

# City of Philadelphia



(Bill No. 170306-A)

## AN ORDINANCE

To reinstate Bill No. 140439 amending Section 14-502 of the Zoning Code, entitled “CTR, Center City Overlay” and Section 14-602 of the Zoning Code, entitled “Use Tables,” and to amend Section 14-803 “Motor Vehicle Parking Standards” 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:

CHAPTER 14-500. OVERLAY ZONING DISTRICTS.

\* \* \*

§14-502. / CTR, Center City Overlay.

\* \* \*

(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) 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.*

\* \* \*

SECTION 2. Chapter 14-600 of The Philadelphia Code is hereby amended to read as follows:

§14-602. Use Tables.

\* \* \*

(3) Residential Districts.

\* \* \*

(a) Notes for Table 14-602-1.

\* \* \*

[5] In the RMX-3 district, retail sales and commercial service uses may not exceed 25% of the total gross floor area. Retail sales uses must be located on the ground floor of a building, *except that, in the area bounded by Cherry Street, 23rd Street, John F. Kennedy Boulevard and the right-of-way of CSX Railroad, retail sales uses may be located above the ground floor provided that such retail sales uses have a direct entrance or entrances from the ground floor.* Commercial service uses may be located on any floor of a building.

SECTION 3. Chapter 14-800 of The Philadelphia Code is hereby amended to read as follows:

§14-803. Motor Vehicle Parking Standards.

(1) Accessory Parking Standards.

\* \* \*

(d) Additional Regulations for RMX-3, CMX-4, and CMX-5 Districts.

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\* \* \*

(.2) Aboveground accessory parking garages, *except that:*

*(.a) in the area bounded by Cherry Street, 23rd Street, John F. Kennedy Boulevard and the right-of-way of CSX Railroad, aboveground accessory parking garages are permitted.*

SECTION 4. Sunset Provision. This Ordinance shall lapse on December 31, 2020, except as to any building permit then in effect.

SECTION 5. This Ordinance shall become effective immediately.

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**Explanation:**

*Italics* indicate matter added.

EXHIBIT "A"

ECONOMIC OPPORTUNITY PLAN

**City of Philadelphia  
Economic Opportunity Plan**

**Riverwalk**

EOP version March 17, 2017

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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 Riverwalk (the "Project") located at 60 N. 23<sup>rd</sup> St. ("the Site") which may include financial investment, design, construction, and operations.<sup>1</sup> In support of this objective, the City of Philadelphia will require that 2301 JFK Owner 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 Riverwalk.

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.<sup>2</sup> 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/oco/directory](http://www.phila.gov/oco/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

The Project, expected to break ground in the fall of 2017 will include the construction of the parking podium (275 spaces), approximately 71,000 square feet of retail space on the second floor of the podium, and a 336,000 square foot, 27 story apartment tower containing 291 apartments. A second 29-story tower containing approximately 300 apartments will be built on the podium in the future. The hard costs associated with the project will be approximately \$18,959,500 for site work, Landscaping \$1,300,000 and Building/Podium costs of \$173,354,932.

## 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

<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/oco](http://www.phila.gov/oco)

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 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%	15-20%	BGFE	35-45%

**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

<b>Local Residents</b>
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.

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Type of Ownership	% Minority Owned	% Women-Owned	% Disabled Persons
Sole Proprietorship			
Partnership	2.5%		
Corporation			

**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.

PMC Property Group, Inc. the General Contractor for the proposed project has a significant number of minority employees at all levels of the organization. PMC is committed to diversity and quality in the workplace. Our nondiscrimination statement:

PMC does not discriminate on the basis of race, color, national or ethnic origin, sex, sexual orientation, age, disability, religion, creed, marital status, or any other protected class.

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

Board: Ronald Caplan, Villanova, PA

Management:

- CEO Ronald Caplan, Villanova, PA
- COO Greg Webster, Philadelphia, PA
- EVP General Counsel Jerrold Novick, Bala Cynwyd, PA
- EVP Director of Construction, Christopher McElwee Philadelphia, PA
- EVP Jonathan Stavin, Philadelphia, PA

Workforce:

PMC Property Group employees over 200 employees in accordance with the nondiscrimination statement in 1 above. It is estimated that approximately 40 % of PMC employees are members of a protected class.

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.

PMC Property Group recognizes and values the importance of Diverse Suppliers and is committed to pursuing business relationships with capable and compatible M/W/DSBEs as part of its competitive market strategy.

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.

PMC Property Group does not track M/W/DSBE spending. We have never been required to track spending as we have not be covered by a EOP plan. We are committed to using our best efforts to meet the goals established by the EOP.

**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.

C. 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, in the sole discretion of the City, an oversight committee may be established consisting of representatives from the Owner, representatives of the building trades, the construction manager, and the

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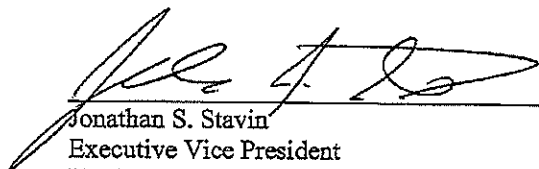
City which may include the Project site's district councilperson, OEO, and appropriate community organizations ("Committee"). The Committee will meet regularly to provide advice for the purpose of facilitating compliance with the Plan.

#### D. Reporting

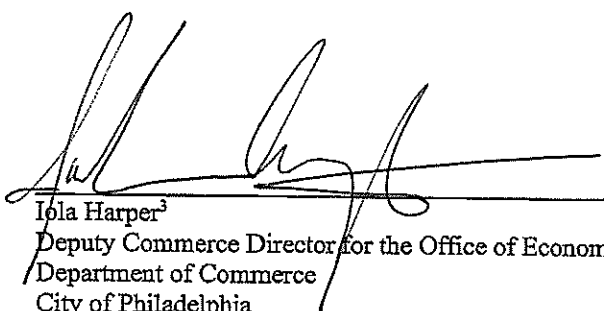
The owner agrees to file an annual report with the City of Philadelphia and City Council concerning the performance of the Economic Opportunity Plan through the duration of the Project. In addition, during construction, the Owner will provide "snapshot" reports containing updates for certain categories 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.

  
Jonathan S. Stavin  
Executive Vice President  
PMC Property Group

6/13/2017  
Date

  
Iola Harper<sup>3</sup>  
Deputy Commerce Director for the Office of Economic Opportunity  
Department of Commerce  
City of Philadelphia

6/14/17  
Date

<sup>3</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.

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CERTIFICATION: This is a true and correct copy of the original Bill, Passed by the City Council on June 22, 2017. The Bill was Signed by the Mayor on July 11, 2017.



Michael A. Decker  
Chief Clerk of the City Council