

Honolulu Authority for Rapid Transportation

RESOLUTION NO. 2015-14

APPROVING NOTIFICATION TO THE CITY COUNCIL OF INTENTION TO ACQUIRE THE REAL PROPERTY IDENTIFIED AS TAX MAP KEY 1-2-003-018 (PORTION) BY EMINENT DOMAIN AND PUBLICATION OF A RESOLUTION AUTHORIZING ACQUISITION OF SAID PROPERTY BY EMINENT DOMAIN

WHEREAS, the Honolulu Authority for Rapid Transportation (HART) has been established pursuant to Article XVII of the Revised Charter of the City and County of Honolulu 1973, as amended (Charter); and

WHEREAS, Section 17-103.2(b) of the Charter empowers HART "to acquire by eminent domain ... all real property or any interest therein necessary for the construction, maintenance, repair, extension or operation of the fixed guideway system;" and

WHEREAS, prior to such acquisition the Charter directs HART to submit a list of real property to be acquired by eminent domain to the City Council; and

WHEREAS, the City Council may approve the acquisition by eminent domain or may object by adoption of a resolution within 45 days of the notification to acquire the real property; and

WHEREAS, the acquisition by eminent domain in fee simple of the real property identified as Tax Map Key (TMK) 1-2-003-018 (por.) and more particularly described in the attached legal description marked as Exhibit A, is necessary for the Honolulu Rail Transit Project fixed guideway system, a valid public use and purpose;

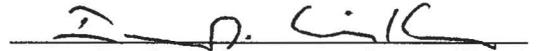
NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of HART as follows:

1. That written notification to the City Council is approved, for the acquisition by eminent domain in fee simple of the real property identified as 1-2-003-018 (por.); and
2. That in the event the City Council approves or does not object to the acquisition within 45 days of notification, then HART is authorized to publish in a daily newspaper at least three days prior to Board action, the attached resolution marked as Exhibit B, authorizing acquisition by eminent domain in fee simple of the above-identified real property.

ADOPTED by the Board of the Honolulu Authority for Rapid Transportation on JUN 25 2015.

Exhibit A – Legal description of TMK 1-2-003-018 (por.)

Exhibit B – Resolution No. 2015-____, Authorizing the Acquisition of the Real Property Identified as Tax Map Key 1-2-003-018 (portion) by Eminent Domain


Board Chair

ATTEST:


Board Administrator

Parcel 409
Being a Portion of Lot 13 in Block 10 of "Kapiolani Tract"
Being also a Portion of Royal Patent Number 8194, Land Commission
Award Number 6450, Apana 1 to Kaumohua no Moehonua

SITUATE AT MOKAUEA, KALIHI, HONOLULU, ISLAND OF OAHU, HAWAII

Beginning at the Northwest corner of this parcel of land, also being the North corner of the Remainder of Parcel 409, the coordinates of said point of beginning referred to Government Survey Triangulation Station "PUNCHBOWL" being 5,622.05 feet North and 10,726.02 feet West, thence running by azimuths measured clockwise from true South:

- 1. 222° 20' 12.91 feet along Lot 1-A (Map 3) of Land Court Application 660;
- 2. 312° 20' 50.00 feet along the Southwest side of Dillingham Boulevard;
- 3. 42° 20' 12.91 feet along Lot 16 in Block 10 of "Kapiolani Tract";
- 4. 132° 20' 50.00 feet along the Remainder of Parcel 409 to the point of beginning and containing an area of 645 Square Feet, more or less.



R. M. TOWILL CORPORATION

Description prepared by:

Ryan M. Suzuki
 Ryan M. Suzuki Exp: 4/30/16
 Licensed Professional Land Surveyor
 Certificate Number 10059

2024 North King Street, Suite 200
Honolulu, Hawaii 96819
May 8, 2015



Remainder of Parcel 409
Being a Portion of Lot 13 in Block 10 of "Kapiolani Tract"
Being also a Portion of Royal Patent Number 8194, Land Commission
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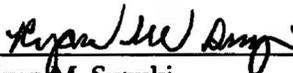
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4. 222° 20' 80.09 feet along Lot 1-A (Map 3) of Land Court Application 660 to the point of beginning and containing an area of 4,005 Square Feet, more or less.



