EBDI Project Area

ECONOMIC OPPORTUNITY PLAN

&

PROCUREMENT POLICY

For

Commercial and Large Residential Projects

Effective: March 2017
Executive Summary of Recent Updates to
EBDI Project Area
ECONOMIC OPPORTUNITY PLAN & PROCUREMENT POLICY
For Commercial and Large Residential Projects
As of March 2017

East Baltimore Development, Inc. (EBDI) has made it a priority to ensure that a substantial amount of the work generated by the East Baltimore revitalization project will go to minority- and women-owned businesses and local companies. EBDI has also focused on assisting minorities and residents of the project area and other parts of Baltimore City obtain employment through the project.

Outlined below are the recent updates to the EBDI Project Area Economic Opportunity Plan & Procurement Policy that were made to continue EBDI’s progress in achieving both its contracting and workforce inclusion goals.

Title Page (cover page) – effective date

Updated – Mayor’s Office of Employment Development (MOED) Contact Information– pg. 19

Updated – ATTACHMENT A: STANDARD OPERATING PROCEDURES, pg. 20-21

Updated - ATTACHMENT B: SAMPLE BIDDER’S ECONOMIC INCLUSION PLAN, pg. 22-23
In April 2002, the Agreement for Minority Inclusion for the East Baltimore Housing/Biotech Park Development Project (hereinafter the project area or EBDI project area) established a commitment to substantially increase contracting and procurement dollars spent with minority businesses in all aspects of the East Baltimore Project, as well as spur greater involvement of minority businesses in identified growth sectors of the City’s economy, including, but not limited to retail, technology, and real estate development; and to dramatically increase the number, magnitude and success rate of minority businesses in Baltimore City, at all levels of the Development Project.

In addition, the Agreement establishes a commitment to utilize collective resources to provide career-oriented employment opportunities for Baltimore residents, with qualified displaced residents being given a preference for job training opportunities over other qualified applicants that are not former residents of the biotechnology park site.

To that end, East Baltimore Development Inc. (EBDI) has developed a comprehensive Economic Opportunity Initiative that promotes: 1) the involvement of Minority-Owned (MBE), Women-Owned (WBE), and Locally-Owned Businesses (LBE) (collectively referred to herein as M/W/LBEs); and 2) the training and employment of local residents, in the ongoing economic transformation of the East Baltimore Revitalization Area. This Economic Opportunity Plan and Procurement Policy (hereinafter referred to as “the Plan”) outlines the policies and protocols that have been developed to ensure the achievement of the goals of EBDI’s Economic Opportunity Initiative and the aforementioned Agreement for Minority Inclusion.

**Economic Inclusion Definitions**

For the purposes of EBDI’s Economic Opportunity Initiative and this Plan, EBDI uses the following definitions:

- **Minority Business Enterprise (MBE)** means a business enterprise that is owned, operated, and controlled by one or more minority group members (African American, Hispanic American, Asian American, or Native American), who have at least 51% ownership, and in which the minority group members have operational and managerial control, interest in capital, and earnings commensurate with their percentage of ownership.

- **Women’s Business Enterprise (WBE)** means a business enterprise that is owned, operated, and controlled by one or more women who have at least 51% ownership, and in which the women have operational and managerial control, interest in capital, and earnings commensurate with their percentage of ownership.

- **Local Business Enterprise (LBE)** means a business enterprise whose principal office is physically located in Baltimore City, with the first priority being given first to businesses located in the 88 acres of EBDI project area (bounded by Madison Street on the south, Broadway on the west, Patterson Park Ave. on the east and the Amtrak railroad track on the north); a second priority given to businesses located in the following East Baltimore
EBDI reserves the right to evaluate the LBE’s ability to satisfy financial, technical, or other criteria before or after bid opening. It shall be the Contractor’s choice to employ the LBE’s in an effort to meet EBDI’s Inclusion goals. It is anticipated that EBDI will attend the bid review meetings conducted by contractors solely to verify the status of any and all LBE firms proposed in the bids.

Any business that is located outside of the defined local business enterprise zone will not be eligible to fulfill the local contracting goals. National firms with a local office in Baltimore City, but principal office elsewhere, are not considered LBEs. Project firms Contractors may use these businesses, but shall not receive credit towards EBDI LBE Inclusion Goals. Local MBE and WBE’s can fulfill the LBE goal.

- **Local Resident** means a resident living in Baltimore City, with the first priority being given to residents residing in, relocated from or otherwise impacted by the EBDI revitalization project area (bounded by Madison Street on the south, Broadway on the west, Patterson Park Ave. on the east and the Amtrak railroad track on the north); the second priority given to East Baltimore residents residing in the following zip codes: 21202, 21205, 21206, 21213, 21214, 21218, 21224, 21231, 21237, 21251 and 21287; and a third priority given to residents residing in the remaining 212 zip code areas of Baltimore City. These local residents have traditionally been underserved and living in underdeveloped neighborhoods.

- **New Hire** is defined as an individual representing a discrete new full-time hire by the Contractor, who was not previously employed by the Contractor, its subsidiary, a joint-venture involving the Contractor, or an agent thereof; and/or did not transfer to the EBDI project site from another project under the employment of the said entity. A new hire can be an individual who worked on a different project or for a different Contractor within the EBDI project area that Contractor now wants to hire for project on which he is working. This type of hire is considered a retained new hire since the individual was able to move from one job to the next thus retaining employment.

- **Workforce Development Pipeline** is the mechanism developed by EBDI, via a partnership with the Mayor’s Office of Employment Development (MOED), that provides: (1) a pathway for EBDI Relocated/ Impacted residents to get assessed, obtain job readiness skills, industry-specific customized training, career coaching, job placement, and retention services; and (2) a pathway that assists businesses inside the project area with meeting local hiring requirements in their contracts by helping them to identify emerging job opportunities and connecting them to the appropriate workforce services/training provider(s) and identify qualified job seekers for the position(s). All businesses and contractors under contract within the EBDI project area shall use the Workforce Pipeline and/ or its designee(s) as their first source for recruiting local residents for jobs.
Bidder is an entity who has submitted a proposal in response to a Request for Proposal (RFP) or Request for Qualifications (RFQ) associated with a project within the EBDI project area.

