



P.O. Box 11527  
 1478 NE Killingsworth St.  
 Portland, Oregon 97211  
 tel: 503.287.9529 fax: 503.287.4649  
 CCB #100310  
 habitatportlandmetro.org

**REQUEST FOR PROPOSAL**

**Habitat for Humanity Portland / Metro East  
 1478 NE Killingsworth St. PO Box 11527 Portland OR 97211  
 Phone: 503-287-9529 Fax: 503-287-4649**

**PROJECT NAME:** Interstate-Kilpatrick Phase 2  
**PROJECT LOCATION:** 1400 N Kilpatrick St. Portland, OR 97217  
**PROJECT DESCRIPTION:** New construction of 18 attached condominiums (Phase 2/Building 2)  
**SCOPE OF WORK:** Mechanical  
**DATE OF WORK:** Anticipated start January 2021

**PROPOSAL/ BID DUE DATE:** **4:00pm PST on Friday, September 25, 2020**  
**LOCATION:** Direct all questions, and deliver RFP response to:

<b>Address</b>	Office Location: 1478 NE Killingsworth St. Portland, OR 97211 Mailing: PO Box 11527 Portland OR 97211
<b>Phone</b>	(503) 287-9529 ext. 27
<b>Fax</b>	(503) 287-4649
<b>Email</b>	procurement@habitatportlandmetro.org

**Table of Contents:**

I.	Introduction	2
II.	Procurement Procedure	2
III.	Bidder Instructions	3
IV.	Contract	4
V.	<b>Interest To Bid Materials:</b>	
	Respondent Firm Information Form	5
	<b>Exhibit A – Scope of Work:</b>	
	Project Description	6
	Project Schedule	6
	Scope of Work	6
	Schedule of Values	8
	<b>Exhibit B – Contract:</b> Contract to be executed upon selection	10
	Attachment A – OSHA: Subcontractor’s Responsibility	17
	Attachment B – Change Order	19
	<b>Exhibit C – Contractual Requirements:</b> Portland Housing Bureau requirements	20
	<b>Exhibit Z – Addendum to Contract</b> Regarding OCIP Insurance	41

## I. INTRODUCTION

Habitat for Humanity Portland/Metro East (Habitat) has developed this Request for Proposal (RFP) to help organizations and contractors bid on specific scopes of work for the construction of Habitat homes.

Because Habitat is currently building 20-30 homes per year, there are ongoing opportunities for firms that can consistently demonstrate excellent performance and the abilities to achieve economies of scale.

Since 1981, we have built over 250 homes in the Portland/Metro East service area (Multnomah County and northern Clackamas County). Our commitment to building decent, affordable single and multifamily housing harnesses the good will of over 3,500 volunteers per year.

For more information about Habitat's mission and approach, as well as photographs of completed homes and details on our programs and projects under construction, visit our web site at <http://habitatportlandmetro.org/our-builds/>.

Habitat, as General Contractor and Owner, solicits bids for the procurement of construction-related materials and subcontracted services. Habitat makes a good faith effort to include all interested parties in the bidding process. Habitat maintains a list of vendors and solicits RFP responses. In addition, Habitat advertises RFPs for construction projects on industry websites and in industry publications.

RFPs are available at <http://habitatportlandmetro.org/our-builds/bid-opportunities/>.

## II. PROCUREMENT PROCEDURE

See section III, BIDDER INSTRUCTIONS, for instructions for both submittal of **Interest To Bid** and final **Bid Submittal**.

### **Owner Controlled Insurance Program:**

Habitat for Humanity Portland/Metro East has elected to utilize an Owner Controlled Insurance Program ("OCIP"), also known as Wrap Up, to insure work at the Interstate & Kilpatrick Community project ("Project").

The OCIP is a consolidated insurance program comprised of an insurance policy issued by an insurance carrier ("OCIP Policy") and purchased by Habitat. Its coverage and its limits are shared by all Eligible Parties (as defined in Exhibit Z) that are enrolled into the OCIP as described herein for the Project ("OCIP Participants"). You will be required to enroll in the OCIP prior to starting your work on the Project.

Since Habitat pays the premium for the OCIP, Bidders will be required to remove the cost for commercial general liability insurance at the Project site from their contract price, as described in Exhibit Z and the OCIP Enrollment Manual. Bidders will maintain the insurance required in Article XII of the Contract provided in Exhibit B for Bidder's off-site work only, since the OCIP covers work on-site.

### **Evaluation Criteria for Contract Award:**

Selection for provision of professional services shall be made by evaluating the following factors:

1. Completeness of the RFP response submittal.
2. The Vendor's related experience and past performance.
3. Ability of Vendor to perform within Habitat's timeline.
4. Qualified MWESB Firms/ and or Section 3 Firms.
5. Participation in State Run Apprentice Programs.

6. Overall cost of Vendor's proposal.

Habitat for Humanity reserves the right to:

1. Reject any or all offers and discontinue this RFP process without obligation or liability to any potential vendor
2. Accept other than the lowest priced offer, and/or
3. Award more than one contract.

**Incomplete or late proposals will not be considered.**

### III. BIDDER INSTRUCTIONS

#### **A. INTEREST TO BID:**

If your company is interested in bidding, please return a completed and signed Respondent Firm Information form, page 5 of the RFP, to the following email: [procurement@habitatportlandmetro.org](mailto:procurement@habitatportlandmetro.org).

#### **Interest to Bid Submittal Materials:**

1. Respondent Firm Information (page 5)

#### **B. BID SUBMITTAL:**

Respondent must submit completed bid materials to Habitat for Humanity Portland/Metro East no later than date and time noted on page 1 of this RFP document in order to be considered. Incomplete or late proposals will not be considered, no exceptions.

#### **Bid Submittal Materials:**

1. Exhibit A, completed, including:
  - a. Completed Schedule of Values
  - b. Comments on proposed scope of work (if applicable)
  - c. Total bid amount
  - d. Proposed schedule for completion of work
  - e. Proof of bonding and insurance

(Exhibit B and Exhibit Z to be completed following selection)

#### **IV. CONTRACT**

Habitat for Humanity Portland/Metro East, as both Owner and General Contractor, will be subcontracting for mechanical services, comprising the Scope of Work in EXHIBIT A. A draft of the contract is attached as EXHIBIT B, to be executed upon Contractor selection.

This project is partially funded by Portland Housing Bureau (PHB). PHB administers funding from various sources, which PHB uses to make loans to affordable housing developers. The City of Portland has set forth policies, which are applicable to recipients, contractors, subcontractors, and others engaged in projects funded through PHB. PHB policies and requirements that apply to this project include:

1. Subcontractor Equity Program
2. Workforce Training and Hiring Program (applies for subcontracts of \$100,000 or more)
3. Equal Employment Opportunity (EEO) Certification
4. Current Portland Business License

These policies and requirements are outlined in detail in EXHIBIT C of this RFP.

Habitat adheres to all applicable federal, state, and local regulations and to the requirements established by our funders. Habitat shall execute a written contract with each vendor that includes contract language as required to meet federal, state, and local regulations including licensing, OSHA safety standards, contract labor hours, liability insurance, clean air, clean water, and other laws and regulations as applicable. Subcontractors and their employees are expected to conform to all applicable OSHA standards at all times on Habitat jobsites. The subcontractor will be responsible for paying any fines incurred by Habitat due to OSHA violations by the subcontractor or their employees.



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## RESPONDENT FIRM INFORMATION

Organization's registered name (Corporate, DBA, etc.):

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CCB #: \_\_\_\_\_ Expires: \_\_\_\_\_ Federal Tax ID #: \_\_\_\_\_

Mailing Address:

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Name of Principal: \_\_\_\_\_ Title: \_\_\_\_\_

Office Phone: \_\_\_\_\_ Cell Phone: \_\_\_\_\_

Email: \_\_\_\_\_ Fax: \_\_\_\_\_

Do you have relevant experience completing Earth Advantage and/or LEED Certified homes? Please indicate below:

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**In response to this RFP, vendors should indicate whether the following apply:**

- **Do you employ low-income, Section 3 residents (People who earn less than 80% of the Area Median Income)?** \_\_\_ Yes \_\_\_ No
- **Do you employ State registered apprentices?** \_\_\_ Yes \_\_\_ No
- **Are you Certified DMWESB? Please check all that apply:**

\_\_\_ DBE \_\_\_ MBE \_\_\_ WSB \_\_\_ ESB Certification Number(s): \_\_\_\_\_

**I, the undersigned, hereby certify I have read the full RFP document and attachments; and have the authority to represent the Firm or Organization listed above:**

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

## **EXHIBIT A**

**If there is any conflict between the scope of work in this RFP and the permitted plans and specification, the work described in the permitted plans and specifications shall apply.**

### **Project Description:**

Habitat for Humanity Portland/Metro East is building a 30-home project in the Kenton neighborhood of North Portland. This project will consist of two buildings built in two phases. Phase 1 is currently under construction and consists of one building containing 12 condominiums. Phase 2 will consist of a second building containing 18 condominiums. The project site is located at 1400 N Kilpatrick St. Portland, OR 97217. The project will be constructed with a mix of volunteer and skilled labor.

### **Project Schedule:**

- Anticipated start for rough mechanical is January 2021
- Duration (rough-in): 1 days per unit
- Duration (final): 0.5 day per unit
- Mechanical installation contractor shall perform the scope on Habitat's schedule within dates communicated by Habitat's Site Supervisor.

### **Scope of Work:**

#### ***NOTES***

- Thoroughly review approved plans and raise questions, offer feedback, and make suggestions to help the project run as smoothly as possible.
- Consult Habitat superintendent and receive approval before making any changes to scope.
- No work to begin prior to the issuance by the city of the Mechanical permit on the project
- No work shall be performed that is not explicitly stated in the approved contract or an approved change order.
- Collaborate with other trades to ensure that mechanical does not obstruct or damage any other trade's work.
- Provide one point of contact with phone number and email for all scheduling, quality control, and construction issues.
- All trash, discarded packaging, boxes, bags, spoils of demolition, damaged and/or waste building materials, and other forms of debris shall be disposed of properly and legally at the end of each work day
- Mechanical contractor to start and end all work per the Habitat for Humanity schedule for their phase of work.

#### ***PERMITS***

- Habitat to provide mechanical permits.
- Mechanical contractor shall be responsible for implementing their business as contractor of record at City of Portland.

#### ***MATERIALS AND EQUIPMENT***

- Provide materials and equipment to install mechanical per approved plans and Oregon code.
- Equipment selection per approved mechanical plans schedule on sheet M0.1.
- Heaters, thermostats, portable AC units, and custom vent and louver manifolds (M6.1) provided by others.

### ***ROUGH MECHANICAL***

- Provide labor, material, and equipment to install rough mechanical per approved plans and OR code.
- Coordinate routing and termination with Site Supervisor and design team.
- Install ERV and exhaust fans.
- Install dryer box.
- Install all ducting for dryer exhaust.
- Install all ducting for exhaust fans.
- Install all ducting for ERVs.
- Install all ducting for range hood exhaust.
- Seal all ducting joints with mastic
- HVAC installer to coordinate installation of Quick Flashing at exterior penetrations with building envelope contractor.
- Provide all fasteners and straps to install the ductwork to code.
- All ducting to be installed in soffits below fire-rated ceiling.
- All ducts to be sized according to the approved plans.
- Fire-caulking to be installed by others.

### ***FINAL MECHANICAL***

- Provide labor, material, and equipment to install final mechanical per approved plans and OR code.
- Connect microwave/range-hood to ducting
- Trim out ERV and ensure proper functioning.
- Trim out exhaust fans with module settings (humidistat, motion sensor, and/or timer) per plans and code and ensure proper functioning.

