HISTORIC HAWAI'I FOUNDATION
1974 ► 2014

May 14, 2014

Mr. Derek Yasaka
President, WCP Inc.
99-061 Koaha Way, Suite 208
'Aiea, HI 96701

RE: Pre-Assessment Consultation Request for the Waikīkī War Memorial Complex Project Environmental Impact Statement

Dear Mr. Yasaka:

Historic Hawai'i Foundation received your letter of April 29, 2014 requesting comments and concerns about the proposed changes to the historic Waikīkī War Memorial Natatorium and adjacent areas, and to provide specific issues or concerns that should be addressed in the forthcoming Environmental Impact Statement (EIS).

Historic Hawai'i Foundation (HHF) is a statewide non-profit organization that encourages the preservation of buildings, structures, sites and objects that are significant to the history of Hawai'i. HHF has been a stakeholder in discussions related to the Natatorium for four decades, and remains an interested and concerned party for the preservation and appropriate rehabilitation of this historic site.

We appreciate the opportunity to provide early comments on the scope of the EIS, and recommend that the following issues and questions be considered.

1. **Coordination with Section 106 of the National Historic Preservation Act**
   In addition to the requirements of the Hawai'i Environmental Policy Act (HEPA, Hawai'i Revised Statutes Chapter 343), the proposed undertaking is also subject to consultation under Section 106 of the National Historic Preservation Act (NHPA) due to the requirement for one or more permits, licenses or approvals from one or more federal agencies (e.g. permits under the Rivers and Harbors Act Section 10; Clean Water Act Section 404; Magnuson-Stevens Fishery Conservation and Management Act).

   Will the EIS be coordinated with and include consultation for the Section 106 process, or will the environmental and preservation compliance processes be managed separately? The issues are clearly related and would be addressed most effectively through a coordinated and integrated review. This decision would need to be made early in the process, as the parties and standards are not identical, and the procedures for Section 106 consultation are rigorous.

   The President's Advisory Council on Historic Preservation and the White House Council on Environmental Quality have issued a handbook on integrating the Section 106 and NEPA

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processes designed to help coordinate required review processes under the National Historic Preservation Act and the National Environmental Policy Act. They hope that the handbook will significantly improve the coordination of environmental reviews across the government. This handbook provides practical advice to practitioners and stakeholders to improve the efficiency and effectiveness of federal agencies' environmental review.

You can download the handbook
at http://www.achp.gov/docs/NEPA_NHPA_Section_106_Handbook_Mar2013.pdf

As a party with a demonstrated interest in the undertaking and a concern for the undertaking's effect on historic properties, Historic Hawai'i Foundation requests to be a consulting party to the Section 106 process under the implementing regulations of the NHPA (see 36 CFR Part 800.2(c)(5).

HHF previously participated in a stakeholder interview as part of the pre-consultation assessment process and provided both verbal and written comments to identify questions and issues that should be addressed in the EIS. These include:

2. **Jurisdiction and Ownership**
   The lands and waters associated with the Waikīkī War Memorial Complex appear to include multiple parcels, which are associated with a variety of owners, deed restrictions, legal restrictions, and governance requirements. The EIS should clearly identify each relevant parcel and any conditions that apply to its use. These may include such items as the enabling legislation that created the Memorial; the condemnation and purchase action that acquired the property; the areas need to access to the Memorial; the relationship between the State of Hawai'i; City & County of Honolulu; and the Queen Kapi'olani Trust. It is unclear who has jurisdiction and authority, or even the right or responsibility to make decisions for the disposition of the Memorial. The line of authority for the ultimate decision-making needs to be clearly identified and demonstrated.

3. **Range of Alternatives**
   HHF recommends that the EIS include an Alternative 3, which would be "No Construction."

   The background information identifies three alternatives to be evaluated in the EIS:
   - Proposed Action (identified as the City's preferred alternative) is to demolish the historic War Memorial, build seawalls, add a new sandy beach, construct a memorial arch, and construct various park improvements (i.e. bathhouse, parking lot)
   - Alternative 1 is to reconstruct and restore the historic War Memorial, including the swimming pool, deck, bleacher, entry arch and facilities; and include park improvements (i.e. volleyball court, parking, shower, walkways, streetlights)
   - Alternative 2 is No Action, which is to be included to provide a baseline for comparison of impacts and is required by HEPA.

