Notice of Meeting

UNIVERSITY OF HAWAI'I

BOARD OF REGENTS COMMITTEE ON PLANNING AND FACILITIES

Date: Thursday, April 7, 2016

Time: 10:45 a.m.

Place: University of Hawai‘i at Mānoa
        Information Technology Building
        1st Floor Conference Room 105A/B
        2520 Correa Road
        Honolulu, Hawai‘i 96822

AGENDA

I. Call Meeting to Order

II. Approval of Minutes of the February 11, 2016 Meeting

III. Public Comment Period for Agenda Items: All written testimony on agenda items received after posting of this agenda and up to 24 hours in advance of the meeting will be distributed to the board. Late testimony on agenda items will be distributed to the board within 24 hours of receipt. Registration for oral testimony on agenda items will be provided at the meeting location 15 minutes prior to the meeting and closed once the meeting begins. Written testimony may be submitted via US mail, email at bor@hawaii.edu, or facsimile at 956-5156. Oral testimony is limited to three (3) minutes.

IV. Agenda Items

A. For Action

1. Recommend Approval of Amendments to RP 10.201, Interests and Real Property
2. Recommend Approval of Professional Services Contact for Agricultural Complex in Hilo, Phase II, University of Hawai‘i at Mānoa (UHM) Project No. UHM-07 697B

V. Adjournment

Accommodation required by law for Persons with Disabilities requires at least (5) five days prior notice to the board office at 956-8213 or bor@hawaii.edu.
March 31, 2016

MEMORANDUM

TO: RANDOLPH MOORE
CHAIRPERSON, BOARD OF REGENTS

VIA: DAVID LASSNER
PRESIDENT

FROM: JAN GOUVEIA
VICE PRESIDENT FOR ADMINISTRATION

SUBJECT: APPROVAL OF AMENDMENTS TO REGENTS POLICY (RP) 10.201, INTERESTS IN REAL PROPERTY

Specific Action Requested:

The Board of Regents of the University of Hawai‘i (Board) is requested to approve amendments to RP 10.201, Interests in Real Property in accordance with the terms and conditions set forth herein.

Recommended Effective Date:

The recommended effective date is upon the Board's approval of this request.

Procedural History:

In November 2013, the Board amended RP 10.201 (see Attachment A) to require that all real property transactions be presented to the Board for approval unless they are minor or administrative. More specifically, Sections III.B and III.C of the current policy were adopted to state as follows:

B. In general, the Board of Regents shall review and approve all real property transactions, including but not limited to the disposition, acquisition and receipt of real property. In addition, the Board of Regents shall review and approval all leases, licenses and other agreements involving the use and occupancy of real property, including amendments and extensions thereof.
C. However, the president is delegated the authority to approve all transactions under this section that are determined to be minor or administrative. On an annual basis, the president shall provide the Board of Regents with a list and description of all such actions that have taken place under this delegated approval.

Prior to this, in 2011, the policy stated in its entirety as follows (see Attachment B):

Section 10-1 Interests in Land.

The President and his/her designee(s) are delegated the authority to approve all transactions involving the acquisition or conveyance of land and interests in land unless, in consultation with the Board, it is determined that the acquisition or conveyance will have an impact on a program, require a change in Board policy, or may engender controversy, in which case prior approval of the Board shall be required regardless of the value of the transaction.

Documents for the acquisition or conveyance of land and interests in land shall be executed on behalf of the University by any two of the following officers: the President, Vice President for Budget and Finance/Chief Financial Officer, the Executive Administrator and Secretary of the Board of Regents, or the Director of Procurement and Real Property Management.

Prior to 2011, the policy stated in its entirety as follows (see Attachment C):

Section 10-1 Interests in Land.

The Board shall approve all transactions involving the acquisition or conveyance of land and interests in land where the transaction exceeds a duration of one (1) year or where the estimated value of the transaction exceeds fifty thousand dollars ($50,000). The President and his/her designee(s) are delegated the authority to approve all other transactions involving the acquisition or conveyance of land and interests in land unless, in consultation with the Board, it is determined that the acquisition or conveyance will have an impact on a program, require a change in Board policy, or may engender controversy, in which case prior approval of the Board shall be required regardless of value of transaction.

Documents for the acquisition or conveyance of land and interests in land shall be executed on behalf of the University by any two of the following officers: the President, Vice President for Budget and Finance/Chief Financial Officer, the Executive Administrator and Secretary of the Board of Regents, or the Director of

Based on preliminary research, we believe this policy was effective as of October 20, 2005.

