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MEMORANDUM

TO: All Signatories and Consulting Parties for the Honolulu Rail Transit Project

FROM: Paul L. Cleghorn, Ph.D.

SUBJECT: Lessons Learned 2012-2016

DATE: 9 March 2016

Pacific Legacy has served as the Kāko‘o for the Honolulu Rail Transit Project (H RTP) since March 2012. This service is being terminated in 2016 and a new Kāko‘o will be supporting the efforts of all signatories and consulting parties regarding historic preservation issues as per the Programmatic Agreement (PA) among the U.S. Department of Transportation Federal Transit Administration, the Hawai‘i State Historic Preservation Officer, the U.S. Navy, and the Advisory Council on Historic Preservation (2011). Stipulation I.H.10 in the PA stipulates that the Kāko‘o will:

Develop a best practice manual related to historic properties and a Section 106 "lessons learned" case study on the Project that may be helpful to future Section 106 processes on this and other projects. The best practice manual and "lessons learned" case study will be made available to the consulting parties and other interested parties within one (1) year of the completion of Phase 1 construction. When complete, FTA [Federal Transit Authority] will make the best practice manuals available on their public website.

Since the Phase I construction is not complete, these two products (Best Practice Manual and Lessons Learned) are not yet due. However, at the urging of several consulting parties and HART, a Draft Best Practices Guide was written and circulated to all parties in 2014. While no comments were received, it is hoped that this Guide will be of use to the new Kāko‘o when the Best Practices Manual is developed. Most recently, the Honolulu Area Rapid Transit Authority (HART) has requested that I develop a Lessons Learned Study based on my four years of experience as the Kāko‘o. The purpose of the present document is to present the lessons I have learned during my four year tenure. I hope that it will be useful to the new Kako‘o in the development of the Lessons Learned Study.

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My comments revolve around five issues or topics:

1. Operationally define the role and responsibilities of the Kāko‘o
2. Independence of the Kāko‘o
3. Expectations
4. Communication
5. Establish/Develop Process

OPERATIONALLY DEFINE THE ROLE AND RESPONSIBILITIES OF THE KĀKO‘O

When I took the position of Kāko‘o in 2012, the role and responsibilities of the position had not progressed beyond the two and a half page listing found in the PA (Stipulation I.H). In essence the role and responsibilities of the position had not been operationally defined. I self defined my role as a support position based on the definition of the Hawaiian word *kāko‘o*. In my view, my main task was to support the consulting parties in their efforts to consult on the H RTP. At times, I acted as a communication channel or liaison between consulting parties and HART and I assisted in obtaining information for the consulting parties so that they could consult more effectively.

I embarked on this project a full 14 months after the PA had been signed. By this time the H RTP was in full operation and considerable effort was needed to become oriented with the project and the participants. I began by reaching out to all parties, seeking input on what the concerns were and what the parties needed to better consult on the project. This outreach took the form of emails, telephone calls, and face-to-face meetings. Two things became quite clear:

1. The consulting parties had a deep mistrust of HART.
2. HART personnel appeared to simply going through the motions of adhering to the PA and seemed unclear as to how to sincerely address the concerns of the consulting parties.

In order to address the mistrust, I initiated a monthly meeting for all consulting parties. This monthly meeting schedule continued to late 2015 and evolved from a non-structured arena for consulting parties to air their concerns to an organized agenda-driven meeting that included all parties. In general, these types of meetings appeared to be beneficial for the consultation process, however, there were times when different groups were dissatisfied with the meetings and with the performance of the Kāko‘o.

For future Section 106 projects like the H RTP where there is a position of an independent PA Project Manager, or Kako‘o, it would be extremely useful and valuable to spend adequate effort on operationally defining the role and responsibilities of the position. These could be first outlined by the agency and then amplified by direct meetings among the agency, consulting parties, and the Kako‘o. These efforts would go a long way of alleviating issues discussed below that could arise.

INDEPENDENCE OF THE KAKO'O

The intent of the PA was for the Kāko'o to be an independent manager of the PA. However, the Kāko'o position is funded and administered by HART. This makes for a difficult relationship. At the very least, there is the perception that since the Kāko'o works for HART, the Kāko'o is biased in favor of HART's interests when it comes to issues raised by the consulting parties.

When I started working as the Kāko'o, some of the HART personnel were very forceful in presenting their perspectives on issues and directing courses of action for the Kāko'o. This, like most other aspects of this position, has evolved into a much more independent relationship between HART and the Kāko'o. However, with staffing changes that may take place in HART, there is always the possibility of reverting into a less independent relationship.

For future Section 106 projects like the HRTP, if the intent is to have an independent PA Project Manager, I would strongly advise that the contracting mechanism be through a third party. This would create a greater gap between the agency (HART) and the PA Program Manager (Kāko'o). This would foster a greater degree of independence and less direct intervention by the agency. Such an approach would also lessen the possibly perceived compliant relationship of the PA Program Manager to the agency.

EXPECTATIONS

There have been many instances over the last four years where expectations may have been greater than can be reasonably achieved. This has been particularly true among the consulting parties. It has seemed that sometimes consulting parties feel that because they bring up a concern or issue, that it must be resolved to their liking. This is not the case.

In my view, the consulting parties have the responsibility and obligation to raise issues that are of concern to them and their constituents. The agencies (HART and FTA) have the obligation to hear these concerns, research the issues, and make a determination. The process should include at least one, and preferably several meetings, among all concerned parties in order to find adequate solutions. All communications should be honest, heart-felt, and civil, with all parties striving for solutions. However, in the end, the agency (HART or FTA) must make a decision and that decision must be abided by all concerned.

For future Section 106 projects like the HRTP, adequate time and effort at the beginning of the project must be spent on clarifying expectations and how the consultation process is defined.

COMMUNICATION

Positive, thoughtful, and coherent communication among all parties is crucial for successful consultations. For the most part, I think that the communications among the parties has been satisfactory. There have been instances, however, when communications have been constrained, emotional, and sometimes argumentative. All parties must realize that the only way to move forward is to sincerely present and receive views and perspectives. The presenters of particular

perspectives need to state their arguments calmly, factually, and briefly. The receivers must keep open minds and receive the information in the sincere manner that it is presented. A direct dialogue among the parties can then take place. It is only through such open and direct communication that issues can be resolved and all concerned can move forward.

ESTABLISH/DEVELOP PROCESS

The process of raising issues or concerns and reaching a resolution was not developed at the beginning of this project. This process has developed through time and now seems to be working quite well. The development of this process is directly linked to two instances that took place in 2015 regarding Stipulation IX.D of the PA regarding Measures to Address Reasonable Foreseeable Indirect and Cumulative Effects Caused by the Project; and Stipulation I.H.10 that directs the Kāko‘o to conduct research and present recommendations regarding issues raised by consulting parties on potential impacts to historic properties. The process that has evolved consists of the following steps:

1. The consulting party provides written notice of concern to the FTA, HART, and the Kāko‘o with copies to other signatories and consulting parties.
2. A meeting is held among all interested parties to discuss the concerns received.
3. The Kāko‘o conducts research on the issue, including consultations with the consulting party raising the concern, and requesting input from other consulting parties.
4. The Kāko‘o provides recommendations to FTA and HART.
5. One or more additional meetings of interested parties are convened.
6. FTA issues a decision.
7. If there is an objection to the decision, the FTA notifies the signatories and consults with the objecting party to seek resolution as per Stipulation XIII.C or XIV.C as applicable.

This process appears to work quite well. While this process was developed in response to issues raised under Stipulation IX.D, it can be followed for other issues raised.