

Honolulu Authority for Rapid Transportation

RESOLUTION NO. 2015-45

APPROVING NOTIFICATION TO THE CITY COUNCIL OF INTENTION TO ACQUIRE GUIDEWAY EASEMENT AND TEMPORARY CONSTRUCTION EASEMENT OVER, ON, AND ACROSS THE REAL PROPERTY IDENTIFIED AS TAX MAP KEYS 1-1-004-035 (PORTION) AND 1-1-004-039 (PORTION) BY EMINENT DOMAIN AND PUBLICATION OF A RESOLUTION AUTHORIZING ACQUISITION OF SAID EASEMENTS 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 acquisitions 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 and temporary construction easement over, on, and across the real property identified as Tax Map Keys (TMKS) 1-1-004-035 (Portion) and 1-1-004-039 (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 and temporary construction easement over, on, and across the real property identified as TMKS 1-1-004-035 (Portion) and 1-1-004-039 (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 easements.

ADOPTED by the Board of the Honolulu Authority for Rapid
Transportation on SEP 24 2015.

Exhibit A – Legal description of TMKS 1-1-004-035 (Portion) and 1-1-004-039 (Portion)
Exhibit B – Resolution No. 2015-___, Authorizing the Acquisition of Guideway
Easement and Temporary Construction Easement Over, On, and Across the
Real Property Identified as Tax Map Keys 1-1-004-035 (Portion) and 1-1-
004-039 (Portion) by Eminent Domain.


Board Chair

ATTEST:


Board Administrator

Legal
Description
Unavailable

Honolulu Authority for Rapid Transportation

RESOLUTION NO. 2015-__

AUTHORIZING THE ACQUISITION OF GUIDEWAY EASEMENT AND TEMPORARY CONSTRUCTION EASEMENT OVER, ON, AND ACROSS THE REAL PROPERTY IDENTIFIED AS TAX MAP KEYS 1-1-004-035 (PORTION) AND 1-1-004-039 (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 and temporary construction easement over, on, and across the real property identified as Tax Map Keys (TMKS) 1-1-004-035 (Portion) and 1-1-004-039 (Portion) by eminent domain after written notification by HART; and

WHEREAS, the acquisition by eminent domain of said guideway easement and temporary construction 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 and temporary construction easement over, on, and across the real property identified as TMKS 1-1-004-035 (Portion) and 1-1-004-039 (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 easements 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 easements 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

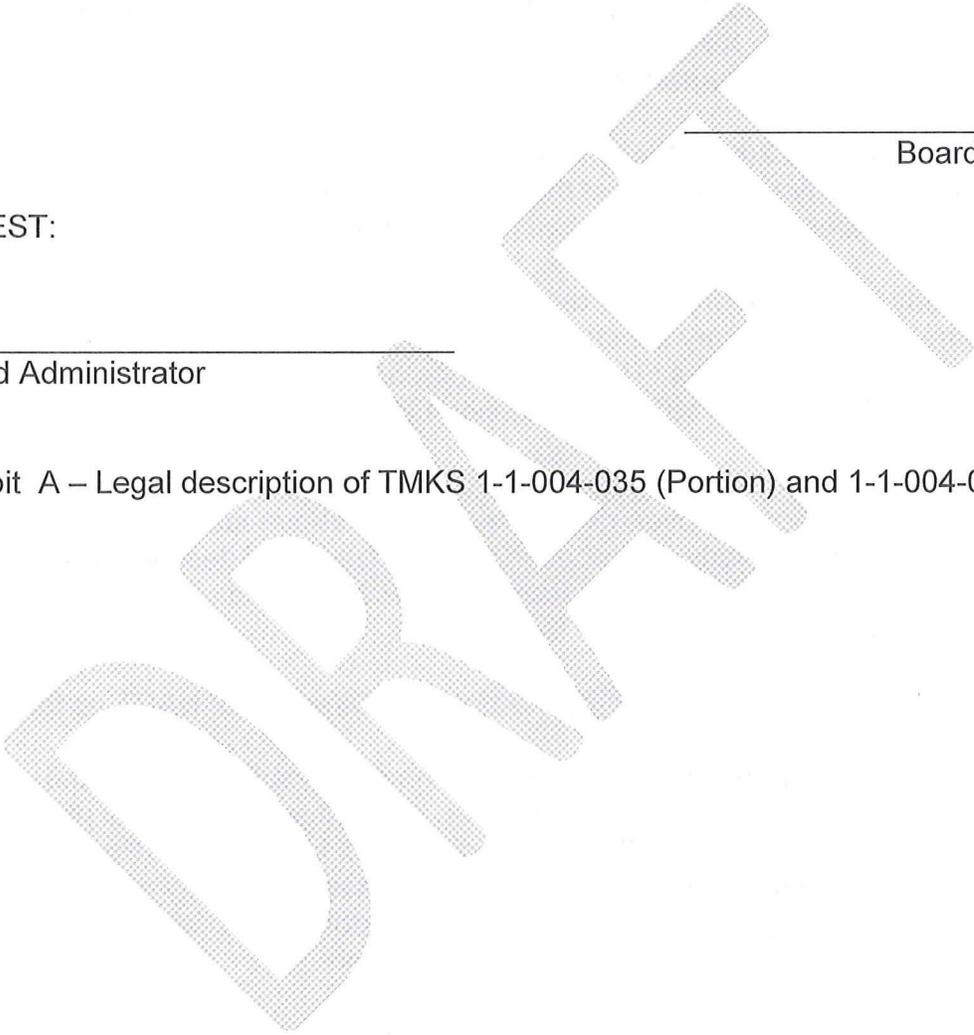
_____.

