Honolulu Authority for Rapid Transportation

RESOLUTION NO. 2016-20

APPROVING NOTIFICATION TO THE CITY COUNCIL OF INTENTION TO ACQUIRE A FEE SIMPLE INTEREST IN THE REAL PROPERTY IDENTIFIED AS TAX MAP KEY 1-5-015-010 (PORTION), LOCATED AT 909 DILLINGHAM BOULEVARD HONOLULU, HAWAII 96817, AND OWNED BY BANK OF HAWAII, 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) 1-5-015-010 (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 in fee simple of the real property identified as TMK 1-5-015-010 (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 in fee simple of the above-identified real property.

DRAFT

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

Exhibit A – Legal description of TMK 1-5-015-010 (Portion)
Exhibit B – Resolution No. 2016-___, Authorizing the Acquisition of the Fee Simple Interest in the Real Property Identified as Tax Map Key 1-5-015-010 (Portion), Located at 909 Dillingham Boulevard Honolulu, Hawaii 96817, and owned by Bank of Hawaii by Eminent Domain

_____
Board Chair

ATTEST:

_____
Board Administrator

DRAFT

HONOLULU RAIL TRANSIT PROJECT

PARCEL 431

Being a portion of Lot 9 (Map 6) of
Land Court Consolidation 165

Situate at Kapalama, Honolulu, Oahu, Hawaii

Beginning at the Southeast corner of this lot, being the North corner of Lot B-1 (Map 7) of Land Court Application 903, being also along the Southwest side of Dillingham Boulevard, the coordinates of said point of beginning referred to Government Survey Triangulation Station "PUNCHBOWL" being 2,528.67 feet North and 6,574.18 feet West thence running by azimuths measured clockwise from true South:

1.	32°	04′	6.24	feet	along Lot B-1 (Map 7) of Land Court Application 903;
2.	122°	04′	91.04	feet	along the Remainder of Parcel 431 of Honolulu Rail Transit Project;
3.	212°	04′	2.00	feet	along same;
4.	122°	04′	310.74	feet	along same;
5.	32°	04′	2.00	feet	along same;
6.	122°	04′	170.52	feet	along same;
					Thence along same, on a curve to the left with a radius of 30.00 feet, the chord azimuth and distance being:
7.	77°	04′	42.43	feet;	
8.	212°	04′	1.24	feet	along the East side of Alakawa Street;
					Thence along same, on a curve to the right with a radius of 30.00 feet, the chord azimuth and distance being:
9.	257°	04′	42.43	feet;	
10.	212°	04′	5.00	feet	along same;

11.	302° 04′	572.30	feet	along the Southwest side of Dillingham Boulevard, to the point of beginning and containing an area of 2,987 Square Feet.

Subject to the following:

1. Portion of 5-foot Roadway Setback line as shown on Maps 1 and 9 of Land Court Consolidation 165;

2. Portion of Easement 3 for sewer purposes as shown on Map 3 of Land Court Consolidation 165;

3. Portion of Easement 11 for utility and access purposes as shown on Map 5 of Land Court Consolidation 165.

AUSTIN, TSUTSUMI & ASSOCIATES, INC.

Description Prepared By:

ERIK S. KANESHIRO
LICENSED PROFESSIONAL LAND SURVEYOR
No. 9826
HAWAII, U.S.A.

Exp 04/18

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

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

Honolulu, Hawaii
May 19, 2016

TMK: (1) 1-5-015: 010
Y:\2014\14-068\SURVEY\Descriptions\PARCEL 431.docx

AUSTIN, TSUTSUMI & ASSOCIATES, INC.
CIVIL ENGINEERS • SURVEYORS
501 SUMNER STREET, SUITE 521
HONOLULU, HAWAII 96817-5031
1871 WILI PA LOOP, SUITE A
WAILUKU, MAUI, HAWAII 96793
100 PAUAHI STREET, SUITE 213
HILO, HAWAII 96720

Exhibit B

Honolulu Authority for Rapid Transportation

RESOLUTION NO. 2016-___

AUTHORIZING THE ACQUISITION OF A FEE SIMPLE INTEREST IN THE REAL PROPERTY IDENTIFIED AS TAX MAP KEY 1-5-015-010 (PORTION), LOCATED AT 909 DILLIGHAM BOULEVARD HONOLULU, HAWAII 96817, AND OWNED BY BANK OF HAWAII 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) 1-5-015-010 (Portion) 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 1-5-015-010 (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 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

DRAFT

Exhibit B

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 1-5-015-010 (Portion)

DRAFT

HONOLULU RAIL TRANSIT PROJECT

PARCEL 431

Being a portion of Lot 9 (Map 6) of
Land Court Consolidation 165

Situate at Kapalama, Honolulu, Oahu, Hawaii

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1.	32°	04′	6.24	feet	along Lot B-1 (Map 7) of Land Court Application 903;
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AUSTIN, TSUTSUMI & ASSOCIATES, INC.

