



HONOLULU AUTHORITY for RAPID TRANSPORTATION

MINUTES

**Audit/Legal Matters Committee Meeting
Mission Memorial Annex
550 South King Street, Honolulu, Hawaii
Thursday, October 18, 2012, 8:00 A.M.**

PRESENT:	Ivan Lui-Kwan Don Horner	Carrie Okinaga Wayne Yoshioka
ALSO IN ATTENDANCE: (Sign-In Sheet and Staff)	Paul Migliorato Kristy Shiraishi Lori Hiraoka Doug Chun Joe Magaldi Brandon Elefante Maurice Morita Gary Takeuchi	Dan Grabauskas Joyce Oliveira Jeanne Mariani-Belding Andrea Tantoco Cindy Matsushita

I. Call to Order by Chair

Committee chair Ivan Lui-Kwan called the meeting to order at 8:05 a.m.

II. Public Testimony on All Agenda Items

Mr. Lui-Kwan called for public testimony. None was offered.

III. Approval of Minutes of the August 30, 2012 Audit/Legal Matters Committee Meeting

Mr. Lui-Kwan called for the approval of the August 30, 2012, minutes of the Audit/Legal Matters Committee. There being no objections, the minutes were unanimously approved.

IV. Report on HART Matters Before the City Council

HART Executive Assistant for Government Relations, Joyce Oliveira reported on HART matters before the City Council. Ms. Oliveira reported that Executive Director Grabauskas, HART staff, and Board members have appeared 18 times before Council since Mr. Grabauskas arrived in April 2012. Ms. Oliveira reported that in response to

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City Council inquiries there have been 99 pieces of correspondence sent to the Council since April 2012, which is consistent with Mr. Grabauskas' directive to be transparent. It was reported that there are a total of 12 measures relating to HART currently before the Council.

Mr. Lui-Kwan asked for statistics as to the number of requests from respective Councilmembers. Ms. Oliveira stated that most Council requests received have been predominantly from the Budget Committee, and that HART has appeared before the committee 9 times.

Mr. Lui-Kwan noted that the response time has been quick and asked Mr. Grabauskas if there is a HART policy regarding responses to Council requests. Mr. Grabauskas stated that the policy is to respond to requests as quickly as possible, and to provide the response prior to HART's next appearance before Council. He stated that as a matter of policy HART receives written inquiries from the Council and forwards them to the board members. He noted that the questions can be detailed and the attachments voluminous.

Mr. Lui-Kwan stated that he appreciates the fast turnaround and responsiveness. Mr. Grabauskas stated that as a matter of policy, even if the request comes from a specific member of the Council, HART often sends the response to Council Chair Ernie Martin so all other Councilmembers get the response as well.

V. Litigation Update

Deputy Corporation Counsel Gary Takeuchi reported that the Intermediate Court of Appeals issued a decision on October 17, 2012, on the Bombardier appeal. The court upheld the lower court ruling and findings of the DCCA that the Bombardier proposal was conditional and was properly rejected on that basis and that the company received adequate opportunity for meaningful discussions during the procurement process. Mr. Takeuchi stated that the matter is done for the moment.

Mr. Lui-Kwan asked if there has been any indication to Corporation Counsel if Bombardier has any plans for appeal to the Supreme Court. Mr. Takeuchi responded that there is no indication so far.

Mr. Takeuchi reported that with respect to the *Honolulutraffic.com* case there is still no ruling, and that there is no indication as to when the decision will be issued.

Mr. Takeuchi reported that the most recent development with respect to the *Kaleikini* case involves a request for fees and costs from the plaintiff and the defendants' responses are due on Monday, October 22, 2012.

Mr. Lui-Kwan stated that one of the matters the committee wanted to take up in the litigation update is the status of the Archaeological Inventory Survey (AIS) work. Mr. Grabauskas reported that 35 of 40 trenches have been completed in the Airport Section and all trenching activity for the Airport Section would be completed by the following

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week. Mr. Grabauskas also reported that to date, 137 of the 232 trenches in the City Center Section have been completed, with only 95 remaining in that section and overall only 100 trenches left. Mr. Grabauskas commended Royal Contracting, Cultural Surveys Hawaii, and HART and Parsons Brinckerhoff staff for the work done on the AIS. He stated that an average of 20-21 trenches have been dug per week for the past few weeks, and that negotiations with landowners for access to parcels where AIS work is to occur have been successful.

Mr. Lui-Kwan stated that in the context of the *Kaleikini* case, HART is required to complete the entirety of the AIS prior to resuming construction activities and asked Mr. Grabauskas to report on the meetings with the Oahu Island Burial Council (OIBC), State Historic Preservation Division (SHPD), and cultural and lineal descendants. Mr. Grabauskas reported that he attended a meeting with OIBC. He said that SHPD requested that there be public comment opportunity on the 'iwi found in the first trench, which took place last week. Mr. Grabauskas stated that he attended the meeting to personally hear public testimony and discuss not just the AIS work being done with OIBC and the public, but the institution of a cultural monitoring program for cultural and lineal descendants to observe the work being done and ensure that there is a respectful process in place. Mr. Grabauskas noted that all finds will be informed and driven by this process. He said that he has had opportunity to meet with staff from DLNR and SHPD, and HART staff has regular meetings with SHPD to keep the department apprised of AIS progress. He extended his thanks to Gary Takeuchi and Lisa Hirahara at the Department of the Corporation Counsel for their assistance in responding to the *Kaleikini* decision.

Board member Don Horner stated that if trenching work is being done at the Airport Section, there is a general idea of the airport station location, and asked if HART is in a position to know where the location will be at this point. Mr. Grabauskas said Mr. Horner's statement is correct, and that trenching work is being done in locations that the station is likely to be, and it is being resolved.

Mr. Horner stated that the public is misinformed that a) there will be no station at the airport and b) if there is to be a station, the location is still unknown. Mr. Grabauskas said that the location issue is still under discussion with airport authorities, as well as Hawaii Department of Transportation (HDOT) and various airlines. Mr. Horner asked when this will be resolved, and Mr. Grabauskas stated that there are a number of factors to work through and several engineering questions and inquiries that have been raised. Mr. Horner asked if there are still 3 locations being considered for the airport station. Mr. Grabauskas responded that HART is trying to work with and provide the necessary data to the parties involved. He stated that the Federal Transit Administration indicated a preference for one possible airport station location.

Mr. Horner asserted that the sooner a resolution can be communicated to the public, the better, as the airport station would be an important asset to the public and there would be significant value to the location. Mr. Grabauskas stated that there are many parties to this

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decision-making process, and the Federal Transit Administration (FTA) must ultimately approve. He stated that he would keep the Board informed.

Mr. Lui-Kwan stated that certain confidential and strategic matters are being reserved for discussion in executive session, particularly with regard to the *Kaleikini* case. Mr. Horner said that he hoped the executive session discussion would be kept to a minimum, in the interest of transparency. Mr. Lui-Kwan appreciated Mr. Horner's commitment to transparency, but emphasized the confidential nature of some litigation matters made an executive session necessary.

Mr. Horner requested finality on the specific financial impacts of the *Kaleikini* case. Mr. Lui-Kwan stated that Mr. Grabauskas advised the monthly delay cost to be between \$7 million and \$10 million. He stated that minimizing the impact of the delay costs has been the focus of the Audit/Legal Affairs Committee, and how HART complies with the *Kaleikini* court's judgment. He acknowledged Mr. Horner's desire to be transparent.

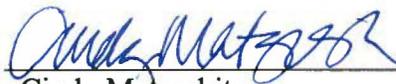
VI. Executive Session

Mr. Lui-Kwan stated that the Audit/Legal Committee would not enter into executive session, which would take place later during the Board of Directors meeting.

VII. Adjournment

There being no further business before the committee, Mr. Lui-Kwan adjourned the meeting at 8:27 a.m.

Respectfully Submitted,



Cindy Matsushita
Board Administrator

Approved:



Ivan M. Lui-Kwan, Esq.
Chair, Audit/Legal Matters Committee

NOV 15 2012

Date

ATTACHMENT A

**CITY COUNCIL
BILLS AND RESOLUTIONS
PENDING IN RESPECTIVE COUNCIL COMMITTEES**

PENDING IN BUDGET COMMITTEE

RESOLUTION 11-349 *Resolution urging the Honolulu Authority for Rapid Transportation to pay community benefits to the Nanakuli Community for the impacts relating to the disposal of transit-related construction and demolition debris into the PVT landfill in Nanakuli*
Introduced by Tom Berg, 12-01-11

RESOLUTION 11-352 *Urging the mayor to provide at least one million dollars per year in community benefits to the Leeward coast as compensation for the future dumping of construction and demolition debris that will result from the rail transit project*
Introduced by Tom Berg, 12-01-11

RESOLUTION 12-160 *Resolution urging the Honolulu Authority for Rapid Transportation to limit public relations and public involvement activity to one position within HART and to terminate all public relations and involvement services contracts.*
Introduced by Tom Berg, 06-21-12

PENDING IN EXECUTIVE MATTERS & LEGAL AFFAIRS COMMITTEE

BILL 09 (2012) *Relating to agreements between the City and the Honolulu Authority for Rapid transportation or the Honolulu Board of Water Supply*
Introduced by Ann Kobayashi, 02-07-12

RESOLUTION 12-59 *Resolution initiating an amendment to the Revised Charter of the City and County of Honolulu 1973, as amended, relating to the Public Transit Authority*
Introduced by Tom Berg, 03-06-12

RESOLUTION 12-100 *Resolution initiating amendments to the Revised Charter of the City and County of Honolulu 1973, as amended, relating to Personal Services Contracts.*
Introduced by Ikaika Anderson, 04-18-12

RESOLUTION 12-261 *Resolution relating to the Honolulu High-Capacity Transit Corridor Project.*
Introduced by Romy Cachola, 09-12-12

PENDING IN LEGISLATIVE MATTERS COMMITTEE

RESOLUTION 12-272 *Resolution urging the Mayor and the Honolulu Authority for Rapid Transportation to prepare a new Environmental Impact Statement for the City's Transit Project.*

