

**MEMORANDUM OF AGREEMENT
AMONG THE FEDERAL HIGHWAY ADMINISTRATION
THE HAWAII STATE HISTORIC PRESERVATION OFFICER
AND THE ADVISORY COUNCIL ON HISTORIC PRESERVATION
REGARDING THE LEEWARD BIKEWAY
PHILIPPINE SEA ROAD TO WAIPAHU DEPOT STREET
Federal Aid Project No. STP-BW-0300(8)
District of Ewa, Oahu, Hawaii**

WHEREAS, the Federal Highway Administration (FHWA) plans to provide assistance to the Project pursuant to the Federal-aid Highway Program as described in Title 23 USC § 101 et seq.; and

WHEREAS, FHWA has determined that the Project is an undertaking, as defined in 36 CFR § 800.16(y), and thus is subject to review under Section 106 of the National Historic Preservation Act (NHPA), 54 U.S.C. § 306108, and its implementing regulations, 36 CFR § 800; and

WHEREAS, the Hawaii Department of Transportation (HDOT) proposes to design and construct the Leeward Bikeway project (Project); and

WHEREAS, the undertaking consists of the construction of the Leeward Bikeway with project limits that include two sections connected by the existing approximately two-mile long West Loch Bike Path on either end to form a continuous path. The first section of the Leeward Bikeway would begin at Philippine Sea Road and extend approximately 10,500 feet east to connect with the southwest end of the West Loch Bike Path, and the second section of the Leeward Bikeway would begin at the northeast end of the West Loch Bike Path and extend approximately 6,900 feet east to its terminus at Waipahu Depot Street (see Exhibit 1); and

WHEREAS, the FHWA has defined the undertaking's area of potential effect (APE) as the area comprising portions of tax map keys (TMKs) (1) 9-1-017: 003, 008, 044, 045; (1) 9-4-001: 002, 011; (1) 9-4-011: 011, 104; (1) 9-1-064: 116; (1) 9-1-069: 002, 003, 010; (1) 9-1-126: 008, 013; (1) 9-3-001: 006, 021; and (1) 9-3-002: 029 (see Exhibit 2); and

WHEREAS, the FHWA has determined that the following properties within the APE are either listed on or eligible for listing on the National Register of Historic Places (NRHP): 1) former OR&L ROW; 2) Waikele Stream Bridge; 3) Kapakahi Stream Bridge; 4) Pouhala fishpond; and

WHEREAS, the FHWA has determined that the Pouhala fishpond is eligible for the NRHP under Criterion D; and

WHEREAS, the FHWA has determined that the undertaking will have an adverse effect on the Waikele Stream Bridge and the Kapakahi Stream Bridge which are individually eligible for the NRHP under Criteria A and C. The former OR&L ROW from Arizona Road to Lualualei Naval Road is listed on the NRHP as Reference No. 75000621 and it was further determined that the area owned by HDOT is a historic district eligible under Criteria A and B. Another portion of the former OR&L ROW from Arizona Road to Waipahu Depot Street is not listed on the NRHP. FHWA has evaluated the portion from Arizona Road to Waipahu Depot Street to be viewed as

part of the OR&L linear historic district. Since the bridges are contributing elements that would be removed as part of the undertaking, there is an adverse effect to the former OR&L ROW; and

WHEREAS, the FHWA has consulted with the Hawaii State Historic Preservation Officer (SHPO) and the SHPO concurred with the adverse effect determination by letter dated July 27, 2018 (Log No.: 2018.01453, 2018.01758, Doc. No.: 1807SH27, Archaeology); and

WHEREAS, the HDOT, as landowner, project proponent and applicant for Federal assistance, participated in consultation, is an invited signatory to this Memorandum of Agreement (MOA); and

WHEREAS, FHWA and HDOT have notified Native Hawaiian organizations (NHOs) and interested parties via U. S. Postal Service mail for the purpose of consultation regarding the effects of the undertaking on historic properties on November 30, 2017 (Reference No. HWY-DD 2.5673); and

WHEREAS, a Section 106 notice/advertisement was included in the December 5, 2017 Honolulu Star-Advertiser regarding the undertaking; and

WHEREAS, FHWA has consulted with the Hawaiian Railway Society (HWNRS), Historic Hawaii Foundation (HHF), Hawaii Bicycling League (HBL), National Trust for Historic Preservation (NTHP), and Clifford Ahuna regarding the effects of the undertaking on historic properties; and

WHEREAS, the above consulting parties were notified about the Leeward Bikeway Project and were provided opportunities to comment at the following Section 106 Consultation meetings held on the following dates and times:

October 25, 2017, 1:30 PM, HDOT 5th Floor Conference Room;
November 15, 2017, 9:00 AM, FHWA Conference Room;
December 20, 2017, 1:30 PM, HDOT 5th Floor Conference Room;
January 17, 2018, 1:30 PM, FHWA Conference Room;
February 14, 2018, 1:30 PM, HDOT 5th Floor Conference Room;
March 14, 2018, 2:00 PM, HDOT 5th Floor Conference Room;
April 11, 2018, 1:00 PM, HDOT 5th Floor Conference Room;
May 9, 2018, 1:00 PM, HDOT 5th Floor Conference Room;
August 14, 2018, 1:30 PM, FHWA Conference Room; and

WHEREAS, FHWA has invited the Hawaiian Railway Society (HWNRS), Historic Hawaii Foundation (HHF), Hawaii Bicycling League (HBL), National Trust for Historic Preservation (NTHP), and Clifford Ahuna to sign this MOA as concurring parties; and

WHEREAS, in accordance with 36 CFR § 800.6(a)(1), FHWA has notified the ACHP of its adverse effect determination with specified documentation, and the ACHP has chosen to participate in the consultation pursuant to 36 CFR § 800.6(a)(1)(iii); and

NOW, THEREFORE, the FHWA, SHPO, and ACHP agree that the undertaking shall be implemented in accordance with the following stipulations in order to take into account the effect of the undertaking on historic properties.

