

**SMALL BUSINESS  
ENTERPRISE AGREEMENT**

This Small Business Enterprise Agreement is entered into as of the \_\_\_\_\_ day of \_\_\_\_\_, 2014 by and between the **CITY OF MILWAUKEE** on behalf of the **Milwaukee Board of School Directors (“MPS”)** (collectively (“**CITY**”), and \_\_\_\_\_ (“**DEVELOPER**”).

**Recitals**

A. The parties to this Agreement acknowledge and understand that this Agreement is executed in conjunction with the execution of a Purchase and Sale Agreement between DEVELOPER and the CITY, dated as of the \_\_\_ day of \_\_\_\_\_, 2014 ( “**Agreement**”), as required by Sec. \_\_\_\_ of the Agreement.

B. DEVELOPER acknowledges that CITY has established policies regarding the utilization of Small Business Enterprises (“**SBEs**”) which are consistent with Chapters 355 and 370 of the Milwaukee Code of Ordinances (“**MCO**”).

C. The parties to this Agreement acknowledge and understand that this Agreement shall become part of the Agreement between the parties related to the “**PROJECT**” as that term “Project” is defined in the Agreement.

D. DEVELOPER acknowledges that the CITY’s approval and execution of the Agreement was conditioned upon DEVELOPER and its agents agreeing to achieve SBE participation in developing and constructing the PROJECT as required herein.

**Agreement**

1. **Recitals.** The recitals above are hereby agreed to and accepted.

2. **Definitions.**

A. SBEs are businesses that have been certified by the City of Milwaukee Office of Small Business Development (the “**SBE Office**”) based on the requirements of MCO § 370-25.

B. JOINT VENTURE is an association of two or more persons or businesses carrying out a single business enterprise for profit for which purpose they combine their property, capital, efforts, skills and/or knowledge.

3. **SBE PROJECT Percentage Requirements.** DEVELOPER shall utilize SBEs in developing and constructing the PROJECT in an amount equal to:

A. **25%** of the total PROJECT hard costs;

B. **25%** of the total goods and services for the PROJECT; and

C. **18%** of the total professional services for the PROJECT.

The above are requirements that must be met that are herein collectively called the “SBE Percentage Goals.” Initial estimates for attaining the requirements are summarized in **Exhibit A**.

**4. Additional SBE Requirements.** Besides attaining the above SBE Percentage Goals, DEVELOPER shall, with respect to the PROJECT, also complete the following:

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. Complete **Exhibit B “SBE Marketing Plan – Publications/Advertising Contacts”** and submit it to the SBE Office.

B. Provide interested SBEs and the agencies listed in **Exhibit C “SBE Marketing Plan – Community Agency Contacts”** with adequate information about the PROJECT plans, specifications, and contract/subcontract requirements at least two weeks prior to the date the contract bidding process commences. DEVELOPER shall document Community Agency Contacts by completing the Contact Sheet attached as **Exhibit C1** and submitting the completed Contact Sheet to the SBE Office prior to commencement of the bidding process.

C. Complete and submit **Exhibit D “SBE Participation Form A”** to the SBE Office upon execution of the prime contractor’s contract, if any, or upon commencement of construction.

D. Conduct pre-bid or selection conferences and a walk-through at least two weeks in advance of the date that bids are due.

E. Provide written notice of the PROJECT to all pertinent construction trade and professional service SBEs listed in the current City of Milwaukee Directory soliciting their services in sufficient time (at least two weeks) to allow those businesses to participate effectively in the contract bidding or selection process. To identify SBEs for the PROJECT, utilize the current *Official City of Milwaukee SBE Directory* published by the SBE Office. The directory can be accessed on-line at:

<https://milwaukee.diversitycompliance.com/FrontEnd/VendorSearchPublic.asp?TN=milwaukee&XID=2276>

F. Follow-up with SBEs who show an interest in the PROJECT during the initial solicitation process and document contact with SBE firms using **Exhibit E “SBE Solicitation Form.”**

G. Select trade and professional service areas for SBE awards wherein the greatest number of SBEs exist to perform the work, thereby increasing the likelihood of contracts or subcontracts being awarded to SBEs. Where appropriate, split contracts or subcontracts into smaller, economically feasible units to facilitate SBE participation.

H. Negotiate in good faith with interested SBEs, not reject SBE bids or proposals as unqualified or too high without sound reasons based on a thorough review of the bid or proposal submitted and maintain documentation to support the rejection of any SBE bid or proposal. Bids that are not cost effective and/or are not consistent with the PROJECT schedule will be considered “rejectable.” Rejected bids or proposals shall be documented on **Exhibit F “Bid Rejection Form.”**

I. Utilize the services available from public or private agencies and other organizations for identifying SBEs available to perform the work.

