



STATE OF HAWAII
DEPARTMENT OF TRANSPORTATION
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IN REPLY REFER TO:

Board of Land and
Natural Resources
State of Hawaii
Honolulu, Hawaii

ISSUANCE OF 1) RIGHT-OF-ENTRY PERMITS FOR THE CONSTRUCTION OF AN ELEVATED GUIDEWAY, A RAIL TRANSIT STATION, AND PEDESTRIAN CONNECTOR(S), AND THE INSTALLATION AND/OR RELOCATION OF UTILITY FACILITIES; 2) A GRANT OF NON-EXCLUSIVE TERM EASEMENT FOR AN ELEVATED GUIDEWAY, A RAIL STATION, AND PEDESTRIAN CONNECTOR(S); AND 3) GRANT OF NON-EXCLUSIVE TERM EASEMENT(S) FOR UTILITY FACILITIES AT HONOLULU INTERNATIONAL AIRPORT, MOANALUA, HONOLULU, HAWAII
TMK: (1) 1-1-03, (1) 1-1-04, AND (1) 1-1-14 OAHU

APPLICANT:

City and County of Honolulu ("City") on behalf of the Honolulu Authority for Rapid Transportation

LEGAL REFERENCE:

Sections 171-1, 171-55, 171-95, and Chapter 261, Hawaii Revised Statutes, as amended, and as may be necessary

LOCATION:

Portions of Government lands situated at Moanalua, Honolulu, Island of Oahu, identified by Tax Map Plat Nos. 1-1-03, 1-1-04, and 1-1-14 (various lots along Nimitz Highway, Aolele Street and Ualena Street).

The rail route alignment (referred to in this submittal as "Project") is on and over Department of Transportation's (DOT) lands (referred to in this submittal as "Airport Lands") is located at Honolulu International Airport (HNL) which extends from and

along Nimitz Highway, turns south along Aolele Street and continues eastbound, bisecting Airport Lands to Ualena Street, and over Lagoon Drive. The approximate location of the rail route alignment is depicted in the Airport Layout Plan (**Exhibit 1**).

ZONING:

State Land Use District: Industrial
County: Industrial

LAND TITLE STATUS

Section 5(a) land of the Hawaii Admissions Act: Non-ceded
DHHL 30% entitlement lands pursuant to the Hawaii State Constitution: YES__ NO X

CURRENT USE STATUS:

Land presently encumbered by Governor’s Executive Order Nos. 3201 and 3894, setting aside a portion of HNL to be under the control and management of the State of Hawaii, DOT, for Airport Purposes.

CHARACTER OF USE:

Right, privilege and authority to construct, use, maintain and repair a right-of-way on and over State-owned land for the purpose of an elevated guideway, rail transit station, pedestrian connector(s) to the airport terminal(s), and utility facilities.

CHAPTER 343, HRS – ENVIRONMENTAL ASSESSMENT:

The Final Environmental Impact Statement acceptance notice for the Honolulu High Capacity Transit Corridor subject project was published in the OEQC’s Environmental Notice on January 8, 2011.

On August 24, 2012, the Hawaii Supreme Court ruled that the City should have completed archaeological survey work along the entire proposed rail transit route prior to starting construction.

In February 2013 the field work for the Archaeological Inventory Survey (“AIS”) along with the entire proposed transit route was completed and the AIS reports were submitted to Department of Land and Natural Resources’ State Historic Preservation Division (“SHPD”) for review. On August 27, 2013, SHPD confirmed the AIS was received, reviewed, and accepted (**Exhibit 2**).

BACKGROUND:

The City, through the Honolulu Authority for Rapid Transportation (HART), a semi-autonomous agency of the City, is constructing the Honolulu Rail Transit Project (HRTP), which is a fixed guideway system. Under Section 17-103 of the Revised Charter of the City, as amended, HART has the authority to develop, operate, maintain and expand the HRTP.

