

Honolulu Authority for Rapid Transportation

RESOLUTION NO. 2016-21

APPROVING NOTIFICATION TO THE CITY COUNCIL OF INTENTION TO ACQUIRE GUIDEWAY EASEMENT OVER, ON, AND ACROSS THE REAL PROPERTY IDENTIFIED AS TAX MAP KEY 1-5-007-026 (PORTION), LOCATED AT 519 KAAHI STREET HONOLULU, HAWAII 96817, AND OWNED BY FOUR K PROPERTIES, LLC BY EMINENT DOMAIN AND PUBLICATION OF A RESOLUTION AUTHORIZING ACQUISITION OF SAID EASEMENT BY EMINENT DOMAIN

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

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

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

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

WHEREAS, the acquisition by eminent domain of the guideway easement over, on, and across the real property identified as Tax Map Key (TMK) 1-5-007-026 (Portion) and more particularly described in the attached legal description marked as Exhibit A, is necessary for the Honolulu Rail Transit Project fixed guideway system, a valid public use and purpose;

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

1. That written notification to the City Council is approved, for the acquisition by eminent domain of the guideway easement over, on, and across the real property identified as TMK 1-5-007-026 (Portion); and
2. That in the event the City Council approves or does not object to the acquisition within 45 days of notification, then HART is authorized to publish in a daily newspaper at least three days prior to Board action, the attached resolution marked as Exhibit B, authorizing acquisition by eminent domain of said easement.

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

Exhibit A – Legal description of TMK 1-5-007-026 (Portion)

**Exhibit B – Resolution No. 2016-____, Authorizing the Acquisition of Guideway
Easement Over, On, and Across the Real Property Identified as Tax Map
Key 1-5-007-026 (Portion), Located at 519 Kaaahi Street Honolulu, Hawaii
96817, and owned by Four K Properties, LLC by Eminent Domain.**

Board Chair

ATTEST:

Board Administrator

DRAFT

HONOLULU RAIL TRANSIT PROJECT

EASEMENT B
(FOR GUIDEWAY PURPOSES)

Affecting Lot 17 (Map 1) of
Land Court Consolidation 97

Situate at Kuwili, Honolulu, Oahu, Hawaii

Beginning at the North corner of this easement, being the Southeast corner of Parcel 435 of Honolulu Rail Transit Project, being also along the Southwest side of Kaaahi Street, the coordinates of said point of beginning referred to Government Survey Triangulation Station "PUNCHBOWL" being 1,814.17 feet North and 5,721.25 feet West thence running by azimuths measured clockwise from true South:

1. 326° 59' 64.00 feet along the Southwest side of Kaaahi Street;
2. 56° 59' 8.76 feet along Lot 16 (Map 1) of Land Court Consolidation 97;
3. 144° 16' 64.07 feet along the remainder of Lot 17 (Map 1) of Land Court Consolidation 97;
4. 236° 59' 11.79 feet along Parcel 435 of the Honolulu Rail Transit Project, to the point of beginning and containing an area of 658 Square Feet.



AUSTIN, TSUTSUMI & ASSOCIATES, INC.

Description Prepared By:

Erik S. Kaneshiro EXP 08/16

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

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

Honolulu, Hawaii
August 19, 2015

TMK: (1) 1-5-007: 026
Y:\2014\14-068\SURVEY\Descriptions\PARCEL 436 - Easement B.docx



AUSTIN, TSUTSUMI & ASSOCIATES, INC.

CIVIL ENGINEERS • SURVEYORS

501 SUMNER STREET, SUITE 521
HONOLULU, HAWAII 96817-5031

1871 WILI PA LOOP, SUITE A
WAILUKU, MAUI, HAWAII 96793

100 PAUJAH STREET, SUITE 207
HILO, HAWAII 96720

Honolulu Authority for Rapid Transportation

RESOLUTION NO. 2016-__

AUTHORIZING THE ACQUISITION OF GUIDEWAY EASEMENT OVER, ON, AND ACROSS THE REAL PROPERTY IDENTIFIED AS TAX MAP KEY 1-5-007-026 (PORTION), LOCATED AT 519 KAAHI STREET HONOLULU, HAWAII 96817, AND OWNED BY FOUR K PROPERTIES, LLC BY EMINENT DOMAIN

