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**LAND CLEARANCE FOR REDEVELOPMENT AUTHORITY**

**BOARD MEETING MINUTES**

**DATE:** December 19, 2018

**TIME:** 9:30 a.m.

**PLACE:** Jackson Room, 17<sup>th</sup> Floor, Town Pavilion  
1100 Walnut, Kansas City, Missouri

1. **Roll Call.**

**Present:** Pat Contreras  
Daniel Edwards  
Steve Hamilton  
Gabriel Okafor

**Absent:** Faiza Alhambra

**Staff:** Greg Flisram, LCRA  
Susan Tumey, LCRA  
Lee Brown, EDC  
Aarron Knight, EDC  
Bob Long, EDC  
T'Risa McCord, EDC  
Dan Moye, EDC  
Sandra Rayford, EDC

**LCRA Legal Counsel:** Brian Engel, Rouse Frets

**Guests:** Jeff Smith, BKD  
Jim Noland, Central States  
Jerry Helmick, City of Kansas City, Human Relations Dept.  
Bruce Eddy, Community Mental Health Fund  
Joey Flickner, IUPAT DC3  
Jim Woodson, IUPAT DC3  
Roxsen Koch, Platform Ventures  
Evan Walsh, Platform Ventures  
John Hoffman, UC-B Properties

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Chairman Hamilton called to order the monthly meeting of the Board of Commissioners of Land Clearance for Redevelopment Authority and declared a quorum as Commissioners Contreras and Okafor were present. Commissioner Edwards arrived at a later time in the meeting.

Mr. Hamilton thanked EDC staff for their hard work and professionalism during the past year on behalf of the Authority. He also recognized Mr. Engel for his legal guidance and dedication throughout the year.

2. **Administrative** - Review and Approval of Meeting Minutes for November 28, 2018 (Ex. 2)

*ACTION TAKEN:* APPROVED THE MINUTES FOR NOVEMBER 28, 2018, AS PRESENTED. MOTION MADE BY MR. CONTRERAS, SECONDED BY MR. OKAFOR, AND CARRIED.

*Mr. Edwards arrived at the meeting.*

3. **Financial**.

*Mr. Brown suggested that Jeff Smith of BKD present the audit findings prior to his report on the November 2018 financials and Mr. Hamilton agreed.*

b. *Review and acceptance of the draft LCRA Audit for fiscal year 2018 (Lee Brown) (Ex. 3B)*

*All statements made by Mr. Smith unless otherwise noted.*

- Complicated nature of convention center hotel project (“Hotel”) financials caused delay in BKD’s finalization of audit
  - Information from EDC staff was accurate, timely, and caused no delays
  - BKD’s extended review was to ensure that the LCRA and City were on the same page regarding their respective Hotel reporting obligations
  - One minor adjustment was necessary to the audit to correct how a property sale was reported
  - Capital projects fund is new this year and is used to account for activity regarding the bond issue
- Independent Auditor’s Report (p. 1) gives opinion that the financial statements presented were materially correct
- Management’s Discussion and Analysis (p. 3) summarizes significant transactions for the year
- Statement of Net Position (p. 8) is equivalent to a balance sheet
  - Only major difference from past audits is amount of bond debt for the Hotel
  - Series 2018B bond proceeds are recorded as a liability because LCRA was the issuing entity and LCRA does not own the Hotel (*Okafor/Smith*)
- Statement of Activities (p. 9) is equivalent to an income statement, showing revenues earned and expenses incurred
- Balance Sheet - Governmental Fund (p. 10) is equivalent to a cash basis statement, showing cash balances and current payables
- Statement of Revenues, Expenditures and Changes – Governmental Fund (p. 11) is equivalent to a cash basis income statement, showing proceeds from Hotel bond issue
- Note 2 – Convention Center Hotel Financing (p. 16) details the different pieces of the Hotel’s financing
  - Includes short analysis regarding who reports liabilities and summarizes the transaction from LCRA standpoint
- Note 3 – Deposits and Investments (p. 17) outlines investments and cash deposits
  - Numbers are much higher due to unspent bond proceeds

*ACTION TAKEN:* ACCEPTED THE DRAFT LCRA AUDIT REPORT FOR FISCAL YEAR 2018. MOTION MADE BY MR. EDWARDS, SECONDED BY MR. CONTRERAS, AND CARRIED UNANIMOUSLY.

b. *Review and acceptance of the Financial Report for the month of November, 2018* (Lee Brown) (**Ex. 3A**)

- Brookside East Senior/6410 Paseo project closed yesterday and will be removed as a past-due account (*Brown*)
  - No past-due accounts are anticipated in the December 2018 report
- No anomalies in the income statement or balance sheet (*Brown*)
- Final audit numbers will be included in future financial reports (*Brown*)

*ACTION TAKEN:* ACCEPTED THE FINANCIAL REPORT FOR NOVEMBER 2018, AS PRESENTED. MOTION MADE BY MR. EDWARDS, SECONDED BY MR. CONTRERAS, AND CARRIED UNANIMOUSLY.