STIPULATIONS

The FHWA, with the assistance of HDOT, shall ensure the following measures are implemented:

I. DESIGN SPECIFICATIONS AND REVIEW FOR REPLACEMENT BRIDGES

A. Context Sensitive Design

1. The HDOT has developed conceptual bridge construction plans for the replacement of the Waikele and Kapakahi Stream Bridges using a context sensitive design process. The final designs of the replacement bridges shall be substantively as depicted in the drawings in the attached Exhibit 3 and shall include:
 - a. The span length of both bridges will be longer than the original bridges to allow for the clear span of the Waikele and Kapakahi Streams and reduce need for structures in the water.
 - b. The dimensions of the cross-sections of the replacement bridges, as much as practicable, shall match the width of the original bridges.
 - c. The dimensions of the railings of the replacement bridges, as much as practicable, shall match the height of the original bridge parapets.
 - d. Use of non-structural concrete stiffeners shall be applied to the faces of the parapets, matching the spacing and pattern of the historic use of parapet bracing that is present on the original steel plate girders.
2. The HDOT distributed on March 16, 2018, the conceptual bridge construction plans incorporating the context sensitive design to the signatories and consulting parties, and there is agreement with the proposed design dated August 30, 2016.

II. DOCUMENTATION

A. Historic American Engineering Record (HAER) Documentation

1. The HDOT shall prepare Historic American Engineering Record (HAER) Documentation Level III, for the recordation of the Waikele Stream Bridge and the Kapakahi Stream Bridge as mitigation to address the adverse effects of the demolition and rehabilitation of the bridges. The HAER document shall be prepared in accordance with its standards and specifications and by a historic preservation professional meeting the Secretary of the Interior's Professional Qualifications Standards (36 CFR 61) for History, Architectural History, Architecture, or Historic Architecture prior to the removal of historic features of the bridges.

2. HDOT shall ensure that all documentation activities will be performed or directly supervised by architects, historians, photographers and/or other professionals meeting the minimum qualifications in their field as specified in the Secretary of Interior's Professional Qualifications Standards (36 CFR 61; Appendix A).
3. HDOT shall provide originals of all records resulting from the documentation to the National Park Service (NPS) and shall consult with NPS regarding inclusion of the final document at the Library of Congress. HDOT shall also consult with NPS regarding other repositories for the final document.
4. Upon acceptance of the HAER documentation by NPS, HDOT shall provide the SHPO with the final HAER documentation and number; HDOT shall submit the final HAER documentation to SHPO in digital format complete with a State Inventory of Historic Places (SIHP) request.
5. HDOT shall complete the HAER documentation before the start of removal of the historic features of Waikele Stream Bridge and Kapakahi Stream Bridge.

III. PRESERVATION AND SALVAGE OF HISTORIC MATERIALS

- A. The HDOT shall salvage approximately five-foot long end sections of both the mauka and makai steel plate girder walls from the east end of Kapakahi Stream Bridge. The sections shall be offered to HWNRS within 60 days of the demolition of the existing bridge.
 1. The HDOT shall offer to meet with the HWNRS no later than 30 days prior to the beginning of demolition to determine the logistics for salvage and delivery of the two bridge end sections.
 2. If HWNRS accepts the offer, the HDOT shall ask the HWNRS to provide the current points of contact for coordination with the HDOT for the salvage and delivery of the two bridge end sections.
 3. If HWNRS elects not to accept the offer, the HDOT may dispose of the salvaged materials at its discretion.
- B. The HDOT shall take reasonable care to salvage and transport the bridge end-sections for use by the HWNRS, but shall make no warranty for the condition of the bridge end-sections delivered to the HWNRS yard due to the age and dilapidated condition of the Kapakahi Stream Bridge structure.

IV. INTERPRETATION

A. Interpretive Signs

1. The HDOT shall prepare an Interpretive Signage Plan (Plan) using a qualified professional in architectural history or historic architecture, in accordance with "Archeology and Historic Preservation: Secretary of the Interior's Standards and

Guidelines [As Amended and Annotated].”¹ The qualified professional shall also have experience with the preparation of plans and specifications for the development of interpretive signs for pedestrian and/or bicycling related facilities.

2. The Plan shall describe the locations, content, and design of the interpretive signs.
3. The content of the interpretive signs shall include the following:
 - a. Historic context for the areas through which the Leeward Bikeway traverses, including Native Hawaiian history, OR&L operations, Mr. Benjamin Franklin Dillingham’s achievements, the sugar cane industry, military history, and design of the historic features associated with the bridges or other historic events, people or construction eras.
 - b. Relevant information documented in HAER reports, archaeological inventory surveys, National Register of Historic Places nominations, the OR&L Bridge Inventory, the OR&L ROW inventory, and other historic research.
4. The design of the interpretive signs including the location, materials, dimension, general appearance and manufacturing specifications, shall consider the following:
 - a. Safety for users of the Leeward Bikeway and to avoid conflicts with pedestrians, bicyclists, or other constraints.
 - b. Quality of design, including readability and usefulness of the interpretive signs to convey information.
 - c. Compatibility of the interpretive signs with the rural and natural environmental character of the area.
 - d. Durability and life expectancy of the interpretive signs.
 - e. Feasibility of installation and maintenance.
 - f. Cost (the budgeted amount for the interpretive signage shall be \$135,000.00).
5. The HDOT shall develop the Interpretive Signage Plan through consultation with the signatories and consulting parties to this MOA, and shall:
 - a. Distribute the Interpretive Signage Plan materials to the signatories and consulting parties to this MOA at three stages (preliminary, interim, and pre-final) for review and comments.

¹ https://www.nps.gov/history/local-law/arch_stnds_9.htm (as of March 2018).

- b. Obtain written comments concerning the Plan from the signatories and consulting parties to this MOA within 30 days of receipt of the materials. Any party may request a meeting to discuss the materials within the 30-day review period.
 - c. Address the comments received in earlier phases when submitting subsequent review materials, with an explanation of how the comments were incorporated or reasons why, if the comments were not incorporated as applicable.
 - d. Have final approval authority over the content and design of the interpretative signs.
 - e. Provide electronic copies of the final Interpretive Signage Plan to the signatories and consulting parties within 60 days of approval.
6. The HDOT shall design, manufacture and install no fewer than eight (8) historic interpretive signs along the Leeward Bikeway in accordance with the Interpretive Signage Plan and prior to the completion of construction of the bikeway. The signs shall include: one sign for the Waikele Stream Bridge, and one sign for the Kapakahi Stream Bridge describing the history of the bridges; and, six (6) signs placed one every 0.5 miles along the route of the Leeward Bikeway. The locations of the signs may be adjusted to account for physical constraints and practical considerations, including the safe use of the bikeway and public accessibility to enjoy the signs.

