

**INTERGOVERNMENTAL AGREEMENT**  
**FOR**  
**SUPPORT OF**  
**EEO, TECHNICAL ASSISTANCE, BUSINESS AND WORKFORCE**  
**EQUITY PROGRAMS, AND SOUTH WATERFRONT CENTRAL DISTRICT**

This Intergovernmental Agreement (this "IGA") is between the City of Portland Bureau of Internal Business Services, Procurement Services (the "Bureau") and the Portland Development Commission ("PDC") and shall be a one-year agreement beginning July 1, 2009 (the "Effective Date"), for an annual amount not to exceed TWO HUNDRED AND FIFTY THOUSAND DOLLARS (\$250,000). The Bureau and PDC may collectively be referred to herein as the "Parties" and individually as a "Party".

**RECITALS**

- A. The City of Portland (the "City") currently has certain Programs (as hereinafter defined) concerning purchasing and construction activities.
- B. The Bureau administers the Programs on behalf of the City.
- C. PDC acts as its own Local Contract Review Board, and has promulgated its own contracting and purchasing rules, including its own requirements for participation in some of the Programs and its own standards for Business and Workforce Equity to include M/W/ESB contractors in projects.
- D. PDC engages in some direct contracting. However, the bulk of the construction generated by PDC activity is contracted by persons or entities that borrow money from, acquire property from, or receive financial benefit from other programs administered by PDC. PDC has adopted a contracting policy that requires such persons or entities to participate in its construction contracting programs, which are substantially similar to the City's Programs.
- E. By utilizing some Programs and City employees with experience regarding the Programs, PDC will save money and avoid unnecessary duplication and effort. Therefore, PDC and the Bureau have agreed to work together.
- F. The purpose of this IGA is set forth the Parties' understandings and agreements with respect to the Bureau's implementation of certain Programs on behalf of PDC.

**NOW THEREFORE**, in consideration of the mutual covenants and undertakings contained in this IGA, including the foregoing recitals, the Parties hereby agree as follows:

## **AGREEMENT**

### **I. DEFINED TERMS**

Words that are capitalized, and which are not the first word of a sentence, are defined terms. A defined term has the meaning given it when it is first defined in this IGA. References to PDC's potential contractors include contracting with the persons or entities with which the PDC does business (each, a "Contractor").

### **II. PROGRAM DESCRIPTIONS**

A. The Bureau implements the following programs on behalf of the City and PDC:

- (i) The City's Equal Employment Opportunity certification program (the "EEO Program") requires a vendor to obtain an EEO certification before the City can acquire more than \$2500 in goods and services from it during a fiscal year.
- (ii) The City's Workforce Training and Hiring Program (the "Workforce Training and Hiring Program") requires contractors working on certain construction projects to make efforts to hire and train a diverse workforce including apprentices under specified circumstances.
- (iii) Project Apprenticeship Agreement specific to the South Waterfront Central District.
- (iv) Workforce tracking as set forth in the PDC Business and Workforce Equity Policy and Procedures.
- (v) The PDC Business and Workforce Equity Program requiring contractors on specified projects to make contracting opportunities available to Minority Business Enterprises ("MBEs"), Women Business Enterprises ("WBEs") and Emerging Small Businesses ("ESBs")(Collectively, "M/W/ESBs") when subcontracting portions of PDC-funded projects. The Bureau will collect and track information on M/W/ESB contractors on PDC related projects as outlined in the PDC Business and Workforce Equity Policy and Procedures.
- (vi) The City's Contractor Prequalification process (the "Prequalification Process") reviews prequalification applications submitted by prime contractors to determine whether they are entitled to be prequalified to any of the classes of work in which the City permits prequalification.

- (vii) The City funds the Technical Assistance Program (the "Technical Assistance Program"). The Technical Assistance Program provides project specific technical assistance and classes to state-certified M/W/ESBs.
- (viii) The EEO Program, the Workforce Training and Hiring Program, the Business and Workforce Equity Program, the Prequalification Process and the Technical Assistance Program may collectively be referred to herein as the "Programs".

### **III. SERVICES TO BE PROVIDED BY THE BUREAU**

- A. The Programs require considerable staff time, expertise and information technology systems to successfully implement. The Bureau has the necessary staff, expertise and information technology systems in-place to administer the Programs on PDC's behalf. The Programs are currently administered by the Bureau on City of Portland-owned construction projects. The Parties agree to enter into this IGA whereby each Party will undertake certain actions as described herein to ensure the successful implementation of the Programs. By contracting with the Bureau to provide these services it is believed considerable cost savings will be achieved by avoiding the duplication of efforts that would otherwise be required.

### **IV. FUNDING**

1. Administration of the Programs on behalf of PDC will require the involvement of a portion of each of the following positions: Purchasing Manager, Contractor Development Supervisor; 1 Contract Compliance Specialist; 1 Program Coordinator, 1 Program Specialist, 1 Asst. Procurement Specialist; and 1 City Attorney. PDC will provide funding to the Bureau to cover the costs of administering the Programs for each year of this IGA.
2. In the event that the Technical Assistance Program services billed to PDC related work exceed \$15,000.00 the city may terminate such Technical Assistance Program services in its sole discretion. The City will provide thirty (30) days advance notice to PDC if project funds for PDC appear to be running out. If Technical Assistance Program services are terminated early, PDC will receive a prorated share of its contribution from the City. If Technical Assistance Program services to PDC contractors exceed the maximum yearly program budget after PDC has received timely notice of the same, PDC will make additional financial arrangements in order for such Technical Assistance Program services to continue.
3. As compensation for the Bureau's services set forth in Section III herein, PDC shall pay the Bureau quarterly payments of \$62,500 each for a total amount not to exceed \$250,000 within 30 calendar days of receiving the request for payment. Payment will be based on receipt of services as outlined in this Agreement.

## **V. EEO PROGRAM RESPONSIBILITIES**

### **A. The Bureau shall:**

1. Review applications for EEO certification from potential vendors, and prime contractors for PDC-owned and PDC-financed projects and services with EEO Program requirements. Review applications for subcontractors on direct bid projects only, and determine whether the applicant should be certified;
2. Provide telephone assistance and internet support to PDC employees and/or vendors wishing information on the EEO Program and the status of contractor certifications and other matters that may arise;
3. Provide assistance to PDC and its vendors and contractors to implement the EEO Program, including methods of improving construction workforce diversity; and
4. Upon completion of the bureau's technology upgrade to the ebid system, (scheduled for completion April 1, 2009), PDC staff will have direct access to a searchable database containing up-to-date Contractor EEO certification information.

### **B. PDC shall:**

1. During the interim, PDC shall have direct access to the City's EEO specialist, Mary Kapelczak at 503-823-5783 to confirm a vendor's active certification with the Equal Employment Opportunity Program.

Include in its reference material and in its written contract documents, including but not limited to, Invitations to Bid ("ITBs") and Requests for Proposals ("RFPs"), the requirement that its vendors and Contractors, at the prime and first-tier subcontractor level must be EEO certified.

### **C. The Bureau and PDC shall jointly:**

1. Promote and advertise EEO certification in formats and methods agreed to by the Parties.

## **VI. WORKFORCE EQUITY PROGRAM INCLUDING THE WORKFORCE TRAINING AND HIRING PROGRAM RESPONSIBILITIES**

### **A. The Bureau shall:**

1. Provide outreach and compliance activities to implement the Workforce Equity Program, including the Workforce Training and Hiring Program, at a level sufficient to satisfy program requirements. These activities include, but

are not limited to, attendance at PDC pre-proposal, pre-bid, and preconstruction meetings to discuss the Workforce Equity Program requirements, monthly data collection and compliance reviews, late submittal notices to Contractors, site visits, and timely notification to PDC staff of compliance issues and monthly compliance reviews and data collection for all PDC projects.

2. Provide to PDC project managers a monthly monitoring report on all PDC and South Waterfront-funded covered projects in the format used by the City, listing workforce hours and apprentices and all race and gender groups, and all subcontractors with subcontracts of \$100,000 or more, and at a time jointly acceptable to the parties, provide monthly reports for PDC and South Waterfront projects to PDC Management.
3. Monitor the prime and all subcontractors with subcontracts of \$100,000 for compliance with PDC's established goals as set forth in the PDC Business and Workforce Equity Policy and Procedures.
4. Provide assistance to PDC employees, Contractors and vendors by telephone who desire information about the PDC Business and Workforce Equity Programs;

B. The PDC shall:

1. Require compliance with the Workforce Equity Program, including the Workforce Training and Hiring Program, as provided in PDC's policies by including the requirements in contract specifications, RFPs, loan documents, development agreements and similar documents.
2. Cooperate with the Bureau to implement the Workforce Equity Program, including the Workforce Training and Hiring Program, for PDC projects by requiring its project managers and purchasing staff to coordinate their efforts with the Bureau and to review PDC solicitation documents and contract documents for inclusion of Program requirements and to forward appropriate documents to the Bureau, and to take enforcement action against Contractors, as needed.

## **VII. BUSINESS EQUITY PROGRAM**

A. The Bureau shall:

1. Collect M/W/ESB reports on PDC-owned and supported projects From July 1, 2009 through June 30, 2010.

2. Beginning January 1, 2010, collect data on monthly payments to subcontractors.
3. Upon substantial completion of a project, send payment verification letters to all M/W/ESB certified firms.

4. Provide monthly reports outlining projects, prime contractor, and subcontractor payments. These reports will be provided by the end of the month unless otherwise specified by PDC.

B. PDC shall:

1. Require Contractors to send to the Bureau a list of all subcontractors working on the project, and the subcontract amount.
2. Require Contractors to send a list of all Monthly Utilization Reports ("MURs") to the Bureau on a monthly basis.

### **VIII. SOUTH WATERFRONT PROJECT APPRENTICESHIP AGREEMENT**

A. The Bureau shall:

1. Provide workforce tracking and reporting activities to implement the Project Apprenticeship Agreement on both PDC funded and City-funded and privately funded construction projects subject to the Project Apprenticeship Agreement. Such activities include, but are not limited to:
  - a) Verify the training agent status of contractors with the Bureau of Labor and Industry;
  - b) Collect monthly employment reports from contractors;
  - c) Verify State of Oregon apprentice registration status of contractor reported apprentices;
  - d) Attend pre-bid/pre-construction meetings to discuss contractor submittal requirements;
  - e) Provide monthly reports to PDC on workforce participation as defined in the Project Apprenticeship Agreement;
  - f) Inform PDC of any discrepancies between contractor reported information and the Bureau's verification of the accuracy of the reported information.

B. Collect monthly subcontractor payment and utilization information on projects located within the South Waterfront Central District, as directed by PDC.

C. Prepare the monthly South Waterfront Report, and provide to PDC staff at least 7 working days prior to the PDC Board Meeting, which is usually held on the 2<sup>nd</sup> Wednesday of the month.

D. PDC shall:

1. Work with the Development Agreement Parties to ensure compliance with Project Apprenticeship Agreement;

2. Notify the Bureau of projects in the South Waterfront Central District Project Area subject to the Project Apprenticeship Agreement, before the project begins;
3. Notify the Bureau of the PDC staff person responsible for working with Contractors to develop the following documents:
  - a) Comprehensive Plan outlining good faith efforts the Contractor will make to achieve minority and women workforce goals;
  - b) Description of efforts the Contractor intends to make to ensure diversity goals are met;
  - c) Description of any assistance the Contractor believes will be necessary from PDC to meet the minority and women workforce goals; and
4. Provide copies of all commitments from the individual trade apprenticeship programs outlined in the South Waterfront Diversity and Strategy Agreement.

## **IX. PREQUALIFICATION PROCESS**

### **A. The Bureau shall:**

1. Provide PDC with the Prequalification Process descriptions, forms and specifications for inclusion in PDC contracts as may be required on PDC-owned construction projects, at PDC's discretion; and
2. Supply PDC with updated lists of prequalified contractors, as needed.

### **B. The PDC shall:**

## **X. TECHNICAL ASSISTANCE PROGRAM**

### **A. The Bureau shall:**

1. Provide program management services. Representatives from PDC will be involved in all stages of the Technical Assistance Program evaluation and monitoring.

### **B. PDC shall:**

1. Participate in Technical Assistance Program design changes and provider selection process.

## **XI. DURATION AND TERMINATION**



This IGA shall be effective from July 1, 2009 thru June 30, 2010. This IGA may be renewed annually mutual agreement of the Parties. Either party may terminate this IGA upon giving thirty (30) days written notice. In the event of termination the Bureau shall be entitled to payment for work performed prior to the notice of termination.

## **XII. COMPLIANCE WITH LAWS**

In connection with its activities under this IGA, the Parties shall comply with all applicable federal, state and local laws and regulations including the appropriations and budget limitation laws of each Party.

## **XIII. MISCELLANEOUS PROVISIONS**

The Bureau or PDC may amend this IGA only in writing and by mutual consent. This IGA supersedes all prior written or oral discussions or agreements concerning services to be performed by either Party.

## **XIV. DISPARITY STUDY**

**At the direction of the PDC project manager, the bureau will:**

1. Provide Fiscal Year 07/08 and 08/09 PDC Construction Contracting information directly to the consultant performing the disparity study.  
Information to include:
  - a) Vendor table (name, address, phone number, contact information, certification status)
  - b) Awarded Prime Contracts
  - c) Awarded Subcontracts
2. Assist PDC in the collection of "soft cost" contracting information for approximately 100 projects. "Soft Costs" as defined by this agreement relate to architectural and engineering contracts. The City will commit 2 staff members for a total of 40 hours. Information collected will be entered into the City's BizTrak database and provided to PDC in an Access table.

**CITY OF PORTLAND PROCUREMENT SERVICES****Approved as to Form**

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**Christine Moody, Chief Procurement Officer**

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**City Attorney****Date** \_\_\_\_\_**PORTLAND DEVELOPMENT COMMISSION**

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**Bruce A. Warner, Executive Director**      **Date** \_\_\_\_\_

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**PDC Legal Counsel**