

**DRAFT**

**A BEST PRACTICES GUIDE  
FOR THE  
HONOLULU RAIL TRANSIT PROJECT  
ISLAND OF O'AHU**



**CULTURAL  
RESOURCES  
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*Pacific Legacy: Exploring the past, informing the present, enriching the future.*

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ISLAND OF O‘AHU**

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## TABLE OF CONTENTS

<b>INTRODUCTION.....</b>	<b>1</b>
Background.....	1
Consultations.....	2
Summary of Best Practices.....	4
<b>CULTURAL RESOURCES’ PROFESSIONALS.....</b>	<b>5</b>
Best Practices.....	5
<b>TRADITIONAL CULTURAL PROPERTIES.....</b>	<b>6</b>
Best Practices.....	6
<b>IDENTIFICATION AND PROTECTION OF ARCHAEOLOGICAL SITES AND BURIALS..</b>	<b>7</b>
Best Practices.....	8
<b>DESIGN STANDARDS AND TRANSIT STATION DESIGN.....</b>	<b>8</b>
<b>RECORDATION AND DOCUMENTATION.....</b>	<b>9</b>
<b>NATIONAL REGISTER OF HISTORIC PLACES/AND NHL NOMINATIONS .....</b>	<b>10</b>
<b>EDUCATIONAL AND INTERPRETIVE PROGRAMS, MATERIALS, AND SIGNAGE .....</b>	<b>10</b>
<b>MITIGATION FOR SPECIFIC HISTORIC PROPERTIES.....</b>	<b>11</b>
<b>MEASURES TO ADDRESS REASONABLY FORESEEABLE INDIRECT AND CUMULATIVE EFFECTS CAUSED BY THE PROJECT.....</b>	<b>11</b>
<b>CONSTRUCTION PROTECTION PLAN .....</b>	<b>11</b>
<b>CITY CONTRACTORS AND ADHERENCE TO THE PA.....</b>	<b>11</b>
<b>POST-REVIEW DISCOVERIES.....</b>	<b>12</b>
<b>PUBLIC INFORMATION .....</b>	<b>12</b>
<b>ADMINISTRATIVE PROVISIONS .....</b>	<b>12</b>
<b>REFERENCES .....</b>	<b>13</b>

## INTRODUCTION

Our historical past is of utmost importance to the living. It provides us with a context of who we are, where we came from, and why we act the way we do. This historical past needs to be cherished, honored, and perpetuated. While we need to honor our past, we also need to address the needs of the present and make our community viable for the future. This is a very delicate balance – perpetuating the knowledge and tangible resources of the past with the needs of the present and the future. This balance can best be achieved from input from all perspectives – the indigenous peoples, the community in general, the preservation specialists, the project proponents, and the regulatory agencies.

The purpose of this document is to provide initial thoughts on how to achieve this balance between caring for the past while meeting the needs of the future. These thoughts are based on a life-long residence in Hawai‘i, stemming from over 150 years of family history in these islands, and 40 years of experience conducting archaeological investigations throughout the Hawaiian archipelago. It must be stressed that these thoughts are mine alone and that any shortcomings are my responsibility. The intent of this document is to offer guidelines to affect the best practices for working with historic resources that may be affected by the Honolulu Rail Transit Project. It is hoped that the consulting parties reviewing this document will be able to provide constructive input to the conducting of best practices as they relate to the management of our important cultural resources.

## BACKGROUND

As part of the general environmental protection movement of the mid 1960s, the National Historic Preservation Act (NHPA) was passed by Congress in 1966. The basic premise of NHPA is that

... the spirit and direction of the Nation are founded upon and reflected in its historic heritage” and that “. . . the historical and cultural foundations of the Nation should be preserved as a living part of our community life and development in order to give a sense of orientation to the American people . . .” (National Historic Act of 1966:1).

