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PROGRAMMATIC AGREEMENT

~~among~~Among the
U.S. Department of Transportation Federal Transit Administration
~~The~~
~~City and County of Honolulu~~
The
Hawai'i State Historic Preservation Officer

and the
Advisory Council on Historic Preservation
~~regarding~~Regarding the
Honolulu High-Capacity Transit Corridor Project
in the
City and County of Honolulu, Hawai'i

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WHEREAS, the City and County of Honolulu (City) Department of Transportation Services (DTS) is proposing the Honolulu High-Capacity Transit Corridor Project (Project or Undertaking) on O'ahu and is seeking financial assistance from the U.S. Department of Transportation Federal Transit Administration (FTA) for the Project, which is therefore a Federal undertaking subject to Section 106 of the National Historic Preservation Act (NHPA) of 1966, as amended (16 U.S.C. § 470f) and its implementing regulation at 36 C.F.R. pt. 800; and

WHEREAS, the proposed Project is an elevated, electrically powered, fixed-guideway transit system in the east-west travel corridor between East Kapolei and the Ala Moana Center via the Honolulu International Airport with an approximate length of twenty (20) miles and twenty-one (21) stations; and

WHEREAS, the City Council has authorized DTS to enter into this Programmatic Agreement (PA) through Resolution 09-306; and

WHEREAS, pursuant to 36 C.F.R. pt. 800, the FTA has consulted with the Hawai'i State Historic Preservation Division (SHPD), which is the State Historic Preservation Office, and the following parties:

- Advisory Council on Historic Preservation (ACHP)
- U.S. Navy (U.S. Naval Base Pearl Harbor)
- Historic Hawai'i Foundation
- National Park Service (NPS)
- National Trust for Historic Preservation
- University of Hawai'i Historic Preservation Certificate Program

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- American Institute of Architects
- Hawai'i Community Development Authority
- Office of Hawaiian Affairs
- O'ahu Island Burial Council
- Hui Malama I Na Kupuna O Hawai'i Nei
- Royal Order of Kamehameha
- The Ahahui Ka'ahumanu
- The Hale O Na Ali'i O Hawai'i
- The Daughters and Sons of the Hawaiian Warriors
- Association of Hawaiian Civic Clubs
- Ali'i Pauahi Hawaiian Civic Club
- Ka Lei Maile Ali'i Hawaiian Civic Club
- King Kamehameha Hawaiian Civic Club
- Nānāikapono Hawaiian Civic Club
- Hawaiian Civic Club of Wahiawa
- Ahahui Siwila Hawai'i O Kapolei Hawaiian Civic Club
- Waikīkī Hawaiian Civic Club
- Princess Ka'iulani Hawaiian Civic Club
- Waianae Hawaiian Civic Club
- Merchant Street Hawaiian Civic Club
- Prince Kūhiō Hawaiian Civic Club
- Pearl Harbor Hawaiian Civic Club
- Hawaiian Civic Club of 'Ewa-Pu'uloa
- Kalihi-Palama Hawaiian Civic Club
- Hawaiian Civic Club of Honolulu; and

WHEREAS, in accordance with 36 C.F.R. §~~.~~800.10, FTA has notified the Secretary of the Interior of the consultation for FTA's ~~its~~ adverse effect determination that the undertaking will have an adverse effect on ~~to~~ the United States Naval Base, Pearl Harbor National Historic Landmark (NHL), and the CINCPAC Headquarters Building

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250 NHL, and as a result, the NPS has been designated to participate formally in the consultation; and

WHEREAS, the public and consulting parties have been afforded the opportunity to consult and comment on the Project; and

WHEREAS, the FTA, in consultation with the SHPD, has defined the undertaking's Area of Potential Effects (APE) as depicted in Attachment 1 for the Airport Alternative; and

WHEREAS, the FTA, in consultation with the SHPD, has determined that the proposed Project would have an adverse effect on historic properties listed in the National Register of Historic Places (NRHP) or eligible for listing in the NRHP; and

WHEREAS, the FTA, in consultation with the SHPD, has determined that the following historic properties will be adversely affected by the Project: Honouliuli Stream Bridge; Waikele Stream Bridge and Span over OR&L Spur; 1932 Waiawa Stream Bridge; Waimalu Stream Bridge; Kalauao Spring Bridge; Kalauao Stream Bridge; United States Naval Base, Pearl Harbor NHL; CINCPAC Headquarters Building NHL; Makalapa Navy Housing Historic District; Ossipoff's Aloha Chapel, SMART Clinic, and Navy-Marine Corps Relief Society; Hawai'i Employers Council; Afuso House; Higa Fourplex; Teixeira House; Lava Rock Curbs; Six Quonset Huts; Kapālama Canal Bridge; True Kamani Trees; Institute for Human Services/Tamura Building; Wood Tenement Buildings; Oahu Rail & Land Co. Office and Document Storage Building; Oahu Rail & Land Co. Terminal Building; Nu'uanu Stream Bridge; Chinatown Historic District; Merchant Street Historic District; HDOT Harbors Division Offices; Pier 10/11 Building; Aloha Tower; Irwin Park; Walker Park; HECO Downtown Plant; Dillingham Transportation Building; and Mother Waldron Playground; and

WHEREAS, an adverse effect is found when an undertaking may alter, directly or indirectly, any of the characteristics of a historic property that qualify the property for the inclusion in the NRHP in a manner that would diminish the integrity of the property's location, design, setting, materials, craftsmanship, feeling, or association. Adverse effects may include reasonably foreseeable effects caused by the Project that may occur later in time, be farther removed in distance, or be cumulative; and

WHEREAS, the FTA, in consultation with the SHPD, has determined that the Project may adversely affect archaeological sites listed in or eligible for listing in the NRHP, but effects cannot be fully assessed prior to the approval of FTA financial assistance; and

WHEREAS, the FTA and the SHPD have agreed that a phased approach to identification and evaluation of archaeological sites is appropriate, pursuant to 36 C.F.R. § 800.4(b)(2); and

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WHEREAS, the timing of activities listed in this PA are estimated based on FTA granting approval to enter Final Design in 2011, and FTA signing a Full-Funding Grant Agreement during 2012. The Project is anticipated to be completed in four construction phases: Phase I: East Kapolei to Pearl Highlands, Phase 2: Pearl Highlands to Aloha Stadium, Phase 3: Aloha Stadium to Middle Street, and Phase 4: Middle Street to Ala Moana Center. The City may request and FTA may approve construction on Phase I to begin prior to FTA granting approval for the project to enter Final Design.; and

WHEREAS, the DTS has included minimization and avoidance measures during project design, including, but not limited to, narrow guideway design, route selection, station location selection, and contained station footprints, to avoid and minimize adverse effects on historic properties; and

WHEREAS, all built components will follow the Project's *Design Language Pattern Book*; and

WHEREAS, consulting parties and the public will be offered the opportunity to provide ongoing comments on station design and transit-oriented development planning at neighborhood design workshops; and

WHEREAS, the City has implemented zoning "overlay districts" to preserve individual and groupings of historic and cultural resources, through the application of architectural and other design guidelines and standards for developments surrounding them; and such overlay districts are already established for Chinatown, Merchant Street, and the Hawai'i Capital (civic center) areas; and

WHEREAS, City Ordinance 09-04 (2009), *Relating to Transit-Oriented Development* (TOD Ordinance), requires the establishment of transit-oriented development zones (TOD Zone) and implementing regulations around every transit station which, among other things, shall include (1) The general objectives for the particular TOD Zone in terms of overall economic revitalization, neighborhood character, and unique community historic and other design themes; (2) Desired neighborhood mix of land uses, general land use intensities, circulation strategies, general urban design forms, and cultural and historic resources that form the context for TOD; and (3) Identification of important neighborhood historic, scenic, and cultural landmarks, and controls to protect and enhance these resources; and

WHEREAS, the TOD Ordinance cannot preempt applicable state and federal historic preservation laws such as Hawai'i Revised Statutes (HRS) Chapter 6E, *Historic Preservation*, and Section 106 of the NHPA; and

WHEREAS, Special District Regulations in Chapter 21 of the Revised Ordinances of Honolulu (ROH) (ROH 1978a) include policies that safeguard special features and characteristics of particular districts, such as the Chinatown and Merchant Street

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Historic Districts, to allow for their preservation and enhancement, the City will comply with development controls in these areas.; and

WHEREAS, the Project will cross lands controlled or owned by the Federal Government and is subject to an approval of that crossing by the applicable Federal agencies, which may elect to adopt this PA at any time; and

WHEREAS, this PA was developed with public involvement pursuant to 36 C.F.R. § 800.2(d) and 800.6(a), and the public was provided opportunities to comment on the Project and its adverse effects; and

WHEREAS, in accordance with 36 C.F.R. § 800.6(a)(1), FTA has notified the ACHP of its adverse effect determination with the required documentation, and the ACHP has chosen to participate formally in the consultation; and

WHEREAS, the FTA, ~~the City DTS,~~ the ACHP and the Hawaii State Historic Preservation Officer (SHPO) are signatories to this PA; and

Comment [JLD1]: Liz: Everywhere else, the SHPO is referred to as "SHPD." I would suggest that this particular reference be changed to "SHPD" as well.—Jeff

WHEREAS, FTA invited the City, the U.S. Navy, ~~and the~~ ~~City DTS and the~~ NPS ~~are is~~ to be an invited ~~signatories~~ signatoryies to this PA; and

Comment [eaz2]: My understanding is that the SHPO (State Historic Preservation Officer) will sign the agreement. However, many of the activities will be carried out by the State Historic Preservation Division under the SHPO's direction. I recommend keeping this as the SHPO.

