

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

August 22, 2025

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

PSF No.:25OD-067

OAHU

Grant of Term, Non-Exclusive Easement to Hawaiian Electric Company, Inc. for Utility Purposes and Issuance of Construction and Management Right-of-Entry Permit at Nanakuli, Waianae, Oahu; Tax Map Key: (1) 8-9-006: portion of 001.

APPLICANTS:

Hawaiian Electric Company, Inc. ("HECO"), a Hawaii profit corporation.

LEGAL REFERENCE:

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

LOCATION:

Portion of State lands situated at Nanakuli, Waianae, Oahu; Tax Map Key: (1) 8-9-006: portion of 001, as shown on the attached maps labeled as Exhibit A-1 to A-2.

AREA:

Easement B: 473 square feet, more or less.

ZONING:

State Land Use District:	Urban
City & County of Honolulu LUO:	R-5

TRUST LAND STATUS:

Section 5 (b) lands of the Hawaiian Admission Act
DHHL 30% entitlement lands pursuant to the Hawaii State Constitution: NO

CURRENT USE STATUS:

Encumbered by Governor's Executive Order No. 104 to the City and County of Honolulu for Public Park (Nanakuli Beach Park).

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 right to trim and keep trimmed any trees in the way of its appliances and equipment.

TERM:

Sixty-five (65) years.

COMMENCEMENT DATE:

To be determined by the Chairperson.

CONSIDERATION:

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

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

The proposed activity is a use of state land triggering environmental review under HRS chapter 343 and HAR chapter 11-200.1. Staff requests a determination of exemption by the Board that the applicant's proposed activity is a type of action falling within General Exemption Type 1 (*Operations, repairs or maintenance of existing structures, facilities, equipment, or topographical features, involving minor expansion or minor change of use beyond that previously existing.*), Part 1, no. 39 Creation or termination of easement, covenants, or other rights in structures or land. — from the Department of Land and Natural Resources' exemption list as previously concurred by the Environmental Council on November 10, 2020.

The Part 1 categories of the exemption list do not require preparation of an HAR § 11-200.1-17 exemption notice, per HAR § 11-200.1-16(b), and for this specified activity, any environmental impacts are characterized as *de minimis*, with minimal or no significant effects, and no cumulative impacts.

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 a one-time payment;
2. Provide survey maps and descriptions according to State DAGS standards and at Applicant's own cost; and
3. Process and obtain designation of easement approval from the Department of Planning and Permitting at Applicant's own cost.

REMARKS:

By letter dated June 5, 2025 Hawaiian Electric Company, Inc. ("HECO") requested the issuance of a construction right-of-entry and a perpetual non-exclusive easement for wireline, pole, and anchor purposes to upgrade electrical service to the abutting residence within the Department of Hawaiian Home Lands ("DHHL") subdivision. Although HECO is requesting a perpetual easement it is the current position of Land Division to only recommend term easements.

The requested portion of State Land is located at TMK: (1) 8-9-006:001 under Executive Order No. 104 (EO104) to the City and County of Honolulu for Public Park (Nanakuli Beach Park).

In reviewing the request, staff found there is an existing electrical pole in the requested location. HECO shared that the pole and anchor were installed in 1964 to serve the neighboring DHHL community. The requested easement location is on a sidewalk along an extension of Keaulana Avenue on State Land as shown on Exhibit B-1.

To facilitate the progress of the improvement, HECO also requested an immediate right-of-entry for construction, which shall expire in one year or upon issuance of the requested easement, whichever shall first occur. Staff is including a recommendation below to delegate authority to the Chairperson to extend the right-of-entry for additional one-year periods for good cause shown.

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 recommends the Board authorize the issuance of the requested easement and right-of-entry.

PUBLIC TRUST ANALYSIS

Dispositions of ceded lands must be consistent with the public trust. In order to make that determination, the Board must consider the following:

1. Presumption in favor of public use.
2. Consideration of practicable alternatives.
3. Clear articulation of the decision.

A presumption in favor of public use would appear to require that the subject lands remain vacant to provide for public use and recreation. A practicable alternative to a disposition that would favor public use would be to forego a disposition altogether, leaving the properties vacant. However, staff does not believe that would be reasonable or beneficial.

