

## **Honolulu Authority for Rapid Transportation**

### **RESOLUTION NO. 2015-78**

**APPROVING NOTIFICATION TO THE CITY COUNCIL OF INTENTION TO ACQUIRE GUIDEWAY EASEMENT OVER, ON, AND ACROSS THE REAL PROPERTY IDENTIFIED AS TAX MAP KEY 2-3-039-005 (PORTION) BY EMINENT DOMAIN AND PUBLICATION OF A RESOLUTION AUTHORIZING ACQUISITION OF SAID EASEMENT 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 and easements 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 easements; and

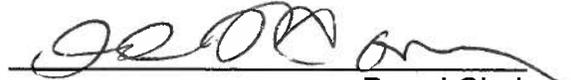
WHEREAS, the acquisition by eminent domain of the guideway easement over, on, and across the real property identified as Tax Map Key (TMK) 2-3-039-005 (Portion) and more particularly described in the attached legal description marked as Exhibit A, is necessary for the Honolulu Rail Transit Project fixed 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 of the guideway easement over, on, and across the real property identified as TMK 2-3-039-005 (Portion); 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 of said easement.

ADOPTED by the Board of the Honolulu Authority for Rapid  
Transportation on   AUG 27 2015  .

Exhibit A – Legal description of TMK 2-3-039-005 (Portion)  
Exhibit B – Resolution No. 2015-\_\_\_, Authorizing the Acquisition of Guideway  
Easement Over, On, and Across the Real Property Identified as Tax Map  
Key 2-3-039-005 (Portion) by Eminent Domain.

  
Board Chair

ATTEST:

  
Board Administrator

## HONOLULU RAIL TRANSIT PROJECT

EASEMENT 7  
(FOR STATION AND GUIDEWAY PURPOSES)Affecting Lot 21 (Map 2) of  
Land Court Consolidation 20

Situate at Kalia, Honolulu, Oahu, Hawaii

Beginning at the Southwest corner of this easement, being the Southeast corner of Lot 20 (Map 2) of Land Court Consolidation 20, being also along the North side of Lot 7 (Map 10) of Land Court Consolidation 65 (Kona Street), the coordinates of said point of beginning referred to Government Survey Triangulation Station "PUNCHBOWL" being 7,094.51 feet South and 1,874.18 feet East thence running by azimuths measured clockwise from true South:

1. 205° 20' 5.88 feet along Lot 20 (Map 2) of Land Court Consolidation 20;
2. 295° 20' 50.00 feet along the remainder of Lot 21 (Map 2) of Land Court Consolidation 20;
3. 25° 20' 5.88 feet along Lot 22 (Map 2) of Land Court Consolidation 20;
4. 115° 20' 50.00 feet along Parcel 495-A of the Honolulu Rail Transit Project, to the point of beginning and containing an area of 294 Square Feet.



AUSTIN, TSUTSUMI &amp; ASSOCIATES, INC.

Description Prepared By:

ERIK S. KANESHIRO  
Licensed Professional Land Surveyor  
Certificate No. 9826

Note: This description is for exhibit purposes and does not purport a legally designated easement.

Honolulu, Hawaii  
August 19, 2015

TMK: (1) 2-3-039: 006  
Y:\2014\14-068\SURVEY\Descriptions\PARCEL 498 - Easement 7.docx



**Honolulu Authority for Rapid Transportation**

**RESOLUTION NO. 2015-\_\_**

**AUTHORIZING THE ACQUISITION OF GUIDEWAY EASEMENT OVER, ON, AND ACROSS THE REAL PROPERTY IDENTIFIED AS TAX MAP KEY 2-3-039-005 (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 guideway easement over, on, and across the real property identified as Tax Map Key (TMK) 2-3-039-005 (Portion) by eminent domain after written notification by HART; and

WHEREAS, the acquisition by eminent domain of said guideway easement over, on, and across 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 of the guideway easement over, on, and across the real property identified as TMK 2-3-039-005 (Portion) 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 said easement by eminent domain is determined and declared to be for a valid public use and purpose as aforesaid; and
3. That the acquisition of said easement 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 2-3-039-005 (Portion)

DRAFT

HONOLULU RAIL TRANSIT PROJECT

EASEMENT 7  
(FOR STATION AND GUIDEWAY PURPOSES)

Affecting Lot 21 (Map 2) of  
Land Court Consolidation 20

Situate at Kalia, Honolulu, Oahu, Hawaii

Beginning at the Southwest corner of this easement, being the Southeast corner of Lot 20 (Map 2) of Land Court Consolidation 20, being also along the North side of Lot 7 (Map 10) of Land Court Consolidation 65 (Kona Street), the coordinates of said point of beginning referred to Government Survey Triangulation Station "PUNCHBOWL" being 7,094.51 feet South and 1,874.18 feet East thence running by azimuths measured clockwise from true South:

1. 205° 20' 5.88 feet along Lot 20 (Map 2) of Land Court Consolidation 20;
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3. 25° 20' 5.88 feet along Lot 22 (Map 2) of Land Court Consolidation 20;
4. 115° 20' 50.00 feet along Parcel 495-A of the Honolulu Rail Transit Project, to the point of beginning and containing an area of 294 Square Feet.



