WBSIDA Board of Directors
AGENDA

Wednesday, September 12, 2018
4:00pm to 5:00pm
Sheraton Princess Kaʻiulani (Kapuni Room)

1) Call to Order
2) Minutes of the April 25, 2018 Meeting (for approval)
3) Financials (6-30-18) and (7-31-18)

4) Board Elections

SPECIAL PROJECT UPDATES:
5) Hurricane Lane impacts and lessons learned.
6) Beach Project Updates:
   a) Royal Hawaiian Groin- Revised design and updated timeline
   b) Kuhio Beach Erosion Update
   c) Kuhio Beach Sandbag groin project update
   d) Sheraton Waikīkī Sandbag update
   e) Waikīkī Concept Designs Update
   f) Waikīkī Beach Community Advisory Committee August Meeting Summary
   g) Ala Wai Watershed Collaboration Update
      i) USFW grant
      ii) Water quality monitoring expansion
      iii) Waterkeeper Oyster Project proposal

7) Increase discretionary funds for special beach projects (proposal for next year’s budget)
   a) Current budget for $30,000/year.
   b) Request increase to $50,000/year.
   c) WBSIDA President discretionary spending up to $10,000.

8) Approval for new Memorandum of Understanding for the Kuhio Beach Groin Project (for approval)
9) Approval for new Memorandum of Understanding for the Royal Hawaiian Groin Project (for approval)

10) Other business
11) Adjournment
Board of Directors Minutes  
April 25, 2018  
Halekulani Hotel, Ballroom 2

**Directors Present:** Chair Fred Orr, Vice Chair Ted Bush, Vice President Ed Case, Charles Abbott, Dylan Ching, Mark DeMello, Tsukasa Harufuku, George Kam, Sam Lemmo, Alika Mau, Jennifer Nakayama, Rob Robinson, Doug Sears, Mike Takayama, Patricia Tam, Linnie Pascual (representing Councilmember Trevor Ozawa), Josh Stanbro, and Manuel Valberg (Mayor’s representative).

**Non-voting Officers present:** President Rick Egged, Treasurer Reid Hinaga, Secretary Dolan Eversole.

**Non-voting Ex-Officio:** Bob Finley.

**Staff present:** Jim Fulton, Janet Maduli, JoAnn Morimoto, Angela Hiranaga.

**Guests:** Shellie Hable (UH Sea Grant)

I. **Call to Order:** 4:01 pm by Chair Fred Orr

II. **February 28, 2018 Meeting minutes**  
4:01 pm  
***It was moved (Rob Robinson) and seconded (George Kam) to approve the February 28, 2018 BOD meeting minutes. There was no discussion, motion was unanimously approved.

III. **March 31, 2018 Financial Report**  
4:02 pm  
Accountant Reid Hiranaga reviewed the June 30, 2018 financial report.  
Cash- $1,302,433; Net Assets- $1,697,058;  
***It was moved (Dylan Ching) and seconded (Patti Tam) to approve the June 30, 2018 financials. There was no discussion, motion was unanimously approved.

IV. **WBSIDA Refund Resolution**  
4:04 pm  
President Rick Egged distributed and discussed the WBSIDA resolution on assessment refunds. This refund policy that is consistent with the Waikīkī Business Improvement District and the City and County. The Policy states once a written request is received by the landowner for a fee adjustment or refund and the City and County has determined a refund is due the WBSIDA will respond consistent with the City and County determination.  
***It was moved (George Kam) and seconded (Rob Robinson) to approve the refund resolution as presented. There was no discussion, motion was unanimously approved.

V. **WBSIDA 2018-19 Proposed Budget (Rick Egged)**  
4:06 pm  
- Bylaws state 2/3 vote to pass the budget.
- Long-term projects in budget; Royal Hawaiian Groin ($1,250,000) if not expended will carry over to next year’s budget.
- $250,000 budgeted for Kuhio Sandbag Groin.
- $62,500 budgeted for Ala Wai Watershed Collaboration. This provides ½ of the 50% cost-share match for the $250,000 HTA grant. Funds will be sued to develop plan for Ala Wai maintenance.
- $4,600 for the American Shore and Beach Preservation Association (ASBPA) annual conference in Oct, 2018 in Texas. Dolan and Rick will attend. Last year Rick and Dolan attended and was beneficial to see what other people are doing for beach management.
- $30,000 for miscellaneous beach projects on an as needed basis.
- WBSIDA Assessment rate adjustment. The assessment rate is being reduced to 6.97 cents/$1000 value from 7.21 cents/$1000 value. This is needed in order keep within the no more than 10% per year increase due to projected increased property.
h. Motion to adjust the WBSIDA assessment rate from to 6.97 cents/$1000 value from 7.21 cents/$1000 value.

