

Honolulu Authority for Rapid Transportation

RESOLUTION NO. 2015-76

APPROVING NOTIFICATION TO THE CITY COUNCIL OF INTENTION TO ACQUIRE GUIDEWAY EASEMENT OVER, ON, AND ACROSS THE REAL PROPERTY IDENTIFIED AS TAX MAP KEY 2-3-039-011 (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) 2-3-039-011 (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 2-3-039-011 (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 2-3-039-011 (Portion)

Exhibit B – Resolution No. 2015-___, Authorizing the Acquisition of Guideway
Easement Over, On, and Across the Real Property Identified as Tax Map
Key 2-3-039-011 (Portion) by Eminent Domain.



Board Chair

ATTEST:



Board Administrator

HONOLULU RAIL TRANSIT PROJECT

EASEMENT 4
(FOR STATION AND GUIDEWAY PURPOSES)

Affecting Lot 67 (Map 17) of
Land Court Consolidation 20

Situate at Kalia, Honolulu, Oahu, Hawaii

Beginning at the Southeast corner of this easement, being the Southwest corner of Lot 19 (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 7,051.72 feet South and 1,783.80 feet East thence running by azimuths measured clockwise from true South:

1. 115° 20' 230.00 feet along Parcel 495-A of the Honolulu Rail Transit Project;

Thence along the East side of Lot 1 (Map 1) of Land Court Consolidation 20 (Kona Iki Street), on a curve to the right with a radius of 20.00 feet, the chord azimuth and distance being:
2. 160° 20' 28.28 feet;
3. 205° 20' 25.00 feet along same;
4. 295° 20' 250.00 feet along the remainder of Lot 67 (Map 17) of Land Court Consolidation 20;



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 PAUAAHI STREET, SUITE 207
HILO, HAWAII 96720

5. 25° 20' 45.00 feet along Lot 19 (Map 2) of Land Court Consolidation 20, to the point of beginning and containing an area of 11,164 Square Feet.



AUSTIN, TSUTSUMI & ASSOCIATES, INC.

Description Prepared By:

Erik S. Kaneshiro

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: 011
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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
2-3-039-011 (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) 2-3-039-011 (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 2-3-039-011 (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 2-3-039-011 (Portion)

DRAFT

HONOLULU RAIL TRANSIT PROJECT

EASEMENT 4
(FOR STATION AND GUIDEWAY PURPOSES)

Affecting Lot 67 (Map 17) of
Land Court Consolidation 20

Situate at Kalia, Honolulu, Oahu, Hawaii

Beginning at the Southeast corner of this easement, being the Southwest corner of Lot 19 (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 7,051.72 feet South and 1,783.80 feet East thence running by azimuths measured clockwise from true South:

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Honolulu, Hawaii
August 19, 2015

TMK: (1) 2-3-039: 011
Y:\2014\14-068\SURVEY\Descriptions\PARCEL 496 - Easement 4.docx



Honolulu Authority for Rapid Transportation

STAFF SUMMARY

| | | |
|---|---|----------------------------|
| TITLE: RESOLUTION NO. 2015-76 APPROVING NOTIFICATION TO THE CITY COUNCIL OF INTENTION TO ACQUIRE GUIDEWAY EASEMENT OVER, ON, AND ACROSS THE REAL PROPERTY IDENTIFIED AS TAX MAP KEY 2-3-039-011 (PORTION) BY EMINENT DOMAIN AND PUBLICATION OF A RESOLUTION AUTHORIZING ACQUISITION OF SAID EASEMENT BY EMINENT DOMAIN | STAFF CONTACT: Elizabeth Scanlon Morris Atta | DATE: 08/27/2015 |
|---|---|----------------------------|

| 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 2-3-039-011 (Portion), and situated at 1391 Kapiolani Boulevard, Honolulu, Hawaii 96814 which is required for guideway easement purposes for the Honolulu Rail Transit Project (HRTP). This property, for which 13,238 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 Samkoo Hawaii, LLC.

HART recommends use of eminent domain to acquire the property.

2. Background/Justification

This property (Tax Map Key 2-3-039-011) 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 February 10, 2015 was conducted.
- A Letter of Offer dated June 5, 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

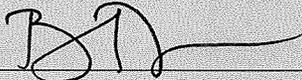
There is no feasible alternative to avoid the above described impacts to the property.

8. Exhibits

Exhibit 1 – Letter of Offer dated June 5, 2015.

Exhibit 2 – Appraisal Summary prepared by Hastings, Conboy, Braig & Associates, LTD. with an effective appraisal date of February 10, 2015.

Certified and Recommended by:



Executive Director and CEO

8/20/15

Date



IN REPLY REFER TO:
CMS-AP00ROW-00873

HONOLULU AUTHORITY for RAPID TRANSPORTATION

Daniel A. Grabauskas
EXECUTIVE DIRECTOR AND CEO

HAND-DELIVERED

BOARD OF DIRECTORS

June 5, 2015

Ivan M. Lui-Kwan, Esq.
CHAIR

Donald G. Horner
VICE CHAIR

Mr. Tim Yi
Samkoo Hawaii, LLC
1631 Kapiolani Boulevard, Suite 2201
Honolulu, Hawaii 96814

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

Dear Mr. Yi:

Subject: Honolulu Rail Transit Project (H RTP)
1391 Kapiolani Boulevard
Parcel 496: Tax Map Key (TMK) 2-3-039-011 (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 2-3-039-011 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 13,238 square feet, in fee simple, free and clear of all liens and encumbrances for the total consideration of **\$4,660,000** (Four Million Six Hundred Sixty Thousand Dollars), as shown colored in yellow on the enclosed map.

The total offer for acquiring the property is **\$4,660,000** (Four Million Six Hundred Sixty 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 & Relocation Information Brochure.

Mr. Tim Yi
Page 2
June 5, 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. Jeremy Marljar at 536-5900 if you have any questions or to discuss this matter further.

Sincerely,



Daniel A. Grabauskas
Executive Director and CEO

Enclosures

ACCEPTED:

SAMKOO HAWAII, LLC

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) 2-3-39-11 (Portion)
HART RW Parcel 496
Owner: Samkoo Hawaii LLC
1391 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 – February 10, 2015

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

February 23, 2015

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 Samkoo Hawaii LLC Property, Tax Map Key (1) 2-3-39-11 (HART R/W 496)

We have conducted, in the accompanying report, a complete appraisal of a guideway easement acquisition affecting the property located at 1391 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 11.

Samkoo Hawaii LLC owns the fee simple interest in the property. The total property (Larger Parcel) consists of a 62,328 square foot parcel. The larger parcel is improved with two, one-story, steel and masonry buildings.

The guideway easement acquisition will consist of approximately 13,238 square feet located along Kona Street designated Parcel 11 (Portion). The easement will be used for "construction, operation, and maintenance of the fixed guideway, column, and other ancillary requirements for the Honolulu Rail Transit Project." The partial building acquisition will consist of the complete demolition (Taking) of the single-story building located along Kona Street containing a rentable area of approximately 19,724 square feet.

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 February 23, 2015.

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 13,238 square foot portion of the 1391 Kapiolani Boulevard property, as of an effective date of February 10, 2015, is summarized as follows:

| | <u>Value Indication</u> | | <u>Value</u> |
|-------------------------------------|-------------------------|--------------|--|
| | <u>Before</u> | <u>After</u> | <u>Conclusion</u> <u>of Acquisition</u> |
| Parcel 11 (Por.) 13,238 square feet | \$21,940,000 | \$17,280,000 | \$4,660,000 |

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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