



City of Philadelphia

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

**BILL NO. 210742
(As Amended, 10/26/21)**

Introduced September 23, 2021

**Councilmember Parker
for
Council President Clarke**

**Referred to the
Committee on Rules**

AN ORDINANCE

Amending Section 14-502 of The Philadelphia Code, entitled “/CTR, Center City Overlay District”, by amending certain height regulations and creating bulk and massing controls within the Benjamin Franklin Parkway Area, under certain terms and conditions.

THE COUNCIL OF THE CITY OF PHILADELPHIA HEREBY ORDAINS:

SECTION 1. Chapter 14-500 of The Philadelphia Code is hereby amended to read as follows:

§14-502. /CTR, Center City Overlay District.

* * *

(3) Height Regulations.

* * *

(d) Benjamin Franklin Parkway Area.

(.1) The maximum height within the Benjamin Franklin Parkway Area, except as provided in §14-502(3)(d)(.2) and 14-502(3)(d)(.3) below, is 125 ft. (See Height Control Area Map 2 for illustrative purposes only). This 125-foot height limit does not apply to monuments, belfries, cupolas, minarets, pinnacles, gables, spires, or ornamental towers not intended for human occupancy, provided that the total height of the structure and excepted items does not exceed a maximum height of 209 ft.

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(.2) The maximum height within the area bounded by 23rd Street, John F. Kennedy Boulevard, the Schuylkill River, and the center line of the right-of-way of SEPTA is 500 ft. The maximum height within the area bounded by 23rd Street, the center line of the right-of-way of SEPTA, the Schuylkill River, and Cherry Street is 300 ft. These 500-foot and 300-foot height limits do not apply to penthouses or roof structures for the housing of elevators, stairways, tanks, ventilating fans, heating and cooling towers, or similar equipment required to operate and maintain the building.

(.3) [The maximum height] *For any proposed structure and with no residential uses, for which a building permit is issued on or before March 31, 2024, within the area bounded by 20th Street, Arch Street, Cuthbert Street and a line parallel to and 213.958 ft. west of 20th Street, the maximum height is [240] 245 ft. This [240] 245 foot height limit does not apply to penthouses or roof structures for the housing of elevators, stairways, tanks, ventilating fans, heating and cooling towers, or similar equipment required to operate and maintain the building provided that the height of a structure in the area described in the preceding sentence including such appurtenances shall not exceed 260 ft.*

* * *

(9) Bulk and Massing Controls.

* * *

(e) Benjamin Franklin Parkway Area.

Within the area bounded by 20th Street, Arch Street, Cuthbert Street a line extending south from Arch St. parallel to and 213.958 ft. west of 20th Street for 114.5 feet to a point, a line extending west from said point parallel with Cuthbert Street 68.54 feet to a point, and a line extending south from said point 32 feet to the north side of Cuthbert Street, the provisions of Chapter 14-700 applicable to CMX-5 shall apply upon satisfaction of the following conditions:

(.1) The applicant proposes to construct a structure with no residential uses; and

(.2) Whether or not the applicant elects to use the mixed income housing bonus provided in 14-702(7), the applicant, prior to the issuance of a zoning permit, has entered into an agreement with the Department of Planning and Development, pursuant to which such applicant shall pay to the City, prior to the issuance of a building permit, the sum of Two Million Five Hundred Fifteen Thousand Three Hundred Fifty Dollars (\$2,515,350.00) and the Department of Planning and Development shall have agreed to use such money for the purposes set forth in Section 21-1603 (“Creation, Distribution and Use of the Trust Fund’s Assets”).

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(.3) If the applicant does elect to use the mixed income housing bonus provided in 14-702(7), such sum shall constitute or shall be on account of the sum payable for such bonus under 14-702(7)(b)(.6)(.a).

(.4) This subsection (9)(e) shall sunset and cease to be effective on March 31, 2024.

* * *

SECTION 2. This Ordinance shall become effective immediately.

