

COUNCIL OF THE COUNTY OF MAUI
WATER RESOURCES COMMITTEE

July 24, 2015

Committee
Report No. _____

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

Chair and Members:

Your Water Resources Committee, having met on July 1, 2015, makes reference to County Communication 15-81, from the Director of Water Supply, transmitting a proposed resolution entitled "AUTHORIZING THE GRANTING OF A NON-EXCLUSIVE PERPETUAL EASEMENT ON COUNTY OF MAUI REAL PROPERTY SITUATED AT HONUOLA, WAILEA, MAUI, HAWAII, TO MAUI ELECTRIC COMPANY, LIMITED, FOR ELECTRICAL."

The purpose of the proposed resolution is to grant a non-exclusive easement for electrical purposes to Maui Electric Company, Limited, through and under County property located at Honuola, Wailea, Maui, Hawaii, identified as TMK: (2) 2-1-008:096.

Your Committee notes pursuant to Sections 3.44.020 and 3.44.070, Maui County Code, the Council may waive the requirement of an appraisal and grant an easement by resolution.

Your Committee further notes pursuant to Section 3.44.030, Maui County Code, the Council may, finding it is in the public interest to do so, waive the requirements of public auction and public notice, by adoption of a resolution approved by two-thirds of its members.

The Deputy Director of Water Supply stated the entire parcel is 2.083 acres, and the easement area is approximately 2,000 square feet.

The Deputy Director explained the easement is necessary so Maui Electric Company, Limited, can place electrical lines on County property to serve the Department's electrical needs.

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Committee
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Your Committee voted 7-0 to recommend adoption of the proposed resolution and filing of the communication. Committee Chair Baisa, Vice-Chair Victorino, and members Carroll, Cochran, Couch, Crivello, and White voted "aye."

Your Water Resources Committee RECOMMENDS the following:

1. That Resolution _____, attached hereto, entitled "AUTHORIZING THE GRANTING OF A NON-EXCLUSIVE PERPETUAL EASEMENT ON COUNTY OF MAUI REAL PROPERTY SITUATED AT HONUOLA, WAILEA, MAUI, HAWAII, TO MAUI ELECTRIC COMPANY, LIMITED, FOR ELECTRICAL," be ADOPTED; and
2. That County Communication 15-81 be FILED.

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



GLADYS C. BAISA, Chair

Resolution

No. _____

AUTHORIZING THE GRANTING OF A NON-EXCLUSIVE
PERPETUAL EASEMENT ON COUNTY OF MAUI REAL
PROPERTY SITUATED AT HONUULA, WAILEA, MAUI, HAWAII,
TO MAUI ELECTRIC COMPANY, LIMITED, FOR ELECTRICAL

WHEREAS, the County of Maui (hereinafter called "County")
is the owner of that certain real property, situate at
Honuaula, Wailea, Maui, Hawaii, comprising approximately 2.083
acres, more specifically identified as Tax Map Key No. (2) 2-
1-008:096; and

WHEREAS, Maui Electric Company, Limited, (hereinafter
called "MECO"), wishes to build, construct, reconstruct,
rebuild, repair, maintain and operate pole and wire lines and
underground power lines, and to use such poles, wires, guys,
conduits and other appliances and equipment as may be
necessary for the transmission of electricity to be used for
light and power and communication and control circuits,
together with the right to trim and keep trimmed any trees
near said lines and equipment to a reasonable distance
therefrom, and together also with a right of entry upon the
property, for the construction, maintenance, repair and
operation of said pole and wire lines and underground power
lines, in efficient use and condition, as more particularly

Resolution No. _____

described in the Utility Easement attached hereto as Exhibit "1" and made a part hereof; and

WHEREAS, the Director of the Department of Water Supply has reviewed MECO's request for the aforesaid easement and recommends approval of same; and

WHEREAS, pursuant to Sections 3.44.020, 3.44.030, and 3.44.070, Maui County Code, the County Council may, finding that it is in the public interest to do so, waive public auction, public hearing and appraisal, and grant easements by resolution approved by two-thirds of its members; and

WHEREAS, the County desires to accommodate MECO by granting the requested easement in favor of MECO over, across, through and under that certain parcel of land described as Tax Map Key No. (2) 2-1-008:096, on the terms and conditions stated in the Utility Easement, attached hereto as Exhibit "1"; now, therefore,

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

1. That it hereby finds that it is in the public interest to grant the requested easement, and therefore waives the public auction, public hearing and appraisal generally required pursuant to Sections 3.44.020, 3.44.030 and 3.44.070, Maui County Code; and

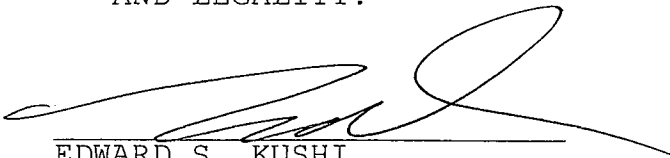
Resolution No. _____

2. That it hereby grants an easement to MECO in accordance with the terms and conditions of that certain Utility Easement attached hereto as Exhibit "1"; and

3. That it does hereby authorize the Mayor of the County of Maui to execute all necessary documents in connection with the granting of said easement; and

4. That certified copies of this Resolution be transmitted to the Mayor of the County of Maui, the Director of the Department of Water Supply and MECO.