Description Prepared By:

ERIK S. KANESHIRO
LICENSED PROFESSIONAL LAND SURVEYOR
No. 9826
HAWAII, U.S.A.

Exp 04/18

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

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

Honolulu, Hawaii
May 19, 2016

TMK: (1) 1-5-015: 010
Y:\2014\14-068\SURVEY\Descriptions\PARCEL 431.docx

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CIVIL ENGINEERS • SURVEYORS
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100 PAUAHI STREET, SUITE 213
HILO, HAWAII 96720

Honolulu Authority for Rapid Transportation

STAFF SUMMARY

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 – Revised Letter of Offer dated April 14, 2016.

Exhibit 2 – Appraisal Summary prepared by Yamaguchi & Yamaguchi, Inc. with an effective appraisal date of February 19, 2016.

Certified and Recommended by:

Executive Director and CEO

6/8/16

Date

RL 3333

Exhibit 1

HART

HONOLULU AUTHORITY for RAPID TRANSPORTATION

IN REPLY REFER TO:
CMS-AP00ROW-01218

Daniel A. Grabauskas
EXECUTIVE DIRECTOR AND CEO

BOARD OF DIRECTORS

Damien T.K. Kim
VICE CHAIR

George I. Atta
Michael D. Formby
Ford N. Fuchigami
Terri Fujii
Colleen Hanabusa
William "Buzz" Hong
Terrence M. Lee
Ivan M. Lui-Kwan

HAND-DELIVERED

April 14, 2016

Received
Lena Mori 4/15/16.
Print Name Date

Ms. Lena Mori
Bank of Hawaii
P.O. Box 2900, #213
Honolulu, Hawaii 96846

Dear Ms. Mori:

Subject: Honolulu Rail Transit Project (HRTP)
909 Dillingham Boulevard
Parcel 431: Tax Map Key (TMK) 1-5-015-010 (Portion)
Revised Letter of Offer

This is a follow-up to our Letter of Offer dated February 24, 2015. Based on further review and analyses of the Project corridor and right-of-way needs, it has been determined that the acquisition areas and impacts have changed. The fee take acquisition area has decreased from 3,608 square feet to 2,987 square feet and the Temporary Construction Easement consisting of 2,602 square feet is no longer needed by the Honolulu Authority for Rapid Transportation (HART). The previous Letter of Offer dated February 24, 2015, is null and void.

Based on our findings, as contained in the enclosed Statement of Just Compensation, HART offers to revise our offer to purchase a portion of your property, a total of 2,987 square feet, in fee simple, free and clear of all liens and encumbrances for guideway purposes, for the total consideration of $608,300 (Six Hundred Eight Thousand Three Hundred Dollars), as shown colored in red on the enclosed map.

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 12, 2016**. The remaining copy is for your file. Enclosed for your information are the Appraisal Summary Statement and General Acquisition and Relocation Information Brochure. 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.

Exhibit 1

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.

This settlement may be executed in several counterparts and all so executed shall constitute one settlement, binding on all the parties hereto even though all the parties are not signatories to the original or the same counterpart.

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

Sincerely,

Daniel A. Grabauskas
Executive Director and CEO

Enclosures

ACCEPTED:

BANK OF HAWAII

By_____
Its

Print Name: _____

Dated: _____

Exhibit 1

PARCEL MAP EXHIBIT

TMK 1-5-015-010 (Portion)

