

Honolulu Authority for Rapid Transportation

RESOLUTION NO. 2015-44

APPROVING NOTIFICATION TO THE CITY COUNCIL OF INTENTION TO ACQUIRE ELECTRICAL EASEMENT OVER, ON, AND ACROSS THE REAL PROPERTY IDENTIFIED AS TAX MAP KEY 1-1-004-028 (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 electrical easement over, on, and across the real property identified as Tax Map Key (TMK) 1-1-004-028 (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 electrical easement over, on, and across the real property identified as TMK 1-1-004-028 (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 SEP 24 2015.

Exhibit A – Legal description of TMK 1-1-004-028 (Portion)

Exhibit B – Resolution No. 2015-___, Authorizing the Acquisition of Electrical Easement
Over, On, and Across the Real Property Identified as Tax Map Key 1-1-004-
028 (Portion) by Eminent Domain.



Board Chair

ATTEST:



Board Administrator

Easement 303
For Electrical Purposes
Affecting Lot 895 (Map 196) of Land Court Application 1074
In Favor of Hawaiian Electric Company

SITUATE AT MOANALUA, HONOLULU, ISLAND OF OAHU, HAWAII

Beginning at the Southwest corner of this easement, along the North side of Ualena Street, the coordinates of said point of beginning referred to Government Survey Triangulation Station "SALT LAKE" being 10,914.23 feet South and 4,284.25 feet West, thence running by azimuths measured clockwise from true South:

- 1. 189° 04' 9.41 feet;
- 2. 279° 04' 13.00 feet;
- 3. 9° 04' 9.41 feet;
- 4. 99° 04' 13.00 feet along the North side of Ualena Street to the point of beginning and containing an area of 122 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
 July 16, 2015
 TMK: 1-1-004: 028 (PDQ 303)

Note: This description is for exhibit purposes only and does not purport a legally subdivided lot.



Honolulu Authority for Rapid Transportation

RESOLUTION NO. 2015-__

**AUTHORIZING THE ACQUISITION OF ELECTRICAL EASEMENT OVER, ON, AND
ACROSS THE REAL PROPERTY IDENTIFIED AS TAX MAP KEY 1-1-004-028
(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 electrical easement over, on, and across the real property identified as Tax Map Key (TMK) 1-1-004-028 (Portion) by eminent domain after written notification by HART; and

WHEREAS, the acquisition by eminent domain of said electrical 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 electrical easement over, on, and across the real property identified as TMK 1-1-004-028 (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 1-1-004-028 (Portion)

DRAFT

Easement 303
For Electrical Purposes
Affecting Lot 895 (Map 196) of Land Court Application 1074
In Favor of Hawaiian Electric Company

SITUATE AT MOANALUA, HONOLULU, ISLAND OF OAHU, HAWAII

Beginning at the Southwest corner of this easement, along the North side of Ualena Street, the coordinates of said point of beginning referred to Government Survey Triangulation Station "SALT LAKE" being 10,914.23 feet South and 4,284.25 feet West, thence running by azimuths measured clockwise from true South:

1. 189° 04' 9.41 feet;
2. 279° 04' 13.00 feet;
3. 9° 04' 9.41 feet;
4. 99° 04' 13.00 feet along the North side of Ualena Street to the point of beginning and containing an area of 122 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
July 16, 2015
TMK: 1-1-004: 028 (PDQ 303)

Note: This description is for exhibit purposes only and does not purport a legally subdivided lot.



Honolulu Authority for Rapid Transportation

STAFF SUMMARY

TITLE:
RESOLUTION NO. 2015-44 APPROVING NOTIFICATION TO THE CITY COUNCIL OF INTENTION TO ACQUIRE ELECTRICAL EASEMENT OVER, ON, AND ACROSS THE REAL PROPERTY IDENTIFIED AS TAX MAP KEY 1-1-004-028 (PORTION) BY EMINENT DOMAIN AND PUBLICATION OF A RESOLUTION AUTHORIZING ACQUISITION OF SAID EASEMENT BY EMINENT DOMAIN

STAFF CONTACT:
 Elizabeth Scanlon
 Morris Atta

DATE:
 09/24/2015

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 1-1-004-028 (Portion), and situated at 2918 Ualena Street, Honolulu, Hawaii 96819, which is required for electrical easement purposes for the Honolulu Rail Transit Project (HRTTP). This property, for which 122 square-foot electrical easement is required, is on the critical path for successful completion of the Airport Section of the HRTTP. The property is owned by K.J.L. Associates.

HART recommends use of eminent domain to acquire the property.

2. Background/Justification

This property (Tax Map Key 1-1-004-028 (Portion)) was designated as needed for the HRTTP 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 April 8, 2015 was conducted.
- A Letter of Offer dated June 4, 2015 was delivered.
- Owner has provided a Counteroffer to the Letter of Offer.
- Negotiations are ongoing.

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

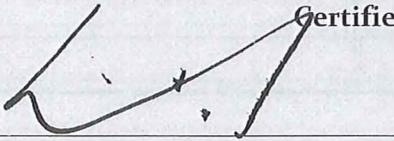
There is no feasible alternative to avoid the above described impacts to the property.