***It was moved (George Kam) and seconded (Rob Robinson) to approve the assessment rate adjustment as presented. There was no discussion, motion was unanimously approved.

***It was moved (George Kam) and seconded (Rob Robinson) to approve the 2018-19 budget as presented. There was no discussion, motion was unanimously approved.

Waikīkī Beach Coordinator Report (Dolan Eversole)

VI. Waikīkī Beach Management Plan (Dolan Eversole)

I. Rick Egged- Bylaws state the WBSIDA shall develop and Waikīkī Beach Management Plan (WBMP) and execute it. The Plan is a living document and will be updated periodically.

II. The WBMP has been developed in close partnership with the Department of Land and Natural Resources. The DLNR will complete a Waikīkī Master Plan in 2 years, the WBMP will incorporate the findings into the next version.

III. The WBMP Goals and Strategies include:
   i. Improve the quality and sustainability and stability of the public beach and nearshore resources along Waikīkī Beach.

Long-Term Goals:
   i. Develop and implement the Waikīkī Beach Management Plan.
   ii. Facilitate priority projects and coordinate government and private stakeholders on beach management projects in Waikīkī.
   iii. Ensure that future beach management projects identify and address the issues and concerns relevant to the Waikīkī community and local stakeholders.
   iv. Support community coordination, education, and outreach efforts about beach management issues and projects in Waikīkī.
   v. Identify and evaluate alternatives for beach management and maintenance in Waikīkī.

Project strategies include development of a beach management improvement projects, support of studies for new shoreline structures, near shore and Ala Wai Canal water-quality studies and improvements and other related beach management endeavors.

   Beach Maintenance
   Beach Maintenance and Cleaning
   Emergency Projects
   Sand Recovery Opportunities
   Kuhio Basin Beach Maintenance
   Sand Sources for Beach Maintenance

New and Restored Shoreline Structures
   Royal Groin
   Kuhio Beach Stub groin
   Halekulani (Grays) beach

Climate Change, Reef Restoration and Water Quality
   • Ala Wai Watershed Improvements
   • Reef Restoration and Recovery
   • Nearshore Water Quality Monitoring
   • Ground Water Table Monitoring and Mapping

VII. Waikīkī Beach Community Advisory Committee

PRIORITY AREAS-The Royal Hawaiian Cell was ranked the #1 choice for beach management planning and maintenance (50%).
PRIORITY ASSET- The top asset identified for Waikīkī included the general economic value provided by the beach.
PRIORITY PROBLEM- The top problem identified for Waikīkī varied greatly by cell but included erosion/wave run-up and structural damage.
PRIORITY SOLUTION- The top solution identified for Waikīkī varied by cell but included beach maintenance and beach restoration using local sand sources with specific “other” options.

The Ala Wai Canal is specifically included in the Waikīkī Beach Management Plan with the intent to make improvements to water quality of the Ala Wai Canal.

***It was moved (Ed Case) and seconded (Ted Bush) to approve the Waikīkī Beach Management Plan as presented. There was no discussion, motion was unanimously approved.

VIII. Project Updates (Dolan Eversole) 4:47pm
I. Royal Hawaiian Groin- June, 2017, the DLNR approved a 160 ft long Rock T-Head groin.
i. On February 28, 2018, the WBSIDA BOD approved an increase in the cost share to $1,250,000 remaining at 50% of the estimated project cost. The new agreement will expire in June of 2020.
ii. Construction start date estimated at Fall/Winter of 2019 or Spring of 2020.
iii. (Sam Lemmo) The State continuation (extension) of funds for the Royal Hawaiian Groin were not included in the authorized budget for 2019. Project is still in the permitting stage and a request for funds will be included for next year.