Explanation:

Italics indicate matter added.

[Brackets] indicate matter deleted.

**City of Philadelphia
Economic Opportunity Plan
2000 ARCH**

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I. Introduction and Definitions

The City of Philadelphia strongly encourages the use of certified Minority ("MBE"), Women ("WBE"), Disabled ("DSBE") and Disadvantaged ("DBEs") Business Enterprises (collectively, "M/W/DSBEs") and minority and female workers in all aspects of 2000 Arch, (the "Project") located at 2000-24 Arch Street, Philadelphia PA 19103 ("the Site") which may include financial investment, design, construction, and operations.¹ In support of this objective, the City of Philadelphia will require that the 2000 Arch Associates, LP (the "Owner") 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 the Project at the Site. This Plan shall be a part of and incorporated into the resulting agreement(s) with the owners of 2000 Arch Associates LP.

The Owner hereby verifies that all information submitted to the Office of Economic Opportunity ("OEO") in response to this Plan is true and correct and takes notice 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 efforts of firms that are certified as M/W/DSBEs by an OEO-approved certifying agency will be eligible to receive credit as a Best and Good Faith Effort.² 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," 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 the Project and a commitment is made to employ a diverse workforce as enumerated herein.

II. Project Scope

Office building with underground parking.

III. Goals

A. 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

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

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

only be credited toward one participation range as either an MBE or WBE or DSBE. The ranges are based upon an analysis of factors such as the size and scope of the Project and the availability of MBEs, WBEs, and DSBEs to participate in this development.

The following contract goals have been set for the Project:

Contracts	Minority Owned	Female Owned	DSBE	Total
Construction	20-25%	10-15%	BGFE	BGFE

B. Employment Goals

The Owner agrees to exhaust its Best and Good Faith Efforts to employ minority persons, by race and ethnicity, and females in its workforce of apprentices and journeypersons at the following levels:

African American journeypersons: 22% of all journey hours worked across all trades

Asian journeypersons: 3% of all journey hours worked across all trades

Hispanic journeypersons: 15% of all journey hours worked across all trades

Female journeypersons: 5% of all journey hours worked across all trades

Minority apprentices: 50% of all hours worked by all apprentices

Female apprentices: 5% of all hours worked by all apprentices

Local Residents
32%

The Owner will be required to submit to the City, no later than seven (7) days before the starting date of work on any such contract, a Workforce Diversity Goal Plan which shall include specific availability and utilization strategies for meeting the Workforce Diversity goals. The City’s Labor Standards Unit shall have the responsibility of administering oversight of these Workforce Diversity Goals including evaluating the sufficiency of the Workforce Diversity Goal Plan, and monitoring the successful Bidder’s Best and Good Faith Efforts towards realization of the goals throughout the duration of the contract.

IV. Equity Ownership

The Philadelphia Code 17-1603 requires that each Economic Opportunity Plan include information concerning the Equity Ownership (as defined) of (1) the contractor, developer and/or recipient of financial assistance required to submit the Plan; (2) participants (as defined) engaged by the contractor, developer and/or recipient of financial assistance; and (3) the eventual owner or owners of the project or contract to which the Plan relates; and requiring periodic reports for the purpose of updating Equity Ownership information; all under certain terms and conditions.

Identify the current equity owners of the project.

Type of Ownership	% Minority Owned	% Women-Owned	% Disabled Persons
Sole Proprietorship			
Partnership			
Corporation			

If the project is privately owned, the following individuals will become the anticipated Equity Owners upon completion.

Type of Ownership	% Minority Owned	% Women-Owned	% Disabled Persons
Sole Proprietorship			
Partnership		20%	
Corporation			

Following the completion of the project, the project owner is responsible for meeting the reporting guideline identified in the Philadelphia Code.³

V. Diversity Practices

In compliance with Chapter 17-1603, the Economic Opportunity Plan shall contain a statement from the contractor, developer, and/or recipient of financial assistance summarizing past practices by identifying and describing examples of processes used to develop diversity at any/all levels of its organization including, but not limited to, Board and managerial positions. This statement shall also summarize strategic business plans specific to current or past practices of M/W/DSBE utilization on government and non-government projects and procurement.

