From:	Zelasko, Elizabeth (FTA)
To:	Bausch, Carl (FTA); VanWyk, Christopher (FTA); Marler, Renee (FTA); Zusman, Nancy-Ellen (FTA); Borinsky, Susan (FTA)
CC:	Sukys, Raymond (FTA); Matley, Ted (FTA); Carranza, Edward (FTA)
Sent:	5/12/2010 12:12:50 PM
Subject:	FW: Response to PA and Section 4(f) Comments
Attachments:	Section 106 early-start activities.doc

As discussed on the phone today, here is the response that I sent to the Park Service. The City and County, including their attorney, provided comments on my draft to make sure that it was factually correct. Joe Ossi reviewed the first section on OIBC and Native Hawaiian burials and provided comments to make sure it was not inconsistent with FTA practice on projects. The remainder of the responses reflect discussions that we have had internally and with the City.

I plan to call the Park Service tomorrow as a follow up.

Liz

From: Zelasko, Elizabeth (FTA)
Sent: Wednesday, May 12, 2010 6:02 PM
To: 'Elaine_Jackson-Retondo@nps.gov'
Cc: Frank_Hays@nps.gov; Melia_Lane-Kamahele@nps.gov; Jeffrey_Durbin@nps.gov; Deborah.Bardwick@exchange.sol.doi.gov; Pua.Aiu@hawaii.gov; 'Nancy.A.McMahon@hawaii.gov'; Miyamoto, Faith; 'Blythe Semmer'; Bausch, Carl (FTA); Sukys, Raymond (FTA); Matley, Ted (FTA); VanWyk, Christopher (FTA)
Subject: Response to PA and Section 4(f) Comments

Elaine,

Thank you again for taking the time to prepare comments on the draft Programmatic Agreement and our Section 4(f) analysis.

The Section 4(f) Evaluation that your office reviewed was prepared in the Fall of 2009. At the time, it did not fully reflect the incorporation of comments made by one of our Washington, DC Section 4(f) experts. Although, the version you reviewed was not the latest draft, the overall conclusions and determination of Section 4(f) use remained the same. The responses below in the Section 4(f) section indicate where items were changed from the version you reviewed and what is included in the current draft text.

We felt that it would be easiest to respond to your Section 4(f) comments within the text which is inserted after the Section 106 PA responses.

I will follow up our email with a phone call to you tomorrow.

Thank you,

Liz Zelasko

Federal Transit Administration
Office of Planning and Environment
elizabeth.zelasko@dot.gov
(202) 366-0244

Section 106 PA Comments

In your email, NPS expressed concerns raised by the OIBC and other consulting parties regarding the phased archeological investigations. FTA and the City have listened to the concerns raised by OIBC and other consulting parties regarding archeological investigations during Phase IV of the Honolulu High Capacity Transit Corridor Project (Project). We understand that intrusions into native Hawaiian burial are considered to be extremely offensive and disrespectful and we take the responsibility of potentially affecting native Hawaiian burials very seriously.

The purpose of the Project is to provide improved mobility for persons traveling in the highly congested east-west transportation corridor from Kapolei to the Punchbowl-Sheridan-Date area. The Downtown area and the Punchbowl-Sheridan-Date area both contain a high number of jobs. The proposed Project terminus, the Ala Moana Center, is the state's largest shopping complex and a major employment center. The major destinations of current bus ridership include the Downtown and Punchbowl-Sheridan-Date areas. In addition to being transit destinations, these areas also contain a large number of transit dependents and are locations where a number of transit trips originate. The City's transportation studies have also identified the Downtown, Punchbowl, and the Kakaako neighborhood, which is located between the two other areas, as places with substantial population and employment growth over the next 20 years.

The FTA and the City understands that while these areas contains major urban transportation destinations, these areas also contain natural sand deposits where there is a high potential to encounter native Hawaiian burials. To better inform the prior transportation studies, the City completed an archaeological review of all potential alignments that included evaluation of soils, prior habitation, and literature reviews or prior discoveries. Based on this review, the City decided on a general alignment that served the Kakaako neighborhood with the lowest risk of encountering native Hawaiian burials.

This is an area where the potential of encountering native Hawaiian burials is high. It is also an intensely urban area through which the alignment would follow paved roadways. Conducting archeological surveys would be highly disruptive to potential native Hawaiian burials and residents of these neighborhoods and would be very costly. Deciding to elevate the proposed Project in an exclusive right-of-way limits the amount of disturbance to the placement of foundations approximately 8 feet in diameter spaced between 100 to 150 feet apart. To limit the potential impacts on the residences and native Hawaiian burials, the City has committed to conducting archeological investigations in locations where foundations would be placed. This would limit the area disturbed for archeological investigations and construction to potentially less than ten percent[1] of what would be disturbed if archeological investigations were conducted for 100 percent of the alignment.

