

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

December 10, 2021

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

PSF No.: 21OD-080

OAHU

Grant of Term, Non-Exclusive Easement to Hawaiian Electric Company, Inc. for Utility Purposes and Issuance of Construction Right-of-Entry Permit; Kewalo, Honolulu, Oahu, Tax Map Key: (1) 2-3-012:019.

APPLICANT:

Hawaiian Electric Company, Inc., a Hawaii for-profit corporation.

LEGAL REFERENCE:

Sections 171-13, 17, 55, and 95, Hawaii Revised Statutes, as amended (“HRS”).

LOCATION:

Portion of Government lands situated at Kewalo, Honolulu, Oahu, identified by Tax Map Key: (1) 2-3-012:029, as shown on the maps attached as **Exhibit A1** to **A3**.

AREA:

1,763 square feet, more or less, to be reviewed and approved by the Department of Accounting and General Services, Survey Division.

ZONING:

State Land Use District: Urban
City and County of Honolulu LUO: A-2 Medium Density Apartment

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:

Governor's Executive Order No. 4598 setting aside to Hawaii Housing Finance Development Corporation (HHFDC) for mixed-use residential and current and future family court services, including shelter services for juveniles under the jurisdiction of the court purposes.

CHARACTER OF USE:

Right, privilege and authority to construct, reconstruct, use, maintain and repair electric transmission and distribution lines, poles, guy wires and anchors for utility purposes, including the right to trim and keep trimmed any trees in the way of any appliances and equipment.

TERM:

75 year.

Staff understands Land Division recently limited the easement for an electric utility easement to 65 years.¹ At its meeting of August 9, 2019, agenda item D-3, the Board gave its consent to two (2) 75-year leases to be executed between HHFDC and the selected developer as well as the Judiciary. The subject easement is to serve the two condominium units at the subject site. HECO originally turned in a request for perpetual easement on October 23, 2021. In view of the latest changes, HECO requested the term to be coterminous with the two leases mentioned above. Staff recommends the Board authorize a 75-year easement.

COMMENCEMENT DATE:

See TERM above.

CONSIDERATION:

One-time payment to be determined by independent establishing fair market rent, subject to review and approval by the Chairperson.

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

The Final Environmental Assessment for the mixed-use development described above was published in the OEQC's Environmental Notice on July 23, 2016 with a finding of no significant impact (FONSI). The requested easement is part of development project described in the FONSI.

¹ <https://dlnr.hawaii.gov/wp-content/uploads/2021/11/D-1.pdf>

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:

1. Pay for an appraisal to determine one-time payment;
2. Process and obtain any appropriate designation of easement from the Department of Planning and Permitting at Applicant's own cost; and
3. Provide survey maps and descriptions according to State DAGS standards and at Applicant's own cost.

REMARKS:

Pursuant to discussions between the Judiciary and HHFDC, an agreement was reached to develop the subject parcel into a mixed-use project in the form of a condominium property regime consisting of about 200 affordable rental housing units for low-income families and a juvenile shelter/service center to continue the provision of programs or services administered by the Judiciary. The residents of the housing units will be subject to an income not exceeding 60% of Honolulu's gross median income. At its meeting of August 9, 2019, under agenda item D-3, the Board approved the set aside and other associated matters related to the development of the project.

As the mixed-use project has gone through the environmental assessment process which involved the solicitation for comments from other agencies, staff did not solicit separate comments on today's request.

To facilitate the construction process, HECO requests an immediate construction right-of-entry which shall expire upon the issuance of the requested easement.

There are no other pertinent issues or concerns. Staff recommends the Board authorize the requested easement and right-of-entry pursuant to the recommendations listed below.

