

SMALL BUSINESS ENTERPRISE AGREEMENT

_____ PROJECT

This Small Business Enterprise Agreement (“Agreement”) is entered into as of _____, 20__, by and between the City of Milwaukee (“CITY”), and _____, a _____, (“DEVELOPER”).

WHEREAS, the parties to this Agreement acknowledge and understand that this Agreement is executed in conjunction with the _____ Agreement dated even herewith (“Development Agreement”) executed by the parties in connection with the implementation of _____;

WHEREAS, DEVELOPER acknowledges that CITY has established policies regarding the utilization of SBEs (defined below), in Chapter 370 of the Milwaukee Code of Ordinances (“MCO”); and

WHEREAS, DEVELOPER acknowledges that approval and execution of the Development Agreement was conditioned upon the DEVELOPER, its affiliates and their agents, agreeing to use best efforts to meet the requirements of this Agreement with respect to the development of the Project.

NOW, THEREFORE, the parties agree as follows:

I. DEFINITIONS

1. SMALL BUSINESS ENTERPRISE (“SBE”) is a business that has been certified by the City of Milwaukee Office of Small Business Development (the “SBE Office”) based on the requirements of MCO § 370-25.

2. JOINT VENTURE is an association of two 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.

3. PROJECT means the _____ Project, as more particularly described in _____ of the Development Agreement, to include the development of property located at _____, Milwaukee, Wisconsin.

4. PROJECT COSTS means all costs of the PROJECT, but less and excluding all costs associated with the purchase, lease or right to use any land; permit fees paid to CITY or any other governmental entity or quasi-governmental entity; utility company fees; financing and interest expenses; insurance premiums; work within trades for which there is no available SBE participation; other work not contracted through DEVELOPER and over which DEVELOPER does not have direction or control in the selection of contractors or material providers for the same; and other costs approved by DEVELOPER and the SBE Office, with such approval not being unreasonably withheld. DEVELOPER or its representatives and the SBE Office shall meet and confer to determine the eligible PROJECT COSTS for such phase or portion of the PROJECT.

II. SMALL BUSINESS ENTERPRISE PROGRAM

DEVELOPER shall, in developing and constructing the PROJECT, use Best Efforts, as defined below, to utilize SBEs for no less than ____% of the total PROJECT construction costs including the amounts expended for the purchase of non-professional services and supplies and ____% of the amounts expended for the purchase of professional services for the PROJECT deemed eligible pursuant to SBE guidelines, as summarized in **Exhibit A “Categories of Work.”**

A. “Best Efforts,” when exercised by DEVELOPER in conjunction with the PROJECT, is defined as DEVELOPER completing all of the following activities:

1. 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.

2. 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 “SBE Contact Sheet”** and submitting the completed Contact Sheet to the SBE Office prior to commencement of the bidding process.
3. Complete and submit **Exhibit D “Form A – Contractor Compliance Plan”** to the SBE Office upon execution of the prime contractor’s contract, if any, or upon commencement of construction.
4. Conduct pre-bid or selection conferences and a walk-through at least two weeks in advance of the date that bids are due.
5. 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 CITY’s SBE Office. The directory can be accessed on-line at:

<https://milwaukee.diversitycompliance.com/FrontEnd/VendorSearchPublic.asp?TN=milwaukee&XID=2276>
6. 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.”**
7. 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.
8. 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 “SBE Rejection of Bid or Proposal Form.”**

9. Utilize the services available from public or private agencies and other organizations for identifying SBEs available to perform the work.
10. Include in the PROJECT bid, RFP or selection documents and advertisements an explanation of PROJECT requirements for SBE participation to prospective contractors and subcontractors.
11. As necessary and whenever possible, facilitate the following:
 - (a) Joint ventures, limited partnerships or other business relationships intended to increase SBE areas of expertise, bonding capacity, credit limits, etc.
 - (b) Training relationships
 - (c) Mentor/protégé agreements

B. If DEVELOPER completes the aforementioned activities it shall be deemed that DEVELOPER has acted in “good faith” and has satisfied the requirement for using Best Efforts for SBE participation for the PROJECT.

C. If at any point during the term of this Agreement, DEVELOPER meets or exceeds the 20% requirement for SBE participation for the construction, including supplies and non-professional services, of any phase or portion of the PROJECT or the 18% requirement for SBE participation for the purchase of professional services for any phase or portion of the PROJECT, whether commenced before or after the date hereof, it shall be deemed that DEVELOPER has achieved or exceeded CITY’s SBE requirement with respect to the Project, for the purposes of fulfilling the terms of this Agreement.

