

EXHIBIT A

Equity, Inclusion, and Diversity Plan

Portland Building Reconstruction Project

RFP No. 00000260

Exhibit 2-F



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PREAMBLE

Whereas, the City of Portland (“Owner”) desires to provide for the efficient, safe, quality, and timely completion of the construction of the Portland Building Renovation Project (the “Project”), in a manner designed to afford the lowest reasonable costs to the Owner, and the public it represents, and the advancement of public policy objectives;

Whereas, the Owner recognizes that, as a public owner, it has a unique role in the construction industry to ensure that public dollars spent benefit the community that it serves and does not indirectly or passively perpetuate discrimination against or historical under-inclusion of minorities and women and low income people in the construction industry;

Whereas, the Owner is entitled to retain and exercise full and exclusive authority for the management of its operations, and shall remain the sole judge in determining the competency and qualifications of all firms working in support of the Project, including all prime Contractors and Subcontractors, with the corresponding right to hire or reject such potential contractors on its public works projects;

Whereas, the Owner recognizes that it and its Contractor will play an integral and critical role in ensuring that the Project diversity, apprenticeship, local investment, and inclusivity objectives are met;

Whereas, this plan is intended to have a positive impact and exemplify the Owner’s commitment to help grow both the demand for and capacity of disadvantaged, minority-owned, women-owned, and emerging small businesses (“D/M/W/ESB”);

Whereas, one purpose and objective of the Portland Building Oversight Committee is in recognition of the necessity for tracking and communicating the achievement of the diversity goals of the Equity, Inclusion, and Diversity Plan (the “Plan”); and

Whereas, the Owner will dedicate funds up to 1% of the Hard Construction Costs of the Project for opportunities and enhancements in order to create means by which to build community capacity and/or create economic opportunities for people of color, women, economically disadvantaged individuals and local contractors and organizations. This can be done through capacity building, technical assistance, workforce training, and apprenticeship opportunities.

NOW, THEREFORE, IT IS AGREED:

DEFINITIONS

For purposes of this Plan, the following definitions shall apply:

Contract means a sale or other disposal, or a purchase, lease, rental or other acquisition, by the Owner of personal property, services, including personal services, public improvements, public works, minor alterations, or ordinary repair or maintenance necessary to preserve a public

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improvement; the written agreement between the Owner and the Contractor that sets forth the rights and obligations of the parties regarding the Work to be performed.

Contractor means any person or entity, in whatever legal form, that enters into a Contract with the Owner for the Project.

Disadvantaged Business Enterprise (DBE) means a for-profit small business entity where socially and economically disadvantaged individuals own at least 51% interest and also control management and daily business operations. A DBE must be properly certified within the State of Oregon Certification Office of Business Inclusion and Diversity (“COBID”).

Emerging Small Business Enterprise (ESB) means only those firms certified as an ESB by COBID. Participation is restricted to Oregon-based firms with 19 or fewer employees, with average annual gross receipts over the last three years not exceeding \$1.7 million for construction firms and \$300,000 for non-construction-related firms. An ESB must be properly licensed, legally registered, and an independently owned Oregon firm.

Equal Employment Opportunity (EEO) means the policies and procedures of the organization to ensure non-discrimination for all employees, especially women, minorities, and persons with disabilities. All Contract provisions require non-discrimination in employment by Contractor and Subcontractors.

Hard Construction Costs means the cost to build improvements on a property, all related construction labor and materials, including fixed and built-in equipment costs. The hard construction costs for the purposes of this agreement shall be as identified at the time of GMP. Costs not directly related to the construction of an improvement, such as overhead, administration or taxes, Owner’s allowance, contingency or other professional services shall not be considered as part of the Hard Construction Costs.

Minority Business Enterprise (MBE) means only those firms certified as a minority-owned businesses by COBID. A minority is defined to include Black American, Hispanic American, Native American, Asian Pacific American, and Subcontinent Asian American. The minority representative must own at least 51% of the firm and must have control of the management and daily operations of the firm.

Owner means the City of Portland.

Subcontractor means an individual, partnership, firm, corporation, or any combination thereof, with whom the Contractor or a Subcontractor, at any tier, enters into a subcontract to perform a part of the Work.

Supplier means the entity who owns, operates, or maintains a store, warehouse, or other establishment in which the materials or supplies required for the performance of the Contract are bought, kept in stock, and regularly sold to the public in the usual course of business.

Women Business Enterprise (WBE) means only those firms certified as women-owned businesses by COBID. The woman representative must own at least 51% of the firm and must have control of the management and daily operations of the firm.

Work means all material, labor, tools, equipment, and all appliances, machinery, systems, transportation, and appurtenances necessary to perform and complete the Contract, and such additional items not specifically indicated or described which can be reasonably inferred as belonging to the item described or indicated and as required by good practice to provide a complete, functioning, and satisfactory system or structure.

