

Section 8 Summary of Consultation

8.1 Introduction

Community, agency, and Native Hawaiian consultation has been an important component of the preparation of this AISP. In accordance with Stipulation III of the project Programmatic Agreement (PA), finalized on January 18, 2011, CSH, the City, and the City's representatives, have pursued consultation with a wide range of state agencies, Native Hawaiian Organizations (NHOs), cultural descendants, and other interested individuals and groups, in order to receive input on the scope of the work and design of the City Center AISP. During consultation for the AISP, the City received comments that will be considered in the development of draft protocol for consultation regarding the treatment of any *iwi kūpuna* (burials, human skeletal remains) identified during the AIS.

Stipulation III.B.1. of the project PA, specifies how OIBC, lineal and cultural descendants, and NHO consultation shall be an important component in the AISP preparation:

Within sixty (60) days of execution of this PA, the City shall consult with the OIBC, lineal and cultural descendants [*sic.*], 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 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 [HHCTCP Programmatic Agreement 2011:10-11].

Stipulation III.B.4. of the PA outlines the preparation of the burial consultation protocol:

The City, in coordination with the OIBC, lineal and cultural descendants [*sic.*], 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 descendants [*sic.*] 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 [*sic.*], 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. Nothing in this protocol will supersede HRS § 6E 43.5, or HAR Chapter 13-300 [HHCTCP Programmatic Agreement 2011:11].

Although the project's AISP and protocol for consultation regarding treatment of any *iwi kūpuna* are distinct documents, they are related. These two documents are being prepared concurrently, and therefore, the comments received on the consultation protocol during AISP consultation are included in the AISP consultation summary below. The draft consultation protocol has been submitted separately to the OIBC as required by the PA.

Consultation for the City Center AISP also follows Hawaii Administrative Rules (HAR) Chapter 13-275-5(c)(3), which outlines the consultation process for AISPs:

Information obtained through the consultation process with individuals knowledgeable about the project area's history, if discussions with the SHPD, background research or public input indicate a need to consult with knowledgeable individuals.

The results of all consultation efforts to date (the submittal date of this document) are provided below. Consultation efforts by CSH and the City remain ongoing.

8.2 Cultural Resources Technical Report

The results of a *Cultural Resources Technical Report* (August 1, 2008) prepared to support the project's Act 50 requirement were taken into consideration in the formulation of this AISP. Non-architectural cultural resources reported include Kalihi, Kapālama and Nu'uuanu Streams, the shoreline, two burial reinterment facilities (Queen Street and Halekauwila Street), and stones at Irwin Park by Aloha Tower (2008:Tables 4-17, 4-18, 4-20). Oral History interviews with thirteen parties were also reviewed.

8.3 O'ahu Island Burial Council

From March through August, 2011, CSH attended several meetings with the OIBC in order to provide a comprehensive project update, to provide information regarding the development of the City Center AISP and the draft consultation protocol for *iwi kūpuna*, and to facilitate discussion and OIBC input on these issues.

At the March 9, 2011 OIBC meeting, Matt McDermott of CSH and Dr. Kaleo Patterson, the City's Environmental Compliance Administrator for the project, presented the OIBC with a project update, including the current utility work for Construction Phase 1, the ongoing archaeological inventory survey for Construction Phase 2, and the upcoming AISP consultation public meeting on March 16, 2011, which would include an informational presentation of the

AISP for the City Center/Phase 4. Dr. Patterson passed out invitations at this time to the March 16th public meeting. Dr. Patterson also provided the OIBC with the Office of Hawaiian Affairs *Ka Wai Ola*-published notice of LCA recipients' names for the vicinity of Construction Phase I, with the request that descendants of these individuals come forward with any questions or concerns. During the meeting, OIBC expressed the desire that ethnographic and ethnohistoric information gathered from the ongoing Traditional Cultural Properties (TCP) study be incorporated into the AISP for the City Center (Phase 4) and Airport (Phase 3) and into the AIS report for Kamehameha Highway (Phase 2). [Pursuant to this request, CSH corresponded on March 23rd with Dr. Martha Graham of Statistical Research, Inc. (SRI) Foundation regarding access to TCP study information.] OIBC members related how important this ethnographic/ethnohistoric information will be to making informed burial treatment decisions, which is the OIBC's main purpose. The OIBC also reiterated its previously voiced concerns that conducting the HHCTCP archaeological inventory survey in separate phases was contrary to Hawaii State historic preservation review legislation.

In anticipation of the May 2011 general OIBC meeting, CSH initiated a preliminary meeting with the OIBC Transit Task Force on April 13, 2011 to discuss the City Center AISP and the draft consultation protocol for *iwi kūpuna*. Due to time constraints, discussion of the consultation protocol was postponed to a later meeting (which occurred on May 4, 2011, see below). During discussion of the draft AISP, OIBC Transit Task Force members contributed several comments and suggestions, including:

- 1) The request for a map of historical/traditional place names with an overlay of the test trench locations
- 2) It is important for the City to attempt to bring together the Hawaiian community to contribute to a better understanding of the project and its cultural context
- 3) The desire to clarify what is the project's engineering flexibility regarding moving the elevated railway support columns to avoid significant finds, including burials
- 4) It is important to have LCA information as an appendix to the AISP so the reader has the option to extract as much detail from the AISP document as possible
- 5) The research from the AIS should be incorporated into transit stations. It's important to consider how to convey the story, the place names, history, etc., through engineering and design in order to honor the knowledge and memory of a people that once thrived here
- 6) The project's need for a thorough ethnographic and ethnohistoric study and the AIS's role in producing this documentation
- 7) The need to clarify who is responsible for the ethnographic/ethnohistoric study—the TCP study consultants or CSH. Encouraged the project team to do a collaborative effort and produce a single report as it would be a more useable document
- 8) That burial treatment decisions should be informed by the historical/cultural context, thus underlining the need for a thorough ethnographic study
- 9) The need to make available to the public the results of the ethnographic study

- 10) The suggestion that the ethnographic/ethnohistoric research associated with the project utilize UH Hawaiian Studies Program graduates, students, and faculty to better incorporate the Hawaiian perspective within the research

The second meeting with the OIBC Transit Task Force took place on May 4, 2011 and concentrated on discussion of the draft consultation protocol for *iwi kūpuna*. Additional discussion regarding the ethnographic/ethnohistoric study was also undertaken. Several items were brought up regarding the consultation protocol/Stipulation III.B.4 of the PA, including:

- 1) The Project's definition of *iwi kūpuna*
- 2) The notification process and measures to quickly disseminate information regarding *iwi kūpuna* finds during the AIS
- 3) The recognition process for lineal and cultural descendants
- 4) The "workflow" between the discovery of *iwi kūpuna* and the implementation of burial treatment decisions
- 5) The need to have appropriate potential burial relocation areas

Faith Miyamoto from the City outlined how SRI Foundation confirmed the TCP study's incorporation of the requested ethnographic/ethnohistoric research:

- 1) SRI would be teaming up with Kumu Pono Associates to perform the research for the study
- 2) The study would involve the entire transit corridor from Kapolei to Ala Moana, but the research would be done in four phases
- 3) The first two phases would involve Kapolei and Aloha Stadium (*'Ewa Moku*), and an interim report covering these phases would be completed in fall 2011
- 4) The last two phases would involve the Airport and City Center (*Kona Moku*), with the final report completed in spring 2012
- 5) That this ethnographic/ethnohistoric information will be incorporated into the AIS results to augment archaeological cultural resource interpretations and inform significance and mitigation decisions

At the May 11, 2011 regular meeting of the OIBC, Faith Miyamoto and Kaleo Patterson from the City and Matt McDermott from the CSH provided a project update to the full OIBC. This included updates on ongoing activities for Construction Phases 1, 2, and 3. The OIBC was also updated regarding Kumu Pono Associates partnering with SRI Foundation to provide the ethnographic/ethnohistoric research for the project's TCP study. The OIBC asked if the TCP and ethnohistoric/ethnographic effort would include UH Hawaiian Studies Program students, faculty, and graduates. They suggested that if not part of the ongoing research, UH Hawaiian Studies Program personnel and/or graduates might provide appropriate and informed reviewers for the draft TCP and ethnohistoric/ethnographic studies.

The OIBC indicated that they had not had a chance to comment on the revised City Center AISP sampling strategy yet (the revised version that added ten percent more trenches in

consideration of the March 16th public meeting input). They indicated they would provide comments/input during the 60-day SHPD/public review period of the draft AISP.

At the meeting both the OIBC and the SHPD representative (Mike Vitousek) asked that the City Center AISP specify that additional AIS testing will take place in the vicinity, not only of archaeological/burial finds, but around trenches that exposed sediments that were likely to have archaeological/burial finds. This should be done as part of the AIS investigations good faith identification effort.

