

**EMERGING BUSINESS ENTERPRISE AGREEMENT  
FOR THE \_\_\_\_\_ PROJECT**

**THIS EMERGING BUSINESS ENTERPRISE AGREEMENT** is entered into by and between the CITY OF MILWAUKEE, a Wisconsin municipal corporation, (hereinafter the "CITY"), and \_\_\_\_\_, a Wisconsin \_\_\_\_\_ (hereinafter "DEVELOPER").

**WHEREAS**, DEVELOPER and CITY have entered into an Agreement for Sale for the purchase and development of the property at \_\_\_\_\_ (the "Project").

**WHEREAS**, DEVELOPER acknowledges that the CITY has established policies regarding the utilization of Emerging Business Enterprise ("EBE") consistent with Chapter 360 of the Milwaukee Code of Ordinances.

**WHEREAS**, DEVELOPER acknowledges that the sale of property by the CITY is conditioned upon the DEVELOPER and its agents agreeing to use best efforts to attain a minimum 18% EBE participation in the construction of the Project.

**NOW, THEREFORE**, in consideration of the mutual promises set forth herein, **IT IS AGREED:**

**I. DEFINITIONS**

- A. The EBE is a small business concern that is owned, operated and controlled by one or more individuals who are at a disadvantage, as defined in Chapter 360 of the Milwaukee Code of Ordinances. The individuals must have day-to-day operational and managerial control, interest in capital, financial risks and earnings commensurate with the percentage of their ownership. EBEs are certified as such by the City of Milwaukee Certification Program. **Note: businesses that were certified under the old name of Disadvantaged Business Enterprise ("DBE") will continue to qualify for the program.**
- B. JOINT VENTURE is an association of two (2) or more persons or businesses to carry out a single business enterprise for profit for which purpose they combine their property, capital, efforts, skills and/or knowledge.

**II. EMERGING BUSINESS ENTERPRISE PROGRAM**

- A. DEVELOPER agrees to report to the CITY's Emerging Business Enterprise Program (EBEP) Manager regarding its utilization of EBEs in its contracting activities for the Project work performed by DEVELOPER. DEVELOPER agrees to:
  - (1) Provide a list of all categories of work on the Project with budget allowances, for which bids will be solicited and highlight those categories, based upon DEVELOPER's knowledge and experience, which are conducive to EBE participation, prior to bids being solicited. **(See Attachment: Exhibit A)**
  - (2) Submit an EBE Monthly Report to CITY's EOEP Office the 20<sup>th</sup> of each month on the form attached as Exhibit B.
- B. DEVELOPER and its agents, in developing and constructing the Project, agree to make best efforts to utilize EBEs, as defined in Chapter 360, Milwaukee Code of Ordinances, for a minimum 18% of the total Project costs deemed eligible pursuant to EBE guidelines:
  - (1) Demonstrable efforts, when exercised by DEVELOPER in conjunction with the Project, is defined as DEVELOPER completing the following activities, as appropriate:
    - a. Advertise in general circulation and trade association media, as well as in community newspapers regarding contracting and subcontracting opportunities. Advertising in the Daily Reporter and two other publications shall be the minimum acceptable level of performance **(Exhibit C)**.

- b. Provide interested EBEs and the agencies listed in **Exhibit D**, with adequate information about Project plans, specifications, and contract/subcontract requirements at least two weeks prior to the contract bidding process.
- c. Conduct pre-bid conferences and a pre- bid walk-through two (2) weeks in advance of the contract bid date, as appropriate.
- d. Provide written notice to all pertinent construction trades and professional services EBEs listed in the current City of Milwaukee Directory, soliciting their services in sufficient time (at least 2 weeks) to allow those businesses to participate effectively in the contract bidding process. To identify EBEs for the Project, utilize the current *Official City of Milwaukee EBE Directory* published by the City of Milwaukee Emerging Business Enterprise Program. The directory can be accessed on-line at: [www.milwaukee.gov](http://www.milwaukee.gov)

Follow-up with EBEs who show an interest in the Project during the initial solicitation process (See **Exhibit E - EBE Solicitation Form**).

