

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
Land Division
Honolulu, Hawaii 96813

September 13, 2013

Board of Land and Natural Resources
State of Hawaii
Honolulu, Hawaii

PSF No.: 11OD-105

Oahu

Issuance of (1) a right-of-entry permit for construction of an overhead guideway; (2) a grant of a perpetual non-exclusive easement for an overhead guideway; and (3) a direct lease for a park-and-ride facility, all on State lands in East Kapolei, Honouliuli, Ewa, Oahu, TMK (1) 9-1-17:97 por., to City and County of Honolulu for its planned rail transit project.

APPLICANT:

The City and County of Honolulu (“City”) for Honolulu Authority for Rapid Transportation (“HART”)

PURPOSE:

The purposes for the right-of-entry permit, perpetual non-exclusive easement and direct lease are for the construction, operation and maintenance of an overhead guideway and park-and-ride facilities related to the City’s planned rail transit project.

LEGAL REFERENCE:

Sections 171-55 and 171-95, Hawaii Revised Statutes (“HRS”), as amended.

LOCATION:

Portions of government land situated at Honouliuli, Ewa, Oahu, identified by tax map key: (1) 9-1-17:97 (“Parcel 97”). Parcel 97 is identified on the attached tax map labeled **Exhibit A** and location map labeled **Exhibit B**.

AREAS:

Parcel 97 has a land area of 36.365 acres. Estimated areas for the requested right-of-entry, non-exclusive easement alignment, and leased premises for park-and-ride facilities are described below in each disposition’s corresponding section.

ZONING:

State Land Use District: Urban
City and County of Honolulu CZO: Ag-1, Agriculture

TRUST LAND STATUS:

Section 5(a) lands of the Hawaii Admission Act. Parcel 97 was acquired by exchange pursuant to Section 171-50, HRS, on April 29, 1997. As part of that exchange, the State conveyed lands that were previously acquired by the State in 1994.

DHHL 30% entitlement lands pursuant to the Hawaii State Constitution: YES _ NO X

CURRENT USE STATUS:

Parcel 97 is vacant and unencumbered.

At its meeting of August 14, 2009, under agenda item H-5, the Board of Land and Natural Resources ("BLNR") designated certain lands, including Parcel 97, as income generating assets to support DLNR and its programs critical to the protection, preservation, and management of the State's natural, historic, and cultural resources.

At its meeting of January 13, 2012, under agenda item D-19, the BLNR authorized the issuance of a Request for Qualifications/Request for Proposal to select a potential lessee(s) for four parcels in East Kapolei, including Parcel 97.

CHARACTER OF USE:

The right-of-entry, non-exclusive overhead easement and lease areas are for the planned construction, maintenance and operation of improvements related to the City's proposed rail transit system. Specific character of uses and terms and conditions for all three dispositions are discussed below in each disposition's corresponding section.

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:¹

The Final Environmental Impact Statement acceptance notice for the Honolulu High Capacity Transit Corridor subject project was published in the OEQC's Environmental Notice on January 8, 2011.

On August 24, 2012, the Hawaii Supreme Court ruled that the City should have completed archaeological survey work along the entire proposed rail transit route prior to starting construction.

¹ HART has also been working with the Federal Transit Administration to prepare the additional documentation required by the Federal Court related to the Section 4(f) Evaluation for the Project. However, Section 4(f) of the Department of Transportation Act is a federal requirement and not related to HRS Chapter 343.

In February 2013, field work for the Archaeological Inventory Survey (“AIS”) along the entire proposed transit route was completed and the AIS reports were submitted to DLNR’s State Historic Preservation Division (“SHPD”) for review. Comments on all of the AIS documents were due by May 30, 2013. On August 27, 2013, SHPD confirmed the AIS was received, reviewed, and accepted (**Exhibit K**).

CITY REQUIREMENTS:

City shall be required to:

- 1) Provide survey maps and descriptions of the non-exclusive easement and leased areas subject to DLNR approval and according to State DAGS standards and at City’s own cost;
- 2) Pay for an independent appraisal(s), which shall be contracted for by DLNR to determine the fair market value of the perpetual non-exclusive easement and the fair market rent for leased premises; and
- 3) Process and obtain all subdivision approvals for the perpetual non-exclusive easement and leased areas at the City’s own cost.

BACKGROUND:

The State of Hawaii, by its Board of Land and Natural Resources (“BLNR”), owns four parcels of land in East Kapolei identified as TMKs (1) 9-1-16:08; (1) 9-1-17:97; and (1) 9-1-18:05 & 08, as shown on **Exhibit B**, attached. Whereas these four parcels are not set aside to any government agency, management of these lands remains under the direct purview of Land Division for the benefit the public land trust and all its beneficiaries.

Starting in 2008 and as the proposed rail project has evolved, DLNR has met and corresponded with the University of Hawaii West Oahu (“UHWO”) and various City authorities, including but not limited to the Mayor, the Department of Transportation Services, the Department of Planning and Permitting, and HART (collectively referred hereinafter as the “City”). A general chronology of those correspondences and discussions is summarized below.

- By letter dated April 15, 2008, attached as **Exhibit C**, the City first informed DLNR that UHWO objected to the City’s preferred rail alignment that would directly serve the UHWO campus. UHWO preferred a realignment over State land identified as TMK (1) 9-1-17:97 (“Parcel 97”), which the City did not consider optimal.² Notwithstanding the foregoing, the City indicated it was willing to consider UHWO’s preferred realignment if DLNR could provide a firm commitment that “it is in full support of authorizing unconditional City use of the parcel”.

² Parcel 97 was formerly identified by the City as TMK (1) 9-1-17:86.

- In a letter dated April 28, 2008, attached as **Exhibit D**, DLNR expressed its commitment to work with the City and UHWO to find a “mutually acceptable alternative.” DLNR, however, did not commit to, nor did it support the City’s request for “unconditional use” of Parcel 97.
- Pursuant to its commitment, DLNR met with UHWO and City representatives on several occasions. As a result of those meetings, DLNR submitted a written proposal dated October 22, 2008, a copy of which is attached as **Exhibit E**.³

In sum, DLNR’s proposal offered:

1. DLNR would recommend to the BLNR that a perpetual easement over DLNR lands be granted to the City for an overhead rail transit line to allow the rail transit station to be located at the intersection of the East-West and North-South Roads, provided UHWO agree to locate the park-and-ride facility within UHWO lands; or
2. As an alternative to UHWO locating the park-and-ride within its own lands, DLNR would recommend to the BLNR that the State convey to the City approximately five acres along the North-South Road alignment for a park-and-ride facility upon the City Council’s approval to rezone certain DLNR East Kapolei lands, identified therein as Parcel 97 and TMK (1) 9-1-18:05, to a zoning district(s) suitable for reasonable commercial development or other income-producing uses (e.g., business, industrial, business mixed-use, or industrial-commercial mixed-use districts).

DLNR did not receive any comments or objections from UHWO or the City on DLNR’s 2008 proposal. Moreover, despite DLNR’s refusal to grant the City unconditional use of Parcel 97, the City proceeded with plans to realign its proposed rail project and park-and-ride facilities over and on Parcel 97.

- As part of the environmental review process for the City’s rail project, DLNR provided written comments dated February 2, 2009, in part stating that the conveyance of any rights over DLNR lands, including the amount of compensation to be paid for such rights, required prior BLNR approval. DLNR’s comments also referenced prior discussions with the City regarding the use of Parcel 97 for rail transit improvements and DLNR’s desire to rezone DLNR lands beyond Parcel 97, as previously proposed.

³ DLNR’s proposals took into consideration two representations made by the City at a meeting on October 2, 2008: (i) that one of the requirements of the federal grant to the City was that the City’s interest in lands be vested for as long as the rail transit improvements remain (at the time the City offered to provide the language for the federal requirement for DLNR’s review); and (ii) the City Council will, as a condition for approval of UHWO’s zoning application for its campus and adjacent lands, require DLNR to convey approximately five acres of DLNR land to the City for a park-and-ride facility, regardless of the fact that universities and colleges are permitted in all zoning districts but require a Plan Review Use Permit.

- In a letter dated July 8, 2011 (**Exhibit F**), DLNR responded to the City's repeated requests for the set aside of a 50-foot wide non-exclusive easement over Parcel 97 for an overhead guideway, and a five-acre portion of Parcel 97 for a park-and-ride facility. Therein, DLNR pointed out that the City had not yet responded to DLNR's 2008 proposal. Notwithstanding the above, DLNR continued working with the City on its proposed rail project.⁴
- By letter dated April 18, 2012 (**Exhibit G**), the City notified DLNR that only Parcel 97 would be considered as part of the City's transit-oriented rezoning efforts, despite DLNR's 2008 proposal; and the rezoning of TMK (1) 9-1-18:05 would be handled by the City as any other independent zone change request. Notwithstanding the above, the City asked that their request for a now 70-foot wide right-of-entry and easement, representing a 40% increase over the City's prior requests, be submitted to BLNR for approval. The City, however, did not request land for their proposed park-and-ride facility.⁵
- On or about June 19, 2012, DLNR was provided with a copy of HART's guideway easement requirements, a copy of which is attached as **Exhibit H**.
- After reviewing the City's response to DLNR's 2008 proposal, together with the City's revised request and guideway easement requirements, DLNR submitted a revised proposal to the City dated July 19, 2012. DLNR's revised proposal described general terms and conditions under which DLNR remained willing to recommend that BLNR approve a right-of-entry and a non-exclusive easement for construction and maintenance of the proposed elevated guideway, and a five-year lease with a five-year option to extend for up to five acres of land for a park-and-ride facility, all on Parcel 97.
- On August 20, 2012, the City accepted DLNR's proposed terms and conditions. A copy of DLNR's proposal accepted by the City's is attached as **Exhibit I**.

