



HONOLULU AUTHORITY for RAPID TRANSPORTATION

## MINUTES

**Board of Directors Meeting  
Mission Memorial Annex Conference Room  
550 South King Street, Honolulu, Hawaii  
Thursday, January 24, 2013, 10:00 AM**

**PRESENT:**

Carrie Okinaga	Damien Kim
Robert "Bobby" Bunda	Ivan Lui-Kwan
Glenn Okimoto	Keslie Hui
William "Buzz" Hong	Mike Formby

**ALSO IN ATTENDANCE:  
(Sign-in Sheet and Staff)**

Daniel Grabauskas	Kirk Caldwell
Gary Takeuchi	Georgette Deemer
Lorenzo Garrido	Doug Chun
Joyce Oliveira	Shannon Wood
Diane Arakaki	Andrea Tantoco
Jerry Iwata	Jeanne Mariani-Belding
Russell Honma	Cindy Matsushita

**EXCUSED:**

Don Horner	Jiro Sumada
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**I. Call to Order by Chair**

Board Chair Carrie Okinaga called the meeting to order at 9:45 a.m.

**II. Public Testimony on All Agenda Items**

Ms. Okinaga introduced Mayor Kirk Caldwell as a champion of rail who has worked diligently to "build rail better." On behalf of the Board of Directors, she expressed her eagerness to work with him as a partner in the rail project.

Mayor Kirk Caldwell testified about his enthusiasm for rail, which he considers to be a team effort. He outlined his plan to build rail better:

1. **Finances** – Mayor Caldwell emphasized the need to be fiscally prudent. He stated that he had asked the State Legislature to return the 10% currently

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retained from GET tax collection by the State to the City and County of Honolulu for rail. He asked that HART Executive Director and CEO Dan Grabauskas join him in reaching out to the Legislature and its committees.

2. Transparency – Mayor Caldwell commended HART and Mr. Grabauskas for its efforts to be transparent. He expressed the need for open dialogue, and asked HART to continue to be transparent.
3. Visual Impact – Mayor Caldwell said he was working with Mr. Grabauskas on forming a working group for the Kalihi to Ala Moana areas. The focus of the group will be to improve the aesthetics of rail within the four corners of the final EIS, in a way that will not increase costs or delays, but interface with the surrounding communities.

Mayor Caldwell pledged to work with HART, stating that he wants to understand the issues. He expressed confidence in DTS Director designate and new Board member Michael Formby, whom the mayor worked with previously.

Ms. Okinaga thanked the Mayor, and said that she and the Board looked forward to working with him.

Russell Honma provided testimony proposing that the HART Board address the issue of home rule. He also proposed that the train cars be built locally if Ansaldo Honolulu JV does not.

Shannon Wood, President and Co-founder of the Windward Ahupua‘a Alliance, asked the Board to address the Legislature regarding the proposed repeal of the Public Lands Development Corporation (PLDC). She stated that as a number of transit stations are on publicly owned lands, she would like to see the Board interact with the Legislature on how the possible repeal would impact rail and transit oriented development. Ms. Okinaga thanked Ms. Wood for her comments, and said that Board members William “Buzz” Hong and Robert “Bobby” Bunda were undoubtedly aware of the potential impacts of the proposed repeal of PLDC.

IV. Committee Reports

A. Report on the January 10, 2013 Finance Committee Meeting

Committee Vice Chair Keslie Hui reported that the committee had heard a status report on the Kiewit delay claims. The costs to date were less than earlier anticipated, but there are other outstanding issues which will be monitored closely.

B. Report on the January 10, 2013 Project Oversight Committee Meeting

Committee Chair Damien Kim reported that the committee reviewed the November Monthly Progress Report, heard the status of the Archaeological Inventory Survey

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trenching, and the status of the Honolulutraffic.com case. He reported that construction is expected to resume in September.

C. Report on the January 24, 2013 Transit Oriented Development Committee Meeting

No report was given, as the meeting had not been held.

D. Report on the January 24, 2013 Human Resources Committee Meeting

Mr. Hui reported that the committee discussed the upcoming Executive Director's performance evaluation. The committee would be forwarding the suggested evaluation process to the Board. The process would include suggestions for goals going forward. The Board will then evaluate Mr. Grabauskas' performance.

V. Resolution 2013-1 In Remembrance of the Honorable Daniel K. Inouye

Ms. Okinaga called for the adoption of Resolution 2013-1 in remembrance of Senator Daniel Inouye, whose steadfast support was critical to the rail project. A copy of the resolution is attached hereto as Attachment A. The resolution was adopted unanimously.

III. Approval of Minutes of the December 26, 2012 Board of Directors Meeting

Ms. Okinaga called for the approval of the minutes of the December 26, 2012 Board of Directors meeting. There being no objections, the minutes were approved unanimously.

VI. Presentation on Fiscal Year 2014 Capital Budget – Construction, Utility Relocations, and Construction Management Inspection

Mr. Grabauskas stated that Director of Engineering and Construction Lorenzo Garrido would be making the next in a series of presentations on the FY 2014 Capital Budget. The presentations serve to inform the Board about what it is buying for its money. A copy of the presentation is attached hereto as Attachment B.

Mr. Garrido began by detailing the construction costs for FY 2014. \$1.65 million has been budgeted for Section 106 Programmatic Agreement (PA) requirements. \$900,000 of that is for the Historic Preservation Committee to make improvements to historic properties related to or impacted by rail. He stated that as part of an overall outreach with property owners, mailers had been sent out regarding a February 12 meeting for eligible owners. \$750,000 has also been budgeted for park improvements.

Ms. Okinaga asked about the process for improving aesthetics, as the mayor had just listed visual impact as one of his priorities for rail. Mr. Garrido replied that the funds in this part of the budget were for historic properties under the PA. Mr. Grabauskas explained that these funds would not be for the guideway or stations, but would be used to improve historic properties along the alignment.

Board member Glenn Okimoto asked whether \$750,000 would be sufficient. Mr. Garrido responded that \$750,000 was stipulated as the budget amount in the PA. Mr. Okimoto asked whether the amount represented specific projects, or if it was a cap. Mr. Grabauskas confirmed it was a cap and said that it was like a grant program. Mr. Garrido said that at the February 12 workshop, there would be a discussion about financing. He said that this fund was the start of a comprehensive funding program. Ms. Okinaga asked who was on the committee. Mr. Garrido said he was not certain, but that several meetings had already been held.

Mr. Garrido then detailed the \$247.5 million in construction contracts in the FY 2014 budget, and noted that construction would resume in late summer. Of that amount, \$24.6 million is budgeted for Airport Section utilities, and \$63 million is budgeted for City Center Section utilities. \$151.6 million is for the West Oahu/Farrington Highway Section utilities, which include all improvements and utilities. Board member William "Buzz" Hong asked whether fare gates were included, and Mr. Garrido replied that they were not. \$869,000 has been budgeted for an on-call construction contractor for matters not covered under other construction contracts, such as demolition of acquired properties. \$800,000 has been set aside for an on-call hazardous materials removal contractor. The furnishing, installation and maintenance of elevators and escalators will be \$5 million, and Mr. Garrido stated there would be economies of scale in combining the two.

Mr. Garrido said that \$1.6 million has been allotted to the owner-controlled insurance program (OCIP), which HART is in the process of evaluating. Board member Robert "Bobby" Bunda stated that he would like to know more about HART's builders risk coverage. Mr. Garrido stated that he would provide that information to Mr. Bunda. He stated that HART had originally intended to have OCIP in place, but that change orders had been issued on contractor-provided insurance. Mr. Bunda asked the status of OCIP evaluations, and Mr. Garrido advised that HART's consultant was in the process of formulating recommendations.

Mr. Bunda asked Ms. Okinaga whether she saw any Sunshine Law issues with his participation in that discussion. Ms. Okinaga assured Mr. Bunda that an appropriate way for him to share his expertise would be found. She asked when the consultant would be making its recommendation. Chief Financial Officer Diane Arakaki advised that HART had recently hired a risk manager to work with Marsh, the consultant, on insurance issues. She stated that HART would provide an insurance coverage update shortly.

Mr. Grabauskas expressed his enthusiasm over Mr. Bunda's willingness to be involved in HART's insurance matters. He said that risk manager Terry McAloon will be creating a robust insurance program, and invited Mr. Bunda to meet with Mr. McAloon.

Mr. Hong asked whether the \$5 million for elevators and escalators covered all nine stations. Mr. Garrido replied that the \$5 million represents a portion of the total contract, which was in active procurement. The contract is intended to supply elevators and escalators for the entire 20-mile alignment, with the exception of the Maintenance and

Storage Facility (MSF). Mr. Grabauskas clarified that \$5 million is the amount expected to be spent in FY 2014.

Mr. Keslie Hui stated that it would be helpful to show fiscal year numbers versus fully budgeted numbers, and Mr. Garrido stated he would provide that information. Mr. Hong asked about maintenance provisions for elevators and escalators. Mr. Garrido said that the maintenance provisions in the contract are for five and ten years, and that the total cost of the contract is approximately \$60 million.

Mr. Garrido went on to itemize the utility relocation costs for private utility owners of \$125.5 million. Those utility owners include such entities as AT&T, Chevron, Hawaiian Telcom, and Hawaiian Electric. He stated that discussions regarding the relocation of those utilities, which are part of the design effort for the Airport and City Center Sections, are ongoing. Mr. Kim asked whether utility relocations fall under the Kiewit contract. Mr. Garrido explained that the Kiewit contract covers the relocation of public utilities. For private utilities, Kiewit has the responsibility of coordinating the work, as some private utilities prefer to perform the work themselves.

Mr. Hong asked about the status of Tesoro, in light of their recent announcement that they were leaving the islands. Mr. Garrido explained that Tesoro still owned the refinery, so HART continued to work with them. He said if ownership changes, the issue would be addressed at that time.

Mr. Garrido stated that the inspection phase totals \$56.7 million. \$20.1 million of that is for the WOFH section, and \$36.5 million is for the Airport and City Center sections. HART is hiring inspection consultants to oversee the work. The scope of the consultants' work will include monitoring and reporting on the contractor's performance and conformance to the contract, performing inspections, and evaluating and processing contract changes.

Mr. Bunda asked about the procurement process for consultants. Mr. Garrido stated that consultants are selected based on qualifications, after which price is negotiated. Mr. Bunda asked how HART stayed within budget, and Mr. Garrido assured him that contracts are negotiated according to the budget. Mr. Bunda asked if the entire \$36 million would be spent, and Mr. Garrido responded that he would work within the budget to realize savings.

Board member Michael Formby asked what financial management metrics are employed. Mr. Garrido stated that the engineers employ performance ratios to proactively manage the project and avoid claims.

Mr. Hong expressed his appreciation to Mr. Garrido for his explanation. He asked about the importance of continuity in procuring contractors. Mr. Garrido stated that procurement is a balance of providing opportunities while maintaining economy.