1. Describe employment and recruitment policies used to achieve diversity in your workforce.

N/A - The Project Owner has no employees. Project Owner intends to engage a general contractor with a commitment to achieving a diverse workforce. Turner Construction is a federal contractor committed to compliance with OFCCP regulations. Turner construction provided the following in response to this question: Turner’s EEO policy (included) is updated annually and reinforces Turner’s commitment to provide equal employment opportunity for all employees by hiring and advancing individuals without regard to race, color, religion, sex, sexual orientations, sexual identity, national origin, disability, veteran status, or any other characteristic protected by applicable law. All of our employees including our Trades, and all subcontractors receive a copy of this policy on date of hire and/or in pre-bid materials. Our compensation practices are consistently reviewed to ensure fairness and equity. All recruiting practices are aligned with our commitment to diversity and equal

³ Per The Philadelphia Code 17-1603: *Continuing Reporting Requirements.*

(i) Within 30 days of each anniversary of the date that the Plan is finally certified, the contractor, developer and/or recipient of financial assistance shall file with the Chief Clerk of Council and the certifying agency an addendum to the original Plan that provides the Equity Ownership information required in subsection (g)(2), updated so that it is accurate as of the anniversary date. This requirement shall continue until the project is completed.

(ii) The final EOP report required pursuant to § 17-1604(2)(a) shall include updated Equity Ownership information that is accurate as of the date of the final report.

(iii) After the final EOP report has been filed, the owner or owners of the completed project shall have a continuing obligation to file a Statement of the owner's or owners' Equity Ownership within 30 days of each anniversary of the date that the final EOP report is submitted. The Statement shall be accurate as of the relevant anniversary date, and shall be filed with the Chief Clerk of Council and the certifying agency. No Statement shall be required if the completed project is not privately-owned.

employment opportunity as noted above. Turner’s career development program includes efforts to provide equal development and training opportunities for all employees.

2. Provide the race, gender, and residential (local) status of your:

A. Directors	Caucasian; gender: three males and one woman; residential status: two live in Philadelphia, one lives in Penn Valley and the other lives in Bryn Mawr
B. Management	Caucasian; gender: male; residential status: one lives in Philadelphia, one lives in Doylestown and the other lives in Paoli
C. General Workforce	No workforce

3. Identify your organization’s methods of solicitation and utilization of Minority, Woman and Disabled Businesses (M/W/DSBEs). Please be specific in describing outreach and any procurement policies that are focused on creating or sustaining business relationships with M/W/DSBEs.

Project Owner intends to engage a general contractor with substantial experience soliciting and utilizing M/W/DSBEs on development projects. Project Owner is committed to working with its general contractor to pursue business relationships with M/W/DSBE's, and to use best efforts to comply with the EOP. The following bullet points outline the key components of Turner Construction's Economic Opportunity and Inclusion Plan:

- A. Timely dissemination of project information to the MWLBE contracting community**
- B. Assist contractors in becoming Turner Certified**
- C. Facilitate introductions between majority and minority-/women-owned firms**
- D. Develop a diverse construction management team**
- E. Document and report MWLBE utilization on monthly basis**
- F. Document and report workforce diversity on the project**
- G. Utilize Turner’s School of Construction Management Program to introduce more contractors to the ways to do work with the Turner team**
- H. Provide OSHA 30-hour training at cost to MWLBE personnel**
- I. Identify unconventional areas for promotion of local M/WBE Firms**
- J. Goals, good-faith efforts, and counting**
- K. Compliance and enforcement**

4. What percentage of your company’s total spend with vendors and suppliers is attributable to M/W/DSBEs? Please include a list of the largest M/W/DSBEs used by your organization in the last 12 months.

