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Project Subcontractor or Supplier

**RE: Subcontractor or Supplier Rights and Responsibilities
and Economic Sustainability Contract Provisions**

Dear Subcontractor or Supplier:

The general contractor/design-builder has identified your company as a subcontractor on a Public Building Commission of Chicago (PBC) project. The PBC would like to welcome you to our project team.

The PBC is committed to client service and strong stewardship of public resources. We make every attempt to ensure transparency in our contracting process. As a subcontractor, your role is critical in ensuring that the project is delivered to our client agency in a timely and cost effective manner. We encourage you to work collaboratively with the general contractor/design-builder to establish expectations with regard to on-site performance and critical time sensitive milestones related to this project.

To further assist you in recognizing some of these important project related matters, we are providing the following information so you are aware of your rights and responsibilities as a subcontractor or supplier while working on this PBC project. For reference, the PBC contract with the general contractor/design-build entity is available online at www.pbcchicago.com

Minority and Women Business Enterprise Participation

The contract between the PBC and the general contractor/design-build entity establishes goals for participation by minority and women business enterprises (M/WBE). Their commitment to the PBC is to use M/WBE firms in a meaningful way that adds value to the project. The M/WBE firms must serve a commercially useful function by executing a distinct element of the work. They must perform, manage and supervise the work that has been committed to them by the general contractor/design-build entity.

Suppliers must solicit pricing from qualified distributors and manufacturers for materials they are to procure and coordinate logistics in terms of material delivery. Solely managing paperwork for another firm is not considered a function for which M/WBE credit may be granted.

The general contractor/design-builder is required to present their M/WBE participation plan (Schedule D – Affidavit of General Contractor Regarding MBE/WBE Participation) at the time of bid. As of June 2012, on newly awarded projects the PBC only accepts M/WBE certification from the City of Chicago and the Cook County. Please ensure that your certification remains current for the duration of the project.

The PBC requires that all M/WBE subcontractors and suppliers execute a Letter of Intent to Perform as a MBE or WBE (Schedule C) which defines both scope of work and

contract value. This document must be signed by a principal of the subcontractor or supplier and submitted to the PBC by the general contractor/design-builder within five days of the PBC acceptance of the project bid. This letter affirms your agreement to perform the work for the value indicated.

It is important that subcontractors and suppliers use this form to acknowledge their willing participation in the project and to confirm the agreed price and scope of work. Subcontractors and suppliers should never provide a blank form with signature to a general contractor/design-builder for later completion by the general contractor/design-builder.

Arbitrary changes to the M/WBE participants and percentage of work is prohibited. After bid opening and the five day compliance period, the general contractor/design-build entity shall not terminate any M/WBE subcontract, reduce the scope of work nor decrease the price of the work without receiving the prior written approval of the PBC. The PBC will only approve a change based on eight criteria listed in Section 23.01.13 of the PBC's contract with the general contractor/design-builder.

Please note that the Schedule C cited above is not a contract. It is important that the subcontractor enter into a written subcontract with the general contractor/design-build entity. The subcontract should reflect the work and contract value that was attested to in Schedules D and C. Subcontractors should also pay attention to any additional responsibilities imposed by the subcontract with regard to Workforce Employment Goals and potential damages for not meeting those goals (see Workforce Employment Goals below.) We recommend you seek legal counsel and/or contact your local Assist Agency to provide advocacy on your behalf prior to executing a subcontractor or supplier agreement. Please see the PBC website for a list of available Assist Agencies: http://www.pbcchicago.com/content/working/mbe_wbe_commitments.asp

The PBC's contract with the general contractor/design-build entity is posted on the PBC website. It is important that you review the contract and that you are informed of your rights and responsibilities under this contract.

As previously noted, the general contractor/design-build entity must notify the PBC immediately in writing of any necessity to reduce or terminate an M/WBE subcontract and to propose a substitute firm in order to sustain the fulfillment of the MBE/WBE contract requirements. The general contractor/design-builder's notification must include the specific reasons for the proposed substitution. Section 23.01.13 of the PBC agreement with the general contractor/design-builder allows removal, reduction or substitution of an M/WBE contractor for the following reasons: a) unavailability of subcontractor after receipt of reasonable notice to proceed; b) failure of performance; c) financial incapacity; d) refusal by the subcontractor to honor the bid or proposal price or scope; e) mistake of fact or law about the elements of the scope of work of a solicitation where a reasonable price cannot be agreed; f) failure of the subcontractor to meet insurance, licensing or bonding requirements; g) the subcontractor's withdrawal of its bid or proposal; or h) decertification of the subcontractor as a M/WBE.

In the event that the PBC receives a request to reduce or remove an M/WBE subcontractor's participation or substitute that subcontractor, the PBC will request an interview with the affected subcontractor to confirm the reasoning behind their withdrawal.

Training

Certified contractors eligible for M/WBE credit must be certified by the City of Chicago or Cook County at the time bids are awarded. We encourage vendors to maintain their certification throughout the projects. Links to training tools that aid vendors in maintaining certifications and other useful compliance and contracting topics may be found on the PBC website at www.pbcchicago.com/content/working.

Payrolls

The PBC contract with the general contractor/design-builder requires monthly certified payrolls be submitted to the Public Building Commission (PBC) by the general contractor/design-builder and all subcontractors working on the site. The monthly reporting of payrolls by all contractors on a project is critical to the prompt processing of pay applications.

