

COUNCIL OF THE COUNTY OF MAUI

INFRASTRUCTURE AND ENVIRONMENTAL MANAGEMENT COMMITTEE

January 24, 2014

Committee
Report No. _____

Honorable Chair and Members
of the County Council
County of Maui
Wailuku, Maui, Hawaii

Chair and Members:

Your Infrastructure and Environmental Management Committee, having met on January 6, 2014, makes reference to County Communication 13-380, from the Director of Public Works, transmitting a proposed resolution entitled "APPROVING THE ACQUISITION OF REAL PROPERTY (DRAINAGE EASEMENT D-2) AT HAIKU, HAMAKUALOA, ISLAND OF MAUI, HAWAII FOR THE HAIKU ROAD CULVERT REPLACEMENT PROJECT".

The purpose of the proposed resolution is to authorize the purchase of a drainage easement of approximately 14,785 square feet located on a portion of land identified as TMK: (2) 2-7-020:009 with an appraised value of \$102,430. The easement is needed to allow for improvements to the Haiku Road culvert in Haiku, Maui.

Your Committee notes, pursuant to Section 3.44.015(B), Maui County Code, the Council shall authorize the acquisition of real property with a purchase price that exceeds \$100,000 by resolution, approved by a majority of its members.

The Director of Public Works stated a portion of the Haiku Road Culvert Replacement Project requires the acquisition of a drainage easement. The subject easement has been appraised, an offer has been made, and the owners have accepted the offer, subject to Council approval.

The Director further stated approval to authorize the acquisition of this easement will improve drainage under Haiku Road and through Lilikoi Gulch, thereby improving public safety and ensuring environmental quality during periods of heavy rainfall in the area.

Your Committee voted 5-0 to recommend adoption of the proposed resolution and filing of the communication. Committee Chair Cochran, Vice-Chair Crivello, and members Carroll, Couch, and White voted "aye". Committee members Guzman and Hokama were excused.

COUNCIL OF THE COUNTY OF MAUI
**INFRASTRUCTURE AND ENVIRONMENTAL
MANAGEMENT COMMITTEE**

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Committee
Report No. _____

Your Infrastructure and Environmental Management Committee
RECOMMENDS the following:

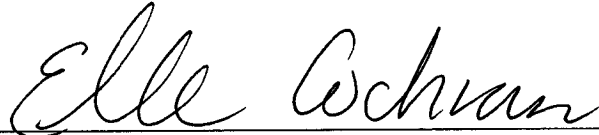
1. That Resolution _____, attached hereto, entitled "APPROVING THE ACQUISITION OF REAL PROPERTY (DRAINAGE EASEMENT D-2) AT HAIKU, HAMAKUALOA, ISLAND OF MAUI, HAWAII FOR THE HAIKU ROAD CULVERT REPLACEMENT PROJECT", be ADOPTED; and
2. That County Communication 13-380 be FILED.

COUNCIL OF THE COUNTY OF MAUI
**INFRASTRUCTURE AND ENVIRONMENTAL
MANAGEMENT COMMITTEE**

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Committee
Report No. _____

This report is submitted in accordance with Rule 8 of the Rules of the Council.



ELLE COCHRAN, Chair

iem:cr:14034aa:scj

Resolution

No. _____

APPROVING THE ACQUISITION OF REAL
PROPERTY (DRAINAGE EASEMENT D-2)
AT HAIKU, HAMAKUALOA, ISLAND OF MAUI, HAWAII
FOR THE HAIKU ROAD CULVERT REPLACEMENT PROJECT

WHEREAS, the County of Maui, Department of Public Works has proposed the repair of the existing concrete box culvert under Haiku Road; replacement of the concrete box culvert outlet and headwall; installation of a new grated inlet and drainline; rebuilding of embankment; construction of a new energy dissipater basin; installation of a new chain link fence along Haiku Road; replacement of guardrails; and repair of the pavement of adjacent portions of Haiku Road in its Haiku Road Culvert Replacement Project; and

