

**PRINCE GEORGE’S COUNTY SUPPLIER DIVERSITY AND EQUITY PLAN
FOR
PUBLICLY SUBSIDIZED DEVELOPMENT PROJECTS**

Project Title: _____

County Subsidy: _____

Developer: _____

Address: _____

Email: _____ **Phone:** _____

This **Supplier Diversity and Equity Plan** (“Plan”) is entered into by and between Prince George’s County, Maryland (“County”), a body corporate and politic, on behalf of the Prince George’s County Department of Housing and Community Development (“DHCD”) and the Developer identified above.

WHEREAS, in November 2022, Prince George’s County (“County”) established the Diversity and Equity Policy for Publicly Subsidized Development Projects (“Policy”). The Policy and the associated requirements are detailed in Section 10-335 of the Prince George’s County Code (“Code”).

NOW, THEREFORE, in consideration of promises and herein exchanged and other good and valuable consideration, the parties hereby agree as follows:

A. Project Description:

(PROVIDE A BRIEF STATEMENT ABOUT THE PRIMARY PURPOSE OF AND GOALS FOR THE PROJECT AND IDENTIFY THE LOCATION.)

B. Plan Monitoring and Oversight:

The County MBE Compliance Manager (“Compliance Manager”) and the Office of Central Services Supplier Development and Diversity Division (“SDDD”) will monitor this Plan for compliance with the Policy. The Compliance Manager can be contacted at:

Mirinda Jackson
MBE Compliance Manager
Prince George’s County Council
1301 McCormick Drive- Room 3-169
Largo, MD 20774
MDJackson1@co.pg.md.us

The SDDD can be contacted at: (<https://mypgc.diversity.compliance.com/>)

This Plan reflects the commitment of the Developer of the Project to maintain compliance with the Policy through the award of contracts for work and services to eligible, certified business entities.

C. Definitions

“Best Efforts” means actions taken by the Developer in a true and genuine attempt to achieve compliance with and to further the intent and purpose of this Plan, without any design to deceive or defraud Prince George’s County, Maryland, or the intended beneficiaries of this Plan or to otherwise undermine the intent of this Plan.

“Compliance and Reporting Plan” means the initial and subsequent quarterly reports prepared and submitted by the Developer to the Compliance Manager to demonstrate compliance with this Plan and to identify individual certified firms and the dollars paid to these business and other relevant information as required by the Compliance Manager, in consultation with the SDDD.

“Construction” means the scope of work detailed in a contract between the Developer and General Contractor to construct and/or renovate the Project subject to this Plan.

“County-based business (CBB)” means a business whose principal place of operation, as determined by Prince George’s County, Office of Central Services, is located within the County.

“County-based minority business enterprise (CMBE)” means an MBE or DBE, as defined below, whose principal place of operation, as determined by the Prince George’s County Office of Central Services, is located within the County.

“County-based small business (CBSB)” means a business that meets the requirements of Section 10A-161(b) of the Prince George’s County Code and whose application for certification as a County-based small business is approved by the County’s Purchasing Agent.

“County-located business (CLB)” means a business (subject to verification by the Prince George’s County Office of Central Services), that:

- (1) has a County Office or pays applicable County property taxes; and
- (2) either has at least:
 - (i) five (5) FTE employees in the County Office for full duration of the County Office’s lease,
 - (ii) three (3) FTE employees in the County Office, with at least two (2) of the FTE employees being County Residents, for the minimum required duration of the County Office’s lease (as specified in the definition for County Office), or
 - (iii) three (3) FTE employees in the County Office if such business has an ownership interest in the building.

“County resident” means a citizen or legal resident whose primary residence and domicile is within Prince George’s County, Maryland.

“County subsidy” means funds, grants, conditional loans, contracts, loans, tax abatements (including payments in lieu of taxes, known as PILOTs), tax credits, land transfers (if sold or transferred for consideration below fair market value), exemptions in-whole or in-part from fees or surcharges, and tax increment financing awards, received from or administered by a County agency or the County government (also including quasi-public entities established or regulated by the County Code, including, but not limited to, the Housing Authority, Redevelopment Authority, and the Revenue Authority). Net present value shall be used in calculating the value of a County subsidy.

