



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

Administrator

1200 New Jersey Ave., S.E.
Washington, DC 20590

APR 03 2015

Mr. Daniel Grabauskas
Executive Director
and Chief Executive Officer
Honolulu Authority for Rail Transportation
1099 Alakea Street, 17th Floor
Honolulu, HI 96813

Dear Mr. Grabauskas:

Thank you for your letter requesting confirmation of the essential elements of discussions that the Federal Transit Administration (FTA) had with Honolulu Mayor Kirk Caldwell and separately with Honolulu City Council Chair Ernie Martin and Council Members Manahan, Ozawa, and Elefante. Your letter addressed four major topics, each of which is addressed below. These responses track the information that was provided to Mayor Caldwell and the Members of the Honolulu City Council and those recent meetings.

With respect to the technology of the project, your understanding is correct that the Honolulu Rail Transit Project Full Funding Grant Agreement (FFGA) contract and the Federal funds provided under that contract is limited exclusively to the project described in the FFGA's "Scope of the Project." Only a 20-mile grade separated fixed rail system from East Kapolei to the Ala Moana Center operating on an exclusive right of way and powered by third rail electrification that propels light metro fully automated driverless rail vehicles qualifies for the funds provided under the FFGA. Should Honolulu, and/or the Honolulu Authority for Rail Transit (HART) elect to change the technology now, however, the current project would come to an immediate end, the FTA would seek repayment of the Federal funds provided to the project thus far, and HART would need to initiate a new project under the current FTA Capital Investment Grant (CIG) process, which is significantly different than the process under which the current project was developed. Moreover, there is no guarantee that a revised resubmitted project would be approved. It would have to undergo the entire CIG evaluation and rating process, which is extremely competitive.

Additionally, we would note that the revised CIG project development process no longer includes the Alternatives Analysis step that was a part of the former New Starts process. Activities prior to initiation of the step now known as Project Development must be accomplished without CIG program funds and cannot be counted as part of the local match for a CIG project. We also would note that, as stated in the FFGA, defaulting on the current project would be a factor considered before a decision is made to approve any new project FFGA.

With respect to the route of the project, you are correct that any deviation from the project's length of 20 miles, number of stations (21), and the project's route approved under the Record of

Decision issued at completion of the National Environmental Policy Act (NEPA) process would constitute a breach of the FFGA. As noted above, such a breach would result in termination of the FFGA and a requirement that the Federal funds expended to date be repaid to FTA. Should HART and the City desire to proceed with a different project, it would also necessitate, at a minimum, the completion of a new NEPA document, possibly a Supplemental Environmental Impact Statement (SEIS), or even a new Environmental Impact Statement (EIS), likely resulting in considerable delay in delivering such a project.

With respect to repayment of Federal funds, if the City and/or HART are unable to complete the project as specified in the FFGA or make changes to the project that constitute a breach that is not cured, the FFGA provides that "in the event of a default, the Government may demand all Federal funds provided to the Grantee for the project be returned to the Government." Additionally, making alterations to the project route, number and location of stations, and essential elements of the project included or incorporated by reference into the FFGA also would constitute a breach of the FFGA. If that breach were not cured to restore the essential elements of the project, repayment of the Federal funds would be required.

With respect to the deletion of FTA formula funds in the project's Financial Plan, although the final Financial Plan for the project incorporated use of \$210 million in Section 5307 Urbanized Area Formula funds apportioned to Honolulu, FTA understands the City and HART's concern that use of those funds for the rail project might adversely affect that transit service currently provided by TheBus. The FTA shares those concerns. In fact, FTA should and received assurances in a letter dated September 2011, from then-Mayor Peter Carlisle, that the programming of Section 5307 funds for the rail project would not undercut services provided by TheBus and that the City would maintain its historical commitment to fully fund TheBus services and planned enhancements. However, the removal of the \$210 million in Section 5307 funding from the project's Financial Plan requires that the City and HART replace the \$210 million from some other non-CIG funding source and that the alternative source of funding have similar assurances of availability to the project as was the case with respect to the Section 5307 Urbanized Area Formula funding. In other words, the replacement funds must be dedicated to the project, fully committed, thus not requiring any further legislative action by State or local bodies.

We hope this letter responds to the concerns that you have expressed and look forward to working with you as the City and HART continue their efforts to implement the Honolulu Rail Transit Project. Please do not hesitate to contact me if you have any further questions on (202) 366-4040.

Sincerely,



Therese W. McMillan
Acting Administrator