### ***GENERAL REQUIREMENTS***

- Subcontractors shall be familiar and abide by safety rules OSHA and DEQ regulations.
- Subcontractors will follow COVID-19 prevention guidelines by OSHA, CDC, NAHB, and local municipalities. Cloth face coverings or N95 masks will be worn on-site.
- All work shall be performed in accordance with manufacturer's printed installation instructions and all local, state and federal laws and regulations.
- The Work shall conform to all codes in effect in the jurisdiction where the work is performed.
- To promote safety, the job site must be kept clean and free of debris at all times. All trash, discarded packaging, boxes, bags, spoils of demolition, damaged and/or waste building materials, and other forms of debris shall be disposed of properly and legally.
- Additional work shall not be performed without the written approval of the VP of Construction. This approval will be in the form of a "Change Order," see attached Annex B. If extra work is performed without prior approval, no payment will be made, and if required the extra work will be removed by and at the expense of the Subcontractor.
- The Subcontractor shall furnish all labor, equipment and supplies necessary to complete the work, unless directed otherwise by statement below.
- Habitat for Humanity Portland/Metro East is a tax exempt entity. You will be instructed by our accounting department how to handle sales tax.
- Progress payments for partial completion of the work will be made on a monthly basis.
- Subcontractors shall schedule work to start and end per the pre-determined work schedule for their phase of construction as established by our Habitat for Humanity Site Supervisor.
- Subcontractor shall protect the condition of their work and the work previously installed by others.
- Subcontractor shall protect the work by lights, barriers, supports and guards, as necessary to avoid injury or damage to persons and property.

**ROUGH MECHANICAL SCHEDULE OF VALUES:**

Building	Unit	Model	Per Unit Materials Cost	Per Unit Labor Cost	Total
2	105	2bd/1ba	\$	\$	\$
	106	2bd/1ba	\$	\$	\$
	107	2bd/1ba	\$	\$	\$
	108	2bd/1ba	\$	\$	\$
	109	2bd/1ba	\$	\$	\$
	110	3bd/1.5ba	\$	\$	\$
	205	3bd/1.5ba	\$	\$	\$
	206	2bd/1ba	\$	\$	\$
	207	3bd/1.5ba	\$	\$	\$
	208	3bd/1ba	\$	\$	\$
	209	2bd/1ba	\$	\$	\$
	210	3bd/1.5ba	\$	\$	\$
	305	3bd/1.5ba	\$	\$	\$
	306	2bd/1ba	\$	\$	\$
	307	3bd/1.5ba	\$	\$	\$
	308	3bd/1ba	\$	\$	\$
	309	2bd/1ba	\$	\$	\$
	310	3bd/1.5ba	\$	\$	\$
<b>Bid Total</b>			\$	\$	\$

**FINAL MECHANICAL SCHEDULE OF VALUES:**

Building	Unit	Model	Per Unit Materials Cost	Per Unit Labor Cost	Total
2	105	2bd/1ba	\$	\$	\$
	106	2bd/1ba	\$	\$	\$
	107	2bd/1ba	\$	\$	\$
	108	2bd/1ba	\$	\$	\$
	109	2bd/1ba	\$	\$	\$
	110	3bd/1.5ba	\$	\$	\$
	205	3bd/1.5ba	\$	\$	\$
	206	2bd/1ba	\$	\$	\$
	207	3bd/1.5ba	\$	\$	\$
	208	3bd/1ba	\$	\$	\$
	209	2bd/1ba	\$	\$	\$
	210	3bd/1.5ba	\$	\$	\$
	305	3bd/1.5ba	\$	\$	\$
	306	2bd/1ba	\$	\$	\$
	307	3bd/1.5ba	\$	\$	\$
	308	3bd/1ba	\$	\$	\$
	309	2bd/1ba	\$	\$	\$
	310	3bd/1.5ba	\$	\$	\$
<b>Bid Total</b>			\$	\$	\$





## **EXHIBIT B**

**(Only to be returned upon acceptance of bid)**

### **AGREEMENT TO PROVIDE SERVICES**

AGREEMENT (the "Agreement") is comprised of **EXHIBIT A, EXHIBIT B, EXHIBIT C** and any other Exhibits herein.

The Agreement made as of this \_\_\_\_\_ between Habitat for Humanity Portland / Metro East ("Habitat") and \_\_\_\_\_ (the "Contractor/Supplier").

#### **ARTICLE I SCOPE OF WORK**

The Contractor shall execute the entire work set forth in **EXHIBIT A** included as part of the Request for Proposals and in accordance with City of Portland design and engineering requirements except to the extent such work is specifically indicated in this Agreement to be the responsibility of others:

The Contractor/Supplier has reviewed the plans and specifications for the Interstate-Kilpatrick Project.

**TOTAL PRICE FOR THE ABOVE SCOPE OF WORK: \$ \_\_\_\_\_.**

Any instance where the scope of work outlined in **EXHIBIT A** and/or in the contractor's submittal included as part of **EXHIBIT A**, differs from the City of Portland requirements, the contractor shall perform all work in accordance with the design and engineering requirements.

#### **ARTICLE II DATE OF BEGINNING AND COMPLETION OF WORK**

The Contractor shall begin proceed with the work according to the following schedule: Work to begin January 2021 and until project completion in July 2021. Contractor will also be responsible for Construction Administration services throughout the length of the project. The time periods for completing the Work are hereinafter referred to as the "Contract Time."

#### **ARTICLE III PAYMENT**

Habitat shall pay the Contractor for the performance of the Contract work in the total sum of \_\_\_\_\_ (the "Contract Sum"), subject to such additions and deductions as provided in this Agreement. The Contract Sum will be paid to the Contractor on a "Per Unit Complete" basis, invoiced on a monthly basis.

Invoices shall be sent to Habitat for Humanity Portland/Metro East, and shall include at a minimum the following information referencing the schedule of values in EXHIBIT A, or shall be returned for correction and resubmittal: amount invoiced to date, current invoice amount, and fee by phase as outlined in the schedule of values in EXHIBIT A. Habitat will issue payment within 30 days of receipt of invoice.

#### **ARTICLE IV PROGRESS PAYMENTS**

Habitat shall make progress payments on the Contract Sum to the Contractor when a discrete portion work is complete based on the pricing estimates shown in the scope of work. It shall be at the sole discretion of Habitat to determine the percent complete and to calculate the resulting draw amount for each item listed on the schedule of values for progress payments.

Invoices for progress payments must include detailed information about the work completed, what unit(s) the work is for, and whether or not the work was on the private property or in the public right or ways in order to be processed.

At the time of payment, Habitat may, at its discretion, withhold five percent of the payment amount from progress payments. Final payment shall be made and all retainage released when all work has been completed, inspected, and approved and the Contractor has provided lien releases for all work and material provided prior to final payment.

## ARTICLE V DUTIES OF THE CONTRACTOR

- (a) Except as otherwise provided in this Agreement, the Contractor shall secure, in a timely manner all licenses and approvals necessary for the Contractor to perform the Contract Work. The contractor may be required to provide documentation of required licenses and approvals.
- (b) The Contractor shall perform the Contract Work in a workman like manner and in conformance with all applicable building codes and the permitted plans and specifications. The Contractor shall supervise and direct the Contract Work using the Contractor's best skill and attention. All materials shall be installed in accordance with the manufacturer's specifications. The Contractor shall be solely responsible for and have control over construction means, methods, and techniques, sequences and procedures and for coordinating all portions of the Contract Work unless this Agreement specifically provides otherwise. The Contractor shall enforce strict discipline and good order among the Contractor's employees and other persons carrying out the Contract Work. The Contractor shall not permit the employment of unfit persons or persons not skilled in the tasks assigned to them. The Contractor shall be responsible to Habitat for the acts and omissions of the Contractor's employees.
- (c) Unless otherwise specifically provided in this Agreement or in a Change Order (as such term is defined in Article VIII hereof), the Contractor shall provide and pay for labor, materials, equipment, tools, construction equipment and machinery, transportation, and other facilities and services necessary for the proper execution and completion of the Contract Work.
- (d) The Contractor warrants to Habitat that materials and equipment furnished by the Contractor under this Agreement shall be of good quality and new unless otherwise required or permitted by Habitat, and that the Contract Work shall be free from defects not inherent in the quality required or permitted, and that the Contract Work shall conform to the requirements of this Agreement. Contract Work not conforming to the requirements of this Agreement, including substitutions not properly approved and authorized by Habitat, may be considered defective. The Contractor's warranty excludes remedy for damage or defect caused by abuse, modifications not executed by the Contractor, improper or insufficient maintenance, improper operation, or normal wear and tear under normal usage. If required by Habitat, the Contractor shall furnish satisfactory evidence as to the kind and quality of materials and equipment used.
- (e) The Contractor shall comply with and give notice required by laws, ordinances, rules, regulations, and lawful orders of public authorities bearing on performance of the Contract Work.
- (f) The Contractor shall keep the Project Site and the surrounding area free from the accumulation of waste materials or rubbish caused by operations performed under this Agreement. At the completion of the Contract Work, the Contractor shall remove from and about the Project Site (1) any waste materials or rubbish caused by the operation performed under this Agreement; (2) the Contractor's tools, construction equipment, and machinery; and (3) any surplus materials originally furnished by the Contractor.
- (g) The Contractor shall provide Habitat with access to the Project Site and the Contract Work in preparation and progress at any time.
- (h) To the fullest extent permitted by law, the Contractor shall indemnify and hold Habitat and its employees and agents harmless from and against claims, damages, losses and expenses, including, but not limited to, attorney's fees, arising out of or resulting from the performance of the Contract Work, provided that such claim, damage, loss or expense is attributable to bodily injury, sickness, disease, or death, or to injury to or the destruction of tangible property (other than the Contract Work itself) including any loss of use resulting there from, but only to the extent caused in whole or in part by negligent acts or omissions of the Contractor, anyone directly or indirectly employed by the Contractor, or anyone for whose acts the Contractor may be liable, regardless of whether or not such claim, damage, loss or expense is caused in part by a party indemnified hereunder. Such obligation shall not be construed to negate, abridge, or reduce other rights or obligations of indemnity which would otherwise exist as to a party or person described in this Subsection (h).
- (i) In claims against any person or entity indemnified under Subsection (h), above, by an employee of the Contractor or anyone directly or indirectly employed by the Contractor, or anyone for whose acts the Contractor may be liable, the indemnification obligation under Subsection (h), above, shall not be limited by a limitation on the amount or types of damages, compensation or benefits payable by or for the Contractor or anyone else under workers' or workman's compensation acts, disability benefits acts, or other employee benefit acts.
- (j) Subcontractors and their employees are expected to conform to all applicable OSHA standards at all times on Habitat jobsites. The subcontractor will be responsible for paying any fines incurred by Habitat due to OSHA violations by the subcontractor or their employees.

## ARTICLE VI SUBCONTRACTS

The Contractor shall not subcontract any or all of the Contract Work without the prior written consent of Habitat. The conditions for written consent include the subcontractor's licensing, bonding and proof of insurance and verification that the Subcontractor is qualified to perform the work specified in the subcontract.

## ARTICLE VII CONSTRUCTION BY OWNER OR SEPARATE CONTRACTORS

(a) Habitat reserves the right to perform construction or operations at or about the Project Site with Habitat's own forces, and to award separate contracts in connection with other portions of the work being performed at the Project Site or other construction or operations on the Project Site under conditions of the contract identical or substantially similar to this Agreement, including those portions related to insurance. If the Contractor claims that delay or additional cost is involved because of such action by Habitat, the Contractor shall make such claim in accordance with Article IX of this Agreement.

(b) The Contractor shall afford Habitat and separate subcontractors reasonable opportunity for the introduction and storage of their materials and equipment and performance of their activities, and shall connect and coordinate the Contractor's construction and operations with theirs as required by the Contractor.