During the NEPA and Section 106 process the FTA limits the level of design and engineering that project sponsors can conduct on their projects so as to not prejudice the consideration of alternatives, including the no action alternative. The placement of column foundations is a design activity that requires a level of design that typically takes place after the NEPA and Section 106 processes conclude. To balance the current level of project design, the desire to limit disturbance of native Hawaiian burials and residences in Phase IV of the project area and the potential transportation benefits that would accrue from the proposed Project, FTA, in consultation with the consulting parties, decided to develop a detailed approach in the Section 106 Programmatic Agreement (PA) for conducting archeological investigations for Phase IV for the project. As you know, the consultation process involved more than thirty groups, organizations, and federal, state, and local agencies.

The City's proposed schedule for the Project would have construction starting in 2013 for Phase IV. Although, the development of more detailed design, and therefore archeological investigations, for the last construction phase would have typically been delayed until closer to the anticipated construction start date, the City has committed to starting the process much earlier. As stated in the PA,

> "Within 60 days of execution of this PA, the City shall consult with the OIBC, lineal and cultural descendents, and other interested parties that are identified in discussion with OIBC, about the scope of investigation for the AIS Plan for construction of Phase 4. The City shall provide Preliminary Engineering plans and existing utility maps to assist in the scoping process. The AIS Plan will provide for investigation of the entire Phase 4 area, including from Waiakamilo Road to Ala Moana Center. In the portion of Phase 4 with the greatest potential for resources, the AIS Plan will evaluate all areas that will be disturbed by the Project. The AIS Plan will include a review of historical shoreline location, soil type, and, where indicated by conditions, the survey measures listed in Stipulation III.C, including subsurface testing, for each column location, utility relocation, and major features of each station and traction power substation location based on Preliminary Engineering design data."

The plan developed through this consultation, would need to be submitted to the Hawaii State Historic Preservation Division (SHPD) within four months of execution of the PA. Archeological investigations would start after the SHPD's office approves the plan within 30 days of receipt. The City would be required to complete the archaeological investigations during a period of time where there is still flexibility in project design. In addition, within six months of the execution of the PA, the City, in coordination of the OIBC, shall complete a draft protocol for consultation regarding treatment of any native Hawaiian burials identified during the archaeological inventory survey. The protocol would also include a workflow of avoidance alternatives through the relocation of columns, change in column design from a center alignment to a straddle bent or other alternatively-supported design, modification of span length, and alternate utility locations.

Our Section 4(f) regulation states at 23 CFR 774.11(f) that Section 4(f) applies to archaeological sites eligible for the National Register, which could include any native Hawaiian burials, even if the site is discovered late in project development or during construction. Upon discovery, FTA would order a pause in the design or construction work on that project location while FTA and the City of Honolulu conducted a section 4(f) evaluation, including an evaluation of the eligibility of the site, the development

and evaluation of alternatives that would avoid the newly discovered, eligible site, and consultation with the Department of the Interior, SHPO, and other Officials with Jurisdiction in accordance with the Section 4(f) regulations.

Although under Hawaii's native Hawaiian burial law, the OIBC only has primary jurisdiction over the fate of native Hawaiian burials at rest in "previously identified" burial sites, the PA specifies that any newly discovered native Hawaiian burials will be treated as previously discovered. This ensures that the OIBC remains intimately involved in any discussion related to the treatment of native Hawaiian burials.

Regarding NPS concern about the number of 30 day review periods identified in the PA, as a party that would be involved in the reviews, the FTA shared some of your concern. Attached to this email is a preliminary schedule of commitments for activities within the first 90 days after the execution of the PA. The City distributed this initial schedule to the consulting parties. As mentioned in the PA, a schedule for the remaining elements will be developed within 60 days of implementation as outlined in Stipulation XIII(A) and agreed to by the consulting parties.

In your email, you requested a revised Historic Effects Report. In the April 2009 Historic Effects Report prepared for the Project, potential effects to 81 identified NRHP-listed and eligible properties within the Project's APE were evaluated using the criteria of adverse effect outlined in 36 CFR 800.5. FTA determined that 22 properties were adversely affected by implementation of the Project. On July 22, 2010, the SHPO singled out 11 additional properties adversely affected from the 81 properties identified in the Historic Effects Report. Based on SHPO's letter, FTA determined that the Project will have adverse effects on 33 (the original 22, plus SHPO's 11) historic properties. The SHPO did not provide the basis for its 11 adverse effect determinations. Therefore, general effects to the resource are assumed.