WHEREAS, the proposed reconstructed drainage culvert and related new improvements are intended to repair the roadway and improve drainage under Haiku Road and through Lilikoi Gulch; and

WHEREAS, the proposed project will prevent future erosion of the embankment below Haiku Road from storm water runoff and lessen the likelihood of road closures due to storm water runoff from heavy rains; and

WHEREAS, the construction of the energy dissipater basin is a Best Management Practices mitigation measure and will prevent erosion of the downstream properties within Lilikoi Gulch and further degradation of water quality downstream from sediments due to erosion; and

WHEREAS, the subject project involves construction of an upgraded drainage system that will require the acquisition of two access easements and two drainage easements for permanent drainage purposes; and

WHEREAS, the Haiku Road Culvert Replacement Project will provide Maui County with improved public safety and environmental quality during periods of heavy rainfall in this area; and

WHEREAS, according to an appraisal prepared by ACM Consultants, Inc., dated July 15, 2013, Drainage Easement D-2, a required easement for the project, has an indicated value of \$102,430 for 14,785 sq. ft. located on a portion of TMK: 2-7-020:009 (hereinafter referred to as the "subject property"); and

WHEREAS, the location of Easement D-2 is identified and described in Exhibit "A" attached hereto; and

WHEREAS, Section 3.44.015.B, Maui County Code, provides that, in the case of an interest in real property with a purchase price that exceeds \$100,000, the County Council shall authorize the acquisition by passage of a resolution; and

WHEREAS, pursuant to the Cash Offer Letter attached hereto as Exhibit "B", the County has offered to purchase Easement D-2 from the owners of the subject property for the sum of \$102,430, and the owners have accepted, subject to Council approval; and

WHEREAS, the Council finds that acquisition of Easement D-2 is in the public interest; now, therefore,

BE IT RESOLVED by the Council of the County of Maui:

1. That, pursuant to Section 3.44.015.B, Maui County Code, the Council hereby approves the acquisition of Easement D-2 in accordance with the terms of the Cash Offer Letter attached hereto as Exhibit "B"; and

2. That it does hereby authorize the Mayor of the County of Maui, or the Mayor's duly authorized representative, to execute all necessary documents in connection with the acquisition of Easement D-2; and

