

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

January 8, 2010

PSF No.: 09HD-156

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

HAWAII

Grant of Perpetual, Non-Exclusive Easement to Department of Transportation, Highways Division; Issuance of Immediate Management and Construction Right-of-Entry onto State Lands for Emergency Earthquake Rockfall Repair, Federal Aid Project No. ER-15(21), Laupahoehoe, North Hilo, Hawaii, Tax Map Key: 3rd/ 3-6-04: portion of 15 & 17.

APPLICANT:

DEPARTMENT OF TRANSPORTATION, Highways Division (DOT).

LEGAL REFERENCE:

Section 171-55, Hawaii Revised Statutes, as amended.
Section 171-95, Hawaii Revised Statutes, as amended.

LOCATION:

Portion of Government lands situated at Laupahoehoe, North Hilo, Hawaii, identified by Tax Map Key: 3rd/ 3-6-04: portion of 15 & 17, as shown on the attached map labeled Exhibit A.

TMK/ ZONING/ ENCUMBRANCE/ AREA:

TMK	DISTRICT	ZONING		ENCUMBRANCE	AREA (Acres)
		LUC	ZO		
(3) 3-6-04:15	Laupahoehoe, N. Hilo	Conservation	A-20a		61.150
				Land Office Deed No. S-28,144 to HELCO/ 1.739 ac.	(1.739)
3 rd / 3-6-04:17	Laupahoehoe, N. Hilo	Conservation	A-20a	Vacant and unencumbered	34.110

TRUST LAND STATUS:

Section 5(b) lands of the Hawaii Admission Act

DHHL 30% entitlement lands pursuant to the Hawaii State Constitution:

YES ___ NO x

CURRENT USE STATUS:

TMK: 3rd/ 3-6-04:15 Encumbered by Land Office Deed No. S-28,144 to the Hawaii Electric Light company for utility corridor purposes.

TMK: 3rd/ 3-6-04: 17 Vacant and unencumbered

CHARACTER OF USE:

Right, privilege and authority to construct, use, maintain, repair, replace and remove anchored wire mesh panels and rockfall impact barriers over, under, and across State-owned land for mitigation and stabilization purposes.

CONSIDERATION:

Gratis.

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

To the extent any of Applicant's proposed work are not exempt under HRS Chapter 343, the Governor's 2006 Emergency Proclamation on Restoration/ Mitigative Repair Work suspended HRS Chapter 343 among other statutes for repairs resulting of damage from the 10/15/06 earthquakes.

In addition, a draft environmental assessment was prepared and notice of its availability published in OEQC's Environmental Notice on July 8, 2009, which provided the public notice and disseminating information regarding the project to the general public, concerned citizens and governmental agencies. All respondents had no objections to the project.

DCCA VERIFICATION:

Not applicable. The Applicant as a government agency is not required to register with DCCA.

APPLICANT REQUIREMENTS:

Applicant shall be required to:

- 1) Obtain written concurrence from all users of the subject land; and
- 2) Provide survey maps and descriptions according to State DAGS standards and at Applicant's own cost.

REMARKS:

The Department of Transportation, Highways Division has determined that the October 15, 2006 earthquakes destabilized the slopes off the Hawaii Belt Road at specific locations adjacent to the Kaawalii, Laupahoehoe, and Maulua Gulches. The Hawaii Belt Road (State Route 19) is located on the northeastern coastline of the island and is the primary thoroughfare between Hilo and Kona. Following the coastline between Hilo and Honokaa, the highway crosses Maulua, Laupahoehoe and Kaawalii gulches and borders accompanying steep and sometimes unstable rock cut cliffs. Daily clearing of the fallen debris is required at each of these gulch crossings, and cases of boulders of up to two feet diameter falling into the roadway after heavy rains have been experienced. Falling debris presents a hindrance and expense to HDOT due to the need for constant cleanup, as well as obvious safety risks to highway travelers.

By memorandum dated November 9, 2009, Brennon Morioka, Director of the Department of Transportation requested a right-of-entry onto State lands for its Emergency Earthquake Rockfall Repair Project at Laupahoehoe, North Hilo, Hawaii, Tax Map Key: 3rd/ 3-6-04: 15 & 17. The project will require temporary construction parcels to survey rock conditions, conduct rock removal and demolition and to allow slope mitigation and stabilization. Portions of the property will be used as an access route from the highway to the crest of the slope to provide access to transport equipment and for debris removal. These sections, identified as construction parcels will consist of .226 acres (9,824 s.f.) on Parcel 15 and 1.842 (80,241 s.f.) on Parcel 17. (**Exhibit B**) The mitigation and stabilization measures proposed will include the installation of permanent anchored wire mesh panels along the existing steep rock cliffs adjacent to the roadway entrances and exits of the gulch, construction of rockfall impact barriers along the top edge of the wire mesh panels, the creation of interceptor ditches above the cliffs to divert surface-water runoff, and minor improvements to existing drainage. The area of the proposed easements will be 1.1267 acres (49,081 s.f.) on Parcel 15 and .4494 acres (19,574 s.f.) on Parcel 17, as depicted in **Exhibit B**. The purpose of these measures is to improve highway safety along the segments fronting the three gulches by improving upon the present unsafe conditions resulting in falling rocks, boulders, and associated sediments. The project term is anticipated to be about six months, commencing on April 1, 2010.

Proclamation exemption dated October 15, 2006 is still in effect as confirmed by the Department of Transportation, Highways Division.

The Office of Conservation and Coastal Lands was contacted and Sam Lemmo,

Administrator, confirmed that a CDUA is not required provided the work is conducted under the auspices of the earthquake disaster proclamation.

