

EXHIBIT "E"

Ordinance No. 3757

ORDINANCE NO. 3757

BILL NO. 44 (2010)

A BILL FOR AN ORDINANCE GRANTING AMERON HAWAII A
CONDITIONAL PERMIT TO ALLOW CONCRETE BATCHING, ASPHALT
PRODUCTION, AND CONCRETE CASTING OPERATIONS WITHIN THE COUNTY
AGRICULTURAL DISTRICT FOR PROPERTY SITUATED
AT PUUNENE, MAUI, HAWAII

BE IT ORDAINED BY THE PEOPLE OF THE COUNTY OF MAUI:

SECTION 1. Pursuant to Chapter 19.40, Maui County Code, and subject to the conditions imposed in Section 2 of this ordinance, a Conditional Permit is hereby granted to Ameron Hawaii to allow concrete batching, asphalt production, and concrete casting operations within the County Agricultural District. The site is identified for real property tax purposes by Tax Map Key Numbers: (2) 3-8-001:001(por.), (2) 3-8-003:004(por.), and (2) 3-8-003:021(por.), comprising approximately 165.6 acres of land situated at Puunene, Maui, Hawaii.

SECTION 2. The granting of this Conditional Permit is subject to the following conditions:

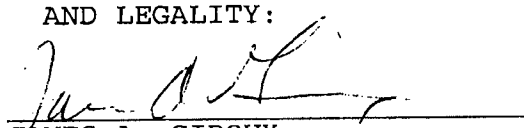
1. That full compliance with all applicable governmental requirements shall be rendered, including State Land Use Commission Special Permit (SP77-271).
2. That the Conditional Permit shall be valid for a period of ten (10) years from the effective date of this ordinance; provided that, an extension of this Conditional Permit beyond this ten-year period may be granted pursuant to Section 19.40.090, Maui County Code.
3. That the Conditional Permit shall be nontransferable, unless the Council approves the transfer by ordinance.
4. That Ameron Hawaii, its successors and permitted assigns, shall exercise reasonable due care as to third parties with respect to all areas affected by subject Conditional Permit and shall procure at its own cost and expense, and shall maintain during the entire period of this Conditional Permit, a policy or policies of comprehensive liability insurance in the minimum amount of ONE MILLION AND NO/100 DOLLARS (\$1,000,000) naming the County of Maui as an additional insured, insuring and defending Ameron Hawaii and County of Maui against any and all claims or demands for property damage, personal injury, and/or death arising out of this Conditional Permit, including

but not limited to: (1) claims from any accident in connection with the permitted use, or occasioned by any act or nuisance made or suffered in connection with the permitted use in the exercise by Ameron Hawaii of said rights; and (2) all actions, suits, damages and claims by whomsoever brought or made by reason of the nonobservance or nonperformance of any of the terms and conditions of this Conditional Permit. A copy of the certificate of insurance naming County of Maui as an additional insured shall be submitted to the Department of Planning within ninety (90) calendar days from the effective date of this ordinance.

5. That Ameron Hawaii shall develop the property in substantial compliance with the representations made to the Maui County Council in obtaining the Conditional Permit. Failure to so develop the property may result in the revocation of the Conditional Permit pursuant to Section 19.40.080, Maui County Code.
6. That an archaeological inventory survey for the 7.4-acre expansion area shall be conducted by a qualified archaeological consultant with a report of the findings, significance assessments, and recommended mitigation submitted to the State Historic Preservation Division for review and acceptance prior to proceeding with any grubbing or grading activity.

SECTION 3. This ordinance shall take effect upon its approval.

APPROVED AS TO FORM
AND LEGALITY:



JAMES A. GIROUX
Deputy Corporation Counsel
County of Maui

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WE HEREBY CERTIFY that the foregoing BILL NO. 44 (2010)

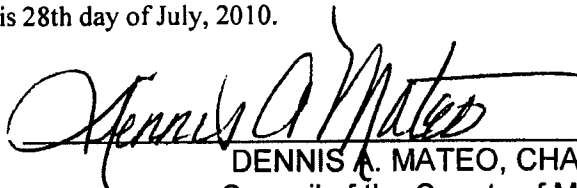
1. Passed FINAL READING at the meeting of the Council of the County of Maui, State of Hawaii, held on the 23rd day of July, 2010, by the following vote:

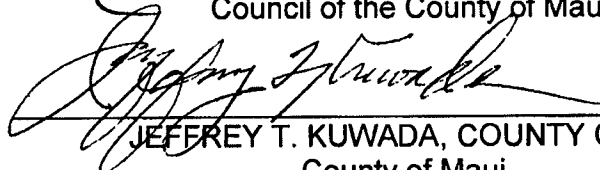
Dennis A. MATEO Chair	Michael J. MOLINA Vice-Chair	Gladys C. BAISA	Jo Anne JOHNSON	Solomon P. KAHO'OHALAHALA	William J. MEDEIROS	Wayne K. NISHIKI	Joseph PONTANILLA	Michael P. VICTORINO
Excused	Aye	Aye	Aye	No	Aye	Aye	Aye	Aye

2. Was transmitted to the Mayor of the County of Maui, State of Hawaii, on the 28th day of July, 2010.

DATED AT WAILUKU, MAUI, HAWAII, this 28th day of July, 2010.

RECEIVED
JUL 28 11:09 AM
COUNTY CLERK



DENNIS A. MATEO, CHAIR
Council of the County of Maui


JEFFREY T. KUWADA, COUNTY CLERK
County of Maui

THE FOREGOING BILL IS HEREBY APPROVED THIS 27th DAY OF July, 2010.


CHARMAINE TAVARES, MAYOR
County of Maui

I HEREBY CERTIFY that upon approval of the foregoing BILL by the Mayor of the County of Maui, the said BILL was designated as ORDINANCE NO. 3757 of the County of Maui, State of Hawaii.


JEFFREY T. KUWADA, COUNTY CLERK
County of Maui

Passed First Reading on July 2, 2010.
Effective date of Ordinance July 27, 2010.

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COUNTY CLERK

I HEREBY CERTIFY that the foregoing is a true and correct copy of Ordinance No. 3757, the original of which is on file in the Office of the County Clerk, County of Maui, State of Hawaii.

Dated at Wailuku, Hawaii, on