Discussion:

As set forth above, the Board's policies on real estate transactions that require Board approval have ranged between two extremes: The 2005 version requiring Board approval for all transactions exceeding one (1) year or $50,000 and the 2011 version, which delegated all transactions to the President for approval.

The current version is a more balanced approach that requires Board approval for all real property transactions unless they are "minor or administrative." While the intent of the Board is clear, implementation of this standard by administrators and staff throughout the campuses is challenging because it calls for a subjective determination. As a result, there is significant time and energy expended on documenting, justifying, and approving an initial determination of whether a matter is "minor or administrative."

With the objective of providing greater definition around the Board's intent for describing what transactions require Board approval, we reviewed matters that have been presented to the Board after the adoption of the "minor or administrative" threshold. While there are no clear trends, we believe the Board's intent is to allow the Administration to execute its operations efficiently but ensure that the Board is apprised of any significant transactions. To accomplish this, we propose amendments to RP 10.201 that:

- Require Board approval for transactions involving the disposition/acquisition of real property in fee simple or leases that are exceeding five (5) years; provided, however, the President has the discretion to present to the Board for approval any transactions involving real property or an interest therein that may present a significant public interest.

- Delegate to the President and his/her designee the authority to approve all other real property transactions under this section including, but not limited to, leases, easements, rights-of-entry, and other agreements involving the use and occupancy of real property, including amendments and extensions thereof.
The amended policy will continue to require the President to provide the Board with a list and description of all such actions that have taken place under this delegated approval.

From a more transactional perspective, we are also proposing that the policy be amended to:

- Identify that all transactions approved by the Board shall be executed by the President and one officer.
- Identify that all other transactions shall be executed by the President or his/her designee(s).
- Remove the requirement for surveys to accompany transactions involving the lease, license, or other use or occupancy of real property.

In summary, we believe the above-mentioned amendments to RP 10.201 appropriately balance the duties and responsibilities of the Board against the operational and administrative functions of the President.

For a complete, red-lined version of the amendments, please see Attachment D.

Specific Action Recommended:

In accordance with the above, the Board is recommended to approve amendments to RP 10.201, Interests in Real Property as set forth in final form in Attachment E.
Viewing Policy RP 10.201

Title
Interests in Real Property

Header
Regents Policy Chapter 10, Land and Physical Facilities
Regents Policy RP 10.201, Interests in Real Property
Effective Date: am Oct. 20, 2005
Review Date: August 2019

I. Purpose

To set forth policy on interests in real property.

II. Definitions

No policy specific or unique definitions apply.

III. Board of Regents Policy

A. It is the board's intent that the university's policy, practices and decision-making regarding real property and interests in real estate, shall: (1) promote and support the mission and goals of the university in education, research, service and economic development; (2) advance principles and practices of sound environmental stewardship and sustainability; (3) ensure that alternative actions are considered, investigated and analyzed; (4) be fairly priced in the context of applicable fair market values and other relevant factors; (5) generate revenue from real property not critical to long range plans for the university to support the university's core mission; and (6) be consistent with and support long range plans that have been approved by the BOR.

B. In general, the Board of Regents shall review and approve all real property transactions, including but not limited to the disposition, acquisition and receipt of real
property. In addition, the Board of Regents shall review and approval all leases, licenses and other agreements involving the use and occupancy of real property, including amendments and extensions thereof.

C. However, the president is delegated the authority to approve all transactions under this section that are determined to be minor or administrative. On an annual basis, the president shall provide the Board of Regents with a list and description of all such actions that have taken place under this delegated approval.

D. For actions that come to the board pursuant to this section, the board shall be provided with an analysis and supporting documentation that allows it to verify the fair market value and terms of the transactions, as well as the recommended action's compliance with the intent of this policy. Actions involving the disposition or acquisition of real property shall be accompanied by a recent appraisal conducted by a licensed real estate appraiser. Actions involving the lease, license or other use or occupancy of real property, shall be accompanied by a recent survey of comparable rents and/or values.

E. In the event that a board approved transaction does not occur within one year of board approval, then that transaction shall be presented to the board with updated and current information prior to the transaction occurring.

F. Real property transactions under this section shall be executed on behalf of the university by two officers of the university.

G. The president shall promulgate executive policies to implement the responsibilities set forth in this Section 10.

IV. Delegation of Authority

However, the president is delegated the authority to approve certain transactions under this section. RP 10.201(C).

