

**DEPARTMENT OF TRANSPORTATION  
HIGHWAYS DIVISION  
DESIGN BRANCH**

SUBJECT: REQUEST FOR UTILITY AGREEMENT NO. 2061

TO: (1) HWY-R Date June 10, 2010 Suspense Date August 6, 2010  
 (2) LEG: Date \_\_\_\_\_ Suspense Date \_\_\_\_\_

FROM: HWY- D

PROJECT: Farrington Highway, Replacement of Makaha Bridge No. 3 & Makaha Bridge No. 3A  
District of Waianae, Island of Oahu, Federal-Aid Project No. BR-093-1(20)

☒ FHWA OVERSIGHT☐ DOT OVERSIGHTCOMPANY INVOLVED: BWS TYPE CODE: 43

ATTACHMENTS: ☒ UTILITY COST ESTIMATE AND PLANS  
☐ COST ESTIMATE ONLY, PLANS TO FOLLOW BY \_\_\_\_\_  
☒ PLANS (5 sets)  
☐ \_\_\_\_\_

## FOLLOWING INFORMATION FURNISHED:

## 1. DESCRIPTION OF WORK: (RELOCATE, REPLACE, ETC.)

Install and remove temporary facilities after use, remove existing facilities, &amp; install new facilities.

## 2. DEPRECIATION:

- ☐ YES, SEE PAGE \_\_\_\_\_ OF ESTIMATE.  
☐ NONE, MINOR RELOCATION/REPLACEMENT OF SEGMENTAL WORK THAT  
 WILL NOT CONTRIBUTE TO LENGTHEN THE LIFE OF THE TOTAL SYSTEM.  
☒ None

## 3. SALVAGE VALUE:

- ☐ YES, SEE PAGE \_\_\_\_\_ OF ESTIMATE.  
☐ NONE, EXISTING LANES ARE ABANDONED OR DISPOSED OF.  
☐ NONE, EXISTING LINES ARE ABANDONED BUT SALVABLE MATERIALS ARE  
 REUSED.  
☒ None

## 4. BETTERMENTS:

- ☐ YES, SEE PAGE \_\_\_\_\_ OF ESTIMATE.  
☒ NONE - REPLACEMENT IN KIND.  
☐ \_\_\_\_\_

5. COMPANY / COUNTY WILL PERFORM THEIR PHASE OF WORK IN A TOTAL OF \_\_\_\_\_ WORKING DAYS.

6. X PLANS ARE DATED May 2010

7. THE STATE WILL GIVE THE COMPANY \_\_\_\_\_ WORKING DAYS NOTICE TO PROCEED.

8. THE COMPANY WILL GIVE THE STATE \_\_\_\_\_ WORKING DAYS NOTICE PRIOR TO START.

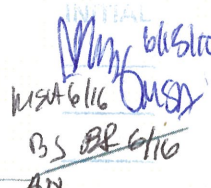
REMARKS:

\_\_\_\_\_  
 \_\_\_\_\_

PROJECT MANAGER / ENGINEER: Emilio Barroga PHONE EXT.: 2-7546  
 SUPERVISING R/W AGENT: \_\_\_\_\_ PHONE EXT.: \_\_\_\_\_

  
 SIGNATURE

cc:

INITIAL  
  
 11/24/10  
 BS BR 6/10  
 411



INITIAL

dy 4/17/12  
BS BL  
JY  
HWY-RL  
3.89251

APR 17 2012

Mr. Ernest Y. W. Lau  
Manager and Chief Engineer  
Board of Water Supply  
City and County of Honolulu  
630 S. Beretania Street  
Honolulu, Hawaii 96813

Dear Mr. Lau:

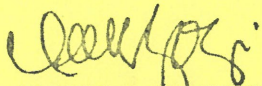
Subject: Utility Agreement No. 2061  
Farrington Highway Replacement of Makaha Bridge No. 3 and Makaha Bridge  
No. 3A, Federal Aid Project No. BR-093-1(20), District of Waianae, Island of  
Oahu, Hawaii (Project)

Transmitted for your information and files is a fully executed copy of Utility Agreement No.  
2061 covering the facilities of City and County of Honolulu, Board of Water Supply with the  
subject Project.

Please be advised that our Property Management Section will contact your office to coordinate  
the Use and Occupancy Agreement for the new facilities within the State right-of-way.

Should you have any questions, please call Angie Naito of our Right-of-Way Branch at  
692-7336.

Very truly yours,



ALVIN A. TAKESHITA  
Administrator  
Highways Division

Enclosure

bc: HWY-RM (J. Hayashi) w/o enclosure  
HWY-DS (H. Kennedy) w/o enclosure  
HWY-SF w/enclosure (UA 2061)

ACN:acn/dm



UTILITY AGREEMENT NO. 2061

OCT 22 2010

THIS AGREEMENT, made this \_\_\_\_\_ day of \_\_\_\_\_,  
20\_\_\_\_, by and between the STATE OF HAWAII, hereinafter called  
the "STATE", and \_\_\_\_\_  
City and County of Honolulu, Board of Water Supply (BWS),  
hereinafter called the "COUNTY",

WITNESSETH THAT:

WHEREAS, the STATE has scheduled the construction of the  
Farrington Highway, Replacement of Makaha Bridge No. 3 and Makaha  
Bridge No. 3A, District of Waianae, Island of Oahu, FAP NO. BR-093-1 (20),  
hereinafter referred to as the "Highway Project", and

WHEREAS, the Highway Project will affect the facilities  
of the COUNTY which will necessitate the removal and relocation  
of said facilities and/or the installation of new facilities,

NOW, THEREFORE, in consideration of the foregoing  
premises, it is mutually agreed by the parties hereto that the  
removal and relocation of the existing facilities and/or the  
installation of new facilities as a result of the Highway  
Project shall be paid for by the STATE and performed in  
accordance with the following terms and conditions:

1. The COUNTY shall comply with the provisions of  
Exhibit A (Revised), which is attached hereto and made a part  
hereof, regarding the basis of payment, work procedures,  
retention of records, etc.

2. The scope of work and the total estimated cost  
for the removal and relocation of the existing facilities and/or



installation of new facilities is the sum of \$ 381,454.92 , which scope and estimate, consisting of 1 page(s), are attached hereto as Utility Cost Estimate No. 2061 and made a part hereof.

3. Based on the estimated cost of \$ 381,454.92 , the STATE's share is estimated to be \$ 381,454.92 . The actual amount of the STATE's share in the cost of removal and relocation of the existing facilities and/or installation of new facilities will be determined in accordance with the procedures set forth on page 1 of said Utility Cost Estimate and will be based on the actual costs incurred by the parties hereto in removing and relocating the existing facilities and/or installing new facilities of the COUNTY. Reimbursement, if any, by the appropriate party, shall be based on said actual costs.

4. The removal and relocation of the existing facilities and/or installation of new facilities shall be in accordance with those certain plans and drawings dated May , 2000 , prepared by the STATE and approved by the COUNTY which are on file in the Highways Division, Department of Transportation, State of Hawaii.

5. The STATE shall perform or cause to be performed all of the work involved in the relocation of the facilities, except as provided for in said Utility Cost Estimate.

6. The COUNTY shall service and maintain and bear all costs of servicing and maintaining its facilities and further agrees not to perform such work from:

- (a) the through traffic lanes and ramps of freeways;
- (b) the through traffic lanes and ramps on other highways during peak traffic hours;
- (c) the through traffic lanes and ramps of other highways during high volume hours, and



(d) the traffic lanes and ramps mentioned in (a), (b) and (c) above, except in emergencies and then only under the condition that such work shall be performed most expeditiously and with least possible interference with free flow of traffic and safe operation of highway facilities.

7. The cost of any future removal, relocation, replacement, reconstruction or adjustment of the utility facilities of the COUNTY, due to construction, reconstruction or maintenance of the highway, shall be borne by the parties hereto in accordance with Section 264-33, Hawaii Revised Statutes, but only to the extent applicable.

8. The COUNTY and the STATE shall not be responsible nor liable for any injury, death or damage arising or growing out of the acts or omissions of the other party in their performance of the work covered by this Agreement.

9. Any facilities of the COUNTY not affected or relocated under this Agreement but which are situated within the aforementioned project and shown on the aforementioned plans may remain in place upon the express condition, however, that paragraphs 6 and 7, above, shall also be applicable to said facilities.

10. When applicable, at its own expense, the COUNTY will be required to remove any of its underground facilities which it constructs, in the event the utility abandons the use of the facilities, unless the STATE consents in writing to allow abandonment in place. Notwithstanding any such consent by the STATE for abandonment in place, the COUNTY agrees to be responsible for the removal costs and any costs of clean-up and remediation for any pollution or contamination caused by the facilities, if such action becomes necessary in the future. The



COUNTY further agrees to indemnify and hold harmless, the STATE, from any and all liabilities which may arise from the COUNTY'S acts or omissions relating to such pipelines or facilities.

11. Pursuant to regulations and requirements of the Federal Highway Administration (FHWA) and Hawaii state law, the COUNTY is prohibited from assigning or subleasing any facilities that are allowed to be abandoned in place in the highway right-of-way without the express permission of, and arrangements with the STATE or unless such assignment or sublease is required by law. The COUNTY shall give the STATE ten (10) days prior written notice of any use by third parties of the COUNTY'S facilities that the COUNTY is required by law to allow. Any unauthorized use of the COUNTY'S facilities by any other utility or third party is strictly prohibited.

12. This Agreement shall be binding upon the parties hereto, their successors and assigns, and expired service life \_\_\_\_\_ N/A \_\_\_\_\_ applicable to the work to be performed hereunder because \_\_\_\_\_ N/A \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_.



IN WITNESS WHEREOF, the parties hereto have caused these presents to be executed by their duly authorized officers as of the day and year first above written.

STATE OF HAWAII

By *Mumau*  
Its Director of Transportation  
Interim

BOARD OF WATER SUPPLY

APPROVED AS TO FORM:

*James H. Yamada*  
Deputy Attorney General  
State of Hawaii

By *Wayne M. Hashiro*  
Print Name WAYNE M. HASHIRO, P.E.  
Its Manager and Chief Engineer

By \_\_\_\_\_  
Print Name \_\_\_\_\_  
Its \_\_\_\_\_

APPROVED AS TO FORM AND LEGALITY:

\_\_\_\_\_  
Attorney for COUNTY

BASIS OF PAYMENTS, RECORDS AND ACCOUNTS

EXHIBIT A (REVISED)

1. The cost of the relocation shall be based on the prevailing rates and/or unit prices for labor, equipment and material, plus a fixed percentage of such costs for indirect costs and overhead, at the time the relocation is commenced and in lieu of the rates indicated in the cost estimate. Such rates, unit prices and percentages shall be subject to the prior approval of the State, and shall be based on actual cost incurred by the County for the relocation of its facilities.

2. The State shall give the County \_\_\_\_\_ working days notice to proceed with its portion of the work. The County shall coordinate its work with the State's contractor and shall not unreasonably interfere with or delay the State's highway project. The County will also notify the State's project engineer \_\_\_\_\_ day(s) prior to the commencement of the relocation of said facilities by the County. The County estimates that it will complete its portion of the work within \_\_\_\_\_ working days.

3. A final statement of cost shall be submitted by the County in the same general form as the cost estimate within 90 days

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4. The records and accounts of the County and its contractor, pertaining to the work performed under the terms of this Agreement, shall be retained for a period of not less than three (3) years from the date of the final payment of Federal funds to the State for said project and shall be available for inspection and audit by representatives of the Department of Transportation, State of Hawaii, and the United States Federal Highway Administration at the respective offices of the County and the contractor in Honolulu.

5. Where applicable, the terms of this Agreement, including the final statement of cost and payment thereof, shall be subject to the amended provisions of the Code of Federal Regulations 23 CFR 140, 23 CFR 645 and Section 264-33 of the Hawaii Revised Statutes, which are incorporated herein by reference and made a part of this agreement.

6. Notwithstanding any reference to said provision of the Code of Federal Regulations 23 CFR 140 and 23 CFR 645 it is expressly agreed that the State shall bear the entire cost of relocating said facilities.

7. The County's existing facilities shall remain in place until the proposed site is ready and available for installation of the new facilities.

STATE OF HAWAII  
DEPARTMENT OF TRANSPORTATION  
HIGHWAYS DIVISION

DOT 4-232  
(HWY-RL 6/00)

**UTILITY COST ESTIMATE FOR UTILITY AGREEMENT NO. 2061**

Project: Farrington Highway  
Replacement of Makaha Bridge No. 3  
and Makaha Bridge No. 3A  
Project No.: BR-093-1(20)

Utility Co.: Board of Water Supply

Prepared by: MHO

Checked by: MHO

Date: 06/08/10

Date: 06/08/10

**UTILITY PAYMENT STANDARDS COMPARISON**

STATE STANDARDS		FEDERAL STANDARDS (FAPG Sec. 645.117)
A. Work/material by Utility Company and/or its Contractor	0.00	
B. Work/material by State and/or its Contractor	381,454.92	
C. Total Cost of Utility Work (A+B)	381,454.92	381,454.92
D. Less Deductions:		(Do not include Construction Admin.)
1. Depreciation	0.00	0.00
2. Salvage Value		0.00
3. Betterments	0.00	0.00
E. Total Deductions (D1+D2+D3)	0.00	0.00
F. Net Cost of Relocation (C minus E)	381,454.92	381,454.92
G. Less Cost Sharing Arrangements:		
1. \$10,000 (only if required by H.R.S. Section 264-33, e.g., privately owned facilities within the highway right-of-way)	0.00	0.00
2. Amount for Extraordinary* Items referred to in Item J	0.00	0.00
3. Total (G1+G2)	0.00	0.00
H. Net Amount (F minus G3)	381,454.92	381,454.92
I. State Share in Net Amount [ 50% ]	0.00	0.00
J. State's Share for Extraordinary* Items which have been deleted from G2	0.00	0.00
K. State's Share in Total Cost of Utility Work (I+J)	381,454.92	381,454.92 (Amount for Fed Par)
L. Utility's Share in Total Cost of Utility Work (C minus K)	0.00	
* Extraordinary Items are special improvements in which the State does not participate on the same basis, percentagewise. Attach a description.		
ESTIMATED REIMBURSEMENT		FEDERAL SHARE
Utility Company to State (B minus K)		305,163.94
State to Utility Company (K minus B)		(K x Fed Par Rate)
		381,454.92



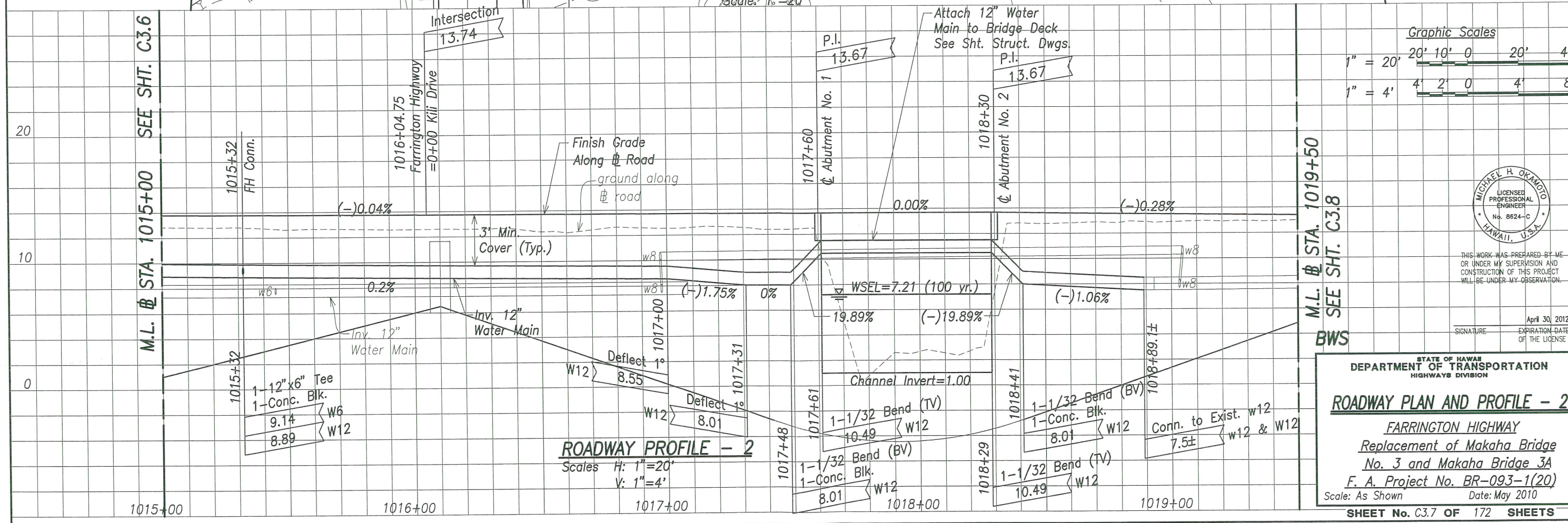
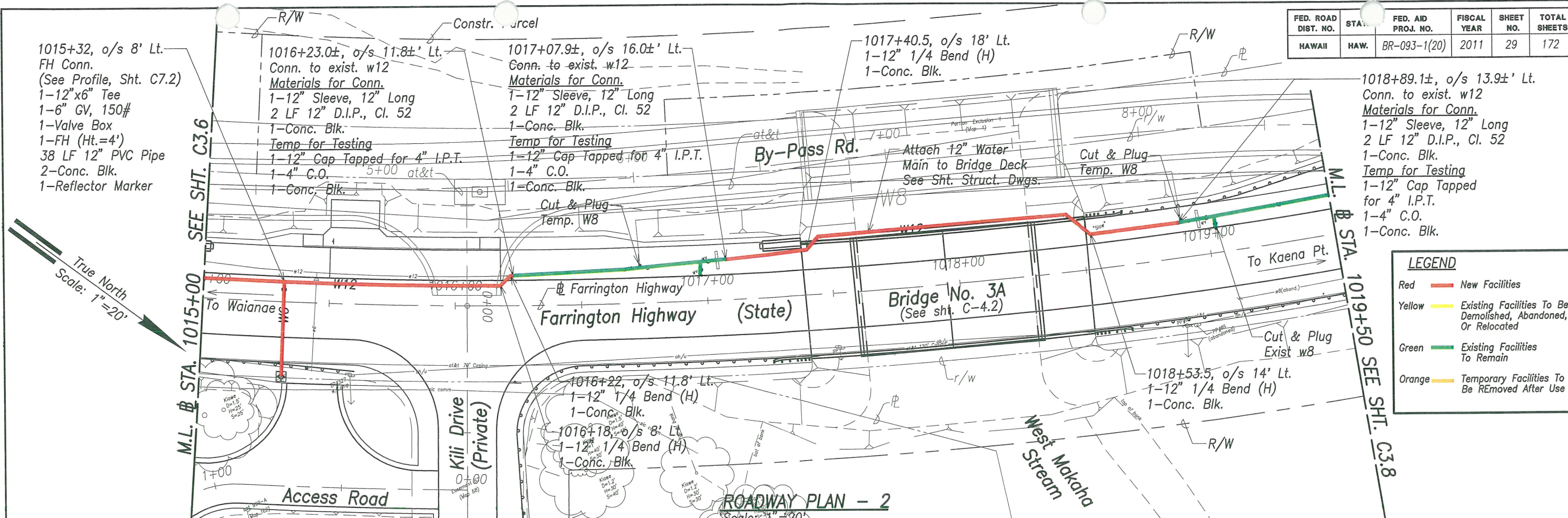








FED. ROAD DIST. NO.	STA.	FED. AID PROJ. NO.	FISCAL YEAR	SHEET NO.	TOTAL SHEETS
HAWAII	HAW.	BR-093-1(20)	2011	29	172



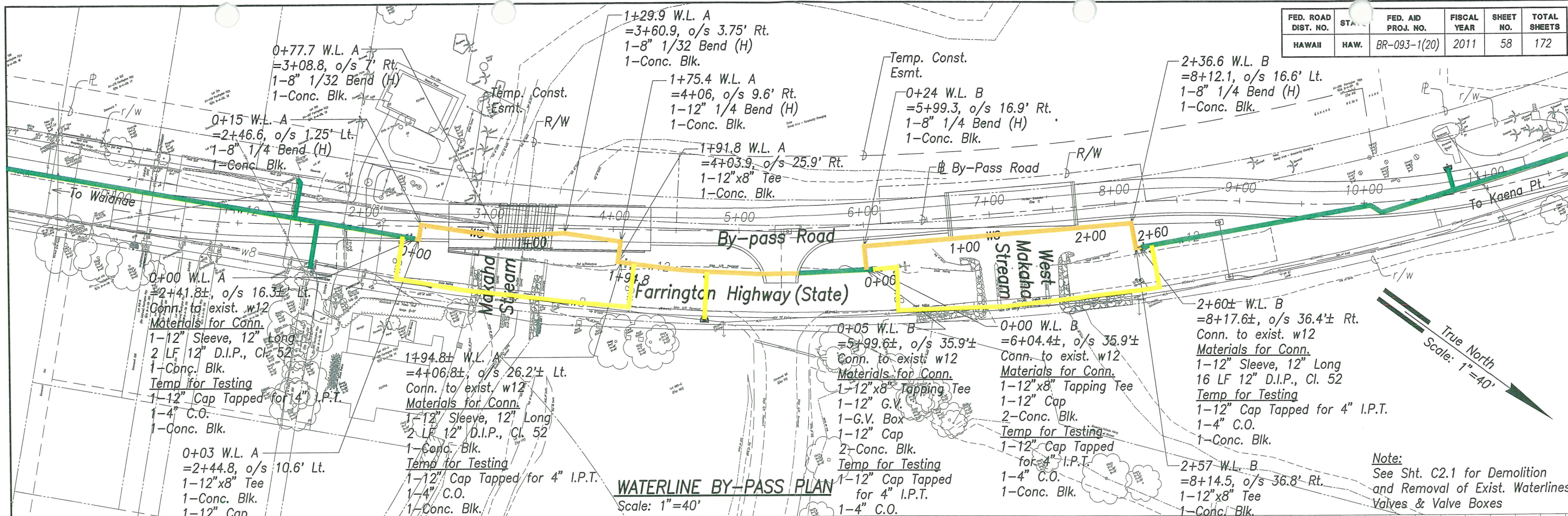
**STATE OF HAWAII**  
**DEPARTMENT OF TRANSPORTATION**  
**HIGHWAYS DIVISION**

**ROADWAY PLAN AND PROFILE - 2**  
**FARRINGTON HIGHWAY**  
**Replacement of Makaha Bridge**  
**No. 3 and Makaha Bridge 3A**  
**F. A. Project No. BR-093-1(20)**  
Scale: As Shown Date: May 2010

**SHEET No. C3.7 OF 172 SHEETS**



FED. ROAD DIST. NO.	STATE	FED. AID PROJ. NO.	FISCAL YEAR	SHEET NO.	TOTAL SHEETS
HAWAII	HAW.	BR-093-1(20)	2011	58	172



**LEGEND**

Red	New Facilities
Yellow	Existing Facilities To Be Demolished, Abandoned, Or Relocated
Green	Existing Facilities To Remain
Orange	Temporary Facilities To Be REMOVED After Use



THIS WORK WAS PREPARED BY ME OR UNDER MY SUPERVISION AND CONSTRUCTION OF THIS PROJECT WILL BE UNDER MY OBSERVATION.

April 30, 2012  
EXPIRATION DATE OF THE LICENSE

**BWS**

STATE OF HAWAII  
DEPARTMENT OF TRANSPORTATION  
HIGHWAYS DIVISION

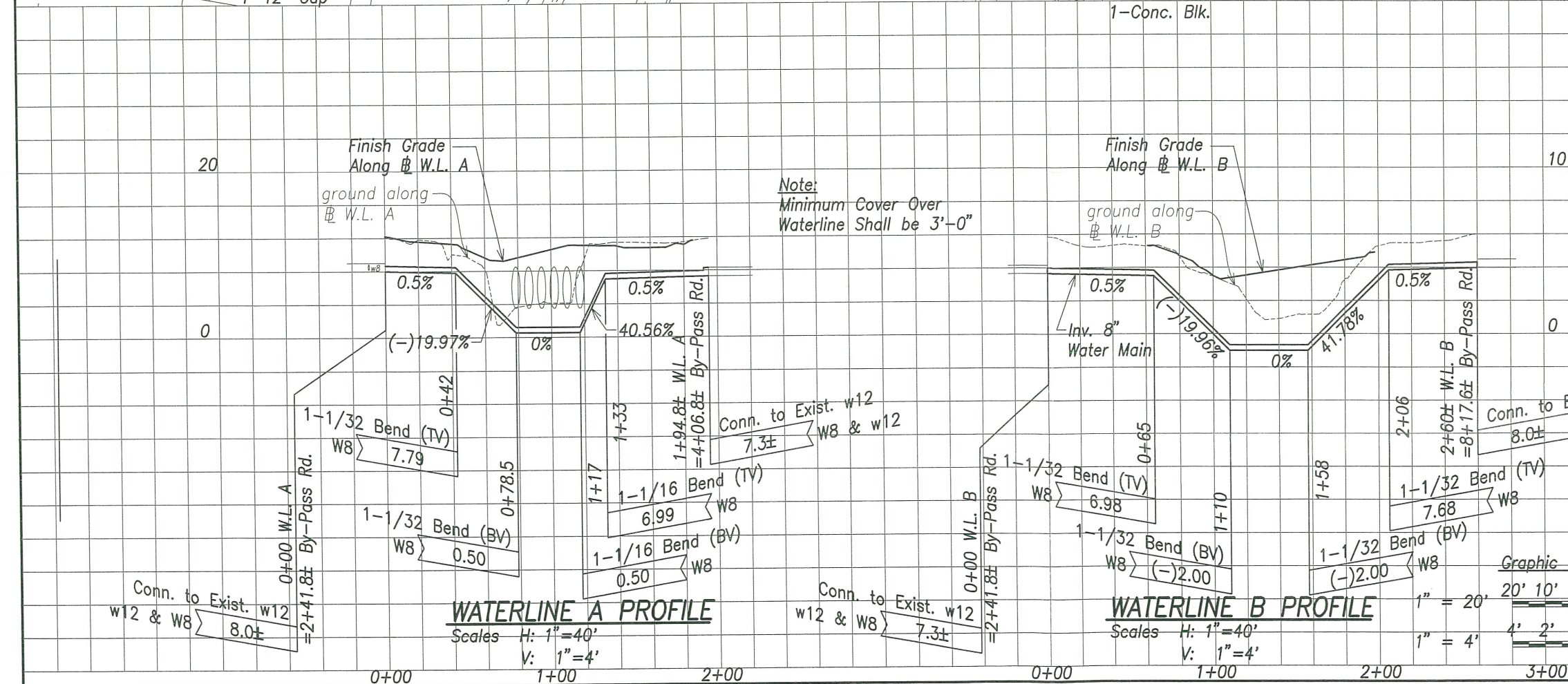
**WATERLINE BY-PASS  
PLAN AND PROFILES**

**FARRINGTON HIGHWAY**

Replacement of Makaha Bridge  
No. 3 and Makaha Bridge 3A  
F. A. Project No. BR-093-1(20)

Scale: 1" = 40' Date: May 2010

**SHEET No. C7.1 OF 172 SHEETS**





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an 8/2/12  
as 8/2/12

AUG 6 2012

HWY-RL  
3.89557

Ms. Lynette Yoshida  
Engineer Section Manager  
Hawaiian Telcom  
P.O. Box 2200 ABY-3  
Honolulu, Hawaii 96841

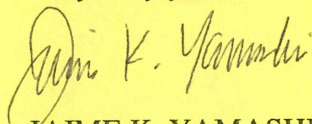
Dear Ms. Yoshida:

Subject: Utility Agreement No. 2062  
Farrington Highway, Project No. BR-093-1(20)  
Replacement of Makaha Bridge No. 3 and Makaha Bridge No. 3A  
Makaha, Oahu, Hawaii

We transmit for your records, a fully executed copy of Utility Agreement No. 2062 for the subject highway project.

We appreciate and thank you for your cooperation on this project. Should you have any questions, please call me at 692-7333.

