

# **Exhibit 2**

## **CITY OF PORTLAND COMMUNITY BENEFITS AGREEMENT**

**OCTOBER 2017**

**City of Portland Community Benefits Agreement**

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This Community Benefits Agreement (“Agreement”) is entered into this *(insert date)* by and between the City of Portland (“Owner”); *(insert contractor company name)* (“Project Contractor”) on behalf of all contractors and subcontractors of all tiers (hereinafter identified collectively as the “Employer” or “Employers”), the signatory unions (hereinafter identified collectively as the “Union” or “Unions”), and the signatory community based organizations with a strong record of accomplishment of serving racial and ethnic minorities, women and low-income people and state approved pre-apprenticeship programs (hereinafter identified collectively as the “Community Based Organizations” or “CBOs”) to set out uniform standard working conditions for the efficient performance of construction work on the *(insert project name)* of Owner (hereinafter identified as the “Project”) and the assurance that public money spent by the Owner benefits its goals of providing beneficial working conditions and increased workforce and contracting diversity on its construction projects.

### **PREAMBLE**

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

Whereas, the Unions, Community Based Organizations, Employers, Project Contractor and the Owner (hereinafter identified collectively as the “Parties”) recognize that strikes, pickets, work stoppages, slowdowns, lock outs, or other labor disruptions on Owner’s construction projects significantly hinder the ability of Owner to achieve its institutional mission.

Whereas, the Parties recognize that Owner is entitled to retain and exercise full and exclusive authority for the management of its operations, and shall remain the sole judge in determining the competency and qualifications of all firms responding to its Invitations to Bid, including all prime contractors and subcontractors, with the corresponding right to hire or reject such potential contractors on its public works projects.

Whereas, the Parties recognize that securing the contracting diversity and apprenticeship objectives of this Agreement should not impose undue administrative burdens on Owner, or its contractors and subcontractors.

Whereas all of the Parties recognize that they play an integral and critical role in ensuring that historically underrepresented racial or ethnic minorities and women be fairly represented in the building and construction trades and to be fairly represented in the project’s use of contractors and subcontractors.

**NOW, THEREFORE, IT IS AGREED:**

**ARTICLE 1**

**Purpose**

**1.1** The purpose of this Agreement is to ensure that the public served by the Owner receives the fullest benefit of the public works construction project undertaken by the Owner, to ensure that the Owner does not indirectly perpetuate the under-inclusion of racial and ethnic minorities and women in the construction industry and trades, and to ensure that the Owner receives the benefit of a highly skilled, well-trained and diverse workforce and prime contractor and subcontractor pool without the disruptions caused by labor unrest, including strikes, lock-outs, pickets, and other disruptions in the progress of such projects.

**1.2** The Parties to this Agreement acknowledge that the construction of the Project is a critical part of the (*insert bureau name*) approved plan to provide (*insert purpose/goals of project*). The Parties recognize the need for the timely completion of the Project without interruption or delay. This Agreement is intended to enhance this cooperative effort through the establishment of a framework for labor-management-community cooperation and stability.

**1.3** The Parties agree that the timely construction of this Project will require substantial numbers of employees from construction and supporting crafts possessing skills and qualifications that are vital to its completion. They will work together to furnish skilled, efficient craft workers for the construction of the Project.

**1.4** Further, the Parties desire to mutually establish and stabilize wages, hours and working conditions for the craftworkers on this construction project, to encourage close cooperation between the Parties to the end that a satisfactory, continuous and harmonious relationship will exist between the Parties to this Agreement.

**1.5** Therefore, in recognition of the special needs of this Project and to maintain a spirit of harmony, labor-management peace, and stability during the term of this Agreement, the Parties agree to abide by the terms and conditions in this Agreement, and to establish effective and binding methods for the settlement of all misunderstandings, disputes or grievances which may arise. Further, the Employer(s) agree not to engage in any lockout, and the Unions agree not to engage in any strike, slow-down, interruption or other disruption of or interference with the work covered by this Agreement.

**1.6** The Parties further understand and agree that circumstances may arise which were not anticipated that could cause unforeseen difficulties for owners, labor or community. In such case all signatories agree to work with the Labor-Management-Community Oversight Committee (hereinafter "Committee") to obtain advice and direction on how to resolve these issues.

**1.7** The Parties agree that, as used herein, the term "good-faith efforts" is defined as an honest and genuine effort to meet the obligations imposed by this Agreement, free from any intention or effort to avoid by any means such obligations. The requirement of "good-faith

efforts” shall also include the obligation to take all objective and verifiable steps outlined in the plans and strategies developed pursuant to Articles 10, 11, and 12 of this Agreement.

## **ARTICLE 2** **Scope of Agreement**

**2.1** This Agreement shall cover and be applied to all new construction, rehabilitation, alteration, conversion, extension, painting, repair, improvement or other construction work performed at the Project site that is contracted by the Employers and is generally described as “*(insert name of project)*”.

**2.2** The terms of this Agreement shall also apply to that work performed at temporary facilities, such as fabrication yards and/or assembly plants located at or adjacent to the Project site, which are integrated with and set up for, the purpose of servicing the construction project rather than to serve the public generally.

**2.3** This Agreement shall supersede all other labor agreements between the Parties or between any Employer and any Union for work covered herein except that if any craft’s relevant Local Master Collective Bargaining Agreement does not contain provisions that are covered by this Agreement, such collective bargaining agreement provisions shall bind the parties to the collective bargaining agreement and the employees covered thereby. Attached to and inclusive of this Agreement are copies of all relevant signatory Unions’ current Local Master collective bargaining agreements which shall constitute addenda to this Agreement and may be modified from time to time during the course of the Project.

**2.4** In the event a signatory union’s collective bargaining agreement is subject to negotiation during the term of this Agreement, the terms and provisions of the expired contract shall be maintained in effect until such time as the Owner, Project Contractor and Employers are notified in writing of the changes made and the ratification of the modified collective bargaining agreement, subject to Article 8 of this Agreement. Upon such notification, the changes shall be recognized and made effective on the Project under the same terms and effective date(s) as for the parties to the collective bargaining agreement. This includes retroactivity, where applicable.

**2.5** The provisions of this Agreement shall apply to the Parties performing work covered by the provisions of this Agreement and notice shall be included in all contracts and/or subcontracts at every tier level pertaining to the Project. The Project Contractor and Employers agree to secure from subcontractors at every tier level an executed Letter of Assent to this Agreement in a form identical to that in Exhibit A prior to the commencement of their work on the Project. This Agreement shall only be binding on the signatory parties hereto, and shall not apply to their parents, affiliates or subsidiaries provided they are not employed on the Project, or any other project.

**2.6** This Agreement shall be subordinate to any and all stipulated requirements in the relevant statutes enabling funding for financing of the Project.

