

City of Philadelphia
(Project Name)
Economic Opportunity Plan

I. PROJECT AND PLAN INTRODUCTION

The project consists of Bigham Place (referred to hereafter as the "Project") for People's Emergency Center Community Development Corporation (referred to hereafter as the "Owner") to 4226-32 Powelton Avenue, (provide location) within the city of Philadelphia, Pennsylvania. The purpose, standards and procedures of this Economic Opportunity Plan (referred to hereafter as the "Plan") are the expressed wishes of the Owner as set forth herein. Participants shall include consultants, management, prime contractors, sub-contractors and vendors of supplies, equipment and materials. All participants will be obligated to fully comply with the requirements of the Plan.

The Owner is committed to provide meaningful and representative opportunities for minority-owned, women-owned and disabled-owned business enterprises, and economically disadvantaged-owned business enterprises (collectively referred to hereafter as "M/W/DS-BEs" and "DBEs") and individuals that are locally based in all phases of the Project. It is expected all Participants make the same commitment. Each Participant shall not, and furthermore, shall ensure that their associates, partners or representatives shall not, discriminate on the basis of race, color, religion, sex or natural origin in the award and performance of contracts pertaining to the Project or with respect to any and all related employment practices.

For all contracting efforts, each prime consultant and contractor shall use its good faith and nondiscriminatory efforts to provide joint venture partnerships, sub-consulting and subcontracting opportunities for minority, women, disabled, and/or disadvantaged business enterprises (collectively, M/W/DS-BE and/or DBE) registered in the City of Philadelphia's Office of Economic Opportunity ("OEO")¹ and/or any agency that the City of Philadelphia recognizes as having *bona fide* certifying program. All participants in the Project shall observe and be subject to the enforcement of all relevant City of Philadelphia, Commonwealth of Pennsylvania and federal laws, ordinances, orders, rules and/or regulations regarding M/W/DS-BE and/or DBE firms and locally-based business enterprises. Furthermore, affirmative action will be taken, consistent with sound procurement policies and applicable laws to ensure that M/W/DS-BE and/or DBE firms are afforded a meaningful and representative opportunity to participate in contracts relating to the Project.

For the purposes of this Plan, the term "minority" shall refer to the following: black (all persons having origins in any of the Black African racial groups); Hispanic/Latino (all persons of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish culture or origin); Asian and Pacific Islander (all persons having origins in any of the original peoples of the Far East, Southeast Asia, the Indian Subcontinent or the Pacific Islands); and American Indians (all persons having origins in any of the original peoples of North America and maintaining identifiable tribal affiliations through membership and participation or community identification).

Agencies and representatives of the City of Philadelphia and/or Commonwealth of Pennsylvania may be consulted regarding the appropriate inclusion of M/W/DS-BE and/or DBE firms and socially/economically disadvantaged professionals in this Project as outlined in this Plan and with regard to its implementation.

¹A list of "OEO approved certifying agencies" can be found at www.phila.gov/oeo.

II. ECONOMIC OPPORTUNITY PLAN COMMITMENTS

A. M/W/DSBE Participation

As a benchmark for the expression of "Best and Good Faith Efforts" to provide meaningful and representative opportunities for M/W/DSBEs in the Bigham Place 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 relate to the good faith estimated cost of the entire Bigham Place 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 development and the availability of MBEs, WBEs, DSBEs and DBEs to participate in this development:

	Minority	Female	Disabled
Contracts	Owned	Owned	Owned
Professional Services	18%	7%	2%
Construction Contractors	18%	7%	2%
Services, Supplies, & Equipment	18%	7%	2%

B. Employment of a Diverse Workforce

Owner agrees to exhaust its Best and Good Faith Efforts to employ minority persons and females in its workforce of apprentices and journeymen. Owner is obligated to exhaust its Best and Good Faith Efforts to employ²:

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 AND RESPONSIBILITY

A. The Owner 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 the [Purchaser OR Developer] has entered into a legally binding

² These goals, which have been adopted by the Economic Opportunity Cabinet, are the recommendations of the Mayor's Commission on Construction Industry Diversity.