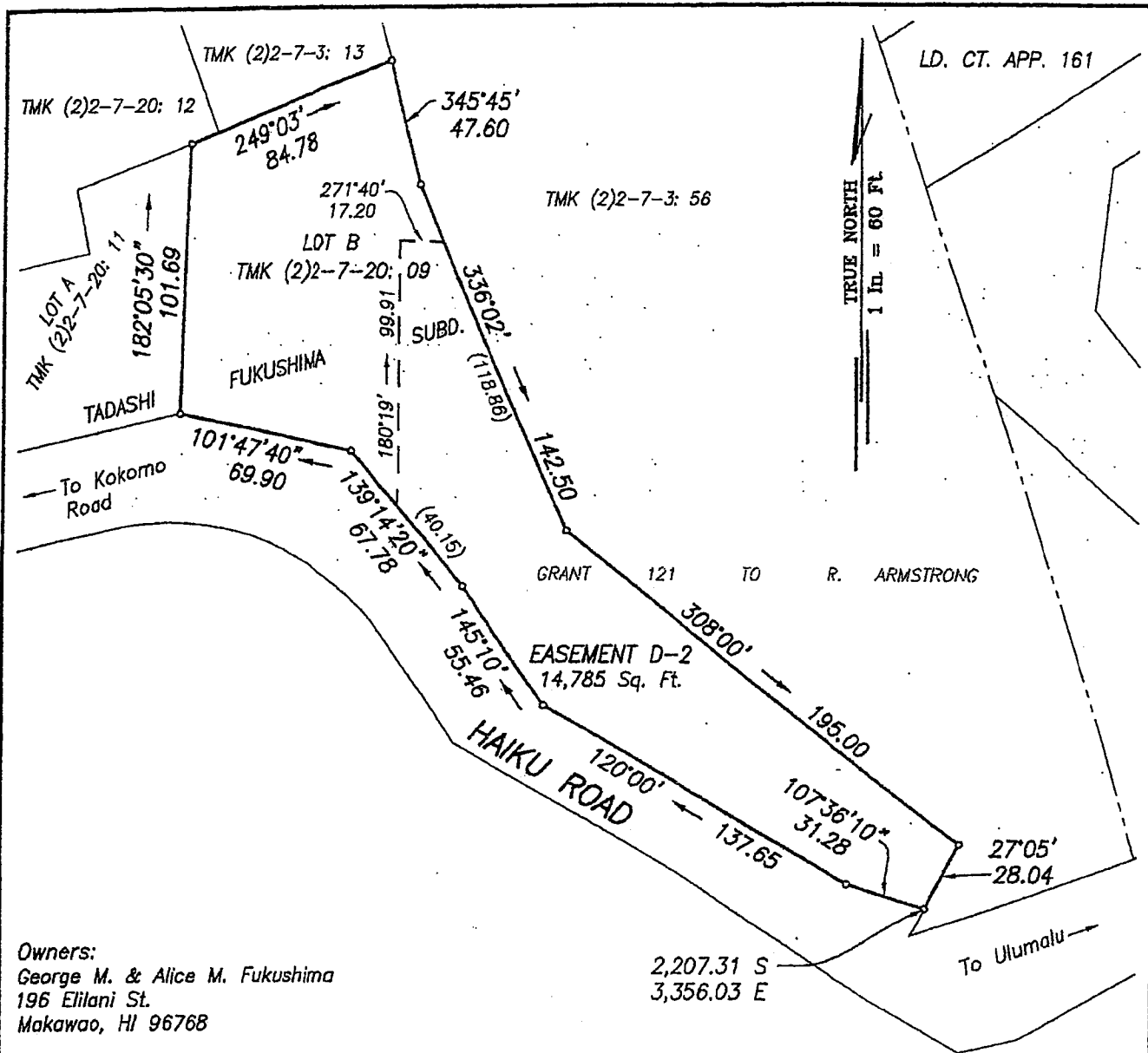
3. That certified copies of this Resolution be transmitted to the Mayor, the Director of Finance, and the Director of Public Works.

APPROVED AS TO FORM
AND LEGALITY:



MICHAEL HOPPER
Deputy Corporation Counsel
County of Maui

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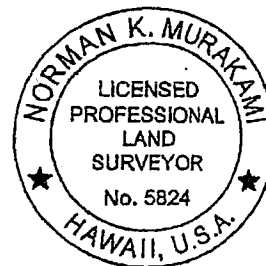


Owners:
 George M. & Alice M. Fukushima
 196 Elilani St.
 Makawao, HI 96768

Doris M. Takeuchi
 943 E. Helmick St.
 Carson, CA 90746

**DESIGNATION OF
 EASEMENT D-2
 AFFECTING A PORTION OF LOT B
 OF TADASHI FUKUSHIMA SUBDIVISION
 BEING A PORTION OF GRANT 121
 TO R. ARMSTRONG**

TAX MAP KEY (2) 2-7-20: 09
 HAIKU, HAMAKUALOA, MAUI, HAWAII



Notes:

Azimuths and coordinates referred to government triangulation station "HAIKU".

Easement D-2 is for drainage purposes in favor of County of Maui.

Title report not recieved from client.

MAY 23, 2013
 Revised JULY 31, 2013

This work was prepared by me or under my supervision.