**2.7** This Agreement shall not apply to work of superintendents, supervisors (non-trade working), staff engineers or designers; quality control and quality assurance personnel; timekeepers; clerks; office workers, including messengers, guards, safety personnel, emergency medical and first aid technicians; and other professional, engineering, administrative, environmental compliance employees and other non-construction trade labor which may be identified during the course of the Project, including but not limited to:

- a. Artists retained by the Owner, during the course of the Project and the work performed by the artists that does not involve work defined under the Bureau of Labor and Industries (BOLI) Prevailing Wage Scopes of Work classifications.
- b. Furniture, fixture and equipment installers retained by the Owner for work to be performed after signatory Employers have completed construction related work and or contract completion date.
- c. Employers and their Employees or other Contractors directly controlled by the Owner.
- d. Employees engaged in any work performed on or near, or leading to or into, the Project site by state, county, city or other governmental bodies, their other retained contractors, or by public utilities or their contractors, or by other public agencies or their contractors.
- e. Employees engaged in maintenance on, installation of, and/or removal of leased equipment and on-site supervision of such work.
- f. Employees engaged in warranty functions and warranty work, and on-site supervision of such work.
- g. Employees making deliveries to the Project.
- h. Employees fabricating, manufacturing or assembling products, materials and/or supplies away from the Project site.
- i. Specialty Contractors required to be prequalified by the Owner in the Contract Documents.

**2.8** Nothing contained herein shall be construed to prohibit or restrict the Owner, or their employees from performing work not covered by this Agreement on the Project site. As areas and systems of the Project are inspected and construction tested by the Project Contractor and accepted by the Owner, the Agreement shall not have further force or effect on such items or areas, except when and if, the Project Contractor is directed by the Owner to engage in repairs, modifications, and checkout.

**2.9** The provisions of this Agreement shall apply to the construction of the named Project, notwithstanding the provisions of local, area and/or national agreements which may conflict or

differ from the terms of this Agreement. Where a subject covered by the provisions of this Agreement is also covered by a conflicting provision of a collective bargaining agreement, the provisions of this Agreement shall "prevail": otherwise the terms of applicable collective bargaining agreements shall apply except that the work of the International Union of Elevator Constructors on this Project shall be performed under the terms of its National Agreements, with the exception of Article 5 and Article 9 of this Agreement, which shall apply to such work.

**2.10** Where a subject covered by the provisions of this Agreement is also covered by a conflicting provision of the Contract Documents between the Owner and Project Contractor, the provisions of the Contract Documents shall prevail.

### **ARTICLE 3** **Exclusive Representation and Authority**

**3.1** The Owner recognizes that the signatory Unions to this Agreement are the sole and exclusive bargaining representatives of all employees within the respective jurisdictions for the Project covered by this Agreement, except those excluded in Article 2. This Article shall not alter the pre-existing legal status of any bargaining relationship between any individual Employer and the Union.

**3.2** The Unions and Employers recognize that the Employer retains and shall exercise full and exclusive authority for the management of its operations. The Project Contractor remains the sole judge in determining the competency and qualifications of all firms responding to its Invitation to Bid or alternative procurement method (best value) at every level. The Project Contractor has the absolute right to select any qualified bidder for the award of contracts on this Project provided that, such bidder shall be willing, ready, and able to execute and comply with this Agreement for the craft worker(s) that it employs in all work classifications for the Project for the duration of the Project. All Employers at every tier level performing work on this Project shall have a pre-job conference prior to beginning work with the Union(s) representing the craft worker(s) they intend to employ to discuss manpower, work dates, key employees including foremen, etc. The only exception to this provision is contained in Section 7.5.

### **ARTICLE 4** **Jurisdictional Disputes**

**4.1** **Assignment of Work** – The assignment of work will be solely the responsibility of the Employer performing the work involved; and such work assignments will be in accordance with BOLI guidelines and the Plan for Settlement of Jurisdictional Disputes in the Construction Industry (the "Plan") or any successor Plan.

**4.2** **Dispute Resolution** – All jurisdictional disputes of this Project, between or among Unions and employees party to this Agreement shall be settled and adjusted according to the present Plan established by the Building and Construction Trades Department or any other plan or method of procedure that may be adopted in the future by the Building and Construction Trades Department. Decisions rendered shall be final, binding and conclusive on the Employers and Union parties to this Agreement.

**4.3 No Disruptions** – All jurisdictional disputes shall be resolved without the occurrence of any strike, work stoppage, or slow-down of any nature, and the Employer’s assignment shall be adhered to until the dispute is resolved. Individuals violating this Section shall be subject to immediate discharge.

**ARTICLE 5**  
**No Disruptions**

**5.1 No Disruptions** – During the term of this Agreement, there shall be no strikes, pickets, work stoppages, slowdowns or other disruptive activity for any reason by the Unions or their members, and there shall be no lock out by the Employers. The Unions and Employers agree that they shall not incite or encourage participation in any such disruptive activity and shall undertake all reasonable means to prevent or terminate it. Participation by an employee or group of employees, in an act violating the foregoing provision will be cause for discharge, removal, or cancellation of contract by the Owner and/or Project Contractor. If there is any strike, work stoppage, slowdown, picketline, or other disruption in violation of this Agreement by any craft signatory, it is agreed that the other crafts shall be bound to ignore and shall not participate in such disruption and shall continue to staff the Project without interruption.

In the event the Project is not completed by the termination date of an applicable Local Master Collective Bargaining Agreement, the Union(s) agree that they will not strike the affected Employer(s), will not cause any job disruption of any kind on the Project, and that the expired collective bargaining agreement shall remain in full force and effect for purposes of the Project until a new or modified collective bargaining agreement is executed between such Union(s) and Employer(s).

**5.2 Grievance Procedure** – The Employers, Unions, and the employees, collectively and individually, realize the importance to all parties to maintain continuous and uninterrupted performance of the work of the Project, and agree to resolve disputes in accordance with the grievance-arbitration provisions set forth in this Article. When a Union and Employer have a collective bargaining agreement, they may mutually agree to use the grievance procedure contained in said collective bargaining agreement (to distinguish from this Agreement).

Any question or dispute arising out of and during the term of this Agreement (other than trade jurisdictional disputes) shall be considered a grievance and subject to resolution under the following procedures:

Step 1. (a) When any employee subject to the provisions of this Agreement feels he or she is aggrieved by a violation of this Agreement, he or she, through his or her local union business representative or job steward, shall, within five (5) working days after the occurrence of the violation, give notice to the work-site representative of the involved Employer stating the provision(s) alleged to have been violated. The business representative of the local union or the job steward and the work-site representative of the involved Employer and the Project Contractor shall meet and endeavor to adjust the matter within three (3) working days after timely notice has been given. The representative of the Employer shall keep the meeting

minutes and shall respond to the Union representative in writing, copying the Project Contractor and Owner, at the conclusion of the meeting but not later than twenty-four (24) hours thereafter. If they fail to resolve the matter within the prescribed period, the grieving party may, within forty-eight (48) hours thereafter, pursue Step 2 of the Grievance Procedure, provided the grievance is reduced to writing, setting forth the relevant information concerning the alleged grievance, including a short description thereof, the date on which the grievance occurred, and the provision(s) of the Agreement alleged to have been violated.

