

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
Land Division
Honolulu, Hawaii 96813

February 9, 2018

Board of Land and Natural Resources
State of Hawaii
Honolulu, Hawaii

PSF No.:05OD-180

Oahu

Amend Prior Board Action of May 11, 1979, Item F-20 regarding *Direct Issuance of Lease to Public Utility for Power Substation Purposes*; Sand Island, Honolulu, Oahu, Tax Map Key: (1) 1-5-041:296.

The Amendment is Regarding the Immediate Management Right-of-Entry, Rent Payable and Commencement Date.

APPLICANT:

Hawaiian Electric Company, Inc., (HECO).

LEGAL REFERENCE:

Sections 171-13, 17, 55, and 95, Hawaii Revised Statutes, as amended.

LOCATION:

Portion of Government lands situated at Sand Island, Honolulu, Oahu, Tax Map Key: (1) 1-5-041:296 as shown on the maps attached as **Exhibit A1** and **A2**.

AREA:

7,511 square feet, more or less.

ZONING:

State Land Use District: Urban

City & County of Honolulu LUO: I-3

TRUST LAND STATUS:

Section 5(a) lands of the Hawaii Admission Act

DHHL 30% entitlement lands pursuant to the Hawaii State Constitution: No.

CURRENT USE STATUS:

Unencumbered but improved with applicant's substation. See Remarks Section.

CHARACTER OF USE:

Power substation purposes.

LEASE TERM:

Sixty-five (65) years, from May 11, 1979. See Remarks Section.

RENT:

A single independent appraisal for a one-time payment of fair market rent for the entire 65-year term with the commencement date on May 11, 1979, to include rental adjustments on the 15th, 30th, and 45th anniversary dates of the lease term, subject to review and approval by the Chairperson.

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

An Environmental Impact Statement ("EIS") was filed with the Environmental Quality Commission on April 2, 1978. The EIS was accepted by the Governor on May 18, 1978. See letter dated January 11, 1980 from the Department of Transportation attached as **Exhibit B**.

DCCA VERIFICATION:

Place of business registration confirmed:	YES <u> x </u>	NO <u> </u>
Registered business name confirmed:	YES <u> x </u>	NO <u> </u>
Applicant in good standing confirmed:	YES <u> x </u>	NO <u> </u>

APPLICANT REQUIREMENTS:

Applicant shall be required to pay for an appraisal to determine the one-time payment.

REMARKS:1979 Board approval

The Board, at its meeting of May 11, 1979, Item F-20 (**Exhibit C**), approved as amended, the direct issuance of a 65-year lease to HECO for power substation purposes. Pursuant to the construction right-of-entry approved by the Board at the same meeting, HECO constructed the substation.

The subject area was a portion of State land set aside to the Department of Transportation under Executive Order (EO) 2462 for container yard and marginal wharf purposes. EO

3038 issued in 1981 withdrew the subject area from EO 2462 in anticipation of the consummation of the requested lease. However, the issuance of the lease, for reasons unknown to the staff, was never finalized.

Current Status

Pursuant to recent discussion, HECO indicated that the substation serves mainly the Sand Island Sewage Treatment Plant and the Honolulu Harbor. Both facilities likely will exist for a long time. Therefore, HECO inquired if a perpetual easement over the subject area would be more appropriate in anticipation of the future appraisal and negotiation for a new disposition upon the expiration of the 65-year lease.

Staff notes that the substation is different from the typical HECO easement request for overhead/underground power line, guy wires etc., because the bulk of the substation is placed on the land on an exclusive basis. Therefore, staff believes a lease based on its characteristic of exclusiveness is more appropriate than a non-exclusive easement.

Appraisal

Since HECO's use of the subject parcel began in 1979, which was made possible pursuant to the Board's approved right-of-entry, staff believes that the lease should commence from May 11, 1979 [the initial Board date] with a single independent appraisal determining the fair market rent for the entire term, subject to the rental adjustment provisions to be incorporated in the lease. In short, the lease will provide for a one-time payment of consideration for the entire 65-year term, in which the rental would also take into account the adjustment on the 15th, 30th, and 45th anniversary dates of the term. This approach eliminates any need for separate appraisals for the rental reopenings that were supposed to have occurred at the 15th and 30th years (now passed) and the remaining reopening at the 45th anniversary which is coming soon.

Access

As noted from Exhibit A2, there is a driveway off Sand Island Parkway leading into the container yard and HECO will require access right over the container yard to reach the subject station. In an email dated November 29, 2017, Department of Transportation, Harbors Division (DOT Harbors) agrees to work with HECO in regards to accessing the substation through DOT Harbors' property.