It is my understanding that there was a lot of discussion among the consulting parties on boundaries and naming last fall regarding the Makalapa Navy Housing Zone. Since that time there are been further communications between the Navy, the City, and the SHPD confirming the boundaries and the approach to evaluating eligibility and assessing effects. In response to a letter sent to the Navy by the City on December 31, 2009, the Commanding Officer of the U.S. Navy at Pearl Harbor sent a letter on January 25, 2010, to the City clarifying the historical and cultural significance of Makalapa. In his letter of the Commander stated that the station's "...Integrated Cultural Resources Management Plan (ICRMP) provides guidelines for the appropriate treatment of cultural landscape features, buildings and structures." The letter goes on to state that "... the ICRMP should not automatically be assumed to indicate a specific historic or cultural significance."

The Navy's ICRMP for the Pearl Harbor Naval Complex has depicted a single Makalapa Housing Zone, with two distinct sub-areas since 2002. The City, with the concurrence of the SHPD, chose to evaluate the two housing areas as separate districts rather than a single Makalapa Housing Zone. It is the Commander's opinion that, "the Navy does not disagree with the approach taken by the City." With the concurrence of the SHPD and the Navy, FTA supports the finding that the Makalapa Housing area consists of the separate contributing sub-areas of Makalapa and little Makalapa.

The Project has been determined to have an adverse effect on the Makalapa Navy Housing. The guideway would introduce a substantial new element into the Makalapa Navy Housing's setting that is not in keeping with the area's residential appeal. While the project would have no effect on the integrity of location, design, materials, workmanship, and association, its setting will be altered by the guideway. Also, views from the backyards or residences along Kamehameha Highway will be adversely affected by the elevated guideway. However, no audible or atmospheric effects to the property were identified.

Based on the SHPD's concurrence, the station will be located outside of the NRHP boundary and would not adversely affect the historic property. The Makalapa Navy Housing has a moderate level of integrity of feeling. It conveys its origins as a 1940s military housing complex despite changes to the houses. The Project will not affect any of the property's physical features, but it will diminish the property's expression of its historic residential character. The Project will introduce a new and incompatible component into the adjacent setting, resulting in an adverse effect.

The FTA determined that the Project would have no adverse effect on the Little Makalapa Navy Housing, which is adjacent to Kamehameha Highway. There will be no adverse effect to the integrity of location, design, materials, association, and feeling. Also, there will be no adverse effect to the integrity of setting. Within the NRHP boundary, the Project will not be visible from select areas because of distance to the guideway. Houses that are closer to the project alignment will be shielded from the guideway by an existing tall sound wall that screens the former residences from the roadway and also blocks views to the guideway. The station will be located outside the NRHP boundary and will be screened by substantial vegetation from the rear of the closest houses. Furthermore, no audible or atmospheric effects to this property were identified.

The FTA received concurrence from SHPO for these findings of no adverse effect in accordance with 36 CFR part 800. This is documented in the April 2009 Historic Effects Report. Since there is no adverse effect to this historic property, it is not included in the PA. There is no use of the historic property; therefore, it is not included in the Section 4(f) Evaluation.

In your email, the NPS commented on the consistency between the Section 106 and Section 4(f) materials with regard

to Boulevard Saimin. The FTA has determined, in accordance with 36 CFR part 800, that the Project will have no adverse effect on Boulevard Saimin, as documented in the April 2009 Historic Effects Report. The FTA received concurrence from SHPO.

The following text regarding Boulevard Saimin is included in the Final EIS Section 4(f) Evaluation, April 28, 2010:

"The Boulevard Saimin parcel would be affected by the widening of Dillingham Boulevard (Figure 5-13) to accommodate the fixed guideway in the median, as common to all Build Alternatives. A total of 700 square feet would be necessary. Section 106 consultation determined that the Project will have no adverse effect on this historic property. Therefore, while there will be a direct use, the impact will be *de minimis* and development of avoidance alternatives is not required."

"Pursuant to 23 CFR 774.5(b)(1), FTA has notified ACHP and the SHPO of its intent to make a *de minimis* impact determination on the two historic properties that were determined to have a no adverse effect under Section 106 (Boulevard Saimin and O'ahu Railway & Land Company Basalt Paving Blocks and Former Filling Station)."