   The No Construction alternative would be similar to No Action, but rather than wait for negligence and lack of maintenance to lead to an inevitable structural failure and catastrophic collapse, the No Construction alternative would deliberately and systematically remove the

structures and existing improvements. The demolition and removal would be the extent of the action, and no further construction or improvements would be made, either in the sea or on land beyond clean-up and safety requirements to complete the demolition process. The site would return to its natural shoreline as it existed pre-1927.

This alternative would provide a truer baseline condition to which the other alternatives could be compared for environmental, historic, cultural, recreational, and cost impacts.

Please note that HHF does not endorse the selection of the No Construction alternative, but feels that its inclusion in the EIS would provide valuable information as a more accurate and likely baseline than No Action.

4. **The EIS Must Contain a Reasonable Range of Rehabilitation Alternatives:**
The EIS must explore alternatives for a rehabilitated Natatorium that meet the same water quality standards as the adjacent ocean. In other words, if the application of Hawaii Department of Health Rules on Public Swimming Pools (Hawaii Administrative Rules § 11-10) is determined to be cost prohibitive, alternative pool designs should be analyzed that would address health and safety concerns without requiring application of those Rules. For instance, the Rules define a "Swimming pool" as an entity that contains an "artificial body of water." The previously-approved tidal flow pool restoration design does not enclose such an artificial body and would therefore not be covered by the Rules. If the Health Department Rules are held to apply, alternatives must be explored that qualify for special exemptions from those rules, such as "beach venues," like nearby Kuhio Beach, and "marine habitat."

5. **All Applicable Regulatory Requirements Must be Considered:**
Demolition of the Natatorium requires federal approvals that must be conducted concurrently with the Hawaii Environmental Policy Act (HEPA) process. A joint process would avoid lengthy and costly delays in the implementation of the Project. This recommendation is supported by HRS § 343-5(h), which states,

> "Whenever an action is subject to both the National Environmental Policy Act of 1969 (Public Law 91-190) and the requirements of this chapter, the office and agencies shall cooperate with federal agencies to the fullest extent possible to reduce duplication between federal and state requirements. Such cooperation, to the fullest extent possible, shall include joint environmental impact statements with concurrent public review and processing at both levels of government."

Because the City must seek federal permits from the Army Corps of Engineers under section 10 of the Rivers and Harbors Act and section 404 of the Clean Water Act, the EIS should, at a minimum, describe the process by which it will be cooperating with the Army Corps to coordinate its State EIS review with NEPA and other federal permitting requirements including Section 106 of the National Historic Preservation Act, the Clean Water Act, the Endangered Species Act, the Magnuson-Stevens Fishery Conservation and Management Act, and the Coastal Zone Management Act.

In addition, demolition of the resource is a legal impossibility. Existing City law explicitly forbids the demolition of the Natatorium. The Revised Ordinances of Honolulu, Sec. 2-16.1, states:

> The director of parks and recreation shall: (a) operate and maintain the Waikiki war memorial and natatorium, including its structures, facilities, and grounds.

It is not clear that the fact of this law has been taken into account by the Project sponsor. The City must clarify in the EIS that its preferred alternative cannot be carried out absent City Council action to nullify existing law, an action which Natatorium advocates would strongly oppose.

The EIS must contain an extensive analysis of anticipated permitting requirements. These include:

- The federal and state regulations, reviews and permits that would be implicated or required by each alternative;
- Analysis of the applicability of the 1973 Hawaii Supreme Court ruling that resulted in a permanent injunction "enjoining and restraining the defendant-appellees [the City and County of Honolulu and the State of Hawaii] ...from in any way tearing down or demolishing the Natatorium." *Natatorium Preservation Committee v. Edelstein, 55 Haw. 55, 61 (1973)*

6. The EIS Must Fully Analyze the Environmental Consequences of Natatorium Demolition:

The methodology that would be used for demolition should be fully developed and explained. How will the structural elements be removed? What would the effect be on the marine environment? How will the debris be removed and how will it be disposed of?

