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**County of Imperial  
Department of Public Works  
Request for Proposals  
For On Call, As Needed  
Civil Engineering Services in Imperial County**



**Requested by:  
William S. Brunet, P.E  
Director of Public Works**

**Department of Public Works  
155 South 11<sup>th</sup> Street  
El Centro, California 92243  
Phone: (760) 482-4462  
Fax: (760) 352-1272**

**August 11, 2010**

**Prepared by: Ed Delgado  
Administrative Analyst II**

# IMPORTANT SPECIAL NOTICE NO. 1

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- Bidders and proposers are advised that, as required by federal law, the County of Imperial is implementing new Disadvantaged Business Enterprise requirements for Underutilized Disadvantaged Business Enterprises (UDBE). Section 2, "Proposal Requirements and Conditions," under subsection titled "Disadvantaged Business Enterprises (DBE)" and Section 5, "General," under subsection titled "Performance of Subcontractors" of these special provisions cover the UDBE requirements.
- The County of Imperial is implementing new contract requirements for submittal of:
  1. Data Universal Numbering System (D-U-N-S) Number form: Refer to section title "Data Universal Numbering System (D-U-N-S) Number" under Section 3, "Contract Award and Execution," of these special provisions.
  2. Monthly Employment Report forms. Refer to section titled "Monthly Employment Report (American Recovery and Reinvestment Act)" under Section 5, "General," of these special provisions.
- Contract Notification Requirement to the Office of Federal Contract Compliance Programs.

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Attachment A – Sample Proposal Evaluation Form

Attachment B - List of Applicable Documents

Attachment C - Sample Consultant Agreement and Insurance Requirements

**For all federally funded projects the following additional items shall be considered part of the contract:**

Attachment D - Bidder/Proposer Disadvantaged Business Enterprise (DBE) Program Requirements

- Implementation Agreement
- Exhibit 10-I Notice to Proposers Disadvantaged Business Enterprise Information
- Exhibit 10-J Standard Agreement for Subcontractor/DBE Participation

Attachment E - Required Certification by Consultant with Proposal

- Exhibit 15-H UDBE Information – Good Faith Efforts
- Exhibit 10-01 Local Agency Proposer UDBE (Commitment Contracts)
- Exhibit 10-P Nonlobbying Certification for Federal-Aid Contracts
- Exhibit 10-Q Disclosure of Lobbying Activities
- Exhibit 12-E Attachment D - Noncollusion Affidavit

Attachment F - Required Certification by Consultant and County after Contract Signature

- Exhibit 10-F Certification of Consultant
- Exhibit 10-G Certification of Local Agency
- Exhibit 10-02 Local Agency Proposer DBE Information (Consultant Contract)
- Final Report – Utilization of Disadvantaged Business Enterprises
- Exhibit 17-O DBE Certification Status Change

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**County of Imperial  
Department of Public Works  
Request for Proposals  
For On Call, As Needed Civil Engineering Services in Imperial County**

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August 11, 2010

**I. PURPOSE AND BACKGROUND**

The County of Imperial Department of Public Works is requesting proposals from qualified and experienced civil engineering professionals to provide On Call, As Needed Civil Engineering Design services. These services will be on an intermittent basis. The selected firm(s) may assist the County with various civil engineering assignments for federally funded and/or locally funded projects including but not limited to:

- Third party review and plan checking services for County transportation projects, including review of street improvement and grading plans, estimates, hydrology and hydraulic calculations, reports and water/sewer pressure and capacity calculations, and any other associated engineering plans and reports prepared by County and/or County consultants for public transportation development projects.
- Preparation of plans, specifications, estimates (PS&E) and reports for a wide variety of road and bridge transportation projects, grading and drainage plans and reports, capital improvement projects, water, sewer, and storm water drain utility projects.
- Other as needed professional engineering design services related to survey and engineering design to assist the Department of Public Works.

The purpose of the Request for Proposals (RFP) is to provide the Department of Public Works with the ability to obtain assistance quickly during peak workload periods, staffing shortages, and when expedited/fast track support is needed to satisfy the Department's scheduling and needs.

Qualified entities are invited to submit written proposals for consideration in accordance with this request. These services will be conducted under a contract with the County of Imperial, hereinafter referred to as "County" and the consultant entity, hereinafter referred to as "Consultant".

The contract will be regulated according to the provisions of all federal, state and local laws and ordinances that are applicable. This includes compliance with prevailing wage rates and their payment in accordance with California Labor Code, Section 1775.

**Proposed Schedule of Events**

|                             |                 |
|-----------------------------|-----------------|
| Issue Request for Proposals | August 11, 2010 |
| Proposal Due                | August 30, 2010 |
| Consultant Selection        | September, 2010 |
| County Awards Contract      | September, 2010 |
| Notice to Proceed           | September, 2010 |

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## II. SCOPE OF WORK

The Scope of Work is to provide on call, as needed civil engineering services to the County of Imperial Department of Public Works for federally funded or locally funded projects in accordance with all provisions of this RFP. These services will be on an intermittent, on call and as needed basis. The scope of work includes the review and checking of County-prepared and Consultant-prepared engineering plans, specifications, and estimates for County road and bridge transportation projects, grading and drainage plans, estimates, hydrology and hydraulic calculations, reports and water/sewer pressure and capacity calculations and any other associated engineering plans and reports for public transportation, and public development projects. **Note that the County already utilizes consultants for plan checking and review of private development projects. This RFP is to identify firms to provide the above listed services and to include review of County-prepared plans for County projects as a third party review only.**

It is the intention of the County to select and contract with more than one (1) Consultant for these services. The selected firm(s) will provide as-needed, on-call professional civil engineering design services that include but are not limited to those mentioned herein. The County will assign work to any of the firms as is deemed necessary and appropriate by the County. All work shall be performed under the direction of an appropriate licensed professional engineer registered with the State of California. No subcontractors shall be utilized without prior authorization by County. Duration of contract shall be one (1) year from Board approval of contract with options by both County and Consultant, by mutual agreement, to extend for up to four (4) one-year extensions. The total value of contract shall not exceed \$200,000 per year.

### Task 1: Review of Existing Documentation, Kickoff Meeting

- Review existing policies, procedures, guidelines, and related documents from County. See Attachment B for a listing of documents available for review.
- Participate in kickoff meeting with County. Review project goals, scope, and workflow methodology. Introduce key staff. Review responsibilities of Consultant and County.

### Task 2: Initiate and Prepare Plan Checks

- Review and coordinate plan checks on call, as needed as requested in writing by County.
- Prepare and submit plan check responses to County for review and dissemination to clients.

### Task 3: Prepare Plans, Specifications, Estimates, Engineering Reports, and Other Services

- Prepare and provide plans, specifications, estimates (PS&E), engineering reports, and other engineering and surveying design services on call, as needed as requested by County. All supporting engineering documentation must be provided. Following are typical PS&E items that may be tasked:
  - Street and Road Improvements
  - Grading, Erosion Control and/or Drainage Plans
  - Water/Sewer/Storm Drain Underground Utility Plans
  - Construction Detour Plans
  - Striping and Signing Plans
  - Bridge or Retaining Wall Structures not under Building Permit Purview
  - Consistency with Other Planned Improvements
  - Road Structural Section Calculations
  - Hydrology and Hydraulic Calculations and Reports
  - Street Layout and Design
  - Storm Water Best Management Practices (BMPs)
  - Water and Sewer Pressure and Capacity Calculations and Reports
  - Structure Calculations not under Building Permit Purview
  - Traffic Reports or Studies
  - Traffic Signals

- Quantity Estimates
- Construction Staking
- Topographic and Boundary Surveying

The scope shall also provide for other as needed professional civil engineering design services to assist the Department. All such work above shall be in accordance with all applicable local, state, and federal standards and guidelines as well as the most current edition of the "Engineering Guidelines Manual for Preparation and Checking of Street Improvement, Drainage and Grading Plans within Imperial County" and/or the "Engineering Design Guidelines Manual for the Preparation and Checking of Street Improvement, Drainage, and Grading Plans within the Gateway of the Americas Specific Plan Area" which is posted on the County Department of Public Works Web site.

Work tasks may include federally funded and/or locally funded projects. For work on federally funded projects all Federal Aid provisions and requirements shall be adhered to.

The Consultant shall document the results of the work to the satisfaction of the County and for federally funded projects, the State and Federal Highway Administration as appropriate.

For any third party review and plan checking of County-prepared and/or consultant-prepared projects, the Consultant shall certify in writing that the design is in substantial compliance with applicable local, state, and federal requirements. For such plan reviews, ultimate responsibility for errors and/or omissions of plans and specifications will continue to rest with the originating design firm, not the Consultant.

For design work prepared under the direction of the Consultant, all responsibility for errors and/or omissions and responsible charge over the design of the project as defined in Section 6703 of the Business and Professions Code shall remain with the Consultant, and any plan check of project drawings and specifications by the County is confined to a review only and does not relieve the Consultant, as Engineer of Work, of his responsibilities for the project design.

Third party review and plan check turnaround time shall be a maximum five (5) business days for small projects of five (5) or fewer plan sheets. Larger projects of more than five (5) plan sheets shall have a maximum turnaround time of ten (10) business days. Turnaround time shall commence upon receipt of the plans by the Consultant. The turnaround time shall end upon the County's receipt of the plan check comment letter. Receipt shall include both hard copy and electronic copy.

Consultant's records shall be maintained for inspection by the County, State, and Federal Highway Administration (FHWA) for a minimum of three (3) years after final payment to the Consultant.

All tracings, plans, specifications, and maps prepared or obtained under the terms of the Agreement with County shall be delivered to and become the property of the County, and basic survey notes, sketches, charts, computations, and other data prepared or obtained under such Agreement, if not required to be provided, shall be made available upon request to the County without restriction or limitation on their use.

It is requested that responders submit a fee schedule to perform the services set forth in the scope of work. Provide a clear breakdown of the costs by service including staff or by item, by hour. No subcontractors shall be utilized without prior authorization by County.

The County of Imperial Disadvantaged Business Enterprise (DBE) Program affirms the utilization and participation of qualified disadvantaged business firms in its contracting and procurement activities. The County encourages general and prime contractors to afford competitive subcontracting opportunities to disadvantaged firms, where possible, in their contracting and procurement activities with the County of Imperial.

Services that are partially funded with Federal funds are subject to Part 26, Title 49, Code of Federal Regulations entitled "Participation by Disadvantaged Business Enterprises (DBE) in the Department of Transportation Financial Assistance program." Firms submitting a proposal shall be fully informed of the requirements of the regulations and the County's Disadvantaged Business Enterprise (DBE) program developed pursuant to the regulations. The County of Imperial's Annual Anticipated DBE Participation Level (AADPL) for 2009-2010 is established at 17.17% with a Race Neutral component of

10.21% and a Race Conscious (Underutilized DBE; UDBE) component of 6.96%.

### **III. RESPONSIBILITIES OF THE COUNTY**

1. The County will direct the development of the individual project plan checks in writing, provide management oversight, coordinate with third party consultants as needed and conduct administrative arrangements as necessary.
2. The County will submit a written request for price quote for each project that will include a brief scope of work and related information in order for the Consultant to submit a written cost estimate with provisions for DBE and/or UDBE with time schedule. If the response meets with the County's satisfaction, a written acceptance and Notice to Proceed will be provided to the Consultant.
3. The County will pay an agreed upon amount normally within 30 days after receipt of an invoice(s). Invoice(s) shall be submitted with a detailed accounting of staff hours attributed to specific tasks. Separate invoices shall be submitted for specific project billings, with clear notation of the County Project Number. County will retain ten (10) percent (10%) of each invoice for professional civil engineering services, but due to the nature of the work will exempt plan check and review services from the ten percent retention.
4. The County will not provide dedicated workplace facilities, but upon request will provide a conference room for meetings with the Department.
5. The County reserves the right to perform any portion of the scope of work by County personnel or other consultants should the County determine it would be in the best interest of the County to do so.

### **IV. PROPOSAL CONTENT AND INFORMATION**

Proposal should be typed, organized and concise, yet comprehensive.

#### **A. General Requirements**

1. Provide a cover letter.
2. State the interpretation of the work to be performed. State a positive commitment to perform the work in the required manner and time frame; include a basic summary; and demonstrate an understanding of the project. Provide a statement that the offer is valid for at least a ninety (90) day period.
3. Provide the name(s) of the primary and/or alternate individuals authorized to respond to this RFP. Include titles, addresses, e-mail if available, and phone number.
4. The Consultant is representing itself as a qualified professional in providing professional civil engineering design services. Therefore, it is acceptable to submit recommendations and comments for consideration on format, process, schedule, and additional content of projects. The County will consider comments and recommendations; however is not required to select any of the recommendations or comments.

#### **B. Table of Contents**

Include a table of contents with identification of each section and page number.

#### **C. Summary of Qualifications and Experience**

1. State whether the firm is local, regional, national or international.
2. Identify the owner(s) of the firm and legal status (sole proprietor, corporation, etc.)

3. Give the location of the office from which work is anticipated to be done and the number of employees of the company. Include an organizational chart.
4. Identify the qualifications and résumés of all individuals who will be associated with this service. Include professional registrations and affiliations.
5. Summarize specific experience and qualifications for similar and related projects, both federally and locally funded. List at least 3 references with contact information.

**D. Analysis of Effort/Methodology**

1. Describe the approach for how the work will be performed. The proposal shall indicate any specific techniques or methodology to be utilized.
2. The proposal shall include a sample project timeline with specific tasks and milestones envisioned for the project.
3. Indicate what participation, data and products will be requested from the County.
4. Indicate deliverables to be provided and when.

**E. Cost and Fees**

1. Provide fee schedule for contract period. For actual task orders, develop costs and fees for the services requested. Provide a clear breakdown of costs by task including staff or by item, per hour. Costs and fees are to be submitted in a separate sealed envelope. Costs should be organized for full time hourly rates. Such hourly rates should be fully burdened or loaded, including full compensation for all overhead and profit. Billing rates shall include provision for normal office costs, including but not limited to office rental, utilities, insurance, cell phone or radio, equipment, normal supplies and materials, in-house reproduction services and local travel costs. As much as possible, a not to exceed fee breakdown by task of the project based on billable hours is desirable. Also detail what hourly rates for overtime will be used.
2. Submit itemized hourly fee schedule for additional services beyond the scope of work.
3. Costs and Fees must be provided within a separate sealed envelope within the submittal of the proposal.
4. Acknowledge that for specific projects, certain protocols as mentioned under Section IV, Responsibilities of the County, Item No. 2, will be developed.

## **V. EVALUATION OF PROPOSALS**

Sample evaluation criteria for proposals are attached for your information (Attachment A). The County will utilize a one-step selection process.

The Evaluations Committee will determine if qualifications are met in reviewing the proposals. The Committee may schedule interviews with some responders. Once the proposals are reviewed and the qualifications considered, recommendations will then be submitted to the County Board of Supervisors for final selection. The County reserves the right to select any consultant who is determined qualified and may not correlate to a number 1, number 2, or even number 3 ranked consultant.

The County reserves the right to reject any and all proposals submitted and/or request additional information for clarification.

Submit one (1) original, three (3) copies, and one (1) electronic copy in Portable Document Format (PDF) format on CD-ROM, of the proposal clearly titled:

REQUEST FOR PROPOSALS FOR ON CALL, AS NEEDED CIVIL ENGINEERING DESIGN SERVICES IN IMPERIAL COUNTY

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in a sealed envelope addressed as follows by the submittal deadline of **4:00 p. m. Monday, August 30, 2010** to

William S. Brunet, P.E.  
Director of Public Works  
County of Imperial Department of Public Works  
**C/O Ed Delgado - Administrative Analyst**  
155 S. 11<sup>th</sup> Street  
El Centro, California 92243

A pre-proposal conference has not been scheduled for this project.

Clarification desired by a respondent relating to definition or interpretation shall be requested in writing with sufficient time to allow for a response and prior to the date RFPs are due. Oral explanation or instructions shall not be considered binding on behalf of the County.

Any modifications to this solicitation will be issued by the County as a written addendum.

The County will not consider proposals received after the specified time and date. An amendment is considered a new proposal and will not be accepted after the specified time and date.

Any contract resulting from this RFP will be financed with funds available to the County from local and federal funds.

This RFP does not commit the County of Imperial to award a contract or pay any costs associated with the preparation of a proposal. The County reserves the right to cancel, in part or in its entirety, this solicitation should this be in the best interest of the County.

Questions concerning the proposal should be directed to Ed Delgado, Administrative Analyst II, with the County of Imperial Department of Public Works at (760) 482-4462 or via electronic mail to [eddelgado@co.imperial.ca.us](mailto:eddelgado@co.imperial.ca.us).

