

City of Philadelphia



(Bill No. 190437)

AN ORDINANCE

Amending Chapter 14-500 of The Philadelphia Code, Section 14-516, entitled “/WST, West Overlay District,” all under certain terms and conditions.

WHEREAS, in 2014, Drexel University acquired the site of the former University City High School and the Charles R. Drew elementary school; and

WHEREAS, following Drexel’s acquisition of the site, Drexel University ground leased portions of the site to affiliates of VTR LS Development, LLC (formerly Wexford Development, LLC); and

WHEREAS, in connection with the planned mixed use redevelopment of the site, City Council adopted Bill No. 140437-A on June 19, 2014, which was subsequently signed by the Mayor; and

WHEREAS, as contemplated by Bill No. 140437-A, Drexel University and VTR LS Development, LLC (formerly Wexford Development, LLC) agreed to construct extensions of North 37th Street, Warren Street and Cuthbert Street through the site; and

WHEREAS, as a planned redevelopment involving various stakeholders of the community, the City’s intention has been to encourage limited density along Lancaster Avenue and higher density south of former Warren Street between North 36th Street and North 38th Street; and

WHEREAS, as to effectuate the intention of the City, it is essential that the entire site be treated as a single lot for zoning purposes notwithstanding a future dedication of North 37th Street, Warren Street and/or Cuthbert Street through the site; and

WHEREAS, it is not the intention of City Council to expand the aggregate amount of permissible development originally contemplated in Bill No. 140437-A; now, therefore

THE COUNCIL OF THE CITY OF PHILADELPHIA HEREBY ORDAINS:

SECTION 1. Title 14 of the Philadelphia Code is hereby amended to read as follows:

TITLE 14. ZONING AND PLANNING

* * *

CHAPTER 14-500 OVERLAY ZONING DISTRICTS

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Section 14-516. /WST, West Overlay District.

* * *

(2) Subarea A.

The following standards apply to Subarea A of the West Overlay District.

(a) Use Regulations.

(.1) For properties zoned CMX-4 located in the West Overlay District, special exception approval shall not be required for portions of a parking garage that are located above ground level.

(b) Dimensional Standards.

(.1) The maximum floor area ratio for lots zoned CMX-4 located within the West Overlay District shall be seven hundred and fifty percent (750%) of the area of the lot. Within this area, no floor area bonuses pursuant to § 14-702 shall be available. Notwithstanding the provisions of § 14-202(4)(a)(.9), within this area, floor area attributable to parking in above ground public and private parking garages shall not be included in the allowable gross floor area calculation of such facilities.

(.2) The maximum height for lots zoned CMX-4 and located within the West Overlay District shall be as follows:

(.a) Drawing an imaginary line from the west end of Warren Street (at the proposed extension of 37th Street) along the center of the bed of the former Warren Street to 38th Street, the maximum building height to the north of that line shall be no higher than 65 feet for a distance of 10 feet from and parallel to Powelton Avenue and Lancaster Avenue and thereafter, no higher than 75 feet for the remaining portion of the area bounded by 38th Street, Powelton Avenue, Lancaster Avenue, 37th Street (and the proposed extension of 37th Street) and the bed of the former Warren Street;

(.b) For lots with frontage on the south side of Warren Street between 36th Street and 37th Street, the maximum building height shall be 65 feet for the first 50 feet of depth on a line measured parallel to Warren Street.

(.3) *Notwithstanding the provisions of Sections 14-203(169) and 14-203 (178) of this Title 14 of the Philadelphia Code, provided that all of the parcels within Subarea A are subjected to a zoning lot declaration agreement, recorded against such parcels in the Philadelphia Department of Records, wherein the legal owners of such parcels agree to treat all of such parcels as a single "Lot" for purposes of this Title*

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14 of the Philadelphia Code, then the Commission, the Department of Licenses and Inspections, and the Department of Planning and Development shall all treat such parcels as a single “Lot” for purposes of this Title 14 of the Philadelphia Code irrespective of the eventual construction and public dedication of North 37th Street, Warren Street and/or Cuthbert Street within or through Subarea A; provided, however, that (i) the beds of such streets (as detailed on the City Plan) within Subarea A shall not contribute to the calculation of permissible gross floor area for such “Lot”; and (ii) such treatment as a single “Lot” for purposes of this Title 14 of the Philadelphia Code shall not (and cannot) be terminated without the prior approval of the Department of Planning and Development.

