1. FTA WHEREAS linking the AA to 106

WHEREAS, the City completed an Alternatives Analysis in 2006 that disclosed the potential to disturb Native Hawaiian burials to the east (Koko Head direction) of Nu'uanu Stream, and the City after considering both technical information provided in the AA and comments from the public, selected a locally preferred aerial alignment alternative that would minimize harm to Section 106 properties, and

2. For insertion into the matrix on why HQ staff believes the 4(f) avoidance alternative at the Dillingham Building is prudent and feasible.

HQ environmental staff believes that the argument in the DEIS that this station/touchdown alternative is not prudent or feasible remains unpersuasive. A station entrance could be constructed with touch-downs along Nimitz Highway as well as Alakea Street. This strategy would dilute pedestrian traffic along Alakea Street and diminish the presumed pedestrian/auto conflicts at the Pacific Guardian Center. While the statistical evidence presented here to justify a determination of a ped/auto safety issue is weak, no quantitative evidence whatever is presented to justify the same determination for a touchdown in front of the Harbor Square Building. The same engineering solution could be adopted on the SE side of Alakea Street as on the NW side.

The preparers have conveniently avoided all possible measures to minimize harm to the resource as evidenced by their original request for a *de minimis* determination on this property. The reluctant inclusion of an acceptable avoidance alternative in the DEIS demonstrates that minimal planning has been undertaken to minimize harm to the 4(f) property. HQ believes that the Alakea Street Station alternative presents the least overall harm to the Dillingham resource for the following reasons (774.3(c)(1)):

- The ability to mitigate the adverse impact to the 4(f) resource is clearly present
- This is a very significant 4(f) property
- There appears to be no demonstrable cost difference between the alternatives
- It is reasonable mitigation that <u>substantially reduces the adverse impact on the resource</u> from a direct use to a constructive use and therefore reduces the severity of the harm to the resource

- The alternative meets the P&N of the project

3. Burials and 4(f)

Your consultants are saying that they don't need to do 4(f) on burials because they are not an historic resource. Regarding 4(f), there is a two part test for burials: 1.) are these sites are National Register listed or eligible, and 2.) do these resources warrant preservation in place? If the archeological resource meets both parts of this test – then 4(f) applies. Clearly, the iwi kapuna merit preservation in place. The question is: are iwi kapuna NRHP eligible?

FTA counsel has determined that we need an opinion from the Hawaii SHPD regarding the eligibility issue since the SHPD has local authority over the resource. No 4(f) on archeological burials has been completed in the AFEIS. In order to justify this course of action, HTS must supply FTA with written assurances from the Hawaii SPD that iwi kapuna are not NRHP eligible. Also, this discussion must be presented in the 4(f) section of the FEIS.

4. ACHP request for AA/106 discussion

During the 106 consultation process, ACHP staff have, on several occasions, asked for an explaination on how 106 historic issues were handled during the AA screening process. On these occasions, we told ACHP staff that we would put together a narrative to explain the integration of historic screening and alternatives development. FTA believes that this discussion should also be presented in the FEIS as it would aid in making the case that the AA was based on sound environmental policy even if the LPA does not present the least overall impacts.

Please prepare this analysis and present it to the 106 participants prior to the next 106 discussion.