Right-of-Entry

Staff recommends the Board authorize the issuance of an immediate management right-of-entry using the latest template language, including the provision of insurance covering the State. Such right-of-entry shall expire upon the consummation of the lease.


Comments from other agencies

Department of Transportation, Highways Division, Department of Facility Maintenance, and the Office of Hawaiian Affairs have no objection/comment to the subject request. State Historic Preservation Division, Department of Health, Department of Planning and Permitting, and the Board of Water Supply have not responded before the suspense date.

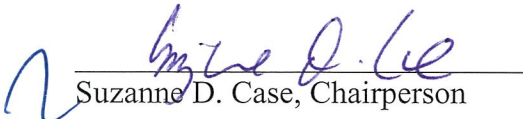
RECOMMENDATION: That the Board amend its prior action of May 11, 1979, Item F-20 by replacing the entire Recommendation Section with the following, further subject to the terms and conditions described above:

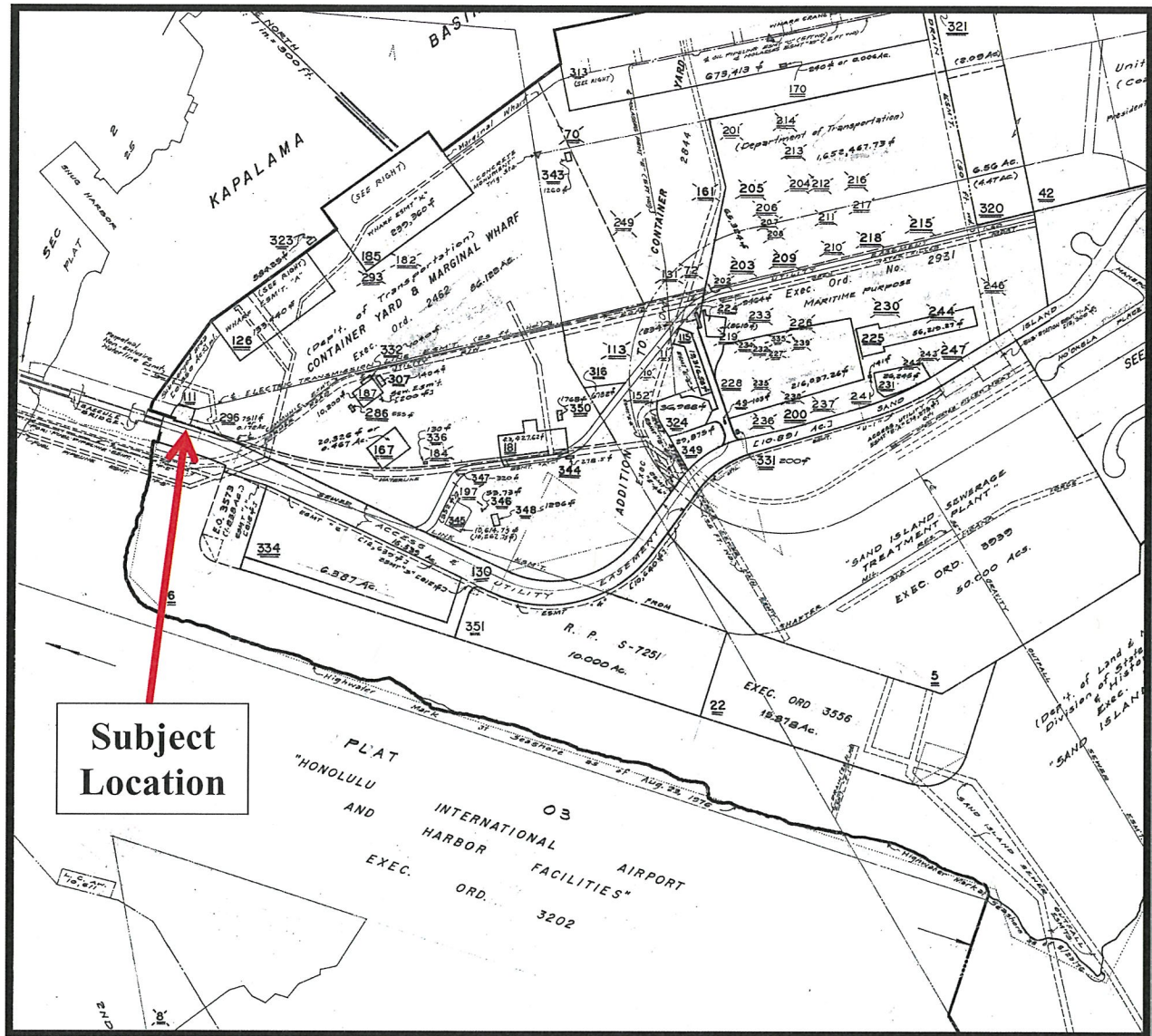
- “1. Subject to the Applicant fulfilling all of the Applicant requirements listed above, authorize the issuance of a direct lease to Hawaiian Electric Company, Inc. covering the subject area for power substation purposes under the terms and conditions cited above, which are by this reference incorporated herein and further subject to the following:
 - A. The standard terms and conditions of the most current lease document form, as may be amended from time to time;
 - B. Coordinate with Department of Transportation, Harbors Division for access to the subject power substation;
 - C. Review and approval by the Department of the Attorney General; and
 - D. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.
2. Issuance of an immediate management right-of-entry permit to the Hawaiian Electric Company, Inc. covering the subject area for power substation purposes under the terms and conditions cited above, which are by this reference incorporated herein and further subject to the following:
 - A. The standard terms and conditions of the most current right-of-entry document form, as may be amended from time to time; and
 - B. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.”