This sentiment is echoed by the State of Hawai‘i in its historic preservation legislation (HRS § 6E), which declares

... that the historic and cultural heritage of the State is among its important assets and that the rapid social and economic developments of contemporary society threaten to destroy the remaining vestiges of this heritage (§ 6E-1).

The Pennsylvania Historical and Museum Commission captures this sentiment most clearly:

The protection of historic and archaeological sites is the responsibility of all citizens, government agencies, and private developers (Pennsylvania Historical and Museum Commission n.d.).

The City and County of Honolulu (City) has embarked on a project to construct an elevated rail system from Kapolei to the Ala Moana Center in leeward O‘ahu, termed the Honolulu Rail Transit Project (HRTTP). As a governmental agency, the City is responsible and obligated to consider all historical and cultural resources within the area proposed for rail development. In November 2010, O‘ahu voters authorized the creation of the Honolulu Authority for Rapid Transportation (HART), which began operations in 2011. HART is a semi-autonomous public authority with the responsibility to oversee the planning, construction, operation, and extension of the HRTTP.

The Honolulu Rail Transit Project is receiving funding from the U.S. Department of Transportation Federal Transit Administration (FTA). Because of this federal participation, the HRTTP is considered an *undertaking* as defined in 36 CFR 800.16(y). As such, the HRTTP is subject to Section 106 regulations of the National Historic Preservation Act of 1966, as amended (NHPA). Consultations among federal, state, and county agencies and identified Native Hawaiian Organizations (NHOs) regarding the HRTTP resulted in the development and adoption of a Programmatic Agreement (PA) in 2011. The PA specifies a number of stipulations that must be accomplished to resolve the adverse effects the *undertaking* will have on historic properties.

The PA calls for the development a “Best Practices Manual” related to historic properties to be completed within one year of completion of Phase 1 construction of the HRTTP. The goal of the current endeavor is to initiate this effort by laying the foundation of a Best Practices Manual to guide project practices.

The explicit purpose of the ultimate Best Practices Manual (BPM) is to develop a set of guidelines to carry out the terms of the PA so that historic properties and other cultural resources important to Native Hawaiian Organizations and communities can be treated appropriately. In addition, this PA is intended to serve as a guide for future *undertakings* in Hawai‘i and elsewhere in the country.

Later in the process of constructing the rail project (within one year of completion of Phase 1 construction of the HRTTP), a “lessons learned” report will be produced that will augment this BPM and will serve to assist future undertakings in the management and treatment of historic properties. By codifying the “best practices,” as well as “lessons learned” from the project, future *undertakings* can benefit from experiences gained.

## CONSULTATIONS

The main premise of Section 106 of the NHPA is that consultations are extremely important in the management and treatment of historic properties and the entire historic preservation process. The NHPA is very clear in defining who is to participate in consultations under the Section 106 process. Identified consulting parties are (36 CFR 800.2(c) :

State Historic Preservation Officer  
Indian Tribes and Native Hawaiian Organizations

Representatives of local governments  
Applicants for Federal assistance, permits, licenses, and other approvals  
Additional consulting parties

Additional consulting parties are defined as:

Certain individuals and organizations with a demonstrated interest in the undertaking may participate as consulting parties due to the nature of their legal or economic relation to the undertakings or affected properties, or their concern with the undertakings effects on historic properties (§ 800.2)

Furthermore, Section 110(d) (6) (B) of NHPA requires the Agency to consult with Native Hawaiian Organizations that attach religious and cultural significance to historic properties that might be affected by the proposed undertaking.

The Secretary of Interior's Standards and Guidelines defines consultation as:

Consultation means the process of seeking, discussing, and considering the views of others, and where feasible, seeking agreement with them on how historic properties should be identified, considered, and managed. (Federal Register 1998)

The consultation process places an obligation on the Agency promulgating the project to make a "good faith effort" to identify consulting parties early in the process and providing the identified consulting parties reasonable opportunities to identify concerns about potential effects on historic properties, advise on the identification and evaluation of historic properties (including Traditional Cultural Properties), and participate in the resolution of potential adverse effects.