Again in comparing the Section 4(f) and Section 106 materials, NPS commented on the consistency between the two sections regarding the Kamehameha Highway Bridge. The FTA has determined, in accordance with 36 CFR part 800, that the Project will have no adverse effect on Kamehameha Highway Bridge over Halawa Stream. The mauka span of the bridge is the only span eligible for the NRHP. The Project will introduce new components into the setting. Pre-existing changes to the property have already diminished the bridge's integrity of setting (Historic Effects Report, April 14, 2009, page 135). The FTA received concurrence from SHPO in the finding of no adverse effect in accordance with 36 CFR part 800.

There is no use of this bridge; therefore, it is not included in the Section 4(f) Evaluation. This bridge is discussed in the Section 4(f) Evaluation Section 5.8.2 Differences in Environmental Impacts between Airport and Salt Lake Alternatives as part of the Least Overall Harm Discussion in the context of comparing the overall visual efforts of the two alternatives. The Section 4(f) Evaluation concludes that the overall visual effects for the Airport Alternative are expected to be of a lower magnitude than with the Salt Lake Alternative.

FTA modified the draft PA to provide NPS a 60 day review period for HABS/HAER/HALS documentation and to revise the text in Section III.D as:

> "Treatment Plans-Based on the results of the AIS fieldwork and in consultation with the SHPD, the City shall develop a specific treatment plan to avoid, minimize, or mitigate adverse effects to *historic properties including archaeological sites and burials* pursuant to the applicable state laws, including Hawai'i Revised Statutes, Chapter 6E and HAR, Title 13, Subtitle 13, Chapter 300, for each all construction phase phases. Treatment plans shall be submitted to the SHPD for approval. Upon approval by the SHPD, the City shall implement the treatment plan."

SECTION 4(f) Questions – FTA and the City and County of Honolulu Responses are in Blue

4(f) –Miscellaneous
P5-18 Agency Coordination and Consultation 2nd column line 5: The following is not an accurate statement: " . . . a Programmatic Agreement (PA) has been developed with the concurrence of all consulting agencies . . ."

Reference to the Programmatic Agreement has been revised in the Section 4(f) Evaluation as follows: "Appendix H, Section 106 of the National Historic Preservation Act Programmatic Agreement, details the mitigation, consultation, and review process for use of historic properties impacted by the Project."

P5-34 second paragraph (This paragraph discusses the de minimis justification for direct use in Chinatown District). The following excerpt does not seem to be an accurate assessment of the impact and therefore does not support the de minimis finding: The 30- to 42-foot-high guideway will be placed in front of contributing pier buildings along the waterfront (Figure 5-25). It will pass between these elements and the harbor. The primary view of these structures is from a ground-level perspective from the mauka side of Kamehameha Highway, six lanes removed from the structures. Thus, the guideway and station will be behind and above the viewer and will not block or obstruct primary views of any architecturally significant buildings or substantially impair the characteristics of its National Register eligibility. The next paragraph goes on to state that the: The district's NRHP eligibility is based on the relationship between the district's elements and Honolulu Harbor (as well as the architecture). The Project will not substantially impair that physical connection to the waterfront. However, it will be a dominant visual element contrasting in scale with the pedestrian environment and substantially changing makai views of Honolulu Harbor from Chinatown. It seems that this last excerpt contradicts a de minimis finding. I have included the map below to show how the line goes through Chinatown District.

The Section 4(f) Evaluation (April 28, 2010) includes an evaluation of the direct use of Chinatown, avoidance alternatives and measures to minimize harm. The following text is included in the April 2010 version of the Section 4(f) Evaluation in the Final EIS.

"Section 4(f) Evaluation
The Project includes construction of an elevated guideway within a reconstructed median on Nimitz Highway and a station Koko Head of Nu'uanu Stream at the 'Ewa edge of the district. The station entrance will touch down in a parking lot associated with the non-historic Chinatown Marketplace. While there will be no physical impact to any contributing resource, the guideway and station are within the National Register District. The Chinatown Station is located in the least sensitive location on the 'Ewa edge of the district, beside non-contributing modern buildings in a parking lot. The 30- to 42-foot-high guideway will pass between pier buildings along the waterfront (Figure 5-22) and the harbor that are contributing elements to the District.

The primary view of the Project and the station from a ground level position is from vehicles and pedestrians on Nimitz Highway and from pedestrians on the mauka side of Nimitz Highway. Views from vehicles traveling on Nimitz Highway will be Thus, the guideway and station will be behind and above the viewer and will not block or obstruct primary views of any architecturally significant buildings or substantially impair the characteristics of its National Register eligibility. Predicted noise levels do not exceed FTA criteria. The district's NRHP eligibility includes the relationship between the district's elements, including architecture, and Honolulu Harbor within the district. The Project will not substantially impair the physical connection to the waterfront. The Project will be a dominant visual element that contrasts in scale with the pedestrian environment and substantially changes makai views of Honolulu Harbor from Chinatown.

