

SUPPLEMENTAL EQUAL EMPLOYMENT OPPORTUNITY ANTI-DISCRIMINATION AND AFFIRMATIVE ACTION PROGRAM

I. DEFINITIONS

For the purpose of this Contract, "minority" refers to Asians, Blacks, Hispanics, North American Indians, and Cape Verdeans.

II. NONDISCRIMINATION AGREEMENT

During the performance of this Contract, the **Contractor** and all of the Subcontractors (hereinafter, in this Article, collectively referred to as the **Contractor**), all assignees, and successors in interest, agree as follows:

1. In connection with the performance of work under this Contract, the **Contractor** shall not discriminate against any employee or applicant for employment because of race, color, religious creed, national origin or ancestry, age, disability, sexual orientation, marital status, family status, military status, source of income, or sex. The aforesaid provision shall include, but not be limited to the following: employment upgrading, demotion or transfer; recruitment advertising; recruitment layoff; termination; rates of pay or other forms of compensation; conditions or privileges of employment; and selection for apprenticeship. The **Contractor** shall post notices in conspicuous places, available for employees and applicants for employment, to be provided by the **City** setting forth the provisions of the Fair Employment Practices Law of the Commonwealth (M.G.L. c. 151B).

2. In connection with the performance of Work under this Contract, the **Contractor** shall undertake in good faith affirmative action measures designed to eliminate any discriminatory barriers in the terms and conditions of employment on the grounds of race, color, religious creed, national origin or ancestry, age, disability, sexual orientation, marital status, family status, military status, source of income, or sex and to eliminate and remedy any effects of such discrimination in the past. Such affirmative action shall entail positive and aggressive measures to ensure equal opportunity in the areas of hiring, upgrading, demotion or transfer, recruitment, layoff or termination, rate of compensation, and in-service or apprenticeship training programs. This affirmative action shall include all action required to guarantee equal employment opportunity for all persons regardless of race, color, religious creed, national origin or ancestry, age, disability, sexual orientation, marital status, family status, military status, source of income, or sex. A purpose of this provision is to ensure to the fullest extent possible an adequate supply of skilled tradespersons for this and future **City** public construction projects.

III. NEGOTIATIONS WITH MINORITY SUBCONTRACTORS

If the **Contractor** shall use any subcontractor on any Work performed under this Contract, it shall take affirmative action to negotiate with qualified MBE subcontractors that are certified by SOMWBA. This affirmative action shall cover both pre-bid and post-bid periods. It shall include notification to the Affirmative Action Officer or its designee, while bids are in preparation, of all products, work, or services for which the **Contractor** intends to negotiate bids.

IV. COMPLIANCE WITH REQUIREMENTS

The **Contractor** shall comply with the provisions of Executive Order No. 74, as amended by Executive Order No. 116 dated May 1, 1975, M.G.L. c. 151B, as amended, and Chapters 2.66 (Cambridge Employment Plan) of the Cambridge Municipal Code, all of which are herein incorporated by reference and made a part of this Contract.

As part of its obligation of remedial action under the foregoing section the **Contractor** shall maintain on its Project a not less than 25% ratio of minority employee work hours to total work hours in each job category, including, but not limited to, bricklayers, carpenters, cement, masons, electricians, ironworkers, operating engineers, and those "classes of work" enumerated in M.G.L. c. 149, §44C.

V. NON-DISCRIMINATION

The **Contractor**, in the performance of all Work after the award, and prior to completion of the Contract Work, will not discriminate on grounds of race, color, religious creed, national origin or ancestry, age, disability, sexual orientation, marital status, family status, military status, source of income, or sex in employment practices, in the selection or retention of Subcontractors, or in the procurement of materials and rentals of equipment.

VI. SOLICITATION FOR SUBCONTRACTS AND FOR THE PROCUREMENT OF MATERIALS AND EQUIPMENT

In all solicitations either by competitive bidding or negotiation made by the **Contractor** either for work to be performed under a subcontract or for the procurement of materials or equipment, each potential subcontractor or supplier shall be notified in writing by the **Contractor** of the **Contractor's** obligations under this Contract relative to non-discrimination and affirmative action.

VII. COMPLIANCE-INFORMATION, REPORTS AND SANCTIONS

The **Contractor** will provide all information and reports required by the **City** and will permit access to its facilities and any books, records, accounts and other sources of information which may be determined by the **City** to affect the employment of personnel.

Whenever the **City** believes the **Contractor** may not be operating in compliance with the terms of this Contract, the **City** directly, or through its designated agent, shall conduct an appropriate investigation, and may confer with the parties, to determine if such **Contractor** is operating in compliance with the terms of this Contract. If the **City** or its agent finds the **Contractor** not in compliance, it shall make a preliminary report on the non-compliance and notify such **Contractor** in writing of such steps as will the judgment of the **City** or its agent bring such **Contractor** into compliance. In the event that such **Contractor** fails or refuses to fully perform such steps, the **City** shall make a final report on non-compliance and may impose one or more of the sanctions listed or permitted by law. If, however, the **City** believes the **Contractor** has taken or is taking every possible measure to achieve compliance, it shall not make a final report of non-compliance.

3. Within fourteen (14) days of the issuance of the report, the **City** shall move to impose one or more of the following sanctions, as it may deem appropriate to attain full and effective enforcement:

- a. The recovery by the **City** from the General **Contractor** of 1/100 of 1% of the Contract award price or \$1,000 whichever sum is greater, in the nature of liquidated damages or if a Subcontractor is in non-compliance, the recovery by the **City** from the **Contractor**, to be assessed by the **Contractor** as a back charge against the Subcontractor of 1/10 of 1% of the subcontract price, or \$400 whichever sum is greater, in the nature of liquidated damages, for each week that such party fails or refuses to comply;
- b. The suspension of any payment or part thereof due under the Contract until such time as the **Contractor** is able to demonstrate its compliance with the terms of the Contract;

c. The termination, or cancellation, of the Contract, in whole or in part, unless the **Contractor** is able to demonstrate within a specified time its compliance with the terms of the Contract; or

d. The denial to the **Contractor** of the right to participate in any future contracts awarded by the **City** for a period of up to three (3) years.

If at any time after the imposition of sanctions as **Contractor** is able to demonstrate that it is in compliance with this Contract, it may request the **City** to suspend the sanctions conditionally, pending a final determination by the **City** as to whether the **Contractor** is in compliance. Upon final determination, the **City** shall either lift the sanctions or reimpose them.

VIII. SEVERABILITY

The provisions of this Article are severable and if any of these provisions shall be held unconstitutional by any court of competent jurisdiction, the decision of such court shall not affect or impair any of the remaining provisions.