Very truly yours,



JAIME K. YAMASHIRO  
Right-of-Way Agent

JKY:jky

Enclosure: Executed Utility Agreement No. 2062

bc: HWY-DS (Henry Kennedy)

File w/ Yellow

(HWY-RL 2/99)

# UTILITY AGREEMENT

1 2012

THIS AGREEMENT, made this \_\_\_\_\_,  
20\_\_\_\_\_, by and between the STATE \_\_\_\_\_, hereinafter called  
the "STATE", and \_\_\_\_\_ Hawaiian Telcom, Inc.,  
hereinafter called the "COMPANY",

## W I T N E S S E T H   T H A T:

WHEREAS, the STATE has scheduled Farrington Highway  
Replacement of Makaha Bridge No. 3 and Makaha Bridge No. 3A  
Project No. BR-093-1(20), Makaha, Oahu, Hawaii

hereinafter referred to as the "Highway Project"; and

WHEREAS, the Highway Project will affect existing surface  
and subsurface utilities, utility facilities, and/or utility  
poles which belong to the COMPANY (collectively referred to as  
the "Utility Facilities"), which will necessitate the removal and  
relocation of said Utility Facilities and/or the installation of  
new Utility Facilities (such removal, relocation, and  
installation, including all labor, materials, equipment, and  
services, are hereinafter referred to as the "Work"); and

WHEREAS, for purposes of this Agreement, including Exhibits  
A (Revised) and B (Revised) attached hereto, "STATE" shall herein  
mean and refer to the State of Hawaii, its officers, employees,  
agents, representatives, successors, assigns, and any contractor  
employed by the STATE on the Highway Project, unless otherwise  
specifically provided;



NOW, THEREFORE, in consideration of the foregoing premises and of the promises each to the other made by the parties hereto, it is agreed that the Work shall be performed and paid for in accordance with the following terms and conditions:

1. Performance of the Work: The COMPANY and its contractor or subcontractor shall perform or cause to be performed all of the Work, as provided for in Utility Cost Estimate No. 2062, attached hereto and made a part hereof.
2. Compliance With Provisions: The COMPANY shall comply with the provisions of Exhibits A (Revised) and B (Revised), which are attached hereto and made parts hereof. The STATE may withhold payments to the COMPANY or cancel, terminate or suspend the Agreement if the COMPANY unreasonably fails to comply with any of its obligations under this Agreement, including, without limitation, Exhibit B (Revised) attached hereto.
3. Scope and Estimated Cost of Work: The Scope of Work and the total estimated cost for the Work is the sum of \$ 358,822.49. The Scope of Work and Estimate, consisting of 1 pages, are attached hereto as Utility Cost Estimate No. 2062 and made a part hereof.
4. Cost Sharing: Based on the total estimated cost of \$ 358,822.49, the STATE's share is estimated to be \$ 165,592.75. The actual cost to the STATE for the Work will be determined in accordance with the procedures set forth on page 1 of said Utility Cost Estimate and will be based on the actual costs incurred by the parties hereto in performing the Work. Reimbursement, if any, by the appropriate party, shall be

based on said actual costs. However, the COMPANY shall not be liable or responsible for actual costs of any services, labor, or materials performed or supplied by any party arising or growing out of the wrongful acts or omissions of the STATE, or parties outside of the COMPANY's direction and control, unless agreed to in writing by the COMPANY, including change orders, addenda, or other appropriate documentation.

5. Participation in Dispute Resolution: In the event a suit, action or claim is made against the STATE for actual costs of items covered for which the STATE intends to hold the COMPANY liable or responsible, whether in whole or in part, the STATE shall give reasonable and timely written notice to the COMPANY of such intent, and shall, to the maximum extent possible, provide the COMPANY with the opportunity to appear, defend, contest or otherwise participate in any litigation, arbitration, or other dispute resolution procedure then in effect, with respect to such suit, action, or claim. The COMPANY's opportunity to appear, defend, contest or otherwise participate in any litigation, arbitration, or other dispute resolution procedure, shall not include the right to select the arbitrators, mediators or other dispute resolution adjudicators. Should the STATE fail to provide such written notice to the COMPANY, or fail to allow the COMPANY to participate in such proceedings, then the STATE shall be deemed to have unequivocally waived its right to have the COMPANY share in paying for any actual costs in excess of the total estimated cost. Should the COMPANY become a signatory to the construction contract bid documents, then the COMPANY will

have the right and opportunity to fully participate in all aspects of any litigation, arbitration, or other dispute resolution procedure, including the right to participate in the selection of the arbitrator(s), mediator(s), or other dispute resolution adjudicators.

6. Plans and Drawings: The Work shall be in accordance with those certain plans and drawings pertaining to the Highway Project which are on file in the Highways Division, Department of Transportation, State of Hawaii, or which shall be specifically identified by an Addendum to said Utility Cost Estimate signed by the parties hereto.

7. Review and Use of Design Documents: The COMPANY, in the course of preparing for and performing the Work, shall report to the STATE any errors, inconsistencies, or omissions in the plans, drawings, other design documents, specifications, directions, or work orders pertaining to the Highway Project (the "Contract Documents") which are actually discovered by the COMPANY. The COMPANY's review and use of the Contract Documents shall not be construed as the COMPANY's approval, guaranty, or representation of the accuracy of the Contract Documents. The COMPANY is not performing professional design services, and does not accept or assume any responsibility for the design of the Work. In no event shall the COMPANY be responsible for the acts or omissions of the STATE's design consultants.

8. Compliance with Regulations: It is not the COMPANY's responsibility to ascertain that the Contract Documents or other documents associated with or covered by this Agreement are in

accordance with applicable laws, statutes, ordinances, building codes, and rules and regulations. However, if the COMPANY observes that portions of such documents are at variance therewith, the COMPANY shall promptly notify the STATE.

9. Completion of Work and Waiver of Claims: Upon completion of the Work covered by this Agreement and payment by the STATE of its share of the cost of the Work, as determined pursuant to Paragraph 4, above, the COMPANY shall hold the STATE harmless from and waive any and all further claims for expenses incurred by the COMPANY in performing the Work in connection with the Highway Project, provided that such further claims for expenses incurred by the COMPANY are not caused by or attributed to the fault of the STATE.

10. Notice of Injury or Damage: If either party to the Agreement suffers injury or damage to person or property because of an act or omission of the other party, of any of the other party's employees or agents, or of others for whose acts such party is legally liable, the injured or damaged party to the Agreement shall provide written notice of such injury or damage, whether or not insured, to the other party to the Agreement within a reasonable time not exceeding 21 days after first observance. The notice shall provide sufficient detail to enable the responsible party to investigate the matter. If a claim for additional cost or time related to this injury or damage is to be asserted, it shall be made as provided in Paragraph 17 (Notice of Claims) below.



11. Indemnity by COMPANY: The COMPANY shall save and hold harmless, indemnify, and defend the STATE, and all other governmental agencies from and against any and all suits, actions, claims of every nature and kind which may be brought for or on account of any injury, death, or damage, to persons or property, arising or growing out of the acts or omissions of the COMPANY, its officers, employees or agents and any contractor employed by it in connection with the Work covered by this Agreement, or the subsequent occupancy and use of the right of way by the COMPANY, provided, however, that the COMPANY's obligations hereunder shall not be effective, or enforceable, to the extent such injury, death, or damage to persons or property is caused in whole or in part by the STATE.

12. STATE's Responsibility: The STATE shall be responsible, to the extent permitted by law, for damage or injury caused by the STATE's officers and employees only, in the scope of their employment, provided that the STATE's liability for such damage or injury has been determined by a court or agreed to by the STATE. The STATE shall pay for such damage and injury, provided that funds are appropriated and allotted for that purpose.

13. Unaffected Utility Facilities: Any Utility Facilities not affected by or relocated under this Agreement but which are situated within the Highway Project and shown on the Contract Documents may remain in place upon the express condition that the maintenance, removal, relocation, etc., of said unaffected Utility Facilities or any activity of the COMPANY affecting said

unaffected Utility Facilities shall also be subject to the terms and conditions contained in the attached Exhibit B (Revised).

14. Hazardous Materials and Pollutants: In the event the COMPANY encounters material on the site reasonably believed to be hazardous which has not been rendered harmless, or material on the site reasonably believed to be a pollutant as defined by state or federal law, the COMPANY shall immediately stop Work in the area affected and report the condition to the STATE. The Work in the affected area should not be resumed except by written agreement of the STATE and the COMPANY if in fact the material is hazardous and has not been rendered harmless, or if it is in fact a pollutant. The Work in the affected area shall be resumed in the absence of hazardous materials or pollutants, or when such hazardous material has been rendered harmless or pollutant has been remediated, by written agreement of the STATE and the COMPANY, or by mediation if agreed upon by the STATE and the COMPANY.

15. Work Relating to Hazardous Materials or Pollutants: The COMPANY shall not be required to perform, without its consent, any work relating to hazardous materials or pollutants, unless the hazardous materials or pollutants are present due to the sole acts or omissions of the COMPANY, in which event the COMPANY shall bear all the costs of handling, removing, or remediation of such hazardous materials or pollutants. In the event that the acts or omissions of the COMPANY are partially responsible for the presence of hazardous materials or pollutants, it shall bear the cost to remove the hazardous

materials or pollutants in an amount proportional to its degree of responsibility for the presence of the hazardous materials or pollutants.

16. Hazardous Material Indemnification: If the COMPANY is responsible for the presence of the hazardous material or pollutant, the COMPANY shall defend, indemnify and hold harmless the STATE, its officers, employees, agents and any contractor employed in connection with the Work covered by this Agreement, from and against claims, damages, losses, and expenses arising out of or resulting from performance of the Work in the affected area if in fact hazardous material therein has not been rendered harmless or a pollutant not properly remediated, provided that such claim, damage, loss or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself) including loss of use resulting therefrom, but only to the extent caused in whole or in part by acts or omissions of the COMPANY, its officers, agents, representatives, successors and assigns, any contractor employed by the COMPANY, or anyone for whose acts the COMPANY may be responsible, even when such claim, damage, loss or expense is caused in part by the STATE, the intent of this provision being that each party shall be responsible for its own acts or omissions to the extent permitted by law. Such obligation shall not be construed to negate, abridge, or reduce other rights or obligations of indemnity which would otherwise exist as to a party or person described in this Paragraph 16.

17. Notice of Claims: Claims, change order requests or proposals, or other demands ("Claim") by either party, relating to arising out of, or connected with, increases in the cost of the Work or for extensions of the completion deadline, if any, must be made within thirty (30) days after occurrence of the event giving rise to such Claim or within thirty (30) days after the claimant first recognizes the condition giving rise to the Claim, whichever is later. Claims must be made by written notice, and shall include, to the fullest extent possible, an estimate of the cost and schedule impact of the condition giving rise to the Claim. Claims not made within the time frame provided for herein, and in the manner provided for herein, are forever waived and barred from being asserted without the prior mutual consent of the parties hereto in writing. In the case of a continuing cost impact or delay, only one Claim is necessary. The submission of a Claim in compliance with this Paragraph 17 shall not be construed to entitle the submitting party to automatically recover the amounts claimed, proposed, or demanded, without determination or resolution of such Claim as may be provided in this Agreement, or by applicable law.

18. Unknown/Changed Conditions: If conditions are encountered at the Highway Project site which are (1) subsurface or otherwise concealed physical conditions which differ materially from those indicated in the plans, drawings, specifications, or other Highway Project documents, or (2) unknown physical conditions of an unusual nature, which differ materially from those ordinarily found to exist and generally

recognized as inherent in construction activities of the character provided for in the Agreement, then written notice by the observing party shall be given to the other party promptly before further work is performed.

19. Claims by the COMPANY: If the COMPANY wishes to make a claim for an increase in its cost to perform the Work due to (1) an order by the STATE to stop the Work where the COMPANY was not at fault, or (2) other reasonable grounds, written notice as provided herein shall be given before proceeding to perform the Work. Prior notice is not required for claims relating to an emergency endangering life or property.

20. Non-Waiver of Claims: Except as expressly set forth in this Agreement, nothing in this Agreement shall be construed as a waiver by the COMPANY or the STATE of any claim each may have against the other or the other's contractors or consultants for damages resulting to the Utility Facilities or the Highway Project or any highway structures, facilities, equipment or appurtenances.

21. Merger; Interpretation: The STATE and the COMPANY have made no agreements or promises regarding the Highway Project not mentioned in this Agreement or the Utility Cost Estimate. The term "Agreement" shall include all exhibits attached hereto and the Utility Cost Estimate unless the context clearly indicates otherwise. The terms of this Agreement are contractual and not mere recital. In the event of any dispute or litigation, the STATE and the COMPANY agree that all matters at issue and all questions concerning the interpretation of this Agreement shall



be decided and construed in accordance with Hawaii law. The parties hereto further agree that for the purposes of interpretation, no party shall be deemed to be the drafter of the Agreement.

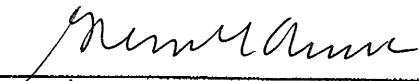
22. Amendments: This Agreement shall not be altered, amended, modified or otherwise changed, in any respect or particular whatsoever, except by a writing duly executed by the STATE and the COMPANY. The STATE and the COMPANY hereby acknowledge and agree that they will make no claim at any time that this Agreement has been orally altered or modified in any respect whatsoever. This Agreement contains the entire agreement between the STATE and the COMPANY and supersedes all prior oral and written agreements, representations, negotiations and correspondence concerning the Highway Project.

23. Headings; Gender; Number: The headings included herein are for convenience only and do not in any way limit, alter, or affect the matters contained in this Agreement or the paragraphs which they encaption. The use of any gender in this Agreement shall include all genders and the singular shall include the plural and the plural the singular as the case may be.

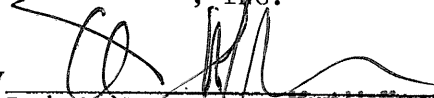
24. Binding Agreement: This Agreement shall be binding upon the parties hereto and their representatives, successors and assigns.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their duly authorized officers as of the day and year first above written.

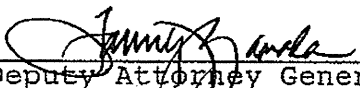
STATE OF HAWAII

By   
Its Director of Transportation


HAWAIIAN TELCOM, INC.

By   
Print Name Kurt Hoffman  
Its Chief Operating Officer

APPROVED AS TO FORM:

  
Deputy Attorney General  
State of Hawaii

By \_\_\_\_\_  
Print Name \_\_\_\_\_  
Its \_\_\_\_\_

Approved  
as to form  
LEGAL DEPT  
By   
Date 8/26/99  
12-219

BASIS OF PAYMENTS, RECORDS AND ACCOUNTS

EXHIBIT A (REVISED)

1. The costs of the Work shall be based on the prevailing rates and/or unit prices for labor, equipment and materials, plus a fixed percentage of such costs for indirect costs and overhead, at the time the Work is commenced if the prevailing rates and/or unit prices are different from those indicated in the cost estimate. Such rates, unit prices and percentages shall be subject to the prior approval of the STATE, and shall be based on actual costs incurred by the COMPANY for the Work. The STATE expressly agrees that it will not unreasonably withhold such approval.

2. If a portion of the Work is covered up or buried contrary to the COMPANY's request or contrary to written requirements in the Contract Documents, and prior to the COMPANY performing any necessary or required inspections, procedures, or tests, that portion of the Work must, if required in writing by the COMPANY, be uncovered for the COMPANY's inspection, procedures, or tests, and re-covered at the expense of the STATE or its Contractor.

3. If a portion of the Work has been covered which the COMPANY has not specifically requested to observe, or for which no inspection or testing is required, prior to its being covered, the COMPANY may request to see such Work and it shall be uncovered by the STATE. If such Work is in conformity with this Agreement and the applicable standards and specifications (see Exhibit B, paragraph 1.a.), the cost of uncovering and recovering shall, by appropriate change order, be charged to the COMPANY. If such Work is not in conformity with this Agreement and the applicable standards and specifications (see Exhibit B, paragraph 1.a.), the STATE shall pay such costs unless the condition was caused by the COMPANY, in which event the COMPANY shall be responsible for payment of such costs. Nothing herein shall prevent or limit the STATE's right, if any, to recover such costs from its contractor or other responsible parties.

4. The STATE shall give the COMPANY \_\_\_\_\_ working days notice to proceed with its portion of the Work. The COMPANY shall coordinate its Work with the STATE's contractor and shall not unreasonably interfere with or delay the STATE's Highway Project. Any damages as a result of the COMPANY's unreasonable interference or delay in completing said Work shall be paid immediately by the COMPANY to the STATE upon written demand. The COMPANY estimates that the Work will require approximately \_\_\_\_\_ working days. This estimate is for planning and coordination

purposes only. The STATE and the COMPANY understand and agree that such working days will not necessarily be consecutive.

5. The Agreement to which this exhibit is attached shall be construed as allowing for a reasonable time for the completion of the Work as determined by the STATE and as subject to paragraph 6 immediately following.

6. If the COMPANY is delayed at any time in progress of the Work by any act of the STATE, its officers, agents, representatives, successors and assigns, or of a contractor employed by the STATE, or by changes ordered in the Work, or by labor disputes, fire, unusual delay in deliveries, unavoidable casualties, emergency power outages within the COMPANY's service area, life-threatening and/or property-threatening situations within the COMPANY's service area, or other causes beyond the COMPANY's control, or by other causes which may justify delay, then the COMPANY's completion deadline, if any, shall be extended by change order for such reasonable time as the parties hereto may determine.

7. If the COMPANY wants to proceed with its portion of the Work prior to receiving notice to proceed from the STATE, the COMPANY shall give the STATE's Project Engineer \_\_\_\_\_ working days notice; provided that no Work shall be done by the COMPANY without the written consent of the STATE.

8. Reimbursement to the COMPANY, if any, shall be on a monthly basis if the COMPANY submits a detailed statement of actual costs incurred, less the applicable deductions for depreciation, salvage value, betterment and expired service life, on or before the fifteenth (15th) day of the month. The reimbursement shall be limited to ninety percent (90%) of the net estimated reimbursable amount. The balance shall be withheld by the STATE until such time as the Final Statement of Costs is submitted by the COMPANY and accepted by the STATE. Within one hundred twenty (120) days after the Work has been completed, the STATE shall provide to the COMPANY a detailed unit-cost breakdown of all work performed by the STATE and/or its contractor(s). Within ninety days (90) days after receipt of the detailing unit-cost breakdown of all work performed by the STATE and/or its contractor(s), the Final Statement of Costs shall be submitted by the COMPANY in the same general form as the monthly statement of actual costs incurred. The STATE shall make full and final payment of all amounts due and owing to the COMPANY as reflected in the Final Statement of Costs within a reasonable time in accordance with §103-10 of the Hawaii Revised Statutes, as amended. Interest shall accrue on all amounts reflected as due and owing to the COMPANY in the Final Statement of Costs at a rate of twelve percent (12%) simple interest per annum, unless otherwise prescribed by law, beginning two hundred forty (240)

days after completion of the Work, or thirty (30) days after the Final Statement of Costs is submitted by the COMPANY, whichever is earlier, unless delay is justified as provided in §103-10 of the Hawaii Revised Statutes, as amended. The COMPANY shall immediately inform the STATE in writing of any substantial change in the estimated cost known to the COMPANY. Any request for extension of the foregoing deadlines shall not be unreasonably withheld.

9. The records and accounts of the COMPANY and its contractor(s), if any, pertaining to the Work performed under the terms of this Agreement shall be retained for a period of not less than three (3) years from the date of the final payment of Federal funds to the STATE for said project and shall be available for reasonable inspection and audit by representatives of the Department of Transportation, State of Hawaii, and the Federal Highway Administration at the respective offices of the COMPANY and its contractor(s) in Honolulu.

10. Where applicable, the terms of this Agreement, including the Final Statement of Costs and payment thereof, shall be subject to Code of Federal Regulations 23 CFR 140, 23 CFR 645 and Section 264-33 of the Hawaii Revised Statutes, as amended, which are incorporated herein by reference and made a part of this Agreement.

11. The COMPANY's existing Utility Facilities shall remain in place until the proposed site is ready and available for installation of the new Utility Facilities and/or the removal and relocation of existing Utility Facilities.

EXHIBIT B (REVISED)

RESPONSIBILITIES OF THE COMPANY

1. The COMPANY shall:

a. Perform all Work under this Agreement in a neat, workmanlike manner and in conformity with the following:

- (1) The latest revision of "Specifications for Installation of Miscellaneous Improvements within State Highways", issued by the Highways Division, Department of Transportation, State of Hawaii as of the date of the contract to which this exhibit is attached;
- (2) Applicable sections of the STANDARD SPECIFICATIONS FOR ROAD AND BRIDGE CONSTRUCTION, Highways Division, State of Hawaii in effect as of the date of the contract to which this exhibit is attached; and
- (3) Applicable statutes and ordinances and orders of the State Director of Transportation or his authorized representative. The documents referred to in subparagraphs 1.a.(1) through 1.a.(3) of this exhibit shall be collectively referred to as the "Specifications".

b. Perform or pay to have performed, for a period of one year after the satisfactory completion of the Work performed under this Agreement, any repairs to highway facilities caused or necessitated by such Work, provided that such repairs are not caused by or attributed to the fault of the STATE.

c. Pay the actual cost of any repairs, performed by or on behalf of the State Department of Transportation, to roadway prisms, base course, pavement and any other structure when such repairs are necessitated by the Work performed under this Agreement within one year from the satisfactory completion of such Work, provided that such repairs are not caused by or attributed to the fault of the STATE.

d. Remove, relocate, replace, reconstruct or adjust any of its Utility Facilities that may be situated, under this Agreement, on or under highway rights of way belonging to the STATE, as may be reasonably required by the State Director of Transportation or his authorized representative in connection with any construction, reconstruction, repair or maintenance of the highway by the STATE. The cost of relocation of Utility Facilities shall be borne as provided by Section 264-33, Hawaii Revised Statutes.

e. Take reasonable actions as necessary to keep all Utility Facilities installed under this Agreement in good repair so that their presence on or under the highway will not impair the use or usefulness of any highway improvement, which may now exist or hereafter come into existence.

f. Make all repairs as may be required by Chapter 264, Hawaii Revised Statutes.

g. The COMPANY shall save and hold harmless, indemnify, and defend the STATE, and all other governmental agencies from and against any and all suits, actions, claims of every nature and kind which may be brought for or on account of any injury, death, or damage, to persons or property, arising or growing out of the acts or omissions of the COMPANY, its officers, employees or agents and any contractor employed by it in connection with the Work covered by this Agreement, or the subsequent occupancy and use of the right of way by the COMPANY, provided, however, that the COMPANY's obligations hereunder shall not be effective, or enforceable, to the extent such injury, death, or damage to persons or property is caused in whole or in part by the STATE.

h. Obtain any applicable right of way for introduction, storage, and installation of the COMPANY's overhead or underground facilities, both for purposes of planning and for performance of the Work, or both, if existing STATE right of way for either overhead or underground facilities are provided or made available to the COMPANY, but the COMPANY does not wish to utilize such existing STATE right of way, PROVIDED, however, that in no event shall the COMPANY be responsible for any delays, disruptions or resequencing of Work, that could not have been reasonably foreseen by either party, related to or associated with the COMPANY's efforts to obtain the right of way.

2. In addition, the COMPANY shall comply with all Federal, State and local laws and ordinances applicable to the Work to be



done under this Agreement. Without limiting the generality of the foregoing, the COMPANY shall comply with the following:

a. Compliance with Regulations: Regulations of the Department of Transportation of the United States of America relative to nondiscrimination in federally assisted programs of said Department of Transportation (Title 15, Code of Federal Regulations, Part 8, hereinafter referred to as the Regulations), which are herein incorporated by reference and made a part of this Agreement.

b. Nondiscrimination: Non-discrimination with regard to the Work performed by it after award and prior to completion of the contract Work, on the ground of race, creed, color, sex, national origin, or disability, as defined in The Americans with Disabilities Act of 1990, in the selection and retention of subcontractors, including procurements of materials and leases of equipment; and non-participation, either directly or indirectly, in the discrimination prohibited by Section 8.4 of the Regulations, including employment practices when the Agreement covers a program set forth in Appendix A-11 of the Regulations.

c. Solicitations for Subcontracts, Including Procurements of Materials and Equipment: In all solicitations either by competitive bidding or negotiation made by the COMPANY for work to be performed pursuant to any subcontract hereunder, including procurements of materials or equipment, notification to each potential subcontractor or supplier by the COMPANY of the COMPANY's obligations under this Agreement and the Regulations relative to nondiscrimination on the ground of race, color or national origin, or disability as defined in the Americans with Disabilities Act of 1990.

d. Information and Reports: Providing all information and reports required by the Regulations, or orders and instructions issued pursuant thereto referred to in subparagraph 2.a, and permitting access to its books, records, accounts, other sources of information, and its Utility Facilities as may reasonably be determined by the STATE or the Federal Highway Administration to be pertinent to ascertain compliance with such Regulations, orders and instructions. Certifying to the STATE or the Federal Highway Administration as appropriate setting forth what efforts it has made to obtain the information where any information required of the COMPANY is in the exclusive possession of another who fails or refuses to furnish this information.

e. Incorporation of Provisions: Include the provisions of subparagraphs 2.a through 2.d in any contract or subcontract hereunder, including procurements of materials and leases of equipment, unless exempt by the Regulations, order, or instructions issued pursuant thereto referred to in subparagraph 2.a, and take such action with respect to any contract, subcontract, or procurement as the STATE or the Federal Highway Administration may reasonably direct as a means of enforcing such provisions including sanctions for noncompliance; provided, that, in the event the COMPANY becomes involved in, or is threatened with, litigation against a contractor, subcontractor, or supplier as a result of such direction, the COMPANY may request the STATE to enter into such litigation to protect the interest of the STATE, and, in addition, the COMPANY may request the United States to enter into such litigation to protect the interest of the United States.

In the event the COMPANY fails to comply with the nondiscrimination provisions of this Agreement, the STATE shall impose such sanctions as it or the Federal Highway Administration may determine to be appropriate, including, but not limited to,

- (1) withholding payments to the COMPANY under the Agreement until the COMPANY complies and/or
- (2) cancellation, termination or suspension of the Agreement, in whole or in part.

3. The COMPANY shall not, except with the prior approval of the State Director of Transportation, or in the event of an emergency, perform Work on its Utility Facilities from:

- a. The through traffic lanes or ramps of a freeway;  
or
- b. The through traffic lanes or ramps of all other highways on weekdays, during the hours of 6:00 to 9:00 a.m. and 3:00 to 6:30 p.m.

The COMPANY shall, however, perform such Work in a reasonable and expeditious manner, with as little interference as may be reasonably possible with the free flow of traffic and the safe operation of highway facilities.

4. The foregoing responsibilities of the COMPANY are in addition to, and not by way of limitation of, any other responsibilities contained in the Agreement to which this exhibit

is attached, as well as any other exhibits and attachments thereto.

RESPONSIBILITIES OF THE STATE

1. The STATE shall:

- a. Obtain, or control, and provide reasonable and timely access, rights of way, and opportunity for introduction, storage, and installation of the COMPANY's overhead and/or underground facilities, both for purposes of planning and for performance of the Work, to the extent such actions are within the power of the STATE to grant without having to exercise its power of eminent domain. If such reasonable and timely access, rights of way, and opportunity for introduction, storage, and installation of overhead and/or underground facilities are not provided or made available to the COMPANY, and the COMPANY is unable to proceed with its planning or the Work as a result thereof, the lack of timely access, rights of way, and opportunity for introduction, storage, and installation of the COMPANY's materials and equipment shall constitute impossibility of performance and the COMPANY shall not be required to continue the planning or performance of the Work under the Agreement. Nothing contained in this paragraph 1.a. shall be construed as obligating the COMPANY to exercise its right of condemnation, if any, to plan or perform the Work under the Agreement.
- b. Provide for coordination of the activities of the STATE and its contractors with the COMPANY in preparing for and performing the Work, in such a manner as to provide a logical, systematic, sequential, and efficient flow of work and eliminate unnecessary interference with the Work.
- c. Avoid any unnecessary interference by the STATE and its contractors with the COMPANY's preparations for the performance of the Work. In the event of any such interference, the COMPANY shall not be responsible for any resulting schedule or cost impacts.

2. The foregoing responsibilities of the STATE are in addition to, and not by way of limitation of, any other responsibilities contained in the Agreement to which this exhibit is attached, as well as any other exhibits and attachments thereto.



