

GRANT AGREEMENT NO. 32001246

This Grant Agreement ("Agreement") is between the CITY OF PORTLAND, OREGON ("CITY" OR "GRANTOR") and Metropolitan Contractor Improvement Partnership (MCIP OR "GRANTEE") in an amount not-to-exceed \$27,500.00. This Agreement may refer to the City and Contractor individually as a "Party" or jointly as the "Parties."

RECITALS:

- The City of Portland collects funds through its compliance-related activities to provide grant opportunities to organizations that will provide recruitment and training for women, minority and student pre-apprentices to enter the construction trades.
- The City's commitment to the Community Benefits Plans is reflected by its setting aside direct funding for technical assistance equal to .25% of the hard construction costs estimated for the two Parks projects.
- The City received proposals from organizations interested in assisting the City in providing construction technical assistance during the construction of the Beech and Gateway Parks.
- Technical Assistance will provide local business and interested groups the support necessary to complete work on the Beech and Gateway Projects while building capacity for future comparable projects.
- MCIP is a business support and training center focused on coaching DMWESB firms to increase their profitability and net worth by improving their business management systems.

AGREED:**I. ACTIONS TO BE TAKEN BY GRANTEE**

Pursuant to the above Recitals which are fully incorporated into this Agreement and in consideration of the grant funds provided by CITY, GRANTEE agrees to perform the following actions and/or spend grant funds in the following way:

Over the first 5 to 6 month period of the CM/GC contract, MCIP shall provide technical assistance to educate DMWESB firms, build business capacity and maximize DMWESB participation in these business building activities by:

- A. Conducting outreach to prospective DMWESB construction firms to make them aware of City projects and to actively encourage businesses to participate.
- B. Marketing to the DMWESB contractors training that will be meaningful to their business. Conducting four workshops that will focus the attendees attention on such topics as: how to build partnerships, City requirements that impact cost, bonding, workforce training and hiring, general conditions, schedule, prevailing wage, estimating and bookkeeping/administration, how to prepare a successful bid and win work as follows:
 1. Provide two technical workshops, one each for Beech Park and Gateway Park to explain the bid and work requirements and provide an opportunity to meet the project managers from the general contractors and ask technical questions about the project scope and schedule.
 2. Provide a workshop on "How to Bid and Work with the City of Portland".

3. Prepare, advertise and hold a workshop, "Efficient Construction Administration" addressing specifically how to properly prepare and manage reports, invoices and financial statements for workforce training, invoicing, BOLI, etc.*
- C. Providing drop-in hours during the bid period to coach businesses on estimating the projects.
- E. Offering an opportunity for four small businesses (two per project) to apply and receive 30 hours of business coaching for each business. Provide one-on-one support to sub-contractors in the following areas:
 1. Two sub-contractor businesses will receive estimating assistance and have their current estimating system evaluated and revised to improve their business bid/win ration. Help four (4) sub-contractors prepare the required project paperwork.
 2. Two other subcontractor business will receive assistance evaluating their administrative and bookkeeping processes and coaching to make their systems more efficient.

The above activities will be scheduled to help the DMWESB firms understand the City projects with specific emphasis on the Community Benefit Agreements requirements for each project. MCIP will target DMWESB firms within the 97220, 97230, 97216, 97233, 97266, and 97236 zip code boundaries.

*Workshop contents will not be exclusive to these projects, but rather, open to other DMWESB firms interested in bidding on any City of Portland projects.