Introduced by Tom Berg, 09-28-12

PENDING IN TRANSPORTATION COMMITTEE

RESOLUTION 12-219 *Resolution requesting the Honolulu Authority for Rapid Transportation to place on its next Board of Directors meeting agenda a presentation by Ewa Native Hawaiian Cultural Practitioner Mike Lee regarding Ewa Native Hawaiian Cultural Sites in the path of the rail Right-of-Way.*

Introduced by Tom Berg, 08-22-12

RESOLUTION 12-285 *Resolution requesting the Department of Transportation Services to provide an analysis of the benefits and impacts of the most recent proposal to implement an alternative traffic solution to the City's rail project.*

Introduced by Nestor Garcia, 10-03-12

RESOLUTION 12-286 *Resolution requesting the Department of Transportation Services to assess the most recent proposal for an alternative to the Honolulu-High-Capacity Transit Corridor Project.*

Introduced by Nestor Garcia, 10-03-12

PENDING IN ZONING COMMITTEE

BILL 44 (2012) *a Bill for an Ordinance to Amend Chapter 18, Revised Ordinances of Honolulu 1990, As Amended, Relating to the Fees and Permits for Building, Electrical, Plumbing, and Sidewalk Codes to Add additional Exemptions From the Requirements of Building Permits for the Purpose of Streamlining the Building Permit Process.*

Introduced by Ernie Martin, 04-23-12



RESOLUTION

URGING THE HONOLULU AUTHORITY FOR RAPID TRANSPORTATION TO PAY COMMUNITY BENEFITS TO THE NANAKULI COMMUNITY FOR THE IMPACTS RELATING TO THE DISPOSAL OF TRANSIT-RELATED CONSTRUCTION AND DEMOLITION DEBRIS INTO THE PVT LANDFILL IN NANAKULI.

WHEREAS, the City, through its Honolulu Authority for Rapid Transportation, is planning to build a rail transit project ("rail project") between Kapolei and the Ala Moana Shopping Center; and

WHEREAS, at an estimated cost of \$5.5 billion, the rail project will be, if built, the largest public works project ever built in the State of Hawaii; and

WHEREAS, the construction of the rail project will generate large amounts of construction and demolition debris ("c&d debris"), which will be disposed of at the privately-owned construction and demolition landfill ("PVT landfill") located in Nanakuli; and

WHEREAS, the community of Nanakuli will be greatly impacted by the disposal of the c&d debris at the PVT landfill, due to the pollution, noise and dust from the trucks carrying the debris to the landfill and the noise, dust, odor and other nuisances from the operation of the landfill itself; and

WHEREAS, the City has provided community benefits to the residents of the Waianae coast to compensate them for the environmental impacts from the Waimanalo Gulch landfill; and

WHEREAS, the community of Nanakuli should also be compensated for the environmental impacts that will result from the disposal of c&d debris from the rail project at the PVT landfill; now, therefore,

BE IT RESOLVED by the Council of the City and County of Honolulu that it urges the Honolulu Authority for Rapid Transportation to pay community benefits amounting to \$1 million to the community of Nanakuli for the environmental impacts resulting from the disposal of construction and demolition debris from the rail project into the PVT landfill in Nanakuli; and



RESOLUTION

BE IT FINALLY RESOLVED that copies of this Resolution be transmitted to the Board of Directors of the Honolulu Authority for Rapid Transportation and to the Nanakuli-Mailii Neighborhood Board No. 36.

INTRODUCED BY:

TOM BERG

DATE OF INTRODUCTION:

DEC 01 2011
Honolulu, Hawaii

Councilmembers



RESOLUTION

URGING THE MAYOR TO PROVIDE AT LEAST ONE MILLION DOLLARS PER YEAR IN COMMUNITY BENEFITS TO THE LEEWARD COAST AS COMPENSATION FOR THE FUTURE DUMPING OF CONSTRUCTION AND DEMOLITION DEBRIS THAT WILL RESULT FROM THE RAIL TRANSIT PROJECT.

WHEREAS, at a total cost of \$5.3 billion, the Honolulu High-Capacity Transit Corridor Project ("rail transit project") is the most expensive capital project in the city's history; and

WHEREAS, according to the rail transit project's 2010 Final Environmental Impact Statement: "Large volumes of solid waste are often generated at construction sites"; and

WHEREAS, according to information provided by the Pacific Waste Consulting Group to the Mayor's Advisory Committee on Landfill Site Selection ("Advisory Committee") on March 10, 2011, the amount of Construction and Demolition ("C&D") debris that will result from the rail transit project is unknown and must be estimated prior to the start of the phases of construction; and

WHEREAS, the PVT landfill in Nanakuli is Oahu's only C&D landfill; and

WHEREAS, according to additional information provided to the Advisory Committee at its March 10, 2011 meeting, the City estimated in its 2008 Draft Integrated Solid Waste Management Plan that total C&D debris in 2008 was 247,780 tons; and

WHEREAS, in the past, the City has provided community benefits packages to the Leeward Coast to help offset the impact of having Oahu's only municipal solid waste ("MSW") landfill, including:

- Mayor Hannemann announcing on January 8, 2007 that the City will provide \$1 million in grants to 19 nonprofit organizations and an additional \$1 million in supplemental park improvements as part of the Waianae community benefits package. The Mayor said, "I have long advocated the need for something like this, above and beyond routine City funding and attention for a community that has all too often in the past felt it was treated as second-class"; and
- On December 26, 2007, the Mayor announced the second year of the Waianae community benefits package that would provide \$1 million in grants to 25 nonprofit organizations in the community and \$1.5 million in supplemental park improvements. The Mayor noted that, "This money,



RESOLUTION

combined with operating and capital improvements already included in the City budget, will make a significant difference in our efforts to keep our parks clean and safe”;

and

WHEREAS, specific spending recommendations for these past community benefits packages were made with the input of community representatives from the Leeward Coast; and

WHEREAS, the Council finds that just as the City provided community benefits to the Leeward Coast in consideration for having Oahu’s only MSW landfill, the City should provide community benefits to the Leeward Coast for also having Oahu’s only C&D landfill, which will in the near future be receiving large volumes of construction waste as a result of the rail transit project; now, therefore,

BE IT RESOLVED by the Council of the City and County of Honolulu that the Mayor is urged to provide at least one million dollars per year in community benefits to the Leeward Coast as compensation for the future dumping of construction and demolition debris that will result from the rail transit project; and

BE IT FURTHER RESOLVED that the Mayor is urged to seek the input of the Nanakuli-Mailii Neighborhood Board No. 36 regarding specific spending decisions for this community benefits package; and

BE IT FURTHER RESOLVED that the Mayor is urged to continue this benefits package for each year of the duration of the rail transit project’s construction period; and



RESOLUTION

BE IT FINALLY RESOLVED that copies of this Resolution be transmitted to the Mayor, the Director of Environmental Services, the Chair of the Board of Directors of the Honolulu Authority for Rapid Transportation, and the Chair of the Nanakuli-Maili Neighborhood Board No. 36.

INTRODUCED BY

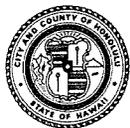
TOM BERG

DATE OF INTRODUCTION:

DEC 01 2011

Honolulu, Hawaii

Councilmembers



RESOLUTION

INITIATING AN AMENDMENT TO THE REVISED CHARTER OF THE CITY AND COUNTY OF HONOLULU 1973, AS AMENDED, RELATING TO THE PUBLIC TRANSIT AUTHORITY.

WHEREAS, in 2005, the Hawaii State Legislature enacted Act 247 (SLH 2005) which allowed counties to levy a county surcharge through the general excise and use taxes ("GET surcharge") to fund public transportation systems in the county; and

WHEREAS, Act 247 mandated that in counties with a population exceeding 500,000 the surcharge be used for the operation and capital costs of building and operating the county's selected locally preferred alternative ("LPA"); and

WHEREAS, Act 247 expressly prohibited use of the surcharge fund "to build or repair public roads or highways, bicycles paths, or support public transportation systems in existence prior to July 12, 2005", thereby restricting the City and County of Honolulu ("City"); and

WHEREAS, in 2006, to comply with the federal process to obtain federal funds to implement the Project, four transportation options were evaluated in the City's Alternative Analysis Report:

- (1) No Build Alternative;
- (2) Transportation System Management Alternative (expanded bus service);
- (3) Managed Lane Alternative (i.e. elevated two-lane highways for buses and toll paying for HOV and single-occupant vehicles); and
- (4) Fixed Guideway Alternative;

and

WHEREAS, in 2007, the Honolulu City Council enacted Ordinance 07-001 selecting a fixed guideway system as the City's locally preferred alternative ("LPA"); and

WHEREAS, notwithstanding the selected LPA, highway technology which was not selected due to its ineligibility for GET surcharge funds, would have a greater impact on relieving traffic congestion in Honolulu; and



RESOLUTION

WHEREAS, the City has begun work on the Honolulu High-Capacity Corridor Project ("Project"), the purpose of which is to design and build a steel-wheel on steel-rail fixed guideway mass transit system for Honolulu; and

WHEREAS, on October 29, 2008, the Federal Transit Administration and the City Administration approved the Draft Environmental Impact Statement ("DEIS") for the Project; and

WHEREAS, on November 4, 2008, Honolulu voters approved, by a narrow margin, an amendment to the Revised Charter of the City and County of Honolulu 1973, as amended ("Revised Charter"), to authorize the City's Director of Transportation Services to, "[e]stablish a steel wheel on steel rail transit system"; and

WHEREAS, on general election day, November 2, 2010, over 63 percent of those casting votes supported amending the Revised Charter to create a semi-autonomous public transit authority to be known as the Honolulu Authority for Rapid Transportation ("HART") to be responsible for the planning, construction, operation, maintenance, and expansion of the City's fixed guideway mass transit system; and

WHEREAS, on July 1, 2011, management of the Project was transferred from the Department of Transportation Services ("DTS") to HART; and

WHEREAS, HART is governed by a ten-member Board of Directors ("Board"), which consists of nine voting members (six appointed, two ex-officio and one selected by the other voting members) and one ex-officio non-voting member; and

WHEREAS, the Board is required or authorized to:

- (1) Determine the policy for the planning, construction, operation, maintenance, and expansion of the fixed guideway system (Section 17-103(3)(g), Revised Charter); and
- (2) Prescribe and enforce rules and regulations having the force and effect of law to carry out Charter provisions (Section 17-103(3)(h), Revised Charter);

and

WHEREAS, the City recently awarded a contract to Ansaldo Honolulu ("Ansaldo") to design, build, operate and maintain the Project's "core systems," which include 80 train cars, a system control center, and other train control elements; and