Mr. Formby asked when construction would resume, and Mr. Garrido advised that it was expected to resume late this year. Mr. Formby asked whether HART had identified potential risks and mitigation under this assumption. Mr. Garrido said that HART is reviewing all current contracts with Kiewit, and evaluating various mitigation scenarios. He stated that HART is working in conjunction with Kiewit to provide mitigation options.

Mr. Grabauskas said that with the Archaeological Inventory Survey work, including the drafting of the report to the State Historic Preservation Division and the Special Management Area permit timeline, there was a one-year delay assumption. A one-year delay would result in the resumption of construction in late summer.

Ms. Okinaga thanked Mr. Garrido for his presentation.

## VII. Eminent Domain

Real Property Manager Jerry Iwata gave a PowerPoint presentation on the two eminent domain matters before the Board. A copy of the presentation is attached hereto as Attachment C. Mr. Iwata stated that the real property division has been successful in purchasing 21 properties for \$36.36 million since 2011, at \$500,000 below budget. He said that some acquisitions cannot be resolved through negotiations, so any differences must be resolved by the courts. Mr. Iwata said that HART must keep its project schedule, and that the eminent domain process would allow it to remain on time and on budget. He stated that the two properties being presented for condemnation had undergone unsuccessful negotiations.

### A. Resolution 2013-2 Approving Notification to the City Council for Condemnation of Tax Map Key 1-9-6-004:006

Mr. Iwata introduced the subject of Resolution 2013-2, involving 9.7 acres of land in the "Banana Patch." The resolution and its accompanying documentation are attached hereto as Attachment D. The property is needed for the guideway and the Pearl Highlands station complex. Although the property is zoned agricultural, it is being used as a baseyard for heavy equipment. An environmental site survey revealed that the property was contaminated, thereby affecting its value. Mr. Iwata stated that HART had attempted various settlement options, including the negotiation of a settlement for the "clean" value of the property following the owner's remediation. The owner demanded the industrial value for the property, but HART's appraisal was pursuant to the legal zoned use. The owner refused further discussions, and HART sent written notification to the owner of its intent to exercise eminent domain.

Mr. Hui asked about the appraised clean value of the land. Deputy Corporation Counsel Gary Takeuchi cautioned that the specifics should not be discussed publicly due to the confidential nature of the negotiations process. Mr. Iwata stated that the agricultural valuation is substantially different from the industrial value. Mr. Grabauskas said that

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negative value of the property is due to the contamination. HART had offered to negotiate on a different basis should the owners remediate themselves, as they are engaged in the remediation business. However, the owners chose not to take that option. Mr. Grabauskas stated that given the parties' inability to negotiate a settlement, this matter should properly be before a neutral third party, i.e., the courts.

Board member Ivan Lui-Kwan asked what the remediation costs were, and whether the property could be remediated. Mr. Iwata stated that it could be remediated, and that the owners were advised of the remediation process. Mr. Lui-Kwan asked whether the real issue was zoning, and Mr. Grabauskas replied that both remediation and zoning were at issue. Mr. Iwata said that although the property is zoned agricultural, the owners believe it should be valued as industrial. Mr. Hui asked whether the property had ever been zoned industrial, and Mr. Iwata replied that it had not.

Mr. Bunda asked what kind of hazardous materials had contaminated the property. HART Right of Way and Special Projects Officer Laura Ray advised that the property contained petrochemicals resulting from its use as a base yard, and includes oil and grease from heavy equipment and barrels containing unknown material. Remediation involves removal of four inches of soil, and proper disposal. She stated that the groundwater is not contaminated.

Board member Glenn Okimoto asked about the cost of remediation. Ms. Ray said that the cost exceeds \$500,000. Mr. Hong asked whether the present use was conforming, and Ms. Ray stated that it was not. Mr. Hong asked whether that was a violation, and Ms. Ray said that was a matter for the Department of Planning and Permitting.

Mr. Bunda asked how long the property had been used as a baseyard, and whether there was ever any insurance coverage for the pollution. Mr. Iwata said he did not believe there was any insurance coverage, and that the pollution may include fill material that had been brought in from off-site at some point. Mr. Hong asked how long the current owner had been in possession of the property. Ms. Ray said that the current owners' previous company, Pupukea Beach Partners, had owned it prior to 2007, when the company went into bankruptcy. At that point, the individual owners took the property under their names.

Mr. Formby asked how long negotiations had been occurring, and how long the court process would take. Mr. Iwata replied that HART had been negotiating with the owners for two years, and that the court process would take about six to nine months before HART could take possession of the property.

Mr. Grabauskas added that as HART is poised to resume construction in late summer, the schedule requires that it proceed in this manner. Ms. Ray added that this parcel is critical because it impacts HART's ability to finalize design, and the owners have refused access for HART to conduct geological testing on their property.

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Mr. Lui-Kwan expressed the importance of treating people well, and acting reasonably and in good faith. However, he also recognized that sometimes there is no alternative but to litigate. Mr. Grabauskas agreed. He complimented Mr. Iwata, Ms. Ray, and the HART staff for balancing fairness to the property owners and the public interest. Mr. Iwata stated that he is always aware that everyone must be treated fairly and with respect, while keeping the public interest in mind.

Mr. Hui asked about the cost of the eminent domain process. He asked how it compares to the gap between the owners' requested value and HART's value. Mr. Iwata advised that the gap far exceeds the costs of litigation. Mr. Hui asked if HART had determined the potential financial impact of any zoning citations to the owners. Mr. Iwata said that the issue had been discussed with the owners' attorney. Mr. Hui expressed his concern that all the information is not being made public. He said that the tax assessed value is \$66,000, yet HART had only offered \$1. He questioned whether HART was being transparent enough.

Mr. Lui-Kwan agreed with Mr. Hui's sentiment, and said that the issue is further complicated by the fact that HART is forcing the owners to sell the property. He said that the property must have some value.

Mr. Hong said that he would be more sensitive if this were a residential property, but that there is no familial attachment to the land here. He asked how much of the property must be taken for the project. Ms. Ray stated that the entire property is needed for the H-2 ramp, the intermodal bus and parking facility, and the guideway. She said that all the other residents of the Banana Patch have already been relocated.

Ms. Okinaga stated that in going into litigation over the valuation, HART did not want to commit the City to a position. Ms. Ray introduced Deputy Corporation Counsel Winston Wong, who explained that the issue of specific values was being kept confidential because the parties were in the process of negotiations. He explained that appraisal amounts typically are not disclosed prior to the filing of suit and discovery, as it could negatively impact HART's position.

Mr. Lui-Kwan moved to adopt resolution 2013-2, and Mr. Kim seconded the motion.

In discussion, Mr. Hui reiterated the seriousness of a decision to condemn. Mr. Wong stated that the contaminated property value is negative.

Mr. Lui-Kwan said that HART must take this action because the project must move forward. He said that he is comfortable with this action because of the length of negotiations, and felt that a third party was needed to resolve it. He said that the public must be assured that HART is treating the owners fairly.

Mr. Bunda asked if the owners were aware of the potential condemnation. Mr. Grabauskas said that the owners and their attorneys have been made aware.

Ms. Okinaga said that the resolutions approve HART's notification to Council, which has 45 days to take action. The HART Board then votes again. The vote being taken is just to authorize the 45 days to start. Ms. Okinaga stated that she was confident that staff had exhausted all options. And she pointed out that all residential properties required for the alignment had already been acquired.

Mr. Lui-Kwan renewed his motion to adopt resolution 2013-2, and Mr. Kim seconded. The motion carried by majority: ayes – members Bunda, Formby, Hong, Kim, Lui-Kwan, Okimoto, and Okinaga; nay – member Hui.

B. Resolution 2013-3 Approving Notification to the City Council for  
Condemnation of Tax Map Key 1-9-7-023:008

Mr. Iwata stated that the Stuart Plaza acquisition, the subject of Resolution 2013-3, involved the partial acquisition of a 2,211 square foot portion of a 54,278 square foot parcel. The resolution and its supporting documents are attached hereto as Attachment E. HART has been in negotiations with the owners' attorney. Both parties have obtained their own appraisals of the taking. HART made an offer based on its appraisal, which the owners countered with a substantially higher demand, saying that the partial taking would damage the remainder beyond the amount offered. Mr. Iwata said that the negotiation process has been slow and while HART is still attempting settlement, there has been little progress. HART had also requested that the owners provide a construction right of entry, they had refused. The property is needed to keep on schedule.

Mr. Grabauskas said that the adjacent roadway would be widened for columns, which would be in the center of the road. He said that HART had negotiated settlements with other surrounding property owners. Mr. Grabauskas said that the owners' valuation is nine times that of HART.

Mr. Okimoto asked where the property was located, and Ms. Ray indicated its location on the map provided in the materials. Mr. Hong asked where ingress and egress was. Ms. Ray indicated them on the map, and said that both ingress and egress would be restored. The parking immediately fronting Stuart Plaza would also be retained. Mr. Hong asked how much of the Stuart Plaza parking lot would be acquired to widen the road. Ms. Ray said about ten feet, which are currently parking stalls parallel to Kamehameha Highway.

Mr. Hui asked if the owners' valuation was based on the income approach. Mr. Iwata said that it was, and that HART's valuation also took into consideration the income approach, but that the appraiser said there was no impact to income.

Mr. Hong asked how far the road widening would extend. Mr. Iwata stated that it would extend to Waimano Home Road. Ms. Ray indicated that it would affect three parcels on Kamehameha Highway. Mr. Iwata noted that one of these is the urban garden adjacent to Stuart Plaza.

Mr. Hong asked why the road needed to be widened when the guideway would be elevated. Mr. Grabauskas stated that the columns were in the center of the road, and that vehicular lane widths must be maintained. Mr. Hong asked which parcels would be affected, and Mr. Grabauskas indicated that portions of the urban garden and car dealership on either side of Stuart Plaza would also be needed.

Mr. Kim asked if Stuart Plaza was the only property for which negotiations were stalled, and Mr. Iwata confirmed. He pointed out that there is also parking behind Stuart Plaza. Mr. Iwata stated that the diagonal parking spots in front of the building would remain intact. Ms. Ray said that HART engineers have evaluated those parking spots and confirmed that they will stay.

Mr. Hui said that unlike the Banana Patch property, he understands why HART is proceeding to condemnation in this case.

Mr. Lui-Kwan moved for adoption of Resolution 2013-3, and Mr. Kim seconded the motion. All being in favor, the motion passed unanimously.

X. Executive Director and CEO's Report

Ms. Okinaga said that as Mr. Grabauskas had another commitment, the next agenda item would be taken out of order.

Mr. Grabauskas stated that the plan for the AIS called for 232 original trenches. He stated that additional trenches were being dug around archaeological finds, and would be done that weekend. He stated that there were six finds in total, the most recent one being off Ala Moana Boulevard near Pohukaina. Mr. Grabauskas stated that in each of the six cases, HART was able to re-engineer around the finds.