Respectfully Submitted,


Barry Cheung
District Land Agent

APPROVED FOR SUBMITTAL:


Suzanne D. Case, Chairperson



TMK (1) 1-5-041:296

EXHIBIT A1



TMK (1) 1-5-041:296

EXHIBIT A2

GEORGE R. ARIYOSHI
GOVERNOR



STATE OF HAWAII
DEPARTMENT OF TRANSPORTATION
859 PUNCHBOWL STREET
HONOLULU, HAWAII 96813

RECEIVED
DIVISION OF
LAND MANAGEMENT
JAN 11 1980
RYOKICHI HIGASHIHARA
DIRECTOR
DEPUTY DIRECTORS:
JAMES F. CARRARA
JAMES B. MCCORMICK
DOUGLAS S. KAMOTO
JACK K. SUWA
IN REPLY REFER TO:

January 11, 1980

HAR-ED 2544

Mr. Tyrone Kusao, Director
Department of Land Utilization
City and County of Honolulu
650 South King Street
Honolulu, Hawaii 96813

Dear Mr. Kusao:

Subject: Hawaiian Electric Company (HECO) Power
Substation Site, Sand Island, Oahu

Enclosed for your review and approval are fifteen (15)
sets of the subdivision map for the subject project.

We propose to subdivide the parcel set aside by Governor's
Executive Order 2462 into two (2) lots for the following uses:

1. Lot 1 will continue to be used for container handling
operations by U. S. Lines, Inc. and Matson Terminals,
Inc.
2. Lot 2 will be withdrawn from E.O. 2462 and leased to
HECO by DLNR for the purpose of operating and main-
taining a power substation. The power substation is
required due to the anticipated load growth on Sand
Island.

The lot descriptions are also enclosed.

Pursuant to Chapter 343, Hawaii Revised Statutes, an
Environmental Impact Statement for Sand Island Development of
Container Handling Facilities was filed with the Environmental
Quality Commission on April 12, 1978. The EIS was accepted by
the Governor on May 18, 1978.

EXHIBIT B

Mr. Tyrone Kusao, Director
Page 2
January 11, 1980

HAR-ED 2544

HECO will apply directly to your agency for a Shoreline Management Permit.

Your early attention to this matter will be appreciated. If you have any questions, please contact Mr. Kirby Hong of our Harbors Division at 548-2505.

Very truly yours,

Ryokichi Higashionna
Ryokichi Higashionna
Director of Transportation

Enclosures

cc: Hawaiian Electric Company (Mr. Meade D. Wildrick)
DLNR (Land Management)

GEORGE R. ARIYOSHI
GOVERNOR OF HAWAII



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
DIVISION OF LAND MANAGEMENT
P. O. BOX 621
HONOLULU, HAWAII 96809

DIVISIONS:
CONVEYANCES
FISH AND GAME
FORESTRY
LAND MANAGEMENT
STATE PARKS
WATER AND LAND DEVELOPMENT

May 11, 1979

Board of Land and
Natural Resources
Honolulu, Hawaii

Gentlemen:

Subject: RESUBMITTAL -
Direct Issuance of Lease to Public Utility for
Power Substation Purposes, Sand Island, Honolulu,
Oahu

STATUTE: Chapter 171-95, Hawaii Revised Statutes, as Amended

APPLICANT: HAWAIIAN ELECTRIC COMPANY, INC.