Avoidance Alternatives
As described above, there are no prudent or feasible avoidance alternatives to the Nimitz Highway alignment that passes through the edge of the Chinatown Historic District. The only alternatives that would completely avoid the Chinatown Historic District would be the Downtown area tunnel alternatives (Figure 5-23). This tunnel would increase the cost of the Project by more than $650 million (2006 dollars), which is beyond the funding provided in the financial plan. Therefore, this would not be considered a prudent alternative as defined under 23 CFR 774.17, as it would result in additional construction cost of an extraordinary magnitude.

Measures to Minimize Harm
Throughout the planning and design of the Project, the guideway has been designed to be as narrow as possible to minimize potential use of the Chinatown Historic District. The guideway will follow Nimitz Highway along the makai edge of Chinatown, and a station entrance will be placed on a parking lot on the edge of the historic district that will not require direct use of the district's contributing properties. The public, including the Section 106 consulting parties, will be offered the opportunity to provide comments on station design at neighborhood design workshops during the Final Design process.

A PA has been prepared in accordance with Section 106, with detailed stipulations that mitigate adverse effects from the Project on cultural properties. Specific measures are outlined related to station design proposed within, or adjacent to, the boundaries of properties eligible for or listed on the NRHP, such as this property. The City will consider the Secretary of Interior's Standards for the Treatment of Historic Properties in developing these designs, and the Section 106 consulting parties will be provided with the opportunity to comment on the design plans for stations. After review of other possible alternatives, the alignment on Nimitz Highway includes all possible planning to minimize harm to the property and results in the least overall harm among the alternatives considered."

P 5-42 thru 5-43 Regarding Noise:
Is it an overstatement that there will be no noise impacts for West Loch Golf Course, Neal S. Blaisdell Park, and Aiea Bay State Recreation Area?

There will be no noise impacts at those locations as documented in Section 4.10 of the Final EIS. The City and FTA will add a reference to the noise analysis in the Section 4(f) Evaluation.

P5-49 under US Naval Base Pearl Harbor NHL:
Apparent Omission - The Bowfin is a NHL and the USS Arizona is a NHL.

The Section 4(f) Evaluation in the Final EIS includes the United State Naval Base Pearl Harbor National Historic Landmark since it the historic property within the APE. The following text was added to the Final EIS, Section 4.16 to address the National Park Service comments:

> "The Project is adjacent to the U.S. Naval Base, Pearl Harbor NHL and near the CINCPACFLT Building NHL, also a part of the Pearl Harbor Naval Base. The FTA accepted the SHPO determination of adverse effect. The Project is not within the boundary of the NHLs and does not have a direct impact on the resources. Therefore, individual, eligible resources located on the Pearl Harbor Naval Base that will be adversely affected by the Project due to changes to setting include Makalapa Navy Housing, Vladimir Ossipoff's Aloha Chapel, SMART Clinic, and Navy-Marine Corps Relief Society–Facility 1514. These resources are not considered contributing elements to the NHL district. The USS Bowfin and the wrecks of the USS Arizona and USS Utah are NHLs located within the Pearl Harbor NHL, but they are not located within the APE for the Project. In addition, some properties within the NHL that also constitute a portion of the newly

designated World War II Valor in the Pacific National Monument, including the Arizona Memorial and Visitor Center, were located outside of the APE."

P 5-50 under US Naval Base Pearl Harbor NHL:
We have earlier requested that the following statement be omitted since it is from an outdated omination that has been replaced: The NHL nomination specifically states that the national significance of Pearl Harbor stems from its continuing function rather than its physical facilities and those physical changes required to support this mission are "necessary, normal, and expected.

In our May 10, 2010 letter, NPS provided extensive comment on the use of this phrase in the historic effects document.

The U.S. Naval Base Pearl Harbor NHL nomination was requested from and provided by the NHL office in Washington D.C. The original nomination form and materials provided by the NHL office contained this language, which was used for the effects assessment in the Historic Effects Report. In response to NPS's prior comments, the updated form was obtained from the NHL office. The City and FTA will revise this language in the Section 4(f) Evaluation where the NHL is described.

