

---

**From:** Miyamoto, Faith  
**To:** Foell, Stephanie; Spurgeon, Lawrence; Judy Aranda; Souki, Jesse K.; Ted.Matley@dot.gov  
**Sent:** 8/13/2009 2:29:29 PM  
**Subject:** FW: Honolulu High-Capacity Transit Corridor Project  
**Attachments:** DC.ConventionCenter.MOA.pdf; FEIS 4-F chapter.PDF

Hi Everyone –

FYI.

Faith

---

**From:** Betsy Merritt [mailto:Betsy\_Merritt@nthp.org]  
**Sent:** Wednesday, August 12, 2009 5:41 PM  
**To:** Miyamoto, Faith  
**Cc:** bsemmer@achp.gov; susan.y.tasaki@hawaii.gov; Pua.Aiu@hawaii.gov; Nancy.A.McMahon@hawaii.gov  
**Subject:** RE: Honolulu High-Capacity Transit Corridor Project

Faith,

Attached are the two MOAs which I referred to during our discussion yesterday.

The first one is the MOA for the FHWA-funded demolition and replacement of the historic Amelia Earhart Bridge, which crosses the Missouri River between Kansas and Missouri. One of the mitigation measures included in the project was a \$500,000 mitigation fund. I am including the Section 4(f) chapter from the Final EIS for the project, so you can see the way in which the mitigation fund is touted as one of the measures to minimize harm under Section 4(f). The MOA itself begins on page 18 of the electronic document. The MOA and the Section 4(f) statement describe the scope and eligibility for the mitigation fund as follows:

"The express purpose of the fund is to foster and support the preservation, rehabilitation, restoration, and interpretation of historic resources within Atchison. Historic properties within the APE of the Amelia Earhart Memorial Bridge project will receive priority for preservation funding. Funding is not limited to properties inside the project corridor; however, historic preservation projects outside of the APE must be transportation-related (e.g., historic trails, ferries, bridges, roads, railroads, hotels, gas stations, roadside-diners, etc.). Funding also could be provided for museum displays, to secure speakers on historic bridge rehabilitation, or for peer exchanges at historic preservation conferences."

The second MOA is for the Washington, DC convention center. One of the tricky issues in that case was that the City needed to act legislatively through the City Council in order to implement one of the mitigation measures - the enactment of a temporary moratorium on demolition within an area being considered for local designation as a historic district. Since the City obviously could not commit in advance to an action that the legislative body may or may not decide to take, we developed an approach to that problem in the MOA, which was very successful. The Convention Center Authority signed the MOA and committed to draft the legislation and to submit it to the City Council. The Chair of the City Council also signed the MOA, and committed to introduce the legislation once it was received. The MOA also provided that, if the legislation did not pass, the parties would reconvene and "consider alternative means of achieving the moratorium." This helped serve as an incentive for the City Council to support the proposal. All of this is reflected in Stipulation X. on page 9 of the MOA. As it turned out, the parties worked cooperatively to draft the moratorium legislation, so the City Council had the assurance that it was a consensus bill; the Chair of the City Council introduced it; the National Trust, the Convention Center Authority, the SHPO and others all lined up to testify in support of it; and the legislation passed.

I realize that in this case, the City is saying that a legislative action is required in order to sign the proposed Section 106 agreement in the first place. However, the approach used in the DC MOA (i.e., a commitment to draft and introduce legislation) may be a way to work within this constraint. In any event, if legislative action is required in order to sign a Section 106 agreement, wouldn't it presumably be required in order to sign the FTA grant agreement as well? Why wouldn't it be possible to use the same procedure for authorizing both agreements? As Blythe pointed out, the ACHP's Section 106 regulations call for any party that will be "assum[ing] a responsibility" under the MOA to be an Invited Signatory. (36 C.F.R. 800.6(c)(2)(iii).)

Hopefully these examples are helpful. I would be happy to answer any questions or discuss these ideas in more detail.

Sincerely,  
Betsy Merritt

**Elizabeth S. Merritt**, Deputy General Counsel, **National Trust for Historic Preservation**

1785 Massachusetts Ave. NW, Washington, DC 20036 Phone: (202) 588-6026 | Fax: (202) 588-6272

The National Trust's Legal Defense Fund works with local preservation advocates around the country to protect historic and cultural resources.

---

**From:** Miyamoto, Faith [mailto:fmiyamoto@honolulu.gov]

**Sent:** Wednesday, August 12, 2009 2:11 PM

**To:** Betsy Merritt

**Subject:** Honolulu High-Capacity Transit Corridor Project

Hi Betsy –

Following up on our discussion yesterday regarding the PA for the subject project. Appreciate your offer to send us some examples of MOAs. Thanks.

Faith Miyamoto  
Department of Transportation Services  
City & County of Honolulu  
(808) 768-8350  
fmiyamoto@honolulu.gov