RESOLUTION

WHEREAS, Ansaldo, a joint venture between AnsaldoBreda and Ansaldo STS, was awarded the contract over two competitive proposals, one by Sumitomo Corporation of America ("Sumitomo"), and the other by Bombardier Transportation ("Bombardier"), the latter of which would have saved the City hundreds of millions of dollars in operating costs in future years; and

WHEREAS, Ansaldo's winning proposal would cost the City \$574 million to design and build the core systems, \$167 million to operate and maintain the train on the completed portion of the rail project during an interim period through 2019 ("interim period"), \$339 million for the first five years of full operation and maintenance of the systems, and \$317.6 million for an option to extend the operation and maintenance of the systems ("optional extension") for another five years; and

WHEREAS, Bombardier's proposal if accepted would have cost the City \$697.3 million to design and build the core systems, the costs for the interim period would have been \$86.6 million, the first five-year costs for operation and maintenance of the systems would have been \$176.2 million, and the optional extension was priced at \$203.4 million; and

WHEREAS, HART had the ability to save the taxpayers over \$200 million by rejecting the procurement award to Ansaldo Honolulu, but HART stood quietly by even though Bombardier was better qualified and offered a better price over the expected life of the Project; and

WHEREAS, the City is defending against a lawsuit filed in federal court alleging that the Project EIS is inadequate; and

WHEREAS, in addition, the City is fighting a separate lawsuit pending in the Hawaii courts that seeks to halt all work on the Project until the City completes an archaeological survey along the entire rail route; and

WHEREAS, it has been reported in the *Honolulu Star Advertiser* on January 26, 2012, that the City's legal fees have totaled \$1.87 million to hire seven private law firms to do legal work related to the Project; and

WHEREAS, by supporting rail despite the pending lawsuits, HART has engaged in reckless behavior to the detriment of the City by:

- (1) Fast-tracking the signing of the contract with Ansaldo while an administrative appeal by Bombardier to the contract award to Ansaldo was ongoing and while the award could have been nullified;



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- (2) Failing to conduct research and provide forums to review and scrutinize the selection of steel-wheel on steel-rail technology, even while litigation is pending to stop rail;
- (3) Failing to review the alternative analysis process or claims by petitioners that the environmental impact statement ("EIS") was faulty, on the basis that it failed to consider seriously other reasonable alternatives to steel-wheel on steel-rail technology such as monorail, urban magnetic levitation ("MagLev"), and other technologies; and
- (4) Moving forward with construction without considering the waste that will occur if the litigants seeking to invalidate the transit project's EIS were to prevail, and to make contingency plans for the preparation of a supplemental EIS if one becomes necessary;

and

WHEREAS, because HART is a semi-autonomous agency with essentially an appointed board, the public has no means to object to or to hold HART accountable for its policy decisions, including matters relating to conflicts of interest; and

WHEREAS, HART has already demonstrated lack of prudence and disregard for taxpayer resources by:

- (1) Renting out office space in an overpriced prime downtown location when it could have rented less expensive office space in the Kapolei area where the bulk of the early work on the Project is taking place;
- (2) Continuing to spread propaganda to the public that steel-wheel on steel-rail is the only viable alternative to relieve traffic congestion in Honolulu when rail is the most expensive, archaic, and noisiest alternative available;
- (3) Enabling an unjust process to proceed which will cause great financial distress and irrevocable harm to the landscape;
- (4) Failing to educate the public that superior traffic relief methodologies, such as Bus Rapid Transit, High Occupancy Toll Lanes, or Managed Lanes were not fairly considered in the alternative analysis for the Project due to the state law restrictions on how Honolulu may use GET surcharge proceeds;



RESOLUTION

- (5) Continuing to promote rail as the technology that will have the greatest impact on relieving traffic congestion in Honolulu notwithstanding that highway technology is superior to rail technology in relieving traffic congestion;
- (6) By hiring a Chief Executive Officer ("CEO") whose proposed three-year contract includes an annual base salary of \$245,000, a \$36,000 a year housing allowance, a transportation allowance of \$6,000 a year, and the potential for a \$35,000 annual performance bonus; and
- (7) Giving away trinkets such as lanyards, key chains, and coloring books to promote rail at events, which items have no value or relevance to the operation or construction of the rail project;

and

WHEREAS, HART should be terminated because DTS has the capability to carry out the Project or any preferred alternative project in-house and save the taxpayers millions of dollars each year; and

WHEREAS, in addition, the public will save monies and end propaganda by HART that has sought to condone and facilitate steel-wheel on steel-rail technology which will not relieve traffic congestion; and

WHEREAS, by repealing HART and placing its decision-making authority to advance rail with DTS, the public will have the opportunity to object to rail decisions directly to the elected Mayor and take appropriate action to remove or support the Mayor at election time; and

WHEREAS, the voters, after having had an opportunity to see how HART operates, should be given the opportunity to repeal HART; now, therefore,

BE IT RESOLVED by the Council of the City and County of Honolulu:

1. That it propose, and it is hereby proposed that the following question be placed on the 2012 general election ballot:

"Shall the Revised City Charter be amended to repeal the public transit authority, also known as the Honolulu Authority for Rapid Transportation?"



RESOLUTION

2. That it propose and it is hereby proposed, that Article XVII, Revised Charter of the City and County of Honolulu 1973, as amended ("Public Transit Authority"), be repealed;
3. That it propose and it is hereby proposed, that Section 16-129, Revised Charter of the City and County of Honolulu 1973, as amended ("Transition Provisions Concerning the Establishment of the Honolulu Authority for Rapid Transportation --"), be repealed;
4. That it propose and it is hereby proposed, that Section 6-203, Revised Charter of the City and County of Honolulu 1973, as amended, be amended to read as follows:

"Section 6-203. Powers, Duties and Functions --

The director of budget and fiscal services shall be the chief accounting officer of the city and shall:

- (a) Prepare bills for the collection of moneys due the city or authorize the preparation thereof by other executive agencies of the city government under the director's general supervision.
- (b) Collect and receive moneys due to or receivable by the city and issue receipts therefor or authorize other executive agencies to do so under conditions prescribed by the director of budget and fiscal services.
- (c) Keep accurate and complete account of receipts and disbursements.
- (d) Maintain the treasury and, with the approval of the mayor, deposit moneys belonging to the city in depositories authorized by law which fulfill all conditions prescribed for them by law.
- (e) Contract for services of independent contractors, purchase materials, supplies and equipment and permit disbursements to be made only pursuant to rules and regulations adopted under the terms of this charter.
- (f) Have the responsibility for issuing, selling, paying interest on and redeeming bonds of the city.



RESOLUTION

- (g) Prepare and issue warrants.
- (h) Prepare payrolls and pension rolls.
- (i) Be responsible for the management of city funds.
- (j) Sell real property upon which improvement assessments are not paid within the period prescribed pursuant to policies established by the council, and dispose of personal property not needed by any agency of the city.
- (k) Rent or lease city property, except property controlled by the board of water supply [and the public transit authority,] and award concessions, pursuant to law and to policies established by the council.
- (l) Prepare and maintain a perpetual inventory of all lands owned, leased, rented or controlled by the city.
- (m) Prepare and maintain a perpetual inventory of equipment owned or controlled by the city and materials and supplies.
- (n) Review assessment rolls for assessable public improvements prior to approval by the council and issue bills therefor after such approval has been given.
- (o) Have custody of all official bonds, except the bond of the budget and fiscal services director, which shall be in the custody of the mayor.
- (p) Review the manner in which public funds are received and expended and report to the mayor on the integrity with which said funds are accounted for and on the financial responsibility of officers and employees administering said funds.
- (q) Provide information pertaining to the financial affairs of the city and make financial reports at least quarterly to the mayor and the council.
- (r) Prepare the operating and capital program and budget and necessary budget ordinances and amendments or supplements thereto under the direction of the mayor.



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(s) Review the operating and capital budget program schedules of each executive agency and make budgetary allotments for their accomplishment with the approval of the mayor.

(t) Review all executive agency requests for the creation of new positions.”

5. That it propose and it is hereby proposed, that Section 6-1103, Revised Charter of the City and County of Honolulu 1973, as amended, be amended to read as follows:

“Section 6-1103. Civil Service and Executive Branch Exemptions --

The provisions of this chapter of the charter shall apply to all positions in the service of the executive branch. This section shall apply to semi-autonomous agencies as though they are departments of the executive branch. The following positions shall be exempt from the provisions of this chapter of the charter:

(a) Positions of officers elected by public vote; positions of heads of departments; the position of the band director of the Royal Hawaiian Band; the position of the executive for housing; the position of the manager and chief engineer of the board of water supply and the manager of any semi-autonomous agency created by ordinance.

(b) Positions in the office of the mayor, but such positions shall be included in the position classification plan. Employees of the civil defense agency and Royal Hawaiian Band, other than the band director, shall not be exempted from civil service.

(c) Positions of deputies of the corporation counsel, deputies and administrative or executive assistants of the prosecuting attorney and law clerks.

(d) Positions of members of any board, commission or equivalent body.

(e) Positions of a temporary nature filled by students.

(f) Personal services obtained by contract where the director has certified that the service is special or unique, is essential to the public



RESOLUTION

interest and that, because of circumstances surrounding its fulfillment, personnel to perform such service cannot be obtained through normal civil service recruitment procedures. Any such contract may be for any period not exceeding one year.

(g) Personal services of a temporary nature needed in the public interest where the need for the same does not exceed one year, but before any person may be employed to render such temporary service, the director of human resources shall certify that the service is of a temporary nature and that recruitment through normal civil service recruitment procedures is not practicable.

(h) Personal services performed on a fee, contract or piecework basis by persons who may lawfully perform their duties concurrently with their private business or profession or other private employment, if any, and whose duties require only a portion of their time, where it is impracticable to ascertain or anticipate the portion of time devoted to the service of the city and when such fact is certified to by the director of human resources.