Mr. Grabauskas said that as there were a number of bills before the State Legislature that affect HART, staff would give an overview at a later date. He reported on bills seeking to reduce the State's retention of the county General Excise Tax (GET) surcharge from 10% to 5%. He said that there is also a bill that would discontinue the GET. He also said that there are two bills that would add HART to the membership of the Oahu Metropolitan Planning Organization (Oahu MPO), as mandated by the recently enacted Moving Ahead for Progress in the 21<sup>st</sup> Century Act. Brian Gibson, Oahu MPO's Executive Director, had worked with members of the legislature in crafting Senate and House bills.

Mr. Grabauskas stated that he had been continuing his outreach efforts. He had recently spoken to the Kailua Chamber of Commerce, and would be speaking to the Waiialua Rotary Club that day.

Mr. Lui-Kwan asked about the AIS progress. Mr. Grabauskas stated that staff was drafting the AIS report, which would be given to the State Historic Preservation Division. He complimented Department of Land and Natural Resources Director William Aila for

working with HART on trying to compress the drafting time. Due to those efforts, HART expects to resume construction in September.

Ms. Okinaga said that the Board needed to determine its position regarding pending legislation, particularly in supporting the responsibilities of some committees. She said that she had also asked staff to keep a list of pending requests from the Mayor, Council and Legislature to ensure that HART keeps on budget and schedule.

VIII. Third Party Risk Assessment

Ms. Arakaki said that as a result of the Kaleikini decision, Board member Don Horner had expressed an interest in looking ahead to the potential risks faced by the project. She introduced a proposed schedule, attached hereto as Attachment F, to procure the services of an independent risk assessor.

Mr. Lui-Kwan moved to refer the matter to the Audit/Legal Matters Committee. Mr. Hong seconded the motion.

Mr. Hui stated that he would like to better understand the difference between the proposed risk assessment and the risk assessment done by the project management oversight contractor. Mr. Lui-Kwan acknowledged his request.

All being in favor, the motion carried unanimously.

IX. Formation of Permitted Interaction Group for Investigation of Matters Concerning Fare Policy Pursuant to HRS § 92-2.5

Ms. Okinaga stated that the formation of a Permitted Interaction Group (PIG) for the purposes of investigating fare policy matters would be referred to the Finance Committee to determine the PIG's scope. The PIG would encompass three public meetings: the first to form the PIG, the second to report its findings to the full Board, and the third to act on the report of the PIG.

Mr. Lui-Kwan said that the disadvantage of a PIG is that all members cannot participate, and he wondered whether there was a way all members could be involved. Ms. Okinaga said that PIGs are an exception to the Sunshine Law. She said that they are more agile in that they can meet more often than the full Board, and meetings do not require notice. She said the findings of the PIG are recommendations to the Board. She recommended that Department of Transportation Services Director Mr. Formby be involved due to his oversight of Oahu Transit Services.

XI. Executive Session

There was no need for executive session.

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XII. Adjournment

The business before the Board having been completed, Ms. Okinaga called for a motion to adjourn. Mr. Kim moved to adjourn, and Mr. Lui-Kwan seconded the motion. The motion carried unanimously, and the meeting was adjourned at 11:38 a.m.

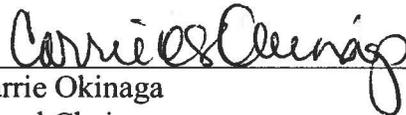
Respectfully Submitted,



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Cindy Matsushita  
Board Administrator

Approved:



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Carrie Okinaga  
Board Chair

FEB 28 2013

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Date

## ATTACHMENT A

## **Honolulu Authority for Rapid Transportation**

### **RESOLUTION NO. 2013 - 1**

#### **IN REMEMBRANCE OF THE HONORABLE DANIEL K. INOUE**

WHEREAS, Senator Daniel K. Inouye worked his entire life in the service of our State and our nation;

WHEREAS, few can comprehend, much less replicate the sacrifices he made in order to effectuate that service;

WHEREAS, his passing on December 17, 2012, ended much too suddenly his life's work that benefited countless citizens in immeasurable ways;

WHEREAS, the Honolulu Authority for Rapid Transportation Board of Directors, on behalf of the HART 'ohana, wishes to remember and honor the Senator and his legacy of public service, through this resolution;

WHEREAS, Senator Inouye was born in Honolulu on September 7, 1924 and graduated from McKinley High School;

WHEREAS, Senator Inouye's public service began in 1941 when he volunteered as a medical aide during the attack on Pearl Harbor;

WHEREAS, Senator Inouye went on to volunteer during World War II as a member of the famed 442nd Regimental Combat Team, and demonstrated heroic courage and leadership;

WHEREAS, in honor of his service and sacrifice, Senator Inouye was awarded the Medal of Honor, Distinguished Service Cross, Bronze Star, Purple Heart, and 12 other medals and citations;

WHEREAS, Senator Inouye then went on to graduate from the University of Hawai'i with a Bachelor's degree in government and economics in 1950, and from George Washington University Law School with a J.D. degree in 1953;

WHEREAS, upon graduation from law school, Senator Inouye's public service continued as he was admitted to the Hawai'i Bar and joined our City workforce as a deputy prosecutor;

WHEREAS, Senator Inouye's distinguished public service continued as he was elected in 1954 to the Territorial House of Representatives, where he served as Majority Leader, and then to the Territorial Senate in 1958;

WHEREAS, Senator Inouye was elected to the eighty-sixth Congress as Hawai'i's first representative after Hawai'i became a state in 1959, and proudly represented the State in the United States Congress for 53 years thereafter;

WHEREAS, Senator Inouye was the first Japanese American to serve in the U.S. House of Representatives and when he was elected to the U.S. Senate in 1962, he became the first Japanese American to serve in the U.S. Senate, where he served in key leadership roles, including Chairman of the Senate Appropriations Committee from 2009 to 2012;

WHEREAS, while in Congress, part of Senator Inouye's vision and life's work for decades was championing a fixed guideway rail project for the people of the City and County of Honolulu;

WHEREAS, in the face of shifting political winds, Senator Inouye always recognized the objective and genuine need for transportation equity for the residents of West Oahu, and those who were committed to building the second city of Kapolei;

WHEREAS, in recent times, Senator Inouye loved telling the story that whenever he came home, he would force himself to drive to West O'ahu in traffic so that he could "swear" to himself about the need for traffic relief;

WHEREAS, Senator Inouye's unmatched commitment to the rail project is a primary reason the Honolulu Rail Transit Project exists today;

WHEREAS, Senator Inouye's unwavering support of the project proved invaluable in securing \$1.55 billion in federal funding, thereby ensuring that this project, one of his many legacies, would proceed forward; and

WHEREAS, HART is eternally grateful for Senator Inouye's support, and remembers and honors him for his service to and love for the people of Hawai'i;

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of HART, on behalf of the HART 'ohana, that:

1. The HART 'ohana expresses to the Inouye family its deep sorrow and sense of loss over the death of Senator Daniel K. Inouye;
2. The HART 'ohana gratefully recognizes the significant contributions made by Senator Daniel K. Inouye to the United States of America and the State of Hawai'i throughout his lifetime of public service;
3. The HART 'ohana expresses its profound appreciation for Senator Daniel K. Inouye's support for and championing of the Honolulu Rail Transit Project; and

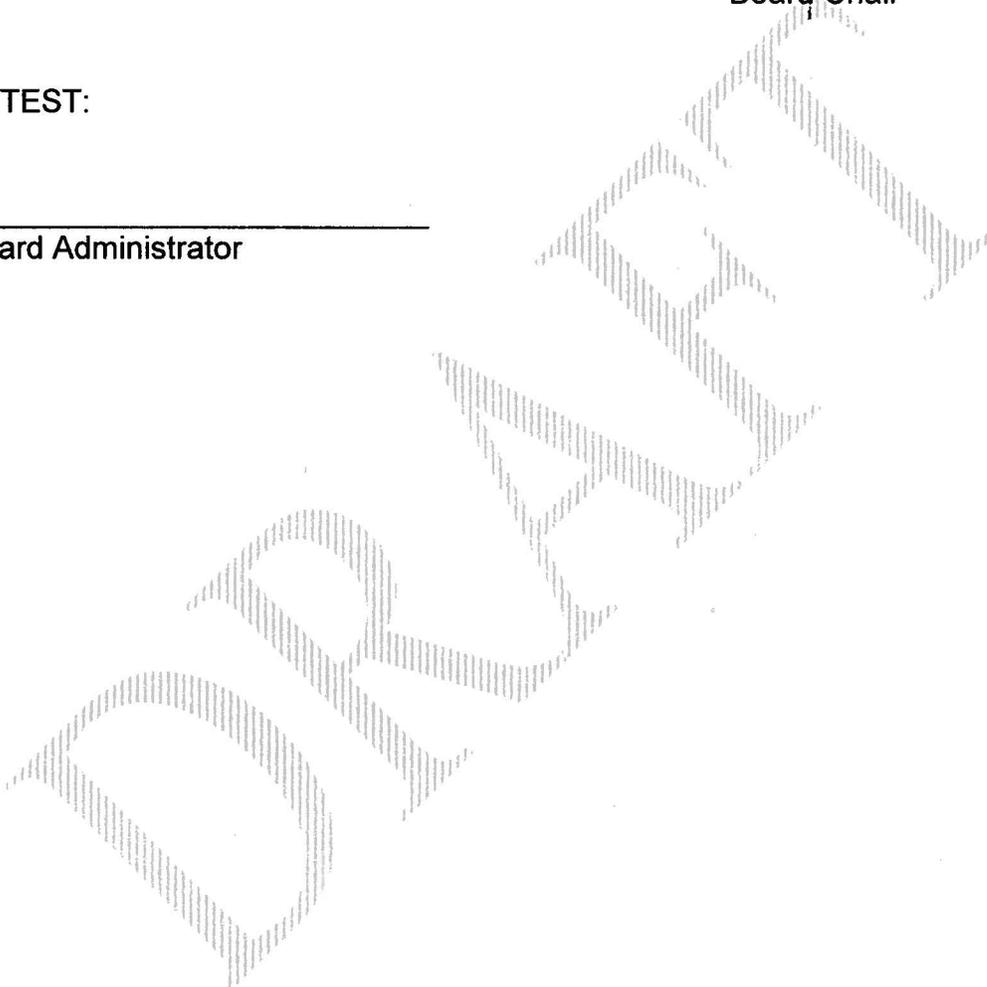
4. This resolution shall be transmitted to the family and staff of the late Senator Daniel K. Inouye.

ADOPTED by the Board of Directors of the Honolulu Authority for Rapid Transportation on \_\_\_\_\_.