(b) Should the Union(s) or the Project Contractor or any Employer have a dispute with the other party and , if after conferring, a settlement is not reached within three (3) working days, the dispute may be reduced to writing and proceed to Step 2 in the same manner as outlined herein for the adjustment of an employee complaint.

Step 2. The Union Representative and the involved Employer shall meet within seven (7) working days of the referral of a dispute to this second step to arrive at a satisfactory settlement thereof. Meeting minutes shall be kept by the Employer and a copy provided to the Project Contractor and Owner. If the parties fail to reach an agreement, the dispute may be appealed in writing in accordance with the provisions of Step 3 within seven (7) calendar days thereafter.

Step 3. (a) If the grievance has been submitted but not adjusted under Step 2, either party may request in writing, within seven (7) calendar days thereafter, that the grievance be submitted to an Arbitrator mutually agreed upon by them. The Employer and the involved Union shall attempt mutually to select an arbitrator, but if they are unable to do so, they shall request the American Arbitration Association to provide them with a list of arbitrators from which the Arbitrator shall be selected. The rules of the American Arbitration Association shall govern the conduct of the arbitration hearing. The decision of the Arbitrator shall be final and binding on all parties. The fee and expenses of such Arbitration shall be borne equally by the Employer and the involved Union(s).

(b) Failure of the grieving party to adhere to the time limits established herein shall render the grievance null and void. The time limits established herein may be extended only by written consent of the parties involved at the particular step where the extension is agreed upon. The Arbitrator shall have the authority to make decisions only on issues presented to him or her, and he or she shall not have authority to change, amend, add to or detract from any of the provisions of this Agreement.

The Project Contractor and Owner shall be notified of all actions at Steps 2 and 3 and shall, upon their request, be permitted to participate in all proceedings at these steps.

## **ARTICLE 6** **Subcontracting**

The Project Contractor agrees that neither it nor any of its Employers will subcontract any work to be done on the Project except to a person, firm or corporation who is or agrees to become party to this Agreement, and except Employers that are exempt to the Agreement as

identified in Article 2. Any contractor or subcontractor subject to this Agreement, working on the Project shall, as a condition to working on said Project, become signatory to and perform all work under the terms of this Agreement.

## **ARTICLE 7** **Hiring Procedures**

**7.1** The Employers agree to notify the Unions of all opportunities for employment on the Project. Nothing in this Agreement shall be deemed to limit an Employer's right to reject proposed employees or to use their own Core Employees (see 7.5). The Employer shall have the right to determine the competency of all employees, the number of employees required, the duties of such employees within their craft jurisdictions, and select employees to be laid off. The Employer shall also have the right to reject any applicant referred by a union for any reason provided that such right is exercised in good faith, and in a nondiscriminatory manner subject to the diversity goals established in Articles 10, 11, 12, and 13.

**7.2** The Employer shall request and the Union shall refer applicants for the various journeymen and apprentice classifications covered by this Agreement as required by the employer on its projects in accordance with each craft's local master collective bargaining agreement except as specified in Section 7.5.

**7.3** The Union represents that its local unions administer and control their referrals in a nondiscriminatory manner and in full compliance with the Federal, state and local laws and regulations which require equal employment opportunities and non-discrimination and the diversity provisions of this Agreement contained in Articles 10, 11, 12, and 13.

**7.4** It is the intent of the parties to promote the use of locally available, skilled craft labor provided through the local hiring halls and in compliance with the Local Hiring provisions contained in Article 7 except as specified in Section 7.5.

**7.5** Employers which do not have a collective bargaining relationship with the Unions signatory to this Agreement who become successful bidders on this project may employ their own Core Employees. "Core Employees" in this context refers to craft workers only including working foremen, lead (journey), working owner-operators, and apprentices and shall not be supervisory, management or non-working owners of non-signatory contractors.

- a. It is agreed by the Parties that the intent of the Core Employee definition is to protect fair and legal employment standards, and to secure opportunities for contractors, regular employees, and union craft workers.
- b. There shall be no limit on the use of Core Employees and no requirement to pay union benefits for certified Disadvantaged Business Enterprise (DBE) Contractors. However, they are governed by the Contract Documents and BOLI and must pay prevailing wages.
- c. DBE Core Employee benefits shall be in accordance with Article 8.6.

- d. For non-union Employers not certified under the DBE classifications, the limits on Core Employees shall be as follows: the first two workers may be Core Employees; the next two shall be union referrals. Thereafter, dispatch may alternate every other between Core Employees and union referrals, with the Core Employee number not to exceed 50% plus one worker of the Employer's craft workforce. Core Employee benefits will be in accordance with Article 8.5. This does not apply to Employers exempt under Article 2.
- e. Employees of non-DBE Employers shall be deemed Core Employees if they have been on the Employer's payroll prior to the execution of the Construction Services Contract for the Project, and on the Employer's active payroll a minimum of 60 days prior to the Employer's start of work on the Project. Employees of DBE Employers shall be deemed Core Employees if they have been on the Employer's payroll prior to the execution of the Construction Services Contract the Project. Core Employees shall meet the minimum journey or apprentice level qualifications of the craft they are performing, where required, and shall hold all required licenses and certifications for the work of their craft, if licenses and certifications are required by law.
- f. The Committee shall examine the data regarding each use of Core Employees and may suggest changes to the minimum number of hours an employee would have to have to be on the Employer's payroll to be deemed a Core Employee.
- g. Non-Core Employees shall be hired according to the appropriate union referral procedures.

**7.6** It is agreed and understood that those specific terms and conditions governing hiring and assignment of current union trade workers to supplement Core Employees proposed for the project may be negotiated jointly by the Employer, and the appropriate trade union representatives.

**7.7** It is agreed and understood by all parties that a drug-free workplace is of the highest priority and the owners and employers retain their rights to comply with their established drug testing policies and practices. Employers shall be bound by Project Contractor's Site Specific Health and Safety Plan and Drug and Alcohol Policy.

## **ARTICLE 8** **Wage Rates and Fringe Benefits**

**8.1** The Employer recognizes the applicable Prevailing Wage Rates in effect at the time of bid. The minimum wage scale for the duration of the work will be fixed at the then current and applicable Prevailing Wage Rate as determined by OAR 839-025-0020(6).

**8.2** In the event of nonpayment of wages despite the Unions reasonable attempts to collect from the Employer, the Union will not be considered in violation of Article 5 should a work stoppage occur.