WHEREAS, FTA invited all other consulting parties ~~were invited~~ to be concurring parties to this PA if they choose; and

WHEREAS, signatories, invited signatories, concurring parties and consulting parties are all consulting parties; and

WHEREAS, FTA commits to continued engagement and ongoing communication with the consulting parties for the duration of this PA; and

WHEREAS, any future extensions with Federal involvement would undergo a separate independent review under the National Environmental Policy Act and Section 106 of the NHPA, and any such review will be guided by the approaches to treatment of historic properties included in this PA; and

WHEREAS, unless defined differently in this PA, all terms are used in accordance with 36 C.F.R. §800.16; and

NOW, THEREFORE, FTA, ~~the City DTS,~~ ACHP and the Hawai'i SHPO agree that the undertaking shall be implemented in accordance with the following stipulations in order to take into account the adverse effect of the undertaking on historic properties.

STIPULATIONS

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The FTA will ensure that the terms of this PA are carried out and will require, as a condition of any approval of Federal funding for the undertaking, adherence to the stipulations set forth herein.

I. Roles and Responsibilities

A. **FTA Responsibilities**—In compliance with its responsibilities under the NHPA, and as a condition of its funding award to the City under 49 U.S.C. § 5309 and any other subsequently identified FTA funding of the Undertaking, FTA will ensure that the City carries out the stipulated provisions of this PA in accordance with any applicable ACHP policy statements and guidelines.

B. **SHPD Responsibilities**—The SHPD shall specifically review and provide comments for work products completed as part of this PA.

C. **ACHP Responsibilities**—The ACHP will provide oversight and advise on disputes.

D. **City Responsibilities**—The City shall represent the interests of FTA and coordinate all activities described in the PA to carry out the stipulations below. The City will consult with the SHPD and other agency staff, as appropriate, in planning and implementing the stipulations of this PA. The City shall submit all plans and documents required by this PA in a timely and accurate manner to the SHPD and other agencies, as stipulated, for review. The City shall also ensure that all treatment measures developed by the City and as a result of consultation are compliant with government-wide policies and regulations.

E. **Qualifications of Personnel**—Unless otherwise specified, all work carried out under the terms of this PA shall be conducted and/or supervised by cultural resources professionals (historians, architectural historians, historic architects, and/or archeologists, as appropriate) who meet the Secretary of the Interior's Professional Qualification Standards set forth in *Procedures for State, Tribal, and Local Government Historic Preservation Programs*, 36 C.F.R. ~~pt.~~Part 61, Appendix A.

F. The City shall provide for an architectural historian who meets the qualifications described in Stipulation I.E on the Project staff through the completion of Project construction.

G. ~~City and County Programmatic Agreement~~ PA **Project Manager**

The City ~~and County of Honolulu (City)~~ shall fund a ~~Programmatic Agreement~~ PA Project Manager (*Kako'o*) ~~position~~ within six (6) months of the PA being

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signed to assist with the coordination of all reviews and deliverables required ~~by the applicant~~ under the terms of the ~~Honolulu Transit~~ PA.

The *Kako'o*, and any other professionals serving with the *Kako'o*, shall meet the Secretary of the Interior~~National Park Service~~'s standards set forth at 36 C.F.R. Part 61 regarding qualifications for preservation professionals ~~and either he/she or any other professional(s) serving with him/her shall meet such standards~~ in the areas of history, archeology, architectural history, architecture or historic architecture.

Procurement~~Hiring~~

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The FTA and SHPD~~O~~ shall review and approve (1) the procurement request~~Request for Proposals~~ for the *Kako'o* prior to the release of such request~~RFP~~, (2) the qualifications of the final candidates under consideration by the City prior to the final selection of the *Kako'o* by the City, and (3) the scope of work of the *Kako'o* to be included in the City's contract with the *Kako'o*, in order to ensure that the *Kako'o* duties and responsibilities are consistent with the provisions of this Stipulation.

Comment [eaz3]: Due to uncertainties about specific requirements of Federal procurement law, we are changing this term to be more generalized.

Upon making its selection of the *Kako'o*, the City shall provide written notification thereof to the FTA, SHPD~~O~~ and other signatory and consulting parties.

Duration

The *Kako'o* shall serve during the design and construction process for the Project. The *Kako'o* shall continue to perform the *Kako'o's* responsibilities for the duration of this PA pursuant Stipulation XIV.D.

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~~tPshall continue tP~~Roles and Responsibilities

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The *Kako'o's* principal task shall be to monitor and assess compliance by the City with this PA~~greement~~, specifically, the implementation of the measures to resolve Adverse Effects stipulated herein.

It is understood that the City shall continue to engage, as part of its Project design team, consultant(s) which have professional qualifications meeting Secretary of the Interior's~~National Park Service~~ professional standards in the areas of history, archeology, architectural history, architecture, or historic architecture, ~~yhistoric architecture~~, as appropriate, and that the City shall continue to be responsible for the performance of further studies, evaluations and other tasks required to meet the Stipulations set forth in this PA~~greement~~.

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In this context and consistent with the independent monitoring and advisory role assigned to the *Kako'o* under this PA~~greement~~, the *Kako'o* shall perform the following responsibilities:

a) Establish and coordinate consultation and project status update meetings as stipulated in Stipulations III B and; IX B. Additional meetings may be held to address unforeseen effects to historic properties determined to be eligible within the APE, as provided for in Appendix A on an as needed basis.

b) Establish and maintain lines of project-related communication and consultation with the consulting parties and the design and construction engineers, including oversight and monitoring of internet sites created for the Project.

c) Monitor and assess the mitigation related to in Phases I ~~to~~through IV and any associated deliverables of this PA that are to be reviewed by the ~~Section 106~~ consulting parties (Stipulations III ~~to~~through XII).

d) Monitor the City's compliance during the design and construction process for the Project with~~of~~ the special h~~H~~istoric p~~P~~reservation d~~D~~esign g~~G~~uidelines referred to in Stipulation~~ection~~ IV.A, Design Standards.

e) Monitor work performed on h~~H~~istoric p~~P~~roperties with respect to measures to resolve Adverse Effects caused by the Project in accordance with Stipulation~~sections~~ IX.C (Demolition Monitoring) and X.C (Construction Monitoring) of this PA~~greement~~.

f) Coordinate regularly with the FTA and SHPD~~O~~ in connection with the *Kako'o's* observations and recommendations regarding the progress of the Project in implementing measures to resolve Adverse Effects called for under this PA~~greement~~.

g) Report to the City, the FTA and SHPD~~O~~ concerning the existence, if any, of previously unidentified ~~A~~adverse ~~E~~effects of the Project on historic properties within the APE~~h~~H~~istoric p~~P~~roperties~~ (that is, ~~A~~adverse ~~E~~effects which are not otherwise materially identified in the ~~Programmatic Agreement~~).

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Comment [eaz4]: Do we want to specify within the established APE and determined eligible properties? Would probably want to reference a specific stipulation for the consideration of newly identified adverse effects.

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Comment [eaz5]: Above the Kako'o's … [4]

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Comment [eaz6]: Here I would recom … [10]

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h) Submit reports concerning the progress of the Project in the implementation of the Stipulations set forth herein in accordance with the reporting requirements in Stipulation XIII.E., with copies available to any other interested party who so requests.

i) Address requests by consulting parties to review deliverables and documentation that are provided to concurring parties.

j) Collect any comments from the~~Section 106~~ consulting parties ~~to this PA~~ that identify impacts different from~~than~~ those stated in this PA to historic properties located within the APE for ~~the~~ City and FTA processing~~.~~. The *Kako'o* shall research the issues presented as described in Appendix A and prepare a recommendation for the disposition of the request and action by FTA. The notification process for consulting parties to submit requests for consideration is outlined in Appendix A of this P~~rogrammatic~~ Agreement.

k) Provide administrative support and technical assistance required by the~~Section 106~~ consulting parties to meet the terms of this PA such as the timely submission of deliverables and the issuance of regular public updates regarding historic preservation issues.

l) Develop a Best Practice Manual related to historic properties and a Section 106 "lessons learned" case study on the Project that may be helpful to future Section 106 processes on this and other projects. The Best Practice Manual and "lessons learned" case study will be made available to the consulting parties ~~of this PA~~ and other interested parties within one (1) year of the completion of Phase 1 construction.

~~**City Support of SHPD Reviews** Within 6tallocate ing for monitor and assess compliance by the City with this PA . The independent contractor(s) filling this responsibility will meet the qualifications described in Stipulation I.E and will have demonstrated expertise in the areas of history, architectural history, and/or archeology, as appropriate. Within 10 days of receipt of the RFP, tThe FTA and the SHPO shall review and approve (1) the request for proposals (RFP) for the independent contractor(s) prior to the release of the RFP, (2) the qualifications of the final candidates under consideration by the City prior to the final section of the historic preservation contractor, and (3) the scope of work of the historic preservation contractor in order to ensure that~~

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Comment [eaz7]: Does this matter if they are consulting parties and not concurring parties?

Comment [H8]: We decided to be more inclusive and make it consulting.

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Comment [eaz9]: I have comments on Appendix A, please see below.

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the contractor's duties and responsibilities are consistent with the provisions of this Stipulation I.G. The contractor shall perform the following responsibilities:

Meet and/or communicate regularly with the City, as needed, to oversee the implementation of the terms in this PA. As requested by the City, the historic preservation independent contractor(s) would review and provide preliminary comments on work products prior to submission to the consulting parties.