APPROVED AS TO FORM
AND LEGALITY:



EDWARD S. KUSHI
First Deputy Corporation Counsel
County of Maui

S:\ALL\ESK\Water\Resos\Wailea Upper Level Water System.Utility Easement.wpd

After recording return by mail to:

Maui Electric Company, Limited
P.O. Box 398
Kahului, Hawaii 96733-6898
Attn: Wanda A. Otake

This document contains 6 pages.

Property description:

TMK: (2) 2-1-008:096

Lot 308, Map 34
Land Court Application No 1804
TCT No 247,983
Honuaula, Maui, Hawaii

MECO Document M07-36

Utility Easement

This indenture, made this _____ day of _____, 20____, by and between County of Maui, a political subdivision of the State of Hawaii, whose mailing address is 200 S. High Street, Wailuku, Maui, Hawaii 96793, hereinafter called the "Grantor", and Maui Electric Company, Limited, a Hawaii corporation, whose principal place of business is at 210 Kamehameha Avenue, Kahului, Hawaii, and whose post office address is P. O. Box 398, Kahului, Hawaii 96733-6898, hereinafter called the "Grantee",

W I T N E S S E T H

That the Grantor, for good and sufficient consideration to it paid, the receipt whereof is hereby acknowledged, does hereby grant and convey unto the Grantee, its successors and assigns, a non-exclusive perpetual right and easement to build, construct, reconstruct, rebuild, repair, maintain and operate pole and wire lines and underground power lines, and to use such poles, wires, guys, conduits and other appliances and equipment as may be necessary for the transmission of electricity to be used for light and power and

EXHIBIT " 1 "

2 communication and control circuits, together with the right to trim and keep trimmed any
3 trees near said lines and equipment to a reasonable distance therefrom, and together
4 also with a right of entry upon the Grantor's property, for the construction,
5 maintenance, repair and operation of said pole and wire lines and underground power
6 lines, in efficient use and condition. The easement hereby granted is over, across,
7 through and under that certain parcel of land situate at Honuaula, Island and County of
8 Maui, State of Hawaii identified as TMK: (2) 2-1-008:096, being Lot 308 as shown on Map 34
9 filed in the Office of the Assistant Registrar of the Land Court of the State of Hawaii with
10 Land Court Application No. 1804, and noted on Transfer Certificate of Title No. 247,983, the
11 easement herein granted being over, under, upon, across and through a portion of said land,
12 said portion shown on Sketch No. M07-36 annexed hereto.

13 TO HAVE AND TO HOLD the same unto the Grantee, its successors and
14 assigns.

15 AND THE GRANTEE does hereby covenant and agree that:

- 16 1. It will use due care and diligence in the installation, maintenance, repair and
17 operation of said lines and appurtenances and it will keep said lines and
18 appurtenances installed in good and safe condition and repair, and that it will
19 exercise its rights hereunder in such manner as to occasion as little
20 interference as reasonably necessary with the use of the said property by the
21 owners and occupants thereof.
- 22 2. It will indemnify the Grantor for any and all damage to the said property caused
23 by any failure of the Grantee to properly install, maintain, repair or operate any of
24 the said lines and appurtenances as provided in §1 above, and it will indemnify,
25 hold harmless and defend the Grantor against all loss, liability, claims, suits and
26 actions by whomsoever suffered or brought on account of any injury to person or
27 property caused by Grantee's negligence or by any failure on the part of the
28 Grantee to observe the covenants in §1 above.
- 29 3. If the Grantee shall at any time completely remove its facilities from the
30 easement area and for a period of two years thereafter fail to reinstall said facilities,
31 the Grantee shall at the Grantor's request forthwith execute and deliver to
32 Grantor an instrument suitable for recording in the appropriate registry office of
33 the State of Hawaii to evidence the termination and surrender of the easement,
34 or portions thereof, as herein provided.
- 35 4. Each party has been given the opportunity to review this document, and to
36 request modification of its terms. Accordingly, neither the Grantee nor the
37 Grantor shall be deemed the drafter of this document for the purpose of applying
38 any rule of construction of contracts.

