Attachment C

Comments on the Final Environmental Impact Statement and FTA Responses

Agency Comments Received on the Final EIS and FTA Responses

The Notice of Availability of the Final EIS was published in the *Federal Register* on June 25, 2010. The review period to receive public and agency comments was extended to August 26, 2010.

Within the Abstract, and Section 5.1 of the Final EIS, a request for comment was made concerning a design refinement in the vicinity of the airport and the Section 4(f) *de minimis* impact findings for the Ke'ehi Lagoon Beach Park and the Pacific War Memorial sites. Both of these changes occurred subsequent to the issuance of the Draft EIS. Although a request for comments was made, no comments specifically on these elements of the Project were received during the review period for the Final EIS.

FTA received 7 letters with substantive comments on the Final EIS from the following governmental agencies:

- U.S. General Services Administration - this agency reminded the City of its commitment to implement security measures for the Prince Jonah Kuhio Kalanianaole (PJKK) Federal Building and Courthouse. In response, the City held several meetings with the General Services Administration (GSA) and their federal tenants (e.g., Department of Homeland Security/US Immigration and Customs Enforcement, the U.S. Marshal for the District of Hawai'i, and several federal judges) concerning safety and security measures which were subsequently presented in the Project's *Threat and Vulnerability Assessment* (TVA). GSA reviewed the TVA and related project information and was satisfied with the assessment and the design changes made for clearance distance to this federal building.
- U.S. Department of Homeland Security, Federal Emergency Management Agency (FEMA) – this agency reminded the City that it is a participant in the National Flood Insurance Program (NFIP) and, as such, must comply with NFIP floodplain management building requirements as described in 44 C.F.R. §§ 59 through 65. Compliance with Executive Order 11988, *Floodplain Management*, is addressed in Section 4.14 of the Final EIS. The City will comply with the NFIP requirements in final design.
- EPA – this agency commented that most of their concerns regarding the alternatives analysis, wetlands, water quality, environmental justice, noise impacts and various consultation processes were addressed in the Final EIS. EPA also stated that the Section 106 consultation process must be completed and mitigation for impacts to historic resources must be committed to in the ROD. EPA also encouraged the City to continue coordination with residents and business owners who will be relocated due to the Project. The Section 106 review has been completed and the resulting Agreement is attached to this ROD (Attachment B). The Mitigation Monitoring Program in Attachment A commits to coordination with displaced residents and business owners.
- U.S. Department of the Interior, Office of Environmental Policy and Compliance – this agency's comments: (1) requested that they be given the opportunity to review the Section 106 Agreement to ensure that the stipulations contained in the Agreement were consistent with the Section 4(f) analysis; (2) stated that the Archaeological Inventory Survey (AIS) conducted for Segment 1 of the Project appeared incomplete; (3) requested an understanding of how archaeological sites were evaluated in the Section 4(f) analysis

for significance and integrity; (4) requested that additional simulations of the Waikele Stream Bridge and the bridge over the OR&L spur be completed to better assess view impacts; (5) questioned why the USS Utah was not mentioned as being within the National Historic Landmark (NHL) boundary at the US Naval Base at Pearl Harbor; (6) questioned why it was not mentioned that both USS Bowfin and USS Arizona are also NHL sites; and (7) expressed a concern that historic views of Makalapa Navy Housing Historic District were not acknowledged in the Section 4(f) analysis. Responses to these concerns are noted below in the same order listed above:

