PROGRAMMATIC AGREEMENT

among the

U.S. Department of Transportation Federal Transit Administration

the

Hawai'i State Historic Preservation Officer

and the

Advisory Council on Historic Preservation

regarding the

Honolulu High-Capacity Transit Corridor Project

in the

City and County of Honolulu, Hawai'i

WHEREAS, the City and County of Honolulu (City) Department of Transportation Services (DTS) is proposing the Honolulu High-Capacity Transit Corridor Project (Project) 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 USC 470f) and its implementing regulation at 36 CFR 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 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 CFR 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
- 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

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- 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 CFR 800.10, FTA has notified the Secretary of the Interior of its adverse effect determination to the United States Naval Base, Pearl Harbor National Historic Landmark (NHL), and the CINCPAC Headquarters Building 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 SHPO, has defined the undertaking's Area of Potential Effects (APE) as depicted in Attachment 1; and

WHEREAS, the FTA, in consultation with the SHPO, 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 SHPO, 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

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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 National Register of Historic Places 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 CFR 800.4(b)(2); and

WHEREAS, the timing of activities listed in this PA are estimated based on beginning design and construction of the first construction phase and FTA granting approval to enter Final Design in 2010, and FTA signing a Full-Funding Grant Agreement during 2011. 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. Phase 1 will be built as a design build project beginning in 2010. Phase 2 is anticipated to begin construction in 2011, Phase 3 in 2012 and Phase 4 in 2013. Construction is anticipated to be complete during 2018.

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 Guidebook*; 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 and the Hawai'i Capital (civic center) areas; and

WHEREAS, Ordinance 09-04 requires the establishment of transit-oriented development (TOD) overlay zoning districts around every transit station, and this Ordinance requires the identification of important historic and cultural landmarks in the area, the establishment of controls to protect and enhance these resources, and

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encouraging adjacent development to reflect the cultural and historic context of the station area; 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, the Project is subject to the Native American Graves Protection and Repatriation Act (NAGPRA) where it crosses lands controlled or owned by the Federal Government; and

WHEREAS, this PA was developed with public involvement pursuant to 36 CFR 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 CFR 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 ACHP, and the State Historic Preservation Officer are signatories to this PA; and

WHEREAS, the City DTS and the NPS are invited signatories to this PA; and

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

WHEREAS, FTA commits to continued engagement and ongoing communication with the consulting parties for the duration of this PA and each signatory and concurring party commits to continue to represent the interests of their agency/organization for the duration of this PA; and

WHEREAS, any future extensions that are undertaken as a Federal action 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 CFR 800.16; and

WHEREAS, all actions described herein are subject to applicable State and Federal law; and

NOW, THEREFORE, FTA, ACHP, and the Hawai'i State Historic Preservation Officer 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

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.

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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 of Honolulu under 49 USC 5309 and any other subsequently identified Federal funding, 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. The SHPD and other agencies will have 30 days to review and comment on these submissions, unless such submissions are subject to a state law allowing for a review period greater than 30 days.

C. ACHP Responsibilities—The ACHP will provide oversight, advise on disputes, and determine whether the terms of this agreement are being met.

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 36 CFR 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.

II. Traditional Cultural Properties

A. Within 30 days of execution of this PA, the City shall undertake a study to determine the presence of Traditional Cultural Properties (TCP) 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 State Act 50 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 eligible TCPs are present, the City will complete effects assessments and seek SHPD concurrence on both eligibility and effects determinations. If 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, with a related and demonstrated interest in each TCP will review draft NRHP nominations and provide comments within 30 days of receipt. The City will consider all comments when completing final NRHP nominations.

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 30 days. The AIS Plan shall follow the requirements of Hawai'i Administrative Rules (HAR), Title 13, Subtitle 13, Chapter 276.

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, Title 13, Subtitle 13, Chapter 300 shall apply. Any iwi kupuna (Native Hawaiian burials) discovered during the AIS shall be treated as previously identified burial sites.

B. OIBC and Lineal and Cultural Descendents Consultation

1. Within 60 days of execution of this PA, the City shall consult with the OIBC, lineal and cultural descendents, 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

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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, the AIS Plan will evaluate all areas that will be disturbed by the Project. The AIS Plan will include a review of historical 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 is intended to be submitted to the SHPD within four (4) months of execution of this PA and the investigation will begin upon receipt of an approved AIS Plan from 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, and other interested parties that are identified in discussion with OIBC shall complete a draft protocol for consultation regarding treatment of any iwi kupuna discovered 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 discoveries, definitions that will be applied to the Project, identification and inclusion of lineal and cultural descendents and workflow of actions prior to and upon discovery of iwi kupuna during AIS. The workflow shall consider both avoidance evaluation to allow for preservation in place and reinterment 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.

