

**City of Philadelphia  
Economic Opportunity Plan**

**PAFA 5<sup>th</sup> Floor Fit Out**

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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<sup>1</sup> ("DBEs") Business Enterprises (collectively, "M/W/DSBEs") and minority and female workers in all aspects of the Pennsylvania Academy of Fine Arts (PAFA) 5<sup>th</sup> Floor Fit Out project located at 128 N. Broad St (the "Project") which may include financial investment, design, construction and operations. In support of this objective, the City of Philadelphia will require that PAFA (the "Owner") of the Project 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 the PAFA 5<sup>th</sup> Floor Fit Out.

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 agency<sup>2</sup> 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](http://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 improvements and a commitment is made to employ a diverse workforce as enumerated herein.

## **II. Project Scope**

Fit out of the Samuel M.V. Hamilton Building, 5<sup>th</sup> Floor.

## **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

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

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 this development.

The following contract goals have been set for the Project:

| Contracts    | Minority Owned | Female Owned | DSBE | Total  |
|--------------|----------------|--------------|------|--------|
| Construction | 15-20%         | 15-20%       | BGFE | 30-40% |

#### B. Employment Goals

The Owner agrees to exhaust Best and Good Faith Efforts to employ minority persons and females in its workforce of apprentices and journeymen at the following levels<sup>3</sup>:

- 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 - 2% of all hours worked across all trades

| Local Residents |
|-----------------|
| 32%             |

#### 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 | N/A              | N/A           | N/A                |
| Partnership         | N/A              | N/A           | N/A                |
| Corporation         | N/A              | N/A           | N/A                |

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

<sup>3</sup> These goals are based upon the recommendations of the Mayor's Advisory Committee on Construction Industry Diversity (MACCID), published in the 2009 MACCID Report; they have been augmented by OEO over time based upon labor market data.

| Type of Ownership   | % Minority Owned | % Women-Owned | % Disabled Persons |
|---------------------|------------------|---------------|--------------------|
| Sole Proprietorship | N/A              | N/A           | N/A                |
| Partnership         | N/A              | N/A           | N/A                |
| Corporation         | N/A              | N/A           | N/A                |

Following the completion of the project, the project owner is responsible for meeting the reporting guideline identified in the Philadelphia Code.<sup>4</sup>

## 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. Where appropriate, such a statement should contain:

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

PAFA seeks to hire and promote a diverse workforce. PAFA does this through advertising, as well as a partnership with individuals who share employment opportunities with diverse social and cultural organizations. PAFA's goal is to have a candidate pool that includes the community that we serve. For calendar year 2013, nearly 25% of PAFA's new hires were people of color.

Every position at PAFA is advertised with the following language:

*The Pennsylvania Academy of the Fine Arts (PAFA) is an Equal Opportunity Employer and is committed to an environment which welcomes and encourages the recruitment and retention of qualified candidates from all diverse groups. PAFA provides equal opportunity to applicants without regard to race, color, religion, gender identity/expression, sexual orientation, national or ethnic origin, age, disability, or status as a veteran. PAFA encourages members of all diverse groups to seek employment with us.*

The following is from PAFA's Employee Handbook:

- o *PAFA is committed to a policy of nondiscrimination in employment. PAFA does not discriminate in employment opportunities or practices on the basis of race, color, religion, sex, sexual orientation, national origin, age, disability, marital status, familial status, or any other characteristic or circumstance protected by law.*
- o *This policy covers all aspects of employment, including selection, job assignment, compensation, discipline, termination, and terms, conditions and privileges of employment.*

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<sup>4</sup> Philadelphia Code 17-1603.

*If you have questions or concerns about any type of discrimination in the workplace, you are encouraged to bring the issue to the attention of the Vice-President of Human Resources or the President. Or, if for any reason you believe inappropriate to bring it to either of them, you can bring your concern to the Chair of the Human Resources Committee of the Board of Trustees. No adverse employment action will be taken for concerns or reports made in good faith. Further, anyone found to be engaging in any type of unlawful discrimination will be subject to corrective action, up to and including termination of employment*

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

|                      |   |
|----------------------|---|
| A. Directors         | Male: 72%<br>Female: 28%<br>White 92%<br>African American: 6%<br>Hispanic: 2%               |
| B. Management        | Male: 62%<br>Female: 38%<br>White: 90%<br>African American: 10%<br>Hispanic: 0%             |
| C. General Workforce | Male: 48%<br>Female: 52%<br>White: 91%<br>African American: 4%<br>Hispanic: 2%<br>Asian: 3% |

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.

- Through review of lists on Philadelphia Commerce Department web site
- Solicit recommendations from other M/W/DSBE contractors

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.

|   |  |
|---|--|
| A. Identify the type of goods or services purchased.  |  |
| B. Amount of the contract.  |  |
| C. Indicate if any of these M/W/DSBEs are listed in the City of Philadelphia's Office of Economic Opportunity Registry. |  |

|  |                               |
|--|-------------------------------|
| D. Are these companies certified as M/W/DSBEs? Do you rely on any particular certifying agency?  |                               |
| E. If there is no previous M/W/DSBE utilization, the Plan shall contain a statement that explains the reason for the lack of M/W/DSBE participation in past contract(s) or project(s). | Current system does not track |

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

Not applicable. PAFA is a nonprofit organization.

**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 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.

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

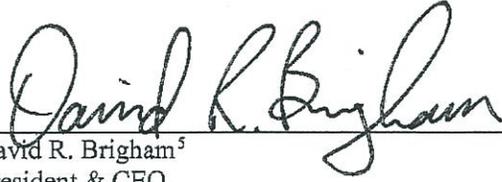
For this Project, in the sole discretion of the City, an oversight committee may be established consisting of representatives from [the Owner], representatives of the building trades, the construction manager, the City which may include the Project site's district councilperson, OEO, and appropriate community organizations ("Committee"). The Committee will meet regularly to provide advice for the purpose of facilitating compliance with the Plan.

#### 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**

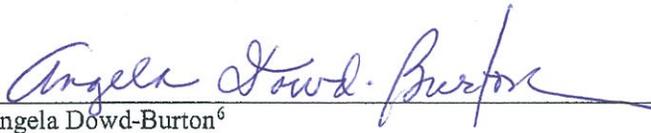
A. The owner agrees that its compliance with the requirements of this Plan is material to the Agreement. Failure to comply with the Plan may constitute a substantial breach of the Agreement and is subject to the remedies and penalties contained therein or otherwise available at law or in equity. Notwithstanding 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.



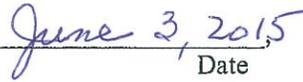
David R. Brigham<sup>5</sup>  
President & CEO  
Pennsylvania Academy of Fine Arts  
128 N. Broad St. Philadelphia, PA 19102



Date



Angela Dowd-Burton<sup>6</sup>  
Executive Director  
City of Philadelphia  
Office of Economic Opportunity



Date

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<sup>5</sup> 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.

<sup>6</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.