The current stability of the shoreline is dependent on the Natatorium serving as a retaining wall for sand on the adjacent Sans Souci Beach. The environmental impacts of alteration to the shoreline must be studied, including

- Affects to water quality due to release of sediment from the pool bottom with respect to federal clean water standards and regulations;
- Adverse impacts on the reef and marine life;
- Erosion of Sans Souci beach;
- Construction of the infrastructure that would be necessary to retain a new beach.

In addition, the EIS must disclose what would be necessary, during or after construction, to address the sand and sediment that is currently on the Natatorium bottom. Under each alternative, what kind of sand will go back into the reconstructed pool or onto artificial beach? In each case, what environmental impacts would be expected?

The EIS must also contain a thorough analysis of the impact that climate change and rising sea levels will have on the creation of a new beach, particularly on the potential long-term costs of beach nourishment projects that will be required to keep sand in place. Demolition

would require repeated dredging, and transport of sand at a time when such efforts should be focused on retaining existing beaches on Waikiki.

7. **Engineering for the Project Must Be Supported by Adequate Data:**
The cost and feasibility of building each alternative must be scrutinized by appropriate experts.
    - The previously permitted restored tidal flow along with the Ko Olina Swimming Lagoons were designed by UH ocean engineers Karl H. Bathen, PhD and Frans Gerritsen, PhD. The previously studied and permitted tidal flow design must be included in the EIS as an alternative;
    - The demolition alternative must be analyzed by ocean engineers (as opposed to coastal geologists) for adverse impacts including erosion, creation of rip currents, and sedimentation of the reef;
    - The EIS should explicitly detail the academic qualifications of any engineers or other experts whose opinions or judgments are cited;
    - Wilson Okamoto Corp. prepared a Structural Condition Report in July 2004 concluding that the "bleacher structure appears to be in good overall condition." The EIS should include an alternative that would preserve this structure, even if the swimming basin is reconfigured or removed.

8. **Cost Considerations Must Not Serve as the Basis for Rejecting Preservation Alternatives**
The EIS should detail how cost estimates have been developed as well as the degree to which cost is a factor in the selection of the preferred alternative. The EIS must also be structured so as to fairly analyze the environmental consequences of each alternative without coming to a pre-ordained conclusion based on earlier cost estimates.

    In addition, the following factors must be considered:

    - Current cost estimates should be procured for each alternative from licensed contractors (as opposed to planners).
    - In order to have an equal comparison, cost estimates for each alternative should be based on A/E design documents rather than on conceptual plans or sketches.
    - What would be the funding sources and financing mechanisms for each of the alternatives?
    - Cost estimates should include the component estimates as well as the cumulative totals. The alternatives currently described include a much more extensive level of park improvements associated with the Preservation Alternative (e.g. volleyball court, parking, shower, walkways, streetlights) than the Demolition Alternative (e.g. bathhouse and parking). As the levels of improvements are not equivalent, it is misleading to state one is more expensive than the other. A line-item cost breakdown will allow for side-by-side comparisons of alternatives.

9. **Related Maintenance Costs Must Be Included in the EIS and Factored into Estimates**
Each alternative will have operational costs that must be considered in the EIS. It should address the following questions:

- What are the comparative costs of each alternative?
- What is the basis of these cost estimates?
- What assurances would there be under the preferred alternative that the beach sand will remain where installed rather than wash out and alter surf breaks, envelope reef habitat or cause other adverse environmental impacts.
- If the beach erodes, what is the anticipated annual beach nourishment cost?
- How will that impact beach access, tourism and area hotels and businesses?
- Where will the sand come from?
- Has there been an environmental study done for that area?
- Will the constantly replacing sand be more costly than rehabilitating and maintaining a tidal flow pool?
- The alternatives analysis should specifically assess the potential to generate revenue for an ongoing maintenance fund for each alternative.

10. **The Feasibility and Cost of Replacement Facilities Must be Considered**
The Natatorium currently houses men's and women's restrooms, showers and changing areas, along with the Ocean Safety Division's District 1 regional headquarters and Rescue One operations. All of these amenities would be lost under the demolition alternative. In addition, the demolition alternative does not include a volleyball court and more than 30 parking spaces.

