

Honolulu Authority for Rapid Transportation

RESOLUTION NO. 2016-20

REGARDING THE POSITION OF THE BOARD OF DIRECTORS OF THE HONOLULU AUTHORITY FOR RAPID TRANSPORTATION (HART) ON THE ACQUISITION OF REAL PROPERTY BY HART FOR HONOLULU'S RAIL TRANSIT PROJECT PENDING THE FEDERAL TRANSIT ADMINISTRATION'S APPROVAL OF A RECOVERY PLAN

WHEREAS, the Honolulu Authority for Rapid Transportation (HART) received a letter from the Federal Transit Administration (FTA) on June 6, 2016 requesting HART submit a *Recovery Plan* by August 7, 2016 for the completion of the Honolulu Rail Transit Project (Project) that demonstrates HART is taking every reasonable measure to mitigate the cost overruns and to minimize the delay in opening the Project to revenue operations; and

WHEREAS, "unfavorable market conditions" and "delays attributable to litigation" were among the design and construction cost challenges recognized in the June 6, 2016 letter from the FTA; and

WHEREAS, delaying all acquisition activity for the Project would increase the costs of acquisition as the real estate market on Oahu has trended upward over time, and stopping transactions wherein agreements for purchase and/or actions in eminent domain have been filed would create potential legal liability; and

WHEREAS, the June 6, 2016 FTA letter was subsequently amended by a letter dated July 21, 2016 from the FTA that granted an extension of time for the submittal of a *Recovery Plan* for the Project to a date "no later than the end of the 2016 calendar year"; and

WHEREAS, in its July 21, 2016 letter, the FTA states that options should include "an interim terminus or deferral of certain stations" and that FTA expects "an interim plan on how the Project will move forward," suggesting that whatever the interim options, the Project will proceed down the corridor identified in the Project's Final Environmental Impact Statement, Record of Decision, and Full Funding Grant Agreement; and

WHEREAS, the HART Board of Directors (HART Board) recognizes the need to proactively provide direction to the HART Administration and to notify the affected public regarding future land acquisitions in light of these FTA letters; and

WHEREAS, the HART Board acknowledges that real property acquisition is a very time-consuming process that can take years to accomplish, and suspending or

terminating and then restarting that process at a later date will likely result in serious and costly delays to the Project; and

WHEREAS, the HART Board believes it is prudent to seek preservation of the corridor in which future construction of the Project is contemplated; and

WHEREAS, HART has to date received authorization from the HART Board and the Honolulu City Council to file fifty-five (55) eminent domain cases for acquisition of real property for the Project, of which seven (7) are already filed in court; and

WHEREAS, HART has negotiated thirty-three (33) transactions with private land owners in the City Center section of the Project with whom HART has executed agreements and are pending completion of acquisitions; and

WHEREAS, HART has initiated negotiations for thirty-nine (39) Tax Map Keys in the City Center that may include transactions that will take a long time to complete, especially complex transactions which may impede good rapport with landowners if negotiations are stopped; and

WHEREAS, the HART Board, at its June 16, 2016 meeting convened in executive session, and subsequently in open session at its July 28, 2016 meeting, discussed a Board policy regarding future negotiations with landowners regarding the acquisition of land until such time as a *Recovery Plan* is approved by the FTA; and

WHEREAS, the Honolulu City Council introduced Resolution No. 16-169 which proposes to establish “a policy not to approve any further real property acquisitions proposed by HART for the rail project and expresses its intent to object to all such proposed acquisitions, until such time that a *Recovery Plan* is finalized and the Council agrees that real property acquisitions for the rail project should continue”; and

WHEREAS, Resolution No. 16-169 further proposes to “urge the HART Board to suspend all eminent domain, other real property acquisitions, and attempts to seek possession, in order to allow existing businesses to continue operations, and to allow the City to continue collecting property taxes and deferring maintenance and security costs that may ultimately prove to be unnecessary”; and

WHEREAS, Resolution No. 16-169 further states that “it is not its intent or purpose that its policy will negate or reverse any of its prior condemnation authorizations.”

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

1. The HART Board is in favor of and supports proceeding with all land acquisitions for properties located west of and including the Middle Street Transit Station, including initiating and proceeding with eminent

domain actions for those properties that have received prior condemnation authorizations.

2. There shall be no new eminent domain actions filed in court for acquisitions located east of the Middle Street Transit Station; however, HART may proceed with any eminent domain matters already filed in court.
3. The HART Board is in favor of and supports proceeding with those transactions for properties located east of the Middle Street Transit Station in which written agreement with landowners have been obtained and the landowner is amenable to completing the transaction.
4. The HART Board is in favor of and supports continuing all acquisition efforts with other governmental agencies for property rights and access to property under their respective jurisdictions for those properties located east of the Middle Street Transit Station.
5. The HART Executive Director and CEO, or his designated representative, is authorized to submit written testimony and/or provide oral testimony on Resolution No. 16-169 and any other pertinent legislation consistent with the overall policies set forth herein.
6. Copies of this Resolution shall be sent to the Mayor and the City Council.
7. This Resolution shall take effect immediately upon its adoption and shall terminate upon the adoption of a new policy Resolution by the HART Board.

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

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Board Chair

ATTEST:

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Board Administrator