RECOMMENDATION: That the Board:

1. Subject to the Applicant fulfilling all of the Applicant requirements listed above, authorize the issuance of a term non-exclusive easement to Hawaiian Electric Company, Inc. covering the subject area for 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 term 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.
2. Issuance of a construction and management right-of-entry to Hawaiian Electric Company, Inc. covering the subject area 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,

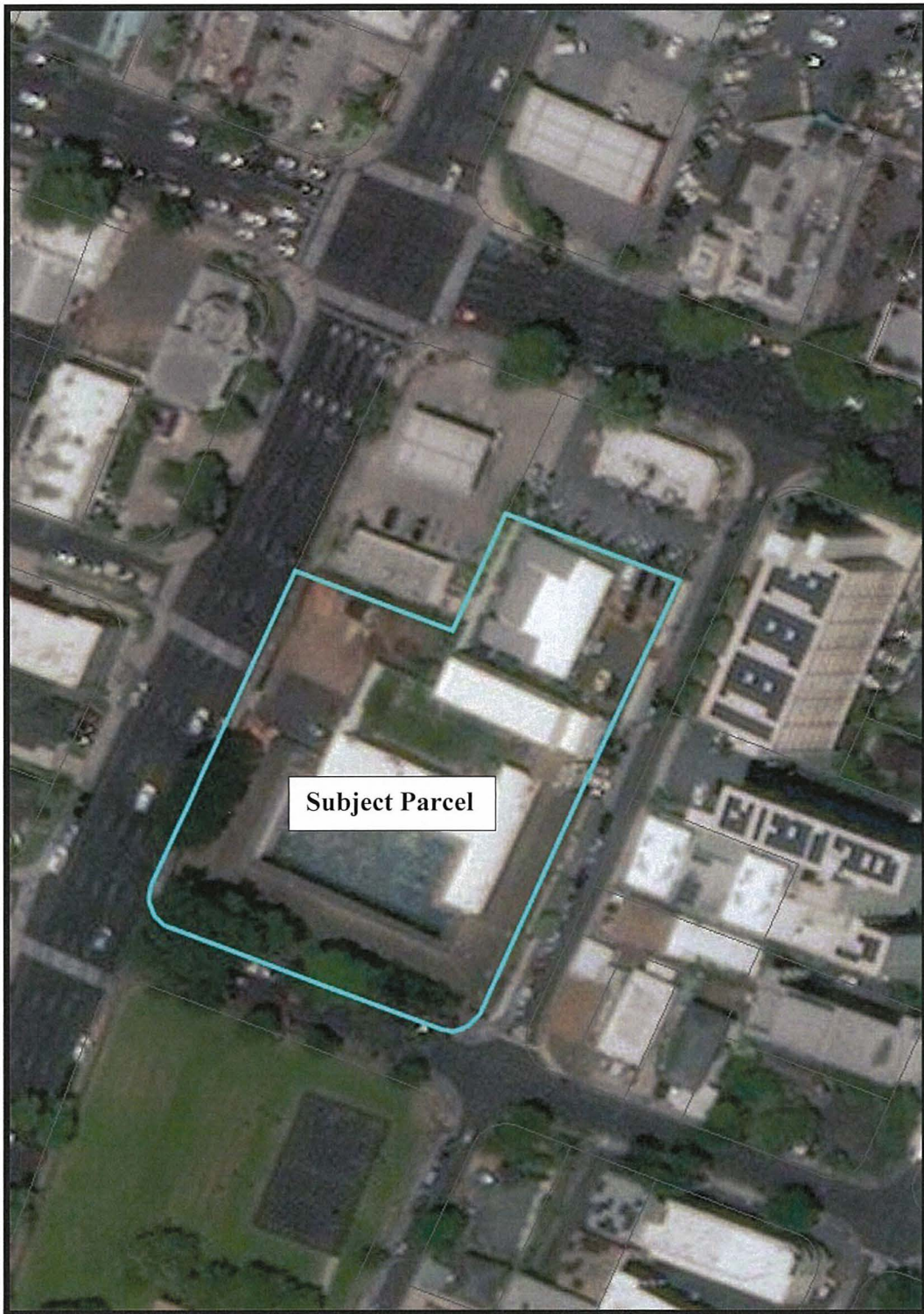
Barry Cheung

Barry Cheung
District Land Agent

APPROVED FOR SUBMITTAL:

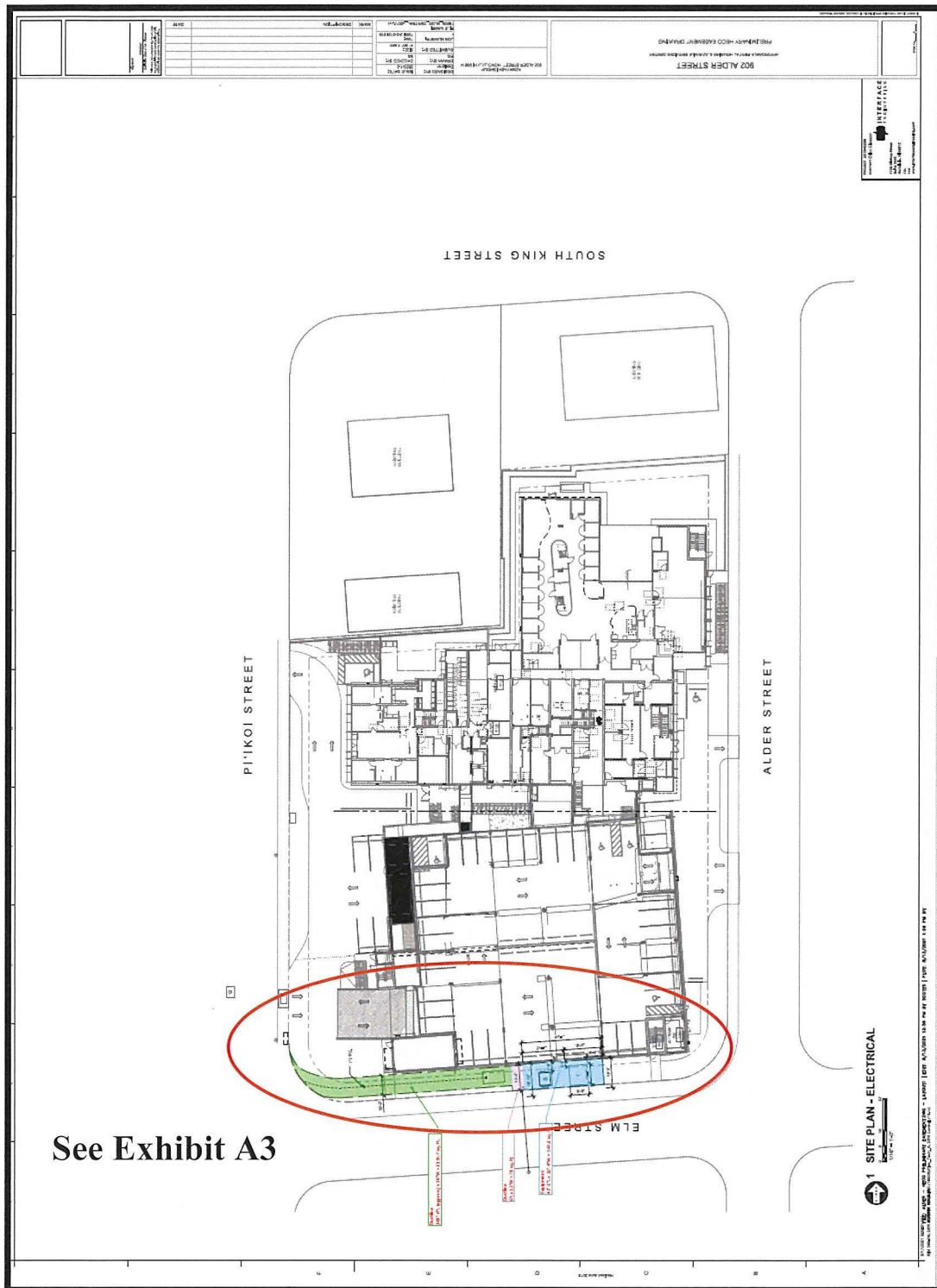
Suzanne D. Case

Suzanne D. Case, Chairperson *RT*



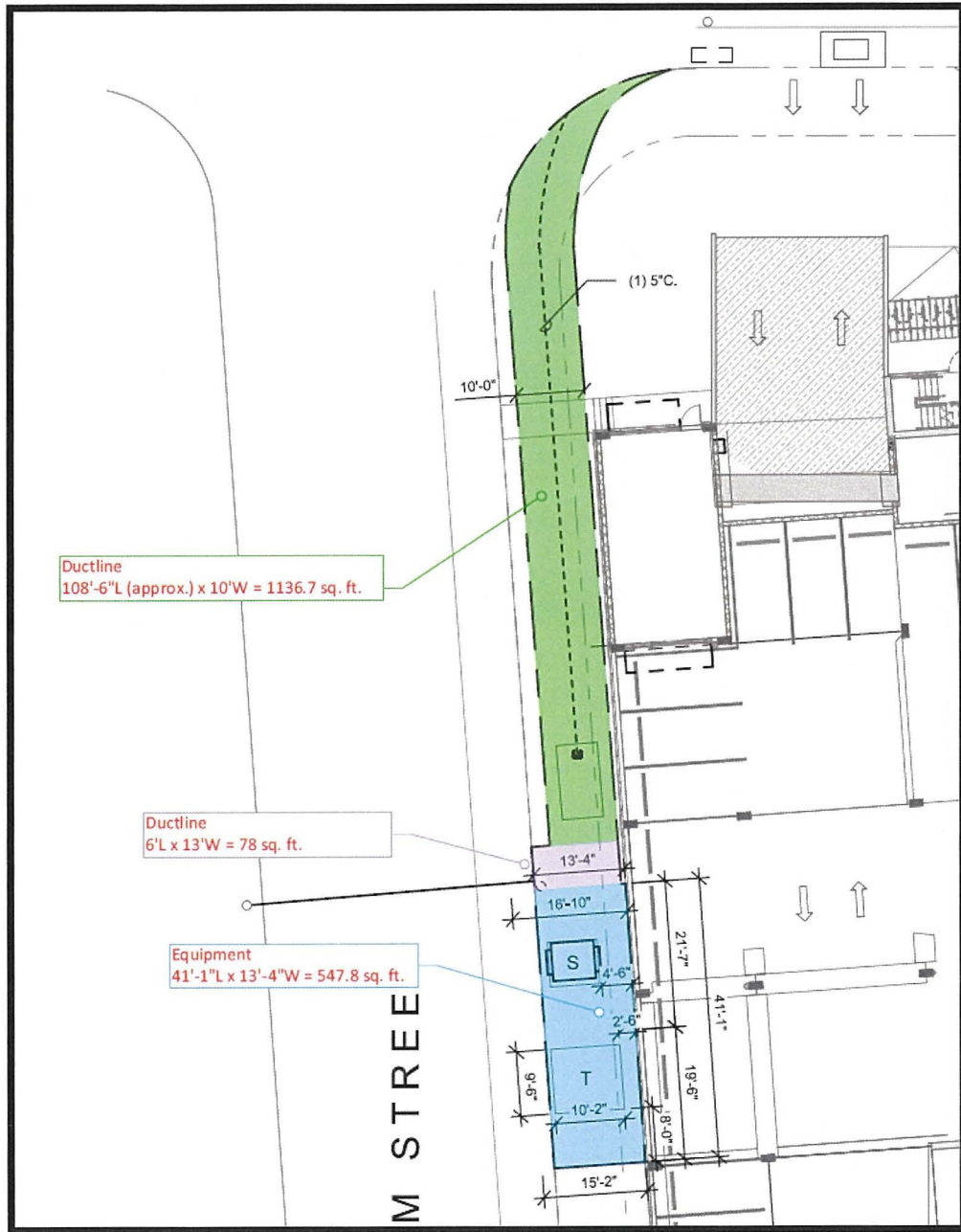
TMK (1) 2-3-012:019

EXHIBIT A1



TMK (1) 2-3-012:019

EXHIBIT A2



TMK (1) 2-3-012:019

EXHIBIT A3