“County-subsidized project” or “Project” means any real estate or property development or redevelopment in the County that receives a County subsidy and is developed, in whole or in part, by an entity that is not a unit of the Prince George's County Government. The application of this definition is subject to the restrictions of federal and state law. If applicable, a Public-Private-Partnership (P3), as defined below, that receives a County subsidy is a Project for the purposes of this Section, with the requirements of Subsection (b), below, applying to any repair, maintenance, and renovation procurement in the service or maintenance phase for the Project.

“Developer” means the individual or entity awarded a County subsidy for the development or redevelopment, in whole or part, of the Project identified in this Plan.

“Development Costs for Construction” means the costs associated with the scope of work detailed in a contract between the Developer and Contractor to construct and/or renovate the Project subject to the requirements identified in this Plan.

“Disadvantaged business enterprise (DBE)” means a for profit small business concern that is:

- (1) 51% owned by one or more individuals who are both socially and economically disadvantaged or, in the case of a corporation, in which 51% of the stock is owned by one or more such individuals; and
- (2) whose management and daily business operations are controlled by one or more of the socially and economically disadvantaged individuals who own it.

“General Contractor” means the entity or individual contracting directly with the Developer to assume all or substantially all of the responsibility to oversee and complete construction and or renovation of the Project subject to the requirements set forth in this Plan.

“General Contractor Team” means the General Contractor and one or more businesses that are County-based minority business enterprises and or Locally-owned and Operated Business individual or business entities contracting with the Developer to assume all or substantially all of the responsibility to oversee and complete the construction and or renovation of the Project subject to requirements set forth in this Plan.

“Locally-owned and Operated Business (LOB)” is a County-based Business that is also a County resident-owned business as defined in Subtitle 10A of the Code.

“Minority business enterprise (MBE)” means:

- (1) any entity or business that is at least fifty-one (51%) percentage owned and controlled by one (1) or more Minority Individuals (or, in the case of any publicly owned corporation, at least fifty one percent (51%) of the stock of which is owned by one (1) or more Minority Individuals) and is managed or operated on a daily basis by one of such individuals; and
- (2) either is certified by:
 - (i) one of the following authorized third-party organizations: (A) MDOT, (B) Washington Metropolitan Area Transit Authority, (C) Business Enterprise National Council, (D) Women Business Enterprise National Council, (E) Pan Asian Chamber of Commerce (or any other organization with similar certification authority),
 - (ii) any Federal agency as an MBE, or
 - (iii) the Prince George’s County Office of Central Services as an MBE.

“Minority individuals” means only individuals who are members of the following groups:

- (1) African Americans (Black Americans) which includes persons having origin in any of the Black racial groups of Africa;
- (2) Asian-Pacific Americans, which includes persons whose origins are from Japan, China, Taiwan, Korea, Burma (Myanmar), Vietnam, Laos, Cambodia (Kampuchea), Thailand, Malaysia, Indonesia, the Philippines, Brunei, Samoa, Guam, the US Trust Territories of the Pacific Islands (Republic of Palau), the Commonwealth of the Northern Marianas Islands, Macao, Fiji, Tonga, Kiribati, Tuvalu, Nauru, Federated States of Micronesia, or Hong Kong;
- (3) Subcontinent Asian Americans, which includes persons whose origins are from India, Pakistan, Bangladesh, Bhutan, the Maldives Islands, Nepal, or Sri Lanka;
- (4) Hispanic Americans which includes persons of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish or Portuguese culture or origin regardless of race;
- (5) Native American which includes persons who are American Indian, Eskimos and Aleuts, or Native Hawaiians;
- (6) Females, regardless of race, ethnicity or origin; and
- (7) Veterans and Service-Disabled Veterans

“Public-Private Partnership (P3)” means, if applicable, a collaboration between the County and the Developer to support the primary purpose and goals of the Project as described above.