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

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

WHEREAS, the City Council approved or did not object to the acquisition of the guideway easement over, on, and across the real property identified as Tax Map Key (TMK) 1-5-007-026 (Portion) by eminent domain after written notification by HART; and

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

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

1. That acquisition by eminent domain of the guideway easement over, on, and across the real property identified as TMK 1-5-007-026 (Portion) is hereby authorized and the Corporation Counsel of the City and County of Honolulu is empowered to institute eminent domain proceedings as provided by law for the acquisition thereof; and
2. That the acquisition of said easement by eminent domain is determined and declared to be for a valid public use and purpose as aforesaid; and
3. That the acquisition of said easement by eminent domain is determined and declared to be necessary for the aforesaid public use and purpose; and
4. That in the process of said proceedings in eminent domain, the Corporation Counsel is authorized and empowered to negotiate terms of settlement, subject to the approval of HART and/or the Court before which such proceedings are commenced; and

5. That the Board Administrator be directed to transmit copies of this resolution to HART and the Department of the Corporation Counsel.

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

_____.

Board Chair

ATTEST:

Board Administrator

Exhibit A – Legal description of TMK 1-5-007-026 (Portion)

DRAFT

HONOLULU RAIL TRANSIT PROJECT

EASEMENT B
(FOR GUIDEWAY PURPOSES)

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Land Court Consolidation 97

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Beginning at the North corner of this easement, being the Southeast corner of Parcel 435 of Honolulu Rail Transit Project, being also along the Southwest side of Kaaahi Street, the coordinates of said point of beginning referred to Government Survey Triangulation Station "PUNCHBOWL" being 1,814.17 feet North and 5,721.25 feet West thence running by azimuths measured clockwise from true South:

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AUSTIN, TSUTSUMI & ASSOCIATES, INC.

Description Prepared By:

Erik S. Kaneshiro EX-04/14

ERIK S. KANESHIRO

Licensed Professional Land Surveyor
Certificate No. 9826

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

Honolulu, Hawaii
August 19, 2015

TMK: (1) 1-5-007: 026

Y:\2014\14-068\SURVEY\Descriptions\PARCEL 436 - Easement B.docx



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100 PAUAHI STREET, SUITE 207
HILO, HAWAII 96720

Appraisal Report to
**City and County of Honolulu
Honolulu Authority for Rapid Transportation
Paragon Partners Ltd.
Honolulu Rail Transit Project**

Covering the

**PARTIAL ACQUISITION OF THE
FOUR K KAAHI STREET PROPERTY
Tax Map Key (1) 1-5-007:026
Owner: Four K Properties LLC**

519 Kaaahi Street,
Iwilci, Honolulu, Oahu, Hawaii

As of February 2, 2015

(PDQ Parcel 436)



JOHN CHILD & COMPANY
APPRAISERS & CONSULTANTS

Honolulu Authority for Rapid Transportation

STAFF SUMMARY

TITLE: RESOLUTION NO. 2016-21 APPROVING NOTIFICATION TO THE CITY COUNCIL OF INTENTION TO ACQUIRE EASEMENT OVER, ON, AND ACROSS THE REAL PROPERTY IDENTIFIED AS TAX MAP KEY 1-5-007-026 (PORTION) BY EMINENT DOMAIN AND PUBLICATION OF A RESOLUTION AUTHORIZING ACQUISITION OF SAID EASEMENT BY EMINENT DOMAIN	STAFF CONTACT: Jesse K. Souki Morris M. Atta	DATE: 06/16/2016
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Type:	Goal	Focus Area	Reference Notes
<input checked="" type="checkbox"/> Action/Approval	<input checked="" type="checkbox"/> Project Delivery	<input checked="" type="checkbox"/> Livability/Land Use	
<input type="checkbox"/> Information	<input type="checkbox"/> Service Delivery	<input type="checkbox"/> Partnerships	
<input type="checkbox"/> Follow-up	<input checked="" type="checkbox"/> Resource Stewardship	<input type="checkbox"/> Agency Admin.	

