

City of Philadelphia



(Bill No. 100753)

AN ORDINANCE

To amend the Philadelphia Zoning Maps by changing the zoning designations of certain areas of land located within an area bounded by East Moreland Avenue, Winston Street, East Mermaid Lane and Germantown Avenue.

THE COUNCIL OF THE CITY OF PHILADELPHIA HEREBY ORDAINS:

SECTION 1. Pursuant to Section 14-103 of The Philadelphia Code, The Philadelphia Zoning Maps are hereby amended by changing the zoning designations of certain areas of land within an area bounded by East Moreland Avenue, Winston Street, East Mermaid Lane and Germantown Avenue from the existing zoning designations indicated on Map "A" set forth below to the zoning designations indicated on Map "B" set forth below.

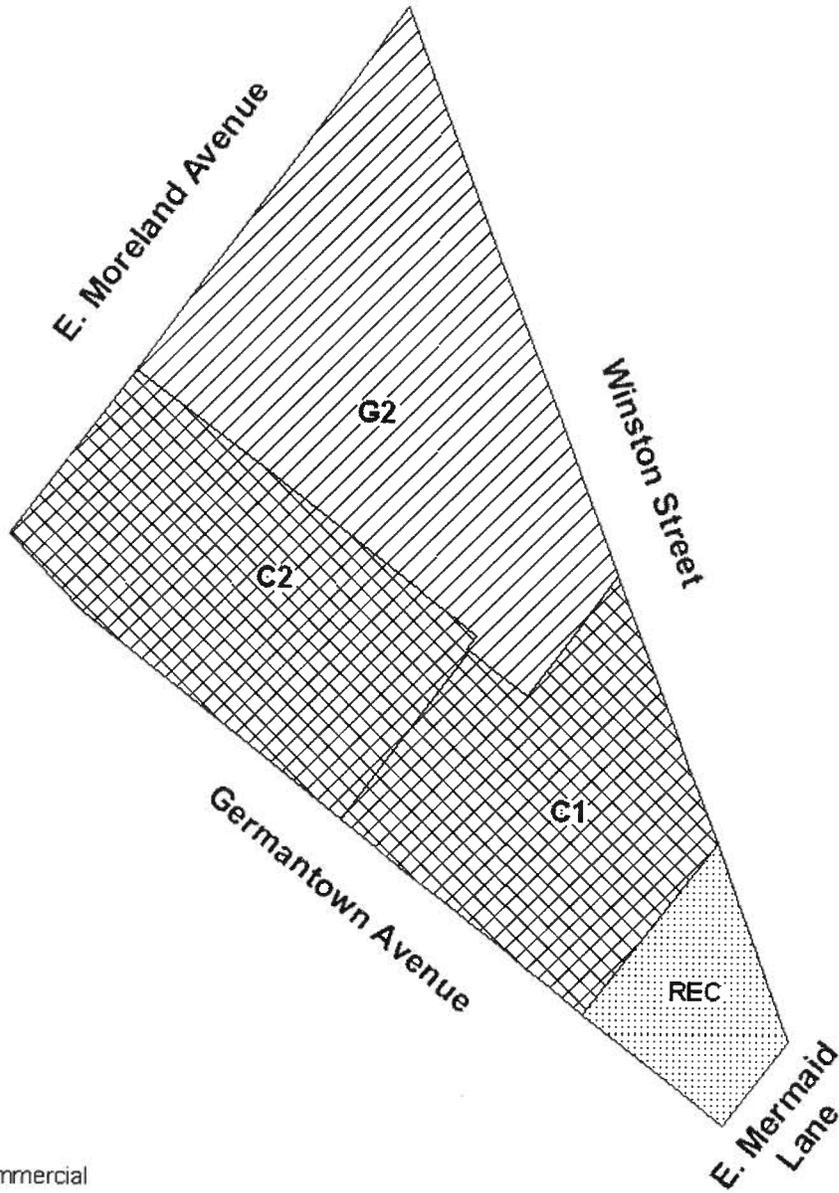
SECTION 2. This Ordinance shall become effective immediately.

