November 4, 2009

Leslie T. Rogers
Regional Administrator
Federal Transit Administration Region IX
201 Mission St., Suite 1650
San Francisco, CA 94105-1839

*RE: Honolulu High-Capacity Transit Corridor Project*

Dear Mr. Rogers:

We believe that the Managed Lanes Alternative (MLA), rejected by the City subsequent to completion of the Alternatives Analysis (AA) is a "feasible and prudent avoidance alternative" preferred in the Section 4(f) process. The final exit/entrance for the MLA is near Pier 16 and thus avoids most of the significant 4(f) properties (see map below).

As you know, Section 4(f), more properly 23 CFR 774.3(a), does not allow the Administration to approve a transportation project using, even constructively, 4(f) property unless there is no "feasible and prudent avoidance alternative."

Briefly, the MLA concept is for an elevated reversible two or three-lane highway 10-16 miles long with exits/entrances at each end similar to the Tampa Expressway shown here.

Bus/Rapid Transit (BRT) vehicles and vanpools would have priority and go free. Automobiles would pay a dynamically priced toll electronically in order to keep the facility full but free flowing.

The benefits to public transportation users are, a) a far greater likelihood of a no-transfer, door-to-door ride, and, b) a faster ride. Buses would travel at 55-60 mph for, say, 12 miles on the MLA and even if they had to travel for another five miles at 15 mph on regular roads it would still result is an overall travel speed of 32 mph, which is faster than rail transit.

The benefit to automobile users is that each lane of the MLA would carry twice as many autos per hour as congested regular freeway lanes. Thus, the new facility would add an effective four lanes to the existing seven-lane facility and thus reduce traffic congestion.

The other major benefit is that everyone, across all income groups, experiences occasions when the few dollars required for using the faster and more reliable MLA is far less costly than, for example, missing job interviews, doctor's appointments or being late in retrieving children from day care.

The value of the MLA proposal to O'ahu residents has been demonstrated in a micro-simulation study by Dr. Panos Prevedouros, Professor of Traffic Engineering, UH Civil and Environmental Engineering Department, and his students. They concluded that the MLA

> *... would reduce H-1 congestion by 35%, reducing drive times from 34 to 22 minutes. An express bus commuter would make the same trip in 12.7 minutes. The greatest benefit of [the MLA] would accrue to those who never use them; they would pay no added taxes or tolls yet would experience dramatically reduced congestion.* (p. ii)

The MLA was eliminated during the City's AA phase. We have documented the biased way that the City evaluated and rejected the MLA and firmly believe that an unbiased review will show the MLA as having greater benefits to its users at a much lower cost.

Is the MLA "feasible and prudent"? According to the FHWA 4(f) Policy (p.2), the applicable criteria are:

> ***Feasible and Prudent Criteria:*** *Numerous legal decisions on Section 4(f) have resulted in a USDOT policy that findings of "no feasible and prudent alternatives" ... must be well documented and supported. A feasible alternative is an alternative that is possible to engineer, design and build. The leading United States Supreme Court case, commonly known as Overton Park, (Citizens to Preserve Overton Park v. Volpe, 401 U.S. 402 (1971)), held that to find that an alternative (that avoids a 4(f) resource) is not "prudent" one must find that there are unique problems or unusual factors involved with the use of such alternatives. This means that the cost, social, economic and environmental impacts, and/or community disruption resulting from such alternatives reach extraordinary magnitudes. One can use a totality of these circumstances to establish that these unique problems, unusual factors or other impacts reach extraordinary magnitudes. FHWA has incorporated this decision into existing regulations found at 23 C.F.R. 771.135(a)(2).*

The Federal Transit Administration's (FTA) first Notice of Intent, Scoping Information Package, and Scoping Report all intended that the MLA would be studied in both the AA and a Draft EIS, which the Council anticipated receiving in late 2006. Instead the AA was produced in November 2006 but not the Draft EIS. The City Council then chose a fixed guideway from UH Manoa to Kapolei as the Locally Preferred Alternative (LPA).

In March 2007, the FTA issued a second Notice of Intent and Scoping Information Package, and this was the first time we noticed that the MLA was eliminated despite the City Council Transit Advisory Task Force Report's Appendix B with its recommendations for vastly improving the MLA including reinstating the zipper lane.

The 4(f) process definition of "feasible" is: *"a feasible alternative is an alternative that is possible to engineer, design and build."* The AA did not exclude the MLA for any of those reasons, only because it was supposedly inferior to the "fixed guideway alternative," thus it is feasible. But is the MLA prudent?

> *774.17 — An alternative may be rejected as not prudent for any of the following reasons:*
> *1) It does not meet the project purpose and need,*
> *2) It involves extraordinary operational or safety problems,*
> *3) There are unique problems or truly unusual factors present with it,*
> *4) It results in unacceptable and severe adverse social, economic or other environmental impacts,*
> *5) It would cause extraordinary community disruption,*

*6) It has additional construction costs of an extraordinary magnitude, or*
*7) There is an accumulation of factors that collectively, rather than individually, have adverse impacts that present unique problems or reach extraordinary magnitude.*

The project "purpose" in the Draft EIS is improperly defined as the City's desired outcome — to provide "rapid transit." The AA definition of "purpose" was more appropriate:

> *"The purpose of the Honolulu High-Capacity Transit Corridor Project is to provide improved mobility for persons traveling in the highly congested east-west transportation corridor between Kapolei and UH Mānoa."*

The MLA provides greatly expanded transit ridership and reduced traffic congestion and therefore meets this requirement. The "needs" in the Draft EIS were better defined and in keeping with the AA and we believe that the MLA will withstand scrutiny for each of these needs. None of the other six requirements pose any problems for the MLA and it will significantly reduce the amount of capital cost and operating subsidy needed.

We therefore respectfully request that you carefully re-examine the MLA in light of Dr. Prevedouros' study, the recommendations of the City Council's Transit Task Force Report and our comments on the Draft EIS regarding the City's mishandling of the MLA analysis.

Sincerely,
HONOLULUTRAFFIC.COM

Cliff Slater
Chair

cc: Mr. Jonathan B. Jarvis, Director, National Park Service.
Ms. Charlene Vaughan, Advisory Council on Historic Preservation.
Ms. Blythe Semmer, Advisory Council on Historic Preservation.
Mr. James Barr, Federal Transit Administration.
Mr. James Ryan, Federal Transit Administration..
Ms. Betsy Merritt, National Trust for Historic Preservation.
Ms. Laura Thielen, Hawaii State Preservation Officer.

Further Reading:

Honolulutraffic.com's first protest to FTA about the exclusion of the MLA.
Honolulutraffic.com's similar first protest to Honolulu DTS about the exclusion of the MLA.
Letter from Dr. Martin Stone AICP, Planning Director, Tampa Expressway.
Protest letters to the U.S. Secretary of Transportation and the Chairman of the Council on Environmental Quality
Honolulutraffic.com's comments on the lack of alternatives in the Draft EIS. See pp. 2-15 regarding the biased treatment of the MLA.
A more graphic view of the MLA (HOT lanes) together with views from similar facilities on the Mainland.