

STATE OF HAWAII
HAWAII COMMUNITY DEVELOPMENT AUTHORITY
Kakaako Community Development District
Honolulu, HI 96813

September 6, 2017

Chairperson and Members
Hawaii Community Development Authority
State of Hawaii
Honolulu, Hawaii

HCDA Board Members:

SUBJECT: Shall the Authority Authorize a Transfer of \$200,000 from the Hawaii Community Development Revolving Fund, Improvement District Subaccount, to the Kalaeloa Community Development Revolving Fund, for the Removal of Materials Stockpiled at the Kalaeloa Heritage Park?

SUMMARY:

The Authority is being asked to authorize the Executive Director to transfer \$200,000 from the Hawaii Community Development Revolving Fund (Improvement District Subaccount) to the Kalaeloa Community Development Revolving Fund to remove materials stockpiled at the Kalaeloa Heritage Park.

AUTHORITIES:

- Hawaii Revised Statutes (HRS) § 206E-6(g) District-wide improvement program, indicates that any surplus funds remaining after payment of bonds chargeable against such fund shall be credited to and become a part of the Hawaii community development revolving fund, and does not attach any explicit restrictions on these funds. The HCDA has not outstanding bonds, and as of July 31, 2017, approximately \$4.5 million was available in this subaccount.
- HRS 206E-195(b) Kalaeloa community development revolving fund, mandates that moneys directed, allocated, or disbursed to the Kalaeloa community development district, for the administration and operation of the district, be deposited into this fund.

BACKGROUND:

HCDA staff has been working with the Kalaeloa Heritage and Legacy Foundation (KHLF) to resolve a stockpile at the site of the Kalaeloa Heritage Park. On September 23, 2013, the HCDA received a Notice of Violation, NOV-09-085 and subsequent Notice of Order, NOO-262 dated December 19, 2013 from the City and County of Honolulu, Department of Planning Permitting (DPP). Further details about this stockpile is summarized in a timeline, included as Attachment

1. As landowner it is imperative that this matter is resolved timely, with a preference before its current stockpiling permit ends in May of 2018.

Relative to its remediation options the HCDA could pursue either off-site disposal of the materials or grading the material on-site, with any materials not suitable for grading hauled off-site for disposal.

Off-site disposal would require loading the material and hauling the material to an appropriate site for disposal. While it is the quickest method, it's also the most costly with hauling and tipping fees. Cost savings could be realized by sifting the material into its components as tipping fees vary by material type. HCDA staff have discussed this option with an environmental consultant resulting in a cost estimate between \$500,000 and \$800,000

Grading the material on-site would also require separating the material to identify and layer the suitable grading material. It reduces costs as leaving the material on-site greatly reduces both hauling and tipping charges. A grading permit would be required which increases the amount of time needed to resolve the matter. HCDA staff have discussed this option with an environmental consultant resulting in a cost estimate between \$225,000 and \$400,000

On August 17, 2017, HCDA staff met with KHLF and a local developer in the process of doing site preparation work that is interested in the stockpiled material to fill voids on its site; including the boulders, concrete and asphalt chunks. The developer required that vegetation be removed from the stockpile and would not take any painted concrete or scrap metal. The developer has also agreed to waive its tipping fee. The developer has performed its own environmental testing of the material verifying that it is safe for their use.

KHLF has agreed to work to remove the vegetation, however materials must be loaded and delivered to the developer's site, however does not have adequate funds to load and transport the material. The stockpile is approximately 2,259 cubic yards and is estimated to take between 100-150 loads to relocate and could be done in one week's time for an estimated cost of \$200,000.

The transfer of funds requested is to take advantage of this opportunity and ultimately resolve the outstanding violation. Time is of the essence as the developer's interest in the material is limited to a two-month window which corresponds to its project timeline for site preparation.

ANALYSIS:

To meet the developer's timeline, HCDA staff will need to work efficiently as the services will need to time to procure the work and the awarded contractor will need time to mobilize.

At \$200,000, the proposed remediation cost would be lower than the low-end cost estimate for off-site disposal of \$500,000. The cost efficiencies are the result of:

1. Waiver of tipping charges by the developer;

2. Shorter hauling distance – estimate was based on a trip to the landfill, whereas the developer's site is in Kapolei; and
3. The developer is not requiring that the material be sorted, only picked.

The \$200,000 cost estimate is also lower than on-site grading which could take as long as 18-months to complete after necessary permitting and procurement.

As there is some uncertainty as to the composition of the stockpile, there is uncertainty as to the volume of material that will be retained on-site. However as the estimate is based on moving the entire stockpile we believe the funds may be adequate for loading and hauling, exclusive of tipping fees required for the disposal of any remaining items.

As the Kalaeloa Community Development Revolving Fund does not have adequate funds after budgeted expenses, under HRS § 206E-196, funds would need to be transferred from the Hawaii Community Development Revolving Fund to cover these costs. Any excess funds available after the removal of the stockpiled material, or funds that are subsequently recaptured, would be returned to the Hawaii Community Development Revolving Fund.

RECOMMENDATION:

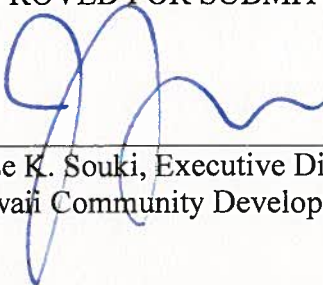
Staff recommends approval to authorize the Executive Director to transfer \$200,000 from the Hawaii Community Development Revolving Fund (Improvement District Subaccount) to the Kalaeloa Community Development Revolving Fund for the removal of stockpiled materials at the Kalaeloa Heritage Park .