\_\_\_\_\_  
Board Chair

ATTEST:

\_\_\_\_\_  
Board Administrator



# Honolulu Authority for Rapid Transportation

## STAFF SUMMARY

<b>TITLE:</b> IN REMEMBRANCE OF THE HONORABLE DANIEL K. INOUE		<b>STAFF CONTACT:</b> Cindy Matsushita	<b>DATE:</b> January 24, 2013
<b>Type:</b>	<b>Goal</b>	<b>Focus Area</b>	
<input type="checkbox"/> Action/Approval	<input type="checkbox"/> Project Delivery	<input type="checkbox"/> Livability/Land Use	
<input type="checkbox"/> Information	<input type="checkbox"/> Service Delivery	<input type="checkbox"/> Partnerships	
<input type="checkbox"/> Follow-up	<input type="checkbox"/> Resource Stewardship	<input type="checkbox"/> Agency Admin.	

**1. Purpose:**  
 To acknowledge, memorialize, and express gratitude to the late Senator Daniel K. Inouye for his leadership and championing of the rail project.

**2. Background/Justification**  
 Senator Inouye, having recently passed, was a staunch advocate and supporter of the rail project. As Chairman of the Senate Appropriations Committee, his efforts were instrumental in moving the project forward.

**3. Procurement Background**  
 N/A

**4. Financial/Budget Impact**  
 N/A

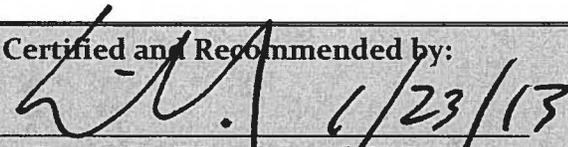
**5. Policy Impact**  
 N/A

**6. Public Involvement**  
 N/A

**7. Alternatives**  
 N/A

**8. Exhibits**  
 N/A

Certified and Recommended by:

  
 \_\_\_\_\_  
 Executive Director and CEO

## ATTACHMENT B

# Honolulu Authority for Rapid Transportation

## FY2014 Capital Budget Construction

HONOLULU RAIL TRANSIT PROJECT  
WWW.HONOLULUTRANSIT.ORG



## FY 2014 CIP - Construction Phase Total Amount = \$373,880,800

- **\$1,650,000 for Section 106 Programmatic Agreement (PA) Requirements**
  - **\$900,000 for Historic Preservation Committee**
    - Provide for exterior improvements to project related and other eligible or listed historic properties within the rail project's area of potential effect
  - **\$750,000 for Park Improvements**

HONOLULU RAIL TRANSIT PROJECT  
WWW.HONOLULUTRANSIT.ORG



## **FY 2014 CIP - Construction Phase**

**Total Amount = \$373,880,800**

- **\$247,522,700 for Construction Contracts**
  - **\$24,627,700 for Airport Section Utilities**
    - Water and Sewer relocation and roadway improvements
  - **\$63,025,100 for City Center Section Utilities**
    - Water and Sewer relocation and roadway improvements
  - **\$151,567,000 for Stations – West Oahu, Farrington Highway, and Kamehameha Highway**
    - 9 stations
  - **\$869,600 for On-Call Construction Contractor**
    - Demolition and minor general construction

HONOLULU RAIL TRANSIT PROJECT  
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## **FY 2014 CIP - Construction Phase**

**Total Amount = \$373,880,800**

- **\$247,522,700 for Construction Contracts (continued)**
  - **\$800,000 for On-Call HazMat Removal Contractor**
    - Testing, Remediation Plans, Removal, Abatement and Disposal
  - **\$5,000,000 for Elevators & Escalators**
    - Furnish, install and maintain
  - **\$1,633,300 for Owner-Controlled Insurance Program**
    - Claims administration, Builders Risk, Workers Compensation & Employer Liability, Commercial General Liability, Excess Liability

HONOLULU RAIL TRANSIT PROJECT  
www.HONOLULUTRANSIT.ORG



## **FY 2014 CIP - Construction Phase**

**Total Amount = \$373,880,800**

- **\$124,500,000 for Utility Relocation Work by Private Utility Owners**
  - AT&T
  - Chevron
  - Hawaiian Telcom
  - HECO
  - Oceanic Time Warner
  - The Gas Company
  - Sandwich Isles Communications
  - Pacific LightNet
  - Tesoro

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## **FY 2014 CIP - Inspection Phase**

**Total Amount = \$56,743,400**

- **\$20,152,400 for Stations – West Oahu, Farrington Highway, Kamehameha Highway and H2 Ramp**
- **\$36,591,000 for Airport & City Center Sections**

HONOLULU RAIL TRANSIT PROJECT  
www.HONOLULUTRANSIT.ORG



## **FY 2014 CIP - Inspection Phase**

**Total Amount = \$56,743,400**

- **Monitor and verify Contractor's conformance to contract requirements**
- **Report on Contractor's progress, schedule and payment**
- **Perform inspection and testing**
- **Evaluate and process contract changes**
- **Review and coordinate with designer on contractor requests for information**
- **Provide personnel, vehicles, field equipment, office supplies to meet scope requirements**

## ATTACHMENT C

# Agenda Item VII

**Eminent Domain  
TMK 1-9-6-004:006 and  
TMK 1-9-7-023:008**

# TMK 1-9-6-004-006

## 96-136 Farrington Highway

- Required for **Guideway and Pearl Highlands Garage and Intermodal Facility**
- **9.7 Acres at the “Banana Patch”**
  - Zoned Agricultural
  - Used as Heavy Construction Base Yard and Storage Facility
- **Property is contaminated impacting valuation**

# TMK 1-9-6-004-006 Cont'd

- **Negotiations with Property Owner over 2 years**
  - Owner could remediate site and Hart would acquired for appraised **clean** value;
  - Owner would like HART to pay for property zoned industrial
  - Owner refused any further discussions

# TMK 1-9-7-023-008

## 945 Kamehameha Highway

- **Required for Roadway Widening**
- **2,211 Sq Ft Partial Take of a 54,378 Sq Ft Property**
  - Loss of 5 Parallel Parking Spaces along front of property
  - Both Appraiser and HART Engineering confirmed there were not other impacts
- **Owner claims substantial impacts beyond 5 parking spaces**

## ATTACHMENT D

## **Honolulu Authority for Rapid Transportation**

### **RESOLUTION NO. 2013-2**

**APPROVING NOTIFICATION TO THE CITY COUNCIL OF INTENTION TO ACQUIRE THE REAL PROPERTY IDENTIFIED AS TAX MAP KEY 1-9-6-004:006 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) 1-9-6-004:006 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;

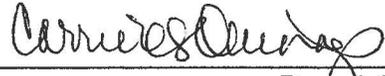
NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of HART as follows:

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 1-9-6-004:006; 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.

ADOPTED by the Board of the Honolulu Authority for Rapid Transportation on  
JAN 24 2013.

Exhibit A – Legal description of TMK 1-9-6-004:006

Exhibit B – Resolution No. 2013-\_\_\_, Authorizing the Acquisition of the Real  
Property Identified as Tax Map Key 1-9-6-004:006 by Eminent Domain.



Board Chair

ATTEST:



Board Administrator

## HONOLULU RAIL TRANSIT PROJECT

## GUIDEWAY SYSTEM

PARCEL 15  
(Fee Simple)

All of that certain Parcel 15 of land (being a portion of Royal Patent 4475, Land Commission Award 7713, Apana 46 to V. Kamamalu) situated at Waiawa, District of Ewa, City and County of Honolulu, State of Hawaii identified as Tax Map Key: 9-6-004:006 containing an area of 9.69 acres, more or less, of the Waiawa Subdivision as shown on the sketch attached hereto and made a part hereof:

Beginning at the South corner of Parcel 15, the East corner of Civil No. 23,805 and on the North side of Kamehameha Highway, the coordinates of said point of beginning referred to Government Survey Triangulation Station "Ewa Church" being 158.40 feet North and 1123.18 feet West and running thence by azimuths measured clockwise from true South:

1.	126°	25'	1084.70	feet along Civil No.23,805;
2.	247°	3'	48.97	feet along the Southernly side of Waiawa cutt off;
3.	266°	20'	272.76	feet along same;
4.	266°	39' 55"	16.13	feet along the same;
5.	46°	6'	98.70	feet along L.C. Aw. 4213, Ap.2. to Kauhi and L.C. Aw. 4529 & 2685, Ap. 3 to Ohia;
6.	310°	21'	254.20	feet along L.C. Aw. 4213, Ap.2 to Kauhi and L.C. Aw. 4529 & 2685, Ap. 3 to Ohia;
7.	240°	53'	250.0	feet along L.C. Aw. 4529 & 2685, Ap. 3 to Ohia;

8.	118°	29'	45"		feet along L.C. Aw. 4529 & 2685, Ap.3 to Ohia & L.C. Aw. 4213, Ap. 2 to Kauhi; Thence along Waiawa cut-off on a curve to the right with a radius of 1392.40 feet, the chord azimuth and distance being;
9.	279°	59'		360.28	feet;
10.	287°	25'		262.53	feet along the Southerly side of Waiawa cut-off;
11.	34°	26'		269.26	feet along L.C. Aw. 5591 & 9357 to Kekua;
12.	327°	27'		120.20	feet along same;
13.	220°	00'		86.00	feet along same;
14.	289°	16'		191.00	feet along Lot "C";
15.	36°	00'		42.50	feet along remainder of R.P. 4475, L.C. Aw. 7713, Ap. 46 to V. Kamamalu; Thence along same, the direct Azimuth and distance being;
16.	277°	38'		776.30	feet;
17.	86°	29'		127.38	feet along the North side of Kamehameha Highway;
18.	92°	12'		201.00	feet along same;
19.	86°	29'		100.00	feet along same;
20.	356°	29'		35.00	feet along same;
21.	86°	29'		669.66	feet along same to the point of beginning.

**Honolulu Authority for Rapid Transportation**

**RESOLUTION NO. 2013-\_\_**

**AUTHORIZING THE ACQUISITION OF THE REAL PROPERTY IDENTIFIED  
AS TAX MAP KEY 1-9-6-004:006 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) 1-9-6-004:006 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 1-9-6-004:006 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

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

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DRAFT

**Honolulu Authority for Rapid Transportation**

**STAFF SUMMARY**

<b>TITLE:</b> Review of Notification to City Council seeking authorization for condemnation of land identified as TMK 1-9-6-004:006, and situated at 96-136 Farrington Highway.	<b>STAFF CONTACT:</b> Jerry Iwata	<b>DATE:</b> November 15, 2012
--	--------------------------------------	-----------------------------------

Type:	Goal	Focus Area	Reference Notes
<input type="checkbox"/> Action/Approval	<input type="checkbox"/> Project Delivery	<input type="checkbox"/> Livability/Land Use	
<input type="checkbox"/> Information	<input type="checkbox"/> Service Delivery	<input type="checkbox"/> Partnerships	
<input type="checkbox"/> Follow-up	<input 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 Parcel 15, and bearing TMK 1-9-6-004:006, and situated at 96-136 Farrington Highway, Pearl City, HI , which is required for the West Oahu Farrington Highway guideway section and for the Pearl Highland Station Complex. After discussions with the owners and their representatives, HART is unable to negotiate a settlement with the owners. This property is on the critical path for successful completion of the West Oahu Farrington Highway Section. It is zoned Agricultural 2, and is owned by Mr. and Mrs. Richard Lee.