D. Contract or subcontract amounts awarded to SBE suppliers, that do not manufacture products they supply, may only be counted for up to 20% of the 20% SBE participation requirement for construction supplies.

III. 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 a list of all categories of work for each phase or portion of 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 SBE participation.
- B. Provide the SBE Office with documentation supporting efforts extended to solicit bids from SBEs. Upon request, DEVELOPER shall make information related to SBE bids available to the SBE Office.
- C. Submit an SBE Monthly Report to the SBE Office on or before the 20th of each month, or a quarterly report with the approval of the SBE Office, on the form attached as **Exhibit G "Form D – SBE Monthly Report."**
- D. Complete and submit a final **Exhibit G** and **Exhibit H "SBE Subcontractor Payment Form"** to the SBE Office upon completion of all construction of the PROJECT.

IV. LABOR STANDARDS AND WAGES.

DEVELOPER shall comply with all applicable state and municipal labor standards provisions on the PROJECT.

V. CITY ADMINISTRATION.

The SBE Office shall have primary responsibility for the administration of this Agreement as well as primary monitoring and enforcement authority for the programs and activities encompassed by this Agreement. In exercising its responsibilities under the Agreement, the SBE Office shall use good faith and act in a reasonable manner. Notwithstanding the foregoing, the SBE Office shall make all information and data collected pursuant to this Agreement available to CITY's Department of City Development and Comptroller in order to allow fulfillment of their respective responsibilities with respect to the programs and activities encompassed by this Agreement. CITY's Department of City

Development, and Comptroller shall cooperate with and assist the SBE Office in the administration of this Agreement.

VI. DEVELOPER ADMINISTRATION.

DEVELOPER may retain a person or firm reasonably acceptable to the SBE Office, to act as DEVELOPER's consultant and to assist in record keeping, collection of information and the filing of all reports necessary to demonstrate compliance with the requirements of this Agreement. DEVELOPER shall also comply with the reporting requirements set forth in Section III of this Agreement.

VII. AUDIT RIGHTS.

DEVELOPER shall keep or cause others under its control, including its contractors and subcontractors to keep accurate, full and complete books and accounts with respect to costs of developing, constructing, and completing the PROJECT and carrying out the duties and obligations of DEVELOPER hereunder. All the books and accounts required to be kept hereunder shall be maintained in accordance with generally accepted accounting principles consistently applied, and shall be kept for a period of seven years.

VIII. PUBLIC RECORDS.

Records shall be maintained in accordance with requirements prescribed by the CITY with respect to all matters covered by this Agreement. Both parties understand that the CITY is bound by Wisconsin Public Records Law, and as such, all of the terms of this Agreement are subject to and conditioned on the provisions of Wis. Stat. Section 19.21, et seq. DEVELOPER acknowledges that it is obligated to assist the CITY in retaining and producing records that are subject to Wisconsin Public Records Law, and DEVELOPER must defend and hold the City harmless from liability under that law. Except as otherwise authorized, these records shall be maintained for a period of seven years from the date of this Agreement.

IX. NOTICES.

All notices under this Agreement shall be made in writing and deemed served upon depositing the same in the United States Postal Service as “Certified Mail, Return Receipt Requested,” addressed as follows:

A. To the CITY: SBE Program Office
City of Milwaukee
200 East Wells Street
Milwaukee, WI 53202
Attn: Director

With a copy to: Department of City Development
City of Milwaukee
809 North Broadway
Milwaukee, WI 53202-3617
Attn: Commissioner

B. To DEVELOPER: _____

Attn: _____

With a copy to: _____

X. SANCTIONS.

In the event that any document submitted to CITY by DEVELOPER or a contractor or subcontractor of DEVELOPER contains false, misleading or fraudulent information or demonstrates non-compliance with the requirements of this Agreement, the SBE Office may seek remedies available at law and in equity including specific performance and/or prosecution under § 370-9 MCO. Any violation of this Agreement shall constitute a default under the Development Agreement.

IN WITNESS WHEREOF, the parties have executed this Small Business Enterprise Agreement as of the ____ day of _____, 20____.

[DEVELOPER]

CITY OF MILWAUKEE

By: _____
Its:

By: _____
Tom Barrett, Mayor

By: _____
James R. Owczarski, City Clerk

By: _____
Martin Matson, City Comptroller

Approved as to form and execution and content
this ____ day of _____, 20____.