V. Contact Information

Office of the Board of Regents, 956-8213, bor@hawaii.edu

VI. References

A. http://www.hawaii.edu/offices/bor/

VII. Exhibits and Appendices

No Exhibits and Appendices found
Approved

approved as to Form: ___________________________ October 31, 2014
Cynthia Quinn ___________________________ Date
Executive Administrator and Secretary of the Board of Regents

Topics
No Topics found.
CHAPTER 10
LAND AND PHYSICAL FACILITIES

Section 10-1  Interests in Land.

The President and his/her designee(s) are delegated the authority to approve all transactions involving the acquisition or conveyance of land and interests in land unless, in consultation with the Board, it is determined that the acquisition or conveyance will have an impact on a program, require a change in Board policy, or may engender controversy, in which case prior approval of the Board shall be required regardless of the value of the transaction.

Documents for the acquisition or conveyance of land and interests in land shall be executed on behalf of the University by any two of the following officers: the President, Vice President for Budget and Finance/Chief Financial Officer, the Executive Administrator and Secretary of the Board of Regents, or the Director of Procurement and Real Property Management.

Section 10-2  List of Actions Exempt from Filing of Environmental Impact Statement.

The President is delegated the authority to add to or delete from the List of Exempt Classes of Action Pursuant to Rule 1:33a of the Regulations of the Environmental Quality Commission, as operational needs change.

Section 10-3  Use of University-Owned Facilities. The President is delegated the authority to promulgate practices and procedures governing the use of university owned or operated facilities.

Section 10-4  Child Care Programs. The President is delegated the authority to promulgate practices and procedures governing child care programs and use of such facilities.

Section 10-5  Parking and Operation of Motor Vehicles. The President is delegated the authority to promulgate policies and procedures for the parking and operation of motor vehicles on University campuses. (For the respective campuses, see Administrative Rules, Title 20, University of Hawai‘i, Chapter 12.)
CHAPTER 10
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Section 10-1 Interests in Land.

The Board shall approve all transactions involving the acquisition or conveyance of land and interests in land where the transaction exceeds a duration of one (1) year or where the estimated value of the transaction exceeds fifty thousand dollars ($50,000). The President and his/her designee(s) are delegated the authority to approve all other transactions involving the acquisition or conveyance of land and interests in land unless, in consultation with the Board, it is determined that the acquisition or conveyance will have an impact on a program, require a change in Board policy, or may engender controversy, in which case prior approval of the Board shall be required regardless of value of transaction.

Documents for the acquisition or conveyance of land and interests in land shall be executed on behalf of the University by any two of the following officers: the President, Vice President for Budget and Finance/Chief Financial Officer, the Executive Administrator and Secretary of the Board of Regents, or the Director of Procurement and Real Property Management. (Oct. 20, 1978; Dec. 12, 1986; am: Oct. 18, 2002; am: Oct. 20, 2005)

Section 10-2 List of Actions Exempt from Filing of Environmental Impact Statement.

The “List of Exempt Classes of Action Pursuant to Rule 1:33a of the Regulations of the Environmental Quality Commission” is provided below and the President is delegated the authority to add to or delete from the list as operational needs change. (Feb. 13, 1976)

1. Class 1: operations, repairs or maintenance of existing structures, facilities, equipment or topographical features, involving negligible or no expansion or change of use beyond that previously existing.
   a. Refurbish or renovate existing structures.
   b. Repair, overhaul, or replace equipment used for construction, transportation, scientific work, heating, and ventilating.
   c. Repair or repave roads, parking areas, walkways, ramps, and fences.
   d. Planning and implementing new programs and curricula in existing University facilities, including the creation of new degree programs, the establishment of small experimental programs, curriculum modifications for the expanded use of under-utilized facilities, but not requiring new structures.
Title

Interests in Real Property

Header

Regents Policy Chapter 10, Land and Physical Facilities
Regents Policy RP 10.201, Interests in Real Property
Effective Date: am: Oct. 20, 2005
Review Date: August 2019

I. Purpose

To set forth policy on interests in real property.

II. Definitions

No policy specific or unique definitions apply.

