

Honolulu Authority for Rapid Transportation

RESOLUTION NO. 2015-32

APPROVING NOTIFICATION TO THE CITY COUNCIL OF INTENTION TO ACQUIRE EASEMENT OVER, ON, AND ACROSS THE REAL PROPERTY IDENTIFIED AS TAX MAP KEY 2-1-031-030 (PORTION) BY EMINENT DOMAIN AND PUBLICATION OF A RESOLUTION AUTHORIZING ACQUISITION OF SAID EASEMENT BY EMINENT DOMAIN

WHEREAS, the Honolulu Authority for Rapid Transportation (HART) has been established pursuant to Article XVII of the Revised Charter of the City and County of Honolulu 1973, as amended (Charter); and

WHEREAS, Section 17-103.2(b) of the Charter empowers HART "to acquire by eminent domain ... all real property or any interest therein necessary for the construction, maintenance, repair, extension or operation of the fixed guideway system;" and

WHEREAS, prior to such acquisition the Charter directs HART to submit a list of real property and easements to be acquired by eminent domain to the City Council; and

WHEREAS, the City Council may approve the acquisition by eminent domain or may object by adoption of a resolution within 45 days of the notification to acquire the real property and easements; and

WHEREAS, the acquisition by eminent domain of perpetual easement and temporary construction easement, on, and across the real property identified as Tax Map Key (TMK) 2-1-031-030 (por.) and more particularly described in the attached legal description marked as Exhibit A, is necessary for the Honolulu Rail Transit Project fixed guideway system, a valid public use and purpose;

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

1. That written notification to the City Council is approved, for the acquisition by eminent domain of an easement over, on, and across the real property identified as TMK 2-1-031-030 (por.); and
2. That in the event the City Council approves or does not object to the acquisition within 45 days of notification, then HART is authorized to publish in a daily newspaper at least three days prior to Board action, the attached resolution marked as Exhibit B, authorizing acquisition by eminent domain of said easement.

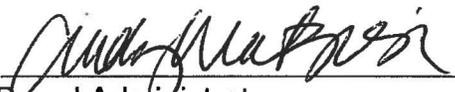
ADOPTED by the Board of the Honolulu Authority for Rapid
Transportation on JUN 25 2015.

Exhibit A – Legal description of TMK 2-1-031-030 (por.)

Exhibit B – Resolution No. 2015-____, Authorizing the Acquisition of Easement
Over, On, and Across the Real Property Identified as Tax Map Key
2-1-031-030 (Portion) by Eminent Domain.


Board Chair

ATTEST:


Board Administrator

HONOLULU HIGH-CAPACITY TRANSIT CORRIDOR PROJECT

Parcel 447

BEING PORTION OF LOT 6-A (MAP 9) OF LAND COURT APPLICATION 345 SITUATE AT HONUAKAHA AND KAAKAUKUKUL, HONOLULU, OAHU, HAWAII

Beginning at the Southeast corner of this parcel of land, the direct azimuth and distance from the South corner of Lot 6-A (Map 9) of Land Court Application 345 being: 140° 30' 23.88 feet, and on the North side of Halekauwila Street, the coordinates of which referred to Government Survey Triangulation Station "PUNCHBOWL" being 4062.93 feet South and 3341.21 feet West and running by azimuths measured clockwise from true South:

- | | | | |
|----|----------|-------------|---|
| 1. | 140° 30' | 235.32 feet | along the North side of Halekauwila Street; |
| 2. | 230° 30' | 3.43 feet | along remainder of Lot 6-A (Map 9) of Land Court Application 345; |
| 3. | 320° 30' | 7.12 feet | along remainder of Lot 6-A (Map 9) of Land Court Application 345; |
| 4. | 230° 30' | 23.84 feet | along remainder of Lot 6-A (Map 9) of Land Court Application 345; |
| 5. | 320° 30' | 194.17 feet | along remainder of Lot 6-A (Map 9) of Land Court Application 345; |
| 6. | 50° 30' | 25.76 feet | along remainder of Lot 6-A (Map 9) of Land Court Application 345; |
| 7. | 320° 30' | 34.03 feet | along remainder of Lot 6-A (Map 9) of Land Court Application 345; |

8. 50° 30' 1.51 feet along remainder of Lot 6-A (Map 9) of Land Court Application 345 to the point of beginning and containing an area of 5,371 square feet.

Description Prepared By:

ENGINEERS SURVEYORS HAWAII,
INC.



A handwritten signature in black ink, appearing to read "Miles S. Horie", written over a horizontal line.

Miles S. Horie Exp. 4/30/16
Licensed Professional Land Surveyor
Certificate Number 10007

1320 North School Street
Honolulu, Hawaii 96817

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

December 5, 2014

Revised: June 15, 2015

Tax Map Key (1st Div) 2-1-031: 30 Por.

14-73

Honolulu Authority for Rapid Transportation

RESOLUTION NO. 2015-

**AUTHORIZING THE ACQUISITION OF EASEMENT OVER, ON, AND ACROSS
THE REAL PROPERTY IDENTIFIED AS TAX MAP KEY 2-1-031-030
(PORTION) BY EMINENT DOMAIN**

WHEREAS, the Honolulu Authority for Rapid Transportation (HART) has been established pursuant to Article XVII of the Revised Charter of the City and County of Honolulu 1973, as amended (Charter); and

WHEREAS, Section 17-103.2(b) of the Charter empowers HART "to acquire by eminent domain . . . all real property or any interest therein necessary for the construction, maintenance, repair, extension or operation of the fixed guideway system;" and

WHEREAS, the City Council approved or did not object to the acquisition of a perpetual easement Temporary Construction Easement (TCE), on, and across the real property identified as Tax Map Key (TMK)2-1-031-030 (por.) by eminent domain after written notification by HART; and

WHEREAS, the acquisition by eminent domain of said easement over, on, and across the above-identified real property, which is more particularly described in the attached legal description marked as Exhibit A, is necessary for the Honolulu Rail Transit Project fixed guideway system, a valid public use and purpose;

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

1. That acquisition by eminent domain of an easement over, on, and across the real property identified as TMK 2-1-031-030 (por.) is hereby authorized and the Corporation Counsel of the City and County of Honolulu is empowered to institute eminent domain proceedings as provided by law for the acquisition thereof; and
2. That the acquisition of said easement by eminent domain is determined and declared to be for a valid public use and purpose as aforesaid; and
3. That the acquisition of said easement by eminent domain is determined and declared to be necessary for the aforesaid public use and purpose; and

4. That in the process of said proceedings in eminent domain, the Corporation Counsel is authorized and empowered to negotiate terms of settlement, subject to the approval of HART and/or the Court before which such proceedings are commenced; and
5. That the Board Administrator be directed to transmit copies of this resolution to HART and the Department of the Corporation Counsel.

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

Board Chair

ATTEST:

Board Administrator

Exhibit A – Legal description of TMK 2-1-031-030 (por.)

