



U.S. Department  
of Transportation  
**Federal Transit  
Administration**

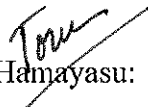
REGION IX  
Arizona, California,  
Hawaii, Nevada, Guam  
American Samoa,  
Northern Mariana Islands

201 Mission Street  
Suite 1650  
San Francisco, CA 94105-1839  
415-744-3133  
415-744-2726 (fax)

DEC 29 2011

Mr. Kenneth Toru Hamayasu  
Interim Executive Director and CEO  
Honolulu Authority for Rapid Transportation  
Alii Place, Suite 1700  
1099 Alakea Street  
Honolulu, HI 96813

Re: Approval to Enter Final Design  
Honolulu High Capacity Transit Corridor Project

  
Dear Mr. Hamayasu:

The Federal Transit Administration (FTA) is pleased to inform you that the Honolulu Authority for Rapid Transportation's (HART) and the City and County of Honolulu's (the City) request to enter final design for the Honolulu High Capacity Transit Corridor Project (the Project) is approved. This approval to initiate final design is a requirement of Federal transit laws governing the New Starts Program (49 U.S.C. Section 5309(e)(6)).

FTA is required by law to evaluate proposed New Starts projects against a number of criteria and ensure prospective grant recipients demonstrate the technical, legal and financial capability to implement the project. As a result of FTA's evaluation of the Project, an overall project rating of "Medium-High" was assigned.

With this final design approval, HART has automatic pre-award authority to incur costs for final design activities, demolition, and other non-construction activities such as the procurement of rails, ties, commodities, and other specialized equipment. HART should contact the FTA Region IX office for a determination of whether any other proposed non-construction activity falls within the automatic pre-award authority granted with final design approval.

In addition, in accordance with FTA's Final Policy Guidance on New and Small Starts, published September 2, 2009, HART has automatic pre-award authority to procure vehicles and perform utility relocation since the National Environmental Policy Act process has previously been completed. FTA reminds HART that the procurement of vehicles must comply with all Federal requirements including, but not limited to, competitive procurement practices, the Americans with Disabilities Act, Buy America, and Ship America. FTA encourages HART to discuss the procurement of vehicles with FTA prior to exercising the pre-award authority.

This pre-award authority does not constitute any FTA commitment that future Federal funds will be approved for this Project or any element of the Project. As with all pre-award authority, all Federal requirements must be met prior to incurring costs in order to retain eligibility for future FTA grant assistance. This approval also does not constitute approval to start any physical construction activity other than those highlighted above without the issuance of a Letter of No Prejudice.

### **Financial Capacity Assessment**

The current capital cost estimate for the project is \$5,125.96 million in Year of Expenditure dollars, which includes \$246.98 million in finance charges. HART is seeking \$1,550.00 million in New Starts funds (30.2 percent). Please be advised that, consistent with FTA's established policy, the amount of New Starts funding is fixed at the time of entry into final design. Thus, \$1,550.00 million represents the maximum amount of New Starts funds that will be provided by FTA for the Project, should a Full Funding Grant Agreement (FFGA) be approved.

Regarding the Financial Capacity Assessment, FTA notes that the financial plan HART submitted is sufficient to advance the project into final design. However, it must be further strengthened before FTA will consider awarding an FFGA.

Specifically, the financial plan states that additional revenues may be obtained from an extension of the General Excise Tax or implementation of value capture mechanisms. However, these revenue sources require actions by the State of Hawaii and/or the City that have not been taken and which are beyond HART's ability to control. Prior to the Project's consideration for an FFGA, HART should demonstrate the availability of additional revenue sources that could be tapped should unexpected events such as cost increases or funding shortfalls occur.

Additionally, HART made assumptions in three areas that require further justification or amendment: (1) the containment of bus and HandiVan operating expenses; (2) the increasing share of the City's annual budget required to fund the transit system; and (3) the diversion of Section 5307 funds from preventive maintenance to the Project. Prior to the Project's consideration for an FFGA, HART should either provide further documentation justifying the reasonableness of these assumptions or consider revising these assumptions to more closely follow historical patterns.

### **Scope, Cost, Schedule, Risk and Technical Capacity**

In July 2011, HART was established to oversee the Project, replacing the City as the project sponsor. At present HART is the project sponsor for the Project and the City is the direct recipient of FTA grant funds. It has not yet been decided if the grantee responsibilities will transition from the City to HART. Early in final design, the City and HART will need to notify FTA of a final decision regarding grantee responsibility so that any necessary preparations can be made in advance of the Project's consideration for an FFGA.

FTA has determined that HART and the City have the technical capacity and capability to effectively manage the final design phase of project development. FTA's Project Management Oversight Contractor (PMOC) found that the current cost estimate for the Project is fair and reasonable for the present stage of project development. The PMOC also found that Project scope development is sufficient for entry in final design.