HART has been conducting active consultations with identified consulting parties since before the PA was developed. This consultation process is on-going and is planned to continue throughout the construction of the H RTP. This consultation process is being facilitated by regular and numerous special meetings with consulting parties, as well as electronic communications regarding the progress of the project.

Effective consultation with all interested and concerned parties is essential for a successful project. The consultation process should be initiated early in the process and should continue throughout the process of the project. The consultation process should be inclusive rather than exclusive and there should be no hesitancy to include people and groups with differing opinions and perspectives. However, all participants in the consultation process need to understand that there will be differing perspectives and opinions by the different groups. All participants must treat others with respect and allow all participants to voice their opinions. This consultation process should be facilitated through regularly scheduled meetings where issues of concern are raised, discussed, and resolutions sought. It must be stressed that a "consultation process" does not necessarily mean an "agreement process." The consultation process is one of dialogue among all the interested parties (the promulgating Agency, regulatory agencies, and consulting parties). Mutual respect and being open to different points

of view are crucial for an effective consultation process. Once a foundation of mutual respect and trust has been established, truly productive consultations can occur.

## SUMMARY OF BEST PRACTICES

The following summarizes the Best Practices developed in the following sections.

- Effective consultations with consulting parties and other interested parties should begin early in the project and continue throughout the course of the project. Consulting parties have distinct perspectives on various aspects of the design and mitigative measures that will need to be developed for the project.
- Supportive personnel such as a Kāko‘o and an Architectural Historian should be hired early in the process of the project, so they can assist the City in complying with historic preservation matters
- Traditional Cultural Properties studies should commence early in the project, so that potential effects to TCPs can be identified, and minimized or mitigated. The results of the TCP studies also form an important component to and interpretive and educational materials developed for the project.
- Archaeological inventory surveys should take place early in the planning process, so that potential historic properties can be identified early and their treatment be well thought out before construction commences. With the results of the AIS investigations incorporated into the design of the project, effects to potential historic properties can be minimized or avoided.
- Design of transit stations is seen as a very important and sensitive issue. Transit stations are seen as interpretive and educational focal points along the rail corridor in leeward O‘ahu. Close coordination and consultation with consulting parties is imperative for successful design.
- Interpretive and education materials are very important to consulting parties and need to be developed in close coordination with the consulting parties.
- Training in historic preservation and cultural awareness is crucial for the construction phases of the project. Everyone affiliated with the project needs to be well versed in historic preservation issues and be aware of cultural issues and protocols that need to be followed. Consultation with consulting parties about these topics is extremely important.
- Whole not anticipated, there is always the chance of inadvertent discoveries during construction. The State of Hawai‘i has legislation and administrative rules that clearly spell out the process of treatment of inadvertent discoveries. The City must strictly adhere to all appropriate laws and rules.

## CULTURAL RESOURCES' PROFESSIONALS

Stipulation I in the PA outlines and defines the roles and responsibilities of the parties involved in bringing the Project to completion in accordance with the terms of the PA. In addition, specific mention is made of the required qualifications of all cultural resources professionals: "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..." (Stipulation I.F). It goes on to mention two specific support roles the City must fund in an effort to coordinate Section 106 Project activities as well as all the reviews and deliverables required under the terms of the PA – an Architectural Historian (Stipulation I.G) and a PA Project Manager (Stipulation I.H).

The hiring of an Architectural Historian is for the purpose of coordinating Section 106 Project activities with other City Departments (e.g., Department of Planning and Permitting) and ensuring consideration of historic preservation in Transit Oriented Development (TOD) and other developments along the Project corridor. This position is required through the completion of Project construction.