The OIBC expressed their previously-voiced concern that the AIS should have been done earlier in the process, rather than for the four construction phases, which they feel is contrary to Hawai'i State historic preservation review legislation. They summarized their comments from previous meetings that it would have been better to have done the AIS study before so many project decisions had been made.

At the June 8, 2011 regular meeting of the OIBC, Matt McDermott of CSH and Kaleo Patterson of the City provided further HHCTCP project updates, including updates on the ongoing activities for Construction Phases 1, 2, 3, and 4. Regarding Construction Phase 4 (City Center), CSH informed the OIBC that the Draft AISP had been submitted to the SHPD on May 18, 2011 and was undergoing a 60 day review process. It was also noted that the Draft AISP was concurrently available for public comment on the City website. Consultation for the AISP City Center was summarized, including a list of all agencies, groups, and individuals consulted to date. Regarding the consultation protocol for *iwi kūpuna*, the OIBC was presented with an overview of the framework of the basic components addressed within the draft consultation protocol and the protocol's projected timeline for submission to the OIBC on July 18th.

During the ensuing discussions, Mr. McDermott of CSH sought to answer any questions regarding either the AISP or consultation protocol and requested any OIBC recommendations for consultation contacts. Mr. Patterson further described the City's consultation efforts, including reaching out to *'ohana* (families) along the HHCTCP route, meeting with labor union members, and talks with Kamehameha Schools for collaboration efforts (see Kamehameha Schools consultation below). OIBC members expressed approval of consultation with older union members in order to gain their knowledge of burial finds in the 1960s and 1970s. The OIBC additionally suggested researching and contacting descendants of the Mokuauia island fishing families. Discussion also concerned the City's participation in the annual NHO convention hosted by the Council for Native Hawaiian Advancement (CNHA) on August 23, 2011. It was clarified that the City's attendance at the CNHA convention would be in addition to a separate City-hosted NHO meeting, as yet to be organized, specifically in response to community request (see discussion of Mahealani Cypher's request in Public Meeting section below). The OIBC expressed approval of extending consultation to all who may be concerned and not limited to already recognized lineal and cultural descendants.

At the July 13, 2011 regular meeting of the OIBC, Faith Miyamoto of the City and Matt McDermott of CSH again provided HHCTCP project updates for Construction Phases 1, 2, 3, and 4 as well as the consultation protocol. As part of the public testimony at this meeting, Ms. Ka'anohi Kaleikini commented that the AISP for the City Center (Phase 4) was difficult to access on the project's website. Ms. Kaleikini stated that the document was difficult to find and slow to download. Mr. Jonathan Scheuer of the OIBC agreed that accessing the web document

was difficult. Ms. Miyamoto stated that the Honolulu Rail Transit website had been recently overhauled with the intent to improve accessibility of the draft AISP document.

On August 16, 2011, Matt McDermott and Ena Sroat of CSH and Faith Miyamoto of the City met with members of the OIBC Transit Task Force (Kehau Abad, Shad Kane, and Kawika McKeague) to discuss the Draft Consultation Protocol for *Iwi Kūpuna* which was submitted to the OIBC on June 19, 2011. Mr. McDermott reviewed the process and timeline for the drafting of the protocol and described the ongoing consultation efforts of CSH and the City. Mr. McDermott also noted the strong efforts by CSH to incorporate concerns expressed by the OIBC and Transit Task Force during prior discussions as well as concerns expressed by other NHOs and individuals, notably the concern that the protocol should also address any “inadvertent discoveries” made during actual project construction.

The OIBC Transit Task Force sought clarification of aspects of the protocol as well as suggested some revisions, including:

- 1) The need to specify that the OIBC Kona representative will be notified for all “grey area” *iwi* and burial site finds
- 2) The need to add a statement within the protocol clarifying that should the need for the curation of *iwi kūpuna* arise the process will be expedited as quickly as possible, thus avoiding setting a precedent for holding *iwi* in limbo for long periods of time
- 3) The need for a password to enter the project consultation notification website
- 4) The need to include a *kahea* (notification or call) when *iwi kūpuna* are found so that those interested will be able to participate in offering a *pule* or to interact in some way with the *kupuna* to let them know what is happening
- 5) The need to articulate a “hierarchy” of consultation; i.e that those with lineal ties to the *ahupua'a* in which there are *iwi kūpuna* finds have more say in treatment determination than those without specific ties to the *ahupua'a*
- 6) The suggestion to add a visual “workflow” chart

Due to a lack of quorum for the August general OIBC meeting and the potential lack of composition for the September general OIBC meeting, the Transit Task Force stated that they would likely constitute the OIBC’s feedback regarding the consultation protocol.

8.4 State Historic Preservation Division/Department of Land & Natural Resources (SHPD/DLNR)

On Monday, March 14, 2011, CSH, the City, and PB, met with SHPD/DLNR staff to discuss the draft City Center AISP and the associated consultation effort. Regarding the consultation process, a discussion of the project’s PA Stipulation III and its governance of the consultation process was followed by an update of the ongoing consultation effort by CSH. The update included discussions regarding the content and format of the then-upcoming March 16th public meeting and including the means by which participants could provide input and how the input received would be incorporated into the AISP. The SHPD/DLNR was provided a copy of the list of c. 300 invitees that had been invited to the public meeting (via post and e-mail), along with a copy of the draft AISP PowerPoint presentation that would be given at the meeting. The

SHPD/DLNR was briefed on the additional consultation efforts that were underway, including contact with the OIBC, the OHA, Hui Mālama I Nā Kūpuna o Hawai'i Nei, and other interested parties.

Discussion of the draft AISP focused on procedures governing burial finds, the treatment of disarticulated human skeletal remains, and the AIS sample size. In the case of burial finds, the SHPD/DLNR indicated that treatment should be decided on a case by case basis, particularly since public safety concerns would play a large role in the decision. The SHPD/DLNR requested that the draft AISP include discussion of how decisions would be made regarding additional testing in the vicinity of archaeological finds, including burials and human skeletal remains. Regarding the treatment of disarticulated human skeletal remains not in a burial context, SHPD/DLNR staff indicated that they should not be considered a burial per Hawai'i State Burial law.

In discussions regarding the AIS sample size, the SHPD/DLNR suggested that sample size along Halekauwila Street and in general for utility relocations be increased, including along Pohukaina and Cooke Streets. The SHPD/DLNR also requested that subsurface testing depth not be limited to the depth of proposed project disturbance, but extend to the water table or underlying sterile sediments. As part of the requirements of HAR Chapter 13-275-5(d), the SHPD/DLNR approved making the draft AISP available for public comment via posting on the City's project website.

A City Center AIS cultural monitoring program was discussed. The SHPD agreed that some Native Hawaiian individuals and groups would prefer to have a cultural monitoring program but that the organization and oversight of such programs can be a challenge.

Based on these SHPD/DLNR requests, CSH revised the draft AISP to include further testing in the Halekauwila Street and Pohukaina Street areas and to specify that test excavations would be made to depths of culturally sterile sediments or the water table. The treatment of any burial finds or disarticulated human skeletal remains is still being discussed in ongoing consultations.

On May 18, 2011 CSH submitted the Draft AISP City Center to SHPD for review. Following the 60-day review period SHPD drafted its review letter on August 3, 2011 (see Appendix H). In response to questions and concerns expressed by SHPD within the review letter, CSH provided an e-mail letter addressing those concerns and followed up by meeting with SHPD on August 12, 2011 (for email response and meeting minutes see Appendix H). During the meeting, concerns were reviewed on a point by point basis, with the agreed revisions to the Draft AISP City Center as follows:

- 1) Clarifying language will be added to the discussion of the usage of the terms "historic properties" and "cultural resources". The use of the term "cultural resources" will be retained within the AISP; however, the term "historic properties" will be utilized within the AIS report.
- 2) The AISP will provide a revised project description that will be tailored to the AISP discussion.
- 3) The AISP will further clarify that information gained from the Traditional Cultural Properties study will be included and referenced within the AIS report and will aid in the interpretation of survey findings.

- 4) The discussion of settlement patterns will be increased by the addition of a Settlement Pattern Analysis section and accompanying figures that will follow the Historical Background section.
- 5) It was agreed that hand excavation of identified features would take place where appropriate.

On August 16, 2011, Matt McDermott of CSH e-mailed a PDF copy of the draft consultation protocol to Phyllis Cayan of SHPD requesting SHPD comment. Additionally, a hard copy of the draft protocol was hand-delivered on August 16th to the SHPD offices in Kapolei.