STATE OF HAWAII  
DEPARTMENT OF TRANSPORTATION  
HIGHWAYS DIVISION

DOT 4-232  
(HWY-RL 6/00)

**UTILITY COST ESTIMATE FOR UTILITY AGREEMENT NO. 2062**

Project: Farrington Highway  
Replacement of Makaha Bridge No. 3  
and Makaha Bridge No. 3A  
Project No.: BR-093-1(20)

Utility Co.: Hawaiian Telcom

Prepared by: MHO

Checked by: MHO

Date: 12/29/2011

Date:

**UTILITY PAYMENT STANDARDS COMPARISON**

STATE STANDARDS		FEDERAL STANDARDS (FAPG Sec. 645.117)
A. Work/material by Utility Company and/or its Contractor	353,137.00	
B. Work/material by State and/or its Contractor	5,685.49	
C. Total Cost of Utility Work (A+B)	358,822.49	358,822.49 (Do not include Construction Admin.)
D. Less Deductions:		
1. Depreciation	17,637.00	17,637.00
2. Salvage Value		0.00
3. Betterments		0.00
E. Total Deductions (D1+D2+D3)	17,637.00	17,637.00
F. Net Cost of Relocation (C minus E)	341,185.49	341,185.49
G. Less Cost Sharing Arrangements:		
1. \$10,000 (only if required by H.R.S. Section 264-33, e.g., privately owned facilities within the highway right-of-way)	10,000.00	10,000.00
2. Amount for Extraordinary* Items referred to in Item J	0.00	0.00
3. Total (G1+G2)	10,000.00	10,000.00
H. Net Amount (F minus G3)	331,185.49	331,185.49
I. State Share in Net Amount [ 50% ]	165,592.75	165,592.75
J. State's Share for Extraordinary* Items which have been deleted from G2	0.00	0.00
K. State's Share in Total Cost of Utility Work (I+J)	165,592.75	165,592.75 (Amount for Fed Par)
L. Utility's Share in Total Cost of Utility Work (C minus K)	193,229.75	
* Extraordinary Items are special improvements in which the State does not participate on the same basis, percentagewise. Attach a description.		
ESTIMATED REIMBURSEMENT		FEDERAL SHARE
Utility Company to State (B minus K)		132,474.20 (K x Fed Par Rate)
State to Utility Company (K minus B)	159,907.26	

Utility Agreement No. 2064  
 Oceanic Time Warner Cable  
 Type Code: Y043

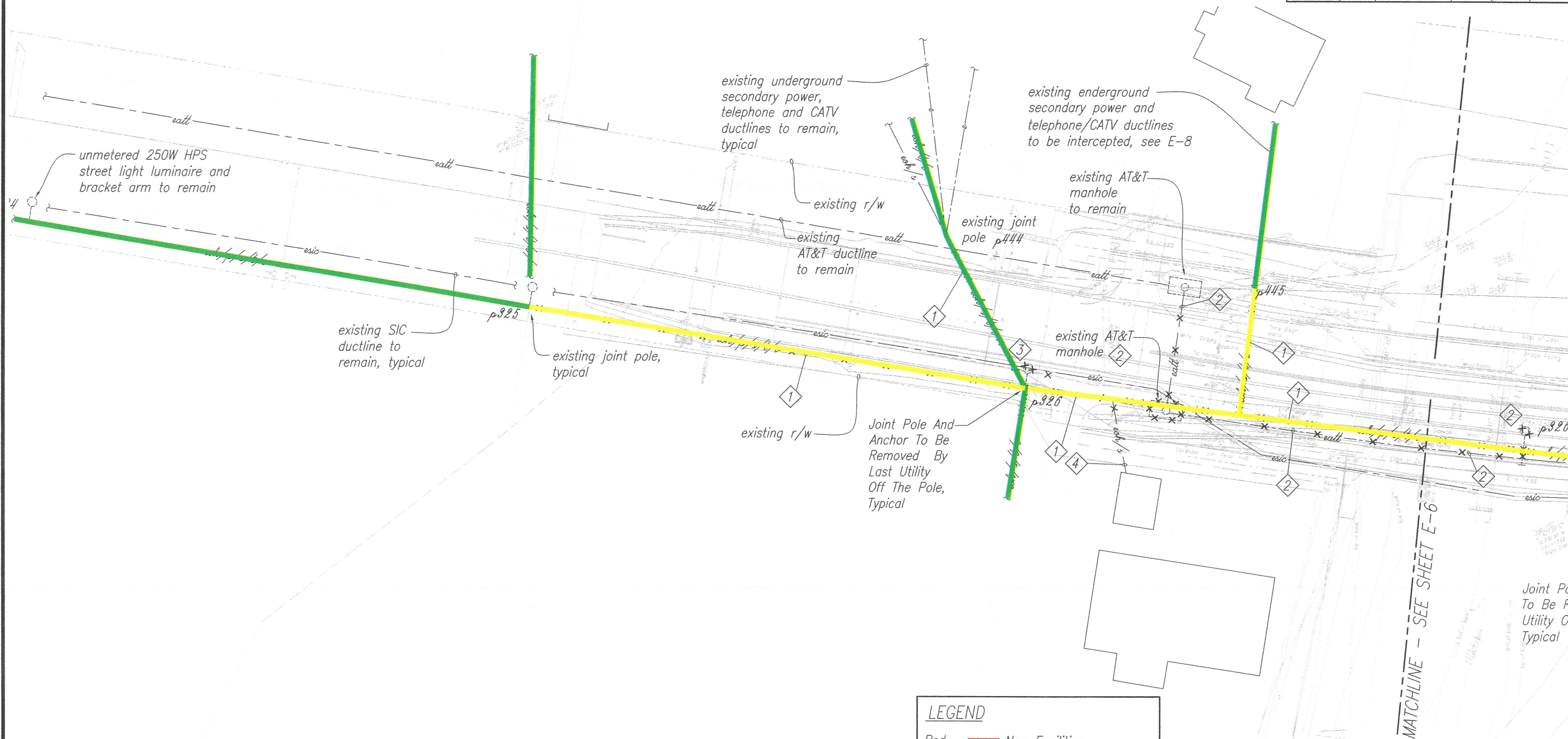
ITEM NO.	ITEM	APPROX. QUANTITY	UNIT	UNIT PRICE	AMOUNT
	SUB-TOTAL CONTRACT ITEMS				\$0.00
	CONTINGENCIES (5%)				\$0.00
	TOTAL UTILITIES				\$0.00
	CONSTRUCTION ENGINEERING (15%)				\$0.00
	ADMINISTRATION COST (40%)				\$0.00
	TOTAL UTILITY ITEMS (Oceanic Time Warner Cable)				\$0.00
	Total Work/Material by the State and/or its Contractor				\$0.00
	Total Work/Material by the Company and/or its Contractor				\$124,716.11
	Total Cost of Relocation/Replacement				\$124,716.11
	Less Deductions				\$0.00
	Net Cost of Relocation				\$124,716.11
	Less Cost Sharing Arrangements (As Per Section 264-33 HRS)				\$10,000.00
	Net Amount				\$114,716.11
	State Share				\$57,358.06
	Utility Share				\$67,358.06
	ESTIMATED REIMBURSEMENT				
	Utility Company to State				\$0.00

Utility Agreement No. 2064  
Oceanic Time Warner Cable  
Type Code: Y043

ITEM NO.	ITEM	APPROX. QUANTITY	UNIT	UNIT PRICE	AMOUNT
	State to Utility Company				\$57,358.06



FED. ROAD DIST. NO.	STATE	FED. AID PROJ. NO.	FISCAL YEAR	SHEET NO.	TOTAL SHEETS
HAWAII	HAW.	BR-093-1(20)	2010	147	159



# ELECTRICAL ROADWAY/UTILITY DEMOLITION PLAN - 1

Scale: 1" = 20'

## LEGEND

- Red — New Facilities
- Yellow — Existing Facilities To Be Removed, Demolished, Abandoned, Or Relocated
- Green — Existing Facilities To Remain
- Orange — Temporary Facilities To Be Removed After Use

## GRAPHIC SCALE



## HAWAIIAN TELCOM

STATE OF HAWAII  
DEPARTMENT OF TRANSPORTATION  
HIGHWAYS DIVISION

## ELECTRICAL ROADWAY/UTILITY DEMOLITION PLAN - 1

FARRINGTON HIGHWAY  
Replacement of Makaha Bridge  
No. 3 and Makaha Bridge 3A  
F. A. Project No. BR-093-1(20)

Scale: 1" = 20'-0" Date: FEB. 22, 2011

SHEET No. E-5 OF E-17 SHEETS

ORIGINAL PLAN	DATE
DESIGNED BY	
CHECKED BY	
NOTED BY	
QUANTITIES BY	
NO.	

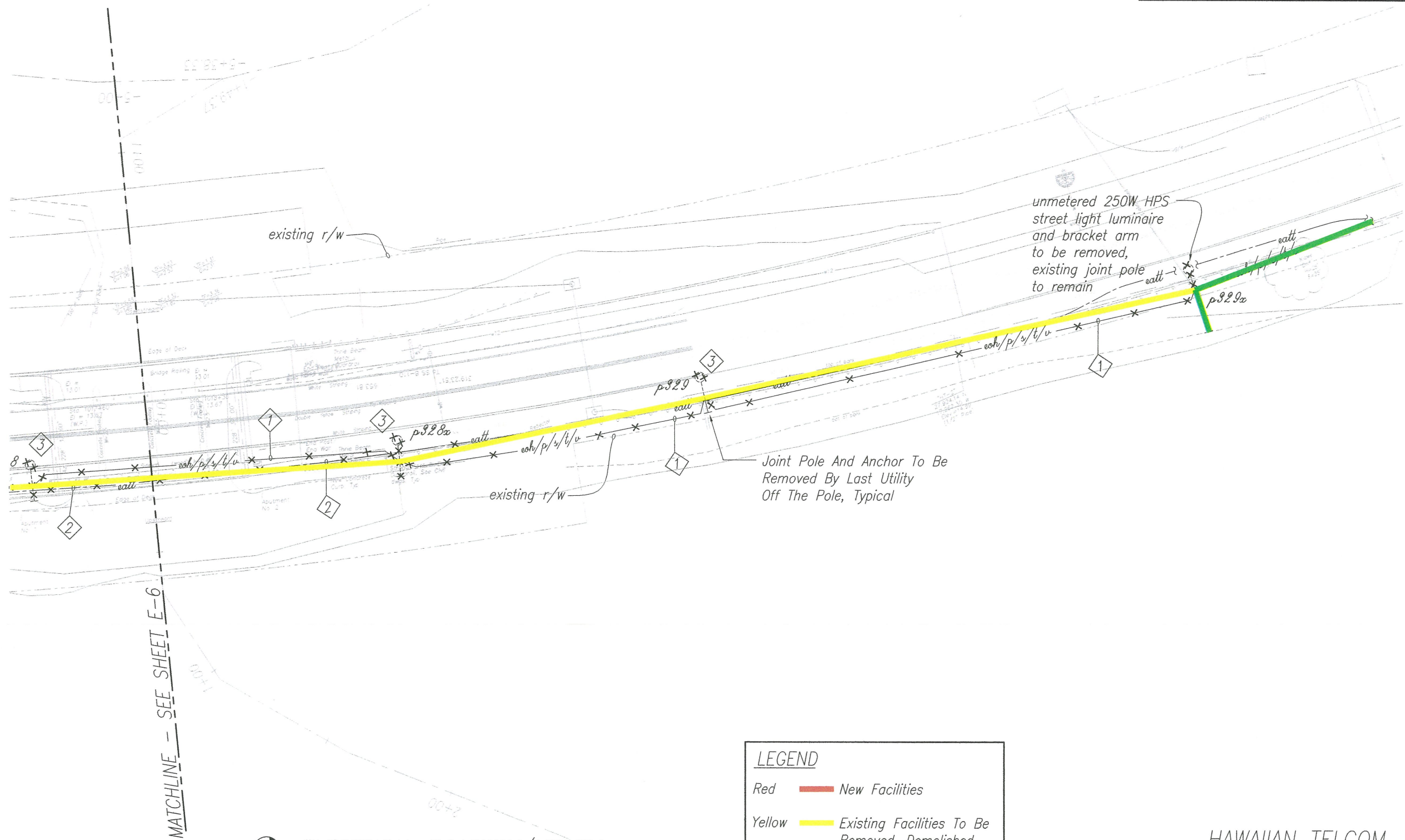
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FED. ROAD DIST. NO.	STATE	FED. AID PROJ. NO.	FISCAL YEAR	SHEET NO.	TOTAL SHEETS
HAWAII	HAW.	BR-093-1(20)	2010	149	159



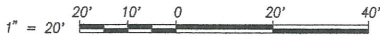
**ELECTRICAL ROADWAY/UTILITY  
DEMOLITION PLAN - 3**

Scale: 1" = 20'

**LEGEND**

- Red — New Facilities
- Yellow — Existing Facilities To Be Removed, Demolished, Abandoned, Or Relocated
- Green — Existing Facilities To Remain
- Orange — Temporary Facilities To Be Removed After Use

**GRAPHIC SCALE**



HAWAIIAN TELCOM

STATE OF HAWAII  
DEPARTMENT OF TRANSPORTATION  
HIGHWAYS DIVISION

**ELECTRICAL ROADWAY/UTILITY  
DEMOLITION PLAN - 3**

FARRINGTON HIGHWAY  
Replacement of Makaha Bridge  
No. 3 and Makaha Bridge 3A  
F. A. Project No. BR-093-1(20)  
Scale: 1" = 20'-0" Date: FEB. 22, 2011

SHEET No. E-7 OF E-17 SHEETS

DESIGNED BY	DATE
CHECKED BY	
NOTED BY	
ORIGINAL PLAN	
No.	

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FED. ROAD DIST. NO.	STATE	FED. AID PROJ. NO.	FISCAL YEAR	SHEET NO.	TOTAL SHEETS
HAWAII	HAW.	BR-093-1(20)	2010	150	159



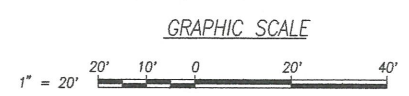
**LEGEND**

Red — New Facilities

Yellow — Existing Facilities To Be Removed, Demolished, Abandoned, Or Relocated

Green — Existing Facilities To Remain

Orange — Temporary Facilities To Be Removed After Use



**ELECTRICAL ROADWAY/UTILITY  
TEMPORARY RELOCATION PLAN — 1**  
Scale: 1" = 20'

HAWAIIAN TELCOM

STATE OF HAWAII  
DEPARTMENT OF TRANSPORTATION  
HIGHWAYS DIVISION

**ELECTRICAL ROADWAY/UTILITY  
TEMPORARY RELOCATION PLAN — 1**

FARRINGTON HIGHWAY  
Replacement of Makaha Bridge  
No. 3 and Makaha Bridge 3A  
F. A. Project No. BR-093-1(20)

Scale: 1" = 20'-0" Date: FEB. 22, 2011

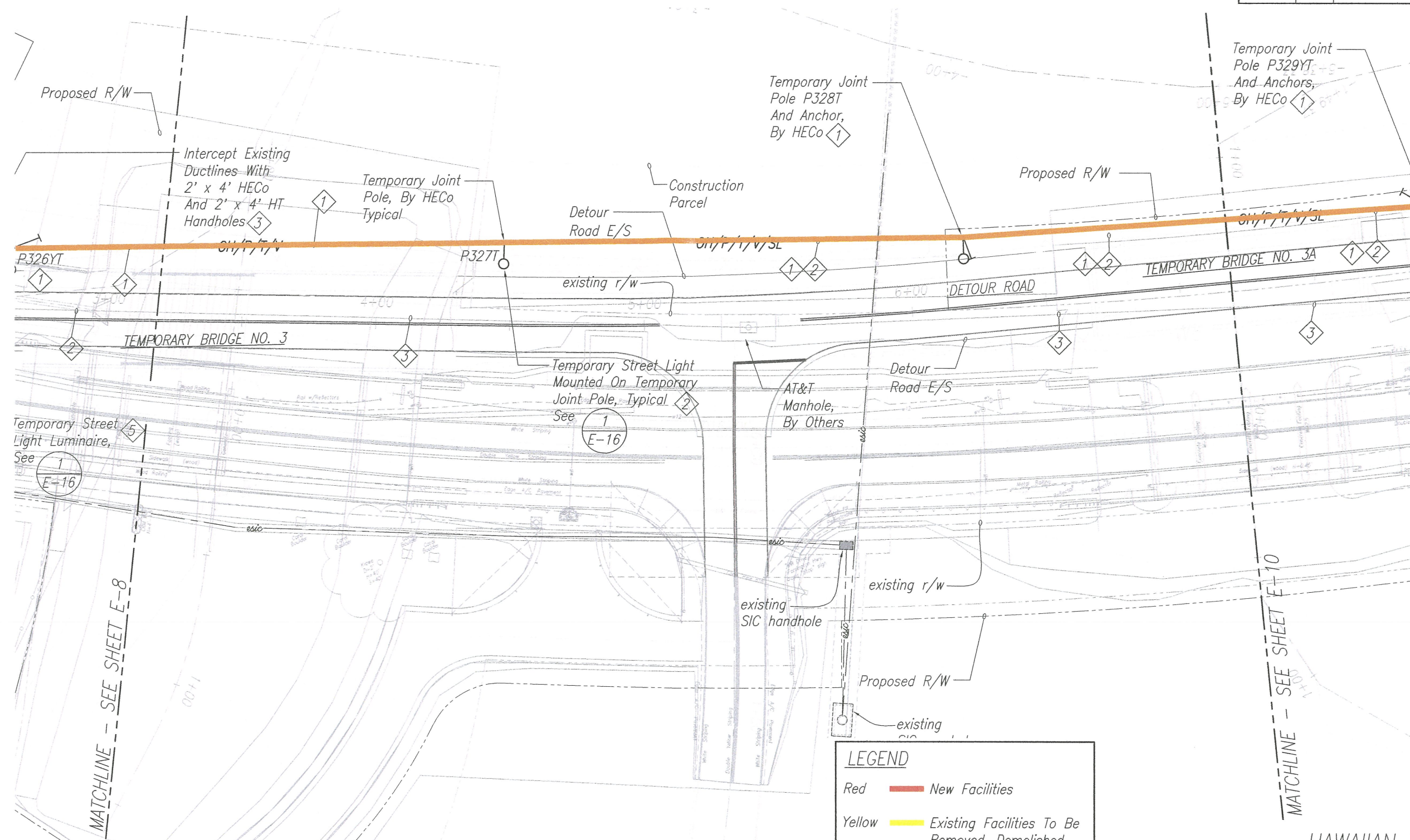
**SHEET No. E-8 OF E-17 SHEETS**

SURVEY PLOTTED BY	DATE
DESIGNED BY	
NOTED BY	
CHECKED BY	
IN CHARGE	

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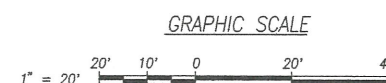
FED. ROAD DIST. NO.	STATE	FED. AID PROJ. NO.	FISCAL YEAR	SHEET NO.	TOTAL SHEETS
HAWAII	HAW.	BR-093-1(20)	2010	151	159



**ELECTRICAL ROADWAY/UTILITY  
TEMPORARY RELOCATION PLAN - 2**  
Scale: 1" = 20'

**LEGEND**

- Red — New Facilities
- Yellow — Existing Facilities To Be Removed, Demolished, Abandoned, Or Relocated
- Green — Existing Facilities To Remain
- Orange — Temporary Facilities To Be Removed After Use



HAWAIIAN TELCOM

STATE OF HAWAII  
DEPARTMENT OF TRANSPORTATION  
HIGHWAYS DIVISION

**ELECTRICAL ROADWAY/UTILITY  
TEMPORARY RELOCATION PLAN - 2**

FARRINGTON HIGHWAY  
Replacement of Makaha Bridge  
No. 3 and Makaha Bridge 3A  
F. A. Project No. BR-093-1(20)

Scale: 1" = 20'-0" Date: FEB. 22, 2011

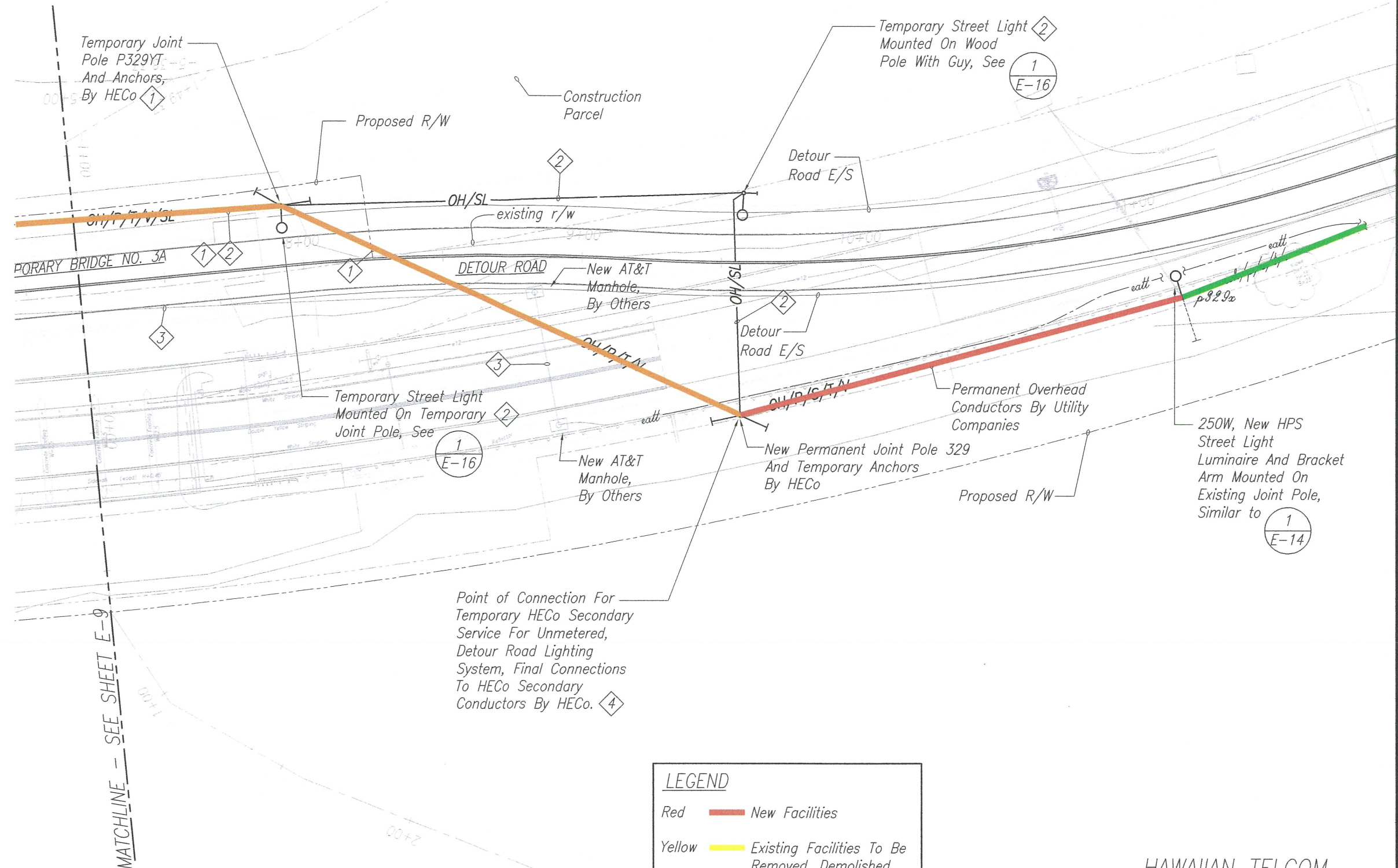
**SHEET No. E-9 OF E-17 SHEETS**

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DRAWN BY	
DESIGNED BY	
CHECKED BY	
NOTE BOOK	
No.	

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FED. ROAD DIST. NO.	STATE	FED. AID PROJ. NO.	FISCAL YEAR	SHEET NO.	TOTAL SHEETS
HAWAII	HAW.	BR-093-1(20)	2010	152	159



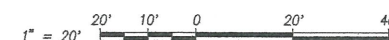
MATCHLINE - SEE SHEET E-9

ELECTRICAL ROADWAY/UTILITY  
TEMPORARY RELOCATION PLAN - 3  
Scale: 1" = 20'

LEGEND

- Red  New Facilities
- Yellow  Existing Facilities To Be Removed, Demolished, Abandoned, Or Relocated
- Green  Existing Facilities To Remain
- Orange  Temporary Facilities To Be Removed After Use

GRAPHIC SCALE



HAWAIIAN TELCOM

STATE OF HAWAII  
DEPARTMENT OF TRANSPORTATION  
HIGHWAYS DIVISION

ELECTRICAL ROADWAY/UTILITY  
TEMPORARY RELOCATION PLAN - 3

FARRINGTON HIGHWAY  
Replacement of Makaha Bridge  
No. 3 and Makaha Bridge 3A  
F. A. Project No. BR-093-1(20)

Scale: 1" = 20'-0" Date: FEB. 22, 2011

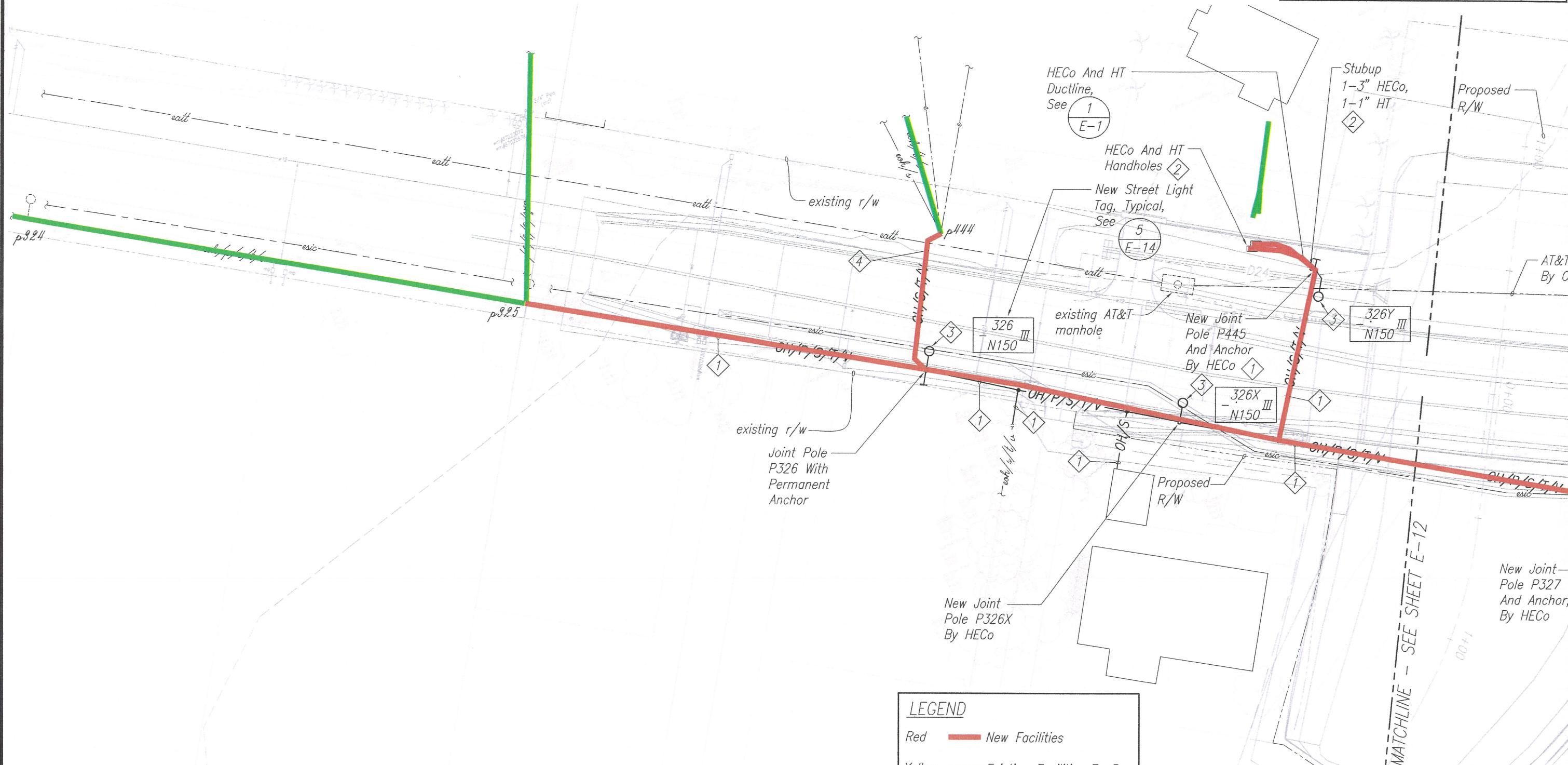
**SHEET No. E-10 OF E-17 SHEETS**


ORIGINAL PLAN	SURVEY PLOTTED BY _____	DATE _____
NOTE BOOK	DRAWN BY _____	" _____
	TRACED BY _____	" _____
	DESIGNED BY _____	" _____
	QUANTITIES BY _____	" _____
No. _____	CHECKED BY _____	" _____