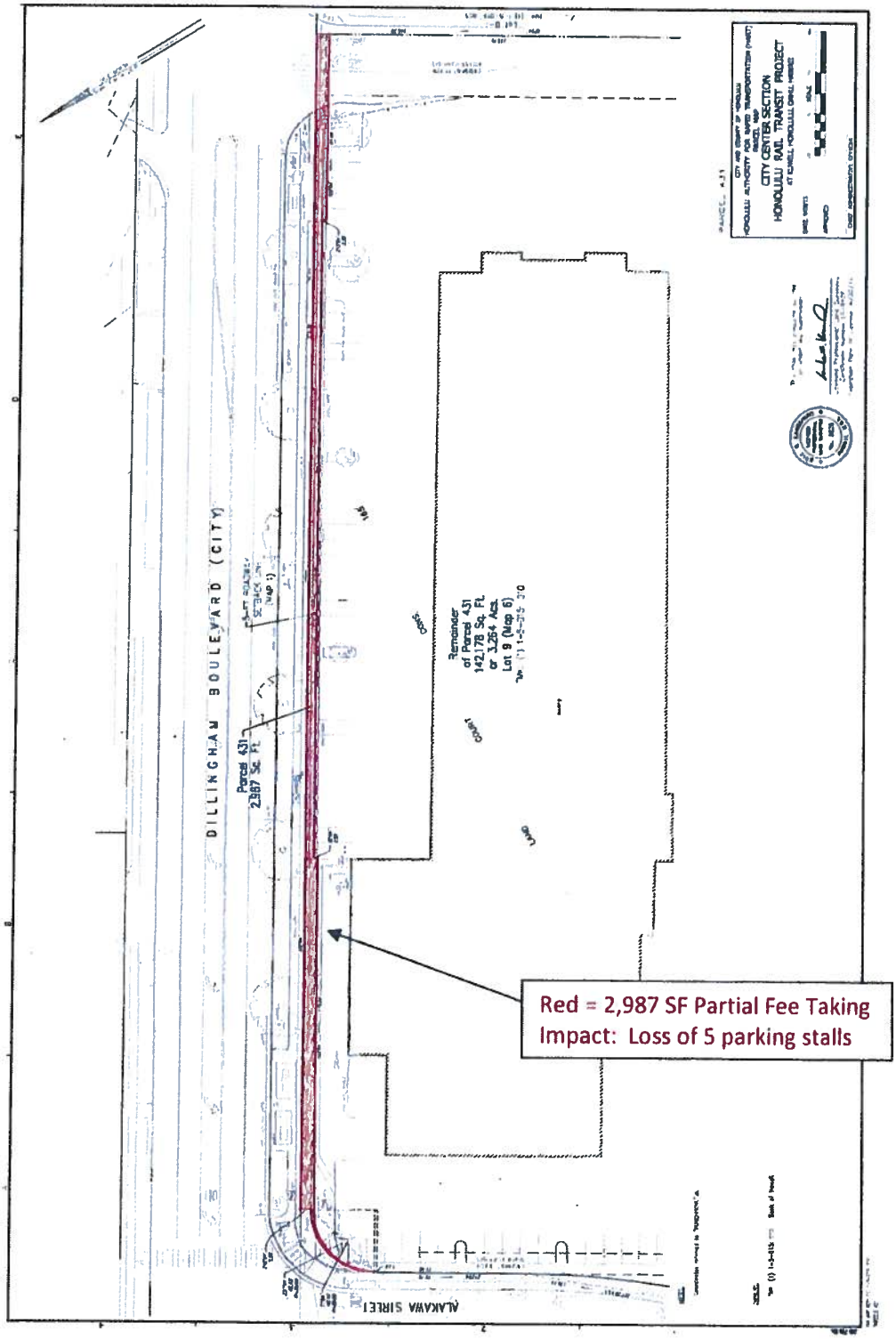

Exhibit 2

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

PROJECT
Honolulu Rail Transit Project

Parcel Designation: (1) 1-5-015-010
HART RW Parcel: 431
Owner: Bank of Hawaii
909 Dillingham Boulevard
Honolulu, Hawaii 96817

A REPPRAISAL REPORT OF
The IMX-1 Commercial Mixed-Use Property
Partial Land Acquisition

CLIENT
Paragon Partners Ltd. for the Honolulu Authority for Rapid Transportation

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

EFFECTIVE DATE OF APPRAISAL
February 19, 2016

ONE KAPIOLANI BUILDING
600 Kapiolani Boulevard Suite 405• Honolulu, Hawaii 96813
Bus: 808.533.8849 • Fax: 808-533-8088 • E-mail: appraisals@yamaguchiinc.com

Exhibit 2

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

February 29, 2016

Ms. Georgia Marquis
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 431
Parcel Designation: TMK (1) 1-5-015-010
909 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 or more opinions about the market value for a 100% ownership interest in 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* 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 one parcel consisting of 145,165 square feet (3.33 acres) per survey map and zoned IMX-1 Industrial Mixed-Use. Per our exterior observation and tax office records, it is improved with a 34-year old, two-story office building consisting of 99,291 square feet and an asphalt paved open parking area. These improvements are not included as part of our appraisal job scope.

The partial acquisition area runs along the property boundary frontage on Dillingham Boulevard and consists of 2,987 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 February 29, 2016.

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 124-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 as of February 19, 2016:

$ 20,981,000	*"As Is" Indicated Market Value of the Larger Parcel*
$ 20,549,000	*"As Is" Indicated Market Value of the Remainder Parcel*
$ 432,000	*"As Is" Indicated Market Value of the Partial Acquisition*
$ 432,000	*"As Is" Indicated Market Value of the Partial Acquisition (Rounded)*
$ 162,000	*Add: Total Parking Severance Damages to the Remainder Property*
$ 0	*Less: Special Benefits to the Remainder Property*
$ 14,300	*Add: Contributory Value*
$ 608,300	*Total Fair Market Value of the Partial Acquisition (Rounded)*

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: 12/31/2017