The PBC uses a web-based system for electronic submittal of certified payrolls called LCP Tracker. The LCP Tracker system is paperless and allows all contractors to submit certified payrolls and related information online. In the event that you or your staff requires training on the LCP Tracker system, please contact Malisa Torres at Malisa.Torres@cityofchicago.org or Chuck Kelly at Charles.Kelly@cityofchicago.org to arrange for no-cost training.

The LCP Tracker system tracks compliance with the Workforce Employment goals that are in the general contract. This process is further explained below in the Workforce Employment Goals section.

Prompt Payment

The PBC utilizes the B2GNow Contract Compliance software system to monitor payments to general contractor/design-builder and their subcontractors. The software tracks payments made to general contractor/design-builder as a result of a submitted pay application. **The PBC contract with the general contractor/design-builder requires that subcontractors and suppliers be paid within 14 days** of receipt of the PBC payment by the general contractor/design-builder. The B2GNow system is also used to track M/WBE compliance.

Subcontractors and suppliers are notified by the B2GNow system via email when their work is included in a general contractor/design-builder payment. This email will detail a few simple steps to take to either confirm payment or advise the PBC of non-payment or a payment discrepancy. The PBC will provide training to ensure that subcontractors and suppliers know how to confirm payment.

In addition to the B2GNow Contract Compliance system as a means to communicate payment information, the PBC posts approved payment applications evidencing

payments to first tier subcontractors in the construction trailers and on the PBC website at www.pbcchicago.org. Search for your project and you will be able to view each payment application. You can also find up-to-date information about PBC projects on the PBC Facebook page (www.facebook.com/PBCChi) and on Twitter (@pbcchi).

The PBC contract with the general contractor/design-builder has specific requirements in relation to releasing retainage. Initially, the PBC retains 10% of the contract price. At 50% completion, the retainage may be reduced to 5%. It is further reduced to 3% at 75% completion. At the time Substantial Completion is achieved, the retainage may be reduced to 1%. Please note that the general contractor/design-build is required to release ALL of a subcontractor's retainage at the time the subcontractor's work is completed regardless of the prime's overall progress on the job. There are certain instances in which greater retainage may be held as outlined in Section 16 of the PBC contract with the general contractor/design-build entity.

Also of note to subcontractors, the PBC contract with the general contractor/design-builder does allow for the payment of materials that are stored off-site when appropriate documentation is provided. The PBC conducts weekly internal roundtable meetings to review and approve proposed change orders. The PBC believes in swift resolution of change orders.

The most common reasons for payment holds by the PBC are late submittal of payrolls and waivers of lien. Each subcontractor is strongly encouraged to maintain the flow of this documentation throughout the project. Failure to submit this required documentation can hold up payment to you, the general contractor/design-builder and thereby other subcontractors on the payment application.

The general contractor/design build entity must provide timely Payment Applications to the PBC. The approved Payment Applications are posted to the PBC website under the project page.

Workforce Employment Goals

In order to promote the intended goal of economic opportunity and maximize the use of minority and female workforce on our projects, the PBC contract allows general contractor/design-builders to take bid credits for the utilization of Minority and Female Journeyworkers, Apprentices, and Laborers. Failure to meet these goals results in liquidated damages (LD) assessed against the general contractor/design-builder at the end of the project. City residency and community hiring requirements are also included in the contract and failure to achieve the requirements will result in liquidated damages.

General contractor/design-builders often include these goals and associated LD assessments in their agreements with subcontractors. The PBC encourages each subcontractor to review their contracts and determine if the general contractor/design-builder is requiring these goals to be achieved by the subcontractor for the project. If you are responsible for Workforce Employment goals you will need to plan your workforce

accordingly to avoid assessment of liquidated damages and withholding of project funds at the end of the project.

Compliance Site Visits

Throughout the life of the project, PBC Compliance Specialists will make periodic visits to the project site to interview your employees to confirm payroll, M/WBE participation and/or EEO compliance. Please advise your site personnel that they may be interviewed by these PBC compliance specialists at any point during the project duration. The cooperation of your employees and management staff is critical to the success of the PBC program.

Compliance Hotline

The PBC has established policies for conducting business in an ethical and transparent manner. The PBC also encourages its employees, contractors, consultants and any interested members of the public to assist in preventing or stopping behavior that does not support these policies. To enhance our compliance efforts, the PBC has established a Compliance Hotline that allows any person to report a concern related to the manner in which PBC business is conducted. Concerned employees, contractors, consultants and members of the public may contact the PBC Compliance Hotline via telephone (888-686-8383) or a third party website which is linked at www.pbcchicago.com. All callers may choose to remain anonymous, and may also choose to follow up with the hotline for progress reports.

In the event that you have any questions related to the PBC's expectations of general contractor/design-builders, subcontractors or suppliers, please contact the PBC Compliance Department.

Compliance Department
compliance@pbcchicago.com
312-744-6000

Eileen Ryan	Director of Enterprise Risk Management	312-744-9262
Chuck Kelly	Deputy Director of Diversity & Compliance	312-744-9679
Malisa Torres	Compliance Officer	312-744-9442

Thank you for your participation in the successful completion of this project.

Sincerely,



Erin Lavin Cabonargi
Executive Director

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