R. M. TOWILL CORPORATION

Description prepared by:


Ryan M. Suzuki Exp: 4/30/16
Licensed Professional Land Surveyor
Certificate Number 10059

2024 North King Street, Suite 200
Honolulu, Hawaii 96819
May 8, 2015

- 1 -

2024 North King Street
Suite 200
Honolulu HI 96819-3470
Telephone 808 842 1133
Fax 808 842 1937
eMail mtowill@hawaii.rr.com



R. M. TOWILL CORPORATION
SINCE 1930

Planning
Engineering
Environmental Services
Photogrammetry
Surveying
Construction Management

Easement A
For Temporary Construction Purposes
Affecting the Remainder of Parcel 409

Being a Portion of Lot 13 of "Kapiolani Tract"
Being a portion of Royal Patent Number 8194, Land Commission
Award Number 6450, Apana 1 to Kaumohua no Moehonua

SITUATE AT MOKAUEA, KALIHI, HONOLULU, ISLAND OF OAHU, HAWAII

Beginning at the North corner of this easement, being the Northwest corner of Parcel 409, the coordinates of said point of beginning referred to Government Survey Triangulation Station "PUNCHBOWL" being 5,622.05 feet North and 10,726.02 feet West, thence running by azimuths measured clockwise from true South:

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3. 132° 20' 50.00 feet;
4. 222° 20' 4.00 feet along Lot 1-A (Map 3) of Land Court Application 660 to the point of beginning and containing an area of 200 Square Feet, more or less.



R. M. TOWILL CORPORATION

Description prepared by:

Ryan M. Suzuki Exp: 4/30/16
Licensed Professional Land Surveyor
Certificate Number 10059

2024 North King Street, Suite 200
Honolulu, Hawaii 96819
June 12, 2015

- 1 -

2024 North King Street
Suite 200
Honolulu HI 96819-3470
Telephone 808 842 1133
Fax 808 842 1937
eMail rmtowill@hawaii.rr.com



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Honolulu Authority for Rapid Transportation

RESOLUTION NO. 2015-

**AUTHORIZING THE ACQUISITION OF THE REAL PROPERTY IDENTIFIED
AS TAX MAP KEY 1-2-003-018 (PORTION) BY EMINENT DOMAIN**

WHEREAS, the Honolulu Authority for Rapid Transportation (HART) has been established pursuant to Article XVII of the Revised Charter of the City and County of Honolulu 1973, as amended (Charter); and

WHEREAS, Section 17-103.2(b) of the Charter empowers HART "to acquire by eminent domain. . . all real property or any interest therein necessary for the construction, maintenance, repair, extension or operation of the fixed guideway system;" and

WHEREAS, the City Council approved or did not object to the acquisition of the real property identified as Tax Map Key (TMK) 1-2-003-018 (por.) by eminent domain in fee simple after written notification by HART; and

WHEREAS, the acquisition by eminent domain in fee simple of the above-identified real property, which is more particularly described in the attached legal description marked as Exhibit A, is necessary for the Honolulu Rail Transit Project fixed guideway system, a valid public use and purpose;

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of HART as follows:

1. That acquisition by eminent domain in fee simple of the real property identified as TMK 1-2-003-018 (por.) is hereby authorized and the Corporation Counsel of the City and County of Honolulu is empowered to institute eminent domain proceedings as provided by law for the acquisition thereof; and
2. That the acquisition of the above-identified property by eminent domain is determined and declared to be for a valid public use and purpose as aforesaid; and
3. That the acquisition of the above-identified property by eminent domain is determined and declared to be necessary for the aforesaid public use and purpose; and
4. That in the process of said proceedings in eminent domain, the Corporation Counsel is authorized and empowered to negotiate terms of settlement, subject to the approval of HART and/or the Court before which such proceedings are commenced; and

5. That the Board Administrator be directed to transmit copies of this resolution to HART and the Department of the Corporation Counsel.

ADOPTED by the Board of the Honolulu Authority for Rapid Transportation on _____.

Board Chair

ATTEST:

Board Administrator

Exhibit A – Legal Description of TMK 1-2-003-018 (por.)