II. SPECIFIC CONDITIONS OF THE GRANT

- A. Publicity: Nothing in this Agreement implies CITY's endorsement or support of the viewpoints expressed by GRANTEE. CITY reserves the right to request GRANTEE clarify CITY's disassociation or non-endorsement of GRANTEE's viewpoints.
- B. Grantee Representative: GRANTEE's authorized representative for this Agreement is Tony Jones [503-288-1211].
- C. City Grant Manager: The Grant Manager for this Agreement is Jorge Villavicencio [503-823-6191], or such other person as may be designated by CITY in writing.
- D. Billings/invoices/Payment: The Grant Manager is authorized to approve work and billings and invoices submitted pursuant to this Agreement and to carry out all other CITY actions referred to herein in accordance with this Agreement.
- E. Reports: GRANTEE will submit to the Grant Manager and Procurement Services an Initial Work Plan and Schedule, for approval, on or before November 16, 2015. Additional reports are required at the beginning, mid phase and completion of the program as part of the services or actions required of GRANTEE under this Agreement. GRANTEE will submit to the Grant Manager and to Procurement Services three comprehensive grant activities reports, to review and to issue payment. Those reports are;
 1. Baseline Report – due by November 23, 2015
 2. Mid Project Report is due no later than May 1, 2016 and
 3. Final Report is due no later than September 30, 2016.

The Baseline report shall contain

1. Initial Work Plan and Schedule.
2. List of workshops to be offered.
3. Anticipated participation per workshop.
4. Anticipated results from the workshops and training offered.

The Mid Project Technical Assistance report shall contain

1. List of workshops, training, one-on-one assistance provided, or any other relevant technical Assistance Support delivered to DMWESB companies.
2. It should also include the list of firms reached, trained, and testimonials from those whose services benefited and were able to secure construction contracts. It is important to identify the type of company, ethnicity and gender of the principal of those companies whose services were provided.
3. Provide attendance listing for each of the four workshops. Use charts to report the attendance by workshop, indicating the gender, ethnicity or any other relevant information that identify the companies or individuals served.
4. Recommendations for the next phase based on the results found from the first series of trainings and workshops.

The Final Report shall contain:

1. General overview of the projects served, the outreach provided, workshops, one-on-one training delivered, list of DMWESB companies, by ethnicity and gender, that benefited from the workshops and training,
2. Provide attendance listing for each of the four workshops. Use charts to report the attendance by workshop, indicating the gender, ethnicity or any other relevant information that identify the companies or individuals served.
3. Identify the subcontractors afforded the opportunity to have one-on-one support; and
4. List of activities undertaken, successes, and lessons learned

Assistance Services will extend until September 30, 2016.

CITY reserves the right to request additional documentation to support GRANTEE's expenditure of grant funds had complied with the Agreement and/or interim reports or information on the progress of work, services or actions required from GRANTEE.

III. PAYMENTS

A. GRANTEE will receive its funding as follows:

1. Initial Work Plan and Schedule (40%) – \$11,000
2. Technical Assistance Mid-Project Report (30%) – \$8,250

3. Technical Assistance Final Report (30%) - \$8,250

B. If for any reason GRANTEE receives a grant payment under this Agreement and does not use grant funds, provide required work or services or perform as required by the Agreement, then CITY may at its option terminate this Agreement, reduce or suspend any grant funds that have not been paid, require GRANTEE to immediately refund to CITY the amount improperly expended, return to CITY any unexpended grant funds received by GRANTEE, require GRANTEE to fully refund any or all grant funds received, or any combination thereof.

C. Payments under this Agreement may be used only to provide the services or take the actions required under this Agreement and shall not be used for any other purpose.

D. If applicable, GRANTEE will keep vendor receipts and evidence of payment for materials and services, time records, payment for program wages/salaries and benefits. All receipts and evidence of payments will be promptly made available to the Grant Manager or other designated persons, upon request. At a minimum, such records shall be made available and will be reviewed as part of the annual monitoring process if this is a multi-year Agreement, or provided in support of the Final Report.

IV. GENERAL PROVISIONS

A. Cause for Termination: Cure. It shall be a material breach and cause for termination of this Agreement if GRANTEE uses grant funds outside of the scope of this Agreement, or if GRANTEE fails to comply with any other term or condition or to perform any obligations under this Agreement within thirty (30) days after written notice from CITY. If the breach is of such nature that it cannot be completely remedied within the thirty (30) day cure period, GRANTEE shall commence cure within the thirty (30) days, notify CITY of GRANTEE's steps for cure and estimate time table for full correction and compliance, proceed with diligence and good faith to correct any failure or noncompliance, and obtain written consent from CITY for a reasonable extension of the cure period.