City of Philadelphia

BILL NO. 100753 continued

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MAP A - EXISTING ZONING



Legend

-  C1 Commercial
-  C2 Commercial
-  G2 Industrial
-  REC Recreation

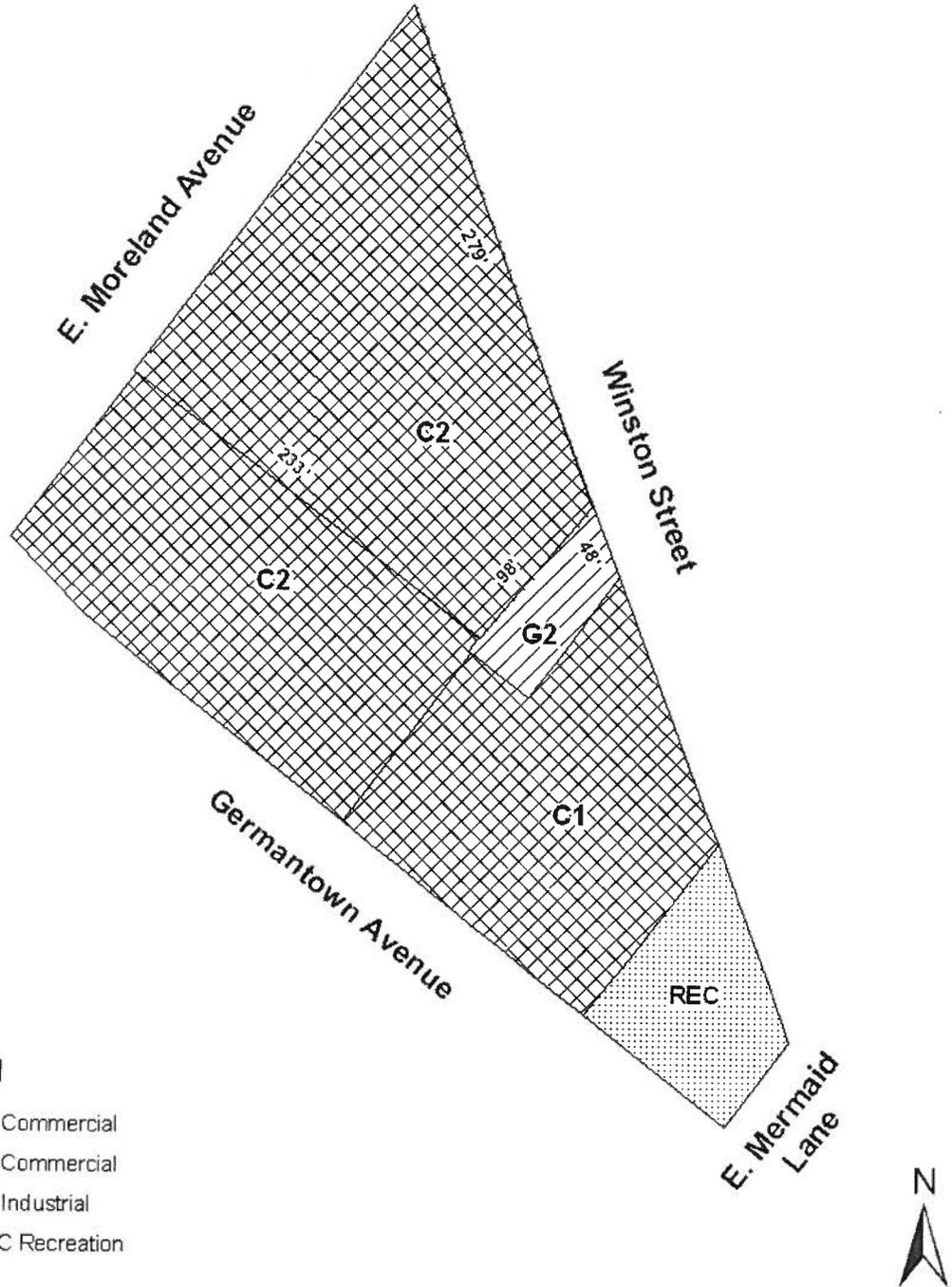


City of Philadelphia

BILL NO. 100753 continued

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MAP B - PROPOSED ZONING



City of Philadelphia

BILL NO. 100753 continued

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CERTIFICATION: This is a true and correct copy of the original Bill, Passed by the City Council on December 16, 2010. The Bill was Signed by the Mayor on January 26, 2011.



