, Budget Director

Summary Overview for DC Fast Charging Upgrades at 3 County Sites

- The County of Maui, as well as the County of Kauai and the City and County of Honolulu, have all pledged to transition public ground transportation to be fueled by renewable sources by 2035 and for all ground transportation to be fueled by renewable resources by 2045.
- The PUC approved a pilot program in 2013 to promote the adoption of EVs. The program is known as Schedule EV-U . This pilot program allows Hawaiian Electric to install up to 25 utility-metered accounts across the five islands Hawaiian Electric serves.
- Additionally, in January of this year, the PUC approved a program that allows for Hawaiian Electric to replace degrading EVohana DC fast charger (DCFC) chargers at 4 sites – Pukalani Terrace Center (PTC), Lahaina Aquatic Center (LAC), Piilani Shopping Center (PVC) and Queen Kaahumanu Center (QKC). This new program is called EV-MAUI.
- The two programs that the PUC approved, EV-U and EV-MAUI, are separately approved tariffs with different rates. For Maui Island these rates are:

Time of Use	EV-U Rate (per kWh)	EV-MAUI Rate (per kWh)
9 am to 5 pm	\$0.49	\$0.28
5 pm to 10 pm	\$0.62	\$0.40
10 pm to 9 am	\$0.60	\$0.38

- In addition to the County LAC site, Hawaiian Electric would like to install fast chargers at 2 more County sites (Haiku Community Center and the Kalana O Maui Building) under the EV-U pilot. This serves several purposes:
 1. Utilizing the existing electrical connections that are already in place from the EVohana program which ended recently reduces construction costs
 2. Charger installations align with County Clean Transportation goals
 3. Charger installation and operations are at no cost to the County
 4. The chargers are regulated by the PUC and aim to ensure equity and fairness for all electric utility ratepayers – the same population as County taxpayers.
 5. Public charger installation has a positive impact on EV adoption which reduces dependence on fossil fuel in the transportation sector
 6. Time of Use (TOU) pricing at the regulated chargers promotes renewable energy use with the cheapest time to charge during the solar peak when there is an abundance of PV generation.
- The three EV DCFC chargers Hawaiian Electric would like to install are located on County property; concession license agreements approved by Council are required for Hawaiian Electric to own and operate the chargers.
- Hawaiian Electric is providing reliable high capacity EV charging in a difficult market. The small but growing sector limits the investment interest from third parties, as such, no other entity can provide DCFC charging infrastructure to the County with no installation or ongoing operating expenses.
- Hawaiian Electric, County of Maui Corporation Counsel and the Office of the Mayor have developed and transmitted to the Maui County Council for approval, concession agreements and an accompanying proposed resolution that are beneficial to all parties.

Resolution

No. _____

**AUTHORIZING THE OPERATION OF ELECTRIC VEHICLE DC FAST
CHARGER CONCESSIONS BY HAWAIIAN ELECTRIC COMPANY AT THE
LAHAINA AQUATIC CENTER, HAIKU COMMUNITY CENTER,
AND KALANA O MAUI BUILDING**

WHEREAS, the County of Maui has pledged to transition to public ground transportation to be fueled by renewable resources by 2035 and for all ground transportation to be fueled by renewable resources by 2045; and

WHEREAS, the availability of Electric Vehicle DC Fast Charger (“DCFC”) installations has a positive impact on electric vehicle (“EV”) adoption, thereby producing a public benefit by reducing the County’s dependence on fossil fuel in the transportation sector, which aligns with the County’s clean transportation goals; and

WHEREAS, HAWAIIAN ELECTRIC COMPANY, INC. (“HECO”) has offered to install, operate, and maintain three DCFCs available for use by the public at the Lahaina Aquatic Center, Haiku Community Center, and Kalana O Maui building, more particularly identified as portions of Tax Map Key Numbers (2) 4-6-012:005, (2) 2-7-004:029, and (2) 3-4-008:042 (“DCFC Locations”); and

Resolution No. _____

WHEREAS, the DCFC systems previously installed at the DCFC Locations under the JumpSmartMaui and EVohana programs have reached the end of their useful lives and are no longer able to provide adequate EV charging to the public; and

WHEREAS, the terms regarding HECO's use of the DCFC Locations are described and outlined in the Lahaina Aquatic Concession Agreement, Haiku Community Center Concession Agreement, and Kalana O Maui Concession Agreement ("Concession Agreement(s)"), attached hereto and incorporated herein as Exhibits "1-3"; and

WHEREAS, the term of the proposed Concession Agreements is three years; and

WHEREAS, the Concessions are exempt from bidding requirements under Section 102-2, Hawaii Revised Statutes, and Chapter 3.40, MCC, being the operation of a concession set aside without any charge; and

WHEREAS, pursuant to the Concession Agreements, HECO will install, operate, and maintain the DCFCs at the Lahaina Aquatic Center and Haiku Community Center at its own expense and will retain any fees generated from the public's use of the DCFCs; and

WHEREAS, pursuant to the Concession Agreement, HECO will install, operate, and maintain the DCFC at the Kalana O Maui building at its own expense, retain any fees generated from its use by the public, and

Resolution No. _____

will subtract charges related to electrical consumption of the DCFC from the County's electrical bill for this property; and

WHEREAS, pursuant to Section 3.40.200, MCC, concession or concession spaces and/or real property to be leased, rented, or set aside without any charge or at a charge below fair market value shall be considered a grant of public property and shall be submitted to the Council as an application for grant award and considered by the Council pursuant to Chapter 3.36, MCC; and

WHEREAS, pursuant to Section 3.36.090, MCC, any application for a grant of real property, including concessions at less than fair market value, shall be transmitted to Council for authorization by resolution; now, therefore,

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

1. That it hereby authorizes the use of the DCFC Locations pursuant to the terms and conditions of the Concession Agreements; and
2. That certified copies of this Resolution be transmitted to the Mayor, the Director of Finance, and to HECO.

Resolution No. _____

**APPROVED AS TO FORM
AND LEGALITY:**

/s/ Stephanie M. Chen
STEPHANIE M. CHEN
Deputy Corporation Counsel
County of Maui
2020-0812

LAHAINA AQUATIC CENTER CONCESSION AGREEMENT

THIS CONCESSION AGREEMENT ("Agreement") is entered into on _____, (the "Effective Date") by and between COUNTY OF MAUI, HAWAII, whose address is 200 S. High Street, Kalana O Maui Building, Wailuku, Hawaii 96793 ("County"), and MAUI ELECTRIC COMPANY, LIMITED, a Hawaii corporation, whose address is 210 W. Kaahumanu Avenue, Kahului, Hawaii 96732 ("Concessionaire").

1. Concession Area. County is the fee simple owner of certain real property located at 245 Shaw Street, Lahaina, Hawaii 96761 and described in Exhibit A Lahaina Aquatic Center, TMK (2) 4-6-012:005 POR (the "Property"), attached hereto, pursuant to that certain Limited Warranty Deed, Document Number 91-027575, recorded with the State of Hawaii Bureau of Conveyances on March 4, 1991. County is also the owner of all the buildings, fixtures, walkways, roads, and other improvements located on or upon the Property.

County, in consideration of the sum of One Dollar (\$1.00) paid to the County, the receipt of which is acknowledged, and of the promises hereinafter set forth, grants and conveys unto the Concessionaire the right and license to the Concession Area (defined below) to construct, reconstruct, install, re-install, replace, operate, access, maintain, repair and remove one Electric Vehicle ("EV") DC Fast Charging System with supporting equipment (the "Charge Station" or the "Equipment"), concrete jackets and conduits, handholes, manholes, transformer vault sites, underground power and communications lines, metering and monitoring equipment, poles, guys, anchors, overhead and/or underground wire lines, and such other appliances and equipment as may be necessary for the transmission and distribution of electricity or communications, including all service lines emanating from the main trunk line, and/or transformer, to be used for light and power and/or communications and control circuits, including, without limiting the generality of the foregoing, the right (but not the obligation) to trim, keep trimmed, remove, and control any trees and vegetation in the way of its lines, appliances and equipment and a right of entry upon the Property and appurtenant interests, if any, for the aforesaid purposes, over, under, upon, across and through the Concession Area (defined below). The concession granted shall include the area for the Charge Station, handholes, manholes, meter, charging stalls, and underground wire lines (the "Concession Area"), which are fully set forth in the drawing set entitled "Install DC Fast Charger at Lahaina Aquatic Center", identified as Exhibit B, and attached hereto and made a part hereof (the "Plans").

2. Nonexclusive Use. Concessionaire's use of the Concession Area, including charging stalls, shall be on a nonexclusive basis except for those portions of the Concession Area designated for the Charge Station and supporting equipment, conduits, wires, vaults, and other appliances and equipment of the Concessionaire. Notwithstanding the foregoing, the charging stalls shall be reserved for use with the Charging Station.

3. Term.

A. The initial term ("Initial Term") of this Concession Agreement shall commence on the Effective Date and terminate on **June 30, 2023** ("Expiration Date").

B. Concessionaire shall have the option to extend this Concession Agreement ("Extension Option") for two (2) additional five-year terms (each an "Option Term"), which options shall be conditioned upon the following:

- (1) The Hawaii Public Utility Commission ("Commission") shall have issued an order extending the existing Schedule EV-U pilot program or a substantially similar program, or otherwise allowing Concessionaire to continue to own and operate the

Charge Station, for a period that at least covers an Option Term (the "Extended Pilot Period"). If such order is for a period less than an Option Term, or if the remaining period under the Extended Pilot Period is less than an Option Term, that Option Term shall equal the actual or remaining pilot program extension period, as applicable, for that extension term.

- (2) If Concessionaire properly exercises the Extension Option and all conditions set forth in this section are satisfied, the Term shall be extended for an Option Term.

C. Concessionaire must give County written notice of Concessionaire's exercise of its Extension Option at least thirty (30) days prior to the Expiration Date or the expiration of an Option Term, as applicable.

D. At the end of the second Option Term, the parties may agree to extend the Concession Agreement. Any such extension of the Concession Agreement shall continue upon substantially similar terms and conditions as the initial term, unless otherwise agreed to by the parties.

4. Use. Concessionaire intends to use, and County agrees that Concessionaire shall be permitted to use, the Concession Area for the installation, construction, operation, maintenance, repair, testing, and replacement of the Charge Station and related facilities. County acknowledges and agrees that the Charge Station and charging stalls will be made available for general use by EV users.

5. No Fees. Concessionaire shall not be charged any rent or fees under this Concession Agreement.

6. Access. County agrees that Concessionaire shall have access to the Concession Area for the purpose of installing, constructing, operating, maintaining, repairing, testing, removing, and replacing, or causing the installation, construction, operation, maintenance, repair, testing, removal, and replacement of the Charge Station, to the areas of the Property where Concessionaire's conduit, wires, cables and other connecting equipment are located for the purpose of installing, constructing, operating, maintaining, repairing, testing, removing, and replacing, or causing the installation, construction, operation, maintenance, repair, testing, removal, and replacement of same, and to such areas of the Property as may be necessary to maintain Concessionaire's equipment, such access to be 24 hours per day, seven days per week for emergencies and during normal business hours for routine maintenance and inspection visits, unless otherwise agreed upon by County.

7. Concessionaire Responsibilities.

A. Concessionaire agrees to install one EV DC Fast Charging System with supporting equipment at the Property in accordance with the drawing set entitled, "Install DC Fast Charger at Lahaina Aquatic Center," attached hereto as Exhibit B.

B. Concessionaire agrees to furnish all labor, tools, materials, equipment, transportation, supervision, and applicable permits necessary for any design, installation, or re-installation of the Charge Station, and to own, operate and maintain the unit during the term of this Concession Agreement, or until the system has reached the end of its useful life and Concessionaire chooses not to replace the Charge Station, all at no cost to the County. Useful life shall be determined by Concessionaire on the basis of the electrical and mechanical integrity and performance of the Charge Station. If the system reaches the end of its useful life before the end of the Concession Agreement term, Concessionaire shall have the option of installing a replacement Charge Station or terminating the Concession Agreement as set forth herein.

C. Concessionaire, shall install a new dedicated electrical service to the Charge Station and supporting equipment, and shall be the account holder for this new service. Concessionaire shall be

responsible for all utility installation costs, as well as all ongoing account costs, including customer service fees, electrical consumption, and any applicable demand costs until the end of the term of the Concession Agreement or any extensions thereof and while it remains owner and operator of the Charge Station.

D. Concessionaire shall collect and own all revenues related to the usage of the Charge Station for as long as Concessionaire is the owner and operator of the Charge Station.

E. All work associated with the installation, operation, and maintenance of the Charge Station shall comply with applicable federal, state, and local statutes, regulations and public ordinances, and permitting requirements.

F. Concessionaire and its contractor(s) shall be responsible for the operation, maintenance, and servicing of the Charge Station from the effective date of the Concession Agreement until the end of the term of the Concession Agreement or any extensions thereof and while it remains owner and operator of the Charge Station.

8. County Responsibilities.

A. County agrees to provide to Concessionaire, at no cost, the right and license to install, construct, operate, maintain, repair, test, remove, and replace the Charge Station and related facilities in the Concession Area.