II. Kuhio Beach- 4:57pm
i. Severe erosion throughout the summer 2017, exposing an old concrete foundation of the former Waikīkī Tavern.
ii. The WBSIDA assisted the City and County in the design and installation of an emergency erosion control blanket fronting the Duke Kahanamoku statue. This is temporary solution until a more permanent solution can be developed. This section of beach has become progressively more unstable possibly due to the removal of 2 old relict groins in 2012.
iii. The DLNR and WBSIDA are working jointly on a plan to stabilize the area with a 95ft long x 14ft wide x 4.5 ft high sandbag groin.
iv. Cost share for the WBSIDA is estimated and budgeted at $250,000.
v. This is a DLNR project with support from the WBSIDA.
vi. A major challenge for beach projects right now is finding compatible beach-quality sand. Nearshore deposits are limited and costly to retrieve.
vii. The Kuhio groin project may include utilizing a small borrow area (~750 cubic yards) from the Diamond head basin to cover the concrete foundation.
viii. This may lead into beach maintenance plans to reshape the beach profile in the Diamond Head Basin and pull sand from the seaward end back up onto the beach.

IX. Annual Meeting 5:07pm
The WBSIDA Annual Meeting was announced for May 8, 2018 at the Hyatt Regency Waikīkī.

X. Adjournment 5:08pm
***It was moved (George Kam) and seconded (Rob Robinson) to adjourn.
Meeting was adjourned at 5:08 pm by Fred Orr.
WAIKIKI BEACH SPECIAL IMPROVEMENT DISTRICT ASSOCIATION
(A Nonprofit Organization)

REPORT ON COMPILATION OF
FINANCIAL STATEMENTS

YEAR ENDED
JUNE 30, 2018
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### FINANCIAL STATEMENTS:

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<th>STATEMENT OF FINANCIAL POSITION</th>
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<th>STATEMENT OF ACTIVITIES AND CHANGES IN NET ASSETS</th>
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### SUPPLEMENTARY INFORMATION:

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ACCOUNTANT’S COMPILATION REPORT

Board of Directors
Waikiki Beach Special Improvement District Association
Honolulu, Hawaii

Management is responsible for the accompanying financial statements of Waikiki Beach Special Improvement District Association (a Hawaii nonprofit organization), which comprise the statement of financial position as of June 30, 2018, and the related statement of activities and changes in net assets for the year then ended in accordance with accounting principles generally accepted in the United States of America. We have performed a compilation engagement in accordance with Statements on Standards for Accounting and Review Services promulgated by the Accounting and Review Services Committee of the AICPA. We did not audit or review the financial statements nor were we required to perform any procedures to verify the accuracy or completeness of the information provided by management. Accordingly, we do not express an opinion, a conclusion, nor provide any form of assurance on these financial statements.

Management has elected to omit substantially all the disclosures and the statement of cash flows required by accounting principles generally accepted in the United States of America. If the omitted disclosures and the statement of cash flows were included in the financial statements, they might influence the user’s conclusions about the Company’s financial position, results of operations, and cash flows. Accordingly, the financial statements are not designed for those who are not informed about such matters.

The supplementary information contained in Schedule I is presented for purposes of additional analysis and is not a required part of the basic financial statements. This information is the representation of management. The information was subject to our compilation engagement, however,
we have not audited or reviewed the supplementary information and, accordingly, do not express an opinion, a conclusion, nor provide any form of assurance on such supplementary information.

We are not independent with respect to Waikiki Beach Special Improvement District Association.

ECA LLP
Certified Public Accountants

Honolulu, Hawaii
September 7, 2018
# Statement of Financial Position

**Waikiki Beach Special Improvement District Association**

**June 30, 2018**

## Assets

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<th>Description</th>
<th>Amount</th>
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<td>Cash</td>
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<td>Accounts Receivable</td>
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<td>Prepaid Expenses</td>
<td>757</td>
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<td><strong>Total Assets</strong></td>
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## Liabilities and Net Assets

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<th>Description</th>
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<td>Accrued City Collection Fee</td>
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<td><strong>Total Liabilities</strong></td>
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<td><strong>Net Assets:</strong></td>
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<tr>
<td>Unrestricted</td>
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<tr>
<td><strong>Total Net Assets</strong></td>
<td><strong>$1,660,219</strong></td>
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</tbody>
</table>

See accountant's compilation report.
**WAIKIKI BEACH SPECIAL IMPROVEMENT DISTRICT ASSOCIATION**

**STATEMENT OF ACTIVITIES AND CHANGES IN NET ASSETS**

**YEAR ENDED JUNE 30, 2018**

### UNRESTRICTED NET ASSETS:

**Revenue and other support:**

<table>
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<tr>
<th>Description</th>
<th>Amount</th>
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<td><strong>Interest</strong></td>
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<td><strong>Expenses</strong></td>
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**EXPENSES:**