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## **Attachment A- Sample Proposal Evaluation Form**



## Sample PROPOSAL EVALUATION FORM

### REQUEST FOR PROPOSALS FOR ON CALL, AS NEEDED CIVIL ENGINEERING SERVICES IN IMPERIAL COUNTY

Prepared June 17, 2010 by Ed Delgado

DATE: \_\_\_\_\_

EVALUATOR: \_\_\_\_\_

RESPONDENT: \_\_\_\_\_

RATING POINTS:

5 = excellent  
4 = good  
3 = above average  
2 = average  
1 = below average  
0 = unsatisfactory

| CRITERIA                                                                                          | WEIGHT FACTOR | X | RATING             | = | WEIGHTED RATING    |
|---------------------------------------------------------------------------------------------------|---------------|---|--------------------|---|--------------------|
| A. Technical Approach                                                                             | <b>0.35</b>   |   |                    |   |                    |
| • Responsiveness & understanding of work to be done, i.e. scope of work                           | (0.15)        |   | _____              |   | _____              |
| • Specific experience with similar Work                                                           | (0.20)        |   | _____              |   | _____              |
| B. Demonstrated DBE/UDBE Intent                                                                   | <b>(0.10)</b> |   | _____              |   | _____              |
| C. Project Management                                                                             | <b>0.35</b>   |   |                    |   |                    |
| • Qualifications                                                                                  | (0.20)        |   | _____              |   | _____              |
| • Organization and Quality of Staffing                                                            | (0.15)        |   | _____              |   | _____              |
| D. References                                                                                     | <b>(0.05)</b> |   | _____              |   | _____              |
| E. Familiarity with State and Federal Procedures                                                  | <b>(0.15)</b> |   | _____              |   | _____              |
|                                                                                                   |               |   | Subtotal Score     |   | _____              |
| F. Previous Experience and Performance working with County of Imperial Department of Public Works |               |   |                    |   | _____              |
|                                                                                                   |               |   | <b>Total Score</b> |   | (0 to -5)<br>_____ |

Note: Positive previous experience and no previous experience will constitute a score of zero (0). Negative experience points will be deducted from the subtotal score.

Comments:

## Attachment B- List of Applicable Documents

All civil engineering and design services shall be provided utilizing standard of care and practice in the profession of civil engineering. All work shall also be performed in accordance with all applicable local, state, and federal standard codes and criteria. The County of Imperial relies on these concepts and therefore considers various sources of design criteria for approval of engineering plans and reports. Following are typical acceptable design manuals and criteria typically used by the County:

1. Caltrans Local Assistance Manual

The Caltrans Local Assistance Manual can be found at: <http://www.dot.ca.gov/hq/LocalPrograms/lam/lapm.htm>

2. Caltrans' latest editions of:

- Standard Plans and Specifications
- Construction Manual

The Caltrans Construction Manual can be found at <http://www.dot.ca.gov/hq/construc/manual2001/>

3. Quality Assurance Program

The County of Imperial Department of Public Works Quality Assurance Program can be found at <http://www.co.imperial.ca.us/PublicWorks/Index.htm> under "Forms and Guidelines"

4. The following County design criteria have been prepared for use as design standards as well:

- Encroachment Permit Application Package – an encroachment permit is required for any improvement or work proposed within existing or proposed County road right of way. After a set of plans have been "approved for construction" by the Department, a permit must be applied for by the applicant.
- Engineering Design Guidelines Manual for the Preparation and Checking of Street Improvement, Drainage, and Grading Plans within Imperial County.
- County of Imperial Storm Water Management Plan for Imperial Watershed, Revised 2008

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## **Attachment C- Sample Consultant Agreement And Insurance Requirements**

AGREEMENT FOR SERVICES

THIS AGREEMENT FOR SERVICES ("Agreement"), made and entered into effective the \_\_\_\_\_ day of \_\_\_\_\_, 200\_, by and between the COUNTY OF IMPERIAL, a political subdivision of the State of California, by and through its County Executive Office ("COUNTY") and [business name], [business type] ("CONSULTANT") (individually, "Party;" collectively, "Parties").

**WITNESSETH**

**WHEREAS**, COUNTY plans on (Description of Project); and

**WHEREAS** COUNTY desires to retain a qualified individual, firm or business entity to provide professional services for [specify services] ("the Project") and sent out a Request for Proposals dated \_\_\_\_\_, marked Exhibit "1", attached hereto and by this reference thereto incorporated herein as though fully set forth; and

**WHEREAS**, CONSULTANT submitted its Proposal dated \_\_\_\_\_, marked Exhibit "2", attached hereto and by this reference thereto incorporated herein as though fully set forth; and

**WHEREAS**; CONSULTANT represents that it is qualified and experienced to perform the services; and

**WHEREAS** COUNTY desires to engage CONSULTANT to provide services by reason of its qualifications and experience for performing such services, and CONSULTANT has offered to provide the required services for the Project on the terms and in the manner set forth herein;

**NOW, THEREFORE**, in consideration of their mutual covenants, COUNTY and CONSULTANT have and hereby agree to the following:

**1. DEFINITIONS.**

**1.1** "Request for Proposal" shall mean that document that describes the project and project requirements to prospective bidders.

**1.2.** "Proposal" shall mean CONSULTANT's proposal for [project described by RFP] dated [date] submitted to [department]. The proposal and revised project timeline are attached hereto as Exhibit "2" and incorporated herein by this reference.

**2. CONTRACT COORDINATION.**

2.1. County Executive Officer shall be the representative of COUNTY for all purposes under this Agreement. The County Executive Officer or his/her designated representative, is hereby designated as the Contract Manager for COUNTY. He/She shall supervise the progress and execution of this Agreement.

2.2. CONSULTANT shall assign a single Contract Manager to have overall responsibility for the progress and execution of this Agreement. [Consultant's designee] is hereby designated as the Contract Manager for CONSULTANT. Should circumstances or conditions subsequent to the execution of this Agreement require a substitute Contract Manager for any reason, the Contract Manager designee shall be subject to the prior written acceptance and approval of COUNTY's Contract Manager.

3. **DESCRIPTION OF WORK.**

CONSULTANT shall provide all materials and labor to perform this Agreement consistent with the Proposal (Describe Proposal) as submitted and attached hereto as Exhibit 2. In the event of a conflict among this Agreement, the RFP and the Proposal, the RFP shall take precedence over the Proposal and this Agreement shall take precedence over both.

4. **WORK TO BE PERFORMED BY CONSULTANT.**

4.1. CONSULTANT shall comply with all terms, conditions and requirements of the Proposal and this Agreement.

4.2. CONSULTANT shall perform such other tasks as necessary and proper for the full performance of the obligations assumed by CONSULTANT hereunder.

4.3. CONSULTANT shall:

4.3.1. Procure all permits and licenses, pay all charges and fees, and give all notices that may be necessary and incidental to the due and lawful prosecution of the services to be performed by CONSULTANT under this agreement;

4.3.2. Keep itself fully informed of all existing and proposed federal, state and local laws, ordinances, regulations, orders and decrees which may affect those engaged or employed under this Agreement, any materials used in CONSULTANT's

performance under this Agreement or the conduct of the services under this Agreement;

4.3.3. At all times observe and comply with, and cause all of its employees to observe and comply with all of said laws, ordinances, regulations, orders and decrees mentioned above; and

4.3.4. Immediately report to COUNTY's Contract Manager in writing any discrepancy or inconsistency it discovers in said laws, ordinances, regulations, orders and decrees mentioned above in relation to any plans, drawings, specifications or provisions of this Agreement.

4.4. Any videotape, reports, information, data or other material given to, or prepared or assembled by, CONSULTANT under this Agreement shall be the property of COUNTY and shall not be made available to any individual or organization by CONSULTANT without the prior written approval of COUNTY's Contract Manager.

5. **REPRESENTATIONS BY CONSULTANT.**

5.1. CONSULTANT understands and agrees that COUNTY has limited knowledge in the multiple areas specified in the Proposal. CONSULTANT has represented itself to be expert in these fields and understands that COUNTY is relying upon such representation.

5.2. Subject to 5.2.1, CONSULTANT represents and warrants that it is a lawful entity possessing all required licenses and authorities to do business in the State of California and perform all aspects of this Agreement.

5.2.1. CONSULTANT shall not commence any work under this Agreement or provide any other services, or materials, in connection therewith until CONSULTANT has received written authorization from COUNTY's Contract Manager to do so.

5.3. CONSULTANT represents and warrants that the people executing this Agreement on behalf of CONSULTANT have the authority of CONSULTANT to sign this Agreement and bind CONSULTANT to the performance of all duties and obligations assumed by CONSULTANT herein.

5.4. CONSULTANT represents and warrants that any employee, contractor and/or agent who

will be performing any of the duties and obligations of CONSULTANT herein possess all required licenses and authorities, as well as the experience and training, to perform such tasks.

5.5. CONSULTANT represents and warrants that the allegations contained in the Proposal are true and correct.

5.6. CONSULTANT understands that COUNTY considers the representations made herein to be material and would not enter into this Agreement with CONSULTANT if such representations were not made.

5.7. CONSULTANT understands and agrees not to discuss this Agreement or work performed pursuant to this Agreement with anyone not a party to this Agreement without the prior permission of COUNTY. CONSULTANT further agrees to immediately advise COUNTY of any contacts or inquiries made by anyone not a party to this Agreement with respect to work performed pursuant to this Agreement.

5.8. Prior to accepting any work under this Agreement, CONSULTANT shall perform a due diligence review of its files and advise COUNTY of any conflict or potential conflict CONSULTANT may have with respect to the work requested.

5.9. CONSULTANT understands and agrees that in the course of performance of this Agreement CONSULTANT may be provided with information or data considered by the owner or the COUNTY to be confidential. COUNTY shall clearly identify such information and/or data as confidential. CONSULTANT shall take all steps necessary to maintain such confidentiality including but not limited to restricting the dissemination of all material received to those required to have such data in order for CONSULTANT to perform under this Agreement.

5.10. In the course of work to be performed in accordance with this Agreement and the Proposal, should CONSULTANT believe that a conflict exists between this Agreement and the Proposal, CONSULTANT shall notify COUNTY and both parties shall meet and confer. In the absence of a contrary agreement, the terms and requirements of the

Agreement shall control. In any event the terms of this Agreement shall supersede the Proposal.

5.11. CONSULTANT represents that the personnel dedicated to this project as identified in CONSULTANT's Proposal, will be the people to perform the tasks identified herein. CONSULTANT will not substitute other personnel or engage any contractors to work on any tasks identified herein without prior written notice to COUNTY.

5.12. CONSULTANT represents that the people executing this Agreement on their behalf have the authority to sign this Agreement and bind it to the performance of all duties and obligations assumed herein.

5.13. CONSULTANT represents that the services provided herein shall be performed in a professional and lawful manner.

5.14. CONSULTANT represents and warrants that all reports, analyses or other documents developed under this AGREEMENT shall become the exclusive property of COUNTY and shall not be distributed by CONSULTANT without COUNTY'S written consent.

6. **TERM OF AGREEMENT.**

The term of this Agreement shall be effective from the date as agreed to or executed until \_\_\_\_\_ (Date of end of term of Agreement).

7. **COMPENSATION:**

7.1. The total compensation payable under this Agreement pursuant to the Description of Work as set forth above shall not exceed [written amount]([numerical amount]) unless otherwise previously agreed to by County in writing.

7.2. CONSULTANT's fees for Additional Services shall be billed on an hourly basis at CONSULTANT's current standard rates. The scope and cost of additional services must be agreed to in writing and be subject to the terms and conditions of this Agreement. Additional services or costs will not be paid without a prior written agreement between the parties or an amount specified by the County Executive Officer or his/her designee for consultant services, travel costs, materials and other services related to the performance of this Agreement.

1 7.3. Except as provided under Paragraph 7.1, COUNTY shall not be responsible to pay  
2 CONSULTANT any compensation, out-of-pocket expenses, fees or other remuneration.

3 8. PAYMENT.

4 CONSULTANT will bill COUNTY on a time and material basis upon completion of the  
5 project or as set forth in the attached Exhibit "2". COUNTY shall pay CONSULTANT for  
6 completed and approved services upon presentation of its itemized billing.

7 9. METHOD OF PAYMENT.

8 CONSULTANT shall at any time prior to the 15<sup>th</sup> day of any month, submit to the County  
9 Executive Office a written claim for compensation for services performed. The claim shall be in a  
10 format approved by COUNTY. No payment shall be made by COUNTY prior to the claims being  
11 approved in writing by the County Executive Officer or his/her designee. CONSULTANT may  
12 expect to receive payment within a reasonable time thereafter and in any event in the normal course  
13 of business within thirty (30) days after the claim is submitted.

14 10. TIME FOR COMPLETION OF THE WORK.

15 Both Parties agree that time is of the essence in the performance of this Agreement.  
16 Program scheduling shall be as described in Exhibit "2" unless revisions to Exhibit "2" are  
17 approved by both COUNTY's Contract Manager and CONSULTANT's Contract Manager. Time  
18 extensions may be allowed for delays caused by COUNTY, other governmental agencies or factors  
19 not directly brought about by the negligence or lack of due care on the part of CONSULTANT.

20 11. RETENTION AND ACCESS OF BOOKS AND RECORDS

21 11.1. CONSULTANT shall maintain books, records, documents, reports and other materials  
22 developed under this AGREEMENT as follows:

23 11.1.1. CONSULTANT shall maintain all ledgers, books of accounts, invoices, vouchers,  
24 canceled checks, and other records relating to CONSULTANT'S charges for  
25 services or expenditures and disbursements charged to COUNTY for a minimum  
26 period of three (3) years, or for any longer period required by law, from the date  
27 of final payment to CONSULTANT pursuant to this AGREEMENT.

1 11.1.2. CONSULTANT shall maintain all reports, documents and records, which  
2 demonstrate performance under this AGREEMENT for a minimum period of five  
3 (5) years, or for any longer period required by law, from the date of termination or  
4 completion of this AGREEMENT.

5 11.1.3. Any records or documents required to be maintained by CONSULTANT pursuant  
6 to this AGREEMENT shall be made available to COUNTY for inspection or  
7 audit, at any time during CONSULTANT'S regular business hours provided  
8 COUNTY provides CONSULTANT with seven (7) days advanced written or e-  
9 mail notice. Copies of such documents shall, at no cost to COUNTY, be provided  
10 to COUNTY for inspection at CONSULTANT'S address indicated for receipt of  
11 notices under this AGREEMENT.

12 **12. SUSPENSION OF AGREEMENT.**

13 COUNTY's Contract Manager shall have the authority to suspend this Agreement, wholly  
14 or in part, for such period as deemed necessary due to unfavorable conditions or to the failure on the  
15 part of CONSULTANT to perform any provision of this Agreement. CONSULTANT will be paid  
16 the compensation due and payable to the date of suspension.

17 **13. TERMINATION.**

18 13.1. COUNTY retains the right to terminate this Agreement for any reason by notifying  
19 CONSULTANT in writing seven (7) days prior to termination and by paying the  
20 compensation due and payable to the date of termination; provided, however, if this  
21 Agreement is terminated for fault of CONSULTANT, COUNTY shall be obligated to  
22 compensate CONSULTANT only for that portion of CONSULTANT's services which are  
23 of benefit to COUNTY. Said compensation is to be arrived at by mutual agreement  
24 between COUNTY and CONSULTANT; should the parties fail to agree on said  
25 compensation, an independent arbitrator shall be appointed and the decision of the arbitrator  
26 shall be binding upon the parties.

27 13.2. Upon such termination, CONSULTANT shall immediately turn over to COUNTY any and  
28 all copies of videotapes, studies, sketches, drawings, computations and other data, whether

or not completed, prepared by CONSULTANT in connection with this Agreement. Such materials shall become the permanent property of COUNTY.

14. **INSPECTION.**

CONSULTANT shall furnish COUNTY with every reasonable opportunity for COUNTY to ascertain that the services of CONSULTANT are being performed in accordance with the requirements and intentions of this Agreement. All work done and materials furnished, if any, shall be subject to COUNTY's Contract Manager's inspection and approval. The inspection of such work shall not relieve CONSULTANT of any of its obligations to fulfill its Agreement as prescribed.

15. **OWNERSHIP OF MATERIALS.**

All original drawings, videotapes and other materials prepared by or in possession of CONSULTANT pursuant to this Agreement shall become the permanent property of COUNTY and shall be delivered to COUNTY upon demand.

16. **INTEREST OF CONSULTANT.**

16.1. CONSULTANT covenants that it presently has no interest, and shall not acquire any interest, direct or indirect, financial or otherwise, which would conflict in any manner or degree with the performance of the services hereunder.

16.2. CONSULTANT covenants that, in the performance of this Agreement, no sub-contractor or person having such an interest shall be employed.

16.3. CONSULTANT certifies that no one who has or will have any financial interest under this Agreement is an officer or employee of COUNTY.

17. **INDEMNIFICATION.**

17.1. CONSULTANT agrees to the fullest extent permitted by law to indemnify, defend, protect and hold COUNTY and its representatives, officers, directors, designees, employees, agents, successors and assigns harmless from any and all claims, expenses, liabilities, causes of action, demands, losses, penalties, attorneys fees and costs, in law or equity, of every kind and nature whatsoever arising out of or in connection with CONSULTANT'S negligent acts and omissions or willful misconduct under this Agreement ("Claims"), whether or not

1 arising from the passive negligence of COUNTY, but does not include Claims that are  
2 finally determined to be the result of the sole negligence or willful misconduct of COUNTY.