## ARTICLE VIII CHANGES IN THE WORK

(a) Habitat, without invalidating the Contract, may order changes in the Contract Work consisting of additions, deletions, or modifications, the Contract Sum and the Contract Time being adjusted accordingly. Such changes in the Contract Work shall be authorized by a written change order (the "Change Order"), in the form set forth in Attachment B of this agreement, signed by Habitat, which Change Order shall be deemed to be a part of this Agreement.

(b) The Contract Sum and the Contract Time shall be changed only by a Change Order.

(c) The cost or credit to Habitat from a change in the Contract Work shall be determined by the mutual agreement of Habitat and the Contractor.

## ARTICLE IX TIME

Time limits stated in this Agreement are of the essence of this Agreement. By executing the Agreement, the Contractor confirms that the Contract Time is a reasonable period for performing the Contract Work.

If the Contractor is delayed at any time in progress of the Contract Work by changes in the Contract Work, by labor disputes, fire, unusual delays in deliveries, abnormal adverse weather conditions which could not be reasonably anticipated, unavoidable casualties, or any causes beyond the Contractor's control, or by other causes which may justify delay, then the Contract Time shall be extended by a Change Order for such reasonable time as Habitat and the Contractor may determine.

## ARTICLE X PAYMENTS AND COMPLETION

(a) Payments shall be made as provided in Articles III and IV of the Agreement.

(b) Payments may be withheld on account of (1) defective Contract Work not remedied by the Contractor, (2) claims filed by third parties, (3) failure of the Contractor to make payments for labor, materials, or equipment, (4) reasonable evidence that the Contract Work cannot be completed for the unpaid balance of the Contract Sum, (5) damage suffered by Habitat or another contractor, (6) reasonable evidence that the Contract Work will not be completed within the Contract Time and that the unpaid balance would not be adequate to cover actual or liquidated damages for the anticipated delay, or (7) the Contractor's persistent failure to carry out the Contract Work in accordance with this Agreement.

(c) Final payment shall not be due until the Contractor has delivered to Habitat a complete release of all liens arising out of this Agreement or receipts in full covering all labor, materials, and equipment for which a lien could be filed. If such lien remains unsatisfied after payments are made, the Contractor shall refund to Habitat all the money Habitat may be compelled to pay in discharging such lien, including all costs and reasonable attorneys' fees.

(d) The making of final payment of the Contract Sum by Habitat shall constitute a waiver of claims by Habitat except those arising from:

1. Liens, claims, security interests, or encumbrances arising out of this Agreement which remain unsettled;
2. The failure of the Contract Work to comply with the requirements of this Agreement;
3. The terms of special warranties required by this Agreement.

Acceptance of final payment of the Contract Sum by the Contractor or a material supplier shall constitute a waiver of claims by that payee except those previously made in writing and identified by the payee as unsettled at the time final payment is made.

#### ARTICLE XI PROTECTION OF PERSONS AND PROPERTY

The Contractor shall be responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the performance of this Agreement. The Contractor shall take reasonable precautions for the safety of, and shall provide reasonable protection to prevent damage, injury, or loss to:

1. Employees performing the Contract Work and other persons who may be affected thereby;
2. The Contract Work and the materials and equipment to be incorporated therein; and other property at the Project Site or adjacent thereto. The Contractor shall give notices and comply with applicable laws, ordinances, rules, regulations, and lawful change orders of public authorities bearing on safety of persons or property and their protection from damage, injury, or loss. The Contractor shall promptly remedy damage and loss to property at the Project Site caused in whole or in part by the Contractor or anyone directly or indirectly employed by the Contractor, or by anyone for whose acts the Contractor may be liable and for which the Contractor is responsible under this Article XI, except for damage or loss attributable to the acts or omissions of Habitat or by anyone for whose acts Habitat may be liable, and not attributable to the fault or negligence of the Contractor. The foregoing obligations of the Contractor are in addition to the Contractor's obligations under Subsection (h) of Article V.

#### ARTICLE XII INSURANCE

Contractor shall take out, pay for, and maintain throughout the duration of this Agreement and shall also require any subcontractors to take out, pay for, and maintain the following:

- (a) General liability insurance for an amount of not less than \$1,000,000 per occurrence for bodily injury and \$1,000,000 per occurrence for property damage, with an aggregate of not less than \$2,000,000.
- (b) Worker's compensation insurance as required by the laws of the State of Oregon and any other applicable law.

Before beginning the Work, Contractor shall furnish to Habitat certificate or certificates showing the above insurance minimums and including Habitat as additional insured under the scheduled policies. Failure of Habitat to request or receive such certificates shall not relieve Contractor of its obligations under this Agreement. Failure to maintain the required insurance during the course of the work shall be a breach of this Agreement, and Habitat may, at its sole discretion, terminate this Agreement immediately upon such an occurrence.

#### ARTICLE XIII CORRECTION OF WORK

(a) The Contractor shall promptly correct Contract Work reasonably rejected by Habitat or which fails to conform to the requirements of this Agreement, whether observed before or after the completion of the Contract Work and whether or not fabricated, installed or completed, and shall correct any Contract Work found not to be in accordance with the requirements of this Agreement within one year from the date the Contract Work is completed or by the terms of an applicable special warranty required by this Agreement.

(b) Nothing contained in this Article XIII shall be construed to establish a period of limitation with respect to other obligations which the Contractor might have under this Agreement. Establishment of the time period of one year as described in Subsection (a), above, relates only to the specific obligations of the Contractor to correct the Contract Work, and has no relationship to the time within which the obligation to comply with this Agreement may be sought to be enforced, nor to the time within which proceedings may be commenced to establish the Contractor's liability with respect to the Contractor's obligations other than specifically to correct the Work.

#### ARTICLE XIV GOVERNING LAW

This Agreement shall be governed by the laws of the State of Oregon.

#### ARTICLE XV TERMINATION OF THE CONTRACT

(a) Habitat may terminate this Agreement at any time. If Habitat terminates the Agreement for any reason other than as provided in Subsection (c) or (d) herein, the Contractor may recover from Habitat payment for Contract Work executed and for proven loss with respect to materials, equipment, tools, and construction equipment and machinery, including reasonable overhead, profit and damages applicable to the Contract Work.

(b) If Habitat fails to make payment hereunder for a period of fifteen (15) days after the date a payment is due, the Contractor may, upon seven (7) additional days' written notice to Habitat, terminate this Agreement and recover from Habitat payment for Contract Work executed and for proven loss with respect to materials, equipment, tools, and construction equipment and machinery, including reasonable overhead, profit and damages applicable to the Contract Work.

(c) If the Contractor defaults under this Contract or persistently fails or neglects to carry out the Contract Work in accordance with this Agreement, Habitat, after seven (7) days' written notice to the Contractor, and without prejudice to any other remedy Habitat may have, may make good any deficiencies and may deduct the cost thereof, from the payment then or thereafter due the Contractor. Alternatively, at Habitat's option, Habitat may terminate this Agreement and take possession of the Project Site and of all materials, equipment, tools, and construction equipment and machinery thereon owned by the Contractor and may finish the Contract Work by whatever method Habitat may deem expedient. If the unpaid balance of the Contract Sum exceeds the cost of finishing the Contract Work, such excess shall be paid to Contractor, but if such costs exceed such unpaid balance, the Contractor shall pay the difference to Habitat.

(d) If the Contractor cannot complete the Contract Work for circumstances beyond its reasonable control, then, at Habitat's option, Habitat may terminate this Agreement and take possession of the Project Site and of all materials purchased by Contractor in order to perform the Contract Work and may finish the Contract Work by whatever method Habitat may deem expedient. If the unpaid balance of the Contract Sum exceeds the cost of finishing the Contract Work, such excess shall be paid to Contractor.

(e) For purposes of this Agreement, the Contractor will be in "default" if (i) the representations and warranties contained in Article XVI were incorrect as of the date this Agreement is executed; (ii) the Contractor fails to comply with any of the requirements contained in Article XVII or XVIII of the Agreement; (iii) the Contractor fails to perform the Contract Work in accordance with the terms of this Agreement for reasons other than those Specified in Subsections (b) and (d) herein; or (iv) the Contractor fails to comply with any law, order, rule or regulation of any court, governmental or regulatory body applicable to the Contractor.

#### ARTICLE XVI LOBBYING AND DEBARMENT

The Contractor hereby represents and warrants that:

(a) No federally appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(b) If any funds other than federally appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form--LLL, Disclosure Form to Report Lobbying, in accordance with its instructions.



- (c) The undersigned shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, sub-grants, and contracts under grants, loans, and cooperative agreements) and that all sub-recipients shall certify and disclose accordingly.
- (d) This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.
- (e) The undersigned and its principals (see 24 CFR 24.105(p)):
- i. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transaction (see 24 CFR 24.110) by any Federal department or agency.
  - ii. have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property.
  - iii. are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses enumerated in (b) of this certification; and
  - iv. Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State, or local) terminated for cause or default.
  - v. Here the applicant is unable to certify to any of the statements in this certification, such applicant shall attach an explanation behind this page.

#### ARTICLE XVII COMPLIANCE WITH REGULATIONS

- (a) The Contractor shall comply with Executive Order 11246, entitled “Equal Employment Opportunity”, as amended by Executive Order 11375, and as supplemented in the Department of Labor regulations (41 CFR, Part 60). **The contractor must register or be registered for EEO certification with the City of Portland.**
- (b) The Contractor shall comply with the provisions of the Copeland “Anti-Kickback” Act (18 U.S.C. 874) as supplemented in Department of Labor regulations (23 CFR, Part 3). The Contractor shall not require, by any means, any persons employed in the completion of the Contract Work, to give up any part of the compensation to which he is otherwise entitled.
- (c) To the extent required by law, the Contractor shall comply with sections 103 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327-330) as supplemented by Department of Labor regulations (29 CFR, Part 5). To the extent required by law, the Contractor shall compute the wages of every mechanic and laborer on the basis of a standard work day of eight hours and a standard work week of 40 hours. Work in excess of the standard workweek is permissible provided that the worker is compensated at a rate of not less than 1 1/2 times the basic rate of pay of all hours worked in excess of 40 hours in the workweek.
- (d) The Contractor shall comply with the requirements of section 3 of the Housing and Urban Development Act of 1968, (12 U.S.C. 1701u) (implemented at 24 CFR Part 135) concerning infrastructure improvements funded with Grant Funds hereunder, to the extent that if any state, unit of local government, public housing agency, or other public body, and their respective contractors and subcontractors exceed the applicable thresholds set forth in 24 CFR Part 135.3 of the HUD regulations, then the economic opportunities generated by the HUD financial assistance made available to any such participant and its contracts with contractors/subcontractors shall, to the greatest extent feasible be given to low- and very low-income persons and to businesses that provide economic opportunities for these persons, together with opportunities for training and employment to lower-income residents of the project, and contracts for work in connection with the project be awarded in substantial part to persons residing in the area of the project.
- (e) The Contractor shall comply with the requirements of Executive Orders 11625 and 12432 (concerning Minority Business Enterprise), and 12138 (concerning Women’s Business Enterprise) by using its best efforts to encourage the use of minority and women’s business enterprises in connection with Contract Work.
- (f) The Contractor shall comply with the regulations governing the Drug-Free Workplace Act of 1988 which is found in 24 CFR 24, subpart F. The Drug-Free Workplace Act of 1988 is located at 41 USC §701 et seq. Specifically, this requires contractors to certify that they will provide a workplace in which the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited.



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(g) The Contractor must take all necessary affirmative steps to assure that minority businesses, women's business enterprises, and labor surplus area firms are used when possible (2 CFR section 200.321).

Affirmative steps must include:

- (1) Placing qualified small and minority businesses and women's business enterprises on solicitation lists;
- (2) Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources;
- (3) Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses, and women's business enterprises;
- (4) Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority businesses, and women's business enterprises;
- (5) Using the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce; and
- (6) Requiring the prime contractor, if subcontracts are to be let, to take the affirmative steps listed in paragraphs (1) through (5) of this section.