(i) Positions of one first deputy; and for the Honolulu Police Department one additional deputy; private secretaries to heads of departments and their deputies; and to the executive for housing; and the position of managing director, one first deputy and private secretaries to each; but private secretarial positions shall be included in the position classification plan. The first deputy in the department of human resources, however, shall not be exempt from civil service.

(j) Positions or personal services in demonstration programs and joint participation and special projects which serve the community; provided that such exemptions are required by federal law or rules and regulations and then in accordance with procedures established by ordinance.

(k) [The following positions of the public transit authority:

(1) The executive director, deputy director(s), private secretaries to the executive director and deputy director(s); and

(2) Positions certified by the director of human resources that require specialized knowledge and experience in fixed



RESOLUTION

guideway system planning, development, operations, maintenance, and management, or transit-oriented development;

provided that, except for private secretarial positions, such positions shall not be included in the position classification plan and salaries for such positions shall be set by the public transit authority.

(l)] Positions in the liquor commission of the liquor administrator and the deputy liquor administrator, but such positions shall be included in the position classification plan.

The director of human resources shall determine the applicability of this section of the charter to specific employment or services in the executive branch.”

6. That it propose and it is hereby proposed, that Section 6-1703, Revised Charter of the City and County of Honolulu 1973, as amended, be amended to read as follows:

“Section 6-1703. Powers, Duties and Functions --

[1.] The director of transportation services shall:

(a) Plan, operate and maintain transportation systems, including bikeways, [except for activities relating to the fixed guideway mass transit system,] to meet public transportation needs, in accordance with the general plan and development plans, and advise on the design and construction thereof.

(b) Locate, select, install and maintain traffic control facilities and devices.

(c) Provide educational programs to promote traffic safety.

[(d) Establish a steel wheel on steel rail transit system, provided that nothing in this subsection shall preclude the director from utilizing technologies other than steel wheel on steel rail technology to complement or extend the rail transit system.]



RESOLUTION

[(e)] (d) Promulgate rules and regulations pursuant to standards established by law.

[2. The director of transportation services shall have no power, duty, or function with respect to transportation systems, facilities, or programs which are under the jurisdiction of the public transit authority.]”

7. That it propose and it is hereby proposed, that a new section be added to Article XVI of the Revised Charter of the City and County of Honolulu 1973, as amended, to read as follows:

“Section 16- . Transition Provisions Concerning the Dissolution of Honolulu Authority for Rapid Transportation --

1. All civil service officers and employees holding positions with the Honolulu Authority for Rapid Transportation on June 30, 2013, shall be transferred to the department of transportation services on July 1, 2013. The civil service officers and employees shall suffer no loss of vacation allowance, sick leave, service credits, retirement benefits, or other rights and privileges because of the transfer. Nothing in this subsection, however, shall be construed as preventing future changes in status pursuant to the civil service provisions of this charter.

2. All lawful obligations and liabilities owed by or to the Honolulu Authority for Rapid Transportation relating to the fixed guideway system on June 30, 2013 shall remain in effect on July 1, 2013. The obligations and liabilities shall be assumed by the department of transportation services.

3. All records, property, and equipment held by the Honolulu Authority for Rapid Transportation as of June 30, 2013, shall be transferred and delivered to the department of transportation services on July 1, 2013.”

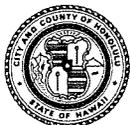
8. That in Sections 4 through 7 of this resolution, charter material to be repealed is bracketed and new charter material is underscored. When revising, compiling, or printing these charter provisions for inclusion in the Revised Charter of the City and County of Honolulu 1973, as amended, the revisor of the Charter need not include the brackets, the bracketed material, or the underscoring.
9. That if these Charter provisions are amended by any other Charter amendment(s) approved by the electors in the 2012 general election, the revisor of the Charter, in revising, compiling or printing the Charter: (1) may designate or



RESOLUTION

redesignate articles, chapters, sections or parts of sections, and rearrange references thereto; and (2) shall, except as otherwise expressly provided in this resolution or in the other resolution(s) amending these Charter provisions, give effect, to the extent possible, to all of the amendments approved. The revisor of the Charter may also change capitalization or the forms of numbers and monetary sums for the sake of uniformity.

10. That the City Clerk be and is hereby directed:
 - A. To prepare the necessary ballots with the question contained in this Resolution and with spaces for "yes" and "no" votes on the question for presentation to the electors at the 2012 general election. The City Clerk may make technical and non-substantive changes to the form of the question presented in order to conform it to the form of other charter amendment questions presented to the electors at the same election; and
 - B. To publish the above-proposed charter amendments at length in a daily newspaper of general circulation in the City and County of Honolulu at least 45 days prior to its submission to the electors at the 2012 general election.



RESOLUTION

- 11. That upon approval of the charter amendment question posed in this Resolution by a majority of the electors voting thereon, as duly certified, the charter amendments proposed herein shall take effect on July 1, 2013.

INTRODUCED BY:

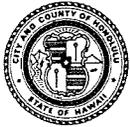
TOM BERG

DATE OF INTRODUCTION:

MAR 06 2012

Honolulu, Hawaii

Councilmembers



RESOLUTION

INITIATING AMENDMENTS TO THE REVISED CHARTER OF THE CITY AND COUNTY OF HONOLULU 1973, AS AMENDED, RELATING TO PERSONAL SERVICES CONTRACTS.

WHEREAS, much of the work of the City has, in recent years, been performed by persons employed under personal services contracts with the City; and

WHEREAS, persons providing services to the City's executive branch pursuant to personal services contracts are exempt from the civil service pursuant subsections (f), (g), (h) and (j) of Section 6-1103, Revised Charter of Honolulu 1973, as amended ("RCH"); and

WHEREAS, persons providing services to the City's legislative branch pursuant to personal services contracts are exempt from the civil service pursuant subsection (f) of Section 6-1104, RCH; and

WHEREAS, the extensive use of personal services contracts by the City may have incurred certain risks of abuse in such use, such as:

- (1) Circumventing normal civil service procedures that help to ensure that city employment is based on merit principles;
- (2) Evading salary restrictions normally applicable to comparable positions; and
- (3) Obfuscating the true size of the City's workforce and the personnel costs for providing City services.

WHEREAS, although the Civil Service Commission of the City and County of Honolulu may have authority to regulate the terms of employment for the City's employees, it is unclear whether and to what extent it may have authority to regulate the terms of personal services contracts; and

WHEREAS, unlike the Civil Service Commission, the City Council has the responsibility to balance and monitor execution of the City's budget ordinances, has oversight responsibility over the City's executive branch agencies, and has direct responsibility for the employees of the City's legislative branch agencies; and



RESOLUTION

WHEREAS, it is therefore appropriate for the Council to have the authority to enact general ordinances establishing limitations on the use of personal services contracts; and

WHEREAS, although the Council believes that it currently has the authority to regulate the City's personal services contracts, it desires to make such authority incontrovertible; and

WHEREAS, the Council recognizes that certain personal services contracts are subject to the Chapter 103D, Hawaii Revised Statutes (the Hawaii Public Procurement Code), and that the Council would have limited authority regarding the letting of such contracts; and

WHEREAS, neither the adoption of this resolution nor the amendments to the Revised Charter contained in this resolution shall be construed as recognition of any limitations on the current authority of the Council to enact legislation and adopt rules establishing policies regarding city officers or employees exempt from the civil service, including but not limited to persons providing the city with contractual services pursuant to personal services contracts; now, therefore,

BE IT RESOLVED by the Council of the City and County of Honolulu:

1. That the following question be placed on the ballot at the 2012 general election:

"Shall the Revised City Charter be amended to recognize the City Council's authority to establish general policies regarding the City's personal services contracts and the persons with whom the City may enter into such contracts?"

2. That Section 6-1103, Revised Charter of the City and County of Honolulu 1973, as amended, is amended to read as follows:

"Section 6-1103. Civil Service and Executive Branch Exemptions --

1. The provisions of this chapter of the charter shall apply to all positions in the service of the executive branch. This section shall apply to semi-autonomous agencies as though they are departments of the executive branch.
2. The following positions shall be exempt from the provisions of this chapter of the charter:



RESOLUTION

- (a) Positions of officers elected by public vote; positions of heads of departments; the position of the band director of the Royal Hawaiian Band; the position of the executive for housing; the position of the manager and chief engineer of the board of water supply and the manager of any semi-autonomous agency created by ordinance.
- (b) Positions in the office of the mayor, but such positions shall be included in the position classification plan. Employees of the civil defense agency and Royal Hawaiian Band, other than the band director, shall not be exempted from civil service.
- (c) Positions of deputies of the corporation counsel, deputies and administrative or executive assistants of the prosecuting attorney and law clerks.
- (d) Positions of members of any board, commission or equivalent body.
- (e) Positions of a temporary nature filled by students.
- (f) Personal services obtained by contract where the director has certified that the service is special or unique, is essential to the public interest and that, because of circumstances surrounding its fulfillment, personnel to perform such service cannot be obtained through normal civil service recruitment procedures. Any such contract may be for any period not exceeding one year.
- (g) Personal services of a temporary nature needed in the public interest where the need for the same does not exceed one year, but before any person may be employed to render such temporary service, the director of human resources shall certify that the service is of a temporary nature and that recruitment through normal civil service recruitment procedures is not practicable.
- (h) Personal services performed on a fee, contract or piecework basis by persons who may lawfully perform their duties concurrently with their private business or profession or other private employment, if any, and whose duties require only a portion of their time, where it is impracticable to ascertain or anticipate the portion of time



RESOLUTION

devoted to the service of the city and when such fact is certified to by the director of human resources.

- (i) Positions of one first deputy; and for the Honolulu Police Department one additional deputy; private secretaries to heads of departments and their deputies and to the executive for housing; and the position of managing director, one first deputy and private secretaries to each; but private secretarial positions shall be included in the position classification plan. The first deputy in the department of human resources, however, shall not be exempt from civil service.
- (j) Positions or personal services in demonstration programs and joint participation and special projects which serve the community; provided that such exemptions are required by federal law or rules and regulations and then in accordance with procedures established by ordinance.
- (k) The following positions of the public transit authority:
 - (1) The executive director, deputy director(s), private secretary to the executive director and deputy director(s); and
 - (2) Positions certified by the director of human resources that require specialized knowledge and experience in fixed guideway system planning, development, operations, maintenance, and management, or transit-oriented development;

provided that, except for private secretarial positions, such positions shall not be included in the position classification plan and salaries for such positions shall be set by the public transit authority.