- e. Negotiate in "good faith" with interested EBEs, not rejecting EBE bids as unqualified or too high without sound reasons based on a thorough review of the bid submitted and maintain documentation to support the rejection of any EBE bid. Bids that are not cost effective, and/or time prohibitive will be considered "rejectable" bids. (See **Exhibit F - Bid Rejection Form**).
  - f. Utilize the services available from the City of Milwaukee Office of Emerging Business Enterprises in identifying EBEs available to perform the work.
  - g. Include in Project bid documents and advertisements an explanation of Project goals for EBE participation to prospective contractors and subcontractors.
  - h. Use best efforts to facilitate the following:
    - i) Joint ventures, limited partnerships or other business relationships intended to increase EBEs' areas of expertise, bonding capacity, credit limits, etc.
    - ii) Training Relationships
    - iii) Mentor/protege Agreements
- C. If the DEVELOPER completes the aforementioned activities and demonstrates "good cause" for not meeting the 18% goal for EBE participation, it shall be deemed that the DEVELOPER has acted in "good faith" to achieve the requirement.
- D. If the DEVELOPER meets or exceeds the 18% EBE requirement in conjunction with said Project, it shall be deemed that the DEVELOPER has achieved or exceeded CITY's EBE goal, for the purposes of fulfilling the terms of this Agreement.
- E. Contract or subcontract amounts awarded to EBE suppliers, that do not manufacture products they supply, may only be counted for up to 20% of the 18% EBE participation goal.

**IN WITNESS WHEREOF**, the parties have executed this EBE Agreement as of this day of December, 2005.

**CITY OF MILWAUKEE**

\_\_\_\_\_  
By: Tom Barrett  
Mayor

\_\_\_\_\_  
By:  
City Clerk

**COUNTERSIGNED:**

\_\_\_\_\_  
By:  
City Comptroller

**DEVELOPER**

\_\_\_\_\_  
By:

08-13-04  
1031-2004-763:84045

**EXHIBIT A**  
**CATEGORIES OF WORK**  
(Use Exhibit A Excel Spreadsheet )  
[Click here to go to spreadsheet](#)

**EXHIBIT B**  
**DEPARTMENT OF ADMINISTRATION**  
**EMERGING BUSINESS ENTERPRISE PROGRAM**

**EBE MONTHLY REPORT**

(1) Report for the Month of \_\_\_\_\_ (Final: yes \_\_\_ no \_\_\_)

(2) Prime Contractor/Firm \_\_\_\_\_

(3) Full Address & Phone Number: \_\_\_\_\_

(4) Description of service performed and/or material supplied \_\_\_\_\_

(5) Purchase Order /Contract # \_\_\_\_\_ (6) Project Number \_\_\_\_\_

(7) Start Date: \_\_\_\_\_ (8) Prime Contractors Total \$: \_\_\_\_\_

(9) Completion Date: \_\_\_\_\_ (10) Prime Contractor YTD \$: \_\_\_\_\_

(11) EBE % goal \_\_\_\_\_ and \$ goal \_\_\_\_\_

List all EBE subcontractor firm(s) utilized in connection with the above contract, either as service performed and/or supplier for the month. This form shall be signed and returned. **If this represents the final report, be sure to indicate at the top of form.**

NAME OF EBE FIRM(s)	SERVICE PERFORMED/ MATERIAL SUPPLIED	AMOUNT PAID FOR THE MONTH	TOTAL \$ PAID Y-T-D
<b>TOTAL PAID TO EBE(s)</b>			

I/we hereby certify that I/we have read the above and approved this information to be precise and confirmed.

(12) Report Prepared By: \_\_\_\_\_  
(Name) (Title) (Phone Number)

(13) Authorized Signature: \_\_\_\_\_  
(Name) (Title) (Phone Number)

(14) Date \_\_\_\_\_

Note: This form should be submitted no later than the **20<sup>th</sup> of every month** to **Emerging Business Enterprise Program, 200 East Wells Street, Room 606, Milwaukee, WI** or fax to **(414) 286-8752, Attn: Chris Martin.**

**EXHIBIT C  
EBE MARKETING PLAN**

**PUBLICATIONS/ADVERTISING CONTACTS**

Milwaukee Times  
(Published weekly)  
2216 North King Drive  
Milwaukee, WI 53212  
Tele. No: (414) 263-5088  
Fax: (414) 263-4445  
Contacted \_\_\_\_\_yes \_\_\_\_\_no  
Contact Person \_\_\_\_\_  
Date and Time \_\_\_\_\_

The Milwaukee Courier  
(Published weekly)  
2431 West Hopkins Street  
Milwaukee, WI 53206  
Tele No: (414) 449-4860  
Fax: (414) 449-4872  
Contacted \_\_\_\_\_yes \_\_\_\_\_no  
Contact Person \_\_\_\_\_  
Date and Time \_\_\_\_\_