B. Interpretive Brochure

- 1. The HDOT shall research, write, design and print an interpretive brochure to describe the historic context for the areas through which the Leeward Bikeway traverses, including Native Hawaiian history, OR&L operations, Mr. Benjamin Franklin Dillingham's achievements, the sugar cane industry, military history, and design of the historic features associated with the bridges or other historic events, people or construction eras. The brochure shall be developed and distributed no later than the completion of construction of the Leeward Bikeway.
- 2. The HDOT shall prepare the interpretive brochure using a historic preservation professional who meets the professional qualifications of the Secretary of the Interior's Professional Qualifications Standards (36 CFR 61) for History, Architectural History, Architecture, or Historic Architecture.
- 3. The HDOT shall include in the content of the interpretive brochure relevant information as documented in the HAER reports, archaeological inventory surveys, National Register of Historic Places nomination, OR&L Bridge Inventory, OR&L Right of Way inventory, and other historic research.
- 4. The HDOT shall approve the interpretive brochure based on criteria to include:

- a. Quality of design, including readability and usefulness for conveying information. The brochure shall be 2 - 12 pages in length, as determined through consultation (see below).
 - b. Cost (the budgeted amount for the interpretive brochure shall be \$16,000).
- 5. HDOT shall develop the Interpretive Brochure through consultation with the signatories and consulting parties as follows:
 - a. The HDOT shall distribute the interpretive brochure to the signatories and consulting parties at two stages (preliminary and pre-final) for review and comments.
 - b. The consulting parties shall provide written comments within 30 days of receipt of the materials. Any party may request a meeting to discuss the materials within the 30-day review period.
 - c. The HDOT shall address the comments received in earlier phases when submitting subsequent review materials.
 - d. The HDOT shall have final approval authority over the content and design of the interpretive brochure.
 - e. The HDOT shall provide electronic copies of the final interpretive brochure to the consulting parties within 60 days of final approval.
- 6. The HDOT shall distribute 25 copies each of the final interpretive brochure to the Ewa Beach Public Library, Hawai'i State Library, James Campbell High School, Ewa Beach Elementary School, Ewa Elementary School, the Hawaiian Railway Society, and the Historic Hawai'i Foundation.

V. INADVERTENT DISCOVERY AND UNANTICIPATED EFFECTS

- A. An archaeological monitoring plan (AMP) that meets the requirements of Hawaii Administrative Rules (HAR) 13-279-4 will be prepared for implementation during any earth moving activities taking place over the Pouhala Fishpond for a distance of 50' in the Ewa direction starting at the Kapakahi Stream Bridge. HDOT shall submit the AMP to the State Historic Preservation P Division (SHPD) for review and acceptance prior to the start of any earth moving activities.
- B. If historic properties, with the exception of human remains or burials, are identified or if unanticipated effects on historic properties are found, the HDOT shall notify SHPD and comply with HAR Chapter 13-280 "Rules Governing General Procedures for Inadvertent Discoveries of Historic Properties During a Project Covered by the Historic Preservation Review Process."

- C. Following completion of archaeological monitoring, an archaeological monitoring report meeting the requirements of HAR Chapter 13-279-5 shall be submitted to SHPD for review and acceptance.
- D. In the event that unidentified human skeletal remains are discovered, work in the vicinity of the find shall cease, the area shall be secured, the Police and SHPD shall be notified, and treatment shall proceed in accordance with HRS 6E-43.6 and HAR Chapter 13-300 "Rules of Practice and Procedure Relating to Burial Sites and Human Remains."

VI. REPAIR OF DAMAGE CAUSED BY CONTRACTOR DURING CONSTRUCTION

- A. If damage to historic properties within the former OR&L ROW within the Area of Potential Effect occurs as a result from the willful or unintentional actions of the HDOT's Contractor, the Contractor shall cease all work in the area and immediately contact HDOT. The Contractor shall submit proposed plans and schedule for the repairs to HDOT for approval within 7 days of the incident. The repairs shall restore the historic property to a condition that is the same as or better than before the damage occurred in accordance with the Secretary of the Interior's Standards for the Treatment of Historic Properties (36 CFR 68). If the Contractor does not submit the proposed plans and schedule within 7 days, the Contractor shall cease all work on the project until the proposed plans and schedule are received by HDOT.
- B. The HDOT shall inform the SHPD, signatories, and consulting parties of the damage within 2 days of the Contractor's notification. SHPD will be allowed an opportunity to review the damage. The HDOT shall provide the proposed plans and schedule to SHPD for approval and comments. Any comments by SHPD regarding the proposed repairs shall be transmitted in an official SHPD letter within 14 days of receipt of the proposed plans and schedule. If no comments or approval is received within 14 days, HDOT may approve the Contractor's proposed plan and schedule.
- C. Following approval of the Contractor's proposed plans and schedule by HDOT, HDOT will authorize the Contractor to start the work. HDOT shall inform SHPD when the Contractor is authorized to start work.
- D. Following completion of the repairs, HDOT shall provide SHPD a report documenting compliance with the approved plans and allow SHPD an opportunity to inspect the repairs performed on the historic property. At a minimum, the report may be a letter with a written description and photo documentation of the repairs. If SHPD has any concerns with the repairs, either upon receipt of the report or inspection of the repairs, SHPD shall transmit a formal letter within 14 days of notification indicating any concerns. If no letter is received within 14 days, the repairs shall be considered complete.
- E. If the Contractor fails to comply with the approved plans and schedule, the Contractor shall repair, restore and make good all loss or damage at no increase in contract time or contract price.