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 or Ordinance.

C. OEO will review [Owner Representative]'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.

1. Best and Good Faith Efforts will be evaluated on the basis of Owner's BGFE Form and any other information requested from Owner by the City.

2. Commercially Acceptable Function

A Contractor that enters into a subcontract with an M/W/DSBE shall be considered to have made a Best and Good Faith Effort in that regard only if its M/W/DSBE subcontractor performs a commercially acceptable function ("CAF"). An M/W/DSBE is considered to perform a CAF when it engages in meaningful work or supply effort that provides for a distinct element of the subcontract (as required by the work to be performed in accordance with Bid specifications), where the distinct element is worthy of the dollar amount of the subcontract and where the M/W/DSBE carries out its responsibilities by actually performing, managing and supervising the work involved; M/W/DSBE subcontractors must perform at least twenty percent (20%) of the cost of the subcontract (not including the cost of materials, equipment or supplies incident to the performance of the subcontract) with their own employees.

The City may evaluate the amount of work subcontracted, industry practices and any other relevant factors in determining whether the M/W/DSBE is performing a CAF and in determining the amount of credit the contractor receives towards the participation ranges. For example, a contractor using an M/W/DSBE non-stocking supplier (i.e., a firm that does not manufacture or warehouse the materials or equipment of the general character described by the Bid specifications and required under the contract) to furnish equipment or materials will only receive credit towards the participation ranges for the fees or commissions charged, not the entire value of the equipment or materials furnished.

IV. COMPLIANCE AND MONITORING OF BEST AND GOOD FAITH EFFORTS

A. The Owner agrees to cooperate with OEO in its compliance monitoring efforts, and to submit, within the time limits prescribed by OEO, all documentation which may be requested by OEO relative to the awarded contract, including the items described below. The Owner must provide as required and maintain the following contract documentation for a period of three (3) years following acceptance of final payment under the contract:

- 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;
- Telephone logs and correspondence relating to M/W/DSBE commitments.
- To the extent required by law, the People's Emergency Center Community Development Corporation 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. People's Emergency Center Community Development Corporation 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.
2. The Owner shall within a timely manner after receipt of an invoice for payment for work performed under the contract, deliver to its M/W/DSBE subcontractors their proportionate share of such payment for work performed (including the supply of materials). In connection with payment of its M/W/DSBE subcontractors, the Owner agrees to fully comply with the City's payment reporting process which may include the use of electronic payment verification systems.
3. Each month of the contract term and at the conclusion of the contract, the Owner shall provide to the OEO documentation reconciling actual dollar amounts paid to M/W/DSBE subcontractors to M/W/DSBE commitments presented in the BGFE Form.

C. Oversight Committee

1. The Owner and/or at the discretion of the City of Philadelphia, in consultation with the appropriate agencies and entities, will establish and identify the members of a Project Oversight Committee, to include representatives from the Owner, the Developer and/or the General Contractor and Construction Manager, the Building Trades, and the City which may include the Project site's District Councilperson, OEO, and appropriate community organizations ("Committee"). 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 its implementation and the successful completion of the Project.

A meeting of the Oversight Committee shall be called by the Owner or the City of Philadelphia within one (1) month of the initiation of this Project 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 its implementation and the successful completion of the Project.

2. If a Project Oversight Committee is established, the City will convene meetings of the Committee no later than one (1) month after issuance of the Notice To Proceed and/or project has started.

D. Reporting

The Owner, will agree to file an annual report with the City of Philadelphia's Mayor and City Council concerning the performance of the Economic Opportunity Plan within the Project. In addition, during construction, the Owner will provide higher-level "snapshot" reports to the Oversight Committee containing updates for certain categories of information contained in its annual report on a monthly basis during construction, and on a quarterly basis during the first year of operations. Snapshot reporting will include: (i) utilization of M/W/DSBEs and/or DBEs; (ii) the hiring and employment of minorities and females, (iii) the hiring and employment of Philadelphia residents and; (iv) training programs utilized and the placement rates. All reports (quarterly & annually) to the City under this section will be provided to the Executive Director of the Office of Economic Opportunity and to the members of the Oversight Committee.