Parcel 409
Being a Portion of Lot 13 in Block 10 of "Kapiolani Tract"
Being also a Portion of Royal Patent Number 8194, Land Commission
Award Number 6450, Apana 1 to Kaumohua no Moehonua

SITUATE AT MOKAUEA, KALIHI, HONOLULU, ISLAND OF OAHU, HAWAII

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Description prepared by:

Ryan M Suzuki

Ryan M. Suzuki Exp: 4/30/16
Licensed Professional Land Surveyor
Certificate Number 10059

2024 North King Street, Suite 200
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May 8, 2015



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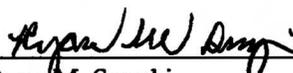
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2024 North King Street, Suite 200
Honolulu, Hawaii 96819
May 8, 2015



Easement A
For Temporary Construction Purposes
Affecting the Remainder of Parcel 409

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R. M. TOWILL CORPORATION

Description prepared by:

A handwritten signature in black ink, appearing to read "Ryan M. Suzuki".

Ryan M. Suzuki Exp: 4/30/16
Licensed Professional Land Surveyor
Certificate Number 10059

2024 North King Street, Suite 200
Honolulu, Hawaii 96819
June 12, 2015

- 1 -

2024 North King Street
Suite 200
Honolulu HI 96819-3470
Telephone 808 842 1133
Fax 808 842 1937
eMail mtowill@hawaii.rr.com



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Honolulu Authority for Rapid Transportation

STAFF SUMMARY

TITLE: RESOLUTION NO. 2015-14 APPROVING NOTIFICATION TO THE CITY COUNCIL OF INTENTION TO ACQUIRE THE REAL PROPERTY IDENTIFIED AS TAX MAP KEY 1-2-003-018 (PORTION) BY EMINENT DOMAIN AND PUBLICATION OF A RESOLUTION AUTHORIZING ACQUISITION OF SAID PROPERTY BY EMINENT DOMAIN	STAFF CONTACT: Elizabeth Scanlon Morris Atta	DATE: 6/25/2015
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Type:	Goal	Focus Area	Reference Notes
<input checked="" type="checkbox"/> Action/Approval	<input checked="" type="checkbox"/> Project Delivery	<input checked="" type="checkbox"/> Livability/Land Use	
<input type="checkbox"/> Information	<input type="checkbox"/> Service Delivery	<input type="checkbox"/> Partnerships	
<input type="checkbox"/> Follow-up	<input checked="" type="checkbox"/> Resource Stewardship	<input type="checkbox"/> Agency Admin.	

1. Purpose:

Review of Notification to City Council for condemnation of land for public use, identified as Tax Map Key 1-2-003-018, and situated at 1803 Dillingham Boulevard, Honolulu, Hawaii, 96819, which is required for road widening purposes for the Honolulu Rail Transit Project (H RTP). This property, for which a 645 square-foot portion and 200 square-foot temporary construction easement are required, is on the critical path for successful completion of the City Center Section of the H RTP. The property is owned by Rosebud Holdings, Limited.

HART recommends use of eminent domain to acquire the property.

2. Background/Justification

This property (Tax Map Key 1-2-003-018) was designated as a partial take in the Final Environmental Impact Statement (FEIS). As required under the Uniform Relocation Assistance and Real Property Acquisition Policies Act (URA) and FTA C5010.1D, the Owners were notified of HART's intent to acquire the property. An appraisal was conducted following URA guidelines, which took into consideration all site conditions and potential impacts the portion would have on the remainder of the property.

- The Owner submitted a counteroffer, an agreement was reached through administrative settlement and is in escrow waiting for subdivision maps, and Department of Planning and Permitting to close.

This parcel is being referred to eminent domain in order to adhere to the project construction timeline. Access to this parcel is needed as soon as possible in order to avoid costly delays to the project schedule and timing. Negotiations with the Owner will continue during the eminent domain process.

3. Procurement Background

N/A

4. Financial/Budget Impact

The project budget includes an estimated cost for legal action associated with the eminent domain of the property.

5. Policy Impact

There is no policy impact since this action conforms to the requirement of the URA, FTA 5010.1D and Article XVII of the Charter of the City and County of Honolulu.

6. Public Involvement

N/A

7. Alternatives

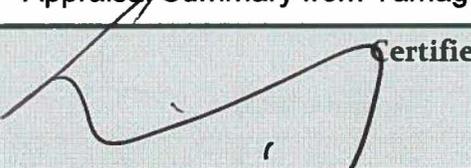
There is no feasible alternative to avoid the above-described impacts to the property.