Board Chair

ATTEST:

Board Administrator

Exhibit A – Legal description of TMKS 1-1-004-035 (Portion) and 1-1-004-039 (Portion)



Legal
Description
Unavailable

Honolulu Authority for Rapid Transportation

STAFF SUMMARY

TITLE: RESOLUTION NO. 2015-45 APPROVING NOTIFICATION TO THE CITY COUNCIL OF INTENTION TO ACQUIRE GUIDEWAY EASEMENT AND TEMPORARY CONSTRUCTION EASEMENT OVER, ON, AND ACROSS THE REAL PROPERTY IDENTIFIED AS TAX MAP KEYS 1-1-004-035 (PORTION) AND 1-1-004-039 (PORTION) BY EMINENT DOMAIN AND PUBLICATION OF A RESOLUTION AUTHORIZING ACQUISITION OF SAID EASEMENTS BY EMINENT DOMAIN	STAFF CONTACT: Elizabeth Scanlon Morris Atta	DATE: 09/24/2015
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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 Keys 1-1-004-035 (Portion) and 1-1-004-039 (Portion), and situated at 2815 Koapaka Street; 2806 Ualena Street; 520 Lagoon Drive, Honolulu, Hawaii 96819, which is required for guideway easement and temporary construction easement purposes for the Honolulu Rail Transit Project (HRTTP). This property, for which a 805 square-foot guideway easement and 2,592 square-foot temporary construction 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 1-1-004-035 (Portion) and 1-1-004-039 (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 not 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

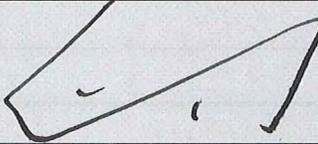
There is no feasible alternative to avoid the above described impacts to the property.

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

9/18/15

Date



IN REPLY REFER TO:
CMS-AP00ROW-00903

HONOLULU AUTHORITY for RAPID TRANSPORTATION

Daniel A. Grabauskas
EXECUTIVE DIRECTOR AND CEO

HAND-DELIVERED

BOARD OF DIRECTORS

June 4, 2015

Ivan M. Lui-Kwan, Esq.
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VICE CHAIR

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

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Kestie W.K. Hui
Damien T.K. Kim
Carrie K.S. Okinaga, Esq.

Dear Ms. Luke:

Subject: Honolulu Rail Transit Project (H RTP)
2815 Koapaka Street; 2806 Ualena Street; 520 Lagoon Drive
Parcel 303A: Tax Map Keys (TMKs) 1-1-004-035 and 1-1-004-039 (Portions)
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 TMKs 1-1-004-035 and 1-1-004-039 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 805 square feet, for guideway easement purposes, for the total consideration of \$52,000 (Fifty-Two Thousand Dollars), as shown colored in red on the enclosed map.

In addition, HART offers to purchase two Temporary Construction Easements (TCE) consisting of 2,592 square feet (shown colored in yellow on the enclosed map) for a consideration of \$21,920 (Twenty-One Thousand Nine Hundred Twenty Dollars). The intent of the TCE is to provide temporary access to and use of a portion of your property for the purpose of facilitating Project construction activities. These activities may involve operation of equipment, movement of a work force on the described easement, and may include site security with temporary fencing. The duration of the TCE will be twelve months with a start date to be determined thru coordination with you and HART's contractor.

