

PHILADELPHIA REDEVELOPMENT AUTHORITY

**1234 MARKET STREET, 16TH FLOOR
PHILADELPHIA, PA 19107**

**SPECIAL BOARD MEETING
WEDNESDAY, MARCH 31, 2021**

**Executive Session – 3:30 P.M.
Open Session – 4:00 P.M.**

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BOARD FACTSHEET

Special Meeting of March 31, 2021

Carl Mackley Apartments Preservation Development

Modification of Resolutions No 2020-80 and No 2021-17

TRANSACTION SUMMARY

Authorization for the Philadelphia Redevelopment Authority ("Authority") to execute a subordination agreement in a form as required by the U.S. Department of Housing and Urban Development ("HUD") for the development financing for the Carl Mackley Apartments ("Project").

BACKGROUND INFORMATION

Pursuant to Resolution No 2020-80, adopted December 9, 2020, the Board approved financing in the amount not to exceed \$6,090,039 ("Authority Loan") for the acquisition and rehabilitation of the Project. The Authority Loan will be subordinate to a first lien construction loan insured by HUD under Section 221(D)(4) of the National Housing Act, as amended ("Senior Debt"). HUD requires that Authority approve any transfer of ownership of the Project and assumption of the Authority Loan if such transfer is approved by HUD in writing ("Transfer Consent").

Pursuant to resolution No 2021-17, the Board approved the Transfer Consent provided HUD provide the Authority thirty days' notice and an opportunity to provide comments to HUD before any transfer could occur. HUD has determined that it is unable to provide such notice and opportunity to comment and will require that the Authority agree to the standard HUD form Subordination without any revisions. Without the Authority consent, the Project will be unable to close on the funding necessary to rehabilitate an existing development which provides housing for 184 low-income tenants.

BOARD ACTION

- Permit the transfer of the Project during the Authority Loan term and the assumption of the Authority Loan if HUD approves a transfer of the Project.

Proposed Resolution is attached

Prepared by: Zena Holland, Senior Housing Development Officer

Reviewed by: Darci Bauer, Director Housing Finance

RESOLUTION NO.**RESOLUTION AUTHORIZING THE AUTHORITY'S CONSENT TO CERTAIN LANGUAGE REQUIRED BY THE U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT IN A SUBORDINATION AGREEMENT FOR THE AUTHORITY FINANCING TO CARL MACKLEY HOUSES LIMITED PARTNERSHIP**

WHEREAS, pursuant to Resolution 2020-80 adopted December 9, 2020, the Philadelphia Redevelopment Authority ("Authority") Board approved financing in the amount not to exceed \$6,090,039 to Carl Mackley Houses Limited Partnership ("Authority Loan") for the acquisition and rehabilitation of 184 units of permanent rental housing for low income residents ("Project") located at 1401 E. Bristol Street; and

WHEREAS, the Authority Loan was approved to be subordinate to financing from Merchants Capital insured by the U.S. Department of Housing and Urban Development ("HUD") under Section 221(D)(4) of the National Housing Act, as amended ("Senior Debt"); and

WHEREAS, the language of HUD's subordination agreement requirement that the Authority approve any transfer of ownership of the Project and assumption of the Authority Loan if such transfer is approved by HUD in writing; and

WHEREAS, pursuant to resolution No 2021-17, adopted March 10, 2021, the Board approved, inter alia, any future transfer of ownership of the Project and assumption of the Authority Loan provided HUD provide the Authority thirty (30) days' notice and an opportunity to provide comments to HUD before any such transfer could occur; and

WHEREAS, HUD has determined that it is unable to provide such notice and opportunity to comment and will require that the Authority agree to the standard HUD form Subordination without any revisions.

NOW THEREFORE, BE IT RESOLVED, by the Philadelphia Redevelopment Authority ("Authority"), that the Authority is authorized to:

- Permit the transfer of the Project during the Authority Loan term and assumption of the Authority Loan if HUD approves a transfer of the Project.

FURTHER AUTHORIZING, the preparation, execution, and delivery of all documentation necessary to carry out the foregoing in form and substance acceptable to the Executive Director and General Counsel.

FURTHER AUTHORIZING, that the Executive Director, with the advice of General Counsel, may allow modifications to the Resolution necessary or desirable to carry out its purposes and intents.