Stipulation I also calls for the City (HART) to fund an independent PA Project Manager or *Kāko'o*. Per the terms of the PA, the *Kāko'o* is intended to function in an independent role to monitor, assess, and report on the actions undertaken by the City on behalf of FTA and to comply with the stipulations of the PA as well as other applicable laws. The role of the *Kāko'o* is intended to assist the City and FTA in achieving compliance with the PA, as written; as well as, assist the City, FTA, and other consulting parties to successfully address historic preservation issues that arise during the implementation of the PA. The *Kāko'o* "shall continue to perform the *Kāko'o*'s responsibilities for the duration of the PA."

### BEST PRACTICES

- It is of primary importance that all parties are aware of and acknowledge their roles and responsibilities in this collective process. In this way, the Project can move toward completion in the most timely, cost-effective manner possible.
- It is critical to hire professional support staff (e.g., the *Kāko'o* and the Architectural Historian) early in the planning process, so that these professionals can assist the City in complying with historic preservation matters that might be associated with the Project or *undertaking*. Such support personnel will make for a better project -- a project that is sensitive to historic property concerns.
- One key to the ultimate success of the Project is to involve the broader community, as well as the consulting parties, in the consultation process as a means of achieving and increasing approval and 'buy-in' from the public. After all, it is the community who will be utilizing this mass transit system.

- The Kāko‘o, as Project liaison between the City and the consulting parties, is focused on maintaining a formal, project-related communication and consultation process in order to provide understanding of policy and processes and ensure that the Project is sensitive to historic property concerns.

## TRADITIONAL CULTURAL PROPERTIES

A Traditional Cultural Property (TCP) can be a site, an object, or even a place that has cultural significance. TCPs refer to “places that communities think are important, because they – the places – embody or sustain values, character, or cultural coherence” (King 2003:1). The National Register Bulletin states the definition of a TCP more formally:

A traditional cultural property . . . can be defined generally as one that is eligible for inclusion in the National Register because of its association with cultural practices or beliefs of a living community that (a) are rooted in that community’s history, and (b) are important in maintain the continuing cultural identity of the community. (National Register n.d.:1).

TCP sites in Hawai‘i can include traditional fishponds, *heiau*, and pre-Contact habitation settlements, in addition to structures such as Queen Emma’s summer home, the ‘Iolani Palace, or the sunken USS Arizona. TCP places could include “storied places” where traditional gods performed various acts and deeds important to the history of the area, or areas where important events took place such as battles, or places of refuge. The cultural significance of a TCP is usually rooted in history and tradition and continues to be of value to contemporary groups of people. The groups of people are usually the indigenous group of the area, though this is not always the case (e.g., the USS Arizona).

By the time the PA was executed in January 2010, the FTA and the City had only identified one TCP, the Chinatown Historic District. Stipulation II of the PA called for conducting a study to determine the presence of any previously unidentified TCPs in the project’s area of potential effect (APE). The City and FTA, with consultation with consulting parties is obligated to evaluate all potential TCPs for National register of Historic Places (NRHP) eligibility and assess the potential the project might have to adversely effect the identified TCPs. The FTA and the City must seek concurrence with the SHPD on both eligibility and effect determinations.

## BEST PRACTICES

- TCP studies are a crucial component of assessing the potential impact of a project or *undertaking* on historic properties and culturally important areas. TCPs are not always obvious to the uninformed. The presence of TCPs can only be determined through thorough archival research and in-depth interviews with elders and cultural practitioners of the areas under consideration. Because of these facts, any TCP study should be started very early in the planning stages so potential impacts to any TCPs can be avoided or minimized. The results of TCP studies must be widely communicated and included in the planning

process. By committing to this process, the Project is demonstrating its responsibility to the people and culture of the areas, as well as being sensitive to historic property concerns.

- The findings from TCP studies are very important and should be used as a foundation for developing educational and interpretive materials and programs.

Two TCP studies were conducted along the entire HRTTP route in 2012 (Sections 1-3) and 2013 (Section 4). These studies resulted in identifying 237 potential TCPs along the rail route. These included 13 *ahupua'a* (traditional Hawaiian land divisions), 58 *wahi pana* (storied places) 165 *inoa 'āina* (named places), and one *leina a ka 'uhane* (the place where souls leapt to the land of the spirits).