4. **Central Business District Urban Renewal Area** – *Consideration of Bond Authorizing Resolution for Mixed-Use Project (Mark Twain Tower)* (Brian Engel) (**Ex. 4A-4E**)

*All statements made by Mr. Engel unless otherwise noted.*

➤ **Lease Agreement (LCRA/KCAC Properties)**

- Short-term lease during construction period to provide STECM

➤ **Bond Purchase Agreement**

- Governs developer's purchase of bonds
- LCRA would also enter into an indenture to govern the issuance and repayment of bonds with the bond trustee, BOK Financial

➤ **Sale/Leaseback and Redevelopment Contract**

- Standard LCRA contract modified to provide for property acquisition and leaseback to developer
  - Includes PILOT requirements

➤ **Chapter 353 Termination**

- Current 353 abatement on property must be terminated prior to LCRA's issuance of bonds and real estate closing
- Developer is working with the City to terminate the 353 prior to closing on the property's sale
- Developer can opt out of the 353 program under its Redevelopment Agreement so Chapter 353 Board action may not be necessary (*Hamilton/Engel*)

➤ **Bond Fees/Reduction**

- Developer requested partial relief from fees because its \$5 Million expenditure to preserve historic tax credits is not included in STECM
  - STECM exemption can only be granted upon LCRA's acquisition of the property and issuance of the bonds

- Developer and staff negotiated a fee reduction from @ \$100,000 to \$75,000, contingent on Board approval (*Flisram*)
- The \$5 Million already expended, as well as a remaining \$5 Million, were or will be used to purchase construction materials (*Contreras/Moye*)
- Reduction in expenditures does not reduce fees but does decrease the value of the abatement (*Okafor/Flisram*)
  - The \$425,000 sales tax savings from the remaining \$5 Million to be expended would be swiftly eroded by fees and legal costs (*Flisram*)
- Allowing developer to pay fees at a later date would necessitate some type of non-payment penalty (*Okafor/Engel*)
  - Question would be what type of penalty would be assessed, as withdrawing the STECM would be complicated (*Engel*)
  - Standard is for bond fees to be paid at closing (*Engel*)

➤ **Construction Materials Definition**

- Need to establish clear boundaries regarding how construction materials are defined to ensure use of the STECM incentive is not jeopardized by abuse (*Okafor*)
  - Definition should include safeguards against use of project-defined materials on non-related projects (*Flisram*)
- State statute specifies that STECM construction materials apply to any item or material incorporated or affixed to the project (*Engel*)
- Staff will propose a definition of construction materials and furniture, fixtures, and equipment at a future Board meeting

*ACTION TAKEN:* APPROVED FEE REDUCTION PAYABLE BY DEVELOPER KCAC PARTNERS, LLC AND RESOLUTION AUTHORIZING ISSUANCE OF BONDS IN MAXIMUM AMOUNT OF \$50 MILLION, EXECUTION OF BOND AND PROJECT DOCUMENTS TO FUND DEVELOPMENT OF A MIXED-USE PROJECT WITHIN CENTRAL BUSINESS DISTRICT URBAN RENEWAL AREA. MOTION MADE BY MR. OKAFOR, SECONDED BY MR. CONTRERAS, AND CARRIED UNANIMOUSLY. (*RES. NO. 12-1-18*)

5. **Central Business District Urban Renewal Plan** - *KC Club — Consideration of Authorization of Incentive Package for MFH Properties, LLC* (Dan Moye) (**Ex. 5A-5B**)

*All statements made by Mr. Moye, unless otherwise noted.*

➤ **Project Changes**

- Developer removed the \$59 Million KC Club hotel from its EDC incentive request
- The \$30 Million Muehlebach Hotel apartment renovation will have 191 units rather than 120
- Construction costs for the new office building and parking garage increased by \$17 Million, partially due to increased square footage
- City has agreed in principle to make annual \$250,000 payments to the developer via a Parking Agreement

- Revised project was not resubmitted through AdvanceKC because the general structure of the plans remained the same
  - Taxing jurisdictions made no comment to the second SB Friedman analysis
- **EDC Abatement Request**
  - STECM for apartment and office/garage components
    - 10% of apartment units are affordable as dictated by Board policy
  - 25-year sale/leaseback on apartment and office/garage components
    - 75% abatement in years 1-10 and 37.5% in years 11-25
- **SB Friedman Second Analysis (Ex. 5A)**
  - Removal of hotel component reduced developer returns
    - Returns remain inside range of market rates
  - Addition of public parking and affordable housing warrant slightly higher returns for the apartment and office/garage components
    - Traditionally try to keep project incentives in mid-range rather than on the lower-end of spectrum