**2. Background/Justification**

This property (TMK 1-9-6-004:006) was designated as a full take 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 and agreed to allow HART on to the property in order to conduct an appraisal of the property by a certified local appraiser. This appraisal follows URA guidelines and took into consideration all environmental impacts as well as best and highest use. The appraisal review, as required by the URA was done by the Department of Design and Construction-Land Division (DDC-LD) of the City and County of Honolulu.

Since the FEIS noted possible environmental issues, HART was required to conduct an environmental assessment and the results incorporated into the appraisal. An Environmental Site Assessment Phase I (ESA), which included document review, site inspection and discussions with the owners or tenants, resulted in finding possible environmental contamination within the property and determined a Phase II ESA was needed to assess the extent of hazardous material found on the property as well as what remediation would be required.

The Phase II ESA, which included soil sampling and drilling and monitoring test wells in areas that appear to have suspected environmental pollution, was conducted with the property owners' permission. From this analysis it was concluded that the property would require remediation as a result of oil contamination from the storage and maintenance of construction equipment on the property. To remediate the environmentally hazardous condition, the removal and disposal of the top 4 inches of contaminated soil located at several sites within the property is required..

The remedial cost information was forwarded to the appraiser for his consideration in determining the value of

property. The appraiser and the review appraiser from DDC-LD in accordance with the Uniform Standards of Professional Appraisal Practice (USPAP) determined that the just compensation for the property resulted in a negative value since the remediation cost exceeded the market value of the property if it were clean.

Given this determination, HART staff met numerous times with the property owners and/or their representatives about the results of the appraisal and presented the option of the property owners cleaning the sites prior to HART acquiring the property. If remediation is done prior to acquisition then HART would be permitted to offer the owners just compensation based on a clean site. However, the property owners and HART have failed to come to an agreement concerning remediation or the value of the property.

HART staff is now requesting the HART Board to review this Notification to City Council for authorization to institute condemnation proceedings for this property. Any further delay in the acquisition would negatively impact the progress of the design and construction of the West Oahu Farrington Highway (WOFH) guideway.

### 3. Procurement Background

N/A

### 4. Financial/Budget Impact

The project budget includes an estimated cost for legal action associated with the condemnation of the property.

### 5. Policy Impact

There is no policy impact since this action conforms to the requirement of the Uniform Relocation Assistance and Real Property Acquisition Policies Act, FTA 1050.1D and Article XVII of the Charter of the City and County of Honolulu.

### 6. Public Involvement

N/A

### 7. Alternatives

There is no alternative given the proposed project schedule and the need to acquire the property as soon as possible in order to not delay the WOFH contractor in constructing the guideway.

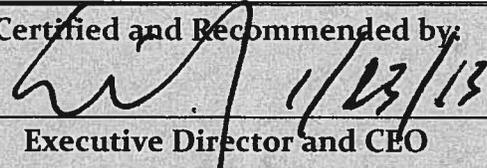
### 7. Exhibits

Offer Letter to property owner.

Environmental Site Assessment Phase I Executive Summary

Environmental Site Assessment Phase II Executive Summary

Certified and Recommended by:

  
\_\_\_\_\_  
Executive Director and CEO



IN REPLY REFER TO:  
CMS-AP00ROW-00007

HONOLULU AUTHORITY for RAPID TRANSPORTATION

Kenneth Toru Hamayasu, P.E.  
INTERIM EXECUTIVE DIRECTOR AND CEO

**CERTIFIED MAIL/RETURN RECEIPT REQUESTED**

BOARD OF DIRECTORS

Carrie K.S. Okinaga, Esq.  
CHAIR

Ivan M. Lui-Kwan, Esq.  
VICE CHAIR

Robert Bunda  
William "Buzz" Hong  
Donald G. Horner  
Kestlie W. K. Hui  
Damien T. K. Kim  
Glenn M. Okimoto, Ph.D.  
David K. Tanoue  
Wayne Y. Yoshioka

December 9, 2011

Mr. Richard and Mrs. Karen Lee  
96-1414 Waihona Place  
Pearl City, Hawaii 96782

Dear Mr. and Mrs. Lee:

Subject: Honolulu High-Capacity Transit Corridor Project  
Kamehameha Highway Segment  
Property Address: 96-136 Farrington Highway  
Tax Map Key No. 9-6-004-006

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 your property, identified as Tax Map Key No. 9-6-004-006 (shown colored in blue on the enclosed tax map), in fee simple, free and clear of all liens and encumbrances, for the total consideration of \$1.00 (One Dollar). This offer takes into account that your property requires substantial expense for environmental remediation.

If this offer is acceptable, please sign the duplicate of this letter and the Consent to Enter and return them in the enclosed envelope by January 30, 2012. The remaining copies are for your files.

Also enclosed for your information are the Appraisal Summary Statement and the General Acquisition & Relocation Information Brochure.

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.

received 12/13/11

Richard and Karen Lee  
9-6-004-006  
Offer Letter  
Page 2

Please call Jerry Iwata at 768-6192 if you have any questions regarding this matter.

Sincerely,

  
Kenneth Toru Hayamasu  
Interim Executive Director and CEO

Enclosures

ACCEPTED:

Richard Lee

Karen Lee

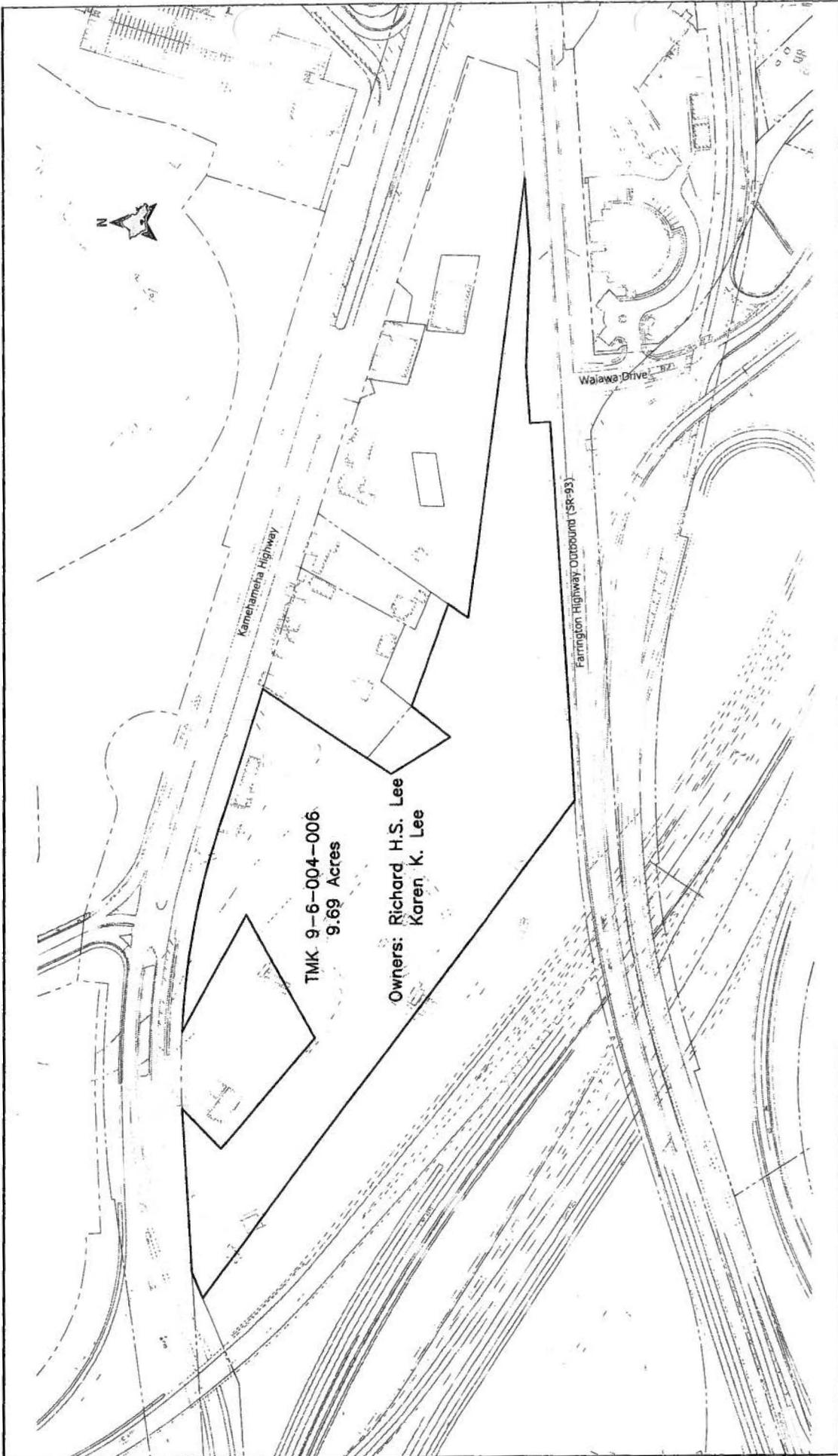
\_\_\_\_\_

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

\_\_\_\_\_

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

Phone \_\_\_\_\_



TMK 9-6-004-006  
9.69 Acres

Owners: Richard H.S. Lee  
Karen K. Lee

Page No. 1 of 1 Drawing No.	TMK 9-6-004:006 Lee Property
Scale: 	HONOLULU RAIL TRANSIT PROJECT

## STATEMENT OF JUST COMPENSATION

**PROJECT:** HONOLULU HIGH-CAPACITY TRANSIT CORRIDOR PROJECT (HHCTCP)  
**LOCATION:** 96-136 Farrington Highway  
**TAX MAP KEY:** 9-6-004-006  
**OWNER(S):** Richard Lee and Karen Lee  
**INTEREST TO BE ACQUIRED:** Unencumbered fee simple  
**PARCEL TO BE ACQUIRED:** Full taking consisting of approximately 9.69 acres; 422,096 square feet  
**ZONING:** AG-2 General Agricultural District; State Land Use: Urban District  
**IMPROVEMENTS:** N/A

**PURPOSE:** Under the United States and Hawaii Constitutions, private property cannot be taken for public use without payment of just compensation. In accordance with the Code of Federal Regulations, Honolulu Authority of Rapid Transportation submits a written statement of and summary of the basis for the amount it has established as just compensation for the above identified property.