RegardingIn accordance with Stipulation IV of this agreement, prior to submission to the consulting parties, the historic preservation contractor will review plans and documents using the Project's Design Language Pattern Book and provide comments on all project elements and design and engineering plans for project elements within the context of this PA during the Final Design Phase.

Coordinate regularly with FTA and the SHPD in connection with the historic preservation contractor'sto convey observation and recommendations regarding the progress of the Project in implementing measures to resolve Adverse Effects called for under this Agreement. This regular coordination will include providing comments on any reports or products submitted to the FTA or the SHPD during the first third of any review period identified in the PA. For example, if there is a 30 day review period on any product submitted to FTA or SHPD, the historic preservation independent contractor shall provide comments within the first ten days of the review period unless another agreement is arranged by the FTA or the SHPD.

Provide summaries of observations and recommendations on the City's progress on implementing stipulations in the PA to the consulting parties prior to meetings of the consulting parties identified in Stipulation XIII.E of this PA.

Report to the City, FTA, and the SHPD concerning the existence, if any, of any previously unidentified Adverse Effects of the Project on Hhistoric Pproperties.

In addition to the informal conference discussions and meetings that the historic preservation independent contractor and the City will hold in the normal course of the implementation of the PA, if requested by either party, the City and the historic preservation independent contractor will meet formally to review any recommendations provided in writing by the historic preservation independent contractor(s). If, following such a formal conferencemeeting, the City and the historic preservation independent contractor reach consensus regarding the appropriate resolution of the historic preservation independent contractor's recommendations, the City shall document the consensus that was reached in a letter to FTA and the

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~~SHPO. Subsequent to the FTA's approval, the City shall implement the actions incorporated in such a letter.~~

~~The City, in cooperation with SHPD and FTA, will review the workload generated for the contractor(s) semi-annually and may amend its work description in the future if review obligations decrease as the Project progresses.~~

II. Traditional Cultural Properties

A. Within thirty (30) days of execution of this PA, the City shall undertake a study to determine the presence of Traditional Cultural Properties (TCPs) within the APE, which includes cultural landscapes if present. Prior to construction commencement, the City shall meet with the SHPD, consulting parties, and other parties with expertise, including Native Hawaiian organizations (NHOs) to discuss and identify potential TCPs, as defined by the National Register Bulletin 38, *Guidelines for Evaluating and Documenting Traditional Cultural Properties*. Building on cultural practices analysis already completed to address Act 50, Session Laws of Hawaii 2000, requirements, the City shall undertake studies to evaluate these TCPs for NRHP eligibility in accordance with guidance in National Register Bulletin 38. The TCP study shall be completed by qualified staff with experience in ethnographic studies and TCP assessments for NRHP eligibility.

If FTA determines that eligible TCPs are present, the City will complete effects assessments and seek SHPD concurrence on both eligibility and effects determinations. SHPD will have thirty (30) days to review eligibility and effect determinations. If FTA or the SHPD determine that there are adverse effects to eligible TCPs, the City shall meet with consulting parties to identify measures to avoid, minimize, or mitigate adverse effects. The City will complete all fieldwork, eligibility and effects determination, and consultation to develop treatment measures prior to the commencement of construction. The City shall complete any treatment measures prior to undertaking each construction phase that would adversely affect a TCP. Regardless of effect determination, the City will complete NRHP nominations for properties that meet the NRHP criteria for TCPs. The SHPD, NPS and consulting parties, including NHOs, will review draft NRHP nominations and provide comments within thirty (30) days of receipt. The City will consider all comments when completing final NRHP nominations. The City will submit final NRHP nominations to SHPD.

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III. Identification and Protection of Archaeological Sites and Burials

The City shall implement the following archaeological stipulations before each of the four construction phases.

A. Initial Planning

1. The APE for archaeological resources is defined as all areas of direct ground disturbance by the Project. This APE for archaeology includes any areas excavated for the placement of piers to support the elevated structures, foundations for buildings and structures, utility installation, grading to provide parking, or other construction-related ground disturbance, including preparation of construction staging areas. The APE includes the new location of any utilities that will be relocated by the Project.

2. The City shall develop an Archaeological Inventory Survey (AIS) Plan for the APE for each construction phase and shall submit it to the SHPD. The SHPD will provide comments to the City to be taken into account in revising the AIS plan or accept the AIS Plan within thirty (30) days. The AIS Plan shall follow the requirements of Hawai'i Administrative Rules (HAR) Chapter 13-276, *Rules Governing Standards for Archaeological Inventory Surveys and Reports*.

3. The O'ahu Island Burial Council (OIBC) will have jurisdiction to determine the treatment of previously identified Native Hawaiian burial sites pursuant to HAR Chapter 13-300, *Rules of Practice and Procedure Relating to Burial Sites and Human Remains*. Any iwi kupuna (Native Hawaiian burials) discovered during the AIS shall be treated as previously identified burial sites.

B. OIBC, Lineal and Cultural Descendents, and NHO Consultation

1. Within sixty (60) days of execution of this PA, the City shall consult with the OIBC, lineal and cultural descendents, NHOs and other interested parties that are identified in discussion with OIBC, about the scope of investigation for the AIS Plan for construction of Phase 4. The City shall provide Preliminary Engineering plans and existing utility maps to assist in the scoping process. The AIS Plan will provide for investigation of the entire Phase 4 area, including from Waiakamilo Road to Ala Moana Center. In the portion of Phase 4 with the greatest potential for resources as identified in the *Honolulu High-Capacity Corridor Project Archaeological Resources Technical Report* (RTD 2008n), the AIS Plan will evaluate all areas that will be disturbed by the Project. The AIS Plan will include a review of historical

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shoreline location, soil type, and, where indicated by conditions, the survey measures listed in Stipulation III.C, including subsurface testing, for each column location, utility relocation, and major features of each station and traction power substation location based on Preliminary Engineering design data. The AIS Plan shall be submitted to the SHPD within four (4) months of execution of this PA. SHPD will provide comments on the AIS Plan to the City within sixty (60) days. The City will incorporate any timely comments in revising the AIS Plan. Archaeological investigation will begin following approval of the AIS Plan by the SHPD.

2. The City shall complete the AIS for Phase 4 (Middle Street to Ala Moana Center) prior to beginning Final Design for that area.

3. The City shall inform OIBC of the status of the AIS. The City will continue to meet regularly with the OIBC, either as a taskforce, or with the council of the whole, for the duration of the construction period of the Project.

4. The City, in coordination with the OIBC, lineal and cultural descendents, NHOs, and other interested parties that are identified in discussion with OIBC shall complete a draft protocol for consultation regarding treatment of any iwi kupuna identified during the AIS. It shall be provided to the OIBC for review within six (6) months of the execution of this PA. The protocol shall address, at minimum, a process for communication about any identified iwi kupuna, definitions that will be applied to the Project, identification and inclusion of lineal and cultural descendents and NHOs, and workflow of actions prior to and upon identification of iwi kupuna during AIS. The workflow shall provide for options to avoid moving iwi kupuna (preservation in place) versus relocation options. Avoidance shall include relocation of columns, change of column design to or from a center alignment to straddle bent or other alternatively-supported design, modification of span length, and alternate utility locations. The City will take into account any comments provided within sixty (60) days from the OIBC, lineal and cultural descendents, NHOs and other interested parties to finalize the draft protocol. The City will proceed in accordance with the protocol once it is approved by FTA.

5. Dispute Resolution Specific to Stipulation XIII.C: Should the parties identified in this stipulation be unable to resolve elements identified in this stipulation, the parties would first consult with the signatories to this PA for guidance. Should the parties still be unable to resolve the dispute, the provisions of Stipulation XIII.C would take effect.

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C. **Fieldwork**—The City shall conduct archaeological fieldwork as presented in the AIS Plan. For construction Phases 1, 2 and 3, the archaeological fieldwork shall be completed in advance of the completion of Final Design for each phase so that the presence of any sensitive archaeological sites/burials discovered during fieldwork may be considered during Final Design and measures incorporated to avoid and/or minimize adverse effects to historic properties. The City shall inform OIBC of status of the archaeological investigation. Fieldwork required by the AIS Plan shall include, but not be limited to, the following:

1. Reconnaissance survey (archival research and visual inspection by pedestrian inventory) within the APE,

2. A sample survey of subsurface conditions with ground-penetrating radar (GPR), and subsurface inspection as warranted,

3. A subsurface testing regime for locations identified in the AIS Plan,

4. A description of archaeological methods specific and applicable to the findings will be used in analysis, and

5. Draft and final reports summarizing the results of the fieldwork and analysis that shall be submitted to the SHPD for review and approval.

D. **Treatment Plans**—Based on the results of the AIS fieldwork and in consultation with the SHPD, the City shall develop a specific treatment plan to avoid, minimize, or mitigate adverse effects to historic properties including archeological sites and burials pursuant to applicable state laws, including HRS Chapter 6E, *Historic Preservation*, and HAR Chapter 13-300, *Rules of Practice and Procedure Relating to Burial Sites and Human Remains*, for each construction phase. Treatment plans shall be submitted to the SHPD for approval. Upon approval by the SHPD, the City shall implement the treatment plan.

1. Any human remains found on lands owned or controlled by the Federal government will be addressed in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. § 3001 *et seq*., in coordination with the affected land management agency.

2. The City confirms that guideway columns may be relocated a limited distance along the guideway at most column locations, straddle-bent supports may be used, or special sections developed to modify span length allowing for preservation in-place to be viable in those locations. If the OIBC determines that a burial is to be relocated,

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the City will consult with the OIBC to determine appropriate reinterment, which may include relocation to Project property in the vicinity of the discovery.