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FED. ROAD DIST. NO.	STATE	FED. AID PROJ. NO.	FISCAL YEAR	SHEET NO.	TOTAL SHEETS
HAWAII	HAW.	BR-093-1(20)	2010	153	159



 **PERMANENT ELECTRICAL ROADWAY/  
UTILITY RELOCATION PLAN - 1**  
Scale: 1" = 20'

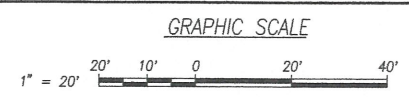
**LEGEND**

Red — New Facilities

Yellow — Existing Facilities To Be Removed, Demolished, Abandoned, Or Relocated

Green — Existing Facilities To Remain

Orange — Temporary Facilities To Be Removed After Use



STATE OF HAWAII  
DEPARTMENT OF TRANSPORTATION  
HIGHWAYS DIVISION

**PERMANENT ELECTRICAL  
ROADWAY/UTILITY RELOCATION PLAN - 1**

FARRINGTON HIGHWAY  
Replacement of Makaha Bridge  
No. 3 and Makaha Bridge 3A  
F. A. Project No. BR-093-1(20)

Scale: 1" = 20'-0"      Date: FEB. 22, 2011

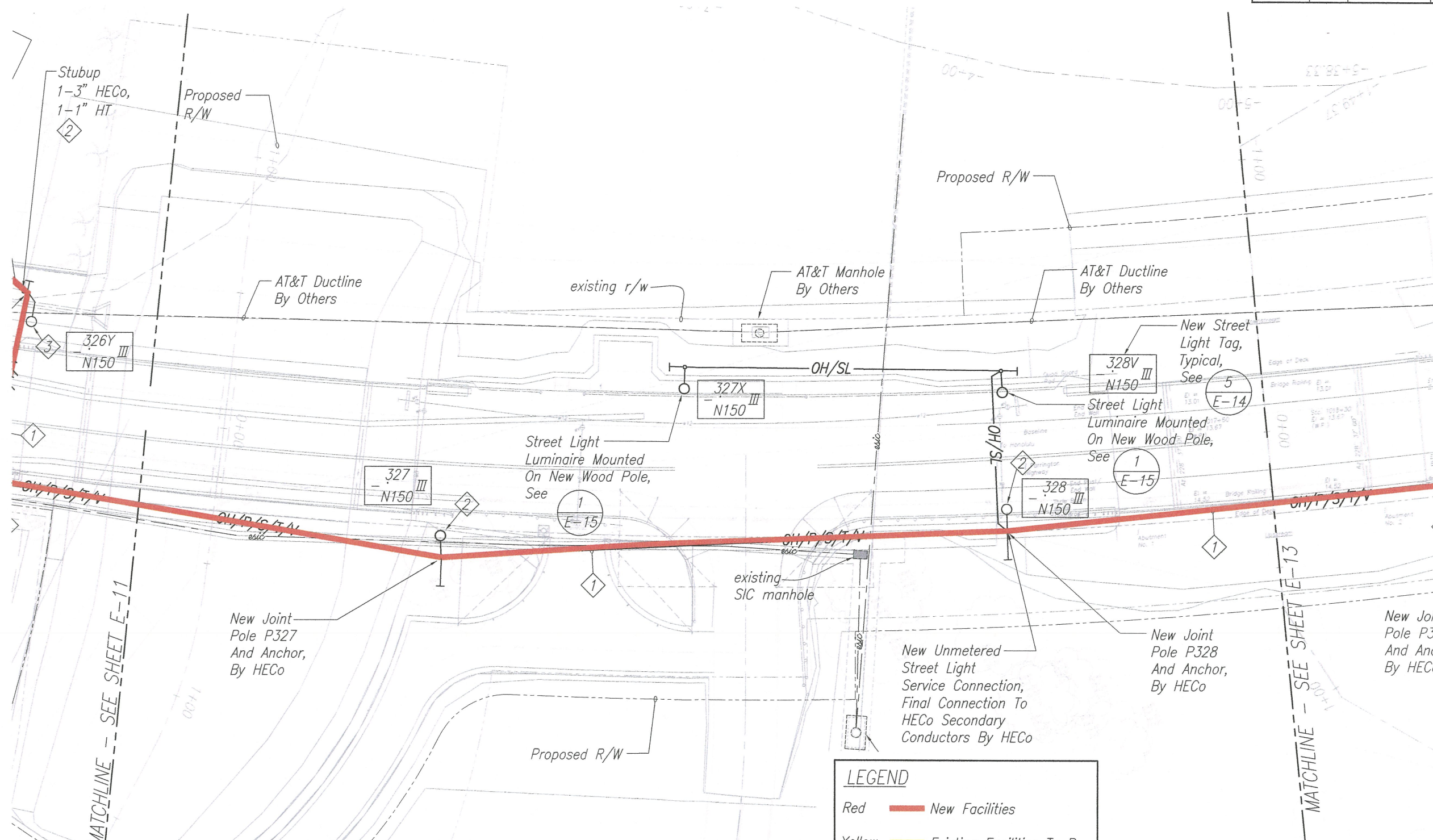
**SHEET No. E-11 OF E-17 SHEETS**

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QUANTITIES BY	
NOTED BY	
ORIGINAL PLAN	

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FED. ROAD DIST. NO.	STATE	FED. AID PROJ. NO.	FISCAL YEAR	SHEET NO.	TOTAL SHEETS
HAWAII	HAW.	BR-093-1(20)	2010	154	159



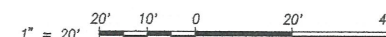
# PERMANENT ELECTRICAL ROADWAY/ UTILITY RELOCATION PLAN - 2

Scale: 1" = 20'

## LEGEND

- Red — New Facilities
- Yellow — Existing Facilities To Be Removed, Demolished, Abandoned, Or Relocated
- Green — Existing Facilities To Remain
- Orange — Temporary Facilities To Be Removed After Use

## GRAPHIC SCALE



HAWAIIAN TELCOM

STATE OF HAWAII  
DEPARTMENT OF TRANSPORTATION  
HIGHWAYS DIVISION

## PERMANENT ELECTRICAL ROADWAY/UTILITY RELOCATION PLAN - 2

FARRINGTON HIGHWAY  
Replacement of Makaha Bridge  
No. 3 and Makaha Bridge 3A  
F. A. Project No. BR-093-1(20)

Scale: 1" = 20'-0" Date: FEB. 22, 2011

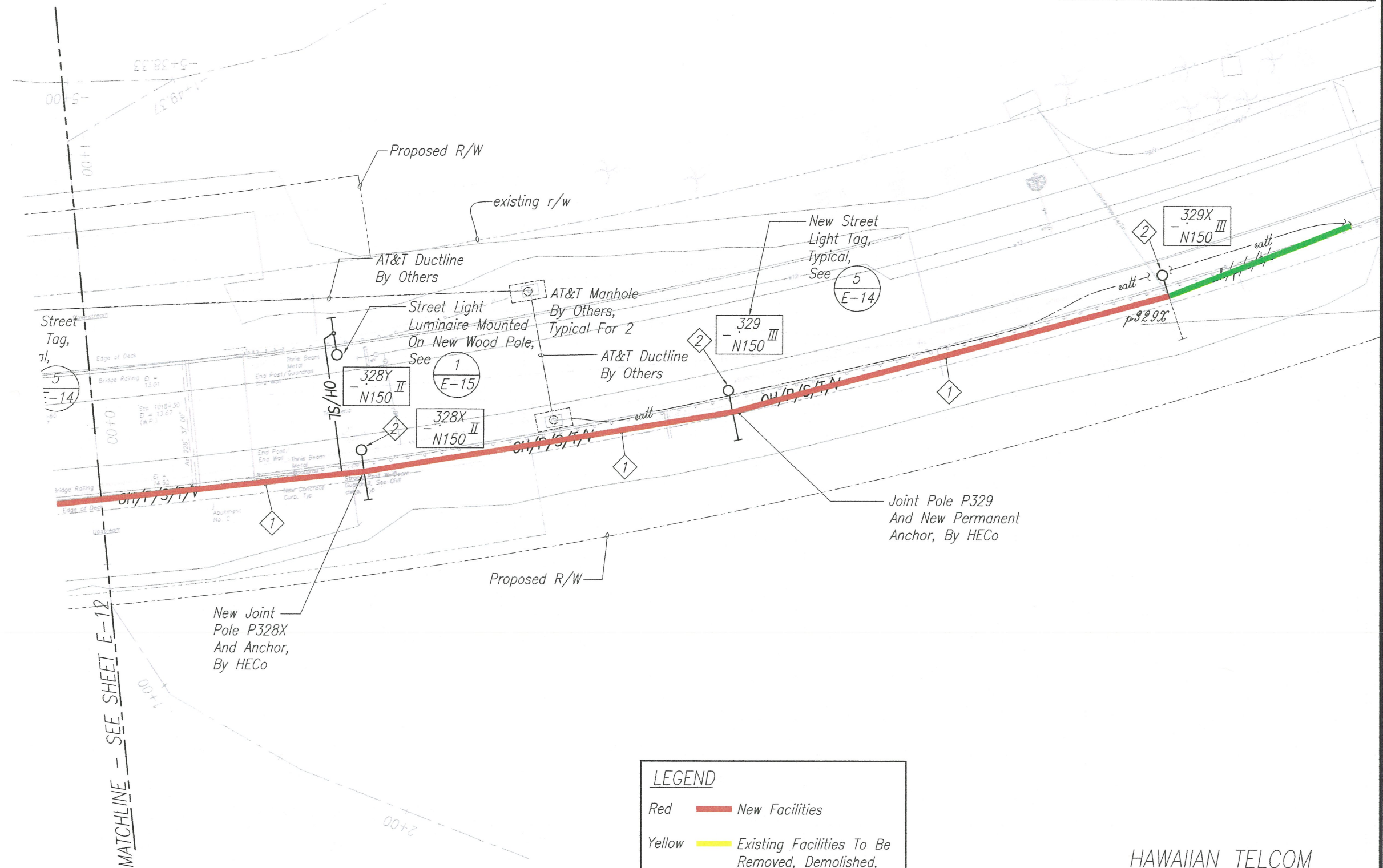
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FED. ROAD DIST. NO.	STATE	FED. AID PROJ. NO.	FISCAL YEAR	SHEET NO.	TOTAL SHEETS
HAWAII	HAW.	BR-093-1(20)	2010	155	159



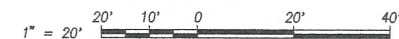
**PERMANENT ELECTRICAL ROADWAY/  
UTILITY RELOCATION PLAN - 3**

Scale: 1" = 20'

**LEGEND**

- Red — New Facilities
- Yellow — Existing Facilities To Be Removed, Demolished, Abandoned, Or Relocated
- Green — Existing Facilities To Remain
- Orange — Temporary Facilities To Be Removed After Use

**GRAPHIC SCALE**



**HAWAIIAN TELCOM**

STATE OF HAWAII  
DEPARTMENT OF TRANSPORTATION  
HIGHWAYS DIVISION

**PERMANENT ELECTRICAL  
ROADWAY/UTILITY RELOCATION PLAN - 3**

FARRINGTON HIGHWAY  
Replacement of Makaha Bridge  
No. 3 and Makaha Bridge 3A  
F. A. Project No. BR-093-1(20)

Scale: 1" = 20'-0" Date: FEB. 22, 2011

SHEET No. E-13 OF E-17 SHEETS

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Mr. Kerstan J. Wong, Manager  
Engineering Department  
Hawaiian Electric Company, Inc.  
P.O. Box 2750  
Honolulu, Hawaii 96840-0001

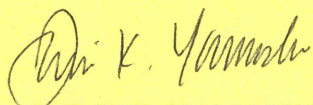
Dear Mr. Wong:

Subject: Utility Agreement No. 2063  
Farrington Highway, Project No. BR-093-1(20)  
Replacement of Makaha Bridge No. 3 and Makaha Bridge No. 3A  
Makaha, Oahu, Hawaii

We transmit for your records, a fully executed copy of Utility Agreement No. 2063 for the subject highway project.

We appreciate and thank you for your cooperation on this project. Should you have any questions, please call me at 692-7333.

Very truly yours,



JAIME K. YAMASHIRO  
Right-of-Way Agent

JKY:jky

Enclosure: Executed Utility Agreement No. 2063

bc: HWY-DS (Henry Kennedy)

UTILITY AGREEMENT NO. 2063

THIS AGREEMENT, made this \_\_\_\_\_ day of AUG - 1 2012,  
20\_\_\_\_, by and between the STATE OF HAWAII, hereinafter called  
the "STATE", and Hawaiian Electric Company, Inc. (HECO),  
hereinafter called the "COMPANY",

W I T N E S S E T H     T H A T:

WHEREAS, the STATE has scheduled Farrington Highway Replacement  
of Makaha Bridge Number 3 and Makaha Bridge Number 3A, FAP No. BR-093-1(20)  
District of Waianae, Island of Oahu, Hawaii

hereinafter referred to as the "Highway Project"; and

WHEREAS, the Highway Project will affect existing surface  
and subsurface utilities, utility facilities, and/or utility  
poles which belong to the COMPANY (collectively referred to as  
the "Utility Facilities"), which will necessitate the removal and  
relocation of said Utility Facilities and/or the installation of  
new Utility Facilities (such removal, relocation, and  
installation, including all labor, materials, equipment, and  
services, are hereinafter referred to as the "Work"); and

WHEREAS, for purposes of this Agreement, including Exhibits  
A (Revised) and B (Revised) attached hereto, "STATE" shall herein  
mean and refer to the State of Hawaii, its officers, employees,  
agents, representatives, successors, assigns, and any contractor  
employed by the STATE on the Highway Project, unless otherwise  
specifically provided;



NOW, THEREFORE, in consideration of the foregoing premises and of the promises each to the other made by the parties hereto, it is agreed that the Work shall be performed and paid for in accordance with the following terms and conditions:

1. Performance of the Work: The COMPANY and its contractor or subcontractor shall perform or cause to be performed all of the Work, as provided for in Utility Cost Estimate No. 2063, attached hereto and made a part hereof.

2. Compliance With Provisions: The COMPANY shall comply with the provisions of Exhibits A (Revised) and B (Revised), which are attached hereto and made parts hereof. The STATE may withhold payments to the COMPANY or cancel, terminate or suspend the Agreement if the COMPANY unreasonably fails to comply with any of its obligations under this Agreement, including, without limitation, Exhibit B (Revised) attached hereto.

3. Scope and Estimated Cost of Work: The Scope of Work and the total estimated cost for the Work is the sum of \$ 287,377.49. The Scope of Work and Estimate, consisting of 1 page(s), are attached hereto as Utility Cost Estimate No. 2063 and made a part hereof.

4. Cost Sharing: Based on the total estimated cost of \$ 287,377.49, the STATE's share is estimated to be \$ 122,363.25. The actual cost to the STATE for the Work will be determined in accordance with the procedures set forth on page 1 of said Utility Cost Estimate and will be based on the actual costs incurred by the parties hereto in performing the Work. Reimbursement, if any, by the appropriate party, shall be

based on said actual costs. However, the COMPANY shall not be liable or responsible for actual costs of any services, labor, or materials performed or supplied by any party arising or growing out of the wrongful acts or omissions of the STATE, or parties outside of the COMPANY's direction and control, unless agreed to in writing by the COMPANY, including change orders, addenda, or other appropriate documentation.

5. Participation in Dispute Resolution: In the event a suit, action or claim is made against the STATE for actual costs of items covered for which the STATE intends to hold the COMPANY liable or responsible, whether in whole or in part, the STATE shall give reasonable and timely written notice to the COMPANY of such intent, and shall, to the maximum extent possible, provide the COMPANY with the opportunity to appear, defend, contest or otherwise participate in any litigation, arbitration, or other dispute resolution procedure then in effect, with respect to such suit, action, or claim. The COMPANY's opportunity to appear, defend, contest or otherwise participate in any litigation, arbitration, or other dispute resolution procedure, shall not include the right to select the arbitrators, mediators or other dispute resolution adjudicators. Should the STATE fail to provide such written notice to the COMPANY, or fail to allow the COMPANY to participate in such proceedings, then the STATE shall be deemed to have unequivocally waived its right to have the COMPANY share in paying for any actual costs in excess of the total estimated cost. Should the COMPANY become a signatory to the construction contract bid documents, then the COMPANY will

have the right and opportunity to fully participate in all aspects of any litigation, arbitration, or other dispute resolution procedure, including the right to participate in the selection of the arbitrator(s), mediator(s), or other dispute resolution adjudicators.

6. Plans and Drawings: The Work shall be in accordance with those certain plans and drawings pertaining to the Highway Project which are on file in the Highways Division, Department of Transportation, State of Hawaii, or which shall be specifically identified by an Addendum to said Utility Cost Estimate signed by the parties hereto.

7. Compliance with Regulations: It is not the COMPANY's responsibility to ascertain that the Contract Documents or other documents associated with or covered by this Agreement are in accordance with applicable laws, statutes, ordinances, building codes, and rules and regulations. However, if the COMPANY observes that portions of such documents are at variance therewith, the COMPANY shall promptly notify the STATE.

8. Completion of Work and Waiver of Claims: Upon completion of the Work covered by this Agreement and payment by the STATE of its share of the cost of the Work, as determined pursuant to Paragraph 4, above, the COMPANY shall hold the STATE harmless from and waive any and all further claims for expenses incurred by the COMPANY in performing the Work in connection with the Highway Project, provided that such further claims for expenses incurred by the COMPANY are not caused by or attributed to the fault of the STATE.

9. Notice of Injury or Damage: If either party to the Agreement suffers injury or damage to person or property because of an act or omission of the other party, of any of the other party's employees or agents, or of others for whose acts such party is legally liable, the injured or damaged party to the Agreement shall provide written notice of such injury or damage, whether or not insured, to the other party to the Agreement within a reasonable time not exceeding 21 days after first observance. The notice shall provide sufficient detail to enable the responsible party to investigate the matter. If a claim for additional cost or time related to this injury or damage is to be asserted, it shall be made as provided in Paragraph 16 (Notice of Claims) below.

10. Indemnity by COMPANY: The COMPANY shall save and hold harmless, indemnify, and defend the STATE, and all other governmental agencies from and against any and all suits, actions, claims of every nature and kind which may be brought for or on account of any injury, death, or damage, to persons or property, arising or growing out of the acts or omissions of the COMPANY, its officers, employees or agents and any contractor employed by it in connection with the Work covered by this Agreement, or the subsequent occupancy and use of the right of way by the COMPANY, provided, however, that the COMPANY's obligations hereunder shall not be effective, or enforceable, to the extent such injury, death, or damage to persons or property is caused in whole or in part by the STATE.



11. STATE's Responsibility: The STATE shall be responsible, to the extent permitted by law, for damage or injury caused by the STATE's officers and employees only, in the scope of their employment, provided that the STATE's liability for such damage or injury has been determined by a court or agreed to by the STATE. The STATE shall pay for such damage and injury, provided that funds are appropriated and allotted for that purpose.

12. Unaffected Utility Facilities: Any Utility Facilities not affected by or relocated under this Agreement but which are situated within the Highway Project and shown on the Contract Documents may remain in place upon the express condition that the maintenance, removal, relocation, etc., of said unaffected Utility Facilities or any activity of the COMPANY affecting said unaffected Utility Facilities shall also be subject to the terms and conditions contained in the attached Exhibit B (Revised).

13. Hazardous Materials and Pollutants: In the event the COMPANY encounters material on the site reasonably believed to be hazardous which has not been rendered harmless, or material on the site reasonably believed to be a pollutant as defined by state or federal law, the COMPANY shall immediately stop Work in the area affected and report the condition to the STATE. The Work in the affected area should not be resumed except by written agreement of the STATE and the COMPANY if in fact the material is hazardous and has not been rendered harmless, or if it is in fact a pollutant. The Work in the affected area shall be resumed in the absence of hazardous materials or pollutants, or when such

hazardous material has been rendered harmless or pollutant has been remediated, by written agreement of the STATE and the COMPANY, or by mediation if agreed upon by the STATE and the COMPANY.

14. Work Relating to Hazardous Materials or Pollutants:

The COMPANY shall not be required to perform, without its consent, any work relating to hazardous materials or pollutants, unless the hazardous materials or pollutants are present due to the sole acts or omissions of the COMPANY, in which event the COMPANY shall bear all the costs of handling, removing, or remediation of such hazardous materials or pollutants. In the event that the acts or omissions of the COMPANY are partially responsible for the presence of hazardous materials or pollutants, it shall bear the cost to remove the hazardous materials or pollutants in an amount proportional to its degree of responsibility for the presence of the hazardous materials or pollutants.

15. Hazardous Material Indemnification: If the COMPANY is responsible for the presence of the hazardous material or pollutant, the COMPANY shall defend, indemnify and hold harmless the STATE, its officers, employees, agents and any contractor employed in connection with the Work covered by this Agreement, from and against claims, damages, losses, and expenses arising out of or resulting from performance of the Work in the affected area if in fact hazardous material therein has not been rendered harmless or a pollutant not properly remediated, provided that such claim, damage, loss or expense is attributable to bodily

injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself) including loss of use resulting therefrom, but only to the extent caused in whole or in part by acts or omissions of the COMPANY, its officers, agents, representatives, successors and assigns, any contractor employed by the COMPANY, or anyone for whose acts the COMPANY may be responsible, even when such claim, damage, loss or expense is caused in part by the STATE, the intent of this provision being that each party shall be responsible for its own acts or omissions to the extent permitted by law. Such obligation shall not be construed to negate, abridge, or reduce other rights or obligations of indemnity which would otherwise exist as to a party or person described in this Paragraph 15.

16. Notice of Claims: Claims, change order requests or proposals, or other demands ("Claim") by either party, relating to arising out of, or connected with, increases in the cost of the Work or for extensions of the completion deadline, if any, must be made within thirty (30) days after occurrence of the event giving rise to such Claim or within thirty (30) days after the claimant first recognizes the condition giving rise to the Claim, whichever is later. Claims must be made by written notice, and shall include, to the fullest extent possible, an estimate of the cost and schedule impact of the condition giving rise to the Claim. Claims not made within the time frame provided for herein, and in the manner provided for herein, are forever waived and barred from being asserted without the prior mutual consent of the parties hereto in writing. In the case of

a continuing cost impact or delay, only one Claim is necessary. The submission of a Claim in compliance with this Paragraph 16 shall not be construed to entitle the submitting party to automatically recover the amounts claimed, proposed, or demanded, without determination or resolution of such Claim as may be provided in this Agreement, or by applicable law.

17. Unknown/Changed Conditions: If conditions are encountered at the Highway Project site which are (1) subsurface or otherwise concealed physical conditions which differ materially from those indicated in the plans, drawings, specifications, or other Highway Project documents, or (2) unknown physical conditions of an unusual nature, which differ materially from those ordinarily found to exist and generally recognized as inherent in construction activities of the character provided for in the Agreement, then written notice by the observing party shall be given to the other party promptly before further work is performed.

18. Claims by the COMPANY: If the COMPANY wishes to make a claim for an increase in its cost to perform the Work due to (1) an order by the STATE to stop the Work where the COMPANY was not at fault, or (2) other reasonable grounds, written notice as provided herein shall be given before proceeding to perform the Work. Prior notice is not required for claims relating to an emergency endangering life or property.

19. Non-Waiver of Claims: Except as expressly set forth in this Agreement, nothing in this Agreement shall be construed as a waiver by the COMPANY or the STATE of any claim each may have



against the other or the other's contractors or consultants for damages resulting to the Utility Facilities or the Highway Project or any highway structures, facilities, equipment or appurtenances.

20. Merger; Interpretation: The STATE and the COMPANY have made no agreements or promises regarding the Highway Project not mentioned in this Agreement or the Utility Cost Estimate. The term "Agreement" shall include all exhibits attached hereto and the Utility Cost Estimate unless the context clearly indicates otherwise. The terms of this Agreement are contractual and not mere recital. In the event of any dispute or litigation, the STATE and the COMPANY agree that all matters at issue and all questions concerning the interpretation of this Agreement shall be decided and construed in accordance with Hawaii law. The parties hereto further agree that for the purposes of interpretation, no party shall be deemed to be the drafter of the Agreement.

21. Amendments: This Agreement shall not be altered, amended, modified or otherwise changed, in any respect or particular whatsoever, except by a writing duly executed by the STATE and the COMPANY. The STATE and the COMPANY hereby acknowledge and agree that they will make no claim at any time that this Agreement has been orally altered or modified in any respect whatsoever. This Agreement contains the entire agreement between the STATE and the COMPANY and supersedes all prior oral and written agreements, representations, negotiations and correspondence concerning the Highway Project.

22. Headings; Gender; Number: The headings included herein are for convenience only and do not in any way limit, alter, or affect the matters contained in this Agreement or the paragraphs which they encaption. The use of any gender in this Agreement shall include all genders and the singular shall include the plural and the plural the singular as the case may be.

23. Binding Agreement Subject to Regulatory Approvals:

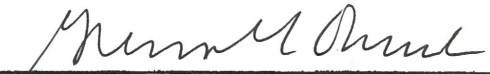
This Agreement shall be contingent upon any and all required approvals of the Public Utilities Commission of the State of Hawaii, and upon receipt of such regulatory approval shall be binding upon the parties hereto and their representatives, successors and assigns.

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KMR  
KSW  
KM  
SL  
PBA

(HWY-RL 2/07)

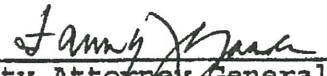
IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their duly authorized officers as of the day and year first above written.


STATE OF HAWAII


By   
Its Director of Transportation

HAWAIIAN ELECTRIC COMPANY, INC.

APPROVED AS TO FORM

  
Deputy Attorney General  
State of Hawaii

By  2/13/12  
Print Name Dan V. Giovanni  
Its Vice President, Energy Delivery

By  2/16/12  
Print Name Colton K. Ching  
Its Vice President, System Operation & Planning

BASIS OF PAYMENTS, RECORDS AND ACCOUNTS

EXHIBIT A (REVISED)

1. The costs of the Work shall be based on the prevailing rates and/or unit prices for labor, equipment and materials, plus a fixed percentage of such costs for indirect costs and overhead, at the time the Work is commenced if the prevailing rates and/or unit prices are different from those indicated in the cost estimate. Such rates, unit prices and percentages shall be subject to the prior approval of the STATE, and shall be based on actual costs incurred by the COMPANY for the Work. The STATE expressly agrees that it will not unreasonably withhold such approval.

2. If a portion of the Work is covered up or buried contrary to the COMPANY's request or contrary to written requirements in the Contract Documents, and prior to the COMPANY performing any necessary or required inspections, procedures, or tests, that portion of the Work must, if required in writing by the COMPANY, be uncovered for the COMPANY's inspection, procedures, or tests, and recovered at the expense of the STATE or its Contractor.

3. If a portion of the Work has been covered which the COMPANY has not specifically requested to observe, or for which no inspection or testing is required, prior to its being covered, the COMPANY may request to see such Work and it shall be uncovered by the STATE. If such Work is in conformity with this Agreement and the applicable standards and specifications (see Exhibit B, paragraph 1.a.), the cost of uncovering and recovering shall, by appropriate change order, be charged to the COMPANY. If such Work is not in conformity with this Agreement and the applicable standards and specifications (see Exhibit B, paragraph 1.a.), the STATE shall pay such costs unless the condition was caused by the COMPANY, in which event the COMPANY shall be responsible for payment of such costs. Nothing herein shall prevent or limit the STATE's right, if any, to recover such costs from its contractor or other responsible parties.

4. The STATE shall give the COMPANY 45 working days notice to proceed with its portion of the Work. The COMPANY shall coordinate its Work with the STATE's contractor and shall not unreasonably interfere with or delay the STATE's Highway Project. Any damages as a result of the COMPANY's unreasonable interference or delay in completing said Work shall be paid immediately by the COMPANY to the STATE upon written demand. The COMPANY estimates that the Work will require approximately 30 working days. This estimate is for planning and coordination



purposes only. The STATE and the COMPANY understand and agree that such working days will not necessarily be consecutive.

5. The Agreement to which this exhibit is attached shall be construed as allowing for a reasonable time for the completion of the Work as determined by the STATE and as subject to paragraph 6 immediately following.