Norman K. Murakami

Norman K. Murakami
 Licensed Professional Land Surveyor
 Certificate Number LS-5824, Exp. 4/30/14

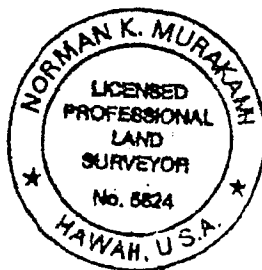


EASEMENT D-2

An easement for drainage purposes on the northerly side of Haiku Road affecting a portion of Lot B of Tadashi Fukushima Subdivision, being a portion of Grant 121 to R. Armstrong, at Haiku, Hamakualoa, Maui, Hawaii.

Beginning at the southerly corner of this easement, being also the southerly corner of Lot B of Tadashi Fukushima Subdivision, the coordinates of said point of beginning referred to Government Survey Triangulation Station "HAIKU" being 2,207.31 feet south and 3,356.03 feet east and running by azimuths measured clockwise from True South:

1. 107 ° 36' 10 " 31.28 feet along the northerly side of Haiku Road;
2. 120 ° 00' 137.65 feet along same;
3. 145 ° 10' 55.46 feet along same;
4. 139 ° 14' 20 " 40.15 feet along same;
5. 180 ° 19' 99.91 feet along the remainder of Lot B of Tadashi Fukushima Subdivision;
6. 271 ° 40' 17.20 feet along same;
7. 336 ° 02' 118.86 feet along a portion of Grant 121 to R. Armstrong (Tax Map Key (2) 2-7-3:56);
8. 308 ° 00' 195.00 feet along same;
9. 27 ° 05' 28.04 feet along same to the point of beginning and containing an area of 14,785 Square Feet.



Norman K. Murakami

Norman K. Murakami
Licensed Professional Land Surveyor
Certificate No. LS-5824, expires 04/30/14

September 30, 2013
TMK: (2) 2-7-20: 9

FN 09007-09A

ControlPoint Surveying, Inc.
1129 Lower Main Street, Suite 102
Wailuku, Hawaii 96793

ALAN M. ARAKAWA
Mayor



DANILO F. AGSALOG
Director of Finance

MARK R. WALKER
Deputy Director of Finance

COUNTY OF MAUI
DEPARTMENT OF FINANCE
200 S. HIGH STREET
WAILUKU, MAUI, HAWAII 96793

October 21, 2013

Mr. George M. Fukushima
Mrs. Alice M. Fukushima
196 Elilani Street
Makawao, HI 96768

Mrs. Doris M. Takeuchi
943 E. Helmick Street
Carson, CA 90746

**SUBJECT: HAIKU ROAD CULVERT REPLACEMENT PROJECT
OFFER & ACCEPTANCE FOR ACQUISITION OF AN INTEREST
IN REAL PROPERTY; INVOLVING TMK: (2) 2-7-020:009
(Drainage Easement D-2)**

Dear Mr. & Mrs. Fukushima and Mrs. Takeuchi:

You are on record as being the owner of the fee simple interest at the subject TMK property. If this is not correct, please inform us immediately. The County of Maui has completed its design of a project that will help to alleviate flood concerns in your area. For purposes of the subject project, the County of Maui must acquire a drainage easement containing approximately 14,785 sq. ft. as shown on Exhibit "A" enclosed.

Pursuant to Maui County Code, Chapter 3.44 and based on an independent appraisal by ACM Consultants, Inc., dated July 15, 2013, with an effective date of June 26, 2013, the County of Maui is willing to make a cash settlement offer in the total amount of One Hundred Two Thousand Four Hundred Thirty and no/100 dollars (\$102,430.00) to acquire the above described area for a drainage easement shown on Exhibit "A." This offer shall expire in 30 days from the date of this offer letter and be subject to the following conditions:

1. If funding for this project lapses or the project is terminated, postponed or substantially changed prior to the closing of this proposed acquisition, this offer and any acceptance of the offer may be deemed void upon written notice by the County of Maui.
2. If this project is delayed and the appraised value expires for purposes of meeting the restrictions imposed by the Department of Finance of the County of Maui without further considerations (e.g. six months from the date of appraisal), then this offer and any acceptance of the offer shall be deemed void upon written notice by the County of Maui at any time prior to the closing of this acquisition.