ARTICLE 1 - PURPOSE

1.1 The purpose of this Plan is to ensure that the public served by the Owner receives the fullest benefit of the Project undertaken by the Owner, to ensure that the Owner does not indirectly perpetuate the under-inclusion of racial and ethnic minorities and women in the construction industry and trades, and to ensure that the Owner receives the benefit of a highly skilled, well-trained and diverse workforce and Contractor and Subcontractor pool.

1.2 The goal of the Project is to remedy the water intrusion issues, improve the seismic resiliency, improve accessibility, modernize the building systems, and improve the working space for staff. It also provides the opportunity to repair the Portland Building to a level that will ensure its place in Portland’s history, make the building a more welcoming community resource, and reduce long-term maintenance and operational costs.

1.3 The reconstruction of the Portland Building shall be completed for an amount not to exceed \$195,000,000 (this is not the “Hard Construction Cost”) for the design, re-location, reconstruction and project management and shall be completed by the end of 2020.

1.4 The timely construction of this Project will require substantial numbers of employees from construction and supporting crafts possessing skills and qualifications that are vital to its completion. The Contractor will furnish skilled, efficient craft workers for the construction of the Project and participate in the training of apprentices and journey workers across all trades.

ARTICLE 2 - SCOPE OF PLAN

2.1 This Plan applies to all new construction, rehabilitation, alteration, conversion, extension, painting, repair, improvement or other construction Work performed at the Project site that is contracted by the Owner and the Contractor per the terms of the Contract for the Project.

2.2 The provisions of this Plan apply to all persons or entities, who are performing Work or providing construction services or materials covered by the provisions of this Plan and notice shall be included in all contracts and/or subcontracts at every tier level pertaining to the Project.

2.3 This Plan is subordinate to all applicable laws, rules, regulations, ordinances or other governmental requirements pertaining to the Project and the Contract itself.

2.4 Nothing contained herein shall be construed to prohibit or restrict the Owner, or its employees from performing Work not covered by this Plan on the Project site.

ARTICLE 3 – COMMUNITY APPRENTICESHIP GOALS

3.1 In recognition of the need to maintain continuing support of programs designed to develop adequate numbers of competent workers in the construction industry the Contractor and Subcontractors with subcontracts of \$100,000 or more shall ensure that a minimum of twenty percent (20%) labor hours in each apprenticeable trade are worked by BOLI registered apprentices or federally registered apprentices in each apprenticeable trade.

Contractor and subject Subcontractors shall be required to perform and/or provide the following:

- a. Provide all apprentices a fair chance to perform successfully, allowing for possible lack of previous experience, recognizing that they are responsible for providing on-the-job training, and that all apprentices should not be expected to have previous experience.
- b. Pay apprentices in accordance with the state or federal prevailing wage rate applicable to the Project. The apprentices must be enrolled in state-approved apprenticeship programs during all of the hours worked on the Project by the apprentices.
- c. Make reasonable attempts to keep apprentices working and train them in all work processes described in the apprenticeship standards, and shall match minority, female, or disadvantaged apprentices who may need support to complete their apprenticeship programs with a late-term or journey-level mentor.
- d. Use as a “first source” for entry into apprenticeship programs recognized pre-apprenticeship programs and community-based organizations which have been approved by BOLI for hiring to meet the apprenticeship participation required under this Plan.

3.2 Contractors and subject Subcontractors shall register with BOLI as a Training Agent and ensure that all Subcontractors who have contracts in the amount of \$100,000 or more are registered as Training Agents. However, registration as a Training Agent in a specific trade is not required if there are no training opportunities in that trade on the Project, based on the maximum ratio allowed by BOLI.

- a. Only training programs approved by and registered with BOLI may be used to fulfill training requirements under the Plan.
- b. Training is intended to be primarily on-the-job training in apprenticeable crafts, and does not include classifications such as flag person, timekeeper, office engineer, estimator, bookkeeper, clerk/typist, fire fighter, or secretary. Hours performed in crafts which are not apprenticeable occupations are exempt from the training

requirements, however many diverse employment opportunities exist in those areas listed above that could advance equity and inclusion.

- c. Exemptions to the training requirements must be approved by the Owner in writing prior to starting Work on the Project. Written requests for exemptions related to the training requirements will be considered by the Owner during the course of the Project, only for extreme circumstances, and must also be approved in writing. All requests to exempt all or any portion of the Work on the Project shall be submitted to the Owner fourteen (14) days before any Work on the Project begins. Requests for exemptions should be directed to the Owner's Contract Compliance Specialist.

3.3 Contractors and subject Subcontractors must follow all of these steps in seeking apprentice referrals:

- a. Contact the appropriate apprenticeship program or dispatch center to request apprentices who are enrolled in the apprenticeship program;
- b. Request female or minority apprentices from the union or open shop apprenticeship program if such an action will help remedy historical underutilization in the Contractor's or Subcontractor's workforce;
- c. Keep a written record of the request for apprentices, including name of contact person at apprenticeship program, phone, fax, date, time, job location, start date, etc.; and
- d. Make reasonable and necessary efforts to recruit apprentice applicants from community organizations/recruitment resources, and seek to enroll them into an apprenticeship program, if the apprenticeship program is unable to supply an apprentice and if the program is open for applications or allows direct entry from community resources.