1. Purpose:

Review of Notification to City Council for condemnation of land for public use, identified as Tax Map Key 1-5-007-026 (Portion), and situated at 519 Kaaahi Street, Honolulu, Hawaii, which is required for guideway easement purposes for the Honolulu Rail Transit Project (HRTTP). This property, for which 658 square-foot guideway easement is required, is on the critical path for successful completion of the City Center Section of the HRTTP. The property is owned by Four K Properties, LLC.

HART recommends use of eminent domain to acquire the property.

2. Background/Justification

This property (Tax Map Key 1-5-007-026) was designated as needed for the HRTTP and identified in the Final Environmental Impact Statement (FEIS). As required under the Uniform Relocation Assistance and Real Property Acquisition Policies Act (URA) and FTA C5010.1D, the Owners were notified of HART's intent to acquire the property. An appraisal was conducted following URA guidelines, which took into consideration all site conditions and potential impacts.

- An appraisal report with an effective date of February 2, 2015, was conducted.
- A Letter of Offer dated April 27, 2015, was delivered.
- Negotiations are ongoing.

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

3. Procurement Background

N/A

4. Financial/Budget Impact

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

5. Policy Impact

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

6. Public Involvement

N/A

7. Alternatives

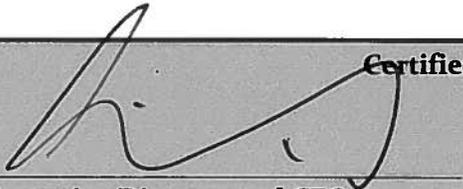
There is no feasible alternative to avoid the above described impacts to the property.

8. Exhibits

Exhibit 1 – Letter of Offer dated April 27, 2015.

Exhibit 2 – Appraisal Summary prepared by John Child & Company with an effective appraisal date of February 2, 2015.

Certified and Recommended by:



Executive Director and CEO

6/8/16

Date

RL1909



IN REPLY REFER TO:
CMS-APOOROW-00850

HONOLULU AUTHORITY for RAPID TRANSPORTATION

Daniel A. Grabauskas
EXECUTIVE DIRECTOR AND CEO

HAND-DELIVERED

BOARD OF DIRECTORS

April 27, 2015

Ivan M. Lui-Kwan, Esq.
CHAIR

[Handwritten Signature]
Received
Tina Chen **5/4/15**
Print Name **Date**

Donald G. Horner
VICE CHAIR

Ms. Tina Chen
Four K Properties, LLC
519 Kaaahi Street
Honolulu, Hawaii 96817

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

Dear Ms. Chen:

Subject: Honolulu Rail Transit Project (H RTP)
519 Kaaahi Street
Parcel 436: Tax Map Key (TMK) 1-5-007-026 (Portion)
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 658 square-foot portion of your property, identified as TMK 1-5-007-026 (shown colored in red on the enclosed map), for guideway easement purposes, for the total consideration of **\$130,000 (One Hundred Thirty Thousand Dollars)**.

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

If this offer is acceptable, please sign the duplicate of this letter and return it in the enclosed envelope by **May 28, 2015**. The remaining copy is for your file. Enclosed for your information are the Appraisal Summary Statement and General Acquisition & Relocation Information Brochure. Also enclosed is a draft Right of Entry, Possession and Use Agreement for your review, consideration, and to be further discussed with your acquisition agent.

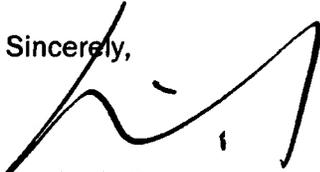
If we do not hear from you by **May 28, 2015**, this offer shall be considered rejected and HART will proceed with alternate options, including eminent domain, to acquire the subject property

Ms. Tina Chen
Page 2
April 27, 2015

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 contact Ms. Georgia Marquis at 536-5900 if you have any questions regarding this matter.

