

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

March 24, 2023

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

PSF No.: 14OD-059

Oahu

Grant of Perpetual Non-Exclusive Easement to the City and County of Honolulu on behalf of the Honolulu Authority for Rapid Transportation (HART) for Elevated Guideway Purposes; After-the-Fact Approval of Annual Renewal of Right-of-Entry to HART for Each Year Since the Board Approval of the Initial Issuance of the Right-of-Entry at Board's Meeting of February 10, 2012, Item D-6, Waipahu, Ewa, Oahu, Tax Map Key: (1) 9-4-008: portion of 025.

APPLICANT:

The City and County of Honolulu ("City") on behalf of the Honolulu Authority for Rapid Transportation ("HART")

LEGAL REFERENCE:

Sections 171-55 and 171-95, Hawaii Revised Statutes ("HRS"), as amended.

LOCATION:

Portion of Government lands situated at Waipahu, Ewa, Oahu, identified by Tax Map Key: (1) 9-4-008: portion of 025 as shown on **Exhibits A1 to A4**.

AREAS:

Easement A-3, 43,417 square feet, subject to review and approval by the Department of Accounting and General Services, Survey Division

ZONING:

State Land Use District: Urban  
City and County of Honolulu LUO: AG-2

TRUST LAND STATUS:

Acquired after 8/59, i.e. non-ceded.

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

CURRENT USE STATUS:

Encumbered by Governor's Executive Order No. 2367 setting aside to the Department of Education ("DOE") for Addition to Waipahu High School purposes.

CHARACTER OF USE:

Right, privilege and authority to construct, use, maintain and repair a right-of-way over, under and across State-owned land for elevated guideway purposes.

COMMENCEMENT DATE:

To be determined by the Chairperson.

CONSIDERATION:

Gratis. Government agency.

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

The Final Environmental Impact Statement acceptance notice for the Honolulu High Capacity Transit Corridor subject project was published in the OEQC's Environmental Notice on January 8, 2011.

On August 24, 2012, the Hawaii Supreme Court ruled that the City should have completed archaeological survey work along the entire proposed rail transit route prior to starting construction.

In February 2013 the field work for the Archaeological Inventory Survey ("AIS") for the entire proposed transit route was completed and the AIS reports were then submitted to DLNR's State Historic Preservation Division ("SHPD") for review, which was accepted by SHPD pursuant to its letter dated August 27, 2013.

DCCA VERIFICATION:

Not applicable. Government agency.

APPLICANT REQUIREMENTS: Applicant shall be required to:

1. Provide survey maps and descriptions according to State DAGS standards and at Applicant's own cost;

2. Obtain Department of Education written concurrence to the issuance of the subject easement; and
3. Process and obtain subdivision approval from the City's Department of Planning and Permitting at Applicant's own cost.

BACKGROUND:

At its meeting of February 10, 2012, Item D-6, the Board authorized the issuance of a construction right-of-entry to HART as part for the 20-mile grade separated fixed guideway rail system from East Kapolei to Ala Moana Center. The right-of-entry was planned to expire upon issuance of a long-term disposition. With the construction phase completed, HART now requests an easement over the subject State land for elevated guideway purposes.

Staff understands that HART and DOE coordinated on the construction activities over the past few years to minimize disruption to school operations.<sup>1</sup> As agency and community comments were solicited during the Environmental Impact Statement process, staff did not request additional comments from agencies on the subject disposition.

In the past, when the Board was asked to issue similar non-exclusive easements to HART at various locations, HART provided a list of "Guideway Easement Requirements." A sample of such Requirement is attached as **Exhibit B**.<sup>2</sup> To date, no easement document issued for the rail project at the subject location yet. Recently, a draft easement document prepared by HART's counsel was provided to Land Division. Land Division decided to seek assistance from the Department of the Attorney General ("AG") to represent the division in negotiating with HART on any land disposition documents related to the rail project. Therefore, staff recommends the Board authorize the use of the most current land disposition document for any rail project as approved by the AG for the subject request, if approved.

Applicant has not had 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.

Staff also recommends the Board approve after the fact the annual renewal of the above-mentioned construction right-of-entry permit to comply with the statutory language limiting the term of any right-of-entry permit issued pursuant to 171-55, HRS, to one-year. Further, staff recommends the Board renew the above-mentioned right-of-entry for another year commencing from the Board date and delegate to the Chairperson authority to approve additional annual renewals, if required.

