Mark Kawika McKeague, Chair
Oahu Island Burial Council
Department of Land and Natural resources
State Historic Preservation Division
State of Hawai'i
601 Kamokila Boulevard
Kapolei, HI 96707

Dear Mr. McKeague:

Thank you for your interest in the Honolulu High-Capacity Transit Corridor Project and your letter requesting that the Oahu Island Burial Council (OIBC) be made an invited signatory to the Section 106 Programmatic Agreement (PA) for this project. In evaluating the eligibility of properties, FTA must acknowledge the special expertise of interested Native Hawaiian in assessing the cultural and religious significance of historic properties. In inviting the OIBC and other Native Hawaiian organizations to be consulting parties to this agreement, FTA has met its responsibilities under 36 C.F.R. 800.3(f)(2).

Please note that while 23 CFR 800 addresses the issue of whether and when a Tribal Historic Preservation Officer may assume the responsibilities State Historic Preservation Officer (SHPO) off tribal land, there is no similar discussion of the specific responsibilities of Native Hawaiian organizations in Federal undertakings. We believe that your reference to SHPO/THPO "signatories" under 800.6(c)(2) is not relevant in this case. Please note also that when the SHPO is actively involved in the consultation process (as in this case), FTA has certain latitude in expediting the consultation process (800.3(g)) as long as the consulting parties and the public have an adequate opportunity to express their views. (maybe this line is irrelevant)

The Federal Transit Administration (FTA) has determined that the Programmatic Agreement will be between four parties; FTA, The State of Hawaii Historic Preservation Division, the City and County of Honolulu, and the Advisory Council on Historic Preservation. The Oahu Burial Council will be invited to sign the agreement as a concurring party, along with the other partners in the consultation process.

FTA appreciates the special role that the OIBC plays in addressing burial site issues and representing the views of native Hawaiians. The Programmatic Agreement clearly outlines the role of the OIBC and the responsibility of the parties to the agreement to consult with the OIBC. Given that the role and responsibility of the OIBC are clearly outlined in State legislation, and the strong interest of the OIBC in serving in that role, it is unnecessary for the OIBC to sign an agreement to commit the OIBC to performing these functions. By signing as a concurring party, the OIBC will be acknowledging their role and their understanding of the obligations of the other parties to consult with the OIBC.

If you feel the Programmatic Agreement does not sufficiently outline the actions that the parties to the agreement should take in regard to the interests of he OIBC, please suggest necessary changes to the document as part of the ongoing consultation process. If the OIBC or any other Native Hawaiian organization that is requested to be concurring party disagrees with the any of the findings in the PA, they may appeal to the Advisory Council on Historic Preservation within 30 days of the signing of the agreement.

Thank you for your continuing interest in the project and your participation in the Section 106 Programmatic Agreement Consultation process.

Sincerely,

Leslie T. Rogers