Also on August 16, 2011, following a request received at the August 12th community consultation meeting (see Section 1.9.6.1), CSH sent an e-mail to Phyllis Cayan of SHPD requesting the most up-to-date SHPD recognized descendents list. The e-mail provided an attachment of a 2010 SHPD list (obtained by Lani Lapilio of the cultural consulting firm Aukahi, Inc.) with a request to verify that this was the most up-dated list. To date, no reply has been received.

On September 7, 2011, SHPD drafted a response letter to CSH addressing the Draft Consultation Protocol (LOG NO: 2011.2268, DOC NO: 1109pc0001). SHPD expressed the belief that the protocol represents a positive step toward building consultation and provides interested parties with a useful reference regarding state burial laws. SHPD recommended that continuing outreach include “informational/educational sessions and/or handouts on the process for any iwi kupuna discovered during the AIS”, including summarization of state laws and jurisdiction clarification.

On September 20, 2011, representatives of CSH and PB met with Ms. Deona Naboa, the O‘ahu Island Archaeologist for the SHPD, to discuss the contents of the September 8, 2011 OHA consultation letter addressed to the FTA (see discussion below). CSH provided Ms. Naboa with a copy of the letter and explained the need for written clarification by the SHPD of the department’s position regarding the designation of disarticulated human skeletal remains not from a burial site context: whether SHPD shall not consider such finds a burial site under Hawai‘i state law as indicated in previous consultation (see above). CSH explained that such *iwi kūpuna* finds in the past had been treated both ways, as a burial and as a non-burial. Ms. Naboa agreed on the need to convene a meeting between herself, Ms. Pua Aiu, and Ms. Phyllis Cayan of the SHPD in order to discuss the issue and to generate a written statement clarifying the position of the SHPD.

The SHPD reviewed and accepted the revised AISP (Construction Phase 4) on October 25, 2011 (LOG NO: 2011.2379, DOC NO: 1110NN08) (see Appendix H). This document is the Final AISP for Construction Phase 4.

8.5 Public Meeting

A public consultation meeting was held between 5:30 and 8:45 p.m. on March 16, 2011 at the Blaisdell Center in order to provide a public forum for discussion of the City Center AISP. Prior to the meeting, approximately 296 invitations were sent via e-mail or post to interested parties, including PA signatories, invited signatories, consulting parties, Native Hawaiian organizations, elected officials, and interested individuals. Approximately 50 to 75 members of the public

attended. Following an overview of the project and a PowerPoint presentation on the City Center AISP, a question and answer/comment session was held. Handouts included project information summary sheets, meeting comment cards, and sets of 12 11-x-17 sheets showing the entire initial AISP subsurface testing strategy overlain on project preliminary engineering and existing utility maps. Nineteen members of the public and/or representatives of agencies gave testimony or asked questions. Suggestions and issues raised that were directly related to the AISP or draft burial consultation protocol included:

- 1) The need to consult directly with the Native Hawaiian community, preferably in smaller groups rather than a large public meeting setting
- 2) The need for more testing in the Halekauwila Street area because of the area's sensitivity for archaeological deposits and burials
- 3) The legality under Hawaii State historic preservation review legislation of a "phased approach" to identifying cultural resources, including burial sites, through phased AIS investigations
- 4) The need for a cultural monitoring program as well as an archaeological monitoring program in order to reassure the Native Hawaiian community that the program is proceeding properly and respectfully
- 5) The need for more historic documentation and AIS testing of the Kuloloi'a former shoreline and reef in the vicinity of the Downtown Station
- 6) A request for the use of GPR and historical human remains detection dogs at the Chinatown Station

Three comment cards were received at the meeting from Rita Kanui of the Hawaiian Kingdom Law Office, Mahealani Cypher of the O'ahu Association of Hawaiian Civic Clubs, and Kupuna Hannah Reeves. Additionally, three e-mails were received from attendees Mahealani Cypher, Elmer Ka'ai, and Dexter Soares of the Kalihi Palama Hawaiian Civic Club regarding the need for increased community-based meetings, setting up smaller group meetings, and different venues for consultation meetings. In March and April 2011, CSH sent follow-up reply e-mails and contacted these individuals by phone, where possible. CSH communicated the company's appreciation of any comments and invited further participation in the form of input regarding the burial consultation protocol or help with arranging contact with any concerned groups relevant to the consultation effort. In addition, both Dr. Hallett Hammatt and Matt McDermott of CSH spoke with Mahealani Cypher, the O'ahu Chair of the Hawaiian Civic Clubs. During these follow-up discussions it was clarified that Ms. Cypher was interested in having the project set up a meeting for the concerned members of the Hawaiian community to discuss the project rather than setting up a consultation meeting with CSH. Matt McDermott emailed and spoke by telephone to Elmer Ka'ai on April 5, 2011. Following the meeting CSH attempted to contact Amelia Gora by phone and email, but there was no response.

As a follow up to the March 16th public meeting, Matt McDermott of CSH spoke by telephone with Michael Lee on May 5, 2011. At the public meeting, Mr. Lee spoke about his family's close ties to the Chinatown Station area. He spoke about his family members that are buried in the immediate vicinity of the station, based on historic records and family oral tradition. Mr. Lee had requested at the public meeting that the City take special care to

thoroughly investigate that area for burials that still may be present. He requested that both GPR and the HHRD dogs be used at the Chinatown Station, along with the proposed archaeological testing, to make a good faith effort to identify any burials at the Chinatown Station during the AIS work.

Matt McDermott related to Mr. Lee that the GPR and the archaeological subsurface testing will definitely be carried out as part of the City Center AIS fieldwork at the Chinatown Station. Mr. McDermott discussed with Mr. Lee the past results using the HHRD dogs in urban Honolulu. These results indicate that, as yet, the HHRD dogs do not provide the level of accuracy in urban environments that is needed to be useful for archaeological inventory survey. Mr. Lee indicated that he still felt strongly that the dogs, as well as the GPR, should be used in conjunction with the subsurface archaeological testing at the Chinatown Station. Mr. McDermott related that because of the imprecision of the HHRD dogs in urban environments, it was difficult for CSH to justify requiring the use of the HHRD dogs at the Chinatown Station as a formal component of the City Center AISP research design. Mr. McDermott told Mr. Lee of Dr. Kaleo Patterson's (of the City) desire to have the HHRD dogs do more test investigations related to the HHCTCP project in the future, and the potential for the Chinatown Station to be included in this future work with the HHRD dogs. Mr. Lee indicated that he still would like to see the HHRD dogs used at the Chinatown station, but that he understood why their use would not be a formal component of the AISP.

Also proceeding from the March 16th public meeting, a series of e-mail correspondence and consultation ensued between Dr. Kaleo Patterson from the City and Manuel Kuloloio, a descendent of the Kuloloia area (the current Downtown coastal area), which includes the proposed Downtown Station. During this consultation exchange, Mr. Kuloloio raised several issues and requests, including:

- 1) A concern that documentation of the LCAs along the Kuloloia shoreline was incomplete and therefore misleading. He requested that the LCAs belonging to Kekauonohi and Kaunuohua also be added to the AISP
- 2) A request that the Downtown Station be named "Kuloloia", the traditional place name of the area, particularly considering that the station will be located directly on the reef of Kuloloia and fronting the prior site of the Hale o Kuloloia
- 3) A request for additional test trenches along the estimated shoreline of Kuloloia (see above), the footprint of the Downtown Station, and the sites of Kamehameha I's enclosure, Heiau o Pākākā, and Honolulu Fort
- 4) A request that his name not be added to the 'Ohana claimant list for Phase 4
- 5) A request that the full, unabridged "Honolulu in 1810" map by Paul Rockwood, drawn from John Papa 'I'i's description of Downtown Honolulu in 1810, be enlarged and displayed in the Downtown Station.

In response to the requests by the public and during the March 14th SHPD/DLNR meeting for more archaeological testing in certain sensitive areas, CSH revised the AISP sampling strategy to include additional test trenches along Halekauwila Street, Pohukaina Street, Cooke Street, and near the Downtown Station, both on-shore of the historic shoreline and off-shore. The total number of trenches was increased by ten percent, from 211 trenches to 232 trenches. The

Rockwood map of “Honolulu in 1810,” showing place names and structures, also was integrated into the AISP, with a comparative overlay of the proposed transit layout. Additionally, several LCAs were added to the Historic Background Section of the AISP in order to further document the location of the previous Kuloloi‘a shoreline and areas of Kaka‘ako.

8.6 Office of Hawaiian Affairs (OHA)

As part of the consultation effort, CSH organized a meeting with OHA in order to discuss CSH’s ongoing consultation, to obtain feedback on the draft City Center AISP, and to discuss the development of the draft burial consultation protocol on *iwi kūpuna*. The April 1, 2011 meeting was attended by CSH (Matt McDermott and David Shideler), the City (Dr. Kaleo Patterson), Aukahi (Lani Ma‘a Lapilio), and Keola Lindsey and Jerry Norris from OHA.