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<th>Program services:</th>
<th>Amount</th>
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<td>Waikiki beach coordinator</td>
<td>122,553</td>
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<tr>
<td>Beach management project</td>
<td>100,000</td>
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<tr>
<td>Waikiki beach economic study update</td>
<td>23,000</td>
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<tr>
<td>Other projects</td>
<td>3,000</td>
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<th>Management and general:</th>
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<td>Waikiki Improvement Association</td>
<td>43,920</td>
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<td>Administrative fees</td>
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<td>Communication</td>
<td>10,683</td>
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<td>Professional fees</td>
<td>9,382</td>
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<td>Other</td>
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<td>Insurance</td>
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<td>Annual meeting</td>
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<td>Board meeting</td>
<td>143</td>
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<tr>
<td><strong>Total Expenses</strong></td>
<td>325,454</td>
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**INCREASE IN NET ASSETS**

507,774

**NET ASSETS, July 1, 2017**

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<td>As previously stated</td>
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<td>Prior period adjustment</td>
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<td><strong>As stated</strong></td>
<td>1,105,241</td>
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**NET ASSETS, JUNE 30, 2018**

$1,613,015

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See accountant's compilation report.
<table>
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<tr>
<th>SCHEDULE I</th>
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<tbody>
<tr>
<td><strong>UNRESTRICTED NET ASSETS:</strong></td>
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<tr>
<td>Revenue and other support:</td>
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<tr>
<td>Member assessments:</td>
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<td>Assessments</td>
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<tr>
<td>Less: City collection fee</td>
</tr>
<tr>
<td>Interest</td>
</tr>
<tr>
<td><strong>Total</strong></td>
</tr>
</tbody>
</table>

| **EXPENSES:** |
| Program services: |
| Waikiki beach coordinator  | 122,553 | 124,920 | 2,367 |
| Beach management project  | 100,000 | 120,000 | 20,000 |
| Waikiki beach economic study update  | 23,000 | 30,753 | 7,753 |
| Other projects  | 3,000 | 30,000 | 27,000 |
| Management and general: |
| Waikiki Improvement Association administrative fees  | 43,920 | 43,920 |
| Communication  | 10,683 | 10,800 | 117 |
| Professional fees  | 9,382 | 14,500 | 5,118 |
| Other  | 6,768 | 4,400 | (2,368) |
| Insurance  | 2,984 | 5,400 | 2,416 |
| Annual meeting  | 3,021 | 3,700 | 679 |
| Board meeting  | 143 | 800 | 657 |
| **Total** | 325,454 | 389,193 | 63,739 |

| **INCREASE IN NET ASSETS** | $507,774 | $412,915 | $94,859 |

See accountant's compilation report.
WAIKIKI BEACH SPECIAL IMPROVEMENT DISTRICT ASSOCIATION
(A Nonprofit Organization)

REPORT ON COMPILATION OF
FINANCIAL STATEMENTS

MONTH ENDED
JULY 31, 2018
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ACCOUNTANT'S COMPILATION REPORT

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  STATEMENT OF FINANCIAL POSITION
  STATEMENT OF ACTIVITIES AND CHANGES IN NET ASSETS

SUPPLEMENTARY INFORMATION:

  SCHEDULE I - STATEMENT OF ACTIVITIES - BUDGET TO ACTUAL
ACCOUNTANT'S COMPILATION REPORT

Board of Directors
Waikiki Beach Special Improvement
District Association
Honolulu, Hawaii

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ECA LEP

Certified Public Accountants

Honolulu, Hawaii
September 7, 2018
<table>
<thead>
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<th>ASSETS</th>
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<td>CASH</td>
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<td>PREPAID EXPENSES</td>
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<th>LIABILITIES AND NET ASSETS</th>
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<td>ACCOUNTS PAYABLE AND ACCURED EXPENSES</td>
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<td>ACCRUED CITY COLLECTION FEE</td>
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<td>46,638</td>
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<td><strong>TOTAL LIABILITIES</strong></td>
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<th>COMMITMENTS AND CONTINGENCIES</th>
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<td>NET ASSETS:</td>
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<td>Unrestricted</td>
<td>$1,544,391</td>
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<td><strong>TOTAL NET ASSETS</strong></td>
<td><strong>$1,591,029</strong></td>
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See accountant's compilation report.
UNRESTRICTED NET ASSETS:
Revenue and other support:
Interest $ 53