8. Exhibits

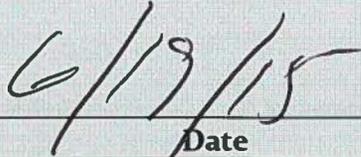
Exhibit 1 – Offer letter dated 8/28/2014

Exhibit 2 – Appraisal Summary from Yamaguchi & Yamaguchi, Inc. dated 8/1/2014

Certified and Recommended by:



Executive Director and CEO



Date



HONOLULU AUTHORITY for RAPID TRANSPORTATION

Daniel A. Grabauskas
EXECUTIVE DIRECTOR AND CEO

HAND-DELIVERED

August 28, 2014

[Handwritten Signature]
 Received
 James Nutter 9/3/14
 Print Name Date

BOARD OF DIRECTORS

Ivan M. Lui-Kwan, Esq.
CHAIR

Donald G. Horner
VICE CHAIR

George J. Atta
Robert Bunda
Michael D. Formby
Ford N. Fuchigami
William "Buzz" Hong
Kestlie W.K. Hui
Damien T.K. Kim
Carrie K.S. Okinaga, Esq.

Rosebud Holdings, Limited
91-140 Kaomi Loop
Kapolei, Hawaii 96707

Attention: Mr. James G. Nutter

Ladies and Gentlemen:

Subject: Honolulu Rail Transit Project (H RTP)
1803 Dillingham Boulevard
Parcel 409: Tax Map Key 1-2-003-018 (Portion)
Letter of Offer

This is a follow-up to previous correspondence regarding the appraisal and acquisition of the subject property. An appraisal of your property has been completed. Based on our findings as contained in the enclosed Statement of Just Compensation, Honolulu Authority for Rapid Transportation (HART) offers to purchase a 645 square foot portion of your property, identified as Tax Map Key 1-2-003-018 shown colored in blue on the enclosed map), in fee simple, free and clear of all liens and encumbrances, for the total consideration of \$105,500 (One Hundred Five Thousand and Five Hundred dollars).

In addition, HART offers to purchase a Temporary Construction Easement (TCE) encompassing a total of 200 square feet (shown in yellow on the enclosed map), for a total consideration of \$1,308 (One Thousand Three Hundred and Eight Dollars). The purpose of the TCE is to facilitate street widening and construction of the improvements with the right-of-way (ROW). Activities that may be performed with the TCE may include: demolition, grading, utilities, traffic items, paving, and sidewalk. These activities may involve operation of equipment, movement of a work force on the described easement, and may include site security with temporary fencing. Construction within the TCE area would be limited to driveway and back of sidewalk connections to existing grades, and surface restoration. The duration of the TCE's will be six months, with a start date to be determined thru coordination with you and the HART's contractor.

The total offer for acquiring both interests in your property is \$106,808 (One Hundred Six Thousand Eight Hundred Eight Dollars).

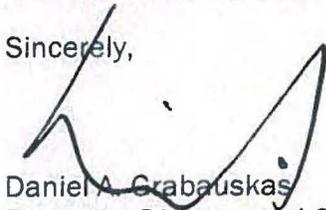
Rosebud Holdings, Limited
Page 2
August 28, 2014

If this offer is acceptable, please sign the duplicate of this letter and the Consent to Enter and return them in the enclosed envelope by October 1, 2014. The remaining copies are for your files. Also enclosed for your information is the Appraisal Summary Statement and the General Acquisition & Relocation Information Brochure.

In accordance with federal regulations affecting real property transactions, we request your cooperation in providing us with your Taxpayer Identification Number. Please execute and return the enclosed IRS Form W-9 at the same time. The W-9 is required by our Department of Budget and Fiscal Services to release the check.

Please call Mr. Walter "Cap" Havekorst at 799-3655 or by email at whavekorst@paragon-partners.com if you have any questions regarding this matter.