The total offer for acquiring the interest in your property is \$73,920 (Seventy-Three Thousand Nine Hundred Twenty Dollars). Costs incidental to closing escrow for this transaction will be paid by HART except prorated costs such as taxes and insurance.

Ms. Cathy Luke
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June 4, 2015

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.

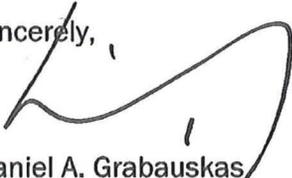
If this offer is acceptable, please sign the duplicate of this letter and return it in the enclosed envelope by July 6, 2015. The remaining copy is for your file. Enclosed for your information are the Appraisal Summary Statement and General Acquisition and Relocation Information Brochure. Also enclosed 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 H RTP 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,

A handwritten signature in black ink, appearing to read 'Daniel A. Grabauskas', written over a horizontal line.

Daniel A. Grabauskas
Executive Director and CEO

Enclosures

Ms. Cathy Luke
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June 4, 2015

ACCEPTED:

K.J.L. Associates

By _____
Its

Print Name: _____

Dated: _____



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

PROJECT

Honolulu Rail Transit Project

Parcel Designation: (1) 1-1-004-039 & (1) 1-1-004-035

HART RW Parcel: 303A

Owner: KJL Associates

2806 Ualena Street & 2815 Koapaka Street

Honolulu, Hawaii 96819

Effective Date: April 8, 2015

AN APPRAISAL REPORT OF

I-2 Intensive Industrial Property

Permanent and Temporary Construction Easements

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 24, 2015

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
Permanent and Temporary Construction Easements
HART RW Parcel 303 A
Parcel Designation: TMK (1) 1-1-004-039 & (1) 1-1-004-035
2806 Ualena Street & 2815 Koapaka Street, Honolulu, Hawaii 96819

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 Lessor of this property is KJL Associates and the Lessee is Malolo Beverages & Supply and various tenants.

The purpose of this appraisal report is to assist the Honolulu Authority for Rapid Transportation in the valuation of permanent easements and temporary construction easements for Eminent Domain acquisition proceedings of the subject property as part of the Honolulu Rail Transit Project.

As a preview, this appraisal consists of two separate tax map key parcels TMK: (1) 1-1-004-039 and (1) 1-1-004-035. They consist of 22,215 square feet and 4.12 Acres (179,361 square feet) respectively, and are zoned I-2 Intensive Industrial Use (Via HART Survey). Per our exterior observation and tax office records, Parcel 39 is improved with a 34-year old, industrial building with a 17,954 square foot footprint and Parcel 35 is improved with a 138,257 square foot (footprint), 53-year old industrial building. These improvements are not included as part of our appraisal job scope.

Parcel 39 includes two adjacent easements, Easement D (Permanent Guideway Easement) consisting of 241 square feet and Easement E (Temporary Construction Easement) consisting of 19 square feet located at the north west corner of Ualena Street and Lagoon Drive.

Parcel 35 includes three adjacent easements, Easements A and B (Permanent Guideway Easements) consisting of 286 square feet and 278 square feet respectively and Easement C (Temporary Construction Easement) consisting of 2,573 square feet located Along the Ualena Street frontage of the subject parcel.

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 24, 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 128-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 permanent easement acquisition and temporary construction easement as of April 8, 2015:

\$18,000	<i>Permanent Guideway Easement A</i>	<i>286 square feet</i>
\$18,000	<i>Permanent Guideway Easement B</i>	<i>278 square feet</i>
\$16,000	<i>Permanent Guideway Easement D</i>	<i>241 square feet</i>
\$52,000	<i>Total Permanent Easement Acquisition</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>	
\$52,000	<i>Total Fair Market Value of the Partial Acquisition (Rounded)</i>	
\$ 21,760	<i>Estimated Annual Rent Per Annum @ 8% for the TCE C</i>	
\$1,813.33	<i>Estimated Monthly Rent Per Annum @ 8% for the TCE C</i>	
\$160	<i>Estimated Annual Rent Per Annum @ 8% for the TCE E</i>	
\$13.33	<i>Estimated Monthly Rent Per Annum @ 8% for the TCE E</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