Contractor also referred to as a General Contractor or Prime Contractor is an entity that is a party to a contract associated with a project within the EBDI project area that is responsible for ensuring the inclusion goals are met.

Sub-Contractor is an entity that is a party to a contract with a General/Prime Contractor.

Owner is the entity that owns the parcel of land and/or development project that may be responsible for the development and operations of a property and for ensuring the economic inclusion policy and goals are met on the project.

Developer is an entity that invests in and develops parcels of land for residential or commercial use and is responsible for ensuring the economic inclusion policy goals are met on the project.

EBDI Project Area is the area bounded by Madison Street on the south, Broadway on the west, Patterson Park Ave. on the east and the Amtrak railroad track on the north.

Economic Inclusion Advisory Committee is a sub-committee of the EBDI Board of Directors that helps to establish policies that maximize inclusion.

East Baltimore Development Inc. (EBDI) is the non-profit organization that was established to manage the redevelopment efforts associated with the East Baltimore Housing/Biotech Park Development Project.

EBDI Economic Inclusion Team (EI Team) is managed by EBDI’s Chief Operating Officer (COO), who manages the workforce development and economic inclusion related matters associated with the project. The COO along with the Third-Party Monitoring consultant, who is responsible for the day-to-day coordination of EBDI’s Economic Inclusion efforts are collectively referred to as the “Economic Inclusion Team”. Owners, Developers, General/Prime Contractors, Sub-Contractors, suppliers and service providers shall work with and cooperate fully with the efforts of the Economic Inclusion Team.

GENERAL

Contract Requirements: This policy is applicable to projects within the East Baltimore Development Inc. (EBDI) project area. Contractor shall comply with the following inclusion requirements. All records required to be maintained by Contractor under this policy are subject to on-going audit by the Owner/Developer and EBDI. Contractor shall obligate its subcontractors and sub-subcontractors to this policy and the requirements herein by means of appropriate flow-down contractual clause(s), and shall require said subcontractors and sub-subcontractors to satisfy the requirements of this policy, including the timely provision of
documentation required by this policy and as required by the Economic Inclusion Team (or
duly appointed designees). The requirements of this Policy are an essential part of the
Contract, including the requirement that Contractor submit and fulfill its detailed
Owner/Developer-approved Contractor-authored Economic Inclusion and Manpower
Projection plans (See Attachments B – D).

**Independent Third-Party Monitoring**

In an effort to objectively report the outcomes of EBDI’s Economic Inclusion activities, the
Owner/Developer has employed the services of independent Third-Party Monitoring
Contractor(s) to act as its representative(s) on matters regarding the development,
implementation and monitoring of this Plan. Third-Party Monitoring Contractor is managed
by EBDI’s Chief Operating Officer. The aforementioned parties along with MOED, who is
responsible for the day-to-day coordination of EBDI’s first source local hiring process, are
collectively referred to as the “Economic Inclusion Team”. Contractor shall work with and
cooperate fully with the efforts of the Economic Inclusion Team.

**Non-Discrimination Policy**

Each Contractor performing work or providing goods or services on behalf of EBDI shall ensure
that it, along with its Subcontractors, shall not discriminate on the basis of race, color, religion,
gender or natural origin in the award and performance of its contract and/or any sub-contracts
that may be needed to perform the work or services for which they are contracted. Likewise,
Contractor shall ensure that it, along with its Subcontractors, shall not discriminate on the basis
of race, color, religion, gender or natural origin in project with respect to all employment
practices. The contractor shall comply with all applicable requirements of any federal, state or
local law ordinance or regulation relating to affirmative action, equal opportunity and
nondiscrimination in employment, and shall use its best practical efforts to meet all local goals
relating thereto.

**Economic Inclusion Goals**

- **Joint Ventures** – While it is not a requirement, EBDI strongly encourages joint ventures
  between majority-owned Prime Contractors and MBE/WBE firms in all categories and at
  all levels of procurements. Joint ventures are still responsible for meeting economic
  inclusion subcontracting goals. When evaluating bids or proposals from Contractors,
  preference shall be given to respondents that include joint ventures or teaming
  agreements with MBE’s and WBE’s, which are certified with Baltimore City and/or the
  State of Maryland, and LBE’s. (See Guidelines for Joint Venturing section on page 11).

- **Subcontracting Goals:** The following subcontracting goals have been established for
  procurements stemming from the East Baltimore Housing/Biotech Park Development
  Project:
    - **Construction Contracts:**
      - 27% MBE + 8% WBE = 35% of total contract value;
- 20% LBE of total contract value

  - **Design, Architecture, and Engineering-related contracts:**
    - 21% MBE + 13% WBE = 34% of total contract value
    - 20% LBE of total contract value

  - **Professional/General Service Contracts:**
    - 17% MBE + 9% WBE = 26% of total contract value
    - 20% LBE of total contract value

- Contractors are encouraged to use the Local Vendor Directory developed by the Economic Inclusion Team to identify local, minority and women subcontractors, and to contact EBDI to get a list of workforce partners to use to identify local residents for job opportunities.

- Owners, Operators and Property Managers of commercial projects are required to ensure the inclusion goals are achieved during the operations of the building to the greatest extent possible, including, but not limited to permanent jobs, tenant improvement work, and operational contracts.

- To facilitate the planning and coordination of the above L/M/WBE requirements, Contractor shall submit to EBDI for approval an *Economic Inclusion Plan*, which has been approved by the Owner/Developer and includes the information listed in the template found in Attachment B. Once approved by EBDI, Owner/Developer shall ensure that the General Contractor’s Economic Inclusion Plan is incorporated into the General Contractor’s contract and incorporated in its contracts with its Sub-Contractors.

- **Workforce Inclusion Goals/Requirements:** The following local hiring goals and requirements have been established for procurements stemming from the East Baltimore Housing/Biotech Park Development Project:

  **Construction Projects/Contracts:**

  **Labor Hours:**

  - For all commercial construction projects, at least 23% of the Total Labor Hours for skilled and unskilled workers shall go to Local Workers as defined herein; of which 12% of the labor hours shall go to East Baltimore Workers as defined herein. This goal is subject to change project-by-project).

