CITY COUNCIL

CITY AND COUNTY OF HONOLULU
HONOLULU, HAWAII

No. 23-137

RESOLUTION

APPROVING THE SALE OF THE REAL PROPERTY PURCHASED BY THE HONOLULU AUTHORITY FOR RAPID TRANSPORTATION LOCATED AT 2613 WAIWAI LOOP, HONOLULU, HAWAII 96819, IDENTIFIED AS TAX MAP KEY NO. (1) 1-1-016-016 TO INTERNATIONAL EXPRESS, INCORPORATED

WHEREAS, Paragraph 16 of Section 46-1.5, Hawaii Revised Statutes, as amended (HRS), authorizes the counties, under certain conditions, to dispose of real property as the interests of the inhabitants of the county may require; and

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 (Amended 2017 Edition) (Charter), and given the authority to develop the City's fixed guideway system; and

WHEREAS, Section 17-103.2(b) of the Charter empowers HART "[t]o acquire by eminent domain, purchase, lease or otherwise, in the name of the city, all real property or any interest therein necessary for the development of the fixed guideway system . . . ."; and

WHEREAS, on January 5, 2016, HART purchased, in the name of the City and County of Honolulu (City) for the use and benefit of HART, the fee simple interest in Lot 101, more particularly described in Exhibit A, located at 2613 Waiwai Loop, Honolulu, Hawaii 96819, and identified as Tax Map Key (TMK) (1) 1-1-016-016 (Property) from International Express, Incorporated (IEX), for $5,936,000; and

WHEREAS, HART acquired the Property because it was determined that the guideway straddle bent column to be located at the Property (Column) prevented necessary access to the Property; and

WHEREAS, after HART acquired the Property, a redesign of that portion of the HRTP moved the Column to a location that restored access to the Property; and

WHEREAS, the Column has since been constructed and does not diminish the utility of the entire Property; and

WHEREAS, IEX has continued its operations under a lease-back arrangement with HART and desires to reacquire the Property; and

WHEREAS, HART does not need to retain the entire Property and is willing and able to sell the Property back to IEX, subject to easements for the Column and the overhead guideway; and

BUD
D-390(23)

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WHEREAS, HART desires to sell the property back to IEX for the fair market value of the Property as determined by an appraisal that complies with the requirements of the Federal Transit Administration ("FTA"); and

WHEREAS, a 2019 appraisal determined that the fair market value of the Property was $6,400,000, which amount has been concurred by the FTA; and

WHEREAS, in connection with the sale of the Property to IEX, IEX will provide HART with easements 312A and 312 (Easements) necessary for the Column and overhead guideway, respectively, as shown on Exhibit B; and

WHEREAS, the sale of the Property back to IEX and IEX's grant of easements 312A and 312 to HART also effectuate a settlement between HART and IEX of various claims by IEX, and the Council recognizes that as part of the settlement, the purchase price of the Property may be offset at closing by amounts credited by HART; and

WHEREAS, Section 17-103.2(c) of the Charter empowers HART "[to] recommend to the council the sale, exchange or transfer of real property or any interest therein which is under the control of the authority, and further states that "[t]he council shall take no action to dispose of such property without the written approval of the authority, and all proceeds from the disposition shall be deposited into the transit fund"; and

WHEREAS, on May 11, 2023, the HART Board of Directors adopted Resolution 2023-1 (Exhibit C) approving HART's settlement with IEX pursuant to Section 17-112 of the Charter, and recommending that the Honolulu City Council authorize the sale of the Property to IEX, for the fair market value of the Property as determined by an appraisal that complies with FTA requirements, and with which the FTA has concurred for purposes of the sale of the Property; and now, therefore,

BE IT RESOLVED by the Council of City and County of Honolulu that it approves the sale of the Property to IEX, for the fair market value of the Property as determined by an appraisal that complies with FTA requirements, and with which the FTA has concurred for purposes of the sale of the Property; and

BE IT FURTHER RESOLVED that the sale be in accordance with the recommendations of HART and any additional conditions approved by HART, including any related transactions and any credits to be applied by HART to the purchase price at closing, and with all applicable laws; and

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BE IT FURTHER RESOLVED that the Executive Director of HART or the Executive Director's designee is authorized to execute the deed and other necessary documents to complete this transaction; and

BE IT FINALLY RESOLVED that certified copies of this resolution be transmitted to the Executive Director of HART.