J. Include in the PROJECT bid, RFP or selection documents and advertisements an explanation of PROJECT requirements for SBE participation to prospective contractors and subcontractors.

K. As necessary and whenever possible, facilitate the following:

- (1) Joint ventures, limited partnerships or other business relationships intended to increase SBE areas of expertise, bonding capacity, credit limits, etc.
- (2) Training relationships
- (3) Mentor/protégé agreements

**5. Meeting a Percentage.** If at any point during this Agreement, DEVELOPER meets or exceeds one or more of the respective 25%, 18%, 25% SBE Percentage Goals (that are requirements) for the PROJECT, DEVELOPER shall notify the SBE Office, and it shall be deemed that DEVELOPER has achieved that particular, respective component percentage of the SBE Percentage Goal - subject to a successful close-out audit by the SBE Office.

**6. Special Provision Regarding Manufacture of Goods.** Contract or subcontract amounts awarded to SBE suppliers of goods that do not manufacture the goods they supply may only be counted for up to 20% of the 25% SBE “goods and services” SBE participation requirement.

**7. Reporting.** DEVELOPER agrees to report to the SBE Office on DEVELOPER’s utilization of SBEs in its contracting activities for the PROJECT. In order to monitor the PROJECT’s SBE participation, CITY requires and DEVELOPER agrees to:

- A. Provide the SBE Office with documentation and information regarding DEVELOPER’S efforts to solicit bids or proposals from SBEs.
- B. Complete and submit **Exhibit G “SBE Final Report Form D”** to the SBE Office upon completion of all construction for the PROJECT. Also, submit **Exhibit H “SBE Subcontractor Payment Form”** with the SBE Final Report Form D.

**8. Developer’s Violation.** Any violation of this Agreement by DEVELOPER may be considered an event of Default under the Agreement.

**IN WITNESS WHEREOF**, the parties have executed this AGREEMENT as of the date first above written.

**DEVELOPER:** \_\_\_\_\_

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

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

Name Printed: \_\_\_\_\_

Name Printed: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_

**CITY: City of Milwaukee acting upon request of the Board of School Directors of Milwaukee Public Schools under Wis. Stat. § 119.60(2)**

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

By: \_\_\_\_\_  
Michael Bonds, Phd.  
President, Milwaukee Board of School Directors

Attest: \_\_\_\_\_  
James Owczarski  
City Clerk

By: \_\_\_\_\_  
Gregory E. Thornton, Ed.D.,  
Superintendent of Schools

**COMPTROLLER**

By: \_\_\_\_\_  
Martin Matson  
Comptroller

Common Council Resolution File No. \_\_\_\_\_

**CITY ATTORNEY**

\_\_\_\_\_, Assistant City Attorney, hereby approves the signatures of the CITY representatives above under MCO § 304-21.

By: \_\_\_\_\_  
Assistant City Attorney

Name Printed: \_\_\_\_\_

**EXHIBIT A  
CATEGORIES OF WORK  
CONSTRUCTION  
BUDGET FOR**

**PROJECT**

| <u><b>WORK DESCRIPTION</b></u> | <u><b>GENERAL</b></u> | <u><b>SUPPLIER ITEMS</b></u> |
|--------------------------------|-----------------------|------------------------------|
| <b>SITE PREPARATION:</b>       |                       |                              |
| DEMOLITION                     | \$0.00                |                              |
| EXCAVATION                     | \$0.00                |                              |
| SOIL HAULING & DISPOSAL        | \$0.00                |                              |
| STORMWATER MANAGEMENT SYSTEM   | \$0.00                |                              |
| OTHER SITE:                    | \$0.00                |                              |
| <b>BUILDING CONSTRUCTION:</b>  |                       |                              |
| FOOTINGS & FOUNDATION          | \$0.00                |                              |
| FLOOR SLAB                     | \$0.00                |                              |
| STRUCTURAL STEEL**             | **                    | \$0.00                       |
| GLAZING                        | \$0.00                |                              |
| MASONARY                       | \$0.00                |                              |
| ROOFING                        | \$0.00                |                              |
| ROUGH CARPENTRY                | \$0.00                |                              |
| FINISH CARPENTRY               | \$0.00                |                              |
| DOORS, FRAMES & MILLWORK       | \$0.00                |                              |
| HVAC EQUIPMENT**               | **                    | \$0.00                       |
| PLUMBING                       | \$0.00                |                              |
| FIRE PROTECTION                | \$0.00                |                              |
| ELECTRICAL                     | \$0.00                |                              |
| DRYWALL                        | \$0.00                |                              |
| CEILINGS                       | \$0.00                |                              |
| FLOORING                       | \$0.00                |                              |
| CERAMIC TILE                   | \$0.00                |                              |
| LIGHTING                       | \$0.00                |                              |
| PAINTING/INTERIOR FINISH       | \$0.00                |                              |
| OTHER:                         | \$0.00                |                              |
| OTHER:                         | \$0.00                |                              |
| OTHER:                         | \$0.00                |                              |
| <b>SITE IMPROVEMENTS:</b>      |                       |                              |
| PAVING                         | \$0.00                |                              |
| LATERALS/CATCH BASIN           | \$0.00                |                              |
| LANDSCAPING                    | \$0.00                |                              |
| FENCING                        | \$0.00                |                              |
| OTHER:                         | \$0.00                |                              |
| <b>TOTAL HARD COSTS</b>        | -----<br>\$0.00       | -----<br>\$0.00              |