6. If the COMPANY is delayed at any time in progress of the Work by any act of the STATE, its officers, agents, representatives, successors and assigns, or of a contractor employed by the STATE, or by changes ordered in the Work, or by labor disputes, fire, unusual delay in deliveries, unavoidable casualties, emergency power outages within the COMPANY's service area, life-threatening and/or property-threatening situations within the COMPANY's service area, or other causes beyond the COMPANY's control, or by other causes which may justify delay, then the COMPANY's completion deadline, if any, shall be extended by change order for such reasonable time as the parties hereto may determine.

7. If the COMPANY wants to proceed with its portion of the Work prior to receiving notice to proceed from the STATE, the COMPANY shall give the STATE's Project Engineer 10 working days notice; provided that no Work shall be done by the COMPANY without the written consent of the STATE.

8. Reimbursement to the COMPANY, if any, shall be on a monthly basis if the COMPANY submits a detailed statement of actual costs incurred, less the applicable deductions for depreciation, salvage value, betterment and expired service life, on or before the fifteenth (15th) day of the month. The reimbursement shall be limited to ninety percent (90%) of the net estimated reimbursable amount. The balance shall be withheld by the STATE until such time as the Final Statement of Costs is submitted by the COMPANY and accepted by the STATE. Within one hundred twenty (120) days after the Work has been completed, the STATE shall provide to the COMPANY a detailed unit-cost breakdown of all work performed by the STATE and/or its contractor(s). Within ninety days (90) days after receipt of the detailing unit-cost breakdown of all work performed by the STATE and/or its contractor(s), the Final Statement of Costs shall be submitted by the COMPANY in the same general form as the monthly statement of actual costs incurred. The STATE shall make full and final payment of all amounts due and owing to the COMPANY as reflected in the Final Statement of Costs within a reasonable time in accordance with §103-10 of the Hawaii Revised Statutes, as amended. Interest shall accrue on all amounts reflected as due and owing to the COMPANY in the Final Statement of Costs at a rate of twelve percent (12%) simple interest per annum, unless otherwise prescribed by law, beginning two hundred forty (240)

days after completion of the Work, or thirty (30) days after the Final Statement of Costs is submitted by the COMPANY, whichever is earlier, unless delay is justified as provided in §103-10 of the Hawaii Revised Statutes, as amended. The COMPANY shall immediately inform the STATE in writing of any substantial change in the estimated cost known to the COMPANY. Any request for extension of the foregoing deadlines shall not be unreasonably withheld.

9. The records and accounts of the COMPANY and its contractor(s), if any, pertaining to the Work performed under the terms of this Agreement shall be retained for a period of not less than three (3) years from the date of the final payment of Federal funds to the STATE for said project and shall be available for reasonable inspection and audit by representatives of the Department of Transportation, State of Hawaii, and the Federal Highway Administration at the respective offices of the COMPANY and its contractor(s) in Honolulu.

10. Where applicable, the terms of this Agreement, including the Final Statement of Costs and payment thereof, shall be subject to Code of Federal Regulations 23 CFR 140, 23 CFR 645 and Section 264-33 of the Hawaii Revised Statutes, as amended, which are incorporated herein by reference and made a part of this Agreement.

11. The COMPANY's existing Utility Facilities shall remain in place until the proposed site is ready and available for installation of the new Utility Facilities and/or the removal and relocation of existing Utility Facilities.

EXHIBIT B (REVISED)

RESPONSIBILITIES OF THE COMPANY

1. The COMPANY shall:

a. Perform all Work under this Agreement in a neat, workmanlike manner and in conformity with the following:

- (1) The latest revision of "Specifications for Installation of Miscellaneous Improvements within State Highways", issued by the Highways Division, Department of Transportation, State of Hawaii as of the date of the contract to which this exhibit is attached;
- (2) Applicable sections of the STANDARD SPECIFICATIONS FOR ROAD AND BRIDGE CONSTRUCTION, Highways Division, State of Hawaii in effect as of the date of the contract to which this exhibit is attached; and
- (3) Applicable statutes and ordinances and orders of the State Director of Transportation or his authorized representative. The documents referred to in subparagraphs 1.a.(1) through 1.a.(3) of this exhibit shall be collectively referred to as the "Specifications".

b. Perform or pay to have performed, for a period of one year after the satisfactory completion of the Work performed under this Agreement, any repairs to highway facilities caused or necessitated by such Work, provided that such repairs are not caused by or attributed to the fault of the STATE.

c. Pay the actual cost of any repairs, performed by or on behalf of the State Department of Transportation, to roadway prisms, base course, pavement and any other structure when such repairs are necessitated by the Work performed under this Agreement within one year from the satisfactory completion of such Work, provided that such repairs are not caused by or attributed to the fault of the STATE.

d. Remove, relocate, replace, reconstruct or adjust any of its Utility Facilities that may be situated, under this

Agreement, on or under highway rights of way belonging to the STATE, as may be reasonably required by the State Director of Transportation or his authorized representative in connection with any construction, reconstruction, repair or maintenance of the highway by the STATE. The cost of relocation of Utility Facilities shall be borne as provided by Section 264-33, Hawaii Revised Statutes.

e. Take reasonable actions as necessary to keep all Utility Facilities installed under this Agreement in good repair so that their presence on or under the highway will not impair the use or usefulness of any highway improvement, which may now exist or hereafter come into existence.

f. Make all repairs as may be required by Chapter 264, Hawaii Revised Statutes.

g. The COMPANY shall save and hold harmless, indemnify, and defend the STATE, and all other governmental agencies from and against any and all suits, actions, claims of every nature and kind which may be brought for or on account of any injury, death, or damage, to persons or property, arising or growing out of the acts or omissions of the COMPANY, its officers, employees or agents and any contractor employed by it in connection with the Work covered by this Agreement, or the subsequent occupancy and use of the right of way by the COMPANY, provided, however, that the COMPANY's obligations hereunder shall not be effective, or enforceable, to the extent such injury, death, or damage to persons or property is caused in whole or in part by the STATE.

h. Obtain any applicable right of way for introduction, storage, and installation of the COMPANY's overhead or underground facilities, both for purposes of planning and for performance of the Work, or both, if existing STATE right of way for either overhead or underground facilities are provided or made available to the COMPANY, but the COMPANY does not wish to utilize such existing STATE right of way, PROVIDED, however, that in no event shall the COMPANY be responsible for any delays, disruptions or resequencing of Work, that could not have been reasonably foreseen by either party, related to or associated with the COMPANY's efforts to obtain the right of way.

2. In addition, the COMPANY shall comply with all Federal, State and local laws and ordinances applicable to the Work to be done under this Agreement. Without limiting the generality of the foregoing, the COMPANY shall comply with the following:



a. Compliance with Regulations: Regulations of the Department of Transportation of the United States of America relative to nondiscrimination in federally assisted programs of said Department of Transportation (Title 15, Code of Federal Regulations, Part 8, hereinafter referred to as the Regulations), which are herein incorporated by reference and made a part of this Agreement.

b. Nondiscrimination: Nondiscrimination with regard to the Work performed by it after award and prior to completion of the contract Work, on the ground of race, creed, color, sex, national origin, or disability, as defined in The Americans with Disabilities Act of 1990, in the selection and retention of subcontractors, including procurements of materials and leases of equipment; and nonparticipation, either directly or indirectly, in the discrimination prohibited by Section 8.4 of the Regulations, including employment practices when the Agreement covers a program set forth in Appendix A-11 of the Regulations.

c. Solicitations for Subcontracts, Including Procurements of Materials and Equipment: In all solicitations either by competitive bidding or negotiation made by the COMPANY for work to be performed pursuant to any subcontract hereunder, including procurements of materials or equipment, notification to each potential subcontractor or supplier by the COMPANY of the COMPANY's obligations under this Agreement and the Regulations relative to nondiscrimination on the ground of race, color or national origin, or disability as defined in the Americans with Disabilities Act of 1990.

d. Information and Reports: Providing all information and reports required by the Regulations, or orders and instructions issued pursuant thereto referred to in subparagraph 2.a, and permitting access to its books, records, accounts, other sources of information, and its Utility Facilities as may reasonably be determined by the STATE or the Federal Highway Administration to be pertinent to ascertain compliance with such Regulations, orders and instructions. Certifying to the STATE or the Federal Highway Administration as appropriate setting forth what efforts it has made to obtain the information where any information required of the COMPANY is in the exclusive possession of another who fails or refuses to furnish this information.

e. Incorporation of Provisions: Include the provisions of subparagraphs 2.a through 2.d in any contract or subcontract hereunder, including procurements of materials and leases of equipment, unless exempt by the Regulations, order, or instructions issued pursuant thereto referred to in subparagraph

2.a, and take such action with respect to any contract, subcontract, or procurement as the STATE or the Federal Highway Administration may reasonably direct as a means of enforcing such provisions including sanctions for noncompliance; provided, that, in the event the COMPANY becomes involved in, or is threatened with, litigation against a contractor, subcontractor, or supplier as a result of such direction, the COMPANY may request the STATE to enter into such litigation to protect the interest of the STATE, and, in addition, the COMPANY may request the United States to enter into such litigation to protect the interest of the United States.

In the event the COMPANY fails to comply with the nondiscrimination provisions of this Agreement, the STATE shall impose such sanctions as it or the Federal Highway Administration may determine to be appropriate, including, but not limited to,

- (1) withholding payments to the COMPANY under the Agreement until the COMPANY complies and/or
- (2) cancellation, termination or suspension of the Agreement, in whole or in part.

3. The COMPANY shall not, except with the prior approval of the State Director of Transportation, or in the event of an emergency, perform Work on its Utility Facilities from:

- a. The through traffic lanes or ramps of a freeway;  
or
- b. The through traffic lanes or ramps of all other highways on weekdays, during the hours of 6:00 to 9:00 a.m. and 3:00 to 6:30 p.m.

The COMPANY shall, however, perform such Work in a reasonable and expeditious manner, with as little interference as may be reasonably possible with the free flow of traffic and the safe operation of highway facilities.

4. When applicable, at its own expense, the COMPANY will be required to remove any of its underground facilities which it constructs, in the event the utility abandons the use of the facilities, unless the STATE consents in writing to allow abandonment in place. Notwithstanding any such consent by the STATE for abandonment in place, the COMPANY agrees to be responsible for the removal costs and any costs of clean-up and remediation for any pollution or contamination caused by the facilities, if such action becomes necessary in the future. The COMPANY further agrees to indemnify and hold harmless, the STATE,

from any and all liabilities which may arise from the COMPANY'S acts or omissions relating to such pipelines or facilities.

5. Pursuant to regulations and requirements of the Federal Highway Administration (FHWA) and Hawaii state law, the COMPANY is prohibited from assigning or subleasing any facilities that are allowed to be abandoned in place in the highway right-of-way without the express permission of, and arrangements with the STATE or unless such assignment or sublease is required by law. The COMPANY shall give the STATE ten (10) days prior written notice of any use by third parties of the COMPANY'S facilities that the COMPANY is required by law to allow. Any unauthorized use of the COMPANY'S facilities by any other utility or third party is strictly prohibited.

6. The foregoing responsibilities of the COMPANY are in addition to, and not by way of limitation of, any other responsibilities contained in the Agreement to which this exhibit is attached, as well as any other exhibits and attachments thereto.

#### RESPONSIBILITIES OF THE STATE

1. The STATE shall:

- a. Obtain, or control, and provide reasonable and timely access, rights of way, and opportunity for introduction, storage, and installation of the COMPANY'S overhead and/or underground facilities, both for purposes of planning and for performance of the Work, to the extent such actions are within the power of the STATE to grant without having to exercise its power of eminent domain. If such reasonable and timely access, rights of way, and opportunity for introduction, storage, and installation of overhead and/or underground facilities are not provided or made available to the COMPANY, and the COMPANY is unable to proceed with its planning or the Work as a result thereof, the lack of timely access, rights of way, and opportunity for introduction, storage, and installation of the COMPANY'S materials and equipment shall constitute impossibility of performance and the COMPANY shall not be required to continue the planning or performance of the Work under the Agreement. Nothing contained in this paragraph 1.a. shall be construed as obligating the COMPANY to exercise its right of

condemnation, if any, to plan or perform the Work under the Agreement.

- b. Provide for coordination of the activities of the STATE and its contractors with the COMPANY in preparing for and performing the Work, in such a manner as to provide a logical, systematic, sequential, and efficient flow of work and eliminate unnecessary interference with the Work.
- c. Avoid any unnecessary interference by the STATE and its contractors with the COMPANY's preparations for the performance of the Work. In the event of any such interference, the COMPANY shall not be responsible for any resulting schedule or cost impacts.

2. The foregoing responsibilities of the STATE are in addition to, and not by way of limitation of, any other responsibilities contained in the Agreement to which this exhibit is attached, as well as any other exhibits and attachments thereto.



STATE OF HAWAII  
DEPARTMENT OF TRANSPORTATION  
HIGHWAYS DIVISION

DOT 4-232  
(HWY-RL 6/00)

**UTILITY COST ESTIMATE FOR UTILITY AGREEMENT NO. 2063**

Project: Farrington Highway  
Replacement of Makaha Bridge No. 3  
and Makaha Bridge No. 3A

Utility Co.: Hawaiian Electric Company  
Prepared by: MHO  
Checked by: MHO

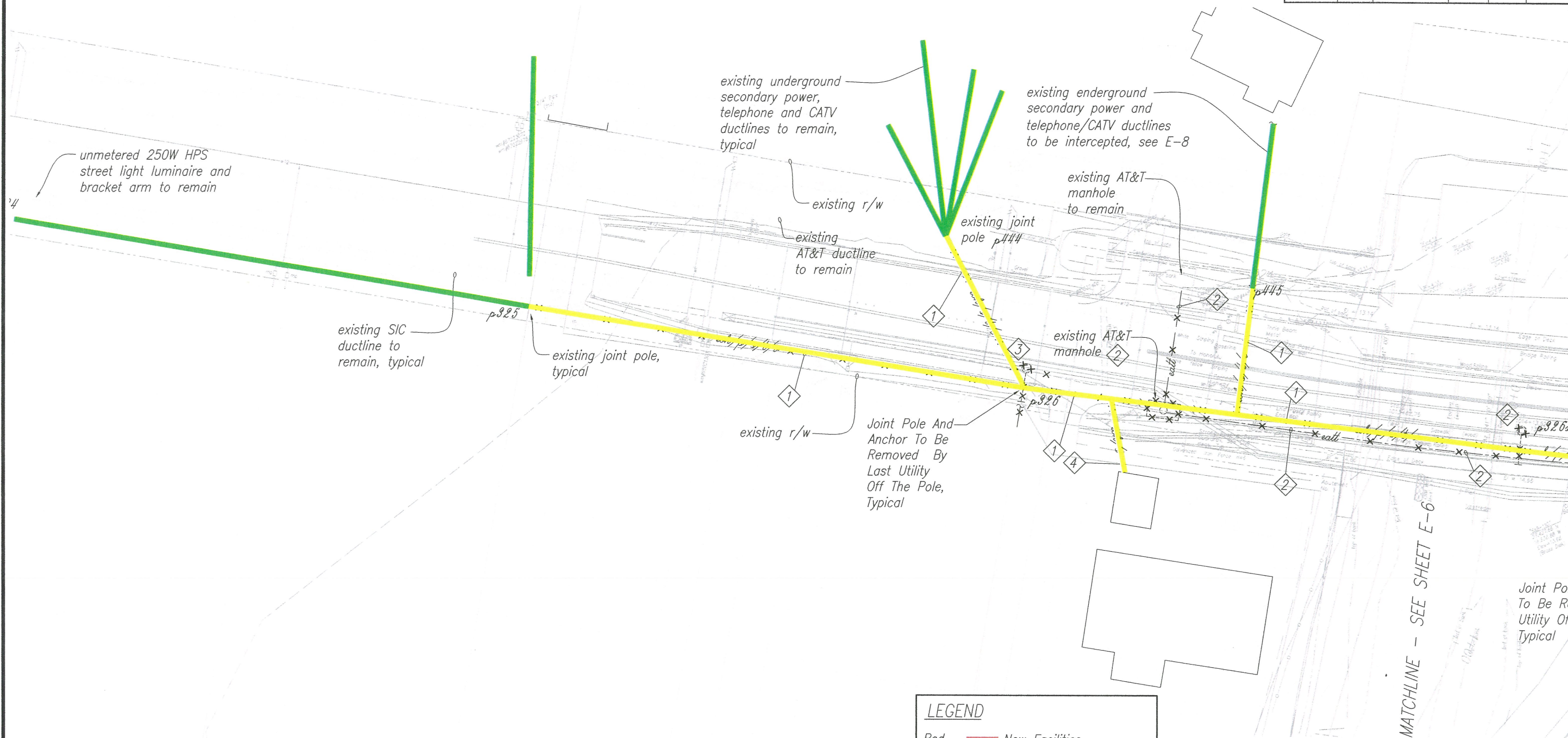
Date: 4/20/11  
Date: 4/20/11

Project No.: BR-093-1(20)

**UTILITY PAYMENT STANDARDS COMPARISON**

STATE STANDARDS		FEDERAL STANDARDS (FAPG Sec. 645.117)
A. Work/material by Utility Company and/or its Contractor	281,692.00	
B. Work/material by State and/or its Contractor	5,685.49	
C. Total Cost of Utility Work (A+B)	287,377.49	287,377.49 (Do not include Construction Admin.)
D. Less Deductions:		
1. Depreciation	31,123.00	31,123.00
2. Salvage Value	1,528.00	1,528.00
3. Betterments	0.00	0.00
E. Total Deductions (D1+D2+D3)	32,651.00	32,651.00
F. Net Cost of Relocation (C minus E)	254,726.49	254,726.49
G. Less Cost Sharing Arrangements:		
1. \$10,000 (only if required by H.R.S. Section 264-33, e.g., privately owned facilities within the highway right-of-way)	10,000.00	10,000.00
2. Amount for Extraordinary* Items referred to in Item J	0.00	0.00
3. Total (G1+G2)	10,000.00	10,000.00
H. Net Amount (F minus G3)	244,726.49	244,726.49
I. State Share in Net Amount [ 50% ]	122,363.25	122,363.25
J. State's Share for Extraordinary* Items which have been deleted from G2	0.00	0.00
K. State's Share in Total Cost of Utility Work (I+J)	122,363.25	122,363.25 (Amount for Fed Par)
L. Utility's Share in Total Cost of Utility Work (C minus K)	165,014.25	
* Extraordinary Items are special improvements in which the State does not participate on the same basis, percentagewise. Attach a description.		
ESTIMATED REIMBURSEMENT		FEDERAL SHARE
Utility Company to State (B minus K)		97,890.60 (K x Fed Par Rate)
State to Utility Company (K minus B)	116,677.76	

FED. ROAD DIST. NO.	STATE	FED. AID PROJ. NO.	FISCAL YEAR	SHEET NO.	TOTAL SHEETS
HAWAII	HAW.	BR-093-1(20)	2010	147	159



# ELECTRICAL ROADWAY/UTILITY DEMOLITION PLAN - 1

Scale: 1" = 20'

## LEGEND

- Red — New Facilities
- Yellow — Existing Facilities To Be Removed, Demolished, Abandoned, Or Relocated
- Green — Existing Facilities To Remain
- Orange — Temporary Facilities To Be Removed After Use

## GRAPHIC SCALE

1" = 20' 20' 10' 0 20' 40'

HECo

STATE OF HAWAII  
DEPARTMENT OF TRANSPORTATION  
HIGHWAYS DIVISION

## ELECTRICAL ROADWAY/UTILITY DEMOLITION PLAN - 1

FARRINGTON HIGHWAY  
Replacement of Makaha Bridge  
No. 3 and Makaha Bridge 3A  
F. A. Project No. BR-093-1(20)

Scale: 1" = 20'-0" Date: FEB. 22, 2011

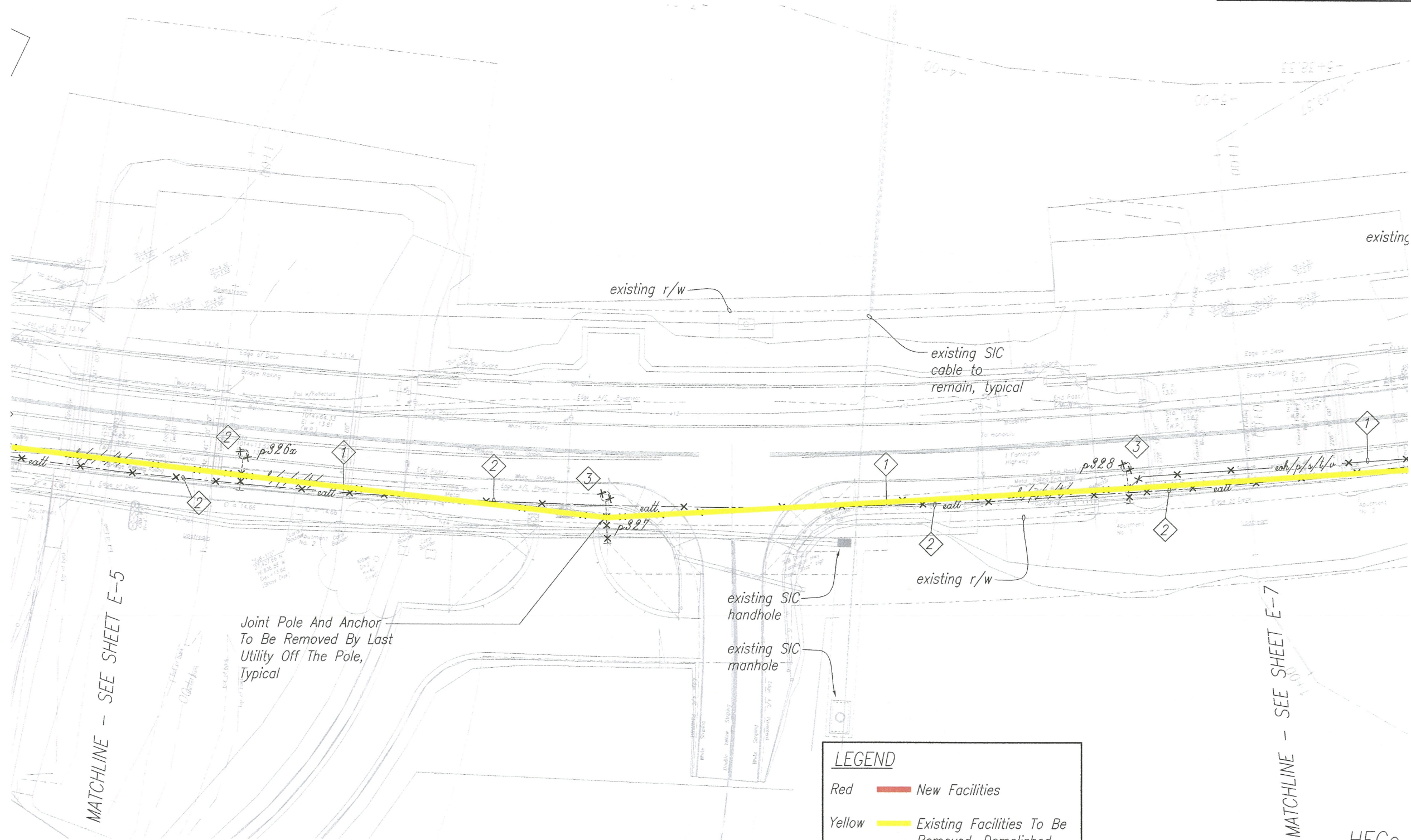
SHEET No. E-5 OF E-17 SHEETS

ORIGINAL PLAN	SURVEY PLOTTED BY	DATE
NOTE BOOK	DRAWN BY	
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FED. ROAD DIST. NO.	STATE	FED. AID PROJ. NO.	FISCAL YEAR	SHEET NO.	TOTAL SHEETS
HAWAII	HAW.	BR-093-1(20)	2010	148	159



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# **ELECTRICAL ROADWAY/UTILITY DEMOLITION PLAN - 2**

Scale: 1" = 20'

LEGEND

Red

New Facilities

Yellow

Existing Facilities To Be Removed, Demolished, Abandoned, Or Relocated

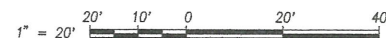
Green

Existing Facilities To Remain

Orange

Temporary Facilities To Be Removed After Use

GRAPHIC SCALE



MATCHLINE - SEE SHEET E-7

HEC0

STATE OF HAWAII

DEPARTMENT OF TRANSPORTATION

HIGHWAYS DIVISION

ELECTRICAL ROADWAY/UTILITY

DEMOLITION PLAN - 2

FARRINGTON HIGHWAY

Replacement of Makaha Bridge No. 3 and Makaha Bridge 3A

F. A. Project No. BR-093-1(20)

Scale: 1" = 20'-0"

Date: FEB. 22, 2011

SHEET No. E-6 OF E-17 SHEETS





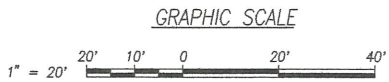
FED. ROAD DIST. NO.	STATE	FED. AID PROJ. NO.	FISCAL YEAR	SHEET NO.	TOTAL SHEETS
HAWAII	HAW.	BR-093-1(20)	2010	150	159



**ELECTRICAL ROADWAY/UTILITY  
TEMPORARY RELOCATION PLAN - 1**  
Scale: 1" = 20'

**LEGEND**

- Red — New Facilities
- Yellow — Existing Facilities To Be Removed, Demolished, Abandoned, Or Relocated
- Green — Existing Facilities To Remain
- Orange — Temporary Facilities To Be Removed After Use



STATE OF HAWAII  
DEPARTMENT OF TRANSPORTATION  
HIGHWAYS DIVISION

**ELECTRICAL ROADWAY/UTILITY  
TEMPORARY RELOCATION PLAN - 1**

FARRINGTON HIGHWAY  
Replacement of Makaha Bridge  
No. 3 and Makaha Bridge 3A  
F. A. Project No. BR-093-1(20)

Scale: 1" = 20'-0" Date: FEB. 22, 2011

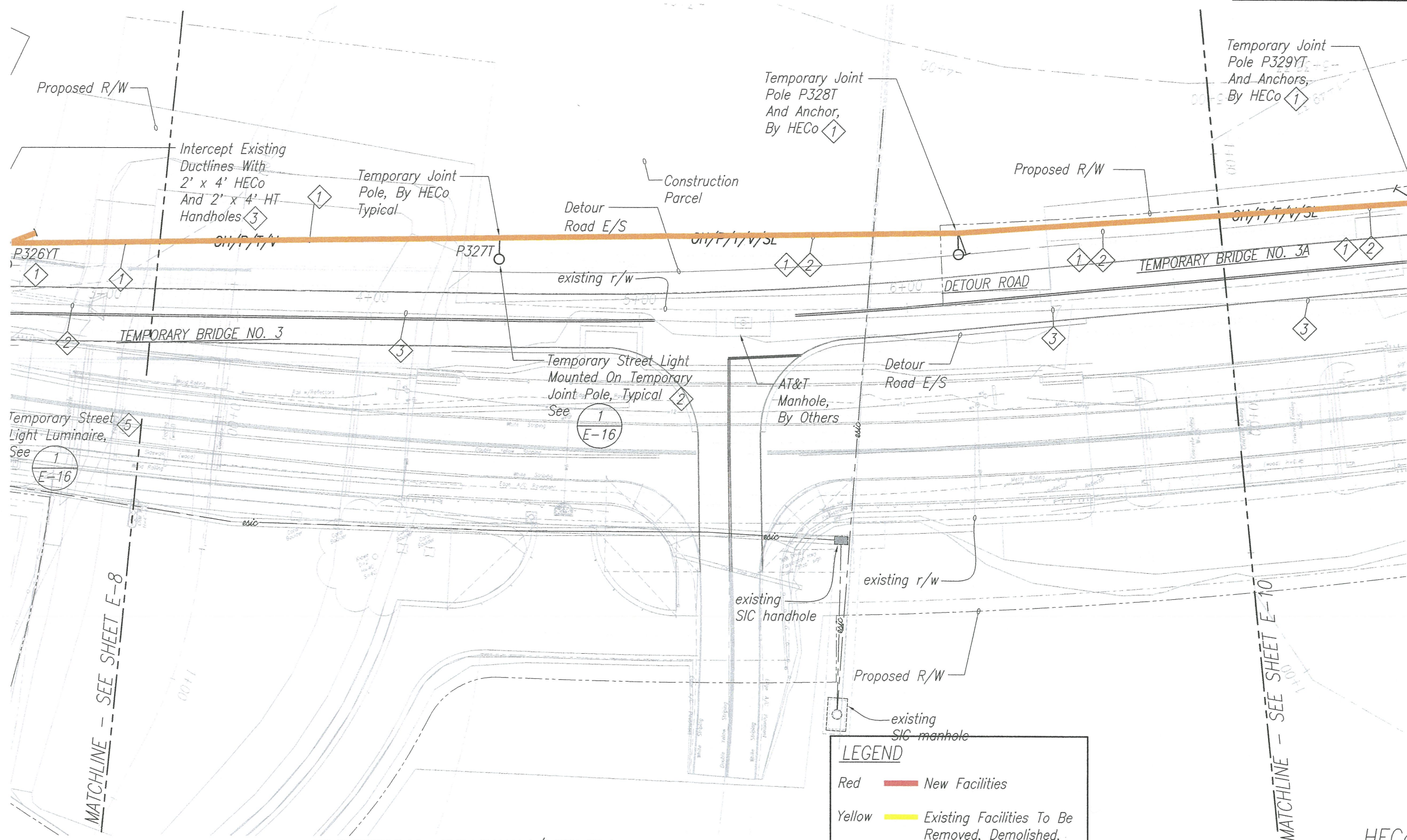
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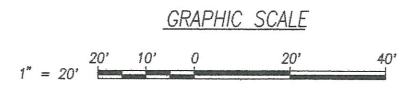
FED. ROAD DIST. NO.	STATE	FED. AID PROJ. NO.	FISCAL YEAR	SHEET NO.	TOTAL SHEETS
HAWAII	HAW.	BR-093-1(20)	2010	151	159



