



STATE OF HAWAII
DEPARTMENT OF TRANSPORTATION
869 PUNCHBOWL STREET
HONOLULU, HAWAII 96813-5097

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IN REPLY REFER TO:

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

OAHU

ISSUANCE OF A CONSTRUCTION RIGHT-OF-ENTRY, GRANT OF EASEMENTS (PERPETUAL, NON-EXCLUSIVE), TO HAWAIIAN ELECTRIC COMPANY, INC., FOR PIERS 24-28 UTILITY IMPROVEMENTS, HONOLULU HARBOR, OAHU, TAX MAP KEY NO. (1) 1-5-038: PORTION OF 001, 073, 074, 077, AND 078

LEGAL REFERENCE:

Sections: 171-6, 171-7, 171-11, 171-13, 171-17, and 171-95, Hawaii Revised Statutes (HRS), as amended.

APPLICANT:

Hawaiian Electric Company, Inc. (Applicant), is a domestic profit corporation whose mailing address is 1001 Bishop Street, Suite 2500, Honolulu, Hawaii 96813.

CHARACTER OF USE:

To allow Applicant and its permitted agents (assignees, contractors, sub-contractors and agents) the right to enter upon and take possession of the premises to construct, reconstruct, operate, maintain, repair, and remove overhead and underground wire lines, manholes, transformer vaults and such other appliances and equipment as may be necessary for the transmission and distribution of electricity and/or communication, including all service lines emanating from the main trunk line, to be used for light and power and/or communications and control circuits, including without limiting the generality of the foregoing. Together with the right from time to time, and at all reasonable times, to enter upon the areas for the above-mentioned purposes and maintenance thereof, and the right of ingress, egress, and regress over all the Department of Transportation, Harbors Division (DOT), roads leading to the areas.

LOCATION:

The portion of Government lands situated at Honolulu Harbor, Tax Map Key No. (1) 1-5-038: Portion of 001, 073, 074, 077, and 078, as shown on the attached Exhibit A.

ITEM M-11

AREA: See Attached Exhibit A

Description	Type	Approx. Sq. Ft.
Overhead Poles and Wirelines	Non-Exclusive Utility Easement	1,750
Underground Wirelines	Non-Exclusive Utility Easement	30,824
Utility Vault Sites	Non-Exclusive Easement	1,782

Total Area: **34,356**

ZONING:

State Land Use Commission: Urban
City and County of Honolulu: I-3 (Waterfront Industrial)

TERM AND CONSIDERATION, EASEMENTS:

Utility Easements (Perpetual, Non-Exclusive), consideration to be gratis – pursuant to Section 171-95, HRS.

TERM AND CONSIDERATION, CONSTRUCTION RIGHT-OF-ENTRY:

Until the construction, reconstruction, operation, maintenance, repair and removal of overhead and underground wirelines, manholes, and such appliances and equipment as may be necessary for the transmission and distribution of electricity and/or communication improvements are complete, and the recordation of the Grant of Easements.

Consideration to be gratis - pursuant to Section 171-95, HRS.

COMMENCEMENT DATE:

Upon approval by the Board of Land and Natural Resources and as determined by the Director of Transportation.

CURRENT USE STATUS:

Land encumbered under Governor's Executive Order No. 2903, dated April 29, 1978, setting aside land for maritime and maritime related use to be under the control of the DOTH.

LAND TITLE STATUS:

Owned by the State of Hawaii; management and control of the property was transferred to the DOTH by Governor's Executive Order No. 2903.

TRUST LAND STATUS:

Land acquired after Statehood (non-ceded).

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

This use is exempt from the Office of Environmental Quality Control requirements pursuant to Section 11-200.1, Hawaii Administrative Rules (HAR), which exempts the following:

“Exemption Type 3: Modify utility systems including electrical (e.g., convert overhead lines to underground lines), gas, water, sewer, communications and other services to serve structures, buildings, or facilities. Extend utility service connection to new or modified assets. Exterior lighting modifications will comply with HRS Chapter 201-8.5, Night Sky Protection Strategy... Install new substation, transformers and electrical connections to supplement existing power supply and to maintain the functionality of a facility.”