EXPENSES:
Program services:
Ala Wai watershed collaboration 62,500
Management and general:
Waikiki Improvement Association administrative fees 4,029
Communication 1,047
Professional fees 785
Other 64
Insurance 252

68,677

DECREASE IN NET ASSETS
{ 68,624)

NET ASSETS, July 1, 2018 1,613,015

NET ASSETS, JULY 31, 2018 $1,544,391

See accountant's compilation report.
WAIKIKI BEACH SPECIAL IMPROVEMENT DISTRICT ASSOCIATION

STATEMENT OF ACTIVITIES - BUDGET TO ACTUAL

MONTH ENDED JULY 31, 2018

SCHEDULE I

<table>
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<th>UNRESTRICTED NET ASSETS:</th>
<th>ACTUAL</th>
<th>BUDGET</th>
<th>DIFFERENCE</th>
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<tr>
<td>Revenue and other support:</td>
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<td></td>
<td></td>
</tr>
<tr>
<td>Interest</td>
<td>$ 53</td>
<td>$ -</td>
<td>$ 53</td>
</tr>
</tbody>
</table>

| EXPENSES: |        |        |            |
| Program services: |        | 11,520 | 11,520 |
| Waikiki beach coordinator | 62,500 | 62,500 |
| Ala Wai watershed collaboration |        |        |
| Management and general: |        |        |            |
| Waikiki Improvement Association administrative fees | 4,029 | 4,020 | ( 9) |
| Communication          | 1,047  | 1,000  | ( 47) |
| Professional fees      | 785    | ( 785) |
| Other                  | 64     | 200    | 136 |
| Insurance              | 252    | 300    | 48 |

|                     | 68,677 | 79,540 | 10,863 |

| INCREASE IN NET ASSETS | ($68,624) | ($79,540) | $10,916 |

See accountant's compilation report.
MEMORANDUM OF UNDERSTANDING
(KUHIO BEACH SANDBAG GROIN PROJECT)

This memorandum of understanding (“MOU”), dated___________, outlines the agreement between the State of Hawaii, Department of Land and Natural Resources (“DLNR”) and the Waikiki Beach Special Improvement District Association (“WBSIDA”) regarding the proposed Kuhio Beach Sandbag Groin Project at Waikiki, Oahu, Hawaii.

RECITALS

A. WBSIDA and DLNR enter into this MOU regarding the joint funding of the plans and permits, construction, management and environmental monitoring of the Kuhio Beach Sandbag Groin Project (the “Project”).

B. The Project entails planning, design, permitting, construction, construction monitoring, environmental monitoring for a new temporary groin at Kuhio Beach Park in order to immediately stabilize this section of eroded public shoreline fronting the Duke Kahanamoku statue.

C. The intent of the Project is to protect and preserve the beach resource at Waikiki for the benefit of the public at large, to alleviate hazards to upland development from long-term and seasonal beach erosion, and to plan for and design an emergency temporary solution for beach.

D. The DLNR has engaged the services of a coastal engineering company, to design, plan and submit the permits for this project and the DLNR will manage and oversee the planning, permitting, and construction for the Project.

E. DLNR and WBSIDA desire to memorialize their understanding of the terms and conditions upon which DLNR and WBSIDA will fund the activities described above for the Project.

F. The DLNR estimates a cost of $500,000, for the Project, for which a 50% cost match is requested from private partners. Thus, the purpose of the MOU is to provide the mechanism by which WBSIDA will deposit up to $250,000 with DLNR to cover the costs of construction, construction monitoring, environmental monitoring, and an after action report for the Project. The source of public and private funds for the cost match is from WBSIDA through financing from the Waikiki Beach Special Improvement District No. 3.
Now, THEREFORE, the terms of the MOU are as follows:

1. **Estimated Cost of Project:** The current estimated cost for the Project is approximately FIVE HUNDRED THOUSAND DOLLARS ($500,000.00).

2. **Joint Funding of the Project:** DLNR and WBSIDA agree to jointly fund the Project, with WBSIDA and DLNR each, respectively, funding 50% of the total cost.

3. **Contribution:** WBSIDA agrees to contribute to DLNR up to TWO HUNDRED FIFTY THOUSAND DOLLARS ($250,000.00) (the “WBSIDA Contribution”), upon and subject to the terms and conditions set forth in this MOU.

