

SUMMARY OF PROPOSED COMMITTEE DRAFT:

Resolution 16-289

AUTHORIZING THE EXECUTION OF A LETTER OF INTENT BETWEEN THE CITY AND COUNTY OF HONOLULU ("CITY") AND THE STATE OF HAWAII DEPARTMENT OF EDUCATION ("DOE") TO CONDEMN LAND FOR THE EXPANSION OF MILILANI MIDDLE SCHOOL.

The PROPOSED CD1 makes the following amendments:

- A. Amends the eighth and ninth WHEREAS paragraphs to add references to Mililani Middle School.
- B. Amends the BE IT RESOLVED paragraph to remove duplicative consent and approval language; and
- C. Makes miscellaneous technical and nonsubstantive amendments.



RESOLUTION

PROPOSED

AUTHORIZING THE EXECUTION OF A LETTER OF INTENT BETWEEN THE CITY AND COUNTY OF HONOLULU ("CITY") AND THE STATE OF HAWAII DEPARTMENT OF EDUCATION ("DOE") TO CONDEMN LAND FOR THE EXPANSION OF MILILANI MIDDLE SCHOOL.

WHEREAS, Chapter 1, Article 8, Revised Ordinance of Honolulu 1990 (ROH), requires that any intergovernmental agreement or any amendments thereto that place an obligation upon the City or any agency thereof, require prior City Council consent and approval; and

WHEREAS, ROH Chapter 1, Article 8, also requires that, when carrying out the provisions of any intergovernmental agreement, all applications and/or amendments thereof, statistical data programs, reports or other official communications which support the application and which are required to be provided by the City or its component departments to any other governmental or quasi-governmental agency shall first be presented to the City Council for its review and approval prior to their transmittal; and

WHEREAS, the Superintendent of DOE has transmitted a Letter of Intent to work cooperatively toward the transfer of fee simple interest and title of property located adjacent to Mililani Middle School ("the school") from the City to the State of Hawaii, attached hereto as Exhibit A and by reference is made a part of this resolution; and

WHEREAS, the DOE has identified an approximately one acre parcel within the Mililani Mauka Community Park, identified as Tax Map Key No. 9-5-002: 033 ("the property") of which the City is the current title holder of record; and

WHEREAS, Castle and Cooke Homes Hawaii, Inc. deeded the property to the City with a deed restriction that restricts use of the property to park purposes; and

WHEREAS, the DOE is willing to condemn the property to acquire it for the school's expansion; and

WHEREAS, Act 116, Session Laws of Hawaii 2015, required the DOE to develop a transition plan to end multi-track schedules in public schools and report to the Legislature regarding the plan and any proposed legislation; and

WHEREAS, the DOE Multi-Track Transition Study ("the Study") was completed in April 2016 and determined that approximately 16 permanent classrooms and parking are needed at Mililani Middle School for the transition to traditional school hours; and



RESOLUTION

WHEREAS, the Study also indicated that the existing Mililani Middle School campus is almost fully developed and below the preferred acreage for middle school facilities; now, therefore,

BE IT RESOLVED by the Council of the City and County of Honolulu, that the proposed Letter of Intent attached hereto as Exhibit A is hereby consented to and approved; and

BE IT FURTHER RESOLVED that the Mayor or the Mayor's designee is hereby authorized to:

1. Execute the Letter of Intent with the Superintendent of DOE in substantially the same form as attached hereto as Exhibit A, and
2. Execute any incidental or related agreements and documents in furtherance of the above agreement so long as such agreements and documents do not incur additional obligations on the part of the City; and

BE IT FINALLY RESOLVED that copies of this resolution be transmitted to the Mayor and the Superintendent of the Department of Education.