Following a presentation of the draft AISP by CSH, OHA had several comments and suggestions, including:

- 1) That the City may be able to provide potential reinterment sites with less difficulty than private landowners or the state, and that OHA anticipates continuing participation in this decision process
- 2) Why more testing was not considered around the burial concentration in the Queen Street Extension in order to carefully identify the boundaries of burial concentrations—CSH responded that during the disinterment of all 28 of these burials, the evidence suggested that all the burials from that area had been removed
- 3) That a procedure be designed that would allow archaeologists to investigate certain trenches in the clearer light of day, in particular those trenches in the most sensitive areas, such as Halekauwila Street
- 4) OHA asked how the project’s curation procedures were being handled. CSH responded that the City was actively investigating curation procedures and facilities that will meet the PA’s curation requirements
- 5) That the AISP should discuss the utility of the GPR and Historical Human Remains Detection dogs—and if and how these methods would be used in the AIS
- 6) That the AISP should outline how decisions for additional AIS testing will be made based on the results of the implementation of the sampling strategy
- 7) That utility relocation work be consolidated as much as possible
- 8) That the AIS results be published for public access

During the subsequent discussion of the draft burial consultation protocol, OHA put forth several suggestions and comments, including:

- 1) That a timely method for the dissemination of information be implemented for finds of animal bones as well as for human skeletal remains, in order to curtail the spread of misinformation
- 2) That the protocol should outline the procedures for the immediate short-term treatment of AIS finds of *iwi kūpuna*, prior to formal burial treatment decisions after the AIS as part of the burial treatment process

- 3) That all CSH archaeological staff and construction crew support involved in the project be trained in cultural sensitivity and cultural protocols at burial locations
- 4) The need to clearly establish whether or not disarticulated human skeletal remains outside a burial context are considered a "burial site" under Hawai'i state burial law, and that this issue needs to be resolved before AIS work begins
- 5) That the notification of *iwi kūpuna* discoveries be inclusive of all concerned parties, that information be disseminated in a timely manner, through a technological means such as the internet, as well as more conventional means, and that the party responsible for the notifications have the resources to implement the notification promptly. The SHPD is understaffed and not the appropriate entity
- 6) That continued consultation with the OIBC and OHA was very important

Subsequent to the April 1, 2011 meeting, OHA posted a letter to the FTA, dated May 5, 2011, in which it was stated that the meeting minute notes supplied by CSH to OHA accurately reflected the discussions, were provided in a timely manner, and incorporated all requested revisions.

On Tuesday, May 31, 2011, CSH and the City attended OHA's Native Hawaiian Historic Preservation Council (NHHPC) meeting in order to present the draft City Center AISP and to seek input regarding the development of the consultation protocol for *iwi kūpuna*. NHHPC members present included Ke'eaumoku Kapu, Ben Noeau, Chris Kauwe, Jenó Encencio, Dexter Soares, and Sweet Matthew as well as Keola Lindsey. The Honolulu High-Capacity Transit Corridor Project was placed as Agenda VIII: New Business. Matt McDermott of CSH provided a Power Point presentation of the City Center AISP, its purpose, testing strategy, archaeological processes, and the associated Programmatic Agreement (PA). Mr. McDermott also supplied handouts showing the AISP proposed sampling strategy. In the following discussion of the City Center AISP, the NHHPC asked several questions concerning general archaeological processes and sought construction clarifications, such as the types of subsurface utilities that may be expected. It was also suggested that previous land use research include not only LCA research but also probate records. The NHHPC reiterated the comments of other NHOs and concerned individuals stating that public meetings were insufficient for consultation and underlining the need for small group and general community outreach. The NHHPC also inquired about the use of cultural monitors during the AIS. Mr. McDermott clarified that the possible use of cultural monitors will be determined by the City.

During the meeting, the NHHPC emphasized that the most important concern for Hawaiians is the issue of the treatment of *iwi kūpuna*. Regarding the consultation protocol for *iwi kūpuna*, issues discussed included:

- 1) The means for identifying descendants
- 2) Concern that the treatment determination for previously identified burials be expedited faster than the 45 day maximum defined by HAR 13-300-33(f)
- 3) The importance of determining treatment protocol (how to prepare the *kapa*, basket, etc.)
- 4) Expressed opposition to the relocation of *iwi kūpuna*

- 5) The Hawaiian perspective of burial sites as a permanent “resting place” that the *iwi* is deeply connected to
- 6) The treatment of artifacts

In response to these concerns, Mr. McDermott explained that a burial treatment plan must be created for any *iwi kūpuna* encountered during the AIS and undergo a review process by the OIBC under HAR 13-300-33(f). He clarified that any plans will address how to treat the *iwi*; however, no immediate treatment or disturbance of any kind will take place until the burial treatment plan has been approved. Concerning the treatment of artifacts, including funerary items, it was explained that their treatment must meet federal curation standards and that all collected artifacts will be kept safely in one specified location.

On August 15, 2011, Matt McDermott of CSH e-mailed a PDF copy of the Draft Consultation Protocol for *Iwi Kūpuna* to Keola Lindsey for OHA review. Mr. McDermott offered to meet with Mr. Lindsey and/or the NHHCP to discuss any questions or concerns regarding the draft protocol.

On September 16, 2011, CSH received a copy of the letter sent by OHA to the FTA, dated September 8, 2011, in which OHA detailed a response to the Draft Consultation Protocol for *Iwi Kūpuna* (see Appendix C). In the letter OHA supported the decision to expand the scope of the protocol to include all *iwi kūpuna* finds throughout the duration of project work for Phase 4, both during the AIS and during subsequent construction activity. OHA further supported the efforts to create a comprehensive consultation contact list that would be “inclusive” of all interested parties, contain an “opt-in” process, and ascertain the preferred method of communication for each individual or party. OHA also raised strong concerns regarding the draft protocol, including:

- 1) The definition and treatment during the AIS of “disarticulated human skeletal remains not in a burial context”. OHA requested a written statement from the SHPD clarifying the position of the department: whether SHPD does not recognize such remains as a burial under Hawai'i state burial law. OHA stressed that the determination taken during this project could set a precedent for all future work throughout the State of Hawai'i. OHA advocated that all *iwi kūpuna* finds during the AIS be determined as “previously identified” and under the jurisdiction of the OIBC.
- 2) That all *iwi kūpuna* finds made during construction activity subsequent to the AIS, regardless of context, be identified as an “inadvertent discovery”, as required by Hawai'i state burial law.
- 3) Whether the Nahinu family had been consulted about the potential use of their family re-interment site at the Kalihi-Pālama Bus Facility.
- 4) Request for clarification that while OHA previously recommended that re-interment sites be proactively identified, that this recommendation does not reflect any support for re-interment but rather the desire to reduce the holding time for any *iwi kūpuna* being held in temporary curation.

8.7 Royal Order of Kamehameha I Moku O Kapuaiwa (Leeward Coast), Hawaiian Kahu: of the United Churches of Christ, the Episcopal Diocese of Hawai'i, and Kamehameha Schools Bishop Memorial Chapel, Kahu O Kahiko Inc., and Māmakakaua (Daughters and Sons of Hawaiian Warriors)

As part of the attempt to expand consultation efforts through small group venues, as requested during the March 16th public meeting, a meeting was held on March 31, 2011 with Kaleo Patterson of the City, members of the Royal Order of Kamehameha I Moku O Kapuaiwa (Leeward Coast), Kahu O Kahiko Inc., Māmakakaua (Daughters and Sons of Hawaiian Warriors), and several Hawaiian *Kahu* (Reverends) from the United Churches of Christ, the Episcopal Church of Hawai'i, and the Kamehameha Schools Bishop Memorial Chapel. Following a slide presentation of the draft City Center AISP by David Shideler and Matt McDermott of CSH, discussions ensued regarding burial protocol, reinterment locations, and cultural monitoring. Comments and suggestions included:

- 1) That cultural descendants should decide how to take care of burial finds, including the selection of reinterment sites
- 2) That a combination of traditional and Christian burial practices have been used in the past (e.g., the Queen Street burial ceremony), in which remains were wrapped in black *kapa* but buried in accordance with Christian practices
- 3) That many families of windward O'ahu still practice sea burials along with Christian practices
- 4) That burial practices are different and there is "no one size fits all." We cannot be presumptuous if we do not know and it is not our choice as it is the *kuleana* of the *Kahu*
- 5) That reinterment sites should be visible as a way of honoring the *kūpuna* and keeping knowledge of the burials alive for the future
- 6) That the reinterment sites need to be identified proactively
- 7) That cultural monitors should be used on the project
- 8) That Hawaiians were progressive thinkers and they would move forward rather than stop progress

8.8 Hui Mālama I Nā Kūpuna o Hawai'i Nei

On March 18, 2011, Matt McDermott of CSH sent an e-mail consultation letter to Mr. Edward Halealoha Ayau of Hui Mālama I Nā Kūpuna o Hawai'i Nei requesting a meeting with Hui Mālama representatives in order to review and discuss the draft City Center AISP. A USPS delivery confirmation letter reiterating this consultation request was subsequently posted to Mr. Ayau on March 21, 2011. At the time of this writing, CSH has not yet received a response.