On August 24, 2012, the Hawaii Supreme Court ruled that the City should have completed archaeological survey work along the entire proposed rail transit route prior to starting construction; and all construction on the City's rail project stopped.

⁴ At its meeting of May 13, 2010 BLNR approved a temporary right-of-entry over Parcel 97 to the City for survey, potholing, and soil sampling purposes. And, at its meeting on February 10, 2012, BLNR approved the issuance of design and construction right-of-entry to the City for elevated guideway purposes over the Waipahu High School site.

⁵ In subsequent communications with the City, the City indicated they wanted to hold off on any request regarding its proposed park-and-ride to allow construction of the overhead guideway to proceed without delay, with the details regarding the park-and-ride proposed for Parcel 97 to be worked out at a later date. However, because the park-and-ride and overhead guideway are both integral components of the City's proposed rail project and adjacent transit station, staff does not believe discussing these two components separately would be in the best interest of the public land trust.

In February 2013, the field work for the AIS for the entire proposed transit route was completed and the AIS reports were then submitted to SHPD for review.

On December 27, 2012, a U.S. District Court for the District of Hawaii ruled that construction on the first three phases of the proposed rail project could proceed while additional studies under Section 4(f) of the Department of Transportation Act were completed. However, in February 2012, rail opponents filed an appeal to the U.S. Court of Appeals for the Ninth Circuit to overturn the ruling.

On May 3, 2013, the U.S. Ninth Circuit Court of Appeals granted the rail opponents' request for an expedited briefing for their appeal. Oral arguments on the appeal were heard on August 15, 2013, in San Francisco, CA.

The City's request for a right-of-entry permit, non-exclusive easement, and lease is being brought to the BLNR for consideration at this time because subject to BLNR approval, the City plans to restart construction of the elevated rail line shortly.

RIGHT-OF-ENTRY PERMIT:

- Purpose: For the construction of an elevated guideway for the City's proposed rail transit project.
- Area: An area approximately 70 feet wide over and across Parcel 19, having an area of approximately 62,625 square feet, as generally shown on the map attached to **Exhibit G**.
- Term: One (1) year or upon the issuance of the nonexclusive easement described below, whichever occurs first.
- Consideration: Gratis. Upon the Chairperson's approval, the construction right-of-entry permit will provide the City the interim right to construct the proposed overhead guideway over State land until such time as a perpetual nonexclusive easement can be issued. Whereas the City will compensate DLNR for the perpetual nonexclusive easement, staff recommends waiving standard fees for the interim right-of entry.
- Terms & Conditions: The standard terms and conditions of the State's most current right-of-entry form, as may be amended from time to time and further subject, but not limited to:
- If this right-of-entry expires without the issuance of a nonexclusive easement and upon written notification from the Chairperson, the City shall remove all improvements and restore the land to its original condition within six months; and
 - Any other terms and conditions as may be prescribed by the Chairperson to best serve the interest of the State.

NON-EXCLUSIVE EASEMENT:

- Purpose: For the construction, repair and maintenance of an elevated guideway for the City's proposed rail transit project.
- Area: An area 70 feet wide along the centerline of the proposed guideway over and across Parcel 19, having an area of approximately 62,625 square feet, as generally shown on the map attached to **Exhibit G**, subject to survey and subdivision approval.
- Term: Perpetual
- Consideration: One-time payment equal to the fair market value of the easement as determined by an independent appraiser contracted for by DLNR. In determining the fair market value of the easement, the appraiser may consider a highest and best use for Parcel 19 that may be consistent with the City's East Kapolei Neighborhood Transit-Oriented Development Plan recommendations and Ewa Development Plan; and any negative impacts the guideway easement requirements may have on DLNR lands in East Kapolei.
- Terms & Conditions: The standard terms and conditions of the State's most current grant of easement document form, as may be amended from time to time and further subject but not limited to:
- The City's guideway easement requirements, attached hereto as **Exhibit H**;
 - If the rail transit project is terminated, or rail transit services stop for a continuous period of one (1) year, the City, shall remove all improvements and restore the land to its original condition within six months;⁶ and
 - Any other terms and conditions as may be prescribed by the Chairperson to best serve the interest of the State.

LEASE:

- Purpose: For the construction, repair, maintenance and operation of park-and-ride facilities associated with the City's rail transit.
- Area: Leased premises shall not exceed five (5) acres of land and shall include all land located within the nonexclusive easement boundaries described above. Requests for land outside the nonexclusive easement boundaries may be non-contiguous and shall be subject to DLNR approval.

⁶ The continuous period of one year is consistent with the State's standard forfeiture provisions when granting of perpetual easements, executive orders, etc.

Term: Five (5) years, with an option to extend an additional five (5) years, subject to mutual agreement.

Consideration: The minimum annual base rent shall be equal to the fair market rent as determined by an independent appraisal contracted for by DLNR. In determining the fair market rent, the appraiser may consider a highest and best use for all leased premises that may be consistent with the City's East Kapolei Neighborhood Transit-Oriented Development Plan recommendations and Ewa Development Plan.

In addition to the minimum annual base rent, the City shall pay to DLNR an annual percentage rent based on the gross revenues from vendors, concessionaires, licenses, etc. conducted within the leased areas, if any. The annual percentage rent rate shall be determined by the independent appraiser contracted for by the Department.

Terms & Conditions: The standard terms and conditions of the most current State lease document form, as may be amended from time to time and further subject but not limited to:

- The location, design and plans for the park-and-ride facility shall be subject to prior DLNR approval.
- Public access over and across the leased premises shall be permitted.
- DLNR reserves the one-time right to require the park-and-ride facility to be relocated and/or reconfigured at DLNR's discretion and at the City's expense.
- The park-and-ride facilities shall be open for use by the general public, including but not limited to employees and patrons of any future development project on Parcel 97 or any adjoining DLNR lands; and may be used to satisfy the parking requirements for any future on-site and/or off-site development projects of DLNR in East Kapolei.
- Upon expiration of the initial five-year term of the lease, DLNR will evaluate and determine whether the park-and-ride facility represents the highest and best use of the lands. If DLNR, or its assignee, determines there is a higher and better use of the lands, DLNR may elect to not extend the lease or may increase the lease rent to reflect the highest and best use of the site at that time.

ALTERNATE CONSIDERATION:

In lieu of the monetary considerations for the proposed nonexclusive easement and lease as described above, the City may propose and DLNR may accept compensation in the form of on-site and off-site development rights and credits (e.g., rezoning to commercial-industrial mixed uses, increased FAR and height limits, access). Development rights and/or credits shall not be limited to Parcel 97, and may be applied to any future development project on lands in East Kapolei under DLNR's jurisdiction. Acceptance of all development rights and/or credits proposed by the City in lieu of monetary consideration shall be subject to DLNR review and approval. If DLNR does not approve the City's proposed development rights and/or credits, the City shall pay DLNR the monetary considerations as described above.

REMARKS:

In 2008, the City proceeded with the plans to realign its proposed rail project in East Kapolei over Parcel 97. The City did so without any agreement or assurances that any rights over these lands would be recommended to, or approved by BLNR; and despite their determination that such realignment was not optimal. The City's proposed realignment of its overhead rail guideway and park-and-ride facility to serve the planned "UHWO Station" are being sited on Parcel 97 because of UHWO objections to the City's preferred alignment over UHWO lands to directly serve the UHWO campus.

Moreover, despite numerous DLNR inquiries as to the City's position on DLNR's 2008 proposal, the City continued with its realignment plans without accepting or rejecting either of DLNR's two 2008 proposals; and started construction of its proposed rail transit project in East Kapolei based on the UHWO's preferred realignment through Parcel 97.⁷

In April 2012 the City notified DLNR that (1) the City planned to place the park-and-ride on Parcel 97, and (2) only Parcel 97 would be included in the City's TOD rezoning efforts, effectively rejecting both of DLNR's 2008 proposals.

Considering BLNR's 2009 designation of Parcel 97 as an income producing asset, staff does not believe the City's proposed realignment and park-and-ride facilities will significantly enhance Parcel 97's development potential. Parcel 97 together with the remaining three DLNR parcels of land in East Kapolei, have consistently been identified by DLNR as having good development potential due to their unique locations along the H-1 Freeway, Farrington Highway, and Kualakai Parkway; and proximity to other development in East Kapolei.

⁷ In 2012 the City began construction of support structures for the proposed rail alignment on private land up to the boundary of Parcel 97 without any agreement or assurances that rights over Parcel 97 would be recommended to, or approved by BLNR.

Conversely the proposed park-and-ride and realignment of the overhead guideway easement, together with the City's easement requirements, are expected to negatively impact future development of Parcel 97 by prohibiting any vertical construction over the proposed 70-foot wide easement that will bisect Parcel 97.

Notwithstanding the above, staff recommends BLNR approve the issuance of (i) a right-of-entry for construction of an overhead guideway; (ii) a non-exclusive easement for the construction, maintenance and repair of an overhead guideway; and (iii) a 5-year ground lease (with an option to extend for an additional 5 years) for up to 5 acres of land for a park-and-ride facility, all under the terms and conditions summarized above. The terms and conditions described above have been accepted by the City and are meant to fairly compensate the public land trust for the requested rights over State land that BLNR has designated to support the department's efforts to protect and preserve Hawaii's cultural, historic, and natural resources.

The recommended five-year lease term provides the City with rights that are generally consistent with the City's East Kapolei Neighborhood TOD Plan, Public Review Draft, dated April 2010 (the "E. Kapolei TOD Plan"), a copy of which is attached as **Exhibit J**.⁸

The recommended five-year lease with an option to extend also protects the State's interest in these lands by ensuring BLNR has opportunities to reevaluate the highest and best use of the leased areas in the future. If BLNR determines in the future that a higher order use for the leased site is appropriate, rights to the leased premises would automatically revert to BLNR at the expiration of the lease. Moreover, nothing precludes BLNR from directly issuing a new lease to the City in the future, either for the entire park-and-ride site or for a portion thereof, if it is in the best interest of the State.