INTRODUCED BY:

(br)

DATE OF INTRODUCTION:

JUN 14 2023

Honolulu, Hawaii

Councilmembers

EXHIBIT A

All of that certain parcel of land situate at Moanalua, Honolulu, City and County of Honolulu, State of Hawaii, described as follows:

LOT 101, area 22,500 square feet, more or less, as shown on Map 150, filed in the Office of the Assistant Registrar of the Land Court of the State of Hawaii with Land Court Application No. 1074 of the Trustees under the Will and of the Estate of Samuel M. Damon, deceased.

Being a portion of land described in Transfer Certificate of Title No. 1,109,609 issued to the Grantor.

END OF EXHIBIT A

EXHIBIT B

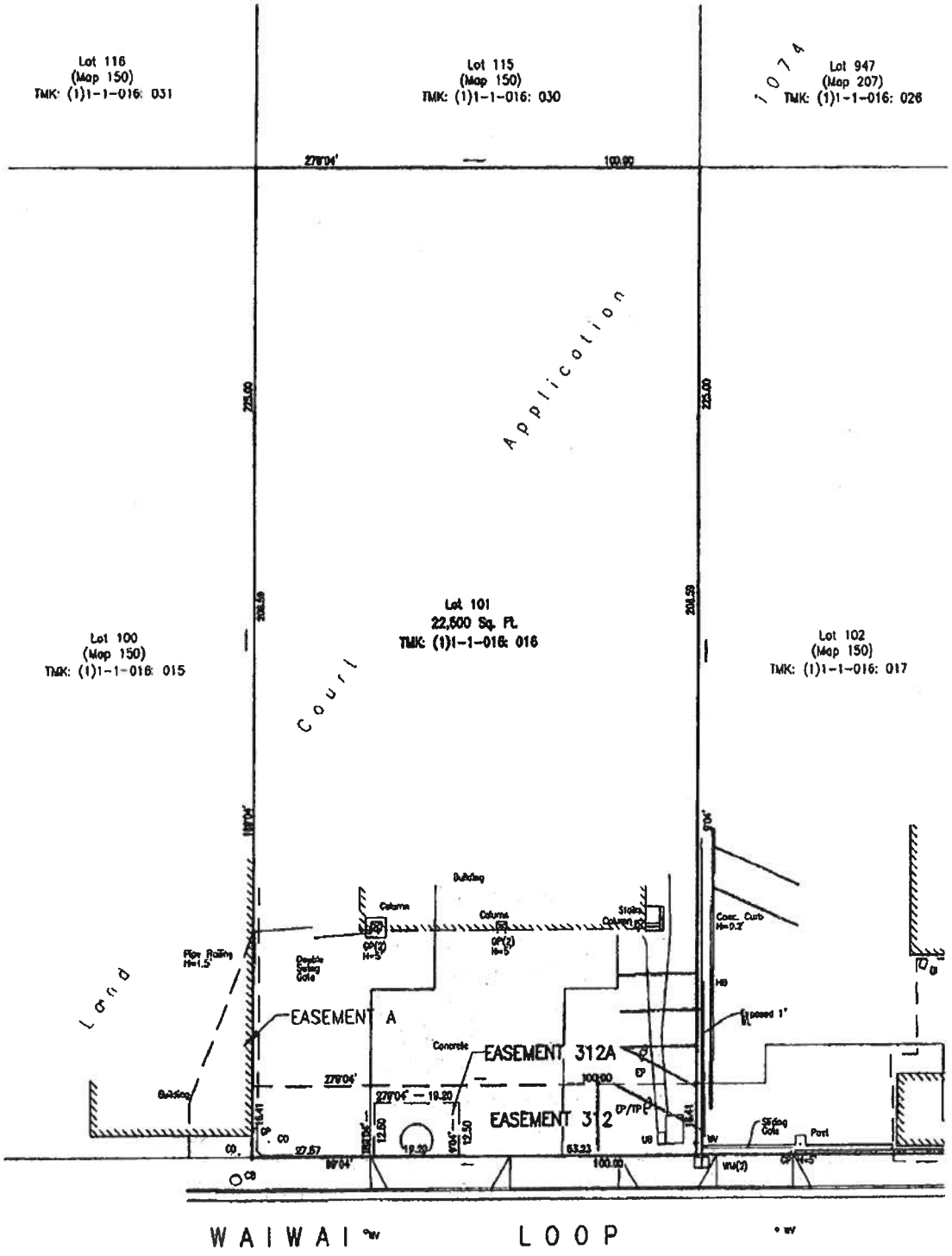

Lot 116
(Map 150)
TMK: (1)1-1-016: 031
Lot 115
(Map 150)
TMK: (1)1-1-016: 030
Lot 947
(Map 207)
TMK: (1)1-1-016: 026
1074
Application
Court
Lot 101
22,500 Sq. Ft.
TMK: (1)1-1-016: 016
Lot 100
(Map 150)
TMK: (1)1-1-016: 015
Lot 102
(Map 150)
TMK: (1)1-1-016: 017
Land
EASEMENT A
EASEMENT 312A
EASEMENT 312
WAIWAI LOOP

Exhibit C

Honolulu Authority for Rapid Transportation

RESOLUTION NO. 2023-1

APPROVING AND RECOMMENDING THAT THE CITY AND COUNTY OF HONOLULU AUTHORIZE THE SALE OF THE REAL PROPERTY LOCATED AT 2613 WAIWAI LOOP, HONOLULU, HAWAII 96819, IDENTIFIED AS TAX MAP KEY NO. (1) 1-1-016-016 TO INTERNATIONAL EXPRESS, INCORPORATED

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 (Amended 2017 Edition) (Charter); and

WHEREAS, Section 17-103.2.(b) of the Charter empowers HART to acquire real property or real property interests necessary for the development of the Honolulu Rail Transit Project (HRTP) by eminent domain, purchase, lease or otherwise, in the name of the City and County of Honolulu (City); and