8.9 The Royal Order of the Crown o Hawai'i and Kahu o Kahiko, Inc.

On May 10, 2011, Matt McDermott of CSH, Kaleo Patterson of the City, Kanaloa Koko of the Royal Order of the Crown o Hawai'i, and Gene Rasor of Kahu o Kahiko, Inc. participated in a consultation meeting held at Ali'i Place. CSH began the meeting by giving the PowerPoint presentation from the March 16th public meeting on the City Center AISP. This included a discussion of the changes that have been made to the draft AISP since the March 16th meeting. Comments, concerns, and suggestions made by Kanaloa Koko and Gene Rasor included:

- 1) Concern regarding the area of the 28 Queen Street burials in Kaka'ako (CSH explained that these burials had been relocated to an adjacent reinterment site)
- 2) The use of older maps from 1796 to the 1820s to better document the historic of Downtown Honolulu
- 3) The use of a cultural monitor on-site—one who is unbiased and rational
- 4) The movement of columns if burials are found
- 5) That how lineal and cultural descendants feel regarding *iwi kūpuna* must be evaluated
- 6) The need for appropriate cultural protocols for the project
- 7) The need for a burial consultation protocol
- 8) The need for more communication

8.10 Carpenters' Union, Hale O Nā Ali'i, Hawai'i Laborers' Union, Hawaii LECET, Local 126, and Van and Kathryn Diamond

On May 18, 2011 at Ali'i Place, CSH, PB, the City, and Aukahi LLC met with members of the Carpenters' Union, Hawai'i Laborers' Union, Hale O Nā Ali'i, Hawaii LECET, Local 126, and Van and Kathryn Diamond. Matt McDermott of CSH and Kaleo Patterson of the City presented a summary of the HHCTCP and the AISP City Center, project work already completed, and future project plans. An explanation of the Programmatic Agreement and the focus on the City Center area was provided. Discussion concerning the AISP City Center included logistical questions, clarification of the amount of column testing, and questions regarding whether investigations will be expanded if a cultural resource is encountered. Discussion concerning the consultation protocol for *iwi kūpuna* included several issues:

- 1) That not only Hawaiians may be affected by burial finds, but also other ethnic groups such as Chinese or Japanese, with a need to also be respected
- 2) The need for an appropriate and safe curation area for any finds
- 3) The need for accurate records for any relocation of burial finds
- 4) That protocol should be by areas rather than one protocol covering all
- 5) That a vocal minority should not be construed as the majority

8.11 Kamehameha Schools

On Tuesday May 24, 2011 CSH, PB Americas, the City, and Kauwahi Planning LLC met with Kamehameha Schools (KS) representatives at the boardroom of Ali'i Place, Honolulu in order to obtain comments and suggestions from Kamehameha Schools regarding the development of a consultation process for *iwi kūpuna* as well as insight into Kamehameha School's experiences as a land developer faced with similar issues. Discussion areas included:

- 1) Kamehameha Schools' approach to the consultation process for the ongoing KS Kaka'ako development project
- 2) How to deal with a lack of consensus regarding treatment of *iwi kūpuna*
- 3) How to put a protocol in writing that gives a clear plan of action and yet respects the differences in opinions and beliefs
- 4) KS's expectations for the upcoming HHCTCP work
- 5) How to deal with any HHCTCP finds on KS lands

Constructive comments and advice from Kamehameha Schools representatives included:

- 1) The high importance of communicating information consistently, thus engendering constant dialogue and building trust
- 2) That consensus regarding the treatment of *iwi kūpuna* is not possible given the wide differences. Trying to force a middle ground agreement is not a helpful approach
- 3) The need to approach as a case by case scenario, and not as a set policy
- 4) Explains that KS' approach includes being proactive, reaching out to all parties and view points and embracing diversity with respect, and taking the time to build trust
- 5) The need to be flexible: never to say "this is a done deal" so that parties do not feel disrespected
- 6) The importance of clarifying an understanding of roles: i.e. the *actual* powers and limitations of entities (such as CSH, SHPD, OIBC, etc.) versus what many people might *expect* of these entities
- 7) Notes that views will vary from 'ohana to 'ohana, and also between regions of an island
- 8) Suggested that PB/CSH/the City look at previous projects in order to proactively identify the issues and whether and how they were resolved

8.12 Individual Consultation

8.12.1 Ms. Deldrene (Dee Dee) Nohealani Herron

On April 25, 2011, Matt McDermott of CSH, Kaleo Patterson of the City, met with Ms. Deldrene (Dee Dee) Nohealani Herron, a potential cultural descendent of the Kaka'ako area. The meeting was held at Ali'i Place. Following discussion of Ms. Herron's genealogical connections with the areas of the project's Construction Phase 1 and 4, the meeting focused on the treatment

and reinterment of burial finds, with which Ms. Herron has had experience during a Punalu'u, O'ahu waterline project, and on the desirability of an ethnographic study for the City Center corridor. Suggestions and requests put forth by Ms. Herron included:

- 1) That she preferred the use of *kapa* cloth for wrapping burials for reinterment rather than cotton muslin
- 2) That burials would be best left in place, if possible, even if that required that they be preserved under roadways. Under certain circumstances, she indicated that relocation to a safer area immediately adjacent to the original burial would be appropriate
- 3) That she would be willing to help with the care of any previously identified burials that may be found
- 4) That any information dissemination about AIS burial finds should include any applicable LCA numbers and the TMK information. She stated that she would like to be included in the notification lists for the City Center burial consultation protocol
- 5) That she would like to see a thorough ethnographic study done of the City Center corridor that conveys the traditional Hawaiian land-use, place names, and oral traditions and legends, through historical and archaeological research and ethnographic interviews. She suggested as a model for this undertaking a study conducted in 2005 by Kumu Pono Associates, LLC (Mr. Kepa Maly) for Kamehameha Schools, entitled "He Wahi Mo'olelo No Punalu'u"

8.12.2 Ms. Kilinahe Keli'inoe

On April 27, 2011, a letter was received from Ms. Kilinahe Keli'inoe, a state-recognized cultural descendent of the Kaka'ako area. The letter outlines her beliefs and those of her grandmother, Ms. P. Ka'anohi Kaleikini, regarding the treatment of any and all *iwi kūpuna* found in the Phase 4 area of the project. Comments and requests put forth by Ms. Keli'inoe included:

- 1) That any and all *iwi kūpuna* identified during the AIS be regarded as previously identified burials, which fall under the jurisdiction of the OIBC
- 2) That the SHPD does not have exclusive authority to remove any *iwi kūpuna* from any burial site within the AIS area without first notifying the entire OIBC
- 3) That no *iwi kūpuna* shall be removed from the site without notification from the OIBC or the SHPD
- 4) That her belief and desire is to preserve in place any and all *iwi kūpuna* identified during the City Center AIS
- 5) That she requests to be notified when testing begins and ends in Phase 4 of the project and is kept abreast of test sites, including the number and locations of test sites
- 6) That preservation treatment and protocol be in effect prior to and during construction activities, in order to protect the burial sites in the area
- 7) That a briefing on the history of the area and burial site protection protocol for construction supervisors and crews be provided prior to any and all ground-disturbing activities in the Phase 4 area