Milwaukee Community Journal, Inc.  
(Published twice weekly)  
3612 North King Drive  
Milwaukee, WI 53212  
Tele No: (414) 265-5300  
Fax: (414) 265-1536  
Contacted \_\_\_\_\_yes \_\_\_\_\_no  
Contact Person \_\_\_\_\_  
Date and Time \_\_\_\_\_

The Spanish Times, Inc.  
(Published weekly)  
505 South 5th Street  
Milwaukee, WI 53204  
Tele No: (414) 276-0222  
Fax: (414) 276-0703  
Contacted \_\_\_\_\_yes \_\_\_\_\_no  
Contact Person \_\_\_\_\_  
Date and Time \_\_\_\_\_

Daily Reporter  
(Published daily M-F)  
704 West Wisconsin Avenue  
Milwaukee, WI 53233  
Tele No: (414) 276-0273  
Fax: (414) 276-8057  
Contacted \_\_\_\_\_yes \_\_\_\_\_no  
Contact Person \_\_\_\_\_  
Date and Time \_\_\_\_\_

**EXHIBIT D  
EBE MARKETING PLAN**

**COMMUNITY AGENCY CONTACTS**

Milwaukee Urban League  
2802 West Wright Street  
Milwaukee, WI 53210  
(414) 374-5857  
Contacted \_\_\_\_\_yes \_\_\_\_\_no  
Contact Person \_\_\_\_\_  
Date and Time \_\_\_\_\_

Hmong Chamber of Commerce  
3726 W. National Avenue  
Milwaukee, WI 53215  
(414) 649-8115  
Contacted \_\_\_\_\_yes \_\_\_\_\_no  
Contact Person \_\_\_\_\_  
Date and Time \_\_\_\_\_

Milwaukee Minority Chamber of Commerce  
509 West Wisconsin Avenue, Suite 606  
Milwaukee, WI 53203  
(414) 226-4105  
Contacted \_\_\_\_\_yes \_\_\_\_\_no  
Contact Person \_\_\_\_\_  
Date and Time \_\_\_\_\_

Lao Family, Inc.  
2331 W. Vieau Place  
Milwaukee, WI 53208  
(414) 385-3380  
Contacted \_\_\_\_\_yes \_\_\_\_\_no  
Contact Person \_\_\_\_\_  
Date and Time \_\_\_\_\_

Hispanic Chamber of Commerce  
816 West National Avenue  
Milwaukee, WI 53204  
(414) 643-6963  
Contacted \_\_\_\_\_yes \_\_\_\_\_no  
Contact Person \_\_\_\_\_  
Date and Time \_\_\_\_\_

National Minority Contractors' Association  
4380 North Green Bay Avenue  
Milwaukee, WI 53209  
(414) 265-5800  
Contacted \_\_\_\_\_yes \_\_\_\_\_no  
Contact Person \_\_\_\_\_  
Date and Time \_\_\_\_\_

Milwaukee Minority Business Development Center  
3929 North Humboldt Boulevard  
Milwaukee, WI 53212  
(414) 332-1660  
Contacted \_\_\_\_\_yes \_\_\_\_\_no  
Contact Person \_\_\_\_\_  
Date and Time \_\_\_\_\_

**EXHIBIT E**

**EMERGING BUSINESS ENTERPRISE (EBE)  
SOLICITATION FORM**

Name & Address of EBE Firm \_\_\_\_\_

\_\_\_\_\_

Name of Individual Contacted \_\_\_\_\_ Phone Number \_\_\_\_\_

Type of Work \_\_\_\_\_ Date and Time of Contact \_\_\_\_\_

Quotation or Proposal Received \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**REMARKS:**

THESE SHOULD INCLUDE ANY FOLLOW UP ACTIONS. IN THE EVENT THAT THE EMERGING BUSINESS ENTERPRISE WILL NOT BE UTILIZED, INCLUDE AN EXPLANATION OF THE REASON (S) WHY THE FIRM WILL NOT BE USED.

**FOR EXAMPLE:**

IF THE ONLY REASON FOR NON-UTILIZATION WAS PRICE, THE EXPLANATION SHOULD REFLECT WHAT STEPS WERE TAKEN TO REACH A COMPETITIVE PRICE LEVEL.

**REMARKS:**

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**EXHIBIT F**  
**Emerging Business Enterprise (EBE)**  
**Rejection of Bid Form**

Name and Address of EBE firm	Type of Work	Bid Submitted by EBE	Actual Bid Award	Reasons for bid rejection	Approved By
1					
2					
3					
4					
5					
6					
7					
8					