Sincerely,



Daniel A. Grabauskas
Executive Director and CEO

Enclosures

ACCEPTED:

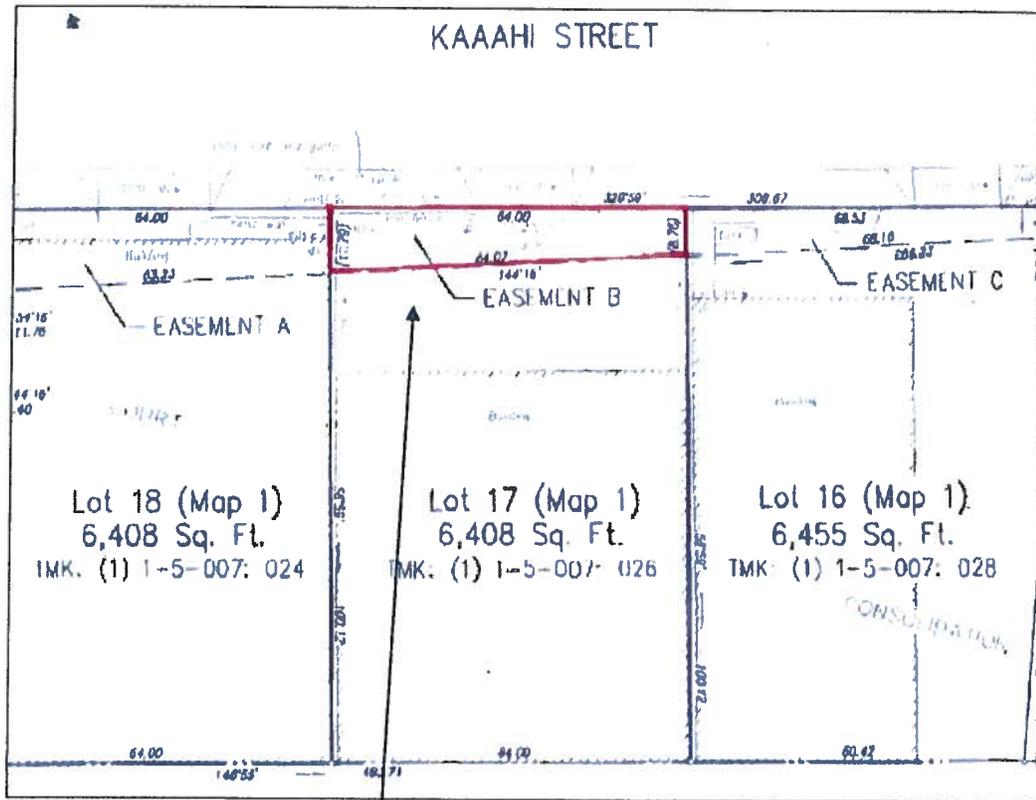
FOUR K PROPERTIES, LLC

By _____
Its

Print Name: _____

Date: _____

PARCEL MAP EXHIBIT
TMK 1-5-007-026 (Portion)



Red = Guideway Easement



JOHN CHILD & COMPANY
APPRAISERS & CONSULTANTS

February 18, 2015

Karen Char, MAI, CRE
Paul D. Cool, MAI, CRE
Shelly H. Tanaka, MAI
Elizabeth Tang

City and County of Honolulu
Honolulu Authority for Rapid Transportation
c/o Ms. Georgia Marquis
1099 Alakea Street, Suite 2150
Honolulu, Hawaii 96813

Dear Ms. Marquis:

**Re: Partial Acquisition of the Four K Kaaahi Street Property at 519 Kaaahi Street,
Tax Map Key (1) 1-5-007:026; PDQ Parcel 436**

At your request, John Child & Company has completed valuation analyses to estimate the fair market value of a 658ŧ guideway easement on a portion of the Four K Kaaahi Street Property. This letter summarizes the background and estimated values presented in the attached report.

STUDY BACKGROUND

The Four K Kaaahi Street Property is an improved industrial property at 519 Kaaahi Street, Iwilei, Oahu, Hawaii. The property consists of a 6,408ŧ industrial-commercial mixed use zoned parcel identified as Tax Map Key 1-5-007:026 of the First Taxation Division. The parcel is improved with a 5,158ŧ single-tenant distribution warehouse built in 1968 and occupied by the property owner, Four K Properties LLC dba Tina's Creations (Four K).