Michael A. Decker
Chief Clerk of the City Council

**City of Philadelphia
Economic Opportunity Plan**

RENOVATION OF 10 EAST MORELAND AVENUE

Philadelphia, PA

I. Introduction, Definitions and Goals

The City of Philadelphia strongly encourages the use of certified Minority (“MBE”), Women (“WBE”), Disabled (“DSBE”) and Disadvantaged¹ (“DBEs”) Business Enterprises (collectively, “M/W/DSBEs”) and minority and female workers in all aspects of the relocation and expansion of the Fresenius Medical Care Dialysis Center currently located at 6656 Germantown Avenue, Philadelphia, PA (the “Property”) to 10 East Moreland Avenue, Philadelphia, PA and the relocation of the offices of Delaware Valley Nephrology and Hypertension Associates to 10 East Moreland Avenue, Philadelphia, PA (“Dialysis Project”) which may include financial investment for design and construction. In support of this objective, City of Philadelphia will require that the developer, Renal Enterprises, LLC (“Renal”), and the proposed tenants, Fresenius Medical Care (“Fresenius”) and Delaware Valley Nephrology and Hypertension Associates (“DVNHA”) commit to this Economic Opportunity Plan (“EOP” or “Plan”). This Plan shall apply to contracts awarded and procurements by Renal, Fresenius or DVNHA and all Participants of this Project.

This Plan contains ranges of projected M/W/DSBE utilization and goals for the employment of minority and female workers in connection with the Dialysis Project. This Plan shall be a part of and incorporated into the resulting agreement(s) with Renal, Fresenius and DVNHA.

Renal, Fresenius and DVNHA hereby verify that all information submitted to the Office of Economic Opportunity (“OEO”) in response to this Plan, is true and correct and are 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

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

certified as M/W/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 M/W/DSBEs maintained by the OEO and available online at www.phila.gov/oEO/directory.

For this Plan, the term “Best and Good Faith Efforts” 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 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 project and a commitment is made to employ a diverse workforce as enumerated herein.

II. Project Scope

Renal will purchase the Property, renovate the exterior shell and divide the Property into an approximately 15,000 square foot dialysis center to be operated by Fresenius and a 5,000 square foot physician’s office to be occupied by DVNHA. Fresenius is the leading provider of dialysis services in the United States and provides ongoing dialysis treatment for approximately 128,000 patients through 1,700 facilities. In addition, Fresenius has been a long time provider in Dialysis services and kidney care in the northwest section of Philadelphia. Due to its growing patient base in Philadelphia, it intends to relocate from its current facility at 6656 Germantown Avenue to the Property and expand its services by renovating an existing industrial structure at the Property. DVNHA consists of seven physicians with over sixty years of combined experience. DVNHA is the only nephrology practice at two of the three major hospitals in the region, Chestnut Hill Hospital and Germantown Hospital. The construction for the renovation will done in a single phase and will begin in Spring of 2011. The total construction costs will be approximately \$4 million..

III. 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 the Dialysis Project 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

²A list of “OEO approved certifying agencies” can be found at www.phila.gov/oEO

relate to the good faith estimated cost of the entire Dialysis Project. 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 project and the availability of MBEs, WBEs, DSBEs and DBEs to participate in this project:

The following *Professional Services* contract goals have been set for the Project:

Contracts	Minority Owned	Female Owned	Disabled Owned
Professional Services	10%	5%	<i>Best efforts</i>

The following *Construction* contract goals have been set for the Project:

Contracts	Minority Owned	Female Owned	Disabled Owned
Construction Sub-Contractors	25%	10%	<i>Best efforts</i>

Renal shall cause the objectives set forth in this Plan to be incorporated into all requests for proposals, bid packages and solicitations for the Projects and communicated to all Participant levels.

2. Employment Goals

Renal, Fresenius and DVNHA agree to exhaust Best and Good Faith Efforts to employ minority persons and females in its workforce of apprentices and journeymen at the following levels³:

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

IV. Responsiveness

A. Renal, Fresenius and DVNHA shall identify all M/W/DSBE commitments and other agreements evidencing their Best and Good Faith efforts to contract with M/W/DSBEs

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

and 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 project and that Renal, Fresenius and DVNHA have entered into a legally binding commitments 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 this Plan.