The City has worked with the DOT to develop an agreement titled “Master Agreement Between The City and County of Honolulu and the State of Hawaii For The Honolulu Rail Transit Project (Sections to and from: Kamehameha Highway Guideway, Airport Guideway and City Center Guideway)” and referred to in this submittal as the “Master Agreement”. The Master Agreement includes the Airport Special Provisions (ASP) that clarifies the terms under which the City may construct, operate and maintain the Project on and over Airport Lands. The terms protect the DOT, Airports Division (DOTA, the airport sponsor) in a manner that permits DOTA to comply with its grant assurances, guidelines, obligations and agreements.

The ASP provides the guidelines for the subject easements on Airport Lands. When the terms contained in the Master Agreement do not adequately address the specific use and occupancy of Airport Lands impacted by the Project and in the event of any conflict between the terms of the Master Agreement and the ASP, the terms of the ASP shall prevail. The pertinent terms of the ASP are listed below:

- Commencement Date: Upon approval as to form and content by the DOT, the Office of the Attorney General, the City Council; and subject to Land Board approval
- Term: Sixty-five (65) years, plus additional period of time subject to negotiation
- Consideration: One dollar (\$1) per year (nominal rate approved by the Federal Aviation Administration [FAA] in its letter to DOTA dated August 20, 2013), for the initial 65-year term
- Terms & Conditions: Unique terms to the DOTA, as may be amended from time to time and further subject to the following conditions of the City to:
- Be solely responsible for those additional costs incurred by the State which are over and beyond the State’s typical design and construction costs to mitigate the relocation/replacement of existing facilities and land uses impacted; efficient and safe use of navigable airspace by aircraft; and efficient use of lands for aviation uses

- Agree to unrestricted access of Airport Lands under the Project's elevated rail
- Work with the State to grant exemptions from development standards and improvements under or near the Project to allow for maximum operational efficiency on Airport Lands
- Work with the State, FAA, and the Transportation Security Administration (TSA) to include appropriate safety and security protocols in the City's Safety and Security Plans specific to the Airport Transit Station and Project on and over Airport Lands
- Comply with airport and airspace restrictions
- Construct the Airport Transit Station and Pedestrian Connector(s) provided it:
 - Grants the DOTA the right to all advertising, vending, and other non-rail fare revenues in these improvements
 - Provides adequate maintenance and janitorial services at its own cost
- Offer the DOTA the first option to acquire any land and property that the City and/or its successors acquired that is adjacent to Airport Lands or areas identified on the Airport Layout Plan as clearance zone, or areas to be acquired to prevent future incompatible land uses

CITY REQUIREMENTS:

City shall be required to:

1. Obtain approval from the Honolulu City Council to enter into an intergovernmental agreement with DOT. Subsequently, on September 11, 2013, the Council consented to and approved the subject Master Agreement by City Council Resolution No. 13-203. Commencement date of the Master Agreement will be the date of execution;
2. Provide survey maps and descriptions of the non-exclusive easements subject to DOT's approval and according to State DAGS' standards, and at the City's own cost;

3. Process and obtain all subdivision approvals for the non-exclusive easements at the City's own cost; and
4. Adhere to the terms that are outlined in the Master Agreement.

REMARKS:

To serve the public's interest, the DOT is willing to permit the Applicant to provide rail as an additional mode of public transportation to HNL by allowing a segment of the Project to be on Airports Land. The DOTA has met and continues to collaborate with FAA and TSA regarding security and operational procedures on Airports Land.