During final design, HART must address the following items noted in the PMOC report, which represent risks to the Project cost and schedule:

- **Project Scope:** resolve the Ala Moana Station design and the location of the pre-cast yard and ensure that all contractors meet Buy America and Ship America requirements.
- **Project Management Plan (PMP):** update the PMP to address the creation of HART; expand staff as planned, revise the staffing plan, and update the final design organization chart to include the positions identified in the PMOC report; expand the sections on construction management and testing and start up; and update and develop the Design-Bid-Build Resident Engineer and Inspection Manual.
- **Technical Capacity and Capability:** develop a succession plan to ensure knowledge transfer for key management positions considered short term and hire a real estate acquisition consultant knowledgeable about the requirements of the Uniform Relocation Act and FTA real estate requirements.
- **Real Estate Acquisition and Management Plan (RAMP):** ensure that all real estate activities comply with the Record of Decision and update the RAMP to reflect the creation of HART.

The Project capital cost of \$5,125.96 million assumes \$104 million in cost savings from eight proposed cost reduction measures. FTA has accepted the cost reduction measures for purposes of moving forward with final design approval. However, additional supporting documentation regarding these cost reduction measures will need to be provided to FTA for review and validation. Within six months of final design approval, HART should provide the following to FTA:

1. Documentation to support the cost and schedule impacts of the cost reduction measures.
2. Information to verify that other aspects of the Project are not degraded as a result of implementing the cost reduction measures, such as safety and security, transit capacity, operations, maintainability, and service to the community.

HART must ensure that the project design changes comply with the Americans with Disabilities Act and provide for appropriate emergency evacuation. FTA and HART will work together to determine if any environmental impacts resulting from the Project changes related to the cost reduction measures need to be addressed.

## **Safety and Security**

The Hawaii Department of Transportation (HDOT) should accelerate the hiring process and select a qualified State Safety Oversight Agency (SSOA) project manager by February 2012. In addition, no later than the first quarter of calendar year 2012, HDOT and HART should execute a memorandum of agreement, and HDOT should identify internal staff or select an SSOA consultant to work on SSOA issues.

Specifically regarding the safety and security of the proposed cost reduction measures, HART should conduct hazard and threat/vulnerability analyses to ensure that the design criteria, as well as the design, construction, safety and security certification, and start-up of the Project, conform to local, state and national codes and standards.

## **Civil Rights**

Pursuant to the Civil Rights Act of 1964 and its implementing regulations, including FTA Circular 4702.1 (Title VI Program Guidelines for FTA Recipients, Part II, Section 114), FTA approved the City's Title VI program on November 18, 2011. FTA also informed the City that an update to the Title VI program must be submitted to FTA at least 30 calendar days prior to June 10, 2013, which is the expiration of the current Title VI approval. The City will need to perform a Title VI service and fare equity analysis six months prior to revenue operations of the Project.

FTA concurred with the City's Disadvantaged Business Enterprise (DBE) Program on April 29, 2002. Due to recent regulatory changes that became effective in February 2011, the City must update its DBE program. Specifically, the revised program must include a small business utilization program pursuant to 49 C.F.R. §26.39. In addition, under 49 CFR § 26.45(e)(3), the FTA Administrator can require an FTA recipient to set a Project goal. Pursuant to that authority, the Administrator is hereby requiring the City to establish a Project specific DBE goal. Because the City is subject to the Western State's Paving decision in the 9th Circuit, the City should examine the specific evidence it has of discrimination as appropriate, for example Hawaii's disparity study. The City should consider all direct, prime and sub contracting possibilities in the establishment of a Project goal. FTA can provide technical assistance since FTA is aware that some of the Project contracts have already been awarded. The draft goal must also be developed in consultation with minority, women's and general contractor groups, community organizations, and other officials and organizations that could be expected to have information concerning the availability of DBEs and non-disadvantaged business, the effects of discrimination on opportunities for DBEs, and the City's efforts to establish a level playing field for the participation of DBEs. The City must also publish a notice in a newspaper of general circulation announcing the revised DBE program and the Project goal to allow interested members of the public to comment. Please be advised that the Project specific goal must also take into consideration all available evidence of past discrimination and must cover the life of the Project from design to operation. The City is also required to establish a timeline for regular updates to this goal. This goal, and the participation that results from it, must be reported separately from the City's overall DBE goal. The City must submit the revised DBE program and draft Project goal to FTA's Office of Civil Rights within 60 days of receipt of this letter.

FTA looks forward to continuing to work with you on this important transit Project. If you have any questions, please call me at (415) 744-3133 or Catherine Luu at (415) 744-2730.

Sincerely,

A handwritten signature in black ink, appearing to read "Leslie T. Rogers". The signature is fluid and cursive, with the first name "Leslie" being larger and more prominent than the last name "Rogers".

Leslie T. Rogers  
Regional Administrator

cc: Mr. Wayne Yoshioka, City and County of Honolulu Department of Transportation Services