## IDENTIFICATION AND PROTECTION OF ARCHAEOLOGICAL SITES AND BURIALS

Stipulation III of the PA outlines initial planning; interested party consultation; fieldwork; treatment and mitigation plans; and curation. It details how archaeological sites and human burials are to be identified and protected by following a four step process:

1. Development of Archaeological Inventory Survey Plans (AISP)
2. Conducting Archaeological Inventory Surveys (AIS)
3. Development of Mitigation Plans
4. Conducting Mitigation Investigations

The 2010 PA indicated that the archaeological fieldwork could take place sequentially, whereby the archaeological fieldwork for construction Phases 1, 2, and 3 must be “completed in advance of the completion of final design for each phase so that the presence of any sensitive archaeological sites/burials discovered during fieldwork may be considered in final design and measures incorporated to avoid and/or minimize adverse effects on historic properties” (Stip. III.C). Because there was an early acknowledgement of the heightened sensitivity to the Phase 4 area (Middle Street to Ala Moana Center), the PA stipulated that the AIS for this section must be completed prior to the beginning final design for that area (Stip. III.B.2).

Regarding the method of conducting the AIS for the HRTTP, the Hawai'i Supreme Court issued a ruling in August 2012, in the case of Paulette Kaleikini versus the City and County of Honolulu and the State of Hawai'i, that overturned an earlier State Circuit Court Ruling. The Supreme Court ruling stated that the HART failed to follow State law (HRS §§ 6E-8 and 6E-42) and their implementing rules in regard to conducting AIS investigations. Specifically, the Supreme Court ruling stipulated that HART must complete all AIS investigations prior to the start of any construction in any part of the project APE. This ruling effectively stopped construction of the HRTTP for one year (August 2012 - September 2013).

## BEST PRACTICES

- Planning is essential to ensure the development process is lawful and smooth. All necessary investigations, research, written plans, and reports must be completed in the proper timeframe in order to have all the information with which to make decisions and create mitigation plans for potential problems.
- It is crucial and prudent to complete all AIS investigations before the commencement of any construction on a project. This ensures that ALL concerns with potential impacts to historic properties are considered before construction commences. Not only does this ensure proper consideration for historic properties, it also avoids lengthy (and expensive) legal actions and construction delays. The results of the AIS investigations must be reviewed and approved by the SHPD as per HAR § 13-276. The results of the AIS investigations must be incorporated into the design of the project, so as to minimize or avoid effects to potential historic properties. If effects cannot be avoided, mitigation measures must be implemented through consultation with the SHPD.

## DESIGN STANDARDS AND TRANSIT STATION DESIGN

Stipulation IV calls for the development, including updates, of a “Design Language Pattern Book” that is to be used in all Project elements. This stipulation clearly states that for “stations within the boundary or directly adjacent to and eligible or listed historic property, the City shall comply with the *Secretary of the Interiors Standards for the Treatment of Historic Properties*, 36 CFR 68 and will make every reasonable effort to avoid adverse effects on historic properties” (Stip. V-A). Stipulation V-A continues to state that if the FTA, the City, and the *Kāko‘o* find that the standards cannot be applied that the City shall consult with the consulting parties to develop treatment plans to minimize or mitigate adverse effects on the historic property.

Stipulation V-B states that the City shall conduct a minimum of two neighborhood design workshops for the transit stations in each of the Project phases and that the City will consider the comments received when completing station design.

Stipulation V-C states that during preliminary design, the City shall provide preliminary engineering design plans for built components of the Project (stations, guide ways, etc.) to consulting parties for comment. Stipulation V-C goes on to state that for “stations within or directly adjacent to listed or eligible historic properties, the City shall also provide plans during the final design phase.”