V. REMEDIES AND PENALTIES FOR NON-COMPLIANCE

- A. In cases where the Owner has cause to believe that a Participant, acting in good faith, has failed to comply with the provisions of the Plan, the Owner and/or the Oversight Committee, with the assistance and consultation of the appropriate agencies and professional entities, shall attempt to resolve the noncompliance through conciliation and persuasion.
- B. In conciliation, the Participant must satisfy the Owner and the Oversight Committee that they have made their *best and good faith efforts* to achieve the agreed upon participation goals by certified M/W/DS-BE and/or DBE firms. *Best and good faith efforts* on the part of the Participant/Contractor include:
- 1) Entering into a contractual relationship with the designated M/W/DS-BE and/or DBE firm in a timely, responsive and responsible manner, and fulfilling all contractual requirements, including payments, in said manner.
 - 2) Notifying all parties, including the Owner, the M/W/DS-BE and/or DBE firm, the Oversight Committee and all relevant Participants, of any problems in a timely manner.
 - 3) Requesting assistance from the Owner and/or the Oversight Committee in resolving any problems with any M/W/DS-BE and/or DBE firm.
 - 4) Making every reasonable effort to appropriately facilitate successful performance of contractual duties by an M/W/DS-BE and/or DBE firm through timely, clear and direct communications.
- C. In cases where the Owner and/or the Oversight Committee have cause to believe that any Participant has failed to comply with the provisions of the Plan, they shall conduct an investigation.
- D. After affording the Participant notice and an opportunity to be heard, the Owner and/or the Oversight Committee are authorized to take corrective, remedial and/or punitive action. Such actions may include, but are not limited to:
- 1) Declaring the Participant as non-responsible and/or non-responsive, with a determination as ineligible to receive the award of a contract, continue a contract and/or ineligible for any other future contracts affiliated with this Plan;
 - 2) Suspending the violating Participant from doing business with the Owner;

3) Withholding payments to the violating Participant; and/or

4) Pursuing and securing any relief which the Owner and/or the Oversight Committee may deem to be necessary, proper, and in the best interest of the Owner and the Project, consistent with applicable policy and law.

E. A Participant may appeal a determination of non-compliance with this Plan by filling a written grievance with the Owner and/or its Oversight Committee.

F. Within five (5) working days the Owner and/or the Oversight Committee shall issue and serve a written notice/determination, together with a copy of the grievance as filed, to all persons named in the grievance.

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2-13-13

SIGNATURE OF Owner Representative³

DATE



ANGELA DOWD-BURTON, Executive Director, Office of Economic Opportunity⁴ DATE

³The 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.

⁴ 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.

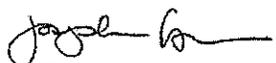
SECTION 3 CERTIFICATION

TRAINING, EMPLOYMENT, AND CONTRACTING OPPORTUNITIES FOR BUSINESS AND LOWER INCOME PERSONS

- A. The project to be assisted under this Request is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12. U.S.C. 1701u. Section 3 requires that to the greatest extent feasible, opportunities for training and employment be given lower income residents of the project area and contracts for work in connection with the project be awarded to business concerns which are located in or owned in substantial part by persons residing in the area of the project.
- B. Notwithstanding any other provision of this Request, the applicant shall carry out the provisions of said Section 3 and the regulations issued pursuant thereto by the Secretary set forth in 24 CFR Part 135 (published in 38 Federal Register 29220, October 23, 1973) and all applicable rules and orders of the Secretary issued thereunder prior to the execution of a Redevelopment Agreement. The requirements of said regulations include but are not limited to development and implementation of an affirmative action plan for utilizing business concerns located within or owned in substantial part by persons residing in the area of the project; the making of a good faith effort, as defined by the regulations, to provide training, employment, and business opportunities required by Section 3; and incorporation of the "Section 3 clause" specified by Section 135, 20(b) of the regulations in all contracts for work in connection with the project. The applicant certifies and agrees that it is under no contractual or other disability which would prevent it from complying with these requirements.
- C. Compliance with the provisions of Section 3, the regulations set forth in 24 CFR Part 135, and all applicable rules and orders of the Secretary issued thereunder prior to approval by the Government of the application for this (agreement) (contract) shall be a condition of the Federal financial assistance provided to the project, binding upon the applicant, its successors and assigns. Failure to fulfill these requirements shall subject applicant, its contractors and subcontractors, its successors, and assigns to the sanctions specified by the Redevelopment Agreement and to such sanctions as are specified by 24 CFR Section 135.135.
- D.

