Preserving America's Heritage

September 15, 2009

Mr. 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
Honolulu, Hawaii

Dear Mr. Rogers:

The Advisory Council on Historic Preservation (ACHP) participated in a series of consultation teleconferences on September 2, 3, and 11, 2009, with the Federal Transit Administration (FTA), the City and County of Honolulu (City), Hawaii State Historic Preservation Officer (SHPO), and other consulting parties to discuss the draft Programmatic Agreement (PA) for the referenced undertaking. We thank FTA for involving staff at the headquarters and regional levels in these consultation meetings. Their input was helpful in responding to several concerns raised by consulting parties. We believe the City's use of a facilitator gave additional structure to the discussion and ensured that previously unresolved issues were systematically addressed. While the consulting parties have not yet reached consensus on all measures to be included in the PA, we believe that the consultation process has progressed significantly since the first consultation meeting on July 28, 2009.

We understand that the City and FTA will review comments provided during this series of teleconferences, and develop a revised draft of the PA to be circulated to all consulting parties soon. While the consultation process is moving forward, certain issues remain to be addressed by FTA and the City. We have prepared a summary of these issues for your consideration.

More specific protocols are needed to describe how FTA and the City will consult with Native Hawaiian organizations (NHOs) and other consulting parties. Identification and evaluation of traditional cultural properties and the assessment of effects to any such properties meeting the National Register of Historic Places eligibility criteria has yet to be completed. As indicated during the teleconferences, this information is critical to the Section 106 review.

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FTA and the City should propose measures for addressing consulting party concerns about the indirect and cumulative effects of the transit project on historic properties, particularly historic districts. While consulting parties have generated suggestions, the City is in the best position to propose solutions likely to succeed within its organizational framework. The City recently added whereas clauses to the preamble of the draft PA referencing the City's use of overlay districts to preserve historic properties and guide the preparation of new overlay zones for transit-oriented development. However, these planning tools are not substantively linked to the terms of the PA. The result of this effort should replace Stipulation IX.B. and be more definitive and measurable.

In addition to comments shared by the ACHP as a participant in the last teleconferences, we offer the following recommendations to assist FTA and the City in revising the draft PA:

- The PA draft should be reorganized to track the chronological progression of how stipulations will be implemented and to ensure the document is easily understandable for a cold reader. A suggested approach to restructuring the PA is enclosed for your consideration (see Attachment 1).

- The City should provide additional detail about the timing of each provision in the PA in relationship to the project schedule and the plan for phased construction. When will each provision be initiated, and by when must each conclude? Where are these milestones documented?

- Add a whereas clause stating that subsequent phases of the transit corridor that are currently in preliminary planning and not yet federally funded will be guided by the approaches to the treatment of historic properties included in this initial phase of the project.

- Discovery provisions should be consolidated into a single stipulation that provides specific instruction for who will stop work in case of a discovery, who will be notified and within what timeframe, how interim protection for the discovery will be provided, how the discovery will be assessed, and how a treatment plan (if needed) will be developed. The stipulation should also explain how all contractors and subcontractors who might encounter a discovery situation will be made aware of these procedures. FTA needs to include specific guidelines about coordinating the treatment of human remains in this section.

- Include a stipulation that allows other federal actions related to this undertaking to comply with Section 106 under the terms of this PA if the agency notifies the ACHP and SHPO in writing in advance of approving this action.

- Provide a specific duration for the PA with a statement acknowledging that signatories may consult to consider extending the duration prior to the expiration date.

- A sample stipulation for an emergency provision is enclosed (see Attachment 2).

We appreciate your consideration of the ACHP's recommendations, along with the comments of the Hawaii SHPO and other consulting parties for this undertaking. If you have any questions, please contact Blythe Semmer at 202-606-8552 or via e-mail at bsemmer@achp.gov.

Sincerely,

Charlene Dwin Vaughn

Charlene Dwin Vaughn, AICP
Assistant Director
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Enclosures (2)