

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

November 13, 2020

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

PSF No.:20OD-031

Oahu

Request for Mutual Cancellation of General Lease Nos. S-3896 and S-3904, as amended; and Issuance of Two (2) Perpetual, Non-Exclusive Easements to Hawaiian Electric Company, Inc. for Overhead and Underground Utility Easement Purposes, Kapalama and Kalihi, Honolulu, Oahu, Tax Map Key (1) 1-5-034: portions of 004 Tax Map Key: (1) 1-3-008: portions of 004 and 005.

APPLICANT:

Hawaiian Electric Company, Inc. ("HECO").

LEGAL REFERENCE:

Section 171-13, -17, -36, -95, Hawaii Revised Statutes, as amended.

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| LOCATION | Kapalama, Honolulu, Oahu, identified by Tax Map Key: (1) 1-5-034:004 (Portion), as shown on the attached map labeled Exhibit A . | Kalihi, Honolulu, Oahu, identified by Tax Map Key: (1) 1-3-008: pors. of 004 and 005 as shown on the attached map labeled Exhibit B . |
| AREA | 5,005 square feet, more or less | 20,273 square feet, more or less |
| TRUST LAND STATUS | Section 5(a) lands of the Hawaii Admission Act DHHL 30% entitlement lands pursuant to the Hawaii State Constitution: NO | Section 5(a) lands of the Hawaii Admission Act DHHL 30% entitlement lands pursuant to the Hawaii State Constitution: NO |
| ZONING | State LUC: Urban C&C Zoning: I-3 | State LUC: Urban C&C Zoning: R-3.5 |
| CURRENT USE STATUS | Encumbered by General Lease No. S-3896 to Hawaiian Electric Company, Inc. and Governor's Executive Order 1346 to the Department of Transportation, Harbors Division for Harbor | Encumbered by General Lease S-3904 to Hawaiian Electric Company and Hawaiian Telephone Company and Governor's Executive Order Nos. 1854 and 1909 to the Department of Education for Kalihiwaena Elementary School. |

CHARACTER OF USE:

Right, privilege and authority to construct, use, maintain, repair, replace and remove electrical transmission lines, poles, guy wires and anchors over, under and across State-owned land, including the obligation to trim and keep trimmed any trees in the way of its appliances and equipment.

MUTUAL CANCELLATION AND COMMENCEMENT DATE:

To be determined by the Chairperson.

CONSIDERATION:

A one-time payment for each easement shall be determined by one appraisal performed by an independent appraisal establishing fair market rental value, subject to review and approval by the Chairperson.

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

In accordance with Hawaii Administrative Rules §11-200.1-15 and the Exemption List for the Department of Land and Natural Resources reviewed and concurred upon by the Environmental Council on March 3, 2020, the subject request is exempt from the preparation of an environmental assessment pursuant to Exemption Class No. 1, that states "Operations, repairs or maintenance of existing structures, facilities, equipment or topographical features, involving negligible or no expansion or change of use beyond that previously existing" and Part 2, item 40, which states, "Creation or termination of easement, covenants, or other rights in structures or land." See **Exhibit A**.

DCCA VERIFICATION:

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| Place of business registration confirmed: | YES |
| Registered business name confirmed: | YES |
| Applicant in good standing confirmed: | YES |

APPLICANT REQUIREMENTS:

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

REMARKS:

REMARKS:

General Lease Nos. S-3896 and 3904 were issued to HECO and Hawaiian Telephone Co. in 1965 through public auction. The two dispositions allow both grantees have certain easement rights over State lands for utilities purposes. GL 3904 was amended in 1967 to reduce the subject area. Over the years, HECO has become the sole party with its improvements on the subject areas, as the phone company has removed its improvements from the sites.

Both GL 3896 and 3904 are scheduled to expire on March 10, 2030.

HECO plans to continue use of the respective areas without any changes beyond its existing use. Therefore, HECO requests mutual termination of the two GLs and their replacement with two perpetual non-exclusive easements for utility purposes.

Comments were solicited from the Department of Transportation, Highways Division and Department of Education, in addition to the Commission on Water Resource Management; City and County of Honolulu, Department of Planning and Permitting and the Department of Design and Contraction, however, at the time of finalization of this submittal no comments were received.

HECO has not a lease, permit, easement or other disposition of State lands terminated within the last five years due to non-compliance with such terms and conditions. There are no other pertinent issues or concerns.

RECOMMENDATION: That the Board:

1. Declare that, after considering the potential effects of the proposed disposition as provided by Chapter 343, HRS, and Chapter 11-200.1, HAR, this project will probably have minimal or no significant effect on the environment and is therefore exempt from the preparation of an environmental assessment.
2. Authorize the mutual cancellation of General Lease No. S-3896 and S-3904 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 mutual cancellation of easement document form, as may be amended from time to time;
 - B. Review and approval by the Department of the Attorney General; and

- C. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.
3. Upon mutual termination mentioned above in Recommendation 2 and subject to the Applicant fulfilling all of the Applicant requirements listed above, authorize the issuance of two (2) perpetual non-exclusive easements to Hawaiian Electric covering the subject areas for overhead and underground utility 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 perpetual easement document form, as may be amended from time to time;
 - B. Review and approval by the Department of the Attorney General; and
 - C. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.