**8.3** The Employer will be furnished appropriate trust documents by the Union covering funds into which contributions shall be made. The Employers will contribute to, and hereby become party to and is bound by bona fide pension, vacation, health and welfare, apprenticeship and training funds covering employees under this Agreement, Industry Advancement or Promotion Funds called for in the Area Master Collective Bargaining Agreements may be paid at the discretion of the Employer.

**8.4** The Employers agree that all wages shall be subject to deduction for collection of Union dues, regardless of whether an employee is a member of a union, except for DBE Core Employees and exempt parties as defined in Article 2. The Union will not require initiation fees from a non-union Employer's Core Employees. Such deductions from the wages of non-union employees shall not be more than the amount necessary to cover the union's costs of collective bargaining, contract administration, and grievance adjustment. The Employers shall be required to pay contributions to Union employee benefit funds for non-union "core" employees only if the employee benefits immediately accrue to the direct benefit of such employees and do not require membership in the Union. Core Employees who do not participate in a specific Union benefit fund must have the benefit amount paid into a similar benefit fund that provides immediate benefit to the employee (see Section 8.5 Core Employee Benefit Program). Employers shall provide information to Project Contractor regarding wages and dues, and must submit weekly certified payrolls to Project Contractor and Owner.

**8.5** Core Employee Benefit Program. The Parties recognize the Owner's commitment to provide opportunities on the Project for contractors which may not have previously had a relationship with the Unions signatory to this Agreement. To ensure that Employers have the ability to employ their Core Employees on the Project without providing duplicate benefits to their Core Employees, such Employers may request a waiver of contributions to the appropriate Union Trust Funds, provided that the following requirements have been met:

- a. Such request shall be made to the Owner in writing.
- b. A copy of the Employer's medical, retirement, training, and any other fringe benefit program, along with Employer and employee costs for such programs, has been submitted to the Owner along with request for waiver.
- c. The medical, retirement, training and other fringe benefit programs were in existence at least 90 days before the bid application.
- d. Each Core Employee desiring to continue to receive their benefits under their Employer's existing program, in lieu of benefits which may be earned under the appropriate Union Trust Funds, must also request a waiver of contributions in writing.
- e. The Employer shall remit the required hourly contributions to the appropriate Union Trust Funds on behalf of all their craft employees on the Project, except Core Employees that have requested a waiver of contributions in writing.
- f. The Employer shall submit to the Project Contractor monthly copies of all remittance forms confirming compliance with all Trust or benefits program requirements.

**8.6** The Parties recognize the Owner's commitment to provide opportunities on the Project for DBE contractors which may not have previously had a relationship with the Unions signatory to this Agreement. Accordingly, there shall be no requirement for certified DBEs to pay union

health benefits where such firms otherwise provide their employees with comparable health benefits.

In such circumstances, a firm will be required to provide quarterly documentation of the provision of such comparable health benefits or paid fringe amounts to the Owner. In addition, each employee for whom such waiver is requested must also file a written request for a waiver of contributions with the Owner.

There shall be no requirement for non-signatory DBEs to contribute to other union trust funds.

**8.7** Proof of payment and weekly certified payroll reports of affected employees shall be submitted once a month to the Project Contractor and Owner by the fifth business day of the following month. These documents must be submitted to the Project Contractor and to the Owner along with end of the month pay request in accordance with the Contract Documents. Employers who fail to remit as provided above shall be additionally subject to having this Agreement terminated upon 72 hours' notice, in writing, provided the Employer fails to show satisfactory proof that the required payments have been made.

**8.8** The failure of an Employer to comply with the provisions of this Section shall constitute a breach of this Agreement. As a remedy for such violation, the Owner is empowered to require an Employer to pay into the appropriate Trust Fund any delinquent contributions to such funds which have resulted from the violation.

## **ARTICLE 9**

### **Labor-Management-Community Oversight Committee**

**9.1 Labor-Management-Community Oversight Committee Purpose and Objectives** – In recognition of the necessity for cooperation and communication between all parties to the Agreement in achieving the diversity goals of this Agreement, the prevention of disputes and misunderstandings and the implementation of this Agreement, the Parties agree to establish a Labor-Management-Community Oversight Committee (“Committee”) and to hold periodic meetings to discuss and provide advice on issues and/or concerns which may arise during the life of the Agreement. The dates and times of these meetings will be determined by the parties but in no case shall they meet less than monthly.

**9.2 Membership** – The Committee shall include two representatives from each of the following groups: Owner, Project Contractor, the construction trade Unions, Employers and Community Based Organizations (“CBOs” including state approved pre-apprenticeship programs). The representatives from the Employer category shall be from the Disadvantaged Business Enterprise (DBE) contracting community, though not necessarily employed on the Project. The groups shall each have two representatives and two votes for each group, even if only one representative is present. A quorum for this committee is when all groups are represented. No official business can be transacted without a quorum.

### **9.3 Owner, Project Contractor, and Committee Roles and Responsibilities –**

- a. The following roles, responsibilities, and expected commitment shall set forth the guidelines for the work performed by the Owner and the Project Contractor with respect to the Committee's assistance in helping the Project Contractor and Employers achieve the goals and requirements of this Agreement:
  1. Within sixty (60) days after council's vote to authorize the alternative contracting method for the Project, the Owner will present an overview of the Project to the Committee.
  2. During the preconstruction services or design phase of the Project (as set forth in the Contract between the Owner and the Project Contractor) and no later than thirty (30) days prior to the submission of the Guaranteed Maximum Price ("GMP") or lump sum to council or no later than thirty (30) days prior to issuance of Notice to Proceed, the Owner and Project Contractor will present to the Committee the following information:
    - i. Project Contractor's and Employers' outreach for D/M/W/ESB contracting opportunities and Harassment Free Workplace Policy;
    - ii. Proposed list of subcontractors, their anticipated scopes of Work, and the estimated subcontract amounts for subcontracts identified at that time; and
    - iii. Identify scopes of Work and subcontracts, if known, that resulted from the breakdown of subcontracts in excess of \$150,000 into targeted Work scopes.
  3. During the course of construction and at least one time every three months, the Owner and Project Contractor will present the prior three (3) month's data on the current utilization of women and minorities in apprenticeships, workforce, and subcontracting and will also present a three (3) month forecast for the Project. This information shall be given to the Committee within one (1) month of the anticipated presentation.
- b. Review by the Committee will include the following:
  1. Project Contractor's and Employers' Equity Efforts as set forth in this Plan.
  2. Project Contractor's and Employers' compliance with recruitment and retention efforts set forth in this Agreement.
  3. Project Contractor's and Employers' compliance with apprenticeship, workforce, and contracting goals and other goals and programs specific to the Project as set forth in this Agreement.