2 IT IS HEREBY MUTUALLY UNDERSTOOD AND AGREED by and between the Grantor
and the Grantee and on behalf of their respective successors and assigns that, if at
4 any time the property across which rights and easements are hereby granted, or any part
thereof, be condemned or taken by any authority exercising the power of eminent
6 domain, Grantee shall have the right to claim and recover from such condemnor,
but not from the Grantor, such compensation as may be payable for its easement,
8 poles, wires, guys, conduits and other appliances and equipment installed upon the
said property, or any part thereof.

10 If and when the land described herein, or a portion or portions thereof shall be
conveyed to or acquired by any governmental authority as a public highway, then
12 and in such event, all private easement rights in said land, or a portion or portions
thereof, so conveyed or acquired, shall automatically terminate.

14
16 *In witness whereof*, the Grantor and Grantee have executed these presents as of the
day and year first above written.

18 APPROVAL RECOMMENDED:

GRANTOR:

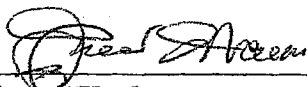
COUNTY OF MAUI

20 _____
22 DAVID TAYLOR
Director of Water Supply

By: _____
24 ALAN M. ARAKAWA
Its Mayor

GRANTEE:

28 MAUI ELECTRIC COMPANY, LIMITED

30 By  _____
32 Eileen Wachi
Its Assistant Secretary

34 APPROVED AS TO FORM
AND LEGALITY:

36 _____
38 Deputy Corporation Counsel
County of Maui

2 STATE OF HAWAII)
3) SS.
4 COUNTY OF MAUI)

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

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

18 _____
19 Notary Public, State of Hawaii
20 Print Name: _____

22 My commission expires: _____

Document Date: _____	No. of Pages (including this page): ____
Notary Name: _____	Second Judicial Circuit Commission No. _____
Document Description: Utility Easement; MECO Document M07-36	
_____ Signature	_____ Date
NOTARY CERTIFICATION	

2 STATE OF HAWAII)
) SS.
4 COUNTY OF MAUI)

6 On this 9th day of September, 20 11 before me appeared **Eileen**
 Wachi, to me personally known, who being by me duly sworn, did say that she is
 8 the Assistant Secretary of **Maui Electric Company, Limited**, a Hawaii
 corporation, and that the seal affixed to the foregoing instrument is the corporate
 10 seal of said corporation and that said instrument was signed and sealed in behalf of
 said corporation by authority of its board of directors, and the said officer
 acknowledged said instrument to be the free act and deed of said corporation.

12
14
16

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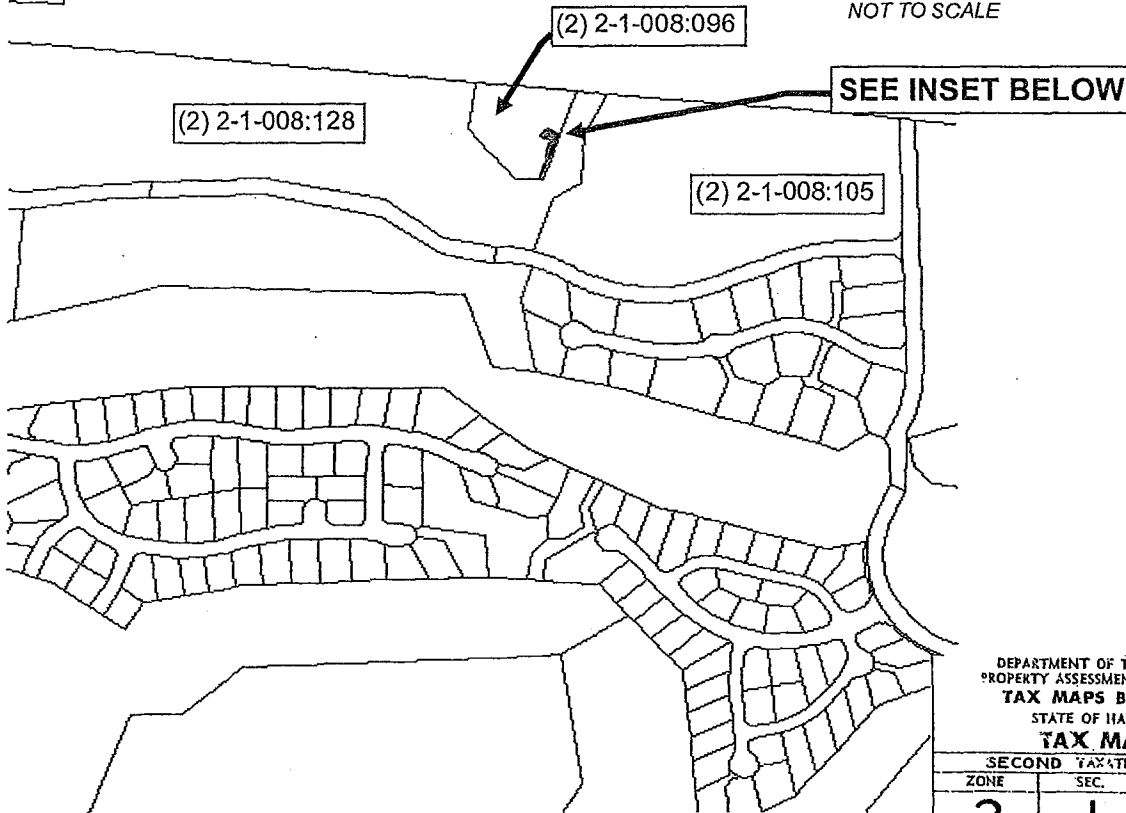
Wanda A. Otake
Wanda A. Otake
Notary Public, State of Hawaii