HONOLULU HIGH-CAPACITY TRANSIT CORRIDOR PROJECT

Parcel 447

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December 5, 2014

Revised: June 15, 2015

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14-73

Honolulu Authority for Rapid Transportation

STAFF SUMMARY

TITLE:
RESOLUTION NO. 2015-32 APPROVING NOTIFICATION TO THE CITY COUNCIL OF INTENTION TO ACQUIRE EASEMENT OVER, ON, AND ACROSS THE REAL PROPERTY IDENTIFIED AS TAX MAP KEY 2-1-031-030 (PORTION) BY EMINENT DOMAIN AND PUBLICATION OF A RESOLUTION AUTHORIZING ACQUISITION OF SAID EASEMENT BY EMINENT DOMAIN

STAFF CONTACT:
 Elizabeth Scanlon
 Morris Atta

DATE:
 6/25/2015

Type:	Goal	Focus Area	Reference Notes
<input checked="" type="checkbox"/> Action/Approval	<input checked="" type="checkbox"/> Project Delivery	<input checked="" type="checkbox"/> Livability/Land Use	
<input type="checkbox"/> Information	<input type="checkbox"/> Service Delivery	<input type="checkbox"/> Partnerships	
<input type="checkbox"/> Follow-up	<input checked="" type="checkbox"/> Resource Stewardship	<input type="checkbox"/> Agency Admin.	

1. Purpose:

Review of Notification to City Council for condemnation of land for public use, identified as Tax Map Key 2-1-031-030, and situated at 616 Keawe Street, Honolulu, Hawaii, 96813, which is required for guideway easement and temporary construction easement purposes for the Honolulu Rail Transit Project (H RTP). This property, for which a 5,383 square-foot perpetual easement and 649 temporary construction easement are required, is on the critical path for successful completion of the City Center Section of the H RTP. The property is owned by Servco Pacific, Inc. (Attorney Scott MacKinnon).

HART recommends use of eminent domain to acquire the property.

2. Background/Justification

This property (Tax Map Key 2-1-031-030) 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. An appraisal was conducted following URA guidelines, which took into consideration all site conditions and potential impacts the portion would have on the remainder of the property.

- A Letter of Offer was presented to Owner. The Owner rejected the Offer for the easement acquisition and responded with an extensive list of issues relating to the acquisition; including but not limited to easement to fee take, demolishing all of the service bays, refurbishing unused portion of the on-site existing warehouse, and indemnifying them of environmental and cultural obligations. We are hopeful that the Owner will reengage in dialogue with HART once eminent domain commences.

This parcel is being referred to eminent domain in order to adhere to the project construction timeline. Access to this parcel is needed as soon as possible in order to avoid costly delays to the project schedule and timing. Negotiations with the Owner will continue during the eminent domain process.

3. Procurement Background

N/A

4. Financial/Budget Impact

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

5. Policy Impact

There is no policy impact since this action conforms to the requirement of the URA, FTA 5010.1D and Article XVII of the Charter of the City and County of Honolulu.

6. Public Involvement

N/A

7. Alternatives

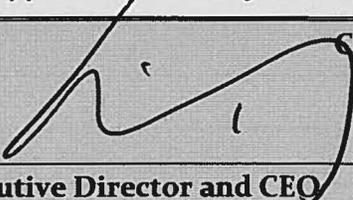
There is no feasible alternative to avoid the above-described impacts to the property.

8. Exhibits

Exhibit 1 – Offer letter dated 10/1/2014

Exhibit 2 – Appraisal Summary from John Child & Company dated 8/20/2014

Certified and Recommended by:



Executive Director and CEO

6/19/15

Date



IN REPLY REFER TO:
CMS-APOOROW-00621

HONOLULU AUTHORITY for RAPID TRANSPORTATION

Daniel A. Grabauskas
EXECUTIVE DIRECTOR AND CEO

HAND-DELIVERED

October 1, 2014

Received	
Print Name	Date

BOARD OF DIRECTORS

Ivan M. Lui-Kwan, Esq.
CHAIR

Donald G. Horner
VICE CHAIR

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

Ms. Carol K. Lam, Senior Vice President
Servco Pacific Inc.
Corporate Properties
2850 Pukoloa Street, Suite 300
Honolulu, Hawaii 96819

Dear Ms. Lam:

Subject: Honolulu Rail Transit Project (H RTP)
616 Keawe Street
Parcel 447: Tax Map Key 2-1-031-030 (Partial)
Letter of Offer

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 a 5,383 square foot portion of your property, identified as Tax Map Key 2-1-031-030 (shown colored in yellow on the enclosed tax map), as a perpetual easement, for the total consideration of \$664,000 (Six Hundred Sixty-Four Thousand Dollars). Only ingress/egress will be permitted within the proposed easement. Parking, open yard storage, and fencing will not be permitted within the overhead station easement area. Clearance below the overhead station easement will be sufficient to allow containerized vehicles access to the property.

In addition, HART offers to purchase a Temporary Construction Easement (TCE) encompassing a total of 649 square feet (shown in blue on the enclosed map), for a total consideration of \$4,000 (Four Thousand Dollars). The purpose of the TCE is to facilitate street widening and construction of the improvements with the right-of-way (ROW). Activities that may be performed with the TCE may include: demolition, grading, utilities, traffic items, paving, and sidewalk. These activities may involve operation of equipment, movement of a work force on the described easement, and may include site security with temporary fencing. Construction within the TCE area would be limited to driveway and back of sidewalk connections to existing grades and surface restoration. The duration of the TCE's will be six months, with a start date to be determined thru coordination with you and HART's contractor.

The total offer for acquiring both interests in your property is \$668,000 (Six Hundred Sixty-Eight Thousand Dollars).

Ms. Carol K. Lam, Senior Vice President
Page 2
October 1, 2014

The amount of offer is predicated on the assumption that there exists no hazardous substance, product, or waste on the subject property. Please be advised that the amount offered is subject to completion of an environmental site assessment by HART, and the cost to remediate any identified findings may affect the valuation of the subject property.

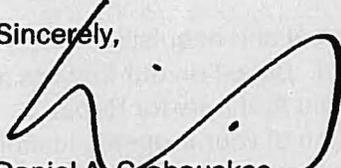
If this offer is acceptable, please sign the duplicate of this letter and the Consent to Enter and return them in the enclosed envelope by November 1, 2014. The remaining copies are for your files.

Also enclosed for your information is 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.

Please call Mr. Walter "Cap" Havekorst at 808-799-3655 if you have any questions regarding this matter.

Sincerely,



Daniel A. Grabauskas
Executive Director and CEO

Enclosure

cc: Mr. D. Scott MacKinnon, Esq.

ACCEPTED:

SERVCO PACIFIC INC.

