DEPARTMENT OF TRANSPORTATION SERVICES

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December 31, 2009

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The Honorable Laura Thielen
State Historic Preservation Officer
Department of Land and Natural Resources
State Historic Preservation Division
Kakuhihewa Building, Room 555
601 Kamokila Boulevard
Kapolei, Hawaii 96707

Attention: Ms. Nancy McMahon, Deputy State Historic Preservation Officer

Dear Ms. Thielen:

Subject: Honolulu High-Capacity Transit Corridor Project

Recently, during the process of completing the Section 106 Programmatic Agreement for the subject project, questions have arisen regarding the procedure that was followed. This letter explains the following steps that the Federal Transit Administration (FTA) and City and County of Honolulu have taken for the Honolulu High-Capacity Transit Corridor Project to complete the process set forth in Section 106 of the National Historic Preservation Act (NHPA) of 1966, as amended (16 USC 470f), and its implementing regulation at 36 CFR 800.

- In accordance with §800.16(d), the Area of Potential Effects (APE) was established in consultation with the Hawaii State Historic Preservation Division (SHPD). The SHPD concurred with the APE delineation in a letter dated February 4, 2008.

- Consulting parties were identified and invited to participate through a letter dated December 5, 2007, in accordance with §800.3(f).

- Determinations of eligibility were completed according to §800.4; determination of eligibility forms and the *Historic Resources Technical Report* were submitted to the SHPD in August 2008; all consulting parties received copies of the *Historic Resources Technical Report*. The SHPD responded by concurring with the determinations of eligibility for all eligible properties, but requested that a small subset of properties that were determined to be not eligible be researched to confirm

this status. Upon more intensive research, the FTA concluded that a few of these properties were eligible. The SHPD concurred with these determinations in a letter dated October 3, 2008, as modified by a follow-up e-mail from Astrid Liverman dated November 14, 2008. Please note that Makalapa Navy Housing and Little Makalapa Navy Housing were evaluated and submitted separately at that time, and the The Honorable Laura Thielen proposed boundary for each was the one reflected in the maps that were distributed during consultation on the Programmatic Agreement (PA). The SHPD, upon reviewing these separate determinations, did not indicate that the historic districts should be combined, nor did the SHPD convey information that the U.S. Navy had combined these two distinct housing areas in its *Integrated Cultural Resources Management Plan* (ICRMP).

- Determinations of effect were completed in April 2009 according to §800.5. These effect determinations are described in detail in the *Historic Effects Report*. In June 2009, the SHPD concurred with all determinations of effect, with the exception of 11 historic properties. FTA had determined that these properties were not adversely affected, but the SHPD believed that the Project would result in adverse effects. FTA accepted the SHPD's effect determinations for these 11 resources. As a result, 33 resources received adverse effect determinations. As part of this process and consistent with the *Historic Resources Technical Report*, Makalapa Navy Housing and Little Makalapa Navy Housing were evaluated separately. FTA determined that there would be an adverse effect to Makalapa Navy Housing and there would be no adverse effect to Little Makalapa Navy Housing. The SHPD concurred with these determinations and did not state that it preferred that these two housing areas be evaluated as a single property, nor did it cite the ICRMP as a source for basing such an opinion.

- All work on the determinations of eligibility and effect were completed by architectural historians who meet or exceed the standards set forth in 36 CFR 61, Appendix A.

- FTA and the consulting parties met 11 times between July 2009 and November 2009 to develop the PA to resolve adverse effects, as set forth in §800.6. At this time, the PA is in a final draft form.

The National Trust for Historic Preservation notified the FTA on November 23, 2009 that the Navy's ICRMP, drafted in 2002 and currently being updated, had presented the Makalapa Navy Housing and Little Makalapa Navy Housing as a single historic property. The Navy commented on December 10, 2009, repeating the National Trust's comment. At no time during the entire consultation process—including eligibility and effects determinations and PA development—did the SHPD or other consulting parties (many of whom were involved in multiple Navy Section 106 consultations) mention that the two individual districts that had been identified as eligible should be a single district as considered in the Navy's ICRMP. One of the

most important roles of consulting parties is to convey information in a timely manner about resources with which they are familiar or have specialized knowledge. The National Trust was copied on the submittal of the eligibility determination to the SHPD in August 2008, which depicted the boundaries for the potential Makalapa Navy Housing and Little Makalapa Navy Housing districts.

Discussion with Mason Architects, who prepared both the 2002 ICRMP and eligibility determination forms for the Project, confirmed that the approach taken in their work on the ICRMP emphasized how the Navy would manage its resources. In response to their work on the Section 106 determination they stated that "[T]he housing types are different and they originally housed different populations, with Little Makalapa housing civilians and the Makalapa proper housing Naval officers' families. [Mason Architects] identified Makalapa and Little Makalapa as two separate areas because the two areas are currently distinct."

The contents of the 2002 ICRMP does not constitute a determination of eligibility. The determinations of eligibility set forth in the *Historic Resources Technical Report* were formally submitted to the SHPD. After appropriate consultation, the SHPD concurred with these determinations of eligibility, which included Makalapa Navy Housing and Little Makalapa Navy Housing evaluated as two separate historic properties. The SHPD also concurred with the effects determinations on these two distinct historic districts. Neither the National Trust nor the U.S. Navy commented on the two potential districts during their reviews of the *Historic Resources Technical Report* and the *Historic Effects Report*. Specifically, §800.5(c)(2)(i) states that consulting parties should notify the agency official of any disagreements with findings within a 30-day review period. At no time did the U.S. Navy state that it would prefer that the two properties be evaluated as a single historic property. Under §800.5(c)(1), the agency may proceed if the SHPD has concurred or not provided a response and no consulting parties have objected.

Each consulting party was notified of the PA meetings and had the option to attend or call in to the meetings. The U.S. Navy participated minimally in these meetings, calling in to only one meeting. In an attempt to engage the U.S. Navy, project staff met with U.S. Navy staff at Pearl Harbor on July 22, 2009 to apprise the U.S. Navy of the project status. Again, at no time did the U.S. Navy or the SHPD state that they would prefer that the two properties be evaluated as a single historic property. The FTA has upheld both the letter and spirit of Section 106, following the procedural law carefully.

Should you have any questions regarding this matter, please contact Faith Miyamoto of the Rapid Transit Division at 768-8350.

Very truly yours,

Wayne Y. Yoshioka
Director

cc: Mr. Ted Matley, Federal Transit Administration
Ms. Blythe Semmer, Advisory Council on Historic Preservation
Dr. Pua Aiu, State Historic Preservation Division
Mr. John Muraoka, U.S. Navy Region Hawaii
Mr. Lawrence Spurgeon, PB Americas, Inc.