4. Any applicable audit performed, related to the provisions of this Agreement, by the Owner or on the Owner's behalf.
- c. On a quarterly basis and as needed per the Owner's request, the Committee will provide recommendations and information to the Owner and Project Contractor, including the following:
    1. Provide suggestions and recommendations for reaching the Agreement's goals, including but not limited to providing guidance on outreach and engagement of subcontractors; and
    2. Facilitate connections to unions, non-union organizations, CBOs, and workers and serve as a liaison, when appropriate, between Project Contractor, Employers, subcontractors, unions, non-union organizations, community organizations, and workers.
  - d. On a quarterly basis and as needed per the Owner's request, the Committee will report its findings to the Owner.
  - e. All Work Product provided, used or produced for Committee review of the Agreement or for the Project are the exclusive property of the City of Portland.

**ARTICLE 10**  
**Community Apprenticeship Goals**

**10.1 Apprenticeship Hours** – In recognition of the need to maintain continuing support of programs designed to develop adequate numbers of competent workers in the construction industry all Employers winning prime contracts of \$200,000 or more and subcontracts of \$100,000 or more shall employ state registered apprentices with an aggregate Project goal of twenty percent (20%) of all covered work hours to be worked by BOLI registered apprentices or federally registered apprentices

Employers shall pay apprentices at the rate required by the applicable Collective Bargaining Agreement or in accordance with the state or federal prevailing wage rate applicable to the project. The apprentices must be enrolled in state-approved apprenticeship programs during all of the hours worked on the project by the apprentices.

Employers shall not utilize workers previously employed at a journey-level or those who have successfully completed a training course leading to journey-level status to satisfy the requirements of this provision.

Recognized Pre-Apprenticeship Programs and CBOs which have been approved by the Owner and the labor union for which entry is sought, shall be used as a "first source" for entry into apprenticeship programs for hiring to meet the Apprenticeship Hour Goals required under this

Section. To be approved as a first source entry, the program must have a proven track record of serving women or people of color.

**10.2 Alternative Methods to Fulfill Project Goal** – If the Employer is unable to fulfill its 20% Project goal, then the Employer may also use methods (a) or (b) below.

- a. Including 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 can be counted, but only if the apprentice is rehired by the same employer after completion of related training; or
- b. Including 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.

**10.3 Apprenticeship Diversity** – The parties agree to facilitate the entry of historically disadvantaged or underrepresented people, including racial and ethnic minorities, women, and low-income people, who are interested in careers in the construction industry. To that end, the Parties agree to set target goals for the recruitment and retention of apprentices from historically disadvantaged or underrepresented communities, including racial and ethnic minorities, women, and low-income people. To that end, the Parties agree to goals for the recruitment and retention of apprentices from these communities. The goal for minority apprentices shall be twenty-two percent (22%) of apprenticeship project hours, and a separate goal for women apprentices shall be nine percent (9%) of apprenticeship project hours.

Employers shall maintain records of the diversity of their on-site workforce, such as certified payroll or other required reporting forms, sufficient to allow the Owner to determine whether a Project is meeting this goal and to assess the rates of apprenticeship hiring of racial and ethnic minorities and women. Employers shall submit this information to the Owner on a monthly basis.

Employers shall maintain documentation of their good-faith efforts to meet the apprenticeship project hour goals for the duration of the project and shall submit such documentation to the Owner monthly.

**10.4 Outreach, Training and Retention Strategies** – The Committee shall develop a plan in conjunction with existing community groups to recruit and employ historically disadvantaged or underrepresented people, including racial and ethnic minorities, women, and low-income people, into a pool of pre-qualified applicants that may be made available for immediate employment on Projects as allowable under a crafts apprenticeship standards.

The Union agrees to engage in active recruitment of historically disadvantaged or underrepresented members, including racial and ethnic minorities, women, and low-income people and to refer to the Employer in sufficient numbers of such members to assist in meeting required employment goals.

The Committee shall also suggest specific strategies to ensure that apprentices recruited under this policy shall be fully trained and prepared to enter into the workforce as journey level skill workers in their respective trades. These strategies shall include mentoring minority and women apprentices, removing barriers to entry into the apprenticeship programs where such barriers are not a bona fide occupational requirement, and providing financial assistance in purchasing the tools and supplies necessary to successfully complete an apprenticeship in the trades.

Employers shall maintain documentation of their good-faith compliance with the strategies suggested by the Committee and shall submit such documentation to the Owner and the Committee monthly.

## **ARTICLE 11** **Community Workforce Goals**

**11.1 Workforce Diversity** – The Parties agree to facilitate the recruitment, retention and promotion of historically disadvantaged or underrepresented people, including racial and ethnic minorities, women, and low-income people, at the journey-level who are interested in careers in the construction industry. To that end, the Parties agree to set target goals for the recruitment and retention of journey-level workers from historically disadvantaged or underrepresented communities, including racial and ethnic minorities, women, and low-income people. To that end, the Parties agree to goals for the recruitment and retention of journey-level workers from these communities. The goal for minority workers shall be twenty-two percent (22%) of total project hours, and a separate goal for women workers shall be six percent (6%) of total project hours. These workforce diversity goals apply to the workforce of all Employers on the project, including the Core Employees and workforce of certified small disadvantaged, women owned, and minority businesses who do not have a collective bargaining relationship with the Unions and who become successful bidders on the project as allowed by Section 7.5 above.

Employers shall maintain records of the diversity of their on-site workforce, such as certified payroll or other required reporting forms, sufficient to allow the Owner to determine whether a Project is meeting this goal and to assess the rates of journey-level hiring of racial and ethnic minorities, women, and low-income people. Employers shall submit this information to the Owner on a monthly basis.

Employers shall maintain documentation of their success in maintaining such journey-level target percentages for the duration of the project and shall submit such documentation to the Owner and the Committee monthly. If an Employer is unable to meet this objective, the Employer shall document its good-faith efforts according to Section 11.2, and shall develop additional strategies and make additional efforts as outlined in Section 11.3.

**11.2 Recruitment and Retention Strategies** – Employers and Unions shall make their best efforts to recruit and retain historically disadvantaged or underrepresented people, including racial and ethnic minorities, women, and low-income people by providing a detailed Recruitment and Retention Strategy which describes its history and its project-specific plans to:

- a. Work aggressively to recruit racial and ethnic minorities, women, and low-income people and to refer racial and ethnic minorities, women, and low-income people to Employers. Prior to the start of construction, the Project Contractor and each Employer then selected shall meet with the construction trade unions, the Committee, and the awarding or contracting authority for the purpose of reviewing this Agreement and the projection of the workforce needs over the course of construction.
- b. Assist the Committee in annually conducting workshops with minority and women employees to enlist their assistance as recruiters and request their ideas on how to increase employment of underutilized groups.
- c. Provide all apprentices referred to the Employer a fair chance to perform successfully, allowing for possible lack of previous experience. Recognize that the Employer is responsible for providing on-the-job training, and that all apprentices should not be expected to have previous experience.
- d. Participate in job fairs, school-to-work, and community events to recruit minorities, women, and disadvantaged individuals into the construction trades. Owner and Project Contractor will participate at least semi-annually for the duration of the project.
- e. Allow scheduled job site visits by participants in community programs, as safety allows, to increase awareness of job and training opportunities in the construction trades.
- f. Employers will keep applications from qualified women and minorities for the duration of the project, and contact them when an opening occurs. Keep applications of those who were qualified and not selected for an opening, and contact those persons when an opening occurs. This will not circumvent the appropriate union referral process.
- g. Employers will maintain a harassment-free work place by conducting a pre-ground breaking review using the Wider Opportunities for Women harassment-free workplace check list, and repeating annually.
- h. Employers will ensure that employees are knowledgeable about the Employer's policies if they need to report a harassment problem. Employers will provide a complete orientation to the job site to all workers, including procedures for reporting problems, and expected crew behaviors.
- i. Employers will make reasonable attempts to keep apprentices working and train them in all work processes described in the apprenticeship standards. The Committee will review training plans, apprentice work progress reports and hiring/worker retention.
- j. Employers will review and disseminate, at least annually, the Employer'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.

k. Regularly provide cultural competency training to all managers, supervisors, and owners, and conduct a review, at least annually, of all managers' and supervisors' adherence to and performance under the Employer's EEO policies, affirmative action obligations, and cultural competencies.

l. Employers will take steps to reduce feelings of isolation among racial and ethnic minorities and women by making every attempt to have several racial and ethnic minorities and women at the job site and by informing such workers about available support systems.

m. Employers will provide adequate toilet facilities for women on the job site, by maintaining a clean, accessible and locked toilet for female crew members, and by removing graffiti immediately to help create a respectful environment.

n. Employers will match minority, female, or disadvantaged apprentices who may need support to complete their apprenticeship programs with a late-term or journey-level mentor.

o. Employers, Unions and Joint Apprenticeship Training Council (JATC) shall maintain documentation of their good-faith compliance with the retention strategies set forth above and shall submit such documentation to the Owner and the Committee as requested.

**11.3 Failure to Meet Goals** – Whenever there is a documented failure to meet goals, the involved Employer must develop additional specific outreach strategies and report its plan for achieving compliance to the Committee to improve future performance.

## **ARTICLE 12** **Community Contracting Goals**

**12.1 Subcontractor Goals** – There shall be a utilization goal for firms that have been certified by the State of Oregon as a Minority-Owned Business Enterprise, a Women-Owned Business Enterprise, a Disadvantaged Business Enterprise, or an Emerging Small Business (M/W/DBE/ESB). The overall utilization goal for M/W/DBE/ESB is twenty-two percent (22%) of the Hard Construction costs for the project, with a further goal that at least twelve percent (12%) of this overall utilization goal be M/DBE firms and at least five percent (5%) of this overall utilization goal be WBE. "Hard Construction Costs" is the cost to build improvements on a property, including all related construction labor and materials, including fixed and built-in equipment costs. Costs not directly related to the construction of an improvement, such as profit, overhead, administration or taxes, or other professional services shall not be considered as part of the Hard Construction Costs.

Project Contractor shall develop a plan to achieve the 22% goal, which shall be submitted to the Committee and approved by the Owner. Project Contractor shall undertake and maintain documentation of good-faith efforts to achieve these goals for the duration of the project and shall submit such documentation to the Owner monthly and the Committee quarterly.

**12.2 Mentoring** – The Parties recognize that one of the barriers to entry for many M/W/DBEs is a lack of proven success on commercial construction projects of the type generally contracted for by Owner. The Parties therefore agree that, in consultation with the Committee, the Owner and Project Contractor shall identify subcontracting opportunities that will provide opportunities for M/W/DBEs to successfully bid, and which would build the capacity of these firms to bid for larger contracts on future Owner projects. These subcontracts will be known as “Opportunity Contracts.” Alternative procurement (best value) methods are encouraged to maximize participation in the Opportunity Contracts process.

As a component of these Opportunity Contracts, Project Contractor and non-M/W/DBE Employers in conjunction with the Owner shall agree to assist qualified potential M/W/DBE bidders in the bidding and estimating process. Once such Opportunity Contracts are secured, the Parties shall also assist the successful M/W/DBE bidder by providing technical assistance as necessary to ensure the successful completion of the Opportunity Contract. The Committee shall be responsible for coordinating these mentoring activities at the pre- and post-bid stages.

Successful M/W/DBE bidders on these “Opportunity Contracts” shall agree to mentoring assistance. The Project Contractor and Owner, shall have the responsibility and discretion for establishing criteria for the inclusion of M/W/DBE firms in the pool of potential candidates for Opportunity Contracts, and shall conduct the evaluation process in a transparent application process open to all firms seeking to bid on the Project.

**12.3 Segmentation** – In order to allow smaller qualified contractors to successfully bid on subcontracts, the Project Contractor shall require Employers holding subcontracts in excess of \$250,000 to provide targeted work scopes where feasible as determined by the Project Contractor. For purposes of this Section, targeted work scopes may be broken into discrete subcontracts where feasible as determined by the Project Contractor.

**12.4 Price Efficiency** – In situations where the Employers provide materials, the Employers shall negotiate with Suppliers to purchase supplies and materials on a project-by-project basis and shall require Suppliers to make available to all bidders those materials and supplies at the same cost.

**12.5 Implementation** – The Owner and Project Contractor, in consultation with the Committee, shall develop policies and procedures to implement the 22% goal plan, including determining whether an Employer has made good faith efforts to meet the goal; whether the certified firm is performing a commercially useful function; substitutions, additions or deletions of certified firms during contract performance; payments to certified firms; worksite disputes between Employers and certified firms; and any other necessary provisions.

**12.6 Documentation** – Employers shall maintain documentation of their compliance with these requirements and shall submit such documentation monthly to the Project Contractor, and the Project Contractor in turn shall submit to the Owner.

**12.7 Exclusive Representation and Authority** – The Parties recognize the importance of retaining Core Employees to the continuity of operations in DBE firms. Accordingly, there will

be no limit on the use of Core Employees for certified DBEs. Additionally, there shall be no requirement for certified DBE Employers to pay union health benefits where such firms otherwise provide their employees with comparable health benefits or add the fringe amount of these health benefits to employee wages.

In such circumstances, a firm will be required to provide quarterly documentation of the provision of such comparable health benefits or paid fringe amounts to the Owner. In addition, each employee for whom such waiver is requested must also file a written request for a waiver of contributions with the Owner.

There shall be no requirement for non-signatory DBEs to contribute to other union trust funds.

### **ARTICLE 13** **Helmets to Hardhats**

**13.1** The Employers and the Unions recognize a desire to facilitate the entry into the building and construction trades of veterans who are interested in careers in the building and construction industry. The Employers and Unions agree to utilize the services of the Center for Military Recruitment, Assessment and Veterans Employment (hereinafter “Center”) and the Center’s “Helmets to Hardhats” program to serve as a resource for preliminary orientation, assessment of construction aptitude, referral to apprenticeship programs or hiring halls, counseling and mentoring, support network, employment opportunities and other needs as identified by the parties.