3.4 In addition to the conditions outlined above and if applicable to this Project, should the Contractor and subject Subcontractors be unable to fulfill its 20% requirement, then the Contractor or Subcontractor may, through formal approval by the Owner, also use methods (a) or (b) below.

- a. Include hours worked on the Project by apprentices who are required to be away from the job site for related training during the course of the Project, but only if the apprentice is rehired by the same Contractor or Subcontractor after completion of related training; or
- b. Include hours worked on the Project by graduates of state-registered apprenticeship programs, provided that such hours are worked within the 12-month period following the apprentice's completion date.

3.5 Contractor and Subcontractors agree to facilitate the entry of historically disadvantaged or underrepresented people, including racial and ethnic minorities, women, and low-income people,

who are interested in careers in the construction industry. To that end, the Contractor will strive in good faith to achieve the workforce diversity goals specified in Article 4 for the recruitment and retention of apprentices from historically disadvantaged or underrepresented communities, including racial and ethnic minorities, women, and low-income people. The Contractor and Subcontractors shall be required to submit and maintain the following records:

- a. Proof of Contractor's and subject Subcontractors' registration as Training Agents with BOLI prior to beginning any Work on the Project. Failure to sign up as a Training Agent prior to beginning Work may subject the Contractor or subject Subcontractors to penalties.
- b. Projected Hiring Needs, submitted for each Subcontractor required to register as a Training Agent, prior to beginning Work on the Project or within five (5) Calendar Days after the execution of the applicable subcontract, whichever occurs first. Work by a Subcontractor shall not begin prior to submission of such documentation. Failure to sign up as a Training Agent prior to beginning Work may subject the Contractor or subject Subcontractor to penalties.
- c. Records of the diversity of the on-site workforce, such as certified payroll or other required reporting forms, sufficient to allow the Owner to determine whether the Project is meeting the goals and to assess the rates of apprenticeship hiring of racial and ethnic minorities and women. Contractor and subject Subcontractors shall submit this information to the Owner on a monthly basis.
- d. Documentation of good faith efforts made to meet the apprenticeship Project hour goals for the duration of the Project. Such documentation shall be submitted to the Owner on a monthly basis.
- e. The Monthly Employment Report must be submitted to the Owner by the 5th day of each month. The Contractor and subject Subcontractors shall follow the submittal instructions on the report form. All hours subject to prevailing wage rates on public projects, in addition to supervisors, foremen, and superintendents, shall be reported.

ARTICLE 4 – COMMUNITY WORKFORCE RECRUITMENT AND RETENTION GOALS

4.1 The Contractor and Subcontractors with subcontracts of \$100,000 or more will be required to facilitate the recruitment, retention and promotion of historically disadvantaged or underrepresented people, including racial and ethnic minorities, women, and low-income people who are interested in careers in the construction industry. To that end, the Contractor will make all reasonable and necessary efforts to achieve the workforce diversity goals for the life of the Project. The workforce diversity goals for minority apprentice workers shall be twenty-two percent (22%) of Project apprentice level hours or greater by trade, and a separate goal for women apprentice workers shall be nine percent (9%) of Project apprentice level hours or greater by trade for a total of 31% minority and women apprentices. In addition, a separate workforce goal for

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minority journey workers shall be twenty-two percent (22%) of Project journey level hours or greater by trade, and a goal for women journey workers shall be six percent (6%) of Project journey level hours or greater by trade for a total of 28% minority and women journey workers. These workforce diversity goals apply to the workforce of the Contractor and all Subcontractors with subcontracts of \$100,000 or more on the Project. While the Contract provides and requires the Contractor and Subcontractors to satisfy the Owner's workforce diversity goals, the Plan calls for a more robust equity approach for this Project.

4.2 Contractor and Subcontractors shall make their best efforts to recruit and retain historically disadvantaged or underrepresented people, including racial and ethnic minorities, women, and low-income people. Efforts shall include:

- a. Allow scheduled job site visits by participants in community programs, as safety allows, to increase awareness of job and training opportunities in the construction trades.
- b. As required by the Owner, accept and keep applications from qualified women and minorities for the duration of the Project, and contact them when an opening occurs. Keep applications of those who were qualified and not selected for an opening, and contact those persons when an opening occurs.
- c. Maintain a harassment-free workplace by conducting a pre-ground breaking review of the Owner's Prohibition Against Workplace Harassment, Discrimination and Retaliation Policy, and repeating annually.
- d. Ensure that employees are knowledgeable about the Contractor's or Subcontractor's policies if they need to report a harassment problem. Provide a complete orientation to the job site to all workers, including procedures for reporting problems, and expected crew behaviors.
- e. Review and disseminate, at least annually, the Contractor's and Subcontractor's EEO policy and affirmative action obligations under this Plan with all employees having any responsibility for hiring, assignment, layoff, termination or other employment decisions.
- f. Regularly provide cultural competency training to all managers, supervisors, and owners, and conduct a review, at least annually, of all managers' and supervisors' adherence to and performance under the Contractor's and Subcontractor's EEO policies, affirmative action obligations, and cultural competencies.
- g. Take steps to reduce feelings of isolation among racial and ethnic minorities and women by making every attempt to have several racial and ethnic minorities and women at the job site and by informing such workers about available support systems.

- h. Provide adequate toilet facilities for women on the job site, by maintaining a clean, accessible and locked toilet for female crew members, and by removing graffiti immediately to help create a respectful environment.
- i. Contractor and Subcontractors shall maintain documentation of their best efforts of compliance with the strategies as set forth above and shall submit such documentation to the Owner as requested.

ARTICLE 5 – SUBCONTRACTING GOALS

5.1 The utilization goal for firms that have been certified by the State of Oregon as a Disadvantaged Business Enterprise, Minority-Owned Business, a Women-Owned Business, or an Emerging Small Business (“D/M/W/ESB”) is twenty-two percent (22%) of the Hard Construction Costs for the Project. The aspirational goal for disaggregation shall be a minimum of 12% MBE (DBE), 5% WBE (DBE) and 5% ESB.

5.2 It is recognized that one of the barriers to entry for many D/M/W/ESBs is a lack of proven success on commercial construction projects of the type generally contracted for by Owner. This Plan identifies that the Contractor and Subcontractors shall make their best efforts to utilize D/M/WBE certified Subcontractors. Efforts shall include:

- a. Identify subcontracting opportunities that will provide opportunities for D/M/W/ESBs to successfully bid, and which would build the capacity of these firms to bid for larger contracts on future Owner projects.
- b. Utilization of the Owner’s Prime Contractor Development Program (PCDP) participants as a first source in soliciting for scopes of Work for the Project.
- c. Assist qualified potential D/M/W/ESB bidders in the bidding and estimating process.
- d. Once subcontracts are secured, assist the successful D/M/W/ESB Subcontractor by providing technical assistance as necessary to ensure the successful completion of the subcontract. Successful D/M/W/ESB bidders on these subcontracts shall agree to mentoring assistance.
- e. In order to allow smaller qualified contractors to successfully bid on subcontracts, the Owner shall require Contractor and Subcontractors holding subcontracts in excess of \$200,000 to provide targeted Work scopes where feasible as determined by the Owner.
- f. Purchase of Subcontractor Default Insurance meeting the requirements of payment and performance bonds as set forth in the statute, instead of requiring surety bonds from D/M/W/ESB Subcontractors. If an OCIP/CCIP is executed on this Project, this condition may become a part of that policy.

- g. Contractor is required to negotiate with Suppliers to purchase supplies and materials at best possible rates and shall require Suppliers to make available to all bidders those materials and supplies at the same cost.
- h. To ensure that agreed upon goals and aspirations are met, and to assist in the implementation and monitoring, the Contractor's designated diversity manager is required to participate during the life of the Project. The diversity manager will provide assistance to the Contractor and Subcontractors in the preparation of D/M/W/ESB procurement procedures and ensure Contractor and Subcontractor compliance with Plan requirements.

5.3 The procurement of D/M/W/ESBs for the Project will consist of an open, fair and competitive solicitation process. Contractor will use the procurement methods outlined herein to bring about the utilization of D/M/W/ESBs. The process, at a minimum, will include timely public-advertisement of solicitations; availability of and access to specifications and plans; identification of all D/M/W/ESB opportunities by divisions of Work; facilitating D/M/W/ESB outreach; directing prospective bidders to D/M/W/ESBs; and evaluating bids and proposals received for compliance with the Plan's solicitation requirements. The following criteria will be used in creating Work packages for all subcontracted scopes of Work, including those targeted for D/M/W/ESBs:

- Work normally subcontracted
- Available D/M/W/ESBs
- Direct Negotiations
- Informal packages not greater than \$200,000
- Formal packages greater than \$200,000

Contractor, in collaboration with the Owner, will review all D/M/W/ESB Work packages against these criteria to ensure maximum opportunities are brought forward while mitigating risk, cost and schedule impacts. Contractor will prepare a D/M/W/ESB solicitation package for each scope of Work identified for D/M/W/ESBs. This information will be utilized for outreach coordination and solicitation purposes. All solicitations will at a minimum comply with the Plan requirements.