- Where would all of these current functions and facilities be moved under the preferred alternative?
- Are the sites for the parking, restrooms and lifeguards secured?
- Will any of the functions or spaces be diminished in their replacement form and sites?
- Will relocating the Ocean Safety offices elsewhere result in any adverse impact to public safety?
- What, if any, are the relevant land/lease cost of procuring new sites for replacement facilities?
- The costs associated with replacing all these functions and facilitates (including land, soft costs and construction costs) must be included in the cost estimates for demolition.

11. **Swimming/Recreational Use:**
The Natatorium's enabling legislation requires that the site include a swimming venue of 100 meters in length [Act 15 of the 1921 Territorial Legislature]. The plans for the tidal flow pool would have been the only fully ADA-accessible salt water swimming venue in the state.

- The preferred (demolition) alternative does not comply with the enabling legislation, because it would remove the 100-meter swimming venue.
- Will the artificial beach be ADA-accessible for both beach-going and swimming?
- What engineering studies have been done to show that the artificial beach would be safe in terms of man-made hazards and rip currents? For instance, would the sand come level to the new groins? Have related safety issues been explored, e.g., swimmers climbing onto the groins and falling off or diving off in a dangerous manner?
- Will the City incur additional liability for injuries or drownings that occur at a beach that is City-designed and constructed?
- A rehabilitated Natatorium would offer recreationalists protection from open ocean currents. It would enable many to swim in the ocean who are otherwise unable, including the disabled, children and the elderly.
- Under the demolition alternative, the loss of the seawall would change surrounding currents. According to the 2008 Shoreline Restoration Study Conceptual Design Review Report "during large wave events straight groins are known to produce rip currents along the groin edges that can transport the sand seaward." (p.53) Will that change adversely affect beach goers? Would it become unsafe for swimmers to leave the groin boundaries? Would surfers and their breaks be adversely impacted by any alteration of the current shoreline conditions?

12. **Veterans' Concerns:**

The War Memorial Natatorium was opened in 1927 as a "living memorial" in tribute to the more than 10,000 men and women from Hawaii who served in World War I. A rehabilitated Natatorium would best honor the veterans and victims of war by providing a public venue for recreation, recuperation and reflection. Restoring and reopening the Natatorium would also preserve the historical message sent to the future by the people of post-war Territorial Hawaii.

- The process of reaching out to stakeholders should specifically include outreach to veterans groups to ask which alternative is preferred.
- The EIS should also identify ways in which each of the alternatives will specifically address the interests of veterans.
- From 2014 to 2018, the United States and nations around the world will mark the 100th anniversary of World War I. There will be a high degree of media interest in the state of memorials developed for Americans who served in the war. Is the City prepared for the negative media exposure that would result from its preferred alternative of demolition?

Historic Hawai'i Foundation was a member of the City's Task Force in 2009, and did not concur with the majority recommendation that led to the City's current proposed action.

HHF stated then, and reiterates now, that **Historic Hawai'i Foundation's preferred alternative for the War Memorial** is summarized as:

- HHF supports the stabilization, preservation and rehabilitation of the Waikīkī War Memorial Natatorium.

- HHF recommends that the immediate strengthening, repair and stabilization of the structure's frame be completed, including the sea walls and deck.
- HHF recommends, in conjunction with resuming the work to stabilize the structure, that engineering, planning and permitting be undertaken for the redesign of the pool.
- HHF recommends that the City engage in dialogue with state and federal agencies, non-profit organizations, business organizations and other stakeholders to craft a public-private partnership for the long-term rehabilitation, maintenance and operation of the facility.

Thank you for the opportunity to provide early comment on the scope of the Environmental Impact Statement. Please let me know if you have any questions or need further information on these issues and comments.

Very truly yours,

Kiersten Faulkner, AICP
Executive Director

Copies via email:
Alan Downer & Michael Gushard, State Historic Preservation Division
Mo Radke & Donna Ching, Friends of the Natatorium
Brian Turner, National Trust for Historic Preservation
Farley Watanabe, U.S. Army Corps of Engineers Regulatory Branch