RECOMMENDATION: That the Board

1. Authorize the issuance of a right-of-entry permit to the City and County of Honolulu, covering the subject area for the construction, repair and maintenance of an elevated guideway, under the terms and conditions cited above, which are by this reference incorporated herein, and further subject to such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State;
2. Authorize the issuance of a perpetual non-exclusive easement to the City and County of Honolulu, for the construction, repair and maintenance of an elevated guideway, under the terms and conditions cited above, which are by this reference incorporated herein, and further subject to the following:

⁸ The E. Kapolei TOD Plan envisions four phases to implement parking facilities around transit stations, beginning with at-grade open parking on a large site, evolving to structured parking on a smaller site as lands around transit stations are developed to higher-order uses.

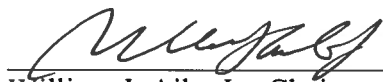
- A. Review and approval by the Department of the Attorney General; and
 - B. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.
3. Authorize the issuance of a direct lease to the City and County of Honolulu, for the construction, repair, maintenance and operation of park-and-ride facilities, under the terms and conditions cited above, which are by this reference incorporated herein, and further subject to the following:
- A. Review and approval by the Department of the Attorney General; and
 - B. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.

Respectfully Submitted,



Gavin Chun
Project Development Specialist

APPROVED FOR SUBMITTAL:



William J. Aila, Jr., Chairperson



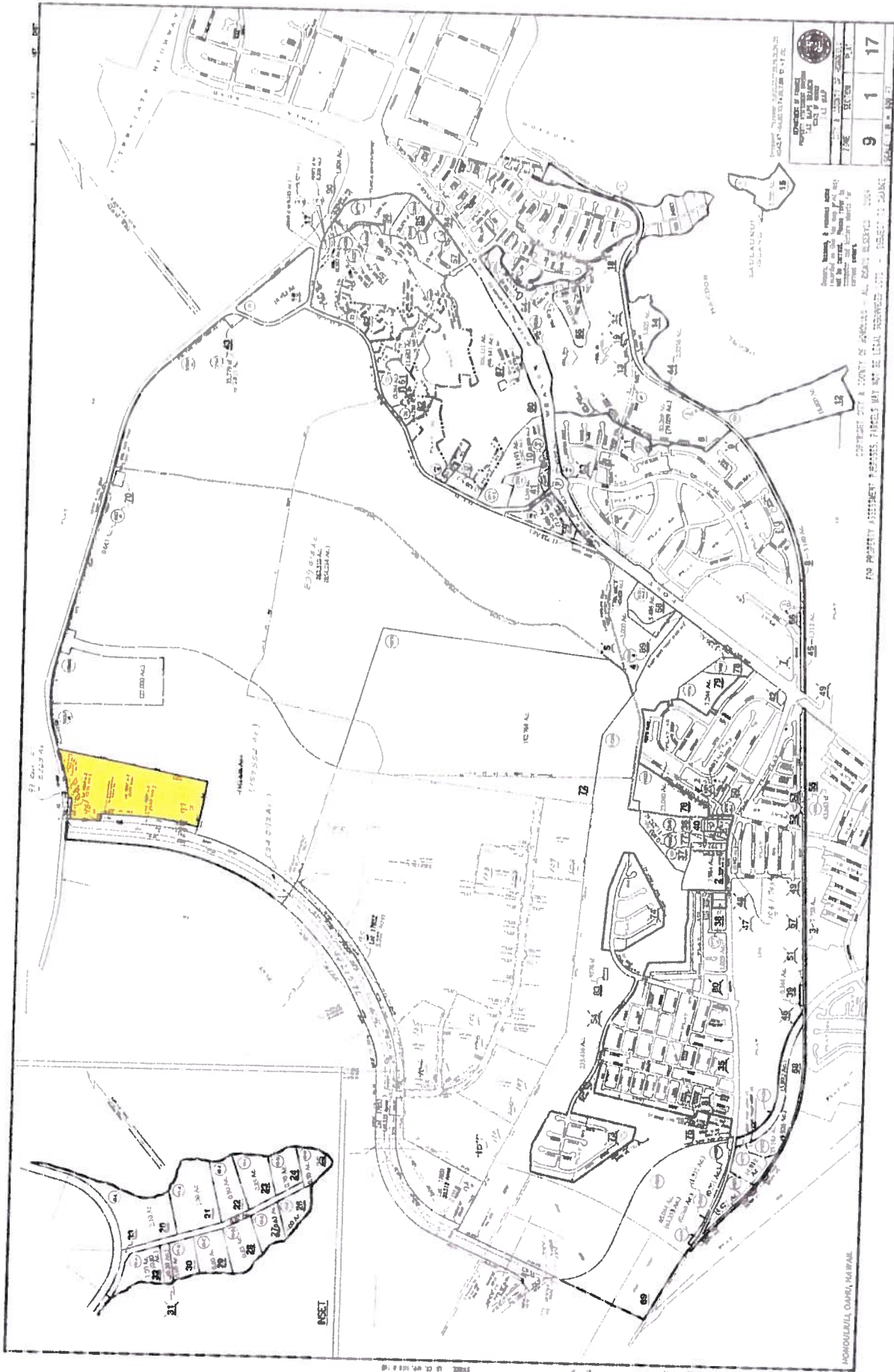


EXHIBIT A

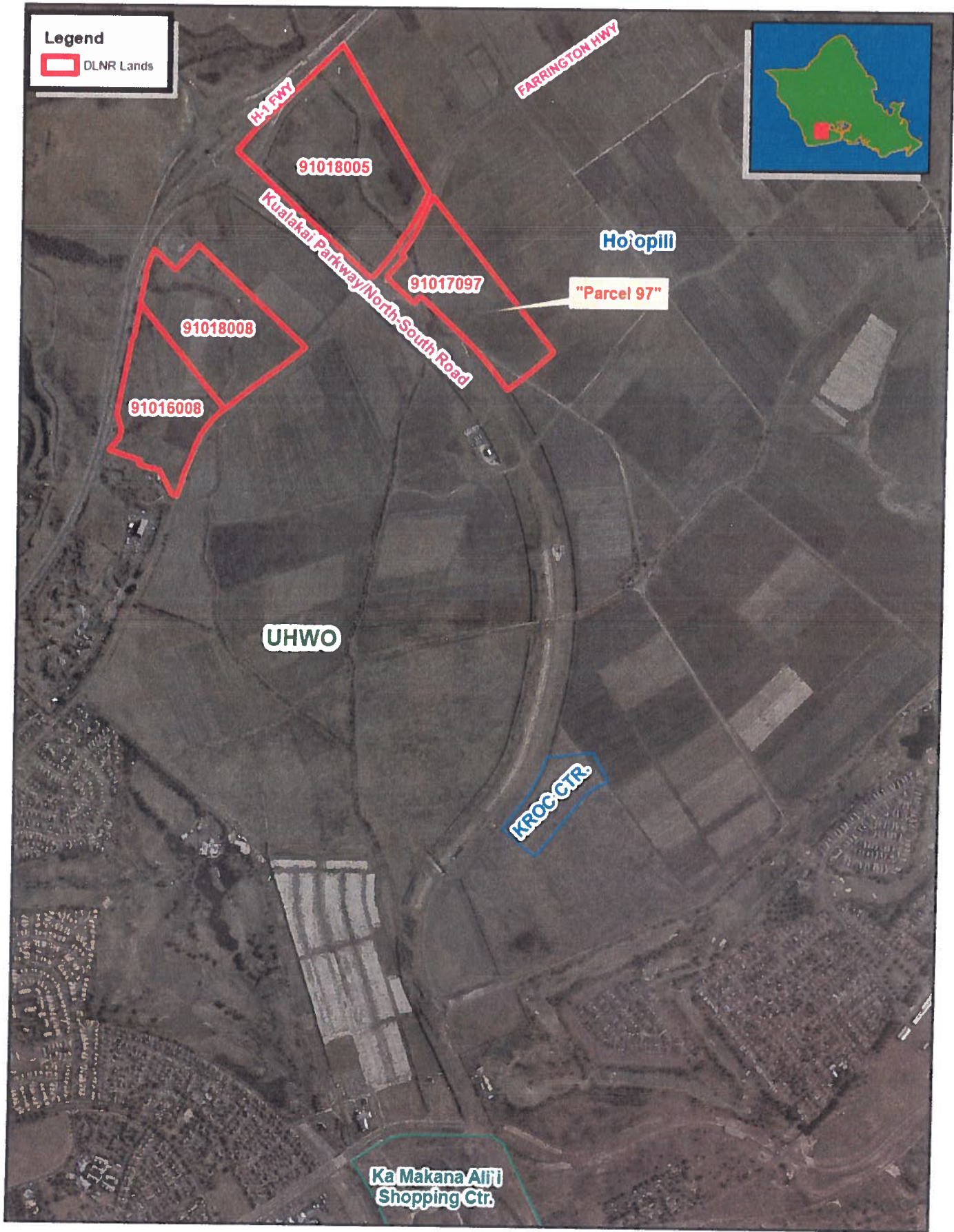
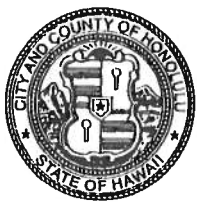


EXHIBIT B

61488

OFFICE OF THE MAYOR
CITY AND COUNTY OF HONOLULU

530 SOUTH KING STREET, ROOM 300 • HONOLULU, HAWAII 96813
TELEPHONE (808) 523-4141 • FAX (808) 527-5552 • INTERNET: www.honolulu.gov



MUFI HANNEMANN
MAYOR

APR 15 3:25

April 15, 2008

HAND DELIVERED

Ms. Laura H. Thielen, Chairperson
Department of Land and Natural Resources
State of Hawaii
1151 Punchbowl Street
Honolulu, Hawaii 96813

RECEIVED
LAND DIVISION
2008 MAY 21 P 3:32

Dear Ms. Thielen:

Your letter printed in yesterday's edition of the Honolulu Star-Bulletin indicates surprisingly that you are in favor of providing the City with access through DLNR property located at the makai/Diamond Head corner of Farrington Highway and North-South Road for the route of the City's fixed guideway transit project, but that you have yet to receive a joint development proposal for this parcel from the University of Hawaii-West Oahu (UHWO). Your letter indicates that you have been in discussions with UHWO about this parcel since November 2007.