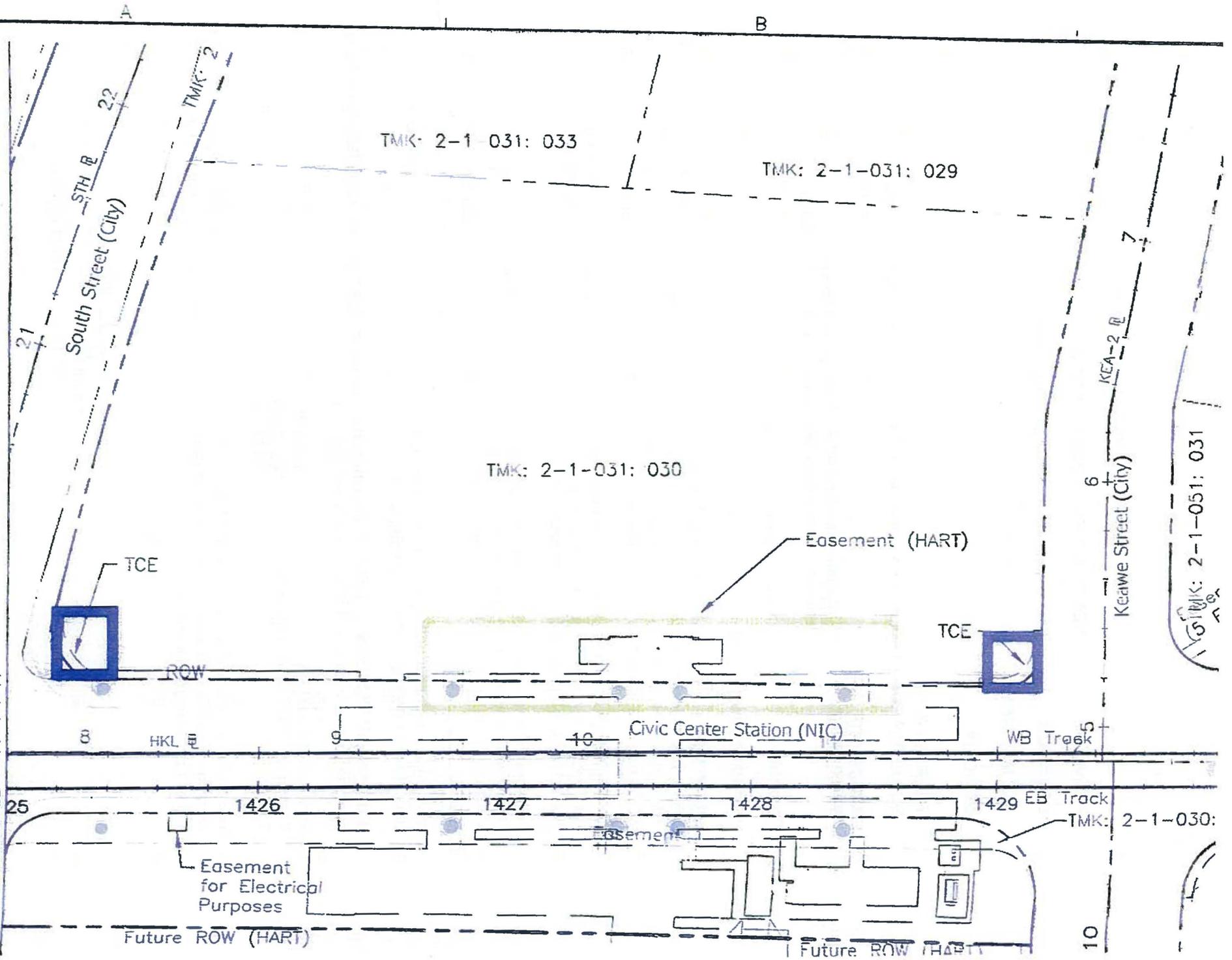
By _____

Its _____

Print Name: _____

Dated: _____

Match Line EB 1425+00
See Dwg. No. RW0043



TMK: 2-1-030:

STATEMENT OF JUST COMPENSATION

PROJECT: HONOLULU RAIL TRANSIT PROJECT (H RTP)
LOCATION: 616 Keawe Street, Honolulu, Oahu, Hawaii
TAX MAP KEY: (1) 2-1-031-030
OWNER(S): SERVCO PACIFIC, INC.
INTEREST TO BE ACQUIRED: Permanent easement & Temporary Construction Easement
PARCEL TO BE ACQUIRED: Permanent Easement of +/- 5,383 square feet and Temporary Construction Easements (TCE"s) of +/- 649sf.
ZONING: Kakaako Community Development District (HCDA)
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, 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.

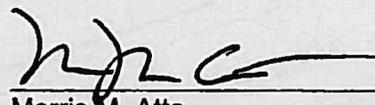
Unless otherwise stated in the attached letter of offer, the amount established as just compensation is for the real property being acquired, which includes land, buildings, structures, or improvements located on, or damaged as a result of the taking of the areas and interest described in the attached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

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

JUST COMPENSATION: Based on the completed appraisal report and the appraisal review the just compensation amount for the property being acquired is:

Permanent Easement	\$664,000
Temporary Construction Easement	<u>\$ 4,000</u>
TOTAL:	\$668,000

The original of this statement to be tendered to the above named owner has been signed in 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.



Morris M. Atta
Deputy Director of Right-of-Way

APPRAISAL SUMMARY STATEMENT

PROJECT: HONOLULU RAIL TRANSIT PROJECT (HRTP)
ADDRESS: 616 Keawe Street, Honolulu, Oahu, Hawaii
TAX MAP KEY: (1) 2-1-031-030
OWNER(S): SERVCO PACIFIC, INC.

PARCEL AREA: +/- 5,383 Square Feet of Permanent Easement
+/- 649 Square Feet of Temporary Construction Easement

PROPERTY ACQUIRED: ALL: ___ PART: X

INTEREST TO BE ACQUIRED: Permanent Easement & Temporary Construction Easement

ZONING: Kakaako Community Development District (HCDA)

HIGHEST & BEST USE: Commercial

ASSESSED VALUE (2014): Land Value \$12,842,100
FOR TOTAL PARCEL Building Value \$ 316,900
TOTAL \$13,159,000

Permanent Easement: \$664,000
Temporary Construction Easement: \$ 4,000
TOTAL: \$668,000

The Appraisal Estimate is: \$668,000

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.

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 Honolulu Authority for Rapid Transportation ("HART"), a semi-autonomous agency of the City and County of Honolulu, and /or its representatives and consultants for the purpose stated:

PROJECT: Honolulu Rail Transit Project (H RTP)
TAX MAP KEY: (1) 2-1-031-030
LOCATION: 616 Keawe Street, Honolulu, Oahu, Hawaii
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 outlined 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 HART shall indemnify the undersigned against loss or damage to the property of the undersigned and from liability for injury to or death of persons in the manner provided by law when such loss, damage, injury or death is caused by the negligent use of said property by HART and/or its representatives and consultants, 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 HART.

(5) That HART 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 the date of actual entry and terminating at the end of the period or upon completion of work, whichever is sooner.

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

TAX MAP KEY: (1) 2-1-031-030
Consent to Enter - Page 2

(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 HART.

DATED: HONOLULU, HAWAII _____.

SERVCO PACIFIC, INC.