8. Exhibits

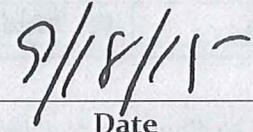
Exhibit 1 – Letter of Offer dated June 4, 2015

Exhibit 2 – Appraisal Summary prepared by Yamaguchi & Yamaguchi, Inc. with an effective appraisal date of April 8, 2015

Certified and Recommended by:



Executive Director and CEO



Date

8/2/15



IN REPLY REFER TO:
CMS-AP00ROW-00902

HONOLULU AUTHORITY for RAPID TRANSPORTATION

Daniel A. Grabauskas
EXECUTIVE DIRECTOR AND CEO

HAND-DELIVERED

June 4, 2015

Cathy Luke
 Received
 Cathy Luke 6/4/15
 Print Name Date
 Delivered: *[Signature]*
 Jackson Bayden

BOARD OF DIRECTORS

Ivan M. Lui-Kwan, Esq.
CHAIR

Donald G. Horner
VICE CHAIR

George I. Atta
Robert Bunda
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Ford N. Fuchigami
William "Buzz" Hong
Keslie W.K. Hui
Damien T.K. Kim
Carrie K.S. Okinaga, Esq.

Ms. Cathy Luke
K.J.L. Associates
45 North King Street, Suite 600
Honolulu, Hawaii 96817

Dear Ms. Luke:

Subject: Honolulu Rail Transit Project (H RTP)
2918 Ualena Street
Parcel 303: Tax Map Key (TMK) 1-1-004-028 (Portion)
Letter of Offer

The Honolulu Authority for Rapid Transportation (HART) is constructing the H RTP. As part of the H RTP, HART will need to acquire a portion of your property. An appraisal of the property identified as TMK 1-1-004-028 has been completed to determine just compensation.

A review of public records indicates that you are the Owner of Record of the property HART is seeking to acquire for this Project. Based on our findings as contained in the enclosed Statement of Just Compensation, HART offers to purchase a portion of your property, a total of 122 square feet, for electrical utility easement purposes, for the total consideration of \$14,000 (Fourteen Thousand Dollars), as shown colored in red on the enclosed map.

The total offer for acquiring the interest in your property is \$14,000 (Fourteen Thousand Dollars). Costs incidental to closing escrow for this transaction will be paid by HART except prorated costs such as taxes and insurance.

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 **July 6, 2015**. The remaining copy is for your file. Enclosed for your information are the Appraisal Summary Statement and General Acquisition and Relocation Information Brochure.

Ms. Cathy Luke
Page 2
June 4, 2015

Also enclosed is a draft Possession and Use Agreement for your review, consideration, and for further discussion with your acquisition agent. The Possession and Use Agreement is intended to provide you early access to most of the purchase price of this acquisition subject to HART being provided access to the portion of your property required for construction of the HRTP with minimal risk to the Project. Under this agreement, your rights to the full just compensation amount are fully reserved and enforceable.

It is the desire of HART to acquire private property through voluntary purchase if possible. While HART has the power of eminent domain, HART has not sought the authority nor made any decision to exercise the power of eminent domain to acquire your property at this time.

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.

HART has retained the services of Paragon Partners Ltd to assist you with the acquisition process. Please contact Mr. Jackson Blagden at 536-5900 if you have any questions or to discuss this matter further.

Sincerely,



Daniel A. Grabauskas
Executive Director and CEO

Enclosures

ACCEPTED:

K.J.L. Associates

By _____
Its

Print Name: _____

Dated: _____

Exhibit 2



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

PROJECT

Honolulu Rail Transit Project

Parcel Designation: (1) 1-1-004-028
HART RW Parcel: 303
Owner: KJL Associates
2918 Ualena Street
Honolulu, Hawaii 96819

Effective Date: April 8, 2015

AN APPRAISAL REPORT OF

I-2 Intensive Industrial Zoned
Electrical Easement Acquisition

CLIENT

Paragon Partners Ltd. for the Honolulu Authority for Rapid Transportation

PREPARER

Jon F. Yamaguchi, CRE, FRICS, SRPA, SRA



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

April 23, 2015

Ms. Georgia Marques
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
Permanent Electrical Easement Acquisition
Parcel Designation: 1-1-1-004-028; 23,440 square feet
HART RW Parcel 303
2918 Ualena Street
Honolulu, Hawaii 96819

Dear Mr. Marques,

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 Permanent Electrical Easement Acquisition on the subject property's fee simple estate assuming no liens or encumbrances other than normal covenants and restrictions of record. The Lessor of this property is KJL Associates and the Lessee is Charles H. McDonald & Co.

The purpose of this appraisal report is to assist the Honolulu Authority for Rapid Transportation in the valuation of a permanent electrical easement 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 parcel constituting 23,440 square feet. According to tax office records, the site is improved with a 48-year old warehouse consisting of a building footprint of 8,520 square feet that is not included in our appraisal valuation. The Permanent Utility Easement consists of 122 square feet as described on the survey map herein, submitted to us from the Honolulu Authority for Rapid Transportation (HART) identified as Easement 303. The subject easement is located near the front left southwest corner of the site situated adjacent to the front boundary. It is rectangular in size and approximately 122 square feet in size and approximately 9.04 feet x 13.00 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 April 23, 2015.

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 111-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 April 8, 2015.

\$ 2,652,000	<i>"As Is" Indicated Market Value of the Larger Parcel (Rounded)</i>
\$ 14,000	<i>"As Is" Indicated Market Value of Electrical Easement (Rounded)</i>
\$ 0	<i>Add: Total Severance Damages to the Remainder Property</i>
\$ 0	<i>Less: Special Benefits to the Remainder Property</i>
\$ 0	<i>Add: Contributory Value</i>
\$ 14,000	<i>Total Fair Market Value of the Electrical Easement Acquisition (Rounded)</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