3 17.2. CONSULTANT agrees to defend with counsel acceptable to COUNTY, indemnify and  
4 hold COUNTY harmless from all Claims, including but not limited to:

5 17.2.1. Personal injury, including but not limited to bodily injury, emotional injury, sickness  
6 or disease or death to persons including but not limited to COUNTY's  
7 representatives, officers, directors, designees, employees, agents, successors and  
8 assigns, subcontractors and other third parties and/or damage to property of anyone  
9 (including loss of use thereof) arising out of CONSULTANT's negligent  
10 performance of, or willful misconduct surrounding, any of the terms contained in  
11 this Agreement, or anyone directly or indirectly employed by CONSULTANT or  
12 anyone for whose acts CONSULTANT may be liable;

13 17.2.2. Liability arising from injuries to CONSULTANT and/or any of CONSULTANT's  
14 employees or agents arising out of CONSULTANT's negligent performance of, or  
15 willful misconduct surrounding, any of the terms contained in this Agreement, or  
16 anyone directly or indirectly employed by CONSULTANT or anyone for whose  
17 acts CONSULTANT may be liable;

18 17.2.3. Penalties imposed upon account of the violation of any law, order, citation, rule,  
19 regulation, standard, ordinance or statute caused by the negligent action or inaction,  
20 or willful misconduct of CONSULTANT or anyone directly or indirectly employed  
21 by CONSULTANT or anyone for whose acts CONSULTANT may be liable;

22 17.2.4. Infringement of any patent rights which may be brought against COUNTY arising  
23 out of CONSULTANT's work;

24 17.2.5. Any violation or infraction by CONSULTANT of any law, order, citation, rule,  
25 regulation, standard, ordinance or statute in any way relating to the occupational  
26 health or safety of employees; and

27 17.2.6. Any breach by CONSULTANT of the terms, requirements or covenants of this  
28 Agreement.

17.3. The indemnification provisions of Paragraphs 17.2.1 through 17.2.6 above shall extend to Claims occurring after this Agreement is terminated, as well as while it is in force.

18. **INDEPENDENT CONTRACTOR.**

In all situations and circumstances arising out of the terms and conditions of this Agreement, CONSULTANT is an independent contractor, and as an independent contractor, the following shall apply:

18.1. CONSULTANT is not an employee or agent of COUNTY and is only responsible for the requirements and results specified by this Agreement or any other Agreement.

18.2. CONSULTANT shall be responsible to COUNTY only for the requirements and results specified by this Agreement and except as specifically provided in this Agreement, shall not be subject to COUNTY's control with respect to the physical actions or activities of CONSULTANT in fulfillment of the requirements of this Agreement.

18.3. CONSULTANT is not, and shall not be, entitled to receive from, or through, COUNTY, and COUNTY shall not provide, or be obligated to provide, CONSULTANT with Worker's Compensation coverage or any other type of employment or worker insurance or benefit coverage required or provided by any Federal, State or local law or regulation for, or normally afforded to, an employee of COUNTY.

18.4. CONSULTANT shall not be entitled to have COUNTY withhold or pay, and COUNTY shall not withhold or pay, on behalf of CONSULTANT, any tax or money relating to the Social Security Old Age Pension Program, Social Security Disability Program, or any other type of pension, annuity, or disability program required or provided by any Federal, State or local law or regulation.

18.5. CONSULTANT shall not be entitled to participate in, or receive any benefit from, or make any claim against any COUNTY fringe program, including, but not limited to, COUNTY's pension plan, medical and health care plan, dental plan, life insurance plan, or any other type of benefit program, plan, or coverage designated for, provided to, or offered to COUNTY's employee.

1 18.6. COUNTY shall not withhold or pay, on behalf of CONSULTANT, any Federal, State, or  
2 local tax, including, but not limited to, any personal income tax, owed by  
3 CONSULTANT.

4 18.7. CONSULTANT is, and at all times during the term of this Agreement, shall represent  
5 and conduct itself as an independent contractor, not as an employee of COUNTY.

6 18.8. CONSULTANT shall not have the authority, express or implied, to act on behalf of, bind  
7 or obligate COUNTY in any way without the written consent of COUNTY.

8 **19. INSURANCE.**

9 19.1. CONSULTANT hereby agrees at its own cost and expense to procure and maintain  
10 during the entire term of this Agreement, and any extended term thereof, commercial  
11 general liability insurance (bodily injury and property damage), employer's liability  
12 insurance, commercial automobile liability insurance (bodily injury and property  
13 damage) and professional liability insurance in a sum acceptable to COUNTY and  
14 adequate to cover potential liabilities arising in connection with the performance of this  
15 Agreement and in any event not less than the minimum limit set forth as follows:

| <u>Insurance</u>                       | <u>Minimum Limit</u>           |
|----------------------------------------|--------------------------------|
| 16 Errors & Omissions Coverage         | [Determined per Scope of Work] |
| 17 Worker's Compensation, Coverage A   | Statutory                      |
| 18 Employers Liability, Coverage B     | [Determined per Scope of Work] |
| 19 Commercial General Liability        |                                |
| 20 (Including Contractual Liability):  |                                |
| 21 Bodily Injury                       | [Determined per Scope of Work] |
| 22 Property Damage                     | [Determined per Scope of Work] |
| 23 Commercial Automobile Liability     |                                |
| 24 (owned, hired & non-owned vehicles) |                                |
| 25 Bodily Injury                       | [Determined per Scope of Work] |
| 26 Property Damage                     | [Determined per Scope of Work] |

27 19.2. Special Insurance Requirements. All insurance required under paragraph 19 shall:

1 19.2.1. Be procured from an insurer authorized to do business in California.

2 19.2.2. Be primary coverage as respects COUNTY and any insurance or self-insurance  
3 maintained by COUNTY shall be in excess of CONSULTANT's insurance  
4 coverage and shall not contribute to it.

5 19.2.3. Name COUNTY as an additional insured on all policies, except Workers'  
6 Compensation, and provide that COUNTY may recover for any loss suffered by  
7 COUNTY by reason of CONSULTANT's negligence.

8 19.2.4. State that it is primary insurance and regards COUNTY as an additional insured  
9 and contains a cross-liability or severability of interest clause.

10 19.2.5. Not be canceled, non-renewed or reduced in scope of coverage until after thirty  
11 (30) days written notice has been given to COUNTY. However, CONSULTANT  
12 may not terminate such coverage until it provides COUNTY with proof that equal  
13 or better insurance has been secured and is in place. Cancellation or change  
14 without the prior written consent of COUNTY shall, at the option of COUNTY,  
15 be grounds for termination of this Agreement.

16 19.3 Additional Insurance Requirements.

17 19.3.1. Complete copies of certificates of insurance for all required coverage's including  
18 additional insured endorsements and 30-day notice of cancellation clause endorsements  
19 shall be attached hereto as Exhibit "3" and incorporated herein.

20 19.3.2. COUNTY is to be notified immediately of all insurance claims. COUNTY is also  
21 to be notified if any aggregate insurance limit is exceeded.

22 19.3.3. The comprehensive or commercial general liability shall contain a provision of  
23 endorsements stating that such insurance:

- 24 A. Includes contractual liability;  
25 B. Does not contain any exclusions as to loss or damage to property caused  
26 by explosion or resulting from collapse of buildings or structures or  
27 damage to property underground, commonly referred to by insurers as the  
28 "XCU Hazards;"

- 1 C. Does not contain a "pro rata" provision which looks to limit the insurer's  
2 liability to the total proportion that its policy limits bear to the total  
3 coverage available to the insured; and  
4 D. Does not contain an "excess only" clause which require the exhaustion of  
5 other insurance prior to providing coverage.  
6 E. Does not contain an "escape clause" which extinguishes the insurer's  
7 liability if the loss is covered by other insurance.  
8 F. Includes COUNTY as an additional insured.  
9 G. States that it is primary insurance and regards COUNTY as an additional  
10 insured and contains a cross-liability or severability of interest clause.

11 19.4. Deposit of Insurance Policy. Promptly on issuance, reissuance, or renewal of any  
12 insurance policy required by this Agreement, CONSULTANT shall, if requested by  
13 COUNTY, cause to be given to COUNTY satisfactory evidence that insurance policy  
14 premiums have been paid together with a duplicate copy of the policy or a certificate  
15 evidencing the policy and executed by the insurance company issuing the policy or its  
16 authorized agent.

17 19.5. Additional Insurance. Nothing in this, or any other provision of this Agreement, shall be  
18 construed to preclude CONSULTANT from obtaining and maintaining any additional  
19 insurance policies in addition to those required pursuant to this Agreement.

20 20. **WORKERS' COMPENSATION CERTIFICATION.**

21 20.1. CONSULTANT shall sign and file with COUNTY the following certification prior to  
22 performing the Work: "I am aware of the provisions of California Labor Code §§3700 *et*  
23 *seq.* which require every employer to be insured against liability for Workers'  
24 Compensation or to undertake self-insurance in accordance with the provisions of that  
25 code, and I will comply with such provisions before commencing the performance of the  
26 work of this contract."  
27  
28

1 20.2. CONSULTANT understands and agrees that any and all employees, regardless of hire  
2 date, shall be covered by Workers' Compensation according to the statutory requirements  
3 prior to beginning work on the Project.

4 21. ASSIGNMENT.

5 Neither this Agreement nor any duties or obligations hereunder shall be assignable by  
6 CONSULTANT without the prior written consent of COUNTY. CONSULTANT may employ  
7 other specialists to perform services as required with prior approval by COUNTY.

8 22. NON-DISCRIMINATION.

9 During the performance of this Agreement, CONSULTANT and its subcontractors shall not  
10 unlawfully discriminate, harass or allow harassment against any employee or applicant for  
11 employment because of sex, race, color, ancestry, religious creed, national origin, physical disability  
12 (including HIV and AIDS), mental disability, medical condition (cancer), age (over forty (40)),  
13 marital status and denial of family care leave. CONSULTANT and its subcontractors shall insure  
14 that the evaluation and treatment of their employees and applicants for employment are free from  
15 such discrimination and harassment. CONSULTANT and its subcontractors shall comply with the  
16 provisions of the Fair Employment and Housing Act (Gov. Code §12990 (a-f) et seq.) and the  
17 applicable regulations promulgated thereunder (California Code of Regulations, Title 2, Section  
18 7285 et seq.). The applicable regulations of the Fair Employment and Housing Commission  
19 implementing Government Code §12990 (a-f), set forth in Chapter 5 of Division 4 of Title 2 of the  
20 California Code of Regulations, are incorporated into this Agreement by reference and made a part  
21 hereof as if set forth in full. The applicable regulations of Section 504 of the Rehabilitation Act of  
22 1973 (29 U.S.C. §794 (a)) are incorporated into this Agreement by reference and made a part hereof  
23 as if set forth in full. CONSULTANT shall abide by the Federal Civil Rights Act of 1964 and all  
24 amendments thereto, and all administrative rules and regulations issued pursuant to said Act.  
25 CONSULTANT shall also abide by the American Disabilities Act and all amendments thereto, and  
26 all administrative rules and regulations issued pursuant to said Act. CONSULTANT and its  
27 subcontractors shall give written notice of their obligations under this clause to labor organizations  
28 with which they have a collective bargaining or other agreement. CONSULTANT shall include

the nondiscrimination and compliance provisions of this clause in all subcontracts to perform Work under this Agreement.

**23. NOTICES AND REPORTS.**

**23.1.** All notices and reports under this Agreement shall be in writing and may be given by personal delivery or by mailing by certified mail, return receipt requested, addressed as follows:

**COUNTY**

**CONSULTANT**

[Address]

[Address]

**23.2.** All notices and reports under this Agreement may be given by personal delivery or by mailing by certified mail at such other address as either party may designate in a notice to the other party given in such manner.

**23.3.** Any notice given by mail shall be considered given when deposited in the United States Mail, postage prepaid, addressed as provided herein.

**24. ENTIRE AGREEMENT.**

This Agreement contains the entire Agreement between COUNTY and CONSULTANT relating to the transactions contemplated hereby and supersedes all prior or contemporaneous agreements, understandings, provisions, negotiations, representations, or statements, either written or oral.

**25. MODIFICATION.**

No modification, waiver, amendment, discharge, or change of this Agreement shall be valid unless the same is in writing and signed by the party against whom the enforcement of such modification, waiver, amendment, discharge, or change is or may be sought.

**26. CAPTIONS.**

Captions in this Agreement are inserted for convenience of reference only and do not define, describe or limit the scope or the intent of this Agreement or any of the terms thereof.

**27. PARTIAL INVALIDITY.**

1 If any provision in this Agreement is held by a court of competent jurisdiction to be invalid,  
2 void, or unenforceable, the remaining provisions will nevertheless continue in full force without being  
3 impaired or invalidated in any way.

4 **28. GENDER AND INTERPRETATION OF TERMS AND PROVISIONS.**

5 As used in this Agreement and whenever required by the context thereof, each number,  
6 both singular or plural, shall include all numbers, and each gender shall include a gender.  
7 CONSULTANT as used in this Agreement or in any other document referred to in or made a  
8 part of this Agreement shall likewise include both singular and the plural, a corporation, a  
9 partnership, individual, firm or person acting in any fiduciary capacity as executor, administrator,  
10 trustee or in any other representative capacity or any other entity. All covenants herein contained  
11 on the part of CONSULTANT shall be joint and several if more than one person, firm or entity  
12 executes the Agreement.

13 **29. WAIVER.**

14 No Waiver of any breach or of any of the covenants or conditions of this Agreement shall  
15 be construed to be a waiver of any other breach or to be a consent to any further or succeeding  
16 breach of the same or any other covenant or condition.

17 **30. CHOICE OF LAW.**

18 This Agreement shall be governed by the laws of the State of California. This Agreement  
19 is made and entered into in Imperial County, California. Any action brought by either party with  
20 respect to this agreement shall be brought in a court of competent jurisdiction within said  
21 County.

22 **31. ATTORNEY'S FEES.**

23 If either party herein brings an action to enforce the terms thereof or declare rights  
24 hereunder, the prevailing party in any such action, on trial or appeal, shall be entitled to his  
25 reasonable attorney's fees and actual costs to be paid by the losing party as fixed by the court.

26 **32. AUTHORITY.**

27 **32.1.** Each individual executing this Agreement on behalf of CONSULTANT represents and  
28 warrants that:

32.1.1. He/She is duly authorized to execute and deliver this Agreement on behalf of  
CONSULTANT;

32.1.2. Such execution and delivery is in accordance with the terms of the Articles of  
Incorporation or Partnership, any by-laws or Resolutions of CONSULTANT and;

32.1.3. This Agreement is binding upon CONSULTANT accordance with its terms.

32.2. CONSULTANT shall deliver to COUNTY evidence acceptable to COUNTY of the  
foregoing within thirty (30) days of execution of this Agreement.

33. COUNTERPARTS.

This Agreement may be executed in counterparts.

34. REVIEW OF AGREEMENT TERMS.

This Agreement has been reviewed and revised by legal counsel for both COUNTY and  
CONSULTANT, and no presumption or rule that ambiguities shall be construed against the  
drafting party shall apply to the interpretation or enforcement of the same or any subsequent  
amendments thereto.

IN WITNESS WHEREOF, the parties have executed this Agreement on the day and year first  
above written.

ATTEST:

COUNTY OF IMPERIAL:

\_\_\_\_\_  
SYLVIA BERMUDEZ, Clerk of the Board,  
County of Imperial, State of California

\_\_\_\_\_  
GARY WYATT, Chairmain  
Board of Supervisors

CONSULTANT:

APPROVED AS TO FORM:  
MICHAEL L. ROOD  
County Counsel

[Business Name]

\_\_\_\_\_  
[Designee]

\_\_\_\_\_  
CHARLES W. WITHERS  
Deputy County Counsel

## MINIMUM INSURANCE AMOUNTS

Consultant contract (Agreement for Services) form and content is included.

### Insurance Minimum Amounts \*

| <u>Insurance</u>                                                          | <u>Minimum Limit *</u>                              |
|---------------------------------------------------------------------------|-----------------------------------------------------|
| Errors & Omissions/Professional Liability                                 | \$2 million per occurrence                          |
| Workers Compensation, Coverage A                                          | Statutory                                           |
| Employers Liability, Coverage B                                           | \$1 million                                         |
| Commercial General Liability<br>(Including Contractual Liability):        |                                                     |
| Bodily Injury                                                             | \$1 million per occurrence<br>\$2 million aggregate |
| Property Damage                                                           | \$1 million per occurrence<br>\$2 million aggregate |
| Comprehensive Automobile Liability<br>(Owned, hired & non-owned vehicles) |                                                     |
| Bodily Injury                                                             | \$1 million per occurrence                          |
| Property Damage                                                           | \$1 million per occurrence                          |

An endorsement covering any explosion collapse and underground exposures, “XCU”, in the Commercial General Liability policy is also required.

\*Minimums subject to additional review after Consultant is selected.

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## **Attachment D - Bidder/Proposer Disadvantaged Business Enterprise (DBE) Program Requirements**

- **Implementation Agreement**
- **Exhibit 10-I Notice to Proposers Disadvantaged Business Enterprise Information**
- **Exhibit 10-J Standard Agreement for Subcontractor/DBE Participation (Consultant Contracts)**

**CALIFORNIA**  
**DEPARTMENT OF TRANSPORTATION**  
**DISADVANTAGED BUSINESS ENTERPRISE**  
**PROGRAM**  
**IMPLEMENTATION AGREEMENT**  
**FOR**  
**LOCAL AGENCIES**

# **CALIFORNIA DEPARTMENT OF TRANSPORTATION DISADVANTAGED BUSINESS ENTERPRISE IMPLEMENTATION AGREEMENT**

For the City/County of Imperial, hereinafter referred to as "RECIPIENT."

## **I Definition of Terms**

The terms used in this agreement have the meanings defined in 49 CFR § 26.5.