- (l) Positions in the liquor commission of the liquor administrator and the deputy liquor administrator, but such positions shall be included in the position classification plan.

3. [The] Except when contrary to an ordinance enacted pursuant to subsection 4, the director of human resources shall determine the applicability of



RESOLUTION

this section of the charter to specific employment or services in the executive branch.

4. The council may, by ordinance, establish policies regarding those personal services contracts referred to in subdivisions (f), (g), (h) and (j) of subsection 3 and regarding the persons contracted to provide services to the city pursuant to those subdivisions. Such an ordinance may reduce, but may not increase the maximum contract periods established in subdivisions (f) and (g)."

3. That Section 6-1104, Revised Charter of the City and County of Honolulu 1973, as amended, is amended to read as follows:

"Section 6-1104. Civil Service and Legislative Branch Exemptions --

1. The provisions of this chapter of the charter shall apply to all positions in the service of the legislative branch and shall embrace all personal services performed for the legislative branch, except the following:
- (a) Positions of officers elected by public vote or appointed to office as provided in subsection 3-105(a) of this charter.
 - (b) The position of city clerk.
 - (c) Positions in the office of council services.
 - (d) Positions of the first deputy and the private secretaries to the city clerk and the first deputy, but private secretarial positions shall be included in the position classification plan.
 - (e) Positions of temporary election clerks employed during election periods, but such positions shall be included in the position classification plan.
 - (f) Positions and services described by subsections (e), (f), (g) and (h) of Section 6-1103 of this charter, provided, however, that no certification by the director of human resources or approval by the civil service commission shall be required.
 - (g) Positions in the office of the city auditor, including positions on the audit committee which may be established by the council.



RESOLUTION

2. The council may, by ordinance or rule, establish policies regarding those personal services contracts referred to in subdivisions (f) of subsection 1 and regarding the persons contracted to provide services to the city pursuant to that subdivision. The Council may reduce the maximum contract periods incorporated within subdivision (f) by ordinance or rule, but may increase them only by ordinance.
4. That charter material to be repealed is bracketed and new charter material is underscored. When revising, compiling, or printing these charter provisions for inclusion in the Revised Charter of the City and County of Honolulu 1973, as amended, the revisor of the Charter need not include the brackets, the bracketed material, or the underscoring.
5. That if these Charter provisions are amended by any other Charter amendment(s) approved by the electors in the 2012 general election, the revisor of the Charter, in revising, compiling or printing the Charter: (1) may designate or redesignate articles, chapters, sections or parts of sections, and rearrange references thereto; and (2) shall, except as otherwise expressly provided in this resolution or in the other resolution(s) amending these Charter provisions, give effect, to the extent possible, to all of the amendments approved. The revisor of the Charter may also change capitalization or the forms of numbers and monetary sums for the sake of uniformity.
6. That the City Clerk be and is hereby directed:
 - A. To prepare the necessary ballots with the question contained in this Resolution and with spaces for "yes" and "no" votes on the question for presentation to the electors at the 2012 general election. The City Clerk may make technical and non-substantive changes to the form of the question presented in order to conform it to the form of other charter amendment questions presented to the electors at the same election; and
 - B. To publish the above-proposed charter amendments at length in a daily newspaper of general circulation in the City and County of Honolulu at least 45 days prior to its submission to the electors at the 2012 general election.



RESOLUTION

- 7. That upon approval of the charter amendment questions posed in this Resolution by a majority of the electors voting thereon, as duly certified, the charter amendments proposed herein shall take effect.

INTRODUCED BY:

[Handwritten signature]

DATE OF INTRODUCTION:

APR 18 2012

Honolulu, Hawaii

Councilmembers



RESOLUTION

URGING THE HONOLULU AUTHORITY FOR RAPID TRANSPORTATION TO LIMIT PUBLIC RELATIONS AND PUBLIC INVOLVEMENT ACTIVITY TO ONE POSITION WITHIN HART AND TO TERMINATE ALL PUBLIC RELATIONS AND INVOLVEMENT SERVICES CONTRACTS.

WHEREAS, Section 17-103 of the Revised Charter of the City and County of Honolulu ("RCH") provides certain powers, duties, and functions of the Honolulu Authority for Rapid Transportation ("HART"), including the power to "make and execute contracts, project labor agreements and other instruments requiring execution by the authority on such terms as the authority may deem necessary and convenient or desirable with any person or entity in the execution and performance of its powers, duties and functions."; and

WHEREAS, according to information provided by HART to the Honolulu City Council in Dept. Com. 405, 2012, HART lists five employees dedicated to public relations and involvement, at an annual cost of approximately \$360,000; and

WHEREAS, according to Dept. Com. 405, 2012, HART has also contracted with two major contractors and at least 11 subcontractors to provide public involvement services, at a cost of approximately \$4 million, in addition to the public relations services provided internally by HART employees; and

WHEREAS, some spending by contractors for public relations and public involvement related to the rail project is considered proprietary information and not included in totals provided by HART to the Council, thus increasing further the total spending for public relations and public involvement to an unknown amount; and

WHEREAS, the Council is concerned that HART's public relations and public involvement spending is unnecessary and excessive in accomplishing its mission to develop, operate, maintain and expand the city fixed guideway system, as authorized in Article XVII, Section 17-103, RCH; and

WHEREAS, the Council finds that a more limited role for public relations and public involvement by HART, both in-house as well as through contractors, is more appropriate to the mission of HART; now, therefore,

BE IT RESOLVED by the Council of the City and County of Honolulu that it urges the Honolulu Authority for Rapid Transportation to limit its public relations and public involvement services to one position within HART; and



RESOLUTION

BE IT FURTHER RESOLVED by the Council of the City and County of Honolulu that it urges the Honolulu Authority for Rapid Transportation to terminate all contracts for public relations and public involvement services and to amend any contracts which include various services to remove any requirements for public relations and public involvement services; and

BE IT FINALLY RESOLVED that copies of this Resolution be transmitted to the Executive Director of the Honolulu Authority for Rapid Transportation and the Chair of the Honolulu Authority for Rapid Transportation.

INTRODUCED BY

TOM BERG

DATE OF INTRODUCTION:

JUN 21 2012

Honolulu, Hawaii

Councilmembers



RESOLUTION

REQUESTING THE HONOLULU AUTHORITY FOR RAPID TRANSPORTATION TO PLACE ON ITS NEXT BOARD OF DIRECTORS MEETING AGENDA A PRESENTATION BY EWA NATIVE HAWAIIAN CULTURAL PRACTITIONER MIKE LEE REGARDING EWA NATIVE HAWAIIAN CULTURAL SITES IN THE PATH OF THE RAIL RIGHT-OF-WAY.

WHEREAS, very significant and major changes will soon be taking place along the planned Honolulu Authority for Rapid Transportation ("HART") corridor in Ewa where important sacred native Hawaiian cultural sites have been identified by various cultural and archeological surveys; and

WHEREAS, Mike Lee is a legally recognized Ewa Plains native Hawaiian cultural practitioner by the Oahu Island Burial Council, Office of Hawaiian Affairs, and throughout the State of Hawaii; and

WHEREAS, Mike Lee is also recognized as an expert regarding legal decisions involving native Hawaiian cultural practices in the Ewa Plains, as well as a documented descendant of original Ewa Plains ranchers and native Hawaiian royalty with lineage traced to Kamehameha III; now, therefore,

BE IT RESOLVED by the Council of the City and County of Honolulu that it requests the Honolulu Authority for Rapid Transportation Board of Directors to place on its next meeting agenda after this Resolution is adopted a presentation by Mike Lee regarding the native Hawaiian cultural concerns and issues identified in Ewa archeological surveys regarding sacred and cultural sites that are eligible to be on the National Register of Historic Places and other relevant issues; and



RESOLUTION

BE IT FINALLY RESOLVED, that copies of this Resolution be transmitted to the Director of the Honolulu Authority for Rapid Transportation and the Chairperson of the Board of Directors for the Honolulu Authority for Rapid Transportation c/o 1099 Alakea Street, Suite 1700, Honolulu, Hawaii, 96813.

INTRODUCED BY:

TOM BERG

DATE OF INTRODUCTION:

AUG 22 2012

Honolulu, Hawaii

Councilmembers



RESOLUTION

RELATING TO THE HONOLULU HIGH-CAPACITY TRANSIT CORRIDOR PROJECT.

WHEREAS, by enactment of Ordinance 07-01, the Council approved as the Locally Preferred Alternative ("LPA") for the Honolulu High-Capacity Transportation Corridor Project ("Project") a fixed guideway alternative connecting West Kapolei to the University of Hawaii at Manoa (the "Project"); and

WHEREAS, in Resolution 07-039, FD1(C), as amended by Resolution 08-261, the Council approved an initial Minimum Operable Segment ("MOS") for the Project between East Kapolei and Ala Moana Center, which the City Administration has reported can be constructed without the necessity of using City funds other than those derived through a surcharge on general excise and use taxes; and

WHEREAS, the City will require federal funds to complete the Project, and the mechanism by which the federal government commits funds for new fixed guideway transit projects is known as a Full Funding Grant Agreement ("FFGA") and

WHEREAS, such agreements provide the following benefits to the City:

1. They define the scope of the project;
2. They establish a firm date for project completion;
3. They provide a mechanism for designating federal funds for the project in future years;
4. They lead to the development of accurate cost estimates; and
5. They permit the use of local funding for project activities without jeopardizing the receipt of future federal funding for the project;

and

WHEREAS, with the approval of Resolution 09-252, CD1, by the voters at the 2010 general election, the City's functions relating to the construction and operation of the Project were transferred from the City's Department of Transportation Services ("DTS") to the Honolulu Authority for Rapid Transportation ("HART"); and



RESOLUTION

WHEREAS, on October 27, 2009, the Council adopted Resolution 09-306 authorizing the Director of Transportation Services to execute a "Programmatic Agreement" pursuant to Section 106 of the National Historic Preservation Act, prescribing the necessary steps for the City's preservation of historic properties and artifacts, including Native Hawaiian bones (ʻiwi kupuna), and on January 18, 2012, the Council adopted Resolution 11-7, issuing a Special Management Area Use Permit ("SMP") for those elements of the Project within the Special Management Area ("SMA"); and