*Mr. Contreras advised that his employer was in active conversation with the developer regarding the project and would recuse himself from any votes on the same.*

**ACTION TAKEN:** APPROVED SALE LEASEBACK STRUCTURE TO FACILITATE A SALES TAX EXEMPTION AND REAL PROPERTY EXEMPTION REPRESENTATIVE OF 75% IN YEARS 1-10 AND 37.5% IN YEARS 11-25. MOTION MADE BY MR. OKAFOR, SECONDED BY MR. EDWARDS, AND CARRIED BY THE FOLLOWING VOTE:

MR. CONTRERAS	ABSTAIN
MR. EDWARDS	AYE
MR. HAMILTON	AYE
MR. OKAFOR	AYE

*(RES. NO. 12-2-18)*

## 6. **Administrative.**

*Mr. Hamilton and Mr. Flisram invited Mr. Hoffman to discuss his concerns about the impact of LCRA fees on smaller developers with the Board.*

*All statements made by Mr. Hoffman unless otherwise noted.*

- LCRA legal bill for UC-B Properties' 6410 Paseo/Brookside East Senior Housing Project was twice the amount estimated by developer's attorneys
  - Staff explanation was that it cost 25¢ for each dollar of exemption
  - LCRA has no control over what developer's attorney tells its client (*Hamilton*)
  - Fee Schedule is public and attached to every Funding Agreement, including UC-B Properties' agreement regarding the project at issue (*Hamilton*)
  - LCRA legal counsel is experienced and his hourly rates are extremely low for the market (*Hamilton*)

- STECM documentation is not boilerplate, as it requires both a real estate and a financing transaction (*Engel*)
- Similar UC-B bond project was charged comparable fees by the PIEA (*Flisram*)
- Mr. Hoffman’s request to review the legal invoices was denied
  - Staff suggested that Mr. Hoffman could address these issues with the Board
  - Attorney-client privilege, which can be waived, governs what information can be released to a non-client (*Engel*)
  - Developers should be able to review charges as returns are often slim for smaller developers and in areas such as the eastside (*Okafor*)
- Neighborhood Concerns
  - Communication between developer and neighborhoods should be transparent as existing residents often have concerns about the impact of new developments (*Edwards*)
- Development east of Troost is not financially viable unless high predevelopment costs are ameliorated
  - Board appreciates and encourages UC-B’s willingness to develop projects in places other developers won’t (*Okafor*)
  - Need to find creative ways to assist development in problematic areas and can do so with developer input (*Contreras*)
  - Discounting STECM fees for projects under certain conditions can be discussed further (*Flisram*)
  - Prior downtown development received fee reduction because of their comparable benefit reduction (*Flisram*)
  - LCRA authorized 100% abatement for an unrelated UC-B project on the “wrong side” of Troost (*Edwards*)
  - Working proactively with smaller developers can spur beneficial changes in LCRA policy (*Edwards*)
  - LCRA is refocused on affordable and market rate housing in the eastside and other areas and appreciates Mr. Hoffman’s comments (*Hamilton*)

*Mr. Okafor left the meeting*

b. **Executive Director’s Report** - *Active Projects Tracking System Report* (Greg Flisram) (Ex. 6A)

ACTION TAKEN: TABLED

c. **Affirmative Action Ordinance** (Brian Engel) (Ex. 6B)

*All statements made by Mr. Engel, unless otherwise noted*

➤ **Board Oversight**

- A new Board, the Fairness in Special Services and Goods Board, will oversee professional services goals in contracts over \$160,000
- The existing Fairness in Construction Board will oversee construction services goals in contracts over \$300,000

➤ **Good Faith Efforts/Liquidated Damages**

- Many developer comments were incorporated into the new Ordinance
  - Developer presumed to be in compliance as long as good faith effort standards are met
- Applicable Board will now decide if the agency and HRD cannot agree on a default determination
  - Significant change from prior Ordinance which allowed agencies to make such decisions
- Liquidated damages are calculated by the difference between goals and actual performance and can be sizeable
  - Question remains about who receives liquidated damage payments after payment to the agency

➤ **Agency Legal Liability**

- HRD's ability to declare a default under the agency's Redevelopment Contract with the developer is problematic because HRD is not a party to the agreement
  - No mechanism in Ordinance to address issue that LCRA might be held legally or financially liable for rules made by other bodies (*Flisram*)
- LCRA has no direct control over the actions of the HRD or the two Boards, so its Redevelopment Contract should be revised to ensure developer payment of any resulting LCRA legal costs and fees (*Hamilton*)

➤ **LCRA Affirmative Action Policy**

- Legal counsel and Affirmative Action Subcommittee should update existing policy to ensure developers understand the new Ordinance (*Hamilton/Engel*)

7. **Adjourn.**

There being no further business, the meeting adjourned at 10:55 a.m.

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Greg Flisram