



LINDA LINGLE  
GOVERNOR OF HAWAII



**STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES**

POST OFFICE BOX 621  
HONOLULU, HAWAII 96809

**TESTIMONY OF  
LAURA H. THIELEN  
CHAIRPERSON**

**BEFORE**

**The Honolulu City Council  
9:00 AM  
Committee Meeting Room**

**IN CONSIDERATION OF**

**Resolution 10-305  
REAUTHORIZING THE DIRECTOR OF THE DEPARTMENT OF  
TRANSPORTATION SERVICES TO EXECUTE THE SECTION 106  
PROGRAMMATIC AGREEMENT IWHT THE US DEPARTMENT OF  
TRANSPORTATION FEDERAL TRANSIT ADMINISTRATION, THE HAWAII  
STATE HISTORIC PRESERVATION OFFICER, AND THE ADVISORY  
COUNCIL ON HISTORIC PRESERVATION FOR THE HONOLULU HIGH-  
CAPACITY TRANSIT CORRIDOR PROJECT**

The Department of Land and Natural Resources (DLNR) Chair is the State Historic Preservation Officer and one of several signatories to the 106 Programmatic Agreement, along with the Advisory Council of Historic Preservation and the National Park Service, among others.

The Department is working with all signatory parties to conclude the consultation process and develop a final draft of the Programmatic Agreement for the Rail project. At this point we have just received a new draft from the City DTS and the FTA which we have not yet had the opportunity to review. The draft addresses a final item we are hoping to conclude soon.

Our understanding from the FTA is that once the signatory parties agree to a final draft, that draft will be circulated to the 27 consulting parties. The consulting parties will be given a set period to review and make final comments on the document. At that time the signatory parties will review the comments, make changes if necessary, and then sign the Programmatic Agreement. Accordingly, it is possible that the final steps in the process may result in further modifications to the Programmatic Agreement.

Item # 3 Res 10-305

LAURA H. THIELEN  
CHAIRPERSON  
BOARD OF LAND AND NATURAL RESOURCES  
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DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES  
BOATING AND OCEAN RECREATION  
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CONSERVATION AND COASTAL LANDS  
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LAND  
STATE PARKS

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We appreciate the City's recent effort to accommodate two of the three remaining items in the current draft version of the Programmatic Agreement, and we look forward to reviewing and commenting on this latest version as part of the consultation process.

**HISTORIC  
HAWAII  
FOUNDATION**

**TO:** The Honorable Gary H. Okino, Chair  
Members, Honolulu City Council Committee on Transportation

**FROM:** Kiersten Faulkner, Executive Director  
Historic Hawaii Foundation

**Committee Meeting:** Friday, November 12, 2010  
10:30 a.m.  
City Council Meeting Room

**RE:** Resolution 10-305 Authorizing the Director of the Department of  
Transportation Services to Execute the Section 106 Programmatic  
Agreement for the Honolulu High Capacity Transit Corridor Project

Historic Hawaii Foundation is a consulting party to the Programmatic Agreement (PA) for the Honolulu High Capacity Transit Corridor Project. The consultation process for the PA has not concluded and material changes are both possible and likely in order to address the outstanding issues. Just as we advised Council in October 2009 when Council previously reviewed and approved an incomplete draft, it is premature to authorize approval of a work in progress that will likely continue to change. **Therefore, Historic Hawaii Foundation requests that Council defer final action on the resolution until the consultation process is completed and the PA is in its final form.**

The National Historic Preservation Act Section 106 requires that federal agencies consult with the Advisory Council on Historic Preservation (ACHP) and State Historic Preservation Offices (SHPO), as well as other consulting parties to identify historic properties that may be adversely affected by any federal undertaking, and seek ways to avoid, minimize or mitigate those effects. The stipulations are then memorialized in a binding agreement between the signatories, any invited signatories, and any concurring parties. The Federal Transit Administration (FTA) worked on the consultation process in 2009, but suspended meetings and review of drafts by the consulting parties in November 2009. The consulting parties have not been given the opportunity to review and comment on any draft Programmatic Agreement in over a year.

In an email to the consulting parties on November 9, 2010, Elizabeth Zelasko of the Federal Transit Administration wrote, "FTA views that the consultation process is still ongoing. ... FTA intends to very shortly send a draft Programmatic Agreement with a cover email detailing and explaining changes to the consulting parties. We will also provide an opportunity to comment on the specific changes. If FTA decides to make changes as a result of these comments, the City will have to decide if those changes warrant another review by the City Council."

In a follow-up email the same day, Blythe Semmer of the White House Advisory Council on Historic Preservation wrote, "the Advisory Council on Historic Preservation (ACHP) will not endorse a PA draft until it has been provided to consulting parties for review. While we can't speak

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Historic Hawai'i Foundation was established in 1974 to encourage the preservation of historic buildings, sites and communities on all the islands of Hawai'i. As the statewide leader for historic preservation, HHF works to preserve Hawai'i's unique architectural and cultural heritage and believes that historic preservation is an important element in the present and future quality of life, environmental sustainability and economic viability of the state.

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to the relevance of this City Council action to local administrative procedures, it is premature in terms of the conclusion of the Section 106 process for the Honolulu High-Capacity Transit Corridor Project, since the PA remains under development.”

In a phone conversation on the same day, Pua Aiu, Administrator of the Hawai'i State Historic Preservation Division, said that the SHPO is also not ready to execute the PA and will not do so until consultation is complete.

Because the three signatories to the agreement have all stated that the PA is incomplete, under development and still to be reviewed by the consulting parties, it is premature for the Council to authorize the Administration to execute the PA.

Very truly yours,

*Kiersten Faulkner*

Kiersten Faulkner, AICP  
Executive Director

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