

Exhibit 9-A: DBE Implementation Agreement for Local Agencies**CALIFORNIA DEPARTMENT OF TRANSPORTATION (CALTRANS)
DISADVANTAGED BUSINESS ENTERPRISE (DBE) IMPLEMENTATION AGREEMENT**

For the City/County of El Dorado, hereinafter referred to as "SUB-RECIPIENT."

I. Definition of Terms

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

II. Objective/Policy Statement (49 CFR 26.1 and 26.23)

SUB-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, SUB-RECIPIENT will sign the California Department of Transportation Disadvantaged Business Enterprise Implementation Agreement (hereinafter referred to as Agreement). SUB-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 26 requirements. It is the policy of SUB-RECIPIENT to ensure that DBEs, as defined in 49 CFR 26, have an equal opportunity to receive and participate in DOT-assisted contracts. It is also SUB-RECIPIENT's 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 the DBE participation percentage is narrowly tailored, in accordance with applicable law.
- To ensure that only firms that fully meet 49 CFR 26 eligibility standards are permitted to participate as DBEs.
- To help remove barriers to the participation of DBEs in Federal-aid contracts.
- To assist the development of firms that can compete successfully in the market place outside the DBE Program.

III. Nondiscrimination (49 CFR 26.7)

SUB-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 26 on the basis of race, color, sex, or national origin. In administering the Local Agency components of the DBE Program Plan, SUB-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 (49 CFR 26.21)

SUB-RECIPIENT will provide to the Caltrans District Local Assistance Engineer (DLAE) a completed Local Agency DBE Annual Submittal Form (Exhibit 9-B), by June 30 of each year for the following Federal Fiscal Year (FFY). This form must include the name, phone number, email address of the designated Disadvantaged Business Enterprise Liaison Officer (DBELO), and the choice of Prompt Pay Provision to be used by SUB-RECIPIENT for the following FFY.

V. Race-Neutral Means of Meeting Caltrans Overall Statewide Annual DBE Goal (49 CFR 26.51(a))

Caltrans expects SUB-RECIPIENT to meet the maximum feasible portion of Caltrans Overall Statewide Annual DBE Goal through race-neutral means of facilitating DBE participation. Race-neutral DBE participation includes when 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 the participation of DBE and other small businesses (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 SUB-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

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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 Caltrans Overall Statewide Annual DBE Goal (49 CFR 26.51(d))**
SUB-RECIPIENT must establish DBE contract goals to meet any portion of Caltrans Overall Statewide Annual DBE Goal that cannot be achieved through race-neutral means.
- VII. Quotas (49 CFR 26.43)**
SUB-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) (49 CFR 26.25)**
SUB-RECIPIENT has designated a DBE Liaison Officer. The DBELO is responsible for implementing the DBE Program Plan as it pertains to the SUB-RECIPIENT, and ensures that the SUB-RECIPIENT is fully and properly advised concerning DBE Program Plan matters. 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. In addition to this, all staff are trained and updated on the DBE program. The name, address, telephone number, email 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 SUB-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 DBE contract goals.
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 (49 CFR 26.13)

Each agreement SUB-RECIPIENT signs with Caltrans must include the following assurance: The SUB-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 26. The SUB-RECIPIENT shall take all necessary and reasonable steps under 49 CFR 26 to ensure nondiscrimination in the award and administration of DOT-assisted contracts. The SUB-RECIPIENT's DBE Program, as required by 49 CFR 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 SUB-RECIPIENT of its failure to carry out its approved program, Caltrans may impose sanctions as provided for under 49 CFR 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.).

Each contract Sub-recipient signs with a contractor (and each subcontract the prime contractor signs with a subcontractor) must include the following 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 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 the Sub-recipient deems appropriate.

X. DBE Financial Institutions (49 CFR 26.27)

SUB-RECIPIENT must 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 (49 CFR 26.31)

SUB-RECIPIENT will refer interested persons to the Unified Certification Program DBE directory available from the Caltrans Disadvantaged Business Enterprise Program's website.

XII. Required Contract Clauses (49 CFR 26.13 and 26.29)

For the purpose of this section, contractor also means consultant, and subcontractor also includes subconsultant. For prompt payment, the following State regulations are referenced: the California Business and Professions Code (CBPC), California Public Contract Code (CPCC) and California Civil Code (CCC).

SUB-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 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 SUB-RECIPIENT deems appropriate.

NOTE: This language is to be used verbatim, as is stated in Exhibit 12-G: Required Federal-aid Contract Language. See also 49 CFR 26.13(b).