## **II OBJECTIVE/POLICY STATEMENT (§26/1. 26/23)**

The RECIPIENT intends to receive federal financial assistance from the U. S. Department of Transportation (DOT) through the California Department of Transportation (Caltrans), and as a condition of receiving this assistance, the RECIPIENT will sign the California Department of Transportation Disadvantaged Business Enterprise Program Implementation Agreement (hereinafter referred to as Agreement). The RECIPIENT agrees to implement the State of California, Department of Transportation Disadvantaged Business Enterprise (DBE) Program Plan (hereinafter referred to as the DBE Program Plan) as it pertains to local agencies. The DBE Program Plan is based on U.S. Department of Transportation (DOT), 49 CFR, Part 26 requirements.

It is the policy of the RECIPIENT to ensure that DBEs, as defined in Part 26, have an equal opportunity to receive and participate in DOT-assisted contracts. It is also their policy:

- To ensure nondiscrimination in the award and administration of DOT-assisted contracts.
- To create a level playing field on which DBE's can compete fairly for DOT-assisted contracts.
- To ensure that their annual overall DBE participation percentage is narrowly tailored, in accordance with applicable law.
- To ensure that only firms that fully meet 49 CFR, Part 26 eligibility standards are permitted to participate as DBEs.
- To help remove barriers to the participation of DBEs in DOT-assisted contracts.
- To assist the development of firms that can compete successfully in the market place outside the DBE Program.

## **III Nondiscrimination (§26.7)**

RECIPIENT will never exclude any person from participation in, deny any person the benefits of, or otherwise discriminate against anyone in connection with the award and performance of any contract covered by 49 CFR, Part 26 on the basis of race, color, sex, or national origin. In administering the local agency components of the DBE Program Plan, the RECIPIENT will not, directly, or through contractual or other arrangements, use criteria or methods of administration that have the effect of defeating or substantially impairing accomplishment of the objectives of the DBE Program Plan with respect to individuals of a particular race, color, sex, or national origin.

#### **IV Annual DBE Submittal Form (§26.21)**

The RECIPIENT will provide to the Caltrans District Local Assistance Engineer (DLAE) a completed *Local Agency DBE Annual Submittal Form* (Exhibit 9-B) by June 1 of each year for the following Federal Fiscal Year (FFY). This form includes an Annual Anticipated DBE Participation Level (AADPL), methodology for establishing the AADPL, the name, phone number, and electronic mailing address of the designated DBELO, and the choice of Prompt Pay Provision to be used by the RECIPIENT for the following FFY.

#### **V Race-Neutral Means of Meeting the Overall Statewide Annual DBE Goal (§26.51)**

RECIPIENT must meet the maximum feasible portion of its AADPL by using race-neutral means of facilitating DBE participation. Race-neutral DBE participation includes any time a DBE wins a prime contract through customary competitive procurement procedures, is awarded a subcontract on a prime contract that does not carry a DBE goal, or even if there is a DBE goal, wins a subcontract from a prime contractor that did not consider its DBE status in making the award (e.g., a prime contractor that uses a strict low-bid system to award subcontracts).

Race-neutral means include, but are not limited to, the following:

1. Arranging solicitations, times for the presentation of bids, quantities, specifications, and delivery schedules in ways that facilitate DBE, and other small businesses, participation (e.g., unbundling large contracts to make them more accessible to small businesses, requiring or encouraging prime contractors to subcontract portions of work that they might otherwise perform with their own forces);
2. Providing assistance in overcoming limitations such as inability to obtain bonding or financing (e.g., by such means as simplifying the bonding process, reducing bonding requirements, eliminating the impact of surety costs from bids, and providing services to help DBEs, and other small businesses, obtain bonding and financing);
3. Providing technical assistance and other services;
4. Carrying out information and communication programs on contracting procedures and specific contract opportunities (e.g., ensuring the inclusion of DBEs, and other small businesses, on recipient mailing lists of bidders; ensuring the dissemination to bidders on prime contracts of lists of potential subcontractors; provision of information in languages other than English, where appropriate);
5. Implementing a supportive services program to develop and improve immediate and long-term business management, record keeping, and financial and accounting capability for DBEs and other small businesses;
6. Providing services to help DBEs, and other small businesses, improve long-term development, increase opportunities to participate in a variety of types of work, handle increasingly significant projects, and achieve eventual self-sufficiency;
7. Establishing a program to assist new, start-up firms, particularly in fields in which DBE participation has historically been low;
8. Ensuring distribution of your DBE directory, through print and electronic means, to the widest feasible universe of potential prime contractors; and
9. Assisting DBEs, and other small businesses, to develop their capability to utilize emerging technology and conduct business through electronic media.

## **VI Race Conscious Means of Meeting the Overall Statewide Annual DBE Goal (§26.51(d))**

RECIPIENT must establish contract goals for Underutilized Disadvantaged Business Enterprises (UDBEs) to meet any portion of your AADPL you do not project being able to meet using race-neutral means. UDBEs are limited to these certified DBEs that are owned and controlled by African Americans, Native Americans, Women, and Asian Pacific Americans.

## **VII Quotas (§26.43)**

RECIPIENT will not use quotas or set-asides in any way in the administration of the local agency component of the DBE Program Plan.

## **VIII DBE Liaison Officer (DBELO) (§26.25)**

RECIPIENT has designated a DBE Liaison Officer. The DBELO is responsible for implementing the DBE Program Plan, as it pertains to the RECIPIENT, and ensures that the RECIPIENT is fully and properly advised concerning DBE Program Plan matters. [Specify resources available to the DBELO; e.g., the DBELO has a staff of two professional employees assigned to the DBE program on a full-time basis and two support personnel who devote a portion of their time to the program.] The name, address, telephone number, electronic mail address, and an organization chart displaying the DBELO's position in the organization are found in Attachment A to this Agreement. This information will be updated annually and included on the DBE Annual Submittal Form.

The DBELO is responsible for developing, implementing, and monitoring the RECIPIENT's requirements of the DBE Program Plan in coordination with other appropriate officials. Duties and responsibilities include the following:

1. Gathers and reports statistical data and other information as required.
2. Reviews third party contracts and purchase requisitions for compliance with this program.
3. Works with all departments to determine projected Annual Anticipated DBE Participation Level.
4. Ensures that bid notices and requests for proposals are made available to DBEs in a timely manner.
5. Analyzes DBE participation and identifies ways to encourage participation through race-neutral means.
6. Participates in pre-bid meetings.
7. Advises the CEO/governing body on DBE matters and DBE race-neutral issues.
8. Provides DBEs with information and recommends sources to assist in preparing bids, obtaining bonding and insurance.
9. Plans and participates in DBE training seminars.
10. Provides outreach to DBEs and community organizations to fully advise them of contracting opportunities.

## **IX Federal Financial Assistance Agreement Assurance (§26.13)**

RECIPIENT will sign the following assurance, applicable to and to be included in all DOT-assisted contracts and their administration, as part of the program supplement agreement for each project.

The recipient shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of any DOT-assisted contract, or in the administration of its DBE Program, or the requirements of 49 CFR Part 26. The recipient shall take all necessary and reasonable steps under 49 CFR, Part 26 to ensure nondiscrimination in the award and administration of DOT-assisted contracts. The recipient's DBE Program, as required by 49 CFR, Part 26 and as approved by DOT, is incorporated by reference in this agreement. Implementation of this program is a legal obligation and failure to carry out its terms shall be treated as a violation of this agreement. Upon notification to the recipient of its failure to carry out its approved program, the Department may impose sanctions as provided for under Part 26 and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C. 1001 and/or the Program Fraud Civil Remedies Act of 1986 (31 U.S.C. 3801 et seq.). [Note – this language is to be used verbatim, as it is stated in §26.13(a).]

## **X DBE Financial Institutions (§26.27)**

It is the policy of the RECIPIENT to investigate the full extent of services offered by financial institutions owned and controlled by socially and economically disadvantaged individuals in the community to make reasonable efforts to use these institutions, and to encourage prime contractors on DOT-assisted contracts to make use of these institutions.

Information on the availability of such institutions can be obtained from the DBELO. The Caltrans' Disadvantaged Business Enterprise Program may offer assistance to the DBELO.

## **XI Directory (§26.31)**

RECIPIENT will refer interested persons to the Unified Certification Program DBE directory available from the Caltrans Disadvantaged Business Enterprise Program's website at [www.dot.ca.gov/hq/bep](http://www.dot.ca.gov/hq/bep).

## **XII Required Contract Clauses (§§26.13, 26.29)**

RECIPIENT ensures that the following clauses or equivalent will be included in each DOT-assisted prime contract:

### **A. CONTRACT ASSURANCE**

The contractor or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR, Part 26 in the award and administration of DOT-assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy, as recipient deems appropriate.

[Note – This language is to be used verbatim, as is stated in §26.13(b). See Caltrans Sample Boiler Plate Contract Documents on the Internet at [www.dot.ca.gov/hq/LocalPrograms](http://www.dot.ca.gov/hq/LocalPrograms) under "Publications."]

## **B. PROMPT PAYMENT**

### **Prompt Progress Payment to Subcontractors**

The local agency shall require contractors and subcontractors to be timely paid as set forth in Section 7108.5 of the California Business and Professions Code concerning prompt payment to subcontractors. The 10-days is applicable unless a longer period is agreed to in writing. Any delay or postponement of payment over 30 days may take place only for good cause and with the agency's prior written approval. Any violation of Section 7108.5 shall subject the violating contractor or subcontractor to the penalties, sanctions, and other remedies of that Section. This requirement shall not be construed to limit or impair any contractual, administrative, or judicial remedies, otherwise available to the contractor or subcontractor in the event of a dispute involving late payment or nonpayment by the contractor, deficient subcontractor performance, and/or noncompliance by a subcontractor. This clause applies to both DBE and non-DBE subcontractors.

### **Prompt Payment of Withheld Funds to Subcontractors**

The local agency shall ensure prompt and full payment of retainage from the prime contractor to the subcontractor within thirty (30) days after the subcontractor's work is satisfactorily completed and accepted. This shall be accompanied by including either (1), (2), or (3) of the following provisions [local agency equivalent will need Caltrans approval] in their federal-aid contracts to ensure prompt and full payment of retainage [withheld funds] to subcontractors in compliance with 49 CFR 26.29.

1. No retainage will be held by the agency from progress payments due to the prime contractor. Prime contractors and subcontractors are prohibited from holding retainage from subcontractors. Any delay or postponement of payment may take place only for good cause and with the agency's prior written approval. Any violation of these provisions shall subject the violating contractor or subcontractor to the penalties, sanctions, and other remedies specified in Section 7108.5 of the California Business and Professions Code. This requirement shall not be construed to limit or impair any contractual, administrative, or judicial remedies, otherwise available to the contractor or subcontractor in the event of a dispute involving late payment or nonpayment by the contractor, deficient subcontractor performance, and/or noncompliance by a subcontractor. This clause applies to both DBE and non-DBE subcontractors.

2. No retainage will be held by the agency from progress payments due the prime contractor. Any retainage kept by the prime contractor or by a subcontractor must be paid in full to the earning subcontractor in 30 days after the subcontractor's work is satisfactorily completed. Any delay or postponement of payment may take place only for good cause and with the agency's prior written approval. Any violation of these provisions shall subject the violating contractor or subcontractor to the penalties, sanctions, and remedies specified in Section 7108.5 of the California Business and Professions Code. This requirement shall not be construed to limit or impair any contractual, administrative, or judicial remedies, otherwise available to the contractor or subcontractor in the event of a dispute involving late payment or nonpayment by the contractor, deficient subcontractor performance, and/or noncompliance by a subcontractor. This clause applies to both DBE and non-DBE subcontractors.

3. The agency shall hold retainage from the prime contractor and shall make prompt and regular incremental acceptances of portions, as determined by the agency of the contract work and pay retainage to the prime contractor based on these acceptances. The prime contractor or subcontractor shall return all monies withheld in retention from all subcontractors within 30 days after receiving payment for work satisfactorily completed and accepted including incremental acceptances of portions of the contract work by the agency. Any delay or postponement of payment may take place only for good cause and with the agency's prior written approval. Any violation of these provisions shall subject the violating prime contractor to the penalties, sanctions, and other remedies specified in Section 7108.5 of the California Business and Professions Code. This requirement shall not be construed to limit or impair any contractual, administrative, or judicial remedies, otherwise available to the contractor or subcontractor in the event of: a dispute involving late payment or nonpayment by the contractor; deficient subcontractor performance; and/or noncompliance by a subcontractor. This clause applies to both DBE and non-DBE subcontractors.

### **XIII Local Assistance Procedures Manual**

The RECIPIENT will advertise, award and administer DOT-assisted contracts in accordance with the most current published Local Assistance Procedures Manual (LAPM).

### **XIV Transit Vehicle Manufacturers (§ 26.49)**

If FTA-assisted contracts will include transit vehicle procurements, RECIPIENT will require each transit vehicle manufacturer, as a condition of being authorized to bid or propose on transit vehicle procurements, to certify that it has complied with the requirements of 49 CFR Part 26, Section 49.

### **XV Bidders List (§26.11(c))**

The RECIPIENT will create and maintain a bidders list, consisting of information about all DBE and non-DBE firms that bid or quote on its DOT-assisted contracts. The bidders list will include the name, address, DBE/nonDBE status, age, and annual gross receipts of the firm.

### **XVI Reporting to the DLAE**

RECIPIENT will promptly submit a copy of the Local Agency Bidder/Proposer-UDBE Commitment (Consultant Contract), (Exhibit 10-O(1) "Local Agency Bidder/Proposer-DBE Commitment (Consultant Contract)") or Exhibit 15-G(1) "Local Agency Bidder-UDBE Commitment (Construction Contract) to the DLAE at the time of award of the consultant or construction contracts.

RECIPIENT will promptly submit a copy of the Local Agency Bidder-DBE Information (Exhibit 15-G(2) "Local Agency Bidder-DBE (Construction Contracts) – Information" or Exhibit 10-O(2) "Local Agency Proposer/Bidder-DBE (Consultant Contracts)-Information" of the LAPM) to the DLAE at the time of execution of consultant or construction contract.

RECIPIENT will promptly submit a copy of the Final Utilization of DBE participation to the DLAE using Exhibit 17-F "Final Report – Utilization of Disadvantaged Business Enterprises (DBE), First-Tier Subcontractors" of the LAPM immediately upon completion of the contract for each consultant or construction contract.

**XVII Certification (§26.83(a))**

RECIPIENT ensures that only DBE firms currently certified by the California Unified Certification Program will participate as DBEs on DOT-assisted contracts.

**XVIII Confidentiality**

RECIPIENT will safeguard from disclosure to third parties, information that may reasonably be regarded as confidential business information consistent with federal, state, and local laws.

By \_\_\_\_\_  
(Signature)

Ralph Cordova, Jr., County Executive Officer  
(Print Name and Title) ADMINISTERING AGENCY  
(Authorized Governing Body Representative)

Phone Number: 760-482-4290

This California Department of Transportation's Disadvantaged Business Enterprise Program Implementation Agreement is accepted by:

  
[Signature of DLAE]

Date: 12-21-09

ERWIN GOSUANGICO  
[Print Name of DLAE]

Distribution: (1) Original – DLAE  
(2) Signed copy by the DLAE – Local Agency  
  
(Updated: March 4, 2009)

## Exhibit 9-B Local Agency DBE Annual Submittal Form

TO: CALTRANS DISTRICT 11  
District Local Assistance Engineer

The amount of the Annual Anticipated DBE Participation Level (AADPL) and methodology are presented herein, in accordance with Title 49 of the Code of Federal Regulations (CFR), Part 26, and the State of California, Department of Transportation Disadvantaged Business Enterprise (DBE) Program Plan.

The City/County/Region of Imperial,  
submits our AADPL information. We have established an AADPL of 17.17 % (10.21 %  
Race Neutral; 6.96 % Race Conscious) for the Federal Fiscal Year 09 / 10, beginning on  
July 1, 2009 and ending on September 30.

### Methodology

The methodology used to determine the AADPL is detailed in Attachment B, with calculations detailed in Attachment C.

### Disadvantaged Business Enterprise Liaison Officer (DBELO)

Below is the pertinent for the DBELO:

Ed Delgado  
155 S. 11<sup>th</sup> Street  
El Centro, CA 92243  
Voice: (760) 482-4462  
Fax: (760) 352-1272  
eddelgado@co.imperial.ca.us

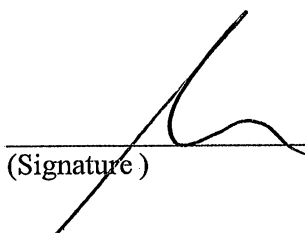
### Planned Race-Neutral Measures

Planned Race Neutral Measures the Department plans to implement for the upcoming Federal Fiscal Year are detailed in Attachment D.

### Prompt Pay

Federal regulation (49 CFR 26.29) requires one of three methods be used in federal-aid contracts to ensure prompt and full payment of any retainage, kept by the prime contractor or subcontractor, to a subcontractor. (Attached is a listing of the three methods. On the attachment, please designate which prompt payment provision the local agency will use.)

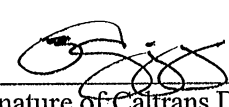
49 CFR Part 26.29(d) requires providing appropriate means to enforce prompt payment. These means may include appropriate penalties for failure to comply with the terms and conditions of the contract. The means may also provide that any delay or postponement of payment among the parties may take place only for good cause, with the local agency's prior written approval. Please briefly describe the monitoring and enforcement mechanisms in place to ensure that all subcontractors, including DBEs, are promptly paid.