In estimating just compensation, an appraisal was performed by a State of Hawaii licensed appraiser. The amount established as just compensation is not less than the approved appraisal of the fair market value of the property being acquired.

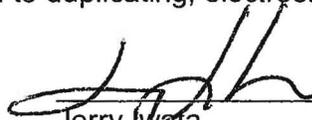
Unless otherwise stated in the attached letter of offer, the amount established as just compensation is for the real property being acquired, which includes land, buildings, structures, or improvements located on, or damaged as a result of the taking of the areas and interest described in the attached letter of offer.

The amount established as just compensation does not include items of personal property such as household furnishings, clothing and appliances.

1. **JUST COMPENSATION:** Based on the completed appraisal report and the appraisal review the just compensation amount for the property being acquired WITHOUT REMEDIATION is:

**\$1.00 (One Dollar)**

The original of this statement to be tendered to the above named owner has been signed in blue ink. If the signature is not in original ink, as opposed to duplicating, electrostatic or other media, this Statement of Just Compensation is not valid.

  
Jerry Wata  
Real Estate Acquisition Manager

## APPRAISAL SUMMARY STATEMENT

**PROJECT:** HONOLULU HIGH-CAPACITY TRANSIT CORRIDOR  
PROJECT (HHCTCP)

**ADDRESS:** 9-6-004-006

**TAX MAP KEY:** 96-136 Farrington Highway

**OWNER(S):** Richard and Karen Lee

**PARCEL AREA:** 422,096 square feet

**PROPERTY ACQUIRED:** ALL:  PART:

**INTEREST TO  
BE ACQUIRED:** Unencumbered fee simple

**ZONING:** AG-2 General Agricultural District; State Land Use: Urban  
District

**HIGHEST & BEST USE:** Agricultural Use

**ASSESSED VALUE (2010/2011):**

Land	\$66,200
Improvements	N/A
<b>TOTAL</b>	<b>\$66,200</b>

---

**The Appraisal Estimated Market Value "WITHOUT REMEDIATION" is: \$1.00**

**The value of the property being acquired is based upon an appraisal prepared in accordance with accepted appraisal practices. Full and careful consideration has been given to the highest and best use for development of the property and to all features inherent in your property including environmental remediation in order that the highest valuation possible can be made. The Appraisal Estimate and appraisal were developed and reported in conformity with Federal regulations, State statutes, and City ordinances.**

SENDER: COMPLETE THIS SECTION	COMPLETE THIS SECTION ON DELIVERY	
<ul style="list-style-type: none"> <li>■ Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.</li> <li>■ Print your name and address on the reverse so that we can return the card to you.</li> <li>■ Attach this card to the back of the mailpiece, or on the front if space permits.</li> </ul>	A. Signature <i>x Melani Tokola</i>	<input type="checkbox"/> Agent <input type="checkbox"/> Addressee
1. Article Addressed to:  Mr. Richard & Mrs. Karen Lee 96-1414 Waiihona Pl. Pearl City, HI 96782	B. Received by (Printed Name) <i>Melani Tokola</i>	C. Date of Delivery <i>1/11/11</i>
2. Article Number (Transfer from service label)	D. Is delivery address different from item 1? <input type="checkbox"/> Yes If YES, enter delivery address below: <input type="checkbox"/> No  <i>9-6-004-006</i>	
	3. Service Type <input checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail <input type="checkbox"/> Registered <input type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D.	
	4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes	
	7008 1140 0001 0705 1252	

## *Executive Summary*

This report presents the results of Environet's Phase I Environmental Site Assessment (ESA) of the RHS Lee Baseyard located on the property identified as tax map key (TMK) (1) 9-6-4, Parcel 6 (hereinafter referred to as the Site). The Site address is 96-136 Farrington Highway, which is in Pearl City, Hawai'i on the Island of O'ahu (Figure 1-1). This assessment and report has been performed in general accordance with the United States Environmental Protection Agency (EPA) "All Appropriate Inquiry" (40 Code of Federal Regulations (CFR) Part 312), as well as the American Society for Testing and Materials (ASTM) "Standard Practice for Environmental Site Assessments: Phase I Environmental Site Assessment Process" (ASTM Designation E 1527-05; ASTM, 2005).

Our assessment was conducted to evaluate existing conditions, investigate the environmental history, and identify the presence of recognized environmental conditions (RECs) within and around the Site. A REC is *the presence or likely presence of any hazardous substances or petroleum products on a property under conditions that indicate an existing release, a past release, or a material threat of a release of any hazardous substances or petroleum products into structures on the property or into the ground, ground water, or surface water of the property* (ASTM E 1527-05).

This research consisted of a review of historical and regulatory records, present conditions, site geology and hydrogeology, and interviews with persons knowledgeable of the Site. Environet has separated the Site into five distinct sub-areas to better describe and locate RECs. These five areas have been labeled the Northern Area, Southern Area, Western A Area, Western B Area, and Undeveloped Area. The Northern Area and Southern Area have been used for large construction equipment storage for the past 19 years. These portions of the Site still serve the same purpose. The Western A Area is a fenced off area containing used cars, shipping containers, large quantities of paints and solvents, and multiple 55-gallon drums both empty and full of unknown product. The Western B Area is used as a storage yard for old construction equipment both large and small. The rest of the Site is undeveloped with thick vegetation and dense tree growth. Very few structures are located on the Site. Approximately 98% of the Site was bare soil or vegetation with a small portion covered by concrete in the Northern Area. The Site is approximately 9.70 acres and is zoned General Agricultural District (AG-2).

Environet interviewed the user (client) for information regarding user responsibilities associated with the Phase I ESA. None of the responses by the user indicated a REC exists at the Site.

Environet attempted to interview personnel who were familiar with the current conditions at the Site, (owner and occupants) however, all attempts were unsuccessful.

Environet personnel conducted reconnaissance of the Site on September 21, 22 and October 5, 2009. Based on the Site reconnaissance, Environet personnel determined the Site was actively used by RHS Lee as a construction baseyard for long term and temporary storage of large and small construction equipment and construction materials. This assessment has revealed evidence of RECs in connection with the Site and has not revealed evidence of RECs associated with

nearby properties. The RECs are described in detail in the body of the report and summarized below.

## ***Current RECs***

### *Northern Area*

- Heavy soil staining around mechanic bays and in the machine shop. This indicates an existing release of a hazardous substance or petroleum product that has impacted the Site.
- Heavy soil staining around heavy and light machinery stored in the center of the Northern Area. This indicates an existing release of a hazardous substance or petroleum product that has impacted the Site.
- Improper storage of potentially hazardous chemicals ranging from 5-gallon to 55-gallon containers. This indicates a potential release of a hazardous substance or petroleum product that can impact the Site.

### *Southern Area*

- Improper storage of potentially hazardous chemicals contained in 55-gallon drums located in the center of the Southern Area. This indicates a potential release of a hazardous substance or petroleum product that can impact the Site.

### *Western A Area*

- Improper storage of potentially hazardous chemicals ranging from 5-gallon to 55-gallon containers. This indicates a potential release of a hazardous substance or petroleum product that can impact the Site.
- Two leaking 55-gallon drums containing a hazardous substance or petroleum product. This indicates an existing release of a hazardous substance or petroleum product that has impacted the Site.

## ***Historic RECs***

EnviroNet did not identify any historic RECs in connection with the Site.

## ***Other Items of Environmental Concern***

- Miscellaneous debris improperly stored or contained throughout the site. Items include but are not limited to used car batteries, used tires, old machine parts, fire extinguishers, hydraulic rams, and other construction debris.
- Improperly stored small quantities of paints and thinners found in various locations throughout the entire Site.

- Historical references, including aerial photographs, topographic maps, and tax records, indicated that the Site had been previously occupied by a banana patch. Based on the Environet's experience with former agricultural lands, it is possible that the application of fertilizers and pesticides applied to the patch, over time, may have accumulated in the underlying soil, both at the Site and surrounding properties.
- Chlorofluorocarbons (CFCs) may be present in the refrigeration unit on one of the shipping containers located in the southern area of the Site. CFCs require proper and specific removal and disposal if the equipment containing them is no longer needed.

### ***Data Gaps***

- During the Site reconnaissance Environet was unable to inspect the heavily vegetated portions of the Northern and Southern Areas of the Site; this represents a data gap for the Site. This data gap does not appear to impact our ability to identify RECs at the Site. It is Environet's opinion that this does not represent a significant data gap.
- During the Site history review process Environet was unable to successfully characterize the Site back to 1940. Environet was able to characterize the Site back to 1949. This data gap does not appear to impact our ability to identify RECs at the Site. It is Environet's opinion that this does not represent a significant data gap.
- During the interview process Environet was unable to successfully interview past and current owners of the property. Due to the detailed information provided by tax records, site history, and current interviews, this data gap does not appear to impact our ability to identify RECs at the Site. It is in Environet's opinion that this does not represent a significant data gap.

## ***Section 5 Summary, Conclusions, and Recommendations***

### ***5.1 Summary***

The primary objective of this soil evaluation was to investigate three areas at the Site that were recognized as having RECs in a 2009 Phase I ESA to determine the need for further response actions to protect human health and the environment in preparation for future expansion and construction at the Site.

The primary field effort was conducted on December 21 through 23, 2009 and involved MI, judgmental, and composite soil sampling using a mobile direct push drill rig, as well as conducting content sampling on six unknown 55-gallon drums.

#### **Northern Area**

##### ***Multi-Increment Sampling***

One primary MI sample was collected at each of the two DUs along with two MI field QC samples (one duplicate and one triplicate). Each MI sample was composed of 30 increments taken from 0.0 to 0.5 ft and at 1.5 to 2.0 ft bgs. The location of each increment was based on a systematic grid.

MI samples were analyzed for TPH, BTEX, PAHs, PCBs and eight RCRA metals. Soil samples collected from both DUs contained DRO and RRO concentrations exceeding the screening levels. Both samples collected indicated the levels of DRO and RRO decreased with depth. Analyte RLs were raised above their associated screening levels for benzene to account for a methanol dilution as required by MI sampling. RLs for two PAH analytes (benzo(a)pyrene and dibenzo(a,h)anthracene) were elevated above the screening criteria due to laboratory sample matrix effects. All metals were detected below screening levels. The RL for selenium was elevated above the screening criteria due to laboratory sample matrix effects.

The elevated RLs for benzene, benzo(a)pyrene, dibenzo(a,h)anthracene, and selenium is not a concern because the samples have exceeded screening criteria for DRO and RRO. These potentially unknown exceedences will be remediated with the remediation planed for the DRO and RRO impacted soil.