P. 5-63 Visual Effects
Apparent Error-The first paragraph includes the following statement: With the Airport Alternative, views of East Loch and the Pearl Harbor National Historic Landmark makai of the alignment will be partially obstructed by the guideway and columns in the residential area near Kohomua Street. The visual integrity of the national historic landmark will not be adversely affected, and the project elements will barely be visible in mauka views from the harbor (see Figure 4-42 in Chapter 4 of this Final EIS). The adverse effect on the NHL is visual, so it is not clear why this statement is included here.

The Section 4(f) Evaluation includes an assessment of the visual effect on the Pearl Harbor National Historic Landmark.

"The elevated guideway will be approximately 650 feet makai from the building and approximately 40 to 45 feet above grade. Due to topography and vegetation, the Project will be minimally visible from select vantage points from within the property boundary. The historic setting of the property consists of its immediate surroundings, which include the drive from Kamehameha Highway (which is not part of the NHL) and the surrounding plantings. The rather dense vegetation will screen the Project from the INCPACFLT Headquarters."

-----Original Message-----
From: Elaine_Jackson-Retondo@nps.gov [mailto:Elaine_Jackson-Retondo@nps.gov]
Sent: Friday, April 30, 2010 10:47 AM
To: Zelasko, Elizabeth (FTA)
Cc: Matley, Ted (FTA); Jeffrey_Durbin@nps.gov; Deborah.Bardwick@exchange.sol.doi.gov; Frank_Hays@nps.gov; Melia_Lane-Kamahele@nps.gov; Stephanie_Toothman@nps.gov
Subject: Fw: draft email

Liz,

I am forwarding you questions and comments about the Honolulu High Capacity Transit Corridor draft final PA and preliminary comments on the administrative copy of the revised 4(f) document. These comments and questions are from the regional office in our capacity as an invited signatory to the PA and in our role in the 4(f) process.

The majority of our comments and questions reiterate questions we have previously asked during the consultation that remain unanswered and questions that arise from the partial realignment near the airport. We have also included a few comments/questions about what appear to be errors, omissions, or inconsistencies in the documents that should be reconciled prior to issuance of the final documents. If you have any questions, please email me or we can schedule a time to talk.

Regards,
Elaine

PA –General Issues:
We remain concerned about the City's and FTA's response to the OIBCs

concerns about whether the timing of the phased archeological inventory adequately protects the possibility of avoiding burials, if the OIBC determines that encountered fields of burials must remain in situ. Under Identification and Protection of Archeological Sites and Burials III.B.4, avoidance is limited to " . . . relocation of columns, change of column design to or from a center alignment to straddle bent or other alternatively-supported design, modification of span length, and alternate utility locations" – realignment is not included as an avoidance measure. How is this resolved, if there is a large field of burials, since the area where there are known burials is in phase IV and the survey would occur after the other three construction phases are well underway or complete? This question also applies to Burial Treatment under III.E.2.b.

The OIBC has consistently expressed these concerns and NPS has expressed concerns regarding this issue in at least two sets of correspondence, September 24, 2009 and October 19, 2009 and during consultation conference calls. We strongly recommend that The City and FTA take the concerns of the OIBC seriously.

We suggest adding the following clause to the PA: Although this agreement appears to meet the technical requirements of Section 106, it does not fully take into account the intent of Section 106.

There are more than a dozen 30-day reviews identified in the PA. This does not include instances where more than one report may be sent as part a of 30-day review submission. We suggest that the City develop a schedule to coordinate these reviews so that consulting parties are not simultaneously reviewing multiple submissions from this one PA or at least a provision that will accommodate a request for additional review time? This is not a new request from NPS; we reiterated this suggestion in our October 19 correspondence.

PA— Adverse Affects:

We have not received a revised Historic Effects Report that reflects the revised findings of adverse effect that are addressed in the PA. The number of adversely effected properties has increased from 5 to 22 then, from 22 to 33. NPS raised this question during the consultations meetings in Sept. 2009.

Apparent Omission— Little Makalapa is included in the Historic Effects document and the first draft 4(f) document, but not in the current PA or revised administrative draft 4(f). It is a historic property within the APE. Also, it is not clear how it is that there is an adverse effect to Makalapa and No Adverse Effect to Little Makalapa. They are right beside one another in a linear fashion adjacent to the guideway and well within the APE. Is there a revised site plan for this area?

Apparent Omission and Inconsistency— It is unclear why Boulevard Saiman is identified as a direct use 4(f) historic property and it is not listed as an adversely effected property in The PA. If it is a historic property 4(f) property with a direct use, then it should be included in the PA as property with an adverse effect.