VII. DISPUTE RESOLUTION FOR SIGNATORIES AND CONSULTING PARTIES

Should any signatory or consulting party object at any time to any actions proposed or the manner in which the terms of this MOA are implemented, FHWA shall consult with such party to resolve the objection. If FHWA determines that such objection cannot be resolved, FHWA will:

- A. Forward all documentation relevant to the dispute, including the FHWA's proposed resolution, to the ACHP. The ACHP shall provide FHWA with its advice on the resolution of the objection within 30 days of receiving adequate documentation. Prior to reaching a final decision on the dispute, FHWA shall prepare a written response that takes into account any timely advice or comments regarding the dispute from the ACHP and signatories, and provide them with a copy of this written response. FHWA will then proceed according to its final decision.
- B. If the ACHP does not provide its advice regarding the dispute within the 30-day time period, FHWA may make a final decision on the dispute and proceed accordingly. Prior to reaching such a final decision, FHWA shall prepare a written response that takes into account any timely comments regarding the dispute from the signatories to the MOA, and provide them and the ACHP with a copy of such written response.
- C. FHWA responsibilities to carry out all other actions subject to the terms of this MOA that are not the subject of the dispute remain unchanged.

VIII. RESOLVING PUBLIC OBJECTIONS

At any time during implementation of the terms of this Agreement, should any member of the public raise an objection in writing pertaining to such implementation to any signatory party to this Agreement, that signatory party shall immediately notify FHWA. FHWA shall:

- A. Immediately notify the other signatory parties in writing of the objection. Any signatory party may choose to comment on the objection to FHWA.
- B. Establish a reasonable time frame for this comment period. FHWA shall consider the objection, and in reaching its decision, FHWA will take all comments from the other parties into account.
- C. Within 15 days following closure of the comment period, FHWA will render a decision regarding the objection and respond to the objecting party. FHWA will promptly notify the other signatory parties of its decision in writing, including a copy of the response to the objecting party. FHWA's decision regarding resolution of the objection will be final.
- D. Following the issuance of its final decision, FHWA may authorize the action subject to dispute hereunder to proceed in accordance with the terms of that decision. Nothing in

this paragraph creates additional legal rights or responsibilities on the FHWA that are not already afforded under the NHPA.

- E. FHWA's responsibility to carry out all other actions or terms of this MOA that are not the subject of the objection remain unchanged and may proceed.

IX. MONITORING AND REPORTING

At the end of each calendar year following the execution of this MOA, or until it expires or is terminated, the FHWA, with the assistance of HDOT, shall provide all parties to this MOA, a summary report (report) detailing work undertaken pursuant to its terms. The report shall summarize the implementation of the documents identified in the stipulations and any other agreed upon mitigation measures detailed in this MOA. The report shall also include any scheduling changes proposed, any problems encountered, and any disputes and objections received in HDOT's and the FHWA's efforts to carry out the terms of this MOA. A review meeting may be called by the FHWA or HDOT upon request of a signatory, invited signatory or consulting party to this MOA. A Final Report shall be prepared and transmitted to the parties participating in this MOA at the expiration of the MOA.

X. DURATION

This MOA will expire if its terms are not carried out within five (5) years from the date of its execution. Prior to such time, FHWA may consult with other signatories to reconsider the terms of the MOA and amend it in accordance with Stipulation VIII, below.

XI. AMENDMENTS

This MOA may be amended when such an amendment is agreed to in writing by all signatories, after consultation with the signatories. The amendment will be effective on the date a copy signed by all of the signatories is filed with the ACHP.

XII. TERMINATION

If any signatory to this MOA determines that its terms will not or cannot be carried out, that party shall immediately consult with the other signatories to attempt to develop an amendment per Stipulation VIII, above. If within 30 days (or another time period agreed to by all signatories) an amendment cannot be reached, any signatory may terminate the MOA upon written notification to the other signatories. Once the MOA is terminated, and prior to work continuing on the undertaking, the FHWA must either (a) execute an MOA pursuant to 36 CFR §800.6 or (b) request, take into account, and respond to the comments of the ACHP under 36 CFR § 800.7. The FHWA shall notify the signatories as to the course of action it will pursue. Execution of this MOA by the FHWA, SHPO and the ACHP, and the implementation of its terms evidence that the FHWA taken into account the effects of this undertaking on historic properties and afforded the ACHP an opportunity to comment.

XIII. COUNTERPART SIGNATURES

This MOA may be executed in counterparts. Each signature page shall be incorporated into the MOA and considered a part of this MOA.

Execution of this MOA by the FHWA, HDOT, SHPO, and the ACHP and implementation of its terms evidence that FHWA has taken into account the effects of this undertaking on historic properties and afforded the ACHP an opportunity to comment.

APPROVAL

The following organizations are identified as parties to this MOA:

Signatories:

Federal Highway Administration
Hawaii State Historic Preservation Officer
Advisory Council on Historic Preservation

Invited Signatory:

Hawaii Department of Transportation

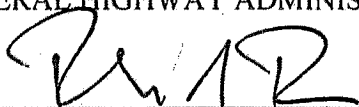
Consulting Parties:

Hawaiian Railway Society
Historic Hawaii Foundation
Hawaii Bicycling League
National Trust for Historic Preservation
Clifford Ahuna

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PHILIPPINE SEA ROAD TO WAIPAHU DEPOT STREET
Federal Aid Project No. STP-BW-0300(8)
District of Ewa, Oahu, Hawaii

SIGNATORY:

FEDERAL HIGHWAY ADMINISTRATION

By:  Date: 4/25/19
Ralph Rizzo, Division Administrator

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SIGNATORY:

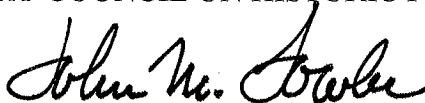
HAWAII STATE HISTORIC PRESERVATION OFFICER

By:  Date: 5.15.19
Alan Downer, Deputy State Historic Preservation Officer

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SIGNATORY:

ADVISORY COUNCIL ON HISTORIC PRESERVATION

By:  Date: 6/24/19
John M. Fowler, Executive Director

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INVITED SIGNATORY:

HAWAII DEPARTMENT OF TRANSPORTATION

By: 

Jade T. Butay, Director of Transportation

Date: Apr 22, 2019

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CONSULTING PARTY:

HAWAIIAN RAILWAY SOCIETY

By: _____ Date: _____
Robert Yatchmenoff, President

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CONSULTING PARTY:

HISTORIC HAWAII FOUNDATION

By: _____ Date: _____
Kiersten Faulkner, Executive Director


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CONSULTING PARTY:

HAWAII BICYCLING LEAGUE

By: 
Daniel Alexander, Co-Executive Director

Date: 5/17/19

By: 
Chad Taniguchi, Director Emeritus

Date: 5/17/19

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CONSULTING PARTY:

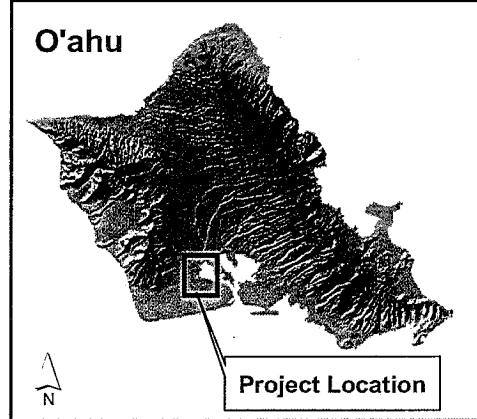
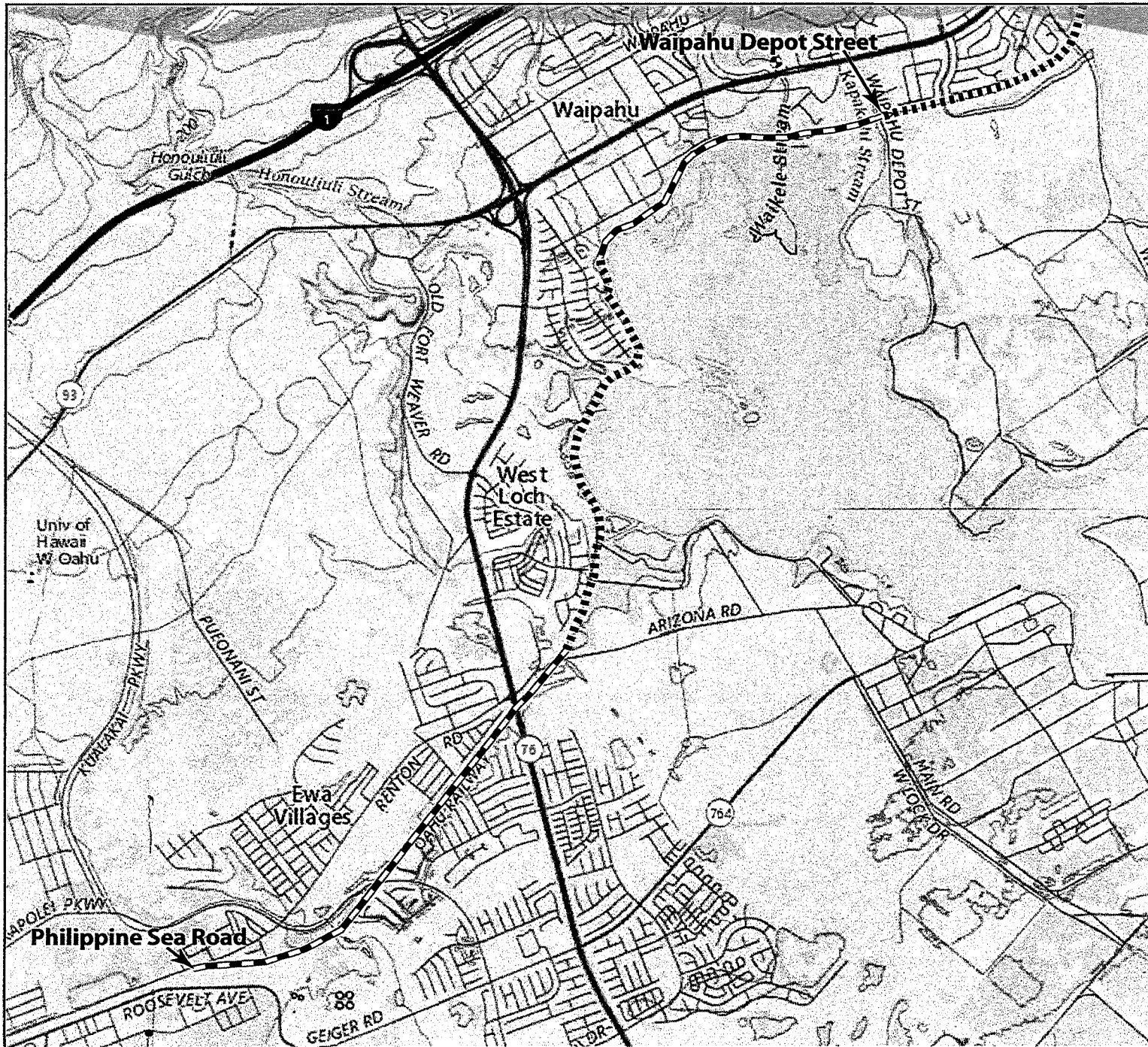
NATIONAL TRUST FOR HISTORIC PRESERVATION

By: _____ Date: _____
Elizabeth S. Merritt, Deputy General Counsel





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CONSULTING PARTY:

By: _____ Date: _____
Clifford Ahuna



Legend

-  Former OR&L ROW
-  Leeward Bikeway
-  Existing West Loch Bike Path
-  Existing Pearl Harbor Historic Trail



0 1,000 2,000 4,000 Feet

Project Location
Leeward Bikeway:
Philippine Sea Road to
Waipahu Depot Street
 Ewa District, O'ahu, Hawai'i

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REGARDING THE LEEWARD BIKEWAY
PHILIPPINE SEA ROAD TO WAIPAHAU DEPOT STREET
Federal Aid Project No. STP-BW-0300(8)
District of Ewa, Oahu, Hawaii**

ACHP's Comments and Edits October 24, 2019

WHEREAS, the Leeward Bikeway Philippine Sea Road to Waipahu Depot Street Memorandum of Agreement ("Agreement") was executed on June 24, 2019;

WHEREAS, changes to the Agreement were proposed by the National Trust for Historic Preservation in a letter dated June 19, 2019 (Attachment 1);

NOW, THEREFORE, in accordance with Stipulation XI of the Agreement, the FHWA, the Hawaii State Historic Preservation Officer (SHPO), and the Advisory Council on Historic Preservation (ACHP) agree to amend the Agreement as follows:

1. Amend Stipulation VI so it reads as follows:

VI. REPAIR OF DAMAGE CAUSED BY CONTRACTOR DURING CONSTRUCTION

- A. If damage to historic properties within the former OR&L ROW within the Area of Potential Effect occurs as a result from the willful or unintentional actions of the HDOT's Contractor, the Contractor shall cease all work in the area and immediately contact the HDOT Construction Resident Engineer. The Contractor shall submit proposed plans and schedule for the repairs to HDOT for approval within 5 business days of the incident. The repairs shall restore the historic property to a condition that is the same as or better than before the damage occurred in accordance with the Secretary of the Interior's Standards for the Treatment of Historic Properties (36 CFR 68). If the Contractor does not submit the proposed plans and schedule within 5 business days, the Contractor shall cease all work on the project until the proposed plans and schedule are received by HDOT.
- B. The HDOT shall inform the SHPD, signatories, and consulting parties of the damage within 2 business days of the Contractor's notification. SHPD and Hawaiian Railway Society (HWNRS) will be allowed an opportunity to review the damage.

The HDOT shall provide the proposed plans and schedule to HWNRS for review and comment. Any comments by HWNRS regarding the proposed repairs shall be transmitted to HDOT, with copies to all Consulting Parties, within 7 business days of

receipt of the proposed plans and schedule. If comments are received by HDOT within 7 business days, HDOT shall review the comments, respond to the comments, and determine if further consultation with HWNRS is necessary.

At the same time HDOT provides the proposed plans and schedule to HWNRS for review, the HDOT shall also provide the proposed plans and schedule to SHPD for review and approval and comments. SHPD may consider comments from HWNRS in their review. Any comments by SHPD regarding the proposed repairs shall be transmitted to HDOT, with copies to all Consulting Parties, in an official SHPD letter within 10 business days of receipt of the proposed plans and schedule. If no comments or approval are ~~or approval is received~~ within 10 business days, HDOT may approve the Contractor's proposed plan and schedule.

If there is a disagreement with the HWNRS and/or SHPD, then FHWA shall follow the dispute resolution process in accordance with Stipulation VII.

- C. Following approval of the Contractor's proposed plans and schedule by HDOT, HDOT will authorize the Contractor to start the work. HDOT shall inform SHPD and HWNRS prior to the date the Contractor is authorized to start work.
- D. Following completion of the repairs, HDOT shall provide SHPD and HWNRS a report documenting compliance with the approved plans and allow SHPD and HWNRS an opportunity to inspect the repairs performed on the historic property. If SHPD and/or HWNRS would like to inspect the repairs, the SHPD and/or HWNRS shall coordinate a date and time with the HDOT Resident Construction Engineer to occur within 10 business days of notification that the repairs are complete. At a minimum, the report may be a letter with a written description and photo documentation of the repairs. If SHPD or HWNRS has any concerns with the repairs, either upon receipt of the report or inspection of the repairs, SHPD or HWNRS shall transmit written notification (email or letter) within 10 business days of notification indicating any concerns. If no written notification (email or letter) is received within 10 business days, the repairs shall be considered complete. If written notification is received from SHPD or HWNRS, HDOT shall review the comments regarding the repairs and determine if further consultation and/or corrective action is necessary. If no further consultation and/or corrective action is determined necessary by HDOT, HDOT shall notify the Consulting Parties of its decision.
- E. If the Contractor fails to comply with the approved plans and schedule, the Contractor shall repair, restore and make good all loss or damage at no increase in contract time or contract price.

F. Amend Stipulation VII so it reads as follows:

VII. DISPUTE RESOLUTION FOR SIGNATORIES AND CONSULTING PARTIES

Should any signatory or consulting party object at any time to any actions proposed or the manner in which the terms of this MOA are implemented, the objecting party shall submit its objection in writing to both the Hawaii Division Administrator and the Federal Preservation Officer for FHWA and also notify all Consulting Parties. Both officials of FHWA shall consult with such party to resolve the objection. If FHWA determines that such objection cannot be resolved, FHWA will:

- A. Forward all documentation relevant to the dispute, including the FHWA's proposed resolution, to the ACHP. The ACHP shall provide FHWA with its advice on the resolution of the objection within 30 days of receiving adequate documentation. Prior to reaching a final decision on the dispute, FHWA shall prepare a written response that takes into account any timely advice or comments regarding the dispute from the ACHP and signatories, and provide them with a copy of this written response. FHWA will then proceed according to its final decision.
- B. If the ACHP does not provide its advice regarding the dispute within the 30-day time period, FHWA may make a final decision on the dispute and proceed accordingly. Prior to reaching such a final decision, FHWA shall prepare a written response that takes into account any timely comments regarding the dispute from the signatories to the MOA, and provide them and the ACHP with a copy of such written response.
- C. FHWA responsibilities to carry out all other actions subject to the terms of this MOA that are not the subject of the dispute remain unchanged.

**AMENDMENT TO
MEMORANDUM OF AGREEMENT
AMONG THE FEDERAL HIGHWAY ADMINISTRATION
THE HAWAII STATE HISTORIC PRESERVATION OFFICER
AND THE ADVISORY COUNCIL ON HISTORIC PRESERVATION
REGARDING THE LEEWARD BIKEWAY
PHILIPPINE SEA ROAD TO WAIPAHAU DEPOT STREET**

SIGNATORIES

Federal Highway Administration
Hawaii State Historic Preservation Division
Advisory Council on Historic Preservation

INVITED SIGNATORY

Hawaii State Department of Transportation

CONCURRING PARTIES

Hawaiian Railway Society
Historic Hawaii Foundation
Hawaii Bicycling League
National Trust for Historic Preservation
Clifford Ahuna

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SIGNATORY:

FEDERAL HIGHWAY ADMINISTRATION

By: _____ Date: _____
Richelle Takara, Acting Division Administrator

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SIGNATORY:

HAWAII STATE HISTORIC PRESERVATION OFFICER

By: _____ Date: _____
Alan Downer, Deputy State Historic Preservation Officer

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SIGNATORY:

ADVISORY COUNCIL ON HISTORIC PRESERVATION

By: _____ Date: _____
John M. Fowler, Executive Director

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PHILIPPINE SEA ROAD TO WAIPAHAU DEPOT STREET**

INVITED SIGNATORY:

HAWAII DEPARTMENT OF TRANSPORTATION

By: _____ Date: _____
Jade T. Butay, Director of Transportation

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CONSULTING PARTY:

HAWAIIAN RAILWAY SOCIETY

By: _____ Date: _____
Robert Yatchmenoff, President

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CONSULTING PARTY:

HISTORIC HAWAII FOUNDATION

By: _____ Date: _____
Kiersten Faulkner, Executive Director

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PHILIPPINE SEA ROAD TO WAIPAHAU DEPOT STREET**

CONSULTING PARTY:

HAWAII BICYCLING LEAGUE

By: _____ Date: _____
Daniel Alexander, Co-Executive Director

By: _____ Date: _____
Chad Taniguchi, Director Emeritus

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PHILIPPINE SEA ROAD TO WAIPAHU DEPOT STREET**

CONSULTING PARTY:

NATIONAL TRUST FOR HISTORIC PRESERVATION

By: _____ Date: _____
Elizabeth S. Merritt, Deputy General Counsel

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CONSULTING PARTY:

By: _____ Date: _____
Clifford Ahuna

RFI Questions and Responses

1. In reviewing the Electrical Plans, there are notations referring to a New Traffic Signal Controller, specifically:

- 1) Sheet E1.3 Drawing 160. "Traffic Signal One-Line Diagram" at top refers to a "New Traffic Signal Controller".
- 2) Sheet E1.4 Drawing 161. "Electrical Site Plan - 2" shows the location of the "New Traffic Signal Controller".

There is no Proposal Item that covers the "New Traffic Signal Controller". Unless it's meant to control the Rectangular Rapid Flash Beacon system on Sheet C1.13 Drawing 28, which would then make it an RRFB Controller. Please confirm if a "New Traffic Signal Controller" is required for this project, and if so, a Proposal Item should be included for both the equipment and installation.

RESPONSE: No Traffic Signal Controller is required. Revised Sheets E1.3 & E1.4 are included in this addendum.

2. Were there any written specifications or details of the location of this 6' fence or the 24' wide Chain Link Gate as per Item No. 607.0200.

RESPONSE: 6' high fence is needed to close gap between new CMU wall and the existing chain link fence as shown on Sheet C3.1. 24' wide chain link fence gate is not needed. Item No. 607.0200 is removed and reflected in the proposal schedule included in this addendum.

3. On Sheet C2.1 it mentions "Install 3' High CMU wall with 3' High Chain Link Fence, See Detail on Sht. C1.10". Is there a line item for this portion of the work that can be inserted?

RESPONSE: Item No. 607.01 revised to cover 3' high chain link fence and the CMU retaining wall work is under Item No. 503.12. The revised proposal schedule is included in this addendum.

4. This 3' high chain link fence states to See D.O.T. Std. Dwg. D-03 for Details. Do I use the same details when pricing out the 6' high chain link Fence?

RESPONSE: Yes, use HDOT Std. Dwg. D-03.

5. Electrical plan E1.4 (Sheet 161) refers to traffic signal drawings for the new traffic signal work shown on the drawings. However, the bid plans do not have traffic signal drawings. Please provide them or advise accordingly.

RESPONSE: No traffic signal work is required. Revised Sheets E1.3 & E1.4 are provided in this addendum.

6. For the Bikeway Pavement Connection at Exist. Conc. Bridge/Sidewalk detail it calls for 3" AC and 12" Aggregate Base Course. But on the Typical Section-17 it calls out for 4" AC and 8" Aggregate Base Course. Please Advise which detail is correct.

RESPONSE: Typical Section 17 is correct. Revised sheet C1.9 is included with this addendum.

7. For the Bikeway Pavement Connection at Exist. A.C. Road detail it shows State Mix IV, but all the typical details shows State Mix V. Please advise which mix to use for this detail.

RESPONSE: Mix V is correct. Revised sheet C1.9 is included with this addendum.

8. Regarding the same detail it shows 3" AC and 12" Aggregate Base Course, Is this detail correct? If so, where does this transition from 4" AC and 8" Base Course to 3" AC and 12" Base Course Begin?

RESPONSE: See typical sections; pavement section is typically 2" AC and 4" base course. Within 20 ft of bridge approach slabs & culvert crossings the pavement section is 4" AC & 8". Revised sheet C1.9 and Pavement Justification Report are included with this addendum.

9. On Sheets 39-41, profile elevation call outs and line work do not seem to match. Does line work or call outs control? How can excavation/embankment quantities be verified? Are plan contours correct?

RESPONSE: Profile elevation callouts are generated from surface which also generates the contour linework. Proposed grade contours appear correct. Contractor to verify quantities by their own means and methods.

10. On Sheets 47 & 48, finished contours and limits of grading extend into Kapolei Parkway. Is work to be done on Kapolei Parkway? Please confirm limits of grading.

RESPONSE: Kapolei Parkway Work shown on sheets C5.1-C5.5. Work includes closure of the existing Park Row Extension and bike path connection will match existing grades of the sidewalk as shown on sheet C5.3

11. On Sheets 70-74, dwarf naupaka is called out, but there is no pay item for it. How will this part of the landscaping be paid for?

RESPONSE: Pay item no. 619.0100 is revised to Dwarf Naupaka and is reflected in the proposal schedule included in this addendum.

12. On Sheet 158, a trench detail for a typical traffic signal duct section is shown. Will any trenching be required on this project?

RESPONSE: Yes, there is trenching for new electrical conduits.

13. Proposal Item 617.0100 is for Imported Planting Soil (18,070 SY), but typical sections on Sheets 16-19 call for Seeded Hydromulch. Please provide clarification on where imported planting soil is to be used and the required thickness.

RESPONSE: Imported planting soil is for the strip of Dwarf Naupaka. 6" thickness. Revised quantity for proposal item 617.0100 is reflected in the proposal schedule included in this addendum.

14. Proposal Item 641.0100 is for Hydro-mulch Seeding (135,900 LS). Please provide clarification on the unit of measure and where hydro-mulch seeding takes place.

RESPONSE: Hydro-mulch seeding is for graded bank slopes along the bike path. Unit of measurement has been revised and is reflected in the proposal schedule included in this addendum.