**ELECTRICAL ROADWAY/UTILITY  
TEMPORARY RELOCATION PLAN - 2**  
Scale: 1" = 20'

**LEGEND**

- Red — New Facilities
- Yellow — Existing Facilities To Be Removed, Demolished, Abandoned, Or Relocated
- Green — Existing Facilities To Remain
- Orange — Temporary Facilities To Be Removed After Use



STATE OF HAWAII  
DEPARTMENT OF TRANSPORTATION  
HIGHWAYS DIVISION

**ELECTRICAL ROADWAY/UTILITY  
TEMPORARY RELOCATION PLAN - 2**

FARRINGTON HIGHWAY  
Replacement of Makaha Bridge  
No. 3 and Makaha Bridge 3A  
F. A. Project No. BR-093-1(20)

Scale: 1" = 20'-0" Date: FEB. 22, 2011

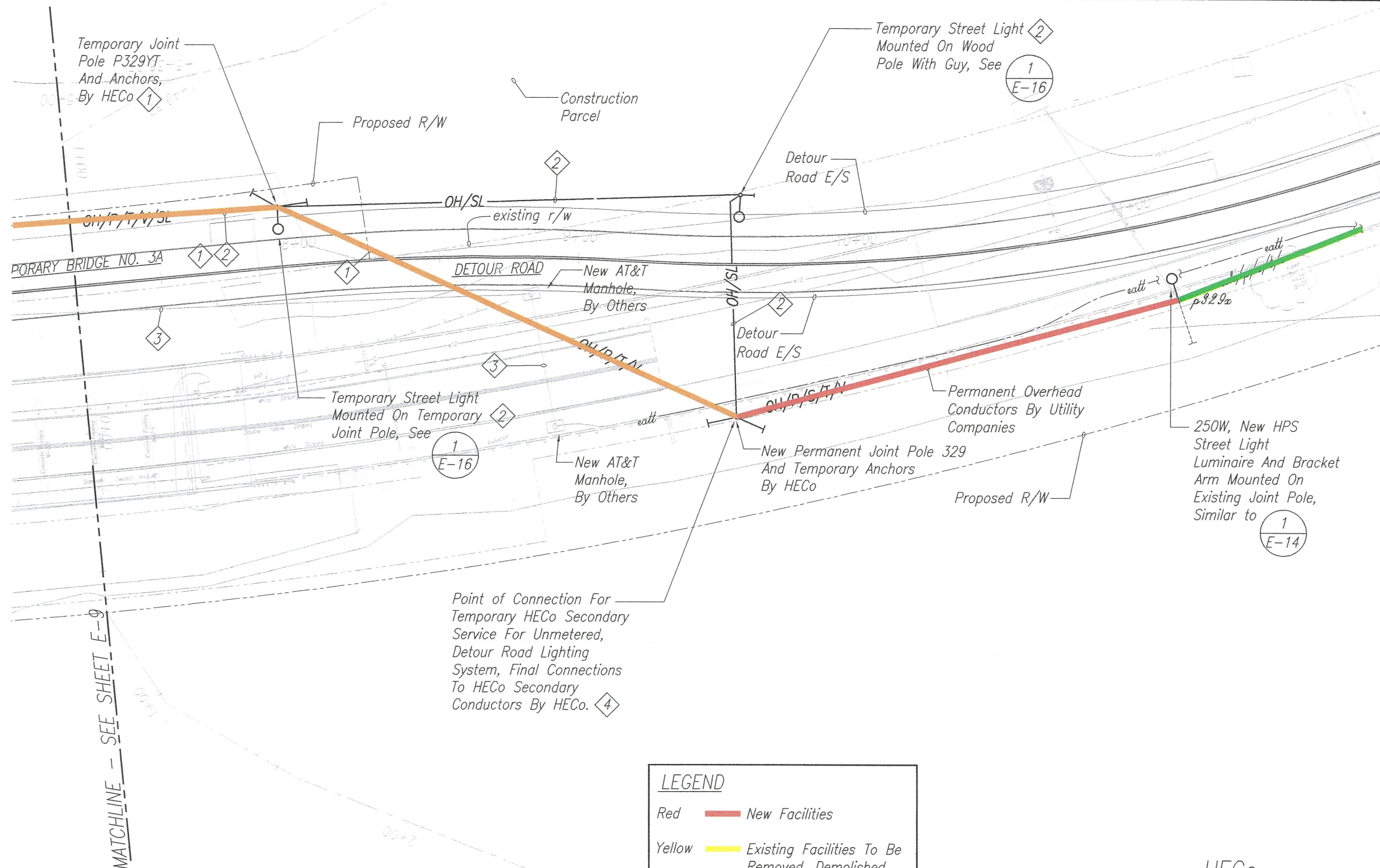
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FED. ROAD DIST. NO.	STATE	FED. AID PROJ. NO.	FISCAL YEAR	SHEET NO.	TOTAL SHEETS
HAWAII	HAW.	BR-093-1(20)	2010	152	159

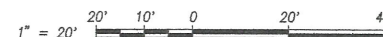


# **ELECTRICAL ROADWAY/UTILITY TEMPORARY RELOCATION PLAN - 3** Scale: 1" = 20'

## **LEGEND**

- Red — New Facilities
- Yellow — Existing Facilities To Be Removed, Demolished, Abandoned, Or Relocated
- Green — Existing Facilities To Remain
- Orange — Temporary Facilities To Be Removed After Use

## **GRAPHIC SCALE**



HEC0

STATE OF HAWAII  
DEPARTMENT OF TRANSPORTATION  
HIGHWAYS DIVISION

## **ELECTRICAL ROADWAY/UTILITY TEMPORARY RELOCATION PLAN - 3**

FARRINGTON HIGHWAY  
Replacement of Makaha Bridge  
No. 3 and Makaha Bridge 3A  
F. A. Project No. BR-093-1(20)

Scale: 1" = 20'-0" Date: FEB. 22, 2011

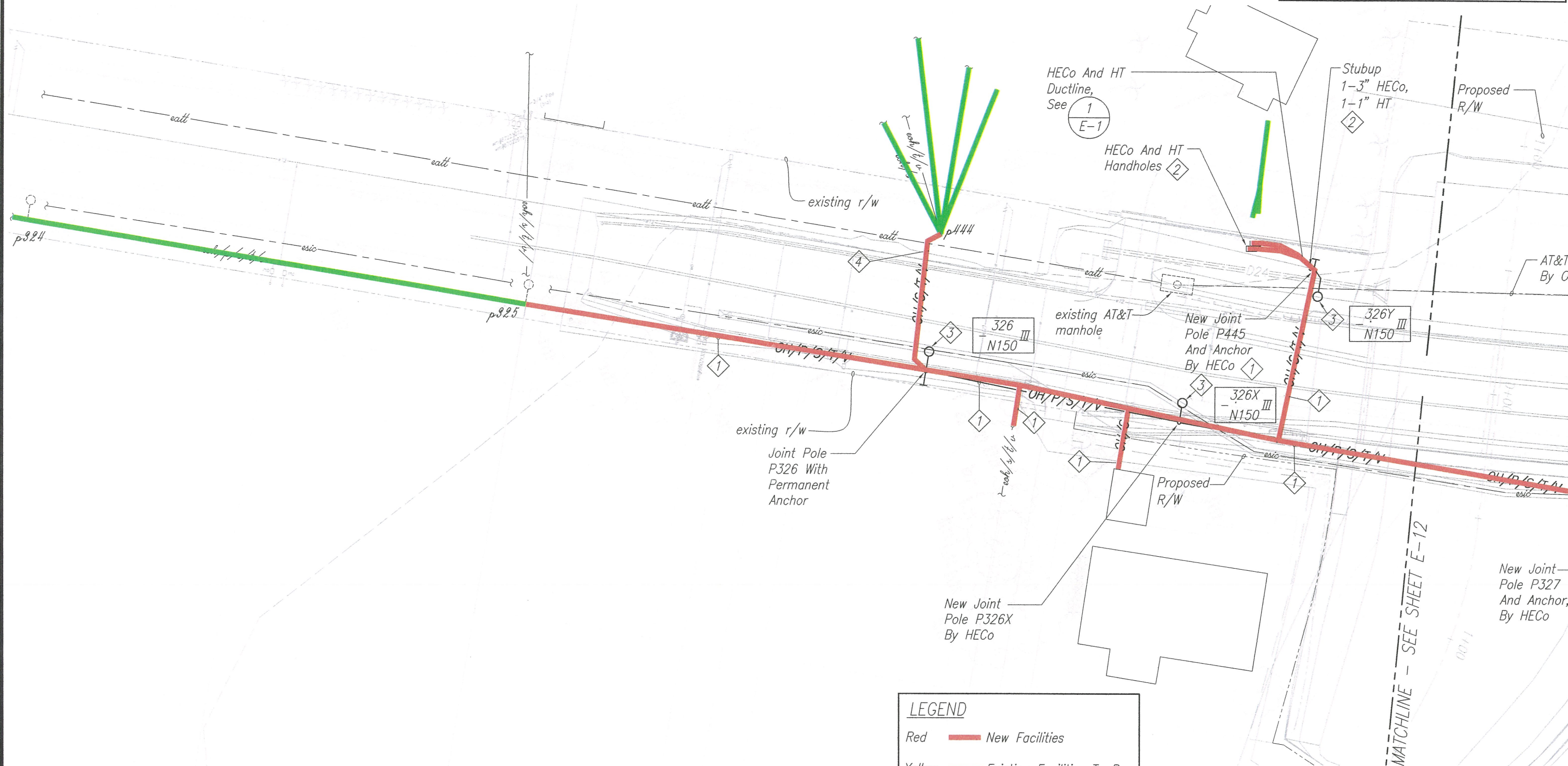
SHEET No. E-10 OF E-17 SHEETS

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FED. ROAD DIST. NO.	STATE	FED. AID PROJ. NO.	FISCAL YEAR	SHEET NO.	TOTAL SHEETS
HAWAII	HAW.	BR-093-1(20)	2010	153	159



**PERMANENT ELECTRICAL ROADWAY/  
UTILITY RELOCATION PLAN - 1**  
Scale: 1" = 20'

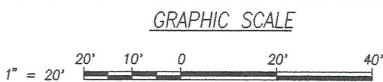
**LEGEND**

Red — New Facilities

Yellow — Existing Facilities To Be Removed, Demolished, Abandoned, Or Relocated

Green — Existing Facilities To Remain

Orange — Temporary Facilities To Be Removed After Use



STATE OF HAWAII  
DEPARTMENT OF TRANSPORTATION  
HIGHWAYS DIVISION

**PERMANENT ELECTRICAL  
ROADWAY/UTILITY RELOCATION PLAN - 1**

FARRINGTON HIGHWAY  
Replacement of Makaha Bridge  
No. 3 and Makaha Bridge 3A  
F. A. Project No. BR-093-1(20)

Scale: 1" = 20'-0" Date: FEB. 22, 2011

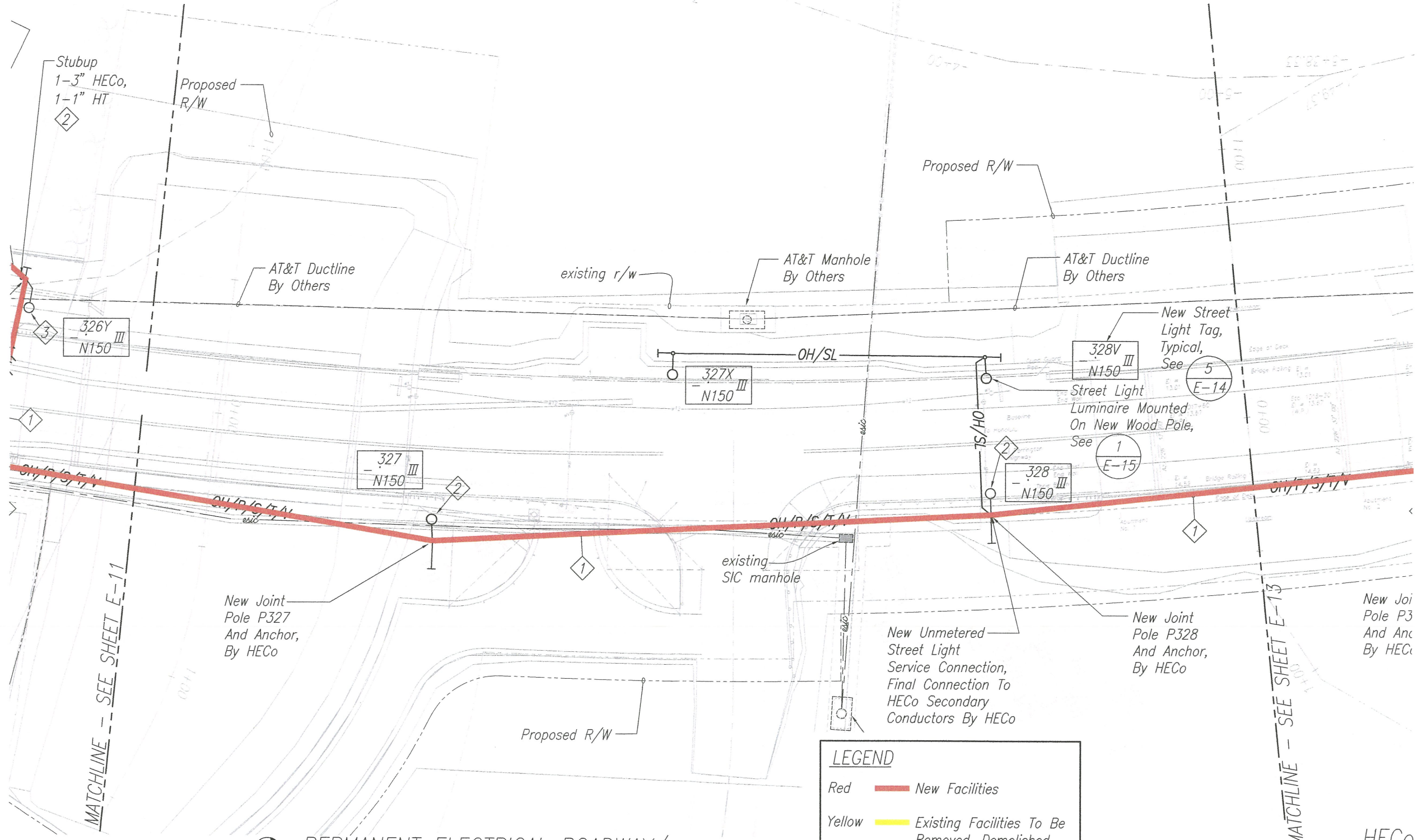
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DATE	
DESIGNED BY	
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APPROVED BY	

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FED. ROAD DIST. NO.	STATE	FED. AID PROJ. NO.	FISCAL YEAR	SHEET NO.	TOTAL SHEETS
HAWAII	HAW.	BR-093-1(20)	2010	154	159



**PERMANENT ELECTRICAL ROADWAY/  
UTILITY RELOCATION PLAN - 2**  
Scale: 1" = 20'

3 250W, HPS Street Light Luminaire And Bracket Arm Mounted On Joint Pole. Similar To 1 E-14

Except Wood Pole Provided By HECO.

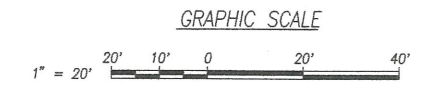
**LEGEND**

Red — New Facilities

Yellow — Existing Facilities To Be Removed, Demolished, Abandoned, Or Relocated

Green — Existing Facilities To Remain

Orange — Temporary Facilities To Be Removed After Use



STATE OF HAWAII  
DEPARTMENT OF TRANSPORTATION  
HIGHWAYS DIVISION

**PERMANENT ELECTRICAL  
ROADWAY/UTILITY RELOCATION PLAN - 2**

FARRINGTON HIGHWAY  
Replacement of Makaha Bridge  
No. 3 and Makaha Bridge 3A  
F. A. Project No. BR-093-1(20)

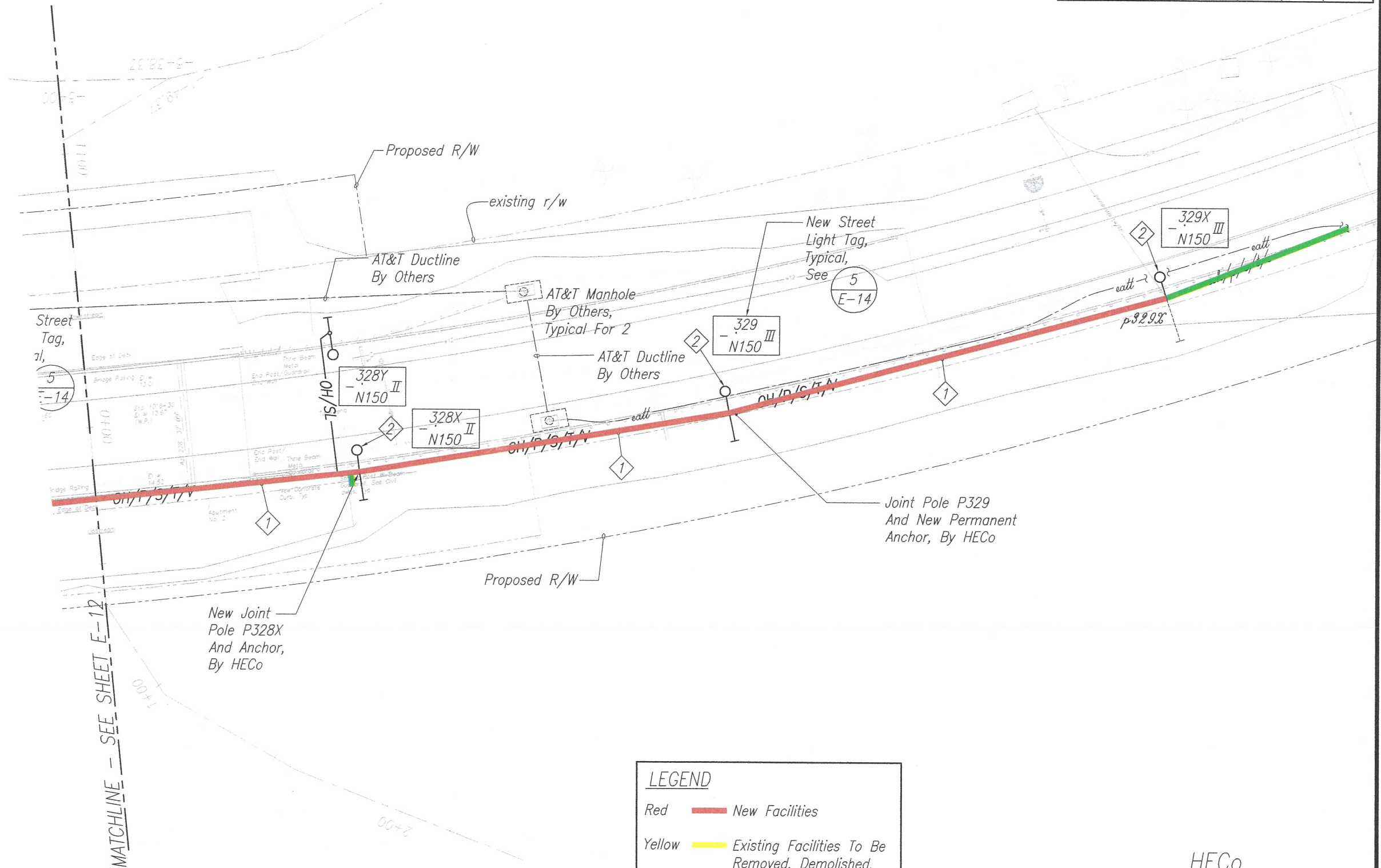
Scale: 1" = 20'-0" Date: FEB. 22, 2011

**SHEET No. E-12 OF E-17 SHEETS**

ORIGINAL PLAN	DATE
DRAWN BY	
DESIGNED BY	
NOTED BY	
CHECKED BY	

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FED. ROAD DIST. NO.	STATE	FED. AID PROJ. NO.	FISCAL YEAR	SHEET NO.	TOTAL SHEETS
HAWAII	HAW.	BR-093-1(20)	2010	155	159



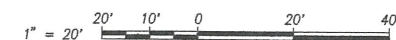
MATCHLINE - SEE SHEET E-12

PERMANENT ELECTRICAL ROADWAY/  
UTILITY RELOCATION PLAN - 3  
Scale: 1" = 20'

LEGEND

- Red  New Facilities
- Yellow  Existing Facilities To Be Removed, Demolished, Abandoned, Or Relocated
- Green  Existing Facilities To Remain
- Orange  Temporary Facilities To Be Removed After Use

GRAPHIC SCALE

 $HECo$ 

STATE OF HAWAII  
DEPARTMENT OF TRANSPORTATION  
HIGHWAYS DIVISION

PERMANENT ELECTRICAL  
ROADWAY/UTILITY RELOCATION PLAN - 3

FARRINGTON HIGHWAY  
Replacement of Makaha Bridge  
No. 3 and Makaha Bridge 3A  
F. A. Project No. BR-093-1(20)

Scale: 1" = 20'-0" Date: FEB. 22, 2011

SHEET No. E-13 OF E-17 SHEETS

155

ORIGINAL PLAN	SURVEY PLOTTED BY _____ DATE _____
NOTE BOOK	DRAWN BY _____
	TRACED BY _____
	DESIGNED BY _____
	QUANTITIES BY _____
No. _____	CHECKED BY _____

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**DEPARTMENT OF TRANSPORTATION  
HIGHWAYS DIVISION  
DESIGN BRANCH**

SUBJECT: REQUEST FOR UTILITY AGREEMENT NO. 2064

TO: (1) HWY-R Date June 10, 2010 Suspense Date August 6, 2010  
(2) LEG: Date \_\_\_\_\_ Suspense Date \_\_\_\_\_

FROM: HWY- D

PROJECT: Farrington Highway, Replacement of Makaha Bridge No. 3 & Makaha Bridge No. 3A  
District of Waianae, Island of Oahu, Federal-Aid Project No. BR-093-1(20)

☒ FHWA OVERSIGHT

☐ DOT OVERSIGHT

COMPANY INVOLVED: Oceanic Time Warner Cable TYPE CODE: 43

ATTACHMENTS: ☒ UTILITY COST ESTIMATE AND PLANS  
☐ COST ESTIMATE ONLY, PLANS TO FOLLOW BY \_\_\_\_\_  
☒ PLANS (5 sets)  
☐ \_\_\_\_\_

**FOLLOWING INFORMATION FURNISHED:**

**1. DESCRIPTION OF WORK: (RELOCATE, REPLACE, ETC.)**

Install new facilities and remove existing facilities.

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**2. DEPRECIATION:**

- ☐ YES, SEE PAGE \_\_\_\_\_ OF ESTIMATE.  
☐ NONE, MINOR RELOCATION/REPLACEMENT OF SEGMENTAL WORK THAT  
WILL NOT CONTRIBUTE TO LENGTHEN THE LIFE OF THE TOTAL SYSTEM.  
☒ None

**3. SALVAGE VALUE:**

- ☐ YES, SEE PAGE \_\_\_\_\_ OF ESTIMATE.  
☐ NONE, EXISTING LANES ARE ABANDONED OR DISPOSED OF.  
☐ NONE, EXISTING LINES ARE ABANDONED BUT SALVABLE MATERIALS ARE  
REUSED.  
☒ None

**4. BETTERMENTS:**

- ☐ YES, SEE PAGE \_\_\_\_\_ OF ESTIMATE.  
☒ NONE - REPLACEMENT IN KIND.  
☐ \_\_\_\_\_

5. COMPANY / COUNTY WILL PERFORM THEIR PHASE OF WORK IN A TOTAL OF \_\_\_\_\_ WORKING DAYS.

6. X PLANS ARE DATED April 23, 2010

7. THE STATE WILL GIVE THE COMPANY \_\_\_\_\_ WORKING DAYS NOTICE TO PROCEED.

8. THE COMPANY WILL GIVE THE STATE \_\_\_\_\_ WORKING DAYS NOTICE PRIOR TO START.

REMARKS:

\_\_\_\_\_

\_\_\_\_\_

PROJECT MANAGER / ENGINEER: Emilio Barroga PHONE EXT.: 2-7546  
SUPERVISING R/W AGENT: \_\_\_\_\_ PHONE EXT.: \_\_\_\_\_

SIGNATURE

cc:

*Handwritten signatures and initials:*  
MSA 6/16/10  
BS BR



HWY-RL  
✓ 3.89252

APR 17 2012

Mr. Kenrick Fujiwara  
Oceanic Time Warner Cable  
200 Akamainui Street  
Mililani, Hawaii 96789

Dear Mr. Fujiwara:

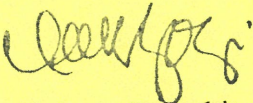
Subject: Utility Agreement 2064  
Farrington Highway Replacement of Makaha Bridge No. 3 and  
Makaha Bridge No. 3A, FAP No. BR-093-1(20),  
District of Waianae, Island of Oahu, Hawaii (Project)

Transmitted for your information and files is a fully executed copy of Utility Agreement No. 2064 covering the facilities of Oceanic Time Warner Cable in connection with the subject Project.

Please be advised that our Property Management section will contact your office to coordinate the Use and Occupancy Agreement for the new facilities within the State right-of-way.

Should you have any questions, please call Angie Naito of our Right-of-Way Branch at 692-7336.

Very truly yours,



Alvin A. Takeshita  
Administrator  
Highways Division

Enclosure

ACN:acn

bc: HWY-RM (J. Hayashi) w/o enclosure  
HWY-DS (H. Kennedy) w/o enclosure  
HWY-SF w/enclosure (UA 2064)

By Amy 4/16/12  
BOS  
JY  
am  
4/17

UA No. 2064  
OCEANIC



UTILITY AGREEMENT NO. 2064

THIS AGREEMENT, made this \_\_\_\_\_ day of MAR 23 2012,  
20\_\_\_\_\_, by and between the STATE OF HAWAII, hereinafter called  
the "STATE", and Oceanic Time Warner Cable,  
hereinafter called the "COMPANY",

W I T N E S S E T H    T H A T :

WHEREAS, the STATE has scheduled Farrington Highway,  
Replacement of Makaha Bridge No. 3 and Makaha Bridge No. 3A  
District of Waianae, Island of Oahu, FAP No. BR-093-1(20)

hereinafter referred to as the "Highway Project"; and

WHEREAS, the Highway Project will affect existing surface  
and subsurface utilities, utility facilities, and/or utility  
poles which belong to the COMPANY (collectively referred to as  
the "Utility Facilities"), which will necessitate the removal and  
relocation of said Utility Facilities and/or the installation of  
new Utility Facilities (such removal, relocation, and  
installation, including all labor, materials, equipment, and  
services, are hereinafter referred to as the "Work"); and

WHEREAS, for purposes of this Agreement, including Exhibits  
A (Revised) and B (Revised) attached hereto, "STATE" shall herein  
mean and refer to the State of Hawaii, its officers, employees,  
agents, representatives, successors, assigns, and any contractor  
employed by the STATE on the Highway Project, unless otherwise  
specifically provided;

NOW, THEREFORE, in consideration of the foregoing premises and of the promises each to the other made by the parties hereto, it is agreed that the Work shall be performed and paid for in accordance with the following terms and conditions:

1. Performance of the Work: The COMPANY and its contractor or subcontractor shall perform or cause to be performed all of the Work, as provided for in Utility Cost Estimate No. 2064, attached hereto and made a part hereof.