You seem to not be aware from your discussions with UHWO that the City had already notified UHWO twice in writing, on October 2 and November 7 of 2007, that it had become necessary to forgo a route through the subject parcel as a result of the inability of UHWO or any other State agency to provide unconditional authorization in a timely manner for City use of this parcel.

Nevertheless, in light of your public comments regarding such a route, the City is willing to reconsider an alignment through this parcel to the vicinity of the UHWO campus again if DLNR can provide a firm commitment by Monday, April 21, that it is in full support of authorizing unconditional City use of the parcel for this purpose.

Realigning the route once again to accommodate your preference would delay completion of the Draft Environmental Impact Statement for this project. The City is willing to make such a sacrifice, but time is of the essence. We need a firm commitment on this issue if we are to propose that the City Council amend the Public Infrastructure Map to support this alignment. A council committee hearing on this matter is scheduled for April 22. Since you indicate you have been in discussions with UHWO since November of 2007, we trust there has been ample time for you to make a decision.

EXHIBIT "C"

Ms. Laura H. Thielen
April 15, 2008
Page 2

The City made clear to UHWO from the start of our discussions regarding this project nearly two years ago that a preferable alignment would directly serve the UHWO campus. However, UHWO has consistently opposed our efforts to locate a transit station on the campus, or even adjacent to it.

It should be noted that the route preferred by UHWO does not include a station on, or adjacent to, the campus, but would instead locate a station at the planned commercial development near North-South Road. To accommodate this alignment, the City would also require a firm commitment for access through the State property to be developed by Hunt Development Group, located to the west of the DLNR parcel, across North-South Road. The alignment would enter the State/Hunt property from the west side of North-South Road and exit to the south, near the planned Krøc Center.

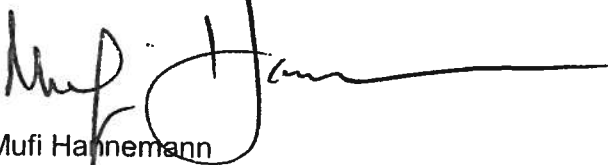
While the City does not consider this route optimal, we are willing to accommodate such an alignment if all State entities and development partners, including DLNR, can come together in a timely manner and speak in support with one voice.

You should know that the City has not experienced meaningful results with DLNR on several fronts, to wit: the proposed transfer of the Haiku Stairs to DLNR; the agreement on the Kuakini Street extension; closure on the Kawainui Marsh issue; and the maintenance of DLNR-owned trees along Round Top Drive. I am hopeful that your very public proclamation of willingness to help your fellow state agency, the university, could signal a major breakthrough for UHWO's desired transit route.

We look forward to receiving a clear response from you by April 21 that will either convey your firm commitment to providing the unconditional City access that is necessary for a route through the DLNR parcel, or your inability or unwillingness to provide this necessary commitment in a timely manner. We remain fully cognizant that final authorization could require action by the Board of Land and Natural Resources, but we need written assurance of your firm commitment in the meantime.

Should you need further information regarding this matter, please contact City Department of Planning and Permitting Deputy Director David Tanoue or Department of Transportation Services Chief Planner Toru Hamayasu.

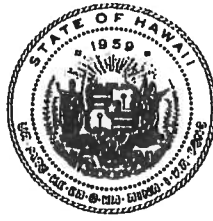
Yours truly,



Mufi Hannemann
Mayor

cc: Councilmember Todd Apo
Councilmember Rod Tam
Mr. David McClain, President
University of Hawaii

LINDA LINGLE
GOVERNOR OF HAWAII



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

April 28, 2008

Laura H. Thielen
Chairperson
Board of Land and Natural Resources
Commission on Water Resource Management

RUSSEL L. Y. TSUJI
First Deputy

KEN C. KAWAHARA
Deputy Director - Water

AQUATIC RESOURCES
BOATING AND OCEAN RECREATION
BUREAU OF CONVEYANCES
COMMISSION ON WATER RESOURCE MANAGEMENT
CONSERVATION AND COASTAL LANDS
CONSERVATION AND RESOURCES ENFORCEMENT
ENGINEERING
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

HAND DELIVER

The Honorable Mufi Hannemann
Mayor
City and County of Honolulu
530 South King Street, Room 300
Honolulu, Hawaii 96813

RECEIVED
LAND DIVISION
2008 APR 29 A 10:20
Mufi Hannemann

Dear Mayor Hannemann:

Thank you for your letter dated April 24, 2008 regarding the City and County of Honolulu's (City) planned fixed guide way transit project, which I received this morning.

In your letter you indicated that the University of Hawaii West Oahu (UHWO) conceptual plan is not acceptable to the City. I was not aware of any objections of the City to the plan and was surprised by this development. Nonetheless, my department maintains its commitment to work with you, your staff, and UHWO to find a mutually acceptable alternative. In view of the urgency of the matter expressed in your letter, please provide the necessary contact information for a designated City representative who has authority to negotiate and commit to a mutually acceptable alternative.

Pursuant to your invitation, my staff and I look forward to meeting with you and other parties involved on Wednesday, April 30, 2008. If you have any questions, please feel free to call my office at 587-0401. Thank you.

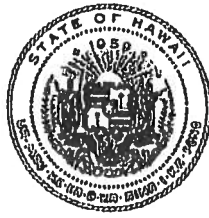
Sincerely,

Laura H. Thielen
Chairperson

Orig: K. Chan
5/7/08: ODLO

EXHIBIT "D"

LINDA LINGLE
GOVERNOR OF HAWAII



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

October 22, 2008

LAURA H. THIELEN
CHAIRPERSON
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KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

VIA FACSIMILE – (808) 453-6076
AND REGULAR MAIL

Mr. Gene I. Awakuni, Chancellor
University of Hawaii – West Oahu

Pearl City, Hawaii 96782

Re: DLNR lands in East Kapolei; Oahu, Hawaii
TMK (1) 9-1-17:86 and 9-1-18:05 (the "Property")

Dear Chancellor Awakuni:

The purpose of this letter is to follow up on your meeting with my staff and City & County of Honolulu (City) representatives on October 2, 2008. At the meeting, it was represented to my staff that one of the requirements of the federal grant to the City for its planned rail transit project is that the City's interest in lands be vested for as long as the rail transit improvements remain. I understand the City offered to provide the language for this federal requirement for our review, but to date, we have yet to receive anything from the City. I would appreciate being provided that language in the federal grant prior to confirming any agreement to transfer Department of Land and Natural Resources (DLNR) lands to the City.

At the meeting, both City Department of Transportation officials and University of Hawaii – West Oahu (UHWO) also indicated that the Honolulu City Council will, as a condition for approval of UHWO's zoning application for its UHWO campus and adjacent lands, require that DLNR convey approximately five acres of DLNR land situated along Farrington Highway and the proposed North-South Road to the City for a park-and-ride facility to service the rail transit system. This condition would be imposed regardless of the fact that construction of the campus is allowable under the existing zoning for those lands.

EXHIBIT "E"

UHWO is now requesting that DLNR provide the following:

1. A letter of commitment that DLNR is agreeable to convey to the City an interest in approximately five (5) acres of DLNR's land situated along Farrington Highway and the proposed North-South Road in east Kapolei (DLNR's land) for the City's envisioned park-and-ride facility servicing the proposed rail transit.
2. A Right-of-Entry allowing City consultants to perform due diligence on the property to determine the precise location of the City's proposed rail transit route over DLNR's land, park-and-ride facility and other improvements.

As you are aware, DLNR has identified its land holdings in Kapolei, including the land along the North-South Road alignment as future income producing lands to support the department's operations, maintenance and management of the public land trust and its natural and cultural resources. In furtherance of this, DLNR and UHWO discussed the possibility of entering a lease or development agreement whereby UHWO would entitle and develop certain DLNR lands along the North-South Road alignment in a manner that would be consistent with DLNR's income-producing objective for these lands, e.g., commercial development and uses.

UHWO requested that DLNR allow the proposed rail transit alignment to cross DLNR lands to allow a rail transit station to be located at the intersection of the proposed East-West and North-South Roads to better serve the UHWO campus. DLNR agreed, subject to DLNR and UHWO reaching an agreement on the joint development of the DLNR lands.

The City subsequently requested that five acres (within the area contemplated by DLNR and UHWO for income-producing development) be designated for a park-and-ride facility. DLNR was amenable to allowing a portion of its potential income-producing lands for such use provided that the park-and-ride facility would be operated by a DLNR parking concession with the revenues going to our department.