##### ***Judgmental Sampling***

All judgmental samples taken at the Northern area were analyzed for TPH, BTEX, PAHs, PCBs, and the eight RCRA metals. Sixteen of the 22 primary soil samples collected contained concentrations of DRO and RRO exceeding the screening level. All samples exceeding the screening criteria indicated the levels of DRO and RRO decreased with depth. All 22 samples had concentrations of BTEX, PAHs, PCBs, and the eight RCRA metals below screening levels with the exception of soil sample DS 5-1. Sample DS 5-1 contained 2-methylnaphthalene at a concentration exceeding the screening level.

### **Southern Area**

The two composite soil samples taken at the Southern area were analyzed for TPH, BTEX, PAHs, PCBs, eight RCRA metals, and VOCs. One sample (C-2) contained DRO at a concentration above the screening level, while sample C-1 was below screening criteria for DRO. Both soil samples collected contained concentrations of RRO exceeding the screening level. Samples C-1 and C-2 indicated the concentrations of DRO and RRO increased with depth. All composite soil samples were lower than screening levels for PAHs, PCBs, eight RCRA metals, and VOCs. The laboratory RLs for some of the VOCs were elevated above the screening criteria to account for a methanol dilution required by composite sampling of VOCs. All other laboratory RLs were detected below the screening criteria.

The elevated RLs for VOCs is not a concern because the samples have exceeded screening criteria for DRO and RRO. These potentially unknown exceedences will be remediated with the remediation planed for the DRO and RRO impacted soil.

### **Western A Area**

All samples taken from the Western A area were analyzed for TPH, BTEX, PAHs, PCBs, and the eight RCRA metals. Four of the eight primary soil samples (W2-1, W3-1, W4-1, and W4-2) contained concentrations of DRO and RRO exceeding the screening levels. Concentrations of DRO and RRO indicated the concentrations decreased with depth. All eight samples contained concentrations of BTEX, PAHs, PCBs and the eight RCRA metals below screening levels.

### **55-Gallon Drum Testing**

Six 55-gallon drums located at the Site were analyzed to determine if the drums contained hazardous materials. The contents of the drums were field tested for ignitability, halogen test on petroleum-based materials, pH, cyanide, and sulfide on water-based solutions per PCS SOP #13. Three drums (Container IDs 04, 05, and 06) located at the Southern site contained petroleum based curing compounds and diluted Burke form release. These substances are considered hazardous due to their chemical composition. The remaining three drums (Container IDs 01-03) which were located at the Western A site contained diluted oil, and are not considered hazardous substances.

## ***5.2 Conclusions and Recommendations***

### **Northern Area**

MI and judgmental soil samples taken within, and surrounding the heavy equipment storage area indicate the presence of petroleum hydrocarbons (DRO and RRO) in Site soils exceeding the Site screening criteria for leaching, gross contamination, and direct exposure. The presence of these contaminants appears to have been generated from diesel fuels that have leaked from improperly maintained heavy equipment stored at the Site.

Both MI and judgmental soil samples collected also indicated that the concentration of DRO and RRO decreased with depth (up to two orders of magnitude in some samples). Soil sample SB-1 indicated that by 4.5 ft bgs concentrations of both DRO and RRO had dropped below screening criteria and by 10 ft bgs had become ND. Soil data collected from the 14.5 to 15.0 ft interval and

the capillary fringe located at 17.0 to 17.5 ft bgs indicated a detection of DRO and RRO. Though these detections were below screening criteria they did increase with depth. Concentrations of DRO and RRO at the capillary fringe sample (D1-6) had concentrations just below screening criteria. This does not indicate a concern for the soil however this increase in concentration at depth may indicate potential groundwater contamination or leaching concerns.

Investigation of the groundwater is recommended at the Site to determine whether leaching of DRO and RRO has taken place and if groundwater has been impacted. Based on the findings, an environmental hazard evaluation or remediation of contamination should be conducted.

For surface stained areas sampled, soil excavation of impacted soil followed by confirmation soil sample should be performed. Impacted areas should be excavated down to 2.5 ft bgs or deeper based on confirmation sampling.

### **Southern Area**

The composite samples taken at the Southern area indicate the presence of petroleum hydrocarbons (DRO and RRO) in Site soils exceeding the Site screening criteria for leaching and gross contamination. The presence of these contaminants appears to have been generated from petroleum products that have leaked from improperly stored 55-gallon drums as well as diesel fuels and oil that have leaked from improperly maintained heavy equipment stored at the Site.

Samples collected in the Southern area indicated that the concentrations of DRO and RRO increased with depth. This finding is likely due to the disturbance of the surface soils prior to sampling. To gain access to the sample locations large amounts of heavy machinery had to be moved and relocated. This machinery was not in operating condition and therefore had to be dragged and pulled out of the sampling area. It is estimated that approximately one to two inches of soil was disturbed around the sampling location.

Soil excavation of impacted soil followed by confirmation soil sampling should be performed. Impacted areas should be excavated down to 2.5 ft bgs or deeper based on confirmation sampling.

The presence of three drums containing petroleum based curing compounds and diluted Burke form release at the Western A Site represent an additional hazard to human health and the natural environment. These three drums should be labeled as hazardous waste per hazardous waste regulations and properly disposed of in accordance with hazardous waste disposal regulations.

### **Western A Area**

Judgmental soil samples taken within, and surrounding the 55-gallon drum and paint storage area (SB-10 through SB-13) indicate the presence of petroleum hydrocarbons (DRO and RRO) in Site soils exceeding the Site screening criteria for leaching, gross contamination, and direct exposure. The presence of these analytes appears to have been generated from petroleum products that have leaked from improperly stored 55-gallon drums and heavy equipment that may have been stored at the Site. Concentrations of DRO and RRO decreased from the surface samples to the subsurface samples below Site screening criteria in three of the four borings. Concentrations at

SB-13 decreased with depth but still remained above screening criteria for leaching and gross contamination at 2 ft bgs.

Surface soil removal up to a minimum of one foot bgs should be performed within the sampling locations SB-10 through SB-12. Field guided soil excavation and disposal is recommended at SB-13 to 2.5 ft bgs followed by confirmation sampling.

The presence of three drums containing diluted oil is not considered hazardous waste. The three 55-gallon drums should be properly labeled as non-hazardous waste and be removed offsite and properly recycled at a recycling facility.

# ATTACHMENT E

## **Honolulu Authority for Rapid Transportation**

### **RESOLUTION NO. 2013-3**

**APPROVING NOTIFICATION TO THE CITY COUNCIL OF INTENTION TO ACQUIRE THE REAL PROPERTY IDENTIFIED AS TAX MAP KEY 1-9-7-023:008 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) 1-9-7-023:008 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;

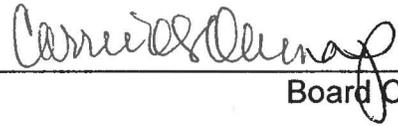
NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of HART as follows:

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 1-9-7-023:008 ; 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.

ADOPTED by the Board of the Honolulu Authority for Rapid Transportation on  
JAN 24 2013.

Exhibit A – Legal description of TMK 1-9-7-023:008

Exhibit B – Resolution No. 2013-\_\_\_\_, Authorizing the Acquisition of the Real  
Property Identified as Tax Map Key 1-9-7-023:008 by Eminent  
Domain.

  
\_\_\_\_\_  
Board Chair

ATTEST:

  
\_\_\_\_\_  
Board Administrator

**PARCEL 28**

**Honolulu Rail Transit Project**

Being a Portion of Lot 1

Same Being a Portion of Grant 3725 to Oahu Railroad and Land Company  
and Land Patent 8168, Part 12, Land Commission Award 8305 to P. Kanoa

Situate at Manana-Iki and Manana, Ewa, Island of Oahu, Hawaii

Beginning at the North corner of this parcel of land, being the East corner of Lot 2, being a portion of R.P. 4475, L.C. Aw. 7713, Ap. 48 to V. Kamamalu and on the Southwest side of Kamehameha Highway, the coordinates of said point of beginning referred to Government Survey Triangulation Station "EWA CHURCH" being 845.87 feet North and 2,845.73 feet East, thence running by azimuths measured clockwise from true South:

- |    |              |        |  |
|----|--------------|--------|--|
| 1. | 290° 19' 30" | 141.01 | feet along the Southwest side of Kamehameha Highway;   |
| 2. | 29° 36'      | 15.62  | feet along Lot 2 (Map 1) of Land Court Application 1695;   |
| 3. | 110° 19' 30" | 146.12 | feet along the remainder of Parcel 28, being a portion of Grant 3725 to Oahu Railroad and Land Company and L.P. 8168, Part 12, L.C. Aw. 8305 to P. Kanoa;                  |
| 4. | 226° 36'     | 17.20  | feet along Lot 2, being a portion of R.P. 4475, L.C. Aw. 7713, Ap. 48 to V. Kamamalu, to the point of beginning and containing an area of 2,211 Square Feet, more or less. |

R. M. TOWILL CORPORATION

Description prepared by:



*Ryan M. Suzuki*  
 Ryan M. Suzuki Exp: 4/30/14  
 Licensed Professional Land Surveyor  
 Certificate Number 10059

2024 North King Street, Suite 200  
 Honolulu, Hawaii 96819  
 December 19, 2012

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



**Honolulu Authority for Rapid Transportation**

**RESOLUTION NO. 2013-\_\_**

**AUTHORIZING THE ACQUISITION OF THE REAL PROPERTY IDENTIFIED  
AS TAX MAP KEY 1-9-7-023:008 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) 1-9-7-023:008 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 1-9-7-023:008 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

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

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DRAFT

# Honolulu Authority for Rapid Transportation

## STAFF SUMMARY

<b>TITLE:</b> Review of Notification to City Council seeking authorization for Condemnation of land identified as TMK 1-9-7-023:008, and situated at 945 Kamehameha Highway.	<b>STAFF CONTACT:</b> Jerry Iwata	<b>DATE:</b> December 28, 2012
---	--------------------------------------	-----------------------------------

Type:	Goal	Focus	Area	Reference Notes
<input type="checkbox"/> Action/Approval	<input type="checkbox"/> Project Delivery	<input type="checkbox"/> Livability/Land Use		
<input type="checkbox"/> Information	<input type="checkbox"/> Service Delivery	<input type="checkbox"/> Partnerships		
<input type="checkbox"/> Follow-up	<input 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 Parcel 28, bearing Tax Map Key No. 1-9-7-023:008, and located at 945 Kamehameha Highway Pearl City, Hawaii. After discussions with the owners and their representatives, HART is unable to negotiate a settlement with the owners for the acquisition of 2,213 square feet of land as shown on the attached map along Kamehameha Highway. This property is on the critical path for successful completion of the Kamehameha Section (KHG). It is zoned Business 2 (B2), and is owned by Stuart Plaza Investments.

**2. Background/Justification**

This property (TMK 1-9-7-023:008) was designated as a partial take 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 and agreed to allow HART on to the property in order to conduct an appraisal of the property by a certified local appraiser. This appraisal follows URA guidelines and took into consideration all site conditions and potential impacts the partial take would have on the remainder of the property. The appraisal review, as required by the URA was done by the Department of Design and Construction Land Division (DDC-LD) of the City and County of Honolulu.