**PROFESSIONAL SERVICES**

|                      |        |
|----------------------|--------|
| ARCHITECTUAL         | \$0.00 |
| ENGINEERING          | \$0.00 |
| LEGAL SERVICES       | \$0.00 |
| SURVEY               | \$0.00 |
| ENVIRONMENTAL        | \$0.00 |
| GENERAL CONTRACTOR   | \$0.00 |
| CONSTRUCTION MANAGER | \$0.00 |
| OTHER:               | \$0.00 |

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**TOTAL PROFESSIONAL SERVICES** \$0.00

**COST SUMMARY & SBE CALCULATIONS**

**CATEGORY RATE SBE REQUIREMENT**

|  |        |     |        |
|--|--------|-----|--------|
| CONSTRUCTION EXCLUDING SUPPLIER<br>ITEMS | \$0.00 | 25% | \$0.00 |
| SUPPLIER AMOUNT **                       | \$0.00 | 20% | \$0.00 |
| PROFESSIONAL SERVICES                    | \$0.00 | 18% | \$0.00 |

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**TOTAL SBE REQUIREMENTS** \$0.00

**EXHIBIT A**

**EXHIBIT B**  
**SBE MARKETING PLAN – PUBLICATIONS/ADVERTISING CONTACTS**

**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 \_\_\_\_\_

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 C**  
**SBE MARKETING PLAN – COMMUNITY AGENCY CONTACTS**

**COMMUNITY AGENCY CONTACTS**

**National Association of Minority Contractors**

3100 West Concordia Ave  
Milwaukee, WI 53216  
(414) 449-0837

**The Milwaukee Urban League**

435 West North Avenue  
Milwaukee, WI 53212  
(414) 374-5850

**African American Chamber-Commerce**

6203 West Capitol Dr  
Milwaukee, WI 53216  
(414) 462-9450

**Hispanic Chamber of Commerce of Wisconsin**

816 West National Ave.  
Milwaukee, WI 53204  
(414) 643-6963

**Wisconsin Minority Business Opportunity Center**

1915 North Dr. Martin Luther King Jr. Drive, Suite 213-F  
Milwaukee, WI 53212  
(414) 372-3773

**Hmong Wisconsin Chamber of Commerce**

3616 West National Avenue. Suite 99  
Milwaukee, WI 53215  
(414)649-8331

**Lao Family Community Inc.**

2331 West Vieau Place Milwaukee, WI 53204  
414-385-3380



**CITY OF MILWAUKEE - DEPARTMENT OF ADMINISTRATION  
OFFICE OF SMALL BUSINESS DEVELOPMENT  
SBE PARTICIPATION FOR SUBCONTRACTORS AND/OR MATERIAL SUPPLIERS**

PRIME CONTRACTOR'S NAME: \_\_\_\_\_ CONTRACT NAME OR NUMBER: \_\_\_\_\_

START DATE: \_\_\_\_\_ TOTAL CONTRACT AMOUNT: \_\_\_\_\_ TOTAL SBE AMOUNT: \_\_\_\_\_

Please list below **all** proposed subcontractor(s) and/or material supplier(s) for this project.

| SBE FIRM(S) NAME<br>ADDRESS/CONTACT PERSON<br>AND PHONE NUMBER | % OF BID<br>OR<br>PROPOSAL | SUB-CONTRACTOR/OR<br>SUPPLIER | WORK PERFORMED/<br>MATERIAL SUPPLIED | AMOUNT | AUTHORIZED SBE(S)<br>OWNER/REPRESENTATIVE SIGNATURE OF<br>ACKNOWLEDGMENT |
|--|----------------------------|-------------------------------|--------------------------------------|--------|--|
| 1.<br><br>   |                            |                               |                                      |        |  |
| 2.<br><br>   |                            |                               |                                      |        |  |
| 3.<br><br>   |                            |                               |                                      |        |  |
| 4.<br><br>   |                            |                               |                                      |        |  |