a. Business Requirements

The Contractor shall provide the obligation to comply with the provisions of this Plan in all of its contracts with Subcontractors. The failure of the Contractor or the Subcontractors hereof, to comply with this Plan shall constitute a breach of a material provision of the Contract Documents by the Contractor. This includes, but is not limited to, compliance with all applicable federal, state, and local laws in regards to all matters concerning this Plan, including conducting business in the city of Portland. Accordingly, all Subcontractors and Suppliers must be in compliance with: the Owner's business tax registration; Equal Employment Opportunity (EEO) certification; Equal Benefits; insurance and bonding requirements; the Americans with Disabilities Act (ADA); and Construction Contractors Board or Landscape Contractors Board licensing as applicable.

b. Identified Bidding Opportunities

Contractor will identify all divisions of Work that will be subcontracted. Outreach will start during the pre-construction services phases to provide advance notice to D/M/W/ESBs. Contractor will contact firms by email and/or fax notifying them of the anticipated Work available on the Project. Information will be posted on the Contractor's website to facilitate ascertaining the interest of D/M/W/ESBs in the Work of the Project. The advance notice will also be sent to key trade and business organizations that promote utilization of minorities and women in public works projects. It is expected that outreach will continue during the life of the Project and will be tailored to specific opportunities made available in solicitation packages. Continued outreach will minimize the risk of overlooking D/M/W/ESBs with an interest in the Project. Regular progress reports on the achievement of those objectives should also be reported back to the key trade and business organizations identified through this process.

c. Solicitation Methods

Contractor will procure all Subcontractors and Suppliers for all divisions of Work in the completion of the Project using the following methods:

- 1) Direct Negotiations - solicitation packages up to \$100,000 (limited to circumstances that the Owner and the Contractor agree are necessary to meet certain requirements under the Contract)
- 2) Informal Solicitations - solicitation packages not greater than \$200,000
- 3) Formal Price Based Solicitations - solicitation packages greater than \$200,000
- 4) Formal Qualification Based - solicitation packages greater than \$200,000

Contractor will be required provide a solicitation package to interested D/M/W/ESBs and/or make it available for pick-up. The solicitation packages will include all Owner contracting requirements as referenced in the Project's Contract Documents. Before a solicitation is released, the Owner's Contract Compliance Specialist and the Owner's Representative will be provided with a copy of the solicitation package for review and comment. Contractor will make themselves available to assist prospective D/M/W/ESB bidders in understanding solicitation requirements. The following requirements shall also apply:

- 1) Direct Negotiation - where the estimated Work package value is up to \$100,000
Project Work packages at this level will be negotiated directly with a D/M/W/ESB. Only one D/M/W/ESB need be solicited in this category and contract award may occur provided the bid amount is up to \$100,000 and other bid requirements are properly met. If no D/M/W/ESB is available, the Work package will be bid to the open market or may be combined with any other contract package.

All required documentation will be provided to the Owner's Contract Compliance Specialist.

- 2) Informal Solicitation - where the estimated Work package is greater than \$50,000 and

less than \$200,000

Project Work packages at this level will not be publicly advertised. The solicitation will target a minimum of five D/M/W/ESBs in each division of Work. Contractor or Subcontractor shall send outreach letters to D/M/W/ESBs until a total of five have responded as having interest in bidding the package. If no bids are received, the Work package will be bid to the open market. Contractor's diversity manager should inquire why expected bidders did not bid in order to inform future bid processes.

Contractor will expand the outreach efforts to the open market only if less than five D/M/W/ESBs have responded as having interest in bidding the package.

All required documentation of good faith efforts (Form 1 & 2) will be provided to the Owner's Contract Compliance Specialist.

3) Formal Price Based Solicitation - where the estimated Work package is greater than \$200,000

Project Work packages at this level will be publicly advertised; however, outreach invitations will be sent to D/M/W/ESBs in each division of Work until a total of five have responded in having interest in bidding the package. Project solicitation packages will be advertised in the *Daily Journal of Commerce*, and a minimum of two minority publications (e.g., *El Hispanic News*, *The Skanner*, *The Portland Observer*, *The Asian Reporter*).

All documentation of advertisements and good faith efforts (Form 1 & 2) will be provided to the Owner's Contract Compliance Specialist.

Contractor will maintain three (3) full sets of plans and specifications for solicitation packages for review at local plan centers, such as (but not limited to), Daily Journal of Commerce, Oregon Association of Minority Entrepreneurs (OAME) Plan Center, Metropolitan Contractors Improvement Partnership (MCIP), and Ford Graphics. Confidential drawings must be handled separately and will only be distributed following the Owner's Confidentiality Policy.

4) Formal Qualification Based Method - where the estimated Work package is greater than \$200,000

Where the Work package involved requires specialized knowledge, skill, experience and expertise a Request for Proposal (RFP) may be used. Project Work packages at this level will be publicly advertised; however, outreach letters will be sent to D/M/W/ESBs in each division of Work until a total of five have responded in having interest in bidding the package. RFP's will be publicly-advertised in the *Daily Journal of Commerce*, and a minimum of two minority publications (e.g., *El Hispanic News*, *The Skanner*, *The Portland Observer*, *The Asian Reporter*).

