

Honolulu Authority for Rapid Transportation

RESOLUTION NO. 2015-16

APPROVING NOTIFICATION TO THE CITY COUNCIL OF INTENTION TO ACQUIRE THE REAL PROPERTY IDENTIFIED AS TAX MAP KEY 1-5-028-073 (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) 1-5-028-073 (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 1-5-028-073 (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 1-5-028-073 (por.)
Exhibit B – Resolution No. 2015-____, Authorizing the Acquisition of the Real Property
Identified as Tax Map Key 1-5-028-073 (portion) by Eminent Domain


Board Chair

ATTEST:


Board Administrator

Parcel 413

Being a Portion of Parcel A in Block 10-A of "Kapiolani Tract"
 Being a Portion of R.P. 8194, L.C. Aw. 6450, Apana 1 to Kaunuohua no Moehonua

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

Beginning at the South corner of this parcel of land, also being the East corner of the Remainder of Parcel 413, the coordinates of said point of beginning referred to Government Survey Triangulation Station "MOKAUEA" being 5,197.62 feet South and 4,295.77 feet West, thence running by azimuths measured clockwise from true South:

1. 132° 20' 122.38 feet along the Remainder of Parcel 413;
2. Thence along the Remainder of Parcel 413, on a curve to the right with a radius of 20.00 feet, the chord azimuth and distance being:
 99° 49' 29" 21.50 feet;
3. 222° 20' 4.49 feet along the Southeast side of Kalihi Street;
4. Thence along the Southeast side of Kalihi Street and the Southwest side of Dillingham Boulevard, on a curve to the left with a radius of 20.00 feet, the chord azimuth and distance being:
 267° 20' 28.28 feet;
5. 312° 20' 117.74 feet along the Southwest side of Dillingham Boulevard;
6. 30° 15' 13.23 feet along Lot 624 in Section A of Land Court Application 750 to the point of beginning and containing an area of 1,773 Square Feet, more or less.

- 1 -

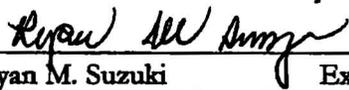




2024 North King Street, Suite 200
Honolulu, Hawaii 96819
March 9, 2015

R. M. TOWILL CORPORATION

Description prepared by:



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

- 2 -

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



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**Easement A
For Temporary Construction Purposes
Affecting the Remainder of Parcel 413**

**Being a Portion of Lot A in Block 10-A 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 Southeast corner of this easement, the coordinates of said point of beginning referred to Government Survey Triangulation Station "MOKAUEA", being 5,148.57 feet South and 4,349.70 feet West, thence running by azimuths measured clockwise from true South:

1. 42° 20' 10.00 feet;
2. 132° 20' 3.08 feet;
3. 222° 20' 6.00 feet;
4. 132° 20' 46.40 feet;
5. Thence on a curve to the left with a radius of 16.00 feet, the chord azimuth and distance being:

99° 49' 29" 21.50 feet;
6. 42° 20' 29.90 feet;
7. 132° 20' 4.00 feet;
8. 222° 20' 30.83 feet along the Southeast side of Kalihi Street;
9. Thence along Parcel 413, on a curve to the right with a radius of 20.00 feet, the chord azimuth and distance being:

279° 49' 21.5" 21.50 feet;



10. 312' 20'

49.48 feet along Parcel 413 to the point of beginning and containing an area of 377 Square Feet, more or less.



R. M. TOWILL CORPORATION

Description prepared by:

A handwritten signature in cursive script, appearing to read "Ryan M. Suzuki", written over a horizontal line.

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, 2014



Easement B
For Temporary Construction Purposes
Affecting the Remainder of Parcel 413

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

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2024 North King Street, Suite 200
Honolulu, Hawaii 96819
June 12, 2014



Honolulu Authority for Rapid Transportation

RESOLUTION NO. 2015-

AUTHORIZING THE ACQUISITION OF THE REAL PROPERTY IDENTIFIED AS TAX MAP KEY 1-5-028-073 (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) 1-5-028-073 (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 1-5-028-073 (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 1-5-028-073 (por.)

Parcel 413
Being a Portion of Parcel A in Block 10-A of "Kapiolani Tract"
Being a Portion of R.P. 8194, L.C. Aw. 6450, Apana 1 to Kaunuohua no Moehonua

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March 9, 2015



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June 12, 2014



Easement B
For Temporary Construction Purposes
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2024 North King Street, Suite 200
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June 12, 2014



Honolulu Authority for Rapid Transportation

STAFF SUMMARY

TITLE: RESOLUTION NO. 2015-16 APPROVING NOTIFICATION TO THE CITY COUNCIL OF INTENTION TO ACQUIRE THE REAL PROPERTY IDENTIFIED AS TAX MAP KEY 1-5-028-073 (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 1-5-028-073, and situated at 1617 Dillingham Boulevard, Honolulu, Hawaii 96817, which is required for road widening purposes for the Honolulu Rail Transit Project (H RTP). This property, for which a 1,773 square-foot portion and 686 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 Lane Kunio Fujii, et al.