B. County shall provide reasonable public access to the Charge Station and charging stalls for the purposes of recharging electric vehicles, at no cost to Concessionaire.

C. County agrees to provide Concessionaire with reasonable access to the Charge Station, Property, and Concession Area.

D. County agrees that the Charge Station equipment shall not be removed from the site without Concessionaire's permission, subject to the termination provisions of Section 12.

E. County shall allow Concessionaire to install mutually agreeable signage for the Charge Station at the Property.

F. County agrees to work in good faith with Concessionaire to report maintenance issues and provide customers with guidance on the basic use of the Charge Station or guide the customer to the established support services.

G. During any construction, County shall provide space for Concessionaire and its contractors to store material, equipment and tools. Concessionaire shall be responsible for providing the container or "job box" used for storage. County shall also allow Concessionaire to erect temporary barriers as necessary to ensure the safety of tenants, visitors, and other personnel who shall be on the premise, and other reasonably related construction activities.

H. County shall provide the following items, to the extent available, for use by Concessionaire and its consultants and contractors:

i. Site, Survey and Electrical or Building drawings for the facility (including electronic CAD drawings).

ii. Previously completed geotechnical reports for the site.

- iii. Previously submitted parking calculations prepared for the County of Maui.
- iv. Archeological studies for the site.
- v. Environmental studies or reports for the site.

I. County shall allow Concessionaire to take coring samples at the site for a geotechnical and environmental evaluation, if required. Concessionaire agrees to share any data or reports with the County of Maui.

J. County shall allow the Concessionaire to publish one or more technical reports on the Charge Station project that shall be publicly available.

K. The County shall allow the Concessionaire to make public the location of the Charge Station for educational and marketing purposes.

L. County agrees that the Concessionaire shall own all data associated with the Charge Station, including, but not limited to, all charging session information and all user-related information.

9. **Force Majeure.** The term "Force Majeure" shall mean any cause that is beyond the control and without the fault or negligence of the party affected, was not reasonably foreseeable at the time this Agreement was entered into, and is unable to be overcome by reasonable efforts of the party affected, including, without limitation, fire, flood, landslide, lightning, earthquake, hurricane, tornado, storm, volcanic eruption, pandemic, endemic, strike, theft, casualty, war, terrorist acts, invasion, civil disturbance, national emergency, insurrection or riot, explosion, acts of public enemies or sabotage. Notwithstanding anything in this Agreement to the contrary, a party unable to perform its obligations due solely to a Force Majeure shall be excused from performance of those obligations for such time as the Force Majeure prevents performance. Such affected party shall make reasonable efforts to resume performance as soon as possible. During any time in which a party is relying on a Force Majeure to excuse its performance, the other party shall be excused from its corresponding obligations hereunder. A party asserting Force Majeure shall immediately, or as soon as reasonably possible, notify the other party of its inability to perform, the basis for same, and an estimate of when it expects to be able to resume performance (and shall periodically update such estimate while the Force Majeure persists).

10. **Indemnity.**

A. To the extent that County's liability for any actions, suits, damages, injury, losses, liabilities, claims, costs or expenses is determined by a court or otherwise agreed to by County, pursuant to Chapter 3.16 of the Maui County Code, County shall defend, indemnify and hold harmless Concessionaire and its employees, directors and agents from and against any actions, suits, damages, losses, liabilities, claims, costs or expenses, including but not limited to reasonable attorneys' fees and costs, on account of any personal injury or death, alleged or real, and damages to property, alleged or real, caused by or arising out of the negligence or willful misconduct of County (or anyone acting under its direction or control or in its behalf, including subcontractors) in connection with the Charge Station, the Concession Area, the Property, or its performance under this Concession Agreement, except to the extent such injury or damage is caused by the negligence, sole negligence, gross negligence or willful misconduct of Concessionaire, its employees, directors, or agents.

B. To the extent that Concessionaire's liability for any actions, suits, damages, injury, losses, liabilities, claims, costs or expenses is determined by a court or otherwise agreed to by Concessionaire,

Concessionaire shall defend, indemnify and hold harmless County and its employees, directors and agents from and against any actions, suits, damages, losses, liabilities, claims, costs or expenses, including but not limited to reasonable attorneys' fees and costs, on account of any personal injury or death, alleged or real, and damages to property, alleged or real, caused by or arising out of the negligence or willful misconduct of Concessionaire (or anyone acting under its direction or control or in its behalf, including subcontractors) in connection with the Charge Station, the Concession Area, the Property, or its performance under this Concession Agreement, except to the extent such injury or damage is caused by the negligence, sole negligence, gross negligence or willful misconduct of County, its employees, directors, or agents.

11. Ownership.

A. The Charge Station shall be and remain personal property belonging to Concessionaire, and the same may be removed by Concessionaire at any time during the term or extended term of this Agreement or during such subsequent period as may be agreed to in writing by County.

B. If Concessionaire decides not to, or is unable to, obtain Commission approval to extend Concessionaire ownership and/or operation of the Charge Station, Concessionaire, in its sole discretion, may offer County the option of taking over ownership and operation of the Charge Station, including applicable equipment and lines, upon terms mutually agreeable to the parties, and subject to Commission approval. If the County opts to not take over ownership and operation of the Charge Station, the Concessionaire may transfer ownership and operation of the Charge Station, including applicable equipment and lines, to a third-party, subject to Commission approval, and subject to execution of an agreement between County and third-party as to operation, maintenance, and repair of the Charge Station. The Charge Station may remain in the Concession Area pending Commission approval of any transfer of the Charge Station.

C. If Concessionaire decides not to or is unable to extend its ownership and operation of the Charge Station, if the Commission does not approve transfer of the Charge Station to the County or third-party, if County opts not to take over ownership and operation of the Charge Station, or if the Concessionaire is unable to agree upon terms regarding the transfer of ownership and operation of the Charge Station, including applicable equipment and lines, to County or a third party, Concessionaire shall remove the Charge Station at no cost to County and restore the Concession Area to its condition at the commencement of this Agreement, reasonable wear and tear excepted.

D. As part of any transfer of ownership of the Charge Station to County or a third-party, County shall in good faith negotiate and execute an easement in favor of Concessionaire for existing lines, equipment and apparatus, as applicable, allowing continued provision of electrical service to the Charge Station.

E. If the Charge Station is not transferred to County or a third-party as provided in this Section, the Charge Station may remain in the Concession Area for a period no greater than sixty (60) days after the expiration or earlier termination of this Agreement, or other period mutually agreed upon by the parties, during which time the Concessionaire shall have access rights to the Concession Area, Property, and other areas reasonably necessary to remove the Charge Station and restore the Concession Area as provided in this Agreement. If sixty (60) days is not sufficient for removal and restoration, the parties shall in good faith agree upon a sufficient period of time.

12. Commercial General Liability Insurance.

A. County and Concessionaire and anyone acting under their direction or control or on their behalf shall each at their own expense procure and maintain in full force at all times during the term of this

Concession Agreement, and any extensions thereof, Commercial General Liability insurance with a bodily injury and property damage combined single limit of liability of at least TWO MILLION DOLLARS (\$2,000,000) for any occurrence. Such insurance will include coverage in like amount for products/completed operations, contractual liability, and personal and advertising injury.

B. County's policies providing the insurance coverage required in this section will include Concessionaire and Concessionaire's agents or employees as additional insureds. Concessionaire's policies providing the insurance coverage required in this section will include County and County's agents or employees as additional insureds. Concessionaire's coverage would be primary only with respect to liability stemming from the ownership, maintenance or use of the Charge Station. Otherwise, insurance carried by Concessionaire will be excess only and contribute with County's insurance.

C. Within ten (10) days of the date of this Agreement, County and Concessionaire shall file with the other certificates of insurance certifying that the foregoing insurance coverage is in force. County and Concessionaire shall provide immediate written notice to the other of any material change in, cancellation of, or intent not to renew any of the policies. Receipt of any certificate showing less coverage than requested is not a waiver of either's obligation to fulfill the requirements.

13. Termination.

A. At any time during the term of this Concession Agreement, Concessionaire, in its sole discretion, may terminate this Concession Agreement by providing at least sixty (60) days written notice to County of the intention to terminate the Concession Agreement. Where Concessionaire elects to terminate under this Section 12.A., Concessionaire will pay all reasonable costs and expenses in removing the Charge Station and restoring the Concession Area to its condition at the commencement of this Concession Agreement, reasonable wear and tear excepted.

B. Subject to Paragraph 9, either party shall have the right to terminate this Concession Agreement if the other party shall fail to observe or perform any covenant to be observed and performed under this Concession Agreement and any such default shall continue for thirty (30) days after written notice to correct has been given.

i. In the event of such termination by Concessionaire, Concessionaire may, at once re-enter the premises and thereupon take possession of the Charge Station and related equipment, and County will pay all reasonable costs and expenses in recovering possession of the Charge Station, not to exceed \$5,000.00 (five thousand and no/100 dollars). Concessionaire shall not be responsible for nor shall pay any costs or expenses towards restoring the Concession Area to its condition at the commencement of this Agreement. Nothing in this Section shall prejudice any other remedy or right of action which Concessionaire may have.

ii. In the event of such termination by County, County may demand that Concessionaire remove, or cause removal of the Charge Station. In the event that Concessionaire shall fail to promptly remove the Charge Station within sixty (60) days of written demand, County may cause the removal of the same. Concessionaire will pay all reasonable costs and expenses in removing the Charge Station and restoring the Concession Area to its condition at the commencement of this Agreement, reasonable wear and tear excepted, without prejudice to any other remedy or right of action which County may have.

C. Concessionaire shall have the right to terminate this Concession Agreement prior to the indicated term end date if so ordered by the State of Hawaii Public Utilities Commission. Upon such termination by Concessionaire, the Concessionaire shall remove the Equipment and restore the Concession

Area to its condition at the commencement of this Concession Agreement, reasonable wear and tear excepted, at no cost to County.

14. Condemnation. If at any time any portion of the Property or Concession Area shall be condemned or taken by any governmental authority, the Concessionaire shall have the right to claim and recover from the condemning authority, but not from the County, such compensation for the damages to the Concessionaire's license and right of way and the appliances and equipment owned by, installed and used in connection with this Concession Agreement, which shall be payable to the Concessionaire.

15. Confidentiality and Non-Disclosure.

A. Each party may have a proprietary interest or other need for confidentiality in information that may be furnished to the other pursuant to this Concession Agreement performed hereunder ("Confidential Information"). The party disclosing such information shall be referred to in this section as the "Disclosing Party," and the party receiving such information shall be referred to as the "Receiving Party."

B. Subject to the Uniform Information Practices Act, Chapter 92F, Hawaii Revised Statutes, the Receiving Party will hold in confidence and, without the consent of the Disclosing Party, will not use, reproduce, distribute, transmit, or disclose, directly or indirectly, the Confidential Information of the Disclosing Party except as permitted herein. The Receiving Party may only disclose the Confidential Information to its officers, directors, employees, professional advisors and independent contractors and consultants with a direct need to know the information for the implementation or exercise of rights and/or performance of obligations under or arising from this Concession Agreement, provided that such persons/entities are bound by written confidentiality agreements with terms and conditions that are no less restrictive than those contained in this section. Without limiting the foregoing, the Receiving Party agrees that it will exercise at least the same standard of care in protecting the confidentiality of the Disclosing Party's Confidential Information as it does with its own Confidential Information of a similar nature, but in any event, no less than reasonable care.

C. Confidential Information for purposes of this Concession Agreement shall not include information if and only to the extent that the Receiving Party establishes that the information: (i) is or becomes a part of the public domain through no act or omission of the Receiving Party; (ii) was in the Receiving Party's lawful possession prior to the disclosure and had not been obtained by the Receiving Party either directly or indirectly from the Disclosing Party; or (iii) is lawfully disclosed to the Receiving Party by a third party without restriction on disclosure. Confidential Information may also be disclosed by the Receiving Party pursuant to a requirement of a governmental agency, regulatory body or by operation of law, provided that the recipient shall disclose only that part of the Confidential Information that it is required to disclose and shall notify the Disclosing Party prior to such disclosure in a timely fashion in order to permit the Disclosing Party to lawfully attempt to prevent or restrict such disclosure should it so elect, and shall take all other reasonable and lawful measures to ensure the continued confidential treatment of the same by the party to which the Confidential Information is disclosed.

D. Any provision herein to the contrary notwithstanding, Company may disclose Confidential Information, as necessary and appropriate, to the State of Hawaii Public Utilities Commission and/or State of Hawaii Consumer Advocate ("CA") (including their respective staffs) provided that such disclosure is made under a protective order entered in the docket or proceeding with respect to which the disclosure will be made or any general protective order entered by the Commission.

16. Notices.

A. Whenever one party is required or permitted to give a notice, communication or consent to the other party under this Concession Agreement, such notice, communication or consent will be in writing unless otherwise specifically provided herein and will be deemed given when delivered by hand, one (1) day after being given to an express courier with a reliable system for tracking delivery, or five (5) days after the day of mailing, when mailed by United States mail or registered or certified mail, return receipt requested, postage prepaid.