  - For all residential construction projects, at least 25% of the Total Labor Hours for skilled and unskilled workers shall go to Local Workers as defined herein; of which 12% of the labor hours shall go to East Baltimore Workers as defined here. This goal is subject to change project-by-project.
New Local Hires:
- Owner/Developer and General Contractor for each construction project shall determine an aggressive, but feasible, minimum number of New Local Hires for the project, which will be approved by EBDI and incorporated into the General Contractor’s contract.

- The Owner/Developer and General Contractor for each construction project will determine an aggressive, but feasible, minimum duration that each New Local Hire shall work on the project, which will be approved by EBDI and incorporated into the General Contractor’s contract. To the greatest extent possible, the Contractor shall keep the new hire employed on-site for a minimum of three months to receive credit for making a New Local Hire. Exceptions to the three month minimum will be given where the Contractor is unable to comply due to circumstances beyond its control: 1) the new hire resigns; 2) the new hire is fired due to documented behavioral or performance issues that the Contractor has shared with the General Contractor and EBDI prior to the termination; 3) the Sub-Contractor’s scope of work does not last for three months. The Contractor shall submit documentation to the Owner and EBDI to support receiving credit for the New Local Hire.

- If the Contractor’s scope of work does not last for three months, the Contractor is highly encouraged to bring on the New Local Hire early and/or maintain the New Local Hire post scope of work completion. Although hours worked off-site on a different project do not count toward the required local hour goal, the Contractor’s best faith effort to hire early and/or maintain the new hire are highly applauded and will be taken into consideration by EBDI when determining whether the hire counts as a New Local Hire. In this instance, Contractor shall receive credit towards meeting the 3 month minimum threshold based on the hire date regardless of whether the work is on- or off-site. However, the hours worked off-site will not count towards the local labor hour goal.

- To facilitate the planning and coordination of the above minimum labor hour and new local hire requirements, Contractor shall submit to EBDI for approval a Manpower Projection Plan, which has been approved by the Owner/Developer with the information listed in the template found in Attachment D. Once approved by EBDI, Owner/Developer shall ensure that the General Contractor’s Manpower Projection Plan is incorporated into the General Contractor’s contract and incorporated in its contracts with its Sub-Contractors.
The Contractor’s Manpower Projection Plan shall place a priority on and include (a) hiring of local residents pursuant to the three-tiered geographical priority system set out herein; (b) minorities and women (the demographics of the new hire must match those demographics of the community directly impacted by the EBDI redevelopment project (i.e. 96% African American, 2% Hispanic and 2% Caucasian and residing within the 11 East Baltimore zip codes); (b) hiring of the same into skilled trade positions, (c) formal apprenticeship of such new hires, (d) structured on-site and off-site training of such new hires and (e) maximizing long-term retention of such new hires.

Contractor is required to use the Mayor’s Office of Employment Development (MOED) as the first source for finding qualified local workers. This will assist the Contractor in finding and prioritizing local residents who have been impacted by the project and/or lives in the local community, per this policy. In the event that the position cannot be filled by the MOED, the Contractor can utilize any source to fill the position with a local worker and will be given credit for making a New Local Hire, provided the hire still meets the local requirements outlined in this policy and Contractor provides the aforementioned documentation.

It is incumbent upon the Contractor to collect proof of Baltimore City residency from the New Local Hire, in the form of a Maryland Driver’s License or Maryland ID and provide this documentation to the Third-Party monitor so they can be counted towards a New Local Hire. The address on the ID must reflect a Baltimore City address or be accompanied with a change or address card that reflects such and should be the same address reflected on submitted certified payrolls.

The Contractor will be responsible for proving that the new hire is indeed “new” and not a person currently employed by the Contractor. The Contractor and/or its sub-contractor shall submit either an I-9 Form or a certifying statement on company letterhead stating that the New Local Hire is in fact new and was not previously employed by the Contractor. This statement shall be submitted directly to the Third-Party Monitor, along with the certified payrolls. In the event that a New Local Hire for one Contractor gets hired by another Contractor working on the same project, both Contractors may be able to count this hire as a New Local Hire since the worker is being hired by two different Sub-contractors on the same project, which is leading to sustained employment that would have otherwise not been available. This determination will be made by the Owner and EBDI at the written request of the General Contractor prior to the second Contractor hiring the New Local Hire.

New Local Hires can be salaried or hourly employees. To receive credit for salaried New Local Hires, the Contractor shall submit an official letter on company letterhead to the Owner, EBDI and the EI Monitoring Team, stating the employee’s title, start date, race and zip code. To receive credit for hourly New
Local Hires, Contractor shall submit certified payroll as instructed in the Attachment A of the EBDI Economic Opportunity Plan and Policy.

- In an effort to assist local residents with retaining employment, Contractor shall work with the EI Team and its designee to ensure local residents employed on other projects in the EBDI project area are given priority consideration for employment.

- **Training and Career Advancement:** Each project is encouraged to identify and create as many opportunities as possible that assist local workers with obtaining needed training that will help them advance in their career (Ex. sponsoring a math tutoring program geared towards helping local workers pass an apprenticeship test for a specific trade that will be needed on that project; then requiring the sub-contractor working in that trade to hire and sponsor as apprentices those workers who pass the apprenticeship test.)

- **Managerial and Professional Positions:** EBDI strongly encourages the hiring of local workers in managerial and professional positions associated with construction projects and professional services contracts. Owners/Developers and Contractors will receive credit towards a New Local Hire in management level and professional positions. EBDI will track the participation of the same by collecting documentation from the Contractor verifying this hire and their hours working on the project.

- **Inclusion Manager:** The Owner/Developer and General Contractor shall designate one point person to oversee the inclusion and local hiring efforts of the project. This person’s responsibilities will include, but is not limited to the following: 1) facilitate meetings between its subcontractors and the Mayor’s Office of Employment Development on a regular basis to coordinate and track local hiring efforts; 2) identify and collect job opportunities from subcontractor(s); 3) submit job orders to the EI Team on behalf of the subcontractor(s); 4) track each New Local Hire and submit required documentation. This point person shall be in continuous communication with the EI Team for the purposes of tracking New Local Hires.