- 8) That an archaeological monitor and a cultural monitor be present on-site during all ground-disturbing activities. She suggests that her grandmother, Ms. P. Ka'anohi Kaleikini, be the cultural monitor
- 9) That both the archaeological monitor and cultural monitor have the authority to stop work in the vicinity of any findings immediately, so that documentation can proceed and appropriate treatment can be determined;
- 10) That the cultural monitor be allowed to preside over private cultural services with the *iwi kūpuna* prior to their being covered
- 11) That adequate buffers are placed around any burial sites
- 12) That in the event of inadvertent burial discoveries, HRD 6E 43.6 will be followed. Also that a cultural monitor be on hand to administer cultural protocol until a determination is made regarding the inadvertent burial discoveries
- 13) That removal of any remains shall be determined in consultation with the SHPD/DLNR, the OIBC, recognized cultural and lineal descendants, the OHA, and Hui Malama I Na Kupuna o Hawai'i Nei, and shall be overseen by a qualified archaeologist and a mitigation plan shall be prepared
- 14) That if any *iwi kūpuna* are to be relocated, the cultural monitor, along with any descendants called to assist, will take the *iwi kūpuna* to the closest enclosed trailer or office and wrap the *iwi kūpuna* in kapa and place the wrapped *iwi kūpuna* in *hina 'i*, then tie with *kaula*. The *puolo* will then be placed in an air conditioned curation trailer used exclusively for *iwi kūpuna*, until final reinterment. The material required for wrapping *iwi kūpuna* (*kapa*, *hina 'i*, and *kaula*) should be gathered before the AIS begins in the Phase 4 area
- 15) That reinterment should take place sooner rather than later
- 16) That burial site locations and landscaping designs should be presented to cultural descendants as soon as possible for commenting
- 17) That any and all *moepu* (burial items) found on or in close proximity to any and all *iwi kūpuna* or burial site be placed within the *puolo* with the *iwi kūpuna* or wrapped separately and reburied alongside the *puolo iwi*. Also, no *moepu* should be kept by any city or state entity or CSH

8.12.3 Ms. P. Ka'anohi Kaleikini

On April 27, 2011, an e-mail was received from Ms. P. Ka'anohi Kaleikini, a state-recognized cultural descendent of the Kaka'ako area. In the e-mail, Ms. Kaleikini commented on the project PA, specifically regarding AISP preparation and burial consultation protocol. Her comments and requests included:

- 1) That the consultation process for the preparation of a burial treatment plan is too short, and the timeline should be extended
- 2) That she would like clarification on where Phase 4 of the project ends, whether at Ala Moana Shopping Center or the Hawai'i Convention Center

- 3) That she would prefer face to face meetings over written correspondence for future discussions
- 4) That she and others be provided with a physical address to which input regarding burial treatment protocol can be sent. Responses to these letters should be received within 30 days. Additionally, all comments and responses should be included in the final AISP

A total of 29 letters were received from Kaleikini and extended 'ohana (family). These letters voiced similar concerns regarding the AISP and burial consultation protocol.

Ms. Kaleikini also attended the June 8, 2011 general OIBC meeting as a public participant. During the public testimony period of the meeting, Ms. Kaleikini stated that she appreciated the City pursuing consultation with NHOs, but that the City needed to sponsor its own NHO meetings outside of the context of the Convention for Native Hawaiian Advancement. She also added that consultation with descendants should take precedence.

On August 12, 2011, Ms. Kaleikini attended a community meeting organized by cultural consultant Lani Lapilio of Aukahi, Inc. and attended by Matt McDermott of CSH and Faith Miyamoto representing the City (see Section 1.12.8). Ms. Kaleikini stressed the importance of implementing a cultural monitoring program alongside the archaeological work and offered to participate in such a program. She also stressed the need to pursue broadly inclusive outreach to all Hawaiian groups and individuals.

In response to the Draft Consultation Protocol for *Iwi Kūpuna* Ms. Kaleikini posted three e-mails to Matt McDermott of CSH expressing her concerns. Suggestions and concerns included:

- 1) That potential relocation sites should be used for inadvertent discoveries rather than previously identified finds, as descendants will push for preservation in place during the AIS.
- 2) Consultation for potential relocation sites should have included descendants and consulting parties, including: a Native Hawaiian *kahu*, the Order of Kamehameha, OHA, and the OIBC.
- 3) That any relocation sites be as close to the original burial location as possible and within the same *ahupu 'a*
- 4) That the City Parks option is the best for relocation sites as: 1. They are accessible and it is the City's *kuleana*; 2. The Transit Stations will not be available for prompt re-interment; and 3. The existing sites are either full or would not be available for immediate re-interment.
- 5) That all members of her 'ohana be listed on the Consulting Contact List as "Claimant/Descendent" rather than "Individual"
- 6) Regarding the combined use of both traditional and Christian burial practices (see pg. B7 above), that as any *iwi kūpuna* found will be ancient, that traditional protocols precede any Christian practices.
- 7) Regarding LCA 6450:1: 1. Request that as state recognized direct lineal descendants of this LCA, that her 'ohana be present as cultural monitors during all excavation in this area; 2. That any *iwi kūpuna* or *moepu* found in this area be handled exclusively

by her *'ohana*; and 3. That any re-interment for inadvertent finds be relocated as quickly as possible and as close as possible to the original burial site. To this end, a re-interment site should be identified as soon as possible.

8.12.4 Mr. Michael Kumukauoha Lee

Throughout the consultation process for both the AISP City Center and the consultation protocol, Mr. Michael Lee has been an active participant, attending the March 16, 2011 public meeting, the May 31st NHHPC (OHA) meeting, the June 8th OIBC meeting, an individual July 28th meeting with CSH, PB Americas, and City representatives, and pursuing communications through e-mail and telephone.

During the March 16th, 2011 public meeting regarding the AISP City Center, Mr. Lee expressed special concern regarding the Chinatown Station archaeological investigations due to his family's ancestral burials. He requested thorough testing of the area, including both GPR work and the use of HHRD dogs (see Public Meeting section above). During the May 31st NHHPC meeting, which Mr. Lee attended as part of the public, Mr. Lee expressed concern regarding the treatment of any funerary objects found during the project. Mr. Lee stressed the importance of all funerary objects, such as *ki'i* (images), as an integral part of the burial that should remain with the skeletal remains of any burials. He stated that his ancestors were known to have been buried with *ki'i* in the Chinatown area. In a follow-up email sent by Mr. Lee to Matt McDermott of CSH on May 31, 2011, Mr. Lee again mentioned the issue of *ki'i*. He requested to be informed of CSH policy, in the context of the federal Native American Graves Protection and Repatriation Act (NAGPRA) legislation, of the treatment of *ki'i*. Mr. McDermott responded via email on June 7, 2011 that CSH shall strictly follow the applicable Hawai'i State burial law. Accordingly, human skeletal remains and associated burial goods will not be moved without SHPD approval. Any findings, including funerary objects, will require a burial treatment plan delineating the treatment decision. He clarified that in this case NAGPRA legislation would not apply, even though the project is federally funded, as the lands surrounding the Chinatown Station are currently privately-owned and are not federally-controlled.

At the June 8, 2011 general OIBC meeting, Mr. Lee gave public testimony voicing his concerns regarding the HHCTCP. Relevant to the City Center AISP, Mr. Lee stated his belief that the rich Hawaiian history of the Chinatown Station area should be incorporated into the station design (i.e. an educational component). He emphasized that this educational component of the station was very important to the host culture.

On July 28, 2011, Mr. Lee met with CSH, PB, and City representatives in order to discuss the AISP City Center and its potential effects on his family's ancestral lands within LCA 170 (Chinatown). Mr. Lee provided historical information about his familial association with the area where the Chinatown Station will be located. He claimed that his ancestor, Kaiki'o'ahu, was interred within the area of LCA 170 along with his fishing gods (*ki'i*). During discussions Mr. Lee indicated that he would potentially be amenable to relocation of *iwi kūpuna* encountered during excavations as long as the relocation remained within LCA 170. Mr. Lee also expressed the desire that the name of the Chinatown Station reflect the Hawaiian history of the area and that the station provide a venue for educating transit users about the rich culture of the area.

8.12.5 Ms. Kamuela Kala'i

At the June 8, 2011 general OIBC meeting, Ms. Kala'i participated in the public forum regarding HHCTCP matters. Ms. Kala'i made the recommendation that because the impact of the rail project would be very high that the City should make a due diligence effort to reach local communities (such as neighborhood boards, etc.). She stated that many Hawaiians, such as herself, are not part of an organization and therefore have not been included in the consultation process. Ms. Kala'i further requested that any community outreach communications should be simplified for the public who does not know the technical lingo or understand complicated engineering figures. Ms. Hinaleimoana Falemei of the OIBC recommended that Ms. Kala'i pursue communications with Mr. Kaleo Patterson of the City. Ms. Falemei also acknowledged that one of her concerns was that only a handful of Hawaiians attend these types of meetings (i.e. OIBC meetings, etc.) where an understanding of projects and issues is gained.

On August 12, 2011, Ms. Kala'i attended a community meeting organized by cultural consultant Lani Lapilio of Aukahi, Inc. and attended by Matt McDermott of CSH and Faith Miyamoto representing the City (see Section 1.12.8). Ms. Kala'i expressed concern that community *mana'o* be taken seriously by the project proponents and not simply be filed away in a report. She particularly expressed concern for the treatment of *iwi kūpuna* during the construction phase of work and the need for a cultural monitoring program. Her concerns regarding a broad public consultation outreach were reiterated.