2. Compliance With Provisions: The COMPANY shall comply with the provisions of Exhibits A (Revised) and B (Revised), which are attached hereto and made parts hereof. The STATE may withhold payments to the COMPANY or cancel, terminate or suspend the Agreement if the COMPANY unreasonably fails to comply with any of its obligations under this Agreement, including, without limitation, Exhibit B (Revised) attached hereto.

3. Scope and Estimated Cost of Work: The Scope of Work and the total estimated cost for the Work is the sum of \$ 124,716.11. The Scope of Work and Estimate, consisting of 1 pages, are attached hereto as Utility Cost Estimate No. 2064 and made a part hereof.

4. Cost Sharing: Based on the total estimated cost of \$ 124,716.11, the STATE's share is estimated to be \$ 57,358.06. The actual cost to the STATE for the Work will be determined in accordance with the procedures set forth on page 1 of said Utility Cost Estimate and will be based on the actual costs incurred by the parties hereto in performing the Work. Reimbursement, if any, by the appropriate party, shall be

based on said actual costs. However, the COMPANY shall not be liable or responsible for actual costs of any services, labor, or materials performed or supplied by any party arising or growing out of the wrongful acts or omissions of the STATE, or parties outside of the COMPANY's direction and control, unless agreed to in writing by the COMPANY, including change orders, addenda, or other appropriate documentation.

5. Participation in Dispute Resolution: In the event a suit, action or claim is made against the STATE for actual costs of items covered for which the STATE intends to hold the COMPANY liable or responsible, whether in whole or in part, the STATE shall give reasonable and timely written notice to the COMPANY of such intent, and shall, to the maximum extent possible, provide the COMPANY with the opportunity to appear, defend, contest or otherwise participate in any litigation, arbitration, or other dispute resolution procedure then in effect, with respect to such suit, action, or claim. The COMPANY's opportunity to appear, defend, contest or otherwise participate in any litigation, arbitration, or other dispute resolution procedure, shall not include the right to select the arbitrators, mediators or other dispute resolution adjudicators. Should the STATE fail to provide such written notice to the COMPANY, or fail to allow the COMPANY to participate in such proceedings, then the STATE shall be deemed to have unequivocally waived its right to have the COMPANY share in paying for any actual costs in excess of the total estimated cost. Should the COMPANY become a signatory to the construction contract bid documents, then the COMPANY will



have the right and opportunity to fully participate in all aspects of any litigation, arbitration, or other dispute resolution procedure, including the right to participate in the selection of the arbitrator(s), mediator(s), or other dispute resolution adjudicators.

6. Plans and Drawings: The Work shall be in accordance with those certain plans and drawings pertaining to the Highway Project which are on file in the Highways Division, Department of Transportation, State of Hawaii, or which shall be specifically identified by an Addendum to said Utility Cost Estimate signed by the parties hereto.

7. Review and Use of Design Documents: The COMPANY, in the course of preparing for and performing the Work, shall report to the STATE any errors, inconsistencies, or omissions in the plans, drawings, other design documents, specifications, directions, or work orders pertaining to the Highway Project (the "Contract Documents") which are actually discovered by the COMPANY. The COMPANY's review and use of the Contract Documents shall not be construed as the COMPANY's approval, guaranty, or representation of the accuracy of the Contract Documents. The COMPANY is not performing professional design services, and does not accept or assume any responsibility for the design of the Work. In no event shall the COMPANY be responsible for the acts or omissions of the STATE's design consultants.

8. Compliance with Regulations: It is not the COMPANY's responsibility to ascertain that the Contract Documents or other documents associated with or covered by this Agreement are in

accordance with applicable laws, statutes, ordinances, building codes, and rules and regulations. However, if the COMPANY observes that portions of such documents are at variance therewith, the COMPANY shall promptly notify the STATE.

9. Completion of Work and Waiver of Claims: Upon completion of the Work covered by this Agreement and payment by the STATE of its share of the cost of the Work, as determined pursuant to Paragraph 4, above, the COMPANY shall hold the STATE harmless from and waive any and all further claims for expenses incurred by the COMPANY in performing the Work in connection with the Highway Project, provided that such further claims for expenses incurred by the COMPANY are not caused by or attributed to the fault of the STATE.

10. Notice of Injury or Damage: If either party to the Agreement suffers injury or damage to person or property because of an act or omission of the other party, of any of the other party's employees or agents, or of others for whose acts such party is legally liable, the injured or damaged party to the Agreement shall provide written notice of such injury or damage, whether or not insured, to the other party to the Agreement within a reasonable time not exceeding 21 days after first observance. The notice shall provide sufficient detail to enable the responsible party to investigate the matter. If a claim for additional cost or time related to this injury or damage is to be asserted, it shall be made as provided in Paragraph 17 (Notice of Claims) below.

11. Indemnity by COMPANY: The COMPANY shall save and hold harmless, indemnify, and defend the STATE, and all other governmental agencies from and against any and all suits, actions, claims of every nature and kind which may be brought for or on account of any injury, death, or damage, to persons or property, arising or growing out of the acts or omissions of the COMPANY, its officers, employees or agents and any contractor employed by it in connection with the Work covered by this Agreement, or the subsequent occupancy and use of the right of way by the COMPANY, provided, however, that the COMPANY's obligations hereunder shall not be effective, or enforceable, to the extent such injury, death, or damage to persons or property is caused in whole or in part by the STATE.

12. STATE's Responsibility: The STATE shall be responsible, to the extent permitted by law, for damage or injury caused by the STATE's officers and employees only, in the scope of their employment, provided that the STATE's liability for such damage or injury has been determined by a court or agreed to by the STATE. The STATE shall pay for such damage and injury, provided that funds are appropriated and allotted for that purpose.

13. Unaffected Utility Facilities: Any Utility Facilities not affected by or relocated under this Agreement but which are situated within the Highway Project and shown on the Contract Documents may remain in place upon the express condition that the maintenance, removal, relocation, etc., of said unaffected Utility Facilities or any activity of the COMPANY affecting said



unaffected Utility Facilities shall also be subject to the terms and conditions contained in the attached Exhibit B (Revised).

14. Hazardous Materials and Pollutants: In the event the COMPANY encounters material on the site reasonably believed to be hazardous which has not been rendered harmless, or material on the site reasonably believed to be a pollutant as defined by state or federal law, the COMPANY shall immediately stop Work in the area affected and report the condition to the STATE. The Work in the affected area should not be resumed except by written agreement of the STATE and the COMPANY if in fact the material is hazardous and has not been rendered harmless, or if it is in fact a pollutant. The Work in the affected area shall be resumed in the absence of hazardous materials or pollutants, or when such hazardous material has been rendered harmless or pollutant has been remediated, by written agreement of the STATE and the COMPANY, or by mediation if agreed upon by the STATE and the COMPANY.

15. Work Relating to Hazardous Materials or Pollutants: The COMPANY shall not be required to perform, without its consent, any work relating to hazardous materials or pollutants, unless the hazardous materials or pollutants are present due to the sole acts or omissions of the COMPANY, in which event the COMPANY shall bear all the costs of handling, removing, or remediation of such hazardous materials or pollutants. In the event that the acts or omissions of the COMPANY are partially responsible for the presence of hazardous materials or pollutants, it shall bear the cost to remove the hazardous

materials or pollutants in an amount proportional to its degree of responsibility for the presence of the hazardous materials or pollutants.

16. Hazardous Material Indemnification: If the COMPANY is responsible for the presence of the hazardous material or pollutant, the COMPANY shall defend, indemnify and hold harmless the STATE, its officers, employees, agents and any contractor employed in connection with the Work covered by this Agreement, from and against claims, damages, losses, and expenses arising out of or resulting from performance of the Work in the affected area if in fact hazardous material therein has not been rendered harmless or a pollutant not properly remediated, provided that such claim, damage, loss or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself) including loss of use resulting therefrom, but only to the extent caused in whole or in part by acts or omissions of the COMPANY, its officers, agents, representatives, successors and assigns, any contractor employed by the COMPANY, or anyone for whose acts the COMPANY may be responsible, even when such claim, damage, loss or expense is caused in part by the STATE, the intent of this provision being that each party shall be responsible for its own acts or omissions to the extent permitted by law. Such obligation shall not be construed to negate, abridge, or reduce other rights or obligations of indemnity which would otherwise exist as to a party or person described in this Paragraph 16.

17. Notice of Claims: Claims, change order requests or proposals, or other demands ("Claim") by either party, relating to arising out of, or connected with, increases in the cost of the Work or for extensions of the completion deadline, if any, must be made within thirty (30) days after occurrence of the event giving rise to such Claim or within thirty (30) days after the claimant first recognizes the condition giving rise to the Claim, whichever is later. Claims must be made by written notice, and shall include, to the fullest extent possible, an estimate of the cost and schedule impact of the condition giving rise to the Claim. Claims not made within the time frame provided for herein, and in the manner provided for herein, are forever waived and barred from being asserted without the prior mutual consent of the parties hereto in writing. In the case of a continuing cost impact or delay, only one Claim is necessary. The submission of a Claim in compliance with this Paragraph 17 shall not be construed to entitle the submitting party to automatically recover the amounts claimed, proposed, or demanded, without determination or resolution of such Claim as may be provided in this Agreement, or by applicable law.

18. Unknown/Changed Conditions: If conditions are encountered at the Highway Project site which are (1) subsurface or otherwise concealed physical conditions which differ materially from those indicated in the plans, drawings, specifications, or other Highway Project documents, or (2) unknown physical conditions of an unusual nature, which differ materially from those ordinarily found to exist and generally

recognized as inherent in construction activities of the character provided for in the Agreement, then written notice by the observing party shall be given to the other party promptly before further work is performed.

19. Claims by the COMPANY: If the COMPANY wishes to make a claim for an increase in its cost to perform the Work due to (1) an order by the STATE to stop the Work where the COMPANY was not at fault, or (2) other reasonable grounds, written notice as provided herein shall be given before proceeding to perform the Work. Prior notice is not required for claims relating to an emergency endangering life or property.

20. Non-Waiver of Claims: Except as expressly set forth in this Agreement, nothing in this Agreement shall be construed as a waiver by the COMPANY or the STATE of any claim each may have against the other or the other's contractors or consultants for damages resulting to the Utility Facilities or the Highway Project or any highway structures, facilities, equipment or appurtenances.

21. Merger; Interpretation: The STATE and the COMPANY have made no agreements or promises regarding the Highway Project not mentioned in this Agreement or the Utility Cost Estimate. The term "Agreement" shall include all exhibits attached hereto and the Utility Cost Estimate unless the context clearly indicates otherwise. The terms of this Agreement are contractual and not mere recital. In the event of any dispute or litigation, the STATE and the COMPANY agree that all matters at issue and all questions concerning the interpretation of this Agreement shall



be decided and construed in accordance with Hawaii law. The parties hereto further agree that for the purposes of interpretation, no party shall be deemed to be the drafter of the Agreement.


22. Amendments: This Agreement shall not be altered, amended, modified or otherwise changed, in any respect or particular whatsoever, except by a writing duly executed by the STATE and the COMPANY. The STATE and the COMPANY hereby acknowledge and agree that they will make no claim at any time that this Agreement has been orally altered or modified in any respect whatsoever. This Agreement contains the entire agreement between the STATE and the COMPANY and supersedes all prior oral and written agreements, representations, negotiations and correspondence concerning the Highway Project.

23. Headings; Gender; Number: The headings included herein are for convenience only and do not in any way limit, alter, or affect the matters contained in this Agreement or the paragraphs which they encaption. The use of any gender in this Agreement shall include all genders and the singular shall include the plural and the plural the singular as the case may be.

24. Binding Agreement: This Agreement shall be binding upon the parties hereto and their representatives, successors and assigns.


IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their duly authorized officers as of the day and year first above written.

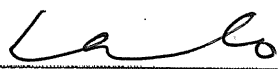
STATE OF HAWAII

By   
Its Director of Transportation

APPROVED AS TO FORM:

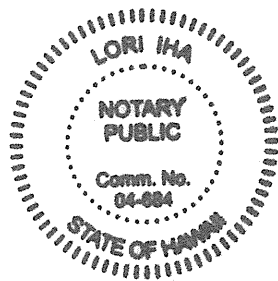
  
Deputy Attorney General  
State of Hawaii

By   
Print Name WILLIAM P. SANTOS  
Its U.P. OPERATIONS

By   
Print Name LANCE UNO  
Its DIR-OSP ENGINEERING

State of Hawaii )  
 ) ss.  
County of Honolulu )

On this **23rd day of February, 2012** before me personally appeared **NORMAN SANTOS**, and **LANCE UNO** to me personally known, who, being by me duly sworn, did say that he, as Vice President, Operations, and Director of Engineering and Construction, Hawaii Division, is the authorized agent, of **TIME WARNER ENTERTAINMENT COMPANY, L.P.**, a Delaware limited partnership: that such instrument was signed on behalf of such limited partnership by authority of the limited partnership; and **NORMAN SANTOS** and **LANCE UNO** acknowledged such instrument to be the free act and deed of such limited partnership.



  
Lori Iha  
Notary Public  
My Commission Expires: **12/5/2012**

### Document Description:

UTILITY AGREEMENT NO. 2064  
REPLACEMENT OF MAKAHA BRIDGE NO. 3  
AND MAKAHA BRIDGE NO. 3A  
DISTRICT OF WAIANAE, ISLAND OF OAHU,  
FAP NO. BR-093-1(20)

**Document Date: Undated    No.of Pages: 12**

Lori Iha  
Notary Printed Name

First  
Jud.Circuit

BASIS OF PAYMENTS, RECORDS AND ACCOUNTS

EXHIBIT A (REVISED)

1. The costs of the Work shall be based on the prevailing rates and/or unit prices for labor, equipment and materials, plus a fixed percentage of such costs for indirect costs and overhead, at the time the Work is commenced if the prevailing rates and/or unit prices are different from those indicated in the cost estimate. Such rates, unit prices and percentages shall be subject to the prior approval of the STATE, and shall be based on actual costs incurred by the COMPANY for the Work. The STATE expressly agrees that it will not unreasonably withhold such approval.

2. If a portion of the Work is covered up or buried contrary to the COMPANY's request or contrary to written requirements in the Contract Documents, and prior to the COMPANY performing any necessary or required inspections, procedures, or tests, that portion of the Work must, if required in writing by the COMPANY, be uncovered for the COMPANY's inspection, procedures, or tests, and re-covered at the expense of the STATE or its Contractor.

3. If a portion of the Work has been covered which the COMPANY has not specifically requested to observe, or for which no inspection or testing is required, prior to its being covered, the COMPANY may request to see such Work and it shall be uncovered by the STATE. If such Work is in conformity with this Agreement and the applicable standards and specifications (see Exhibit B, paragraph 1.a.), the cost of uncovering and recovering shall, by appropriate change order, be charged to the COMPANY. If such Work is not in conformity with this Agreement and the applicable standards and specifications (see Exhibit B, paragraph 1.a.), the STATE shall pay such costs unless the condition was caused by the COMPANY, in which event the COMPANY shall be responsible for payment of such costs. Nothing herein shall prevent or limit the STATE's right, if any, to recover such costs from its contractor or other responsible parties.

4. The STATE shall give the COMPANY \_\_\_\_\_ working days notice to proceed with its portion of the Work. The COMPANY shall coordinate its Work with the STATE's contractor and shall not unreasonably interfere with or delay the STATE's Highway Project. Any damages as a result of the COMPANY's unreasonable interference or delay in completing said Work shall be paid immediately by the COMPANY to the STATE upon written demand. The COMPANY estimates that the Work will require approximately \_\_\_\_\_ working days. This estimate is for planning and coordination



purposes only. The STATE and the COMPANY understand and agree that such working days will not necessarily be consecutive.

5. The Agreement to which this exhibit is attached shall be construed as allowing for a reasonable time for the completion of the Work as determined by the STATE and as subject to paragraph 6 immediately following.

6. If the COMPANY is delayed at any time in progress of the Work by any act of the STATE, its officers, agents, representatives, successors and assigns, or of a contractor employed by the STATE, or by changes ordered in the Work, or by labor disputes, fire, unusual delay in deliveries, unavoidable casualties, emergency power outages within the COMPANY's service area, life-threatening and/or property-threatening situations within the COMPANY's service area, or other causes beyond the COMPANY's control, or by other causes which may justify delay, then the COMPANY's completion deadline, if any, shall be extended by change order for such reasonable time as the parties hereto may determine.

7. If the COMPANY wants to proceed with its portion of the Work prior to receiving notice to proceed from the STATE, the COMPANY shall give the STATE's Project Engineer \_\_\_\_\_ working days notice; provided that no Work shall be done by the COMPANY without the written consent of the STATE.

8. Reimbursement to the COMPANY, if any, shall be on a monthly basis if the COMPANY submits a detailed statement of actual costs incurred, less the applicable deductions for depreciation, salvage value, betterment and expired service life, on or before the fifteenth (15th) day of the month. The reimbursement shall be limited to ninety percent (90%) of the net estimated reimbursable amount. The balance shall be withheld by the STATE until such time as the Final Statement of Costs is submitted by the COMPANY and accepted by the STATE. Within one hundred twenty (120) days after the Work has been completed, the STATE shall provide to the COMPANY a detailed unit-cost breakdown of all work performed by the STATE and/or its contractor(s). Within ninety days (90) days after receipt of the detailing unit-cost breakdown of all work performed by the STATE and/or its contractor(s), the Final Statement of Costs shall be submitted by the COMPANY in the same general form as the monthly statement of actual costs incurred. The STATE shall make full and final payment of all amounts due and owing to the COMPANY as reflected in the Final Statement of Costs within a reasonable time in accordance with §103-10 of the Hawaii Revised Statutes, as amended. Interest shall accrue on all amounts reflected as due and owing to the COMPANY in the Final Statement of Costs at a rate of twelve percent (12%) simple interest per annum, unless otherwise prescribed by law, beginning two hundred forty (240)

days after completion of the Work, or thirty (30) days after the Final Statement of Costs is submitted by the COMPANY, whichever is earlier, unless delay is justified as provided in §103-10 of the Hawaii Revised Statutes, as amended. The COMPANY shall immediately inform the STATE in writing of any substantial change in the estimated cost known to the COMPANY. Any request for extension of the foregoing deadlines shall not be unreasonably withheld.

9. The records and accounts of the COMPANY and its contractor(s), if any, pertaining to the Work performed under the terms of this Agreement shall be retained for a period of not less than three (3) years from the date of the final payment of Federal funds to the STATE for said project and shall be available for reasonable inspection and audit by representatives of the Department of Transportation, State of Hawaii, and the Federal Highway Administration at the respective offices of the COMPANY and its contractor(s) in Honolulu.

10. Where applicable, the terms of this Agreement, including the Final Statement of Costs and payment thereof, shall be subject to Code of Federal Regulations 23 CFR 140, 23 CFR 645 and Section 264-33 of the Hawaii Revised Statutes, as amended, which are incorporated herein by reference and made a part of this Agreement.

11. The COMPANY's existing Utility Facilities shall remain in place until the proposed site is ready and available for installation of the new Utility Facilities and/or the removal and relocation of existing Utility Facilities.

EXHIBIT B (REVISED)

RESPONSIBILITIES OF THE COMPANY

1. The COMPANY shall:

a. Perform all Work under this Agreement in a neat, workmanlike manner and in conformity with the following:

- (1) The latest revision of "Specifications for Installation of Miscellaneous Improvements within State Highways", issued by the Highways Division, Department of Transportation, State of Hawaii as of the date of the contract to which this exhibit is attached;
- (2) Applicable sections of the STANDARD SPECIFICATIONS FOR ROAD AND BRIDGE CONSTRUCTION, Highways Division, State of Hawaii in effect as of the date of the contract to which this exhibit is attached; and
- (3) Applicable statutes and ordinances and orders of the State Director of Transportation or his authorized representative. The documents referred to in subparagraphs 1.a.(1) through 1.a.(3) of this exhibit shall be collectively referred to as the "Specifications".

b. Perform or pay to have performed, for a period of one year after the satisfactory completion of the Work performed under this Agreement, any repairs to highway facilities caused or necessitated by such Work, provided that such repairs are not caused by or attributed to the fault of the STATE.

c. Pay the actual cost of any repairs, performed by or on behalf of the State Department of Transportation, to roadway prisms, base course, pavement and any other structure when such repairs are necessitated by the Work performed under this Agreement within one year from the satisfactory completion of such Work, provided that such repairs are not caused by or attributed to the fault of the STATE.

d. Remove, relocate, replace, reconstruct or adjust any of its Utility Facilities that may be situated, under this Agreement, on or under highway rights of way belonging to the STATE, as may be reasonably required by the State Director of Transportation or his authorized representative in connection with any construction, reconstruction, repair or maintenance of the highway by the STATE. The cost of relocation of Utility Facilities shall be borne as provided by Section 264-33, Hawaii Revised Statutes.

e. Take reasonable actions as necessary to keep all Utility Facilities installed under this Agreement in good repair so that their presence on or under the highway will not impair the use or usefulness of any highway improvement, which may now exist or hereafter come into existence.

f. Make all repairs as may be required by Chapter 264, Hawaii Revised Statutes.

g. The COMPANY shall save and hold harmless, indemnify, and defend the STATE, and all other governmental agencies from and against any and all suits, actions, claims of every nature and kind which may be brought for or on account of any injury, death, or damage, to persons or property, arising or growing out of the acts or omissions of the COMPANY, its officers, employees or agents and any contractor employed by it in connection with the Work covered by this Agreement, or the subsequent occupancy and use of the right of way by the COMPANY, provided, however, that the COMPANY's obligations hereunder shall not be effective, or enforceable, to the extent such injury, death, or damage to persons or property is caused in whole or in part by the STATE.

h. Obtain any applicable right of way for introduction, storage, and installation of the COMPANY's overhead or underground facilities, both for purposes of planning and for performance of the Work, or both, if existing STATE right of way for either overhead or underground facilities are provided or made available to the COMPANY, but the COMPANY does not wish to utilize such existing STATE right of way, PROVIDED, however, that in no event shall the COMPANY be responsible for any delays, disruptions or resequencing of Work, that could not have been reasonably foreseen by either party, related to or associated with the COMPANY's efforts to obtain the right of way.

2. In addition, the COMPANY shall comply with all Federal, State and local laws and ordinances applicable to the Work to be



done under this Agreement. Without limiting the generality of the foregoing, the COMPANY shall comply with the following:

- a. Compliance with Regulations: Regulations of the Department of Transportation of the United States of America relative to nondiscrimination in federally assisted programs of said Department of Transportation (Title 15, Code of Federal Regulations, Part 8, hereinafter referred to as the Regulations), which are herein incorporated by reference and made a part of this Agreement.
- b. Nondiscrimination: Non-discrimination with regard to the Work performed by it after award and prior to completion of the contract Work, on the ground of race, creed, color, sex, national origin, or disability, as defined in The Americans with Disabilities Act of 1990, in the selection and retention of subcontractors, including procurements of materials and leases of equipment; and non-participation, either directly or indirectly, in the discrimination prohibited by Section 8.4 of the Regulations, including employment practices when the Agreement covers a program set forth in Appendix A-11 of the Regulations.
- c. Solicitations for Subcontracts, Including Procurements of Materials and Equipment: In all solicitations either by competitive bidding or negotiation made by the COMPANY for work to be performed pursuant to any subcontract hereunder, including procurements of materials or equipment, notification to each potential subcontractor or supplier by the COMPANY of the COMPANY's obligations under this Agreement and the Regulations relative to nondiscrimination on the ground of race, color or national origin, or disability as defined in the Americans with Disabilities Act of 1990.
- d. Information and Reports: Providing all information and reports required by the Regulations, or orders and instructions issued pursuant thereto referred to in subparagraph 2.a, and permitting access to its books, records, accounts, other sources of information, and its Utility Facilities as may reasonably be determined by the STATE or the Federal Highway Administration to be pertinent to ascertain compliance with such Regulations, orders and instructions. Certifying to the STATE or the Federal Highway Administration as appropriate setting forth what efforts it has made to obtain the information where any information required of the COMPANY is in the exclusive possession of another who fails or refuses to furnish this information.

e. Incorporation of Provisions: Include the provisions of subparagraphs 2.a through 2.d in any contract or subcontract hereunder, including procurements of materials and leases of equipment, unless exempt by the Regulations, order, or instructions issued pursuant thereto referred to in subparagraph 2.a, and take such action with respect to any contract, subcontract, or procurement as the STATE or the Federal Highway Administration may reasonably direct as a means of enforcing such provisions including sanctions for noncompliance; provided, that, in the event the COMPANY becomes involved in, or is threatened with, litigation against a contractor, subcontractor, or supplier as a result of such direction, the COMPANY may request the STATE to enter into such litigation to protect the interest of the STATE, and, in addition, the COMPANY may request the United States to enter into such litigation to protect the interest of the United States.

In the event the COMPANY fails to comply with the nondiscrimination provisions of this Agreement, the STATE shall impose such sanctions as it or the Federal Highway Administration may determine to be appropriate, including, but not limited to,

- (1) withholding payments to the COMPANY under the Agreement until the COMPANY complies and/or
- (2) cancellation, termination or suspension of the Agreement, in whole or in part.

3. The COMPANY shall not, except with the prior approval of the State Director of Transportation, or in the event of an emergency, perform Work on its Utility Facilities from:

- a. The through traffic lanes or ramps of a freeway;  
or
- b. The through traffic lanes or ramps of all other highways on weekdays, during the hours of 6:00 to 9:00 a.m. and 3:00 to 6:30 p.m.

The COMPANY shall, however, perform such Work in a reasonable and expeditious manner, with as little interference as may be reasonably possible with the free flow of traffic and the safe operation of highway facilities.

4. The foregoing responsibilities of the COMPANY are in addition to, and not by way of limitation of, any other responsibilities contained in the Agreement to which this exhibit

is attached, as well as any other exhibits and attachments thereto.

RESPONSIBILITIES OF THE STATE

1. The STATE shall:

- a. Obtain, or control, and provide reasonable and timely access, rights of way, and opportunity for introduction, storage, and installation of the COMPANY's overhead and/or underground facilities, both for purposes of planning and for performance of the Work, to the extent such actions are within the power of the STATE to grant without having to exercise its power of eminent domain. If such reasonable and timely access, rights of way, and opportunity for introduction, storage, and installation of overhead and/or underground facilities are not provided or made available to the COMPANY, and the COMPANY is unable to proceed with its planning or the Work as a result thereof, the lack of timely access, rights of way, and opportunity for introduction, storage, and installation of the COMPANY's materials and equipment shall constitute impossibility of performance and the COMPANY shall not be required to continue the planning or performance of the Work under the Agreement. Nothing contained in this paragraph 1.a. shall be construed as obligating the COMPANY to exercise its right of condemnation, if any, to plan or perform the Work under the Agreement.
- b. Provide for coordination of the activities of the STATE and its contractors with the COMPANY in preparing for and performing the Work, in such a manner as to provide a logical, systematic, sequential, and efficient flow of work and eliminate unnecessary interference with the Work.
- c. Avoid any unnecessary interference by the STATE and its contractors with the COMPANY's preparations for the performance of the Work. In the event of any such interference, the COMPANY shall not be responsible for any resulting schedule or cost impacts.

2. The foregoing responsibilities of the STATE are in addition to, and not by way of limitation of, any other responsibilities contained in the Agreement to which this exhibit is attached, as well as any other exhibits and attachments thereto.