AUSTIN, TSUTSUMI & ASSOCIATES, INC.

Description Prepared By:

*Erik S. Kaneshiro* EXP 04/16

ERIK S. KANESHIRO  
Licensed Professional Land Surveyor  
Certificate No. 9826

Note: This description is for exhibit purposes and does not purport a legally designated easement.

Honolulu, Hawaii  
August 19, 2015

TMK: (1) 2-3-039: 006  
Y:\2014\14-068\SURVEY\Descriptions\PARCEL 498 - Easement 7.docx



AUSTIN, TSUTSUMI & ASSOCIATES, INC.

CIVIL ENGINEERS • SURVEYORS

# Honolulu Authority for Rapid Transportation

## STAFF SUMMARY

<b>TITLE:</b> <b>RESOLUTION NO. 2015-78 APPROVING NOTIFICATION TO THE CITY COUNCIL OF INTENTION TO ACQUIRE GUIDEWAY EASEMENT OVER, ON, AND ACROSS THE REAL PROPERTY IDENTIFIED AS TAX MAP KEY 2-3-039-005 (PORTION) BY EMINENT DOMAIN AND PUBLICATION OF A RESOLUTION AUTHORIZING ACQUISITION OF SAID EASEMENT BY EMINENT DOMAIN</b>	<b>STAFF CONTACT:</b> Elizabeth Scanlon  Morris Atta	<b>DATE:</b> 08/27/2015
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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 2-3-039-005 (Portion), and situated at 1415 Kapiolani Boulevard, Honolulu, Hawaii 96814, which is required for guideway easement purposes for the Honolulu Rail Transit Project (HRTP). This property, for which 294 square-foot guideway easement acquisition is required, is on the critical path for successful completion of the City Center Section of the HRTP. The property is owned by P.H. (Hawaii) Corporation.

HART recommends use of eminent domain to acquire the property.

**2. Background/Justification**

This property (Tax Map Key 2-3-039-005) was designated as needed for the HRTP and identified 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.

- An appraisal report with an effective date of November 4, 2014 was conducted.
- A Letter of Offer dated April 14, 2015 was delivered.
- Owner has not submitted a formal counteroffer.

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 SVII 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 – Letter of Offer dated April 14, 2015.

Exhibit 2 – Appraisal Summary prepared by Hastings, Conboy, Braig & Associates, LTD. with an effective appraisal date of November 4, 2014.

**Certified and Recommended by:**



 Executive Director and CEO

8/20/15

Date



IN REPLY REFER TO:

CMS-APOOROW-00814

HONOLULU AUTHORITY for RAPID TRANSPORTATION

Daniel A. Grabauskas  
EXECUTIVE DIRECTOR AND CEOCERTIFIED MAIL/RETURN RECEIPT REQUESTED

7014 1200 0000 8348 1250

BOARD OF DIRECTORS

Ivan M. Lui-Kwan, Esq.  
CHAIR

April 14, 2015

Donald G. Horner  
VICE CHAIR

Ms. Elvira Lo  
P. H. (Hawaii) Corporation  
c/o Bill Plum, Esq.  
The Plum Law Office, a Law Corporation  
700 Bishop Street, Suite 2100  
Honolulu, Hawaii 96813

George I. 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.

Dear Ms. Lo:

Subject: Honolulu Rail Transit Project (HRTP)  
1415 Kapiolani Boulevard  
Parcel 498: Tax Map Key (TMK) 2-3-039-005 (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 294 square-foot portion of your property, identified as TMK 2-3-039-005 (shown colored in yellow on the enclosed map), for guideway easement purposes, for the total consideration of \$100,000 (One Hundred Thousand Dollars). The easement will be used for construction, operation, and maintenance of the fixed guideway, column, and other ancillary requirements for the HRTP.

The total offer for acquiring the interest in your property is \$100,000 (One Hundred Thousand Dollars).

The amount of offer is predicated on the assumption that there exists no hazardous substance, product, or waste on the subject property. Please be advised that the amount offered is subject to completion of an environmental site assessment by HART, and the cost to remediate any identified findings may affect the valuation of the subject property.

If this offer is acceptable, please sign the duplicate of this letter and return it in the enclosed envelope by **May 14, 2015**. The remaining copy is for your file. Enclosed for your information are the Appraisal Summary Statement and General Acquisition & Relocation Information Brochure. Also enclosed is a draft Right of Entry, Possession and Use Agreement for your review, consideration, and to be further discussed with your acquisition agent.