INTRODUCED BY:

Ernest Martin (br)

DATE OF INTRODUCTION:

November 2, 2016
Honolulu, Hawaii

Councilmembers



STATE OF HAWAII
DEPARTMENT OF EDUCATION
P.O. BOX 2360
HONOLULU, HAWAII 96804

OFFICE OF THE SUPERINTENDENT

September 26, 2016

Mr. Roy K. Amemiya, Jr.
Managing Director, Office of the Mayor
City and County of Honolulu
530 South King Street, Room 300
Honolulu, Hawaii 96813

Re: Letter of Intent to Work Cooperatively toward the Transfer of a Fee Simple Interest and Title of property located adjacent to Mililani Middle School from the City and County of Honolulu to the State of Hawaii

Dear Mr. Amemiya:

This Letter of Intent ("LOI") memorializes the intention of the City and County of Honolulu ("County") and the State of Hawaii ("State") to work cooperatively toward the objective of completing the transfer of the fee simple interest and title to an approximately one acre parcel within Tax Map Key No. 92002033 ("Property"), of which the County is the current title holder of record. The precise timing and terms of such a transfer have yet to be agreed upon and therefore the parties understand and agree that the only commitment made by the parties in this LOI is to work cooperatively together until the transfer is complete or until either party provides written communication to the other of its intention not to pursue the matter further.

The following provisions are working guidelines and assumptions regarding the anticipated transfer:

1. The approximately one acre parcel to be transferred ("Lot A") is located within the Property and will abut the current site of the Mililani Middle School. The area that Lot A is to be located within is shown on the map attached hereto as Exhibit "A." The parties intend to identify the specific location by mutual agreement pending further study by the State.
2. The parties anticipate a no-cost transfer. The County recognizes the benefit to County residents of expanding Mililani Middle School.
3. The parties anticipate accomplishing the transfer by way of the State Attorney General's Office filing a special proceeding (condemnation) under Hawaii Revised Statutes chapter 101, part III, Special Proceedings Relating to Public Property. The County intends to work cooperatively with the State and not to contest this action, but reserves the right to act in the best interests of the County.

Exhibit A

AN AFFIRMATIVE ACTION AND EQUAL OPPORTUNITY EMPLOYER

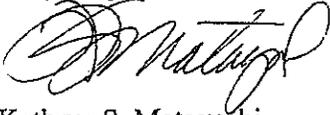
4. Both parties understand that action by third-parties, such as previous title holders, the Land Use Commission, and the Board of Land and Natural Resources may be required to effect the transfer. The County, as record title holder, agrees to work cooperatively with the State in obtaining any necessary action by such third-parties.
5. The State, with County assistance, shall subdivide Tax Map Key No. 92002033 upon final order of condemnation by the court effecting the transfer.
6. The County will work with the State to facilitate access to Lot A prior to the transfer for purposes of evaluating Lot A, effecting the transfer, and preliminary planning for the site.
7. A specific timetable of the actions required to accomplish the transfer is not currently available, but the parties agree to use their best efforts to accomplish the transfer as soon as is practical.
8. Transfer of the site is predicated on the sole purpose of expanding Mililani Middle School. Should the State determine that the site cannot be developed for this purpose, due to site conditions, lack of funding, or other unforeseen circumstances, there shall be a reverter clause reverting ownership of the parcel back to the County. The conditions of the reverter clause shall include a time period agreed upon by both the State and County.
9. The State shall take care to minimize the imposition of the site, and facilities, on the function and activities of the existing County Park. The State shall include the County in the site design/layout review. The final location and size of parcel shall be in agreement with the County.
10. The design and placement of vehicle parking, for the new school acreage, shall consider the potential for weekend and after hour use of the parking areas by Park users.
11. Given the Park's recreational function the State shall extend the physical grading of the site, beyond the site lines of the parcel to be transferred, to facilitate the existing recreational purpose. The extent of grading shall serve to mediate the impacts of the school project and improve the adjacent areas of the park to provide park user with viable spaces for recreational use. The State shall work with the County to determine the appropriate extent of work to be done.
12. The site design for the new facility shall effectively manage site drainage, both natural and man-made, to ensure public safety and safe playing condition in adjacent areas of the park and surrounding areas.
13. Should the State's action be deemed contrary to the intent of the Letter of Intent (LOI) the County reserves the rights in such actions.
14. The State shall prepare and file, subject to the review and approval of the County, all necessary paperwork to effectuate the intent of the LOI.
15. The State shall provide the County with a copy of all plans for their review and approval prior to any construction work on the proposed parcel.

Mr. Roy K. Amemiya
September 26, 2016
Page 3

Please provide your written acceptance to this LOI in the space provided below.

If you have questions or concerns, please contact Kenneth G. Masden II, Public Works Manager of the Planning Section of the Facilities Development Branch, at (808) 784-5080.