E. **Mitigation Plans**—Subsequent to the archaeological fieldwork and development of the treatment plan, the City, in consultation with the SHPD, shall develop mitigation plans as appropriate. The mitigation plans may include the following:

1. Archaeological Monitoring Plan

a. The City may develop an archaeological resources monitoring plan specifying the locations within the construction area that require a monitor and describing the level of monitoring necessary. The monitoring plan will be developed and implemented by a qualified archaeologist, meeting the *Secretary of the Interior's Professional Qualifications Standards for Archeology*, 48 Fed. Reg. 44738-9 (Sept. 29, 1983).

b. The City shall develop a follow-up monitoring report per HAR § 13-279-5 for the Project and shall submit it to the SHPD for approval. The monitoring report, if it contains the location and description of human burial remains discovered during the course of the Project, shall remain confidential. Precise location data may be provided in a separate confidential index. The monitoring report for the construction phase of the Project shall be submitted by the City to the SHPD no later than ninety (90) days after the completion of construction of that phase.

2. Data Recovery Programs

a. Data Recovery Programs (including Data Recovery Plans and Data Recovery Reports) will be prepared by the City as appropriate in consultation with the SHPD. Data Recovery Programs shall be submitted for review and approval by the SHPD.

b. Whenever possible, technological means will be used to avoid potential human remains and archaeological resources to minimize disturbance.

c. Completion of data recovery work must be verified by the SHPD prior to initiation of construction within the area of these sites.

d. Data recovery plans specify the disposition of recovered objects and shall be submitted by the City to the SHPD for review and approval.

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F. **Curation**—The City will curate recovered materials in accordance with HAR Chapter 13-278, *Rules Governing Standards for Archaeological Data Recovery Studies and Reports*. The City shall consult with public and private institutions to pursue an opportunity to provide public access to the recovered materials. Interpretive materials as described in Stipulation VII of this PA at one or more stations may incorporate archaeological materials recovered during development of the Project. Any human remains found on lands owned or controlled by the Federal government will be addressed in accordance with NAGPRA in coordination with the affected land management agency.

IV. Design Standards

A. The City shall develop standards for, and maintain and update the Project's *Design Language Pattern Book* for all Project elements. The pattern book shall be available electronically. For stations within the boundary of or directly adjacent to an eligible or listed historic property, the City shall be guided by ~~the~~ *The Secretary of the Interior's Standards for the Treatment of Historic Properties*, 36 C.F.R. ~~pt.~~ Part 68, and will make every reasonable effort to avoid adverse effects to historic properties. If the standards cannot be applied, the City shall consult with the signatories, invited signatories and those listed as concurring parties to develop a treatment plan to minimize and mitigate adverse effects to the historic property.

B. The City shall conduct a minimum of two neighborhood design workshops for the stations in each of the Project phases. The City shall notify all consulting parties of the workshops and consider any comments received when completing station design.

C. Prior to Project entry into Final Design, the City shall provide Preliminary Engineering design plans for built components of the Project, such as stations, guideway, and directly related Project infrastructure improvements, to consulting parties for review and comment. For stations within boundaries of or directly adjacent to listed or eligible historic properties, the City shall also provide plans during the Final Design phase. The consulting parties shall provide the City with comments on the plans within 30 days of receipt. The City shall consider all comments provided by the consulting parties when completing Preliminary Engineering or Final Design plans.

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V. Recordation and Documentation

A. Within ninety (90) days of execution of this PA, the City shall complete draft Historic Context Studies related to relevant historic themes within the APE. This type of study assists in documenting the history of the affected area and may be used in developing NRHP nominations for historic properties in the area.

1. The City will develop a draft scope of work for the studies describing the context themes, research methodology, report format, photography specifications, and schedule for completion. The City will circulate a draft scope of work to the consulting parties.

2. Any comments received by the City from consulting parties within thirty (30) days of receipt of the draft scope of work will be considered by the City in developing a final scope of work in consultation with the SHPD.

3. Initial field work and photography for each study theme shall be completed prior to construction commencement in relevant geographic areas.

4. The City shall submit draft context studies to the SHPD for review, and all comments provided by the SHPD will be reconciled in consultation with the City within thirty (30) days while preparing the final studies.

5. Copies of the final studies shall be distributed to repositories listed in Stipulation XIII.E.5.

B. The City shall complete Cultural Landscape Reports (CLR) related to historic properties along the Honolulu High-Capacity Transit Corridor.

1. Within ninety (90) days of execution of this PA, the City shall develop a draft scope of work for the CLRs describing the cultural landscapes to be studied, research methodology, report format, photography specifications, and project schedule. All work shall follow National Park Service guidance and standards, as appropriate, including National Register Bulletin 30, *Guidelines for Evaluating and Documenting Rural Historic Landscapes* and National Register Bulletin 18, *How to Evaluate and Nominate Designed Landscapes*, as well as relevant information presented in *Guidelines for the Treatment of Cultural Landscapes*. The City shall circulate a copy of the draft scope of work to the consulting parties.

2. Any comments received by the City from consulting parties within thirty (30) days of receipt of the draft scope of work will be

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considered by the City in developing a final scope of work in consultation with the SHPD.

3. Initial field work and photography for each study area shall be completed prior to construction commencement in that area.

4. The City shall submit draft CLRs to the SHPD and consulting parties for review based upon a distribution list defined in advance in cooperation with the consulting parties. The SHPD will provide comments within thirty (30) days of receipt of draft materials. SHPD will have forty-five (45) days for review if multiple reports come in within ten days~~a week~~ of each other. The City will consider all comments from the consulting parties and stakeholder groups while preparing final versions.

5. Copies of the final CLRs shall be distributed to repositories listed in Stipulation XIII.E.5.

C. **Historic American Building Survey (HABS), Historic American Engineering Record (HAER), and Historic American Landscape Survey (HALS) Recordation**—

1. The City shall consult with the NPS HABS/HAER/HALS (HHH) coordinator in the Pacific West Regional Office to determine which of the historic properties that received adverse effect determinations will be documented by completing HHH recordation. After this determination, the NPS will stipulate the appropriate type and level of HHH documentation for each property.

2. The City shall ensure that all HHH documentation for properties identified in V(~~c~~C)(1) is completed in accordance with NPS recommendations, including requisite draft and final submission requirements.

3. The City shall ensure that final HHH documentation is completed for a property and accepted by NPS prior to commencement of activities that could impact the historic property and/or affect its integrity.

4. The NPS shall provide comments on draft report submittals within 30 days of receipt and will provide comments on final report submittals within 30 days of receipt. If the City includes multiple reports in a submittal or submits multiple reports within

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Comment [ej-r11]: Did not see a provision for the City to submit draft CLRs to consulting parties, only SHPD

Comment [ej-r12]: Typically, the stipulation regarding HHH documentation is quite simple, stating that the agency will consult with the Regional HHH coordinator and ensure that HHH documentation is complete and accepted by NPS prior to commencement of the project; however, since we are trying to say a lot more in this PA regarding HHH documentation I am suggesting that it be rewritten. I have suggested both a reorganization and language for comment and editing

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a ~~14~~10-day period, NPS will be allowed ~~additional time~~45 days for review.

5. The City may request NPS to review the photographic documentation portion of a HHH report prior to completion of the full report, to accommodate construction schedules. The City shall only make such requests when the pace of the construction schedule makes it unlikely that a draft and final HHH report can be completed and reviewed in time for construction to commence on or near the specific property. In such instances, the City shall submit the archival black and white prints and negatives to NPS for review. NPS will provide comments within 30 days of receipt. The City will ensure that the full draft HHH report is submitted within ~~X~~6 months of NPS approval of photographic documentation.

~~C. The City shall consult with NPS HABS/HAER/HALS (HHH) staff to determine which of the historic properties that received adverse effect determinations should be documented for HHH recordation. All required HHH archival black-and-white photography will be completed and submitted to NPS for approval. NPS will provide written approval of the photographs within 30 days. The City will confirm NPS's approval of the photographs prior to any work that could impact the historic property and/or affect itsthe integrity of the resource. The City will submit complete HHH recordation packages to NPS, which will provide comments within 60 days. and fFinal documentation will be submitted to NPS.~~

D. The City shall engage a professional photographer to complete archival photography to NRHP standards for all resources that received adverse effect determinations that are not subject to HHH documentation under Stipulation V.C. Photographic documentation will include, at a minimum, representative views of relevant historic structures associated with each historic property, and representative views of the surrounding setting of each historic property. These photographs will be offered to the repositories listed in Stipulation XIII.E.5. Per the schedule established by Stipulation XIII.E.3, the City shall consult with the SHPD to determine an appropriate level of written documentation for each above-ground historic property that is not documented under Stipulation V.C or VI. The SHPD will review this documentation upon completion.

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Comment [ej-r13]: Either the City or FTA requested that a timeframe for review be included in the PA, although this typically is not done. More than 30 HHH reports could be generated through this PA. We do not have the capacity to review multiple reports within 30 days especially when reports from other projects are in the queue ahead of a submission. This clause as I have written it is trying to balance reasonable expectations on all sides.

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Comment [ej-r14]: Typically, we do not review HHH documentation in pieces, but rather the entire report, which is first submitted for draft review, then final review. Formal review of photos in advance of completing a full reports adds an additional formal review step for NPS, so this request really needs to be the exception rather than the rule.

Comment [H15]: The concern is that a lot of time, cost and effort will have to be invested for many properties that may not meet the criteria for acceptance. It would be helpful to reduce the list to those that have a true potential for acceptance.