Issuance of the subject term, non-exclusive utility easement requires one-time payment of the fair market value, in which 20% would go to the Office of Hawaiian Affairs for the betterment of the conditions of native Hawaiians. The remaining 80% of the consideration would go to the State general fund for the benefit of the State as a whole. The subject request to provide utility service is not only creating public improvement but since the utility is servicing a residence within the community of Hawaiian Home Lands, this supports the Admissions Act Section 5(f) "for the betterment of the conditions of native Hawaiians, as defined in the Hawaiian Homes Commission Act, 1920, as amended. Therefore, staff believes this request supports the public trust and is an appropriate disposition to bring before the Board.

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, 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 as a de minimis action.
2. For the reasons stated herein, find that the issuance of the subject term easement is consistent with the public trust.
3. 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 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.
4. Authorize the issuance of a construction and management right-of-entry permit 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 permit form, as may be amended from time to time; and
 - B. The right-of-entry permit shall expire after one year or upon issuance of the requested easement, whichever shall first occur; provided that the Chairperson is authorized to extend the right-of-entry for additional one-year periods for good cause shown;
 - C. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.

Respectfully Submitted,



Darlene Bryant-Takamatsu
Land Agent

APPROVED FOR SUBMITTAL:



Dawn N.S. Chang, Chairperson



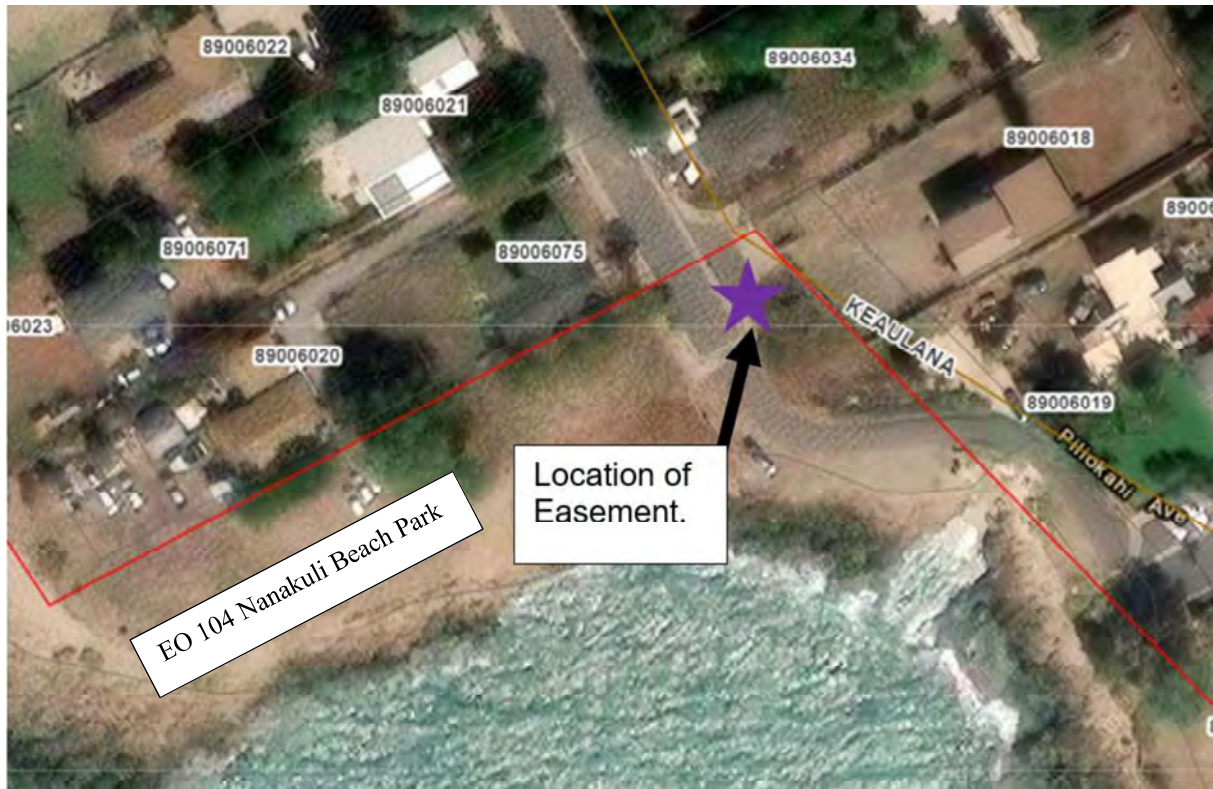
TMK: (1) 8-9-006:001portion

Exhibit A-1



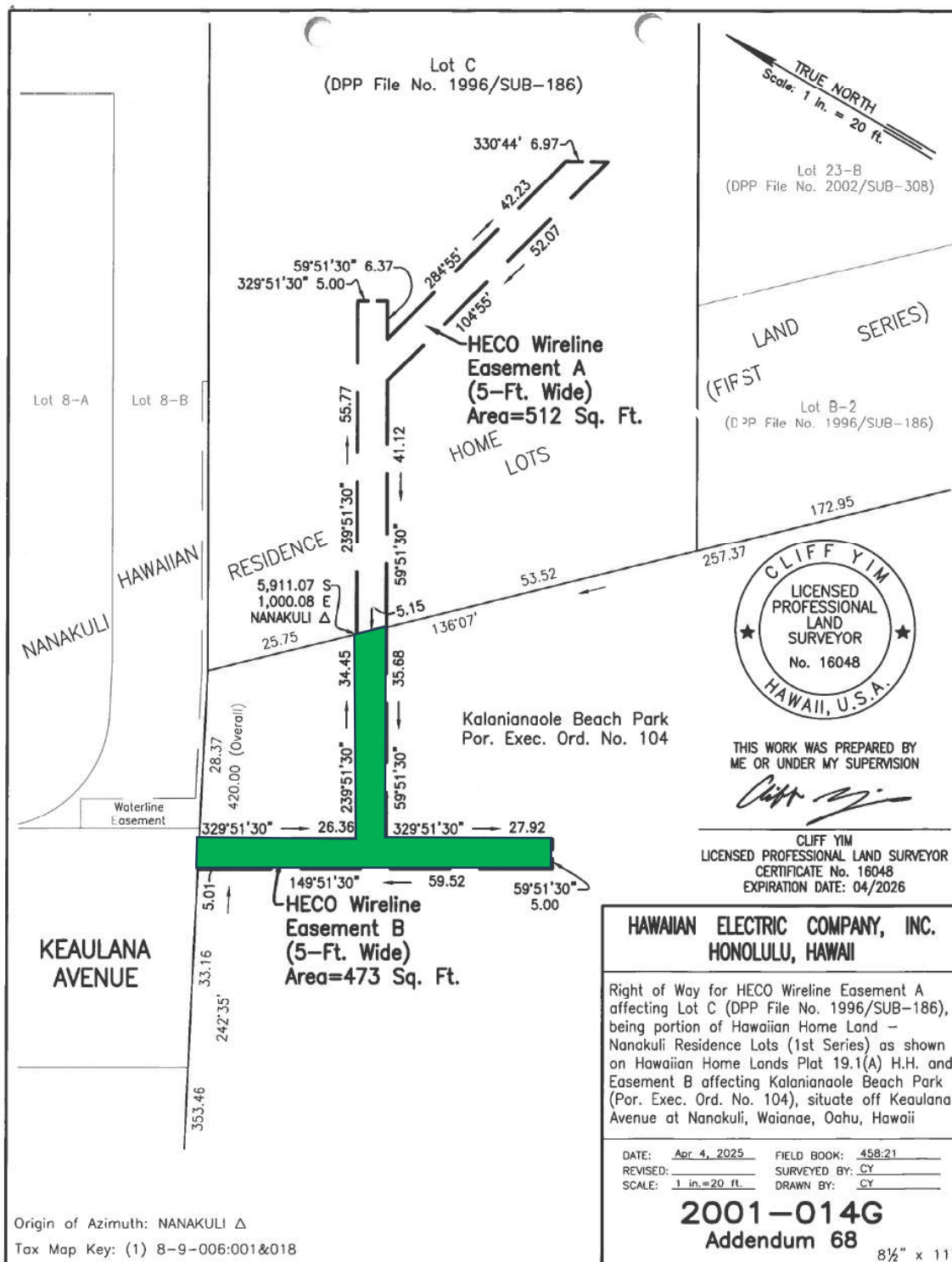
TMK: (1) 8-9-006:001portion
EO104 Nanakuli Beach Park

Exhibit A-2



TMK: (1) 8-9-006:001portion

Exhibit B-1



TMK (1) 1-8-9-006:001portion
Green highlighted area is on State Lands

EXHIBIT B-2