SECTION 2. Economic Opportunity Plan. The Economic Opportunity Plan as previously approved by the Office of Economic Opportunity pursuant to Chapter 17-1600 of the Philadelphia Code is attached.

SECTION 3. This Ordinance shall be effective immediately.

Explanation:

Italics indicate new matter added.

City of Philadelphia

Economic Opportunity Plan

Drexel University/Wexford Science and Technology

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 various aspects of the design and construction of the development (the "Project") of the former School District of Philadelphia site by Drexel University in a joint venture with Wexford Science and Technology (the "Developer") in the area bounded by Powelton Avenue, Lancaster Avenue, 37th Street, Warren Street, 36th Street, Filbert Street and 38th Street (the "Site"). In support of this objective, the City of Philadelphia will require that the owners of the Project commit to this Economic Opportunity Plan ("EOP" or "Plan").

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 take 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 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.

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

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

commitments are made within the M/W/DSBE participation ranges established for the improvements and a commitment is made to employ a diverse workforce as enumerated herein.

II. Project Scope.

The Project consists of the design and construction of certain improvements to be made at the Site. The Site will be improved, subject to various approvals necessary for the construction of the Project. Participants shall include certain design or other professional service providers and their respective consultants, the general contractor or construction manager (hereinafter referred to as the "General Contractor") retained to construct the Project (collectively, the "Participants").

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 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 improvements and the availability of MBEs, WBEs, DSBEs and DBEs to participate in the improvements:

The following contract goals have been set for the Project:

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

Contracts	Minority Owned	Female Owned	Disabled Owned
Professional Services	15 - 20%	5% - 15%	Best Efforts

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

Contracts	Minority Owned	Female Owned	Disabled Owned
Construction	25% - 30%	10% - 15%	Best efforts

B. Employment Goals.

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

	Local Residents	
	50%	

Drexel University in a joint venture with Wexford Science and Technology 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 Journeymen - 32% of all journey hours worked across all trades.

Female Journeypersons – 2% of all hours worked across all trades.

Minority Apprentices - 50% of all hours worked by all apprentices.

Female Apprentices - 7% of all hours worked by all apprentices.

IV. Responsiveness.

A. The Owner and relevant participants shall identify 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. 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 and participants have 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 percentage amounts set forth. In calculating the percentage of M/W/DSBE participation, the standard mathematical rules apply in rounding off numbers.

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.

C. OEO reserves the right to request further documentation and/or clarifying information at any time during the construction of the Project to ensure that Best and Good Faith Efforts have been made.

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

V. Compliance and Monitoring of Best and Good Faith Efforts.

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

C. Oversight Committee.

The Owner and the City of Philadelphia, in consultation with the appropriate agencies and entities, will establish and identify the members of a Project Oversight Committee, including representatives from the Owner, the Developer and/or the General Contractor and Construction Manager, the Office of Economic Opportunity, City Council, community organizations and the Building Trades. 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.

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/or DBEs, 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.

VI. 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

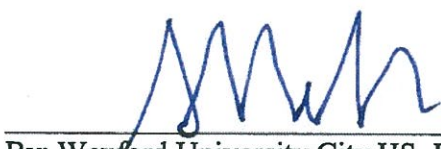
that the M/W/DSBE may seek as a private cause of action under any legally binding contract to which it may be a party.

Drexel University City Development, LLC



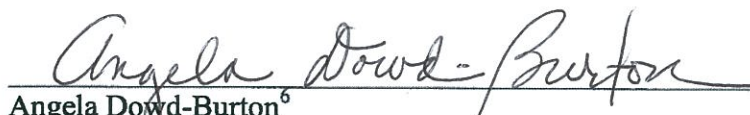
By: DUC, LLC, its managing member⁴
By: Drexel University, its sole member
By: James R. Tucker, Sr., Vice President

Date



By: Wexford University City HS, LLC, a member, LLC⁵
By: S. Nelson Weeks, Sr. Vice President

5/30/2014
Date



Angela Dowd-Burton⁶
Executive Director
City of Philadelphia
Office of Economic Opportunity

5/30/2014
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 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.

⁶ 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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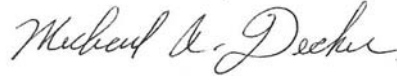
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CERTIFICATION: This is a true and correct copy of the original Bill, Passed by the City Council on June 20, 2019. The Bill was Signed by the Mayor on July 24, 2019.

A handwritten signature in cursive script, reading "Michael A. Decker".

Michael A. Decker
Chief Clerk of the City Council