**Architectural/Engineering/Design Projects/Contracts:**

- Owners, Developers and Contractors shall ensure that there are internship and professional opportunities for local minority and women undergraduate and graduate students in the fields of architecture, engineering, design. Owners, Developers and Contractors shall work with the EI team to identify opportunities and work with local colleges and universities to identify appropriate and competitive candidates.

**Professional/General Services Contracts:**

- Owners, Developers and Contractors shall create internship and job opportunities, as feasible and appropriate for local minority and women undergraduate and graduate students in various professional fields, like project management and
development. Owners, Developers and Contractors shall work with the EI team to identify opportunities and work with local colleges and universities to identify appropriate and competitive candidates.

- For all operational contracts, Contractor shall use EBDI’s Workforce Pipeline as the first source for recruiting and hiring local residents for new job opportunities and give EBDI at least five (5) business days to identify and refer candidates for the job before using other sources to recruit locally;

NOTE: EBDI reserves the right to establish additional workforce inclusion goals for non-construction-related projects on a project-by-project or contract-by-contract basis.

**Implementation Protocols**

- **Scope of Covered Projects/Contracts** – The contracting and workforce goals referenced in this Plan shall apply to all appropriate contracts stemming from the project area, including those approved by the EBDI Board of Directors and/or staff of the EBDI and/or its Master Developer or other designees, with respect to deconstruction, demolition, site preparation, construction projects, architectural/engineering/design services, professional/general services, and/or any other eligible contracted services.

- **Statement of Objectives** - The objectives set forth in this Plan shall be attached to or communicated within all Requests for Proposals and solicitations for aforementioned Covered Projects and/or communicated to such contracting organizations as may be determined by the EBDI.

- **Evaluation Preference** – When evaluating bids or proposals from Contractors, preference shall be given to respondents that demonstrate previous success in managing workforce development and economic inclusion requirements similar to the requirements within this policy. Preference shall also be given to respondents who propose programs or models that will facilitate the achievement of EBDI’s inclusion goals, including teaming agreements or joint ventures.

- **Competitive Bidding and Non-Discrimination** - Contractors bidding on or performing Covered Contracts shall not be required to engage M/W/LBEs that are not the lowest responsive and qualified bidder or that otherwise are not competitive with respect to quality, service, delivery time or price.

- **Administration** – As appropriate, the Owner, Developer, and/or Contractor along with the Economic Inclusion Team, will take the following actions to ensure that Contracts let in the EBDI project area shall be awarded and administered in accordance with the following standards and procedures to ensure the effectiveness of this Plan:

  - Based on the scope of the project procured, advertisements for bids shall be posted on the EBDI website, and other websites as appropriate, and in minority-
owned and non-minority-owned media no less than 14 days before bids are due for specific contracting opportunities;

- A written notification shall be sent to minority and women-oriented trade associations and contractors’ associations about the availabilities of contracting opportunities no less than 10 days before bids are due;

- The Economic Inclusion Team shall use the City’s and Maryland State’s directories of registered M/WBEs and EBDI’s Local Vendor Directory to identify qualified M/W/LBEs for various projects;

- The Economic Inclusion Team will provide Bidders, as needed, with information on M/W/LBEs, who are qualified to provide the services, materials, equipment or supplies required for the project. The Economic Inclusion Team shall provide the electronic mail addresses of M/W/LBEs whenever applicable at the request of the Bidder;

- All contracting opportunities shall be evaluated in an effort to unbundle contracts in a manner that will provide reasonable opportunities for minority and women business enterprises;

- EBDI will establish policies to make best practical efforts to ensure that all contractors submitting proper invoices are paid within 30 days upon receipt of such; and

- EBDI will ensure that all required statistics and documentation are submitted to its EI Team as requested.

**Achieving EBDI’s Economic Inclusion Goals –**

- **MBE/WBE/LBE Contracting** - The General/Prime contractor is ultimately responsible for achieving EBDI’s inclusion goals for the project. EBDI requires the prime contractor to submit an Economic Inclusion Plan and Manpower Projection Plan that outlines how they will achieve the contracting and local hiring goals for the entire project. In an effort to maximize inclusion, EBDI may require the prime contractor to have their first and second tier sub-contractors submit for review an Economic Inclusion Plan (EIP) and Manpower Projection Plan (MPP). (See Attachments B - D of this policy for the EIP and MPP templates). Beyond these two tiers, EBDI requires the General Contractor to explore inclusion at all levels of opportunity. EBDI will collect and verify documentation to track inclusion at all levels of the project.

If initial procurement is at the a stage where details of the EIP and MPP are unknown, then as part of Contractor’s response to the bid, Contractors shall convey their commitment to and experience in maximizing MBE/WBE/LBE participation and local hiring and how they would apply those steps, past
successes/lessons learned and others on the project in East Baltimore. Prior to execution of the Contractor’s contract, a detailed EIP and MPP will be required from the Contractor.

For projects and/or contracts that include multiple categories of contracts, such as construction, architecture/engineering/design, and professional and/or general services, which have different goals, the goal for each category will be monitored separately.

To achieve the MBE/WBE/LBE inclusion goals, prime contractors will get credit for work self-performed by MBE/WBE/LBE sub-contractors, PLUS any work that a sub-contractor may subcontract to additional certified MBE/WBE and LBE firms. Prime Contractors, nor their sub-contractors, will get credit towards inclusion participation for any portion of their contracts that is subcontracted to non-certified MBE/WBE and LBE firms. Vendors sub-contracting with firms meeting both MBE and WBE qualifications can choose which category they should be counted towards on a contract-by-contract or project-by-project basis; however, they can only be counted as either an MBE or a WBE, not as both.

As for achieving EBDI’s LBE goals, prime contractors shall give priority first to businesses located in the 88 acres of EBDI project area directly affected by, relocated from or currently residing within EBDI’s project area/footprint area/“the piano.”; second to East Baltimore businesses that maintain offices and/or facilities in East Baltimore target area zip codes, as determined by EBDI’s Procurement Policy. These include 21202, 21205, 21206, 21213, 21214, 21218, 21224, 21231, 21237, 21251 and 21287; and third to businesses located elsewhere in Baltimore City in a zip code other than East Baltimore zip codes.