The design of transit stations has evolved into a very sensitive issue among the consulting parties. Consulting parties are concerned about:

1. The design and layout of the transit stations, ensuring that each reflects the traditional cultural context of the *ahupua‘a* in which it located.
2. The naming of the stations.
3. Providing meaningful educational and interpretive materials at each station.

There are undoubtedly many others, but the above provide a sense of consulting parties' concerns.

Stipulation V calls for only a single commentary period for stations not directly associated with historic properties. This is clearly not sufficient consultation on this important aspect of the Project. HART, at the request of the consulting parties has held numerous workshops and focus meetings with the consulting parties to illicit their views and opinions. Focused consultation meetings are needed to address specific aspects of each transit station, because each will have its own unique elements and issues to consider. Topics to be addressed at these meetings should include:

- Station name and design elements not related to the engineering and pre-fabrication modular design.
- Core traditional values of the place.
- Associated elements (traditions, activities, practices, etc.) that take or took place in the vicinity of the station.
- Other historic elements.

The consulting parties and particularly the NHO consulting parties have a great deal of information that will be extremely useful in the design of the transit stations. This information needs to be incorporated into transit station design, so that the transit stations can serve as interpretive focal points along this corridor through leeward O'ahu.

## RECORDATION AND DOCUMENTATION

Stipulation V of the PA calls for several recordation and documentation tasks to be undertaken within the project area to mitigate adverse effects to identified historic properties. These studies are to be carried out in consultation with the State Historic Preservation Division and the National Park Service. These efforts do not necessarily have to be done early in the project, but can be accomplished throughout the duration of the project. These recordation and documentation efforts must be completed prior to the conclusion of the construction work. Crucial to these efforts are the development of Historic Context studies and preparation of Cultural Landscape Reports.

Historic context is the political, social, cultural, and economic setting for a particular idea or event. In order to better understand something in history, we must look at its context — those things that surround it in time and place, and which give it meaning

Cultural Landscape Reports have two functions: (1) they are the principal treatment document for cultural landscapes; and (2) they are the primary tool for long term management of those landscapes. CLR must clearly establish preservation goals. They must clearly identify landscape characteristics, and associated features, values, and associations that make a landscape historically significant.

Mitigation of adverse effects caused by an undertaking can be mitigated in several ways. Recording and documentation of sites is one method of mitigation. Guidelines established for HABS, HAER, and HALS documentations ensure that the recording and documentation is conducted adequately. Consultation with consulting parties, land owners, and especially the SHPD throughout the process is crucial.

## **NATIONAL REGISTER OF HISTORIC PLACES/AND NHL NOMINATIONS**

At the conclusion of conducting HABS, HAER, and HALS studies, the sites recorded and documented can be further evaluated to determine their continued eligibility for either National Register of Historic Places or National Landmark nominations. This evaluation process shall be done in consultation with the property owners, the State Historic Preservation Division, and other consulting parties. For properties on lands controlled by the U.S. Navy, additional consultations and approvals will be needed to be obtained from the U.S. Navy. The nomination process will fulfill the requirements of Stipulation VI of the PA.

The National Register of Historic Places is the official list of the Nation's historic places worthy of preservation. Listing on the National Register of Historic Places instills a sense of importance to historic buildings, objects, landscapes, and other sites of historical significance. These historical resources form a tangible link to our past and are meant to function as connections to our historical past for current and future generations.

## **EDUCATIONAL AND INTERPRETIVE PROGRAMS, MATERIALS, AND SIGNAGE**

Stipulation VII calls for several interpretive and educational programs and products to be completed before revenue service commences. The consulting parties were invited to participate in a kick-off meeting in the summer of 2011 to develop a work plan, content for deliverables, and schedule for products.

All drafts of work products required by Stipulation VII are to be transmitted to all consulting parties for review and comment. The comment period is 30 days and all comments received will be considered in the preparation of the final versions of each product.

