

Shall the Authority Authorize the Executive Director or Its Designee to Execute a Memorandum of Agreement Accepting Conveyance of Properties (Tax Map Keys: 9-1-16: 27 (Portion) and 9-1-160: 06, 08, and 10) Owned by James Campbell Company LLC at No Charge for Future Improvements to Franklin Delano Roosevelt Avenue in the Kalaeloa Community Development District?

Staff Report

December 9, 2015

Discussion: Franklin Delano Roosevelt Avenue (“FDR”) serves as a major east-west corridor in the Kalaeloa Community Development District (“Kalaeloa”). In response to community feedback, staff from the Hawaii Community Development Authority (“HCDA”), the State Department of Transportation (“DOT”), City and County of Honolulu (“City”) and community stakeholders have had several meetings to discuss appropriate steps to improve the roadway standards and safety of FDR.

The DOT currently holds title to FDR and is obligated to (prior to conveyance) construct improvements to the roadway in accordance with City standards. However, the DOT has indicated that funding is not readily available to construct any improvements to FDR because other DOT roadways in the State have greater priority for improvements and repairs.

The outcome of the agency/stakeholder meetings proposes that, initially, ownership of FDR between the West Perimeter to Enterprise Avenue (“FDR-West”), be transferred from the DOT to the HCDA. As the designated redevelopment authority for Kalaeloa, the HCDA would be able to better facilitate and coordinate the FDR-West improvements than the DOT.

In the agency/stakeholder meetings, the City acknowledged the difficulty in immediately constructing the FDR-West improvements to its current standards, particularly in widening the right-of-way from the existing 60 feet to 108 feet. Consequently, the City has agreed in principal to accept ownership of FDR-West upon completion of improvements with an interim right-of-way width of 80 feet, provided that restrictions and setbacks be imposed on properties adjacent to FDR-West to accommodate the future 108 feet width.

Properties Owned by James Campbell Company LLC: James Campbell Company LLC (“Campbell”) currently owns properties on the Mauka side of FDR, shown in Exhibit A. Portions of these Campbell properties are within the future FDR right-of-way width of 108 feet.

Staff met with a Campbell representative and was informed that Campbell has been in contact with Hawaiian Electric Company, Inc. (“HECO”) to convey these properties to HECO via quitclaim deeds. Campbell stated that the properties are considered to be

remnants with no development potential because of the existing HECO and sewer easements recorded against the parcel.

Staff met with HECO representatives and there were no objections expressed to the HCDA acquiring the Campbell properties as long as the HECO easements remained. In addition, HECO requested that a new electrical easement grant from Campbell be completed before the HCDA acquires the properties.

Subsequently, Campbell stated that it is willing to convey its properties, in their entirety, to the HCDA via quitclaim deeds subject to the following provisions:

1. The HCDA's payment of an estimated \$10,000.00 to Campbell for costs incurred by Campbell relating to the conveyance.
2. The properties will remain subject to reservations for future utility installations.
3. Completion of the subdivision of Property No. 7, Lot 178, shown on the Key Map of Exhibit A, for the Department of Hawaiian Home Lands ("DHHL") and conveyance of a subdivided portion of said property to DHHL.
4. Completion of the electrical easement grant as requested by HECO.
5. Conveyance of the properties will occur as soon as Items 3 and 4 above are complete, and no later than December 31, 2015.

At its June 9, 2015 meeting, the Authority authorized the Executive Director or its designee to conduct its due diligence for the proposed acquisition of properties (Tax Map Keys: 9-1-16: 27 (portion) and 9-1-160: 06, 07, 08, 09 and 10 owned by Campbell for future improvements to Franklin Delano Roosevelt Avenue in Kalaeloa. Staff notes that title search reports for tax parcels 9-1-160: 07 and 09 indicate that these parcels are owned by Hawaiian Telcom and the City and County of Honolulu, respectively.