BOARD FACTSHEET

Special Meeting of March 31, 2021

Equal Opportunity Plan Policy for Subsidy Recipients

REQUEST: The Board is requested to adopt the Equal Opportunity Plan Policy ("**Policy**") in the form attached hereto and to the attached Resolution as Exhibit "A."

BACKGROUND: The Philadelphia Redevelopment Authority ("**Authority**") recognizes that disparities exist in the engagement of certified Minority, Women, Disabled and Disadvantaged Business Enterprises (collectively, "**M/W/DSBEs**"), and minority and female workers in all aspects of the construction and development of properties located within the City of Philadelphia (the "**City**"). In order to assist in reducing those disparities and provide more equal opportunity for M/W/DSBEs to compete for such work, the Authority seeks to implement a policy that requires that any Authority subsidy recipient (each, a "**Developer**", and together, the "**Developers**") that receives subsidy for the construction or rehabilitation of properties located within the City ("**Project**") in an amount that exceeds One Hundred Thousand Dollars (\$100,000) enter into an Economic Opportunity Plan ("**EOP**") with the City.

The EOP will contain percentage ranges of projected utilization of M/W/DSBEs and goals for the employment of minority and female workers in connection with the Project. Developer will be required to agree, on behalf of itself and its contractors, to exercise best and good faith efforts to provide subcontracting opportunities to M/W/DSBEs and employ a diverse workforce. Whether the Developer complied with the EOP requirements as to exercising best and good faith efforts will be in the sole discretion of the City and the Authority. Developer also agrees in the EOP, on behalf of itself and its contractors, not to discriminate on the basis of race, color, religion, sex, national origin, sexual orientation, gender identity, ancestry, age, or handicap in the award and performance of contracts in connection with the Project.

To ensure that Developers understand how they will be expected to fulfill the EOP requirements, the Authority seeks authorization to adopt the Policy attached hereto as Exhibit "A" which outlines the procedures Developers will be required to follow.

This Policy supplements, and does not replace, any procedures required by law, regulation, or funding source requirements.

A copy of the Policy is attached hereto as Exhibit "A." Proposed Resolution is attached.

Prepared by: Ryan Harmon

EXHIBIT "A"**EQUAL OPPORTUNITY PLAN POLICY FOR SUBSIDY RECIPIENTS**

The Philadelphia Redevelopment Authority ("**Authority**") recognizes that disparities exist in the engagement of certified Minority, Women, Disabled and Disadvantaged Business Enterprises (collectively, "**M/W/DSBEs**"), and minority and female workers in all aspects of the construction and development of properties located within the City of Philadelphia (the "**City**"). In order to assist in reducing those disparities and provide more equal opportunity for M/W/DSBEs to compete for such work, the Authority requires that any Authority subsidy recipient ("**Developer**") that receives subsidy for the construction or rehabilitation of properties located within the City ("**Project**") in an amount that exceeds One Hundred Thousand Dollars (\$100,000) enter into an Economic Opportunity Plan ("**EOP**") with the City.

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To ensure that the Developer understands how it will be expected to fulfill the EOP requirements, the Authority and the City will implement the following procedure:

1) Pre-Development Meeting/EOP and Solicitation and Commitment

- Developer and the General Contractor ("**GC**"), if already retained at this point, will meet with the EOP Monitor for the City (the "**Monitor**") and the Authority Project Manager ("**PM**") to discuss the Project, the EOP goals and requirements (including the Solicitation and Commitment form).
- Developer and GC will sign a document acknowledging receipt of this Authority EOP Policy.

- The Monitor will review the Project to determine what viable opportunities are available for M/W/DSBEs to provide commercially useful goods or services to the Project and assist the Developer and GC with setting reasonable goals based on availability of M/W/DSBEs.
- The Monitor will discuss with the Developer and GC as to what constitutes "best and good faith efforts" and the steps that they can take to comply with the "best and good faith efforts" standard in the EOP.
- Once the EOP is completed and signed by the Developer, the City's EOP Compliance Director (the "**Compliance Director**") will review and execute the EOP and then send it to the City's Office of Economic Opportunity for review and execution.