WHEREAS, notwithstanding the lack of an FFGA, the FTA has issued two Letters of No Prejudice ("LONP") for the MOS, under which limited construction was authorized to commence without jeopardizing the City's eligibility for reimbursement for costs incurred or its eligibility for receipt of future federal grant funds for the MOS; and

WHEREAS, the first LONP, dated May 24, 2011, authorized utility relocation, archaeological surveys and other activities not included under federal pre-award authority provisions, and the second, dated February 6, 2012, authorized up to \$184.7 million for: (1) Segment 1 construction-West Oahu/Farrington Highway; (2) Segment 2 construction-Kamehameha Highway Guideway; (3) work on the Maintenance and Storage Facility at Leeward Community College ("LCC"); and (4) design and construction of the Farrington Highway Stations Group (LCC, West Loch and Waipahu stations); and

WHEREAS, in light of a finding by City consultants that no historic properties would be affected by construction activities within the Honouliʻuli District, the FTA, in a letter dated April 20, 2012, authorized HART to commence construction in that District; and

WHEREAS, in order to expedite the construction of the MOS, DTS and HART have awarded a number of consulting, planning, design and construction contracts, including various segment-specific contracts and some system-wide contracts, and some of these contracts have been subject to change orders that have increased the City's costs; and

WHEREAS, in Resolution 12-158, CD1, the Council: (1) requested HART to review its standard contract terms with an eye toward avoiding costly change orders, which could lead to Project cost overruns; (2) urged HART to provide to the Council and provide access to the public for relevant documents pertaining to procurements estimated to exceed \$1,000,000; and (3) urged HART to defer execution of additional construction contracts or the issuance of additional Notices to Proceed ("NTP") on such contracts until an FFGA has been executed; and



RESOLUTION

WHEREAS, according to Departmental Communication D-70 (2012), a letter dated February 7, 2012, from HART to the Council, AECOM Technical Services, Inc. ("AECOM"), has been awarded a \$38.8 million contract to design and prepare construction plans and specifications for the "Airport" segment of the MOS, between Aloha Stadium and the Middle Street Transit Center in Kalihi, and, in the HART staff's report to its Board dated July, 2012 (p. 23), it appears that two NTPs have been issued under the contract, but it is unknown to the Council whether additional NTPs have been issued for completion of AECOM's performance under the contract; and

WHEREAS, the Uniform Information Practices Act (Modified), Chapter 92F, Hawaii Revised Statutes ("UIPA"), as interpreted by the State Office of Information Practices in its Opinion Letters 92-17, 94-18, 98-2 and 03-16, requires government agencies to disclose the final terms of their contracts to the public, upon request, except those terms, the disclosure of which would unwarrantedly invade personal privacy or frustrate a legitimate governmental purpose, including terms that relate to the private contractors' sensitive financial information or trade secrets; and

WHEREAS, in Departmental Communication D-649 (2012), Daniel Grabauskas, the Executive Director and Chief Operating Officer of HART, agreed to provide the Council with copies of procurement documents for solicitations expected to exceed \$1,000,000, and informed the Council that information pertaining to all HART solicitations and related addenda are posted on the City's Division of Purchasing website; and

WHEREAS, while the City's Department of Budget and Fiscal Services' Purchasing website provides information relating to the procurement of City construction and professional services contracts, neither that website nor the HART website includes the final terms of HART's construction or professional services contracts; and

WHEREAS, it should not be necessary for members of the Council and the public to have to make formal requests under the UIPA in order to determine the terms of the City's contracts for professional services, particularly those directly relating to the largest single public works project the City has ever undertaken; and

WHEREAS, HART's provision of access to the terms of the City's professional service contracts to interested members of the Council and public provide an opportunity for the Council and the public to suggest refinements that may make the terms of future City professional services contracts more financially or otherwise advantageous to the City; and



RESOLUTION

WHEREAS, some members of the public have become frustrated with and lost confidence in the integrity of the Project due to a lack of transparency by the City administration regarding the Project; and

WHEREAS, on August 24, 2012, the Hawaii Supreme Court issued its opinion in Kaleikini v. Yoshioka, 2012 WL 3644820, in which it determined that an Archaeological Inventory Survey ("AIS") will be required to be completed for the entire MOS alignment prior to the issuance of a Special Management Area Use Permit ("SMP") and prior to commencement of further Project construction; and

WHEREAS, if the Hawaii Supreme Court does not reconsider and nullify its Kaleikini decision, the decision may significantly affect HART's timeline for completion of the MOS; and

WHEREAS, in order to protect the taxpayers of the City and County of Honolulu from paying for potentially unnecessary work, the Council wishes, if possible, to halt AECOM's further performance of design work on the MOS until the Archaeological Inventory Survey has been completed for the MOS, and, if necessary, a new SMP has been issued for the Project; now, therefore,

BE IT RESOLVED by the Council of the City and County of Honolulu that the Honolulu Authority for Rapid Transportation ("HART") is hereby requested to provide the Council with a copy of AECOM's contract with the City for planning and design of the MOS' Airport Segment and to work with the Department of Budget and Fiscal Services to ensure that, in addition to construction contracts, all HART professional services contracts currently in effect (whether executed prior to or after the adoption of this resolution), at least all of those in excess of \$1,000,000, are accessible to the public and the Council via posting on the Internet, subject to such redaction as may be required to avoid unwarranted invasions of personal privacy or the frustration of a legitimate governmental purpose under the State Uniform Information Practices Act (Modified), Chapter 92F, Hawaii Revised Statutes; and

BE IT FURTHER RESOLVED that HART and the Department of Planning and Permitting are requested to work with the Department of Corporation Counsel in order to determine whether it will be necessary for HART to reapply for an SMP for the MOS in light of the Kaleikini decision; and



RESOLUTION

BE IT FURTHER RESOLVED that HART is urged to defer issuance of any further NTPs under the AECOM contract for planning and design of the Airport segment of the MOS and to defer entering into any new contracts for planning and design of the Middle Street to Ala Moana Center Segment of the Project until: (1) the AIS for the entire MOS alignment has been completed; and (2) if it is determined that a new SMP is necessary, such SMP has been issued for the Project; and

BE IT FURTHER RESOLVED that HART is requested to provide the Council with a revised timeline for completion of the MOS in light of Kaleikini; and

BE IT FINALLY RESOLVED that copies of this Resolution be transmitted to the Chairperson of the Board of Directors and the Executive Director and Chief Operating Officer of the Honolulu Authority for Rapid Transportation; to the Director of Budget and Fiscal Services; and to the Director of Planning and Permitting.

INTRODUCED BY:

Romy M. Cachola

Ann Kobayashi

DATE OF INTRODUCTION:

September 12, 2012
Honolulu, Hawaii

Councilmembers



RESOLUTION

URGING THE MAYOR AND THE HONOLULU AUTHORITY FOR RAPID TRANSPORTATION TO PREPARE A NEW ENVIRONMENTAL IMPACT STATEMENT FOR THE CITY'S TRANSIT PROJECT.

WHEREAS, on March 15, 2007, with respect to the Honolulu High-Capacity Transit Corridor Project ("transit project"), the City and the Federal Transit Administration ("FTA") published a Notice of Intent ("NOI") to prepare a draft environmental impact statement ("DEIS") for high-capacity transit improvements in the Leeward corridor of Honolulu, Hawaii (Federal Register, Vol. 72, No. 50, Pages 12254-12257); and

WHEREAS, the NOI states the following:

"The draft EIS would consider five distinct transit technologies: Light rail transit, rapid rail transit, rubber-tired guided vehicles, a magnetic levitation system, and a monorail system." (Federal Register, Vol. 72, No. 50, Page 12256);

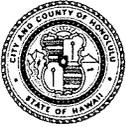
and

WHEREAS, on November 2, 2008, the city released the DEIS, which does not evaluate the five transit technologies noted in the NOI; and

WHEREAS, the failure to evaluate all five technology options in the DEIS as stated in the NOI conflicts with the intent of the federal notice and calls into question whether the DEIS is in compliance with the provisions of the National Environmental Protection Act; and

WHEREAS, on June 14, 2010, the city released the final environmental impact statement ("FEIS"), which likewise does not evaluate the five technology options and notes, "The system will use steel-wheel-on-steel-rail technology" (FEIS, p. S-1); and

WHEREAS, on May 12, 2011, a well-known group of rail opponents filed suit in U.S. District Court seeking to invalidate the transit project's environmental impact statement ("EIS") and federal government approval. The plaintiffs accuse the City of violating federal environmental, historic preservation and transportation laws in preparing the EIS, claiming that City officials defined the requirements of the transit project so narrowly as to exclude all reasonable alternatives, such as monorail, light rail and other technologies. One remedy being sought would require the City to prepare a new or supplemental EIS for the transit project; and



RESOLUTION

WHEREAS, after the Federal Court heard arguments on August 21, 2012, Ben Cayetano, former Governor and one of the lawsuit's plaintiffs, expressed optimism at the comments of Judge A. Wallace Tashima, who noted at the end of the hearing that should he reach a decision favoring the rail opponents, participants in the lawsuit will need to have additional discussions on appropriate remedies ("Opponents of rail argue case in court," Honolulu Star Advertiser, August 22, 2012); and

WHEREAS, the Council finds that: 1) Federal Judge Tashima will likely rule before the end of this year, 2) There is a high likelihood that the lawsuit will succeed in requiring the City to prepare a new EIS, and 3) That continuing to defend against the lawsuit will result in the continuing expenditure of unjustifiable sums of taxpayer dollars; now, therefore,

BE IT RESOLVED by the Council of the City and County of Honolulu that it urges the Mayor and the Honolulu Authority for Rapid Transportation to prepare a new environmental impact statement for the City's transit project that fully assesses all reasonable alternatives for high-capacity transit; and

BE IT FINALLY RESOLVED that copies of this Resolution be transmitted to the Mayor and the Chair of the Honolulu Authority for Rapid Transportation Board of Directors.

INTRODUCED BY:

TOM BERG

DATE OF INTRODUCTION:

SEP 28 2012
Honolulu, Hawaii

Councilmembers



RESOLUTION

REQUESTING THE DEPARTMENT OF TRANSPORTATION SERVICES TO PROVIDE AN ANALYSIS OF THE BENEFITS AND IMPACTS OF THE MOST RECENT PROPOSAL TO IMPLEMENT AN ALTERNATIVE TRAFFIC SOLUTION TO THE CITY'S RAIL PROJECT.

