



STATE OF HAWAII
DEPARTMENT OF TRANSPORTATION
869 PUNCHBOWL STREET
HONOLULU, HAWAII 96813-5097

August 24, 2023

Ms. Dawn N. S. Chang, Chairperson
Board of Land and Natural Resources
Kalanimoku Building
1151 Punchbowl Street
Honolulu, Hawaii 96813

Dear Ms. Chang:

KAUAI

Authorize a one-year holdover of Harbor Lease No. H-94-1 and issuance of a new 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) and propane situated at Pier 3, Nawiliwili Harbor, island of Kauai, Tax Map Key (TMK) Nos. (4) 3-2-003:041 (P), (4) 3-2-003:001 (P), (4) 3-2-003:007 (P), and (4) 3-2-003:051 (P), 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.

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 8-inch and 4-inch non-exclusive subsurface pipelines and appurtenances for the storage and distribution of LPG and propane at Nawiliwili Harbor, Kauai.

ONE YEAR HOLDOVER PERIOD:

September 9, 2023, to September 8, 2024

LOCATION:

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

AREA: See enclosed Exhibit A

Valve Box	414.41 square feet
Non-exclusive subsurface pipeline easement	2,137.76 square feet
Cathodic Beds (4)	762.00 square feet

CONSIDERATION:

One-year holdover: annual rental of \$3,620.00

The Hawaii Department of Transportation (HDOT) and the Applicant have agreed to 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 \$4,750.00
- Years 6-10 \$5,462.48*
- Years 11-15 \$6,281.88
- Years 16-20 \$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

ZONING:

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

COMMENCEMENT DATE:

To be determined by the Director of Transportation.

TRUST LAND STATUS:

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

CURRENT USE STATUS:

The area is currently occupied by the Applicant.

LAND TITLE STATUS:

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

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

This use is exempt from the Office of Planning and Sustainable Development, and Environmental Review Program requirements pursuant to Hawaii Administrative Rules (HAR), Subchapter 11-200.1, that 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, Section 11-200.1-16 (b). The exemption declaration for the action described above, is based on the Exemption List for the HDOT, reviewed and concurred to 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 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 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 City and County of Honolulu 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 and propane 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 is able to 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 and propane 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.

RECOMMENDATION:

Based on this submittal, testimony and facts presented, the HDOT recommends that the Board finds that approving the one year hold over for Harbor Lease No H-94-1 for the period of September 9, 2023, to September 8, 2024, and 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,



EDWIN H. SNIFFEN
Director of Transportation

APPROVED FOR SUBMITTAL:



DAWN N. S. CHANG, Chairperson

Enclosures