- **Local Minority and Female Resident Employment** – The achievement of the local hiring goals on applicable contracts/projects will be based on the total on-site skilled and unskilled employee hours divided by the number of local minority and female residents performing skilled and unskilled employee hours worked and verified by the Contractor’s payroll, and each of the Contractor’s on-site subcontractors, to determine minority, female and local residents employee participation on Projects. The number of *New Local Hires* is determined by documentation submitted by the GC and or their subcontractor, that verifies the workers place of residence and that they are a new employee of the contractor.

- **Best Practical Efforts To Achieve Inclusion Goals** – Bidder/Contractor shall use their best practical efforts to meet or exceed the established inclusion goals for the Contract, especially those related to construction, design, engineering, and general services which were included in the aforementioned Agreement for Minority Inclusion. Bidder/Contractor shall use best practical efforts to ensure the inclusion of M/W/LBEs insofar as they are competitive with respect to quality, service, delivery time, and price, to be engaged as subcontractors in the construction and/or provision of goods and services within the EBDI project area.
As appropriate or needed, the Economic Inclusion Team, working in concert with the Owner and Developer, may determine different inclusion goals for a Covered Project other than what is listed above based on the City’s Disparity Study, along with the diversity, depth of talent and entrepreneurial capabilities of the population of the City of Baltimore. This will be determined on a project-by-project basis and will be included in each RFP and respective Covered Contract. Bidders that exceed the stated inclusion goals may be given priority consideration.

- **Implementation of “Best Practical Effort” Standard To Achieve Contracting and Employment Goals** – The requirements relative to ensuring the use of best practical efforts shall include the following:

  - **Unbundling of Contract Opportunities into Smaller Contracts Where Feasible** – Owners, Developers and Contractors, as applicable, shall make every effort to unbundle work into separate parts, including labor, materials, equipment, etc., in a way that is practical, manageable, efficient, cost-effective, and meets the technical needs of the project while balancing such concerns associated with the goal of maximizing the ability of M/W/LBEs to participate as subcontractors or as prime contractors.

  - **Documentation of Best Practical Efforts and Compliance** – The following three components have been established to facilitate the inclusion of MBE/WBE/LBE firms as contractors and minorities/females/local residents as site workforce participants. In order to demonstrate their efforts all Bidders and/or Contractors shall submit:

    - **An Economic Inclusion Plan** (See Attachment B for template) with their bids detailing;

    - **A Manpower Projection Plan** (See Attachment C and D) indicating the Bidder’s plan for achieving participation levels presented that outlines the number of new hires, trade, skill level, projected start date, and projected time spent on the project

    - Contractor shall timely fulfill the Economic Inclusion Team’s requests for information that the Economic Inclusion Team requires to verify or validate Contractor’s compliance with the provisions of this Section and the content of the Contractor-authored/Owner/Developer-approved inclusion plan that supplements and provides additional detail regarding Contractor’s satisfaction of the goals, subject matter and requirements in this Section.

    - The aforementioned Plans will be approved by the Economic Inclusion Team and then attached to the Contractor’s contract to be a part of the agreement between the parties. Changes to the Plans can only be made in writing and with approval by the Economic Inclusion Team.
- **Establishing Good Faith Best Practical Efforts** – If the Bidder’s Economic Inclusion Plan and Manpower Projection Plan does not meet or exceed the established goals, the Bidder must prepare a Subcontracting/Vendor Plan showing how it has made a good faith "best effort" to achieve the project goals. This plan must include, but not be limited to, the following:

  - Written request for assistance to EBDI three (3) business days prior to the bid due date;
  - Solicitation through newspapers, advertisements, job fairs, etc.;
  - Telephone logs;
  - Bid results and reasons why no awards were made;
  - Use of City/State-certified business firms via their directory;
  - Correspondence between your firm and any MBE/WBE/LBE firms.

- **Good Faith Non-Compliance Finding** - In cases where the EI Team has cause to believe that a Bidder, Owner/Developer and/or Contractor, acting in good faith, has failed to comply with the provisions of the plan, the EI Team, working with the Owner, Developer and Contractor as needed, shall attempt to resolve the noncompliance through conciliation and persuasion. In conciliation, Bidder, Owner/Developer and/or Contractor must satisfy the EI Team that they have made their "Best Efforts" to achieve the agreed upon participation goals. "Best Efforts" on the part of the Bidder or Contractor include:

  1. Entering into a contractual relationship with the designated certified MBE/WBE/LBE in a timely manner, and fulfilling all contractual requirements.

  2. Notifying both the certified MBE/WBE/LBE Sub-Contractor along with the Owner and/or Developer, as applicable, and the EI Team of any problem in a timely manner.

  3. Requesting assistance from the EI Team in resolving any problems with the certified MBE/WBE/LBE Sub-Contractor.

  4. Making every reasonable effort to assist the certified MBE/WBE/LBE Sub-Contractor in the performance of its contract.

- **Non-Compliance Investigation** - In cases where the EI Team has cause to believe that any Bidder, Owner/Developer and/or Contractor has failed to comply with the provisions of this Plan, the Economic Inclusion Team shall be empowered to conduct an investigation. The steps of the Non-Compliance Investigation will include:

  1. Interviewing the Bidder or Contractor to determine what steps were taken to achieve inclusion.

  2. Reviewing the Bidder or Contractor’s Best and Good Faith Efforts (B&GFE) documentation.
3. Contacting and/or Interviewing the Bidder’s or Contractor’s sub-contractors listed in the B&GFE documentation.

4. Notifying the Owner and/or Developer and Contractor of the finding.

- **Non-Compliance Finding** - After reviewing the Bidder’s or Contractor’s efforts to obtain the needed M/W/LBEs, if these efforts are found to be non-compliant with this Plan, the Economic Inclusion Team will notify the Owner and/or Developer and collectively they will provide notice to the Contractor of the non-compliance finding and give the Contractor an opportunity to either rectify the matter or give further justification for the non-compliance. Should the Contractor not be able to rectify or give ample justification, the Economic Inclusion Team is authorized to recommend sanctions for each violation of these procedures. Such sanctions may include, but are not limited to:

1. Declaring the Bidder’s proposal as non-responsive and deeming the Bidder as ineligible to receive the award of the contract or any other future contracts.