Assistant City Attorney

CAO Doc. 206392

EXHIBIT A
CATEGORIES OF WORK

Project

<u>WORK DESCRIPTION</u>	<u>GENERAL</u>	<u>SUPPLIER ITEMS</u>
SITE PREPARATION:		
DEMOLITION	\$0.00	
EXCAVATION	\$0.00	
SOIL HAULING & DISPOSAL	\$0.00	
STORMWATER MANAGEMENT SYSTEM	\$0.00	
OTHER SITE:	\$0.00	
 BUILDING CONSTRUCTION:		
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	
 SITE IMPROVEMENTS:		
PAVING	\$0.00	
LATERALS/CATCH BASIN	\$0.00	
LANDSCAPING	\$0.00	
FENCING	\$0.00	
OTHER:	\$0.00	
TOTAL HARD COSTS	----- \$0.00	----- \$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

TOTAL PROFESSIONAL SERVICES	\$0.00

COST SUMMARY & SBE CALCULATIONS

CONSTRUCTION EXCLUDING SUPPLIER ITEMS	\$0.00	25%	\$0.00
SUPPLIER AMOUNT **	\$0.00	20%	\$0.00
PROFESSIONAL SERVICES	\$0.00	18%	\$0.00

CATEGORY RATE SBE REQUIREMENT

TOTAL SBE REQUIREMENTS

\$0.00

EXHIBIT B
SBE MARKETING PLAN – PUBLICATIONS/ADVERTISING CONTACTS

Milwaukee Times
(Published weekly)
1938 N Dr Martin Luther King Dr, 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)
6310 N. Port Washington Road, Milwaukee, WI 53217
Tele No: (414) 449-4860
Fax: (414) 906-5383
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)
225 E. Michigan St., Suite 540, Milwaukee, WI 53202
Tele No: (414) 276-0273
Fax: (414) 276-8057
Contacted _____yes _____no
Contact Person _____
Date and Time _____

Spanish Journal
(Published weekly)
611 West National Avenue, Suite 316, Milwaukee, Wisconsin 53204
Tele No: (414) 643-5683
Fax: (414) 643-8025
Contacted _____yes _____no
Contact Person _____
Date and Time _____

EXHIBIT C
SBE MARKETING PLAN – 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

Exhibit D



CITY OF MILWAUKEE
OFFICE OF SMALL BUSINESS DEVELOPMENT
FORM A - CONTRACTOR COMPLIANCE PLAN

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

I. GENERAL INFORMATION (REQUIRED)

Project Name _____ SBE Participation: ____% Total Dollar Amount: \$_____

Project Description: _____

II. PRIME CONTRACTOR INFORMATION (REQUIRED)

Contractor Name: _____

Address: _____

City/State/Zip: _____

Contact Person: _____ Title: _____

Phone: _____ Fax: _____ Email: _____

Print Name: _____ Title: _____

City of Milwaukee SBE Certification: ____ Yes ____ No

III. ACKNOWLEDGEMENT (REQUIRED)

I certify that the information included in this Compliance Plan is true and complete to the best of my knowledge.

Name of Authorized Representative: _____ Title: _____

Signature: _____ Date: _____

FOR STAFF USE ONLY

Reviewed by OSBD Staff: _____ Date: _____

**CITY OF MILWAUKEE
OFFICE OF SMALL BUSINESS DEVELOPMENT
CONTRACTOR COMPLIANCE PLAN**

List all subcontractor information in its entirety. Only SBE firms certified through the City Of Milwaukee Office of Small Business Development will be counted towards specified SBE requirements. Individual subcontractor SBE percentages should equal the overall participation as listed on Page 1. Please visit the OSBD website www.milwaukee.gov/osbd for a complete list of certified firms.

IV. SUBCONTRACTOR INFORMATION

Subcontractor Name: _____

Contact Person: _____ Title: _____

Phone: _____ Fax: _____ Email: _____

Owner/Representative Signature: _____ Date: _____

Work performed / Materials supplied: _____

City of Milwaukee SBE Certification Yes No

Please identify the proposed award amount and percentage of the contract the subcontractor will fulfill (if applicable).

Proposed Award: \$ _____ Percentage of contract: _____%

Subcontractor Name: _____

Contact Person: _____ Title: _____

Phone: _____ Fax: _____ Email: _____

Owner/Representative Signature: _____ Date: _____

Work performed / Materials supplied: _____

City of Milwaukee SBE Certification Yes No

Please identify the proposed award amount and percentage of the contract the subcontractor will fulfill (if applicable).

Proposed Award: \$ _____ Percentage of contract: _____%

PLEASE DUPLICATE AS NEEDED TO PROVIDE ADDITIONAL SUBCONTRACTOR INFORMATION

Department of Administration - Business Operations Division
Office of Small Business Development
City Hall, Room 606
200 East Wells Street
Milwaukee, WI 53202
Information Line: 414-286-5553 Fax: 286-8752
www.milwaukee.gov/osbd

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

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

EXHIBIT G



CITY OF MILWAUKEE
DEPARTMENT OF ADMINISTRATION
OFFICE OF SMALL BUSINESS DEVELOPMENT

FORM D

SBE MONTHLY REPORT

The monthly report should be completed in its entirety and submitted no later than the 20th of every month to DOA-Office of Small Business Development. If this represents the final report, Form E - SBE Payment Certification should be attached for each subcontractor.

SECTION I. GENERAL INFORMATION (REQUIRED)

Month: _____ Final Report: Yes No

Prime Contractor: _____

Address : _____ City/State/Zip: _____

City of Milwaukee SBE Certification: Yes No

Purchase Order / Contract # : _____ Project Name / Number: _____

Description of service performed and/or materials supplied: _____

Prime Contractor's Total \$ _____ Prime Contractor's YTD \$: _____

Start Date: _____ Completion Date: _____ SBE Participation Requirement \$ _____ / _____ %

SECTION II. SUBCONTRACTOR INFORMATION (REQUIRED)

List all SBE subcontractor firm(s) utilized in connection with the above contract, either as service performed and/or supplier for the month. Only SBE firms certified through the City Of Milwaukee Office of Small Business Development will be counted towards specified SBE requirements. Please visit the OSBD website www.milwaukee.gov/osbd for a complete list of certified firms.

Name of SBE Firm	Service Performed / Material Supplied	Amount Paid for the Month (\$)	Total (\$) Paid Y-T-D
Total Payments to SBE			

SECTION III. ACKNOWLEDGEMENT (REQUIRED)

I/we hereby certify that I/we have ready the above and approved this information to be precise and confirmed. I further understand that failure to return this form by the specified time may cause a delay in payments (if applicable).

Report Prepared by: _____ Title: _____ Date: _____

Authorized Signature: _____ Title: _____ Date: _____

Department of Administration - Business Operations Division
Office of Small Business Development
City Hall, Room 606
Milwaukee, WI 53202
Information Line: 414-286-5553 Fax: 414-286-8752
www.milwaukee.gov/osbd

DIRECTIONS FOR COMPLETING FORM D - MONTHLY REPORT

SECTION I. GENERAL INFORMATION

Please provide all contractual information as indicated in Section I.

If the purchase order/ contract or project requires Small Business Enterprise (SBE) requirements, please indicate the percentage in the designated area.

SECTION II. SUBCONTRACTOR INFORMATION

Monthly reports are due by the 20th of each month via fax at 414-286-8752 or US Postal Service.

The data should indicate payments for the previous month. If there are zero payments for a reporting period, a monthly report indicating such should still be submitted.

Only report payments to City of Milwaukee SBE firms. Non-SBE firms will not be counted towards participation requirements.

Please duplicate the form if you need to add additional payment information.

SECTION III. ACKNOWLEDGEMENT

Sign and date Form D signifying that all information is precise and confirmed. Unsigned forms will not be accepted.

EXHIBIT H



CITY OF MILWAUKEE
DEPARTMENT OF ADMINISTRATION
OFFICE OF SMALL BUSINESS DEVELOPMENT
FORM E

SBE SUBCONTRACTOR FINAL PAYMENT CERTIFICATION

This form is to be completed and signed by the Prime Contractor and SBE subcontractor firms that were utilized in connection with contract listed below, either for service performed and/or as a supplier.

Prime Contractor Name: _____

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

Project Name: _____

I hereby certify that our firm has paid the listed amount to the SBE Subcontractor as indicated below for work performed and/or material supplied on the above contract.

Authorized Signer: _____ Date: _____

Subcontractor Name: _____

Total payment received \$ _____

I hereby certify that our firm has received the listed amount from the Prime Contractor as indicated above for subcontract work performed and/or material supplied on the above contract.

Owner/Representative Signature: _____ Date: _____

Submit this form with the Prime Contractor's final FORM D (SBE Monthly Report) 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)