B. Prompt Payment**Prompt Progress Payment to Subcontractors**

The Local Agency shall require contractors and subcontractors to pay their subcontractors within seven (7) days for construction contracts, and within fifteen (15) days for consultant contracts, after receiving each progress payment. Any delay or postponement of payment may take place only for good cause and with the Local 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 CBPC and Section 10262 of the CPCC for construction contract, and Section 3321 of the CCC for consultant contract. 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 seven (7) days for construction contracts, or within fifteen (15) days for consultant contracts 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 Local 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 Local 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 CBPC and Section 10262 of the CPCC for construction contracts, and Section 3321 of the CCC for consultant contracts. 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 Local Agency from progress payments due to the prime contractor. Any retainage kept by the prime contractor or by a subcontractor must be paid in full to the earning subcontractor within seven (7) days for construction contracts, or within fifteen (15) days for consultant contracts after the subcontractor's work is satisfactorily completed. Any delay or postponement of payment may take place only for good cause and with the Local 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 CBPC and Section 10262 of the CPCC for construction contracts, and Section 3321 of the CCC for consultant contracts. 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 Local Agency shall hold retainage from the prime contractor and shall make prompt and regular incremental acceptances of portions, as determined by the Local 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 seven (7) days for construction contracts, or within fifteen (15) days for consultant contracts after receiving payment for work satisfactorily completed and accepted including incremental acceptances of portions of the contract work by the Local Agency. Any delay or postponement of payment may take place only for good cause and with the Local 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 CBPC and Section 10262 of the CPCC for construction contracts, and Section 3321 of the CCC for consultant contracts. 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.

Any violation of these provisions shall subject the violating prime contractor or subcontractor to the penalties, sanctions and other remedies specified therein. These requirements shall not be construed to limit or impair any contractual, administrative, or judicial remedies otherwise available to the prime contractor or subcontractor in the event of a dispute involving late payment or nonpayment by the prime contractor, deficient subcontract performance, or noncompliance by a subcontractor.

XIII. Local Assistance Procedures Manual (LAPM)

The SUB-RECIPIENT will advertise, award and administer Federal-aid contracts in accordance with the current Local Assistance Procedures Manual (LAPM) including Forms and Exhibits.

XIV. Vehicle Manufacturers/Specialized Equipment (§26.49)

If Federal-aid contracts will include vehicle/specialized equipment procurements, SUB-RECIPIENT will require each vendor, as a condition of being authorized to bid or propose on vehicle/specialized equipment procurements, to certify that it has complied with the requirements of 49 CFR 26.69.

XV. Reporting to the DLAE

SUB-RECIPIENT will promptly submit a copy of the Consultant Proposal DBE Commitment (Exhibit 10-O1) at the time of award of the consultant contract.

SUB-RECIPIENT will promptly submit a copy of Consultant Contract DBE Information (Exhibit 10-O2) or the Local Agency Bidder DBE Commitment (Construction Contracts) (Exhibit 15-G) to the DLAE within 30 days after execution of consultant or construction contract.

SUB-RECIPIENT will promptly submit a copy of the Final Report-Utilization of DBE, First-Tier Subcontractors (Exhibit 17-F) of the LAPM, immediately upon completion of each consultant or construction contract.

XVI. Certification (§26.83(a))

SUB-RECIPIENT ensures that only DBE firms currently certified by the California Unified Certification Program (CUCP) will participate as DBEs on Federal-aid contracts.

XVII. Confidentiality

SUB-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.

XVIII. Prompt Payment from the Local Agency to the Contractors (California Public Contract Code §20104.50)

The Local Agency shall make any progress payment within **30 days** after receipt of an undisputed and properly submitted payment request from a contractor on a construction contract. If the Local Agency fails to pay promptly, the Local Agency shall pay interest to the contractor, which accrues at the rate of 10 percent per annum on the principal amount of a money judgment remaining unsatisfied. Upon receipt of a payment request, the Local Agency shall act in accordance with both of the following:

- (1) Each payment request shall be reviewed by the Local Agency as soon as practicable after receipt for the purpose of determining that the payment request is a proper payment request.
- (2) Any payment request determined not to be a proper payment request suitable for payment shall be returned to the contractor as soon as practicable, but not later than **seven (7) days**, after receipt. A request returned pursuant to this paragraph shall be accompanied by a document setting forth in writing the reasons why the payment request is not proper.

