MEMORANDUM

TO: Peter Rogoff, Administrator
FROM: Leslie T. Rogers, Region IX Administrator
Susan Borinsky, Associate Administrator for Planning and Environment
DATE: October 12, 2010
RE: Meeting with Mayor Peter Carlisle to discuss Honolulu High Capacity Transit Corridor Project

MEETING OVERVIEW

You will meet on Friday October 15, 2010, with newly elected Mayor Peter Carlisle, Council Chair Todd K. Apo, Council Vice Chair Nestor Garcia, Councilmember Ikaika Anderson, and City and County of Honolulu Department of Transportation Services Rapid Transit Division (RTD) Staff. The Mayor will provide assurances that the City will continue to pursue the High Capacity Transit Corridor project as currently planned.

KEY ISSUES AND CONCERNS

1. **Environmental Issues**
   a. **Status/Timing of Record of Decision (ROD)**
      - The comment period for the Final Environmental Impact Statement (FEIS) closed in August. FTA staff is reviewing the summary of comments and responses prepared by RTD.
      - The following actions must be completed before FTA could issue a ROD: complete the review of FEIS comments and responses, obtain concurrence letter from U.S. Fish and Wildlife Service regarding the Endangered Species Act, complete Programmatic Agreement, address the pre-cast yard issue (if applicable – see description below). As you know, Governor Lingle has said that she will not sign the FEIS until she completes a financial review of the project.
      - The project sponsor is assuming that FTA will not issue a ROD until January 2011, at which time a new Governor will be in office. Given the remaining items left to be completed, a ROD date of January 2011 is feasible.

   b. **Status of Programmatic Agreement**
      - The programmatic agreement stipulations have all been resolved except for one remaining issue; the State Historic Preservation Office's interest in a mitigation fund for potential indirect and cumulative effects on historic districts along the alignment. FTA and RTD have shared proposed mitigation language that does not include a mitigation fund, to better address unknown indirect and cumulative effects.

   c. **Pre-Cast Yard Issue**
      - Several months ago, Kiewit, the design-build contractor for the West Oahu Farrington segment, initiated a review under the State environmental process for a 30-acre pre-cast yard. The yard would be used to fabricate the posts needed for the aerial structure for the project. The proposed site had not been included as part of the project scope in the FEIS. Ideally, the FEIS should include a review of the entire project scope, including pre-cast yards.
      - FTA asked for additional information about pre-cast yard sites for the project (up to four may be needed for the project), but RTD has resisted providing information on the grounds that the pre-cast yard site selection is the responsibility of the contractor.
      - The New Starts team would like to discuss this issue with you at the next bi-weekly New Starts meeting.

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d. Status of Governor's review of financial information

- Governor Lingle has hired consultants to review the financial plan for the project. FTA has told the Governor that FTA would share the project financial plan, but did not indicate FTA would share its analysis of the plan. The Governor's consultants have recently contact FTA. FTA has not received updated financial information from RTD since the PE request. FTA can provide those documents, dated May and August 2009, to the consultants, but we believe they may already have them.

2. Project Development Issues

a. Final Design Approval currently anticipated June 2011

b. Letters of No Prejudice (LONPs) and "Local Match" Appropriations Language

- RTD has awarded a design-build contract for the West Oahu Farrington segment with an anticipated notice to proceed for final design and construction date of March 2011, which would be prior to the project's entry into final design. Thus, RTD has broached the subject of an LONP with FTA.
- The Hawaii delegation was successful in getting language in the Senate FY 2011 Appropriations bill that would allow RTD to count the West Oahu Farrington segment as local match toward the rest of the project. RTD is under the impression that this language would allow them to proceed with construction of that segment as a "local project" and use it as match for the FTA-funded project, eliminating the need for an LONP. There would be significant challenges with separating the western segment from the Federal project at this point, including updating the New Starts criteria information, re-rating the shorter Federal project, and possibly revising NEPA documents.
  - "Sec. 169. Notwithstanding any other provision of law, when evaluating the local share of the project authorized to be carried out under section 3043(c)(86) of Public Law 109-59 (119 Stat. 1644) the Secretary shall give consideration to all non-New Starts funds expended for engineering, final design and construction of the Farrington Highway Guideway, Stations, Maintenance Storage Facility and related elements advanced with 100 percent non-New Starts funds."

c. Procurement Issues

- This summer, a Procurement Systems Review was completed on RTD. The review concluded that required Federal clauses were not included in a $49 million contract for project management support for the rail project with InfraConsult LLC. There were several other findings related to lack of supporting documentation. TCC is reviewing the issue to decide how to proceed. In the meantime, RTD is submitting additional information that it believes would address some of FTA's concerns.

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