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DEPARTMENT OF TRANSPORTATION | KA 'OIHANA ALAKAU
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IN REPLY REFER TO:

July 24, 2025

Mr. Edwin H. Sniffen, Director
Department of Transportation
869 Punchbowl Street
Honolulu, Hawaii 96813

KAUAI

Request for Authorization to issue a 55-year Lease by direct negotiation to The Gas Company, LLC for a non-exclusive subsurface pipeline easement, four cathodic beds, and a valve box for the storage and distribution of liquified petroleum gas (LPG), situated at Pier 3, Nawiliwili Harbor, island of Kauai, Tax Map Key Nos. (4) 3-2-003:041 (Portion), (4) 3-2-003:001 (Portion), (4) 3-2-003:007 (Portion), and (4) 3-2-003:051 (Portion), Governor's Executive Order Nos. 3134, 1332, and 3411

LEGAL REFERENCE:

Hawaii Revised Statutes, Sections 171-6, 171-11, 171-13, 171-17, 171-35, 171-36, 171-59, and 171-95, as amended.

APPLICANT:

The Gas Company, LLC (Applicant), is a domestic limited liability company, whose mailing address is P.O. Box 3000, Honolulu, Hawaii, 96802-3000.

CHARACTER OF USE:

To allow the Applicant to install, maintain, repair, and use the existing eight-inch and four-inch non-exclusive subsurface pipelines and appurtenances for the storage and distribution of LPG at Nawiliwili Harbor, Kauai.

LOCATION:

Portion of governmental lands at Nawiliwili Harbor, island of Kauai, TMK Nos. (4) 3-2-003:041 (Portion), (4) 3-2-003:001 (Portion), (4) 3-2-003:007 (Portion), and (4) 3-2-003:051 (Portion), as shown on the enclosed map labeled Exhibit A.

ZONING:

State Land Use Commission: Urban
County of Kauai: I-G, General Industrial

AREA: See enclosed Exhibit A

The Lease area consists of the following three portions:

- 414.41 square feet for a non-exclusive subsurface pipeline easement
- 762 square feet for four cathodic beds
- 2,137.76 square feet for a valve box

CONSIDERATION:

The Department of Transportation (HDOT) and the Applicant have agreed on the appraised value for the valve box, non-exclusive subsurface pipeline easement, and four cathodic beds under a 55-year Lease Agreement.

The annual rental consideration is as follows:

- | | |
|---------------|---|
| • Years 1-5 | Four thousand seven hundred fifty dollars (\$ 4,750.00) |
| • Years 6-10 | Five thousand four hundred sixty-two dollars and forty-eight cents (\$ 5,462.48*) |
| • Years 11-15 | Six thousand two hundred eighty-one dollars and eighty-eight cents (\$ 6,281.88) |
| • Years 16-20 | Seven thousand two hundred twenty-four dollars and sixteen cents (\$ 7,224.16) |
| • Years 21-30 | Reopening with a 15 percent step up for the second 5-year period |
| • Years 31-40 | Reopening with a 15 percent step up for the second 5-year period |
| • Years 41-50 | Reopening with a 15 percent step up for the second 5-year period |
| • Years 51-55 | Reopening |

*Amount reduced by \$0.02 to ensure even divisibility for quarterly payments

LAND TITLE STATUS:

Acquired by the HDOT through Governor's Executive Order Nos. 1332, 3134, and 3411.

TRUST LAND STATUS:

Public Land Trust Information System states trust land status for TMK No. (4) 3-2-003:041 (Portion) as undetermined, TMK No. (4) 3-2-003:001 (Portion) as Subsection 5(a) of the Hawaii Admission Act (non-ceded lands), and TMK Nos. (4) 3-2-003:007 (Portion) and (4) 3-2-003:051 (Portion) as subsection 5(b) of the Hawaii Admission Act (ceded lands).

CURRENT USE STATUS:

The area is currently occupied by the Applicant.

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

This use is exempt from the Office of Planning and Sustainable Development and Environmental Review Program requirements, pursuant to the Hawaii Administrative Rules (HAR), Subchapter 11-200.1, which exempts the following:

“Exemption Type 1: Operations, repairs, or maintenance of existing structures, facilities, equipment, or topographical features, involving minor expansion or minor change of use beyond that previously existing.”

