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May 21, 2010 RT2/09-298466R

Mr. Tom Dinell
E Noa Corporation
P.O. Box 235873
Honolulu, Hawaii 96823

Dear Mr. Dinell:

Subject: Honolulu High-Capacity Transit Corridor Project
Comments Received on the Draft Environmental Impact Statement

The U.S. Department of Transportation Federal Transit Administration (FTA) and the City and County of Honolulu Department of Transportation Services (DTS) issued a Draft Environmental Impact Statement (EIS) for the Honolulu High-Capacity Transit Corridor Project (Project). This letter responds to substantive comments received on the Draft EIS during the comment period, which concluded on February 6, 2009. In your letter, you raise various issues specifically and generally. Your overarching concern appears to be related to participation of private transportation companies in the planning of transit systems and the formulation of public-private partnerships in the operation of such systems. This letter also addressed the three specific conclusions raised on the last two pages of your letter.

The purpose of the Project is to provide high-capacity rapid transit in the highly congested east-west transportation corridor between Kapolei and UH Mānoa, as specified in the O'ahu Regional Transportation Plan (O'ahu MPO 2007). *See* Sections 1.7 and 1.8 of the Final EIS. The need for the Project is based on the following goals: Improve corridor mobility, Improve corridor travel reliability, Improve access to planned development to support City policy to develop a second urban center, and Improve transportation equity. As discussed in Chapter 8 of the Final EIS, the Transportation System Management (TSM) Alternative was evaluated during the Alternatives Analysis process. Additional information was added to Section 2.2.2 of the Final EIS to clarify why this and other alternatives performed poorly and were eliminated from further consideration. In short, the TSM Alternative was developed to evaluate how well a combination of relatively low-cost transit improvements could meet the study area's

transportation needs. FTA requires that the TSM Alternative reflect the best that can be done for mobility without constructing a new transit fixed guideway. While the TSM alternative did not specifically look at the use of private transportation carriers, they would have faced the same constraints and inability to meet the Project's Purpose and Need. Bus service was optimized, per FTA guidelines, by increasing service but without building a new fixed guideway for transit, such as a system of dedicated bus lanes. The analysis demonstrated that the Purpose and Need for the Project could not be met through a lower-cost, bus-based alternative, whether or not it included the use of private transportation carriers.

Your quotation from *Capital Program: Grant Application Instructions*, Circular 9300.1A, October 1, 1998, is incomplete. The complete language from Circular 9300.1A(9)(a) is as follows::

> Participation by Private Enterprise. Both federal transit law and joint FHWA/FTA planning regulations (discussed in Appendix A of the circular) impose strong requirements for private as well as public sector participation as transportation programs are developed. Plans and programs required for federal transit assistance must encourage the participation of private enterprise to the maximum extent feasible.
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> Federal law recognizes the special concerns of private transportation providers that compete with public mass transit authorities. By law, existing private transportation providers are afforded certain safeguards from competition. Specifically, FTA is prohibited from providing federal assistance to a governmental body that provides service in competition with, or supplementary to, service currently provided by a private transportation company, unless FTA finds that the local transportation program developed in the planning process provides for participation by private transportation companies to the maximum extent feasible.
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> Accordingly, federal transit law and the joint FHWA/FTA planning regulations direct special attention to the concerns of private transit providers in planning and project development. Joint FHWA/FTA planning regulations specifically require that private transit providers, as well as other interested parties, be afforded an adequate opportunity to be involved in the early stages of the plan development and update process. While FTA supports the participation of private transit providers in local mass transportation programs, FTA no longer imposes prescriptive requirements for determining whether a grant applicant has made adequate efforts to integrate private enterprise in its transit program, as explained in the FTA Federal Register Notice "Private Enterprise Participation," of April 26, 1994.
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> FTA relies on the local planning process, which must comply with rigorous planning and private enterprise requirements, and the joint FHWA/FTA planning regulations. To determine the adequacy of a grant applicant's efforts to incorporate private enterprise in its transit program, FTA monitors compliance

with statutory and regulatory private enterprise requirements as part of the annual audits and the triennial reviews under the urbanized area formula program.