  
(Signature)

\_\_\_\_\_  
Date

Ralph Cordova, Jr., County Executive Officer  
(Print Name and Title)  
ADMINISTERING AGENCY  
(Authorized Governing Body Representative)

(760) 482-4290  
Phone Number

  
(Signature of Caltrans District Local Assistance Engineer [DLAE])

12-21-07  
Date

**(Attachment)**

**Prompt Payment of Withheld Funds to Subcontractors**

Federal regulation (49 CFR 26.29) requires one of the following three methods be used in federal-aid contracts to ensure prompt and full payment of any retainage kept by the prime contractor or subcontractor to a subcontractor.

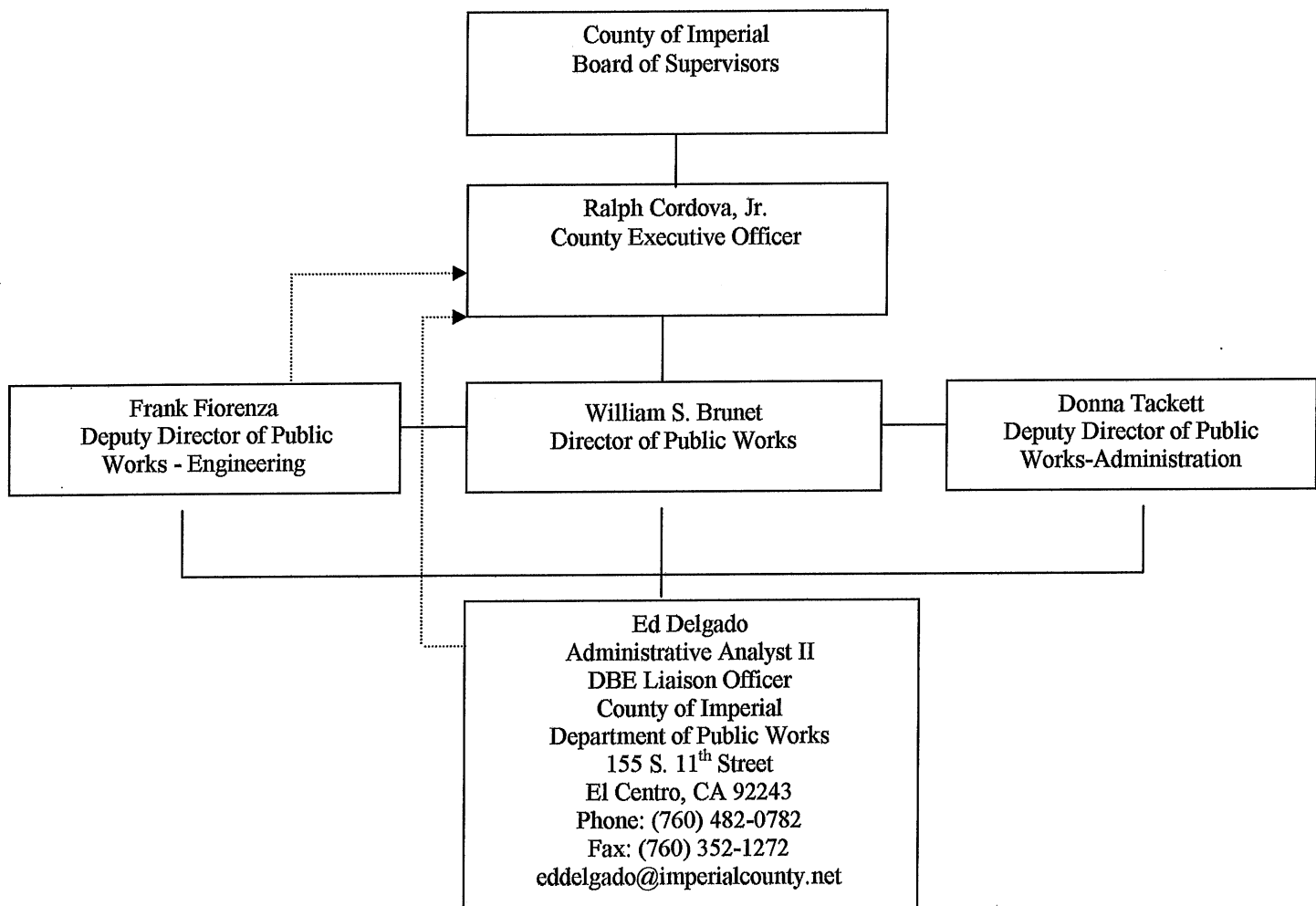
Please check the box of the method chosen by the local agency to ensure prompt and full payment of any retainage.

- ☐ **Method 1:** No retainage will be held by the agency from progress payments due to the prime contractor. Prime contractors and subcontractors are prohibited from holding retainage from subcontractors. Any delay or postponement of payment may take place only for good cause and with the agency's prior written approval. Any violation of these provisions shall subject the violating contractor or subcontractor to the penalties, sanctions, and other remedies specified in Section 7108.5 of the California Business and Professions Code. This requirement shall not be construed to limit or impair any contractual, administrative or judicial remedies, otherwise available to the contractor or subcontractor in the event of a dispute involving late payment or nonpayment by the contractor, deficient subcontractor performance and/or noncompliance by a subcontractor. This clause applies to both DBE and non-DBE subcontractors.
- ☐ **Method 2:** No retainage will be held by the agency from progress payments due the prime contractor. Any retainage kept by the prime contractor or by a subcontractor must be paid in full to the earning subcontractor in 30 days after the subcontractor's work is satisfactorily completed. Any delay or postponement of payment may take place only for good cause and with the agency's prior written approval. Any violation of these provisions shall subject the violating contractor or subcontractor to the penalties, sanctions, and remedies specified in Section 7108.5 of the California Business and Professions Code. This requirement shall not be construed to limit or impair any contractual, administrative or judicial remedies, otherwise available to the contractor or subcontractor in the event of a dispute involving late payment or nonpayment by the contractor, deficient subcontractor performance and/or noncompliance by a subcontractor. This clause applies to both DBE and non-DBE subcontractors.
- ☒ **Method 3:** The agency shall hold retainage from the prime contractor and shall make prompt and regular incremental acceptances of portions, as determined by the agency of the contract work and pay retainage to the prime contractor based on these acceptances. The prime contractor or subcontractor shall return all monies withheld in retention from all subcontractors within 30 days after receiving payment for work satisfactorily completed and accepted including incremental acceptances of portions of the contract work by the agency. Any delay or postponement of payment may take place only for good cause and with the agency's prior written approval. Any violation of these provisions shall subject the violating prime contractor to the penalties, sanctions, and other remedies specified in Section 7108.5 of the California Business and Professions Code. This requirement shall not be construed to limit or impair any contractual, administrative or judicial remedies otherwise available to the contractor or subcontractor in the event of: a dispute involving late payment or nonpayment by the contractor; deficient subcontractor performance and/or noncompliance by a subcontractor. This clause applies to both DBE and non-DBE subcontractors

## ATTACHMENT A

### COUNTY OF IMPERIAL DEPARTMENT OF PUBLIC WORKS DISADVANTAGED BUSINESS ENTERPRISE (DBE) PROGRAM FEDERAL FISCAL YEAR 2009/2010

#### ORGANIZATIONAL CHART



## **ATTACHMENT B**

### **ANNUAL ANTICIPATED DBE PARTICIPATION LEVEL (AADPL) METHODOLOGY FEDERAL FISCAL YEAR (FFY) 2009/2010**

The process for establishing the Annual Anticipated DBE Participation Level (AADPL) is a two-step process as described in 49 CFR part 26, Section 26.45, and in Chapter 9 of the Local Assistance Procedure Manual, Section 9.7. This two-step process is intended to provide maximum flexibility, to ensure narrow program tailoring, and provide meaningful, demonstrable evidence of availability, based upon each agency's relevant market conditions.

#### **Methodology Step 1**

Step 1 of the methodology consists of determining a Base Figure for the relative availability of DBEs that are ready, willing, and able to participate in the Federal-Aid contracting program under the different North American Industrial Classification System (NAICS) numbers or categories, that in turn can be related to each of the three different Project Phases of Preliminary Engineering (PE), Right of Way (ROW), and Construction (CON).

For FFY 2009-2010, the County of Imperial has recognized as its Market Area those firms within Imperial, Riverside, and San Diego counties, identified as certified DBE firms per industrial classification and identified in the California Uniform Certification Program (CUCP) database for certified DBE firms in the Caltrans Civil Rights Program database ([http://www.dot.ca.gov/hq/bep/dbe\\_query.htm](http://www.dot.ca.gov/hq/bep/dbe_query.htm)). This number is the Numerator B (for race Conscious) and Numerator C (for AADPL) on Attachment C.

For FFY 2009-2010, all businesses are located within the established Market Area of Imperial, Riverside, and San Diego counties identified in the County Business Patterns (CBP) found in the 2007 U. S. Census Bureau database (<http://www.census.gov/econ/cbp/index.html>). This number is Denominator A on Attachment C.

#### **Methodology Step 2**

Once establishing the Base Figure, Step 2 of the methodology consists of the review and assessment of other known relevant evidence or factors, to determine what additional adjustments are needed to narrowly tailor the Base Figure to the County of Imperial's Market Area.

The factor considered in making an adjustment includes identifying the different Project Phase amounts under Preliminary Engineering, Right of Way, and Construction, that have been allocated to the County's projects programmed on the Southern California Association of Governments-approved Regional Transportation Improvement Program (RTIP) for FFY 2009-2010, and the Project Phase amounts of County projects that are anticipated to be awarded during FFY 2009-2010.

The County has a total of fifteen (15) projects anticipated for award during FFY 2009-2010, and consists of projects with anticipated expenditures in the Preliminary Engineering and Construction Phases. No work is anticipated for the Right of Way Project Phase. The projects and anticipated award amounts in the Preliminary Engineering and Construction Project Phases and the respective percentages of total dollars anticipated to be awarded are detailed in the table below.

| <b>Project<br/>Name</b>                                                                                                    | <b>County<br/>Project<br/>Number</b> | <b>Federal<br/>Project Number</b> | <b>PE<br/>Cost</b> | <b>Const<br/>Cost</b> | <b>ROW<br/>Cost</b> | <b>Total<br/>Cost</b> |
|----------------------------------------------------------------------------------------------------------------------------|--------------------------------------|-----------------------------------|--------------------|-----------------------|---------------------|-----------------------|
| Reconstruction of Baughman Road from SR78/86 to Forrester Road in Imperial County; Construction Phase                      | 4044X                                | STPL-5958(040)                    | \$0                | \$1,403,000           | \$0                 | \$1,403,000           |
| Construction of Sidewalk at Various Locations in Townsite of Heber; Construction Phase                                     | 4113                                 | HPLU-5958(046)                    | \$0                | \$550,000             | \$0                 | \$550,000             |
| Keystone Road Improvements from SR111 to Austin Road; Construction Phase                                                   | 4116                                 | HPLU-5958(047)                    | \$0                | \$2,400,000           | \$0                 | \$2,400,000           |
| Sidewalk Improvements near Grace Smith Elementary School in the Community of Niland in Imperial County; Construction Phase | 4310A                                | SR2SF-5958(051)                   | \$0                | \$536,000             | \$0                 | \$536,000             |
| Worthington Road Intersection Improvements at McConnell Road in Imperial County; Construction Phase                        | 4618                                 | HRRL-5958(049)                    | \$0                | \$657,000             | \$0                 | \$657,000             |
| Forrester Road Turn Lane and Intersection Improvements at Cady Road in Imperial County; Preliminary Engineering Phase      | 4619                                 | HRRL-5958(048)                    | \$90,000           | \$0                   | \$0                 | \$90,000              |
| Right Turn Lane at Worthington Road and Cooley Road; Preliminary Engineering Phase                                         | 4709                                 | HSIPL-5958(061)                   | \$75,000           | \$0                   | \$0                 | \$75,000              |
| Northbound Right Turn Lane Improvements at Forrester Road and Aten Road; Preliminary Engineering Phase                     | 4694                                 | HSIPL-5958(060)                   | \$75,000           | \$0                   | \$0                 | \$75,000              |
|                                                                                                                            |                                      |                                   |                    |                       |                     |                       |

|                                                                                                                 |          |                  |                    |                    |              |                    |
|-----------------------------------------------------------------------------------------------------------------|----------|------------------|--------------------|--------------------|--------------|--------------------|
| Northbound and Southbound Right Turn Lane at Forrester Road and Worthington Road; Preliminary Engineering Phase | 4696     | HSIPL-5958(062)  | \$78,000           | \$0                | \$0          | \$78,000           |
| Pitzer Road Improvements from Correll Road to McCabe Road in Imperial County; Preliminary Engineering Phase     | 4827     | CML-5958(058)    | \$25,000           | \$0                | \$0          | \$25,000           |
| Paving and Rehabilitation of Unpaved County Roads (CMAQ) Phase 3; Preliminary Engineering Phase                 | 4828M    | CML-5958(057)    | \$64,000           | \$0                | \$0          | \$64,000           |
| Forrester Road Bridge at Westside Main Canal 58C-0014; Design Phase                                             | 58C-0014 | BRDSZD-5958(020) | \$200,000          | \$0                | \$0          | \$200,000          |
| Araz Road Bridge at All American Canal 58C-0092; Design Phase                                                   | 58C-0092 | BHLOZD-5958(055) | \$200,000          | \$0                | \$0          | \$200,000          |
| Anza Road Bridge at All American Canal 58C-0105; Design Phase                                                   | 58C-0105 | HBRRR            | \$60,000           | \$0                | \$0          | \$60,000           |
| Winterhaven Drive Bridge at California Wasteway Channel 58C-0094; Design Phase                                  | 58C-0094 | HBRRR            | \$200,000          | \$0                | \$0          | \$200,000          |
| <b>Totals</b>                                                                                                   |          |                  | <b>\$1,067,000</b> | <b>\$5,546,000</b> | <b>\$0</b>   | <b>\$6,613,000</b> |
| <b>Percentage</b>                                                                                               |          |                  | <b>16.13%</b>      | <b>83.87%</b>      | <b>0.00%</b> | <b>100.00%</b>     |
| <b>Weight Factor</b>                                                                                            |          |                  | <b>.1613</b>       | <b>.8387</b>       | <b>0</b>     |                    |

As detailed in the table, 16.13 percent (16.13%) of funds anticipated to be awarded are in the Preliminary Engineering Project Phase, and 83.87 percent (83.87%) of funds anticipated to be awarded are in the Construction Project Phase. These amounts are represented as Weight Factor **D** for the respective Project Phases in Attachment C, and applied to the Base Figure.

| ATTACHMENT C                                                                               |                    |                         |                    |          |
|--------------------------------------------------------------------------------------------|--------------------|-------------------------|--------------------|----------|
| County of Imperial                                                                         |                    |                         |                    |          |
| Annual Anticipated DBE Participation Level (AADPL) Calculations                            |                    |                         |                    |          |
| Federal Fiscal Year (FFY) 2009-2010                                                        |                    |                         |                    |          |
|                                                                                            | Construction       | Preliminary Engineering | Right of Way       |          |
| Concept                                                                                    | 237310             | 541310                  | 541330             |          |
| Total Establishments Located in Market Area<br>(A) (From CBP-Census Bureau Patterns Table) | 148                | 454                     | 1240               |          |
| ALL UDBE FEMALE FIRMS working in<br>Market Area (From CUCP Database)                       | 52                 | 37                      | 91                 |          |
| UDBE FEMALE FIRMS Located in Market<br>Area                                                | 5                  | 8                       | 17                 |          |
| ALL UDBE MALE FIRMS working in<br>Market Area (From CUCP Database)                         | 44                 | 26                      | 121                |          |
| UDBE MALE FIRMS Located in Market<br>Area                                                  | 6                  | 3                       | 16                 |          |
| Total UDBE Firms Located in Market Area                                                    | 11                 | 11                      | 33                 |          |
| Total DBE Firms Working in Market Area<br>(From CUCP Database)                             | 180                | 80                      | 333                |          |
| Total DBE Firms Located in Market Area<br>(From CUCP Database)                             | 28                 | 13                      | 53                 |          |
| Weight Factor                                                                              | 0.8837             | 0.1613                  | 0                  |          |
| Calculations                                                                               |                    |                         |                    |          |
| AADPL % = (Total DBE Firms)                                                                | ([C/A] x D)        | +                       | ([C/A] x D)        | =        |
| AADPL % = (Total DBE Firms)                                                                | ([28/148] x .8837) | +                       | ([13/454] x .1613) | =        |
| AADPL % = (Total DBE Firms)                                                                | 0.1671             | +                       | 0.0046             | = 17.17% |
| Race Conscious % =                                                                         | ([B/A] x D)        | +                       | ([B/A] x D)        | =        |
| Race Conscious % =                                                                         | ([11/148] x .8837) | +                       | ([11/454] x .1613) | =        |
| Race Conscious % =                                                                         | 0.0657             | +                       | 0.0039             | = 6.96%  |
| Race Neutral % =                                                                           | ADPL %             | -                       | Race Conscious %   | =        |
| Race Neutral % =                                                                           | 17.17%             | -                       | 6.96%              | = 10.21% |

## ATTACHMENT D

RECIPIENT must meet the maximum feasible portion of its AADPL by using race neutral means of facilitating DBE participation. Race neutral DBE participation includes any time a DBE wins a prime contract through customary competitive procurement procedures, is awarded a subcontract on a prime contract that does not carry a DBE goal, or even if there is a DBE goal, wins a subcontract from a prime contractor that did not consider its DBE status in making the award (e.g., a prime contractor that uses a strict low-bid system to award subcontracts).