5. Dispute Resolution Specific to Stipulation III.B. 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.B would take effect.

C. Fieldwork—The City shall conduct archaeological fieldwork as presented in the AIS Plan. 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 so that final design may incorporate measures to avoid and/or minimize adverse effects to the historic properties. Fieldwork for Construction Phase 1 shall be completed prior to beginning construction of

that phase. The City shall complete the AIS for Phase 4 (Middle Street to Ala Moana Center) during Preliminary Engineering. The City shall inform OIBC of status of the 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 AISP,

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 pursuant to the applicable state laws, including Hawai'i Revised Statutes, Chapter 6E and HAR, Title 13, Subtitle 13, Chapter 300, 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.

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 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).

b. The City shall develop a follow-up monitoring report per HAR, Title 13, Subtitle 13, Chapter 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. Burial Treatment

a. 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 controlled by the Federal government will be addressed in accordance with NAGPRA in coordination with the affected land management agency.

b. 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, the City will consult with the OIBC to determine appropriate reinterment, which may include relocation to 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. 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.

F. Curation—The City will curate recovered materials in accordance with HAR, Title 13, Subtitle 13, Chapter 278. 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 agreement 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 follow the standards set forth in the Project's *Design Language Pattern Guidebook*, as appropriate, for all Project elements. 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* contained in 36 CFR 68 and will make every effort to avoid adverse effects to historic properties. If the standards cannot be applied, the City shall consult with consulting parties to develop a treatment plan to minimize adverse effects to the historic property.

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

C. 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 the signatories and 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 signatory and 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 signatory and consulting parties when completing design build or final design plans.

V. Recordation and Documentation

A. Within 90 days of execution of this PA, the City shall complete 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 signatory and consulting parties.

2. Any comments received by the City from signatory and consulting parties within 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. The City will consider all comments provided by the SHPD within 30 days while preparing the final studies.

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

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

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1. Within 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 signatory and consulting parties.

2. Any comments received by the City from signatory and consulting parties within 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 area shall be completed prior to construction commencement in that area.

4. The City shall submit draft CLRs to the SHPD for review. The SHPD will provide comments on within 30 days of receipt of draft materials. The City will consider all comments while preparing final versions.

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

C. Historic American Building Survey (HABS), Historic American Engineering Record (HAER), and Historic American Landscape Survey (HALS) Recordation—The City shall consult with NPS HABS/HAER/HALS (HHH) staff to determine which of the adversely affected historic properties 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 comments within 30 days and final 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.D.4. Per the schedule established by Stipulation XIII.C.2, 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.

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 Submission (MPS), including all appropriate accompanying documentation, for historic properties related to Modern and Recent Past Architecture in Honolulu/Oʻahu dating from 1939-1979.

1. The City and SHPD will consult with property owners to obtain access and determine that owners consent to the proposed listing. 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 for documentation. The SHPD will determine appropriate listing procedures according to Hawaiʻi Administrative Rules for owners who do not consent.

2. 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 consulting parties.

3. The City will consider any comments received from consulting parties within 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 Hawaiʻi Register.

5. 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 30 days of receipt. The City shall consider all 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 National Historic Landmark (NHL) nomination and the CINCPAC Headquarters NHL nomination. For the Pearl Harbor NHL amendment, emphasis shall focus on those resources closest to the APE and to those not

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previously mentioned in prior documentation. All work shall be coordinated with the Navy and follow the guidelines set forth in *How to Prepare National Historic Landmark Nominations*. 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* set forth in 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 for submittal to the NPS.

C. National Register Nominations

1. The City shall complete NRHP nominations and/or amendments for up to 31 of the 33 adversely affected properties 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 National Register should be updated and/or amended. The City and SHPD will consult with property owners to obtain access and determine that owners consent to the proposed listing. 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 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 (36 CFR 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 if they are not already included.

D. Properties documented in the Multiple Property Submissions required by Stipulation VI.A will not be documented on separate, individual NRHP forms beyond what is included in the Multiple Property Submission.

E. All NRHP and Hawai'i Register nominations will follow the procedures set forth in Hawai'i Revised Statutes, Chapter 6E and Hawai'i Administrative Rules, Title 13, Subtitle 8, Chapter 198, as appropriate. Completion of the stipulated National Register of Historic Places nominations does not guarantee listing should the Keeper of the National Register of Historic Places

determine that the properties are not eligible for listing. Listing of any property in the NRHP is subject to NPS review and approval.

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.

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.