The value of the land to be acquired is not in dispute; however, the owner claims damages to the remainder of the property. HART's independent appraiser determined that there were no damage to the remainder property. Five stalls on the front of the property would be affected by the acquisition, which would not impact the use of the building and remainder property. It was the appraiser's opinion that the sales comparison approach was appropriate to value the land being acquired.

The owner of the property retained an independent appraisal and asserts that damages to the remainder would be \$835,000. The appraiser felt that there would be a net loss of 12 stalls as well as a reduction in rental income. There is a substantial difference in the City's offer of \$115,000 (land) and the owner's value of \$950,000 (land and severance damage).

HART staff met with the property owner's representative about the results of the appraisals; however, there was no resolution on damages to remainder land. The owner's representative felt strongly that their valuation was the correct one. In later conversation with the owner's representative, he said he would have the property owner's appraiser contact HART to discuss the assumptions behind the valuation; however after repeated

follow-ups, this discussion has not occurred.

Additionally, HART requested a Consent-to-Construct so that the project schedule would not be delayed and a negotiated settlement could be reached concerning damages to the remainder. The property owner's representative rejected this option.

Given the substantial difference in the City's and owner's valuations, the Kamehameha Section construction schedule and the impact of further delays have on the project, HART staff is now requesting the HART Board to review this Notification to City Council for authorization to institute condemnation proceedings for this property.

**3. Procurement Background**

N/A

**4. Financial/Budget Impact**

The project budget includes an estimated cost for legal action associated with the condemnation of the property.

**5. Policy Impact**

There is no policy impact since this action conforms to the requirement of the Uniform Relocation Assistance and Real Property Acquisition Policies Act, FTA 1050.1D and Article XVII of the Charter of the City and County of Honolulu.

**6. Public Involvement**

N/A

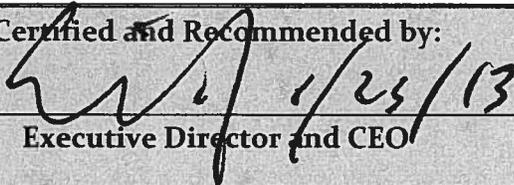
**7. Alternatives**

An alternative investigated was to eliminate or reducing the taking however this alternative was determined unfeasible.

**7. Exhibits**

Offer Letter to property owner.

Certified and Recommended by:



1/25/13

Executive Director and CEO

DEPARTMENT OF DESIGN AND CONSTRUCTION  
CITY AND COUNTY OF HONOLULU

650 SOUTH KING STREET, 11<sup>TH</sup> FLOOR  
HONOLULU, HAWAII 96813  
Phone: (808) 768-8480 • Fax: (808) 768-4567  
Web site: [www.honolulu.gov](http://www.honolulu.gov)

PETER B. CARLISLE  
MAYOR



COLLINS D. LAM, P.E.  
DIRECTOR  
LORITA M. KAHIKINA, P.E.  
DEPUTY DIRECTOR

LA 11-299.JH

May 25, 2011

Stuart Plaza Investments  
c/o Mark Johnson  
Johnson Management Co., Inc.  
945 Kamehameha Highway, #12  
Pearl City, Hawaii 96782

Gentlemen:

Subject: Honolulu High-Capacity Transit Corridor Project  
Kamehameha Highway Alignment  
945 Kamehameha Highway  
Parcel 28, 2,211 Square Feet  
Tax Map Key No. 9-7-023-008 (Portion)

This is a follow-up to our previous correspondence dated February 18, 2011, regarding the subject matter. An appraisal for the portion of your property to be acquired has been completed. Based on our findings as contained in the enclosed Statement of Just Compensation, the City offers to purchase Parcel 28, area 2,211 square feet, identified as Tax Map Key No. (1) 9-7-023-008 (portion), in fee simple, free and clear of all liens and encumbrances, for the consideration of \$115,000.00 (One Hundred Fifteen Thousand Dollars).

If this offer is acceptable, please sign the duplicate of this letter and the Consent to Enter and return them in the enclosed envelope by June 8, 2011. The remaining copies are for your files.

Also, enclosed for your information is the Appraisal Summary Statement.

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.

Stuart Plaza Investments  
May 25, 2011  
Page 2

Please call David Lee at 768-8701 or Dodie Browne at 768-8733 if you have any questions regarding this matter.

Very truly yours,



Thomas T. Miyata, Chief  
Land Division

DL:jh

Enclosures

ACCEPTED:

STUART PLAZA INVESTMENTS:

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

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

Phone (Bus.): \_\_\_\_\_

(Cell) \_\_\_\_\_

**CONSENT TO ENTER**

The undersigned, being the owner of that certain property bearing the tax map key listed hereinbelow, hereby consents to the entry by the City and County of Honolulu for the purpose stated:

PROJECT: **Honolulu High-Capacity Transit Corridor**  
TAX MAP KEYS: **(1) 9-7-023-008 (Portion)**  
LOCATION: **945 Kamehameha Highway**  
PURPOSE: **Construction Activities**

It is understood that this consent to enter is granted upon the following terms:

(1) That the area covered by this consent document is colored in yellow on the attached map. That this consent includes the right of ingress to and egress from said consent to enter area over the land of the undersigned, adjacent thereto for all purposes in connection with this consent to enter.

(2) That this consent to enter is granted for a **nominal** consideration of \$1.00.

(3) That the City and County of Honolulu shall indemnify the undersigned against liability for injury to or death of persons in the manner provided by law when such injury or death is caused by the negligent use of said property by the City and County of Honolulu, resulting from this consent to enter.

(4) That the entire cost of the work proposed to be done and all other expenses incidental thereto will be borne by the City and County of Honolulu.

(5) That the City and County of Honolulu will, in its discretion, determine the extent of the work to be done.

(6) That this consent to enter is granted for a period of thirty-six (36) months commencing from date of actual entry or upon completion of work, whichever is sooner.

(7) That the City and County of Honolulu or its representative will provide the undersigned written notification at least two weeks prior to the entry into said property by the City and County of Honolulu's contractor.

(8) That this consent to enter shall be binding upon and shall inure to the benefit of the parties hereto and their respective heirs, devisees, personal representatives, successors in trust, successors and assigns.

(9) That this consent to enter shall be null and void upon recordation of the deed or other document conveying said property to the City and County of Honolulu.

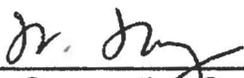
DATED: HONOLULU, HAWAII \_\_\_\_\_.

STUART PLAZA INVESTMENTS

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

Phone \_\_\_\_\_

APPROVED AS TO FORM AND  
LEGALITY

  
\_\_\_\_\_  
Deputy Corporation Counsel

APPROVED AS TO CONTENTS

  
\_\_\_\_\_  
Department of Transportation Services

DL:jh  
(05/11/11)

(11-271.CTE)



## STATEMENT OF JUST COMPENSATION

**PROJECT:** HONOLULU HIGH-CAPACITY TRANSIT CORRIDOR PROJECT (HHCTCP)

**LOCATION:** 941 & 945 Kamehameha Highway, Pearl City, Ewa, Oahu, Hawaii

**TAX MAP KEY:** (1) 9-7-023-008

**OWNER(S):** Stuart Plaza Investments

**INTEREST TO BE ACQUIRED:** Unencumbered fee simple

**LARGER PARCEL:** 54,378 square feet

**PARCEL TO BE ACQUIRED:** Parcel 28; consisting of approximately 2,211 square feet

**ZONING:** B-2, Community Business

**IMPROVEMENTS:** None

**PURPOSE:** Under the United States and Hawaii Constitutions, private property cannot be taken for public use without payment of just compensation. In accordance with the Code of Federal Regulations, the City and County of Honolulu, Department of Design and Construction – Land Division, submits a written statement of and summary of the basis for the amount it has established as just compensation for the above identified property.

In estimating just compensation, an appraisal was performed by a State of Hawaii licensed appraiser. The amount established as just compensation is not less than the approved appraisal of the fair market value of the property being acquired.

Unless otherwise stated in the attached letter of offer, the amount established as just compensation is for the real property being acquired, which includes land, buildings, structures, or improvements located on, or damaged as a result of the taking of the areas and interest described in the attached letter of offer.

The amount established as just compensation does not include items of personal property such as household furnishings, clothing and appliances.

**JUST COMPENSATION:** The City and County of Honolulu recommends a just compensation amount for the property being acquired as of August 18, 2010 at:

**\$115,000**

The original of this statement to be tendered to the above named owner has been signed in blue ink. If the signature is not in original ink, as opposed to duplicating, electrostatic or other media, this Statement of Just Compensation is not valid.



AARON T. K. SAKAMOTO, Review Appraiser  
Department of Design and Construction  
City and County of Honolulu  
Certified Residential Appraiser, #827  
Expiration Date: 12/31/2011

## APPRAISAL SUMMARY STATEMENT

**PROJECT:** HONOLULU HIGH-CAPACITY TRANSIT CORRIDOR PROJECT  
(HHCTCP)

**ADDRESS:** 941 & 945 Kamehameha Highway, Pearl City, Oahu, Hawaii

**TAX MAP KEY:** (1) 9-7-023-008

**PARCEL:** 28;  
Acquisition Parcel Map prepared by R.M. Towill Corporation  
dated March 21, 2011

**AREA OF TAKING:** 2,211 square feet

**AREA BEFORE TAKING:** 54,378 square feet

**PROPERTY ACQUIRED:** All: \_\_\_\_\_ Part:  X

**INTEREST TO  
BE ACQUIRED:** Unencumbered fee simple

**OWNER(S):** Stuart Plaza Investments

**COUNTY ZONING:** B-2, Community Business

**HIGHEST & BEST USE:** Commercial

**ASSESSED VALUE (2011):**

Land	\$ 2,692,400
Improvements	\$ 1,711,200
TOTAL	\$ 4,403,600

---

The Appraisal Estimate is: \$115,000

The value of the property being acquired is based upon an appraisal prepared in accordance with accepted appraisal practices. Full and careful consideration has been given to the highest and best use for development of the property and to all features inherent in your property in order that the highest valuation possible can be made. The Appraisal Estimate and appraisal were developed and reported in conformity with Federal regulations, State statutes, and City ordinances.

# ATTACHMENT F



Independent Internal Review  
Proposed Schedule  
January 24, 2013

- |   |         |
|---|---------|
| I. Finalize draft Solicitation documents, including Objectives and Scope of Work, and obtain Board approval | 2/21/13 |
| II. Issue Solicitation (RFP)  | 3/1/13  |
| III. Execute contract and issue notice-to-proceed   | 5/31/13 |
| IV. Review first draft of Internal Review   | 7/19/13 |
| V. Complete Internal Review   | 8/9/13  |
| VI. Finalize Action Plan  | 9/3/13  |