HART recommends use of eminent domain to acquire the property.

2. Background/Justification

This property (Tax Map Key 1-5-028-073) 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.

- On 11/20/2014 a partial take Offer was presented to Owner and Offer was accepted on 12/2/2014. A Consent to Enter was executed by Owner on 12/2/2014. Currently in escrow awaiting subdivision maps, Land Court, and Department of Planning and Permitting to close escrow.

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

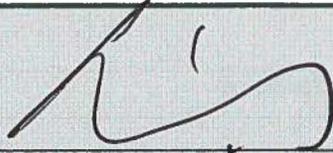
There is no feasible alternative to avoid the above-described impacts to the property.

8. Exhibits

Exhibit 1 – Offer letter dated 11/20/2014

Exhibit 2 – Appraisal Summary from Yamaguchi & Yamaguchi, Inc. dated 10/20/2014

Certified and Recommended by:



Executive Director and CEO

6/19/15
Date

Exhibit 1
APOOROW
CMS01647

IN REPLY REFER TO:
CMS-APOOROW-00697

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JA



HONOLULU AUTHORITY for RAPID TRANSPORTATION

Daniel A. Grabauskas
EXECUTIVE DIRECTOR AND CEO

BOARD OF DIRECTORS

Ivan M. Lui-Kwan, Esq.
CHAIR

Donald G. Horner
VICE CHAIR

George I. Atta
Robert Bunda
Michael D. Formby
Ross M. Higashi
William "Buzz" Hong
Kestlie W.K. Hui
Damien T.K. Kim
Carrie K.S. Okinaga, Esq

CERTIFIED MAIL/RETURN RECEIPT REQUESTED

7014 0150 0000 5879 1659

November 20, 2014

Lane Kunio Fujii
Frances Mitsue Shimotsu
Jerry Juichi Fujii
Marvin Masanori Fujii
528 Kalihi Street
Honolulu, Hawaii 96819

HART-ROW

2014 DEC 4 PM 3 44

Ladies and Gentlemen:

Subject: Honolulu Rail Transit Project (H RTP)
1617 Dillingham Boulevard
Parcel 413: Tax Map Key (TMK) 1-5-028-073 (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 1,773 square foot portion of your property, identified as TMK 1-5-028-073 (shown colored in yellow on the enclosed map), in fee simple, free and clear of all liens and encumbrances, for a consideration of \$255,000 (Two Hundred Fifty-Five Thousand Dollars).

In addition, HART offers to purchase a 686 square foot Temporary Construction Easement (TCE) adjacent to the aforementioned partial taking (shown colored in blue on the enclosed map), for a consideration of \$3,868 (Three Thousand Eight Hundred Sixty-Eight Dollars). The purpose of the TCE is to facilitate construction of the improvements within the right-of-way. Activities that may be performed within the TCE may include: demolition, grading, utilities, traffic items, paving, and sidewalk. These activities may involve the 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 will be six months, with a start date to be determined thru coordination with you and HART's contractor.

The total offer for acquiring both interests in your property is \$258,868 (Two Hundred Fifty-Eight Thousand Eight Hundred Sixty-Eight Dollars).

Lane Kunio Fujii
Frances Mitsue Shimotsu
Jerry Juichi Fujii
Marvin Masanori Fujii
Page 2
November 20, 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 December 20, 2014. The remaining copies are for your files. Also enclosed for your information are the Appraisal Summary Statement and the General Acquisition & Relocation Information Brochure.

If we do not hear from you by December 20, 2014, this offer shall be considered rejected and HART will proceed to review options to acquire the subject property.

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 contact Mr. Joseph Hastings at 294-5206 if you have any questions regarding this matter.

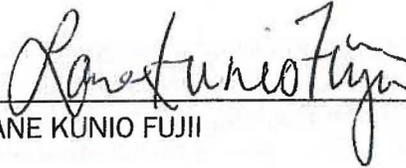
Sincerely,



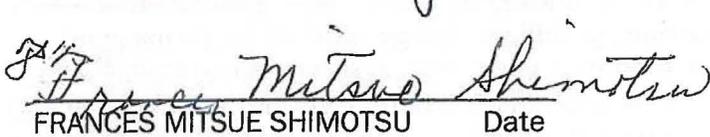
Daniel A. Grabauskas
Executive Director and CEO

Enclosures

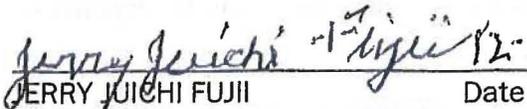
ACCEPTED:

 11/2/14

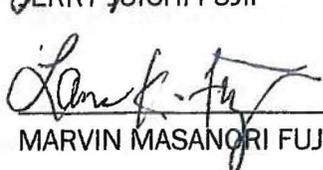
LANE KUNIO FUJII Date

 12/2/14

FRANCES MITSUE SHIMOTSU Date

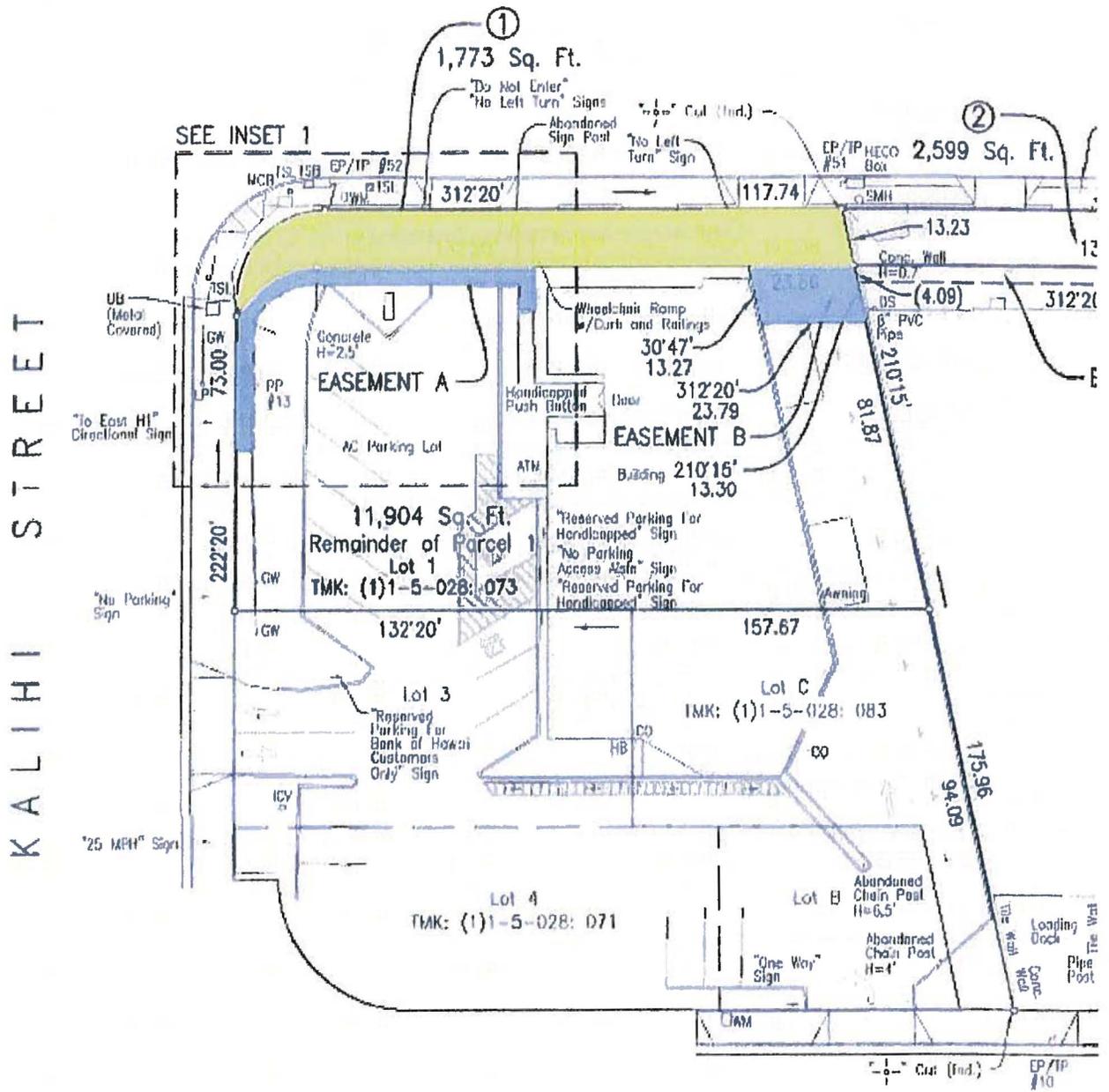
 12-2-14

JERRY JUICHI FUJII Date

 POA for Marvin Masanori Fujii

MARVIN MASANORI FUJII Date

PARCEL MAP EXHIBIT
 TMK 1-5-028-073 (Portion)