Respectfully Submitted,

Patti E. Miyashiro

Patti E. Miyashiro
Land Agent

APPROVED FOR SUBMITTAL:

Suzanne D. Case

Suzanne D. Case, Chairperson

RT

EXEMPTION NOTIFICATION

Regarding the preparation of an environmental assessment pursuant to Chapter 343, HRS and Chapter 11-200.1, HAR

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| Project Title: | Request for Mutual Cancellation of Term, Non-Exclusive Grant Easement Nos. and S-3896 and S-3904; Issuance of Perpetual, Non-Exclusive Easements to Hawaiian Electric Company, Inc. for Overhead and Underground Utility Easement Purposes. |
| Project /Reference No.: | PSF 20OD-031 |
| Project Location: | Kapalama and Kalihi, Honolulu, Oahu |
| Project Description: | Cancellation of Term, Non-Exclusive Grant Easement Nos. and S-3896 and S-3904 and Issuance of Perpetual, Non-Exclusive Easements |
| Chapter 343 Trigger(s): | Use of State Land |
| Exemption Class No. and Description: | In accordance with Hawaii Administrative Rules §11-200.1-15 and the Exemption List for the Department of Land and Natural Resources reviewed and concurred upon by the Environmental Council on March 3, 2020, the subject request is exempt from the preparation of an environmental assessment pursuant to Exemption Class No. 1, that states "Operations, repairs or maintenance of existing structures, facilities, equipment or topographical features, involving negligible or no expansion or change of use beyond that previously existing" and Part 2 item 40, which states, "Creation or termination of easement, covenants, or other rights in structures or land." |
| Cumulative Impact of Planned Successive Actions in Same Place Significant?: | No. This request is pertaining to an issuance of perpetual, non-exclusive easements to replace term non-exclusive easements. |

EXHIBIT A

Action May Have
Significant Impact on
Particularly Sensitive
Environment?:

Analysis:

No. Staff is not aware of any particularly sensitive environmental issues and use of the areas would involve. The analysis factors are the proposed change of disposition and negligible expansion or change in use of the subject area beyond previously existing. Taking these two factors into consideration staff believes there would be no significant impact to sensitive environmental or ecological receptors.

Consulted Parties:

Agencies as noted in submittal.

Recommendation:

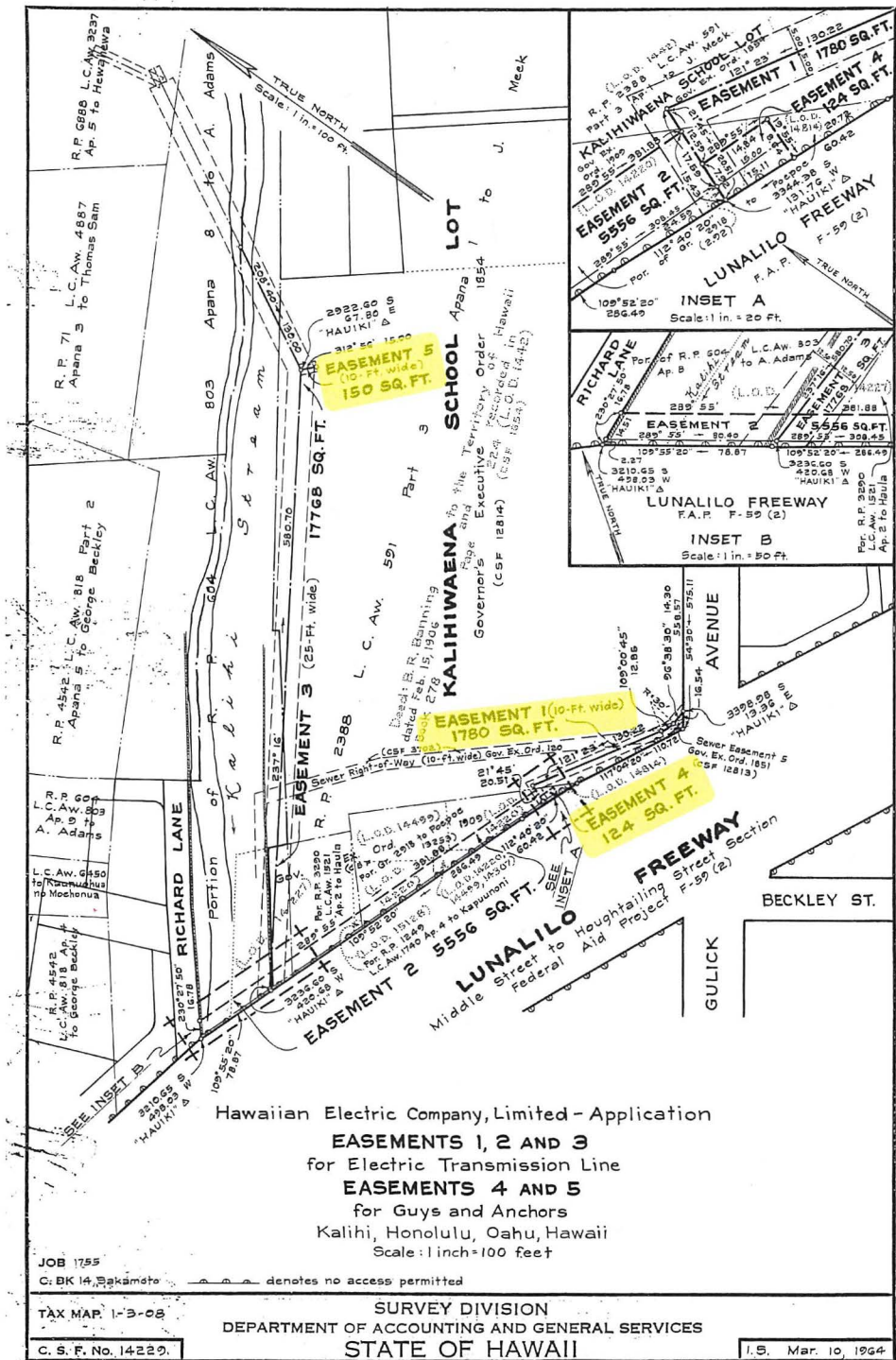
It is anticipated that the change in disposition will probably have minimal or no significant effect on the environment and is presumed to be exempt from the preparation of an environmental assessment.