**13.2** The Unions and Employers agree to coordinate with the Center to create and maintain an integrated database of veterans interested in working on this Project and of apprenticeship and employment opportunities for this Project. To the extent permitted by law, the Unions will give credit to such veterans for bona fide, provable past experience.

### **ARTICLE 14** **Reporting Requirements**

Employers shall cooperate with the Owner with respect to its reporting requirements for financial and programmatic data resulting from the expenditure of Owner funds and shall fulfill its reporting obligations as directed by Owner, including use of the City’s Contract Compliance Reporting System where applicable. During the life of the Project, Employers will document information regarding the implementation of this Agreement and will provide reporting to the Owner on a monthly basis and as requested. Documentation includes but is not limited to:

- a. The creation of M/W/DBE/ESB solicitation packages
- b. M/W/DBE/ESB results
- c. Inquiries of M/W/DBE/ESB interests in bidding, bid amounts, and contract awards

- d. Subcontractor payments
- e. Subcontractor replacement requests/decisions
- f. Technical assistance requested/provided and/or referred
- g. Apprenticeship and Workforce Diversity results
- h. Problems and successes experienced (mentorship)
- i. Capacity building results
- j. Monthly Electronic Spreadsheet of M/W/DBE/ESB Awards

The following form shall be used for reporting purposes:

- Monthly Employment Report
- *(insert any current City of Portland reporting forms, as applicable)*

## **ARTICLE 15** **Compliance**

**15.1 Breach** – 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 Agreement negates such funding and impairs the Owner’s efforts to promote workforce and contracting diversity and to provide fair and equal opportunities to the public as a whole as a result of the expenditure of public funds. Therefore, the parties mutually agree that failure to meet the requirements of this Agreement, including but not limited to the submission of required documentation, constitutes a material breach of the contract.

**15.2 Remedies for Breach** – In the event of a breach of this Agreement on a particular Project 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 from the Contractor until the Parties have remedied the breach of this Agreement. In the event that progress payments are withheld; the Project Contractor and Employer shall not be entitled to interest on said payments.

If an Employer(s) is responsible for noncompliance with the Workforce Program requirements (Articles 10 and 11), the Owner may choose to withhold only their portion of the progress payment.

b. **Liquidated Damages** The Parties mutually agree that it would be difficult, if not impossible, to assess the actual damage incurred by the Owner for an Employer's failure to comply with the Good Faith Efforts requirements. The parties further agree that it is difficult, if not impossible, to determine the cost to the Owner when, due to a lack of Good Faith Efforts, workforce or subcontracting opportunities are not provided.

Therefore, if an Employer fails to make the Good Faith Efforts required by Articles 10, 11, 12, or 13 of this Agreement, the Project Contractor or Employer agrees to pay liquidated damages of \$500 per day for each day of noncompliance or until the breach of contract is remedied.

These damages are independent of any liquidated damages that may be assessed due to any delay in the project caused by Project Contractor's or an Employer's failure to comply with other provisions of the Project Contract. Such liquidated damages shall be the Owner's sole and exclusive remedy for failure to comply with the Good Faith Efforts Requirements.

c. **Notification of Possible Debarment** By executing this Agreement, the Project Contractor and Employers agree that they have been notified that failure to comply with this Agreement may lead to the Project Contractor's and Employer's disqualification from bidding on and receiving other Owner contracts.

d. **Other Remedies** The remedies that are noted above do not limit any other remedies available to the Owner in the event that the Project Contractor fails to meet the requirements of this Agreement.

## **ARTICLE 16** **Severability**

If any provision or provisions of this Agreement shall be held to be invalid, illegal, unenforceable or in conflict with the law of the State of Oregon or the United States, that provision or those provisions shall be deemed to be null and void and shall be deemed severed from the Agreement, and the validity, legality and enforceability of the remaining provisions of the Agreement shall not in any way be affected or impaired thereby.

In witness whereof, the parties have caused this Agreement to be executed and effective as the day and year first above written:

**CITY OF PORTLAND SIGNATURES:**

By: \_\_\_\_\_ Date: \_\_\_\_\_  
(Bureau)

By: \_\_\_\_\_ Date: \_\_\_\_\_  
Chief Procurement Officer

By: \_\_\_\_\_ Date: \_\_\_\_\_  
City Attorney

**PROJECT CONTRACTOR:**

By: \_\_\_\_\_ Date: \_\_\_\_\_  
(Construction Contractor)

**UNION (As Applicable to Project):**

By: \_\_\_\_\_ Date: \_\_\_\_\_  
\_\_\_\_\_ (Union)

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

\_\_\_\_\_ (Union)

By: \_\_\_\_\_  
\_\_\_\_\_ (Union)

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

**COMMUNITY BASED ORGANIZATIONS (As Applicable to Project):**

By: \_\_\_\_\_ Date: \_\_\_\_\_  
\_\_\_\_\_ (CBO)

# **EXHIBIT**

## EXHIBIT A

### LETTER OF ASSENT TO THE COMMUNITY BENEFITS AGREEMENT FOR THE *(insert name of project)*

The undersigned, as a Contractor(s) or Subcontractor(s) on a Contract which is part of the *(insert name of project)* (“Project”), for and in consideration of the award of a Contract to perform work on said Project, and in further consideration of the mutual promises made in the Community Benefits Agreement, a copy of which was received and is acknowledged, hereby:

- 1) On behalf of itself and all its employees, accepts and agrees to be bound by the terms and conditions of the Community Benefits Agreement, together with any and all amendments and supplements now existing or which are later made thereto.
- 2) Certifies that it has no commitments or agreements which would preclude its full compliance with the terms and conditions of said Community Benefits Agreement.
- 3) Agrees to secure from any Contractor(s) (as defined in said Community Benefits Agreement) which is or becomes a Subcontractor(s) (of any tier) a duly executed Letter of Assent in form identical to this document prior to commencement of any work.

Dated: \_\_\_\_\_

\_\_\_\_\_  
(Contractor/Company Name)

\_\_\_\_\_  
(Signature of Authorized Representative)

\_\_\_\_\_  
(Print Name and Title)

\_\_\_\_\_  
(Address)

## IMPACT STATEMENT

**Legislation title:** Adopt the Community Equity and Inclusion Plan for all City of Portland public improvement contracts that utilize alternative contracting methods and have estimated contract values of \$10 million to \$25 million; and utilize the modified Community Benefits Agreement for public improvement contracts with estimated contract values in excess of \$25 million. (Resolution)

**Contact name:** Maurice Henderson  
**Contact phone:** 503 823-4433  
**Presenter name:** Dante James, Tom Rinehart

**Purpose of proposed legislation and background information:**

The creation of the Community Equity and Inclusion Plan (CEIP) began as a conversation amongst various bureaus of the City who actively and regularly engage in construction projects. During these conversations, it became clear that there was inconsistency across bureaus as to the equity efforts required for different construction contracts and that an inordinate amount of time was being spent on negotiating different equity plans. Although a draft model Community Benefits Agreement (CBA) was approved in 2012, the resolution requiring its consideration provided little guidance to bureaus on when such an agreement was appropriate and due to legal concerns, it was determined that the CBA could not be used as a blanket policy. As such, an effort was undertaken to align all of the bureaus under a central, single policy that would withstand legal scrutiny.