WHEREAS, the City's rail project, at a cost of \$5.26 billion, is the largest transportation-related project on Oahu to date; and

WHEREAS, the rail project is currently stalled as the result of a lawsuit which requires the City to complete an archaeological inventory survey before continuing construction; and

WHEREAS, the Federal Transit Administration has indicated that it will not move on the City's request for \$1.5 billion in federal funding until after the general election; and

WHEREAS, a proposal has recently surfaced as an alternative to the rail project that promises to alleviate traffic congestion at one-fifth the cost and in half the time as the rail project; and

WHEREAS, this recent proposal centers around an express bus rapid transit system that also calls for added traffic lanes on two major arterials, improved synchronization of traffic signals, short underpasses at three Kapiolani Boulevard intersections, a two-mile elevated, reversible Nimitz Highway flyover, and a dedicated bus shoulder lane on the Moanalua Freeway; and

WHEREAS, alleged benefits of this recent proposal include the following:

- Traffic congestion will begin to ease in just six months rather than having to wait until 2015 for the rail's first leg;
- It will serve more areas than rail, including Mililani, Ewa Beach and Wahiawa;
- A "college express" will link UH-Manoa, Honolulu Community College and Hawaii Pacific University;
- The plan is aesthetically more desirable because only one part is elevated;



RESOLUTION

- Average commuter times will be reduced from 29 to 20 minutes;
and
- The proposed system has greater flexibility to adapt to developing technology and changing traffic needs;

and

WHEREAS, opponents to this proposal have criticized it, claiming that the proposal will, among other things:

- Add congestion downtown;
- Force more cars onto fewer lanes;
- Punish businesses near the proposed underpasses; and
- Impact the environment significantly;

and

WHEREAS, the Council finds that the public should be provided with a technical analysis and assessment of this proposal to inform their determination of whether the proposal is a viable and workable alternative to the rail project; now, therefore,

BE IT RESOLVED by the Council of the City and County of Honolulu that it requests the Department of Transportation Services (DTS) to provide a technical analysis of the benefits and impacts of the most recent proposal to implement an alternative traffic solution to the City's rail project; and

BE IT FURTHER RESOLVED that the DTS report its findings to the Council in a timely fashion to allow the residents of the City and County of Honolulu to make an informed determination as to the merits and liabilities of the proposal vis-à-vis the City's rail project; and



RESOLUTION

BE IT FINALLY RESOLVED that copies of this Resolution be sent to the Mayor, the Managing Director, and the Director of Transportation Services.

INTRODUCED BY:

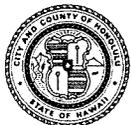
[Handwritten Signature]

DATE OF INTRODUCTION:

OCT 3 2012

Honolulu, Hawaii

Councilmembers



RESOLUTION

REQUESTING THE DEPARTMENT OF TRANSPORTATION SERVICES TO ASSESS THE MOST RECENT PROPOSAL FOR AN ALTERNATIVE TO THE HONOLULU HIGH-CAPACITY TRANSIT CORRIDOR PROJECT.

WHEREAS, the most recent proposal for an alternative traffic solution to the Honolulu High-Capacity Transit Corridor Project ("Rail Project") involves a bus rapid transit system ("BRT"), estimated to be largely completed within four years at a cost of \$1.1 billion, and which among other things, includes the following elements:

- New BRT express routes and continuation of the existing Route C Country Express, which would use the existing eastbound Zipper Lane and the planned westbound Zipper Lane to speed express bus service to Wahiawa, Mililani, Ewa, Kapolei and Waipahu;
- An additional BRT route that would circulate from Aloha Stadium to downtown, and a college express route that would loop between the University of Hawaii at Manoa, Honolulu Community College, and Hawaii Pacific University downtown;
- Dedicating one lane each on Beretania Street and King Street for buses;
- Constructing a 2.2 mile, two-lane viaduct above Nimitz Highway from the H-1 freeway at Middle Street to an area near the Hilo Hattie store;
- Constructing underpasses at selected intersections on Kapiolani Boulevard, Beretania Street, Kalakaua Avenue and Ala Moana Boulevard/Nimitz Highway;
- Establishing contra-flow lanes on King Street and Dillingham Street, and making King Street a six-lane thoroughfare from Middle Street to Liliha Street;
- Improving traffic light synchronization, including a system that would use cameras to allow workers to manually monitor troublesome intersections and adjust lights to help clear the intersections when traffic backs up;



RESOLUTION

- Using high-tech cards or passes that will require passengers to pay before they board;

and

WHEREAS, in *Kaleikini v. Yoshioka*, the Hawaii Supreme Court reviewed on appeal from the Circuit Court of the First Circuit, a lawsuit brought by Paulette Kaleikini ("Kaleikini") against the City and County of Honolulu and the State of Hawaii, challenging the approval of the Rail Project; and

WHEREAS, Kaleikini argued that the Rail Project should be enjoined until an archeological inventory survey ("AIS"), which identifies and documents archeological historic properties and burial sites in the area, is completed for all four phases of the Rail Project; and

WHEREAS, the City and State contended that as long as an AIS had been completed for a particular phase, construction could begin on that part of the Rail Project even if the surveys for other phases had not yet been completed; and

WHEREAS, upon review, the Hawaii Supreme Court held that the City and State failed to comply with State law pertaining to the surveys and its implementing rules when it concurred in the Rail Project prior to the completion of the required AIS for the entire project; and

WHEREAS, the Hawaii Supreme Court also held that the City similarly failed to comply with State law and its implementing rules by granting a special management area permit for the Rail Project and by commencing construction prior to the completion of the historic preservation review process; and

WHEREAS, the Hawaii Supreme Court accordingly vacated the Circuit Court's judgment on Counts 1 through 4 of Kaleikini's complaint, remanded the case to the Circuit Court for further proceedings on those counts, and affirmed the Circuit Court's judgment on Counts 5 and 6, finding that the final environmental impact statement ("EIS") was not required to contain an AIS, and that the City and State gave full consideration to cultural and historic values of assets along the proposed Rail Project route; and

WHEREAS, the Hawaii Supreme Court subsequently denied the City's motion for reconsideration of the court's unanimous decision in the case; and



RESOLUTION

WHEREAS, a project of the type and magnitude described in the most recent proposal for an alternative to the Rail Project may require extensive new studies and may be impacted by the Hawaii Supreme Court decision in *Kaleikini v. Yoshioka*, particularly with regard to EIS and AIS requirements and related effects on timing and cost; now, therefore,

BE IT RESOLVED by the Council of the City and County of Honolulu that it requests the Department of Transportation Services ("DTS") to assess and report to the Council on:

1. The need for the proposed alternative to the Rail Project to conduct a new alternatives analysis study, EIS, and other significant studies prior to being eligible for federal funding; and
2. The impact of the Hawaii Supreme Court decision in *Kaleikini v. Yoshioka* on the alternative;

and

BE IT FURTHER RESOLVED that DTS submit the report to the Council in a timely fashion; and



RESOLUTION

BE IT FINALLY RESOLVED that copies this Resolution be transmitted to the Mayor, the Managing Director, and the Director of the Department of Transportation Services.

INTRODUCED BY:

[Handwritten Signature]

DATE OF INTRODUCTION:

OCT 3 2012

Honolulu, Hawaii

Councilmembers



A BILL FOR AN ORDINANCE

RELATING TO AGREEMENTS BETWEEN THE CITY AND THE HONOLULU AUTHORITY FOR RAPID TRANSPORTATION OR THE HONOLULU BOARD OF WATER SUPPLY.

BE IT ORDAINED by the People of the City and County of Honolulu:

SECTION 1. The purpose of this ordinance is to require Honolulu City Council approval of agreements between the City and County of Honolulu and the Honolulu Authority for Rapid Transportation or the Honolulu Board of Water Supply.

SECTION 2. Chapter 1, Revised Ordinances of Honolulu 1990 ("General Provisions"), is amended by adding a new article to be appropriately designated by the revisor of ordinances and to read as follows:

"Article __. Agreements between the City and the Honolulu Authority for Rapid Transportation or the Honolulu Board of Water Supply

Sec. 1-__.1 Definitions.

"Agreement" means any instrument in the nature of a contract, compact, memorandum of understanding or agreement which is intended to be executed between the city and BWS or HART where the city incurs an obligation.

"BWS" means the Honolulu Board of Water Supply.

"City" means the City and County of Honolulu and any department or agency thereof, but, for the purposes of this Article, excludes the BWS or HART.

"HART" means the Honolulu Authority for Rapid Transportation.

"Obligation" means any commitment, promise or similar representation contained in an agreement that the city will provide funds, documents, statistical data, or any professional or technical services to BWS or HART, incur city debt, or expend city funds for BWS or HART. An "obligation" does not include the duty to acknowledge a gift, or to report to the donor on the use of a gift.

Sec. 1-__.2 Council approval of agreements.

Any agreement between the city and BWS or HART, or any amendments thereto, shall require prior city council's consent and approval. The final or draft version



A BILL FOR AN ORDINANCE

of the agreement shall be provided to the council for its review prior to the council's approval. In the event a draft agreement is provided, if a material change is made to the draft agreement after council approval, such change shall require additional council review and approval. City council's consent and authorization as well as the designated official authorized to execute the agreement on behalf of the city shall be contained in the form of either an ordinance or resolution. When carrying out the provisions of any agreement entered into in accordance with this subsection, all applications and/or amendments thereof, statistical data programs, reports or other official communications which support the application and which are required to be provided by the city shall first be presented to the city council for its review and approval prior to its transmittal. Council's consent and authorization shall be through adoption of an appropriate resolution.

Sec. 1-__3 Penalties.

Penalty for violations of any provision of this article shall be a fine not to exceed \$1,000.00 or one year's imprisonment, or both. Prosecutions in such cases shall be as provided by law for the prosecution of misdemeanors.

Sec. 1-__4 Separability.

It is the intention of the council that this article and every provision thereof shall be considered separable, and the invalidity of any section, clause, provision or part thereof, shall not affect the validity of any other portion of this article."