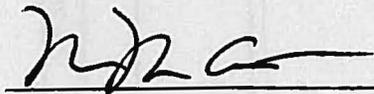
By _____
Its

Phone _____

APPROVED AS TO FORM AND
LEGALITY

Deputy Corporation Counsel

APPROVED AS TO CONTENTS



Honolulu Authority for Rapid Transportation

A

B

TMK: 2-1-031: 033

TMK: 2-1-031: 029

TMK: 2-1-031: 030

Easement (HART)

TCE

TCE

ROW

Civic Center Station (NIC)

WB Track

HKL #

8

9

10

EB Track

TMK: 2-1-030:

Easement for Electrical Purposes

Easement

Future ROW (HART)

Future ROW (HART)

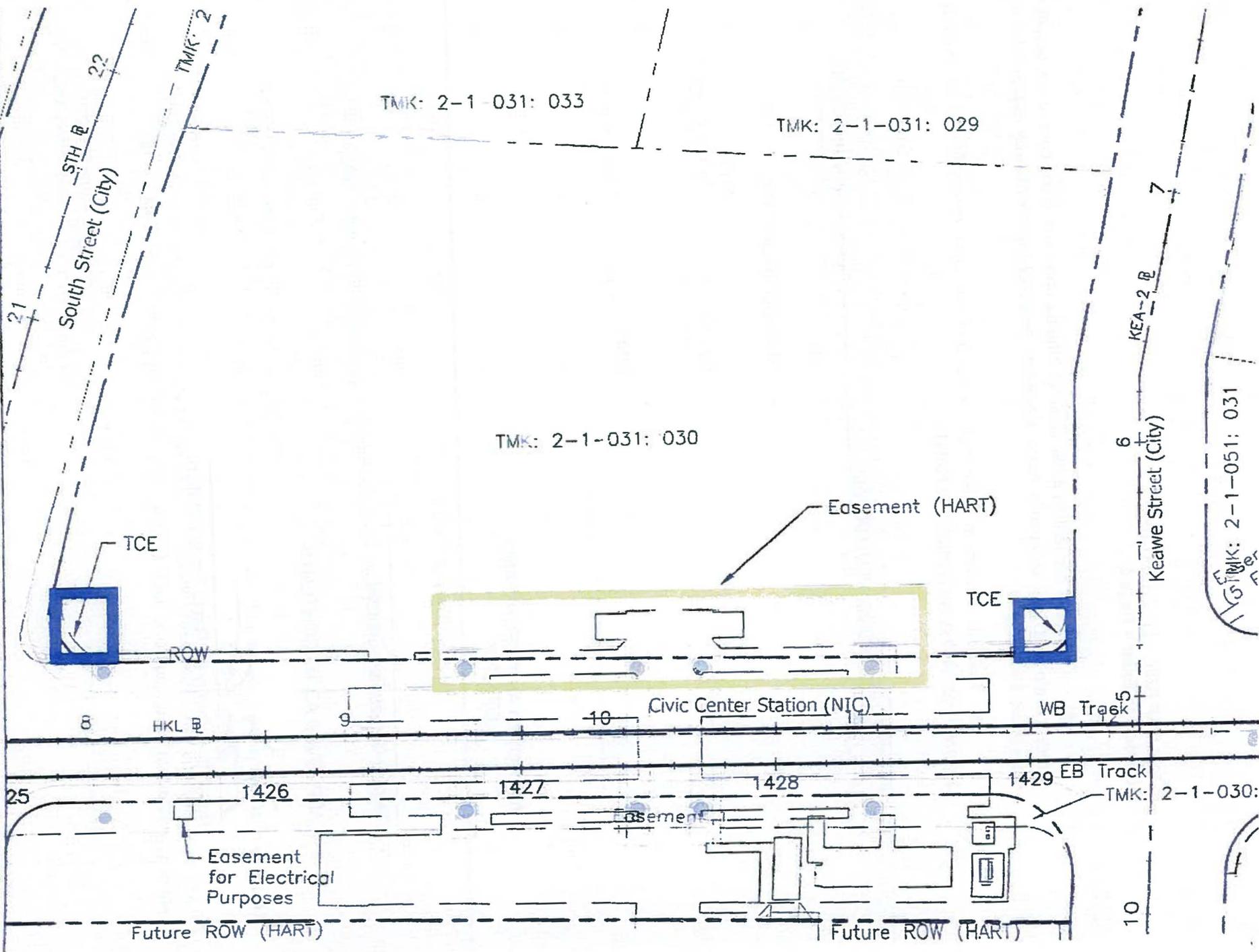
10

South Street (City)

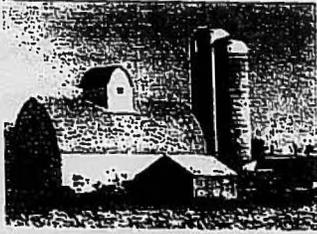
Keawe Street (City)

TMK: 2-1-051: 031

Match Line EB 1425+00
See Dwg. No. RW0043



More Relocation Information



Business

A business that is relocated as a result of the project may

be entitled to benefits such as:

1. *Moving and Related Costs*
2. *Reestablishment Costs*
3. *Fixed Payment*

Statements applicable to all categories and benefits listed

Please keep in mind that there are specific benefit requirements that must be met to receive any of the funds mentioned above. Your assigned relocation agent will assist you to fully understand the payments and requirements.

No one may be displaced until adequate housing has been made available to them.

All persons required to move personal property, their home, or business must be given at least 90 days to vacate.

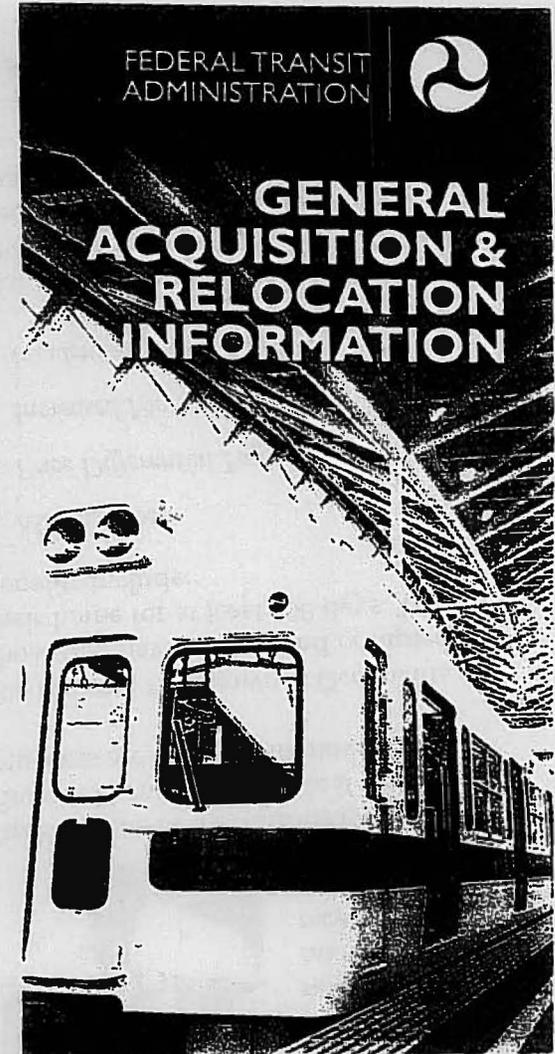
Your Local Transit Agency will establish an appeal process should you be aggrieved by a denial of benefits or if you feel the benefits are inadequate.