Thereafter, a workgroup was formed to review the most recent equity plans on City projects and to compile a list of provisions that were similar or identical across those plans. The equity plans reviewed included the model CBA, the modified CBAs used on the two pilot projects, Park's Community Benefit Plan (CBP), the Washington Park Reservoirs Improvements CBP, the Portland Building Equity, Inclusion and Diversity Plan, and the Subcontractor Equity Program. Using these equity plans as the template, the workgroup created the draft CEIP using commonalities from the various plans. In addition, using information from the evaluations on the two CBA pilot projects as well as feedback obtained from community members, the draft CEIP also included additional provisions that addressed issues identified in the pilot project evaluations and updates that were generally responsive to public feedback. Although the draft CEIP was reorganized and the language revised to provide greater clarity in construction contracts, the substance of many components of the various equity plans, including many parts of the model CBA, remained unchanged.

The purpose of creating the CEIP is to have a single, consistent plan that is used on all applicable construction projects City-wide. This will enable quicker procurements and align the expectations of the contractors who work on City projects. The goal of the CEIP is to increase the utilization of women and minority workers on City construction contracts and through the use of Disadvantaged Women-Owned Business Enterprises (WBE) and Minority-Owned Business Enterprises (MBE) as subcontractors. The mechanism to achieve this goal is through

prescriptive, required equity efforts which should enhance opportunities and increase the retention of women and minorities on City projects. The utilization of aspirational, disaggregated WBE and MBE goals is designed to encourage and better ensure increased utilization and to track whether these efforts are actually achieving increased diversity on City projects.

The resolution also adopts the modified Community Benefit Agreement (CBA) that was used on two Portland Water Bureau Projects and has further updated the language. The modified CBA will be used on public improvement projects with contracts in excess of \$25 million. These will be implemented on a project by project basis.

Along with the resolution to adopt the CEIP, Council will also be voting on a sister resolution to proceed with forming the Community Opportunities and Enhancements Fund, which entails a percentage set aside from all City public improvement construction contracts (not just those subject to the CEIP) to be used towards capacity building and technical assistance, amongst other things. In addition to these two resolutions, a third resolution will be presented, which will direct the development and implementation of a process in which to examine the project delivery selection process for construction services contracts.

**Financial and budgetary impacts:**

The Community Equity and Inclusion Plan (CEIP) will be applied to public improvement contracts with contract values totaling \$10 million to \$ 25 million using alternative contracting methods. For projects in excess of \$25 million, the modified CBA will be implemented.

Although the costs to each bureau for administering the Plans have not been calculated, there are costs in terms of staff time, outreach and recruitment activities and oversight and management. The costs should result in the achievement of goals and increase the number of underserved and underrepresented communities trained and ready to work on projects. This social benefit is worth the costs to bureaus for administering the Plan. Having a consistent plan to apply, rather than needing to negotiate separate Plans on a project-by-project basis, will result in efficiencies for bureaus, for contractors, and for community stakeholders.

There will be staffing costs for the Procurement Services Division to support and staff the Community Equity and Inclusion Committee (CEIC) and provide compliance on the contracts.

**Community impacts and community involvement:**

As part of the drafting process, once the bureaus resolved all internal questions on the provisions in the draft CEIP, the document was passed along to the Equitable Contracting and Purchasing Commission (ECPC) for their review and comment and a subsequent meeting was scheduled to discuss their input. After the ECPC provided feedback, the draft CEIP (revised to include ECPC comments) was then circulated to community stakeholder groups who were identified as having interest in social equity efforts of the City, and those who were involved in drafting the original model CBA. The draft CEIP was disseminated to 44 different groups. Dante James, Director of the Office of Equity and Human Rights and Tiffani Penson, Minority Evaluator Program and Supplier Diversity Officer of Procurement Services, visited personally with 23 groups to discuss the draft CEIP and the process for providing feedback, including some groups who represented

multiple organizations or individuals. Comments were received from 26 different groups, organizations, and individuals. Those comments were reviewed and discussed by the City workgroup. Where agreed upon and where feasible, the draft CEIP was revised to be responsive to those comments.

The City workgroup shared a table summarizing all the comments received and posted the final version on April 3 along with a “track changes” version that allowed stakeholders to easily identify what had changed from the version shared with the community in October.

The CEIP is the most robust equity plan that the City has ever undertaken. Special considerations were taken into account to minimize the likelihood of legal challenges to the CEIP and to place the City in the best position should the legality of the CEIP be challenged. Because a strong, consistent and continuous equity plan is the goal, preventing the impact of a legal challenge (which could result in temporary or permanent revocation of the CEIP) was a primary consideration in whether some community stakeholder groups’ suggestions were feasible.

One issue of particular significance was how to incorporate the signatory component of the pilot CBAs, which some stakeholders felt was crucial for the engagement of stakeholder groups who have a vested interest in the success of the projects and the communities it seeks to address. After reviewing feedback and considering several options, an ancillary agreement – the Community Equity and Inclusion Partnership Agreement - was created to serve as the signatory document to the CEIP. While the scope of the signatory document to the CEIP is narrower than in the pilot CBA, it correctly identifies the obligations appropriate for the stakeholder groups to undertake, while keeping separate the contractual relationship between the City and the Prime Contractor. This mechanism was designed to address concerns voiced by stakeholder groups who maintained that a contractual relationship was required for full participation, while simultaneously addressing concerns expressed by contractors and City project managers regarding the impact of multiple parties to the contract and confusion around obligations and enforcement abilities.

Further discussions with stakeholders have resulted in the proposed adoption of the modified CBA on contracts in excess of \$25 million. There is a recognition by the community that the two modified CBAs implemented on two Portland Water Bureau Projects were successful in terms of supporting meeting the contracting goals set for the project. A CBA will be implemented on future City projects on a project by project basis for those projects meeting the dollar threshold.

### **Budgetary Impact Worksheet**

**Does this action change appropriations?**

- YES:** Please complete the information below.  
 **NO:** Skip this section

Impact Statement for Requested Council Action

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<b>Fund</b>	<b>Fund Center</b>	<b>Commitment Item</b>	<b>Functional Area</b>	<b>Funded Program</b>	<b>Grant</b>	<b>Sponsored Program</b>	<b>Amount</b>