Race neutral means include, but are not limited to, the following:

1. Arranging solicitations, times for the presentation of bids, quantities, specifications, and delivery schedules in ways that facilitate DBE, and other small businesses, participation (e.g., unbundling large contracts to make them more accessible to small businesses, requiring or encouraging prime contractors to subcontract portions of work that they might otherwise perform with their own forces);
2. Providing technical assistance and other services;
3. Providing information on contracting procedures and specific contract opportunities;
4. Providing information to assist new, start-up firms, particularly in fields in which DBE participation has historically been low;

Assisting DBEs and other small businesses to develop their capability to utilize emerging technology and conduct business through electronic media.

**Exhibit 10-I Notice to Proposers DBE Information****Imperial County Public Works****03/04/2010****NOTICE TO PROPOSERS  
DISADVANTAGED BUSINESS ENTERPRISE  
INFORMATION**

The Agency has established an Underutilized DBE goal for this Agreement of 6.96 %  
OR

The Agency has established an Underutilized goal for this Agreement. However, proposer are encouraged to obtain DBE participation for this Agreement.

**1. TERMS AS USED IN THIS DOCUMENT**

- The term “Disadvantaged Business Enterprise” or “DBE” means a for-profit small business concern owned and controlled by a socially and economically disadvantaged person(s) as defined in Title 49, Part 26.5, Code of Federal Regulations (CFR).
- The term “Underutilized Disadvantaged Business Enterprise” or “UDBE.” DBE classes that have been determined in the 2007 Caltrans Disparity Study to have a statistically significant disparity in their utilization in previously awarded transportation contracts. UDBEs include: African Americans, Native Americans, Asian-Pacific Americans, and Women.
- The term “Agreement” also means “Contract.”
- Agency also means the local entity entering into this contract with the Contractor or Consultant.
- The term “Small Business” or “SB” is as defined in 49 CFR 26.65.

**2. AUTHORITY AND RESPONSIBILITY**

- A. DBEs and other small businesses are strongly encouraged to participate in the performance of Agreements financed in whole or in part with federal funds (See 49 CFR 26, “Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs”). The Contractor should ensure that DBEs and other small businesses have the opportunity to participate in the performance of the work that is the subject of this solicitation and should take all necessary and reasonable steps for this assurance. The proposer shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of subcontracts.
- B. Proposers are encouraged to use services offered by financial institutions owned and controlled by DBEs.

### **3. SUBMISSION OF UDBE AND DBE INFORMATION**

If there is a UDBE goal on the contract, a “Local Agency Proposer UDBE Commitment (Consultant Contract)” (Exhibit 10-O1) form shall be included in the Request for Proposal. In order for a proposer to be considered responsible and responsive, the proposer must make good faith efforts to meet the goal established for the contract. If the goal is not met, the proposer must document adequate good faith efforts. Only UDBE participation will be counted towards the contract goal; however, all DBE participation shall be collected and reported.

A “Local Agency Proposer DBE Information (Consultant Contract)” (Exhibit 10-O2) form shall be included with the Request for Proposal. The purpose of the form is to collect data required under 49 CFR 26. For contracts with UDBE goals, this form collects DBE participation by DBEs owned by Hispanic American and Subcontinent Asian Americans males (persons whose origin are from India, Pakistan, Bangladesh, Bhutan, Maldives Islands, Nepal or Sri Lanka). For contracts with no goals, this form collects information on all DBEs, including UDBEs. Even if no DBE participation will be reported, the successful proposer must execute and return the form.

### **4. DBE PARTICIPATION GENERAL INFORMATION**

It is the proposer’s responsibility to be fully informed regarding the requirements of 49 CFR, Part 26, and the Department’s DBE program developed pursuant to the regulations. Particular attention is directed to the following:

- A. DBE must be a small business firm defined pursuant to 13 CFR 121 and be certified through the California Unified Certification Program (CUCP).
- B. A certified DBE may participate as a prime contractor, subcontractor, joint venture partner, as a vendor of material or supplies, or as a trucking company.
- C. A UDBE proposer not proposing as a joint venture with a non-DBE, will be required to document one or a combination of the following:
  - 1. The proposer is a UDBE and will meet the goal by performing work with its own forces.
  - 2. The proposer will meet the goal through work performed by UDBE subcontractors, suppliers or trucking companies.
  - 3. The proposer, prior to proposing, made adequate good faith efforts to meet the goal.
- D. A DBE joint venture partner must be responsible for specific contract items of work or clearly defined portions thereof. Responsibility means actually performing, managing, and supervising the work with its own forces. The DBE joint venture partner must share in the capital contribution, control, management, risks and profits of the joint venture commensurate with its ownership interest.
- E. A DBE must perform a commercially useful function pursuant to 49 CFR 26.55, that is, a DBE firm must be responsible for the execution of a distinct element of the work and must carry out its responsibility by actually performing, managing and supervising the work.
- F. The proposer shall list only one subcontractor for each portion of work as defined in their proposal and all DBE subcontractors should be listed in the bid/cost proposal list of subcontractors.
- G. A prime contractor who is a certified DBE is eligible to claim all of the work in the Agreement toward the DBE participation except that portion of the work to be performed by non-DBE subcontractors.

## 5. RESOURCES

- A. The CUCP database includes the certified DBEs from all certifying agencies participating in the CUCP. If you believe a firm is certified that cannot be located on the database, please contact the Caltrans Office of Certification toll free number 1-866-810-6346 for assistance. Proposer may call (916) 440-0539 for web or download assistance.
- B. Access the CUCP database from the Department of Transportation, Civil Rights, Business Enterprise Program web site at: <http://www.dot.ca.gov/hq/bep/>.
- Click on the link in the left menu titled Disadvantaged Business Enterprise
  - Click on Search for a DBE Firm link
  - Click on Access to the DBE Query Form located on the first line in the center of the page
  - Searches can be performed by one or more criteria
  - Follow instructions on the screen
- C. How to Obtain a List of Certified DBEs without Internet Access
- D. DBE Directory: If you do not have Internet access, Caltrans also publishes a directory of certified DBE firms extracted from the online database. A copy of the directory of certified DBEs may be ordered at: <http://caltrans-opac.ca.gov/publicat.htm>

## 6. MATERIALS OR SUPPLIES PURCHASED FROM DBEs COUNT TOWARDS DBE CREDIT, AND IF A DBE IS ALSO A UDBe, PURCHASES WILL COUNT TOWARDS THE UDBe GOAL UNDER THE FOLLOWING CONDITIONS:

- A. If the materials or supplies are obtained from a DBE manufacturer, count 100 percent of the cost of the materials or supplies. A DBE manufacturer is a firm that operates or maintains a factory, or establishment that produces on the premises the materials, supplies, articles, or equipment required under the Agreement and of the general character described by the specifications.
- B. If the materials or supplies purchased from a DBE regular dealer, count 60 percent of the cost of the materials or supplies. A DBE regular dealer is a firm that owns, operates or maintains a store, warehouse, or other establishment in which the materials, supplies, articles or equipment of the general character described by the specifications and required under the Agreement are bought, kept in stock, and regularly sold or leased to the public in the usual course of business. To be a DBE regular dealer, the firm must be an established, regular business that engages, as its principal business and under its own name, in the purchase and sale or lease of the products in question. A person may be a DBE regular dealer in such bulk items as petroleum products, steel, cement, gravel, stone or asphalt without owning, operating or maintaining a place of business provided in this section.

**Notice to Proposers DBE Information**

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- C. If the person both owns and operates distribution equipment for the products, any supplementing of regular dealers' own distribution equipment shall be, by a long-term lease agreement and not an ad hoc or Agreement-by-Agreement basis. Packagers, brokers, manufacturers' representatives, or other persons who arrange or expedite transactions are not UDBE regular dealers within the meaning of this section.
  - D. Materials or supplies purchased from a DBE, which is neither a manufacturer nor a regular dealer, will be limited to the entire amount of fees or commissions charged for assistance in the procurement of the materials and supplies, or fees or transportation charges for the delivery of materials or supplies required on the job site, provided the fees are reasonable and not excessive as compared with fees charged for similar services.
7. **FOR DBE TRUCKING COMPANIES: CREDIT FOR DBES WILL COUNT TOWARDS DBE CREDIT, AND IF A DBE IS A UDBE, CREDIT WILL COUNT TOWARDS THE UDBE GOAL UNDER THE FOLLOWING CONDITIONS:**
- A. The DBE must be responsible for the management and supervision of the entire trucking operation for which it is responsible on a particular Agreement, and there cannot be a contrived arrangement for the purpose of meeting the UDBE goal.
  - B. The DBE must itself own and operate at least one fully licensed, insured, and operational truck used on the Agreement.
  - C. The DBE receives credit for the total value of the transportation services it provides on the Agreement using trucks it owns, insures, and operates using drivers it employs.
  - D. The DBE may lease trucks from another DBE firm including an owner-operator who is certified as a DBE. A DBE who leases trucks from another DBE receives credit for the total value of the transportation services the lessee DBE provides on the Agreement.
  - E. The DBE may also lease trucks from a non-DBE firm, including an owner-operator. A DBE who leases trucks from a non-DBE is entitled to credit only for the fee or commission it receives as a result of the lease arrangement. A DBE does not receive credit for the total value of the transportation services provided by the lessee, since these services are not provided by the DBE.
  - F. For the purposes of this Section D, a lease must indicate that the DBE has exclusive use and control over the truck. This does not preclude the leased truck from working for others during the term of the lease with the consent of the DBE, as long as the lease gives the DBE absolute priority for use of the leased truck. Leased trucks must display the name and identification number of the DBE.

**Exhibit 10-J Standard Agreement for Subcontractor/DBE Participation****1. Subcontractors**

- A. Nothing contained in this Agreement or otherwise, shall create any contractual relation between the Agency and any subcontractors, and no subcontract shall relieve the Contractor of his/her responsibilities and obligations hereunder. The Contractor agrees to be as fully responsible to the Agency for the acts and omissions of its subcontractors and of persons either directly or indirectly employed by any of them as it is for the acts and omissions of persons directly employed by the Contractor. The Contractor's obligation to pay its subcontractors is an independent obligation from the Agency's obligation to make payments to the Contractor.
- B. Any subcontract in excess of \$25,000, entered into as a result of this Agreement, shall contain all the provisions stipulated in this Agreement to be applicable to subcontractors.
- C. Contractor shall pay its subcontractors within ten (10) calendar days from receipt of each payment made to the Contractor by the Agency.
- D. Any substitution of subcontractors must be approved in writing by the Agency's Contract Manager in advance of assigning work to a substitute subcontractor.

**2. Disadvantaged Business Enterprise (DBE) Participation**

- A. This Agreement is subject to 49 CFR, Part 26 entitled "Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs." Proposers who obtain DBE participation on this contract will assist Caltrans in meeting its federally mandated statewide overall DBE goal.
- B. If the contract has an underutilized DBE (UDBE) goal, the Consultant must meet the UDBE goal by committing UDBE participation or document a good faith effort to meet the goal. If a UDBE subconsultant is unable to perform, the Consultant must make a good faith effort to replace him/her with another UDBE subconsultant, if the goal is not otherwise met. A UDBE is a firm meeting the definition of a DBE as specified in 49 CFR and is one of the following groups: African Americans, Native Americans, Asian-Pacific Americans, or Women.
- C. DBEs and other small businesses, as defined in 49 CFR, Part 26 are encouraged to participate in the performance of agreements financed in whole or in part with federal funds. The Consultant, sub-recipient or subconsultant shall not discriminate on the basis of race, color, national origin, or sex in the performance of this Agreement. The Consultant shall carry out applicable requirements of 49 CFR, Part 26 in the award and administration of US DOT- assisted agreements. Failure by the Consultant to carry out these requirements is a material breach of this Agreement, which may result in the termination of this Agreement or such other remedy as the recipient deems appropriate.
- D. Any subcontract entered into as a result of this Agreement shall contain all of the provisions of this section.

### 3. Performance of DBE Consultant and other DBE Subconsultants/Suppliers

- A. A DBE performs a commercially useful function when it is responsible for execution of the work of the Agreement and is carrying out its responsibilities by actually performing, managing, and supervising the work involved. To perform a commercially useful function, the DBE must also be responsible with respect to materials and supplies used on the Agreement, for negotiating price, determining quality and quantity, ordering the material, and installing (where applicable) and paying for the material itself. To determine whether a DBE is performing a commercially useful function, evaluate the amount of work subcontracted, industry practices; whether the amount the firm is to be paid under the Agreement is commensurate with the work it is actually performing; and other relevant factors.
- B. A DBE does not perform a commercially useful function if its role is limited to that of an extra participant in a transaction, Agreement, or project through which funds are passed in order to obtain the appearance of DBE participation. In determining whether a DBE is such an extra participant, examine similar transactions, particularly those in which DBEs do not participate.
- C. If a DBE does not perform or exercise responsibility for at least 30 percent of the total cost of its Agreement with its own work force, or the DBE subcontracts a greater portion of the work of the Agreement than would be expected on the basis of normal industry practice for the type of work involved, it will be presumed that it is not performing a commercially useful function.

### 4. Prompt Payment of Funds Withheld to Subcontractors

*( Local agency to use either A,B, or C below; delete the other two.)*

- A. No retainage will be withheld by the Agency from progress payments due the prime contractor. Retainage by the prime consultant or subconsultants is prohibited, and no retainage will be held by the prime contractor from progress due subcontractors. Any violation of this provision shall subject the violating prime consultant or subconsultants to the penalties, sanctions, and other remedies specified in Section 7108.5 of the California Business and Professions Code. This requirement shall not be construed to limit or impair any contractual, administrative, or judicial remedies, otherwise available to the prime consultant or subconsultant in the event of a dispute involving late payment or nonpayment by the prime consultant or deficient subconsultant performance, or noncompliance by a subconsultant. This provision applies to both DBE and non-DBE prime consultants and subconsultants.
- B. No retainage will be held by the Agency from progress payments due the prime consultant. Any retainage held by the prime consultant or subconsultants from progress payments due subconsultants shall be promptly paid in full to subconsultants within 30 days after the subconsultant's work is satisfactorily completed. Federal law (49 CFR26.29) requires that any delay or postponement of payment over the 30 days may take place only for good cause and with the Agency's prior written approval. Any violation of this provision shall subject the violating prime consultant or subconsultant to the penalties, sanctions and other remedies specified in Section 7108.5 of the Business and Professions Code. These requirements shall not be construed to limit or impair any contractual, administrative, or judicial remedies, otherwise available to the prime consultant or subconsultant in the event of a dispute involving late payment or nonpayment by the prime consultant, deficient subconsultant performance, or noncompliance by a subconsultant. This provision applies to both DBE and non-DBE prime consultant and subconsultants.

- C. The Agency shall hold retainage from the prime consultant and shall make prompt and regular incremental acceptances of portions, as determined by the Agency, of the contract work, and pay retainage to the prime contractor based on these acceptances. The prime consultant, or subconsultant, shall return all monies withheld in retention from a subconsultant within 30 days after receiving payment for work satisfactorily completed and accepted including incremental acceptances of portions of the contract work by the agency. Federal law (49 CFR26.29) requires that any delay or postponement of payment over 30 days may take place only for good cause and with the agency's prior written approval. Any violation of this provision shall subject the violating prime consultant or subconsultant to the penalties, sanctions and other remedies specified in Section 7108.5 of the Business and Professions Code. These requirements shall not be construed to limit or impair any contractual, administrative, or judicial remedies, otherwise available to the prime consultant or subconsultant in the event of a dispute involving late payment or nonpayment by the prime contractor, deficient subconsultant performance, or noncompliance by a subcontractor. This provision applies to both DBE and non-DBE prime consultant and subconsultants.
- D. Any subcontract entered into as a result of this Agreement shall contain all of the provisions of this section.

## 5. DBE Records

- A. The Consultant shall maintain records of materials purchased and/or supplied from all subcontracts entered into with certified DBEs. The records shall show the name and business address of each DBE or vendor and the total dollar amount actually paid each DBE or vendor, regardless of tier. The records shall show the date of payment and the total dollar figure paid to all firms. DBE prime consultants shall also show the date of work performed by their own forces along with the corresponding dollar value of the work.
- B. Upon completion of the Agreement, a summary of these records shall be prepared and submitted on the form entitled, "Final Report-Utilization of Disadvantaged Business Enterprise (DBE), First-Tier Subcontractors," CEM-2402F (Exhibit 17-F, Chapter 17, of the LAPM), certified correct by the Consultant or the Consultant's authorized representative and shall be furnished to the Contract Manager with the final invoice. Failure to provide the summary of DBE payments with the final invoice will result in 25% of the dollar value of the invoice being withheld from payment until the form is submitted. The amount will be returned to the Consultant when a satisfactory "Final Report-Utilization of Disadvantaged Business Enterprises (DBE), First-Tier Subcontractors" is submitted to the Contract Manager.
- 1) Prior to the fifteenth of each month, the Consultant shall submit documentation to the Agency's Contract Manager showing the amount paid to DBE trucking companies. The Consultant shall also obtain and submit documentation to the Agency's Contract Manager showing the amount paid by DBE trucking companies to all firms, including owner-operators, for the leasing of trucks. If the DBE leases trucks from a non-DBE, the Consultant may count only the fee or commission the DBE receives as a result of the lease arrangement.
  - 2) The Consultant shall also submit to the Agency's Contract Manager documentation showing the truck number, name of owner, California Highway Patrol CA number, and if applicable, the DBE certification number of the truck owner for all trucks used during that month. This documentation shall be submitted on the Caltrans "Monthly DBE Trucking Verification", CEM-2404(F) form provided to the Consultant by the Agency's Contract Manager.