WHEREAS, on January 5, 2016, HART acquired, in the name of the City, the fee simple interest in Lot 101, more particularly described in Exhibit A, located at 2613 Waiwai Loop, Honolulu, Hawaii 96819, and identified as Tax Map Key (TMK) (1) 1-1-016-016 (Property) from International Express, Incorporated (IEX), for $5,936,000; and

WHEREAS, HART acquired the Property because it was determined that the guideway straddle bent column to be located at the Property (Column) prevented necessary access to the Property; and

WHEREAS, after HART acquired the Property, a redesign of that portion of the HRTP moved the Column to a location that restored access to the Property; and

WHEREAS, the Column has since been constructed and does not diminish the utility of the entire Property; and

WHEREAS, IEX has continued its operations under a lease-back arrangement with HART and desires to reacquire the Property; and

WHEREAS, HART does not need to retain the entire Property and is willing and able to sell the Property back to IEX, subject to easements for the Column and the guideway overhead; and

WHEREAS, HART has negotiated a settlement with IEX that includes the sale of the property back to IEX for the fair market value of the Property as determined by an appraisal that complies with the requirements of the Federal Transit Administration ("FTA"); and

WHEREAS, a 2019 appraisal determined that the fair market value of the Property was $6,400,000, which amount has been concurred by the FTA; and