2. Suspending the violating Bidder or Contractor from doing business within the EBDI project area for a set period of time.

3. Terminating the contract with the Contractor, as permitted by its terms, and all future payments under the Contract. Decisions will be made collectively by EBDI, the Owner and/or Developer and the EI Team.

4. Pursuing and securing any relief which EBDI, the Owner and/or Developer and the EI Team may deem to be necessary, proper, and in the best interest of the EBDI project.

5. Requiring the Owner/Developer or Contractor to pay a penalty for a non-compliance finding.

- **Waiver of Inclusion Participation** – The EI Team recognizes that in certain limited circumstances, compliance with this Plan will not be feasible, nor in the best interest of the EBDI project. The following contracts may be exempted from inclusion goals:

1. Any public exigency or emergency contract for which the nature of the emergency will not allow for a delay in a competitive solicitation;
2. Contracts with sole proprietors and/or independent contractors where the sole proprietor is performing the work;
3. If the EI team determines there are no MBE/WBE/LBE firms that are available to perform the work.

Nevertheless, every effort will be made to assure that M/W/LBEs are included in the solicitation and award of all contracts.
• **Guidelines for Joint Venturing** – This policy strongly encourages co-primes, partnerships, and joint-venture between prime General Contractors and MBE/WBE firms. Joint ventures are still responsible for meeting Economic Inclusion subcontracting goals. If you intend to Joint Venture, you must complete the Joint Venture Questionnaire (Attachment F) and submit it with your bid/proposal. In addition to Attachment F, the Bidder shall discuss specific MBE/WBE/LBE firms that it plans to partner with.

When evaluating bids or proposals from Contractors, preference shall be given to respondents that include co-prime, partnership, joint-venture with MBE’s and WBE’s, which are certified with Baltimore City and/or the State of Maryland, and LBE’s.

If awarded the contract and Contractor has elected to create a co-prime, partnership, joint-venture or other like arrangement with an MBE/WBE/LBE firm, Contractor shall provide a copy of the legally binding contract outlining the agreement between the Contractor and their MBE/WBE joint venture partner. This contract shall be fully executed by the parties involved and shall set out the obligations of each party, the decision-making power of each entity, their roles in the execution of the Project work, their equity participation levels, their division of work, costs and profits/losses (the latter three expressed in dollar amounts) and any other documentation deemed necessary to prove that the joint venture agreement is substantial and meaningful.

Joint Venture partnership(s) must meet the following criteria:

1. The MBE/WBE partner must be certified by a governmental entity authorized by law to certify such enterprises, prior to proposal submission;

2. The MBE/WBE/LBE partner must be substantially involved in significant phases of the contract including, but not limited to, the performance of a portion of the onsite work with its own work force, and the administrative responsibilities such as bidding, planning, staffing and daily management;

3. The business arrangements must be customary (i.e., each partner shares in the risk and profits of the joint venture commensurate with their respective ownership interests); and

4. If the certified MBE/WBE partner(s) is self-performing a portion of the work, this may be credited towards the achievement of the inclusion goals; however, the joint venture will still be required to meet the overall subcontracting goals.

• **Workforce-Related Roles and Responsibilities of Contractor** – The following protocols shall be followed by Bidders or Contractors on projects with Workforce Inclusion goals.

1. When submitting their bid, Bidder shall submit a completed Manpower Projection Plan (See Attachment C) detailing the projected number of minority, women, and local residents that will work on the project as well as the number of new hires.
2. In addition to the general Manpower Projection Plan mentioned above due with the Bidders bid/proposal, once selected, Contractor will be required to provide a more detailed Manpower Projection Plan (See sample at Attachment D), outlining the trade and skill level of employment that will be working on site for the duration of the project, within a to be determined timeframe after receiving notice to proceed. (This deadline will be established collectively by the Owner and/or Developer, and the EI Team depending on the size of the project.) This detailed Manpower Projection Plan shall outline the positions to be filled by current employees, interns, and those that will be filled by new hires.

3. To fill the newly created jobs, Contractor shall use MOED as a first source to identify local residents to fill any new positions that may be created to fulfill this Contract. In the event a qualified candidate is not available through the pipeline and/ or its designee(s), the Contractor is still responsible for hiring local residents pursuant to the definition outlined herein, but it is free to use any other source to find local workers. EBDI acknowledges that any candidate referred from the Pipeline or its designee(s) for interviews must meet all needed employment qualifications.

4. Based on the Contractor’s Manpower Projection Plan, Contractor will be required to hire a certain number (to be determined by Owner and/or Developer, Contractor and EI Team) of local minority and women residents that are considered new of the Contractor, who must each work a minimum number of consecutive months on the project to be determined by Owner and/or Developer, Contractor and EI Team).

5. Upon contract award, Contractor must provide a point of contact with decision-making authority for hiring employees who will manage this process and work closely with the Economic Inclusion Team;

6. Contractor shall comply with the established Standard Operating Procedures (See Attachment A) as well as comply with the following requirements, which include, but are not limited to:

- Participate in regular Local Hiring Coordination meetings with MOED to: (1) discuss the upcoming hiring needs for the project; (2) complete the necessary Job Order Forms; and (3) seek referrals for job candidates for consideration on available job openings on the project.

- Contractor will submit all job postings for new jobs with relevant qualifications and skills needed to MOED;

- Contractor should notify MOED when time is of the essence to hire workers and either work together with the MOED to develop an agreed upon plan of action;
Contractor shall track all New Local Hires;

During the course of the project, Contractor is required to give written notice to EBDI, the Owner/Developer, and MOED of any deviations to their manpower projection plans, for any reason; and

Contractor will ensure that all Sub-Contractors, working on this project and under their control and purview, meet all of the above requirements;

Provide an MOED postcard to jobseekers who walk up to the site instructing them to go to the one of the MOED One-Stop Career Centers for assistance.