All documentation of advertisements and good faith efforts (Form 1 & 2) will be provided to the Owner's Contract Compliance Specialist.

Contractor will maintain three (3) full sets of plans (of the non-confidential drawings) and specifications for solicitation packages for review at local plan centers, such as (but not limited to), Daily Journal of Commerce, OAME Plan Center, MCIP, and Ford Graphics. Confidential drawings must be handled separately and will only be distributed following the Owner's Confidentiality Policy.

RFP's must include criteria for diversity in contracting, such as:

- Describe your company's policy and practice of contracting with D/M/W/ESBs including the number of individual D/M/W/ESBs contracted, the dollar amount contracted and amount paid to D/M/W/ESBs over the past three years. List the name, nature of work, and dollar amount of each D/M/W/ESB for the cited projects.
- Describe objectives for increasing D/M/W/ESB subcontracting capacity in the Work of the Project, including an estimate of the dollar volume of D/M/W/ESB utilization you will aspire to achieve.
- Describe your company's hiring policy and practice for hiring, retaining and advancing minorities and women in your workforce.

Subcontractors bidding on any package, division of Work and/or Work element having an estimated value greater than \$200,000, regardless of subcontracting tier, will be required to meet the Plan requirements, including the submission of all required forms. Contractor will require all Subcontractors, regardless of tier, either bidding or quoting Work on the Project for a dollar amount greater than \$200,000 to engage D/M/W/ESB requirements toward utilizing D/M/W/ESBs on the Work being bid or quoted. Contractor will deem bid proposals not meeting this requirement to be non-responsive.

d. Pre-Bid/Pre-Proposal Meetings

Contractor will conduct pre-bid/pre-proposal meetings for all solicitation packages. The purpose of the meeting is to provide clarity and understanding to the Project and solicitation requirements, view the jobsite, and to advise bidders of the importance of the commitment to and expectations for D/M/W/ESB utilization. Bidders/Proposers will be offered assistance in conducting effective solicitation steps to obtain D/M/W/ESB participation. Contractor is required to notify the Owner's Contract Compliance Specialist and Owner's Representative of all pre-bid/pre-proposal meetings. For solicitation packages with an estimated value greater than \$200,000, Contractor will coordinate meetings with the Owner's Contract Compliance Specialist who must attend all pre-bid/pre-proposal meetings.

e. Outreach Components and Utilization Strategies

Subcontracting Opportunities Conferences

During the construction services phase, Contractor will conduct outreach conferences apprising the construction industry and D/M/W/ESBs of the subcontracting procurement

process and approach to D/M/W/ESB utilization. The conferences will include information on anticipated solicitation dates and divisions of Work identified for D/M/W/ESB participation. Conference attendees will be informed of the resources that will be available to them during the bidding and construction phases. These events will provide a networking forum for prospective D/M/W/ESB Subcontractors and major and/or specialty Subcontractors.

Subcontractor Outreach

All Tier Subcontractors will conduct outreach as outlined above. All documentation of good faith efforts (Form 1 & 2) will be provided to the Contractor, Owner's Contract Compliance Specialist, and Owner's Representative.

f. Technical/Business Assistance

Contractor will offer and provide the following technical assistance services to all D/M/W/ESBs awarded a subcontract on the Project regardless of subcontracting tier:

- 1) Establishing a schedule of values for the Work to be performed.
- 2) Cash flow projections required for successful performance of the Work.
- 3) Progress payments consistent with the Owner's accelerated twice-monthly payment provisions.
- 4) Advance payment provisions where appropriate to facilitate successful participation of all tier D/M/W/ESBs.
- 5) Establishing projected measurable capacity building elements (e.g. additional equipment, expanded expertise, improved production efficiency, etc.) anticipated as a result of participating in the capacity building component of this Plan.
- 6) Negotiate pricing and secure a material Supplier or group of Suppliers for eligible participants on particular aspects of the Project to decrease or eliminate material pricing as a factor in the award of contracts to D/M/W/ESB firms.
- 7) Provide technical assistance and training in the use of BIM as needed and as it relates to specific scopes of Work for Subcontractors for the Project.
- 8) Look for opportunities to increase the utilization of small D/M/W/ESB firms on incidental Project Work such as flagging, trucking/hauling, landscaping, or cleanup. Contractor may establish unit price Project packaging for Work such as trucking, erosion control, and flagging through which a pool of D/M/W/ESBs can profitably perform.

g. Accelerated Payment

All subcontracts are subject to the Owner's accelerated payment requirements specified in the General Conditions within the Contract Documents. These provisions are mandatory on all Project subcontracts at any tier.

h. Pre/Post Contract Award Monitoring

Contractor will comply fully with the provisions of this Plan in the solicitation and award of subcontracts during the life of the Project. Contractor will submit all bid results, responses to RFP's, and other supporting documentation to the Owner after each solicitation, but prior to subcontract award to review and verify compliance with established procurement procedures.