Respectfully submitted,



Aedward Los Banos
Administrative Services Officer

APPROVED FOR SUBMITTAL:



Jesse K. Souki, Executive Director
Hawaii Community Development Authority

Attachment 1 – Kalaeloa Heritage and Legacy Foundation Notice of Violation Timeline

Attachment 1

Kalaeloa Heritage and Legacy Foundation Notice of Violation Timeline

9-May-11	HCDA issued a Right-of-Entry (ROE) to the Kalaeloa Heritage and Legacy Foundation (KHLF) to steward the archaeological sites and to eventually develop the Kalaeloa Heritage Park (KHP).
9-May-12	HCDA issued ROE extension to KHLF.
26-Jul-12	HCDA met with the KHLF members to discuss the potential for locating the sustainable trailer office known as the Green Side Lanai (Trailer) at the KHP.
11-Aug-12	KHLF entered into "hand-shake" agreement with private trucking company allowing passive storage of heavy equipment on KHP site in exchange for use of equipment. KHLF did not secure any regulatory permit; KHLF did not consult or secure HCDA consent to agreement.
Nov-12	HCDA met with the KHLF at KHP site to discuss location for the Trailer and prep work. HCDA notified KHLF the Trailer will be brought to the KHP in December.
9-May-13	HCDA issued ROE extension to KHLF.
23-Sep-13	Department of Planning and Permitting (DPP) issued landowner, HCDA, a Notice of Violation (NOV), No. 2013/NOV-09-085 for stockpiling without a permit. Compliance required by December 2013.
30-Sep-13	HCDA met with KHLF and confirmed stockpiling activity. HCDA notified KHLF of NOV and gave directive to comply with DPP.
23-Oct-13	Department of Health (DOH) issued a warning letter to landowner, HCDA, regarding the stockpiling material at the KHP.
24-Oct-13	HCDA notified KHLF of the DOH warning letter and gave directive to comply with DOH
25-Oct-13	KHLF submitted stockpiling permit application to DPP and due to the size of the property, the DPP required engineering plans.
19-Dec-13	DPP issued landowner, HCDA NOV No. 2013/NOO-262 for failure to timely correct the violation as required by DPP.
15-Jan-14	KHLF contracted Community Planning and Engineering (CPE) to prepare engineering plans to submit with stockpiling permit application.
Apr-14	CPE submitted engineering plans and resubmitted permit application. CPE notified KHLF about DPP's requirement for a performance bond. KHLF attempted to secure the necessary bond.
Sep-14	KHLF was unable to secure bonding. KHLF met with HCDA requesting assistance.
Nov-14	HCDA assisted and found bonding was not required since HCDA was a State of Hawaii entity. CPE resubmitted application as HCDA as the applicant. KHLF funded work.
Dec-14	CPE submitted HCDA permit application with engineering plans to DPP and was notified of DPP's requirement for State Historic Preservation Division (SHPD) review.
30-Dec-14	CPE submitted plans to SHPD for review and comment.
8-Jan-15	HCDA issued letter to City Corporation Counsel with chronology of events and requested a waiver for fines.
2-Feb-15	City Corporation Counsel granted HCDA extension until May 31, 2015, to comply with NOV; HCDA request for waiver of fines were denied.
10-Feb-15	HCDA emailed SHPD to inquire on status of review.
18-Feb-15	SHPD replied apologizing for delay and their intent to comment.
19-Mar-15	HCDA emailed SHPD to inquire on status of review.
20-Mar-15	SHPD conducted site visit and obtained necessary information for their review.

Kalaeloa Heritage and Legacy Foundation Notice of Violation Timeline

24-Mar-15	HCDA conducted site visit with KHLF and inspected existing condition of stockpile. Observed vegetation growing over stockpiled material and some biosocks were placed around perimeter of stockpile site.
6-Apr-15	HCDA received copy of letter from SHPD to DPP outlining conditions and concluding, "...the violation resulted in no historic properties affected."
13-Apr-15	CPE submitted HCDA application and engineering plans to DPP for final approval.
23-Apr-15	CPE informed HCDA that DPP is now requiring a letter stating all conditions outlined by SHPD will be met.
5-May-15	HCDA issued letter to DPP affirming all conditions outlined by SHPD will be met.
7-May-15	DPP issued landowner, HCDA, Stockpiling permit number GP2015-05-0218.
13-May-15	CPE delivered stockpiling permit to HCDA for signature. CPE then hand delivered signed permit to DPP.
20-May-15	DPP NOV file closed; fine remained outstanding.
13-May-15	KHLF contracted Environmental Consultant to conduct soil testing report and file findings report with DOH.
15-Sep-15	KHLF contracted Environmental Engineering company for the installation of biosocks and grass over stockpile material to prevent runoff per environmental report and DOH requirements.
1-Dec-15	HCDA issued Lease to KHLF conditioned on KHLF compliance to NOV by end of first year.
15-Apr-16	DOH issued letter to KHLF and concured with finding in Environmental report of no hazardous materials.
May-17	DPP issued landowner, HCDA, Stockpiling Permit extension to May 2018.