

MEMORANDUM

TO: FPUA Board

FROM: Clayton W. Lindstrom, P.E., Director of Utilities

DATE: July 2, 2015

SUBJECT: Resolution No. U.A. 2015-12, Voluntary Cleanup Tax Credit Program



RECOMMENDATION:

Adopt Resolution No. U.A. 2015 -12, Voluntary Cleanup Tax Credit Program as presented.

SUMMARY/SUPPORTING INFORMATION:

The Fort Pierce Redevelopment Agency is participating in the Voluntary Cleanup Tax Credit Program as part of the remediation of the H.D. King Site and will be receiving funds from the sale of tax credits generated by the cleanup program and Fort Pierce Utilities Authority's payment of all cleanup costs. It is requested that all proceeds received from the tax credits be used to pay down any and all of Fort Pierce Redevelopment Agency's loans with Treasure Coast Regional Planning Counsel's Revolving Loan Fund incurred as part of the cleanup program.

ALTERNATIVES:

Do not adopt the resolution.

ATTACHMENTS:

Resolution No. U.A. 2015-12
Letter from the TCRPC dated 11-06-13

Resolution NO. U.A. 2015-12

A RESOLUTION REQUESTING THE FORT PIERCE CITY COMMISSION AND/OR FORT PIERCE REDEVELOPMENT AGENCY TO DIRECT FUNDS RECEIVED FROM THE VOLUNTARY CLEANUP TAX CREDIT PROGRAM RELATING TO THE H.D. KING SITE CLEAN UP AND REMEDIATION PROGRAM BE USED TO PAY ANY LOANS INCURRED THROUGH THE TREASURE COAST REGIONAL PLANNING COUNSEL'S REVOLVING LOAN FUND RECEIVED FOR THE CLEANUP PROGRAM

Be it resolved by Fort Pierce Utilities Authority:

SECTION 1: The Fort Pierce Redevelopment Agency is participating in the Voluntary Cleanup Tax Credit Program as part of the remediation of the H.D. King Site and will be receiving funds from the sale of tax credits generated by the cleanup program and Fort Pierce Utilities Authority's payment of all cleanup costs.

SECTION II: It is requested that all proceeds received from the tax credits be used to pay down any and all of Fort Pierce Redevelopment Agency's loans with Treasure Coast Regional Planning Counsel's Revolving Loan Fund incurred as part of the cleanup program.

SECTION III: It is further requested that any funds remaining over and above full payment of the loans be paid to Fort Pierce Utilities Authority to offset any other costs incurred by Fort Pierce Utilities Authority as part of the remediation of the H.D. King Site and not covered by the Treasure Coast Regional Planning Counsel's Revolving Loan Fund.

SECTION IV: That this Resolution shall be in full force and effect upon passage by Fort Pierce Utilities Authority.

Passed and adopted this 7th day of July, 2015.

ATTEST:

FORT PIERCE UTILITIES AUTHORITY

Secretary
(FPUA Seal)

BY: _____
Chairman

APPROVED AS TO FORM & CORRECTNESS:

BY: _____
Fort Pierce Utilities Authority Attorney



TREASURE COAST REGIONAL PLANNING COUNCIL

INDIAN RIVER - ST. LUCIE - MARTIN - PALM BEACH

November 6, 2013

The Honorable Linda Hudson, Chairman
Fort Pierce Redevelopment Agency
100 North U.S. 1
Fort Pierce, FL 34954-1480

Subject: Brownfields Cleanup Revolving Loan Fund program

Dear Chairman Hudson:

Thank you for your enquiry about additional funding under the Treasure Coast Regional Planning Council's (TCRPC) Brownfield Cleanup Revolving Loan (RLF) Fund program. As you know, on August 20, 2013 a Cleanup Loan for \$700,000 for the remediation of contamination on Parcel #1 on the H.D. King site was executed between TCRPC and the Fort Pierce Redevelopment Agency (FPRA). The loan proceeds are being disbursed on a specified workplan and budget schedule that anticipates disbursement of the \$700,000 loan proceeds before the end of the calendar year. To date, \$59,300 has been disbursed to FPRA. As to your question of additional funding, on September 27, 2013 TCRPC received supplemental RLF funding from the U.S. Environmental Protection Agency (EPA). Approximately, \$250,000 is available at this time to be used for cleanup activities. Revolving loan funds are available on a first-come, first-served basis. If the FPRA is interested in applying for the additional RLF cleanup funding please let me know as soon as possible so that we can get the application process underway.