To the extent that Contractor was not able to hire East Baltimore residents to fulfill their local hiring goals, Contractor shall hire Baltimore City residents; and

Contractor agrees to assist the EI Team in outreach and coordination efforts to ensure East Baltimore residents, who are hired pursuant to this agreement, stay engaged with the Pipeline to promote job retention, additional skills training, and employment upgrades. These efforts may include, but are not limited to, job fairs and attendance at coordination meetings.

**Economic Inclusion Team Contact Information:**

**Cheryl Washington** - Chief Operating Officer, EBDI (Contact for questions about the implementation of the inclusion policy) [cheryl.washington@ebdi.org](mailto:cheryl.washington@ebdi.org)

**Andrea Jackson** Principal/Compliance Monitor, DPN Group (Contact for Local Vendor Directory, Business Assistance, [ajackson@dpngroup.net](mailto:ajackson@dpngroup.net))

**MOED Contact Information:**

**Yvette Clark** - Interim Manager, Business Services, Mayor’s Office of Employment Development, (Contact for information regarding local hiring and finding qualified local workers), [yclark@oedworks.com](mailto:yclark@oedworks.com)
ATTACHMENT A:
STANDARD OPERATING PROCEDURES FOR MONITORING
COMMERCIAL AND LARGE RESIDENTIAL PROJECTS

In an effort to facilitate communications between the Project Team, consisting of the Owner and/or Developer and/or Sub-Developer, Contractor, and Sub-Contractors, and the EBDI Economic Inclusion Team the following Standard Operating Procedures for Effective Compliance (SOP) have been established. These procedures outline the requirements and documentation needed to monitor and report the inclusion activities as required by the Agreement for Minority Inclusion and this Policy for the EBDI project area. Adherence to these Standard Operating Procedures will allow the EBDI to monitor the good faith efforts of the Project Team and report the East Baltimore Project’s Economic Inclusion activities to the project’s stakeholders on a monthly basis.

1) **Announcement of Bid Opportunities** - The Project Team will ensure that bid documents include the appropriate inclusion language, and due dates, is submitted to the EI Team via email at least one (1) day prior to the desired date for it to be publicized. Project Team can also submit a list of firms that the project team would like to receive the solicitation. The EI Team will distribute the bid notice to the Local Vendor Directory, the Economic Inclusion Advisory Committee and any other identified firms.

2) **Submission of Inclusion Plans** - The Bidder must submit an Economic Inclusion Plan (Attachment B) and a Manpower Projection Plan (Attachment C) along with their bid. Bidder is highly encouraged to utilize the EBDI Local Vendor Directory to find qualified vendors. Upon receipt of the Bidder’s plans, the EI Team will review and may provide feedback regarding the firms’ certification status. Upon request, the EI Team can compile a list of additional certified M/W/LBE firms for the Bidder to consider.

3) **Regular Project Status and Inclusion Monitoring Meetings** - The Project Team shall meet with the EI Team on a regular basis throughout the duration of the project to review data and inclusion results and address any inclusion related matters (schedule to be determined jointly). At the discretion of the Project Team, this meeting may be dedicated to the topic of inclusion or the EI Team could attend a portion of a meeting held by the Project Team with a broader agenda during the time inclusion would be discussed.

4) **Contracting Documentation Needed For Monitoring** - The Contractor must provide written documentation to the Economic Inclusion Team of all work performed on the site, either by contracted personnel and/or all MBE/WBE/LBE and non-MBE/WBE/LBE firms. The following documents must be submitted to the EI Team on a rolling basis and within fifteen days of execution: (a) copies of all signed subcontracts, including contracts for all MBE/WBE/LBE and non-MBE/WBE/LBE firms. If the Contractor is an
MBE/WBE/LBE firm, and subcontracts to a non-MBE/WBE/LBE firm, the contract amount of the non-MBE/WBE/LBE firm will be deducted from the MBE/WBE/LBE Contractor’s contract dollar amount that is counted toward economic inclusion participation. However, if the MBE/WBE/LBE Contractor uses a non-MBE/WBE/LBE supplier, the supplier’s contract amount will not be deducted from the Contractor’s contract dollar amount; (b) copies of all signed Purchase Orders and Invoices with MBE/WBE/LBE contractors only for calculation in economic inclusion goal or such lesser documentation as the Economic Inclusion Team may deem satisfactory; and (c) copies of all agreements stating scope of work and payment terms for all work performed with MBE/WBE/LBE and non-MBE/WBE/LBE; and (4) copies of all cancelled checks for work paid to project subcontractors or contracted personnel.

5) Payment Documentation - On a monthly basis, or along with the submission of executed contracts, purchase orders, invoices and cancelled checks for payment, the Contractor shall provide reports and/or documentation related to all contract changes, revisions, and payments to date to include signed lien release waivers, payment ledgers and/or relevant affidavits documenting payment to all firms.

6) Workforce Documentation - For projects with workforce inclusion goals, the Contractor will furnish to the EI Team during the designated Economic Inclusion Team meeting for the project, the following documents as it pertains to project labor: FORM 1099-MISC for all subcontracted personnel, W-2 forms for salaried personnel contracted for the project, or a completed EBDI Project Area Payroll Report (Attachment --) listing all employees working on or for the project site. The report must be signed the company’s owner, bookkeeper or payroll representative and the documentation shall include the following information:

Each payroll must contain the name of contractor and indication of whether contractor is the Prime or Subcontractor; name of project; Full name of Employee, Employee Social Security number; Complete Address of Employee (including city, state and zip code); Employee’s Trade classification (e.g., laborer, carpenter, apprentice, electrician, plumber, and foreman); Employee’s Gender and Race; Number of hours worked by Employee; Employee’s Employment Status (Full-time or Part-time, Temporary or Permanent); All Employee withholding deductions (e.g., laborer, local, state, FICA, etc.), Employee’s Rate of pay, Gross pay, and Net pay.

All documents and the contents therein shall be submitted and stored in a controlled and confidential manner.
The following shall constitute the Contractor’s plan for satisfying the overall MBE, WBE, and LBE subcontracting and local hiring goals set forth herein. This information shall be provided for each trade or service that will be utilized for this project. Expand the table as needed.