EXHIBIT "B" PAGE 1

3. If approval of this acquisition is required by the Maui County Council and is denied, then this offer and any acceptance of the offer shall be deemed void upon written notice by the County of Maui at any time prior to the closing of this acquisition.
4. If another appraisal is ordered by you or the County of Maui and the resulting number is not greater than 10%, less or more, than the original offer as stated herein, then said number shall not be considered by the County of Maui.
5. In the event an escrow account has already been opened under the subject TMK number in relation to this offer, but the acquisition falls through for any of the above stated reasons, then it is understood that any monies deposited into escrow for purposes of the subject acquisition shall be returned by escrow to the County of Maui upon receipt of a copy of the letter of notification to you without further signature or consent by you.

Please inform us of your decision on this offer by executing (signing) and initializing the appropriate line(s) on the following page and returning your decision to us with the entire letter with **original notarized signature(s)** and **initializing using black ink** in the enclosed postage paid envelope to be in our office within thirty (30) days from the date of this offer letter. An additional copy is enclosed for your records. If you choose to **accept** the above offer:

1. You herein agree to grant to the County of Maui a portion of the subject TMK property, consisting of Drainage Easement D-2 in exchange for the cash amount of \$102,430.00.
2. This document may be recorded with the Bureau of Conveyances pending the final recording of the aforementioned easement.

If it is your decision to **not accept** the above offer, please provide us with the name of the contact person(s), phone and fax numbers so a timely meeting can be arranged in an attempt to arrive at a friendly agreement on this matter.

The subject improvements were planned to improve the safety and convenience of the public. If you need more information or have any questions, please call Engineer, Wendy Kobashigawa at (808) 270-7745. Thank you for your prompt attention to this request.

Sincerely,

DANILO F. AGSALOG
Director of Finance

Approved as to Form
and Legality:

Michael Hopper
Deputy Corporation Counsel
Inm (ED13-1020)

s:\eng\all\Inm\CashOffer Fukushima Haiku
Encl: Original & Copy Offer & Acceptance; Stamped Return Envelope

EXHIBIT "B" PAGE 2

Mr. & Mrs. Fukushima and Mrs. Takeuchi
SUBJECT: HAIKU ROAD CULVERT REPLACEMENT PROJECT
October 21, 2013, Page 3

DMT The above offer is acceptable.
(Initials)

 The above offer is not
(Initials) acceptable

By Doris M. Takeuchi 10/24/13
Date

By Date

Doris M. Takeuchi
Type or Print Name

Type or Print Name

By
Date

By Date

Type or Print Name

Type or Print Name

Mr. & Mrs. Fukushima and Mrs. Takeuchi
SUBJECT: HAIKU ROAD CULVERT REPLACEMENT PROJECT
October 21, 2013, Page 3

MAJ The above offer is acceptable.
(Initials)

_____ The above offer is not
(Initials) acceptable

By George M. Fukushima 11/1/13.
Date

By _____
Date

GEORGE M FUKUSHIMA
Type or Print Name

Type or Print Name

By Alice M. Fukushima 11-1-13
Date

By _____
Date

ALICE M FUKUSHIMA
Type or Print Name

Type or Print Name

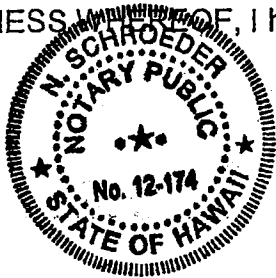
Mr. & Mrs. Fukushima and Mrs. Takeuchi
SUBJECT: HAIKU ROAD CULVERT REPLACEMENT PROJECT
October 21, 2013, Page 4

STATE OF HAWAII)
) SS.
COUNTY OF MAUI)

On this 1st day of NOVEMBER, 2013, before me personally appeared GEORGE M. FUKUSHIMA and ALICE M. FUKUSHIMA, to me known (or proven to me on the basis of satisfactory evidence) to be the persons described in and who executed the foregoing document: Offer & Acceptance for Acquisition of an Interest in Real Property above, who being duly sworn, did acknowledge that they executed the same as their free act and deed.