You had also enquired as to the use of Voluntary Cleanup Tax Credits (VCTC) as they relate to this cleanup project. On January 3, 2013, staff from the City, FPRA, FUPA, TCRPC and Cardno TBE staff, the environmental consultants on the H.D. King cleanup project, met to discuss options for the continued environmental cleanup work at the site and to formulate a coordinated approach of staff recommendations for the completion of this work. The notes from that meeting are presented in the attached memorandum dated January 4, 2013, from then, FPRA Director Jon Ward to all participants. Two important staff recommendations came out of the discussion: 1) that FPRA apply to the State of Florida Voluntary Cleanup Tax Credit program and design the anticipated three-year cleanup schedule to yield the maximum allowable proceeds under the VCTC program to the FPRA and 2) that FPRA apply to TCRPC for a cleanup loan, modify the existing agreement with the FPUA to guarantee payment of the RLF and dedicate any proceeds that FPRA receives from the VCTC program towards the repayment of the RLF loan and/or any appropriate expenses relating to the cleanup.

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In 1998, the Florida Legislature created the Voluntary Cleanup Tax Credit program to encourage participants to conduct voluntary cleanup of certain drycleaning solvent contaminated sites and brownfield sites in designated brownfield areas. Participants may be private or public entities, but they must meet the eligibility criteria established under Sections 376.3078, 376.30781, and 376.82, F.S., as applicable, and they must enter into either a Voluntary Cleanup Agreement, for drycleaning solvent cleanup, or a Brownfield Site Rehabilitation Agreement. Tax credit certificates are awarded by the Florida Department of Environmental Protection (FDEP) from an annual \$5 million authorization and are valid against Florida Corporate Income Tax liabilities. Tax credit awards in excess of \$5 million for any given fiscal year are issued from the next available tax credit authorization.

Under the VCTC program an eligible entity such as the FPRA can apply for and receive tax credits for 50% of eligible site rehabilitation costs on an annual basis up to a limit of \$500,000 annually. There is the ability to claim an additional 25% (capped at \$500,000) of the total site rehabilitation costs claimed and deemed eligible over the life of the project once a No Further Action status is approved by FDEP. Moreover, FPRA has applied for voluntary cleanup tax credits for site rehabilitation activities undertaken in 2012 and is awaiting receipt of approximately \$83,723.41 in tax credits. The program is oversubscribed and it is currently experiencing a two-year backlog.

As far as how VCTC proceeds can be used, I have conferred directly with FDEP and Mr. Roger Register, an expert on the VCTC program and former State Brownfields Coordinator who now works for Cardno TBE to provide an answer to your question. Based on these discussion, I understand the VCTC program and the Florida Statute which created this program have no prohibition on the use of funds received from the transfer or brokerage of a VCTC certificate. The statute only addresses eligibility for the entity applying for this tax credit and that all eligible site rehabilitation costs claimed must be incurred and paid in the year the work was performed. Participants (or eligible entities) may be private or public entities, but the entity must meet the eligibility criteria established under Sections 376.3078, 376.30781, and 376.82, F.S., as applicable, and they must enter into either a Voluntary Cleanup Agreement, for drycleaning solvent cleanup, or a Brownfield Site Rehabilitation Agreement (BSRA). The FPRA has met all eligibility criteria and has signed all appropriate agreements with the FDEP. It is anticipated that all site rehabilitation costs incurred during 2013 for cleanup activities at the three HD King parcels will be claimed in separate VCTC applications to be submitted to the FDEP's Division of Waste Management by January 31, 2014. No prior year costs can be claimed in an annual site rehabilitation tax credit application.

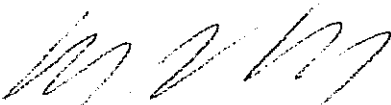
Once the application's costs are deemed eligible by FDEP and a VCTC certificate is issued how to apply the funds received from a discounted sale or transfer of tax credits is in the

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discretion of the eligible entity, in this situation the FPRA. To restate, there is no prohibition on the use of funds received from the sale or brokerage of a VCTC certificate. If the FPRA chooses to apply the funds received from the sale of a certificate to the TCRPC outstanding RLF loan principal it is again at the FPRA's sole discretion and not a decision of FDEP, EPA or the State of Florida. I have confirmed this with FDEP staff. The VCTC program was established to encourage voluntary site rehabilitation including cleanup and to leverage other federal and state incentives to accomplish this goal.

If you have any other questions or need any additional information please do not hesitate to contact myself at (772) 221-4060 or Mr. Roger Register from Cardno TBE at (850) 556-1369.

Sincerely,



Gregory Vaday, AICP
Economic Development Coordinator

GV:lg

Attachment

cc: Roger Register, Cardno TBE

FORT PIERCE REDEVELOPMENT AGENCY



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To: Honorable Mayor and City Commissioners Sitting as the FPRA Board

From: Jon Ward

Re: King Plant Brownfield Cleanup-Notes from the Joint Staff Meeting

Date: January 4, 2013

Cc: Robert Bradshaw, Rob Schwerer, Nick Mimms, Jack Andrews, Greg Vaday (TCRPC), Greg Schultz, Rick Hagberg, Miles Ballogg, Connie Lasher (Cardno), Bill Thiess, Bill Baldwin, John Tompeck, Koby Koblegard (FPUA), FPUA Board

On January 3, 2013, staff from the City, FPRA, FPUA, Treasure Coast Regional Planning Council (TCRPC) and CardnoTBE, our environmental consultants on the King Plant project, met to discuss options for the continued environmental cleanup work at the site and to formulate a coordinated set of staff recommendations for the completion of this challenging work. In attendance were City Manager Robert Bradshaw, Deputy City Manager Nick Mimms, City Engineer Jack Andrews, City Attorney Rob Schwerer, FPRA Director Jon Ward and Financial Administrator Melissa Moore. Greg Vaday of the TCRPC, Rick Hagberg of Cardno, Utilities Authority Director Bill Thiess, FPUA staffers Bill Baldwin and John Tompeck and FPUA Attorney Koby Koblegard.

During more than two hours of detailed discussions, the following subjects were addressed, yielding a series of related joint staff recommendations:

1. **Level of cleanup and attendant costs.** Three options are available to us, to clean the site to Residential, Commercial/Industrial or Leachability standards. Only the Residential standard will yield the unfettered use of the site without any environmental site controls or deed restrictions on the property. It is, of course, the most expensive initial option, but, considering the benefits to achieving eventual redevelopment, may prove to be the most cost effective in the long run. Current preliminary estimates place the Residential cost at between \$2.5-2.8mm to treat the soil, plus an estimated \$200k for groundwater costs. (This compares to \$1.6-2.1mm for Commercial and \$1.5mm for Leachability. The \$200k groundwater costs are required in addition to the soils costs, across the board.) The staff recommendation is to clean the site to Residential standards.
2. **Time required for the cleanup.** The time required for the cleanup is tied to how we pay for the cleanup. The physical removal of the contaminated material can be accomplished within the next 8-12 months easily, but if we want to take advantage of the state's Voluntary Cleanup Tax Credit (VCTC) program, which will eventually reimburse us for almost 75% of the cleanup costs, we are constrained by that program's refunding limits. We can apply for tax credits for 50% of our

annual allowable costs, up to a limit of \$500k annually. This means that we can only spend up to \$1mm annually on the cleanup. If we agree to clean to residential standards and it carries a cost of \$2.7-3mm (including groundwater costs), it forces this into a three-year project. Staff recommends that we apply for the VCTC program and design the three-year cleanup in a fashion that yields gradual public access to the site.

3. How do we pay for the cleanup? The FPUA is responsible for the cost of the cleanup after the EPA grants close out on June 30, 2013. FPUA staffers indicate that they have adequate reserves to cover these costs at the Residential level. However, a viable option that requires minimal FPUA out of pocket expense is to take advantage of the TCRPC's brownfield-focused Revolving Loan Fund (RLF). The FPRA can access an immediate infusion of \$800k from the RLF, which, along with the balance remaining from the EPA grants, will provide the million dollar funding limit for 2013 cleanup activities (assuming we apply for the VCTC and are limited to a one million dollar cleanup expense annually). The RLF is a loan, carrying interest rates of between 0-5%, to be determined by the TCRPC's Board. FPUA Director Thiess tells us that his reserve's investments are only yielding about .25%. If we can convince the TCRPC to lend the RLF money at that .25% rate, the reserve yield offsets the interest costs and the loan can be structured to be paid back in up to 5 years, with no prepayment penalty. The FPUA would be required to cover the loan repayments until VCTC funds are received (estimated to be in 2-3 years after being granted) and then the VCTC funds can be used to take down that portion of the loan balance. The TCRPC tells us that potentially another \$1mm could be available from the RLF in their subsequent allotments, which would cover the 2014 cleanup work. The FPUA may eventually be required to provide some mezzanine financing if subsequent RLF loans are not available until VCTC proceeds start to flow in. Assuming a worst case scenario and the cleanup costs \$3mm, the FPRA, if granted the maximum annual VCTC, can recover up to almost 75% of those costs (50% of the annual costs, up to \$500k annually, plus a 25% bonus for all expenses at the achievement of a successful project closeout) or around \$2.25 mm. If we sell the VCTCs on the active secondary market at a 20% discount, that would yield us a net return of approximately \$1.8mm, with the FPUA responsible for the \$1.2mm balance, which could be financed over 5 years with the RLF funding. Staff recommends that the FPRA apply to the TCRPC for a loan from the Revolving Loan Fund, modify the existing agreement with the FPUA to guarantee the repayment of the RLF (if we are successful in being granted an acceptable loan rate) and further recommends that any proceeds to the FPRA from the state VCTC program be dedicated towards the repayment of the RLF loan and/or any appropriate expenses relating to the cleanup. *This was deleted*

Staff also discussed the fact that additional testing at the site could significantly reduce the amount of soil required to be removed and the corresponding cost. Removal of a quarter acre of non-TSCA contaminated material costs approximately \$70k, not counting new clean fill costs plus testing and attendant costs. Tightening up the testing grid at the outside boundaries of Parcel 1 will cost an additional \$20-25k (fully covered by the EPA grant) but should save a significant investment in soil removal costs. Cardno is preparing an estimate for the testing costs, using a mobile lab to expedite test results, and staff will update on that, when received.

On a related note, the contract with Cardno expires at the conclusion of the EPA grant, June 30-2013. Staff recommends that we extend the contract until at least September 30, 2013, to the close of the fiscal year and the joint FPRA/FPUA staffs will evaluate their performance in the coming year and make a recommendation to the FPRA Board to further extend their contract for the following year's work or consider an alternative consultant, at that time.

Based on previous Board discussions, on December 13, staff executed an Agreement with Cardno to provide services to eliminate the TIF deed restrictions on Parcel 1. We were able to negotiate an agreement with the EPA that this activity, now referred to as "Redevelopment/Remedial Planning and Coordination Services" is accepted as an approved activity to be funded under the existing EPA grant and will not require any FPRA expenditures. As the Agreement, NTE \$23k, exceeds staff's spending limits, Staff requests that the Board retroactively approve Staff's action in executing the Agreement to provide Redevelopment and Remedial Planning and Coordination Services with Cardno, dated December 13, 2012.

We are in the process of rescheduling the joint FPUA/FPRA Board meeting at this time.