The DOTH deems the action as de minimis and exempts it from the preparation of an exemption notice in accordance with Section 11-200.1-16(b), HAR.

The exemption declaration for the action described above is based on the Exemption List for the DOTH, reviewed, and concurred to by the Environmental Council on February 1, 2022.

APPLICANT REQUIREMENTS:

The Applicant shall:

1. Ensure that its contractors and sub-contractors shall obtain the following insurance during the term of the Construction Right-of-Entry and include the DOTH as an additional insured:
 - (a) Bodily injury or property damage caused by Applicant's or its permitted agent's negligence in the form of a general liability insurance policy with a combined single limit of \$1,000,000.00 for bodily injury

and damage to property per occurrence, and \$2,000,000.00 in the aggregate.

- (b) Automobile insurance for any vehicles used to access and that are on the Premises with a minimum limit of \$1,000,000.00 per occurrence.
 - (c) All insurance required to be maintained by Applicant and its permitted agents hereunder shall be pursuant to policies in form and substance consistent with policies of a similar type issued to businesses similar to Applicant and its permitted agents and issued by companies of sound and adequate financial responsibility, who are allowed to do business in the State of Hawaii, all as reasonably satisfactory to the State.
 - (d) The Applicant shall include the State as an additional insured on the policies or provide other assurances, reasonably acceptable to the State, that the Applicant's insurance policies shall be primary, not in excess of or pro rata and noncontributing as to and with any other insurance held or maintained by the State, for any injury or claim arising on the Premises due to Applicant's negligence or the negligence of its permitted agents. The "State" shall include the State's officers and employees acting within the scope of their duties.
 - (e) The Applicant shall provide proof of all required insurance to the State either by the production of an insurance certificate or some other written form reasonably acceptable to the State.
2. Use due care for public safety and agrees to defend, hold harmless, and indemnify the State, its officers, agents, and employees, or any person acting for and on its behalf, from and against all claims or demands for damage, including claims for property damage, personal injury, or death, arising on, about or in connection with the exercise of the rights and privileges herein granted, caused directly or approximately by any failure on the part of the Applicant in its use of the Premises.
 3. Take all necessary steps to ensure that any of its work involving the Premises will not cause any permanent damage to property or improvements situated on, adjacent to, or near the Premises.
 4. Take all necessary steps to ensure that the work done on the Premises does not interfere with any of the operational activities of any adjacent property owners.

5. Coordinate all activities with Staff of the DOTH.
6. At all times during the term of Construction Right-of-Entry, comply with all applicable laws, statutes, ordinances, rules, and regulations, whether State, County, or Federal, which are now or hereafter may be in effect.
7. Adhere to other terms and conditions as may be prescribed by the Director of Transportation.

REMARKS:

The Construction Right-of-Entry and Easement will allow Applicant to install upgraded overhead and underground lines and associated facilities in conjunction with the DOTH utility projects. The improved utility infrastructure will greatly enhance the operations of the various maritime users and tenants within the Piers 24-28 areas.

RECOMMENDATION:


That the Board authorize the issuance of a Construction Right-of-Entry, Grant of Easements (Perpetual, Non-Exclusive), to Applicant for the above stated purposes, subject to the terms and conditions outlined above and incorporated herein by reference, and such terms and conditions as may be prescribed by the Director of Transportation; effective the date of the Board's approval.

Respectfully submitted,



JADE T. BUTAY
Director of Transportation

APPROVED FOR SUBMITTAL:



SUZANNE D. CASE
Chairperson and Member
Board of Land and Natural Resources

Attachment

Overall area 34,356 sq. ft. (approximate)