ARTICLE XVIII  
 BOOKS AND RECORDS

Habitat, Habitat for Humanity International, Inc., the U.S. Department of Housing and Urban Development, the Comptroller General of the United States, or any of their duly authorized representatives, shall have access to any books, documents, papers, and records of the Contractor which are directly pertinent to the Contract Work for the purposes of making audit, examination, excepts, and transcriptions for three years after final payment of the Contractor and all pending matters are closed.

IN WITNESS WHEREOF, this Agreement has been entered into as of the day and year first written above.

HABITAT FOR HUMANITY  
 PORTLAND/METRO EAST

CONTRACTOR

By: \_\_\_\_\_  
 For Habitat for Humanity Portland / Metro East  
 Title: \_\_\_\_\_

By: \_\_\_\_\_  
 For: \_\_\_\_\_  
 Title: \_\_\_\_\_  
 Federal Tax ID # \_\_\_\_\_



## **ATTACHMENT A**

### **OSHA – Subcontractor’s Responsibility**

A. Subcontractors shall be familiar with and abide by the safety rules and regulations of Habitat for Humanity Portland Metro / East (“Habitat”) and of any governmental body having the authority to control the manner or method of carrying out the work, including, but without limitation the Williams-Steigener Occupational Safety and Health Act of 1970 (OSHA), all rules and regulations established pursuant thereto, and all amendments and supplements thereto. Subcontractor is expected to enforce its own safety program to the fullest extent relative to their scope of work. In no way does Habitat release the Subcontractor of their responsibilities concerning safety issues. It shall be the responsibility of the Subcontractor to furnish and pay for any special tools and equipment required to comply with the safety standards herein stated.

B. Without limiting the foregoing, subcontractor shall specifically be expected to:

1. Require all of his employees, visitors and suppliers to wear hard hats at all times on the jobsite. Safety glasses/goggles when chipping concrete, driving nails, hitting steel on steel, etc. Workers will be properly dressed for construction when entering the jobsite.
2. All tools and equipment, including of ladders, platforms, lifts and scaffolding will conform to OSHA requirements.
3. Use full body harnesses with lanyard attached to a suitable anchor point when working in areas above 6’ and not protected by guardrails.
4. If it becomes necessary to have access to any opening or shaft or to remove any guardrail system, Subcontractor shall see that the openings or shafts are adequately protected while the work is in progress and that covers or guardrails are replaced before leaving the area. If a Subcontractor does not follow this procedure Habitat will assess a backcharge for its time and material in order to correct the problem.
5. Require his foremen and all his employees to attend weekly safety meetings. Subcontractors may attend Habitat’s safety meetings in lieu of their own.
6. Furnish Habitat with a report on any accident involving any of the subcontractor’s employees or equipment as well as a copy of all Insurance and Worker’s Compensation Claims involving this project.
7. Provide our job superintendent with the identity of the subcontractor competent person responsible for ensuring compliance with OSHA requirements.
8. Provide our job superintendent with an emergency list showing your company doctor, hospital, insurance carrier, etc. Furnish the project with a first aid kit and/ or send your first aid type injuries to your company Habitat’s first aid kit will not be available to subcontractor’s employees.

C. If Subcontractor’s foreman and/or his employee(s) do not comply with the above Habitat has the authority to remove them from the project and Subcontractor agrees to provide a new foreman and/or employee(s) who will abide by the safety rules.

D. If it is necessary for Habitat to loan hard hats or other safety equipment to employees of the subcontractor, their visitors or suppliers, in order to comply with state and federal law, there shall be a backcharge against the subcontractor of \$10/day for each hard hat or piece of safety equipment loaned. This money shall be withheld from the monthly payments due the subcontractor. Safety equipment loaned that is not returned will be also backcharged at replacement cost.

E. Subcontractor shall be responsible for providing drug-free employees to the Construction jobsite. Subcontractor warrants and agrees to advise its employees that alcohol and drugs will not be tolerated on any Habitat jobsite. Subcontractor will furnish a post-accident drug test on any Subcontractor employee involved in a lost-time accident. Habitat reserves the right to direct random drug testing of all Subcontractor employees on its



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worksite(s), if reasonable suspicion of substance abuse is being experienced on said sites. This test will be conducted as outlined in the Habitat Substance Abuse Program testing procedure (copy available upon request). If Subcontractors' employee refuses a drug test in either case, Habitat will not allow him (or her) back on the project site.

F. It shall be the responsibility of all Subcontractors to provide the appropriate Material Safety Data Sheets (MSDS) to Habitat for all hazardous chemicals being used by their company at the jobsite.

This instrument is intended as an agreement by and between the parties hereto and is intended as an Amendment to any Written or Oral Subcontract Agreement previously entered into by and between the same parties for work to be performed at a project located at 1400 N Kilpatrick St. Portland, OR 97217.

Executed this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

Contractor: \_\_\_\_\_

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

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

Subcontractor: \_\_\_\_\_

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

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



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## ATTACHMENT B

### CHANGE ORDER

PROJECT SITE: \_\_\_\_\_ CHANGE ORDER NUMBER: \_\_\_\_\_

CONTRACTOR (name and address): \_\_\_\_\_ DATE: \_\_\_\_\_

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

The Agreement dated \_\_\_\_\_, between the Contractor and Habitat for Humanity Portland Metro / East (the "Agreement") is hereby changed as follows:

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

Defined terms contained in this Change Order shall have the same meaning set forth for such terms in the Agreement, unless the context clearly requires otherwise.

---

The original Contract Sum was.....\$ \_\_\_\_\_  
 Net change by previously authorized Change Orders.....\$ \_\_\_\_\_  
 The Contract Sum prior to this Change Order was.....\$ \_\_\_\_\_  
 The Contract Sum will be increased.....\$ \_\_\_\_\_  
 By this Change Order in the amount of.....\$ \_\_\_\_\_  
 The new Contract Sum including this Change Order shall be.....\$ \_\_\_\_\_

The Contract Time shall: \_\_\_\_\_

HABITAT FOR HUMANITY  
 PORTLAND/METRO EAST

CONTRACTOR

By: \_\_\_\_\_  
 For Habitat for Humanity Portland / Metro East  
 Title: \_\_\_\_\_

By: \_\_\_\_\_  
 For: \_\_\_\_\_  
 Title: \_\_\_\_\_

## **EXHIBIT C**



# **CITY OF PORTLAND PORTLAND HOUSING BUREAU**

## **RECIPIENT/CONTRACTOR GUIDE**

**Revised February 2018**

**City of Portland**  
**Portland Housing Bureau**  
**Social Equity Contracting Requirements**  
*for Developers, General Contractor and Subcontractors*

**I. Background**

The Portland Housing Bureau (PHB) administers funding from various sources, which PHB uses to make loans to affordable housing developers. The City of Portland has set forth the following policies, which are applicable to recipients, contractors, subcontractors, and others engaged in projects funded through PHB. PHB has tasked the City's Procurement Services Office with overall responsibility for implementation and monitoring of the City's Social Equity Contracting Requirements. Please contact Cathleen Massier at (503) 823-6888 or [Cathleen.Massier@portlandoregon.gov](mailto:Cathleen.Massier@portlandoregon.gov), with questions.

**II. Social Equity Contracting Requirements**

Recipients are required to incorporate Social Equity Contracting requirements in their procurement of a general contractor and carefully consider the ability of the general contractor to collaborate and deliver results under the following Programs, which are applicable on this project (see checked boxes):

Section 3 (applies to all recipients of PHB federal housing assistance that exceeds \$200K, and all contractor/subcontract situations where the contract or subcontract is \$100,000 or greater).

Section 3 requires that when employment of contracting opportunities is generated by HUD-funded projects, preference is given to low-income persons and businesses residing in the community where the project is located (i.e. to "Section 3 Residents" and "Section 3 business concerns"). The recipient must include the Section 3 Contract Clause in all solicitations and contracts over \$100,000, including professional service contracts, but not contracts for the purchase of supply of material. The following contracting and employment requirements and/or goals are applicable on this project:

- 10% of construction dollars awarded to Section 3 Businesses; and
- 3% of non-construction dollars awarded to Section 3 Businesses; and
- 30% of new hires are Section 3 Residents.

Please refer to the requirements outlined in the Section 3 Business Utilization Program (Attachment A) and the Workforce Training & Hiring Program (Attachment C).

Subcontractor Equity Program (applies to projects \$150,000 and above)

The City of Portland has a compelling government interest to ensure that its contracts provide employment opportunities for Oregon State certified disadvantaged, minority, women, and emerging small businesses (D/M/W/ESBs) in order to address historical underutilization. The Program has an aspirational goal of 20% of hard construction costs for D/M/W/ESB utilization; within the aspirational goal, a further goal of 14% D/M/WBE is desired. The City encourages contractors to diversify their D/M/W/ESB subcontractor utilization from all available divisions of work.

Please refer to the requirements outlined in the Subcontractor Equity Program (Attachment B).

Workforce Training and Hiring Program (applies to projects estimated at \$150,000 or more)

The City is committed to and has a strong policy of maximizing apprenticeship and employment opportunities for women, minorities, and economically disadvantaged workers in the construction trades (ref. City Ordinance No. 167374, Feb. 16, 1994 and County Ordinance No. 861, July 11, 1996). The Workforce Program applies to the general contractor and each subcontractor having a subcontract of \$100,000 or more on the project. The Program requires a minimum of 20% apprentice utilization, per trade, for the general contractor and subcontractors with contracts of \$100,000 or more. The Program has also established aspirational goals for 18% minority and 9% female participation.

Please refer to the requirements outlined in the Workforce Training and Hiring Program requirements (Attachment C).

### III. Other Requirements

Equal Employment Opportunity (EEO) Certification

The City of Portland requires EEO certification of all vendors and contractors doing business with the City in excess of \$2,500 annually, and of all construction project sub-contractors. In order to be EEO certified, your firm must fill out the online form here: <https://procure.portlandoregon.gov/bs/>, stating that it does not discriminate against any employee or applicant on the basis of race, religion, color, sex, marital status, national origin, age, mental or physical disability, sexual orientation, gender identity or source of income. Your company must also take steps to ensure equal opportunity in all aspects of employment. These aspects include, but are not limited to, hiring, promotion, transfer, advertising, layoff, termination, rates of pay, training (including apprenticeship), and terms and conditions of employment.

Current Portland Business License

In order to do business with the City, your Portland Business License Tax Account must be current. This applies to both resident and non-resident vendors. Access a copy of your certificate of compliance or manage your business tax account (or register if you don't have an account) on the [Revenue Bureau Business Taxes website](#) or call their office at 503-823-5157.

### IV. Acknowledgement of Receipt

**By signature below, I am hereby acknowledging to the City of Portland that I have been provided with information regarding the City's applicable Social Equity Contracting Requirements, which explain the obligations and requirements for any construction projects, which are funded in part or whole by the Portland Housing Bureau.**

**Project Name:** Interstate-Kilpatrick Phase 2

**Date:** \_\_\_\_\_

**Print Name:** \_\_\_\_\_ **Signature:** \_\_\_\_\_



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## ATTACHMENTS

## **ATTACHMENT B**

### **CITY OF PORTLAND SUBCONTRACTOR EQUITY PROGRAM**

#### **PROGRAM DESCRIPTION:**

The Portland Plan as adopted by Resolution 36918 was developed to make Portland a prosperous, educated, healthy and equitable city, recognizing that advancing equity must be at the core of our plans for the future. The Portland Plan includes a frame work for equity to guide plan implementation and improve City operational and business practices, support actions that promote accountability, close disparity gaps and increase community engagement. It is the intent of the City Council to achieve equity in City government policies, procedures and practices. Equity in contracting and workforce opportunities in the City are essential to achieving the vision of the Portland Plan.

