

**City of Philadelphia  
Economic Opportunity Plan  
9th Street Marketplace, LLC  
Construction of a Shopping Center**

**I. Introduction, Definitions and Goals.**

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 various aspects of the design, construction and operations of the development (the "Project") at the property located at 901 Girard Avenue, through to 1221-33 North Hutchinson Street and 1224-38 Rear North 9<sup>th</sup> Street (the "Site"). In support of this objective, the City of Philadelphia will require that the owners of the shopping center 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 *9th Street Marketplace, LLC*.

*9th Street Marketplace, LLC*, 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/o eo/directory](http://www.phila.gov/o eo/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.**

The Project consists of the construction of a shopping center. The Project will be constructed by *9th Street Marketplace, LLC*, in the City of Philadelphia, in an area of the City located at 901

<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/o eo](http://www.phila.gov/o eo)

Girard Avenue, through to 1221-33 North Hutchinson Street and 1224-38 Rear North 9<sup>th</sup> Street. *9th Street Marketplace, LLC*, will develop the Site, 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 by *9th Street Marketplace, LLC*, to construct the Project (collectively, the "Participants").

### 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 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 *Design, Construction and Operations* contract goals have been set for the Project:

DESIGN	MBE	WBE AND/OR DSBE
	10%-15%	5%-10%

CONSTRUCTION	MBE	WBE AND/OR DSBE
	15%-20%	10%-15%

OPERATIONS	CITY BASED EMPLOYMENT
Local Residents	60%

The objectives set forth in the Plan shall be incorporated in applicable requests for proposals, bid packages and solicitations for the Project and communicated to relevant participants from the date of the execution of this EOP.

## 2. Employment Goals.

*9th Street Marketplace, LLC*, 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 - 7% of all hours worked across all trades.

## IV. Responsiveness.

1. *9th Street Marketplace, LLC*, 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 *9th Street Marketplace, LLC*, 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.

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.

3. OEO reserves the right to request further documentation and/or clarifying information at any time during the construction of the Project.

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

1. To the extent required by law, *9th Street Marketplace, LLC*, 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.

2. Prompt Payment of M/W/DSBEs. *9th Street Marketplace, LLC*, agrees and shall cause its contractors to ensure that M/W/DSBEs participating in the Project receive prompt payment for their work or supply after receipt of a proper invoice following satisfactory performance.

3. Oversight Committee. *9th Street Marketplace, LLC*, 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 *9th Street Marketplace, LLC*, the Developer and/or the General Contractor and Construction Manager, the Office of Economic

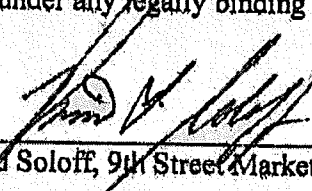
<sup>3</sup> These goals, which have been adopted by the Economic Opportunity Cabinet, are the recommendations of the Mayor's Commission on Construction Industry Diversity.

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.

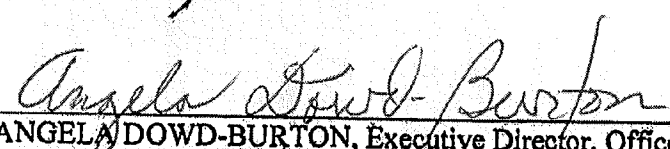
4. Reporting. *9th Street Marketplace, LLC*, agrees to file an annual report with the City of Philadelphia and City Council concerning the performance of the Economic Opportunity Plan through the duration of the Project. In addition, during construction, *9th Street Marketplace, LLC*, will provide "snapshot" 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.

1. *9th Street Marketplace, LLC*, 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 *9th Street Marketplace, LLC*, 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.

  
Richard Soloff, *9th Street Marketplace, LLC*<sup>4</sup>

4/11/2013  
DATE

  
ANGELA DOWD-BURTON, Executive Director, Office of Economic Opportunity<sup>5</sup>

4/11/2013  
DATE

<sup>4</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>5</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.