8.12.6 Ms. U'ilani Kapu

During the May 31, 2011 NHHPC (OHA) meeting, public testimony regarding the various agenda items and issues was received from several individuals, including Ms. U'ilani Kapu. Ms. Kapu expressed concern for the treatment of any *iwi* encountered during the AIS, specifically that the AIS should not be exempt from current Hawai'i state burial laws and that the *iwi* should not be moved quickly. Matt McDermott of CSH explained that any burial discoveries made during the AIS would be defined as "previously identified" and would require a burial treatment plan prior to any treatment decisions. He clarified that any human skeletal remains encountered during the construction phase of the project (not during the AIS) would be considered "inadvertent discoveries", for which the SHPD would need to make a burial treatment decision within two days; however, the treatment decision would not equate to immediate action within two days.

8.12.7 Mr. Manuel Kuloloio

Following the March 16th public meeting, Mr. Kuloloio communicated several concerns regarding the Downtown Station area (see Public Meeting discussion). Concerns included the amount of LCA documentation along the Downtown shoreline area, the naming of the station, and the amount of test trenches in the area. The issues pertaining to the AISP were addressed and incorporated into the revised draft AISP (see Table 11).

CSH followed up with Mr. Kuloloio by e-mail on August 2, 2011 in order to request a meeting or telephone discussion regarding the draft AISP, which had been posted for public review on the City's website following its submittal to SHPD on May 18, 2011. Mr. Kuloloio stated that he would like to provide comments on the AISP but would first like to have access to a hard copy or CD of the document rather than review the City's website document. Mr.

McDermott of CSH attempted to hand-deliver a CD of the draft AISP on August 2nd and mailed a CD to Mr. Kuloloio on August 3rd.

On August 26, 2011, Mr. McDermott met with Mr. Kuloloio to discuss any comments or concerns regarding the AISP City Center. During the meeting, Mr. Kuloloio emphasized the extensive cultural history and importance of the Kuloloia shoreline (Downtown Honolulu) and provided his ancestral connections to Kuloloia. Mr. Kuloloio followed up with a thank-you email on Friday evening, which included LCA documentation referencing the Kuloloia shoreline and other historical references, and also mailed an information packet to CSH, which included "Hawaiian Place Names of O'ahu" by Kekahuna (1958).

On September 26, 2011, Mr. Kuloloio attended the HHCTCP City Center community information forum at Farrington High School at which he stated that the information regarding the traditional area of Kuloloia and three nearby LCAs that he had previously requested had not been added to the AISP. A review of the Revised Draft AISP indicated that the information requested had indeed been added, with the exception of the three LCAs (191:3, 738:3, 10806 Part 2) which had been omitted from the LCA table. This omission was rectified and a PDF file was made of all references within the AISP to Kuloloia, the requested LCAs and their documentation. This information packet was e-mailed to Mr. Kuloloio on October 4, 2011.

8.12.8 August 12, 2011 Community Meeting

On Thursday, August 12, 2011, Matt McDermott and Ena Sroat of CSH, Faith Miyamoto of the City, and Lani Lapilio of Aukahi Inc. met with a small group of community members in order to address questions and concerns regarding the AISP City Center and the consultation protocol. Community members present included: Kaleo Paik, Ka'anohi Kaleikini, Kamuela Kala'i, Pono Kealoha, George Kahumoku Flores, and three university students; Brandi Hyden, Taryn Pacewicz, and Z. Aki. During the course of the meeting, Mr. McDermott summarized the history of the HHCTCP, the development and evolution of the AISP City Center in response to the consultation process, and the general AISP survey methods and potential mitigation measures. Community members requested clarification on various aspects of the transit design and AISP methodology. Several concerns and issues were also raised, including:

- 1) The need for a strong cultural monitoring program. Additionally, that the cultural monitors should not be subcontracted under the archaeological firm due to conflict of interest and should be paid for their expertise.
- 2) The need for the cultural education of all those involved in the project, from the top down. That the instructor should be someone who practices the Hawaiian culture rather than an academic.
- 3) Questioned whether their *mana'o* (ideas and knowledge) would be taken seriously and inform the AISP and project design.
- 4) Expressed concern that the project had proceeded backwards from least sensitive areas to the most sensitive (City Center).
- 5) Expressed the desire that all *iwi kūpuna* finds be considered "previously identified" due to the current understaffing and disarray within SHPD.

- 6) Stated that information needs to be available to the community so that they are able to make informed decisions on behalf of their descendents.
- 7) Proposed that the project include “green” measures, such as eco-toilets that would not require the installation of ground-disturbing sewer lines.

Regarding the consultation protocol, community members expressed additional concerns, including:

- 1) A concern that the SHPD descendents list has not been updated in some time. Requested that the project consultation list include those that are not on the recognized SHPD list.
- 2) The *kupuna* chose to be buried in a particular place for important reasons.
- 3) The need for broad community dialogue that would include such people as the *tutu kupuna* who cannot leave their homes and individuals who do not attend OIBC meetings. Suggested such groups as *halau* (hula schools) and students.
- 4) Again expressed the desire for a strong cultural monitoring program.

8.12.9 August 26, 2011 Community Meeting

On Friday, August 26, 2011, Mr. Kaleo Patterson of the City organized a small-group community consultation meeting at Ali'i Place. Attendees included Matt McDermott and Ena Sroat of Cultural Surveys, Kim Evans of Kauwahi Planning LLC, Rocky Naeole of the Royal Order of Kamehameha I (Moku 'O Kapuāiwa), Kaleo Paik, Kahu Manu Mook, Manu Mook Jr., and Jean Rasor. At the outset of the meeting it was determined that the primary concern of the community members at this meeting centered on the consultation protocol and the treatment of *iwi kūpuna*, but that it would also be helpful to hear a summary of the AISP City Center. Mr. McDermott, therefore, presented a PowerPoint overview of the AISP City Center. The ensuing discussion focused on the effectiveness of the Historical Human Remains Detection Dogs in locating subsurface burials in an urban setting. Mr. Rasor, who had been present during the methodology investigation of the HHRD Dogs (see Appendix F), felt that the dogs were very successful in identifying the presence of burials. He stated the belief that if the dogs could identify, and thus save from backhoe disturbance, even just one burial, then they would have proved to be invaluable.

Discussion of the consultation protocol focused on the role of SHPD, the need to pursue the broadest consultation outreach possible, and the need to proactively designate for each *ahupua'a* those who will provide the cultural ceremony and protocol for *iwi kūpuna* finds. Discussion of these concerns included:

- 1) Strong concern about the power of SHPD to make decisions regarding the treatment of “inadvertent discoveries”. It was felt that SHPD did not effectively seek out affected families or a wide array of NHOs, thereby cutting out important parties in the treatment decision process.
- 2) The need to make sure that SHPD clearly appreciates the importance of consulting parties' views and wants.

- 3) Suggestion that the City & County urge the legislature to amend the current laws so as to give the consulting process more weight.
- 4) The need for the in-house transit outreach team to be very proactive in seeking out a wide variety of NHOs and individuals.
- 5) That it should also be Hawaiians' *kuleana* to proactively gather *mana* 'o from families and *kupuna*.
- 6) The importance of contacting and gathering Hawaiian families and individuals connected to each *ahupua'a* (through which the HHCTCP City Center will cross) in order to determine a representative(s) who will accept the *kuleana* of interacting with the *iwi kūpuna* and providing the necessary cultural ceremonies.
- 7) The importance of the place of burial for the *iwi*; it is part of their *mana*. Treatment decisions need to be based on traditional, not modern, perspectives. Thus it is important for the families to make the decision.

8.12.10 September 15, 2011 Community Meeting

On Thursday, September 15, 2011, Matt McDermott and Ena Sroat of CSH and Kaleo Patterson of the City met with several concerned community members to discuss, among other issues (concerning Phase 1), the treatment of *iwi kūpuna* encountered during the HHCTCP City Center. Community members attending included Michael Kumukauoha Lee, Glenn AhNee, Francis Core, Barney Isaacs, and Ha'ahea Guanson. Suggestions and concerns expressed during the meeting included:

- 1) The need for the selection of specific caretakers, or *kahu*, who would care for the spiritual aspects of the *iwi kūpuna*, or their well-being. The selection of *kahu* is part of Hawaiian cultural practice and alleviates strife by centering decision-making for burial treatment. The selection of *kahu* should be those that *'ike papa lua*, or walk the two worlds, and thus have a direct understanding of the spiritual realm.
- 2) Regarding the discovery of *iwi kūpuna* within a non-burial context: that any bone or bone fragment should be considered a burial and treated as such. The fragment may be all that is left of the *iwi kūpuna* and contains the spiritual essence of that person.
- 3) That Hawaiian families' ties or interests cannot be restricted to just one *ahupua'a* or discrete geographic area, since families could be widespread and connected to several areas.
- 4) That all *iwi kūpuna* discoveries should be treated with the respect due to *ali'i*. That *koa* boxes and *kapa* wrap be utilized during protocol treatment.
- 5) That placing different *iwi kūpuna* finds together in one common relocation area, for example a station footprint, could be very destructive for the spirits or their descendents if these ancestors were not compatible during their lifetimes or family history.

