

# MEMORANDUM

PHILADELPHIA  
REDEVELOPMENT  
AUTHORITY

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**DATE:** May 1, 2014  
**TO:** Lynn T. Newsom  
**FROM:** Tracy Pinson-Reviere *JPR*  
**SUBJECT:** Eastwick Redevelopment Area  
Eastwick Urban Renewal Area  
Buist Avenue, LLC – 7936-40 Buist Avenue

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Attached please find the Affirmative Action Plan for the above referenced project for your review. If the Plan meets the Redevelopment Authority goals, please fill out the bottom half of this memorandum and return it to me as soon as possible. Thank you.

Project Address(s): 7936-40 Buist Avenue  
Developer: Buist Avenue, LLC  
Unit Breakdown: Construction of seven (7) units of homeownership housing.  
Funding: Private Funding  
Total Development Cost: \$1,550,000  
Contractor: To be determined

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I, Lynn T. Newsome, have reviewed the Affirmative Action Plan and approved the plan submitted by the Developer, for the following goals:

MBE Goals: \_\_\_\_\_

WBE Goals: \_\_\_\_\_

DBE Goals: \_\_\_\_\_

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*Lynn T. Newsome, Director, MBE/WBE*

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*Date*

cc: Nikolic, file

**City of Philadelphia  
Economic Opportunity Plan  
Buist Avenue, LLC – 7936-40 Buist Avenue**

I. Introduction, Definitions and Goals

The PRA strongly encourage the use of certified Minority (“MBE”), Women (“WBE”), Disabled (“DSBE”) and Disadvantaged<sup>1</sup> (“DBEs”) Business Enterprises (collectively, “M/W/DSBEs”) and minority and female workers in all aspects of the project located at 7936-40 Buist Avenue (“Property”) which may include financial investment, design, construction and operations. In support of this objective, PRA will require that Buist Avenue, LLC commit to this Economic Opportunity Plan (“EOP” or “Plan”).

This Plan contains ranges of projected M/W/DSBE utilization and goals for the employment of minority and female workers in connection with development of 7936-40 Buist Avenue. This Plan shall be a part of and incorporated into the resulting agreement(s) with Buist Avenue, LLC[Developer].

Buist Avenue, LLC 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 M/W/DSBEs by an OEO approved certifying agency<sup>2</sup> 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 M/W/DSBEs maintained by the OEO and available online at [www.phila.gov/oeo/directory](http://www.phila.gov/oeo/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 and representative opportunities for participation by M/W/DSBEs and an

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<sup>1</sup>Disadvantaged Business Enterprises (“DBEs”) are those socially or economically disadvantaged minority and woman owned businesses certified under 49 C.F.R. Part 26.

<sup>2</sup>A list of “OEO approved certifying agencies” can be found at [www.phila.gov/oeo](http://www.phila.gov/oeo)

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 M/W/DSBE Participation Ranges established for this development and a commitment is made to employ a diverse workforce as enumerated herein.

## II. Goals

### 1. M/W/DSBE Participation Ranges

As a benchmark for the expression of "Best and Good Faith Efforts" to provide meaningful and representative opportunities for M/W/DSBEs in 7936-40 Buist Avenue, the following participation ranges have been established. These participation ranges represent, in the absence of discrimination in the solicitation and selection of M/W/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
15%	10%

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

### 2. Employment Goals

Buist Avenue, LLC agrees to exhaust Best and Good Faith Efforts to employ minority persons and females in its workforce of apprentices and journeymen at the following levels<sup>3</sup>:

Minority Apprentices – 50% of all hours worked by all apprentices

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<sup>3</sup> These goals, which have been adopted by the Economic Opportunity Cabinet, are the recommendations of the Mayor's Commission on Construction Industry Diversity.

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. Buist Avenue, LLC shall identify all M/W/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, "M/W/DSBE Participation and Workforce Commitments." The identified commitments on this form constitutes a representation that the M/W/DSBE is capable of providing commercially useful goods or services relevant to the commitments and that Buist Avenue, LLC has entered into a legally binding commitments or other legally binding agreements with the listed M/W/DSBEs for the work or supply effort described and the dollar/percentage amount(s) set forth on the form. In calculating the percentage of M/W/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. M/W/DSBE commitments are to be memorialized in a written subcontract agreement. Letters of intent, quotations, contracts, subcontracts and any other documents evidencing commitments with M/W/DSBEs, including the M/W/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 Albert Taus and Joseph Orlando Sr.'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. Buist Avenue, LLC 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 Buist Avenue, LLC 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 Buist Avenue, LLC 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.

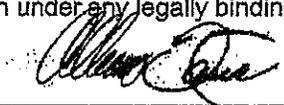
C. Oversight Committee

1. For this Project, in the sole discretion of City, an oversight committee may be established consisting of representatives from, Albert Taus and Joseph Orlando Sr., 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. Buist Avenue, LLC 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 Buist Avenue, LLC nor the City intends to give or confer upon any

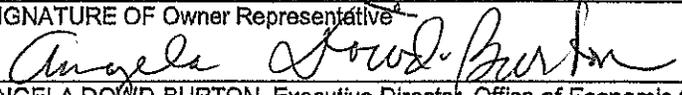
legal rights or remedies in connection with subcontracted services under any law or policy or by any reason of any contract resulting from implementation of the Plan except such rights or remedies that the M/W/DSBE may seek as a private cause of action under any legally binding contract to which it may be a party.



4/30/2014

SIGNATURE OF Owner Representative

DATE



5/1/2014

ANGELA DOWD-BURTON, Executive Director, Office of Economic Opportunity<sup>5</sup>

DATE

<sup>4</sup>The 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.

<sup>5</sup> Pursuant 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.