As such, the City has a compelling governmental interest to ensure that its projects and resources provide employment opportunities for Oregon State certified disadvantaged, minority, women, and emerging small businesses (collectively, “D/M/W/ESBs”) in order to address historic underutilization. Therefore, the City’s Subcontractor Equity Program (the “Subcontractor Equity Program” or “Program”) applies to all City-Owned Projects and all City-Sponsored Projects as described below. On projects subject to the Program, the entity responsible for subcontractor selection (the “Contractor”) shall be obligated to comply with the Program for all subcontracting opportunities (regardless of value).

This project is subject to compliance reporting requirements. The prime contractor and all subcontractors are required to provide all contract compliance-related data electronically in the Contract Compliance Reporting System (CCRS). The prime contractor and all subcontractors are responsible for responding to any instructions or requests for information, and should regularly check the CCRS to manage contact information and contract records. The prime contractor is responsible for ensuring all subcontractors have completed all requested items and that their contact information is accurate and up-to-date. The City may require additional information related to the contract to be provided electronically through the system at any time before, during, or after contract award.

Information related to contractor access of the system will be provided to a designated point of contact upon award of the contract. The CCRS is web-based and can be accessed at the following Internet address:  
<https://portlandoregon.diversitycompliance.com/>.

City-Owned Projects means projects that have an engineer’s estimate of \$150,000 or more.

City Resources means funds provided by the City (regardless of the source) in the form of loans, grants or payments. City Resources also include the difference between the purchase price paid by a private entity and the fair market value of such property.

City – Sponsored Projects means contracts that provide for the disposition of the city-owned property and/or provide City Resources that result in a privately-owned project that has \$150,000 or more of Hard Construction Costs.

Utilization Plan (UP) includes all subcontractors and material suppliers that have been engaged to perform work on the project.



## **ASPIRATIONAL GOALS:**

The Program has an aspirational goal of twenty percent (20%) of Hard Construction Costs for D/M/W/ESB subcontractor utilization on projects subject to the Program (the “Aspirational Goal”); within the Aspirational Goal, a further goal of 14% D/M/WBE utilization is desired. The City encourages Contractors to diversify their D/M/W/ESB subcontractor utilization from all available divisions of work.

A directory of D/M/W/ESBs can be found by visiting the State of Oregon’s Office of Minority, Women and Emerging Small Business website at: <http://www4.cbs.state.or.us/ex/dir/omwesb/>.

## **SUBMISSION OF REQUIRED DOCUMENTATION FOR CITY-OWNED PROJECTS SUBJECT TO COMPETITIVE BIDDING:**

- A. UTILIZATION PLAN (UP) - DUE from the apparent low bidder WITHIN 24 HOURS OF NOTIFICATION BY CITY OF PORTLAND. A completed UP is required to be submitted electronically for the Subcontractor Equity Program. On-screen instructions in the CCRS will guide you through the UP submittal process. The UP must list ALL Subcontractors to be used on the project, their corresponding type of work, their subcontract amount, and certification status, if applicable, regardless of the dollar amount. If the project includes bid alternates for additional work, bidders shall list ALL first-tier subcontractors that will be used if the City elects to do such additional work. Bidders also must identify all types of work that will be self-performed. After submission of the UP, you may review your Dashboard for status updates.
- B. FORM 2 – D/M/W/ESB BIDS RECEIVED LOG: DUE UPON REQUEST FROM APPARENT LOW BIDDER IF ASPIRATIONAL GOALS ARE NOT MET
  1. If the CCRS shows that the Aspirational Goal has not been met, the apparent low bidder must submit Form 2 and additional documentation as required. The UP will become a part of the resulting contract for the project. Failure by the apparent low bidder to complete and submit the UP in the time specified, will result in the bid being non-responsive and the bid will be rejected. To submit Form 2 and additional documentation, click Attach Waiver Files. When finished click Save Waiver Details before leaving the plan or attempting to complete another step.
  2. Bidders must have contacted D/M/W/ESB subcontractors in writing to advise them of potential subcontracting opportunities and ensure that they have an equal opportunity to compete for work by providing all subcontractors the same information and informing them of the date and time that sub-bids are due.
  3. Bidders must have obtained a minimum of three (3) written bids from D/M/W/ESB subcontractors that specialize in the type of work that will be subcontracted. Failure to obtain three (3) written bids from D/M/W/ESB subcontractors may result in bid rejection. Bidders shall submit additional information and provide clarification upon request.

If for any reason the apparent low bidder is not awarded the contract or its bid is rejected, the next apparent low bidder required to submit their UP and upon review a determination will be made as to the need of a Form 2 submittal.

## **SUBMISSION OF REQUIRED DOCUMENTATION FOR CITY SPONSORED PROJECTS NOT SUBJECT TO COMPETITIVE BIDDING:**

### **A. UTILIZATION PLAN (UP) - DUE from the apparent low bidder WITHIN 24 HOURS OF NOTIFICATION BY CITY OF PORTLAND.**

A completed UP is required to be submitted electronically for the Subcontractor Equity Program. On-screen instructions in the CCRS will guide you through the UP submittal process. The UP must list ALL Subcontractors to be used on the project, their corresponding type of work, their subcontract amount, and certification status, if applicable, regardless of the dollar amount. If the project includes bid alternates for additional work, bidders shall list ALL first-tier subcontractors that will be used if the City elects to do such additional work. Bidders also must identify all types of work that will be self-performed. After submission of the UP, you may review your Dashboard for status updates.

### **B. FORM 2 – D/M/W/ESB BIDS RECEIVED LOG: DUE UPON REQUEST FROM APPARENT LOW BIDDER IF ASPIRATIONAL GOALS ARE NOT MET**

1. If the CCRS shows that the Aspirational Goal has not been met, the apparent low bidder must submit Form 2 and additional documentation as required. The UP will become a part of the resulting contract for the project. Failure by the apparent low bidder to complete and submit the UP in the time specified, will result in the bid being non-responsive and the bid will be rejected. To submit Form 2 and additional documentation, click Attach Waiver Files. When finished click Save Waiver Details before leaving the plan or attempting to complete another step.
2. Bidders must have contacted D/M/W/ESB subcontractors in writing to advise them of potential subcontracting opportunities and ensure that they have an equal opportunity to compete for work by providing all subcontractors the same information and informing them of the date and time that sub-bids are due.
3. Bidders must have obtained a minimum of three (3) written bids from D/M/W/ESB subcontractors that specialize in the type of work that will be subcontracted. Failure to obtain three (3) written bids from D/M/W/ESB subcontractors may result in bid rejection. Bidders shall submit additional information and provide clarification upon request.
4. If for any reason the apparent low bidder is not awarded the contract or its bid is rejected, the next apparent low bidder required to submit their UP and upon review a determination will be made as to the need of a Form 2 submittal.

## **REQUIREMENTS FOR ALL PROJECTS SUBJECT TO THE PROGRAM:**

### **A. MONTHLY SUBCONTRACTOR PAYMENT AND UTILIZATION REPORT (MUR): DUE BY THE 15<sup>th</sup> OF EACH MONTH**

The Contractor shall submit subcontractor payments via the CCRS by the 15<sup>th</sup> of each month once work has commenced and shall ensure that subcontractors are confirming payments reported to them in the system. Subprime firms are also responsible for reporting participation of lower tier subs.

A Subcontractor Report will be provided to the Contractor on the first of the month. If any changes occur to the subcontract value during the reporting period, the contractor shall correct the Subcontract Value on

the Report and submit this information to the Contract Compliance Specialist via the CCRS no later than the 15<sup>th</sup> of each month.

## **B. SUBCONTRACTOR CHANGES AFTER BID SUBMISSION**

1. If any subcontractor is added or replaced after the bid is submitted or the contract is awarded, the selected Contractor shall make good faith efforts to solicit bids from D/M/W/ESBs for the work to be performed.
2. The Contractor must contact D/M/W/ESB subcontractors in writing to advise them of potential subcontracting opportunities and ensure that they have an equal opportunity to compete for work by providing all subcontractors the same information and informing them of the date and time that sub-bids are due.
3. The Contractor must obtain a minimum of three (3) written bids from D/M/W/ESB subcontractors that specialize in the type of work that will be subcontracted. The Contractor shall submit additional information and provide clarification upon request.
4. All subcontractor changes/requests shall be made in the CCRS and will include supporting documentation of the foregoing prior to making any changes. A tutorial for adding subcontractors can be found here: <https://portlandoregon.diversitycompliance.com/Help/Tutorial/TutorialView.asp?XID=5666&TFL=RequestingASub>.
5. The Contractor shall not add, delete, or replace any subcontractor without prior written consent of the Chief Procurement Officer or designee.

## **C. REVIEW OF RECORDS**

In the event that the City reasonably believes that a violation of the requirements of the Subcontractor Equity Program has occurred, the City may review the records and pertinent documentation of the Contractor, as well as any subcontractor, to determine whether a violation has occurred.

## **D. PENALTIES FOR NONCOMPLIANCE**

A Contractor's failure to comply with the Subcontractor Equity Program may result in a breach of contract, possible disqualification of the Contractor's ability to bid on or receive future contracts, including as provided under Portland City Code 5.34.530, and/or the assessment of penalties. In the event of a breach of contract, in addition to any other remedies that the City may have, the City may take any or all of the following actions:

1. The City may withhold all or part of any progress payment(s) until the Contractor has remedied the breach of contract. In the event that progress payments are withheld, the Contractor shall not be entitled to interest on such payments. If a subcontractor has not complied with the Subcontractor Equity Program, the City may elect to withhold only such subcontractor's portion of the progress payment.
2. The City has an expectation that if a Contractor is awarded a contract, and identifies that it intends to subcontract with D/M/W/ESB subcontractor(s), then the Contractor will actually use such

D/M/W/ESB subcontractor(s). Therefore, the contract will include the following provisions:

- a. The Contractor acknowledges and agrees that it would be difficult, if not impossible, to assess the actual damage incurred by the City for the Contractor's failure to comply with the Subcontractor Equity Program. If the Contractor fails to comply with the provisions of Section 5.B, the Contractor agrees to pay the sum of \$2,000 for each violation. These penalties are independent of any liquidated damages that may be assessed under other provisions of the contract.
- b. If the Contractor fails to utilize any D/M/W/ESB subcontractor as identified on the UP, or in its Contracting Plan, the Contractor shall pay \$2,000 for each violation.

Exceptions to this requirement are for approved change orders, reductions in scope of work as requested by the City, failure of a D/M/W/ESB subcontractor to complete work or having breached the subcontract, and substitution requests approved by the City.

## **ATTACHMENT C**

### **WORKFORCE TRAINING & HIRING PROGRAM**

#### **CONTRACTOR CHECKLIST**

*This program applies to contracts of \$200,000 or more and subcontracts of \$100,000 or more*

The City's Workforce Training and Hiring Program (the "Program") applies to all City-Owned Projects and all City-Sponsored Projects as described below.

City-Owned Projects means projects that have contracts of \$200,000 or more.

City Resources means funds provided by the City (regardless of the source) in the form of loans, grants, or payments. City resources also include the difference between the purchase price paid by a private entity and the fair market value of such property.

City-Sponsored Projects means contracts that provide for the disposition of City-owned property and/or provide City Resources that result in a privately-owned project that has \$200,000 or more of Hard Construction Costs.

It is the Contractor's responsibility to read and fully understand this section of the bid specifications and to comply with all provisions of the program, regardless of whether they appear on this checklist. *Contractors shall include in their bid all costs associated with complying with the Workforce Program.* An 18% aspirational goal for minorities, and 9% for females has been set on City-Owned/Sponsored construction projects for apprentices and journey level workers.

The prime contractor and all applicable subcontractors are required to provide all workforce utilization related data electronically in LCP Tracker. The prime contractor is responsible for ensuring all subcontractors have completed all requested items.

Information related to contractor access of the system will be provided to a designated point of contact upon award of the contract. LCP Tracker is web-based and can be accessed at the following Internet address: [www.lcptracker.net](http://www.lcptracker.net).