B. Notifications will be addressed as follows:

In the case of County:
Office of the Mayor
County of Maui
200 S. High St.
Kalana O Maui Bldg 9th Fl.
Wailuku, HI 96793
Attention: Energy Commissioner

with a copy to:
Department of Management
County of Maui
200 S. High St.
Kalana O Maui Bldg 9th Fl.
Wailuku, HI 96793
Attention: CIP & Energy Coordinator

In the case of Concessionaire:

with a copy to:

Via U.S. Mail

Via U.S. Mail:

Hawaiian Electric Company, Inc.
P.O. Box 398
Kahului, HI 96733
Attention: Gregory Kresge

Hawaiian Electric Company, Inc.
P.O. Box 2750
Honolulu, HI 96840
Attention: Legal Dept.

Via Overnight Mail or Hand
Delivery:

Via Overnight Mail or Hand Delivery:

Hawaiian Electric Company, Inc.
210 W. Kaahumanu Avenue
Kahului, HI 96732
Attention: Gregory Kresge

Hawaiian Electric Company, Inc.
1001 Bishop Street, Suite 1100
Honolulu, HI 96813
Attention: Legal Dept.

Either party hereto may from time to time change its address for notification purposes by giving the other prior written notice of the new address and the date upon which it will become effective.

17. Parties. This Concession Agreement shall inure to the benefit of and be binding upon County, Concessionaire, their respective heirs, legal representatives, permitted successors, successors in trust and permitted assigns, in accordance with Paragraph 19 below.

18. Concession Agreement Terms Confidential. [Deleted.]

19. Amendment. No revision of this Concession Agreement shall be valid unless made in writing and signed by the parties hereto.

20. Assignment. This Concession Agreement may not be assigned by either party without the prior written consent of the other party (which consent shall not be unreasonably withheld, conditioned or delayed); provided, however, that Concessionaire shall have the right, without the consent of County, to assign its interest in this Concession Agreement to any affiliated company owned in whole or in part by Hawaiian Electric Industries, Inc. ("HEI"); provided, further, that (i) such assignee shall have assumed all obligations of Concessionaire under this Concession Agreement and (ii) such assignee is a utility regulated by the State of Hawaii Public Utilities Commission.

21. Coordination. Concessionaire shall have the right to perform, with its own employees or by other contractors, all work related to this Concession Agreement, and Concessionaire shall coordinate its activity with County.

22. Transfer of Property. Should County, at any time during the term of this Concession Agreement, sell or transfer all of the Property or any portion of the Property which includes the Concession Area to a purchaser, such sale or transfer shall be subject to the Concession Agreement and Concessionaire's rights hereunder and the rights of Concessionaire in the Concession Area.

23. No Joint Venture. This Concession Agreement shall not be construed as constituting either party as partner, joint venture or fiduciary of the other party or to create any other form of legal association that would impose liability upon one party for the act or failure to act of the other party, or as providing either party with the right, power or authority (express or implied) to create any duty or obligation of the other party.

24. Attorneys' Fees and Costs. If there is a dispute between the parties and either party institutes a lawsuit, arbitration, mediation, or other proceeding to enforce, declare, or interpret the terms of this Concession Agreement, the prevailing party shall be awarded its reasonable attorneys' fees and costs. The non-prevailing party shall be responsible for those fees and costs to the extent permitted by law or otherwise agreed to by the parties.

25. No Waiver. The failure at any time of either party to enforce any of the provisions of this Concession Agreement, or to require at any time performance by the other party of any of the provisions thereof, shall in no way be construed to be a waiver of such provisions, nor in any way construed to affect the validity of this Concession Agreement or any part hereof, or the right of any party thereafter to enforce each and every such provision.

26. Severability of Provisions. In the event a court or other tribunal of competent jurisdiction at any time holds that any provision of this Concession Agreement is invalid, the remainder of this Concession Agreement shall not be affected thereby and shall continue in full force and effect.

27. Governing Law/Applicable Forum. This Concession Agreement is made under and shall be governed by the laws of the State of Hawaii. Each party agrees and consents that any claim arising out of this Concession Agreement, however defined, shall be brought in the State of Hawaii in a court of competent jurisdiction.

28. Entire Agreement. This Concession Agreement constitutes the entire agreement of the parties hereto with respect to the subject matter hereof and supersedes all oral and written agreements and understandings made and entered into by the parties hereto prior to the date hereof with respect to such subject matter. No amendment, modification, or addition to this Concession Agreement shall be binding upon any party hereto unless reduced to writing and signed by each party.

29. Paragraph Headings. Paragraph headings used herein are for convenience only, and do not limit the scope or meaning of the provisions hereof or otherwise affect the construction thereof.

30. Counterparts. This Concession Agreement and any subsequent writings, including amendments, may be executed in counterparts, each of which shall be deemed an original, and all of which shall together constitute one and the same instrument binding all Parties. Duplicate, unexecuted and unacknowledged pages of the counterparts may be discarded, and the remaining pages assembled as one document. This Concession Agreement and any subsequent writings, including amendments, may be executed and delivered by exchange of executed copies via email or other acceptable electronic means or formats (e.g., DocuSign, Adobe PDF). A Party's signature transmitted by email or other acceptable electronic means or formats shall be considered an original signature that is binding and effective for all purposes, pursuant to Chapter 489E, Hawaii Revised Statutes.

31. No recordation. The parties agree that this Concession Agreement may not be recorded, however, County agrees to enter into a commercially reasonable Memorandum of Concession Agreement, which may be recorded by Concessionaire, at Concessionaire's sole cost and expense.

32. Quiet Enjoyment, Title and Authority. County covenants and warrants to Concessionaire that (i) County has full right, power and authority to execute this Concession Agreement; (ii) it has good and unencumbered title to the Property free and clear of any liens or mortgages, except those disclosed to Concessionaire, which will not interfere with Concessionaire's rights to or use of the Concession Area; and (iii) execution and performance of this Concession Agreement will not violate any laws, ordinances, covenants, or the provisions of any mortgage, license, or other agreement binding on County. County covenants that at all times during the term of this Concession Agreement, as permitted by law, Concessionaire's quiet enjoyment of the Concession Area shall not be disturbed as long as Concessionaire is not in default beyond any applicable grace or cure period.

[Signatures begin on the following page]

IN WITNESS WHEREOF the undersigned have executed this instrument as of the day and year first above mentioned.

COUNTY OF MAUI, HAWAII

By: _____
Name: Michael P. Victorino
Its: Mayor

Approval recommended

By: _____
Name: Scott K. Teruya
Its: Director of Finance

By: _____
Name: Alexander de Roode
Its: Energy Commissioner

Approved as to form and legality

By: _____
Name: Stephanie M. Chen
Its: Deputy Corporation Counsel
LF 2020-0812

HAWAIIAN ELECTRIC COMPANY, INC.,
a Hawaii corporation

By _____
Name:
Title:

“Concessionaire”

Exhibit A

[Property Description for the Property]
LAHAINA AQUATIC CENTER

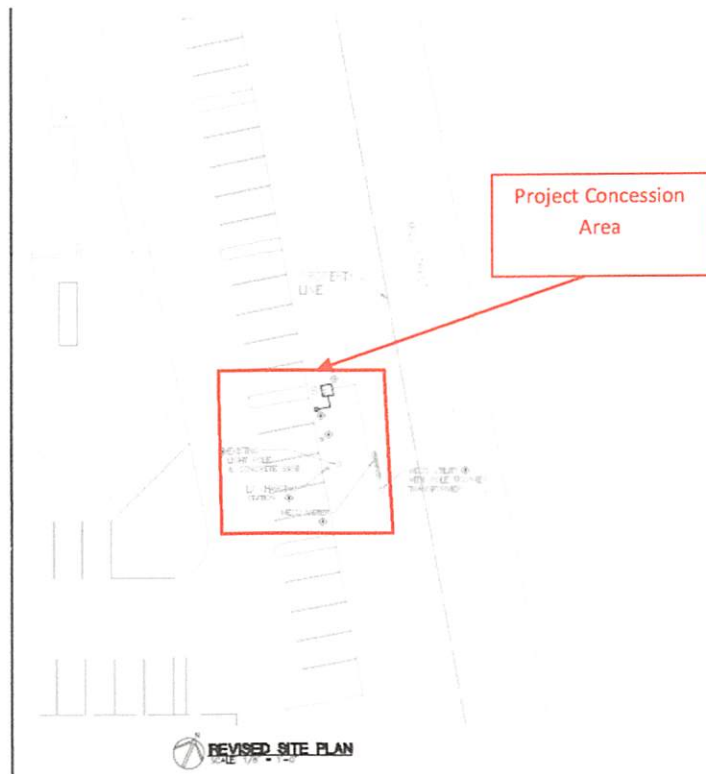
ALL OF THAT CERTAIN PARCEL OF LAND situate on the south and easterly side of the Honoapiʻilani Highway, and on the east and westerly side of a cane haul road, an extension of Mill Street, and on the southerly side of the extension of Prison Street, and on the northerly side of the extension of Aholo Road, at Lahaina, island and County of Maui, State of Hawaii, being all or portions of Grant 5,969, Grant 4,682 to B.A. Isenberg, Grant 725, Apans 1 to Mamasu, Grant 725, Apans 2 to Mamasu, Land Commission Award 9,912, Apans 2 to Pahi, Land Commission Award 479, Apans 1 to Kuohoa, Land Commission Award 9,773, Apans 1 to Mamasu, Land Commission Award 9,912, Apans 1 to Pahi, Land Commission Award 6,786, Apans 1 to Kanohehoho, Land Commission Award 6,787, Apans 1 to Mamasu, Land Commission Award 484, Apans 3 to Kahoehoe, Land Commission Award 3,423-B to Aliu, Land Commission Award 6,869, Apans 2 to Kahoehoe, Land Commission Award 4,333, Apans 2 to Ualo, Land Commission Award 5,207-B, Apans 2 to M. Kaloipihala, Land Commission Award 782, to A.M. Birch, Land Commission Award 4,878-EE, Apans 2 to Kahoehoe, Land Commission Award 6,926, Apans 4 to Kahoehoe, Land Commission Award 11,158, Apans 1 to Pahi, Land Commission Award 4,878-GG, Apans 2 to Mamasu, Land Commission Award 4,911 to Kahoehoe, Land Commission Award 11,158, Apans 2 to Pahi, Land Commission Award 6,926, Apans 3 to Kahoehoe, Land Commission Award 4,878-EE, Apans 3 to Kahoehoe, Land Commission Award 6,926, Apans 3 to Kahoehoe, Land Commission Award 496, Apans 1 to Pahi, Land Commission Award 11,218 to M. Kahoehoe, Land Commission Award 4,316, Apans 4 to Kahoehoe, Land Commission Award 11,216, Apans 17 to M. Kahoehoe, Land Commission Award 9,458, Apans 3 to Mamasu, Land Commission Award 6,337, Apans 2 to Pahi, Land Commission Award 6,799, Apans 1 to Kahoehoe, Land Commission Award 4,878-I, Apans 3 to Kahoehoe, Land Commission Award 6,307, Apans 2 to Kahoehoe, Land Commission Award 352, Apans 3 to Kahoehoe, Land Commission Award 233-Q, Apans 2 to Kahoehoe, Land Commission Award 378 to M.E. Moenaulu, Land Commission Award 6,231 to Kahoehoe, Land Commission Award 6,875, Apans 2 to Kahoehoe, Land Commission Award 352, Apans 4 to Kahoehoe, Land Commission Award 233-P to Kahoehoe, Land Commission Award 6,923 to Pahi, Land Commission Award 364, Apans 1 to J. White, Land Commission Award 11,293, Pt. 1 to I. Kahoehoe, Land Commission Award 3,474 to Kahoehoe, Land Commission Award 9,812, Apans 1 to Ollileolani, Land Commission Award 8,339-B, Apans 23 to U.C. Lunelilo, Land Commission Award 364, Apans 4 to J. White, Land Commission Award 7,680, Apans 3 to Uluhohohi, Land Commission Award 203 to E. Miner, Land Commission Award 6,216, Apans 4 to Kahoehoe, Land Commission Award 6,858, Apans 3 to Kahoehoe, Land Commission Award 6,854, Apans 3 to Ohule, Land Commission Award 10,368, Apans 2 to Ololoa, Land Commission Award 6,400, Apans 3 to Kahoehoe, Land Commission Award 6,219, Apans 2 to Kahoehoe, Land Commission Award 4,878-H, Apans 1 to Kahoehoe, Land Commission Award 6,219, Apans 2 to Kahoehoe, Land Commission Award 4,878-I, Apans 1 to Kahoehoe, Land Commission Award 6,913 to Kahoehoe, Land Commission Award 6,876, Apans 2 to Kahoehoe, Land Commission Award 10,613, Apans 1 to A. Pahi, Land Commission Award 4,878-T, Apans 1 to Kahoehoe, Land Commission Award 4,878-S, Apans 1 to Kahoehoe, Land Commission Award 6,889 to Kahoehoe, Land Commission Award 4,878-T, Apans 2 to Kahoehoe, Land Commission Award 6,921, Apans 3 to Kahoehoe, Land Commission Award 6,801, Apans 1 to Kahoehoe, Land Commission Award 6,878, Apans 1 to Kahoehoe, Land Commission Award 6,914-B, Apans 1 to Kahoehoe, and more particularly described as follows:

BEGINNING at a point on the westernmost corner of this parcel of land, being also on the south and easterly side of Monoapillani Highway, the co-ordinates of said point of beginning being

South 8,631.03 feet
West 1,673.39 feet

referred to Government Triangulation Station "LAINA" and running by azimuths measured clockwise from true South (meridian of said "LAINA"); thence,

1. along a curve to the right with a central angle of 66° 13' and radius of 30.00 feet, the direct chord azimuth and distance being
202° 03' 30" 41.00 feet along the southerly side of the extension of Prison Street to a point; thence.
2. 243° 10' 111.69 feet along same to a point; thence.
3. along a curve to the right with a central angle of 84° 11' and radius of 30.00 feet, the direct chord azimuth and distance being
287° 15' 30" 40.22 feet along same to a point on the westerly side of a cane haul road, an extension of Mill Street; thence.
4. 329° 21' 2,424.39 feet along the westerly side of the cane haul road to a point; thence.
5. along a curve to the right with a central angle of 19° 31' and radius of 314.00 feet, the direct chord azimuth and distance being
344° 16' 30" 161.74 feet along same to a point; thence.
6. 339° 12' 739.49 feet along same to a point; thence.
7. along a curve to the right with a central angle of 63° 48' and radius of 30.00 feet, the direct chord azimuth and distance being
32° 06' 32.39 feet along same to a point on the northerly side of the extension of Aholo Road; thence.
8. 63° 00' 196.62 feet along the northerly side of the extension of Aholo Road to a point; thence.
9. along a curve to the right with a central angle of 87° 49' 43" and radius of 30.00 feet, the direct chord azimuth and distance being
108° 24' 51.5" 41.61 feet along same to a point on the easterly side of the Monoapillani Highway; thence.
10. along a curve to the right with a central angle of 6° 07' 17" and radius of 7,399.44 feet, the direct chord azimuth and distance being
133° 33' 21.3" 811.53 feet along the easterly and southe side of Monoapillani Highway to a point; thence.
11. 138° 37' 2,447.63 feet along same to the point of beginning and containing an area of 29.38 acres, more or less.



HAIKU COMMUNITY CENTER CONCESSION AGREEMENT

THIS CONCESSION AGREEMENT ("Agreement") is entered into on _____, (the "Effective Date") by and between COUNTY OF MAUI, HAWAII, whose address is 200 S. High Street, Kalana O Maui Building, Wailuku, Hawaii 96793 ("County"), and MAUI ELECTRIC COMPANY, LIMITED, a Hawaii corporation, whose address is 210 W. Kaahumanu Avenue, Kahului, Hawaii 96732 ("Concessionaire").

1. **Concession Area.** County is the fee simple owner of certain real property located at 2830 Hana Highway, Haiku, Hawaii 96708 and described in Exhibit A Haiku Community Center, TMK (2) 2-7-004:029 POR (the "Property"), attached hereto, pursuant to that certain Limited Warranty Deed, Liber/Page 3824-152, recorded with the State of Hawaii Bureau of Conveyances on January 25, 1960. County is also the owner of all the buildings, fixtures, walkways, roads, and other improvements located on or upon the Property.

County, in consideration of the sum of One Dollar (\$1.00) paid to the County, the receipt of which is acknowledged, and of the promises hereinafter set forth, grants and conveys unto the Concessionaire the right and license to the Concession Area (defined below) to construct, reconstruct, install, re-install, replace, operate, access, maintain, repair and remove one Electric Vehicle ("EV") DC Fast Charging System with supporting equipment (the "Charge Station" or the "Equipment"), concrete jackets and conduits, handholes, manholes, transformer vault sites, underground power and communications lines, metering and monitoring equipment, poles, guys, anchors, overhead and/or underground wire lines, and such other appliances and equipment as may be necessary for the transmission and distribution of electricity or communications, including all service lines emanating from the main trunk line, and/or transformer, to be used for light and power and/or communications and control circuits, including, without limiting the generality of the foregoing, the right (but not the obligation) to trim, keep trimmed, remove, and control any trees and vegetation in the way of its lines, appliances and equipment and a right of entry upon the Property and appurtenant interests, if any, for the aforesaid purposes, over, under, upon, across and through the Concession Area (defined below). The concession granted shall include the area for the Charge Station, handholes, manholes, meter, charging stalls, and underground wire lines (the "Concession Area"), which are fully set forth in the drawing set entitled "Install DC Fast Charger at the Haiku Community Center", identified as Exhibit B, and attached hereto and made a part hereof (the "Plans").

2. **Nonexclusive Use.** Concessionaire's use of the Concession Area, including charging stalls, shall be on a nonexclusive basis except for those portions of the Concession Area designated for the Charge Station and supporting equipment, conduits, wires, vaults, and other appliances and equipment of the Concessionaire. Notwithstanding the foregoing, the charging stalls shall be reserved for use with the Charging Station.

3. **Term.**

A. The initial term ("Initial Term") of this Concession Agreement shall commence on the Effective Date and terminate on **June 30, 2023** ("Expiration Date").

B. Concessionaire shall have the option to extend this Concession Agreement ("Extension Option") for two (2) additional five-year terms (each an "Option Term"), which options shall be conditioned upon the following:

- (1) The Hawaii Public Utility Commission ("Commission") shall have issued an order extending the existing Schedule EV-U pilot program or a substantially similar program, or otherwise allowing Concessionaire to continue to own and operate the

Charge Station, for a period that at least covers an Option Term (the "Extended Pilot Period"). If such order is for a period less than an Option Term, or if the remaining period under the Extended Pilot Period is less than an Option Term, that Option Term shall equal the actual or remaining pilot program extension period, as applicable, for that extension term.

- (2) If Concessionaire properly exercises the Extension Option and all conditions set forth in this section are satisfied, the Term shall be extended for an Option Term.

C. Concessionaire must give County written notice of Concessionaire's exercise of its Extension Option at least thirty (30) days prior to the Expiration Date or the expiration of an Option Term, as applicable.

D. At the end of the second Option Term, the parties may agree to extend the Concession Agreement. Any such extension of the Concession Agreement shall continue upon substantially similar terms and conditions as the initial term, unless otherwise agreed to by the parties.

4. Use. Concessionaire intends to use, and County agrees that Concessionaire shall be permitted to use, the Concession Area for the installation, construction, operation, maintenance, repair, testing, and replacement of the Charge Station and related facilities. County acknowledges and agrees that the Charge Station and charging stalls will be made available for general use by EV users.

5. No Fees. Concessionaire shall not be charged any rent or fees under this Concession Agreement.

6. Access. County agrees that Concessionaire shall have access to the Concession Area for the purpose of installing, constructing, operating, maintaining, repairing, testing, removing, and replacing, or causing the installation, construction, operation, maintenance, repair, testing, removal, and replacement of the Charge Station, to the areas of the Property where Concessionaire's conduit, wires, cables and other connecting equipment are located for the purpose of installing, constructing, operating, maintaining, repairing, testing, removing, and replacing, or causing the installation, construction, operation, maintenance, repair, testing, removal, and replacement of same, and to such areas of the Property as may be necessary to maintain Concessionaire's equipment, such access to be 24 hours per day, seven days per week for emergencies and during normal business hours for routine maintenance and inspection visits, unless otherwise agreed upon by County.

7. Concessionaire Responsibilities.

A. Concessionaire agrees to install one EV DC Fast Charging System with supporting equipment at the Property in accordance with the drawing set entitled, "Install DC Fast Charger at Haiku Community Center," attached hereto as Exhibit B.

B. Concessionaire agrees to furnish all labor, tools, materials, equipment, transportation, supervision, and applicable permits necessary for any design, installation, or re-installation of the Charge Station, and to own, operate and maintain the unit during the term of this Concession Agreement, or until the system has reached the end of its useful life and Concessionaire chooses not to replace the Charge Station, all at no cost to the County. Useful life shall be determined by Concessionaire on the basis of the electrical and mechanical integrity and performance of the Charge Station. If the system reaches the end of its useful life before the end of the Concession Agreement term, Concessionaire shall have the option of installing a replacement Charge Station or terminating the Concession Agreement as set forth herein.

C. Concessionaire, shall install a new dedicated electrical service to the Charge Station and supporting equipment, and shall be the account holder for this new service. Concessionaire shall be

responsible for all utility installation costs, as well as all ongoing account costs, including customer service fees, electrical consumption, and any applicable demand costs until the end of the term of the Concession Agreement or any extensions thereof and while it remains owner and operator of the Charge Station.

D. Concessionaire shall collect and own all revenues related to the usage of the Charge Station for as long as Concessionaire is the owner and operator of the Charge Station.

E. All work associated with the installation, operation, and maintenance of the Charge Station shall comply with applicable federal, state, and local statutes, regulations and public ordinances, and permitting requirements.

F. Concessionaire and its contractor(s) shall be responsible for the operation, maintenance, and servicing of the Charge Station from the effective date of the Concession Agreement until the end of the term of the Concession Agreement or any extensions thereof and while it remains owner and operator of the Charge Station.

8. County Responsibilities.

A. County agrees to provide to Concessionaire, at no cost, the right and license to install, construct, operate, maintain, repair, test, remove, and replace the Charge Station and related facilities in the Concession Area.

B. County shall provide reasonable public access to the Charge Station and charging stalls for the purposes of recharging electric vehicles, at no cost to Concessionaire.

C. County agrees to provide Concessionaire with reasonable access to the Charge Station, Property, and Concession Area.

D. County agrees that the Charge Station equipment shall not be removed from the site without Concessionaire's permission, subject to the termination provisions of Section 12.

E. County shall allow Concessionaire to install mutually agreeable signage for the Charge Station at the Property.

F. County agrees to work in good faith with Concessionaire to report maintenance issues and provide customers with guidance on the basic use of the Charge Station or guide the customer to the established support services.

G. During any construction, County shall provide space for Concessionaire and its contractors to store material, equipment and tools. Concessionaire shall be responsible for providing the container or "job box" used for storage. County shall also allow Concessionaire to erect temporary barriers as necessary to ensure the safety of tenants, visitors, and other personnel who shall be on the premise, and other reasonably related construction activities.

H. County shall provide the following items, to the extent available, for use by Concessionaire and its consultants and contractors:

i. Site, Survey and Electrical or Building drawings for the facility (including electronic CAD drawings).

ii. Previously completed geotechnical reports for the site.

- iii. Previously submitted parking calculations prepared for the County of Maui.
- iv. Archeological studies for the site.
- v. Environmental studies or reports for the site.

I. County shall allow Concessionaire to take coring samples at the site for a geotechnical and environmental evaluation, if required. Concessionaire agrees to share any data or reports with the County of Maui.

J. County shall allow the Concessionaire to publish one or more technical reports on the Charge Station project that shall be publicly available.

K. The County shall allow the Concessionaire to make public the location of the Charge Station for educational and marketing purposes.

L. County agrees that the Concessionaire shall own all data associated with the Charge Station, including, but not limited to, all charging session information and all user-related information.

9. **Force Majeure.** The term "Force Majeure" shall mean any cause that is beyond the control and without the fault or negligence of the party affected, was not reasonably foreseeable at the time this Agreement was entered into, and is unable to be overcome by reasonable efforts of the party affected, including, without limitation, fire, flood, landslide, lightning, earthquake, hurricane, tornado, storm, volcanic eruption, pandemic, endemic, strike, theft, casualty, war, terrorist acts, invasion, civil disturbance, national emergency, insurrection or riot, explosion, acts of public enemies or sabotage. Notwithstanding anything in this Agreement to the contrary, a party unable to perform its obligations due solely to a Force Majeure shall be excused from performance of those obligations for such time as the Force Majeure prevents performance. Such affected party shall make reasonable efforts to resume performance as soon as possible. During any time in which a party is relying on a Force Majeure to excuse its performance, the other party shall be excused from its corresponding obligations hereunder. A party asserting Force Majeure shall immediately, or as soon as reasonably possible, notify the other party of its inability to perform, the basis for same, and an estimate of when it expects to be able to resume performance (and shall periodically update such estimate while the Force Majeure persists).

10. **Indemnity.**

A. To the extent that County's liability for any actions, suits, damages, injury, losses, liabilities, claims, costs or expenses is determined by a court or otherwise agreed to by County, pursuant to Chapter 3.16 of the Maui County Code, County shall defend, indemnify and hold harmless Concessionaire and its employees, directors and agents from and against any actions, suits, damages, losses, liabilities, claims, costs or expenses, including but not limited to reasonable attorneys' fees and costs, on account of any personal injury or death, alleged or real, and damages to property, alleged or real, caused by or arising out of the negligence or willful misconduct of County (or anyone acting under its direction or control or in its behalf, including subcontractors) in connection with the Charge Station, the Concession Area, the Property, or its performance under this Concession Agreement, except to the extent such injury or damage is caused by the negligence, sole negligence, gross negligence or willful misconduct of Concessionaire, its employees, directors, or agents.