Since DLNR and UHWO have not reached any agreement regarding the joint development of the DLNR lands, and given the City's and UHWO's desire for commitments regarding the rail transit alignment and park-and-ride facility, DLNR proposes the following:

1. DLNR will recommend to the Board of Land and Natural Resources that a perpetual easement over DLNR lands be granted to the City for an overhead rail transit line to allow the rail transit station to be located at the intersection of the East-West and North-South Roads, provided UHWO agree to locate the park-and-ride facility within UHWO lands; or

Mr. Gene I. Awakuni, Chancellor

October 22, 2008

Page 3

2. As an alternative to UHWO locating the park-and-ride within its own lands, DLNR will recommend to the Board of Land and Natural Resources that the State convey to the City approximately five acres along the North-South Road alignment for such a facility upon the City Council's approval to rezone DLNR's lands in the east Kapolei area to a zoning district(s) suitable for reasonable commercial development or other income-producing uses, e.g., business, industrial, business mixed-use, or industrial-commercial mixed-use districts.

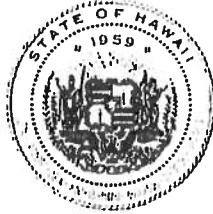
If you have any questions, please contact Morris Atta, Land Division Administrator at 587-0410. Thank you.

Sincerely,



Laura H. Thielen
Chairperson

cc: Land Division
Wayne Yoshioka, C&C of Honolulu, DTS
Bruce Matsui, Esq., UHWO



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

July 8, 2011

WILLIAM J. AHL, JR.
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSIONER OF WATER RESOURCE MANAGEMENT

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DIRECTOR

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LAND
STATE PARKS

Ref: 11od-105

Mr. Wayne Y. Yoshioka, Director
Department of Transportation Services
City and County of Honolulu

Honolulu, Hawaii 96813

Dear Mr. Yoshioka:

Subject: Honolulu High-Capacity Transit Corridor Project
Request for Right-of-Entry and Governor's Executive Orders
Tax Map Key Numbers (1) 9-1-17:97 and (1) 9-1-18:05 (the "DLNR Parcels")

The following is in response to your letter dated January 28, 2011 requesting the issuance of Governor's executive order for the purpose of a park-and-ride facility at Kapolei and two easements for the elevated guideway of the rail project in Waipahu and Kapolei.

Over the past few years, the Department of Land and Natural Resources ("DLNR") has expressed our willingness to work with the City and County of Honolulu ("City") regarding the proposed transit facilities. In fact, DLNR, has on several occasions, offered to recommend to the Board of Land and Natural Resources ("BLNR") the approval of easements and approximately five (5) acres of land for a park-and-ride facility, subject to the City's acceptance of certain conditions.

To briefly restate DLNR's proposal, DLNR would consider recommending to the BLNR that: (1) a perpetual easement over the DLNR Parcels be granted to the City for an overhead rail transit line; and (2) approximately five acres of land along or near Kualakai Parkway (fka North-South Road) be provided for a park-and-ride facility upon the City Council's approval to rezone the DLNR Parcels to a zoning district(s) suitable for reasonable commercial development or other income producing uses, e.g., business, industrial, business mixed-use, or industrial-commercial mixed-use districts.¹ See enclosed letters dated October 22, 2008 and June 18, 2009. To date, however, we have not received any written response from the City to our proposal.

It should also be noted that DLNR has expended significant time and effort participating in the City's development of the East Kapolei Neighborhood Transit Oriented Development Plan (TOD), a process that began in October 2008 and included collaborative efforts, discussions, and recommendations involving various government agencies, landowners, community members, and other stakeholders. The resulting TOD Public Review Draft UHWO Station Area Plan, dated April 2010, recommends park-and-ride facilities "should be accommodated in structures or on surface lots adjacent to the station. Parking structures should be wrapped with retail uses on the ground floor, and office and/or residential spaces on

¹ Please note that DLNR's desire to rezone the DLNR parcels to allow commercial or other income-producing uses relates to both DLNR Parcels and is not limited to only those portions of the DLNR Parcels within the City's TOD plan areas.

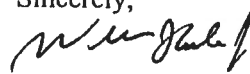
Mr. Wayne Y. Yoshioka, Director
Department of Transportation Services
July 8, 2011
Page 2

the upper floors facing the street to mask the parking." A copy of the corresponding UIIWO Station Land Use Plan is enclosed for your reference.

In sum, DLNR is willing to recommend to the BLNR approval of your request subject to (1) the City's agreement to the conditions set forth above; and (2) the City revising the proposed park-and-ride facility to reflect the location, configuration, and proposed shared uses described in the enclosed TOD plan.

If you have any questions regarding this matter, please feel free to contact Russell Tsuji, Land Administrator at 587-0422.

Sincerely,



William J. Aila Jr.

 Chairperson

Enclosures



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IN REPLY REFER TO:
CMS-APOOROW-00066

HONOLULU AUTHORITY for RAPID TRANSPORTATION

2012 APR 20 A 10:16

Daniel A. Grabauskas
EXECUTIVE DIRECTOR AND CEO

April 18, 2012

DEPT. OF LAND &
NATURAL RESOURCES
STATE OF HAWAII

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Wayne Y. Yoshioka

The Honorable William J. Aila, Chair
Board of Land and Natural Resources
State of Hawaii
P.O. Box 621
Honolulu, Hawaii 96809

Dear Mr. Aila:

Subject: Honolulu Rail Transit Project (HRTTP)
Request for Right-of-Entry and Easement
Tax Map Key No. (1) 9-1-17-97

Thank you for meeting on March 13, 2012, with Mr. David Tanoue and Ms. Kathy Sokugawa of the Department of Planning and Permitting (DPP), together with your Land Management staff and the Honolulu Authority for Rapid Transportation (HART) staff. The meeting was held as requested by the Department of Land and Natural Resources (DLNR) regarding rezoning of two State-owned properties.

DPP confirmed that one of the two DLNR properties (TMK No. (1)9-1-17:97) is proposed to be rezoned to commercial use, as requested by DLNR through the Neighborhood Transit Oriented Development(TOD) Plan process, which will include changes to the Land Use Ordinance to accommodate the Neighborhood TOD Plan. This effort will be conducted by DPP through the City Council. The property is located within the University of Hawaii at West Oahu Transit Station's one-fourth (1/4) mile and one-half (1/2) mile diameter influence area (comfortable walking distance from the station). The other parcel, mauka of Farrington Highway, is generally located outside of the station's influenced area; therefore, any zone change would be independent of the Neighborhood TOD Plan. The processing of the zone change request for the make parcel would be handled by DPP as any other independent zone change request.

DLNR staff expressed concern that there is a disconnect between the East Kapolei Neighborhood TOD Plan site plan for the park-and-ride facility on the State land with the proposed site plan presented by HART. The site plan was revised to be consistent with the Neighborhood TOD plan. However, the location, such as under the guideway, and share use of the park-and-ride facility with State patrons are open for discussion and agreement based the State plan to develop the parcel.

Discussions also were held on DLNR's concern on the turnaround and the gravel road shown on the proposed easement. The turnaround has been removed from the proposed easement. The gravel road is for maintenance purpose and may be removed when the State develops its land with roads that will allow HART access to the guideway. The gravel construction may be replaced with asphalt if the State desire asphalt construction. Attached is the revised map deleting the turnaround and showing the proposed location of the park-and-ride site.

EXHIBIT "G"

The Honorable William J. Aila, Chair
Page 2
April 18, 2012

In discussion with the Federal Transit Administration (FTA), HART was informed that FTA has no role in property transaction between grantee (HART) and third parties (DLNR) and do not interfere with property agreements (easement). If you wish to communicate with FTA on this matter, please contact Mr. Joonsik Maing, Associate Corporate Counsel, at joonsik.maing@dot.gov or telephone number (415) 744-3133. HART has no objection to the State's use of the proposed easement area for parking and roadways as long as there is a 10-foot distance around the columns and guideway structures to meet safety, security, and maintenance requirements. As further assurance to the State that access crossing and the development of the State's abutting land will not be restricted by the guideway, the easement document shall clearly reserve these rights to the State.

Based on the above actions, HART respectfully request that the right-of-entry and easement be submitted for approval by the Board of Land and Natural Resources. Please call Mr. Jerry Iwata at 768-6192 if there are any questions.