STATE OF HAWAII  
DEPARTMENT OF TRANSPORTATION  
HIGHWAYS DIVISION

DOT 4-232  
(HWY-RL 6/00)

**UTILITY COST ESTIMATE FOR UTILITY AGREEMENT NO. 2064**

Project: Farrington Highway  
Replacement of Makaha Bridge No. 3  
and Makaha Bridge No. 3A

Utility Co.: Oceanic Time Warner Cable

Prepared by: MHO

Date: 1/20/11

Checked by: MHO

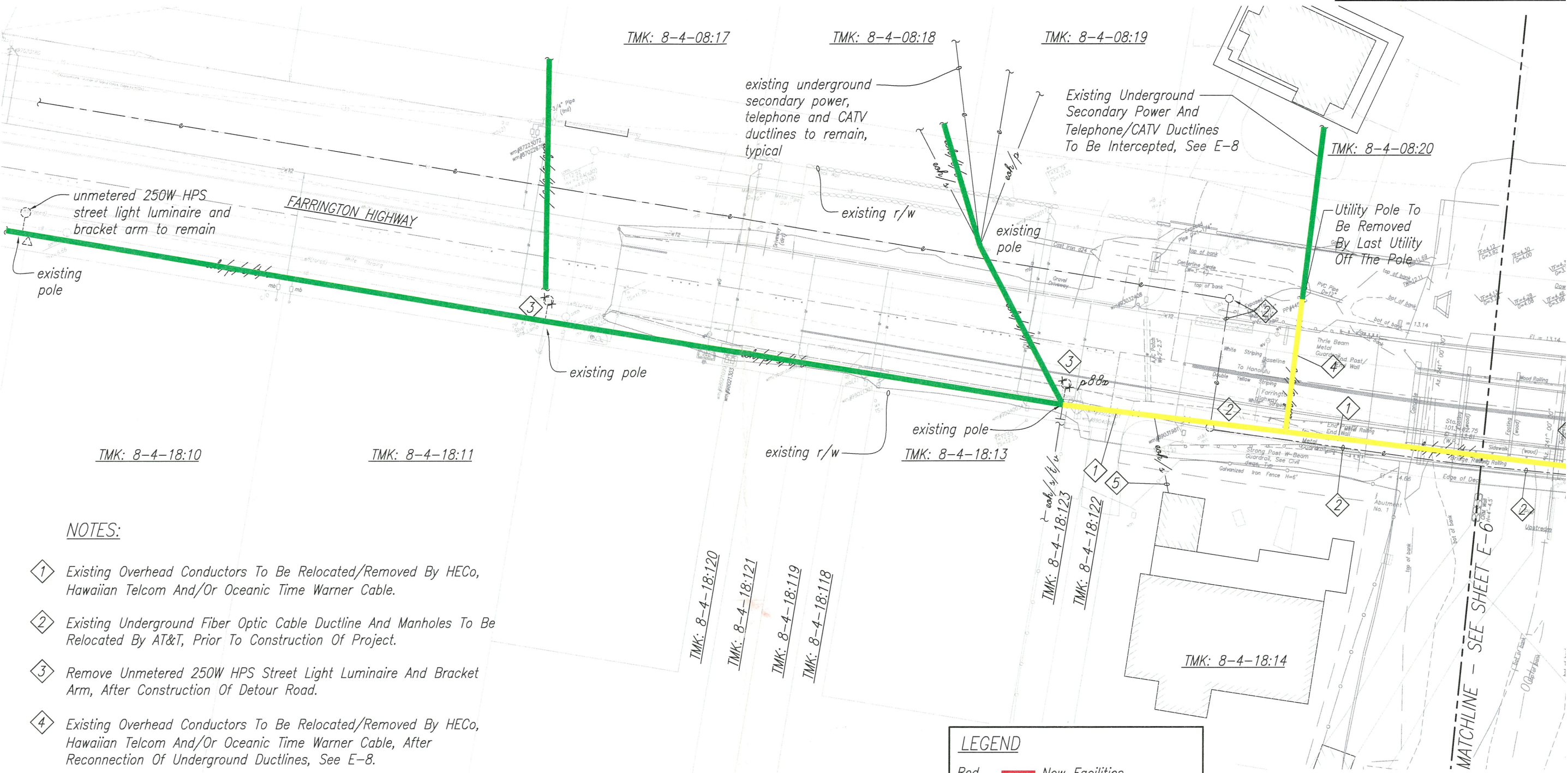
Date: 1/20/11

Project No.: BR-093-1(20)

**UTILITY PAYMENT STANDARDS COMPARISON**

STATE STANDARDS		FEDERAL STANDARDS (FAPG Sec. 645.117)
A. Work/material by Utility Company and/or its Contractor	124,716.11	
B. Work/material by State and/or its Contractor		
C. Total Cost of Utility Work (A+B)	124,716.11	124,716.11 (Do not include Construction Admin.)
D. Less Deductions:		
1. Depreciation		0.00
2. Salvage Value		0.00
3. Betterments		0.00
E. Total Deductions (D1+D2+D3)	0.00	0.00
F. Net Cost of Relocation (C minus E)	124,716.11	124,716.11
G. Less Cost Sharing Arrangements:		
1. \$10,000 (only if required by H.R.S. Section 264-33, e.g., privately owned facilities within the highway right-of-way)	10,000.00	10,000.00
2. Amount for Extraordinary* Items referred to in Item J	0.00	0.00
3. Total (G1+G2)	10,000.00	10,000.00
H. Net Amount (F minus G3)	114,716.11	114,716.11
I. State Share in Net Amount [ 50% ]	57,358.06	57,358.06
J. State's Share for Extraordinary* Items which have been deleted from G2	0.00	0.00
K. State's Share in Total Cost of Utility Work (I+J)	57,358.06	57,358.06 (Amount for Fed Par)
L. Utility's Share in Total Cost of Utility Work (C minus K)	67,358.06	
* Extraordinary Items are special improvements in which the State does not participate on the same basis, percentagewise. Attach a description.		
ESTIMATED REIMBURSEMENT		FEDERAL SHARE
Utility Company to State (B minus K)		45,886.44
State to Utility Company (K minus B)		(K x Fed Par Rate)

FED. ROAD DIST. NO.	STATE	FED. AID PROJ. NO.	FISCAL YEAR	SH
HAWAII	HAW.	BR-093-1(20)	2010	1



NOTES:

- Existing Overhead Conductors To Be Relocated/Removed By HECO, Hawaiian Telcom And/Or Oceanic Time Warner Cable.
- Existing Underground Fiber Optic Cable Ductline And Manholes To Be Relocated By AT&T, Prior To Construction Of Project.
- Remove Unmetered 250W HPS Street Light Luminaire And Bracket Arm, After Construction Of Detour Road.
- Existing Overhead Conductors To Be Relocated/Removed By HECO, Hawaiian Telcom And/Or Oceanic Time Warner Cable, After Reconnection Of Underground Ductlines, See E-8.
- Existing Overhead Service Drop To Be Reconnected By HECO, See E-8.



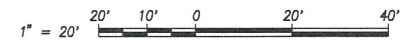
ELECTRICAL ROADWAY/UTILITY DEMOLITION PLAN - 1

Scale: 1" = 20'

LEGEND

- Red New Facilities
- Yellow Existing Facilities To Be Removed, Demolished, Abandoned, Or Relocated
- Green Existing Facilities To Remain
- Orange Temporary Facilities To Be Removed After Use

GRAPHIC SCALE



THIS WORK WAS PREPARED BY ME OR UNDER MY SUPERVISION.

PROJECT ENGINEER for ECS, Inc.  
APRIL 30, 2012  
EXPIRATION DATE OF THE LICENSE

OCEANIC CABLE

STATE OF HAWAII  
DEPARTMENT OF TRANSPORTATION  
HIGHWAYS DIVISION

ELECTRICAL ROADWAY/UTILITY DEMOLITION PLAN - 1

FARRINGTON HIGHWAY  
Replacement of Makaha Bridge No. 3 and Makaha Bridge 3A  
F. A. Project No. BR-093-1(20)

Scale: 1" = 20'-0" Date: April

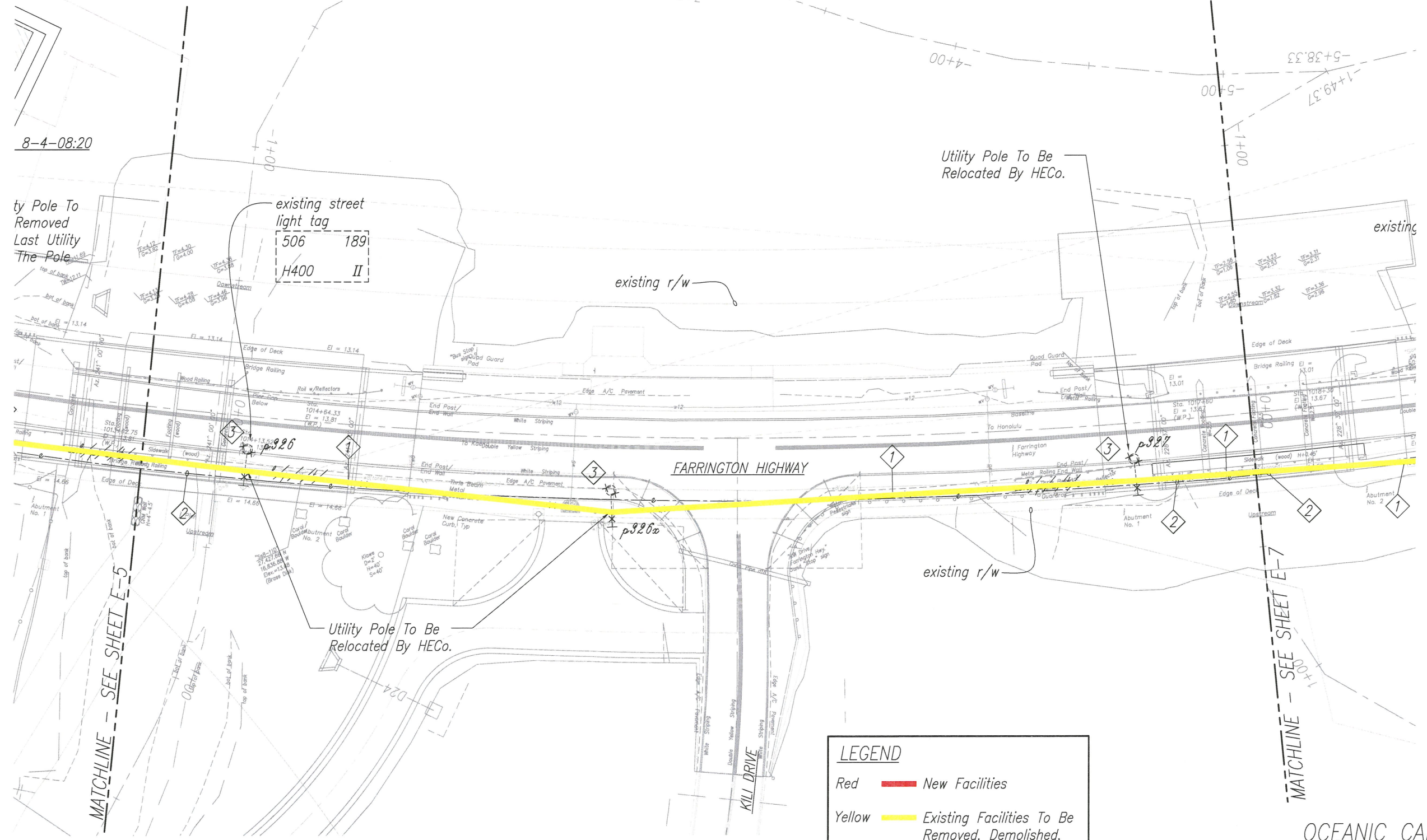
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DATE	CHECKED BY
DATE	NOTED BY
DATE	APPROVED BY

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FED. ROAD DIST. NO.	STATE	FED. AID PROJ. NO.	FISCAL YEAR	SH
HAWAII	HAW.	BR-093-1(20)	2010	1



NOTES:

- Existing Overhead Conductors To Be Relocated/Removed By HECO, Hawaiian Telcom And/Or Oceanic Time Warner Cable
- Existing Underground Fiber Optic Cable Ductline And Manholes To Be Relocated By AT&T, Prior To Construction Of Project.
- Remove Unmetered 250W HPS Street Light Luminaire And Bracket Arm, After Construction Of Detour Road.



ELECTRICAL ROADWAY/UTILITY DEMOLITION PLAN - 2  
Scale: 1" = 20'

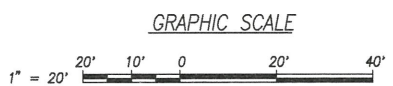
**LEGEND**

Red — New Facilities

Yellow — Existing Facilities To Be Removed, Demolished, Abandoned, Or Relocated

Green — Existing Facilities To Remain

Orange — Temporary Facilities To Be Removed After Use



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PROJECT ENGINEER for ECS, Inc.  
APRIL 30, 2012  
EXPIRATION DATE OF THE LICENSE

STATE OF HAWAII  
DEPARTMENT OF TRANSPORTATION  
HIGHWAYS DIVISION

**ELECTRICAL ROADWAY/UTILITY DEMOLITION PLAN - 2**

FARRINGTON HIGHWAY  
Replacement of Makaha Bridge No. 3 and Makaha Bridge 3A  
F. A. Project No. BR-093-1(20)

Scale: 1" = 20'-0" Date: April

SHEET No. E-6 OF E-17 SHI

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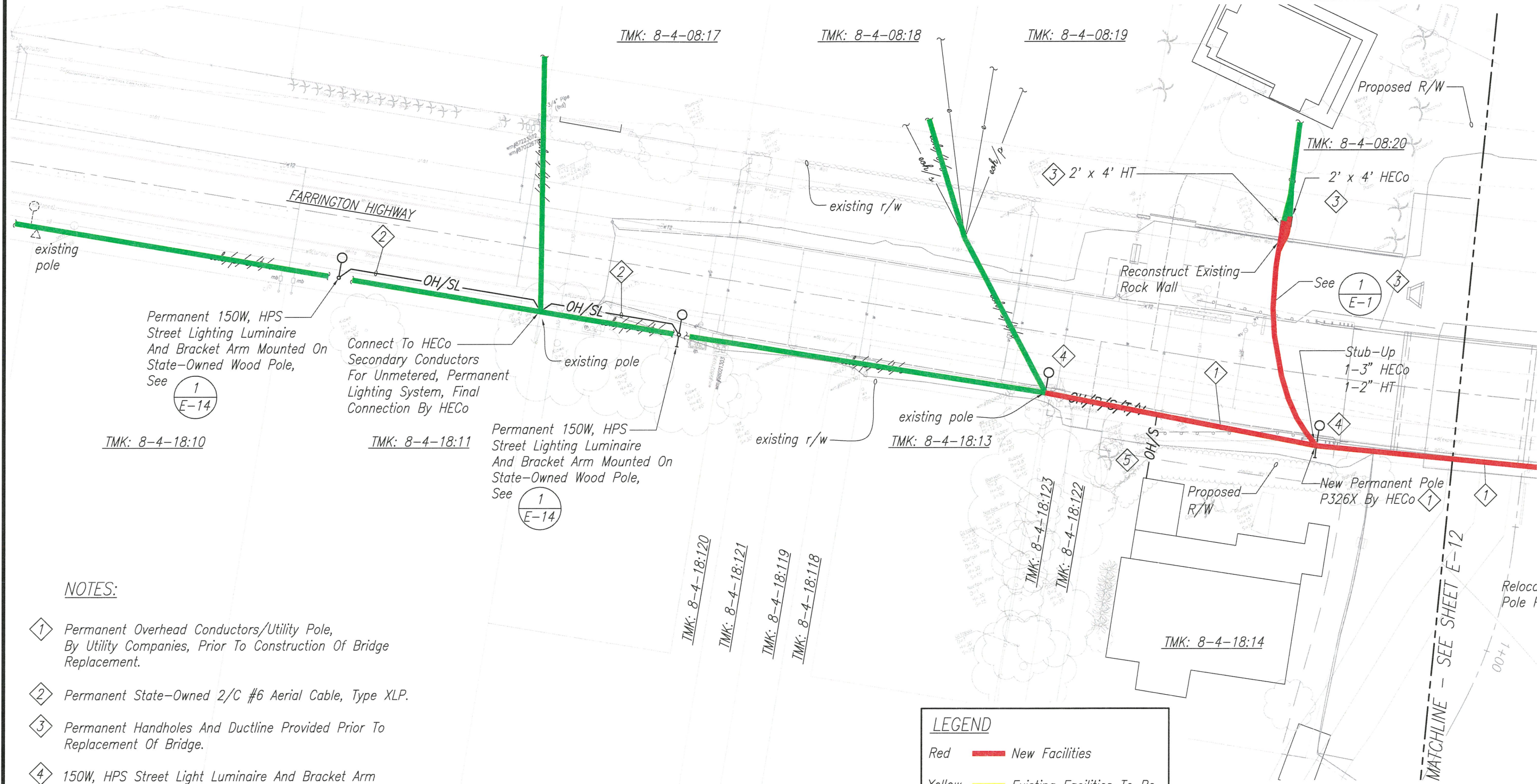
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FED. ROAD DIST. NO.	STATE	FED. AID PROJ. NO.	FISCAL YEAR	SH
HAWAII	HAW.	BR-093-1(20)	2010	11



NOTES:

- 1 Permanent Overhead Conductors/Utility Pole, By Utility Companies, Prior To Construction Of Bridge Replacement.
- 2 Permanent State-Owned 2/C #6 Aerial Cable, Type XLP.
- 3 Permanent Handholes And Ductline Provided Prior To Replacement Of Bridge.
- 4 150W, HPS Street Light Luminaire And Bracket Arm Mounted On Joint Pole. Similar To 1 E-14  
Except Wood Pole Provided By HEC Co.
- 5 Permanent Overhead Service Drop, By HEC Co.



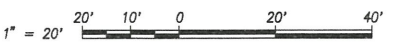
PERMANENT ELECTRICAL ROADWAY/  
UTILITY RELOCATION PLAN - 1

Scale: 1" = 20'

LEGEND

- Red — New Facilities
- Yellow — Existing Facilities To Be Removed, Demolished, Abandoned, Or Relocated
- Green — Existing Facilities To Remain
- Orange — Temporary Facilities To Be Removed After Use

GRAPHIC SCALE



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PROJECT ENGINEER for ECS, Inc.  
APRIL 30, 2012  
EXPIRATION DATE OF THE LICENSE

STATE OF HAWAII  
DEPARTMENT OF TRANSPORTATION  
HIGHWAYS DIVISION

PERMANENT ELECTRIC  
ROADWAY/UTILITY RELOCATION PLAN

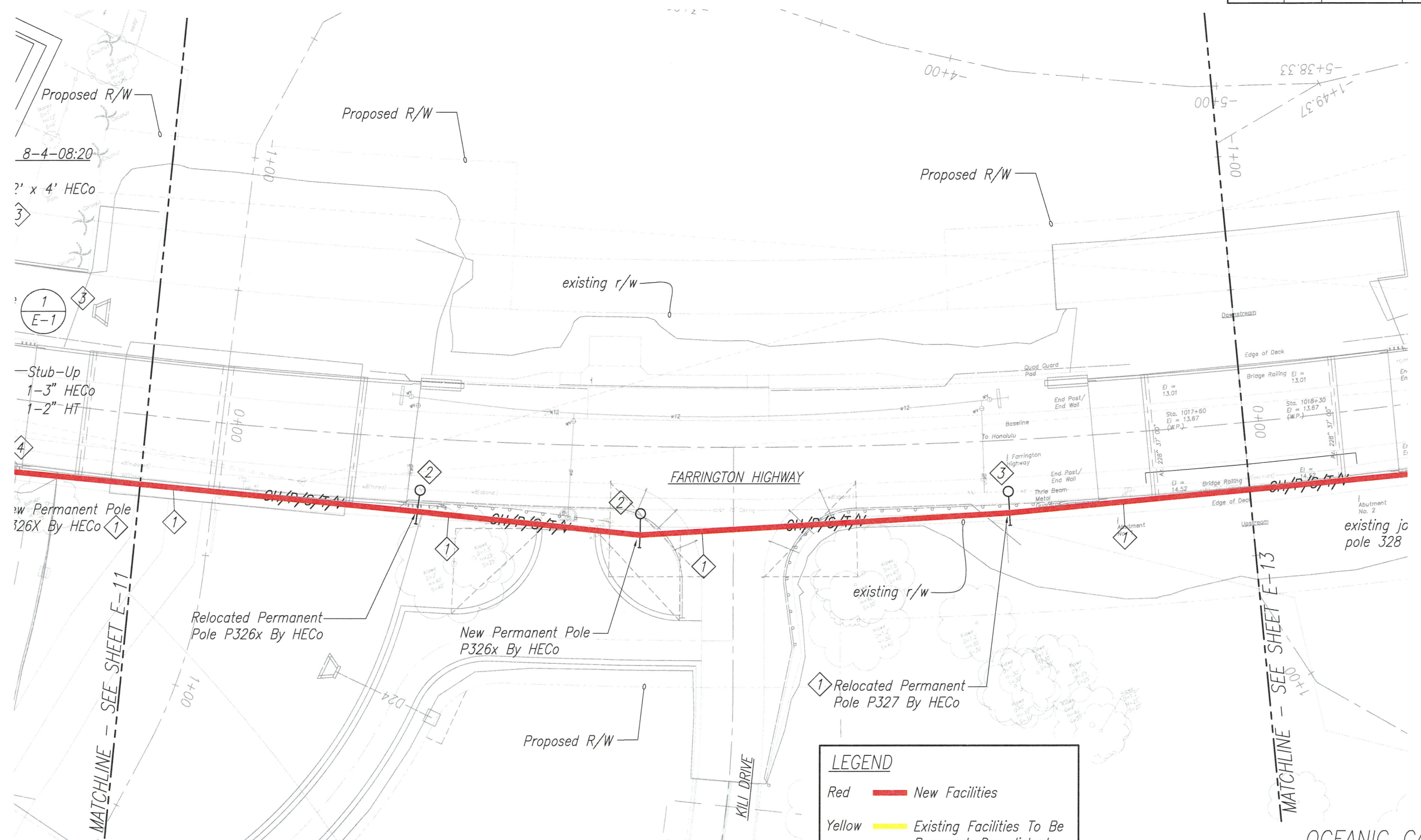
FARRINGTON HIGHWAY  
Replacement of Makaha Bridge  
No. 3 and Makaha Bridge 3A  
F. A. Project No. BR-093-1(20)

Scale: 1" = 20'-0" Date: April

SHEET No. E-11 OF E-17 SHI



FED. ROAD DIST. NO.	STATE	FED. AID PROJ. NO.	FISCAL YEAR	SH N
HAWAII	HAW.	BR-093-1(20)	2010	1



NOTES:

- ① Permanent Overhead Conductors/Utility Pole, By Utility Companies, Prior To Construction Of Bridge Replacement.
- ② 150W, HPS Street Light Luminaire And Bracket Arm Mounted On Joint Pole. Similar To ①

*Except Wood Pole Provided By HECO.*

PERMANENT ELECTRICAL ROADWAY/  
UTILITY RELOCATION PLAN - 2

Scale: 1" = 20'

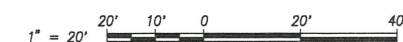
- 3 250W, HPS Street Light Luminaire And Bracket Arm Mounted On Joint Pole. Similar To 1

*Except Wood Pole Provided By HECO.*

LEGEND

- Red  New Facilities
- Yellow  Existing Facilities To Be Removed, Demolished, Abandoned, Or Relocated
- Green  Existing Facilities To Remain
- Orange  Temporary Facilities To Be Removed After Use

GRAPHIC SCALE



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PROJECT ENGINEER for ECS, Inc.  
APRIL 30, 2012  
EXPIRATION DATE OF THE LICENSE

OCEANIC CABLE

STATE OF HAWAII  
DEPARTMENT OF TRANSPORTATION  
HIGHWAYS DIVISION

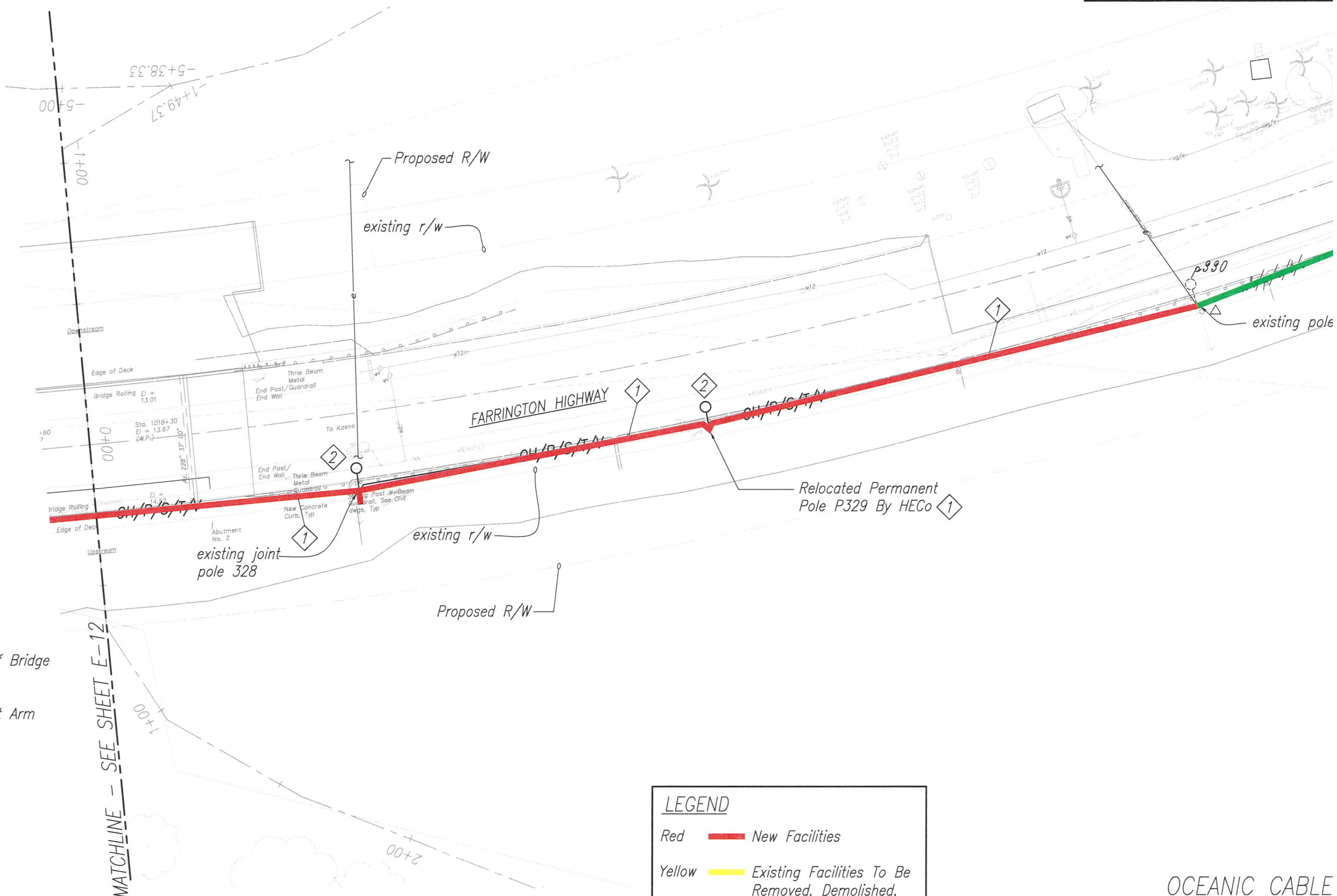
PERMANENT ELECTRIC  
ROADWAY/UTILITY RELOCATION PL

FARRINGTON HIGHWAY  
Replacement of Makaha Bridge  
No. 3 and Makaha Bridge 3A

Scale: 1" = 20'-0" Date: April 1, 2011

**SHEET No. E-12 OF E-17 SHE**

FED. ROAD DIST. NO.	STATE	FED. AID PROJ. NO.	FISCAL YEAR	SHEET NO.
HAWAII	HAW.	BR-093-11201	2010	1

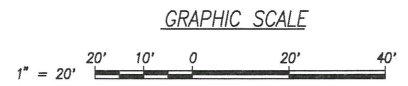


NOTES:

- 1 Permanent Overhead Conductors/Utility Pole, By Utility Companies, Prior To Construction Of Bridge Replacement.
- 2 150W, HPS Street Light Luminaire And Bracket Arm Mounted On Existing Or Relocated Joint Pole. Similar To 1 E-14

LEGEND

- Red New Facilities
- Yellow Existing Facilities To Be Removed, Demolished, Abandoned, Or Relocated
- Green Existing Facilities To Remain
- Orange Temporary Facilities To Be Removed After Use



PERMANENT ELECTRICAL ROADWAY/ UTILITY RELOCATION PLAN - 3  
Scale: 1" = 20'



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PROJECT ENGINEER for ECS, Inc.  
APRIL 30, 2012  
EXPIRATION DATE OF THE LICENSE

OCEANIC CABLE

STATE OF HAWAII  
DEPARTMENT OF TRANSPORTATION  
HIGHWAYS DIVISION

PERMANENT ELECTRIC  
ROADWAY/UTILITY RELOCATION P.

FARRINGTON HIGHWAY  
Replacement of Makaha Bridge  
No. 3 and Makaha Bridge 3A  
F. A. Project No. BR-093-11201

Scale: 1" = 20'-0" Date: April

SHEET No. E-13 OF E-17 SHI

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