III. Board of Regents Policy

A. It is the board’s intent that the university’s policy, practices and decision-making regarding real property and interests in real estate, shall: (1) promote and support the mission and goals of the university in education, research, service and economic development; (2) advance principles and practices of sound environmental stewardship and sustainability; (3) ensure that alternative actions are considered, investigated and analyzed; (4) be fairly priced in the context of applicable fair market values and other relevant factors; (5) generate revenue from real property not critical to long range plans for the university to support the university’s core mission; and (6) be consistent with and support long range plans that have been approved by the BOR.

B. In general, the Board of Regents shall review and approve all real property transactions, including but not limited to for the disposition, or acquisition and receipt of real property. In addition, the Board of Regents shall review and approve all leases, licenses and other agreements involving the use and occupancy of real property, in fee simple or by lease or equivalent interest with a term exceeding five (5) years, including amendments and extensions thereof; provided, however, the President has the discretion to present to the board for approval any transactions involving real property that may impact a significant public interest.

C. However, the president is and his/her designees are delegated the authority to approve all other real property transactions under this section that are determined to
be minor or administrative, including, but not limited to, leases or equivalent interests with a term of five (5) years or less in duration, licenses, easements, rights-of-entry, and other agreements involving the use and occupancy of real property, and any amendments and extensions thereof.

D. On an annual basis, the president shall provide the Board of Regents with a list and description of all such actions that have taken place under this delegated approval.

E. For actions that come to the board pursuant to this section, the board shall be provided with an analysis and supporting documentation that allows it to verify the fair market value and terms of the transactions, as well as the recommended action’s compliance with the intent of this policy. Actions that come to the board involving the disposition or acquisition of real property shall be accompanied by a recent appraisal conducted by a licensed real estate appraiser. Actions that come to the board involving the lease, license or other use equivalent interest with a term exceeding five (5) years, including amendments or occupancy of real property extensions thereof, will shall be accompanied by supporting documentation that the President deems appropriate a recent survey of comparable rents and/or values.

F. In the event that a board approved transaction does not occur within one year of board approval, then that transaction shall be presented to the board with updated and current information prior to the transaction occurring.

G. Real property transactions approved by the board under this section shall be executed by the President and one other University officer, after review and approval by the Office of General Counsel. All other real property transactions shall be: (1) executed on behalf of the university by two officers of the university the President or his/her designees and (2) subject to review and approval by the Office of General Counsel as requested by the President.

H. The president shall promulgate executive policies to implement the responsibilities set forth in this Section 10.

IV. Delegation of Authority

However, the president is delegated the authority to approve certain transactions under this section. RP 10.201(C) as set forth above.

V. Contact Information

Office of the Board of Regents, 956-8213, bor@hawaii.edu

VI. References

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VII. Exhibits and Appendices

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Approved

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B. The Board of Regents shall review and approve all real property transactions for the disposition or acquisition of real property in fee simple or by lease or equivalent interest with a term exceeding five (5) years, including amendments and extensions thereof; provided, however, the President has the discretion to present to the board for approval any transactions involving real property that may impact a significant public interest.

C. The president and his/her designees are delegated the authority to approve all other real property transactions under this section including, but not limited to, leases or equivalent interests with a term of five (5) years or less in duration, licenses,
easements, rights-of-entry, and other agreements involving the use and occupancy of real property, and any amendments and extensions thereof.

D. On an annual basis, the president shall provide the Board of Regents with a list and description of all such actions that have taken place under this delegated approval.

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F. In the event that a board approved transaction does not occur within one year of board approval, then that transaction shall be presented to the board with updated and current information prior to the transaction occurring.

G. Real property transactions approved by the board under this section shall be executed by the President and one other University officer, after review and approval by the Office of General Counsel. All other real property transactions shall be: (1) executed on behalf of the university by the President or his/her designees and (2) subject to review and approval by the Office of General Counsel as requested by the President.

H. The president shall promulgate executive policies to implement the responsibilities set forth in this Section 10.

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Cynthia Quinn Date
Executive Administrator and Secretary of the Board of Regents

Topics

No Topics found.
March 31, 2016

MEMORANDUM

TO: RANDOLPH MOORE  
CHAIRPERSON, BOARD OF REGENTS  

VIA: DAVID LASSNER  
PRESIDENT

FROM: JAN GOUEIA  
VICE PRESIDENT FOR ADMINISTRATION

SUBJECT: RECOMMEND APPROVAL OF PROFESSIONAL SERVICES CONTRACT FOR AGRICULTURAL COMPLEX IN HILO, PHASE II, UNIVERSITY OF HAWAI'I AT MĀNOA (UHM) PROJECT NO. UHM-07 697B

Specific Action Requested

In accordance with Regents Policy 8.201, it is requested that the Board of Regents (Board) authorize the University of Hawai'i at Mānoa (UHM) to amend an existing professional services contract with John Hara and Associates (JHA) for Project No. UHM 07-697B. The amendment would increase the contract cost by $249,067, for a total amended contract amount of $1,021,553.