TAX MAP KEY: (1) 1-5-034:004 (PORTION)¹

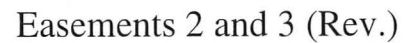


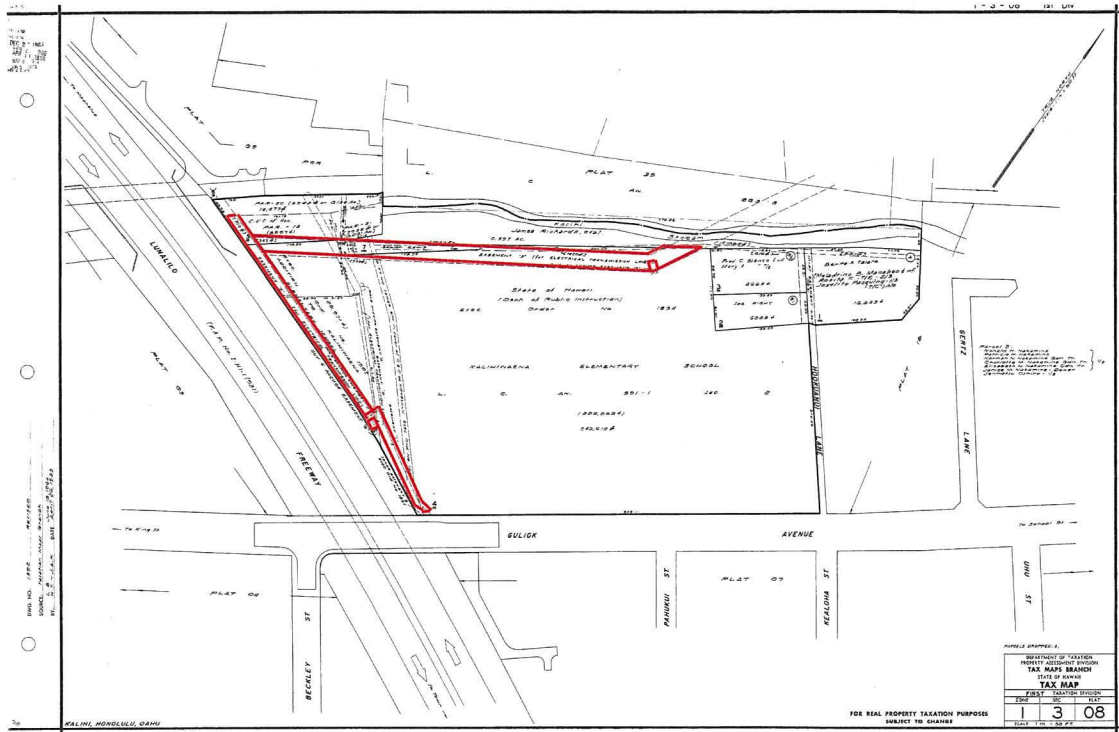
Tax Map Key: (1) 1-5-034:004 (Portion)
As identified on the City and County of Honolulu, Real Property Assessment Division)

EXHIBIT B2



Easements 1, 4 and 5





Tax Map Key: (1) 1-3-008:Pors. 004 and 005