Sincerely,



Daniel A. Grabauskas
Executive Director and CEO

Enclosures

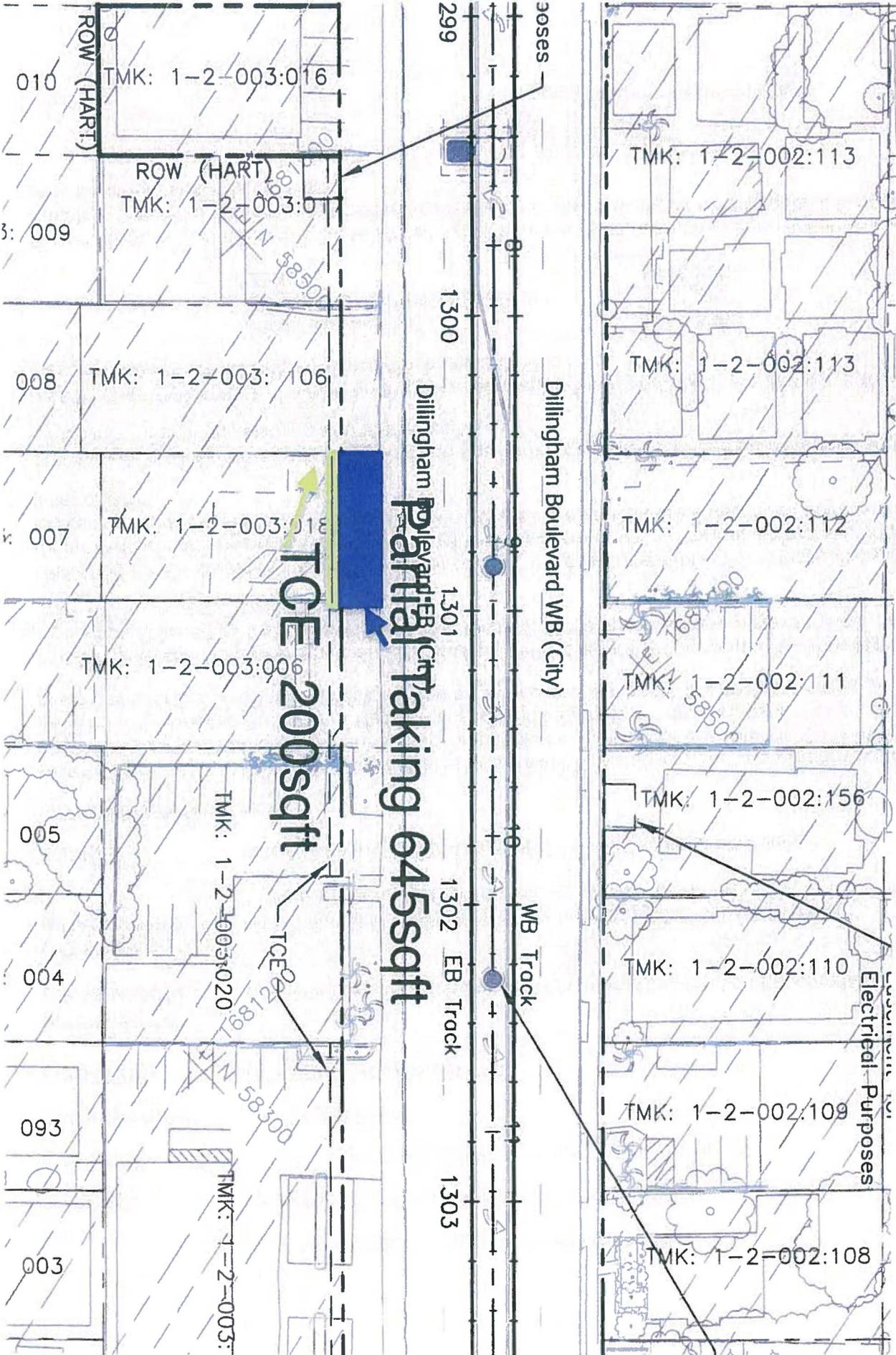
ACCEPTED:

ROSEBUD HOLDINGS, LIMITED

By _____
Its

Print Name: _____

Dated: _____



STATEMENT OF JUST COMPENSATION

PROJECT: HONOLULU RAIL TRANSIT PROJECT (H RTP)
LOCATION: 1803 Dillingham Boulevard, Honolulu, Oahu, Hawaii
TAX MAP KEY: (1) 1-2-003-018
OWNER(S): ROSEBUD HOLDINGS LTD.
INTEREST TO BE ACQUIRED: Unencumbered fee simple and Temporary Construction Easement
PARCEL TO BE ACQUIRED: Partial fee taking consisting of approximately 645 square feet and Temporary Construction Easements (TCE's) of +/- 200sf.
ZONING: IMX-1 Industrial Mixed-Use by the City & County of Honolulu
IMPROVEMENTS: None

PURPOSE: Under the United States and Hawaii Constitutions, private property cannot be taken for public use without payment of just compensation. In accordance with the Code of Federal Regulations, Honolulu Authority of Rapid Transportation submits a written statement of and summary of the basis for the amount it has established as just compensation for the above identified property.