A message from the FTA and your local transit agency

It is sometimes necessary to acquire private property and displace persons and businesses in order to build a transit facility that will benefit the entire community. However, we will work with you to minimize the inevitable disruption that this causes. Please feel free to contact the agency and person listed below should you have any further questions.

Revised rules for the Uniform Act were published in the Federal Register on January 4, 2005. The rules are reprinted each year in the Code of Federal Regulations, Title 49, Part 24. All Federal, State and local government agencies, as well as others receiving Federal financial assistance for public programs and projects, that require the acquisition of real property, must comply with the policies and provisions set forth in the Uniform Act and the regulation.

For further information, please contact:



FTA | U.S. DEPARTMENT OF TRANSPORTATION 
FEDERAL TRANSIT ADMINISTRATION

SEE THE BACK PANEL OF THIS BROCHURE FOR
INFORMATION ON CONTACTING YOUR LOCAL AGENCY.



GENERAL INFORMATION

Your local transit agency may need to purchase property from you with funding from the Federal Transit



Administration (FTA) in order to benefit the general public. To assure fair and consistent treatment of all

persons, the FTA will require your local transit agency to follow the Uniform Relocation Assistance and Real Property Policies Act of 1970, as amended. The Uniform Act is a law passed by Congress to promote uniformity and fairness when a local transit agency must acquire property or displace persons. There are two main parts of this process:

1. *Acquisition, which is the purchase of your real estate.*
2. *Relocation which offers additional benefits should you or your business be displaced.*

Acquisition of Real Property

The purchase of real estate by a transit agency begins with the appraisal of your property. An appraiser will inspect your property to determine the value. The property owner should accompany the appraiser while making this inspection. A second appraiser will then review and approve the work of the first appraiser and will recommend a value to the local transit agency.

You should then receive a written offer to purchase your property. You will have sufficient time to consider the offer or make any counter offers that you believe is fair.

If you elect to sell your property to the local transit agency, you will be paid the full amount less any encumbrances (mortgage, lien, etc.) owed on that property. Possession of vacant property may be taken the day of closing by the local transit agency; possession of occupied property will be at an agreed future date.



Relocation



Advisory Assistance will be offered to every displaced person. A Relocation Agent will visit you to explain all of the benefits and services that you may be eligible to receive.

Below is a very brief outline of the various types of financial benefits available if you or your business are required to move.

Residential Homeowner Occupants, are those that have owned and occupied their home for at least 180 days. Typical benefits include:

1. *Moving Costs*
2. *Price Differential Payment*
3. *Increased Mortgage Interest*
4. *Incidental Closing Costs*

90 day Occupant or Tenant, is either a tenant or a homeowner that has occupied their home for less than 180 days but at least 90 days. Relocation benefits include:

1. *Moving Costs*
2. *Rental Assistance Payment/Down Payment*

The person who gives Form W-9 to the partnership for purposes of establishing its U.S. status and avoiding withholding on its allocable share of net income from the partnership conducting a trade or business in the United States is in the following cases:

- The U.S. owner of a disregarded entity and not the entity,
- The U.S. grantor or other owner of a grantor trust and not the trust, and
- The U.S. trust (other than a grantor trust) and not the beneficiaries of the trust.

Foreign person. If you are a foreign person, do not use Form W-9. Instead, use the appropriate Form W-8 (see Publication 515, *Withholding of Tax on Nonresident Aliens and Foreign Entities*).

Nonresident alien who becomes a resident alien. Generally, only a nonresident alien individual may use the terms of a tax treaty to reduce or eliminate U.S. tax on certain types of income. However, most tax treaties contain a provision known as a "saving clause." Exceptions specified in the saving clause may permit an exemption from tax to continue for certain types of income even after the payee has otherwise become a U.S. resident alien for tax purposes.

If you are a U.S. resident alien who is relying on an exception contained in the saving clause of a tax treaty to claim an exemption from U.S. tax on certain types of income, you must attach a statement to Form W-9 that specifies the following five items:

1. The treaty country. Generally, this must be the same treaty under which you claimed exemption from tax as a nonresident alien.
2. The treaty article addressing the income.
3. The article number (or location) in the tax treaty that contains the saving clause and its exceptions.
4. The type and amount of income that qualifies for the exemption from tax.
5. Sufficient facts to justify the exemption from tax under the terms of the treaty article.

Example. Article 20 of the U.S.-China income tax treaty allows an exemption from tax for scholarship income received by a Chinese student temporarily present in the United States. Under U.S. law, this student will become a resident alien for tax purposes if his or her stay in the United States exceeds 5 calendar years. However, paragraph 2 of the first Protocol to the U.S.-China treaty (dated April 30, 1984) allows the provisions of Article 20 to continue to apply even after the Chinese student becomes a resident alien of the United States. A Chinese student who qualifies for this exception (under paragraph 2 of the first protocol) and is relying on this exception to claim an exemption from tax on his or her scholarship or fellowship income would attach to Form W-9 a statement that includes the information described above to support that exemption.

If you are a nonresident alien or a foreign entity not subject to backup withholding, give the requester the appropriate completed Form W-8.

What is backup withholding? Persons making certain payments to you must under certain conditions withhold and pay to the IRS a percentage of such payments. This is called "backup withholding." Payments that may be subject to backup withholding include interest, tax-exempt interest, dividends, broker and barter exchange transactions, rents, royalties, nonemployee pay, and certain payments from fishing boat operators. Real estate transactions are not subject to backup withholding.

You will not be subject to backup withholding on payments you receive if you give the requester your correct TIN, make the proper certifications, and report all your taxable interest and dividends on your tax return.

Payments you receive will be subject to backup withholding if:

1. You do not furnish your TIN to the requester,
2. You do not certify your TIN when required (see the Part II instructions on page 3 for details),
3. The IRS tells the requester that you furnished an incorrect TIN,
4. The IRS tells you that you are subject to backup withholding because you did not report all your interest and dividends on your tax return (for reportable interest and dividends only), or
5. You do not certify to the requester that you are not subject to backup withholding under 4 above (for reportable interest and dividend accounts opened after 1983 only).

Certain payees and payments are exempt from backup withholding. See the instructions below and the separate instructions for the Requester of Form W-9.

Also see *Special rules for partnerships* on page 1.

Updating Your Information

You must provide updated information to any person to whom you claimed to be an exempt payee if you are no longer an exempt payee and anticipate receiving reportable payments in the future from this person. For example, you may need to provide updated information if you are a C corporation that elects to be an S corporation, or if you no longer are tax exempt. In addition, you must furnish a new Form W-9 if the name or TIN changes for the account, for example, if the grantor of a grantor trust dies.