3/26/13

DATE


SIGNATURE

Joseph Levin

NAME ((Type or Print))

Section 3 – Neighborhood Benefit Strategy Certification

SECTION 3: Training, Employment and Contracting Opportunities for Business and Lower Income Residents

The project to be assisted under this request is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u. Section 3 requires that, to the greatest extent feasible, opportunities for training and employment be given to lower income residents of the project area and contracts for work in connection with the project be awarded to business concerns which are located in or owned in substantial part by persons residing in the area of the project.

Notwithstanding any other provision of this Request, the applicant shall carry out the provisions of said Section 3 and the regulations issued pursuant thereto by the Secretary set forth in 24 CFR Part 135 and all applicable rules and orders of the Secretary issued thereunder prior to the execution of a Redevelopment Agreement. The requirements of said regulations include but are not limited to development and implementation of an affirmative action plan for utilizing business concern located within or owned in substantial part by persons residing in the area of the project; the making of a good faith effort, defined by the regulations, to provide training, employment, and business opportunities required by Section 3; and incorporation of the "Section 3 clause" specified by Section 135, 20(b) of the regulations in all contracts for work in connection with the project. The applicant certifies and agrees that it is under no contractual or other disability which would prevent it from complying with these requirements.

Compliance with the provisions of Section 3, the regulations set forth in 24 CFR Part 135, and all applicable rules and orders of the Secretary issued thereunder prior to approval by the Government of the application for this (agreement)(contract), shall be a condition of the Federal financial assistance provided to the project binding upon the applicant, its successors and assigns. Failure to fulfill these requirements shall subject applicant, its contractors and subcontractors, its successors, and assigns to the sanctions specified by the Redevelopment Agreement and to such sanctions as are specified by 24 CFR Sec 135, 135.

LOCAL EXECUTIVE ORDER 2-95: Neighborhood Benefit Strategy

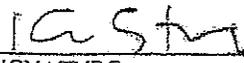
Pursuant to Executive Order 2-95 issued by the Mayor of Philadelphia on January 31, 1995, each project sponsor, developer or builder working on a housing or community development project that is funded by OHCD or DOC or their designees, where such project is financed in part by HUD funds, certifies and covenants:

That to the greatest extent feasible, opportunities for training and employment arising in connection with the plans, construction, rehabilitation, and operation of housing assisted under such projects shall be given to low income persons residing in the areas of such projects; and that to the greatest extent feasible, contracts for work to be performed pursuant such projects shall be awarded to business concerns including individuals or firms that are owned by, employ or provide economic opportunities to low income persons residing in the areas of such projects.

Furthermore, project sponsors, developers, or builders receiving OHCD or DOC funds for housing and community development projects are encouraged to establish a goal to return 50 percent of the project's economic value to the project areas through employment, contracting, and supply purchasing. This goal should not be construed as a quota, set-aside, or cap on hiring or contracting with low income persons and businesses. However, the goals, if met, constitute a safe harbor project sponsors, developers, and builders on the issues of compliance with this order.

People's Emergency Center
Community Development Corporation
DEVELOPER

Bigham Place
PROJECT


SIGNATURE

VP of Community & Economic Development
TITLE