15. Proposal Item 503.1200 CMU Retaining Wall has a quantity of 535 LF. Plan and Profile sheets show about 3,000 LF of CMU wall. Is there another item that the wall gets paid under? Please clarify.

RESPONSE: Revised proposal item 503.1200 is reflected in the proposal schedule included in this addendum.

16. Section 412 Paving Fabric calls out paving fabric between pavement layers, but only geotextile fabric and geogrid show up on the plans. Does the geotextile fabric in the plans refer to paving fabric? Does geotextile fabric get paid under Item 412.0100 Paving Fabric (17,850 SY)?

RESPONSE: Yes, geotextile fabric falls under item 412.0100

17. General Note 21 on Sheet 3 states a build order for the bridges and other work. Will Contractor be held to this build order?

RESPONSE: No, Note 21 is removed and revised Sheet 3 is included in this addendum.

18. General Note 22 on Sheet 3 refers to salvaging parts of the existing plate girder walls. Are these salvaged areas shown on the plans?

RESPONSE: No, Contractor to coordinate with Hawaiian Railway Society representative to determine which portion of existing plate girder walls are to be salvaged as required per the Memorandum of Agreement (MOA) included in this addendum.

19. General Note 22 on Sheet 3 states that Hawaiian Railway Properties (HRS) needs to be present when dismantling existing railway pieces. If pieces are found during excavation activities, will this stop the Contractor from performing work (similar to finding bones/remains)? Will additional days be added due to unforeseen circumstances?

RESPONSE: Salvage of historic material shall be in accordance with the Memorandum of Agreement Among the Federal Highways Administration, the Hawaii State Historic Preservation Officer, and the Advisory Council on Historic Preservation Regarding the Leeward Bikeway, Philippine Sea Road to Waipahu Depot Street executed on June 24, 2019, and including all subsequent amendments. If potential archaeological, historic, or burial artifacts are found during construction activities, the Contractor shall act in accordance with Section 107.13 of the 2005 Standard Specifications. Time extensions

shall be determined by the HDOT Engineer in accordance with Section 108 of the Special Provisions.

20. Various notes on Sheets 16-19 state that recycled asphalt pavement (RAP) can be used in place of aggregate base. Are there any specifications for the RAP material other than what appears on these pages?

RESPONSE: See the Pavement Justification Report included with this addendum.

21. Will Contractor need to apply for a grading permit?

RESPONSE: Yes, approved and signed plans by the Civil Engineering Branch (CEB), City and County of Honolulu, Department of Planning and Permitting will be provided for the Contractor to obtain a grading permit.

22. Plan Sheet C1.1 to C1.4 - Proposal Page P-10 Bid Item 401.0200 Please consider providing optional bid item for concrete bikeway. This would give HDOT the option to do AC or Concrete. We suggest updating proposal schedule bid item as follows:

Option 1 - 2 inch AC Bike Path

Option 2 - (thickness to be provided) inch Concrete Bike Path

This will give HDOT the opportunity to evaluate cost vs the benefits for concrete such as longer life, less maintenance for a rigid pavement, etc. If concrete bikeway is something that HDOT would like a price to do, then please update proposal schedule with bid items above, and provide a concrete bikeway section, details, and specification.

RESPONSE: No optional bid items for concrete will be added. Winning contractor can propose alternate bike path materials after award for HDOT to consider.

23. Plan Sheet E1.14 - Please be informed overhead powerline from pole P18 to P54 shown on plan sheet E1.14 will need to be temporarily relocated in order to maintain clearance with overhead powerlines to install girders, and installation of piles.

RESPONSE: E1.14 indicates HECO will temporarily relocate overhead cables with temporary pole.

24. Notice to Bidders - Please consider extending bid date. The pedestrian bridge scope at Kapakahi Stream requires additional time for evaluating shoring, dewatering, and contractor coordination with public utilities per plan sheet C0.2 General Note 17.

RESPONSE: The bid opening date has been postponed and rescheduled for 2:00P.M., November 21, 2019. Revised Notice to Bidders is included in this addendum.

25. Proposal page P-1 - The DBE participation 8.7% goal seems relatively high for this type of work. Please delay bid date to allow enough time to solicit DBE participation. It would be helpful if HDOT would provide a list of the DBE sub & suppliers that they used to set this goal.

RESPONSE: The DBE participation goal will not be changed. The bid opening date has been postponed and rescheduled for 2:00P.M., November 21, 2019. Revised Notice to Bidders is included in this addendum.

26. Under Dumped Rip Rap Spec 655.02 Reference (716.06) which is 600X Woven, or 1160N nonwoven but spec doesn't reference either woven or nonwoven. Per Plan Page C4.2 States 170N Nonwoven under riprap. What Fabric should be quoting under Dumped Rip rap?

RESPONSE: Standard Specification 655 for Dumped Riprap, Material is revised to reference 716.07 – Geotextiles for Permanent Erosion Control Applications. The plan is also revised to callout "Mirafi FW700 or approved equal". The revised Special Provision and plan are included in this addendum.

27. Pile splicing – Please confirm the 8 each splices shown on the bid item schedule are required for the Kapakahi Bridge piles. Please specify the type of splice detail and anticipated splice elevation. (i.e. Tension or compression splice) This will impact schedule and pricing for this component of work.

RESPONSE: No tension splice is required. 8 each splices shown on the bid item schedule are required for the Kapakahi Bridge.

28. PDA & Test Pile requirements – Please confirm that contractor can perform PDA on each abutment, then upon acceptance of the PDA testing, commence production piles. This is to eliminate the need for multiple mobilization/demobilization at each abutment locations. Please also confirm how many test piles at each abutment and test pile location.

RESPONSE: Confirmed. Two test piles at each abutment are required.

29. Test pile – Please confirm all PDA piles (8 each per bid item schedule) require 15ft of extra pile length over the estimated pile tip elevation to cut-off elevation shown in the contract documents. Also, please confirm that a test pile can be utilized as a production pile.

RESPONSE: Confirmed. A test pile can be used as a production pile, provided meeting design capacities.

30. Geotech foundation report – Please provide electronic copy of the geotechnical report provided by Geolabs.

RESPONSE: Boring logs are included in the RFP documents. Geotechnical report will not be provided to the bidders.