<table>
<thead>
<tr>
<th>Name of Contractor: ____________________________________________</th>
<th>Name of Project: ___________________________</th>
<th>Total</th>
<th>Bid</th>
<th>Amount: ___________________________</th>
</tr>
</thead>
</table>

### Project Name: ____________________________________________

#### Bid Summary

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<tr>
<th>Bid Summary Line Item(s)</th>
<th>Trade/Work Being Performed</th>
<th>Anticipated L/M/WBE &amp; Majority Business Contract Value</th>
<th>% of Contract</th>
<th>Local Business Enterprise (LBE) (Includes B)</th>
<th>Minority Business Enterprise (MBE)</th>
<th>Women Owned Business Enterprise (WBE)</th>
<th>MBE/WBE (Total)</th>
<th>C+D</th>
<th>Local Labor Commitment</th>
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**EBD Inclusion Goals**

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<tr>
<th>EBD Inclusion Goals</th>
<th>ACTUAL</th>
<th>TARGET</th>
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**Total Construction Phase Contract Dollars**

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<th>Trade/Work Being Performed</th>
<th>Anticipated L/M/WBE &amp; Majority Business Contract Value</th>
<th>% of Contract</th>
<th>Local Business Enterprise (LBE) (Includes B)</th>
<th>Minority Business Enterprise (MBE)</th>
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**Color Code:**

- **Awarded**
- **Contract/PO Signed**
ATTACHMENT B: BIDDER’S ECONOMIC INCLUSION PLAN (cont’d)

(To be submitted with bid or proposal as applicable)

By signing below, I attest that the above information is accurate to the best of my knowledge and that we will put forth our best practical efforts to achieve said participation goals.

Name of Authorized Contractor Representative:
__________________________________________________________

Signature of Authorized Contractor Representative:
__________________________________________________________

Date: ______________________________

Please provide the name and contact information for the designated person, who will be responsible for working with EBDI to achieve the local hiring goals:

Name of Designee: ___________________________________________________________

Work Address: ________________________________________________________________

Office #: ___________________________ Cell #: ________________________________

Email: __________________________________________________________

Address: ________________________________________________________________
ATTACHMENT C:
CONTRACTOR AND SUB-CONTRACTOR ACKNOWLEDGEMENT FORM

Contractor is responsible for getting all Sub-Contractors to complete and sign this form. Please print out multiple forms as needed.

NON-DISCRIMINATION IN HIRING

NOTICE

1. The successful Respondent and its Sub-Contractors shall not discriminate nor permit discrimination against any person because of race, color, religion, age, national origin, ancestry, creed, handicap, sexual orientation, union membership, disabled or Vietnam era veteran status, or limited English proficiency in the performance of the contract, including, but not limited to, preparation, manufacture, fabrication, installation, erection and delivery of all supplies and equipment. In the event of receipt of such evidence of such discrimination by a successful Respondent or its agents, employees or representatives, EBDI shall have the right to terminate the Contract. In the event of the continued refusal on the part of the Respondent to comply with this anti-discrimination provision, the Respondent may be removed from the list of approved bidders of the EBDI.

2. The successful Respondent agrees to include subparagraph (1) above with appropriate adjustments for the identity of the parties in all subcontracts, which are entered into for work to be performed pursuant to the Contract.

Trade Name of Prime Contractor: ________________________________

___________________________________________________________ (Seal)

Signature of Prime Contractor Representative

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ATTACHMENT D: MBE/WBE/LBE PARTICIPATION WAIVER REQUEST FORM

Name of Bidder (Contractor): ______________________________________________________

Address: ______________________________________________________________________

Name of Owner/Developer: _______________________________________________________

Contract (Project) Title: __________________________________________________________________________

Bid Due Date: __________________________________________________________________________

Goals required on this contract/project: _____% MBE _____% WBE _____% LBE

I can achieved the following participation: _____% MBE _____% WBE _____% LBE

I am requesting a waiver of the following: _____% MBE _____% WBE _____% LBE

I have contacted the EI Team for assistance: _____Yes _____No

Explain why waiver is being requested:
________________________________________________________________________________________
________________________________________________________________________________________

-----------------------------------------------------------------------------------------------

Attach documentation of your good faith efforts to identify, contact and negotiate with MBEs, WBEs, and LBEs including:

a. Names, addresses, dates and telephone numbers of the certified MBE and WBE businesses who were contacted.
b. List the items or selected portions of work proposed to be performed by certified businesses in order to increase the likelihood of achieving the stated goal.
c. Reasons the Contractor or Sub-Contractor concluded that certified MBE/WBE participation is not possible.
d. Copies of the information provided to the certified MBE/WBE/LBE regarding the plans, specifications and anticipated time schedule for portions of the work to be performed;
e. A list of certified businesses contacted but found to be unavailable due to their current and future work load.

Signature of Authorized Company Representative __________________________ Date __________

Signature of Approval/EBDI Representative __________________________ Date __________
ATTACHMENT E: JOINT VENTURE QUESTIONNAIRE
(Please attach all other documentation required per Section V of this policy.)

1. Name of Joint Venture: __________________________________________

2. Address of Joint Venture: __________________________________________

    __________________________________________

3. Contact Person for Joint Venture:

   Name: __________________________________________

   Title: __________________________________________

   Telephone: ______________________________________

   Email Address: __________________________________

Please identify all of the firms which comprise the Joint Venture partnership. Identify whether the firm is a certified MBE/WBE/LBE. Include the following information FOR EACH FIRM in the partnership, regardless of ownership:

a. Name of Firm
b. Address of Firm
c. Telephone Number of Firm
d. Email Address of Firm
e. IRS ID No.
f. Type of Certification, if applicable – MBE, WBE
g. Certifying Agency and Certification Number
h. Percentage of Ownership in Joint Venture

Describe in detail the business purpose of the Joint Venture partnership and the role of each firm in the Joint Venture. Include information regarding daily management, bidding, planning, and on-site work and staffing to be provided. Attach supplemental pages if necessary.