



City of Philadelphia

City Council
Chief Clerk's Office
402 City Hall
Philadelphia, PA 19107

**BILL NO. 110847
(As Amended, 12/7/11)**

Introduced November 17, 2011

Councilmember O'Neill

**Referred to the
Committee on Rules**

AN ORDINANCE

To amend the Institutional Development District Master Plan of the Aria Health System – Torresdale Campus (formerly Frankford Hospital), located at 10800 Knights Road, by allowing for the construction of a building addition to be used for emergency and outpatient services.

THE COUNCIL OF THE CITY OF PHILADELPHIA HEREBY ORDAINS:

SECTION 1. Pursuant to Section 14-1107(c) of The Philadelphia Code, The Institutional Development District Master Plan of the Aria Health System – Torresdale Campus (formerly Frankford Hospital) is hereby amended by allowing for the construction of a 5-story structure to be used for emergency and outpatient services, as set forth in attached Exhibit “A”, which is on file with the Chief Clerk’s Office, and a copy of which is attached hereto for reference.

SECTION 2. This Ordinance shall take effect immediately.



KATHLEEN KINSLOW, CRNA, EdD, MBA
PRESIDENT AND CEO

November 4, 2011

Councilman Brian J. O'Neill
City Hall, Room 562
Philadelphia, PA 19107

Dear Councilman O'Neill:

I appreciate your time and assistance over the last week regarding the New Emergency Department and Patient Tower Project at the Aria Health Torresdale Campus. As agreed, we will adhere to the following plan for ingress and egress onto and from the Torresdale campus:

- Once the new Knights Road point on ingress/egress I open we intend to close and discontinue regular use of the existing Red Lion Road entrance.
- During winter months, in the event of inclement weather which impacts the safe use of the Knights Road/Ellicott point of ingress/egress, we will temporarily reopen and utilize the Red Lion Road entrance to ensure safe campus access for staff, visitors and patients and ready community access to needed medical care.
- Prior to the 2012/2013 winter season, the new subsurface radiant heating system will be in place at the Knights Road/Elliott point of ingress/egress. This system will further enhance safe ingress and egress, notwithstanding weather conditions and eliminate the need to temporarily reopen the Red Lion Road entrance.
- We will remove the Red Lion Road entrance no later than 60 days prior to the opening of the new Emergency Room project.

We hope this meets your expectations and I will personally keep you posted on project progress to ensure the above strategy is achieved.

Sincerely,

A handwritten signature in black ink, appearing to read "Ronald Kumor".

Ronald Kumor, CRNA, MBA
Chief Operating Officer

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City of Philadelphia Economic Opportunity Plan

ARIA HEALTH TORRESDALE CAMPUS NEW EMERGENCY DEPARTMENT AND PATIENT TOWER PROJECT

I. Introduction, Definitions and Goals

The City of Philadelphia strongly encourage 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 Aria Health Torresdale Campus New Emergency Department and Patient Tower Project which may include financial investment, design, construction and operations. In support of this objective, City of Philadelphia will require that Aria Health commit to this Economic Opportunity Plan ("EOP" or "Plan"). This Plan shall apply to contracts awarded and procurements by Aria Health and all Participants during both Phases 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 development of the Aria Health Torresdale Campus New Emergency Department and Patient Tower Project. This Plan shall be a part of and incorporated into the resulting agreement(s) with the Aria Health.

Aria Health 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 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.

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

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

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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 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. Project Scope

Aria Health intends to construct a new tower/facility that will house a new emergency department, outpatient services, and associated mechanical and electrical services. Development costs total approximately \$55M.

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 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 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:

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

Contracts	Minority Owned	Female Owned	Disabled Owned
Professional Services	1%	1%	As Available

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

Contracts	Minority Owned	Female Owned	Disabled Owned
Construction	30%	5%	As Available

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

2. Employment Goals

Aria Health, through the appointed Construction Manager Turner Construction agrees 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

Aria Health also commits to employing equal opportunity practices in accordance with their existing equal opportunity policies when hiring new employees required by this expansion project.