4. **Use of WBSIDA Contribution:** The WBSIDA Contribution shall be used solely as set forth in the MOU to fund the MOU Work.

5. **Deposit of the WBSIDA Contribution:** The WBSIDA Contribution shall be held in a separate account and shall not be commingled with other funds of the State. WBSIDA shall deposit the WBSIDA Contribution upon written request from DLNR to WBSIDA.

6. **Payment of Money for MOU Work:** DLNR shall make each progress payment for the MOU Work by making payments by or on behalf of DLNR and from the WBSIDA separate account in equal amounts.

7. **Return of Funds:** The WBSIDA Contribution or any portion thereof remaining, as the situation may be, shall be returned to WBSIDA as set forth herein below:

   a. If for any reason DLNR is unable to award a contract for the Project by June 30, 2020, the DLNR shall provide written notification to WBSIDA and shall promptly return any unused portion of the WBSIDA Contribution to WBSIDA. If, however, DLNR is unable to award a contract because the bid opening reveals that the total cost of the MOU Work is expected to exceed $500,000.00, the parties shall, in good faith, discuss potential options for moving forward with the Project prior to the return of any unused portion of the WBSIDA Contribution to WBSIDA.

   b. If for any reason a contract for the Project is awarded but there are circumstances that arise by June 30, 2020, that prevent or otherwise make impracticable the contract’s completion, then upon termination or cancellation of the contract, DLNR shall promptly return any unused portion of the WBSIDA Contribution to WBSIDA.

   c. If, after the DLNR’s final acceptance of the Project and DLNR’s final payment is made, there is an unused portion of the WBSIDA Contribution, DLNR shall promptly return any unused portion of the WBSIDA Contribution to WBSIDA.
8. **Miscellaneous Provisions:**

   a. **Partial Invalidity:** If any provision of the MOU or its application to any person or circumstance shall to any extent be invalid or unenforceable, the remaining provisions of this MOU, or the application of such provision to person or circumstances other than those as to which it is invalid or unenforceable, shall not be affected.

   b. **Governing Law:** This MOU shall be construed, interpreted and applied in accordance with the laws of the State of Hawaii.

   c. **No Warranty:** Nothing in this MOU shall be construed as a warranty or guaranty of the successful or full completion of the Project, or of the quality of the Project.

   d. **No Third Party Beneficiaries:** No term or provision of the MOU is intended to be, or shall it be, for the benefit of any person, firm, organization, or corporation not a party hereto, and no such other person, firm, organization, or corporation shall have any right or cause of action hereunder.

   e. **No Partnership:** Any intention to create a joint venture or partnership relation between the parties hereto is hereby expressly disclaimed.

   f. **Modifications:** This MOU may not be modified except by a written agreement signed by both parties.

   g. **Binding on and Inuring to Benefit of Successors and Assigns:** This MOU shall be binding upon, and shall insure to the benefit of the parties, and their respective successors and assigns.

   h. **Notices:** All notices and other communications in connection with this MOU shall be in writing and shall be deemed to have been received by a party when actually received in the case of hand delivery, facsimile transmission, e-mail, or internationally recognized courier services, or three (3) days after being sent by United States mail, as the case may be, using the information of the DLNR and WBSIDA as shown below. Any refusal to accept delivery of a written notice delivered or mailed to the addresses set forth below resulting in non-operation of the receiving party’s facsimile equipment, shall be deemed to be receipt of such notice for the purpose of this MOU.
i. Counterparts; Facsimile Execution: The parties hereto agree that this instrument may be executed in counterparts, each of which shall be deemed an original, and said counterparts shall together constitute one and the same agreement, binding upon all of the parties hereto, notwithstanding that all of the parties are not signatory to the original or the same counterparts. For all purposes, including, without limitation, recordation, filing and delivery of this instrument, duplicate unexecuted and unacknowledged pages of the counterparts may be discarded and the remaining pages assembled as one document. An executed counterpart of this instrument transmitted and received by facsimile or email shall be deemed for all purposes to be an original, executed counterpart thereof.
IN WITNESS WHEREOF, DLNR and WBSIDA have executed this Memorandum of Understanding as of the date stated above.