None. Project Owner does not have many existing contracts for 2000 Arch at this time. Project Owner will work with its general contractor and use best efforts to meet the goals established by the EOP. Turner Construction provided the following information with respect to the company's total spend with vendors and suppliers attributable to M/W/DSBE's:

In calendar year 2018, Turner Construction Company’s M/W/DSBEs vendors, lower tiered subcontractors and suppliers constituted about 13.4% of our diverse spend.

Here is the list of 100% minority subcontracts we have issued from January 1, 2019 to May 15, 2019. Note that some of these, such as Tracorp, Central Metals, City Cleaning, Buttonwood, and Guthrie, have been issued two (2) or more contracts during this period.

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- Tracorp
- Laura Fedale dba G. Fedale General Contractors
- Guthrie Glass & Mirror Inc.
- City Cleaning Company Inc.
- Central Metals Inc.
- Buttonwood Company Inc.
- Benco Inc.
- American Floors
- Quality Flooring Workroom Inc.
- Robert Ganter Contractors, Inc.
- Paramount Electrical Services
- Old Philadelphia Associates Inc.
- EC Fence and Iron Works, Inc.
- Kane Communications LLC
- Aerdux
- Keystone Tile and Marble
- Turtle & Hughes
- Camden Mechanical
- Shore Supply
- Guthrie Glass
- Graboyes
- Larry McCrae Inc.
- Quality Flooring

5. Describe any initiatives made by your organization to increase investment and promote equity ownership by minorities and women.

N/A

VI. Responsiveness

A. The owner shall identify M/W/DSBE commitments and other agreements evidencing their intent to use Best and Good Faith efforts to employ minority persons and females at the levels stated herein. The identified commitments constitute a representation that the M/W/DSBE is capable of providing commercially useful goods or services relevant to the commitments and that the Owner has entered into 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 amounts set forth. 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 become part of and an exhibit to the Agreement resulting from the RFP.

D. OEO will review the owner'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.

VII. 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, 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 Owner shall ensure that 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

The owner agrees and shall cause its contractors to ensure that M/W/DSBEs participating on the Project receive prompt payment for their work or supply effort within five (5) days after receipt of payment from the project owner.

C. Oversight Committee

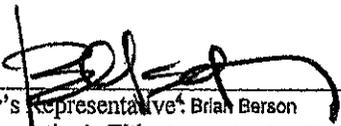
For this Project, an Oversight Committee ("Committee") must be established if the project budget exceeds five million dollars. With the sole discretion of the City, an oversight committee may consist of representatives from the Owner, representatives of the building trades, the construction manager, and the City which may include the Project site's district councilperson, OEO, and appropriate community organizations. The Committee will meet regularly to provide advice for the purpose of facilitating compliance with the Plan.

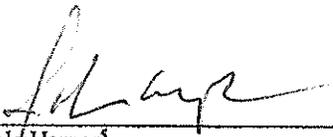
D. Reporting

The owner agrees to file an annual report with the City of Philadelphia and City Council concerning the performance of the Economic Opportunity Plan through the duration of the Project. In addition, during construction, the Owner will provide "snapshot" reports containing updates for certain categories of information contained in its annual report on a monthly basis during construction. Snapshot reporting will include: (i) utilization of M/W/DSBEs, and (ii) the hiring and employment of minorities and females. All reports (quarterly & annually) provided to the City under this section will also be provided to the Office of Economic Opportunity.

VIII. Remedies and Penalties for Non-Compliance

A. The owner 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 the Owner 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.


Owner's Representative: Brian Berson
Representative's Title: Senior Vice President of 2000
The Project Owner Arch Associates GP LLC, the
general partner of 2000 Arch
Associates LP
6/16/19
Date


Iola Harper⁵
Deputy Commerce Director for the Office of Economic Opportunity
Department of Commerce
City of Philadelphia
6/16/19
Date

⁴ 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.

⁵ 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.

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