Table 11. Modifications to the City Center AISP as a Result of Consultation

Agency/Group/ Individual	Issue/Request	Resultant Modifications to AISP
OIBC, SHPD/DLNR	That information gathered from the Traditional Cultural Properties (TCP) study be incorporated into the AIS report	CSH contacted Dr. Martha Graham of Statistical Research, Inc. (SRI) Foundation regarding access to the TCP study information when it becomes available. CSH also attended a PB-sponsored meeting with SRI Foundation and Kumu Pono Associates (subcontracted to conduct research for the TCP study) in order to learn about their research program and timelines. Language was incorporated into the AISP specifying that information gained from the TCP study will be used to interpret the AIS findings and that the TCP study information will be included within the AIS report.
OIBC	That burial treatment decisions should be informed by the best possible historical/cultural context	The AISP Research Design and Methods Section describes how CSH will incorporate the information from TCP/ethnographic/ethnohistoric studies prepared by SRI Foundation and Kumu Pono Associates into its AIS report. This information will inform cultural resource interpretations, significance and mitigation recommendations, and burial treatment decisions.
OIBC	That the transit stations incorporate historical and cultural components and interpretive programs into the station designs	The City is working to make this request a component of the station design process.
OIBC Task Force	To include a map of historical/traditional place names with an overlay of the test trench locations	CSH looked into preparing such a map, but did not proceed because the available location information for specific place names was so general that no meaningful correlation between test trench locations and specific place names was possible.

Agency/Group/ Individual	Issue/Request	Resultant Modifications to AISP
OIBC Task Force	It is important to have LCA information as an appendix to the AISP so the reader has the option to extract as much detail from the AISP document as possible.	LCA information discussion included in the Historic Background and Settlement Pattern Analysis Sections and full copies of LCA documents included in Appendices A through E.
OIBC Task Force	The AISP to include discussion of how the project will prepare the needed ethnographic/ethnohistoric studies and how this research will be incorporated into the AIS report.	The AISP outlines how Kumu Pono Associates will work with SRI Foundation to provide the ethnohistoric/ethnographic research for the TCP studies of each construction phase. CSH will incorporate this information into its AIS report to inform cultural resources interpretations and significance and mitigation recommendations.
OIBC and SHPD/DLNR	The AISP to indicate that additional testing will be included not only in the areas of archaeological finds, but also in areas, such as sand deposits, where archaeological finds are possible.	The Sampling Strategy Section includes provisions for this additional testing as well as a discussion of the decision making process regarding the number and location of additional test trenches.
OIBC	To include discussion of the decision making process within the AISP charting the various potential procedures following burial finds.	This information will be a component of the consultation protocol for <i>iwi kūpuna</i> .
SHPD/DLNR	An increase in test units along Halekauwila, Pohukaina, and Cooke Streets, and in general within areas of utility relocation	Added 6 test trenches along Halekauwila Street, 2 test trenches along Punchbowl Street, 4 test trenches along Pohukaina Street, and 1 test trench along Cooke Street.
OIBC, SHPD/DLNR, and OHA	The AISP to include discussion of the process for making decisions regarding additional AIS testing at the locations of archaeological/ burial finds	The Sampling Strategy Section includes a discussion of the decision making process for this additional testing.
SHPD/DLNR	That subsurface testing depth not be limited to the proposed project disturbance depth but extend to the water table or underlying sterile sediments	Excavation methods specify subsurface testing depth to extend to the water table or culturally sterile sediments.

Agency/Group/ Individual	Issue/Request	Resultant Modifications to AISP
SHPD/DLNR	The AISP to include hand excavation of historic features in addition to areas of sand deposits and pre-contact features	Specified within the AIS Research Design and Methods Section that identified historic features would be excavated by hand
SHPD/DLNR	That additional discussion of general settlement patterns (within the <i>ahupua'a</i> traversed by the HHCTCP City Center) be included	Included a Settlement Pattern Analysis Section with accompanying figures just following the Historic Background Section
March 16 th Public Meeting	The need for more testing within Halekauwila Street because of the area's sensitivity (also addressed by the SHPD/DLNR above)	Included 6 additional test trenches along Halekauwila Street
March 16 th Public Meeting, NHHCP (OHA), August 12 th Community Meeting	The need to consult with the Native Hawaiian community in smaller groups rather than in large public meetings.	CSH, the City, and the City's representatives have actively pursued consultation meetings and correspondence with Hawaiian groups and concerned individuals. The results are included in this Section of the AISP. This consultation effort will be ongoing during the AIS investigation.
March 16 th Public Meeting, Kahu O Kahiko Inc., P. Ka'anohi Kaleikini, August 12 th Community Meeting	A request to include a cultural monitoring program as well as an archaeological monitoring program	The City is actively working with concerned parties to discuss the development of an appropriate cultural monitoring program. The AISP Research Design and Methods Section acknowledges that the AIS fieldwork will integrate with the developed cultural monitoring program. Regarding archaeological monitoring, based on AIS results, there will most likely be an archaeological monitoring program during project construction as a project mitigation measure.
March 16 th Public Meeting (Mr. Michael Lee)	A request for the use of GPR and historic human remains detection (HHRD) dogs at the Chinatown Station	The AISP Research Design and Methods Section states that GPR will be used in all testing locations. It also relates that although this AISP does not call for use of the HHRD dogs at the Chinatown Station,

Agency/Group/ Individual	Issue/Request	Resultant Modifications to AISP
		the HHRD dogs may be used there as part of a test program conducted by the City.
Manuel Kuloloio (March 16 th Public Meeting and e-mails)	The need for more historical documentation of the Kuloloia shoreline (Downtown), including the LCAs awarded to Kekauonohi and Kaunuohua	Added historical research and figures pertaining to 10 additional LCAs in the area of the Kuloloia shoreline. Also included the "Honolulu in 1810" map by Paul Rockwood (based on descriptions by John Papa 'I'i) with an overlay of the project corridor (the use of this map was requested by Mr. Kuloloio specifically for an interpretive display within the Downtown Station).
Manuel Kuloloio	A request for additional test trenches along the estimated Kuloloia shoreline, as well as in the vicinity of the sites of Kamehameha I's enclosure, Heiau o Pākākā, and the Honolulu Fort	Three additional test trenches were added in the Kuloloia off-shore reef area (the location of the Downtown Station) and one in the on-shore coastal area (along the eastern shore). Several test trenches were already included in the area of Pākākā point (including in the vicinity of royal enclosures and Hale O Lono). Five test trenches were added between the Chinatown Station (at the mouth of Nu'unau Stream) and Bethel Street (in the area of Keli'imaika'i's enclosure and the Nihoa Shipyard).
Manuel Kuloloio	A request for additional cultural/historical description and references to the Kuloloia area	Added place descriptions, historical references, and LCA descriptions to the Mythological and Traditional Accounts Section
OHA, August 12 th Community Meeting	That CSH archaeological staff and construction crew support involved in the City Center AIS be trained in cultural sensitivity including appropriate behavior at burial locations	A cultural sensitivity training program will be designed and implemented prior to the initiation of AIS fieldwork. The training program will be developed and held by CSH's Hawai'i Island office manager, Auli'i Mitchell, a <i>Kumu Hula</i> and Native Hawaiian traditional cultural practitioner

Agency/Group/ Individual	Issue/Request	Resultant Modifications to AISP
OHA	That the AISP include discussion of the utility of the GPR and HHRD dogs	The AISP appendices F and G discuss at length the methods investigation of GPR and HHRD dogs.
OHA	A request that a procedure be designed that would allow archaeologists to investigate certain trenches in the clearer light of day, in particular trenches in the most sensitive areas, such as Halekauwila Street	CSH has consulted with the project engineers. Based on current information, permit requirements for the AIS fieldwork are not so stringent that night work will be widely required during the AIS fieldwork. If night work is required in sensitive areas, CSH will work with the City and project engineers to provide adequate lighting, and if needed, access to trenches during daylight.
OHA	A request that the City Center AIS report should be published	The City Center AIS report will be widely disseminated to the Bernice Pauahi Bishop Museum and Hawaii State libraries, universities and community colleges (per the requirements of HAR Chapter 275-5(e)(3)). Discussions with the City regarding publication of the AIS report are underway.