## 6. DBE Certification and Decertification Status

If a DBE subconsultant is decertified during the life of the Agreement, the decertified subconsultant shall notify the Consultant in writing with the date of decertification. If a subconsultant becomes a certified DBE during the life of the Agreement, the subconsultant shall notify the Consultant in writing with the date of certification. Any changes should be reported to the Agency's Contract Manager within 30 days

**Materials or supplies purchased from DBEs will count towards DBE credit, and if a DBE is also a UDBE, purchases will count towards the UDBE goal under the following conditions:**

- A. If the materials or supplies are obtained from a DBE manufacturer, 100 % of the cost of the materials or supplies will count toward the DBE participation. A DBE manufacturer is a firm that operates or maintains a factory or establishment that produces on the premises the materials, supplies, articles, or equipment required under the Agreement and of the general character described by the specifications.
- B. If the materials or supplies purchased from a DBE regular dealer, count 60 % of the cost of the materials or supplies toward DBE goals. A regular dealer is a firm that owns, operates or maintains a store, warehouse, or other establishment in which the materials, supplies, articles or equipment of the general character described by the specifications and required under the Agreement, are bought, kept in stock, and regularly sold or leased to the public in the usual course of business. To be a regular dealer, the firm must be an established, regular business that engages, as its principal business and under its own name, in the purchase and sale or lease of the products in question. A person may be a regular dealer in such bulk items as petroleum products, steel, cement, gravel, stone or asphalt without owning, operating or maintaining a place of business provided in this section.
- C. If the person both owns and operates distribution equipment for the products, any supplementing of regular dealers' own distribution equipment, shall be by a long-term lease agreement and not an ad hoc or Agreement-by-Agreement basis. Packagers, brokers, manufacturers' representatives, or other persons who arrange or expedite transactions are not regular dealers within the meaning of this section.
- D. Materials or supplies purchased from a DBE, which is neither a manufacturer nor a regular dealer, will be limited to the entire amount of fees or commissions charged for assistance in the procurement of the materials and supplies, or fees or transportation charges for the delivery of materials or supplies required on the job site, provided the fees are reasonable and not excessive as compared with fees charged for similar services.

*(Add the following to contracts which require trucking)*

**For DBE trucking companies: credit for DBEs will count towards DBE credit, and if a DBE is also a UDBE, credit will count towards the UDBE goal under the following conditions:**

- A. The DBE must be responsible for the management and supervision of the entire trucking operation for which it is responsible.
- B. The DBE must itself own and operate at least one fully licensed, insured, and operational truck used on the Agreement.
- C. The DBE receives credit for the total value of the transportation services it provides on the Agreement using trucks it owns, insures, and operates using drivers it employs.

- D. The DBE may lease trucks from another DBE firm including an owner-operator who is certified as a DBE. The DBE who leases trucks from another DBE receives credit for the total value of the transportation services the lessee DBE provides on the Agreement.
- E. The DBE may also lease trucks from a non-DBE firm, including an owner-operator. The DBE who leases trucks from a non-DBE is entitled to credit only for the fee or commission it receives as a result of the lease arrangement. The DBE does not receive credit for the total value of the transportation services provided by the lessee, since these services are not provided by the DBE.
- F. For the purposes of this section, a lease must indicate that the DBE has exclusive use and control over the truck. This does not preclude the leased truck from working for others during the term of the lease with the consent of the DBE, as long as the lease gives the DBE absolute priority for use of the leased truck. Leased trucks must display the name and identification number of the DBE.

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## **Attachment E – Required Certification by Consultant**

### **To be Submitted with Proposal**

- **Exhibit 15-H UDBE Information – Good Faith Efforts**
- **Exhibit 10-01 Local Agency Proposer UDBE Commitment (Consultant Contracts)**
- **Exhibit 10-P Nonlobbying Certification**
- **Exhibit 10-Q Disclosure of Lobbying Activities**
- **Exhibit 12-E Attachment D – Noncollusion Affidavit**

**EXHIBIT 15-H UDBE INFORMATION —GOOD FAITH EFFORTS****UDBE INFORMATION - GOOD FAITH EFFORTS**

Federal-aid Project No. \_\_\_\_\_ Bid Opening Date \_\_\_\_\_

The \_\_\_\_\_ (City/County of) \_\_\_\_\_ established an Underutilized Disadvantaged Business Enterprise (UDBE) goal of \_\_\_\_\_% for this project. The information provided herein shows that a good faith effort was made.

Lowest, second lowest and third lowest bidders shall submit the following information to document adequate good faith efforts. Bidders should submit the following information even if the “Local Agency Bidder UDBE Commitment” form indicates that the bidder has met the UDBE goal. This will protect the bidder’s eligibility for award of the contract if the administering agency determines that the bidder failed to meet the goal for various reasons, e.g., a UDBE firm was not certified at bid opening, or the bidder made a mathematical error.

Submittal of only the “Local Agency Bidder UDBE Commitment” form may not provide sufficient documentation to demonstrate that adequate good faith efforts were made.

The following items are listed in the Section entitled “Submission of UDBE Commitment” of the Special Provisions:

- A. The names and dates of each publication in which a request for UDBE participation for this project was placed by the bidder (please attach copies of advertisements or proofs of publication):

| Publications | Dates of Advertisement |
|--------------|------------------------|
| _____        | _____                  |
| _____        | _____                  |
| _____        | _____                  |

- B. The names and dates of written notices sent to certified UDBEs soliciting bids for this project and the dates and methods used for following up initial solicitations to determine with certainty whether the UDBEs were interested (please attach copies of solicitations, telephone records, fax confirmations, etc.):

| Names of UDBEs Solicited | Date of Initial Solicitation | Follow Up Methods and Dates |
|--------------------------|------------------------------|-----------------------------|
| _____                    | _____                        | _____                       |
| _____                    | _____                        | _____                       |
| _____                    | _____                        | _____                       |
| _____                    | _____                        | _____                       |
| _____                    | _____                        | _____                       |
| _____                    | _____                        | _____                       |

- C. The items of work which the bidder made available to UDBE firms including, where appropriate, any breaking down of the contract work items (including those items normally performed by the bidder with its own forces) into economically feasible units to facilitate UDBE participation. It is the bidder's responsibility to demonstrate that sufficient work to facilitate UDBE participation was made available to UDBE firms.

| Items of Work | Bidder Normally<br>Performs Item<br>(Y/N) | Breakdown of<br>Items | Amount<br>(\$) | Percentage<br>Of<br>Contract |
|---------------|-------------------------------------------|-----------------------|----------------|------------------------------|
|               |                                           |                       |                |                              |
|               |                                           |                       |                |                              |
|               |                                           |                       |                |                              |

- D. The names, addresses and phone numbers of rejected UDBE firms, the reasons for the bidder's rejection of the UDBEs, the firms selected for that work (please attach copies of quotes from the firms involved), and the price difference for each UDBE if the selected firm is not a UDBE:

Names, addresses and phone numbers of rejected UDBEs and the reasons for the bidder's rejection of the UDBEs:

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Names, addresses and phone numbers of firms selected for the work above:

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- E. Efforts made to assist interested UDBEs in obtaining bonding, lines of credit or insurance, and any technical assistance or information related to the plans, specifications and requirements for the work which was provided to UDBEs:

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- F. Efforts made to assist interested UDBEs in obtaining necessary equipment, supplies, materials or related assistance or services, excluding supplies and equipment the UDBE subcontractor purchases or leases from the prime contractor or its affiliate:

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- G. The names of agencies, organizations or groups contacted to provide assistance in contacting, recruiting and using UDBE firms (please attach copies of requests to agencies and any responses received, i.e., lists, Internet page download, etc.):

| Name of Agency/Organization | Method/Date of Contact | Results |
|-----------------------------|------------------------|---------|
|-----------------------------|------------------------|---------|

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- H. Any additional data to support a demonstration of good faith efforts (use additional sheets if necessary):

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**NOTE:** USE ADDITIONAL SHEETS OF PAPER IF NECESSARY.

**NOTE: PLEASE REFER TO INSTRUCTIONS ON THE REVERSE SIDE OF THIS FORM**

CONTRACT UDBE GOAL (%):

[illegible]

Local Agency Proposer UDBE Commitment (Consultant Contracts)  
(Rev 6/27/09)

## INSTRUCTIONS – LOCAL AGENCY PROPOSER UDBE COMMITMENT (CONSULTANT CONTRACTS)

### ALL PROPOSERS:

**PLEASE NOTE:** It is the proposer's responsibility to verify that the UDBE(s) falls into one of the following groups in order to count towards the UDBE contract goal: 1) African Americans; 2) Asian-Pacific Americans; 3) Native Americans; 4) Women. This information must be submitted with your proposal. Failure to submit the required UDBE commitment will be grounds for finding the proposal nonresponsive.

A "UDBE" is a firm meeting the definition of a DBE as specified in 49 CFR and is one of the following groups: African Americans, Native Americans, Asian-Pacific Americans, or Women.

The form requires specific information regarding the consultant contract: Local Agency, Location, Project Description, Proposal Date, Proposer's Name, and Contract UDBE Goal.

The form has a column for the Work Item Number and Description or Services to be subcontracted to UDBEs (or performed if the proposer is a UDBE). The UDBE prime contractors shall indicate all work to be performed by UDBEs including work to be performed by its own forces, if a UDBE. The UDBE shall provide a certification number to the Consultant and notify the Consultant in writing with the date of decertification if their status should change during the course of the contract. Enter UDBE prime consultant and subconsultant certification numbers. The form has a column for the Names of certified UDBEs to perform the work (must be certified on the date proposals are due and include UDBE address and phone number).

There is a column for the percent participation of each UDBE. Enter the Total Claimed UDBE Participation percentage of items of work submitted with proposal pursuant to the Special Provisions. (If 100% of item is not to be performed or furnished by the UDBE, describe exact portion of time to be performed or furnished by the UDBE.) See "Notice to Proposers Disadvantaged Business Enterprise Information," (Exhibit 10-I) to determine how to count the participation of UDBE firms. **Note:** If the proposer has not met the contract goal, the local agency must evaluate the proposer's good faith efforts to meet the goal in order to be considered for award of the contract.

Exhibit 10-O1 must be signed and dated by the consultant submitting the proposal. Also list a phone number in the space provided and print the name of the person to contact.

**For the Successful Proposer only, local agencies** should complete the Proposal Number, Federal-aid Project Number, Federal Share, and Proposal Date fields and verify that all information is complete and accurate before filing.

**Exhibit 10-P Nonlobbying Certification For Federal-Aid Contracts**

The prospective participant certifies by signing and submitting this proposal/bid to the best of his or her knowledge and belief that:

- (1) No federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.
- (2) If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure of Lobbying Activities," in accordance with its instructions.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

The prospective participant also agrees by submitting his/her proposal/bid that he/she shall require that the language of this certification be included in all lower-tier subcontracts which exceed \$100,000 and that all such sub-recipients shall certify and disclose accordingly.

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## DISCLOSURE OF LOBBYING ACTIVITIES

COMPLETE THIS FORM TO DISCLOSE LOBBYING ACTIVITIES PURSUANT TO 31 U.S.C. 1352

|                                                                                                                                                                                                                                                                                                     |                                                                                                                                                                                 |                                                                                                                                                                                                               |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>1. Type of Federal Action:</b><br><input type="checkbox"/> a. contract<br><input type="checkbox"/> b. grant<br><input type="checkbox"/> c. cooperative agreement<br><input type="checkbox"/> d. loan<br><input type="checkbox"/> e. loan guarantee<br><input type="checkbox"/> f. loan insurance | <b>2. Status of Federal Action:</b><br><input type="checkbox"/> a. bid/offer/application<br><input type="checkbox"/> b. initial award<br><input type="checkbox"/> c. post-award | <b>3. Report Type:</b><br><input type="checkbox"/> a. initial<br><input type="checkbox"/> b. material change<br><br><b>For Material Change Only:</b><br>year _____ quarter _____<br>date of last report _____ |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

|                                                                                                                                                                                                         |                                                                                                                                              |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------|
| <b>4. Name and Address of Reporting Entity</b><br><br><input type="checkbox"/> Prime <input type="checkbox"/> Subawardee<br>Tier, _____, if known<br><br><b>Congressional District</b> , if known _____ | <b>5. If Reporting Entity in No. 4 is Subawardee, Enter Name and Address of Prime:</b><br><br><b>Congressional District</b> , if known _____ |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------|

|                                                                                         |                                                                                                                           |
|-----------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------|
| <b>6. Federal Department/Agency:</b><br><br><b>8. Federal Action Number</b> , if known: | <b>7. Federal Program Name/Description:</b><br><br>CFDA Number, if applicable _____<br><b>9. Award Amount</b> , if known: |
|-----------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------|

|                                                                                              |                                                                                                                        |
|----------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------|
| <b>10. a. Name and Address of Lobby Entity</b><br>(If individual, last name, first name, MI) | <b>b. Individuals Performing Services (including address if different from No. 10a)</b><br>(last name, first name, MI) |
|----------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------|

(attach Continuation Sheet(s) if necessary)

|                                                                                                                               |                                                                                                                                                                                                                                                                                                                           |
|-------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>11. Amount of Payment (check all that apply)</b><br>_____ <input type="checkbox"/> actual <input type="checkbox"/> planned | <b>13. Type of Payment (check all that apply)</b><br><input type="checkbox"/> a. retainer<br><input type="checkbox"/> b. one-time fee<br><input type="checkbox"/> c. commission<br><input type="checkbox"/> d. contingent fee<br><input type="checkbox"/> e. deferred<br><input type="checkbox"/> f. other, specify _____ |
|-------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

|                                                                                                                                                                     |  |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------|--|
| <b>12. Form of Payment (check all that apply):</b><br><input type="checkbox"/> a. cash<br><input type="checkbox"/> b. in-kind; specify: nature _____<br>value _____ |  |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------|--|

**14. Brief Description of Services Performed or to be performed and Date(s) of Service, including officer(s), employee(s), or member(s) contacted, for Payment Indicated in Item 11:**

(attach Continuation Sheet(s) if necessary)

|                                                                                                     |                                                                                                   |
|-----------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------|
| <b>15. Continuation Sheet(s) attached:</b> Yes <input type="checkbox"/> No <input type="checkbox"/> | Signature: _____<br>Print name: _____<br>Title: _____<br>Telephone No: _____      Date: 3/23/2010 |
|-----------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------|

**16. Information requested through this form is authorized by Title 31 U.S.C. Section 1352. This disclosure of lobbying reliance was placed by the tier above when his transaction was made or entered into. This disclosure is required pursuant to 31 U.S.C. 1352. This information will be reported to Congress semiannually and will be available for public inspection. Any person who fails to file the required disclosure shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.**

Authorized for Local Reproduction  
 Standard Form - LLL

**Federal Use Only:**

### Noncollusion Affidavit

(Title 23 United States Code Section 112 and  
Public Contract Code Section 7106)

To the CITY / COUNTY of \_\_\_\_\_  
*DEPARTMENT OF PUBLIC WORKS.*

In accordance with Title 23 United States Code Section 112 and Public Contract Code 7106 the bidder declares that the bid is not made in the interest of, or on behalf of, any undisclosed person, partnership, company, association, organization, or corporation; that the bid is genuine and not collusive or sham; that the bidder has not directly or indirectly induced or solicited any other bidder to put in a false or sham bid, and has not directly or indirectly colluded, conspired, connived, or agreed with any bidder or anyone else to put in a sham bid, or that anyone shall refrain from bidding; that the bidder has not in any manner, directly or indirectly, sought by agreement, communication, or conference with anyone to fix the bid price of the bidder or any other bidder, or to fix any overhead, profit, or cost element of the bid price, or of that of any other bidder, or to secure any advantage against the public body awarding the contract of anyone interested in the proposed contract; that all statements contained in the bid are true; and, further, that the bidder has not, directly or indirectly, submitted his or her bid price or any breakdown thereof, or the contents thereof, or divulged information or data relative thereto, or paid, and will not pay, any fee to any corporation, partnership, company association, organization, bid depository, or to any member or agent thereof to effectuate a collusive or sham bid.

Note: The above Noncollusion Affidavit is part of the Proposal. Signing this Proposal on the signature portion thereof shall also constitute signature of this Noncollusion Affidavit.  
Bidders are cautioned that making a false certification may subject the certifier to criminal prosecution.

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## **Attachment F – Required Certification by Consultant and County after Contract Signature**

- **Exhibit 10-F Certification of Consultant**
- **Exhibit 10-G Certification of Local Agency**
- **Exhibit 10-02 Local Agency Proposer DBE Information**
- **Final Report – Utilization of Disadvantaged Business Enterprise**
- **Exhibit 17-O DBE Certification Status Change**

## Exhibit 10-F Certification of Consultant, Commissions &amp; Fees

## CERTIFICATION OF CONSULTANT

I HEREBY CERTIFY that I am the \_\_\_\_\_ and duly authorized representative of the firm of \_\_\_\_\_, whose address is \_\_\_\_\_, and that, except as hereby expressly states, neither I nor the above firm that I represent have:

- (a) employed or retained for a commission, percentage, brokerage, contingent fee, or other consideration, any firm or person (other than a bona fide employee working solely for me or the above consultant) to solicit or secure this agreement; nor
- (b) agreed, as an express or implied condition for obtaining this contract, to employ or retain the services of any firm or person in connection with carrying out the agreement; nor
- (c) paid, or agreed to pay, to any firm, organization or person (other than a bona fide employee working solely for me or the above consultant) any fee, contribution, donation, or consideration of any kind, for or in connection with, procuring or carrying out this agreement.