Apparent Omission— Kamehameha Highway Bridge over Halawa Stream is identified in the 4(F) discussion (page 5-63) of visual effects as incurring moderate to significant high level visual impacts. The bridge is identified in the April 14, Historic Effects Report as eligible for listing on the NRHP and with a No Adverse Effect determination, yet the 4(f) indicates significant visual impacts. This would seem to constitute an adverse effect and therefore would be listed in the PA. The bridge also is not included as a 4(f)

property in the table (Table 5-2) of 4(f) properties in the 4(f) chapter and should be included.

PA—Stipulations:

The HABS HAER HALS documentation stipulation V.C should state that documentation will be completed and submitted prior to commencement of the project or the phase in which a historic property is located. As currently written, the document could be submitted after resource is impacted, which does not allow for additional field work or photographs if needed after draft review of the reports. This comment is not new. The suggested language that we are requesting was included in our September 25, 2009 comments on the draft PA.

Also, 30 days is not enough time to review multiple HHH submissions; a 30-day window also does not take into consideration for what else is in our queue for review request a minimum of 60 days.

We suggest the following changes to Section III.D:

> Treatment Plans—Based on the results of the AIS fieldwork and in consultation with the SHPD, the City shall develop a specific treatment plan to avoid, minimize, or mitigate adverse effects to archaeological sites and burials pursuant to the applicable state laws, including Hawai'i Revised Statutes, Chapter 6E and HAR, Title 13, Subtitle 13, Chapter 300, for each all construction phase phases. Treatment plans shall be submitted to the SHPD for approval. Upon approval by the SHPD, the City shall implement the treatment plan.

4(f) –Least Harm Alternative

Is the Airport Route, with the new alignment around the airport, still the least harm alternative compared to the Salt Lake Route? There are more displaced businesses; however no longer a direct use of Ke' ehi Lagoon Park. The alignment at the airport that is now the new alignment was dismissed as an avoidance measure in the administrative draft 4(f) because it required 15 full and 21 partial acquisitions of commercial properties , as well as a double-stacked guideway and an additional cost of $75,000,000 (2007 dollars). The analysis will need to be revised both because of the realignment and due to the following omissions and errors:

Apparent Omission and Error— The Impacts to Section 4(f) Resource section of the 4(f) chapter includes the following statement and assessment:

- -The Airport Alternative was also determined to have adverse Section 106 effects related to setting and feeling at five historic resources (U.S. Naval Base Pearl Harbor National Historic Landmark, CINCPACFLT Headquarters National Historic Landmark, Potential Makalapa Navy Housing, Historic District, Ossipoff's Aloha Chapel, and the Hawai'i Employers Council). The constructive use evaluation, described in Section 5.6, however, determined that none of these Section 4(f) properties will experience impairment severe enough to constitute constructive use from the Project.

and

- -The Visual Effects section of the 4(f) chapter only mentions visual effects to Pearl Harbor, Kamehameha Highway Bridge and Ke'ehi Lagoon Beach Park.

There were 33 identified adverse effects and 20 of these properties were evaluated for constructive use due to visual impacts and impacts to the setting, feeling and association. The analysis in the two aforementioned sections omits most of these impacts when comparing the Airport alignment with the Salt Lake alignment.

The Impacts to Section 4(f) Resources section of the 4(f) evaluation includes the statement:

> In a letter dated September 8, 2008, the State Department of Accounting and General Services considered both alignments and indicated a preference for the Airport Alternative (Project), noting that "the impact on the stadium would be further mitigated if the system ran past the airport ..."

This evaluation was based on an earlier assessment of adverse effects that amounted to approximately 5 properties and now the number of adverse effects is 33. It is not clear whether the AGS has made a new assessment. If a new assessment has not been made of the revised alignment and in consideration of the increase in adversely affected properties, NPS requests FTA to omit this statement or request a new evaluation from the AGS.

Apparent Error - Some properties that are identified as individual historic properties in the Historic Effects Document are grouped in the 4(f) chapter with a single direct use for both properties, when it should be two instances of direct use – This is the case for the Oahu Railway & Land Company Terminal Building and the Oahu Railway & Land Company Office/Document Storage Building and it may be the case for the Oahu Railway & Land Company basalt paving blocks and the Oahu Railway & Land Company former filling station. If some of these resources constitute a district, then they should be identified as such and the use should be evaluated for the district as well.

4(f) - NR status of historic properties

Apparent Error - There are a few properties identified in the 4(f) document as eligible for listing on the NRHP that are actually listed on the NRHP. This is the case for the Merchant Street Historic District, Aloha Tower, and Dillingham Transportation Building. The text should be revised to state that the properties are listed on the NRHP.

