U.S. Department
of Transportation
**Federal Transit
Administration**

REGION IX
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Mr. Wayne Yoshioka
Director, Department of Transportation Services
City and County of Honolulu
650 South King Street, 3rd Floor
Honolulu, HI 96813

Re: Honolulu High-Capacity Transit Corridor Project

Dear Mr. Yoshioka:

This is in response to your letter, dated October 20, 2009 that describes various proposed activities by the Department of Transportation Services of the City and County of Honolulu (City). These activities include the announcement of award of the first Design-Build (D-B) contract for the guideway in the West Oahu section, the effort to accelerate the next procurement for guideway along Kemehameha Highway through Pearl City and Aiea as a D-B procurement in November and to proceed with the D-B procurement of the Core Systems including vehicles and the Maintenance Facility. The purpose of this letter is to advise the City of Federal Transit Administration (FTA) requirements for eligible contract award actions during the various phases of the New Starts project development process: at completion of National Environmental Policy Act (NEPA) requirements, at entry into Final Design (FD) and those actions that would require a Letter of No Prejudice (LONP).

FTA's approval to enter Preliminary Engineering (PE), dated October 15, 2009, limits eligible costs to those costs related to PE. Other costs may not be incurred on this project absent explicit FTA approval actions on authority that arises from the completion of NEPA and Record of Decision (ROD), approvals for entry into FD and award of an LONP and/or grant awards for the activities contemplated.

Once the completion of NEPA occurs with FTA's ROD, and in accordance with FTA's Federal Register Notice, dated September 2, 2009, *Additional Final Guidance on New Starts/Small Starts Policies and Procedures*, the City will have the authority to incur costs for right-of-way acquisition, utility relocation and procurement of vehicles. Approval to enter FD will be required for non-construction activities such as but not limited to the procurement of rails, ties, and other specialized equipment; the procurement of commodities; and demolition. FTA will consider LONPs for activities not covered by automatic pre-award authority as described above. Otherwise, no project costs can be incurred for any portion of the entire 20-mile alignment absent FTA approval of entry into the next New Starts phase. FTA will consider LONPs for critical path construction activities by a case-by-case analysis of the specific requests but not before approval of entry into FD.

FTA and the City are required by Federal law (23 USC 139(c)(4)) to implement the mitigation commitments made in the Final Environmental Impact Statement (FEIS). FTA will require the FEIS to be signed by an official who has the authority to commit the City to the mitigation presented in the FEIS. Therefore, FTA requests that you inform FTA who will be signing the FEIS for the City, and by what authority that official can commit the City to the mitigation measures presented therein.

FTA is aware of concerns regarding the final alignment at the Honolulu International Airport. The City should include in the FEIS an alternative that avoids airport runway impacts. Both design options can be considered in the FEIS with the selection of one as a preferred alternative.

FTA would like to receive more information about the status of the various contractual commitments described in your letter. In particular, your letter states that you are "prepared to announce the award of the first D-B contract", which has been described in a later telephone conversation as a selection of a contractor and not an award with binding commitments. Please provide information on the nature of this action including the identification of any costs incurred.

We want to ensure that the City proceeds in a manner consistent with FTA policy. Thank you for your expeditious attention to these important issues. If you have any questions, please contact me at (415) 744-3133.

Sincerely,

Leslie T. Rogers
FTA Region IX Administrator