Penalties

Failure to furnish TIN. If you fail to furnish your correct TIN to a requester, you are subject to a penalty of \$50 for each such failure unless your failure is due to reasonable cause and not to willful neglect.

Civil penalty for false information with respect to withholding. If you make a false statement with no reasonable basis that results in no backup withholding, you are subject to a \$500 penalty.

Criminal penalty for falsifying information. Willfully falsifying certifications or affirmations may subject you to criminal penalties including fines and/or imprisonment.

Misuse of TINs. If the requester discloses or uses TINs in violation of federal law, the requester may be subject to civil and criminal penalties.

Specific Instructions

Name

If you are an individual, you must generally enter the name shown on your income tax return. However, if you have changed your last name, for instance, due to marriage without informing the Social Security Administration of the name change, enter your first name, the last name shown on your social security card, and your new last name.

If the account is in joint names, list first, and then circle, the name of the person or entity whose number you entered in Part I of the form.

Sole proprietor. Enter your individual name as shown on your income tax return on the "Name" line. You may enter your business, trade, or "doing business as (DBA)" name on the "Business name/disregarded entity name" line.

Partnership, C Corporation, or S Corporation. Enter the entity's name on the "Name" line and any business, trade, or "doing business as (DBA)" name on the "Business name/disregarded entity name" line.

Disregarded entity. Enter the owner's name on the "Name" line. The name of the entity entered on the "Name" line should never be a disregarded entity. The name on the "Name" line must be the name shown on the income tax return on which the income will be reported. For example, if a foreign LLC that is treated as a disregarded entity for U.S. federal tax purposes has a domestic owner, the domestic owner's name is required to be provided on the "Name" line. If the direct owner of the entity is also a disregarded entity, enter the first owner that is not disregarded for federal tax purposes. Enter the disregarded entity's name on the "Business name/disregarded entity name" line. If the owner of the disregarded entity is a foreign person, you must complete an appropriate Form W-8.

Note. Check the appropriate box for the federal tax classification of the person whose name is entered on the "Name" line (Individual/sole proprietor, Partnership, C Corporation, S Corporation, Trust/estate).

Limited Liability Company (LLC). If the person identified on the "Name" line is an LLC, check the "Limited liability company" box only and enter the appropriate code for the tax classification in the space provided. If you are an LLC that is treated as a partnership for federal tax purposes, enter "P" for partnership. If you are an LLC that has filed a Form 8832 or a Form 2553 to be taxed as a corporation, enter "C" for C corporation or "S" for S corporation. If you are an LLC that is disregarded as an entity separate from its owner under Regulation section 301.7701-3 (except for employment and excise tax), do not check the LLC box unless the owner of the LLC (required to be identified on the "Name" line) is another LLC that is not disregarded for federal tax purposes. If the LLC is disregarded as an entity separate from its owner, enter the appropriate tax classification of the owner identified on the "Name" line.

Other entities. Enter your business name as shown on required federal tax documents on the "Name" line. This name should match the name shown on the charter or other legal document creating the entity. You may enter any business, trade, or DBA name on the "Business name/disregarded entity name" line.

Exempt Payee

If you are exempt from backup withholding, enter your name as described above and check the appropriate box for your status, then check the "Exempt payee" box in the line following the "Business name/disregarded entity name," sign and date the form.

Generally, individuals (including sole proprietors) are not exempt from backup withholding. Corporations are exempt from backup withholding for certain payments, such as interest and dividends.

Note. If you are exempt from backup withholding, you should still complete this form to avoid possible erroneous backup withholding.

The following payees are exempt from backup withholding:

1. An organization exempt from tax under section 501(a), any IRA, or a custodial account under section 403(b)(7) if the account satisfies the requirements of section 401(f)(2).
 2. The United States or any of its agencies or instrumentalities.
 3. A state, the District of Columbia, a possession of the United States, or any of their political subdivisions or instrumentalities.
 4. A foreign government or any of its political subdivisions, agencies, or instrumentalities, or
 5. An international organization or any of its agencies or instrumentalities.
- Other payees that may be exempt from backup withholding include:
6. A corporation,
 7. A foreign central bank of issue,
 8. A dealer in securities or commodities required to register in the United States, the District of Columbia, or a possession of the United States,
 9. A futures commission merchant registered with the Commodity Futures Trading Commission,
 10. A real estate investment trust,
 11. An entity registered at all times during the tax year under the Investment Company Act of 1940,
 12. A common trust fund operated by a bank under section 584(a),
 13. A financial institution,
 14. A middleman known in the investment community as a nominee or custodian, or
 15. A trust exempt from tax under section 664 or described in section 4947.

The following chart shows types of payments that may be exempt from backup withholding. The chart applies to the exempt payees listed above, 1 through 15.

IF the payment is for . . .	THEN the payment is exempt for . . .
Interest and dividend payments	All exempt payees except for 9
Broker transactions	Exempt payees 1 through 5 and 7 through 13. Also, C corporations.
Barter exchange transactions and patronage dividends	Exempt payees 1 through 5
Payments over \$600 required to be reported and direct sales over \$5,000 ¹	Generally, exempt payees 1 through 7 ²

¹ See Form 1099-MISC, Miscellaneous Income, and its instructions.

² However, the following payments made to a corporation and reportable on Form 1099-MISC are not exempt from backup withholding: medical and health care payments, attorneys' fees, gross proceeds paid to an attorney, and payments for services paid by a federal executive agency.

Part I. Taxpayer Identification Number (TIN)

Enter your TIN in the appropriate box. If you are a resident alien and you do not have and are not eligible to get an SSN, your TIN is your IRS individual taxpayer identification number (ITIN). Enter it in the social security number box. If you do not have an ITIN, see *How to get a TIN* below.

If you are a sole proprietor and you have an EIN, you may enter either your SSN or EIN. However, the IRS prefers that you use your SSN.

If you are a single-member LLC that is disregarded as an entity separate from its owner (see *Limited Liability Company (LLC)* on page 2), enter the owner's SSN (or EIN, if the owner has one). Do not enter the disregarded entity's EIN. If the LLC is classified as a corporation or partnership, enter the entity's EIN.

Note. See the chart on page 4 for further clarification of name and TIN combinations.

How to get a TIN. If you do not have a TIN, apply for one immediately. To apply for an SSN, get Form SS-5, Application for a Social Security Card, from your local Social Security Administration office or get this form online at www.ssa.gov. You may also get this form by calling 1-800-772-1213. Use Form W-7, Application for IRS Individual Taxpayer Identification Number, to apply for an ITIN, or Form SS-4, Application for Employer Identification Number, to apply for an EIN. You can apply for an EIN online by accessing the IRS website at www.irs.gov/businesses and clicking on Employer Identification Number (EIN) under Starting a Business. You can get Forms W-7 and SS-4 from the IRS by visiting IRS.gov or by calling 1-800-TAX-FORM (1-800-829-3676).