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E. The City shall have digital photographs taken by a professional photographer, in conjunction with the input of a supervising architectural historian, to document select resources and viewsheds within the APE. These photographs shall be taken prior to construction commencement and shall be used for interpretive materials, publications, cultural landscape reports, and historic context studies. Photographs will focus on NRHP-eligible resources and unique landscape features. Approximately 150 views will be submitted. These photographs will be housed at the City Municipal Library with copies submitted to the SHPD.

F. The City shall take a comprehensive video of the Project corridor prior to construction commencement. Video documentation shall be completed by a professional videographer and will consist of unedited footage filmed from a moving vehicle. The Project corridor shall be filmed from the vehicle in each direction, from Ala Moana to ʻEwa, and ʻEwa to Ala Moana. This film will be housed at the City Municipal Library with a copy submitted to the SHPD.

VI. National Register of Historic Places/National Historic Landmark Nominations

A. The City shall complete a NRHP Multiple Property Documentation (MPD) for Modern/Recent Past historic properties dating from 1939-1979. Additionally, the City shall complete a single Multiple Property Submission (MPS), including all appropriate accompanying documentation. ~~Submission (MPS), including all appropriate accompanying documentation, for Modern/Recent Past historic properties dating from 1939-1979, including all appropriate accompanying documentation, and eligible for the NRHP under Criteria C.~~

1. The City and SHPD will consult with property owners to obtain access and determine their consent to the proposed listing. Listing procedures shall be consistent with HAR Chapter 13-197, *Practice and Procedure before the Hawaii Historic Places Review Board* and HAR Chapter 13-198, *The Hawaii and National Registers of Historic Places Programs*. Should owners object to listing or access, the City shall document the properties to the extent possible from public right-of-way and using available research or alternative properties may be selected by the City, in consultation with SHPD, for documentation. The SHPD will determine appropriate listing procedures according to Hawai'i Administrative Rules for the properties whose owners do not consent.

2. As part of the MPD, the ~~The~~ City will propose a list of Modern/Recent Past historic properties determined eligible for the NRHP to be advanced for nomination and will circulate it to the consulting parties.

Comment [ej-r16]: The way this is written, it unclear whether the City id preparing a MPD or a MPS. The MPD would be the cover document that defines the historic context(s), registration requirements, including property types and a list of properties to be considered. The MPS would include at least one nomination for a specific property.

Comment [ej-r17]: Is this referring to properties with existing consensus determinations or properties to be identified in the list from the MPD, for which the City will prepare nominations to include in a MPS submission?

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3. The City will consider any comments received from the consulting parties within thirty (30) days in developing a final list in consultation with the SHPD.

~~**4.** The City will also coordinate with the SHPD to nominate these historic properties to the Hawai'i Register of Historic Places.~~

~~5.~~4. The City shall submit a draft MPS nomination form to the SHPD and NPS for review and comment. The SHPD and NPS will provide any comments within thirty (30) days of receipt. The City shall consider all timely comments while preparing the final MPS documentation.

B. Pending the U.S. Navy approving the work and providing access to the site and relevant records, the City shall complete an update to the Pearl Harbor NHL nomination and the ~~COMPACFLT Headquarters~~CINCPAQ Headquarters ~~Building~~ NHL nomination. For the Pearl Harbor NHL amendment, emphasis shall focus on those resources closest to the APE and to those not previously ~~mentioned~~ documented in the existing nomination~~in prior documentation~~. All work shall be coordinated with the Navy and follow the guidelines set forth in NATIONAL PARK SERV., U.S. DEP'T OF THE INTERIOR, HOW TO PREPARE NATIONAL HISTORIC LANDMARK NOMINATIONS (1999). The work shall be carried out and approved by persons meeting the professional qualifications for historical architect or architectural historian in *The Secretary of the Interior's Historic Preservation Professional Qualification Standards*, 62 Fed. Reg. 33,713-14, 33719-20 (June 20, 1997). The City shall submit a draft document to the NPS, Navy, and SHPD. The City shall consider all comments received from NPS, Navy, and SHPD within 30 days in preparing the final NHL nomination. The City will provide the Navy with the updated NHL nominations and accompanying documentation, including requisite maps and photographs for submittal to the NPS.

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E.C. **National Register Nominations**

1. The City shall complete NRHP nominations and/or amendments for all 31 of the 33 properties (Attachment 2) that received adverse effect determinations located along the Project corridor. (Note that two resources are NHLs and are addressed in Stipulation VI.B.) The City will consult with the SHPD to determine if nomination forms for properties already listed in the NRHP should be updated and/or amended. The City and SHPD will consult with property owners to obtain access and determine their consent to the proposed listing.

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Should owners object to listing or access, the City shall document the properties to the extent possible from public right-of-way and using available research. This information will be provided to the SHPD, who will determine appropriate listing procedures according to Hawai'i Administrative Rules for owners who do not consent. All work shall conform to guidance presented in relevant National Register Bulletins. The City will complete all appropriate accompanying documentation, including photographs and mapping.

2. The City will submit draft nomination forms to the SHPD for review. The SHPD will provide comments within thirty (30) days of receipt. The City will consider the comments and submit final NRHP nomination forms following the established procedures of the National Park Service under 36 C.F.R. § 60.6(g). Final nomination forms will be completed before the Project begins revenue service operations.

3. The City will also coordinate with the SHPD to nominate these historic properties to the Hawai'i Register of Historic Places if they are not already included.

~~F.~~D. Properties documented in the MPS required by Stipulation VI.A will not be documented on separate, individual NRHP forms beyond what is included in the MPS.

~~G.~~E. All NRHP and Hawai'i Register of Historic Places nominations will follow the procedures set forth in HRS Chapter 6E, *Historic Preservation*, and HAR Chapter 13-198, *The Hawaii and National Registers of Historic Places Programs*, as appropriate. Completion of the stipulated NRHP nominations does not guarantee listing; the Keeper of the NRHP may determine that the properties are not eligible for listing. Listing of any property in the NRHP is subject to NPS review and approval.

~~H.~~F. The City shall develop a searchable database of historic properties within the APE in a format suitable for public use. The database will include an interactive geographic component and include property information (e.g., property name, address, tax map key, construction date, architect, etc.). The City will initiate database development prior to construction commencement and will update and maintain the database for the duration of this PA. The Navy reserves the right to approve the inclusion of any Navy historic properties in any public database.

~~I.~~G. The City will consult with the SHPD to develop a strategy for making this database and its information available to any organization with the authority and ability to develop, maintain, and support a public research database at the end of construction.

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VII. Educational and Interpretive Programs, Materials, and Signage

The City shall implement the following stipulations before revenue service begins.

A. The City shall complete an interpretive plan for the Project area and install interpretive signage at appropriate locations. The interpretive plan will highlight historical themes (e.g., Native Hawaiian History, Native Hawaiian Culture, Immigrant History, Plantation Culture, Architecture, Government, Agriculture, Transportation, Military, etc.) and will interpret these themes at an appropriate station location. Interpretive signage will be installed at or near relevant transit stations and, where appropriate, inside transit vehicles.

B. The City shall complete a color brochure describing the history of the area along the transit line. All materials shall also be produced in a digital format for electronic and/or online distribution. Upon completion, 1,000 physical copies of the product shall be printed and made available at stations to transit riders.

C. The City shall prepare materials for children, such as a coloring book or child-friendly game that would educate children about relevant local history. The materials shall be prepared by professional historians and a professional illustrator. The City shall solicit student input to propose and develop the content for the materials. All materials shall also be produced in a digital format for electronic and/or online distribution. The materials will be available on the Project website.

D. The City shall establish a Humanities Program that will explore human histories, cultures, and values. This program will enhance visitor and resident exposure to the depth of history and culture in the vicinity of the Project. The Humanities Program will educate the public about important topics in Hawaiian history through conferences/seminars, research fellowships, media programs, exhibits, lectures, and publications. The Humanities Program will also consider conducting select architectural surveys as a component of the potential program that may inform other program aspects. The City will develop this program's goals in consultation with consulting parties, and the City will provide one hundred thousand dollars ($100,000) to fund this program. The City will establish subcommittees to achieve the goals of the Humanities Program and meet at agreed-upon intervals. In the absence of additional funding from the City, the Humanities Program will continue until all designated funds are exhausted or until revenue service begins, whichever occurs later.

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E. The City will develop and implement an educational effort/program to encourage the rehabilitation of historic properties located along the transit route. This effort will include printed and electronic information about proper rehabilitation practices; benefits of historic designation; financial incentives available for eligible properties; and existing resources for assistance in pursuing these options. The City will hold two meetings and/or public workshops with owners of historic properties to disperse this information. The City will invite all owners of eligible or listed properties located within the APE and also within a 2,000 foot radius of station locations to the two meetings/workshops and will also announce the meetings/workshops to the public on the Project website. The meeting/workshops will be completed before revenue service begins. At the conclusion of the effort, the City will submit a summary report to the consulting parties.

F. Based on the content developed in Stipulation VII.A, the City will develop an educational field guide of the historic properties (including historic districts) along the transit route. The City will make the field guide available to the public in both print and electronic formats.

G. Consulting parties will be invited to participate in a kick-off meeting to develop a work plan, content for deliverables, and schedule for all products required within Stipulation VII. The City will circulate a draft of the work plan, preliminary content outline, and schedule to consulting parties following the kick-off meeting. The City will consider all comments received within thirty (30) days while preparing the final work plan and schedule in consultation with the SHPD.