The HDOT deems the action as de minimis and exempts it from the preparation of an exemption notice in accordance with HAR, Subchapter 11-200.1-16 (b). The exemption declaration for the action described above, based on the Exemption List for the HDOT, reviewed and concurred by the Environmental Advisory Council on February 1, 2022, is as follows:

Exemption Type 1, Part 1:

- No. A6.d. “Repair or maintain existing structures or facilities located in or above the water necessary for the continued function and use, and to meet current local, state, and federal standards and regulations, and as permitted by the U.S. Army Corps of Engineers and U.S. Coast Guard. Structures include, but are not limited to: fuel and other pipelines, hatch frames, manifolds, utilities, manholes, covers, and other similar structures.”

Exemption Type 8, Part 1:

- No. 8g. “Creation or extension of leases, revocable permits or easements involving negligible or minor expansion or change of use beyond that previously existing.”

REMARKS:

Background - The Applicant has been providing energy for consumers and businesses throughout Hawaii since 1904 and has deep ties to the island community. The Applicant is the first in the State to capture and process biogases that are a byproduct from the City and County of Honolulu’s (C&C) Honouliuli Wastewater Treatment Plant and turn them into clean-burning

biomethane. This facility produces enough energy for roughly 6,000 homes and reduces the need for 15,000 barrels of oil annually. The C&C also generates revenue by selling the accumulated biogas to the Applicant.

The pipelines and appurtenances under Harbor Lease No. H-94-1 runs coterminous with the Applicant's tank farm and facility, under General Lease No. S-4250 from the Department of Land and Natural Resources. At the Board of Land and Natural Resources meeting on July 28, 2023, the Applicant's request for a new 55-year Lease for its tank farm (Item D-4) was approved. The Applicant has requested that its pipelines and appurtenances under its new Harbor Lease continue to be coterminous with its tank farm and facility.

Maritime Operations - The Applicant supports the energy needs of the island of Kauai by transporting LPG via barges that are time chartered and operated by a commercial barge company. The barge makes the connection to the pipeline via the valve box and can unload fuel from the barge, through the pipeline, directly to its tank farm and facility located just outside of Harbor boundaries.

Encourages Competition – The Applicant provides alternative energy options in the form of LPG to the island of Kauai. Other Harbor tenants also provide energy to Kauai in the form of diesel fuel, aviation fuel, and other refined petroleum products. The different energy sources provide the Kauai community with several energy alternatives for its business and residential needs. The Applicant provides businesses and homes with an energy source that is reliable, cost-effective, and safe. The delivery process via barge also encourages competition among marine transportation companies as the Applicant time-charters vessels for the transportation of fuel to the Neighbor Islands.

APPLICANT REQUIREMENTS:

Applicant shall be required to adhere to following Lease Provision regarding Natural Geophysical Hazards and Phenomena:

Natural Geophysical Hazards and Phenomena; Effects of Climate Change; Flooding. LESSEE acknowledges the Premises may be subject to hazards from natural geophysical hazards and phenomena including, but not limited to, waves, storm-created debris, erosion, and flooding. LESSEE acknowledges that the Premises and improvements are located in an area that may be subject to effects of climate change, including sea-level rise. The Premises and improvements may also lie within the Sea Level Rise Exposure Area of the State of Hawaii. The Premises and improvements may also be included in an area designated as a Special Flood Hazard Zone by the Federal Emergency Management Agency or a similarly designated area by any other federal or state agency and may experience increased frequency of flooding throughout the term of the Lease. To prepare for the potential effects of such hazards and phenomena including sea-level rise, flood damage, erosion damage, tsunamis, and damage from waves and storm-created debris, LESSEE acknowledges and agrees to the following, at its sole cost and expense:

- a. Hazards associated with sea-level rise may involve additional maintenance or protection strategies or insurance regarding the Premises and improvements.

- b. Without limiting any other provision contained herein, LESSEE assumes the risks associated with such potential hazards and phenomena, and agrees to be solely responsible for all damages, costs, and liabilities arising as a result of the impacts of such hazards and phenomena on the Premises and improvements. LESSEE shall release LESSOR from responsibility for all damages, costs, and liabilities arising as a result of the impacts of such hazards and phenomena on the Premises and improvements. Any additional maintenance or protection strategies necessitated by such hazards and phenomena may require additional approval by LESSOR in accordance with the term of the lease and be subject to environmental review.

RECOMMENDATION:

Based on this submittal, testimony and facts presented, the HDOT recommends the issuance of a 55-year Lease by direct negotiation to the Applicant including its conditions and rent, under the terms and conditions cited above and other terms and conditions as may be prescribed by the Director of Transportation to best serve the interest of the State.

Sincerely,



DREANALEE K. KALILI
Deputy Director of Transportation for Harbors

Enclosure