If you are asked to complete Form W-9 but do not have a TIN, write "Applied For" in the space for the TIN, sign and date the form, and give it to the requester. For interest and dividend payments, and certain payments made with respect to readily tradable instruments, generally you will have 60 days to get a TIN and give it to the requester before you are subject to backup withholding on payments. The 60-day rule does not apply to other types of payments. You will be subject to backup withholding on all such payments until you provide your TIN to the requester.

Note. Entering "Applied For" means that you have already applied for a TIN or that you intend to apply for one soon.

Caution: A disregarded domestic entity that has a foreign owner must use the appropriate Form W-8.

Part II. Certification

To establish to the withholding agent that you are a U.S. person, or resident alien, sign Form W-9. You may be requested to sign by the withholding agent even if item 1, below, and items 4 and 5 on page 4 indicate otherwise.

For a joint account, only the person whose TIN is shown in Part I should sign (when required). In the case of a disregarded entity, the person identified on the "Name" line must sign. Exempt payees, see *Exempt Payee* on page 3.

Signature requirements. Complete the certification as indicated in items 1 through 3, below, and items 4 and 5 on page 4.

1. Interest, dividend, and barter exchange accounts opened before 1984 and broker accounts considered active during 1983. You must give your correct TIN, but you do not have to sign the certification.

2. Interest, dividend, broker, and barter exchange accounts opened after 1983 and broker accounts considered inactive during 1983. You must sign the certification or backup withholding will apply. If you are subject to backup withholding and you are merely providing your correct TIN to the requester, you must cross out item 2 in the certification before signing the form.

3. Real estate transactions. You must sign the certification. You may cross out item 2 of the certification.

4. Other payments. You must give your correct TIN, but you do not have to sign the certification unless you have been notified that you have previously given an incorrect TIN. "Other payments" include payments made in the course of the requester's trade or business for rents, royalties, goods (other than bills for merchandise), medical and health care services (including payments to corporations), payments to a nonemployee for services, payments to certain fishing boat crew members and fishermen, and gross proceeds paid to attorneys (including payments to corporations).

5. Mortgage interest paid by you, acquisition or abandonment of secured property, cancellation of debt, qualified tuition program payments (under section 529), IRA, Coverdell ESA, Archer MSA or HSA contributions or distributions, and pension distributions. You must give your correct TIN, but you do not have to sign the certification.

What Name and Number To Give the Requester

For this type of account:	Give name and SSN of:
1. Individual	The individual
2. Two or more individuals (joint account)	The actual owner of the account or, if combined funds, the first individual on the account ¹
3. Custodian account of a minor (Uniform Gift to Minors Act)	The minor ²
4. a. The usual revocable savings trust (grantor is also trustee)	The grantor-trustee ³
b. So-called trust account that is not a legal or valid trust under state law	The actual owner ³
5. Sole proprietorship or disregarded entity owned by an individual	The owner ³
6. Grantor trust filing under Optional Form 1099 Filing Method 1 (see Regulation section 1.671-4(b)(2)(i)(A))	The grantor ³
For this type of account:	Give name and EIN of:
7. Disregarded entity not owned by an individual	The owner
8. A valid trust, estate, or pension trust	Legal entity ³
9. Corporation or LLC electing corporate status on Form 8832 or Form 2553	The corporation
10. Association, club, religious, charitable, educational, or other tax-exempt organization	The organization
11. Partnership or multi-member LLC	The partnership
12. A broker or registered nominee	The broker or nominee
13. Account with the Department of Agriculture in the name of a public entity (such as a state or local government, school district, or prison) that receives agricultural program payments	The public entity
14. Grantor trust filing under the Form 1041 Filing Method or the Optional Form 1099 Filing Method 2 (see Regulation section 1.671-4(b)(2)(i)(B))	The trust

¹ List first and circle the name of the person whose number you furnish. If only one person on a joint account has an SSN, that person's number must be furnished.

² Circle the minor's name and furnish the minor's SSN.

³ You must show your individual name and you may also enter your business or "DBA" name on the "Business name/disregarded entity" name line. You may use either your SSN or EIN (if you have one), but the IRS encourages you to use your SSN.

⁴ List first and circle the name of the trust, estate, or pension trust. (Do not furnish the TIN of the personal representative or trustee unless the legal entity itself is not designated in the account title.) Also see *Special rules for partnerships* on page 1.

*Note. Grantor also must provide a Form W-9 to trustee of trust.

Note. If no name is circled when more than one name is listed, the number will be considered to be that of the first name listed.

Secure Your Tax Records from Identity Theft

Identity theft occurs when someone uses your personal information such as your name, social security number (SSN), or other identifying information, without your permission, to commit fraud or other crimes. An identity thief may use your SSN to get a job or may file a tax return using your SSN to receive a refund.

To reduce your risk:

- Protect your SSN,
- Ensure your employer is protecting your SSN, and
- Be careful when choosing a tax preparer.

If your tax records are affected by identity theft and you receive a notice from the IRS, respond right away to the name and phone number printed on the IRS notice or letter.

If your tax records are not currently affected by identity theft but you think you are at risk due to a lost or stolen purse or wallet, questionable credit card activity or credit report, contact the IRS Identity Theft Hotline at 1-800-908-4490 or submit Form 14039.

For more information, see Publication 4535, Identity Theft Prevention and Victim Assistance.

Victims of identity theft who are experiencing economic harm or a system problem, or are seeking help in resolving tax problems that have not been resolved through normal channels, may be eligible for Taxpayer Advocate Service (TAS) assistance. You can reach TAS by calling the TAS toll-free case intake line at 1-877-777-4778 or TTY/TDD 1-800-829-4059.

Protect yourself from suspicious emails or phishing schemes. Phishing is the creation and use of email and websites designed to mimic legitimate business emails and websites. The most common act is sending an email to a user falsely claiming to be an established legitimate enterprise in an attempt to scam the user into surrendering private information that will be used for identity theft.

The IRS does not initiate contacts with taxpayers via emails. Also, the IRS does not request personal detailed information through email or ask taxpayers for the PIN numbers, passwords, or similar secret access information for their credit card, bank, or other financial accounts.

If you receive an unsolicited email claiming to be from the IRS, forward this message to phishing@irs.gov. You may also report misuse of the IRS name, logo, or other IRS property to the Treasury Inspector General for Tax Administration at 1-800-366-4484. You can forward suspicious emails to the Federal Trade Commission at: spam@uce.gov or contact them at www.ftc.gov/idtheft or 1-877-IDTHEFT (1-877-438-4338).

Visit IRS.gov to learn more about identity theft and how to reduce your risk.

Privacy Act Notice

Section 6109 of the Internal Revenue Code requires you to provide your correct TIN to persons (including federal agencies) who are required to file information returns with the IRS to report interest, dividends, or certain other income paid to you; mortgage interest you paid; the acquisition or abandonment of secured property; the cancellation of debt; or contributions you made to an IRA, Archer MSA, or HSA. The person collecting this form uses the information on the form to file information returns with the IRS, reporting the above information. Routine uses of this information include giving it to the Department of Justice for civil and criminal litigation and to cities, states, the District of Columbia, and U.S. possessions for use in administering their laws. The information also may be disclosed to other countries under a treaty, to federal and state agencies to enforce civil and criminal laws, or to federal law enforcement and intelligence agencies to combat terrorism. You must provide your TIN whether or not you are required to file a tax return. Under section 3406, payers must generally withhold a percentage of taxable interest, dividend, and certain other payments to a payee who does not give a TIN to the payer. Certain penalties may also apply for providing false or fraudulent information.