- Executed Section 106 Agreement – The finalized Section 106 Agreement is attached to this ROD as Attachment B. The National Park Service, a bureau of DOI, participated extensively during the Section 106 consultation process, provided comments and specific language for inclusion in the Agreement, and was invited to be an invited signatory of the Agreement.
- Archaeological Inventory Survey (AIS) – The AIS was completed for Phase 1 of the Project (the area between East Kapolei and Pearl Highlands) and identified a subsurface deposit. As described in Section 7 of the AIS, *Significance Assessments*, the evaluation for significance is according to the criteria established for the National and Hawai'i Registers of Historic Places. The AIS concluded that SIHP 50-80-9-7751, a subsurface cultural deposit, is significant under criterion D (i.e., it has yielded or is likely to yield information important for research on prehistory or history). The AIS also concluded that this resource has integrity of location and materials but not integrity of design, setting, workmanship, feeling, or association. The report on the findings of the Segment 1 AIS is available from the City and the Hawaii's State Historic Preservation Officer (SHPO).
- Based on the evaluation of its significance and integrity, FTA concluded that this archaeological resource is important chiefly because of what can be learned by data recovery and its preservation in place is not of comparable value. Therefore, a Section 4(f) evaluation of SIHP 50-80-9-7751 is not required, in accordance with 23 C.F.R. § 774.13(b).
- Section 4(f) criteria – As discussed above, a subsurface cultural deposit (lo'i sediments) is significant under criterion D if it has yielded or is likely to yield information important for research on prehistory or history.
- Obstruction of historic views – this comment refers to Irwin Park and was previously addressed on page 5-52 the Final EIS. The seating areas in the park are oriented in the south-north (water-mountain) direction. The guideway and highway are south of the park in the median of Nimitz Highway. The northward views of the sea are identified as a feature of the park. These views will not be obstructed by the Project. In addition, there are mature trees that buffer the views of Nimitz Highway from the area where the benches and tables are located. The view in Figure 5-38 of the Final EIS is to the east and is not in the direction that park users would be looking.
- Request for Simulations - The Project will be 40 feet above the roadway (Farrington Highway) and will not eliminate the primary views of the design elements of the Waikele Bridge or the bridge over the OR&L spur or alter their relationship to the existing transportation corridor. Moreover, there will be no use of the bridges. The

current activities, features, or attributes of the property that qualify for protection under Section 4(f) are its design elements and historic association, and these will not be substantially impaired.

- Resources within the National Historic Landmark (NHL) - The Section 4(f) evaluation considered the US Naval Base Pearl Harbor NHL as a whole. As discussed on page 4-191 of the Final EIS, the Project is adjacent to the Pearl Harbor NHL and near the CINCPACFLT Building NHL but is not within the boundary of either of the NHLs and does not have a direct impact on these resources. The USS Bowfin and USS Arizona are noted on this page of the Final EIS as elements of the NHL. To avoid impacting this NHL resource, the entrances to the elevated Aloha Stadium Station and the Pearl Harbor Naval Station were designed to touch down on the mountain side of Kamehameha Highway, which is outside of the NHL boundary, in order to avoid taking any of the Pearl Harbor NHL property. Numerous meetings were held with NPS and other consulting parties to develop and commit to mitigation as stipulated in the Section 106 Agreement (Attachment B).
- View impacts to Makalapa Historic District – FTA considered the views from the Makalapa Navy Housing Historic District in the Section 4(f) evaluation when examining how the Project would affect the attributes of the district that make it historic. As discussed in Section 5.6.2 of the Final EIS, the views themselves are not considered a historic feature of the Section 4(f) property. The activities, features and attributes of the property that qualify it for protection under Section 4(f) are its architectural elements and historic associations. The elevated guideway would not substantially affect primary views of this architectural features complex and therefore would not result in a constructive use of the property.

- State of Hawai'i Department of Accounting and General Services (DAGS) – this agency re-affirmed that it had no objection to the *de minimis* impact finding for Aloha Stadium and requested continued coordination with the City to consider options to improve transportation benefits to the Aloha Stadium, especially concerning parking, parking revenues, and access to stadium events. A proposed parking management plan is being developed in coordination with DAGS that will address its concerns about preserving access to parking for events and revenue from parking receipts. Coordination will continue during final design and construction to ensure that the Project will result in a net benefit, in terms of both enhanced access and parking.
- State of Hawai'i Department of Transportation – this agency stated concerns regarding the loss of 110 parking spaces at the Honolulu International Airport, including potential parking impacts to the future south concourse. It is anticipated that the loss of 110 parking spaces at the Airport to make room for the rail station will be more than offset by the transit service provided by the Project. Every passenger arriving by transit reduces the demand for parking at the Airport. With this rail Project in place, the number of air passengers using transit to reach the Airport on a daily basis is projected to increase from 700 today to 3,500 in 2030.
- City Department of Parks and Recreation (DPR) – this agency confirmed that the State of Hawai'i owned, in fee, the Ke'ehi Lagoon Beach Park and that the City has jurisdiction pursuant to the Governor's Executive Order 2110. DPR also suggested a property use

agreement or acquisition be negotiated with the state concerning the Ke'ehi Lagoon Memorial property.