STATEMENT OF JUST COMPENSATION

PROJECT: HONOLULU RAIL TRANSIT PROJECT (H RTP)
LOCATION: 1617 Dillingham Boulevard, Honolulu, Oahu Hawaii
TAX MAP KEY: 1-5-028-073 (Portion)
OWNER(S): LANE KUNIO FUJII, FRANCES MITSUE SHIMOTSU, JERRY JUICHI FUJII, MARVIN MASANORI FUJII

INTEREST TO BE ACQUIRED: Unencumbered fee simple & Temporary Construction Easement

PARCEL TO BE ACQUIRED: Partial fee simple taking consisting of +/- 1,773 square feet and Temporary Construction Easement of +/- 686 square feet

ZONING: IMX-1, Industrial Mixed-Use

IMPROVEMENTS: Contributory Value is given to landscaping, irrigation, driveways and curbs

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, an appraisal was performed by a State of Hawaii licensed appraiser. 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	\$255,000
Temporary Construction Easement	\$ 3,868
TOTAL:	\$258,868

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: 1617 Dillingham Blvd. Boulevard, Honolulu, Hawaii 96819
TAX MAP KEY: 1-5-028-073 (Portion)
OWNER(S): LANE KUNIO FUJII, FRANCES MITSUE SHIMOTSU, JERRY JUICHI FUJII, MARVIN MASANORI FUJII

PARCEL AREAS: +/- 1,773 square feet of Partial fee simple taking
+/- 686 square feet of Temporary Construction Easement

PROPERTY ACQUIRED: ALL: PART:

INTEREST TO BE ACQUIRED: Unencumbered fee simple & Temporary Construction Easement

ZONING: IMX-1, Industrial Mixed-Use

HIGHEST & BEST USE: Light-Industrial, Office or Commercial

ASSESSED VALUE (2014):	Land Value	\$1,286,700
FOR TOTAL PARCEL	Building Value	<u>\$ 732,200</u>
	TOTAL	\$2,018,900

	Partial Fee Taking	\$255,000
	Temporary Construction Easement	<u>\$ 3,868</u>
	TOTAL	\$258,868

The Appraisal Estimate is: **\$258,868**

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.



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

October 20, 2014

Ms. Georgia Marquis
Director of Acquisition & Relocation Services
Paragon Partners Ltd. for the Honolulu Authority for Rapid Transportation
5762 Bolsa Ave., Suite 201
Huntington Beach, CA 92649

Re: Honolulu Rail Transit Project
HART RW Parcel 413
Parcel Designation: TMK: (1) 1-5-028-073; 13,677 square feet
1617 Dillingham Boulevard, Honolulu, Hawaii 96817

Dear Ms. Marquis,

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 physically consists of one parcel at the southeast corner of Dillingham Boulevard and Kalihi Street consisting of 13,677 square feet. The improvements, operated as a Bank of Hawaii branch facility straddles the subject site and two adjacent lots. Parcel 71 is owned by Bank of Hawaii consisting of 10,752 square feet and Parcel 83 is owned by Carole K. Shirakata Trust et al consisting of 4,165 square feet. The existing improvements encumber all three of the adjacent parcels with a single use. All three parcels are zoned IMX-1 Industrial Mixed-Use. Per our exterior observation and tax office records, the improvements, originally built in 1971 and renovated over the years consists of 3,441 square feet. The improvements are not included as a part of our appraisal job scope.

The subject property and the adjacent lots do not have unity of ownership, but it does have contiguity and unity of use. However, since the parcels do not have unity of ownership the appraiser has identified the larger parcel as the subject parcel independently as TMK (1) 1-1-5-028-073.

The partial acquisition area along the property boundary frontages involving the corner of Dillingham Boulevard and Kalihi Street consists of 1,773 square feet. HART also requires a Temporary Construction Easement (TCE) identified as Easement A and Easement B, situated inside of the partial acquisition area consisting of 686 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 Appraisal report, and conforms to the version of the Uniform Standards of Professional Appraisal Practice (USPAP) in effect on this report's preparation date of September 27, 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 118-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 no atypical 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 subject property partial taking and temporary construction easement as of September 27, 2014:

\$ 1,928,000	<i>"As Is" Indicated Market Value of the Larger Parcel</i>
\$ 1,678,000	<i>"As Is" Indicated Market Value of the Remainder Parcel</i>
\$ 250,000	<i>"As Is" Indicated Market Value of the Partial Acquisition</i>
\$ 250,000	<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>
\$ 5,000	<i>Add: Contributory Value</i>
\$ 255,000	<i>Total Fair Market Value of the Partial Acquisition (Rounded)</i>
\$ 7,736	<i>Estimated Annual Rent Per Annum @ 8% for the TCE</i>
\$ 644.66	<i>Estimated Monthly Rent Per Annum @ 8% for the TCE</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
 Hawaii License CGA 31
 License Expiration Date: 12/31/2015