FOR: Portion of former Mokauea Fishery, also portion of Sand Island transferred to the Territory of Hawaii by Presidential Executive Order No. 10,833 dated August 20, 1959, as shown shaded in red on map appended to the basic file and labeled Land Board Exhibit "A", TMK: 1-5-41.

STATUS: Unencumbered

ZONING: State Land Use Commission: Urban
City and County of Honolulu CZC: P-1 Preservation District

PURPOSE: For construction, maintenance and operation of an electrical power substation facility.

AREA: Approximately 10,000 sq. ft. (100 ft. by 100 ft.) adjacent to the northwest boundary of the City's Sand Island Sewage Treatment Plant.

TERM: Sixty-five (65) years commencing upon the date of sale.

UPSET ANNUAL RENTAL: To be established by independent appraisal, same subject to review and approval by the Chairman.

METHOD OF PAYMENT: Annually in advance.

ITEM F-20

EXHIBIT C

Board of Land and
Natural Resources

May 11, 1979

RENTAL REOPENING: At the end of the 15th, 30th and 45th years of the lease.

REMARKS: Hawaiian Electric Company is in need of an electrical substation site on Sand Island to meet the anticipated power demands of the various tenants. They request that a site be provided in the vicinity where the power load would be the most concentrated. According to Hawaiian Electric Company, somewhere near the City's Treatment Plant and the Department of Transportation's expanded container yard operations would be the ideal location.

This matter was deferred by the Board at its April 12, 1979 meeting due to some questions as to why the substation was being placed on Department of Land and Natural Resources' controlled lands and not on lands set aside to the Department of Transportation.

The Department of Transportation has indicated that they would be willing to accommodate the substation within portions of the container yard provided the site is located away from the center of their container operations.

Alternate sites agreeable to the Department of Transportation include an area just beyond the bascule bridge (Site A) and another location near the Coast Guard Station (Site B).

However, these sites are considered operationally less desirable by Hawaiian Electric Company because of the long distance to the main power users, i.e., the sewage treatment plant and the container facilities.

According to the Department of Transportation, locating the substation within the central portion of their yard will hinder the maximum use and development of the yard. They also feel that it will also have an adverse impact on the planned container operations.

We have reviewed Hawaiian Electric Company's proposed site with all affected government agencies and find no objections to the site in question.

Representatives from the Department of Transportation and Hawaiian Electric Company are present to answer any questions which the Board may have.

Hawaiian Electric Company also states that they have no suitable lands of its own on Sand Island for construction of the proposed power substation.

Board of Land and
Natural Resources

May 11, 1979

RECOMMENDATION: That the Board:

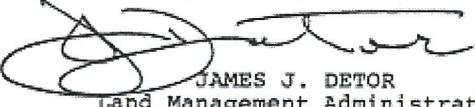
- A. Find that Hawaiian Electric Company has no suitable lands of its own on Sand Island for construction of an electrical power substation.
- B. Authorize the direct issuance of a lease to Hawaiian Electric Company, Ltd. covering the area in question under the above-listed terms and conditions, which are by reference incorporated herein, in addition to the following terms and conditions:
 - 1. Disapproval by the Legislature in any regular or special session next following the date of disposition.
 - 2. Hawaiian Electric Company shall be allowed to assign the lease to Hawaiian Trust Company as Trustee for the bondholders without the further consent to the Board of Land and Natural Resources.
 - 3. Hawaiian Electric Company shall at not cost to the State, be responsible for subdividing the subject substation site from the remaining parcel. Hawaiian Electric Company shall also be responsible for satisfying the EIS requirements and complying with all other Federal, State or County laws, ordinances, rules and regulations which may be applicable or required for the use and development of the leased premises.
 - 4. Hawaiian Electric Company shall at its expense landscape and maintain the leased area to the satisfaction of the Department of Land and Natural Resources.
 - 5. Standard repurchase option clause in the event the land ceases to be used for the purpose for which the lease was made.
 - 6. Standard indemnification and hold-harmless clause.
 - 7. Other terms and conditions of the standard lease form and such other terms and conditions as may be prescribed by the Chairman.
- C. Pending the issuance of a lease, grant Hawaiian Electric Company an immediate right of entry to the subject area for surveying and construction purposes subject to the following terms and conditions:
 - 1. Standard hold-harmless and indemnification clause.

Board of Land and
Natural Resources


May 11, 1979

2. Other terms and conditions as may
be prescribed by the Chairman.

Respectfully submitted,


JAMES J. DETOR
Land Management Administrator
FS

APPROVED FOR SUBMITTAL:


SUSUMU ONO, Chairman

Att.