B. To the extent that Concessionaire's liability for any actions, suits, damages, injury, losses, liabilities, claims, costs or expenses is determined by a court or otherwise agreed to by Concessionaire,

Concessionaire shall defend, indemnify and hold harmless County and its employees, directors and agents from and against any actions, suits, damages, losses, liabilities, claims, costs or expenses, including but not limited to reasonable attorneys' fees and costs, on account of any personal injury or death, alleged or real, and damages to property, alleged or real, caused by or arising out of the negligence or willful misconduct of Concessionaire (or anyone acting under its direction or control or in its behalf, including subcontractors) in connection with the Charge Station, the Concession Area, the Property, or its performance under this Concession Agreement, except to the extent such injury or damage is caused by the negligence, sole negligence, gross negligence or willful misconduct of County, its employees, directors, or agents.

11. Ownership.

A. The Charge Station shall be and remain personal property belonging to Concessionaire, and the same may be removed by Concessionaire at any time during the term or extended term of this Agreement or during such subsequent period as may be agreed to in writing by County.

B. If Concessionaire decides not to, or is unable to, obtain Commission approval to extend Concessionaire ownership and/or operation of the Charge Station, Concessionaire, in its sole discretion, may offer County the option of taking over ownership and operation of the Charge Station, including applicable equipment and lines, upon terms mutually agreeable to the parties, and subject to Commission approval. If the County opts to not take over ownership and operation of the Charge Station, the Concessionaire may transfer ownership and operation of the Charge Station, including applicable equipment and lines, to a third-party, subject to Commission approval, and subject to execution of an agreement between County and third-party as to operation, maintenance, and repair of the Charge Station. The Charge Station may remain in the Concession Area pending Commission approval of any transfer of the Charge Station.

C. If Concessionaire decides not to or is unable to extend its ownership and operation of the Charge Station, if the Commission does not approve transfer of the Charge Station to the County or third-party, if County opts not to take over ownership and operation of the Charge Station, or if the Concessionaire is unable to agree upon terms regarding the transfer of ownership and operation of the Charge Station, including applicable equipment and lines, to County or a third party, Concessionaire shall remove the Charge Station at no cost to County and restore the Concession Area to its condition at the commencement of this Agreement, reasonable wear and tear excepted.

D. As part of any transfer of ownership of the Charge Station to County or a third-party, County shall in good faith negotiate and execute an easement in favor of Concessionaire for existing lines, equipment and apparatus, as applicable, allowing continued provision of electrical service to the Charge Station.

E. If the Charge Station is not transferred to County or a third-party as provided in this Section, the Charge Station may remain in the Concession Area for a period no greater than sixty (60) days after the expiration or earlier termination of this Agreement, or other period mutually agreed upon by the parties, during which time the Concessionaire shall have access rights to the Concession Area, Property, and other areas reasonably necessary to remove the Charge Station and restore the Concession Area as provided in this Agreement. If sixty (60) days is not sufficient for removal and restoration, the parties shall in good faith agree upon a sufficient period of time.

12. Commercial General Liability Insurance.

A. County and Concessionaire and anyone acting under their direction or control or on their behalf shall each at their own expense procure and maintain in full force at all times during the term of this

Concession Agreement, and any extensions thereof, Commercial General Liability insurance with a bodily injury and property damage combined single limit of liability of at least TWO MILLION DOLLARS (\$2,000,000) for any occurrence. Such insurance will include coverage in like amount for products/completed operations, contractual liability, and personal and advertising injury.

B. County's policies providing the insurance coverage required in this section will include Concessionaire and Concessionaire's agents or employees as additional insureds. Concessionaire's policies providing the insurance coverage required in this section will include County and County's agents or employees as additional insureds. Concessionaire's coverage would be primary only with respect to liability stemming from the ownership, maintenance or use of the Charge Station. Otherwise, insurance carried by Concessionaire will be excess only and contribute with County's insurance.

C. Within ten (10) days of the date of this Agreement, County and Concessionaire shall file with the other certificates of insurance certifying that the foregoing insurance coverage is in force. County and Concessionaire shall provide immediate written notice to the other of any material change in, cancellation of, or intent not to renew any of the policies. Receipt of any certificate showing less coverage than requested is not a waiver of either's obligation to fulfill the requirements.

13. Termination.

A. At any time during the term of this Concession Agreement, Concessionaire, in its sole discretion, may terminate this Concession Agreement by providing at least sixty (60) days written notice to County of the intention to terminate the Concession Agreement. Where Concessionaire elects to terminate under this Section 12.A., Concessionaire will pay all reasonable costs and expenses in removing the Charge Station and restoring the Concession Area to its condition at the commencement of this Concession Agreement, reasonable wear and tear excepted.

B. Subject to Paragraph 9, either party shall have the right to terminate this Concession Agreement if the other party shall fail to observe or perform any covenant to be observed and performed under this Concession Agreement and any such default shall continue for thirty (30) days after written notice to correct has been given.

i. In the event of such termination by Concessionaire, Concessionaire may, at once re-enter the premises and thereupon take possession of the Charge Station and related equipment, and County will pay all reasonable costs and expenses in recovering possession of the Charge Station, not to exceed \$5,000.00 (five thousand and no/100 dollars). Concessionaire shall not be responsible for nor shall pay any costs or expenses towards restoring the Concession Area to its condition at the commencement of this Agreement. Nothing in this Section shall prejudice any other remedy or right of action which Concessionaire may have.

ii. In the event of such termination by County, County may demand that Concessionaire remove, or cause removal of the Charge Station. In the event that Concessionaire shall fail to promptly remove the Charge Station within sixty (60) days of written demand, County may cause the removal of the same. Concessionaire will pay all reasonable costs and expenses in removing the Charge Station and restoring the Concession Area to its condition at the commencement of this Agreement, reasonable wear and tear excepted, without prejudice to any other remedy or right of action which County may have.

C. Concessionaire shall have the right to terminate this Concession Agreement prior to the indicated term end date if so ordered by the State of Hawaii Public Utilities Commission. Upon such termination by Concessionaire, the Concessionaire shall remove the Equipment and restore the Concession

Area to its condition at the commencement of this Concession Agreement, reasonable wear and tear excepted, at no cost to County.

14. Condemnation. If at any time any portion of the Property or Concession Area shall be condemned or taken by any governmental authority, the Concessionaire shall have the right to claim and recover from the condemning authority, but not from the County, such compensation for the damages to the Concessionaire's license and right of way and the appliances and equipment owned by, installed and used in connection with this Concession Agreement, which shall be payable to the Concessionaire.

15. Confidentiality and Non-Disclosure.

A. Each party may have a proprietary interest or other need for confidentiality in information that may be furnished to the other pursuant to this Concession Agreement performed hereunder ("Confidential Information"). The party disclosing such information shall be referred to in this section as the "Disclosing Party," and the party receiving such information shall be referred to as the "Receiving Party."

B. Subject to the Uniform Information Practices Act, Chapter 92F, Hawaii Revised Statutes, the Receiving Party will hold in confidence and, without the consent of the Disclosing Party, will not use, reproduce, distribute, transmit, or disclose, directly or indirectly, the Confidential Information of the Disclosing Party except as permitted herein. The Receiving Party may only disclose the Confidential Information to its officers, directors, employees, professional advisors and independent contractors and consultants with a direct need to know the information for the implementation or exercise of rights and/or performance of obligations under or arising from this Concession Agreement, provided that such persons/entities are bound by written confidentiality agreements with terms and conditions that are no less restrictive than those contained in this section. Without limiting the foregoing, the Receiving Party agrees that it will exercise at least the same standard of care in protecting the confidentiality of the Disclosing Party's Confidential Information as it does with its own Confidential Information of a similar nature, but in any event, no less than reasonable care.

C. Confidential Information for purposes of this Concession Agreement shall not include information if and only to the extent that the Receiving Party establishes that the information: (i) is or becomes a part of the public domain through no act or omission of the Receiving Party; (ii) was in the Receiving Party's lawful possession prior to the disclosure and had not been obtained by the Receiving Party either directly or indirectly from the Disclosing Party; or (iii) is lawfully disclosed to the Receiving Party by a third party without restriction on disclosure. Confidential Information may also be disclosed by the Receiving Party pursuant to a requirement of a governmental agency, regulatory body or by operation of law, provided that the recipient shall disclose only that part of the Confidential Information that it is required to disclose and shall notify the Disclosing Party prior to such disclosure in a timely fashion in order to permit the Disclosing Party to lawfully attempt to prevent or restrict such disclosure should it so elect, and shall take all other reasonable and lawful measures to ensure the continued confidential treatment of the same by the party to which the Confidential Information is disclosed.

D. Any provision herein to the contrary notwithstanding, Company may disclose Confidential Information, as necessary and appropriate, to the State of Hawaii Public Utilities Commission and/or State of Hawaii Consumer Advocate ("CA") (including their respective staffs) provided that such disclosure is made under a protective order entered in the docket or proceeding with respect to which the disclosure will be made or any general protective order entered by the Commission.

16. Notices.

A. Whenever one party is required or permitted to give a notice, communication or consent to

the other party under this Concession Agreement, such notice, communication or consent will be in writing unless otherwise specifically provided herein and will be deemed given when delivered by hand, one (1) day after being given to an express courier with a reliable system for tracking delivery, or five (5) days after the day of mailing, when mailed by United States mail or registered or certified mail, return receipt requested, postage prepaid.

B. Notifications will be addressed as follows:

In the case of County:	with a copy to:
Office of the Mayor	Department of Management
County of Maui	County of Maui
200 S. High St.	200 S. High St.
Kalana O Maui Bldg 9th Fl.	Kalana O Maui Bldg 9th Fl.
Wailuku, HI 96793	Wailuku, HI 96793
Attention: Energy Commissioner	Attention: CIP & Energy Coordinator

In the case of Concessionaire:	with a copy to:
<u>Via U.S. Mail</u>	<u>Via U.S. Mail:</u>
Hawaiian Electric Company, Inc.	Hawaiian Electric Company, Inc.
P.O. Box 398	P.O. Box 2750
Kahului, HI 96733	Honolulu, HI 96840
Attention: Gregory Kresge	Attention: Legal Dept.

<u>Via Overnight Mail or Hand Delivery:</u>	<u>Via Overnight Mail or Hand Delivery:</u>
Hawaiian Electric Company, Inc.	Hawaiian Electric Company, Inc.
210 W. Kaahumanu Avenue	1001 Bishop Street, Suite 1100
Kahului, HI 96732	Honolulu, HI 96813
Attention: Gregory Kresge	Attention: Legal Dept.

Either party hereto may from time to time change its address for notification purposes by giving the other prior written notice of the new address and the date upon which it will become effective.

17. Parties. This Concession Agreement shall inure to the benefit of and be binding upon County, Concessionaire, their respective heirs, legal representatives, permitted successors, successors in trust and permitted assigns, in accordance with Paragraph 19 below.

18. Concession Agreement Terms Confidential. [Deleted.]

19. Amendment. No revision of this Concession Agreement shall be valid unless made in writing and signed by the parties hereto.

20. Assignment. This Concession Agreement may not be assigned by either party without the prior written consent of the other party (which consent shall not be unreasonably withheld, conditioned or

delayed); provided, however, that Concessionaire shall have the right, without the consent of County, to assign its interest in this Concession Agreement to any affiliated company owned in whole or in part by Hawaiian Electric Industries, Inc. ("HEI"); provided, further, that (i) such assignee shall have assumed all obligations of Concessionaire under this Concession Agreement and (ii) such assignee is a utility regulated by the State of Hawaii Public Utilities Commission.

21. Coordination. Concessionaire shall have the right to perform, with its own employees or by other contractors, all work related to this Concession Agreement, and Concessionaire shall coordinate its activity with County.

22. Transfer of Property. Should County, at any time during the term of this Concession Agreement, sell or transfer all of the Property or any portion of the Property which includes the Concession Area to a purchaser, such sale or transfer shall be subject to the Concession Agreement and Concessionaire's rights hereunder and the rights of Concessionaire in the Concession Area.

23. No Joint Venture. This Concession Agreement shall not be construed as constituting either party as partner, joint venture or fiduciary of the other party or to create any other form of legal association that would impose liability upon one party for the act or failure to act of the other party, or as providing either party with the right, power or authority (express or implied) to create any duty or obligation of the other party.

24. Attorneys' Fees and Costs. If there is a dispute between the parties and either party institutes a lawsuit, arbitration, mediation, or other proceeding to enforce, declare, or interpret the terms of this Concession Agreement, the prevailing party shall be awarded its reasonable attorneys' fees and costs. The non-prevailing party shall be responsible for those fees and costs to the extent permitted by law or otherwise agreed to by the parties.

25. No Waiver. The failure at any time of either party to enforce any of the provisions of this Concession Agreement, or to require at any time performance by the other party of any of the provisions thereof, shall in no way be construed to be a waiver of such provisions, nor in any way construed to affect the validity of this Concession Agreement or any part hereof, or the right of any party thereafter to enforce each and every such provision.