Waikiki Beach Special Improvement District Association

By:____________________________
Print name:_____________________
Title:__________________________

Approved as to form:

State of Hawaii, Department of Land and Natural Resources

By:____________________________
By:____________________________
David D. Day
Suzanne D. Case, Chairperson
Deputy Attorney General
Board of Land and Natural Resources

Approved by the Board of Land and Natural Resources at its meeting held on 
XXXXXXX
MEMORANDUM OF UNDERSTANDING
Addendum #2
(ROYAL HAWAIIAN GROIN IMPROVEMENT PROJECT)

This memorandum of understanding (“MOU”), dated______________, outlines the agreement between the State of Hawaii, Department of Land and Natural Resources (“DLNR”) and the Waikiki Beach Special Improvement District Association (“WBSIDA”) regarding the Royal Hawaiian Groin Improvement Project at Waikiki, Oahu, Hawaii.

RECITALS

A. WBSIDA and DLNR enter into this MOU regarding the joint funding of the construction, construction monitoring, environmental monitoring, and after action report of the Royal Hawaiian Groin Improvement Project (the “Project”).

B. The Project entails planning, design, permitting, construction, construction monitoring, environmental monitoring, and an after action report for the replacement of the Royal Hawaiian Groin, an engineered shoreline erosion control structure at the Ewa (West) end of Waikiki Beach which has been in place since 1927 and is at risk of failure.

C. The intent of the Project is to protect and preserve the beach resource at Waikiki for the benefit of the public at large, to alleviate hazards to upland development from long-term and seasonal beach erosion, and to plan for and design the optimal solution for beach stabilization in full compliance with environmentally sound planning and design principles as determined through the establishment of an acceptable design and environmental assessment (“EA”), to gain all permitting necessary to initiate the project, and to provide for construction, construction monitoring, environmental monitoring, and an after action report.

The DLNR engaged the services of a coastal engineering company, to produce the EA and a comprehensive conceptual design report. The final EA and Finding of No Significant Impact for the Project were published on the Office of Environmental Quality Control website on May 23, 2016. The Board of Land and Natural Resources approved the State Conservation District Use Application for the project in January, 2016. DLNR has also engaged the services of a coastal engineering company to complete permitting and design for the Project.

D. DLNR will manage planning, permitting, and construction for the Project.

E. DLNR and WBSIDA desire to memorialize their understanding of the terms and conditions upon which DLNR and WBSIDA will fund the plans and permits, construction, project management, environmental monitoring, and an after action report for the Project.
F. The DLNR estimated the costs of $2,500,000, for the Project, for which a 50% cost match is requested from private partners. Thus, the purpose of the MOU is to provide the mechanism by which WBSIDA will deposit $1,250,000 with DLNR to cover the costs of construction, construction monitoring, environmental monitoring, and an after action report for the Project. The source of public and private funds for the cost match is from WBSIDA through financing from the Waikiki Beach Special Improvement District No. 3.

G. The WBSIDA Board of Directors approved an increase in the WBSIDA cost share to One Million Two Hundred Fifty Thousand dollars ($1,250,000) on February, 28, 2018 in accordance with the terms of this MOU.

Now, THEREFORE, the terms of the MOU are as follows:

1. Estimated Cost of Project: The current estimated cost for the construction, construction monitoring, environmental monitoring, and an after action report for the Project (“MOU Work”) is approximately TWO MILLION FIVE HUNDRED THOUSAND DOLLARS ($2,500,000.00).

2. Joint Funding of the Project: DLNR and WBSIDA agree to jointly fund the MOU Work, with WBSIDA and DLNR each, respectively, funding 50% of the total cost.

3. Contribution: WBSIDA agrees to contribute to DLNR up to ONE MILLION TWO HUNDRED TWO HUNDRED FIFTY THOUSAND DOLLARS ($1,250,000.00) (the “WBSIDA Contribution”), upon and subject to the terms and conditions set forth in this MOU.

4. Use of WBSIDA Contribution: The WBSIDA Contribution shall be used solely as set forth in the MOU to fund the MOU Work.

5. Deposit of the WBSIDA Contribution: The WBSIDA Contribution shall be held in a separate account and shall not be commingled with other funds of the State. WBSIDA shall deposit the WBSIDA Contribution upon written request from DLNR to WBSIDA.

6. Payment of Money for MOU Work: DLNR shall make each progress payment for the MOU Work by making payments by or on behalf of DLNR and from the WBSIDA separate account in equal amounts.

7. Return of Funds: The WBSIDA Contribution or any portion thereof remaining, as the situation may be, shall be returned to WBSIDA as set forth herein below:

   a. If for any reason DLNR is unable to award a contract for the MOU Work by June 30, 2020, DLNR shall provide written notification to WBSIDA and shall promptly return any unused portion of the WBSIDA Contribution to WBSIDA.
If, however, DLNR is unable to award a contract because the bid opening reveals that the total cost of the MOU Work is expected to exceed $2,500,000.00, the parties shall, in good faith, discuss potential options for moving forward with the MOU work prior to the return of any unused portion of the WBSIDA Contribution to WBSIDA.

b. If for any reason a contract for the MOU Work is awarded but there are circumstances that arise by June 30, 2020, that prevent or otherwise make impracticable the contract’s completion, then upon termination or cancellation of the contract, the DLNR shall promptly return any unused portion of the WBSIDA Contribution to WBSIDA.

c. If, after the DLNR’s final acceptance of the MOU Work and DLNR’s final payment is made, there is an unused portion of the WBSIDA Contribution, DLNR shall promptly return any unused portion of the WBSIDA Contribution to WBSIDA.

8. **Miscellaneous Provisions:**

a. **Partial Invalidity:** If any provision of the MOU or its application to any person or circumstance shall to any extent be invalid or unenforceable, the remaining provisions of this MOU, or the application of such provision to person or circumstances other than those as to which it is invalid or unenforceable, shall not be affected.

b. **Governing Law:** This MOU shall be construed, interpreted and applied in accordance with the laws of the State of Hawaii.

c. **No Warranty:** Nothing in this MOU shall be construed as a warranty or guaranty of the successful or full completion of the Project or the MOU Work, or of the quality of the Project or the MOU Work.

d. **No Third Party Beneficiaries:** No term or provision of the MOU is intended to be, or shall it be, for the benefit of any person, firm, organization, or corporation not a party hereto, and no such other person, firm, organization, or corporation shall have any right or cause of action hereunder.

e. **No Partnership:** Any intention to create a joint venture or partnership relation between the parties hereto is hereby expressly disclaimed.

f. **Modifications:** This MOU may not be modified except by a written agreement signed by both parties.
g. **Binding on and Inuring to Benefit of Successors and Assigns:** This MOU shall be binding upon, and shall insure to the benefit of the parties, and their respective successors and assigns.

h. **Notices:** All notices and other communications in connection with this MOU shall be in writing and shall be deemed to have been received by a party when actually received in the case of hand delivery, facsimile transmission, e-mail, or internationally recognized courier services, or three (3) days after being sent by United States mail, as the case may be, using the information of the DLNR and WBSIDA as shown below. Any refusal to accept delivery of a written notice delivered or mailed to the addresses set forth below resulting in non-operation of the receiving party’s facsimile equipment, shall be deemed to be receipt of such notice for the purpose of this MOU.

**DLNR:**
Department of Land and Natural Resources  
Office of Conservation and Coastal Lands  
1151 Punchbowl Street  
Honolulu, Hawaii 96822  
Facsimile No.: (808) 587-0377

**WBSIDA:**
Waikiki Beach Special Improvement District Association  
2250 Kalakaua Avenue, Suite 315  
Honolulu, Hawaii 96815  
Facsimile No.: (808) 923-2622

i. **Counterparts; Facsimile Execution:** The parties hereto agree that this instrument may be executed in counterparts, each of which shall be deemed an original, and said counterparts shall together constitute one and the same agreement, binding upon all of the parties hereto, notwithstanding that all of the parties are not signatory to the original or the same counterparts. For all purposes, including, without limitation, recordation, filing and delivery of this instrument, duplicate unexecuted and unacknowledged pages of the counterparts may be discarded and the remaining pages assembled as one document. An executed counterpart of this instrument transmitted and received by facsimile or email shall be deemed for all purposes to be an original, executed counterpart thereof.
IN WITNESS WHEREOF, DLNR and WBSIDA have executed this Memorandum of Understanding as of the date stated above.

Waikiki Beach Special Improvement District Association

By:_____________________________
Print name:_______________________
Title:____________________________

Approved as to form: State of Hawaii, Department of Land and Natural Resources

By:_____________________________
By:_____________________________
David D. Day
Suzanne D. Case, Chairperson
Deputy Attorney General
Board of Land and Natural Resources

Approved by the Board of Land and Natural Resources at its meeting held on February 12, 2016