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 and consulting parties will develop this program's goals and the City will provide $100,000 to fund this program. The City will establish subcommittees to

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achieve the goals of the Humanities Program and meet at agreed-upon intervals. The Humanities Program will continue until all designated funds are exhausted or until revenue service begins, whichever occurs later.

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 signatories and 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. Signatories and 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 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 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.

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* 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.

D. Improvements to Adversely Affected Parks

1. Consulting parties, property owners, and other stakeholders will be invited to participate in a kick-off meeting to discuss improvements to adversely affected historic parks. 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 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* contained in 36 CFR 68 and make every effort to avoid adverse effects to historic properties.

3. The park improvement plan will be completed before construction is complete.

4. Project funds in the sum of $750,000 shall be budgeted for implementation of the parks improvement plan. Should the 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).

5. Stations within or directly adjacent to the boundaries of eligible or listed resources, including the Dillingham Transportation Building and the O'ahu Rail and Land terminal building parcel, will follow the standards established in Stipulation IV.

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 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.

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B. The City, in consultation with the PA signatories and 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 SHPO 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 be comprised of the following seven 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* 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 baseline for demolitions by calculating an annual average and standard deviation of demolitions that occurred within these areas between 2005 and 2008. 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 the number of demolitions of eligible resources within the APE or resources within the station areas that were built before 1969 is greater than one standard deviation above the established average during the course of Project construction, or when the proposed demolition of any historic property previously listed in or determined eligible for listing in the NRHP occurs, and these demolitions are directly related to development or rezoning pressures resulting from the Project, the City shall notify the consulting parties at the time this information becomes known and no later than the first scheduled annual review of the programmatic agreement. The consulting parties shall convene to discuss the increase in demolitions related to the Project's development pressures. If FTA and consulting parties determine that the

frequency of demolition of potentially eligible buildings is attributable to the Project, the consulting parties will develop and implement a preservation plan to enhance historic properties protection. If agencies and consulting parties cannot agree on property merit or demolition cause, any disputes will be resolved as described in Stipulation XIII.B.

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 using any and all of the mitigation measures defined in the Final Environmental Impact Statement (FEIS) and the FTA Noise & Vibration Impact Assessment (2006) guidance. Numeric limits and monitoring measures will be developed to minimize noise and vibration impacts. Vibration criteria included in Table 12-3 of the FTA guidance (FTA 2006) 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 Construction 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 construction protection plan are implemented and shall provide a record of monitoring activities in progress reports prepared pursuant to Stipulation XIII.D.

D. The City shall complete post-construction noise monitoring as stipulated in the FEIS within U.S. Naval Base, Pearl Harbor NHL.

E. 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*. The City shall submit a scope of work or treatment plan to address inadvertent damage to the SHPD for comment before initiating repairs.

XI. Post-Review Discoveries

A. While post-review discoveries are not anticipated for built historic properties, 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 3 business days. Signatories will provide comments on the City's proposed treatment plan within 3 business days. The City will take any timely comments into consideration in developing a final treatment plan in consultation with FTA. FTA will not allow work to resume in the vicinity of the unanticipated adverse effect until a treatment plan has been finalized.

B. 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 6E-43.6. 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.

C. 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 archaeologist secures the area to avoid any additional disturbance. With confirmed human skeletal remains the archaeologist must 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 land owner, the district representative of the OIBC, and any recognized cultural or lineal descendents for the project. By law, SHPD has one day to make its treatment determination for single burials and two days for multiple burials found on O'ahu. Construction must remain halted in the vicinity of the burial find until SHPD's treatment decision has been carried out. For preservation in place, typically the planned construction is modified to allow for the remains to stay in place in an appropriate and relatively undisturbed manner. For relocation, typically the remains are disinterred and curated either on the project site, or at SHPD's repository, until the project is completed and reinterment is arranged within the project area. Less commonly, for relocation, the remains are disinterred and immediately reinterred within the agreed upon burial relocation site. Burial treatment is documented 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 burial treatment, and any subsequent measures that have been agreed to by the land owner to safeguard either the relocation site or the preserve site. Preserved or relocated burial sites are recorded with the Bureau of Conveyances so that the burial sites are not further disturbed in the future. 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.

XII. 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 XIII.D will be posted on the Project website.

B. The City shall add all documentation completed as part of this PA that does not contain sensitive information or locations to the historic properties database that will be created as part of Stipulation VI.F. However, if the

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consulting parties agree, this information 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 parties 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.

XIII. Administrative Provisions

A. Implementation Schedule—Within 60 days of the execution of this PA, the City shall develop a schedule for the implementation of the provisions of the agreement. 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.