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<sup>1</sup> The school campus sits on parcels owned by the State and the City and County of Honolulu. Today's request only pertains to the State land portion of the campus as shown on Exhibit A-4.

<sup>2</sup> Originated from the Board submittal of September 13, 2013, agenda item D-8, Exhibit H

RECOMMENDATION: That the Board:

1. Approve after the fact the annual renewal of construction right-of-entry permit issued to the Applicant pursuant for each year since the Board approval of February 10, 2012, Item D-6, renew the subject right-of-entry for one calendar year commencing from today's Board action, and delegate to the Chairperson authority to approve any additional renewals for good cause shown.
2. Subject to the Applicant fulfilling all of the Applicant requirements listed above, authorize the issuance of a perpetual non-exclusive easement to the City and County of Honolulu on behalf of the Honolulu Authority for Rapid Transportation covering the subject areas for elevated guideway 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 for elevated guideway purposes, 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,

*Barry Cheung*

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Barry Cheung  
District Land Agent

APPROVED FOR SUBMITTAL:



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Dawn N. S. Chang, Chairperson *PCN*

*RT*





**TMK (1) 9-4-008: portion 025**

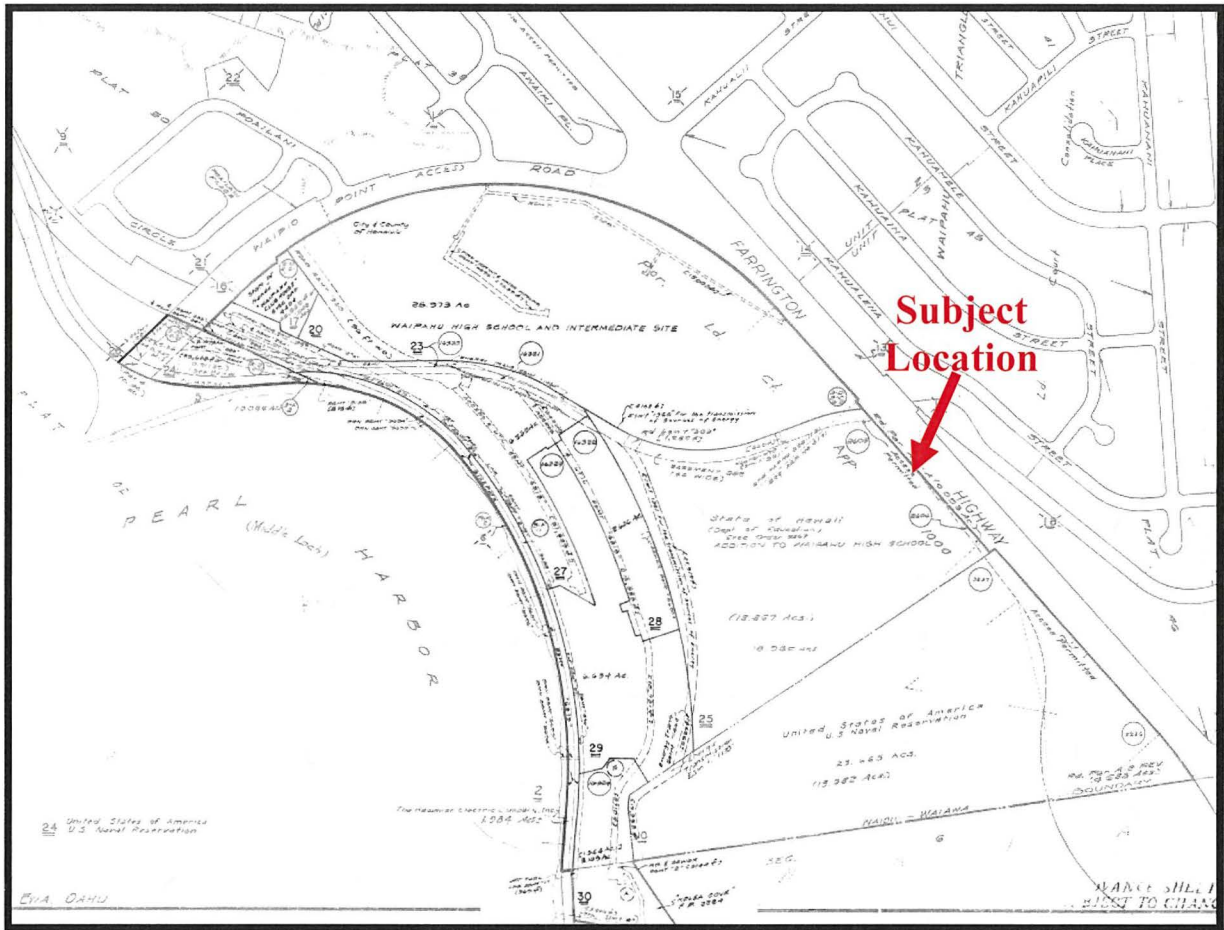
**EXHIBIT A-1**





**TMK (1) 9-4-008: portion 025**

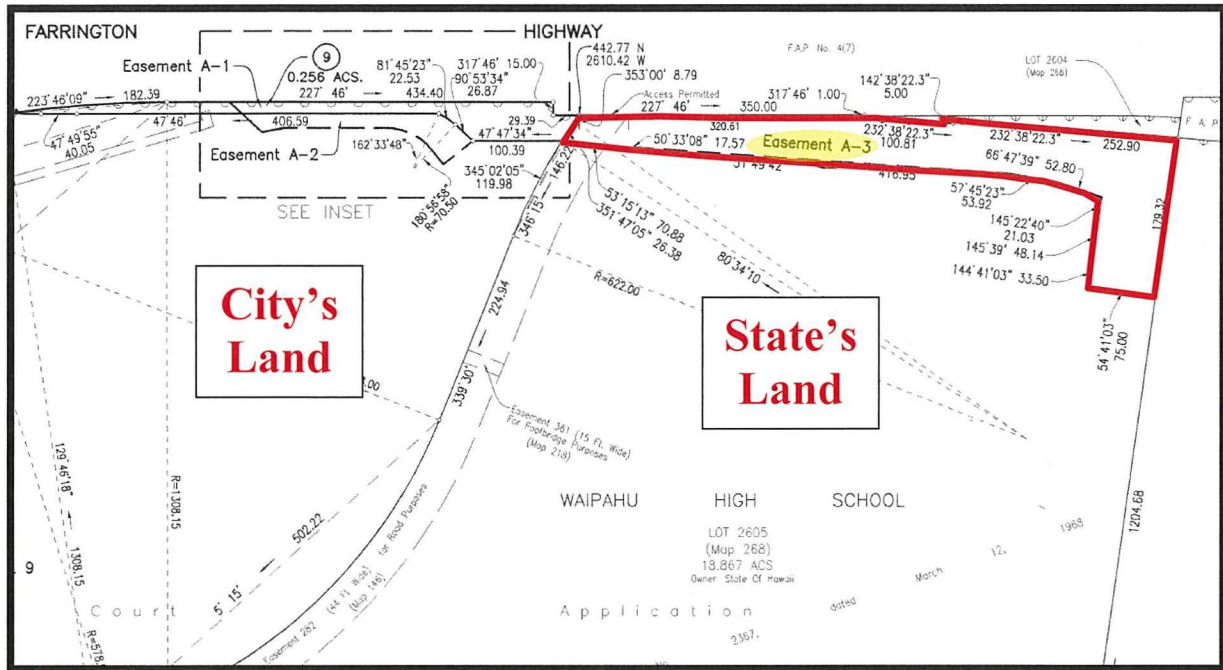
**EXHIBIT A-2**



**TMK (1) 9-4-008: portion 025**

**EXHIBIT A-3**





**TMK (1) 9-4-008: portion 025**

**EXHIBIT A-4**



**EXHIBIT “A”**  
**GUIDEWAY EASEMENT REQUIREMENTS**

1. Access along the guideway for maintenance. A multi-use of bike path could provide this access parallel to the guideway.
2. Fire code: 2,500 feet to any point on the guideway. Roads under the guideway can provide this access. A road parallel to the guideway is not required.
3. Access along the guideway that will allow HART access to inspect hatches located approximately every 240 feet and a 20 feet by 30 feet all weather pad that will allow for deployment of a pantagraph lift or bucket truck.
4. Access to maintain electrical duct lines and drain lines on the columns.
5. A clear area with a radius of 13 to 14 feet around each column.
6. No vertical construction allowed under the guideway or within 10-feet of the edge of the guideway, an area approximately 50 feet wide along the centerline of the guideway.
7. Right to clear an area for guideway maintenance purpose and restoration by HART after work is completed

**EXHIBIT B**