Contractor will establish and maintain contact with all participating D/M/W/ESBs, regardless of tier, to monitor and coordinate efforts to prevent problems from arising and/or solve those that have arisen, which are or may contribute toward unsuccessful performance by the affected D/M/W/ESB(s). Information regarding such matters will be submitted with the Monthly Subcontractor Payment and Utilization Reports under separate cover to the Owner's Contract Compliance Specialist.

i. D/M/W/ESB Replacement Policy and Procedure

While affording maximum opportunities for D/M/W/ESBs to participate on the Project, it is imperative that the overall Project production schedules be maintained. Any D/M/W/ESB on the Project deemed to warrant replacement must be terminated in accordance with the provisions as set forth in this Plan. The basis for termination will be one or more of the following with supportive documentation:

- 1) Inability of the company to perform the Work as required.
- 2) Refusal of the company to perform the Work as required.
- 3) Mutual agreement of Contractor and the Subcontractor not to perform the Work due to reasons beyond the control or influence of Contractor or Subcontractor.

The Contractor will not be permitted to substitute a D/M/W/ESB without the consent of the Owner's Chief Procurement Officer. A D/M/W/ESB is considered substituted or replaced when any portion of the Work submitted on Form 1 as being performed by a D/M/W/ESB is performed with the resources of any firm other than the identified D/M/W/ESB. Resources include supplying the labor, supervision, material, equipment, technical and management expertise to perform the D/M/W/ESB's Work.

If any Subcontractor is added or replaced after the bid is submitted, the successful Subcontractor shall make good faith efforts to contract with a D/M/W/ESB for the Work to be performed by that Subcontractor. Documentation of these efforts is required, and must be submitted to the Owner's Contract Compliance Specialist.

ARTICLE 6 – REPORTING REQUIREMENTS

6.1 The DBR Contract requires the Contractor and Subcontractors to maintain documentation of compliance throughout the terms of Contract. Contractor and Subcontractors will submit their completed documentation and reporting monthly to the Owner and Owner’s Representative. At a minimum, documentation shall include but is not limited to:

- a. D/M/W/ESB solicitation packages
- b. D/M/W/ESB solicitation results
- c. Inquiries of D/M/W/ESB interests in bidding, bid amounts, and contract awards
- d. Subcontractor & Supplier payments
- e. Subcontractor replacement requests/decisions
- f. Technical assistance requested/provided and/or referred
- g. Apprenticeship results
- h. Workforce diversity results
- i. Problems and successes experienced (mentorship)
- j. Community involvement
- k. Monthly Electronic Spreadsheet of D/M/W/ESB Awards/Material & Major Expenditures and Supplier Purchases
- l. Charts and Graphs as requested
- m. Other reports as requested by Owner

ARTICLE 7 – PENALTIES FOR NONCOMPLIANCE

7.1 Failure to meet the requirements of this Plan impairs the Owner’s efforts to promote workforce and contracting diversity and to provide fair and equal opportunities to the public as a whole as a result of the expenditure of public funds. Therefore, failure to comply with this Plan, including but not limited to the submission of required documentation, constitutes a material breach of the Contract.

If a Subcontractor(s) is responsible for a breach, the Owner may choose to withhold only their portion of the progress payment.

7.2 Remedies for Breach – In the event of a breach of this Plan, the Owner may take any or all of the following actions:

a. **Withholding Progress Payments.** The Owner may withhold all or part of any progress payment or payments until the Contractor has remedied the breach of Contract. In the event that progress payments are withheld, the Contractor and Subcontractors shall not be entitled to interest on said payments.

b. **Penalties.** The parties mutually agree that it would be difficult, if not impossible, to assess the actual damage incurred by the Owner for Contractor's or Subcontractors' failure to comply with the requirements of this Plan. The parties further agree that it is difficult, if not impossible, to determine the cost to the Owner when, due to a lack of good faith efforts, workforce diversity or D/M/W/ESB subcontracting opportunities are not provided in accordance with the Plan.

Therefore, if Contractor or a Subcontractor fails to make the good faith efforts required by this Plan, the Contractor or Subcontractor agrees to pay damages of \$2,000 for each violation of noncompliance or until the breach is remedied. Additionally, the Contractor or Subcontractor agrees to pay the sum of \$250 per day for each day of missed apprenticeship hours or until the breach of Contract is remedied. Damages may be assessed for failure to meet the 20% apprenticeship training requirements by the Contractor and each required Subcontractor in each trade employed. Damages will be calculated based on the training hours not provided to the Compliance Agency at a rate of \$250 per day. Such liquidated damages shall be the Owner's sole and exclusive remedy for failure to comply with the good faith efforts requirements.