WHEREAS, the settlement also requires IEX to provide HART with easements 312 and 312A (Easements) necessary for guideway and staddle bent column purposes, as shown on Exhibit B; and

WHEREAS, the settlement will also involve certain payments from HART to IEX, which may be applied as a credit to the purchase price of the Property at closing; and

WHEREAS, the sale of the Property back to IEX does not conflict with HART's construction or operation of the HRTP; and

WHEREAS, Section 17-103.2(c) of the Charter empowers HART "[to] recommend to the council the sale, exchange or transfer of real property or any interest therein which is under the control of the authority"; and

WHEREAS, the Charter also states that the "council shall take no action to dispose of such property without the written approval of the authority"; and

WHEREAS, this resolution was approved contingent upon the referral of this matter to the Office of the Inspector General.

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

1. The HART Board of Directors approves and recommends to the Honolulu City Council the sale of the Property to IEX, for the fair market value of the Property as determined by an appraisal that complies with FTA requirements, and with which the FTA has concurred for purposes of the sale of the Property; and
2. That a copy of this Resolution be transmitted to the Honolulu City Council.

ADOPTED by the Board of the Honolulu Authority for Rapid Transportation on May 11, 2023.

Board Chair

ATTEST:

Board Executive Officer

EXHIBIT A

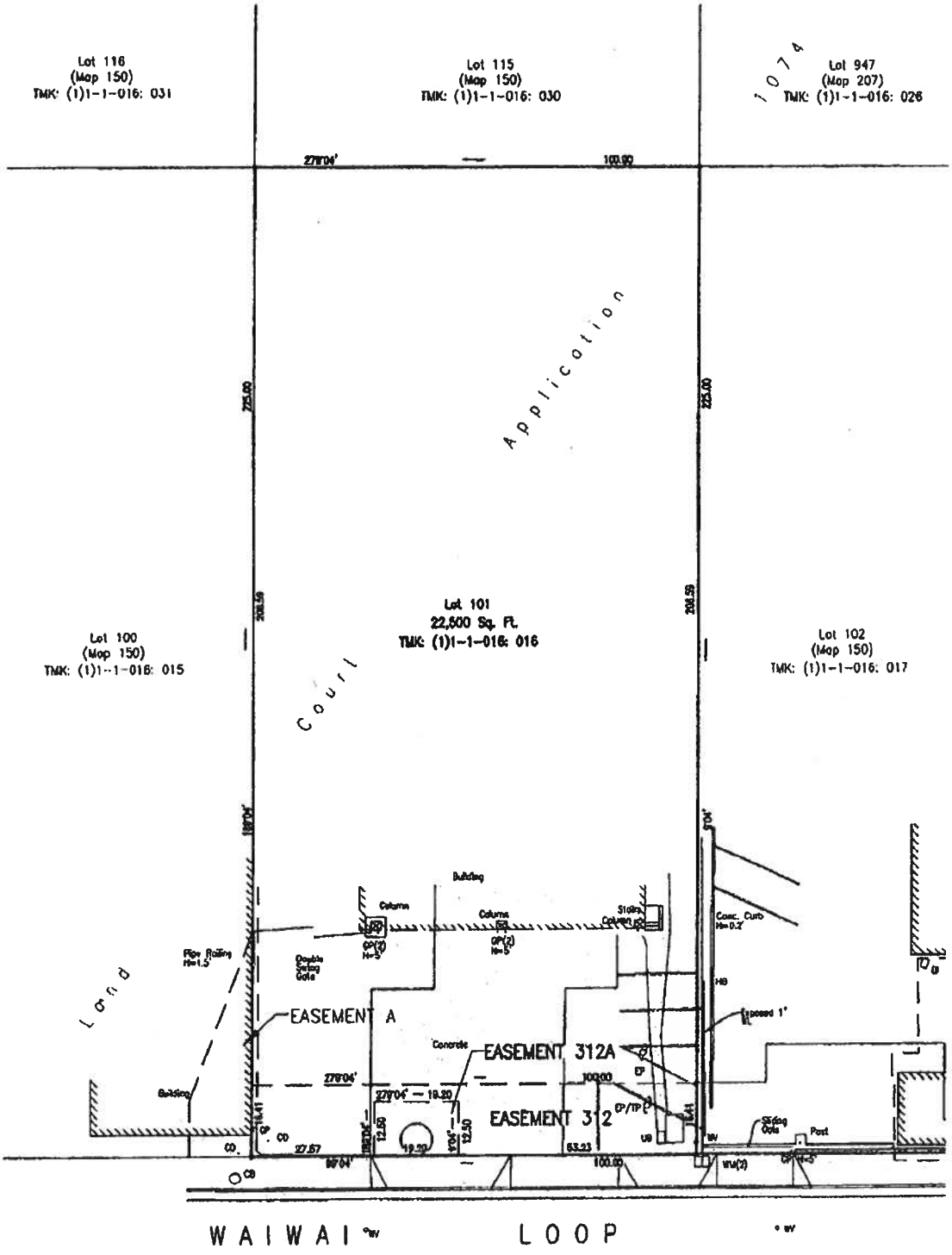
All of that certain parcel of land situate at Moanalua, Honolulu, City and County of Honolulu, State of Hawaii, described as follows:

LOT 101, area 22,500 square feet, more or less, as shown on Map 150, filed in the Office of the Assistant Registrar of the Land Court of the State of Hawaii with Land Court Application No. 1074 of the Trustees under the Will and of the Estate of Samuel M. Damon, deceased.

Being a portion of land described in Transfer Certificate of Title No. 1,109,609 issued to the Grantor.

END OF EXHIBIT A

EXHIBIT B


Lot 116
(Map 150)
TMK: (1)1-1-016: 031
Lot 115
(Map 150)
TMK: (1)1-1-016: 030
Lot 947
(Map 207)
TMK: (1)1-1-016: 026
1074
Application
Lot 101
22,500 Sq. Ft.
TMK: (1)1-1-016: 016
Lot 100
(Map 150)
TMK: (1)1-1-016: 015
Lot 102
(Map 150)
TMK: (1)1-1-016: 017
Court
Land
EASEMENT A
EASEMENT 312A
EASEMENT 312
WAIWAI LOOP

CITY COUNCIL
CITY AND COUNTY OF HONOLULU
HONOLULU, HAWAII

CERTIFICATE

RESOLUTION 23-137

Introduced: 06/14/23 By: TOMMY WATERS - BY REQUEST Committee: BUDGET (BUD)

Title: APPROVING THE SALE OF THE REAL PROPERTY PURCHASED BY THE HONOLULU AUTHORITY FOR RAPID TRANSPORTATION LOCATED AT 2613 WAIWAI LOOP, HONOLULU, HAWAII 96819, IDENTIFIED AS TAX MAP KEY NO. (1) 1-1-016-016 TO INTERNATIONAL EXPRESS, INCORPORATED

Voting Legend: * = Aye w/Reservations

06/14/23	INTRO	Introduced.
06/20/23	BUD	Reported out for adoption. CR-177 5 AYES: CORDERO, KIA'ĀINA, SAY, TULBA, WEYER
07/12/23	CCL	Committee report and Resolution were adopted. 8 AYES: CORDERO, DOS SANTOS-TAM, KIA'ĀINA, OKIMOTO, SAY, TULBA, WATERS, WEYER 1 ABSENT: TUPOLA

I hereby certify that the above is a true record of action by the Council of the City and County of Honolulu on this RESOLUTION.

GLEN I. TAKAHASHI, CITY CLERK

TOMMY WATERS, CHAIR AND PRESIDING OFFICER