Preserving America's Heritage

December 3, 2010

Ms. Elizabeth Zelasko
Federal Preservation Officer
Federal Transit Administration, E45-340
1200 New Jersey Ave. SE
Washington, DC 20590

RE: Programmatic Agreement for Honolulu High-Capacity Transit Corridor Project Honolulu, Hawaii

Dear Ms. Zelasko:

The Federal Transit Administration (FTA) recently requested that the Advisory Council on Historic Preservation (ACHP) and other consulting parties review revised draft stipulations for a programmatic agreement (PA) for the referenced undertaking. FTA has determined that the Honolulu High-Capacity Transit Corridor Project will have an adverse effect on historic properties listed in and eligible for the National Register of Historic Places. The ACHP is actively participating in the Section 106 consultation process in accordance with 36 CFR '800.6(b)(2) of the ACHP's regulations, "Protection of Historic Properties," and submit our comments accordingly.

Project Management and Oversight
We believe that, in general, recent revisions to the draft PA in response to concerns raised by the Hawaii State Historic Preservation Officer (SHPO) have enhanced its preservation provisions. In particular, the ACHP supports the addition of a PA Project Manager to provide oversight and quality control for the reviews and deliverables stipulated by the PA. Minor changes could strengthen this stipulation further.

- The PA should acknowledge that a selection criterion for the Project Manager is to maintain the Project Manager's independent perspective and to avoid any real or apparent conflict of interest.
- In the description of roles and responsibilities, FTA should clarify that the statement concerning the City and County of Honolulu's (City's) responsibility to engage other qualified professionals is intended to mean "in addition to" the Project Manager.
- Responsibility number 12, regarding development of a best practice manual, should include a statement about the proposed use of this guidance.

ADVISORY COUNCIL ON HISTORIC PRESERVATION
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- Changing Stipulation IV, Design Standards, to reflect that the Project Manager would determine if the *Secretary of the Interior's Standards* cannot be applied is also appropriate.

Reviews to Address Indirect and Cumulative Effects
The Hawaii SHPO and other consulting parties have raised concerns about provisions to address indirect and cumulative effects from the undertaking on historic properties, particularly the Chinatown and Merchant Street Historic Districts. The ACHP acknowledges the difficulty in predicting all indirect and cumulative effects on historic properties from transit construction. Therefore, we recommended that FTA and the City and County of Honolulu (City) include a contingency stipulation to ensure that unanticipated effects are addressed in a timely and inclusive manner and avoidance and minimization strategies are explored, where feasible. We offer the following specific comments on proposed Stipulations IX.D and E.:

- Stipulation IX.D, focuses on allowing signatories and consulting parties to raise concerns about previously unidentified indirect and cumulative adverse effects anywhere in the Area of Potential Effects (APE). This should be distinguished from the post-review discovery provision (XII.A), and the word "imminent" should be deleted.
- Stipulation IX.E.2 should be revised to state that the City shall request documents from any project requiring a City permit or approval that is related to the undertaking and proposed within the two historic districts. This clarifies that we want to focus on the historic districts generically if local administrative reviews are required.
- In Appendix A, describing the consulting party comment process, was consultation as described in paragraph 5 intended to be limited to "concurring parties?" The ACHP recommends it apply to "consulting parties."

We further recommend that FTA add language to the stipulations section as follows: "No provision of this PA may be altered or nullified by local actions unless the PA is appropriately amended (Stipulation XIV.H) or terminated (Stipulation XIV.I)."

Navy Role
The preamble and Stipulation I (Roles and Responsibilities) of the PA should be revised to describe the United States Navy's (Navy's) addition as a signatory to the agreement. Has the Navy formally designated FTA lead agency according to the provisions of §800.2(a)(2) for its Section 106 compliance responsibilities? What approvals must the Navy provide related to construction of the undertaking? How will the Navy participate in design review and other procedures in the PA as they relate to activities on Navy property? These questions should be answered by the Navy in communication to the consulting parties and reflected in the PA.

Supporting Documentation and Attachments
During a teleconference on December 2, 2010, the ACHP heard several preservation partner consulting parties describe their continuing frustration with incomplete background information provided with the PA. To resolve these concerns, FTA should ensure that the City prepares a revised set of APE maps that depicts the APE for the entire corridor (not just those areas where parcel boundaries define its extent), deletes any alignments eliminated from further planning consideration, and correctly and sequentially labels and numbers all pages. The City should also prepare a summary list of all adversely affected historic properties along with a brief characterization of the adverse effect(s) they may experience (such as demolition, visual effects, audible effects, change in access, etc.). The list should be made available at a location, such as the

project web site, accessible to all consulting parties. This will address persistent concerns about whether any adverse effects observed during project implementation were previously considered.

Successor City Agencies
Consulting parties also questioned whether creation of a new transit authority will affect any of the commitments made on behalf of the City in the PA. FTA should clarify how it will ensure that the City fulfills all obligations set forth in the PA in the event of administrative changes on the local level.

Consulting Parties Teleconference
We encourage FTA to move promptly to finalize the PA and convene a teleconference with consulting parties to review responses to comments received on this draft. Likewise, FTA will need to discuss next steps to circulate the PA for signature. Such a teleconference also offers FTA the opportunity to clarify for the administrative record its responses to consulting party comments on the PA.

We appreciate your consideration of these comments and those of other consulting parties. Should you have any questions or wish to discuss this matter further, please contact Blythe Semmer at (202) 606-8552 or via email at bsemmer@achp.gov.

Sincerely,

Charlene Dwin Vaughn

Charlene Dwin Vaughn, AICP
Assistant Director
Office of Federal Agency Programs
Federal Permitting, Licensing, and Assistance Section