26. Severability of Provisions. In the event a court or other tribunal of competent jurisdiction at any time holds that any provision of this Concession Agreement is invalid, the remainder of this Concession Agreement shall not be affected thereby and shall continue in full force and effect.

27. Governing Law/Applicable Forum. This Concession Agreement is made under and shall be governed by the laws of the State of Hawaii. Each party agrees and consents that any claim arising out of this Concession Agreement, however defined, shall be brought in the State of Hawaii in a court of competent jurisdiction.

28. Entire Agreement. This Concession Agreement constitutes the entire agreement of the parties hereto with respect to the subject matter hereof and supersedes all oral and written agreements and understandings made and entered into by the parties hereto prior to the date hereof with respect to such subject matter. No amendment, modification, or addition to this Concession Agreement shall be binding upon any party hereto unless reduced to writing and signed by each party.

29. Paragraph Headings. Paragraph headings used herein are for convenience only, and do not limit the scope or meaning of the provisions hereof or otherwise affect the construction thereof.

30. Counterparts. This Concession Agreement and any subsequent writings, including amendments,

may be executed in counterparts, each of which shall be deemed an original, and all of which shall together constitute one and the same instrument binding all Parties. Duplicate, unexecuted and unacknowledged pages of the counterparts may be discarded, and the remaining pages assembled as one document. This Concession Agreement and any subsequent writings, including amendments, may be executed and delivered by exchange of executed copies via email or other acceptable electronic means or formats (e.g., DocuSign, Adobe PDF). A Party's signature transmitted by email or other acceptable electronic means or formats shall be considered an original signature that is binding and effective for all purposes, pursuant to Chapter 489E, Hawaii Revised Statutes.

31. No recordation. The parties agree that this Concession Agreement may not be recorded, however, County agrees to enter into a commercially reasonable Memorandum of Concession Agreement, which may be recorded by Concessionaire, at Concessionaire's sole cost and expense.

32. Quiet Enjoyment, Title and Authority. County covenants and warrants to Concessionaire that (i) County has full right, power and authority to execute this Concession Agreement; (ii) it has good and unencumbered title to the Property free and clear of any liens or mortgages, except those disclosed to Concessionaire, which will not interfere with Concessionaire's rights to or use of the Concession Area; and (iii) execution and performance of this Concession Agreement will not violate any laws, ordinances, covenants, or the provisions of any mortgage, license, or other agreement binding on County. County covenants that at all times during the term of this Concession Agreement, as permitted by law, Concessionaire's quiet enjoyment of the Concession Area shall not be disturbed as long as Concessionaire is not in default beyond any applicable grace or cure period.

[Signatures begin on the following page]

IN WITNESS WHEREOF the undersigned have executed this instrument as of the day and year first above mentioned.

COUNTY OF MAUI, HAWAII

By: _____
Name: Michael P. Victorino
Its: Mayor

Approval recommended

By: _____
Name: Scott K. Teruya
Its: Director of Finance

By: _____
Name: Alexander de Roode
Its: Energy Commissioner

Approved as to form and legality

By: _____
Name: Stephanie M. Chen
Its: Deputy Corporation Counsel
LF 2020-0812

HAWAIIAN ELECTRIC COMPANY, INC.,
a Hawaii corporation

By _____
Name:
Title:

“Concessionaire”

Exhibit A

[Property Description for the Property]
HAIKU COMMUNITY CENTER

All of that certain piece or parcel of land situate
at Pauwela, Hanalei, County of Maui, State of Hawaii,
being portions of Grant 137 to Makinu and Grant 147 to
Kaniaw, and more particularly described as follows:

Beginning at a 3/4-inch pipe on the northwest corner
of this lot and the northeast corner of the Haiku School Lot
Addition on the south side of the old government road (Remnant
"H"), the coordinates of said point of beginning referred to
the Government Triangulation Station "Kapuai", being

9,538.92 feet North
15,199.82 feet West

and running by azimuths measured clockwise from true South:

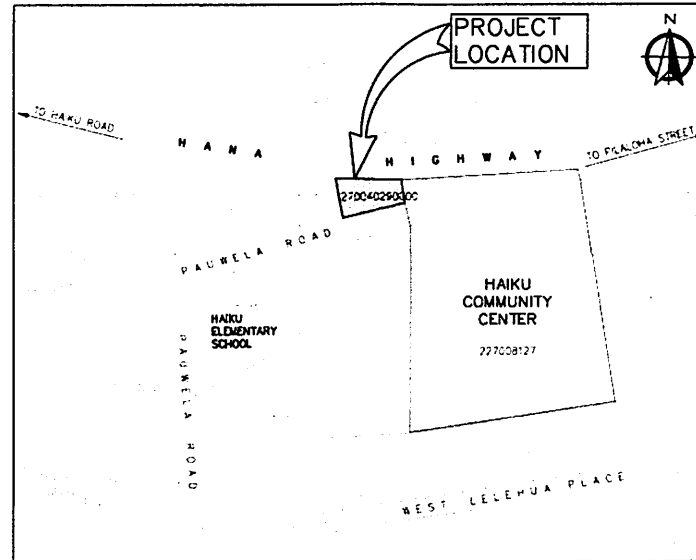
1. 181° 45' 50" 57.50 feet across the old government
road to a 3/4-inch pipe;
thence
2. 164° 30' 00" 51.43 feet along the east boundary
of the Haiku School Teachers'
Cottage Lot to a 3/4-inch
pipe; thence
3. / /
Along a portion of a
circular arc on the
south side of Hana High-
way having a central
angle of 6° 55' 56"
with a radius of 3,314.05
feet, the direct chord
azimuth and distance being
266° 20' 28" 400.72 feet to a 3/4-inch pipe; thence
4. 350° 05' 00" 530.62 feet along the east boundary of
Remnant "H" over a 3/4-inch
pipe at 25.92 feet along
the west boundary of John
K. Kaholokula's Lot to a
3/4-inch pipe; thence
5. 80° 37' 10" 488.13 feet along HC&S Company's prop-
erty to a 3/4-inch pipe
at the southeast corner of
Haiku School Lot Addition;
thence
6. 180° 47' 00" 167.79 feet along the east boundary of
Haiku School Lot Addition
to a 3/4-inch pipe; thence
7. 180° 00' 00" 301.88 feet along same to the point of
beginning and containing an
area of 5.500 acres - reserv-
ing a 40-foot roadway along
the west boundary of Remnant
"H" and John K. Kaholokula's
Lot from Hana Highway to the
HC&S Company's property as a
permanent road easement.

Exhibit B

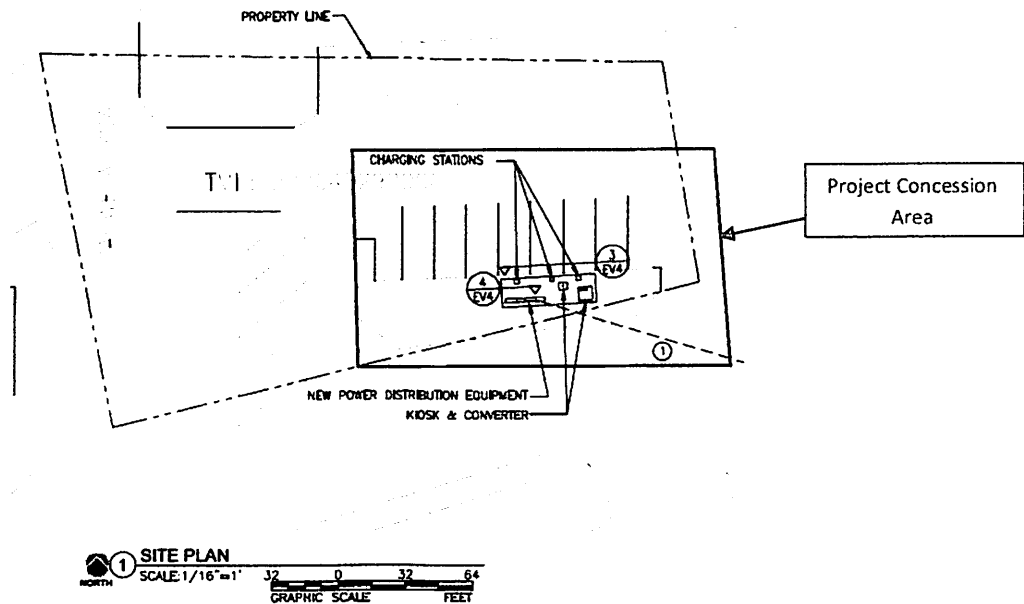
[Site Plans Drawing Showing Concession Area]

Install DC Fast Charger at:

HAIKU COMMUNITY CENTER



② VICINITY MAP
SCALE: N.T.S.



KALANA O MAUI CONCESSION AGREEMENT

THIS CONCESSION AGREEMENT ("Agreement") is entered into on _____, (the "Effective Date") by and between COUNTY OF MAUI, HAWAII, whose address is 200 S. High Street, Kalana O Maui Building, Wailuku, Hawaii 96793 ("County"), and MAUI ELECTRIC COMPANY, LIMITED, a Hawaii corporation, whose address is 210 W. Kaahumanu Avenue, Kahului, Hawaii 96732 ("Concessionaire").

1. **Concession Area.** County is the fee simple owner of certain real property located at 200 S. High Street, Kalana O Maui Building, Wailuku, Hawaii 96793 and described in Exhibit A Kalana O Maui Building (aka Maui County Building) and Parking Lot Site, TMK (2) 3-4-008:042 POR (the "Property"), attached hereto, pursuant to that certain Executive Order, Document Number EO 3506 (C.S.F. No. 21,411), recorded with the State of Hawaii Survey Division Department of Accounting and General Services on January 18, 1991. County is also the owner of all the buildings, fixtures, walkways, roads, and other improvements located on or upon the Property.

County, in consideration of the sum of One Dollar (\$1.00) paid to the County, the receipt of which is acknowledged, and of the promises hereinafter set forth, grants and conveys unto the Concessionaire the right and license to the Concession Area (defined below) to construct, reconstruct, install, re-install, replace, operate, access, maintain, repair and remove one Electric Vehicle ("EV") DC Fast Charging System with supporting equipment (the "Charge Station" or the "Equipment"), concrete jackets and conduits, handholes, manholes, transformer vault sites, underground power and communications lines, metering and monitoring equipment, poles, guys, anchors, overhead and/or underground wire lines, and such other appliances and equipment as may be necessary for the transmission and distribution of electricity or communications, including all service lines emanating from the main trunk line, and/or transformer, to be used for light and power and/or communications and control circuits, including, without limiting the generality of the foregoing, the right (but not the obligation) to trim, keep trimmed, remove, and control any trees and vegetation in the way of its lines, appliances and equipment and a right of entry upon the Property and appurtenant interests, if any, for the aforesaid purposes, over, under, upon, across and through the Concession Area (defined below). The concession granted shall include the area for the Charge Station, handholes, manholes, meter, charging stalls, and underground wire lines (the "Concession Area"), which are fully set forth in the drawing set entitled "Install DC Fast Charger at Kalana O Maui Building (aka Maui County Building) and Parking Lot Site," identified as Exhibit B, and attached hereto and made a part hereof (the "Plans").

2. **Nonexclusive Use.** Concessionaire's use of the Concession Area, including charging stalls, shall be on a nonexclusive basis except for those portions of the Concession Area designated for the Charge Station and supporting equipment, conduits, wires, vaults, and other appliances and equipment of the Concessionaire. Notwithstanding the foregoing, the charging stalls shall be reserved for use with the Charging Station.

3. **Term.**

A. The initial term ("Initial Term") of this Concession Agreement shall commence on the Effective Date and terminate on **June 30, 2023** ("Expiration Date").

B. Concessionaire shall have the option to extend this Concession Agreement ("Extension Option") for two (2) additional five-year terms (each an "Option Term"), which options shall be conditioned upon the following:

(1) The Hawaii Public Utility Commission ("Commission") shall have issued an order

extending the existing Schedule EV-U pilot program or a substantially similar program, or otherwise allowing Concessionaire to continue to own and operate the Charge Station, for a period that at least covers an Option Term (the "Extended Pilot Period"). If such order is for a period less than an Option Term, or if the remaining period under the Extended Pilot Period is less than an Option Term, that Option Term shall equal the actual or remaining pilot program extension period, as applicable, for that extension term.

- (2) If Concessionaire properly exercises the Extension Option and all conditions set forth in this section are satisfied, the Term shall be extended for an Option Term.

C. Concessionaire must give County written notice of Concessionaire's exercise of its Extension Option at least thirty (30) days prior to the Expiration Date or the expiration of an Option Term, as applicable.

D. At the end of the second Option Term, the parties may agree to extend the Concession Agreement. Any such extension of the Concession Agreement shall continue upon substantially similar terms and conditions as the initial term, unless otherwise agreed to by the parties.

4. Use. Concessionaire intends to use, and County agrees that Concessionaire shall be permitted to use, the Concession Area for the installation, construction, operation, maintenance, repair, testing, and replacement of the Charge Station and related facilities. County acknowledges and agrees that the Charge Station and charging stalls will be made available for general use by EV users.