B. No Payment or Further Services Authorized During Cure Period. During the cure period, CITY is under no obligation to continue providing additional grant funds notwithstanding any payment schedule indicated in this Agreement. GRANTEE shall not perform services or take actions that would require CITY to pay additional grant funds to GRANTEE. GRANTEE shall not spend unused grant funds and such unused funds shall be deemed held in trust for CITY. GRANTEE shall be solely responsible for any expenses associated with cure of its noncompliance or failure to perform.

C. Termination for Cause. Termination for cause based on GRANTEE's misuse of grant funds shall be effective upon notice of termination. Termination for cause based on failure to comply or perform other obligations shall be effective at the end of the 30 day period unless a written extension of cure period is granted by CITY. GRANTEE shall return all grant funds that had not been expended as of the date of the termination notice. All finished or unfinished documents, data, studies, and reports prepared by GRANTEE under this Agreement shall, at the option of CITY, become the property of CITY; and GRANTEE may be entitled to receive just and equitable compensation for any satisfactory work completed on such documents up until the time of notice of termination, in a sum not to exceed the grant funds already expended.

D. Penalty for Termination for Cause. If this Agreement is terminated for cause, CITY, at its sole discretion, may seek repayment of any or all grant funds tendered under this Agreement, and decline to approve or award future grant funding requests to GRANTEE.

E. Termination by Agreement or for Convenience of City. CITY and GRANTEE may terminate this Agreement at any time by mutual written agreement. Alternatively, CITY may, upon thirty (30) days written notice, terminate this agreement for any reason deemed appropriate in its sole discretion.

If the Agreement is terminated as provided in this paragraph, GRANTEE shall return any grant funds that would have been used to provide services after the effective date of termination. Unless the Parties agree otherwise, GRANTEE shall finish any work and services covered by any grant funds already paid and shall not commence any new work or services which would require payment from any unused grant funds.

F. Changes in Anticipated Services. If, for any reason, GRANTEE's anticipated services or actions are terminated, discontinued or interrupted, CITY's payment of grant funds may be terminated, suspended or reduced. GRANTEE shall immediately refund to CITY any unexpended grant funds received by GRANTEE.

G. Amendment. The Grant Manager is authorized to execute amendments to the scope of the services or the terms and conditions of this Agreement, provided the changes do not increase CITY's financial risk. Increases to the grant amount must be approved by the City Council unless the City Council delegated authority to amend the grant amount in the ordinance authorizing this Agreement. Amendments to this Agreement, including any increase or decrease in the grant amount, must be in writing and executed by the authorized representatives of the Parties and approved to form by the City Attorney.

H. Non-discrimination; Civil Rights. In carrying out activities under this Agreement, GRANTEE shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, age, handicap, familial status, sexual orientation or national origin. GRANTEE shall take actions to insure that applicants for employment are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, age, handicap, familial status, sexual orientation or national origin. Actions shall include but not be limited to, the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. GRANTEE shall post in conspicuous places, available to employees and applicants for employment, notices provided by CITY setting for the provisions of this nondiscrimination clause. GRANTEE shall state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, or national origin. GRANTEE shall incorporate the foregoing requirements of this paragraph in all of other agreements for work funded under this Agreement, except agreements governed by Section 104 of Executive Order 11246.

I. Maintenance of and Access to Records. GRANTEE shall maintain all books, general organizational and administrative information, documents, papers, and records of GRANTEE that are related to this Agreement or GRANTEE's performance of work or services, for four (4) years after CITY makes final grant payment or the termination date of this Agreement, whichever is later. GRANTEE shall provide CITY prompt access to these records upon request and permit copying as CITY may require.

J. Audit. CITY may conduct financial or performance audit of the billings and services under this Agreement or GRANTEE records at any time in the course of this Agreement and during the four (4) year period established above. As applicable, audits will be conducted in accordance with generally accepted auditing standards as promulgated in *Government Auditing Standards* by the Comptroller General of the United States General Accounting Office. If an audit discloses that payments to GRANTEE exceeded the amount to which GRANTEE was entitled, then GRANTEE shall repay the amount of the excess to CITY.