IV. Responsiveness

1. Aria Health, through the appointed Construction Manager Turner Construction, 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 Aria Health, through the appointed Construction Manager Turner Construction will enter 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

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

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apply in rounding off numbers. In the event of inconsistency between the dollar and percentage amounts listed on the form, the percentage will govern.

2. 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.

3. OEO will review Aria Health (Turner Construction) 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.

4. Participants shall be required to submit a Subcontracting/Vendor Plan outlining how it intends to seek out vendors to satisfy the goals established in herein.

V. Compliance and Monitoring of Best and Good Faith Efforts

1. Aria Health, through the appointed Construction Manager Turner Construction 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, Aria Health, through the appointed Construction Manager Turner Construction 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.

2. Prompt Payment of M/W/DSBEs

The Aria Health, through the appointed Construction Manager Turner Construction agrees and shall cause all its contractors to ensure that all M/W/DSBEs participating in

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the Project receive payment for their work or supply effort within five (5) business days after receipt of a proper invoice following satisfactory performance.

3. Oversight Committee

For this Project, in the sole discretion of City, an oversight committee may be established consisting of representatives from Aria Health, Turner Construction, representatives of the building trades, 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. If a Project Oversight Committee is established, meetings of the Committee will be convened no later than one (1) month after issuance of the first Notice To Proceed for the Project.

4. Reporting

The Owner, will agree to file quarterly reports and a final report with the City of Philadelphia 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 including snapshots (quarterly & annually) to the City under this section will be provided to the Office of Economic Opportunity and to the members of the Oversight Committee.

VI. Remedies and Penalties for Non-Compliance

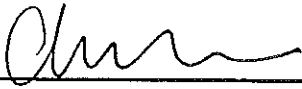
1. Aria Health, agrees that its compliance with the requirements of this Plan is a material inducement for the Ordinance of City Council. Failure by Aria Health and any of its Plan Participants to substantially comply with the Plan may result in enforcement actions and the imposition of penalties as authorized by Sections 17-1605 and 17-1606 of The Philadelphia Code. 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 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

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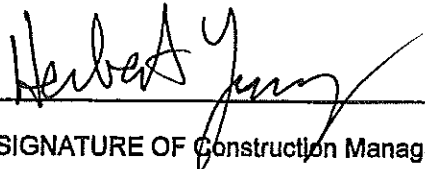
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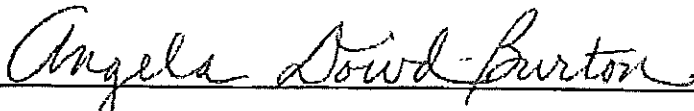
of the Plan except such rights or remedies that the M/W/DSBE may seek as a private cause of action under any legally binding contract to which it may be a party.



SIGNATURE OF Owner Representative⁴ DATE 12/7/11



SIGNATURE OF Construction Manager Representative DATE 12/7/2011



ANGELA DOWD-BURTON, Executive Director, Office of Economic Opportunity⁵ DATE 12/6/2011

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.

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DOCUMENTATION OF BEST AND GOOD FAITH EFFORTS FORM
DEPARTMENT OF COMMERCE
OFFICE OF ECONOMIC OPPORTUNITY (OEO)

Minority (MBE), Woman (WBE), Disabled (DSBE) and Disadvantaged (DBE) Business Enterprises¹

Project TITLE _____ NAME OF OWNER/DEVELOPER _____ SUBMISSION DATE _____

List below ALL MBE/WBE/DSBE/DBE² that were solicited regardless of whether a commitment resulted therefrom. * Photocopy this form as necessary.