Recommended Effective Date

The recommended effective date is upon the Board's approval of this request.

Additional Cost

The total cost of the contract amendment is $249,067.

Background

The Agricultural Complex is located in Hilo, Hawai'i and comprised of four buildings (Buildings A, B, C, and D). Originally constructed in 1976, it serves as the primary home to College of Tropical Agriculture and Human Resources research and extension personnel on the Big Island.
In 2009, Phase I renovations to Buildings B and C were completed. Phase I renovations included construction of new spaces for offices, wet laboratory facilities, research laboratories, equipment, furniture, and facility upgrades to meet American Disability Act Accessibility Guidelines requirements.

In January 2014, Phase II renovations to Buildings A and D were completed. This included site improvements and renovations of conference rooms, administrative offices, restrooms, new security lighting, and roadway/pathway improvements.

Similar to Phase I, the UHM hired JHA to design Phase II for $721,994.70, and the construction contractor was Yamada Paint Contracting, Inc., dba GW. The Certificate of Occupancy was issued in January 2014.

In March 2015, mold was discovered in the first floor of Building A. A preliminary investigation concluded that the mold was caused by water leaking from a collapsed condensate drain that ultimately flooded the first floor of Building A, which caused mold spores to form. JHA's contract was modified by $50,492 to remediate the mold through selective demolition of the interior partitions (dry walls), doors, flooring, ceiling, mechanical system, and remedial plumbing work to redirect the condensate drainage (Modification 1).

During the performance of JHA's services under Modification 1, leakage was discovered in the second floor of Building A (which was not caused by the collapsed condensate drain). Upon further investigation, similar leakage was discovered in all four buildings. To address these conditions and other code compliance issues, the Administration is seeking Board approval to modify JHA's contract by an additional $249,067 for:

- **Building B - Corridor Penetrations:** Conduct site surveys to determine areas where the existing return air plenum has been compromised due to openings around penetrations above the ceiling that were not sealed.

- **Building B - Leaks:** Investigate and design the repair of numerous leaks in the second floor ceiling. Cap flash upturned concrete beams at the rooftop and repair metal covers above ducts to make enclosures water-tight.

- **Building C - Corridor Penetrations:** Conduct site surveys to determine areas where the existing rated corridor envelope has been compromised with non-compliant penetrations and make corridors code-compliant.

- **Building C - Leaks:** Investigate and design the repair of leaks in the second floor corridor ceiling and in Wet Labs 8 and 9. Investigate and repair cracks
in concrete walls at the south and southeast sides. Address water infiltration through the cracks.

- Building D - Damaged Cabinets: Remove all existing cabinets and associated plumbing work. Provide hazardous material abatement requirements and replace with generic (approximately 6' long) counters with base cabinets and sinks. Provide access panels at condensate drains in rooms D-101 and D-106. Verify the leak in room D-101, and make corrections/modifications to the condensate drain if required. Repair walls and replace flooring where cabinets are removed and/or sustained water damaged.

- Roof Scupper and Flashing Remedial Work: Rectify secondary drainage at all four building rooftops; continue roofing up to the parapet cap flashing and replace the parapet cap flashing to slope toward the roofs; and provide new coatings over all roofs.

- Mechanical Penthouses - Leaks: Investigate and develop a system to mitigate water from entering rooftop mechanical rooms and progressing to the lower floors.

- Elastomeric Wall Coating: Provide elastomeric wall coatings on exterior surfaces where crack repair work is done, i.e., Building A - wall at Gridline G, repaired in Phase A and Building C - walls at south and southeast sides of the building.

If it is discovered that portions of Buildings A, B, C, and/or D were negligently constructed, the Administration will pursue all rights and remedies available under the law to the extent it serves the best interest of the UHM.

Action Recommended

It is recommended that the Board authorize the UHM to amend an existing professional services contract with JHA for Project No. UHM 07-697B. The amendment would increase the contract cost by $249,067, for a total amended contract amount of $1,021,553.

c:  Cynthia Quinn, Executive Administrator and Secretary of the Board