5. No Fees. Concessionaire shall not be charged any rent or fees under this Concession Agreement.

6. Access. County agrees that Concessionaire shall have access to the Concession Area for the purpose of installing, constructing, operating, maintaining, repairing, testing, removing, and replacing, or causing the installation, construction, operation, maintenance, repair, testing, removal, and replacement of the Charge Station, to the areas of the Property where Concessionaire's conduit, wires, cables and other connecting equipment are located for the purpose of installing, constructing, operating, maintaining, repairing, testing, removing, and replacing, or causing the installation, construction, operation, maintenance, repair, testing, removal, and replacement of same, and to such areas of the Property as may be necessary to maintain Concessionaire's equipment, such access to be 24 hours per day, seven days per week for emergencies and during normal business hours for routine maintenance and inspection visits, unless otherwise agreed upon by County.

7. Concessionaire Responsibilities.

A. Concessionaire agrees to install one EV DC Fast Charging System with supporting equipment at the Property in accordance with the drawing set entitled, "Install DC Fast Charger at Kalana O Maui Building (aka Maui County Building) and Parking Lot Site," attached hereto as Exhibit B.

B. Concessionaire agrees to furnish all labor, tools, materials, equipment, transportation, supervision, and applicable permits necessary for any design, installation, or re-installation of the Charge Station, and to own, operate and maintain the unit during the term of this Concession Agreement, or until the system has reached the end of its useful life and Concessionaire chooses not to replace the Charge Station, all at no cost to the County. Useful life shall be determined by Concessionaire on the basis of the electrical and mechanical integrity and performance of the Charge Station. If the system reaches the end of its useful life before the end of the Concession Agreement term, Concessionaire shall have the option of installing a replacement Charge Station or terminating the Concession Agreement as set forth herein.

C. Concessionaire shall install electrical service to the Charge Station and supporting equipment via submeter to County's existing electrical meter and equipment at the Property. County shall remain the account holder of the Property, and charges with respect to electrical consumption from the submetered Charge Station shall be subtracted from the account's service amount. Concessionaire shall be responsible for all costs associated with the installation and maintenance of the Charge Station.

D. Concessionaire shall collect and own all revenues related to the usage of the Charge Station for as long as Concessionaire is the owner and operator of the Charge Station.

E. All work associated with the installation, operation, and maintenance of the Charge Station shall comply with applicable federal, state, and local statutes, regulations and public ordinances, and permitting requirements.

F. Concessionaire and its contractor(s) shall be responsible for the operation, maintenance, and servicing of the Charge Station from the effective date of the Concession Agreement until the end of the term of the Concession Agreement or any extensions thereof and while it remains owner and operator of the Charge Station.

8. County Responsibilities.

A. County agrees to provide to Concessionaire, at no cost, the right and license to install, construct, operate, maintain, repair, test, remove, and replace the Charge Station and related facilities in the Concession Area.

B. County shall provide reasonable public access to the Charge Station and charging stalls for the purposes of recharging electric vehicles, at no cost to Concessionaire.

C. County agrees to provide Concessionaire with reasonable access to the Charge Station, Property, and Concession Area.

D. County agrees that the Charge Station equipment shall not be removed from the site without Concessionaire's permission, subject to the termination provisions of Section 12.

E. County shall allow Concessionaire to install mutually agreeable signage for the Charge Station at the Property.

F. County agrees to work in good faith with Concessionaire to report maintenance issues and provide customers with guidance on the basic use of the Charge Station or guide the customer to the established support services.

G. During any construction, County shall provide space for Concessionaire and its contractors to store material, equipment and tools. Concessionaire shall be responsible for providing the container or "job box" used for storage. County shall also allow Concessionaire to erect temporary barriers as necessary to ensure the safety of tenants, visitors, and other personnel who shall be on the premise, and other reasonably related construction activities.

H. County shall provide the following items, to the extent available, for use by Concessionaire and its consultants and contractors:

- i. Site, Survey and Electrical or Building drawings for the facility (including electronic CAD drawings).

- ii. Previously completed geotechnical reports for the site.
- iii. Previously submitted parking calculations prepared for the County of Maui.
- iv. Archeological studies for the site.
- v. Environmental studies or reports for the site.

I. County shall allow Concessionaire to take coring samples at the site for a geotechnical and environmental evaluation, if required. Concessionaire agrees to share any data or reports with the County of Maui.

J. County shall allow the Concessionaire to publish one or more technical reports on the Charge Station project that shall be publicly available.

K. The County shall allow the Concessionaire to make public the location of the Charge Station for educational and marketing purposes.

L. County agrees that the Concessionaire shall own all data associated with the Charge Station, including, but not limited to, all charging session information and all user-related information.

9. **Force Majeure.** The term "Force Majeure" shall mean any cause that is beyond the control and without the fault or negligence of the party affected, was not reasonably foreseeable at the time this Agreement was entered into, and is unable to be overcome by reasonable efforts of the party affected, including, without limitation, fire, flood, landslide, lightning, earthquake, hurricane, tornado, storm, volcanic eruption, pandemic, endemic, strike, theft, casualty, war, terrorist acts, invasion, civil disturbance, national emergency, insurrection or riot, explosion, acts of public enemies or sabotage. Notwithstanding anything in this Agreement to the contrary, a party unable to perform its obligations due solely to a Force Majeure shall be excused from performance of those obligations for such time as the Force Majeure prevents performance. Such affected party shall make reasonable efforts to resume performance as soon as possible. During any time in which a party is relying on a Force Majeure to excuse its performance, the other party shall be excused from its corresponding obligations hereunder. A party asserting Force Majeure shall immediately, or as soon as reasonably possible, notify the other party of its inability to perform, the basis for same, and an estimate of when it expects to be able to resume performance (and shall periodically update such estimate while the Force Majeure persists).

10. **Indemnity.**

A. To the extent that County's liability for any actions, suits, damages, injury, losses, liabilities, claims, costs or expenses is determined by a court or otherwise agreed to by County pursuant to Chapter 3.16 of the Maui County Code, County shall defend, indemnify and hold harmless Concessionaire and its employees, directors and agents from and against any actions, suits, damages, losses, liabilities, claims, costs or expenses, including but not limited to reasonable attorneys' fees and costs, on account of any personal injury or death, alleged or real, and damages to property, alleged or real, caused by or arising out of the negligence or willful misconduct of County (or anyone acting under its direction or control or in its behalf, including subcontractors) in connection with the Charge Station, the Concession Area, the Property, or its performance under this Concession Agreement, except to the extent such injury or damage is caused by the negligence, sole negligence, gross negligence or willful misconduct of Concessionaire, its employees, directors, or agents.

B. To the extent that Concessionaire's liability for any actions, suits, damages, injury, losses, liabilities, claims, costs or expenses is determined by a court or otherwise agreed to by Concessionaire, Concessionaire shall defend, indemnify and hold harmless County and its employees, directors and agents from and against any actions, suits, damages, losses, liabilities, claims, costs or expenses, including but not limited to reasonable attorneys' fees and costs, on account of any personal injury or death, alleged or real, and damages to property, alleged or real, caused by or arising out of the negligence or willful misconduct of Concessionaire (or anyone acting under its direction or control or in its behalf, including subcontractors) in connection with the Charge Station, the Concession Area, the Property, or its performance under this Concession Agreement, except to the extent such injury or damage is caused by the negligence, sole negligence, gross negligence or willful misconduct of County, its employees, directors, or agents.

11. Ownership.

A. The Charge Station shall be and remain personal property belonging to Concessionaire, and the same may be removed by Concessionaire at any time during the term or extended term of this Agreement or during such subsequent period as may be agreed to in writing by County.

B. If Concessionaire decides not to, or is unable to, obtain Commission approval to extend Concessionaire ownership and/or operation of the Charge Station, Concessionaire, in its sole discretion, may offer County the option of taking over ownership and operation of the Charge Station, including applicable equipment and lines, upon terms mutually agreeable to the parties, and subject to Commission approval. If the County opts to not take over ownership and operation of the Charge Station, the Concessionaire may transfer ownership and operation of the Charge Station, including applicable equipment and lines, to a third-party, subject to Commission approval, and subject to execution of an agreement between County and third-party as to operation, maintenance, and repair of the Charge Station. The Charge Station may remain in the Concession Area pending Commission approval of any transfer of the Charge Station.

C. If Concessionaire decides not to or is unable to extend its ownership and operation of the Charge Station, if the Commission does not approve transfer of the Charge Station to the County or third-party, if County opts not to take over ownership and operation of the Charge Station, or if the Concessionaire is unable to agree upon terms regarding the transfer of ownership and operation of the Charge Station, including applicable equipment and lines, to County or a third party, Concessionaire shall remove the Charge Station at no cost to County and restore the Concession Area to its condition at the commencement of this Agreement, reasonable wear and tear excepted.

D. As part of any transfer of ownership of the Charge Station to County or a third-party, County shall in good faith negotiate and execute an easement in favor of Concessionaire for existing lines, equipment and apparatus, as applicable, allowing continued provision of electrical service to the Charge Station.

E. If the Charge Station is not transferred to County or a third-party as provided in this Section, the Charge Station may remain in the Concession Area for a period no greater than sixty (60) days after the expiration or earlier termination of this Agreement, or other period mutually agreed upon by the parties, during which time the Concessionaire shall have access rights to the Concession Area, Property, and other areas reasonably necessary to remove the Charge Station and restore the Concession Area as provided in this Agreement. If sixty (60) days is not sufficient for removal and restoration, the parties shall in good faith agree upon a sufficient period of time.

12. Commercial General Liability Insurance.

A. County and Concessionaire and anyone acting under their direction or control or on their behalf shall each at their own expense procure and maintain in full force at all times during the term of this Concession Agreement, and any extensions thereof, Commercial General Liability insurance with a bodily injury and property damage combined single limit of liability of at least TWO MILLION DOLLARS (\$2,000,000) for any occurrence. Such insurance will include coverage in like amount for products/completed operations, contractual liability, and personal and advertising injury.

B. County's policies providing the insurance coverage required in this section will include Concessionaire and Concessionaire's agents or employees as additional insureds. Concessionaire's policies providing the insurance coverage required in this section will include County and County's agents or employees as additional insureds. Concessionaire's coverage would be primary only with respect to liability stemming from the ownership, maintenance or use of the Charge Station. Otherwise, insurance carried by Concessionaire will be excess only and contribute with County's insurance.

C. Within ten (10) days of the date of this Agreement, County and Concessionaire shall file with the other certificates of insurance certifying that the foregoing insurance coverage is in force. County and Concessionaire shall provide immediate written notice to the other of any material change in, cancellation of, or intent not to renew any of the policies. Receipt of any certificate showing less coverage than requested is not a waiver of either's obligation to fulfill the requirements.

13. Termination.

A. At any time during the term of this Concession Agreement, Concessionaire, in its sole discretion, may terminate this Concession Agreement by providing at least sixty (60) days written notice to County of the intention to terminate the Concession Agreement. Where Concessionaire elects to terminate under this Section 12.A., Concessionaire will pay all reasonable costs and expenses in removing the Charge Station and restoring the Concession Area to its condition at the commencement of this Concession Agreement, reasonable wear and tear excepted.

B. Subject to Paragraph 9, either party shall have the right to terminate this Concession Agreement if the other party shall fail to observe or perform any covenant to be observed and performed under this Concession Agreement and any such default shall continue for thirty (30) days after written notice to correct has been given.

i. In the event of such termination by Concessionaire, Concessionaire may, at once re-enter the premises and thereupon take possession of the Charge Station and related equipment, and County will pay all reasonable costs and expenses in recovering possession of the Charge Station, not to exceed \$5,000.00 (five thousand and no/100 dollars). Concessionaire shall not be responsible for nor shall pay any costs or expenses towards restoring the Concession Area to its condition at the commencement of this Agreement. Nothing in this Section shall prejudice any other remedy or right of action which Concessionaire may have.

ii. In the event of such termination by County, County may demand that Concessionaire remove, or cause removal of the Charge Station. In the event that Concessionaire shall fail to promptly remove the Charge Station within sixty (60) days of written demand, County may cause the removal of the same. Concessionaire will pay all reasonable costs and expenses in removing the Charge Station and restoring the Concession Area to its condition at the commencement of this Agreement, reasonable wear and tear excepted, without prejudice to any other remedy or right of action which County

may have.

C. Concessionaire shall have the right to terminate this Concession Agreement prior to the indicated term end date if so ordered by the State of Hawaii Public Utilities Commission. Upon such termination by Concessionaire, the Concessionaire shall remove the Equipment and restore the Concession Area to its condition at the commencement of this Concession Agreement, reasonable wear and tear excepted, at no cost to County.

14. Condemnation. If at any time any portion of the Property or Concession Area shall be condemned or taken by any governmental authority, the Concessionaire shall have the right to claim and recover from the condemning authority, but not from the County, such compensation for the damages to the Concessionaire's license and right of way and the appliances and equipment owned by, installed and used in connection with this Concession Agreement, which shall be payable to the Concessionaire.