- Ke'ehi Lagoon Beach Park -- Based on the letter from DPR, FTA finds that the City is the "official with jurisdiction" over the Ke'ehi Lagoon Beach Park. The City has agreed that, with the mitigation detailed in Chapter 5 of the Final EIS (pages 5-19 to 5-20), the use of this park by the Project will have *de minimis* impact on the park. This mitigation has been included in Attachment A (Mitigation Monitoring Program).
- Ke'ehi Lagoon Memorial – FTA finds that this property is protected by Section 4(f) and that the use of this resource, with the mitigation described in the Chapter 5 of the Final EIS (pages 5-22 to 5-23), will have *de minimis* impact on it. An agreement that allows the use of a strip of this property for the Project is under consideration by the City, and it would detail the mitigation commitments in the Final EIS. Any new consultation or other requirements in that agreement would be added to the Mitigation Monitoring Program (Attachment A) as that program proceeds.

Public Comments Received on the Final EIS and Responses

Forty-three comment letters or emails were received from the public. These comments were essentially similar to comments submitted during the Draft EIS comment period. Some comments pertain to sections within the Final EIS and others pertain to the response to comments on the Draft EIS made by the individual or organization. The main topics of comments are listed below:

- Completion of the Section 106 process and Agreement
- Choice of technology selected and preference for other technologies
- Opportunity for public comment on design changes made after the Draft EIS
- Request for completion of the archaeology surveys before completing the NEPA process
- Consideration of the additional extensions in the locally preferred alternative
- Financial impact of the Project on the bus system in Honolulu
- Noise impacts of the Project
- Minimal traffic congestion relief from the Project
- Visual impacts too great and view protection not satisfactory
- Consideration of Additional Alternatives
- Plaza at the Dillingham Transportation Building
- Cost and Financial Plan for the Project

The following discussion summarizes these major comments on the Final EIS and the FTA response to those comments.

<u>Unsigned Section 106 Agreement in the Final EIS</u>

At the time the Final EIS was published, the Section 106 Agreement was not yet signed. The Agreement has now been signed and is included as Attachment B to this ROD. Some comments expressed concerns about the fact that the Agreement was unsigned in the Final EIS. Because of continued discussions with signatories and invited signatories on the draft Agreement, FTA chose to publish the Final EIS with the draft Agreement rather than to wait to publish the Final EIS with an executed Agreement. The comment letters on the Final EIS revealed some confusion on the NEPA and the Section 106 processes, linkages, and requirements. FTA followed its normal practice of coordinating the NEPA process with the Section 106 process as much as possible.

Consideration of Alternative Technologies

Several comments inquired why the original Notice of Intent (NOI) to prepare an EIS, published in the *Federal Register* on December 7, 2005, indicated that all technologies listed in the NOI (light-rail transit, rapid rail transit [steel-wheel on steel rail], rubber-tired guided vehicles, magnetic levitation system and monorail system) would be studied, yet only traditional steel rail was evaluated in the EIS. Several commenters stated that preparation of a Supplemental EIS was needed to evaluate all technologies listed in the original notice. As described in Section 2.2.3 of the Final EIS, a technical review of alternative technologies was conducted during the Alternatives Analysis. The Alternatives Analysis studied the performance, cost, and reliability of the proposed technologies and accepted public comment on the technology selection. The Alternatives Analysis, incorporated by reference into the EIS, resulted in the City establishing traditional steel wheel on steel rail as the technology to be further evaluated for the Project. The subsequent Notice of Intent published in the *Federal Register* on March 15, 2007 proposed using the results of the Alternatives Analysis in scoping the EIS.

Project Refinements Made in Response to Agency and Public Comments on the Draft EIS

Comments on the Final EIS were also received concerning changes that occurred after the Draft EIS was circulated for comment. In particular, some comments shared concern that the public was not given the opportunity to weigh in on the alignment shift near the airport, and the effects on two parks (Ke'ehi Lagoon Park and the Pacific War Memorial Site). As discussed in the Abstract and Section 5.1 of the Final EIS, comments were requested from the public concerning refinement of the design of the Airport Alternative (Project) and *de minimis* impact findings at Ke'ehi Lagoon Beach Park and the Pacific War Memorial site during the comment period for the Final EIS. In addition, as described in Section 3.4.6 of the Final EIS, FTA and the City coordinated with the Federal Aviation Administration (FAA) and HDOT Airport Division concerning the decision to refine the project routing through the airport area to avoid the runway protection zone. Once the decision was made by these agencies to transition the alignment from Aolele Street to nearby Ualena Street, affected property owners were contacted in April 2010 via individual letters and personal meetings to discuss impacts to their respective properties and to explain the right-of-way acquisition process per the *Uniform Relocation Assistance and Real Property Acquisition Policies Act*, as amended (49 C.F.R. part 24). A press release was also issued at that time on the alignment shift at the airport. No substantive comments were received from the public on this change during the Final EIS review period. Also, no comments were

received from the public on the *de minimis* impact findings at Ke'ehi Lagoon Beach Park and the Pacific War Memorial site.