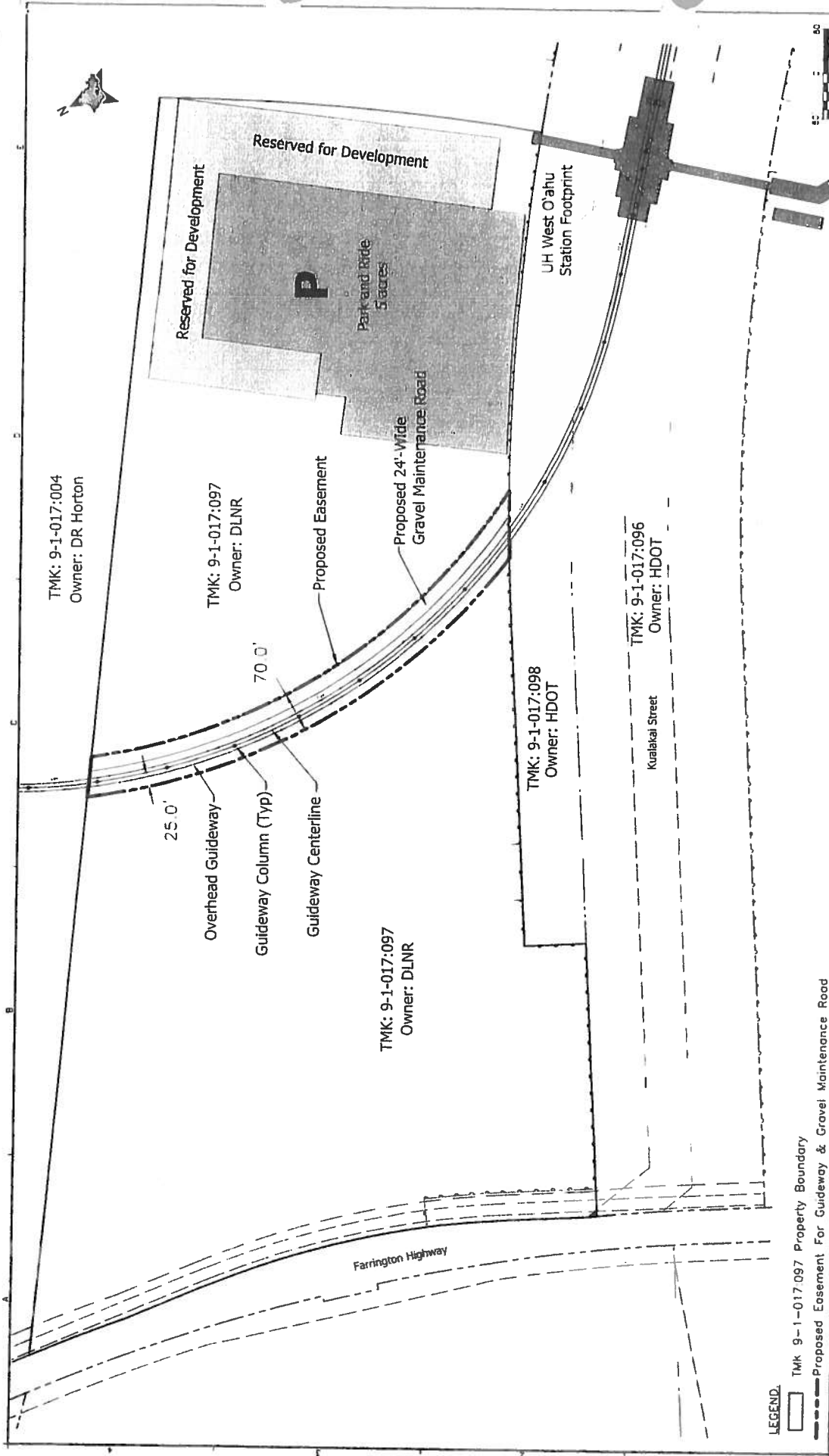
Sincerely,

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

Daniel A. Grabauskas
Executive Director and CEO

Attachment

cc: Mr. David Tanoue -DPP
Ms. Kathy Sokugawa - DPP



LEGEND.

- TMK 9-1-017:097 Property Boundary
- Proposed Easement For Guideway & Gravel Maintenance Road

<p>TMK 9-1-017:004 Owner: DR Horton</p> <p>TMK 9-1-017:097 Owner: DLNR</p> <p>TMK 9-1-017:098 Owner: HDOT</p> <p>TMK 9-1-017:096 Owner: HDOT</p>	<p>Reserved for Development</p> <p>Park and Ride Stairs</p> <p>Proposed Easement</p> <p>Proposed 24'-Wide Gravel Maintenance Road</p> <p>Overhead Guideway</p> <p>Guideway Column (Typ)</p> <p>Guideway Centerline</p> <p>25.0'</p> <p>70.0'</p> <p>UH West Oahu Station Footprint</p> <p>Kualakal Street</p> <p>Farrington Highway</p>	<p>Scale: 1" = 50'</p> <p>North Arrow</p>	<p>Project No.: TMK 9-1-017:097</p> <p>Sheet No.: 1 of 2</p> <p>Proposed Easement</p> <p>March 26, 2012</p>
<p>HONOLULU HIGH-CAPACITY TRANSIT CORRIDOR PROJECT CITY & COUNTY OF HONOLULU - DEPARTMENT OF TRANSPORTATION SERVICES - RAPID TRANSIT DIVISION</p> <p>Prime Consultant: PB FAUSONS & BRUNCKERHOFF 1033 Bishop Street, Suite 2120, Honolulu, HI 96813 For record plans, enlarge print size as needed.</p>		<p>Designed: _____</p> <p>Drawn: _____</p> <p>Checked: _____</p> <p>Approved: _____</p> <p>Date: _____</p>	<p>2012-04-03 4:18 PM K:\CAD\Projects\1033 Bishop Street\1033 Bishop Street\1033 Bishop Street.dwg</p>

EXHIBIT "A"
GUIDEWAY EASEMENT REQUIREMENTS

1. Access along the guideway for maintenance. A multi-use of bike path could provide this access parallel to the guideway.
2. Fire code: 2,500 feet to any point on the guideway. Roads under the guideway can provide this access. A road parallel to the guideway is not required.
3. Access along the guideway that will allow HART access to inspect hatches located approximately every 240 feet and a 20 feet by 30 feet all weather pad that will allow for deployment of a pantagraph lift or bucket truck.
4. Access to maintain electrical duct lines and drain lines on the columns.
5. A clear area with a radius of 13 to 14 feet around each column.
6. No vertical construction allowed under the guideway or within 10-feet of the edge of the guideway, an area approximately 50 feet wide along the centerline of the guideway.
7. Right to clear an area for guideway maintenance purpose and restoration by HART after work is completed

HART

IN REPLY REFER TO:
CMS-AP00ROW-00125

HONOLULU AUTHORITY for RAPID TRANSPORTATION

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August 20, 2012

DEPT. OF LAND
& NATURAL RESOURCES
STATE OF HAWAII

Daniel A. Grabauskas
EXECUTIVE DIRECTOR AND CEO

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Glenn M. Okimoto, Ph.D.

David K. Tanoue

Wayne Y. Yoshioka

The Honorable William J. Aila, Chair
Board of Land and Natural Resources
Department of Land and Natural Resources
State of Hawaii
P.O. Box 621
Honolulu, Hawaii 96809

Dear Mr. Aila:

Subject: Honolulu Rail Transit Project
Request for Right-of-Entry, Easement and
Park-and-Ride Site in East Kapolei,
Honouliuli, Ewa, Oahu
TMK No. (1) 9-1-17:97

Transmitted is the signed confirmation of HART's agreement to the terms and conditions contained in your letter dated July 19, 2012. As your letter indicated, we appreciate your expeditious action of our request for approval by the Board of Land and Natural Resources.

We request a copy of the Land Board submittal for our review and files. Please call Mr. Jerry Iwata at 768-6192 if there are any questions.

Sincerely,



Daniel A. Grabauskas
Executive Director and CEO

Enclosures

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NATURAL RESOURCES
STATE OF HAWAII

EXHIBIT "I"

CROW
5-00089

NEIL ABERCROMBIE
GOVERNOR OF HAWAII



HART

*12 JUL 23 P1:55

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

July 19, 2012

WILLIAM J. AILA, JR.
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

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LAND
STATE PARKS

PSF 110D-105

Daniel A. Grabauskas, Executive Director and CEO
Honolulu Authority for Rapid Transportation
City and County of Honolulu

Honolulu, Hawaii 96813

Re: Honolulu Rail Transit Project—Request for Right-of-Entry, Easement, and Park-and-Ride Site in East Kapolei, Honouliuli, Ewa, Oahu, TMK (1) 9-1-17:97

Dear Mr. Grabauskas:

The following is in response to the Honolulu Authority for Rapid Transportation's ("HART") request for a right-of-entry and easement for an overhead guideway and lands for a park-and-ride facility over State-owned lands in East Kapolei, Oahu.

The Department of Land and Natural Resources ("DLNR") is willing to recommend the following to the Board of Land and Natural Resources ("BLNR"):

1. A right-of-entry to HART for construction of an overhead guideway over the above-referenced lands;
2. A non-exclusive easement to HART for the overhead guideway, including HART's maintenance and repair of the guideway; and
3. A ground lease for up to five (5) acres for a park-and-ride facility. The lease shall be for a term of five (5) years with a five (5) year option to extend upon mutual agreement.

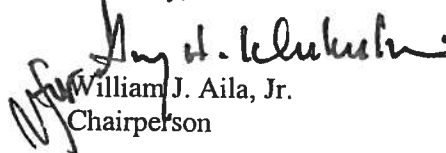
The above shall be subject to the following terms and conditions:

1. The design and plans for the park-and-ride facility shall be subject to DLNR approval. If DLNR, or its lessees or assignees, including the Public Land Development Corporation ("PLDC") is prohibited from constructing improvements under the guideway, the park-and-ride facility shall be located under the guideway. DLNR reserves a one-time right to require the park-and-ride facility to be relocated and/or reconfigured at DLNR's discretion and at HART's expense. The park-and-ride facility may be located on non-contiguous areas, but shall not exceed a total of five acres.

2. The park-and-ride facility shall be open for use by the general public, including but not limited to employees and patrons of any future development projects on the above referenced lands or any adjoining DLNR or PLDC lands and may be used to satisfy the parking requirements for any future on-site and/or off-site development projects of DLNR or PLDC in East Kapolei.
3. Upon expiration of the initial five-year term of the lease, DLNR will evaluate and determine whether the park-and-ride facility represents the highest and best use of these public lands. If DLNR (or its assignees, including the PLDC), determines there is a higher and better use for the lands, DLNR may elect to not extend the lease or may increase the lease rent to reflect the highest and best use.
4. In lieu of upfront monetary compensation from HART for the right-of-entry, easement and lease, DLNR will accept compensation in the form of on-site and off-site development rights and credits (e.g., increased density, height, access) for any future development projects of DLNR or PLDC in East Kapolei.
5. HART's request for the right-of-entry, easement, and five acre park-and-ride site represents HART's entire request for lands and rights over all DLNR lands in East Kapolei.

If HART is agreeable to these terms and conditions, please confirm HART's agreement by signing below and returning the executed letter agreement to my office. Upon receipt of the signed letter agreement, we will expedite our request for approval by the Board of Land and Natural Resources. Thank you.