In estimating just compensation, a State of Hawaii licensed appraiser performed an appraisal. The amount established as just compensation is not less than the approved appraisal of the fair market value of the property being acquired.

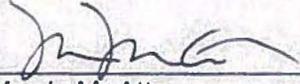
Unless otherwise stated in the attached letter of offer, the amount established as just compensation is for the real property being acquired, which includes land, buildings, structures, or improvements located on, or damaged as a result of the taking of the areas and interest described in the attached letter of offer.

The amount established as just compensation does not include items of personal property such as household furnishings, clothing and appliances.

JUST COMPENSATION: Based on the completed appraisal report and the appraisal review the just compensation amount for the property being acquired is:

Partial Fee Taking	\$105,500
Temporary Construction Easement	\$ 1,308
TOTAL:	\$106,808

The original of this statement to be tendered to the above named owner has been signed in ink. If the signature is not in original ink, as opposed to duplicating, electrostatic or other media, this Statement of Just Compensation is not valid.



Morris M. Atta
Deputy Director of Right-of-Way

APPRAISAL SUMMARY STATEMENT

PROJECT: HONOLULU RAIL TRANSIT PROJECT (H RTP)
ADDRESS: 1803 Dillingham Blvd., Honolulu, Oahu, Hawaii
TAX MAP KEY: (1) 1-2-003-018
OWNER(S): ROSEBUD HOLDINGS LTD.
PARCEL AREA: Partial Fee taking of 645 Square Feet and
Temporary Construction Easement of +/- 200 Square Feet
PROPERTY ACQUIRED: ALL: ___ PART: X
**INTEREST TO
BE ACQUIRED:** Unencumbered fee simple
ZONING: IMX-1 Industrial Mixed-Use
HIGHEST & BEST USE: Commercial
ASSESSED VALUE (2014):

Land	\$693,300
Improvements:	n/a
TOTAL	\$693,300

Partial Fee Taking \$105,500
Temporary Construction Easement: \$ 1,308

The Appraisal Estimate is: **\$106,808**

The value of the property being acquired is based upon an appraisal prepared in accordance with accepted appraisal practices. Full and careful consideration has been given to the highest and best use for development of the property and to all features inherent in your property in order that the highest valuation possible can be made. The Appraisal Estimate and appraisal were developed and reported in conformity with Federal regulations, State statutes, and City ordinances.

CONSENT TO ENTER

The undersigned, being the owner of that certain property bearing the tax map key listed hereinbelow, hereby consents to the entry by the Honolulu Authority for Rapid Transportation ("HART"), a semi-autonomous agency of the City and County of Honolulu, and /or its representatives and consultants for the purpose stated:

PROJECT: **Honolulu Rail Transit Project (H RTP)**
TAX MAP KEY: **(1) 1-2-003-018**
LOCATION: **1803 Dillingham Boulevard, Honolulu, Oahu, Hawaii**
PURPOSE: **Construction Activities**

It is understood that this consent to enter is granted upon the following terms:

(1) That the area covered by this consent document is colored in yellow and blue as outlined on the attached map. That this consent includes the right of ingress to and egress from said consent to enter area over the land of the undersigned, adjacent thereto for all purposes in connection with this consent to enter.

(2) That this consent to enter is granted for a **nominal** consideration of \$1.00.

(3) That HART shall indemnify the undersigned against loss or damage to the property of the undersigned and from liability for injury to or death of persons in the manner provided by law when such loss, damage, injury or death is caused by the negligent use of said property by HART and/or its representatives and consultants, resulting from this consent to enter.

(4) That the entire cost of the work proposed to be done and all other expenses incidental thereto will be borne by HART.

(5) That HART will, in its discretion, determine the extent of the work to be done.

(6) That this consent to enter is granted for a period of thirty-six (36) months commencing from the date of actual entry and terminating at the end of the period or upon completion of work, whichever is sooner.