The preparation of all interpretive and educational materials is extremely important to the consulting parties. There is a very strong feeling among the consulting parties that the interpretation of traditional Hawaiian culture and history is the responsibility (*kuleana*) of Hawaiians and it should not be done by non-Hawaiians. The consulting parties should be active participants in developing the programs and products called for in Stipulation VII. The consulting parties should be called upon to provide names of experts that can assist in these important matters.

## **MITIGATION FOR SPECIFIC HISTORIC PROPERTIES**

Specific mitigation measures for several specific historic resources were identified in Stipulation VIII of the PA. Consultations with consulting parties should take place during the course of conducting these activities.

Specific properties identified include lava rock (basalt) curbstones; bridge rails on Kapālama Canal Bridge; kamani trees along Dillingham Boulevard; and improvements to adversely affect Parks.

## **MEASURES TO ADDRESS REASONABLY FORESEEABLE INDIRECT AND CUMULATIVE EFFECTS CAUSED BY THE PROJECT**

Stipulation IX lists specific measures to be implemented to address reasonable foreseeable indirect and cumulative effects caused by the project. Consultations with consulting parties should continue to take place during the course of conducting these activities.

## **CONSTRUCTION PROTECTION PLAN**

The effects of noise and vibrations are serious issues for the entire duration of the project and Stipulation X specifies how these issues will be addressed by planning, monitoring, and if needed repairing. Continual consultation with the consulting parties must be maintained.

HART is requiring each design and construction contractor to submit an Environmental Compliance Plan (ECP). Compliance is monitored by HART and quarterly reports are submitted to FTA on more than 200 project-wide mitigation measures. Noise mitigation and monitoring requirements are established on a contract-by-contract basis. Overall vibration limits are proposed based on the machinery and type of work and the distance to the nearest sensitive structure.

## **CITY CONTRACTORS AND ADHERENCE TO THE PA**

HART is making it very clear the stipulations and conditions in the PA are important and that everyone associated with the project needs to not only be aware of them, but must abide by them. By explicitly including language requiring adherence to the PA in all contracts, HART sends a powerful message. This combined with regular preservation and cultural awareness training makes for a powerful tool.

Contract language requiring adherence to the PA should be reviewed by consulting parties to provide input on the message delivered. Consulting parties should be afforded the opportunity to review the historic preservation and cultural awareness training, including the materials and messages transmitted.

## POST-REVIEW DISCOVERIES

Post review discoveries of effects to built historic properties are not anticipated. However, if any unanticipated adverse effect is determined, work will cease and the City will notify the signatories of the anticipated adverse effect and the proposed treatment plan. The City in consultation with the FTA, and the SHPD will developed the final treatment plan.

While not anticipated, there is the possibility of inadvertent discoveries of human remains during construction. In the event of an inadvertent discovery of human remains, all work in the immediate vicinity shall cease and the SHPD shall be notified. Following the lead of the SHPD, consultations will take place among the OIBC and all recognized lineal and cultural descendants. Through this consultation process the ultimate disposition and treatment of the discovered remains will be made. The consultation process including scheduling will follow HRS §60-43.6 and HAR §13-300.

The City shall be responsible for carrying out all stipulations contained in the final burial treatment plan related to the inadvertent discovery of human remains. Directions for the carrying out of the stipulations shall be the responsibility of the SHPD.

Consulting parties must be kept informed about post review discoveries and treatment decisions made by OIBC and SHPD.

## PUBLIC INFORMATION

Keeping the public informed about the progress of the project and efforts made on regarding historic preservation issues is vitally important to the project. Multiple avenues of communication need to be explored and utilized. This can include formal reports (e.g., semi-annual reports), the project web site, electronic communications such as e-blasts, press releases, public information slots on television and radio, community meetings, presentations at community organization meetings such as Neighborhood Board Meetings, Rotary Clubs, etc.

## ADMINISTRATIVE PROVISIONS

Stipulation XIV contains ten provisions aimed at administrating the PA. These administrative provisions are important and facilitate an orderly flow of the project.

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