RECOMMENDATION: That the Board:

1. Authorize the issuance of right-of-entry permits to the Applicant, covering the subject area for the construction, repair and maintenance of an elevated guideway, rail transit station, pedestrian connector(s) and utility facilities, under the terms and conditions cited above, and which are by this reference incorporated herein, and further subject to such terms and conditions as may be prescribed by the Director of Transportation to best serve the interests of the State;
2. Authorize the issuance of non-exclusive term easement(s) to the City on behalf of HART, covering subject areas for an elevated guideway, rail transit station, and pedestrian connector(s) and utility facilities, under the terms and conditions cited above, which are by this reference incorporated herein, and further subject to the following:
 - a. The standard terms and conditions of the most current easement document, as may be amended from time to time;
 - b. Review and approval by the Department of Attorney General; and
 - c. Such other terms and conditions as may be prescribed by the Director of Transportation to best serve the interests of the State.
3. Authorize the issuance of non-exclusive term easement(s) in favor of the City on behalf of HART, covering subject areas for utility facilities to service an elevated guideway, rail transit station, and pedestrian connector(s), under the terms and conditions cited above, which are by this reference incorporated herein, and further subject to the following:

- a. The standard terms and conditions of the most current easement document, as may be amended from time to time;
- b. Review and approval by the Department of Attorney General; and
- c. Such other terms and conditions as may be prescribed by the Director of Transportation to best serve the interests of the State.

Respectfully submitted,



GLENN M. OKIMOTO, Ph.D.
Director of Transportation

APPROVED FOR SUBMITTAL:



WILLIAM J. AILA, JR.
Chairperson and Member

NEIL ABERCROMBIE
GOVERNOR OF HAWAII



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES

HISTORIC PRESERVATION DIVISION
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CONSERVATION AND RESOURCES ENFORCEMENT
ENGINEERING

FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
ISLAND RESERVE COMMISSION
LAND
STATE PARKS

August 27, 2013

Mr. Dan Grabauskas
Executive Director and CEO
Honolulu Authority for Rapid Transit
City and County of Honolulu
1099 Alakea Street, 17th Floor
Honolulu, HI 96813

LOG NO.: 2013.4987
DOC. NO.: 1308SL23

Dear Mr. Grabauskas:

**Subject: Chapter 6E-8 and National Historic Preservation Act (NHPA) Section 106 Review—
Archaeological Inventory Survey Report for the Honolulu High-Capacity Transit Corridor
Project, West Kapolei to Ala Moana Center
Honouliuli, Ho'ae'ae, Waikale, Waipi'o, Waiawa Manana, Waimano, Waiawa, Waimalu, Kaluaeo,
'Aiea, and Halawa Ahupua'a, 'Ewa District and Moanalua, Kalihi, Kapalama, Honolulu, and
Waikiki Ahupua'a, Honolulu (Kona) District, Island of O'ahu
TMK: (1) 1-1, 1-2, 1-5, 1-7, 2-1, 2-3, 9-1, 9-4, 9-6, 9-7, 9-8, and 9-9 (Various Plats and Parcels)**

SHPD has received, reviewed, and hereby accepts the archaeological inventory survey reports for the Honolulu High-Capacity Transit Corridor Project (HHCTCP or project), including all phases of the project. The reports are collectively referred to herein as "the AIS." Supportive documentation is provided in four appendices (A-D).

The Honolulu High-Capacity Transit Corridor Project (HHCTCP) includes the use of federal funds and involves lands under several jurisdictions, including Federal, State, City and County of Honolulu, and private. Pursuant to 36 CFR 800.3(a), the proposed project constitutes an undertaking subject to review under Section 106. The project was determined to have an adverse effect on historic properties within the transit corridor and a Programmatic Agreement was executed on January 18, 2011 between the Federal Transit Administration (FTA), the Hawaii State Historic Preservation Officer (SHPO), the US Navy and the Advisory Council on Historic Preservation as signatories and the City and County of Honolulu as an invited Signatory. An archaeological inventory survey for the four phases of the project under HAR Chapter 13-276 is stipulated as a mitigation measure in the PA. The PA also stipulates that archaeological fieldwork would be done in advance of the completion of final design and approved by SHPD. The terms of the Programmatic Agreement also stipulate that the Area of Potential Effect (APE) for archaeological resources is all areas of direct ground disturbance.