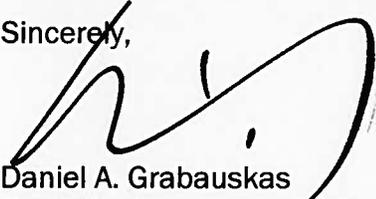
Ms. Elvira Lo  
Page 2  
April 14, 2015

If we do not hear from you by **May 14, 2015** 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. James Vanden Akker at 536-5900 if you have any questions regarding this matter.

Sincerely,



Daniel A. Grabauskas  
Executive Director and CEO

Enclosures

ACCEPTED:

P. H. (HAWAII) CORPORATION

By \_\_\_\_\_  
Its

Print Name: \_\_\_\_\_

Dated: \_\_\_\_\_

**Appraisal Report**

**Prepared for  
Paragon Partners Ltd.  
5762 Bolsa Avenue, Suite 201  
Huntington Beach, CA 92649**

**Covering**

**Honolulu Rail Transit Project  
Parcel Designation (1) 2-3-39-05 (Portion)  
HART RW Parcel 498  
Owner: P. H. (Hawaii) Corporation  
1415 Kapiolani Boulevard  
Honolulu, Oahu, Hawaii**

**Prepared By**

**Alan J. Conboy, MAI, SRA  
Hastings, Conboy, Braig & Associates, Ltd.  
43 Oneawa Street, Suite 211  
Kailua, Hawaii 96734**

**Effective date of Appraisal – November 6, 2014**

Robert C. Hastings, Jr., CRE  
Alan J. Conboy, MAI, SRA  
Robert R. Braig, MAI, SRA  
Andrew B. Conboy

# HASTINGS, CONBOY, BRAIG & ASSOCIATES, LTD.

Real Estate Appraisers, Counselors and Economists

December 19, 2014

Ms. Georgia Marquis  
Project Manager  
Paragon Partners Ltd. For the Honolulu Authority for Rapid Transportation  
5762 Bolsa Avenue, Suite 201  
Huntington Beach, CA 92649

Dear Ms. Marquis:

**Re: Guideway Easement Acquisitions covering a Portion of the P. H. (Hawaii) Coporation Property, Tax Map Key (1) 2-3-39-05 (HART R/W 498)**

We have conducted, in the accompanying report, a complete appraisal of a guideway easement acquisition affecting the property located at 1415 Kapiolani Boulevard, Island of Oahu, State of Hawaii. The total property is identified on State of Hawaii tax maps as First Division Tax Map Key 2-3-39, Parcel 05.

P. H. (Hawaii) Corporation owns the fee simple interest in the property. The total property (Larger Parcel) consists of a 12,500 square foot parcel. The larger parcel is improved with a one-story masonry retail structure.

The guideway easement acquisition will consist of approximately 294 square feet located along Kona Street designated Parcel 05 (Portion). The easement will be used for “construction, operation, and maintenance of the fixed guide way, column, and other ancillary requirements for the Honolulu Rail Transit Project.”

This appraisal was developed and prepared in accordance with the Uniform Appraisal Standards for Federal Land Acquisitions, 2000 (UASFLA) of the Interagency Land Acquisition Conference and the Uniform Standards of Professional Appraisal Practice (USPAP) of the Appraisal Standards Board. The results of the appraisal are communicated in the format of an Appraisal Report. The date of the appraisal report is December 19, 2014.

The sources of information and basis of the estimates and assumptions are stated herein. The appraisers have relied on certain information developed from their research and knowledge of the market, and have performed reasonable verification of facts, except as specifically set forth in the report. To the best of the appraisers’ knowledge and belief, the information contained in this report, on which the analyses and conclusions expressed herein are based, is fairly stated.

The results of our complete appraisal are set forth within the attached narrative Appraisal Report. Based on our thorough research and analyses and subject to the limiting conditions and assumptions

stated herein, it is our opinion that the fair market value of the guideway easement land acquisition of a 294 square foot portion of the 1415 Kapiolani Boulevard property, as of an effective date of November 6, 2014, is summarized as follows:

	<u>Value Indication</u>		<u>Value Conclusion of Acquisition</u>
	<u>Before</u>	<u>After</u>	
Parcel 05 (Por.) 294 square feet	\$4,100,000	\$4,000,000	\$100,000

We appreciate the opportunity to have undertaken this appraisal assignment.

Sincerely,

**HASTINGS, CONBOY, BRAIG  
& ASSOCIATES, LTD.**

Alan J. Conboy, MAI, SRA  
 Executive Vice President  
 Hawaii State Certified General Appraiser CGA-185  
 Certificate Expires: December 31, 2015

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