Sincerely,


William J. Aila, Jr.
Chairperson

cc: Land Board Member
Land Division, Central and District Files

ACKNOWLEDGED AND AGREED:

HONOLULU AUTHORITY FOR RAPID TRANSPORTATION

By: 
Daniel A. Grabauskas
Executive Director and Chief Executive Officer



EAST KAPOLEI NEIGHBORHOOD TOD PLAN

PUBLIC REVIEW DRAFT

APRIL 2010

PREPARED BY:
VAN METER WILLIAMS POLLACK

EXHIBIT "J"

VAN METER
WILLIAMS
POLLACK

PHASING & IMPLEMENTATION STRATEGY



A. PHASING STRATEGY

PHASING & IMPLEMENTATION

Phase 1:

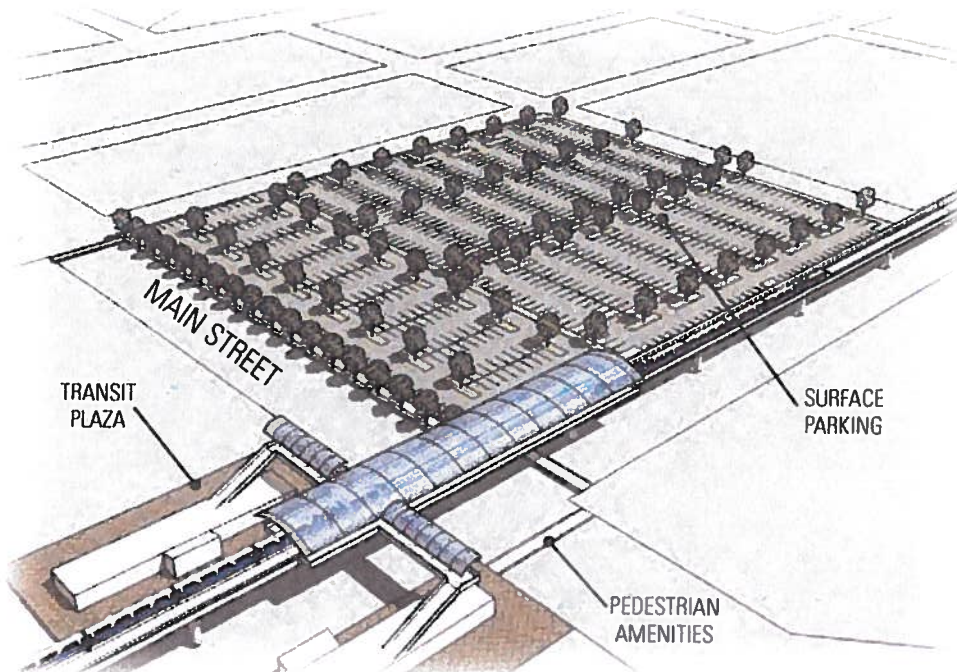
- Build and open transit station
- Blocks adjacent to station will serve as surface parking lots

In accordance with the Ewa Development Plan, phasing needs to be carefully orchestrated to support the vision for Ewa. Appropriate phasing will maximize the effect of investment in infrastructure, guiding development in critical areas and public investment, incorporating the Plan priorities and evaluating progress. The East Kapolei Neighborhood Plan is phased in such a way that it respects the guidelines laid out by the Ewa Development Plan.

The High-Capacity Transit Corridor is a top priority for the Ewa Plan, and the East Kapolei Plan is based on the development of such a corridor. Below is a sample phasing program for a prototypical block at the Ho'opili Station that uses the rapid transit system as a baseline. However, the phasing strategies can be applied to each of the station areas as development occurs.

PHASE I

Phase 1 begins with the construction and opening of the transit station. Blocks adjacent to the station may be used as surface parking / park 'n rides to serve users of the transit line. These surface lots will be attractively landscaped to enhance user satisfaction and reduce the heat island effects that can occur with large paved areas. In addition, street trees will be added to the first portion of the "Main Street" to be developed. To help create a pleasant walking environment for pedestrians, crosswalks and sidewalks will be provided at this time.



PHASE 2

Phase 2 introduces the first mixed-use building on the primary corner of the station area. This building will attract businesses, and residents. It will act as an anchor and catalyst for the area. The remainder of the site will remain a surface parking lot to serve both the mixed-use building and the transit riders until further development can occur.

There will be residences or office space available on the upper floors of the building, while the first floor begins to establish the vibrant, pedestrian friendly streetscape with attractive storefronts and cafes. The riders utilizing the transit stop will help to support the first business tenants as they move from the station to the parking lot beyond.

PHASING & IMPLEMENTATION

Phase 2:

- Develop first mixed-use building adjacent to station

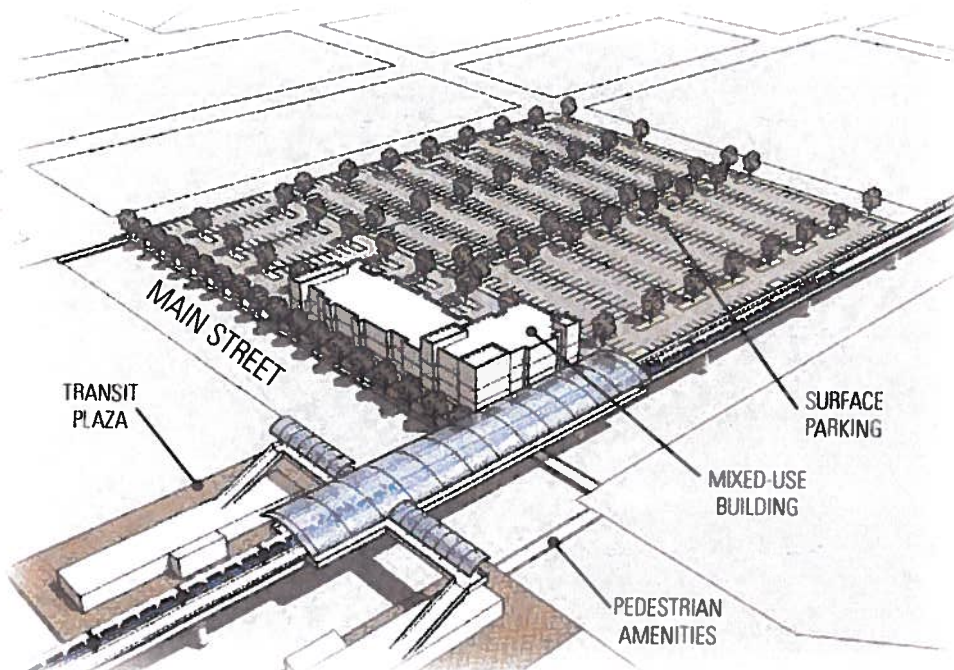


FIGURE 25 Phasing Strategies, Phase 2

PHASING & IMPLEMENTATION

Phase 3:

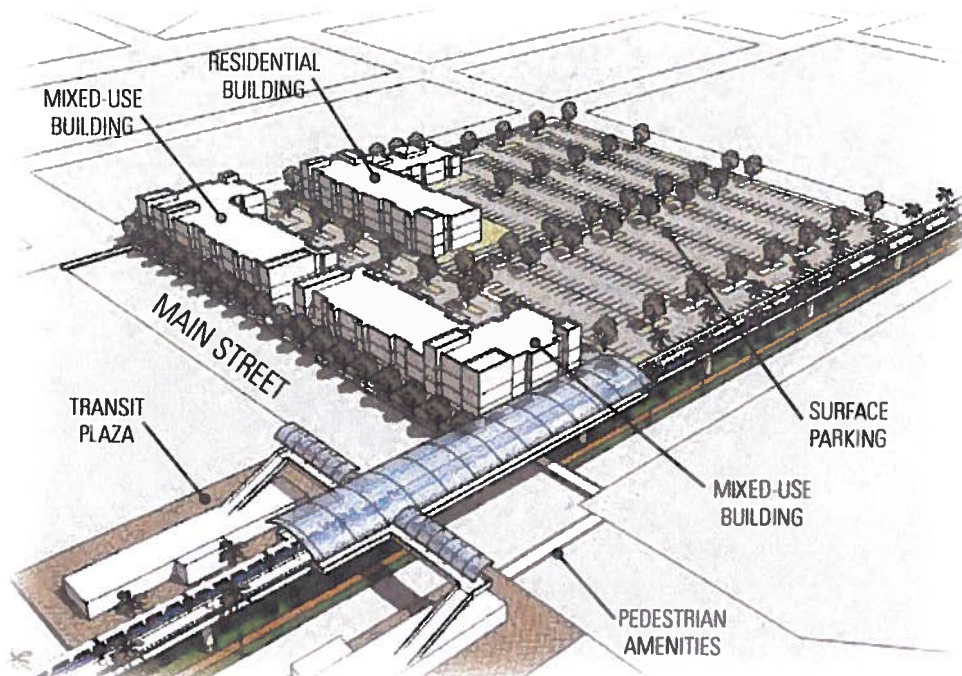
- Construct and open the second mixed-use building
- Construct and open the first residential building

PHASE 3

Phase 3 adds a second mixed-use building extending the "Main Street" facade. This street will cater to the pedestrian with an active ground floor including retail, restaurants and cafes. The "Main Street" will help to establish the station area's identity and provide an amenity for residents and workers.

In addition, Phase 3 also develops the first residential-only building. The residents of this building will help to support the businesses in the mixed-use buildings. This will be an attractive place for potential residents because of its proximity to shops and transit. The residences closest to the transit station will be at a premium because of the amenity that it provides, not only with the rail service but also to the greenway running below the elevated transit line. The greenway will establish an early connection between the neighborhoods being developed along the transit line and further reinforce the principles of both the Ewa Development Plan and East Kapolei Neighborhood TOD Plan.

The greenway is also fully developed at this phase with landscaping, trees and the complete bikeway. People utilizing the bikeway will be connected to each of the station areas in the East Kapolei Neighborhood TOD Plan and can easily travel from one "Main Street" to the next thus fostering the critical regional connection.