The above section directly addresses the issues you raised in your letter. First, the planning process provides for participation by private transportation companies to the maximum extent feasible. As discussed above, the integration of private enterprise occurs during the local planning process. The FTA recommends that to be more involved in transportation planning or service delivery, private providers should: attend metropolitan planning organization (MPO) meetings, comment on the transportation improvement program (TIP), and participate in the statewide transportation improvement program (STIP). *See* FTA, *Federal Transit Administration Private Enterprise Participation in Transportation Planning and Service Delivery*, *available at* http://www.fta.dot.gov/laws/leg_reg_180.html (viewed Sept. 17, 2009).

Also, as mentioned above, the Alternatives Analysis analyzed the implementation of a bus-only transportation system, which could be run by either public or private transportation providers. This analysis found it would not meet the Purpose and Need of the project.

The following is a summary of the public participation opportunities provided by MPO and during development of the TIP and STIP, all of which include a fixed guideway that will serve the H-1 travel corridor.

MPO. The O'ahu Metropolitan Planning Organization (O'ahuMPO) updates and revises the *O'ahu Regional Transportation Plan 2030* (ORTP 2030) every five years in accordance with federal regulations. It is an essential part of the continuing, cooperative, and comprehensive statewide multimodal transportation planning efforts conducted in Hawai`i. It focuses on improving mobility with a series of strategies and programs to address future transportation needs. According to its website (www.oahumpo.org), O`ahuMPO has developed a Participation Plan to ensure compliance with the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU) legislation. Under SAFETEA-LU, metropolitan planning organizations are required to develop a participation plan that documents a process for providing interested parties with reasonable opportunities to be involved in the metropolitan planning process. The Participation Plan includes policies that ensure early and continuing public involvement in transportation planning and decision-making processes of the O`ahuMPO.

As discussed in Chapter 1 of the Final EIS, as part of its work to update the ORTP, O`ahuMPO surveyed O'ahu residents about transportation issues in 2004. The ORTP 2030 development was a system planning effort that identified and prioritized the H-1 travel corridor as having the greatest need for improved transit service. Seventy percent of the respondents believed that rail rapid transit should be constructed as a long-term transportation solution. During development of the ORTP 2030 in 2004 and 2005, the need for a fixed guideway system was identified and a range of future transportation scenarios for O'ahu were evaluated.

TIP. TIP describes and prioritizes the surface transportation programs and projects that the O`ahuMPO has selected for implementation during the program period. The TIP is the adopted list of public transit, highway, bicycle, and pedestrian projects that will receive federal

transportation funds in the near future. The TIP covers a period of four years and contains two additional years for information only. A new TIP is adopted every three years. The TIP, as approved by the O`ahuMPO and governor (or designee), is the O'ahu element of the Statewide TIP (STIP). As with the development of the ORTP, discussed above, early public input and public outreach is required and part of the process. *See* O`ahuMPO, *What is the Transportation Improvement Program?*, *available at* http://www.oahumpo.org/programs/whatistip.html (visited, May 26, 2010).

STIP. The STIP is a four-year program implementation plan that identifies federal, state, and county transportation projects, statewide, that intend to be funded, in part, with federal highway and transit funds. The STIP is reviewed by the Hawaii Department of Transportation (H-DOT), governor, Statewide Transportation Advisory Committee, O`ahuMPO, and the Federal Highways Administration and FTA for major projects involving those federal agencies. Public involvement, review, and comment are a required component of the STIP process. *See* H-DOT, *Process for Development of a New STIP*, *available at* http://hawaii.gov/dot/highways/STIP/STIP%20Development%20Schedule%20and%20Revision%20Processes_File%20L.pdf.