(7) That HART or its representative will provide the undersigned written notification at least two weeks prior to the entry into said property by HART's contractor.

TAX MAP KEY: (1) 1-2-003-018
Consent to Enter – Page 2

(8) That this consent to enter shall be binding upon and shall inure to the benefit of the parties hereto and their respective heirs, devisees, personal representatives, successors in trust, successors and assigns.

(9) That this consent to enter shall be null and void upon recordation of the deed or other document conveying said property to HART.

DATED: HONOLULU, HAWAII _____.

ROSEBUD HOLDINGS, LIMITED

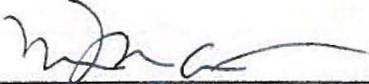
By _____
Its

Phone _____

APPROVED AS TO FORM AND
LEGALITY

Deputy Corporation Counsel

APPROVED AS TO CONTENTS



Honolulu Authority for Rapid Transportation



**Yamaguchi &
Yamaguchi, Inc.**
Real Estate Appraisal &
Consulting Services

August 1, 2014

Mr. Todd Salvatore
Project Manager
Paragon Partners Ltd. for the Honolulu Authority for Rapid Transportation
5762 Bolsa Ave., Suite 201
Huntington Beach, CA 92649

Re: Honolulu Rail Transit Project
Partial Acquisition
Parcel Designation: 1-2-003-018; 4,650 square feet
HART RW Parcel 409
1803 Dillingham Boulevard, Honolulu, Hawaii 96819

Dear Mr. Salvatore,

At your request, we have appraised a real property interest for the above real estate. Our objective was to form one opinion about the market value for the "*Partial Acquisition*" of the subject property's fee simple estate assuming no liens or encumbrances other than normal covenants and restrictions of record.

The purpose of this appraisal report is to assist the Honolulu Authority for Rapid Transportation in the "*Partial Acquisition*" and easement evaluation for Eminent Domain acquisition proceedings of the subject property as part of the Honolulu Rail Transit Project.

As a preview, the subject property identified as the "Larger Parcel" physically consists of a rectangular, non-corner vacant parcel constituting 4,650 square feet.

This valuation contains analyses, opinions, and conclusions along with market data and reasoning appropriate for the scope of work detailed later herein. It was prepared solely for the intended use and intended user(s) explicitly identified in the attached report. Unauthorized users do so at their own risk. The appraisal is communicated in the attached Summary report, and conforms to the version of the Uniform Standards of Professional Appraisal Practice (USPAP) in effect on this report's preparation date of August 1, 2014.

For purposes of this appraisal report the definition of market value from the fifth edition of the *Uniform Appraisal Standards for Federal Land Acquisitions* was utilized and is defined in the Market Value Criterion section of this report.

This letter is not an appraisal report hence it must not be removed from the attached 110-page report. If this letter is disjoined from the attached appraisal report, then the value opinions set forth in this letter are invalid because the analyses, opinions, and conclusions cannot be properly understood.

In general, valuation of the subject property involves a few complex issues. All value opinions are affected by all the information, extraordinary assumptions, hypotheses, general limiting conditions, facts, descriptions, and disclosures stated in the attached appraisal report. After careful consideration of all factors pertaining to and influencing value, the data and analysis thereof firmly supports the following final value opinion(s) for the *Partial Acquisition* as of July 21, 2014.

\$ 760,368	<i>"As Is" Indicated Market Value of the Larger Parcel</i>
\$ 654,898	<i>"As Is" Indicated Market Value of the Remainder Parcel</i>
\$ 105,470	<i>"As Is" Indicated Market Value of the Partial Acquisition</i>
\$ 105,500	<i>"As Is" Indicated Market Value of the Partial Acquisition (Rounded)</i>
\$ 0	<i>Add: Total Severance Damages to the Remainder Property</i>
\$ 0	<i>Less: Special Benefits to the Remainder Property</i>
\$ 105,500	<i>Total Fair Market Value of the Partial Acquisition (Rounded)</i>
\$ 2,616	<i>Estimated Annual Rent Per Annum @ 8% - Temporary Construction Easement</i>
\$ 218	<i>Estimated Monthly Rent</i>

Thank you for your business. Let us know how we may further serve you.



Jon F. Yamaguchi, CRE, FRICS, SRPA, SRA
 President / CEO
 Certified General Appraiser
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 License Expiration Date: 12/31/2015