My commission expires: August 15, 2013

<i>Undated at time</i>	
Document Date: <u>of Notarization</u>	No. of Pages (including this page): _____
Notary Name: <u>Wanda A. Otake</u>	Second Judicial Circuit Commission No. 89-478
Document Description: Utility Easement; MECO Document M07-36	
<u>Wanda A. Otake</u> Signature	<u>Sept. 9, 2011</u> Date
NOTARY CERTIFICATION	

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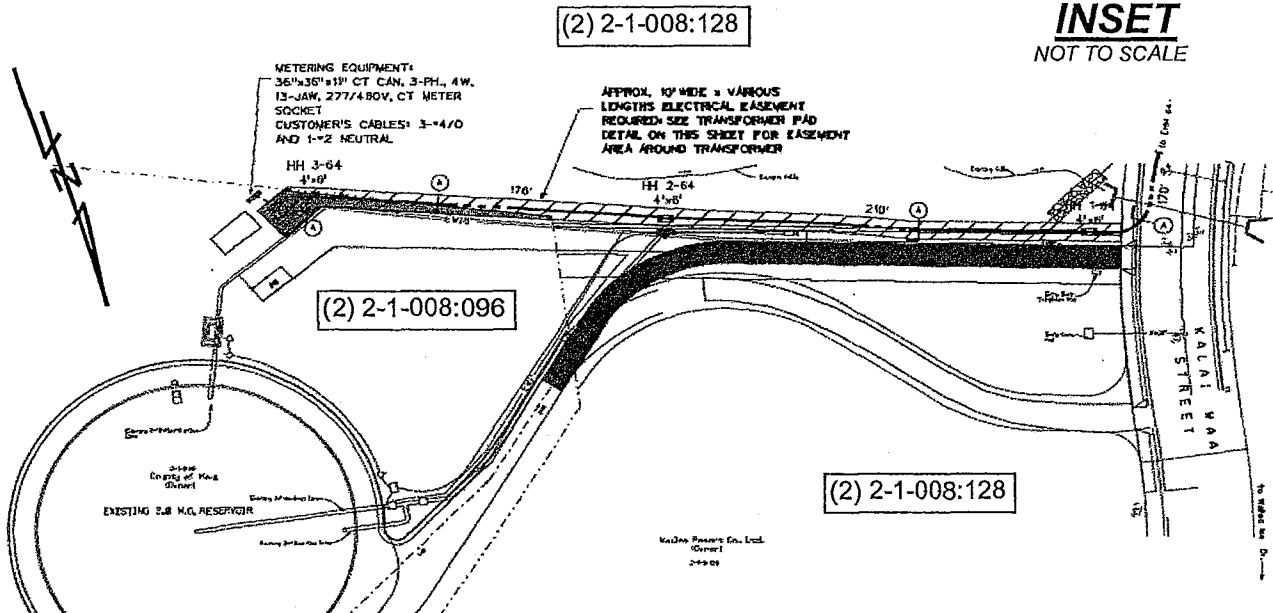
LOCATION MAP
NOT TO SCALE



DEPARTMENT OF TAXATION
PROPERTY ASSESSMENT DIVISION
TAX MAPS BRANCH
STATE OF HAWAII
TAX MAP

SECOND TAXATION DIVISION		
ZONE	SEC.	PLAT
2	1	08

INSET
NOT TO SCALE



EASEMENT SKETCH: M 07-36 DATE: 4/25/2007 TMK: (2) 2-1-8 :96

DRAWN BY: SHARON WESTFALL

APPR BY: *Jorgeana Kaeke*

JOINT POLE APPL #: N/A

SHEET: 1 OF 1