Very truly yours,



Kathryn S. Matayoshi
Superintendent

KSM:jmb
Attachment: Exhibit "A"

c: Office of School Facilities and Support Services
Facilities Development Branch

As a duly authorized representative of the City and County of Honolulu, I _____
agree with the intentions expressed herein and will work cooperatively with the Department of
Education to accomplish the transfer of land anticipated by this letter of intent.

Signature

Title

Date

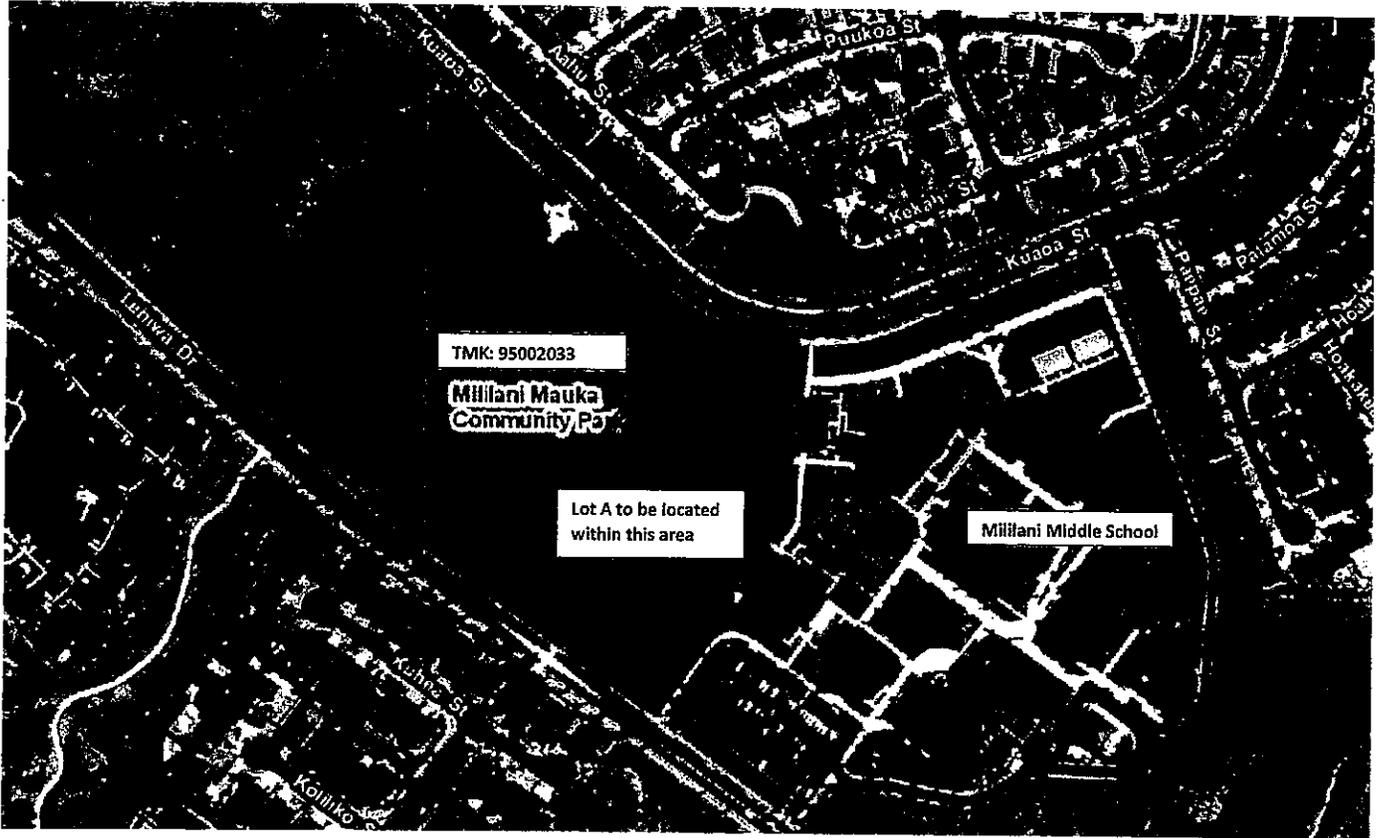


Exhibit A