The area of direct ground disturbance for the entire 23 mile corridor is approximately 113 acres, and the survey study area is the 23 mile corridor. A total of 423 test trenches were excavated for this AIS. A list of accepted reports, dates of acceptance, SHPD log and document numbers, the APE and survey areas, and historic properties and mitigation is included as Appendix A to this letter. An Archaeological Inventory Survey Plan was accepted for each of the project's four phases, and Addendum Archaeological Survey Plans were accepted for Phases 3 and 4. All plans are collectively referred to as "AISP."

Archaeological Inventory Survey Reports were accepted for each of the project's four phases and a Supplemental Archaeological Inventory Survey Report was accepted for Phase 2. SHPD acceptance letters are attached to this letter as Appendix D. We confirm that the archaeological inventory surveys for all phases were conducted in accordance with the AISP for the corresponding phase of the project.

Mr. Grabauskas
August 26, 2013
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A total of 21 historic properties were found throughout the corridor. Two additional historic properties have the potential to be affected but were not relocated (SIHP Sites 7197 and 5966). Appendix B lists all of the historic properties that are potentially affected by this project. SHPD has concurred with the proposed significance determinations as listed in Appendix B. SHPD also concurs with the proposed effect determination, which is an "adverse effect" on historic properties under 36 CFR 800(5) and "effect with proposed mitigation commitments" under HAR §13-275-7(2). Thus, mitigation recommendations were provided and are listed in Appendix B. SHPD concurs with the mitigation proposals as listed.

In addition, SHPD received comments from 13 individuals with a total of 98 comments related to archaeological inventory survey for the entire Rail Corridor. The majority of the comments requested more test trenches in column locations, station locations and utility relocation corridors. Several of the comments requested more testing in areas that had been abandoned due to meeting the water table or due to unstable soil. Fifty-seven comments were about Phase 4, with 49 of those comments requesting more testing. A total of 38 comments addressed the first three phases of rail, with most requesting additional testing. Thirteen comments addressed underground karst caves and water systems and their relation to cultural practices at shore.

SHPD reviewed and considered all of the comments and believes that adequate testing has been done for this project. Several of the comments related to sites outside of the project corridor. Data recovery is the mitigation proposed for a total of nine sites, eight (8) in the City Center phase and one (1) within the Waipahu Transit Center Station footprint (Site 7751). Data recovery fieldwork is complete at Site 7751 and an Interim Protection Plan (IPP) pursuant to HAR§13-275-9(d) is being prepared for the eight (8) sites in the City Center. SHPD notes that any burials found during data recovery are considered previously known and the determination to remain in place or relocate those *iwi* will be the purview of the O'ahu Island Burial Council. A table listing all of the comments and responses will be posted on the HART website in September.

The AIS for the project, including the entire rail corridor, meets the requirements specified in the *Secretary of the Interior's Standards for Archeological Documentation* and the requirements set forth in HAR Chapter 13-276 "Rules governing standards for Archeological Inventory Surveys and Reports." Hard copies of the final reports and PDF's have been requested in prior correspondence. Appendix C lists all of the volumes related to the AIS for this project and encompassed by this acceptance letter. We look forward to receiving an IPP and detailed mitigation plans per HAR Chapters 13-275-8, 9 and 10. Please contact Dr. Susan A Lebo at (808) 692-8019 or Susan.A.Lebo@hawaii.gov if you have any questions regarding this letter.

Aloha,



William J. Aila, Jr.
State Historic Preservation Officer

Enclosures:

- Appendix A: HCRTCP List of Reports Accepted by SHPD
- Appendix B: List of Potentially Affected Sites, Significance and Mitigation
- Appendix C: List of Reports Associated with the Archaeological Inventory Survey for the Honolulu High Capacity Rapid Transit Corridor Project.
- Appendix D: SHPD Acceptance Letters for the Honolulu High Capacity Rapid Transit Corridor