K. Indemnification. GRANTEE shall hold harmless, defend, and indemnify CITY, and its officers, agents and employees against all claims, demands, actions, and suits (including all attorney fees and costs) brought against any of them arising from actions or omissions of GRANTEE and/or its contractors in the performance of this Agreement. This duty shall survive the expiration or termination of this Agreement.

L. Insurance. GRANTEE shall obtain and maintain in full force at its expense, throughout the duration of the Agreement and any extension periods, the required insurance identified below. CITY reserves the right to require additional insurance coverage as required by statutory or legal changes to the maximum liability that may be imposed on Oregon cities during the term of this Agreement.

1. Workers' Compensation Insurance. GRANTEE, its contractors and all employers working under this Agreement shall comply with ORS Chapter 656 and as it may be amended from time to time. Unless exempt under ORS Chapter 656, GRANTEE, its contractors and any employers working under this Agreement shall maintain coverage for all subject workers.

2. Commercial General Liability Insurance: GRANTEE shall have commercial general liability insurance covering bodily injury, personal injury, property damage, including coverage for independent contractor's protection (required if any work will be subcontracted), premises/operations, contractual liability, products and completed operations, in a per occurrence limit of not less than \$1,000,000, and aggregate limit of not less than \$2,000,000.

3. Automobile Liability Insurance: GRANTEE shall have automobile liability insurance with coverage of not less than \$1,000,000 each accident. The insurance shall include coverage for any auto or all owned, scheduled, hired and non-owned auto. This coverage may be combined with the commercial general liability insurance policy.

4. Additional Insured: The liability insurance coverages, except Professional Liability, Errors and Omissions, or Workers' Compensation where applicable, shall be without prejudice to coverage otherwise existing, and shall name the City of Portland and its bureaus/divisions, officers, agents and employees as Additional Insureds, with respect to the GRANTEE's or its contractor's activities to be performed or services to be provided. Coverage shall be primary and non-contributory with any other insurance and self-insurance. Notwithstanding the naming of additional insureds, the insurance shall protect each additional insured in the same manner as though a separate policy had been issued to each, but nothing herein shall operate to increase the insurer's liability as set forth elsewhere in the policy beyond the amount or amounts for which the insurer would have been liable if only one person or interest had been named as insured.

5. Continuous Coverage; Notice of Cancellation: GRANTEE shall maintain continuous, uninterrupted coverage for the duration of the Agreement. There shall be no termination, cancellation, material change, potential exhaustion of aggregate limits or non renewal of coverage without thirty (30) days written notice from GRANTEE to CITY. If the insurance is canceled or terminated prior to termination of the Agreement, GRANTEE shall immediately notify CITY and provide a new policy with the same terms. Any failure to comply with this clause shall constitute a material breach of the Agreement and shall be grounds for immediate termination of this Agreement.

6. Certificate(s) of Insurance: GRANTEE shall provide proof of insurance through acceptable certificate(s) of insurance, along with applicable endorsements, to CITY at execution of the Agreement and prior to any commencement of work or delivery of goods or services under the Agreement or initial payment of grant funds. The certificate(s) will specify all of the parties who are endorsed on the policy as Additional Insureds (or Loss Payees). Insurance coverages required under this Agreement shall be obtained from insurance companies acceptable to CITY. GRANTEE shall pay for all deductibles and premium from its non-grant funds. CITY reserves the right to require, at any time, complete and certified copies of the required insurance policies evidencing the coverage required. In lieu of filing the certificate of insurance required herein, if GRANTEE is a public body, GRANTEE may

furnish a declaration that GRANTEE is self-insured for public liability and property damage for a minimum of the amounts set forth in ORS 30.270.