Authorized Signature: \_\_\_\_\_ Print Name & Title: \_\_\_\_\_

**RETURN THIS FORM TO DOA-OFFICE OF SMALL BUSINESS DEVELOPMENT**  
**THIS FORM MUST BE SUBMITTED WITH THE PRIME CONTRACTORS BID OR PROPOSAL OR UPON**  
**COMMENCEMENT OF CONSTRUCTION.**

Reviewed By: \_\_\_\_\_ Date: \_\_\_\_\_  
PROJECT MANAGER TITLE

Reviewed By: \_\_\_\_\_ Date: \_\_\_\_\_  
BUSINESS ANALYST SENIOR (DOA) - SBE Program

**Exhibit E**  
**SMALL BUSINESS ENTERPRISE (SBE)**  
**SOLICITATION FORM**

Name & Address of SBE 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 SMALL 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:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**EXHIBIT F**  
**SMALL BUSINESS ENTERPRISE (SBE)**  
**Rejection of Bid or Proposal Form**

| Name and Address<br>of SBE firm | Type of Work | Bid or Proposal<br>Submitted<br>by SBE | Actual<br>Award | Reasons for bid rejection | Approved<br>By |
|---------------------------------|--------------|--|-----------------|---------------------------|----------------|
| 1                               |              |  |                 |                           |                |
| 2                               |              |  |                 |                           |                |
| 3                               |              |  |                 |                           |                |
| 4                               |              |  |                 |                           |                |
| 5                               |              |  |                 |                           |                |
| 6                               |              |  |                 |                           |                |
| 7                               |              |  |                 |                           |                |
| 8                               |              |  |                 |                           |                |

**EXHIBIT G**  
**DEPARTMENT OF ADMINISTRATION**  
**OFFICE OF SMALL BUSINESS DEVELOPMENT**

**SBE FINAL REPORT (FORM D)**

(1) Report for the \_\_\_\_\_ **PROJECT**

(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) SBE % goal \_\_\_\_\_ and \$ goal \_\_\_\_\_

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

| NAME OF SBE FIRM(s)         | SERVICE PERFORMED/<br>MATERIAL SUPPLIED | AMOUNT<br>PAID FOR<br>THE PROJECT | TOTAL \$<br>PAID |
|-----------------------------|---|-----------------------------------|------------------|
|                             |   |                                   |                  |
|                             |   |                                   |                  |
|                             |   |                                   |                  |
|                             |   |                                   |                  |
|                             |   |                                   |                  |
|                             |   |                                   |                  |
|                             |   |                                   |                  |
| <b>TOTAL PAID TO SBE(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 to **Office of Small Business Development, 200 East Wells Street, Room 606, Milwaukee, WI** or fax to **(414) 286-8752, Attn: Ossie Kendrix**

**Exhibit H  
FORM E**

**CITY OF MILWAUKEE – DEPARTMENT OF ADMINISTRATION  
OFFICE OF SMALL BUSINESS DEVELOPMENT**

**SBE SUBCONTRACTOR PAYMENT CERTIFICATION**

SBE Subcontractor's Firm Name:

\_\_\_\_\_

Prime Contractor Name:

\_\_\_\_\_

Prime Contractor's Bid or RFP#: \_\_\_\_\_ Purchase Order or Contract # \_\_\_\_\_

This certificate is to be signed by the SBE subcontractor firm that was utilized in connection with the above contract, either for service performed, and/or as a supplier. Attach this form to the Prime Contractor's **FORM D** (SBE Final Report) and return to:

Department of Administration  
Office of Small Business Development  
City Hall – Room 606  
200 East Wells St  
Milwaukee, WI 53202  
(or fax to 414-286-8752)

\_\_\_\_\_

I \_\_\_\_\_ hereby certify that our firm has received  
(PLEASE PRINT NAME)  
\$ \_\_\_\_\_ from \_\_\_\_\_  
(PRIME CONTRACTORS NAME)

for subcontract work performed and/or material supplied on the above contract.

Signature & Title \_\_\_\_\_ Date: \_\_\_\_\_  
Subcontractor

Signature & Title \_\_\_\_\_ Date: \_\_\_\_\_  
Prime Contractor

**NOTE: THIS FORM MUST BE ATTACHED TO PRIME CONTRACTORS FORM D  
(SBE FINAL REPORT)**

Ref: SBE Forms/ Form E – Payment Certification Form