Timing of Archaeological Inventory Surveys

Some comment letters requested that the Final EIS include the results of the Archaeological Inventory Surveys (AIS) so as not to risk violating provisions of state law known as HRS §§ 6E-8 and 6E-42. The National Historic Preservation Act (NHPA) and HRS Chapter 6E are both laws that protect historic resources. HRS Chapter 6E protects previously discovered and inadvertently discovered native Hawai'ian burials.

The Agreement prepared for the Project is a requirement of the regulation implementing Section 106 of the NHPA to address federal historic preservation requirements. The Agreement was developed over a period of months in consultation with over 30 interested organizations including the State Historic Preservation Officer (SHPO), the Oahu Island Burial Council (OIBC), and other federal and state agencies. The document reflects what the consulting parties agreed is appropriate to comply with the NHPA and relevant state law. Consequently, the Agreement addresses HRS Chapter 6E but does not replace HRS Chapter 6E compliance. As documented in the Project's *Archaeological Resources Technical* Report (RTD2008n), available at the City's office and on the project website (www.honolulutransit.org), the entire project was studied for impacts to historic sites and native Hawai'ian burials. Based on this study, there are no known or discovered burial sites within the Project area, although the study did make a determination that the likelihood of discovering burial sites is higher in some areas than in others. In addition to the technical report, and prior to construction, the AIS will be completed in phases prior to final design and consistent with the construction phases planned for the Project. These construction phases are depicted in Figure 2-41 of the Final EIS and described in Stipulation III(A) of the Agreement. The state or City permit granting authority will be required to notify the SHPO when the Project applies for permits (e.g., grading and grubbing) if any AIS show that the Project may impact a burial or other resource. This would also include coordination with OIBC for discovered burials.

The advantage of a phased approach to the AISs is to limit disturbance of potential resources during the surveys. Plans developed for the AISs will follow the requirements of HAR Chapter 13-276. The AIS fieldwork will be completed in advance of the completion of final design as described in Stipulation III of the Agreement. The OIBC has requested, and the City has agreed, to a more thorough investigation than has previously been completed. The City has agreed to pre-explore every column location within the highest-risk portions of the corridor. By completing engineering at the same time as the excavation, only locations that would actually be disturbed by the Project will be excavated. Other areas will remain intact. If any human remains are encountered, the Project design is flexible to be able to design around the area and avoid the remains. If human remains are encountered, procedures will be followed and related mitigation plans will be prepared per the provisions described in Stipulation III of the Agreement.

Evaluation of the LPA

Some commenters requested that the full locally preferred alternative (LPA) be evaluated in the Final EIS. Several commenters stated that preparation of a Supplemental EIS was needed to evaluate the future extensions. As described in Section 2.2.3 of the Final EIS, the City Council passed City Council Resolution 07-039 and directed that the Project be fiscally constrained. The Council further directed, due to funding constraints, that the preliminary engineering and environmental analysis be completed for a portion of the LPA between East Kapolei and Ala Moana Center. FTA is considering grants not for the full LPA, but only for the portion of the LPA being advanced by the City. This Project has logical termini and independent utility from any extensions that may be constructed in the future. As discussed in Section 2.5.10 of the Final EIS, the planned extensions are anticipated to be advanced in the future as separate projects that would receive a separate environmental review if proposed for FTA funding.

Potential Reallocation of 49 U.S.C. § 5307 (Section 5307 Urban Formula) Funds

Comments were received concerning the diversion of Section 5307 Urban Formula funds from bus projects to financing the Project due to a potential shortfall in collection of general use and excise tax (GET). As stated in Section 6.3.1 of the Final EIS, bus service will be expanded with the Project, and capital and operating and maintenance costs for enhanced bus service are included in the Project budget. Under any circumstances, the City will try to minimize the use of Section 5307 funds if they are needed for the Project, but it is an allowable funding source and consistent with the intended funding program. Bus service will not suffer in the program as presented.

Noise Impacts of the Project

FTA expects the noise mitigation that is now incorporated into the Project to eliminate all noise impacts of the Project. This mitigation consists of:

- a 3-foot parapet wall along the sides of the guideway wherever noise impacts would occur without it;
- issuing design specifications for the rail vehicles that includes solid wheel skirts outside of the wheels to block noise from the wheels;
- using sound absorptive treatment on guideway elements wherever the wheel skirts and parapet walls are insufficient to eliminate all noise impacts;
- installing automatic track lubrication devices on the curved tracks near Leeward College where wheel squeal would otherwise occur; and
- issuing design specifications for the traction power substations that allow a maximum hourly Leq of 50 dBA.

The Mitigation Monitoring Program in Attachment A of this ROD will ensure implementation of these and all other mitigation commitments.

FTA's noise assessment uses outdoor noise levels. Project noise levels inside a building near the guideway would be less than or equal to the Project noise level outside of the building, so mitigation that eliminates noise impacts outside of a building will ensure that noise impacts will not occur indoors.

Minimal Traffic Congestion Relief from the Project

Many commenters reiterated their concern that the Project will not relieve highway congestion in Honolulu. FTA agrees, but the purpose of the Project is to provide an alternative to the use of congested highways for many travelers. This alternative to the use of highways is especially important for households that cannot afford an automobile for every person in the household who travels for work or for other reasons.

Visual Impacts of the Project and Landscaping Details

Many commenters felt that the visual impacts of the Project are too great and the protection of views is inadequate. The Project is located in an urban context where visual change is expected. The City has attempted to locate the guideway and its stations with sensitivity to the resulting visual impacts, although the transportation considerations usually dictate these locations. As a result, many of the visual effects of the Project, such as view blockage, cannot be mitigated. These unavoidable, adverse visual impacts are presented in Section 4.8 of the Final EIS.

Several commenters said that the Final EIS presents limited information about how the City intends to use landscaping to mitigate the adverse visual effects of the Project. The comments suggest that details about the landscaping such as the number, size and location of planted trees should be included in the Final EIS. As previously noted, the adverse visual effects of the Project have been fully evaluated in the Final EIS, which includes a commitment to use landscaping to soften, but not eliminate these visual impacts. The final design of a project, such as the landscaping details sought by the commenters, cannot be developed until the environmental process has been completed and a specific alternative has been selected and is being designed in detail. The City is committed to consulting with the affected local communities on the detailed design of the landscaping.

Consideration of Additional Alternatives

One of the alternatives mentioned in several comments is the Managed Highway Lane or High Occupancy-Toll (HOT) lane. The Final EIS responded to comments favoring these alternatives which were evaluated and eliminated because they do not provide an alternative to highway travel.

Another frequent comment favored light rail transit that could be constructed at grade rather than on an elevated guideway. The primary reason for eliminating at-grade alignment was its conflict with existing streets and traffic. It would result in increased highway congestion, an increase in the transit travel times on the Project, and therefore a decrease in ridership.

One commenter suggested an alignment segment alongside the existing freeway, an alternative which had not been previously proposed. Such an alignment would reduce the size of the community well served by the Project because the community on the opposite side of the freeway from the alignment would not have direct walk access, or if they did, it would be at quite a distance. Furthermore, waiting for a train in a station cantilevered off the elevated freeway is an unpleasant experience and ridership would suffer.

Plaza at the Dillingham Transportation Building

One commenter is concerned that the Downtown station entrance near the Dillingham Transportation Building will change its plaza a from a private tenant amenity to a public thoroughfare. The entrance of the Downtown station will be designed to fit carefully within the existing environment, minimizing the effect on the plaza and the Dillingham Transportation Building. The City will work with the Pacific Guardian Center, the manager of the building and plaza, to create a logical pathway for station users that minimizes the effect on the plaza and arcade.

Cost and Financial Plan for the Project

One commenter points out that recent reports by FTA and correspondence between FTA and the City indicate FTA's concerns about the robustness of the City's financial plan for the Project. The comment also points out that the Final EIS does not reflect these FTA concerns. For FTA, an environmental impact statement is not the primary determinant of FTA financial support for a project. FTA also performs a New Starts evaluation which includes assessments of the Project's capital and operating cost estimates and of the applicant's financial plans for building and operating the Project. FTA performs these cost and financial assessments outside of the environmental process and the results of these assessments must be satisfactory before FTA will approve the Project into Final Design.