15. Confidentiality and Non-Disclosure.

A. Each party may have a proprietary interest or other need for confidentiality in information that may be furnished to the other pursuant to this Concession Agreement performed hereunder ("Confidential Information"). The party disclosing such information shall be referred to in this section as the "Disclosing Party," and the party receiving such information shall be referred to as the "Receiving Party."

B. Subject to the Uniform Information Practices Act, Chapter 92F, Hawaii Revised Statutes, the Receiving Party will hold in confidence and, without the consent of the Disclosing Party, will not use, reproduce, distribute, transmit, or disclose, directly or indirectly, the Confidential Information of the Disclosing Party except as permitted herein. The Receiving Party may only disclose the Confidential Information to its officers, directors, employees, professional advisors and independent contractors and consultants with a direct need to know the information for the implementation or exercise of rights and/or performance of obligations under or arising from this Concession Agreement, provided that such persons/entities are bound by written confidentiality agreements with terms and conditions that are no less restrictive than those contained in this section. Without limiting the foregoing, the Receiving Party agrees that it will exercise at least the same standard of care in protecting the confidentiality of the Disclosing Party's Confidential Information as it does with its own Confidential Information of a similar nature, but in any event, no less than reasonable care.

C. Confidential Information for purposes of this Concession Agreement shall not include information if and only to the extent that the Receiving Party establishes that the information: (i) is or becomes a part of the public domain through no act or omission of the Receiving Party; (ii) was in the Receiving Party's lawful possession prior to the disclosure and had not been obtained by the Receiving Party either directly or indirectly from the Disclosing Party; or (iii) is lawfully disclosed to the Receiving Party by a third party without restriction on disclosure. Confidential Information may also be disclosed by the Receiving Party pursuant to a requirement of a governmental agency, regulatory body or by operation of law, provided that the recipient shall disclose only that part of the Confidential Information that it is required to disclose and shall notify the Disclosing Party prior to such disclosure in a timely fashion in order to permit the Disclosing Party to lawfully attempt to prevent or restrict such disclosure should it so elect, and shall take all other reasonable and lawful measures to ensure the continued confidential treatment of the same by the party to which the Confidential Information is disclosed.

D. Any provision herein to the contrary notwithstanding, Company may disclose Confidential Information, as necessary and appropriate, to the State of Hawaii Public Utilities Commission and/or State of Hawaii Consumer Advocate ("CA") (including their respective staffs) provided that such disclosure is made under a protective order entered in the docket or proceeding with respect to which the disclosure will

be made or any general protective order entered by the Commission.

16. Notices.

A. Whenever one party is required or permitted to give a notice, communication or consent to the other party under this Concession Agreement, such notice, communication or consent will be in writing unless otherwise specifically provided herein and will be deemed given when delivered by hand, one (1) day after being given to an express courier with a reliable system for tracking delivery, or five (5) days after the day of mailing, when mailed by United States mail or registered or certified mail, return receipt requested, postage prepaid.

B. Notifications will be addressed as follows:

In the case of County:
Office of the Mayor
County of Maui
200 S. High St.
Kalana O Maui Bldg 9th Fl.
Wailuku, HI 96793
Attention: Energy Commissioner

with a copy to:
Department of Management
County of Maui
200 S. High St.
Kalana O Maui Bldg 9th Fl.
Wailuku, HI 96793
Attention: CIP & Energy Coordinator

In the case of Concessionaire:

with a copy to:

Via U.S. Mail

Via U.S. Mail:

Hawaiian Electric Company, Inc.
P.O. Box 398
Kahului, HI 96733
Attention: Gregory Kresge

Hawaiian Electric Company, Inc.
P.O. Box 2750
Honolulu, HI 96840
Attention: Legal Dept.

Via Overnight Mail or Hand
Delivery:

Via Overnight Mail or Hand Delivery:

Hawaiian Electric Company, Inc.
210 W. Kaahumanu Avenue
Kahului, HI 96732
Attention: Gregory Kresge

Hawaiian Electric Company, Inc.
1001 Bishop Street, Suite 1100
Honolulu, HI 96813
Attention: Legal Dept.

Either party hereto may from time to time change its address for notification purposes by giving the other prior written notice of the new address and the date upon which it will become effective.

17. Parties. This Concession Agreement shall inure to the benefit of and be binding upon County, Concessionaire, their respective heirs, legal representatives, permitted successors, successors in trust and permitted assigns, in accordance with Paragraph 19 below.

18. Concession Agreement Terms Confidential. [Deleted.]

19. Amendment. No revision of this Concession Agreement shall be valid unless made in writing and signed by the parties hereto.

20. Assignment. This Concession Agreement may not be assigned by either party without the prior written consent of the other party (which consent shall not be unreasonably withheld, conditioned or delayed); provided, however, that Concessionaire shall have the right, without the consent of County, to assign its interest in this Concession Agreement to any affiliated company owned in whole or in part by Hawaiian Electric Industries, Inc. ("HEI"); provided, further, that (i) such assignee shall have assumed all obligations of Concessionaire under this Concession Agreement and (ii) such assignee is a utility regulated by the State of Hawaii Public Utilities Commission.

21. Coordination. Concessionaire shall have the right to perform, with its own employees or by other contractors, all work related to this Concession Agreement, and Concessionaire shall coordinate its activity with County.

22. Transfer of Property. Should County, at any time during the term of this Concession Agreement, sell or transfer all of the Property or any portion of the Property which includes the Concession Area to a purchaser, such sale or transfer shall be subject to the Concession Agreement and Concessionaire's rights hereunder and the rights of Concessionaire in the Concession Area.

23. No Joint Venture. This Concession Agreement shall not be construed as constituting either party as partner, joint venture or fiduciary of the other party or to create any other form of legal association that would impose liability upon one party for the act or failure to act of the other party, or as providing either party with the right, power or authority (express or implied) to create any duty or obligation of the other party.

24. Attorneys' Fees and Costs. If there is a dispute between the parties and either party institutes a lawsuit, arbitration, mediation, or other proceeding to enforce, declare, or interpret the terms of this Concession Agreement, the prevailing party shall be awarded its reasonable attorneys' fees and costs. The non-prevailing party shall be responsible for those fees and costs to the extent permitted by law or otherwise agreed to by the parties.

25. No Waiver. The failure at any time of either party to enforce any of the provisions of this Concession Agreement, or to require at any time performance by the other party of any of the provisions thereof, shall in no way be construed to be a waiver of such provisions, nor in any way construed to affect the validity of this Concession Agreement or any part hereof, or the right of any party thereafter to enforce each and every such provision.

26. Severability of Provisions. In the event a court or other tribunal of competent jurisdiction at any time holds that any provision of this Concession Agreement is invalid, the remainder of this Concession Agreement shall not be affected thereby and shall continue in full force and effect.

27. Governing Law/Applicable Forum. This Concession Agreement is made under and shall be governed by the laws of the State of Hawaii. Each party agrees and consents that any claim arising out of this Concession Agreement, however defined, shall be brought in the State of Hawaii in a court of competent jurisdiction.

28. Entire Agreement. This Concession Agreement constitutes the entire agreement of the parties hereto with respect to the subject matter hereof and supersedes all oral and written agreements and understandings made and entered into by the parties hereto prior to the date hereof with respect to such

subject matter. No amendment, modification, or addition to this Concession Agreement shall be binding upon any party hereto unless reduced to writing and signed by each party.

29. Paragraph Headings. Paragraph headings used herein are for convenience only, and do not limit the scope or meaning of the provisions hereof or otherwise affect the construction thereof.

30. Counterparts. This Concession Agreement and any subsequent writings, including amendments, may be executed in counterparts, each of which shall be deemed an original, and all of which shall together constitute one and the same instrument binding all Parties. Duplicate, unexecuted and unacknowledged pages of the counterparts may be discarded, and the remaining pages assembled as one document. This Concession Agreement and any subsequent writings, including amendments, may be executed and delivered by exchange of executed copies via email or other acceptable electronic means or formats (e.g., DocuSign, Adobe PDF). A Party's signature transmitted by email or other acceptable electronic means or formats shall be considered an original signature that is binding and effective for all purposes, pursuant to Chapter 489E, Hawaii Revised Statutes.

31. No recordation. The parties agree that this Concession Agreement may not be recorded, however, County agrees to enter into a commercially reasonable Memorandum of Concession Agreement, which may be recorded by Concessionaire, at Concessionaire's sole cost and expense.

32. Quiet Enjoyment, Title and Authority. County covenants and warrants to Concessionaire that (i) County has full right, power and authority to execute this Concession Agreement; (ii) it has good and unencumbered title to the Property free and clear of any liens or mortgages, except those disclosed to Concessionaire, which will not interfere with Concessionaire's rights to or use of the Concession Area; and (iii) execution and performance of this Concession Agreement will not violate any laws, ordinances, covenants, or the provisions of any mortgage, license, or other agreement binding on County. County covenants that at all times during the term of this Concession Agreement, as permitted by law, Concessionaire's quiet enjoyment of the Concession Area shall not be disturbed as long as Concessionaire is not in default beyond any applicable grace or cure period.

[Signatures begin on the following page]

IN WITNESS WHEREOF the undersigned have executed this instrument as of the day and year first above mentioned.

COUNTY OF MAUI, HAWAII

By: _____
Name: Michael P. Victorino
Its: Mayor

Approval recommended

By: _____
Name: Scott K. Teruya
Its: Director of Finance

By: _____
Name: Alexander de Roode
Its: Energy Commissioner

Approved as to form and legality

By: _____
Name: Stephanie M. Chen
Its: Deputy Corporation Counsel
LF 2020-0812

HAWAIIAN ELECTRIC COMPANY, INC.,
a Hawaii corporation

By _____
Name:
Title:

“Concessionaire”

Exhibit A

[Property Description for the Property]

KALANA O MAUI BUILDING
(aka MAUI COUNTY BUILDING)
AND PARKING LOT SITE

MAUI COUNTY BUILDING
AND PARKING LOT SITE

Owa, Wailuku, Maui, Hawaii

Being portions of Land Commission Award 404 to Kaupa and
Kamehameha IV Deed to J. D. Havekost conveyed as follows:

1. Robert Love and Henry Cornwell to Board of Education
dated April 1, 1879 and recorded in Liber 62,
Pages 335-336 (Land Office Deed 1085).
2. Sherman Peck to Minister of the Interior dated
September 25, 1866 and recorded in Liber 22,
Pages 156-157 (Land Office Deed 38).

BEGINNING at the northwest corner of this parcel of land and
at the southeast corner of the intersection of South High Street and
Wells Street, the coordinates of said point of beginning referred to
Government Survey Triangulation Station "LUXE" being 2013.03 feet North
and 2859.33 feet West, thence running by azimuths measured clockwise
from True South:-

- | | |
|-------------|---|
| 1. 264° 15' | 53.53 feet along the south side of Wells
Street; |
| 2. 353° 29' | 80.00 feet along the remainder of L.C.Aw. 404
to Kaupa; |
| 3. 263° 29' | 160.00 feet along the remainder of L.C.Aw. 404
to Kaupa; |
| 4. 173° 29' | 95.75 feet along the remainder of L.C.Aw. 404
to Kaupa and along a jog on the
south side of Wells Street; |
| 5. 246° 05' | 88.32 feet along the south side of Wells
Street; |
| 6. 261° 58' | 45.03 feet along Royal Patent 1241, Land
Commission Award 397 to Ruihelani; |
| 7. 2° 48' | 228.86 feet along Royal Patent 1996, Land
Commission Award 420 to Ruihelani; |
| 8. 10° 08' | 38.90 feet along Royal Patent 1996, Land
Commission Award 420 to Ruihelani; |

9. 93° 20' 303.16 feet along the remainders of Kamehameha IV Deed to J. D. Havekost and L.C.Aw. 404 to Kaupa;
10. 174° 52' 168.66 feet along the east side of South High Street to the point of beginning and containing an AREA OF 53,958 SQUARE FEET.

Vehicle access into and from South High Street shall not be permitted over and across Course 10 of the above-described parcel of land.

Reserving to the State of Hawaii, its successors and assigns a Perpetual Non-Exclusive Access Easement (20.00 feet wide) over the above-described parcel of land as shown on plan attached hereto and made a part hereof and more particularly described as follows:

Beginning at the northwest corner of this easement, being also the end of Course 4 of the above-described parcel of land, thence running by azimuths measured clockwise from True South:-

1. 246° 05' 20.96 feet along the south side of Wells Street;
2. 353° 29' 102.02 feet;
3. 83° 29' 20.00 feet;
4. 173° 29' 95.75 feet along the remainder of L.C.Aw. 404 to Kaupa and along a jog on the south side of Wells Street to the point of beginning and containing an AREA OF 1978 SQUARE FEET.

Property Description (as reflected in Maui County Real Property Tax records)

Location Address: 200 S High Street
Wailuku, HI 96793

Satellite Image of Charger Location on Parcel



Exhibit B

[Site Plans Drawing Showing Concession Area]

Install DC Fast Charger at:
KALANA O MAUI BUILDING
(aka MAUI COUNTY BUILDING)
AND PARKING LOT SITE