The due diligence process included the following estimated costs:

1. Title search - \$2,500.00.
2. Phase 1 environmental site assessment - \$10,000.00.
3. (If warranted) Phase 2 environmental site assessment, if necessary - \$30,000.00.

The results of the due diligence process includes the following:

1. Eleven (11) title search reports were completed at the cost of \$2,552.06.

2. The title search and Land Court Map 1638 of Land Court Application 1069 indicate that the subdivision of Property No. 7, Lot 178, shown on the Key Map of Exhibit A, has been completed. Lot 178 has been subdivided into Lots 178-A and 178-B. The HCDA proposes to acquire Lot 178-A.
3. The professional services contract for the Phase 1 Environmental Site Assessment for the amount of \$9,606.02 is currently at the Department of Accounting and General Services for certification.

Highlights of the Memorandum of Agreement (“MOA”):

1. The OWNER is the owner of certain remnant lands located in Kapolei, City and County of Honolulu, Island of Oahu, State of Hawaii, approximately one hundred (100) feet wide immediately Makai (in this instance to the South) of the OR&L right of way and Mauka (in this instance to the North) of Franklin Delano Roosevelt Avenue, described in **Exhibit A** attached hereto and incorporated herein by this reference (the “**Property**”);
2. The HCDA is in the process of facilitating improvement of Franklin Delano Roosevelt Avenue and to do so needs additional land for right-of-way purposes;
3. The OWNER is willing to accommodate HCDA’s needs for additional right-of-way provided that the HCDA acquires the entirety of the Property from the OWNER;
4. The OWNER is willing to convey the Property to the HCDA for nominal consideration to obtain the benefit of disposing of the Property in one transaction to one Person;
5. The OWNER and the HCDA desire to set forth their agreements and understandings with respect to HCDA’s acquisition of the Property from the OWNER on the terms and conditions set forth herein; and
6. Exemption under Chapter 343, Hawaii Revised Statutes (“HRS”). Under the terms of the Declaration, the OWNER has reserved the right to construct a sewer line within the Property. The construction of this sewer line is a replacement of the existing Makakilo Interceptor Sewer. A copy of the Sewer Master Plan was given by the OWNER to the HCDA prior to execution of this Agreement. As a condition precedent for the OWNER to convey the Property to the HCDA, the HCDA must

make a written binding determination that the construction of the Makakilo Interceptor Replacement Sewer is exempt from the requirements of Chapter 343, HRS, pursuant to Hawaii Administrative Rules Section 11-200-8(a)(2), or on some other legal basis, and provide that written binding determination to the OWNER prior to conveyance of the Property to the HCDA. If the HCDA cannot or chooses not to make such a written binding determination, then the OWNER shall have the right to terminate this Agreement on written notice to the HCDA.

Authority:

§206E-4 Powers; generally. Except as otherwise limited by this chapter, the authority may:

- Paragraph (3) Make and execute contracts and all other instruments necessary or convenient for the exercise of its powers and functions under this chapter;
- Paragraph (17) Do any and all things necessary to carry out its purposes and exercise the powers given and granted in this chapter;

[L 1976, c 153, pt of §1; am L 1990, c 86, §6; am L 1997, c 359, §3; am L 2000, c 253, §150; am L 2002, c 184, §4; am L 2009, c 18, §1; am L 2011, c 55, §2]

Recommendations: Staff recommends that the Authority authorize the Executive Director or its designee to execute a Memorandum of Agreement accepting conveyance of properties (Tax Map Keys: 9-1-16: 27 (portion) and 9-1-160: 06, 08, and 10 Owned by James Campbell Company LLC at no charge for future improvements to Franklin Delano Roosevelt Avenue in the Kalaeloa Community Development District. This MOA would stipulate that the HCDA is not in a position to grant or make any determination that the construction of the Makakilo Interceptor Replacement Sewer is exempt from the requirements of Chapter 343, HRS.

Attachments: Exhibit A – Map of James Campbell Company LLC Properties
Exhibit B – Draft Memorandum of Agreement
Exhibit C – Draft Land Court Deed
Exhibit D – Land Description