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 (HRTTP). The HRTTP requires a 658ŧ guideway easement on a portion of the property. In this regard, you have asked us to assist you.

STUDY OBJECTIVE

The objective of our assistance is to estimate the fair market value of the 658ŧ guideway easement that will encumber a portion of the Four K Kaaahi Street Property ("partial taking").

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 HRTTP.

Honolulu Authority for Rapid Transportation
Paragon Partners Ltd.
February 18, 2015
Page 2



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 appraiser visited the property on February 2, 2015. The property owner, Ms. Tina Chen, accompanied the appraiser.

EFFECTIVE DATE OF APPRAISAL

The effective date of appraisal is February 2, 2015, the date of the property visit.

DATE OF REPORT

The date of this report is February 18, 2015.

DEFINITIONS OF TERMS

Terms used in this report are defined in the, 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]

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

Honolulu Authority for Rapid Transportation
Paragon Partners Ltd.
February 18, 2015
Page 3



Easement

An easement is the right to use another's land for a stated purpose. [1]

ASSUMPTION OF A HYPOTHETICAL CONDITION

A hypothetical condition is 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. [2]

This report is subject to the following hypothetical conditions:

Valuation Assumes No Impact of H RTP

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 market value of the property is based on the hypothetical condition that the property is not impacted by the rail project as of the date of valuation.

The assumption of this hypothetical condition could have an effect on the value of the property.

Valuation of the After Property Assumes Easement Encumbrance

The value of the partial taking is estimated using the *before* and *after* method of valuation, described as follows:

$$\begin{array}{r} \text{Fair market value of the "before property"} \\ - \text{Fair market value of the "after property"} \\ \hline = \text{Fair market value of the taking (difference in value)} \\ \hline \end{array}$$

[1] Appraisal Institute, *The Dictionary of Real Estate Appraisal*, Fifth Edition, 2010.

[2] *Ibid.*

Honolulu Authority for Rapid Transportation
Paragon Partners Ltd.
February 18, 2015
Page 4



The value of the “after property” is based on the hypothetical condition that the property is encumbered by the proposed guideway easement.

EXTRAORDINARY ASSUMPTION

An extraordinary assumption is an assumption, directly related to a specific assignment, which, if found to be false, could alter the appraiser’s opinions or conclusions. Extraordinary assumptions presume as fact otherwise uncertain information 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 data used in an analysis. [1]

A partial taking would involve a guideway easement encumbrance on a 658~~sq~~ portion of the property along Kaaahi Street. The easement encompasses a portion of the property’s driveway and paved parking area.

HART will be responsible for the reconstruction of existing site improvements affected by the proposed taking, including asphalt or concrete paving, curbing and curb cuts, parking stall restriping, fencing, landscaping, irrigation systems, and existing utility connection points.

The owner will be allowed to use the easement for continued ingress and egress; however, no parking, storage, development, or fencing will be allowed in the easement area.

The estimated market value of the taking is based on the extraordinary assumption that ingress and egress to the remainder parcel will not be affected. Clearance below the guideway will be sufficient to allow vehicles access to the property. However, vehicles will not be allowed to park underneath the guideway.

STUDY CONDITIONS

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

[1] Ibid.

Honolulu Authority for Rapid Transportation
Paragon Partners Ltd.
February 18, 2015
Page 5



**ESTIMATED FAIR MARKET VALUE
OF THE PARTIAL TAKING**

The fair market value of the partial taking is based on the before and after method of valuation. The before and after method accounts for severance damages and/or special benefits to the remainder property.

Based on the valuation assumptions and analyses summarized in the accompanying report, the fair market value of the partial taking, as of February 2, 2015, is estimated to be:

ONE HUNDRED THIRTY THOUSAND DOLLARS
\$130,000.

* * * * *

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

Sincerely,

JOHN CHILD & COMPANY, INC.

Shelly H. Tanaka, MAI
Vice President
Certified General Appraiser License No. 648
State of Hawaii
Expires December 31, 2015