H. The City will submit drafts of all work products required in Stipulation VII to the consulting parties for review and comment. The consulting parties will provide comments on the content, design, and other relevant product components within thirty (30) days of receipt of draft materials. The City will consider all comments while preparing final versions.

VIII. Mitigation for Specific Historic Properties

A. All lava rock curbstones removed along the edges of pavement because of Project-related work shall be retained by the City for reuse and reinstallation. The stones will be marked prior to removal, stored securely, and replaced at their approximate original mile-point locations prior to the beginning of revenue service operation. Any stones that are damaged or destroyed during extraction or reinstallation shall be replaced with in-kind materials.

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B. The bridge rails on the Kapālama Canal Bridge must be replaced or retrofitted to meet current safety standards. The City will maintain or replace the rails to match the appearance of the historic rails and to maintain existing views to and from the bridge. The City shall consider *The Secretary of the Interior's Standards for the Treatment of Historic Properties*, 36 C.F.R. pt. 68, in developing draft plans to provide to SHPD for review per Stipulation IV.

C. The City will replace true kamani trees within the corridor as close as feasible to the current location of the group of 28 true kamani trees on the makai side of Dillingham Boulevard that will be removed. The City will replace the trees prior to revenue service operation. In consultation with the SHPD landscape plans will be developed by the City during Final Design so that new plantings will provide similar advantages to the community. If new plantings do not provide "equitable mitigation" (e.g., older mature trees that are removed), additional younger trees will be planted that will, in time, develop similar benefits.

D. **Improvements to Adversely Affected Parks**

1. The City will invite consulting parties, property owners, and other stakeholders to participate in a kick-off meeting to discuss improvements to adversely affected historic parks. Based upon design standards contained in Stipulation IV, and considering comments offered at the kick-off meeting, the City will develop and circulate a draft park improvement plan to consulting parties. The City will consider all comments received within thirty (30) days while preparing the final plan in consultation with the SHPD.

2. The City shall consider *The Secretary of the Interior's Standards for the Treatment of Historic Properties*, 36 C.F.R. pt. 68, and make every effort to avoid adverse effects to historic properties.

3. The City will ensure completion of the park improvement plan before construction is complete.

4. Project funds in the sum of seven hundred fifty thousand dollars ($750,000) shall be budgeted for implementation of the parks improvement plan. Should the City, following consultation with consulting parties, property owners, and stakeholders, determine that circumstances preclude improving these parks, Project funds budgeted for parks shall be transferred for use to the Honolulu High-Capacity Transit Corridor Project Historic Preservation Committee (Stipulation IX.B).

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IX. Measures to Address Reasonably Foreseeable Indirect and Cumulative Effects Caused by the Project

A. The City shall include a staff position for a qualified Project Architectural Historian, defined in Stipulation I.F. The architectural historian shall oversee completion of the stipulations of this PA, coordinate with the SHPD, Kako'o(s) and other consulting parties, and coordinate with the Department of Planning and Permitting regarding land use planning activities, including the integration of transit-oriented development with historic preservation in the vicinity of Project stations.

B. The City, in consultation with the consulting parties, shall create, chair, and provide technical, administrative, and financial support for the operation of a Honolulu High-Capacity Transit Corridor Project Historic Preservation Committee (HPC). The City shall allocate two million dollars ($2,000,000) within the Project's budget to fund the program administered by the HPC. The City will create and schedule the first meeting of the HPC within three months after execution of this PA. Prior to the creation of the HPC, the City will submit to the SHPD for approval, a list of the agencies, groups, and organizations that will be invited to be represented and serve on the HPC. The HPC shall comprised the following seven (7) members: the director of DTS, or his designee, to serve as a voting member and chair of the HPC; one representative, or its designee, from each of the following: SHPD, DTS, and DPP; and one representative each from three (3) non-governmental groups or organizations with expertise in historic preservation, cultural resources, architecture, planning, or landscape architecture. The HPC shall establish the goals, criteria, program guidelines, administrative procedures, and funding distribution for the disposition of these funds that will be provided by the City for exterior improvements to eligible or listed historic properties (including contributing resources within historic districts) within the Project's APE consistent with *The Secretary of the Interior's Standards for the Treatment of Historic Properties*, 36 C.F.R. pt. 68, accomplished through grants provided under this section. The HPC shall identify and select an entity or entities that will administer the funds for the purposes established. This entity or entities shall be compliant with the requirements of Chapter 6, Article 29 of the Revised Ordinances of the City and County of Honolulu 1990, as amended, *Standards for the Appropriation of Funds to Private Organizations.* The City will dissolve the HPC when the funds are exhausted, but no later than three (3) years after completion of the Project, whichever occurs first.

C. To examine Project impacts related to development along the Project corridor, the City shall monitor the proposed demolition of resources built before 1969 within the APE and within a 2,000-foot radius of each station. This shall occur by monitoring demolition permits. The City shall establish a

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baseline for demolitions by calculating an annual average and standard deviation of demolitions that occurred within these areas between 2005 and 2008. The City shall include this baseline data and an explanation of its relevance to project planning and implementation in the first six-month report submitted pursuant to Stipulation XIII.E.3. The SHPD shall provide location information on eligible or listed historic properties within the 2,000-foot radius of each station location. If and when in any year during project construction the number of demolitions of listed or eligible resources within the APE or resources within the station areas built before 1969 is greater than one standard deviation above the baseline, then the City shall notify the consulting parties during each scheduled quarterly or annual review of the PA.

D. If any signatory to this PA finds during the duration specified in stipulation XIV.D that there is likely to be an imminent and significant adverse indirect or cumulative affect on a resource determined eligible for the National Register as part of the Section 106 process for this project and that the adverse effect was not evaluated in this PA, that signatory shall notify FTA.

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If concurring parties identify during the duration of this PA an imminent and significant adverse indirect affect on a resource determined eligible for the National Register as part of the Section 106 process for this project and that adverse effect was not evaluated in this PA, the consulting party shall follow procedures identified in Stipulation I.G.j.

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Upon such notification, FTA will call a meeting of the consulting parties to discuss what next steps would be appropriate under the new circumstances to mitigate the effects on such resources.

E. In addition to the mitigation presented in this stipulation, mitigation for indirect and cumulative effects is provided in Stipulations IV.A-C and VII.A–F.

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Comment [H20]: We should discuss this.

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X. Construction Protection Plan

A. During Final Design, DTS, in cooperation with its contractors and FTA, will develop a Construction Mitigation Plan (CMP). The CMP will include a Noise and Vibration Mitigation Plan. Per requirements to be included in the~~of described in a future~~ ~~the FEIS~~ FTA Record of Decision (ROD) and FTA guidance entitled, TRANSIT NOISE AND VIBRATION IMPACT ASSESSMENT, FTA-VA-90-1003-06 (2006) (FTA Guidance Manual), DTS shall perform quantitative assessments of both noise and vibration which will inform the CMP. Noise

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and vibration control plans will be updated every six (6) months. The updated plans should predict the construction noise and vibration impacts at sensitive receptor locations based upon the proposed construction equipment and methods. Appropriate construction plan noise and vibration mitigation measures shall be employed as identified in FTA's Guidance Manual.

Numeric limits and monitoring measures will be developed to minimize noise and vibration impacts. Vibration criteria included in Table 12-3, *Construction Vibration Damage Criteria*, of the FTA Guidance Manual will be applied. Note that most historic properties in the corridor are non-engineered timber or masonry; a criterion of 0.2 inches per second of peak particle velocity would be applicable to these structures. Noise and vibration mitigation strategies will be included in the Noise and Vibration Mitigation Plan.

B. Before Project construction begins, the City shall meet with the construction contractor(s) to review and transmit the CMP.

C. The City will monitor Project construction to ensure that the measures in the CMP are implemented and shall provide a record of monitoring activities in progress reports prepared pursuant to Stipulation XIII.E.

D. With the cooperation of the Navy, the City shall complete post-construction noise monitoring as stipulated in the Project's final environmental impact statement within U.S. Naval Base, Pearl Harbor NHL.

E. The City, in consultation with FTA shall ensure that any inadvertent damage resulting from the Project to historic properties shall be repaired, to the extent possible, in accordance with *The Secretary of the Interior's Standards for the Treatment of Historic Properties*, 36 C.F.R. pt. 68. The City, in consultation with the FTA, shall submit a scope of work or treatment plan to address inadvertent damage to the SHPD for comment before initiating repairs.

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~~XI.~~

XI. City and County Contractors and Contract Adherence to PA

FTA and the City shall ensure that contracts developed in the implementation of all construction phases of theis Pproject shall expressly refer to and require compliance with the stipulations of this PA. Contractors responsible for work set forth in this PA shall have qualified staff that meet the Secretary of Interior's Professional Qualification Standards 48 Fed. Reg. 44,738-39 (Sept. 29, 1983), for history, archeology, architectural history, architecture, or historic architecture with experience in historic preservation planning to

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ensure the satisfactory compliance with the terms of the PA during the design and construction of each project construction phase.

The *Kako'o* will provide guidance regarding the implementation of the terms of this PA to all contractors, particularly those involved in construction-related activities.

The City *shall*

~~P~~Require~~rovide~~, on an annual basis, or more frequently as circumstances require, historic preservation and cultural awareness training for~~to~~ the construction contractors and employees. The training shall include information related to the following topics:

a) Illegal collection and disturbance of historic and prehistoric cultural materials, including human remains.
b) Scope of applicable laws and regulations.
c) Initial identification and reporting of archeological materials, human remains, and historic buildings or structures that may potentially be discovered during the course of their work.\

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Training materials, schedules and lists of persons trained will be made available to the consulting parties of this PA and other interested parties on an annual basis.