#### **CHECKLIST**

*For Contracts of \$200,000 or More and Subcontracts of \$100,000 or More, Contractors Must:*

1. Submit a Workforce Plan (Exhibit 2) to City prior to submittal of first payroll report, or as otherwise designated. A copy of the Workforce Plan should be downloaded, filled out and then uploaded into LCP Tracker. The Plan should detail your approach and strategies to achieve the targeted workforce goals established by the City.
2. Before starting work on this project confirm registration as a Training Agent with the Bureau of Labor & Industries (BOLI), Apprenticeship & Training Division. Not a BOLI registered training agent? Contact BOLI (971-673-0760) or City of Portland (503-823-5047) for further information.
3. Ensure that a minimum of 20% of labor hours in each apprenticeable trade are worked by state registered apprentices. Contractors shall fulfill the 20% apprenticeship requirement without exceeding the apprentice ratios approved by the applicable apprenticeship program, if working in excess of 300 hours in any given trade.

4. Strive in good faith to meet the diversity goals of employing women and minorities (both journey and apprentice level workers).
5. Make all reasonable and necessary efforts to employ a workforce that reflects the diversity of the City of Portland, including recruitment of a diverse workforce through the unions, the apprenticeship programs and other community resources, as described herein.
6. Maintain written documentation of all requests for workers from the unions, apprenticeship programs, and community organizations.
7. When an apprentice is hired: Notify the City's Contract Compliance Specialist assigned to the project.
8. Submit weekly certified payroll reports via the LCP Tracker system no later than the 5<sup>th</sup> of each month.

For additional information or questions, please contact the Contract Compliance Specialist assigned to the project or the City's Workforce Program Coordinator at 503-823-6888.

## WORKFORCE TRAINING AND HIRING PROGRAM

### I. PURPOSE

#### A. General Program Description

The Portland City Council has directed that all Bureaus and Departments maximize apprenticeship and employment opportunities for minorities, women and economically disadvantaged workers in the construction trades (ref. City Ordinance No. 167374, Feb. 16, 1994 and County Ordinance No. 861, July 11, 1996). Their goals include a) ensuring that the City does business with contractors whose workforce reflects the diversity of the workforce found in the city of Portland and Multnomah County, and b) that their contracting dollars provide fair and equal opportunities to the jurisdictions' diverse populations.

The Workforce Training & Hiring Program ("Workforce Program") is administered for the City of Portland, by Procurement Services. The Workforce Program applies to all projects estimated at \$200,000 or more and to each subcontractor having a subcontract of \$100,000 or more on the project. The Contractor and all subcontractors are encouraged to fulfill the program requirements even if their contracts are less than these amounts.

Contractors shall make reasonable efforts to ensure that their workforce reflects the diversity of the city of Portland and Multnomah County.

One way contractors can make reasonable efforts to ensure that their workforce is diverse is to recruit, train and employ minorities and women whenever possible. This portion of the Contract establishes requirements regarding that recruitment, training and employment.

#### **For purposes of the Workforce Program specifications, the following definitions shall apply:**

The "**Contract**" shall mean the contract awarded as a result of these bid specifications.

"**Contractor**" shall mean the Prime Contractor to whom a Contract is awarded, and any subcontractors with subcontracts of \$100,000 or more.

The term "**minorities**" shall include members of either sex who are African-Americans, Hispanic Americans, Asians or Pacific Islanders, Native Americans or Alaskan Native Americans.

"**Owner**" shall mean the government agency that awarded the Contract, or leveraged public involvement in the project through a loan or development agreement.

The "**project**" shall include all work performed pursuant to the Contract.

#### B. Organization of Program Requirements

The Workforce Program specifications are divided into several parts.

**Section II** - refers to the action the PRIME must take in order to be eligible for award of a contract.

**Section III** - lists the actions that must be taken by the PRIME to meet contractual obligations.

**Section IV** - refers to remedies available to the Owner if a PRIME fails to meet the requirements of the Workforce Program specifications.



**Section V** - refers to the Owner's ability to monitor compliance with the Workforce Program specification by examination of PRIME and subcontractor records.

## **II. ACTIONS REQUIRED PRIOR TO BEGINNING THE PROJECT**

The PRIME shall thoroughly read this Workforce Program specification and commit to perform all requirements described herein. The PRIME shall submit, before submittal of the first payroll report, a Workforce Plan, which demonstrates how the workforce on this project will fulfill all program requirements, including utilization of apprentices and targeted diversity goals. A copy of the Workforce Plan should be downloaded, filled out and then uploaded into LCP Tracker.

## **III. ACTIONS REQUIRED TO SATISFY CONTRACTUAL OBLIGATIONS**

### **A. Make Reasonable Efforts to Have Diverse Workforce**

A PRIME must make all necessary and reasonable efforts to have a workforce that reflects the diversity of the city of Portland and Multnomah County and is reasonably consistent with the availability of qualified women and minorities. This requirement is in addition to any other requirement of this portion of the Contract.

1. The PRIME and its subcontractors with subcontracts of \$100,000 or more, at any tier level, shall strive to achieve the workforce diversity goal of 18% minority and 9% female hours (including both journey level and apprentice workers) on the project.
2. Provide written documentation of its good faith recruitment efforts. Contractors must follow the process for hiring, requesting, recruiting or replacing workers described in Section III, subsection F. This process is considered by the City to be the minimum effort to recruit a diverse workforce.
3. The failure by a union with whom the Contractor has a collective bargaining agreement to refer either minorities or women shall not excuse the Contractor's obligations under this section of the specifications.

### **B. Ensure Compliance by Certain Subcontractors**

1. *The PRIME shall ensure that each subcontractor having a subcontract of \$100,000 or more, at any tier, shall comply with all of the provisions of the Workforce Program specifications.* Contractors shall include in their price all costs associated with this requirement. No change order will be executed in order for the PRIME to comply with the Workforce Program specifications.
2. The PRIME shall provide a copy of this Workforce Program specification to all subcontractors with contracts of \$100,000 or more executed for the project.

### **C. Register as a Training Agent**

The PRIME shall register with the Oregon Bureau of Labor and Industries (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, prior to beginning work. 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.



1. Training programs approved by and registered with BOLI may be used to fulfill training requirements under the Workforce Program specifications. Other training alternatives must be approved by the City's Workforce Program Coordinator.
2. 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.
3. 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 only for extreme circumstances during the course of the project, and must be approved in writing. All requests to exempt all or any portion of the work on a project shall be submitted to the Owner 14 calendar days before any work on the project begins. All exemptions must be approved by the Workforce Program Coordinator. *Please note: Procedures for granting exemptions are subject to change. For the most recent updates, please visit: <https://www.portlandoregon.gov/citycode/?c=26882&a=408189>.*

#### D. Submit Documentation

The PRIME shall submit documentation regarding the following subjects to the Owner. The Owner's failure to object to documentation submitted by the PRIME or subcontractor shall not relieve them of the requirements of the Workforce Program specifications.

1. ***Training Agent Status***  
The PRIME and all required subcontractors listed on the Utilization Plan must submit proof to the Contract Compliance Specialist that they are registered Training Agents with BOLI prior to beginning any work on the project.
2. ***Subcontractor Workforce Information***  
A Workforce Plan, must also be submitted for each subcontractor with a contract of \$100,000 or more, prior to submission of their first payroll report, or within 5 calendar days after the execution of the applicable subcontract, whichever occurs first. A copy of the Workforce Plan should be downloaded, filled out and then uploaded into LCP Tracker. Work by a subcontractor shall not begin prior to submission of such documentation.
3. ***Prime and Subcontractor Reporting After Work Begins***  
Weekly Certified Payroll Reports must be submitted by the PRIME and any subcontractor having a subcontract of \$100,000 or more, via LCP Tracker, no later than the 5<sup>th</sup> of each month and will be used to track attainment toward the City's apprentice requirement and diversity goals. All hours subject to prevailing wage rates on public projects, in addition to supervisors, foremen and superintendents, shall be reported.

#### E. Use of Apprentices

The PRIME shall:

1. Ensure that a minimum of 20% of labor hours in each apprenticeable trade performed on the project by the PRIME, and subcontractors with subcontracts of \$100,000 or more, are worked by state registered apprentices throughout the duration of the project. The PRIME and subcontractors shall fulfill the 20% apprenticeship requirement without exceeding the apprentice ratios approved by the

- applicable apprenticeship program, if working in excess of 300 hours in any given trade.
2. Pay all apprentices the wages required by any applicable collective bargaining contract or pursuant to state or federal law and regulations.
  3. Not use workers previously employed at journey-level or those who have successfully completed a training course leading to journey-level status to satisfy the requirements of these provisions.
  4. Notify the Contract Compliance Specialist when an apprentice is hired for this project.
  5. Count apprentice hours as follows:
    - (a) Hours worked on the project by apprentices enrolled in state-approved apprenticeship programs. **If** the Contractor is unable to fulfill its 20% requirement, then the Contractor may also use methods (b) and (c) below;
    - (b) 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 employer after completion of training; and
    - (c) 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.

F. Hiring, Requesting, Recruiting or Replacing Workers

Contractors must follow all of these steps when hiring, requesting, recruiting or replacing workers:

For Apprentices:

1. Using the Worker Request Form, contact the appropriate apprenticeship program or dispatch center to request apprentices who are enrolled in the apprenticeship program; and
2. 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 workforce.
3. If the apprenticeship program is unable to supply an apprentice and if the program is open for applications or allows direct entry from the Oregon Employment Division, make reasonable and necessary efforts to recruit apprentice applicants from WorkSource at the Oregon Employment Department, and seek to enroll them into an apprenticeship program.

Worksource Oregon is Oregon's largest source for job ready applicants:

- Recruitment Services are local, statewide, and nationwide
- Computerized job match system matches applicants to job qualifications
- On-the-job training resources available to offset cost of new hires
- Go to: [www.imatchskills.org](http://www.imatchskills.org) or call 503-257-HIRE

For All Workers:

1. Make reasonable and necessary efforts to employ a diverse workforce. Such actions should include requests for minority and female applicants. Contractors are notified that direct hiring of employees (such as "walk-ons") without providing notification of that job opportunity may not be sufficient to

establish the Contractor's efforts to satisfy the diversity goals; and

2. Document employment efforts. Use the Worker Request Form to keep a *written* record of requests to:
  - a. Union halls for signatory contractors;
  - b. Union or open shop apprenticeship programs;
  - c. The Oregon Employment Department. Go to: [www.imatchskills.org](http://www.imatchskills.org) or call 503-257-HIRE;
  - d. State-registered pre-apprenticeship programs:  
[http://www.oregon.gov/BOLI/ATD/pages/a\\_ag\\_partners.aspx](http://www.oregon.gov/BOLI/ATD/pages/a_ag_partners.aspx)
3. Documentation will be requested by the Owner, if a Contractor is not following their Workforce Plan or meeting the workforce diversity goals, if it appears that the Contractor has not made reasonable and necessary efforts. When requested, the Contractor shall provide that documentation to the Contract Compliance Specialist within 7 calendar days.

**NOTE: Contractors may contact the Contract Compliance Specialist for assistance related to any of the above issues.**

#### **IV. CONSEQUENCES OF NONCOMPLIANCE WITH WORKFORCE PROGRAM REQUIREMENTS**

The Owner's commitment to this program is reflected, in part, by the cost of administering the program. Failure to meet the requirements of this section of the specifications negates such funding and impairs the Owner's efforts to promote workforce diversity and to provide fair and equal opportunities to the public as a whole as a result of the expenditure of public funds. Therefore, the parties mutually agree that failure to meet the requirements of this section of the specifications, including but not limited to the submission of required documentation, constitutes a material breach of the Contract.

In the event of a breach of this section of the Contract, 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 PRIME has remedied the breach of Contract. In the event that progress payments are withheld, the PRIME shall not be entitled to interest on said payments.