PHASE 4

Phase 4 represents full build-out. The entire block is complete and the surface parking has been replaced by more residential buildings and a parking structure that will serve the entire site as well as transit riders. The full build-out block represents a dynamic and cohesive development. The residents support and are attracted by the mixed-use 'main street' which is fully developed and active. A vibrant, pedestrian oriented streetscape awaits visitors, users of the transit line and residents. In addition, the courtyards will provide residents with their own semi-private green space, or, if they chose, they can utilize one of the nearby neighborhood parks.

PHASING & IMPLEMENTATION

Phase 4 (full build out):

- Build remaining residential buildings
- Parking now provided by a semi-enclosed parking structure

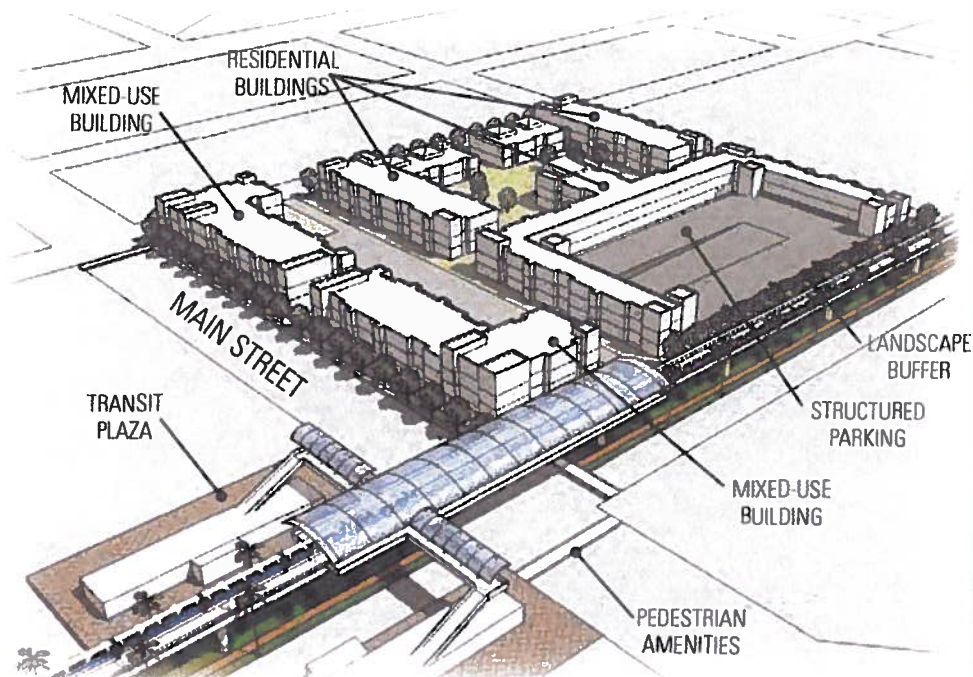


FIGURE 27 - Phasing Strategies, Phase 4 - Full Build Out

NEIL ABERCROMBIE
GOVERNOR OF HAWAII



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES

HISTORIC PRESERVATION DIVISION
KAKUHIHEWA BUILDING
601 KAMOKILA BLVD STE 555
KAPOLEI HI 96707

WILLIAM J. AILA, JR.
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

ESTHER KIA'AINA
FIRST DEPUTY

WILLIAM M. TAM
DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES
BOATING AND OCEAN RECREATION
BUREAU OF CONVEYANCES
COMMISSION ON WATER RESOURCE MANAGEMENT
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CONSERVATION AND RESOURCES ENFORCEMENT
ENGINEERING
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
HOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

August 27, 2013

Mr. Dan Grabauskas
Executive Director and CEO
Honolulu Authority for Rapid Transit
City and County of Honolulu
1099 Alakea Street, 17th Floor
Honolulu, HI 96813

LOG NO.: 2013.4987
DOC. NO.: 1308SL23

Dear Mr. Grabauskas:

**Subject: Chapter 6E-8 and National Historic Preservation Act (NHPA) Section 106 Review—
Archaeological Inventory Survey Report for the Honolulu High-Capacity Transit Corridor
Project, West Kapolei to Ala Moana Center
Honouliuli, Ho'ae'ae, Waikale, Waipi'o, Waiawa Manana, Waimano, Waiiau, Waimalu, Kalauao,
'Aiea, and Halawa Ahupua'a, 'Ewa District and Moanalua, Kalihi, Kapālama, Honolulu, and
Waikiki Ahupua'a, Honolulu (Kona) District, Island of O'ahu
TMK: (1) 1-1, 1-2, 1-5, 1-7, 2-1, 2-3, 9-1, 9-4, 9-6, 9-7, 9-8, and 9-9 (Various Plats and Parcels)**

SHPD has received, reviewed, and hereby accepts the archaeological inventory survey reports for the Honolulu High-Capacity Transit Corridor Project (HHCTCP or project), including all phases of the project. The reports are collectively referred to herein as "the AIS." Supportive documentation is provided in four appendices (A–D).

The Honolulu High-Capacity Transit Corridor Project (HHCTCP) includes the use of federal funds and involves lands under several jurisdictions, including Federal, State, City and County of Honolulu, and private. Pursuant to 36 CFR 800.3(a), the proposed project constitutes an undertaking subject to review under Section 106. The project was determined to have an adverse effect on historic properties within the transit corridor and a Programmatic Agreement was executed on January 18, 2011 between the Federal Transit Administration (FTA), the Hawaii State Historic Preservation Officer (SHPO), the US Navy and the Advisory Council on Historic Preservation as signatories and the City and County of Honolulu as an invited Signatory. An archaeological inventory survey for the four phases of the project under HAR Chapter 13-276 is stipulated as a mitigation measure in the PA. The PA also stipulates that archaeological fieldwork would be done in advance of the completion of final design and approved by SHPD. The terms of the Programmatic Agreement also stipulate that the Area of Potential Effect (APE) for archaeological resources is all areas of direct ground disturbance.

The area of direct ground disturbance for the entire 23 mile corridor is approximately 113 acres, and the survey study area is the 23 mile corridor. A total of 423 test trenches were excavated for this AIS. A list of accepted reports, dates of acceptance, SHPD log and document numbers, the APE and survey areas, and historic properties and mitigation is included as Appendix A to this letter. An Archaeological Inventory Survey Plan was accepted for each of the project's four phases, and Addendum Archaeological Survey Plans were accepted for Phases 3 and 4. All plans are collectively referred to as "AISP."

Archaeological Inventory Survey Reports were accepted for each of the project's four phases and a Supplemental Archaeological Inventory Survey Report was accepted for Phase 2. SHPD acceptance letters are attached to this letter as Appendix D. We confirm that the archaeological inventory surveys for all phases were conducted in accordance with the AISP for the corresponding phase of the project.

EXHIBIT "K"

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A total of 21 historic properties were found throughout the corridor. Two additional historic properties have the potential to be affected but were not relocated (SIHP Sites 7197 and 5966). Appendix B lists all of the historic properties that are potentially affected by this project. SHPD has concurred with the proposed significance determinations as listed in Appendix B. SHPD also concurs with the proposed effect determination, which is an "adverse effect" on historic properties under 36 CFR 800(5) and "effect with proposed mitigation commitments" under HAR §13-275-7(2). Thus, mitigation recommendations were provided and are listed in Appendix B. SHPD concurs with the mitigation proposals as listed.

In addition, SHPD received comments from 13 individuals with a total of 98 comments related to archaeological inventory survey for the entire Rail Corridor. The majority of the comments requested more test trenches in column locations, station locations and utility relocation corridors. Several of the comments requested more testing in areas that had been abandoned due to meeting the water table or due to unstable soil. Fifty-seven comments were about Phase 4, with 49 of those comments requesting more testing. A total of 38 comments addressed the first three phases of rail, with most requesting additional testing. Thirteen comments addressed underground karst caves and water systems and their relation to cultural practices at shore.

SHPD reviewed and considered all of the comments and believes that adequate testing has been done for this project. Several of the comments related to sites outside of the project corridor. Data recovery is the mitigation proposed for a total of nine sites, eight (8) in the City Center phase and one (1) within the Waipahu Transit Center Station footprint (Site 7751). Data recovery fieldwork is complete at Site 7751 and an Interim Protection Plan (IPP) pursuant to HAR§13-275-9(d) is being prepared for the eight (8) sites in the City Center. SHPD notes that any burials found during data recovery are considered previously known and the determination to remain in place or relocate those *iwi* will be the purview of the O'ahu Island Burial Council. A table listing all of the comments and responses will be posted on the HART website in September.

The AIS for the project, including the entire rail corridor, meets the requirements specified in the *Secretary of the Interior's Standards for Archeological Documentation* and the requirements set forth in HAR Chapter 13-276 "Rules governing standards for Archeological Inventory Surveys and Reports." Hard copies of the final reports and PDF's have been requested in prior correspondence. Appendix C lists all of the volumes related to the AIS for this project and encompassed by this acceptance letter. We look forward to receiving an IPP and detailed mitigation plans per HAR Chapters 13-275-8, 9 and 10. Please contact Dr. Susan A Lebo at (808) 692-8019 or Susan.A.Lebo@hawaii.gov if you have any questions regarding this letter.

Aloha,



William J. Aila, Jr.
State Historic Preservation Officer

Enclosures:

- Appendix A: HCRTCP List of Reports Accepted by SHPD
- Appendix B: List of Potentially Affected Sites, Significance and Mitigation
- Appendix C: List of Reports Associated with the Archaeological Inventory Survey for the Honolulu High Capacity Rapid Transit Corridor Project.
- Appendix D: SHPD Acceptance Letters for the Honolulu High Capacity Rapid Transit Corridor