C. OEO will review Renal's, DVNHA's and Fresenius' 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.

V. Compliance and Monitoring of Best and Good Faith Efforts

A. Renal, Fresenius and DVNHA agree to cooperate with OEO in its compliance monitoring efforts, and to submit, upon the request of OEO, documentation relative to their implementation of this 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, Renal, Fresenius and DVNHA 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

Renal, Fresenius and DVNHA agree 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 thirty (30) business days after receipt of a proper invoice following satisfactory performance.

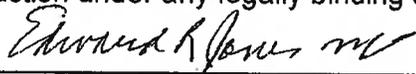
C. Oversight Committee

Renal, Fresenius and DVNHA, in consultation with the OEO, will establish and identify the members of a Project Oversight Committee, including representatives from the Dialysis Project and/or the General Contractor and Construction Manager, Office of Economic Opportunity and the Eighth District Councilperson, or her designee.

The first meeting of the Project Oversight Committee shall be called by Renal, Fresenius and DVNHA within one (1) month of the initiation of this Project (as determined by Renal, Fresenius and DVNHA) and shall meet on a regular basis during all phases of the Project. Participants will engage in monitoring, reporting and problem solving activities which are to include regular meetings to address all matters relevant to further development of the Plan, carrying out implementation and the successful completion of the Project.

VI. Remedies and Penalties for Non-Compliance

A. Renal, Fresenius and DVNHA agree that its compliance with the requirements of this Plan is a material inducement for City Council's approval of Ordinance No.100753. Failure to comply with the Plan may subject Renal, Fresenius and DVNHA to any applicable remedies and penalties contained in Sections 17-1605 and 17-1606 of the Philadelphia Code or remedies and penalties 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 Renal, Fresenius, DVNHA 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 this 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.



Dr. Edward Jones – Renal Enterprises, LLC and DVNHA

[See Best and Good Faith Efforts Forms Attached]

DOCUMENTATION OF BEST AND GOOD FAITH EFFORTS FORM

DEPARTMENT OF COMMERCE

OFFICE OF ECONOMIC OPPORTUNITY (OEO)

Project TITLE -

NAME OF OWNER/DEVELOPER -

SUBMISSION DATE -

Photocopy this form as necessary; you must respond for each solicited MW/DBE for which there is no commitment. Failure to do so may result in rejection of your bid. Name of MW/DBE solicited for which no commitment was made:

No commitment resulted from your solicitation of the above identified MW/DBE. please explain why.

Did you attempt, in good faith, to negotiate price and scope (please be specific, attaching any dated price quotations and correspondence):

Did you offer this MW/DBE any arms length business assistance (e.g., introduction to manufacturer, helped provide access to line of credit, access to union hall, etc.):

Did you provide this MW/DBE with timely information about the scope of work required, be specific and attach dated documentary evidence of the foregoing.

DOCUMENTATION OF BEST AND GOOD FAITH EFFORTS FORM

DEPARTMENT OF COMMERCE OFFICE OF ECONOMIC OPPORTUNITY (OEO)	
Project TITLE -	NAME OF OWNER/DEVELOPER -
	SUBMISSION DATE -
<p>Photocopy this form as necessary</p> <p>Do you operate or provide funding to any on-the-job training or apprenticeship programs? If so please describe and provide the number of trainees and breakout of minority female.</p>	
<p>Did you seek assistance from the Urban Affairs Coalition, Careerlink Philadelphia, Opportunity Industrial Center and the Philadelphia Workforce Development Corporation to perform.</p>	
<p>Describe any specific outreach activities through job fairs, newspapers, periodicals, advertisements and other organizations or media that are owned by MW/DBEs and/or focus on.</p>	
<p>Identify the unions with which you have a collective bargaining agreement. Describe any hiring practices, or involvement in Commonwealth approved apprenticeship programs that</p>	
<p>List all directories of certified MW/DBEs (e.g. OEO Registry, Pennsylvania Unified Certification Program, Department of General Services) that you consulted in preparing your bid.</p>	
<p>Attach your company's Equal Employment Opportunity Statement and any published nondiscrimination policies.</p>	

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