

*Recently added text is underlined; recently removed text is shown in strike-through mode.

DRAFT PROGRAMMATIC AGREEMENT

**AMONG THE
U.S. DEPARTMENT OF TRANSPORTATION FEDERAL TRANSIT
ADMINISTRATION,
AND THE
HAWAI'I STATE HISTORIC PRESERVATION OFFICER,

REGARDING
THE HONOLULU HIGH-CAPACITY TRANSIT CORRIDOR PROJECT
IN THE
CITY AND COUNTY OF HONOLULU, HAWAI'I**

VI. Traditional Cultural Properties

A) The City shall undertake a study to determine the presence of Traditional Cultural Properties (e.g., Chinatown, sites associated with pre-settlement Hawaiian practices) within the APE. The study will follow National Register Bulletin 38, *Guidelines for Evaluating and Documenting Traditional Cultural Properties*. Any properties that meet the criteria for Traditional Cultural Properties will be nominated to the National Register of Historic Places. All signatories and concurring parties will participate in a kick-off meeting and the SHPD and NPS will review draft documents.

X. Programmatic Stipulations for Archaeological Sites

The City shall carry the following archaeological stipulations before each construction phase.

A) Initial Planning

1. The APE for archaeological resources is defined as all areas of direct ground disturbance. This APE for archaeology includes any areas excavated for the placement of piers to support the elevated structures, foundations for buildings and structures, excavations for utility installation, grading to provide parking, or other construction-related ground disturbance including preparation of construction staging areas.
2. The City shall develop an Archaeological Inventory Survey Plan (AISP) within the APE for each construction phase and shall submit it to the SHPD. The AISP shall be subject to approval by the SHPD.
3. The O'ahu Island Burial Council (OIBC) will have jurisdiction to determine preservation or relocation of previously identified Native Hawaiian burial sites. All applicable state laws stipulated in the Hawai'i

Revised Statutes, Chapter 6E and Hawai'i Administrative Rules, Title 13, Subtitle 13, Chapter 300 shall apply. Any burials discovered during the Archaeological Inventory Survey shall be treated as previously identified burial sites.

- B) Fieldwork: The City shall conduct archaeological fieldwork as presented in the AISP. For each construction phase, the archaeological fieldwork shall be completed in advance of the completion of final design so that the presence of any sensitive archaeological sites/burials discovered during fieldwork can be addressed during final design. Fieldwork required by the AISP shall include, but not be limited to, the following:
1. Reconnaissance survey (archival research and visual inspection by pedestrian inventory) within the APE, and
 2. Within the area of greatest potential for resources, between Nu'uuanu Stream and the Koko Head terminus for the project, the archaeological fieldwork will evaluate all areas that will be disturbed by the Project. The evaluation will include a review of historical shoreline location, soil type, and where indicated by conditions the survey measures listed in the remainder of this sub-section (B).
 3. A sample survey of subsurface conditions with ground-penetrating radar (GPR), and subsurface inspection as warranted, and
 4. A subsurface testing regime for locations identified in the AISP, and
 5. Archaeological methods specific and applicable to the findings will be used in analysis, and
 6. A report summarizing the results of the field work and analysis that shall be submitted to the SHPD and shall be subject to approval by the SHPD.

- C) Treatment Plans: The City will develop a general burial treatment plan for each phase of construction following the model of the Draft Burial Treatment Plan prepared by the City for Construction Phase I of the Project. Based on the results of the archaeological inventory survey fieldwork and in consultation with the SHPD, the City shall develop a specific treatment plan according to the applicable state laws including Hawai'i Revised Statutes, Chapter 6E and Hawai'i Administrative Rules, Title 13, Subtitle 13, Chapter 300 for each construction phase. Treatment plans shall be submitted to the SHPD and shall be subject to approval by the SHPD. Upon approval by the SHPD, the City shall implement the treatment plan
- D) Mitigation Plans: Subsequent to the archaeological fieldwork and implementation 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

The City shall 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 (*Federal Register*, Vol. 48, No. 190, page 44738-9).

The City shall develop a follow-up monitoring report for the Project and shall submit it to the SHPD. The monitoring report shall be subject to approval by the SHPD. 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 locational 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 90 days after the completion of construction of that phase.

2. Burial Treatment

The City shall prepare burial treatment documents (that may include Burial Treatment Plans, a Burial Site Component of a Data Recovery Plan, and a Burial Site Component of a Preservation Plan) and shall submit the documents to the SHPD for review and approval. The document shall also be submitted to the OIBC, which will determine whether preservation in place or reburial will occur, as stated in HAR 13-300-33. Any human remains found on lands owned or administered by the Federal government will be addressed in accordance with NAGPRA in coordination with the affected land management agency. The City confirms that guideway columns may be relocated a limited distance along the guideway at most column locations, allowing for preservation in-place to be viable in those locations. If the OIBC

determines that a burial(s) is to be relocated, the City will consult with the OIBC and any identified descendants to determine appropriate relocation, which may include construction of a crypt on Project property in the vicinity of the discovery.

3. Data Recovery Programs

- a. Data Recovery Programs (including Data Recovery Plans and Data Recovery Reports) will be prepared 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. If archaeological monitoring encounters cultural deposits, consultation with the SHPD will occur and be documented regarding the need for data recovery work for these areas.
- d. Completion of data recovery work must be verified by the SHPD prior to initiation of construction within the area of these sites.
- e. Data recovery plans specify the disposition of recovered objects and shall be submitted by the City to the SHPD for review and approval.