I, the Notary Public whose name is signed and printed in the signature area immediately below, do hereby certify that I notarized the foregoing Offer & Acceptance for Acquisition of an Interest in Real Property, dated OCTOBER 21, 2013, consisting of 8 pages in the Second Judicial Circuit of the State of Hawaii.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.



[Signature]
Notary Public, State of Hawaii

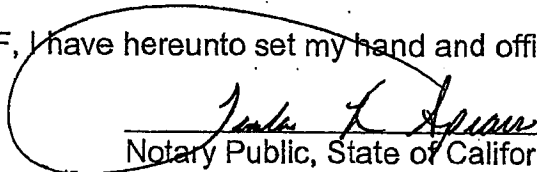
Print Name: N. SCHROEDER
My commission expires: 05/20/2016

STATE OF CALIFORNIA)
) SS.
COUNTY OF LOS ANGELES)

On this 24 day of OCTOBER, 2013, before me personally appeared DORIS M. TAKEUCHI, proven to me on the basis of satisfactory evidence to be the person described in and who executed the foregoing document: Offer & Acceptance for Acquisition of an Interest in Real Property above, who being duly sworn, did acknowledge that she executed the same as her free act and deed.

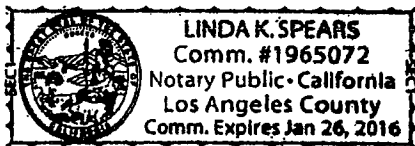
I, the Notary Public whose name is signed and printed in the signature area immediately below, do hereby certify that I notarized the foregoing Offer & Acceptance for Acquisition of an Interest in Real Property, dated OCTOBER 21, 2013, consisting of ONE pages in the State of California.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.



Notary Public, State of California

Print Name: LINDA K. SPEARS
My commission expires: JAN. 26, 2016

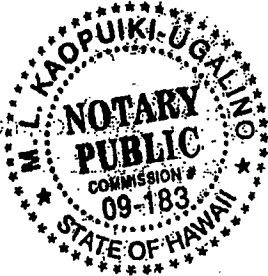


Mr. & Mrs. Fukushima and Mrs. Takeuchi
SUBJECT: HAIKU ROAD CULVERT REPLACEMENT PROJECT
October 21, 2013, Page 6

STATE OF HAWAII)
)
COUNTY OF MAUI) SS.

On this 21st day of October, 2013, before me personally appeared DANILO F. AGSALOG, to me personally known, who, being by me duly sworn, did say that he is the Director of Finance of the County of Maui, a political subdivision of the State of Hawaii, to me known to be the person who executed the foregoing instrument and acknowledged that he executed the same as his free act and deed, that the seal affixed to the foregoing instrument is the lawful seal of the said County of Maui, and that the said instrument was signed and sealed on behalf of said County of Maui pursuant to Article 8, Chapter 4 of the Charter of the County of Maui.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.



M. L. Kaopuki-Ugalino
Notary Public, State of Hawaii
Print Name: M. L. KAOPUKI-UGALINO
My commission expires: MAY 17 2017

NOTARY PUBLIC CERTIFICATION			
Doc. Date:	<u>OCT 21 2013</u>	# Pages:	<u>8</u>
Notary Name:	<u>M. L. KAOPUKI-UGALINO</u>	Judicial Circuit:	<u>Second</u>
Doc. Description:	<u>Offer & Acceptance for Acquisition of</u> <u>Interest in Real Property</u>		
Notary Signature:	<u>M. L. Kaopuki-Ugalino</u>		
Date:	<u>OCT 21 2013</u>		