I acknowledge that this Certificate is to be made available to the California Department of Transportation (Caltrans) in connection with this agreement involving participation of Federal-aid Highway funds, and is subject to applicable state and federal laws, both criminal and civil.

\_\_\_\_\_  
(Date)

\_\_\_\_\_  
(Signature)

**Distribution:** 1) Local Agency Project File ( original & Contract)  
2) DLAE (copy)

## Exhibit 10-G Certification of Local Agency

## CERTIFICATION OF LOCAL AGENCY

I HEREBY CERTIFY that I am the \_\_\_\_\_ of the  
County of Imperial \_\_\_\_\_, and that the consulting firm of  
\_\_\_\_\_, or its representative has not been required (except  
as herein expressly stated), directly or indirectly, as an express or implied condition in connection  
with obtaining or carrying out this Agreement to:

- (a) employ, retain, agree to employ or retain, any firm or person, or
- (b) pay or agree to pay, to any firm, person or organization, any fee, contribution, donation, or  
consideration of any kind.

I acknowledge that this Certificate is to be made available to the California Department of Transportation  
(Caltrans) in connection with this Agreement involving participation of Federal-aid Highway funds, and is  
subject to applicable State and Federal laws, both criminal and civil.

\_\_\_\_\_  
(Date)

\_\_\_\_\_  
(Signature)

**Distribution:** 1) Local Agency Project File ( original & Contract)  
2) DLAE (copy)

## EXHIBIT 10-O2 Local Agency Proposer DBE Information (Consultant Contracts)

**NOTE: PLEASE REFER TO INSTRUCTIONS ON THE REVERSE SIDE OF THIS FORM**

LOCAL AGENCY: \_\_\_\_\_ LOCATION: \_\_\_\_\_

PROJECT DESCRIPTION: \_\_\_\_\_

TOTAL CONTRACT AMOUNT (\$): \_\_\_\_\_

PROPOSER'S NAME: \_\_\_\_\_

| WORK<br>ITEM NO. | DESCRIPTION OR SERVICES TO BE<br>SUBCONTRACTED (or contracted if<br>the proposer is a DBE) | DBE CERT NO.<br>AND EXPIRATION<br>DATE | NAME OF EACH DBE<br>(Must be certified at the time<br>proposals are due - include DBE<br>address and phone number) | DOLLAR AMOUNT OF<br>EACH DBE |
|------------------|--------------------------------------------------------------------------------------------|----------------------------------------|--------------------------------------------------------------------------------------------------------------------|------------------------------|
|                  |                                                                                            |                                        |                                                                                                                    |                              |
|                  |                                                                                            |                                        |                                                                                                                    |                              |
|                  |                                                                                            |                                        |                                                                                                                    |                              |
|                  |                                                                                            |                                        |                                                                                                                    |                              |
|                  |                                                                                            |                                        |                                                                                                                    |                              |
|                  |                                                                                            |                                        |                                                                                                                    |                              |
|                  |                                                                                            |                                        |                                                                                                                    |                              |
|                  |                                                                                            |                                        |                                                                                                                    |                              |
|                  |                                                                                            |                                        |                                                                                                                    |                              |
|                  |                                                                                            |                                        |                                                                                                                    |                              |
|                  |                                                                                            |                                        |                                                                                                                    |                              |

**For Local Agency to Complete:**

Local Agency Contract Number: \_\_\_\_\_

Federal-Aid Project Number: \_\_\_\_\_

Federal Share: \_\_\_\_\_

Contract Award: \_\_\_\_\_

Local Agency certifies that the DBE certifications have been verified and all  
information is complete and accurate.

|                             |           |       |
|-----------------------------|-----------|-------|
| _____                       | _____     | _____ |
| Print Name                  | Signature | Date  |
| Local Agency Representative |           |       |

(Area Code) Telephone Number: \_\_\_\_\_

Total Claimed DBE  
Participation\$ \_\_\_\_\_  
\_\_\_\_\_ %\_\_\_\_\_  
Signature of Proposer\_\_\_\_\_  
Date (Area Code) Tel. No.\_\_\_\_\_  
Person to Contact (Please Type or Print)**For Caltrans Review:**

|                                             |           |       |
|---------------------------------------------|-----------|-------|
| _____                                       | _____     | _____ |
| Print Name                                  | Signature | Date  |
| Caltrans District Local Assistance Engineer |           |       |

Local Agency Proposer DBE Information (Consultant Contracts)  
(Rev 6/27/09)

**Distribution:** (1) Copy - Fax or scan a copy to the Caltrans District Local Assistance Engineer (DLAE) within 15 days after contract execution.  
Failure to send a copy to the DLAE within 15 days after contract execution may result in deobligation of funds for this project.

(2) Original - Local agency files

**INSTRUCTIONS - LOCAL AGENCY PROPOSER DBE INFORMATION  
(CONSULTANT CONTRACTS)**

**SUCCESSFUL PROPOSER:**

The form requires specific information regarding the consultant or other contract: Local Agency, Location, Project Description, Total Contract Amount, Proposal Date, and successful Proposer's Name.

The form has a column for the Work Item Number and Description or Services to be Subcontracted to DBEs. The prime consultant shall indicate all work to be performed by DBEs including, if the prime consultant is a DBE, work performed by its own forces, if a DBE. The DBE shall provide a certification number to the prime consultant. Enter DBE prime consultant's and subconsultant's certification number. The form has a column for the Names of DBE certified contractors to perform the work (must be certified on or before the proposals are due and include DBE address and phone number).

Enter the Total Claimed DBE Participation dollar amount of items of work in the total DBE Dollar Amount column. (If 100% of item is not to be performed by the DBE, describe exact portion of time to be performed by the DBE.) See "Notice to Proposers Disadvantaged Business Enterprise Information," ( Exhibit 10-I) to determine how to count the participation of DBE firms.

Exhibit 10-O2 must be signed and dated by the successful proposer at contract execution. Also list a phone number in the space provided and print the name of the person to contact.

**Local agencies** should complete the Contract Number, Federal-aid Project Number, Federal Share, and Contract Award fields and verify that all information is complete and accurate before signing and sending a copy of the form to the District Local Assistance Engineer within 15 days of contract execution. Failure to submit a completed and accurate form within the 15-day time period may result in the deobligation of funds on this project.

**District DBE Coordinator** should verify that all information is complete and accurate. Once the information has been verified, the **District Local Assistance Engineer** signs and dates the form.

STATE OF CALIFORNIA - DEPARTMENT OF TRANSPORTATION

**FINAL REPORT-UTILIZATION OF DISADVANTAGED BUSINESS ENTERPRISES  
(DBE), FIRST-TIER SUBCONTRACTORS****ADA Notice**

For individuals with sensory disabilities, this document is available in alternate formats. For information call (916) 654-6410 or TDD (916) 654-3880 or write Records and Forms Management, 1120 N Street, MS-89, Sacramento, CA 95814

CEM-2402F (REV 02/2008)

| CONTRACT NUMBER                                                                                                                                                                                                                                                                                                                                                                           |                                                      | COUNTY                            | ROUTE            | POST MILES        | FEDERAL-AID PROJECT NO.<br>4618 |         | ADMINISTERING AGENCY |         |        | CONTRACT COMPLETION DATE                                                                 |                       |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------|-----------------------------------|------------------|-------------------|---------------------------------|---------|----------------------|---------|--------|------------------------------------------------------------------------------------------|-----------------------|
| PRIME CONTRACTOR                                                                                                                                                                                                                                                                                                                                                                          |                                                      |                                   |                  | BUSINESS ADDRESS  |                                 |         |                      |         |        | ESTIMATED CONTRACT AMOUNT<br>\$                                                          |                       |
| ITEM NO.                                                                                                                                                                                                                                                                                                                                                                                  | DESCRIPTION OF WORK PERFORMED AND MATERIALS PROVIDED | COMPANY NAME AND BUSINESS ADDRESS | DBE CERT. NUMBER | CONTRACT PAYMENTS |                                 |         |                      |         |        | DATE WORK COMPLETE                                                                       | DATE OF FINAL PAYMENT |
|                                                                                                                                                                                                                                                                                                                                                                                           |                                                      |                                   |                  | NON-DBE           | DBE                             | BA UDBE | APA UDBE             | NA UDBE | W UDBE |                                                                                          |                       |
|                                                                                                                                                                                                                                                                                                                                                                                           |                                                      |                                   |                  | \$                | \$                              | \$      | \$                   | \$      | \$     |                                                                                          |                       |
|                                                                                                                                                                                                                                                                                                                                                                                           |                                                      |                                   |                  | \$                | \$                              | \$      | \$                   | \$      | \$     |                                                                                          |                       |
|                                                                                                                                                                                                                                                                                                                                                                                           |                                                      |                                   |                  | \$                | \$                              | \$      | \$                   | \$      | \$     |                                                                                          |                       |
|                                                                                                                                                                                                                                                                                                                                                                                           |                                                      |                                   |                  | \$                | \$                              | \$      | \$                   | \$      | \$     |                                                                                          |                       |
|                                                                                                                                                                                                                                                                                                                                                                                           |                                                      |                                   |                  | \$                | \$                              | \$      | \$                   | \$      | \$     |                                                                                          |                       |
|                                                                                                                                                                                                                                                                                                                                                                                           |                                                      |                                   |                  | \$                | \$                              | \$      | \$                   | \$      | \$     |                                                                                          |                       |
|                                                                                                                                                                                                                                                                                                                                                                                           |                                                      |                                   |                  | \$                | \$                              | \$      | \$                   | \$      | \$     |                                                                                          |                       |
|                                                                                                                                                                                                                                                                                                                                                                                           |                                                      |                                   |                  | \$                | \$                              | \$      | \$                   | \$      | \$     |                                                                                          |                       |
|                                                                                                                                                                                                                                                                                                                                                                                           |                                                      |                                   |                  | \$                | \$                              | \$      | \$                   | \$      | \$     |                                                                                          |                       |
|                                                                                                                                                                                                                                                                                                                                                                                           |                                                      |                                   |                  | \$                | \$                              | \$      | \$                   | \$      | \$     |                                                                                          |                       |
|                                                                                                                                                                                                                                                                                                                                                                                           |                                                      |                                   |                  | \$                | \$                              | \$      | \$                   | \$      | \$     |                                                                                          |                       |
|                                                                                                                                                                                                                                                                                                                                                                                           |                                                      |                                   |                  | \$                | \$                              | \$      | \$                   | \$      | \$     |                                                                                          |                       |
|                                                                                                                                                                                                                                                                                                                                                                                           |                                                      |                                   |                  | \$                | \$                              | \$      | \$                   | \$      | \$     |                                                                                          |                       |
|                                                                                                                                                                                                                                                                                                                                                                                           |                                                      |                                   |                  | \$                | \$                              | \$      | \$                   | \$      | \$     |                                                                                          |                       |
|                                                                                                                                                                                                                                                                                                                                                                                           |                                                      |                                   |                  | \$                | \$                              | \$      | \$                   | \$      | \$     |                                                                                          |                       |
| ORIGINAL COMMITMENT<br>\$ _____                                                                                                                                                                                                                                                                                                                                                           |                                                      |                                   | TOTAL            | \$                | \$                              | \$      | \$                   | \$      | \$     | BA - Black American<br>APA - Asian-Pacific Islander<br>NA - Native American<br>W - Woman |                       |
| <p>List all First Tier Subcontractors, Disadvantaged Business Enterprises (DBEs) and underutilized DBEs (DBEs) regardless of tier, whether or not the firms were originally listed for goal credit. If actual UDBE utilization (or item of work) was different than that approved at time of award, provide comments on the back of the form. List actual amount paid to each entity.</p> |                                                      |                                   |                  |                   |                                 |         |                      |         |        |                                                                                          |                       |

**I CERTIFY THAT THE ABOVE INFORMATION IS COMPLETE AND CORRECT**

|                                                                                                |  |                       |      |
|------------------------------------------------------------------------------------------------|--|-----------------------|------|
| CONTRACTOR REPRESENTATIVE'S SIGNATURE                                                          |  | BUSINESS PHONE NUMBER | DATE |
| <b>TO THE BEST OF MY INFORMATION AND BELIEF, THE ABOVE INFORMATION IS COMPLETE AND CORRECT</b> |  |                       |      |
| RESIDENT PROJECT ENGINEER'S SIGNATURE                                                          |  | BUSINESS PHONE NUMBER | DATE |

Copy Distribution-Caltrans contracts:

**Original** - District Construction**Copy**- Business Enterprise Program**Copy**- Contractor**Copy** Resident Engineer

Copy Distribution-Local Agency contracts:

**Original** - District Local Assistance Engineer**Copy**- District Local Assistance Engineer**Copy**- Local Agency file

(submitted with the Report of Expenditure)

STATE OF CALIFORNIA – DEPARTMENT OF TRANSPORTATION

**DISADVANTAGED BUSINESS ENTERPRISES (DBE) CERTIFICATION STATUS CHANGE**

CP-CEM-2403(F) (New. 10/99)

|                  |                  |       |            |                           |                         |
|------------------|------------------|-------|------------|---------------------------|-------------------------|
| CONTACT NUMBER   | COUNTY           | ROUTE | POST MILES | ADMINISTERING AGENCY      | CONTRACT COMPETION DATE |
| PRIME CONTRACTOR | BUSINESS ADDRESS |       |            | ESTIMATED CONTRACT AMOUNT |                         |

*Prime Contractor: List all DBEs with changes in certification status (certified/decertified) while in your employ, whether or not firms were originally listed for good credit.**Attach DBE certification/Decertification letter in accordance with the Special Provisions*

| CONTRACT<br>ITEM NO. | SUBCONTRACT NAME AND<br>BUSINESS ADDRESS | BUSINESS<br>PHONE | CERTIFICATION NUMBER | AMOUNT PAID WHILE<br>CERTIFIED | CERTIFICATION/<br>DECERTIFICATION<br>DATE<br>Letter attached |
|----------------------|------------------------------------------|-------------------|----------------------|--------------------------------|--------------------------------------------------------------|
|                      |                                          |                   |                      | \$                             |                                                              |
|                      |                                          |                   |                      | \$                             |                                                              |
|                      |                                          |                   |                      | \$                             |                                                              |
|                      |                                          |                   |                      | \$                             |                                                              |
|                      |                                          |                   |                      | \$                             |                                                              |
|                      |                                          |                   |                      | \$                             |                                                              |
|                      |                                          |                   |                      | \$                             |                                                              |
|                      |                                          |                   |                      | \$                             |                                                              |
|                      |                                          |                   |                      | \$                             |                                                              |

Comments:

**I CERTIFY THAT THE ABOVE INFORMATION IS COMPLETE AND CORRECT**

|                                     |       |                       |      |
|-------------------------------------|-------|-----------------------|------|
| CONTRACTOR REPRESENTATIVE SIGNATURE | TITLE | BUSINESS PHONE NUMBER | DATE |
|-------------------------------------|-------|-----------------------|------|

**TO THE BEST OF MY KNOWLEDGE, THE ABOVE INFORMATION IS COMPLETE AND CORRECT**

|                   |                       |      |
|-------------------|-----------------------|------|
| RESIDENT ENGINEER | BUSINESS PHONE NUMBER | DATE |
|-------------------|-----------------------|------|

DISTRIBUTION    Original copy -DLAE  
 Copy -1) Business Enterprise Program   2) Prime Contactor   3) Local Agency   4) Resident Engineer

Form CP-CEM 2403(F) (New 10/99)

**DISADVANTAGED BUSINESS ENTERPRISES (DBE) CHANGE IN CERTIFICATION STATUS REPORT**

The top of the form requires specific information regarding the construction project: Contract Number, County, Route, Post Miles, the Administering Agency, the Contract Completion Date, and the Estimated Contract Amount. It requires the Prime Contractor's name and Business Address. The focus of the form is to substantiate and verify the actual DBE dollar amount paid to contractors on federally funded projects that had a changed in Certification status during the course of the completion of the contract. The two situations that are being addressed by CP-CEM 2403(F) are, if a firm certified as a DBE and doing work on the contract during the course of the project becomes Decertified, and if a non-DBE firm doing work on the contract during the course of the project becomes Certified as a DBE.

The form has a column to enter the Contract Item No (or Item Nos.) as well as a column for the Subcontractor's Name, Business Address, Business Phone, and contractor's Certification Number.

The column entitled Amount Paid While Certified will be used to enter the actual dollar value of the work performed by those contractors who meet the conditions as outlined above during the time period they are Certified as a DBE. This column on the CP-CEM-2403(F) should only reflect the dollar value of work performed while the firm was Certified as a DBE.

The column called Certification/Decertification Date (Letter attached) will reflect either the date of the Decertification Letter sent out by the Civil Rights Program or the date of the Certification Certificate mailed out by the Civil Rights Program. There is a box to check that support documentation is attached to the CP-CEM-2403 (F) form.

There is a Comments section for any additional information that may need to be provided regarding any of the above transactions.

The CEM-2403(F) has an area at the bottom where the Contractor and the Resident Engineer sign and date that the information provided is complete and correct.

There is a Comments section for any additional information that may need to be provided regarding any of the above transactions.

The CEM-2403(F) has an area at the bottom where the Contractor and the Resident Engineer sign and date that the information provided is complete and correct.