~~XII.~~

~~XIII.~~XII. **Post-Review Discoveries**

A. ~~Because of the linear nature of the Project and because any areas excavated for the placement of piers to support the elevated structures, foundations for buildings and structures, utility installation, grading to provide parking, or other construction-related ground disturbance, including preparation of construction staging areas and the new location of any utilities that will be relocated by the Project, will be the subject of an AIS.~~ Post-review discoveries are not anticipated for built historic properties. Notwithstanding, the City agrees to cease all work in the vicinity of the discovery should an unanticipated adverse effect on a built historic property be found. The City will notify the signatories and provide information about the unanticipated adverse effect and the City's proposed treatment plan within a period of three (3) business days. Signatories will provide comments on the City's proposed treatment plan within three (3) business days. The City will consider any timely comments in developing a final treatment plan in consultation with FTA. FTA will not allow work to resume in the vicinity of the unanticipated adverse

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effect until a treatment plan has been finalized. The City will proceed in accordance with the treatment plan.

B. Because of the linear nature of the Project and because any areas excavated for the placement of piers to support the elevated structures, foundations for buildings and structures, utility installation, grading to provide parking, or other construction-related ground disturbance, including preparation of construction staging areas and the new location of any utilities that will be relocated by the Project, will be the subject of a comprehensive AIS, While post-review archaeological discoveries after completion of AISs are not anticipated, . any archaeological sites/burials discovered during construction will be treated according to HRS §HRS 6E-43.6, *Inadvertent Discovery of Burial Sites*,except that in addition to that required by law will be allowed by the for SHPD review. In the event human skeletal remains are inadvertently discovered, any activity in the immediate area that could damage the remains or the potential historic site shall cease until the requirements of the law have been met.

In the event of any inadvertent discoveries of burials, the OIBC shall be included in consultation as specified in HAR § 13-300-40. When suspected human skeletal remains are found, the City shall ensure that all work in the vicinity stops and that an a City archaeologist will secures the area to avoid any additional disturbance., pursuant to HRS § §6E-43.6. If the remains are identified to be human, the City will notify SHPD as required by law. (Non-human remains that are determined by the Project archaeologist not to be a protected resource will be documented in Project files and no further action taken.) archaeologist shathe With confirmed human skeletal remains, the archaeologist must also notify the OIBC, SHPD, the County Coroner's Office, and the County Police Department. With all inadvertent burial finds, SHPD determines burial treatment, either preservation in place or relocation, in consultation with the landowner, the district representative of the OIBC, and any recognized cultural or lineal descendents or NHOs for the Project. Pursuant to §§ 6E-43.6(c) and (d), SHPD has one (1) day to make its treatment determination for single burials and two (2) days for multiple burials found on O'ahu. Recognizing the extent of the Project and the sensitivity of any discoveries, the Project will allow an extended time for SHPD determination of treatment by an additional three (3) days for a total of four (4) days for single burials and five (5) days for multiple burials; provided that this extension of time shall not affect other obligations, duties, or responsibilities required under HRS Chapter 6E and applicable regulations. Information generated in the AISs in Stipulations III.B, III.C and III.D will assist SHPD and OIBC in identifying and notifying lineal and cultural descendants and defining a treatment plan since background research is an integral component of the

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AIS. Construction must remain halted in the vicinity of the burial find until SHPD's treatment decision has been carried out or any other requirements of law have been met.

C. ~~Unless otherwise identified in the AIS and associated treatment plans in Stipulation III.D, the~~The City, in consultation with the OIBC and the SHPD, will be responsible for carrying out the burial treatment for post-review discoveries.

1. For preservation in place, the City will modify the planned construction to allow for the remains to stay in place in ~~an appropriate and relatively undisturbed manner~~accordance with the burial treatment plan.

2. Pursuant to HRS §6E-43.6(f), in cases where remains are archaeologically removed, SHPD shall determine the place of relocation, after consultation with the City, OIBC, affected property owners, representatives of the relevant ethnic group, and any identified lineal descendants, as appropriate.

Parties identified in this Stipulation XII.C will consider the inclusion of either of the following two provisions in a post-review discovery treatment plan: (1) If a reinterment site was not identified in a Treatment Plan in Stipulation III.D, the City will disinter the remains, curate the remains at the Project site until the associated Project phase is completed and then immediately arrange for reinterment within the Project area; or (2) If reinterment sites are identified as part of the Treatment Plans in Stipulation III.D, immediate reinterment to those identified sites will be the preferred practice

~~**2.** For relocation, if a reinterment site was not identified in a Treatment Plan in Stipulation III.D, the City will disinter the remains, curate the remains at the Project site until the associated Project phase is completed and then immediately arrange for reinterment within the Project area.~~

~~**3.** If reinterment sites are identified as part of the Treatment Plans in Stipulation III.D, immediate reinterment will be the preferred practice for inadvertent discoveries for which reinterment is the directed course of action.~~

~~4.~~3. The City will document burial treatment in either a "burial site component of an archaeological data recovery plan" for burials that are relocated, or a "burial site component of an archaeological preservation plan" that documents the burial treatment that was carried out. These plans/reports document the conditions of the discovery, the

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burial treatment, access and any subsequent measures that have been agreed to by the landowner to safeguard either the relocation site or the preserve site. The City will record preserved or relocated burial sites with the Bureau of Conveyances so that the burial sites are not further disturbed in the future.

D. Any human remains found on lands owned or controlled by the Federal government will be addressed in accordance with NAGPRA in coordination with the affected land management agency.

~~XIV.~~XIII. Public Information

Elements of public involvement and information are included throughout this PA. In addition, the City shall undertake the following:

A. To keep the public informed about PA implementation, the semi-annual progress reports described in Stipulation XI~~V~~I.E will be posted on the Project website.

B. With the exception of sensitive information or locations, the City shall add all documentation completed as part of this PA to the historic properties database that will be created as part of Stipulation VI.F. However, if the consulting parties agree, the sensitive information or locations may be included in a password-protected mode.

C. At any time during implementation of the activities covered in this PA, should an objection pertaining to this PA or the effect of any activity on historic properties be raised by a member of the public, FTA will notify the signatories to this PA and take the objection into account, consulting with the objector, and should the objector so request, with any of the parties of this PA, to resolve the objection.

~~XV.~~XIV. Administrative Provisions

A. **Implementation Schedule**—Within sixty (60) days of the execution of this PA, the City shall develop a schedule for the implementation of the provisions of this PA. The City will submit the schedule to the signatories and concurring parties for review and comment. The final schedule will include timelines and milestones for completion of deliverables and will be posted on the Project website. The City will update the schedule to reflect Project changes and will notify the signatories and concurring parties of any alterations to the schedule.

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B. **Project Modifications**—Should the Project alignment be changed in any way that FTA determines results in a change to the APE, the City shall update the APE maps, and FTA and the City, in consultation with other consulting parties, shall ensure that the requirements of this PA are met, after further consultation and assessment of effects, with regard to the new portions of the APE.

C. **Dispute Resolution**—Should any Signatory or Invited Signatory to this PA object to any action proposed pursuant to the PA, the FTA shall consult with the objecting party to resolve the objection. If the FTA determines that the objection cannot be resolved, the FTA shall forward all documentation relevant to the dispute, including FTA's proposed resolution, to the ACHP.

1. Within thirty (30) days after receipt of all pertinent documentation, the ACHP shall provide the FTA with its advice on the resolution of the objection. FTA will then prepare a written response that considers any timely advice offered by the ACHP or by other signatories to the PA. FTA will provide all consulting parties with a copy of this written response and proceed according to its final decision.

2. If the ACHP does not provide its advice regarding the dispute within thirty (30) days of receiving appropriate documentation about the dispute, FTA may make its final decision on the dispute and proceed accordingly. Prior to reaching a final decision, FTA shall prepare a written response that considers any timely comments by other signatories to the PA and provide them and the ACHP with a copy of that response.

3. The responsibility of the FTA and the City to carry out all actions that are required by this PA and are not affected by the dispute remains unchanged.

D. **Duration**

1. This PA shall take effect on the date it is signed by the last signatory and shall be in effect for ten (10) years from the date of execution, or terminated pursuant to Stipulation XIV~~II~~.I. At least six (6) months prior to the end of the 10-year period, FTA will provide an update on the status of the work associated with all stipulations. At that time, and before the 10-year period elapses, the signatories may amend the content of the PA, which may include extension of the duration of the PA, in accordance with Stipulation XIV~~II~~.H if they determine that it is necessary to complete all stipulations.

E. **Monitoring and Reporting**

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1. Any signatory to this PA may request, at any time, a review of the implementation of the terms of this PA.

2. For the first twenty-four (24) months following the implementation of this PA, the City shall hold quarterly (every three (3) months) meetings with the consulting parties to discuss implementation of this PA including near-term planned activities.

3. Every six (6) months following the execution of this PA, until it expires or is terminated, the City shall provide all signatories to this PA a summary report detailing the work undertaken pursuant to its terms. Such report shall include any scheduling changes proposed, any problems encountered, and any disputes or objections received during efforts to carry out the terms of the PA.

4. After the 24-month period mentioned in Stipulation XI~~V~~II. E. 2. above, FTA shall conduct annual meetings of consulting parties to discuss implementation of this PA over the preceding year and planned activities for the coming year. FTA shall evaluate the effectiveness of this PA and whether any amendments or changes are needed based on the City's summary reports or Project modifications and provide its evaluation to the signatories prior to the meeting

5. Work products not containing sensitive information will be submitted to the following repositories so that the information generated is made available to the public: SHPD, State Publications Distribution Center (15 copies), University of Hawai'i, and the Municipal ~~Reference~~ Library (3 copies).