JOHN CHILD & COMPANY
APPRAISERS & CONSULTANTS

August 20, 2014

Karen Char, MAI, CRE
Paul D. Cool, MAI, CRE
Shelby H. Tanaka, MAI
Sammy Agsten

City and County of Honolulu
Honolulu Authority for Rapid Transportation
c/o Mr. Todd A. Salvatore
Paragon Partners Ltd.
5762 Bolsa Avenue, Suite 201
Huntington Beach, California 92649

Dear Mr. Salvatore:

**Re: Partial Acquisition of the Servco South Street Property
Tax Map Key (1) 2-1-031:030, PDQ Parcel 447**

At your request, John Child & Company has estimated the fair market value and annual market rent for certain ownership interests in the Servco South Street Property. This letter summarizes the background and estimated values presented in the attached report.

STUDY BACKGROUND

Servco Pacific, Inc. (Servco) owns the fee simple interest in a commercial property at 607 South Street, with frontage along Halekauwila and Keawe Streets, in Kakaako, Honolulu, Oahu, Hawaii. The property is identified as Tax Map Key 2-1-031:030 of the First Taxation Division.

The 75,714^{sq} parcel is improved with two warehouse structures and adjacent and paved driveway and parking. The improvements were constructed in the early 1950s. The property functions as Servco's automotive service and parts supply centers in Honolulu.

Honolulu Authority for Rapid Transportation (HART), a semi-autonomous public transit authority, has retained Paragon Partners Ltd. as its consultant for the Honolulu Rail Transit Project (HRTP). The proposed HRTP guideway and Civic Center Station will encroach into a 5,383^{sq} portion of the Servco South Street Property along Halekauwila Street. HART will also require Temporary Construction Easements totaling 649^{sq}.

HART plans to acquire certain property rights across the affected portion of the property. In this regard, you asked us to assist you.

Honolulu Authority for Rapid Transportation
Paragon Partners Ltd.
August 20, 2014
Page 2



STUDY OBJECTIVES

The objectives of our assistance are to:

1. Estimate the fair market value of the property rights over a 5,383sq portion of the Servco South Street Property associated with the H RTP guideway and Civic Center Station to be acquired by HART.
2. Estimate the annual market rent for the proposed 649sq Temporary Construction Easement on portions of the Servco South Street Property.

INTENDED USE AND USERS

Our assistance is intended to be used by HART, Paragon Partners, Ltd. (Paragon Partners), and the U.S. Department of Transportation Federal Transit Administration (FTA) in connection with the H RTP.

As a result, our assistance is intended for the sole and exclusive use of HART (Client), Paragon Partners, and the FTA. The Client has agreed that our assistance is not intended for any other purpose or users and is not to be relied upon by any third parties for any purpose, whatsoever.

DATE OF PROPERTY VISIT

The property was visited on May 20, 2014. Representatives of the property owner, Ms. Karen Shimizu and Mr. Cameron Camara, accompanied the appraiser. The appraiser subsequently visited the property on August 10, 2014.

EFFECTIVE DATE OF APPRAISAL

The effective date of appraisal is August 10, 2014.

DATE OF REPORT

The date of this report is August 20, 2014.



DEFINITIONS OF TERMS

Terms used in this report are defined in the Appraisal Institute's, **The Dictionary of Real Estate Appraisal**, Fifth Edition, unless otherwise footnoted.

Fair Market Value

"Fair market value" has the same meaning as "market value."

Market value means the amount in cash, or on terms reasonably equivalent to cash, for which in all probability the property would have sold on the effective date of the appraisal, after a reasonable exposure time on the open competitive market, from a willing and reasonably knowledgeable seller to a willing and reasonably knowledgeable buyer, with neither acting under any compulsion to buy or sell, giving due consideration to all available economic uses of the property at the time of the appraisal. [1]

Market Rent

Market rent means the most probable rent that a property should bring in a competitive and open market reflecting all conditions and restrictions of the lease agreement, including permitted uses, use restrictions, expense obligations; term, concessions, renewal and purchase options, and tenant improvements (TIs). [2]

Fee Simple Interest

"Fee simple interest" is the same as "fee simple estate."

Fee simple estate is defined as absolute ownership unencumbered by any other interest or estate, subject only to the limitations imposed by the governmental powers of taxation, eminent domain, police power, and escheat.

[1] Interagency Land Acquisition Conference, **Uniform Appraisal Standards for Federal Land Acquisitions**, 2000.

[2] Appraisal Institute, **The Dictionary of Real Estate Appraisal**, Fifth Edition.



Hypothetical Condition

That which is contrary to what exists but is supposed for the purpose of analysis. Hypothetical conditions assume conditions contrary to known facts about physical, legal, or economic characteristics of the subject property; or about conditions external to the property, such as market conditions or trends; or about the integrity of the data used in an analysis.

ASSUMPTION OF A HYPOTHETICAL CONDITION

Section 24.103(b) of the Code of Federal Regulation (CFR) states:

“The appraiser shall disregard any decrease or increase in the market value of the real property caused by the project for which the property is to be acquired, or by the likelihood that the property would be acquired for the project, other than that due to physical deterioration within the reasonable control of the owner.”

Therefore, the estimated fair market value of the property rights over a portion of the Servco South Street Property to be acquired by HART is based on the hypothetical condition that the property is not impacted by the rail project as of the date of valuation.

STUDY CONDITIONS

This report is subject to the study conditions included in Section I.

ESTIMATED MARKET VALUE OF THE HART EASEMENT

Based on the analysis presented in Section III of the attached report, the fair market value of the property rights over a 5,383^{sq} portion of the Servco South Street Property, as of August 10, 2014, is estimated to be:

SIX HUNDRED SIXTY-FOUR THOUSAND DOLLARS
\$664,000.

Honolulu Authority for Rapid Transportation
Paragon Partners Ltd.
August 20, 2014
Page 5



**ESTIMATED ANNUAL MARKET RENT FOR
THE TEMPORARY CONSTRUCTION EASEMENT**

Based on the analysis presented in Section IV of the attached report, the annual market value for the Temporary Construction Easement over a 649~~th~~ portion of the Servco South Street Property, as of August 10, 2014, is estimated to be:

EIGHT THOUSAND DOLLARS
\$8,000.

The annual market rent is equivalent to about \$667 per month, or \$4,000 for a six-month period.

* * * * *

We appreciate the opportunity to assist you on this interesting assignment. Please contact us if you have questions.

Sincerely,

JOHN CHILD & COMPANY, INC.

Paul D. Cool, MAI, CRE
Vice President
Certified General Appraiser License No. 71
State of Hawaii
Expires December 31, 2015