These damages are independent of any damages that may be assessed under other provisions of the Contract.

c. **Other Remedies.** The Owner's foregoing rights and remedies shall not be deemed exclusive and shall be in addition to any and all rights otherwise available at law or in equity. The exercise by the Owner of one or more of such remedies shall not preclude the exercise by it, at the same or different times, of any other such remedies for the same default or of any of its remedies for any other default by the Contractor, including, without limitation, the right to compel specific performance.

EXHIBIT B



Howard S. Wright/DLR (HSW/DLR) D/M/W/ESB Inclusion Approach

The Portland Building Reconstruction Project

HSW/DLR believes in the diversity equation: Social Equity + Diversity = Successful Projects. Our team intends to establish new Portland region best practices for D/M/W/ESB, diverse workforce and community engagement in the Portland Building Reconstruction project.

Professional, Technical, and Expert Services (PTE)

The PTE goal for the project, set by the City, is 20% D/M/W/ESB architect, engineer and other technical service firm participation in the design of the project. The 20% goal is disaggregated as follows:

8% MBE

8% WBE

4% ESB

We committed in our RFP response to an additional 1% D/M/W/ESB PTE inclusion.

Our D/M/W/ESB PTE inclusion approach includes:

1. RFI sent on July 1, 2016 to 1st tier PTE firms, which includes the following submission: "Provide a list of proposed D/M/W/ESB sub-consultants you'd propose to jointly interview and potentially bring onto the team should you be selected for the project." Prospective 1st tier PTE firms were provided a list of 52 D/M/W/ESB firms for consideration. This list included 25 MBE, 18 WBE, and 9 ESB firms. Interviews and selection of 1st tier PTE firms will be complete by July 15, 2016.
2. Selected 1st tier PTE firms and the HSW/DLR team will jointly interview proposed D/M/W/ESB PTE firms. These firms include: structural, mechanical, electrical, low voltage/technical engineers, architecture services, and additional specialty consultants. Interviews and selection of second tier D/M/W/ESB firms will be complete by July 27, 2016 in time for presentation to Council on July 27th.
3. The intent is that the selected D/M/W/ESB PTE firms will perform a minimum of 21% of the project design work, including the minimum disaggregation percentages above, and will receive coaching and mentoring from the HSW/DLR team focused on capability and capacity growth for the D/M/W/ESB PTE firms.

Construction

The Construction goal for the project, set by the City, is 22% D/M/W/ESB subcontractor and supplier participation measured against hard construction cost of the project. The 22% is disaggregated as follows:

12% MBE

5% WBE

5% ESB

We committed in our RFP response to another 3% D/M/W/ESB inclusion.

Our D/M/W/ESB Construction inclusion approach includes:

1. Early and consistent communication with the D/M/W/ESB construction community; already the project has been discussed at 2 meetings at the Oregon Association of Minority Entrepreneurs and 1 meeting of the National Association of Minority Contractors Oregon. In addition Howard S. Wright hosted a Diversity Open House on July 7 to which 100+ D/M/W/ESB PTE and Construction firms were invited. The HSW/DLR team will continue with the community communication until the project is complete and will include additional groups including: the Metropolitan Hispanic Chamber, the Philippine Chamber, Best HQ, the Professional Development Business Group, Metropolitan Contractor Improvement Partnership, and other groups as the opportunity arises.
2. HSW/DLR will work with Stacey Edwards to encourage D/M/W/ESB firms in the City of Portland Prime Contractor Development Program to participate in project opportunities.
3. HSW/DLR will work closely with the Owner's Representative's Social Equity Support and Oversight consultant, Faye M. Burch and Associates, the Portland Building Community Oversight Committee, and others as identified as equity support and oversight for the project.
4. HSW/DLR will detail all work to be procured and performed on the project using a proprietary tool called the D/M/W/ESB Projection Spreadsheet. All work opportunity will be examined for D/M/W/ESB availability and capacity to determine the best procurement method to use to achieve D/M/W/ESB participation. Procurement strategies will be a combination of direct procurement, D/M/W/ESB limited competition, open market, and best value. Project work will be organized smaller and multiple solicitation packages to promote maximum D/M/W/ESB participation.
5. The HSW/DLR team will host subcontracting fairs and technical work sessions to promote and support D/M/W/ESB engagement in the Portland Building Reconstruction project. Technical assistance to assist in understanding the project and developing competitive bids will be provided as needed.
6. Once construction is in process, HSW/DLR will host quarterly D/M/W/ESB meetings to talk with these D/M/W/ESB subcontractors about what is working well on the project and where improvements can be made. This will give them an opportunity to communicate as a group to our team to insure that all project team members' perception of how we are doing at achieving business equity on the project is accurate and transparent.

Our objective is for all D/M/W/ESB firms to be successful on the project, and grow their capacity and capabilities for future work. Success is defined as all D/M/W/ESB firms engaged in the project complete their work as planned, make a profit, are eager to work on future City of Portland projects, and are more qualified for future work.