B. Dispute Resolution—Should any party 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 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 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.

C. Duration

1. This PA shall take effect on the date it is signed by the last signatory and shall be in effect for 10 years from the date of execution, or terminated pursuant to Stipulation XIII.H. At the end of the 10 years, FTA will provide an update on the status of the work associated with all stipulations. At that time, the signatories may amend the content of the

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PA or extend the duration of the PA if they determine that it is necessary.

D. Monitoring and Reporting

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

2. Every six 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.

3. FTA shall conduct an annual meeting of signatories and 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

4. 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).

E. Emergency Situation—In the event that an emergency situation should occur during the Project, such as a natural disaster, which represents an immediate threat to public health, safety, life, or property, the City shall notify FTA, ACHP, and SHPD of the conditions which have initiated the situation and the measures to be taken to respond to the emergency or hazardous condition. The FTA and SHPD may submit additional measures to resolve adverse effects within seven days of the notification. Should the nature of the emergency warrant immediate attention, the City shall consult with the FTA and SHPD via telephone or e-mail. Should the SHPD or the FTA desire to provide technical assistance to the City in responding to such condition, they shall submit comments within five days from notification, if the nature of the emergency or hazardous conditions allows for such coordination.

F. 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 by agreeing in writing to the terms of this PA and notifying and consulting with SHPD and ACHP. Any necessary modifications will be considered in accordance with Stipulation XIII.G.

G. Amendments—Any signatory to this PA may propose that this PA be amended, whereupon the signatories and consulting parties to the PA shall

consult to consider such amendment. Any amendment must be agreed to in writing by all signatories. The amendment will be effective on the date a copy with all signatures is filed with the ACHP.

H. 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 parties to attempt to develop an amendment per Stipulation XIII.G. If within 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 CFR 800.6; or (2) request, take into account, and respond to comments of the ACHP under 36 CFR 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.

I. 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.

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Approval and Signature Page for the

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among the

U.S. Department of Transportation Federal Transit Administration

the

Hawai'i State Historic Preservation Officer

and the

Advisory Council on Historic Preservation

regarding the

Honolulu High-Capacity Transit Corridor Project

in the

City and County of Honolulu, Hawai'i

Federal Transit Administration

Leslie Rogers
Regional Administrator

Date

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Hawai'i State Historic Preservation Officer

Laura Thielen
Chairperson of Land and Natural Resources

Date

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Advisory Council on Historic Preservation

John M. Fowler
Executive Director

Date

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City and County of Honolulu

Wayne Y. Yoshioka — Date
Director, Department of Transportation Services

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National Park Service

Pacific West Regional Director Date

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Historic Hawai'i Foundation

Date

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National Trust for Historic Preservation

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University of Hawai'i
Historic Preservation
Certificate Program

Date

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American Institute of Architects

Date

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Hawai'i Community Development Authority

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Office of Hawaiian Affairs

Date

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O'ahu Island Burial Council

Date

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Hui Malama I Na Kupuna O Hawai'i Nei

Date

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Royal Order of Kamehameha

Date

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The Ahahui Ka'ahumanu

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The Hale O Na Ali'i O Hawai'i

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The Daughters and Sons of the Hawaiian Warriors

Date

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Association of Hawaiian Civic Clubs

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Ali'i Pauahi Hawaiian Civic Club

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Ka Lei Maile Ali'i Hawaiian Civic Club

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King Kamehameha
Hawaiian Civic Club

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Nanaikapono Hawaiian Civic Club

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Hawaiian Civic Club of Wahiawa

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Ahahui Siwila Hawai'i O Kapolei Hawaiian Civic Club

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Waikīkī Hawaiian Civic Club

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Princess Ka'iulani
Hawaiian Civic Club

Date

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Waianae Hawaiian Civic Club

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Merchant Street Hawaiian Civic Club

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Prince Kūhiō Hawaiian Civic Club

Date

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Pearl Harbor Hawaiian Civic Club

Date

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among the

U.S. Department of Transportation Federal Transit Administration

the

Hawai'i State Historic Preservation Officer

and the

Advisory Council on Historic Preservation

regarding the

Honolulu High-Capacity Transit Corridor Project

in the

City and County of Honolulu, Hawai'i

Hawaiian Civic Club of
'Ewa-Pu'uloa

Date

CONCURRING PARTY

Approval and Signature Page for the

PROGRAMMATIC AGREEMENT

among the

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Kalihi-Palama Hawaiian Civic Club

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Attachments

Attachment 1: APE for Historic Resources; APE for Archaeological Resources
Attachment 2: Information on Resources with Adverse Effect Determinations