A BILL FOR AN ORDINANCE

SECTION 3. This ordinance shall take effect upon its approval.

INTRODUCED BY:

Ann Kobayashi

DATE OF INTRODUCTION:

FEB 07 2012

Honolulu, Hawaii

Councilmembers

APPROVED AS TO FORM AND LEGALITY:

Deputy Corporation Counsel

APPROVED this _____ day of _____, 20____.

PETER B. CARLISLE, Mayor
City and County of Honolulu



A BILL FOR AN ORDINANCE

TO AMEND CHAPTER 18, REVISED ORDINANCES OF HONOLULU 1990, AS AMENDED, RELATING TO THE FEES AND PERMITS FOR BUILDING, ELECTRICAL, PLUMBING AND SIDEWALK CODES TO ADD ADDITIONAL EXEMPTIONS FROM THE REQUIREMENTS OF BUILDING PERMITS FOR THE PURPOSE OF STREAMLINING THE BUILDING PERMIT PROCESS.

BE IT ORDAINED by the People of the City and County of Honolulu:

SECTION 1. Purpose. The purpose of this ordinance is to amend the requirements of when a building permit is required.

SECTION 2. Section 18-3.1, Revised Ordinances of Honolulu 1990 ("Fees and Permits for Building, Electrical, Plumbing and Sidewalk Codes"), is amended as follows:

Sec. 18-3.1 Required.

- (a) No person shall perform any of the following or cause any of the following to be performed which is regulated by this code, without first obtaining a building permit [therefor] as prescribed in this section:
 - (1) Erect, construct, enlarge, alter, repair, move, improve, remove, convert or demolish any building or structure[;] , or change the building code's occupancy classification of any building or structure.
 - (2) Any electrical work;
 - (3) Install, remove, alter, repair or replace any plumbing, fire sprinkler, gas or drainage piping work or any fixture, gas appliance, or water heating or treating equipment; or
 - (4) Construct, reconstruct or improve any sidewalk, curb or driveway in any public street right-of-way.
- (b) [Exceptions] Exemptions. A permit shall not be required for the types of work listed below. Exemption from the permit requirements of this code shall not be deemed to grant authorization for any work to be done in violation of the provisions of the technical codes or any other laws or ordinances of this jurisdiction.
 - (1) Work [excepted] exempted from building code provisions under Chapter 16. Work on sidewalks, curbs or driveways regulated under the provisions of Chapter 14, Article 18, however, is not exempt from permit requirements.
 - (2) Temporary construction sheds and temporary construction fences.



A BILL FOR AN ORDINANCE

- (3) Reroofing work which will not adversely affect the structural components for Groups R-3 and U occupancies.
- (4) Installation of siding to existing exterior walls which will not adversely affect the structural components or fire protection of the walls of Groups R-3 and U occupancies.
- (5) Temporary tents or other coverings, for periods not to exceed 14 consecutive days, used for private family parties[.] or for such structures which have obtained a lawful permit from another City agency.
- (6) Retaining walls that are not over 42 inches in height measured from the bottom of the grade to the top of the wall, unless supporting a surcharge or impounding Class I, II or IIIA liquids, fences and planter boxes which are not more than [30] 42 inches in height. Except where located on the corner of a property abutting a street intersection where the exempted height is 30 inches from the existing grade, [walkways, riprap walls, and outside paving within private property].
- (7) [Individual residential_t] Television, video, wireless cable, [and] radio antennas, and satellite dish antennas less than 39.37 inches (1 meter) in diameter or diagonal dimension.
- (8) Window awnings supported by the exterior walls of Groups R-3 or U occupancies, when projecting not more than four feet six inches.
- (9) Installation of wallpaper or wall covering which is exempted under the provisions of Chapter 16.
- (10) Repairs which involve only the replacement of component parts of existing work with similar materials for the purpose of maintenance, and which do not aggregate over \$1,000.00 in valuation in any 12-month period, and do not affect any electrical, plumbing, or mechanical installations. For the purposes of this exemption, the value of painting and finish work to restore to the existing condition shall not be included in the valuation of the work.
- (11) Painting, installation of floor covering and cabinet work without limit as to valuation[; provided, however, that the values thereof shall be included as part of the value of any new construction for which a permit is required by this code, for the purpose of determining the amount of the fee to be paid for such permit].
- (12) Work located on federal property.
- (13) Work performed for any federal or state government agency, except where permits are specifically requested by the agency.
- (14) Playground equipment, monuments, statues, ornamental ponds less than 18 inches in depth, and golf course pedestrian and golf cart bridges.
- (15) Temporary motion picture, television, and theater stage sets and scenery.
- (16) One-story detached buildings:



A BILL FOR AN ORDINANCE

- (A) Accessory to Group R-3 occupancies and used as tool and storage sheds, playhouses and similar uses; provided that the aggregate floor area does not exceed 120 square feet; or
- (B) Accessory to crop production (Group U Occupancy only) in AG-1 Restricted Agricultural or AG-2 General Agricultural zoning districts [and used as storage sheds or for water catchment and] not used as dwelling or lodging units and that do not contain electrical or plumbing systems, that are:
 - (i) Less than 1,000 s.f. in floor area, provided that the aggregate floor area of exempted agricultural accessory buildings does not exceed 5,000 square feet per zoning lot and the minimum horizontal separation between each accessory building shall be 15 feet;
 - (ii) Less than 2,000 s.f. in floor area for an open-sided agricultural accessory building with three walls or less, provided that the aggregate floor area of exempted agricultural accessory buildings does not exceed 5,000 square feet per zoning lot and the minimum horizontal separation between each accessory building shall be 15 feet;
 - (iii) Membrane structures less than 20,000 s.f. in area constructed for agricultural production; or
 - (iv) Accessory structures used for water catchments. Exempt structures shall comply with Chapter 21, Revised Ordinances of Honolulu 1990, as amended. Storage of hazardous materials shall comply with all applicable laws and regulations. Structures that are constructed without a building permit have not been evaluated for accessibility to public infrastructure and services including access, water, fire and emergency services. No action shall be prosecuted or maintained against the City, its officials, or employees for damages or injuries as a result of the lack of infrastructure or services for buildings constructed without a permit.
- (17) Nonfixed and [M]movable cases, counters, and partitions not over five feet nine inches [high] in height.
- (18) The following electrical work:
 - (A) Electrical work and installation to which the provisions of the electrical code are expressly declared to be not applicable;
 - (B) Installation of any portable motor or other portable appliance energized by means of a cord or cable having an attachment plug, if such cord or cable is permitted by the electrical code;



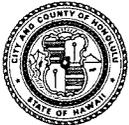
A BILL FOR AN ORDINANCE

- (C) Repair of any fixed motor or other appliance, or replacement of any fixed motor with another having the same horsepower rating and situated at the same location;
 - (D) Maintenance work for commercial and industrial processing equipment by a duly licensed electrician;
 - (E) Electronic equipment, sound public address systems, cable television and communication systems for a single-family or two-family dwelling;
 - (F) Radio and television receiving antenna systems other than master or community systems;
 - (G) Sound recording systems for a single-family or two-family dwelling;
 - (H) Interior telephone work subject to regulation by the public utilities commission of the State of Hawaii and wiring of interconnecting cable of data processing equipment; and
 - (I) Repair work performed by a licensed electrical contractor which does not aggregate over \$500.00 in valuation in any 12-month period and does not involve service entrance equipment.
 - (J) Electrical wiring, devices, appliances, apparatus or equipment operating at less than 25 volts and not capable of supplying more than 50 watts of power which are not part of a fire alarm or detection system.
- (19) The following work by a public utility supplying gas:
- (A) Disconnecting defective gas piping or equipment when authorized under Chapter 19; and
 - (B) Disconnecting or reconnecting existing gas piping or equipment for repair, servicing, replacement or removal.
- (20) The following plumbing work:
- (A) Repair work in plumbing systems when the work does not involve or require the replacement or rearrangement of valves, pipes or fixtures; and
 - (B) Repair work performed by a licensed plumbing contractor which does not aggregate over \$1,000.00 in valuation in any 12-month period and which involves or requires only the replacement of valves, pipes or fixtures.
- (21) All structures, other than buildings, which are constructed in conjunction with board of water supply, the Honolulu high capacity transit and public works projects undertaken by or on behalf of the city.
- (22) All structures, other than buildings, which are constructed in conjunction with the subdivision of lands and in accordance with plans approved by the city under its subdivision rules and regulations.



A BILL FOR AN ORDINANCE

- (23) Sidewalks, curbs and driveways in public street rights-of-way which are:
 - (A) Constructed in conjunction with public works projects undertaken by or on behalf of the city;
 - (B) Constructed in conjunction with the subdivision of land and in accordance with plans approved by the city under its subdivision rules and regulations;
 - [(C) Subject to compliance with Chapter 14, Article 18.]
- (24) Minor repairs to sidewalks, curbs and driveways in public street rights-of-way. However, reconstruction and/or replacement of any portion of sidewalks, curbs and driveways shall not be construed as repair which is exempt under this subdivision.
- (25) Exterior screen doors for R-3 dwellings and for individual residential units of R-2 occupancies, except where openings are required to be fire-rated.
- (26) Accessory agricultural structures (Group U Occupancy only) such as fences and utility structures 6 feet high or less in height not located within zoning setbacks.
- (27) Tents used for commercial or for purposes of assembly, such as rallies, festivals, amusements and sideshows less than 3 consecutive days.
- (28) Weather protected outdoor storage regulated under the provisions of the fire code, Chapter 20 ROH 1990, as amended.



A BILL FOR AN ORDINANCE

SECTION 3. Ordinance material to be repealed is bracketed. New ordinance material is underscored. When revising, compiling or printing this ordinance for inclusion in the Revised Ordinances of Honolulu, the revisor of ordinances need not include the bracketed material, or the underscoring.

SECTION 4. This ordinance shall take effect upon its approval.

INTRODUCED BY:

[Handwritten signature] _____ (br)

DATE OF INTRODUCTION:

APR 23 2012

Honolulu, Hawaii

Councilmembers

APPROVED AS TO FORM AND LEGALITY:

Deputy Corporation Counsel

APPROVED this _____ day of _____, 20 _____.

PETER CARLISLE, Mayor
City and County of Honolulu