2) **Pre-Construction Meeting**

- Developer, GC, PM, and the Monitor will meet to review the fully executed EOP and the reporting requirements for monthly submissions.
- The Monitor will answer any questions regarding the reporting (M/WBE, Section 3 and employment) documents.
- Developer, GC, PM, and the Monitor will review the "best and good faith efforts" standard again.
- Developer and GC will sign a document acknowledging the discussion and the possible remedies and/or sanctions that may be imposed for failure to comply with the EOP.

3) **Notice to Proceed**

- Sixty (60) days following the issuance of the Notice to Proceed (the "**NTP**"), Developer will work with the GC to begin submission of the monthly reports to the Monitor.
 - o Project must begin thirty (30) days after issuance of the NTP. The Monitor should begin to receive reports the following month.

4) **Reporting**

- Developer will require its GC to provide Developer with its monthly reports, which the Developer will review on a monthly basis to ensure they have been completed properly. The GC shall be responsible for the actions of its subcontractors. Any violation by a subcontractor shall be deemed a violation by both the subcontractor and the GC.

- The Monitor will provide monthly reports to the Senior Vice President of Community Investment, the Director of Housing Finance, the PM (collectively, the "**Project Team**"), Developer and GC that indicate how the Project is currently measuring against the EOP.
- Throughout the duration of the Project, the GC should report to the Monitor and the Developer any obstacles the GC feels might impede it from reaching the agreed upon goals.
- During each quarter of the Project, if it appears that the EOP goals will not be met, the Monitor will send the GC an EOP recovery plan form that the GC must complete that will explain and document steps that it will take to comply with the EOP goals (the "**EOP Recovery Plan**"). The Monitor will provide a copy of the EOP Recovery Plan to the Project Team.

5) **Close-Out**

- When the Monitor receives the final reports from the GC and a close-out memo from the Housing Construction Department (the "**Close-Out Memo**"), the Monitor will perform a final review to ensure all documents were received and review the documents to determine whether there is compliance with the EOP goals. The results of the final review will be submitted to the Compliance Director for review and approval. If approved, the Compliance Director will sign the Close-Out Memo.

If the Compliance Director determines that the Developer has failed to exercise best and good faith efforts in accordance with the EOP based on the documentation provided to the Monitor, the Compliance Director will provide written notice to the Project Team outlining how the Developer failed to comply with the EOP. The Authority will then send written notice (the "**Notice**") to the Developer that will provide thirty (30) days for the Developer to provide additional documentation to address the issues raised in the Notice that will evidence compliance with the EOP. Failure to address all of the deficiencies raised in the Notice within the thirty (30) day period to the satisfaction of the Compliance Director will result in the forfeiture of up to the entire retainage amount that the Authority typically holds until completion and approval of the Project (the "**Retainage**"), but in no case shall it be less than fifty percent (50%) of the Retainage.

If a Developer fails to comply with its EOP obligations for more than one (1) Project, the Authority will pursue all available remedies to it as further outlined in the EOP and the Authority Loan Commitment Letter, including suspension or debarment of the GC and ineligibility of the Developer to receive subsidy for future projects.

RESOLUTION NO.

RESOLUTION AUTHORIZING THE AUTHORITY'S ADOPTION OF AN EQUAL OPPORTUNITY PLAN FOR SUBSIDY RECIPIENTS

NOW THEREFORE, BE IT RESOLVED by the Philadelphia Redevelopment Authority, that the Equal Opportunity Plan Policy attached hereto as Exhibit "A" is hereby approved and adopted.

FURTHER AUTHORIZING, the preparation, execution, and delivery of all documentation necessary to carry out the foregoing in form and substance acceptable to the Executive Director and General Counsel.

FURTHER AUTHORIZING, that the Executive Director, with the advice of General Counsel, may allow modifications to the Resolution necessary or desirable to carry out its purposes and intents.

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- Developer and GC will sign a document acknowledging receipt of this Authority EOP Policy.

- The Monitor will review the Project to determine what viable opportunities are available for M/W/DSBEs to provide commercially useful goods or services to the Project and assist the Developer and GC with setting reasonable goals based on availability of M/W/DSBEs.
- The Monitor will discuss with the Developer and GC as to what constitutes "best and good faith efforts" and the steps that they can take to comply with the "best and good faith efforts" standard in the EOP.
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