If a subcontractor(s) is responsible for noncompliance with the Workforce Program requirements, the Owner may choose to withhold only their portion of the progress payment.

##### **B. Retain Sums as Damages for Failure to Comply with Workforce Program Specifications**

The parties mutually agree that it would be difficult, if not impossible, to assess the actual damage incurred by the Owner for the PRIME's failure to comply with the Workforce Program specifications. The parties further agree that it is difficult, if not impossible, to determine the cost to the Owner when workforce opportunities are not provided. Therefore, if the PRIME fails to comply with the Workforce Program provisions of this Contract, the PRIME 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 PRIME and each required subcontractor in each trade employed. Damages will be calculated based on the training hours not provided at a rate of \$250 per day. For example, if the Contractor was required to provide 200 hours of carpenter training (20% of 1,000 total carpenter hours), and the Contractor only provided 150 training hours, then the difference (50 hours)

is divided by 8 (one day of work) to determine the number of days of undelivered training. ( $50/8 = 6.25 \times \$250 = \$1,562.5$ ).

Damages may also be assessed for failure to fulfill the inclusive hiring process described in Section III, subsection F.

These damages are independent of any liquidated damages that may be assessed due to any delay in the project caused by the Contractor's failure to comply with the Workforce Program provisions of the Contract.

C. Retain Sums as Liquidated Damages for Delay

The PRIME agrees that any delay to the specified contract time as a result of the PRIME's failure to comply with the requirements of these specifications shall subject the PRIME to the amount of liquidated damages specified elsewhere in the Contract.

D. Notification of Possible Debarment

By executing this Contract, the PRIME agrees that it has been notified that failure to comply with the requirements of this portion of the Contract may lead to the PRIME's disqualification from bidding on and receiving other Owner contracts.

E. Other Remedies

The remedies that are noted above do not limit any other remedies available to the Owner in the event that the PRIME fails to meet the requirements of the Workforce Program specifications.

**V. REVIEW OF RECORDS**

In the event that the Owner reasonably believes that a violation of the requirements of the Workforce Program specifications has occurred, the Owner is entitled to review the books and records of the PRIME and any subcontractors employed on the project to which the requirements of these specifications are applicable to determine whether such a violation has or has not occurred.

In the event that the PRIME or any subcontractor fails to provide the books and records for inspection and copying when requested, such failure shall constitute a material breach of this Contract and permit the imposition of any of the remedies noted in Section IV above, including the withholding of all or part of any progress payment.

**ATTACHMENTS:**

Recommended Recruitment & Retention Practices  
Apprenticeship Ratio Data



P.O. Box 11527  
 1478 NE Killingsworth St.  
 Portland, Oregon 97211  
 tel: 503.287.9529 fax: 503.287.4649  
 CCB #100310  
 habitatportlandmetro.org

**RESOURCES:**

Copies of all required forms, including the Workforce Plan and Worker Request Form can be downloaded in the LCP Tracker system at [www.lcptracker.net](http://www.lcptracker.net) or are available on the City’s website at: <https://www.portlandoregon.gov/brfs/42255>

For questions about the City’s Workforce Training and Hiring Program requirements, visit: <https://www.portlandoregon.gov/brfs/42255>

For information on State-Approved Apprenticeship Programs visit the Bureau of Labor and Industries, Apprenticeship and Training Divisions website: <http://www.oregon.gov/BOLI/ATD/pages/index.aspx>.

For procedures related to granting exemptions to the training requirements, please visit: <https://www.portlandoregon.gov/citycode/?c=26882&a=408189>.

For a list of community resources to help with the recruitment of women and minorities, please visit: [http://www.oregon.gov/BOLI/ATD/pages/a\\_ag\\_partners.aspx](http://www.oregon.gov/BOLI/ATD/pages/a_ag_partners.aspx)

If you have questions after reading the information contained herein and visiting the resources above, please contact a Contract Compliance Specialist or the City’s Workforce Program Manager at:

CATHLEEN MASSIER	823-6888	<a href="mailto:cathleen.massier@portlandoregon.gov">cathleen.massier@portlandoregon.gov</a>	Program Manager
ANGELA PACK	823-6883	<a href="mailto:angela.pack@portlandoregon.gov">angela.pack@portlandoregon.gov</a>	Contract Compliance
PAULA WENDORF	823-6889	<a href="mailto:paula.wendorf@portlandoregon.gov">paula.wendorf@portlandoregon.gov</a>	Contract Compliance

## **RECOMMENDED GOOD FAITH RECRUITMENT & RETENTION PRACTICES**

### **A. Recruitment Efforts**

Good faith recruitment efforts are those intense, aggressive, sincere, and result-oriented actions taken by the Contractor designed to accomplish the objectives of the City Workforce Training & Hiring Program. Good faith recruitment efforts include, but are not limited to:

1. Work aggressively with Contractor's Joint Apprenticeship Training Committee (JATC) to recruit minorities, women and disadvantaged individuals. Provide evidence of these efforts.
2. Assist the JATC by conducting a workshop with minority and women employees to enlist their assistance as recruiters and request their ideas on how to increase employment of underutilized groups.
3. Support the efforts of the Contractor's JATC by giving all apprentices referred to the Contractor a fair chance to perform successfully, allowing for possible lack of previous experience. Recognize that the Contractor is responsible for providing on-the-job training, and that all apprentices should not be expected to have previous experience.
4. Participate in job fairs, school-to-work, and community events to recruit minorities, women, and disadvantaged individuals into the construction trades.
5. Allow scheduled job site visits by participants in community programs, as safety allows, increasing awareness of job and training opportunities in the construction trades.
6. Keep applications of those not selected for an opening. Contact when opening occurs.

### **B. Retention Efforts**

The Contractor shall endeavor to retain minorities, women, and disadvantaged individuals by implementing steps such as the following:

1. Maintain a harassment-free work place.
2. Ensure that employees are knowledgeable about the company's policies if they need to report a harassment problem.
3. Make reasonable attempts to keep apprentices working and train them in all work processes described in the apprenticeship standards.
4. Review and disseminate, at least annually, the company's EEO policy and affirmative action obligations under these specifications with all employees having any responsibility for hiring, assignment, layoff, termination or other employment decisions.
5. Conduct a review, at least annually, of all supervisors' adherence to and performance under the Contractor's EEO policies and affirmative action obligations.
6. Take steps to reduce feelings of isolation among minorities and women to curb hostile attitudes and behavior (e.g., have several minorities and women at the job site, provide access to support group system).
7. Provide adequate toilet facilities for women on the job site.
8. Match minority, female, or disadvantaged apprentices who may need support to complete their apprenticeship programs with a journey-level mentor.

### APPRENTICESHIP RATIO DATA

The following data may be used to determine the ratio of apprentices on a jobsite in proportion to journey-level workers. The ratios that apply are those listed in the standards of the apprenticeship committee to which the Training Agent (contractor) is a member. If the applicable trade is not listed, contact the Bureau of Labor and Industries at (971) 673-0760.

TRADE	1 <sup>st</sup> Apprentice	2 <sup>nd</sup> Apprentice	Maximum
Asbestos/Insulation Workers	1:1	1:3	
Brick/Marble/Terrazzo/Tile Finisher	1:1	1:3	
Bricklayer/Masonry	1:1	1:3	
Carpenter	1:1	1:1	1:1 for first three apprentices; 1:5 thereafter
Carpet Installers/Floorlayers	1:1	1:3	
Cement Masons	1:2; 1:1 non-union	1:3	
Drywall Applicator (Ext/Int Specialists)	1:1	1:1	1:1 for first three apprentices; 1:5 thereafter
Drywall Finisher (Taper)	1:1	1:3	1:3 thereafter
Electricians			
Inside	1:1	1:3	
Limited Energy	1:1	1:1	
Limited Maintenance	1:1	1:2	
Elevator Mechanic	1:1	1:3	
Environmental Control System (HVAC)	1:1	1:1	Additional Apprentices at 1:3
Glass Installer (Glazier)	1:1	1:3	
Hod Carrier/Mason Tender	1:1	1:5	
Ironworker	1:1	1:3	
Laborer	1:1	1:5; 1:3 non-union	1:10 union (10 max)
Maintenance Mechanic	1:1	1:3	
Millwright	1:1	1:1	1:1 for first three apprentices; 1:5 thereafter
Operating Engineer	1:1-4	2:5-9	3:10-19; 4:20-24; 5:25-29; 30 or more 1:5
Painter	1:1	1:3	
Traffic Control	1:1	1:4	
Pile Driver	1:1	1:1	1:1 for first three apprentices; 1:5 thereafter
Pipefitter	1:1	1:1	1:3 thereafter
Plasterer	1:1	1:3	
Plumber	1:1	1:1	1:1 for first two apprentices; 1:3 thereafter
Roofer	1:1	1:1	
Scaffold Erector	1:1	1:1	1:1 for the first five apprentices; 1:5 thereafter
Sheet Metal Worker	1:1	1:1	1:1 for the first two apprentices; 1:3 thereafter
Residential	1:1	1:3	
Sign Maker/Erector	1:1	1:1	
Sprinkler Fitter	1:1	1:1	
Steamfitter	1:1	1:1	1:1 for the first two apprentices; 1:3 thereafter
Tile/Marble Setter	1:1	1:3	
Truck Driver	1:1	1:1	

*Note: Ratios may change pursuant to actions taken by the Oregon State Apprenticeship & Training Council. For the purposes of this contract, the ratios approved by BOLI on the date the bid is advertised shall prevail.*



**EXHIBIT Z**  
**ADDENDUM TO**  
**SUBCONTRACT AGREEMENT**  
**REGARDING OCIP INSURANCE**  
**AND ADDITIONAL TERMS AND CONDITIONS**  
**(Interstate & Kilpatrick Community Project)**

The Subcontractor Agreement (“Agreement”) between Habitat for Humanity Portland/Metro East (“Contractor”) and (“Subcontractor”), dated , for services performed on the Interstate & Kilpatrick Community project (“Project”) located in Portland, OR, is hereby amended and/or modified with respect to insurance provisions set forth therein. Habitat for Humanity Portland/Metro East (“Owner”), as part of an Owner Controlled Insurance Program (“OCIP”), has obtained a primary commercial general liability insurance policy (“OCIP Policy”), also commonly referred to as a Wrap Up Policy, naming it, as well as other designated construction participants, including Contractor, and other eligible and enrolled trades (hereinafter collectively referred to as “Participants”), for certain insurable risks on this Project. The OCIP is administered through Paladin Risk Management (“Program Administrator”).

Subcontractor agrees that the following amendments and/or modifications are effective as of the date of the Agreement and the amendments and/or modifications are fully incorporated therein. As consideration for Subcontractor’s acceptance of the terms of this Addendum, certain insurance coverages will be provided for Subcontractor as specified in the full OCIP Policy. In the event of any conflict between this Addendum and the Agreement or other Contract Documents (as defined in the Agreement, or defined as the Agreement and any documents expressly incorporated therein, if undefined), the terms of this Addendum shall control. Additionally, Owner has subscribed the Project to the Asset Protection Program (“APP”). The APP requires that certain practices be met which are outlined in this Addendum.

**I. Subcontractor’s insurance coverage obligations are amended or modified as set forth below:**

The OCIP Policy is specific to the subject Project and extends coverage to all eligible and enrolled Subcontractors performing Work (as defined in the Agreement, or defined as services performed, if undefined) in connection with the Project on the property. Execution hereof by Subcontractor constitutes Subcontractor’s agreement to enroll in such OCIP Policy and to abide and be bound by (a) all the terms, conditions, limitations, and exclusions of the OCIP Policy and (b) all the provisions and requirements of the OCIP Insurance Program Manual (“Insurance Manual”), Exhibit W, as it may be amended from time to time.