M. Grantee's Contractor, Non-Assignment. If GRANTEE utilizes contractors to complete its work under this Agreement, in whole or in part, GRANTEE shall require any of its contractors to agree, as to the portion contracted, to fulfill all obligations of the Agreement as specified in this Agreement. However, GRANTEE shall remain obligated for full performance hereunder, and CITY shall incur no obligation other than its obligations to GRANTEE hereunder. This Agreement shall not be assigned or transferred in whole or in part or any right or obligation hereunder, without prior written approval of CITY.

N. Independent Contractor Status. GRANTEE, and its contractors and employees are not employees of CITY and are not eligible for any benefits through CITY, including without limitation, federal social security, health benefits, workers' compensation, unemployment compensation, and retirement benefits.

O. Conflict of Interest. No CITY officer or employee, during his or her tenure or for two (2) year thereafter, shall have any interest, direct or indirect, in Grant Agreement or the proceeds thereof. CITY officer or employee who selected GRANTEE, participated in the award of this Agreement or managed this Agreement shall not seek the promise of employment from GRANTEE or be employed by GRANTEE during the term of the Agreement, unless waiver is obtained from CITY in writing.

P. Oregon Law and Forum. This Agreement shall be construed according to the laws of the State of Oregon without regard to principles of conflicts of law. Any litigation between the Parties arising under this Agreement or out of work performed under this Agreement shall occur in Multnomah County Circuit Court or the United States District Court for the State of Oregon.

Q. Compliance with Law. GRANTEE and all persons performing work under this Agreement shall comply with all applicable federal, state, and local laws and regulations, including reporting to and payment of all applicable federal, state and local taxes and filing of business license. If GRANTEE is a 501(c)(3) organization, GRANTEE shall maintain its nonprofit and tax exempt status during this Agreement. GRANTEE shall be EEO certified by CITY in order to be eligible to receive grant funds.

R. Independent Financial Audits/Reviews. Any grantee receiving \$300,000 or more in City funding, in any program year, is required to obtain an independent audit of the City-funded program(s). Any grantee receiving between \$25,000 and \$300,000 in City funds, in any program year, is required to obtain an independent financial review. Two copies of all required financial audits or reviews shall be submitted to the Grant Manager within thirty days of audit completion or upon request by the Grant Manager.

S. Severability. The Parties agree that if any term or provision of this Agreement is declared by a court of competent jurisdiction to be illegal or in conflict with any law, the validity of the remaining terms and provisions shall not be affected, and the rights and obligations of the Parties shall be construed and enforced as if the Agreement did not contain the particular term or provision held to be invalid.

T. Merger. This Agreement contains the entire agreement between the Parties and supersedes all prior written or oral discussions or agreements. There are no oral or written understandings that vary or supplement the conditions of this Agreement that are not contained herein.

U. Program and Fiscal Monitoring. CITY shall monitor on an as-needed basis to assure Agreement compliance. Monitoring may include, but are not limited to, on site visits, telephone interviews and review of required reports and will cover both programmatic and fiscal aspects of the

Agreement. The frequency and level of monitoring will be determined by the Grant Manager. Notwithstanding such monitoring or lack thereof, GRANTEE remains fully responsible for performing the work, services or obligations required by this Agreement in accordance with its terms and conditions.

V. Third Party Beneficiaries. There are no third party beneficiaries to this Agreement and may only be enforced by the Parties.

W. Electronic Transaction; Counterparts. The Parties agree that they may conduct this transaction, including any amendments, by electronic means, including the use of electronic signatures. This Agreement, and any amendment, may be executed in any number of counterparts, each of which shall be deemed an original, but all of which together shall constitute a single instrument.

V. TERM OF GRANT

The terms of this Agreement shall be effective when an ordinance is passed by City Council and the Agreement is executed by all the Parties, as shown by the authorized signatures below, and shall remain in effect during any period for which GRANTEE has received grant funds or when obligations are due from GRANTEE.

This Grant Agreement and all work by GRANTEE shall terminate no later than October 30, 2016.

CITY OF PORTLAND

GRANTEE

Name: _____

Name: _____

Title: _____

Title: _____

Date: _____

Date: _____

Approved as to Form

City Attorney