D. Requirements and Participation Goals

The Developer hereby agrees to comply with the following requirements and participation goals (“Goals”) as follows:

1. At least thirty percent (30%) of the Development Costs for Construction (including the design, demolition/site work, and building stages) of the County-subsidized Project shall be paid to the selected CBSB and/or LOB, including at least twenty percent (20%) of design costs if applicable. In this Section, “design” includes architectural, engineering, and design work, excluding in-house design costs.
2. Use Best Efforts to achieve at least twenty-five percent (25%) of the Development Costs for Construction (including the design, demolition/site work and building stages) of the County-subsidized Project shall be paid to CBMBEs. As a minimum, the Developer shall demonstrate its Best Efforts, as defined above, to meet this Goal.

3. The General Contractor Team for the Project shall include one or more businesses that are CMBEs and/or LOBs.
4. As applicable, the Construction services (including the design, demolition/site work, and building stages) for at least twenty-five percent (25%) of the total work hours on the Project shall be worked by County residents, including at least twenty percent (20%) of the total work hours of workers in the specialty trades (defined as “specialty trade contractors” in the North American Industry Classification System (NAICS) being worked by County Residents.
5. If the Project includes residential ownership units and utilize real estate listing agents, real estate appraisers, closing agents, settlement and/or title companies for the sale of one or more of the units, the primary place of business for these agents and companies shall be in Prince George’s County.
6. The Developer must submit an initial Report, as defined below, that documents services allocated and or available for CMBEs, MBEs, LOBs, CBSBs and CBBs and the work opportunities for County Residents to comply with this Plan approximately ninety (90) days prior to the scheduled closing on construction financing.
7. The Developer must identify the individual responsible for administering this Plan and their duties and responsibilities approximately ninety (90) days prior to the scheduled closing on construction financing.
8. Payment to CMBEs, MBEs, LOBs, CBSBs and CBBs shall be made in accordance with the lawful terms of a fully negotiated and executed contract between the Developer (or if appropriate, the General Contractor Team) no more than forty-five (45) days after satisfactory completion of the scheduled work.
9. The Developer shall take reasonable steps to ensure the Goals set forth in this Plan are shared with CMBEs, MBEs, LOBs, CBSBs and CBBs through the use of advertisements, solicitations of bids, discussion, negotiation communicate, and other reasonable best practices.
10. If applicable, subcontractors interested in submitting bids for contracts associated with the Project will be informed of the requirements of the Code and the Goals of this Plan.
11. The Developer and or the General Contractor Team shall monitor achievement of the Goals through a monthly review of the awarded contracts and a review of potential contracting opportunities for participation will be conducted.

E. Recordkeeping and Reporting Requirements

1. The Developer shall establish and maintain records to establish a Compliance and Reporting Plan, which shall be subject to the Compliance Manager's review and approval, in consultation with the SDDD, that identifies the percentage of construction and or renovation services allocated for CMBEs, MBEs, LOBs, CBSBs and CBBs and other information to demonstrate compliance with this Plan. The Developer further agrees to prepare and submit for the Compliance Manager's review and approval, in consultation with the SDDD, an initial written report and subsequent quarterly reports (individually a "Report" and collectively "Reports") that document the Developer's efforts and progress in achieving the Goals set forth in this Plan. The initial Report shall be submitted for the Compliance Manager's review and approval, prior to the award disbursement of the County subsidy and before commencement of construction for the Project.
2. After commencement of the construction of the Project and beginning on the first to occur of January 1, April 1, July 1 and October 1 and every January 1, April 1, July 1, and October 1 thereafter during construction of the Project, the Developer shall prepare a quarterly Report that details the utilization of CBBs, CMBEs, CBSBs, LOBs and MBEs. The Report shall include the dollar amount of all contracts awarded by the Developer and/or the General Contractor Team to each identified CBB, CMBE, CBSB, LOB and MBEs on the Project and a description of the Developer's and/or General Contractor Team's efforts to improve performance if necessary. The Developer's prepared Reports must be a form and format approved by the Compliance Manager and include (i) the name of each CBB, CMBE CBSB, LOB and MBE and allocation of work and (ii) identify allocated work and payments made to date for Project construction and renovation services.
3. Failure to submit a Report on a timely basis may, at the discretion of the Compliance Manager, result in a penalty not to exceed One Thousand Dollars (\$1,000.00) each business day such Report is late. Prior to any assessment of fees, the Compliance Manager shall provide written notice of such failure to the DHCD-designated Program Manager and the Developer. Thereafter, the Developer shall be provided a sixty (60) day period to cure such default.