Without in any manner modifying the OCIP policy, enrollment in the OCIP occurs upon the issuance of a Certificate of Enrollment. Enrollment must take place prior to an occurrence for which coverage is sought under the OCIP. Eligible parties shall be enrolled in the OCIP through the Program Administrator (“Eligible Parties”). Certain parties may be ineligible for enrollment into the OCIP if their scope of Work is of the type which would be excluded under the OCIP (“Ineligible Parties”). These Ineligible Parties shall provide insurance as set forth herein and in the Agreement. In limited circumstances, parties may be excluded from the OCIP by Owner in its sole discretion (“Non-Enrolled Parties”). These Non-Enrolled Parties shall provide insurance as set forth herein and in the Agreement.

The OCIP coverages shall cover Enrolled Parties only. Enrolled Parties are: the Owner, Contractor and eligible Subcontractors of all tiers that enroll in the OCIP, and such other trades, persons or entities as Owner may designate, in its sole discretion (each party insured under the OCIP is an “Enrolled Party”). Enrolled Parties shall obtain and maintain, and shall require each of their subcontractors of all tiers to obtain and maintain, the insurance coverage specified in Subsection I.4, below, and in the Insurance Manual.

The OCIP coverages do not **typically** cover the following “Excluded Parties”:



- a. Hazardous materials remediation, removal and/or transport companies and their consultants;
- b. Architects, surveyor, engineers, and soil testing engineers, and their consultants;
- c. Vendors, suppliers, fabricators, material dealers, truckers, haulers, drivers and others who merely transport, pick up, deliver, or carry materials, personnel, parts or equipment, or any other items or persons to or from the Project site;
- d. Subcontractor and each of its or their respective Subcontractors of all tiers that do not perform any actual labor on the Project site; and
- e. Any parties or entities not specifically identified in this Addendum, as well as any parties or entities excluded by Owner in its sole discretion, even if they are otherwise eligible.

Excluded Parties and parties no longer enrolled in or covered by the OCIP shall obtain and maintain, and shall require each of their subcontractors of all tiers to obtain and maintain, the insurance coverage specified in the Agreement.

The types of risks covered by this policy are defined and specified in the actual insurance policy. Subcontractor is charged with the responsibility of obtaining from the Broker-of-Record, Propel Insurance, a copy of the OCIP Policy for review. It is Subcontractor’s responsibility to obtain professional assurance and/or legal counsel regarding this insurance policy. Owner and Contractor make no representations regarding the scope, adequacy, nature, quality or limits of the OCIP and Subcontractor expressly acknowledges the lack of reliance upon any representations made by Owner or Contractor or its and their representatives regarding the scope, adequacy, nature, quality or limits of the insurance provided by the OCIP Policy. Subcontractor shall hold Owner and Contractor and its and their representatives, including, but not limited to Program Administrator, insurance brokers and/or agents, free and harmless from any and all claims asserting or alleging that the scope, type and/or amount of coverage provided under the OCIP is inadequate or insufficient. The OCIP is intended to be the primary source of coverage for the risks covered thereunder and shall assume primary position to Subcontractor’s insurance in the areas of risk covered by the OCIP.

1. Owner shall be responsible for payment of insurance premiums for the OCIP Policy. Subcontractor shall not be responsible in contributing toward the OCIP insurance premium. Subcontractor shall bid net of its general liability insurance cost.
2. The OCIP Policy available limits shared among Owner, Contractor, and eligible and enrolled subcontractors are as follows:

Designated Project Name	Interstate & Kilpatrick Community
Type of Project	Condominium
Number of Units	30
First Named Insured	Habitat for Humanity Portland/Metro East
<b>Primary Insurance</b>	
Insurance Carrier	Clear Blue Specialty Insurance Company
Policy Period	November 26, 2019 to May 26, 2021
Policy Number	AC010001391
Limits	\$1,000,000 Each Occurrence \$2,000,000 General Aggregate \$2,000,000 Products-Completed Operations Aggregate
Self-Insured Retention (SIR)	\$25,000 per occurrence

3. The OCIP requires satisfaction of a per occurrence self-insured retention (“SIR”) in the amount of \$25,000. Each enrolled Subcontractor is obligated to contribute toward the SIR in the manner set forth herein.

In the event of an occurrence during the course of construction (prior to completion and acceptance of Subcontractor’s Work) or after the course of construction (during the policy’s statute of repose), which requires Owner to satisfy all or any portion of the SIR and which arises out of the Scope of Work by or for Subcontractor, each involved Subcontractor shall be responsible an allocation of the SIR as follows:

- For Subcontracts at or below \$25,000 in contract value, the maximum SIR allocation shall be \$2,500 per occurrence;
- For Subcontracts with a value greater than \$25,000 but less than \$100,000, the maximum SIR allocation shall be \$5,000 per occurrence;
- For Subcontracts with a value at or above \$100,000, the maximum deductible allocation shall be \$10,000 per occurrence.

Owner, in its sole judgement, shall determine which subcontractors are involved and responsible. If the amount collected hereunder exceeds the amount actually expended in satisfaction of the SIR/deductible, the contribution from each Subcontractor will be proportionately reduced by an amount so that the total amount collected equals the actual SIR amount incurred.

4. A Subcontractor who is enrolled in the OCIP shall, prior to commencement of its Work and prior to entry onto the Project, provide to Contractor evidence of all Required Insurance coverages as set forth in this Addendum in the form of a certificate from a carrier or carriers that has or have a current AM Best rating of A- or better:

a. Commercial General Liability Insurance, written on a full occurrence policy form, provides coverage on a primary and non-contributory basis to the OCIP, and covers work and operations away from the Project (**off-site**), with minimum limits of liability of not less than:

\$1,000,000	Each Occurrence
\$2,000,000	General Aggregate
\$2,000,000	Products/Completed Operations Aggregate

b. Commercial Auto Insurance, including liability for “any auto” or for all owned, non-owned, leased and hired automobiles, trucks, trailers, and semi-trailers, including but not limited to any machinery or apparatus attached thereto, with minimum limits of not less than:

\$1,000,000	Combined Single Limit per Accident for bodily injury and property damage
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c. Workers’ Compensation Insurance compliant with State law, and Employer’s Liability, with minimum limits of not less than:

\$1,000,000	Bodily Injury by Accident (per accident)
\$1,000,000	Bodily Injury by Disease (policy limit)
\$1,000,000	Bodily Injury by Disease (per employee)

d. If the scope of Work to be performed by Subcontractor contains an element of design Work, then Subcontractor must furnish and maintain Professional Liability Insurance for errors and/or omissions for each consultant and Subcontractor who is providing professional services for the Project, including, but not limited to, design or design/build services, with minimum limits of:

\$1,000,000	Per claim limit and
\$1,000,000	Annual aggregate limit

Coverage shall be maintained during the period of the Agreement and for not less than three (3) years from the issuance of a temporary certificate of occupancy for the entire Project.

5. Unless stipulated otherwise in Section I.4 above, Subcontractor agrees to maintain continuous coverage for the above insurance and provide all policy endorsements, as required, during the entire course of Subcontractor's Work and through the warranty period as agreed upon between Contractor and Subcontractor, and during the term of the OCIP, whichever ends later.

6. The General Liability and Commercial Auto Insurance provided by Subcontractor shall name the following as Additional Insured and Additional Insured Endorsements shall be provided:

- Habitat for Humanity Portland/Metro East

The required Additional Insured Endorsements shall be delivered to Contractor prior to the earlier of commencement of Subcontractor's Work or its entry onto the Project.

7. Subcontractor's General Liability, Commercial Auto Insurance and Workers' Compensation policies shall provide waiver of subrogation endorsements in favor of the above-named Additional Insureds. Subcontractor waives all of its rights of recovery, and waives all rights of recovery (including but not limited to subrogation) of its insurers and against Owner and Contractor for damages that are covered by the OCIP. Subcontractor further waives all of its rights of recovery, and waives all rights of recovery (including but not limited to subrogation) of its insurers under the non-OCIP insurance policies maintained by Subcontractor in connection with its Work on the Project, against Owner and Contractor. Subcontractor shall cause its respective insurance policies as required above to contain such waivers of subrogation, by endorsement. A waiver of subrogation shall be effective as to any individual or entity even if such individual or entity (1) would otherwise have a duty of indemnification, contractual or otherwise; (2) did not pay the insurance premium directly or indirectly; and (3) whether or not such individual or entity has an insurable interest in the property damaged.

8. Subcontractor shall provide Contractor and Owner with thirty (30) days prior written notice for cancellation, material change in terms and non-renewal of coverage of its General Liability, Auto, Workers' Compensation employer's liability policies, including its Professional Liability policy, if required. If a policy is cancelled or non-renewed, Subcontractor shall immediately provide replacement certificates and endorsements for the replacement coverage, consistent with the requirements of this Addendum. Any delay or failure on the part of Contractor in enforcing this requirement shall not be deemed a waiver of, or estoppel to assert, the requirement or the obligation on the part of Subcontractor or any other party to provide insurance.

9. Enrollment of Subcontractors and their eligible sub tier contractors is mandatory. Subcontractor acknowledges and agrees that all of its eligible sub tier contractors of any level, if any, who perform Work on the Project shall be enrolled in the OCIP. Failure of Subcontractor to do so will amount to a material breach of the Agreement. Subcontractor assumes full responsibility for its sub tier contractors and the Work that they do. Subcontractor assumes full responsibility for any and all sub tier contractors' compliance with and, where required, the submission to Contractor of all insurance requirements set forth in the Agreement, as well as all other requirements contained in this Addendum, the Agreement and the Insurance Manual.

10. Nothing contained in these insurance provisions or elsewhere in the Contract Documents shall relieve the Subcontractor or any of its sub tier contractors of their respective obligations to exercise due care in the performance of their duties in connection with the Work and to complete the Work in strict compliance with the Contract Documents.

11. If at any time Subcontractor's insurance fails to meet the requirements stated herein, all payments may be held until the non-compliance has been corrected to Contractor and Owner's satisfaction. In the event



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Subcontractor fails to secure or maintain any policy of insurance required under these insurance requirements, Contractor, at its sole discretion and election, may terminate this Contract, and Contractor shall retain all rights and remedies hereunder for breach of the Agreement.

12. None of the requirements contained in these insurance requirements as to types, limits or acceptability of insurance coverage to be maintained by Subcontractor or its sub tier contractors are intended to, and shall not in any manner, limit or qualify the liabilities and obligations assumed by Subcontractor and/or its sub tier contractors under the Agreement or at law, including, without limitation, Subcontractor's and/or its sub tier contractors' indemnification obligations and liability in excess of the limits of the coverages required herein. No forbearance, act or omission by or on behalf of Owner or Contractor, including, without limitation, permitting Subcontractor or any of its sub tier contractors to commence Work or to continue Work, or releasing any payment, or receiving any certificates, endorsements, waivers, policies or other insurance documents or information, not in compliance with any provision of these insurance requirements or any of the other Contract Documents, shall constitute a release of, waiver of or estoppel to assert any right of Owner and Contractor under any of the Contract Documents or otherwise, nor a release of, waiver of or estoppel to assert any duty or obligation owed by Subcontractor or any of its sub tier contractors, under the Contract Documents or otherwise. Contractor shall not be obligated to review certificates of insurance or to advise Subcontractor of any deficiencies in coverage. Contractor's receipt of an insurance certificate from Subcontractor shall not be deemed a waiver of Contractor's right to enforce the terms of the Agreement nor a waiver of Subcontractor's obligation to obtain the coverages required herein.

13. Should a claim be made by any third party, Owner shall maintain unilateral authority and entitlement to select counsel to represent the Participants' interests, to the extent that the claim is within the limits of the SIR. To the fullest extent permitted by law, Subcontractor agrees to waive any potential or actual conflict of interest in the selection of counsel by Owner.

Habitat for Humanity Portland/Metro East  
 Contractor

Subcontractor

By:

By:

Title:

Title:

Date:

Date: