

Memorandum



REDEVELOPMENT
AUTHORITY
OF THE CITY OF
PHILADELPHIA

Date: March 12, 2015
To: Lynn Newsome, Director
From: Brian Romano
RE: Economic Opportunity Plan (BMK Properties, LLC)

Attached, please find the Economic Opportunity Plan for the above referenced project for your review. If the Plan meets the Redevelopment Authority's goals, please fill out the bottom half of this memorandum and return it to me at your earliest convenience.

Project Name: 900 and 1000 Blocks of N. Marshall Street
Developer- BMK Properties, LLC
Project Address: 942, 948, 950, 962, 981, 983, 985-987, 993, 995, 996-98, 1010 and 1012 N. Marshall Street
Owner: PRA
Unit Breakdown: Fourteen (14) Single-family homes (New Construction)
Funding Amount: Personal Assets and Bank Loan from Meridian Bank
Total Construction Cost: \$ 1,716,500
Total Development Cost: \$ 2,026,500 (including acquisition cost)
Contractor: T.B.D.

I, Lynn Newsome, have reviewed the Economic Opportunity Plan and approved the plan submitted by the developer for the project for the following goals:

MBE Goals: _____

WBE Goals: _____

DBE Goals: _____

NOT APPLICABLE _____

Lynn Newsome, OHCD

Date

City of Philadelphia
Economic Opportunity Plan

I. Introduction, Definitions and Goals

The PRA strongly encourage the use of certified Minority ("MBE"), Women ("WBE"), Disabled ("DSBE") and Disadvantaged¹ ("DBEs") Business Enterprises (collectively, "MW/DSBEs") and minority and female workers in all aspects of the Development located at the 900+1000 MARSHALL ST ("Property") which may include financial investment, design, construction and operations. In support of this objective, PRA will require that BMK PROPERTIES commit to this Economic Opportunity Plan ("EOP" or "Plan").

This Plan contains ranges of projected MW/DSBE utilization and goals for the employment of minority and female workers in connection with development of the 900+1000 MARSHALL. This Plan shall be a part of and incorporated into the resulting agreement(s) with the BMK PROPERTIES [Developer].

BMK PROPERTIES [Developer] hereby verifies that all information submitted to the Office of Economic Opportunity ("OEO") in response to this Plan, is true and correct and is notified that the submission of false information is subject to the penalties of 18 Pa.C.S. Section 4904 relating to unsworn falsification to authorities and 18 Pa.C.S. Section 4107.2 (a)(4) relating to fraud in connection with minority business enterprises or women's business enterprises.

For the purposes of this Plan, MBE, WBE, DBE and DSBE shall refer to certified businesses so recognized by OEO. Only the work or supply effort of firms that are certified as MW/DSBEs by an OEO approved certifying agency² will be eligible to receive credit as a Best and Good Faith Effort. In order to be counted, certified firms must successfully complete and submit to the OEO an application to be included in the OEO Registry which is a list of registered MW/DSBEs maintained by the OEO and available online at www.phila.gov/oed/directory.

For this Plan, the term "Best and Good Faith Efforts," the sufficiency of which shall be in the sole determination of the City, means: efforts, the scope, intensity and appropriateness of which are designed and performed to foster meaningful

¹Disadvantaged Business Enterprises ("DBEs") are those socially or economically disadvantaged minority and woman owned businesses certified under 49 C.F.R. Part 25.

²A list of "OEO approved certifying agencies" can be found at www.phila.gov/oec

and representative opportunities for participation by MW/DSBEs and an appropriately diverse workforce and to achieve the objectives herein stated. Best and Good Faith Efforts are rebuttably presumed met, when commitments are made within the MW/DSBE Participation Ranges established for this development and a commitment is made to employ a diverse workforce as enumerated herein.

II. Goals

1. MW/DSBE Participation Ranges

As a benchmark for the expression of "Best and Good Faith Efforts" to provide meaningful and representative opportunities for MW/DSBEs in the 900+1000 Marshall St [Property's], the following participation ranges have been established. These participation ranges represent, in the absence of discrimination in the solicitation and selection of MW/DSBEs, the percentage of MBE, WBE and DSBE participation that is reasonably attainable through the exercise of Best and Good Faith Efforts. These percentages relate to the good faith estimated cost of the entire Project OR Development. In order to maximize opportunities for as many businesses as possible, a firm that is certified in two or more categories (e.g. MBE and WBE and DSBE or WBE and DSBE) will only be credited toward one participation range as either an MBE or WBE or DSBE. The firm will not be credited toward more than one category. These ranges are based upon an analysis of factors such as the size and scope of the development and the availability of MBEs, WBEs, DSBEs and DBEs to participate in this development:

| | |
|-----|-----|
| MBE | WBE |
| 20% | 10% |

Add DSBE range if feasible; also you may want to establish ranges for different phases of the project

2. Employment Goals

BMK PROPERTIES [Purchaser OR Developer] agrees to exhaust Best and Good Faith Efforts to employ minority persons and females in its workforce of apprentices and journeymen at the following levels⁵:

⁵ These goals, which have been adopted by the Economic Opportunity Cabinet, are the recommendations of the Mayor's Commission on Construction Industry Diversity.

Minority Apprentices – 50% of all hours worked by all apprentices
Minority Journeymen – 32% of all journey hours worked across all trades
Female Apprentices – 7% of all hours worked by all apprentices
Female Journeypersons - 7% of all hours worked across all trades

III. Responsiveness

A. BMK PROPERTIES [Purchaser OR Developer] shall identify all MW/DSBE commitments and other agreements evidencing its intent to use Best and Good Faith efforts to employ minority persons and females at the levels stated herein on the form entitled, "MW/DSBE Participation and Workforce Commitments." The identified commitments on this form constitutes a representation that the MW/DSBE is capable of providing commercially useful goods or services relevant to the commitments and that the BMK PROPERTIES [Purchaser OR Developer] has entered into a legally binding commitments or other legally binding agreements with the listed MW/DSBEs for the work or supply effort described and the dollar/percentage amount(s) set forth on this form. In calculating the percentage of MW/DSBE participation, the standard mathematical rules apply in rounding off numbers. In the event of inconsistency between the dollar and percentage amounts listed on the form, the percentage will govern.

B. MW/DSBE commitments are to be memorialized in a written subcontract agreement. Letters of Intent, quotations, contracts, subcontracts and any other documents evidencing commitments with MW/DSBEs, including the MW/DSBE Participation and Workforce Commitments Form, become part of and an exhibit to the Agreement resulting from the RFP. *that assumes an RFP-if this is, for example, a Zoning Ordinance, you should say these commitments become an exhibit to the Ordinance*

C. OEO will review BMK PROPERTIES [Purchaser OR Developer]'s commitments for the purpose of determining whether Best and Good Faith Efforts have been made. OEO reserves the right to request further documentation and/or clarifying information at any time during the construction and development of the Project.

IV. Compliance and Monitoring of Best and Good Faith Efforts

A. BMK PROPERTIES [Purchaser OR Developer] agrees to cooperate with OEO in its compliance monitoring efforts, and to submit, upon the request of OEO, documentation relative to its implementation of the Plan, including the items described below:

- Copies of signed contracts and purchase orders with M/W/DSBE subcontractors;
 - Evidence of payments (cancelled checks, invoices, etc.) to subcontractors and suppliers to verify participation; and
 - Telephone logs and correspondence relating to M/W/DSBE commitments.
- To the extent required by law, the BNK PROPERTIES [Purchaser OR Developer] shall ensure that all its on-site contractors maintain certified payrolls which include a breakout of hours worked by minority and female apprentices and journeypersons; these documents are subject to inspection by OEO.

B. Prompt Payment of M/W/DSBEs

1. The BNK PROPERTIES [Purchaser OR Developer] agrees and shall cause all its contractors to ensure that all M/W/DSBEs participating in the Project receive payment for their work or supply effort within five (5) business days after receipt of a proper invoice following satisfactory performance.

C. Oversight Committee

1. For this Project, in the sole discretion of City, an oversight committee may be established consisting of representatives from, BNK PROPERTIES [Purchaser OR Developer], representatives of the building trades, the construction manager, the City which may include the Project site's District Councilperson, OEO, and appropriate community organizations ("Committee"). The Committee will meet regularly to provide advice for the purpose of facilitating compliance with the Plan.

V. Remedies and Penalties for Non-Compliance

- A. The BNK PROPERTIES [Purchaser OR Developer] agrees that its compliance with the requirements of this Plan is material to the Agreement.

Failure to comply with the Plan may constitute a substantial breach of the Agreement and is subject to the remedies and penalties contained therein or otherwise available at law or in equity. Notwithstanding the foregoing, no privity of contract exists between the City and any M/W/DSBE identified in any contract resulting from implementation of the Plan. Neither BMK PROPERTIES nor the City intends to give or confer upon any such M/W/DSBE any legal rights or remedies in connection with subcontracted services under any law or policy or by any reason of any contract resulting from implementation of the Plan except such rights or remedies that the M/W/DSBE may seek as a private cause of action under any legally binding contract to which it may be a party.


SIGNATURE OF Owner Representative* 1/28/15
Angela Dowd-Burton 3/16/2015
ANGELA DOWD-BURTON, Executive Director, Office of Economic Opportunity⁴ DATE

⁴The Owner's Representative is required to sign and date, but the City reserves the right to obtain the Owner's Representative signature thereon at any time prior to Plan certification. The Owner Representative will receive from the City a certified copy of its Plan which should be filed with the Chief Clerk of City Council within fifteen (15) days of the issuance and published by OEO, in a downloadable format, on the OEO website.

⁵Pursuant to Section 17-1603 (2) of The Philadelphia Code, the representative of the City of Philadelphia's Office of Economic Opportunity, the "certifying agency", certifies that the contents of this Plan are in compliance with Chapter 17-1600.