F. Indemnification

The Developer shall defend, indemnify and hold harmless the County and its officers, employees and contractors (collectively, the "Indemnitees" and, individually, an "Indemnitee") from and against any liability, losses, damages costs, expenses, claims, obligations, penalties and causes of action (including reasonable attorney fees, whether based upon negligence, misrepresentation, contract, implied or express warranty or any other principle of law, that are imposed upon, incurred by or asserted against the Indemnitees as a direct or indirect result of the Developer's performance under this Plan and or failure to comply with Policy and any applicable local, state and federal laws.

G. Compliance and Enforcement

The Developer shall comply with the requirements and Goals set forth in this Plan and submit Reports for the Compliance Manager's review, in consultation with the SDDD, for the duration of the construction and or renovation period under the Project.

The Developer understands and agrees that failure to comply with any requirement and or use Best Efforts to meet the Goals set forth in this Plan, as documented in a written notice from the Compliance Manager, that is not cured by the Developer within sixty (60) days after the receipt such notice ("Cure Period"), shall be deemed an "Event of Default." Upon the occurrence of an Event of Default, the County may pursue legal action that includes, but is not limited to, the restoration, or claw back or withholding of up to One Hundred Thousand Dollars (\$100,000.00) of the County subsidy for the Project as determined by resolution of the County Council and concurrence of the County Executive, in consultation with the Compliance Manager and the SDDD. The County further reserves the right to pursue injunctive relief and any other remedy it may have in law and equity upon the occurrence of an Event of Default.

H. Governing Law and Jurisdiction

1. Severability. The invalidity or illegality of any provision of this Plan shall not affect the remaining provisions shall remain in full force and effect for the term of this Plan.
2. Applicable Law. This Plan shall be construed in accordance with the laws of the Prince George's County, the State of Maryland and applicable Federal law and regulations.
3. Waiver. The failure of the County to enforce any provision of this Plan shall not be deemed a waiver thereof.
4. Counterparts. This Plan may be executed in one or more counterparts, each of which shall be deemed to be an original and all of which taken together shall constitute a single contract.
5. During the performance of requirements set forth in this Plan, the Developer shall maintain "Good Standing" status with the Maryland State Department of Assessments and Taxation.

I. Electronic Execution

The parties acknowledge and agree that this Plan may be executed by electronic or digital signature. The words "execution," "signed," "signature," and words of similar import in this Plan shall be deemed to include electronic or digital signatures or the keeping of records in electronic form, each of which shall be of the same effect, validity and enforceability as manually executed signatures or a paper-based recordkeeping system, as the case may be, to the extent and as provided for under applicable law, including the Electronic Signatures in Global and National Commerce Act of 2000 (15 USC § 7001 et

seq.), the Maryland Uniform Electronic Transactions Act (§§21- 106, 21-111 and 21-117, Commercial Law Article, Annotated Code of Maryland,) or any other similar state laws based on the Uniform Electronic Transactions Act.

(SIGNATURES APPEAR ON THE NEXT PAGE.)

IN WITNESS WHEREOF, the parties signed this Supplier Diversity and Equity Plan on the dates set forth below.

DEVELOPER

Name of Authorized Official

Date

PRINCE GEORGE’S COUNTY, MARYLAND

Angie Rodgers, Deputy Chief Administrative Officer
for Economic Development

Date

CERTIFICATION OF COMPLIANCE

I certify that I reviewed this Supplier Diversity and Equity Plan (“Plan”) for the Project titled “_____,” in consultation with the Office of Central Services Supplier Development and Diversity Division (“SDDD”), for compliance with the requirements set forth in the Prince George’s County Supplier and Equity Policy for Publicly Subsidized Development Projects (“Policy”), which is codified under County Code 10-335, and I hereby approved the Plan effective as of the date written below.

MBE Compliance Manager
Prince George’s County Council

Date