4(f) – constructive use analysis

Apparent Inconsistency— The 4(f) document includes a statement about how districts are treated under 4(f) analysis.

> "The FHWA Section 4(f) policy paper suggests that if a project has a Section 106 Finding of Adverse Effect on a historic district, as is the case here, the district and each contributing element should be considered for Section 4(f) use." (p. 5-34)

Does this mean that use is assessed for both the district as a whole and for each of the contributing resources? Either way there seems to be an inconsistency in how use is evaluated when the resource is a district.

The constructive use evaluation for the impact to historic bridges seems inadequate. As described in the documentation, the guideway will run parallel and above some historic bridges (Honouliuli Stream Bridge, Waikele Stream Bridge Eastbound Span and Bridge over OR&L SpurWaiawa Stream Bridge 1932 (westbound), Waimalu Stream Bridge, Kalauaa Springs Bridge, and Kalauaa Stream Bridge); however, the constructive use evaluation states the following in every case: "As the primary views of the bridge are from ground level, the elevated guideway will not eliminate primary views of this architecturally significant historic bridge nor alter its relationship to the existing transportation corridor." There are some plans in other chapters of DSEIS however, no plans or simulations are provided in the 4(f) to substantiate the assessment.

Similar questions arise regarding the constructive use analysis for the Institute for Human Services/Tamura Building. The Iwilei

Station is with twenty feet of the Tamura Building, which has been identified as architecturally significant under Criterion C.

The FHWA Section 4(f) policy paper seems to suggest that there is precedent for finding constructive use in the case of the Tamura Building and perhaps in the case of some of the bridges.

4(f) -Miscellaneous

P5-18 Agency Coordination and Consultation 2nd column line 5:
The following is not an accurate statement: " . . . a Programmatic Agreement (PA) has been developed with the concurrence of all consulting agencies . . ."

P5-34 second paragraph
(This paragraph discusses the deminimis justification for direct use in Chinatown District). The following excerpt does not seem to be an accurate assessment of the impact and therefore does not support the deminimis finding:

> The 30- to 42-foot-high guideway will be placed in front of contributing pier buildings along the waterfront (Figure 5-25). It will pass between these elements and the harbor. The primary view of these structures is from a ground-level perspective from the mauka side of Kamehameha Highway, six lanes removed from the structures. Thus, the guideway and station will be behind and above the viewer and will not block or obstruct primary views of any architecturally significant buildings or substantially impair the characteristics of its National Register eligibility.

The next paragraph goes on to state that the:

> The district's NRHP eligibility is based on the relationship between the district's elements and Honolulu Harbor (as well as the architecture). The Project will not substantially impair that physical connection to the waterfront. However, it will be a dominant visual element contrasting in scale with the pedestrian environment and substantially changing makai views of Honolulu Harbor from Chinatown.

It seems that this last excerpt contradicts a deminimis finding. I have included the map below to show how the line goes through Chinatown District.
(Embedded image moved to file: pic28652.jpg)

P 5-42 thru 5-43 Regarding Noise:
Is it an overstatement that there will be no noise impacts for West Loch Golf Course, Neal S. Blaisdell Park, and Aiea Bay State Recreation Area?

P5-49 under US Naval Base Pearl Harbor NHL:
Apparent Omission - The Bowfin is a NHL and the USS Arizona is a NHL.

P 5-50 under US Naval Base Pearl Harbor NHL:
We have earlier requested that the following statement be omitted since it is from an outdated nomination that has been replaced:

> The NHL nomination specifically states that the national significance of Pearl Harbor stems from its continuing function rather than its physical facilities and those physical changes required to support this mission are "necessary, normal, and expected

In our May 10, 2010 letter, NPS provided extensive comment on the use of this phrase in the historic effects document

P. 5-63 Visual Effects
Apparent Error—The first paragraph includes the following statement:

> With the Airport Alternative, views of East Loch and the Pearl

Harbor National Historic Landmark makai of the alignment will be partially obstructed by the guideway and columns in the residential area near Kohomua Street. The visual integrity of the national historic landmark will not be adversely affected, and the project elements will barely be visible in mauka views from the harbor (see Figure 4-42 in Chapter 4 of this Final EIS).

The adverse effect on the NHL is visual, so it is not clear why this statement is included here.

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[1] This is generally assuming that archeological investigations for the alignment-only proposed by the City would disturb approximately 64 square feet every 108 feet for a 4 mile (21,100 feet) alignment compared to disturbing a width of 8 feet for 4 miles.