F. **Emergency Situation**—Immediate rescue and salvage operations conducted to preserve life or property are exempt from the provisions of Section 106 of the NHPA and this PA. In the event that an emergency situation should occur during the Project, FTA shall follow the provisions of 36 C.F.R. § 800.12.

G. **Coordination with Other Federal Involvement**—In the event that the City or other agency applies for additional federal funding or approvals for the Honolulu High-Capacity Transit Corridor Project and the undertaking remains unchanged, such funding or approving agency may comply with Section 106 of the NHPA by agreeing in writing to the terms of this PA and notifying the signatories. Any necessary amendments will be considered in accordance with Stipulation XI~~V~~II.H.

H. **Amendments**—Any signatory to this PA may propose that this PA be amended, whereupon the signatories to the PA shall consult to consider such amendment. Any amendment must be agreed to in writing by all signatories.

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The amendment will be effective on the date a copy with all signatures is filed with the ACHP.

I. **Termination**—If any signatory to this PA determines that its terms will not or cannot be carried out, that party shall immediately consult with the other signatory parties to attempt to develop an amendment per Stipulation XI~~V~~VII.H. If within thirty (30) days (or another time period agreed to by all signatories) an amendment cannot be reached, any signatory may terminate the PA upon written notification to the other signatories. Once the PA is terminated and prior to work continuing on the undertaking, FTA must either: (1) execute a new agreement pursuant to 36 C.F.R. § 800.6; or (2) request, take into account, and respond to comments of the ACHP under 36 C.F.R. § 800.7. FTA shall notify the signatories as to the course of action it will pursue. This PA may be terminated by the execution of a subsequent agreement that explicitly terminates this PA or supersedes its terms.

Execution of this PA by FTA, SHPD, and the ACHP and implementation of its terms evidence that FTA has taken into account the effects of this undertaking on historic properties and afforded the ACHP an opportunity to comment.

J. **Native Hawaiian Organizations** (NHO)— If, at any time during implementation of the provisions of this PA, an NHO informs the City or FTA that it attaches religious and cultural significance to properties within the APE, FTA shall invite that NHO to participate in reviews and consultation carried out under the terms of this PA.

SIGNATORY PARTIES

Federal Transit Administration

_____ Date:_____

Leslie Rogers, Regional Administrator

Hawai'I State Historic Preservation Officer

_____ Date:_____

Laura Thielen, Chairperson of the Board of Land and Natural Resources

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Advisory Council on Historic Preservation

_____ Date:_____

John M. Fowler, Executive Director

~~**INVITED SIGNATORY PARTIES**~~INVITED SIGNATORY PARTIES

City and County of Honolulu

_____ Date:_____

Wayne Y. Yoshioka, Department of Transportation Services

~~INVITED SIGNATORY PARTIES~~

National Park Service

_____ Date:_____

Christine S. Lehnertz, Regional Director, Pacific West Region ~~John J. Reynolds, Director Pacific West Region~~

~~**CONCURRING PARTIES**~~

United States Navy

_____ Date:_____

Admiral Dixon Smith,

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CONCURRING PARTIES

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Historic Hawai'i Foundation

_____ Date:_____

National Trust for Historic Preservation

_____ Date:_____

University of Hawai'i Historic Preservation Certificate Program

_____ Date:_____

American Institute of Architects

_____ Date:_____

Hawai'i Community Development Authority

_____ Date:_____

Office of Hawaiian Affairs

_____ Date:_____

O'ahu Island Burial Council

_____ Date:_____

Royal Order of Kamehameha

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_____ Date:_____

The Ahahui Ka'ahumanu

_____ Date:_____

Hui Malama I Na Kupuna O Hawai'i

_____ Date:_____

The Hale O Na Ali'i O Hawai'i

_____ Date:_____

The Daughters and Sons of the Hawaiian Warriors

_____ Date:_____

The Association Of Hawaiian Civic Clubs

_____ Date:_____

Ali'i Pauahi Hawaiian Civic Club

_____ Date:_____

Ka Lei Maile Ali'i Hawaiian Civic Club

_____ Date:_____

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King Kamehameha Hawaiian Civic Club

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Nanaikapono Hawaiian Civic Club

_____ Date:_____

Hawaiian Civic Club of Wahiawa

_____ Date:_____

Ahahui Siwila Hawai'i O Kapolei Hawaiian Civic Club

_____ Date:_____

Waikīkī Hawaiian Civic Club

_____ Date:_____

Princess Ka'iulani Hawaiian Civic Club

_____ Date:_____

Waianae Hawaiian Civic Club

_____ Date:_____

Merchant Street Hawaiian Civic Club

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Prince Kūhiō Hawaiian Civic Club

_____ Date:_____

Pearl Harbor Hawaiian Civic Club

_____ Date:_____

Hawaiian Civic Club of ʻEwa-Puʻuloa

_____ Date:_____

Kalihi-Palama Hawaiian Civic Club

_____ Date:_____

Hawaiian Civic Club of Honolulu

_____ Date:_____

Attachments

Attachment 1: APE for Historic Resources; APE for Archaeological Resources

Attachment 2: Information on Resources with Adverse Effect Determinations.

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Appendix A - Consulting Party Comment Review and Disposition Process

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If historic properties are discovered or unanticipated effects on historic properties found after the execution of the Programmatic Agreement (PA), the process developed in this PA and applicable appendix to resolve any adverse effects upon such properties shall satisfy Section 106 responsibilities pursuant to 36 C.F.R. § 800.13. If there is an inadvertent discovery of burial remains that are not "historic property" as defined under 36 C.F.R. § 800.16(l), Stipulation XII of this PA and HRS § 6E-43.6 control.

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The following procedure has been developed to implement Stipulation I.G of the PA. The PA Project Manager or *Kako'o* will manage the review and disposition of comments from consulting parties related to this Appendix A as part of its assigned responsibilities.

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1. If historic properties are discovered or unanticipated effects on historic properties are found within the APE, the City shall make reasonable efforts to avoid, minimize or mitigate adverse effects to such properties as required by 36 C.F.R. § 800.13 and the provisions of this PA.

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2. The FTA, in consultation with the SHPO, may determine a newly-discovered historic property within the Area of Potential Effects (APE) to be eligible for the National Register of Historic Places for purposes of Section 106. The *Kako'o*, in coordination with the SHPO, ACHP, and consulting parties, shall specify the National Register criteria used to determine the property's eligibility so that this information can be used in the resolution of adverse effects. The *Kako'o* will assist in the compilation and verification of the property's location within the APE and National Register eligibility, and the Project's effects.

3. The FTA shall determine actions that the City can take to resolve adverse effects. Upon its determination, the FTA will notify the SHPO, ACHP, and consulting parties. The notification shall describe the City's assessment of National Register eligibility of the property and proposed actions to resolve the adverse effects.

4. The SHPO, ACHP, and consulting parties shall respond to the notification within the timeframe required by 36 C.F.R. §800.13 for historic property as defined under 36 C.F.R. § 800.16(l). The *Kako'o* shall coordinate and provide information to support the SHPO, ACHP, and consulting parties' response. The FTA shall take into account their recommendations regarding National

Comment [eaz21]: This entire section should be more focused for a notification process that consulting parties can comment on unanticipated potential adverse effects observed during the term of this programmatic agreement. It should be shorter and not conflict with other sections of the PA.

I would imagine they would need to contact the Kako'o with specified information on the potential adverse effect. There would be some level of response time for the Kako'o to review the consulting parties materials. If there is a high potential for a new unanticipated adverse effect, the Kako'o will notify FTA. Procedures in Section XII will be followed for direct effects.

See Appendix B from Knik Arm PA.

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Register eligibility and proposed actions to resolve the adverse effects, and then carry out appropriate actions.

5. The *Kako'o* shall assist the City and FTA in drafting and making available a report of the FTA and City's actions when they are completed.

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6. The City will take the necessary steps to incorporate the resource into the PA by seeking approval of a modification to the list of adversely affected resources to include the new resource in the PA, pursuant to Stipulation XIV.H of this PA.

If approved, all pertinent protections within the PA will then apply to the new resource.

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Page 8: [1] Formatted **fmiyamoto** **9/9/2010 3:43:00 PM**

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Page 8: [2] Formatted **Elizabeth Zelasko** **9/22/2010 5:21:00 PM**

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Page 8: [4] Comment [eaz5] **Elizabeth Zelasko** **9/23/2010 10:47:00 AM**

Above the Kako'o's principal tasks are to monitor and assess compliance by the City for the terms of this PA. Manage and supervise is a different role and one that I think the City is responsible for. Recommend changing this line to monitor and assess.

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Page 8: [10] Comment [eaz6] **Elizabeth Zelasko** **9/23/2010 10:47:00 AM**

Here I would recommend including the specific language of "resource determined eligible for the national register as part of the Section 106 process for this project. " That would restrict the scope to the APE for the project.

I am anticipating that we would have two processes for the resolution of unanticipated effects. One process for unanticipated during construction (follow Section XII) and another process for indirect or

Page 9: [11] Comment [eaz10] **Elizabeth Zelasko** **9/23/2010 10:47:00 AM**

Appendix A will need to identify process for resolving adverse effects. Can reference back to stipulations already in the agreement. Use Section XII for unaticipated direct effects and Section IX.D for indirect effects.

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