Parcel 15 is encumbered under Land Office Deed No. S-28,144 to the Hawaii Electric Light Company for utility poles, anchors and overhead electrical transmission lines.

No government agencies or community interest groups were solicited for comments as comments were solicited as part of the draft environmental assessment process, which was published in the OEQC's Environmental Notice on July 8, 2009.

Staff is recommending that the easement be granted on a gratis basis, as the project is government related.

RECOMMENDATION:

That the Board, subject to the Applicant fulfilling all of the Applicant requirements listed above:

- A. Authorize the issuance of a perpetual, non-exclusive easement to the Department of Transportation, Highways Division, covering the subject area for Rockfall Barrier Mitigation purposes under the terms and conditions cited above, which are by this reference incorporated herein and further subject to the following:
 1. The standard terms and conditions of the most current perpetual easement document form, as may be amended from time to time;
 2. Review and approval by the Department of the Attorney General; and
 3. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.

- B. Authorize the issuance of an immediate management and construction right-of-entry to the Department of Transportation, Highways Division, its consultants, contractors and/or persons acting for or on its behalf, under the terms and conditions cited above, which are by this reference incorporated herein and subject further to the following:
 1. The standard terms and conditions of the most current construction and management right-of-entry permit form, as may be amended from time to time;
 2. This right-of-entry is effective upon Land Board approval and shall terminate upon issuance of the grant of easement document; and
 3. Such other terms and conditions as may be prescribed by the Chairperson

to best serve the interests of the State.

Respectfully Submitted,



Wesley T. Matsunaga
Land Agent

APPROVED FOR SUBMITTAL:



Laura H. Thielen, Chairperson



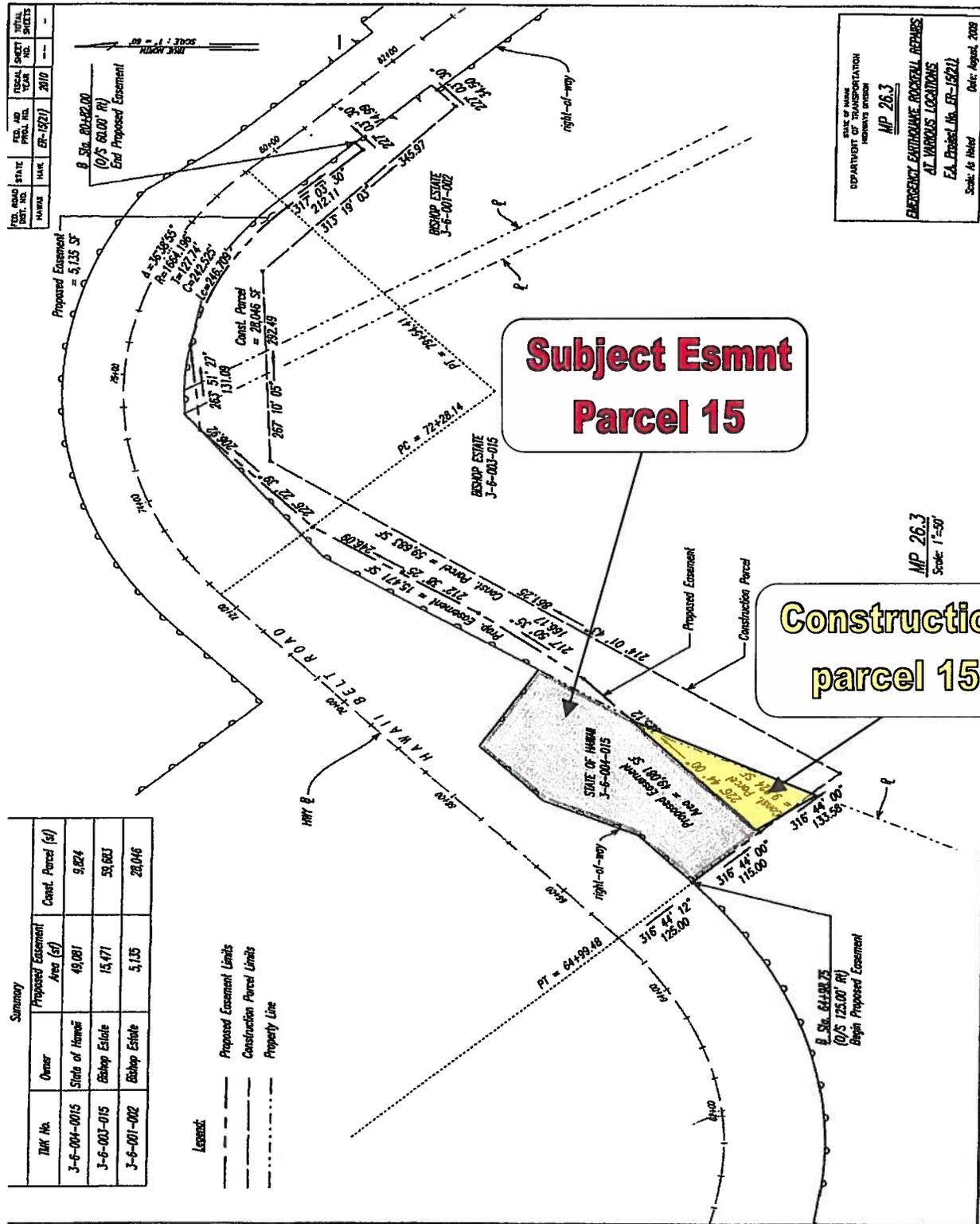


EXHIBIT B