Company Name	Please specify work to be Performed and/or Type of Supply Effort	Date Solicited			Commitment Made	
		By Phone	By Mail	By Advertisement	YES <input type="checkbox"/>	NO <input type="checkbox"/>
MBE <input type="checkbox"/> WBE <input type="checkbox"/> DSBE <input type="checkbox"/> M-DBE ² <input type="checkbox"/> W-DBE ² Address _____ Contact Person _____ Telephone Number _____ Fax # _____ <input type="checkbox"/> Subcontractor <input type="checkbox"/> Supplier					Quote Received YES <input type="checkbox"/> NO <input type="checkbox"/> Dollar Amount \$ _____ Percent of Total Proposal % _____	* Yes, please include _____ * No, please include _____
OEO CERTIFICATION # _____ MBE <input type="checkbox"/> WBE <input type="checkbox"/> DSBE <input type="checkbox"/> M-DBE ² <input type="checkbox"/> W-DBE ² Company Name _____ Address _____ Contact Person _____ Telephone Number _____ Fax # _____ <input type="checkbox"/> Subcontractor <input type="checkbox"/> Supplier					Quote Received YES <input type="checkbox"/> NO <input type="checkbox"/> Dollar Amount \$ _____ Percent of Total Proposal % _____	* Yes, please include _____ * No, please include _____
OEO CERTIFICATION # _____ MBE <input type="checkbox"/> WBE <input type="checkbox"/> DSBE <input type="checkbox"/> M-DBE ² <input type="checkbox"/> W-DBE ² Company Name _____ Address _____ Contact Person _____ Telephone Number _____ Fax # _____ <input type="checkbox"/> Subcontractor <input type="checkbox"/> Supplier					Quote Received YES <input type="checkbox"/> NO <input type="checkbox"/> Dollar Amount \$ _____ Percent of Total Proposal % _____	* Yes, please include _____ * No, please include _____

¹ Entities which are not certified by the City shall be solicited by letter within 60 days of the City's request. * If below makes subcontractor and amendments with a DBE, Bidder shall indicate which state type, M-DBE or W-DBE, is solicited for state.

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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><i>Photocopy this form as necessary; you must respond for each solicited MW/D/DBE for which there is no commitment. Failure to do so may result in rejection of your bid.</i></p> <p>Name of MW/D/DBE Solicited for which no commitment was made:</p>		
<p>No commitment resulted from your solicitation of the above identified MW/D/DBE; please explain why:</p>		
<p>Did you attempt, in good faith, to negotiate price and scope (please be specific, attaching any dated price quotations and correspondence):</p>		
<p>Did you offer this MW/D/DBE any some length business assistance (e.g., introduction to manufacturers, helped provide access to line of credit, access to union hall, etc.):</p>		
<p>Did you provide this MW/D/DBE with timely information about the scope of work required; be specific and attach dated documentary evidence of the foregoing:</p>		

SIGNATURE OF Owner Representative⁴

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.

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ECONOMIC OPPORTUNITY PLAN (EOP)

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DOCUMENTATION OF BEST AND GOOD FAITH EFFORTS FORM
 DEPARTMENT OF COMMERCE
 OFFICE OF ECONOMIC OPPORTUNITY (OEO)

Project TITLE -	NAME OF OWNER/DEVELOPER -	SUBMISSION DATE -
<i>Photocopy this form as necessary</i>		
Do you obtain 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.		
Did you seek assistance from the Urban Affairs Coalition, Careerlink Philadelphia, Opportunity Industrial Center and the Philadelphia Workforce Development Corporation to perform.		
Describe any specific outreach activities through job fairs, newspapers, periodicals, advertisements and other publications or media that are owned by MW/DBEs and/or focus on.		
Identify the unions with which you have a collective bargaining agreement. Describe any hiring practices or involvement in Commonwealth approved apprenticeship programs that.		
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.		
Attach your company's Equal Employment Opportunity Statement and any published nondiscrimination policies.		

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10 9 [Signature]
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