In addition to the above opportunities to be involved in the early stages of the plan development and update process that led to the planning for a fixed guideway that will serve the H-1 travel corridor, the City provided many opportunities to participate in the Project's environmental review process. As discussed in Chapter 8 of the Final EIS, agencies, non-governmental groups, and the public have been engaged throughout the planning process for the Project, as required by federal and state law. NEPA mandates agency and public participation in defining and evaluating the impacts of the project alternatives. The Project has followed SAFETEA-LU guidance for federally funded projects. To reach as many community members as possible, a wide variety of public involvement tools were used throughout the Project. For example, the Project maintains an active Speakers Bureau to provide informational presentations to community groups, agencies, and organizations. A full list of Speakers Bureau presentations is included in Appendix G of the Final EIS. To date, more than 2,500 comments on the Project have been submitted through the website and more than 600 have been received via the telephone information line.

The City started working with the public early on in the planning process. An initial Notice of Intent was published for the Project on December 5, 2005. Three scoping meetings were held in December 2005. The comment period for these scoping meetings ended on January 9, 2006. Another series scoping meetings was held prior to beginning the Project's Preliminary Engineering (PE)/EIS phase. A Notice of Intent was published on March 15, 2007. Agencies, non-governmental groups, and the public were again given the opportunity to comment on the Project's Purpose and Need alternatives, or other project issues. Three public scoping meetings were held in March and April 2007. Project information was disseminated throughout the study corridor in the form of community updates, participation in Town Hall meetings, and informational displays. Subsequently, a series of five public hearings were held to give interested parties an opportunity to submit comments on the Project and the analysis contained in the Draft EIS. The comments received are addressed in this Final EIS.

Second, the Project recognizes relevant federal statutes and regulations applicable to the Project. As discussed above and in the Final EIS, many opportunities were provided during preparation of the ORTP, TIP, and STIP, which included a fixed guideway that will serve the H-1 travel corridor. In addition, many opportunities were provided for participation in the NEPA environmental review process. The above described processes comply with the federal statutes you cited in your letter; i.e., 49 USC §5301(f), 49 USC §5306(a), 49 USC §5307(c)(2) and (6), and 49 USC §5323(a)(1)(A) and (B). The local and state transportation planning organizations and the Project have encouraged, to the maximum extent feasible, the participation of private enterprise and interested parties through multiple public hearings and meetings, and the use of the project web site to convey information about upcoming contracts and opportunities for private sector involvement. In addition, the City has consulted with private enterprise and interested parties and considered comments and views received in preparing the final EIS for the Project.

Third, although the Draft EIS demonstrates the effectiveness of the Project without specific reference to private transportation carriers, it does not preclude the possibility of public-private partnerships from occurring. Among other things, private transportation carriers may bid on the services to be offered by the Project. In addition, as stated in Section 2.5.6 of the Final EIS, in some cases, there will be room at stations for private tour buses. Section 3.2.6 of the *Honolulu High-Capacity Transit Corridor Project Transportation Technical Report* references privately owned transportation companies, including the Leeward Oahu Transportation Management Association (LOTMA) and the Mililani Shuttle. In response to your comment, additional references to private operators in Section 3.3.2 of the Final EIS have been added. The text in Section 3.3.2 of the Final EIS now reads: "In addition to public transportation services described previously, various privately owned transportation companies offer transit or ridesharing services to the public, including the Leeward O'ahu Transportation Management Association (LOTMA), the Mililani Trolley, and E Noa Corporation. LOTMA provides carpool matching and emergency ride home services in the 'Ewa and Central O'ahu areas. E Noa Corporation operates a variety of services serving the Koko Head and Wai'anae ends of the corridor with connections to Downtown and tourist centers."

The FTA and DTS appreciate your interest in the Project, and look forward to working with private enterprise and interested parties as the Project moves forward. The Final EIS, a copy of which is included in the enclosed DVD, has been issued in conjunction with the distribution of this letter. Issuance of the Record of Decision under NEPA and acceptance of the Final EIS by the governor of the State of Hawaii are the next anticipated steps in the environmental review process for this Project.

Very truly yours,

WAYNE Y. YOSHIOKA
Director

Enclosure