By:  Date: 6/29/21
(Signature)

John Hidahl Phone #: 530-621-5650
Chair
COUNTY OF EL DORADO
Board of Supervisors

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

James P. Day Digitally signed by James P. Day
(Signature of DLAE) Date: 2021.07.06 08:54:04 -07'00'
Date: _____

For: BOMASUR BANZON, P.E.
(Print Name of DLAE)

Distribution: (1) Original – DLAE
(2) Signed copy by the DLAE – Local Agency

APPENDIX A

**County of El Dorado, Department of Transportation
DBELO and Support Staff Information**

DBELO

Name: Brian Franklin, PE
Title: DBELO / Office Engineer
Address: 2850 Fairlane Court, Building C
Placerville, California 95667
Phone: 530-621-5311
Email: brian.franklin@edcgov.us

SUPPORT STAFF

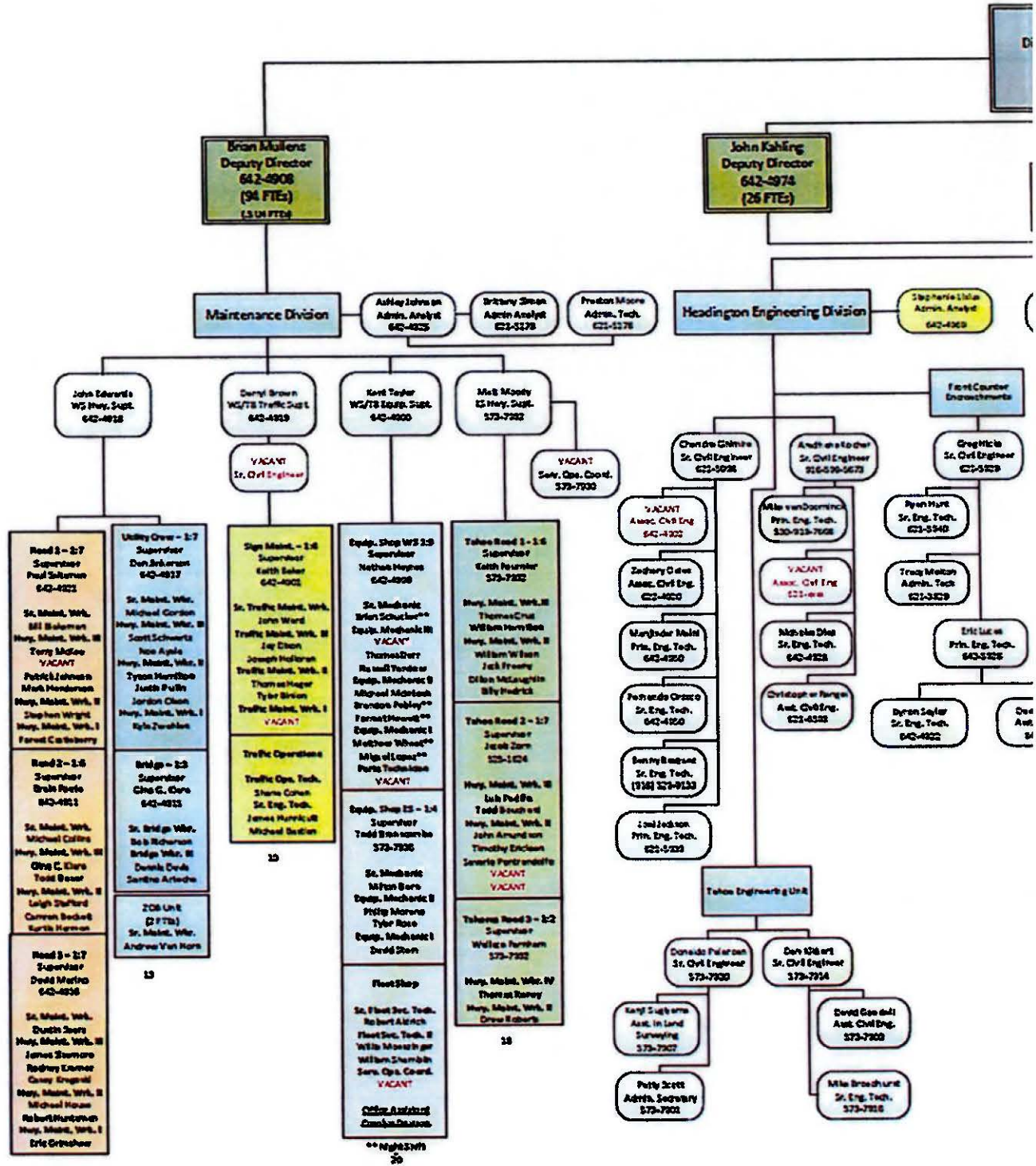
Name: Jen Rimoldi
Title: Assistant Engineer / Office Engineer
Address: 2850 Fairlane Court, Building C
Placerville, California 95667
Phone: 530-621-7592
Email: jennifer.rimoldi@edcgov.us

Name: David Markowski
Title: Assistant Engineer / Office Engineer
Address: 2850 Fairlane Court, Building C
Placerville, California 95667
Phone: 530-621-
Email: david.markowski@edcgov.us

Name: Shanann Findley
Title: Administrative Analyst / Labor Compliance Officer
Address: 2850 Fairlane Court, Building C
Placerville, California 95667
Phone: 530-621-5125
Email: shanann.findley@edcgov.us

Name: Stephanie Lisius
Title: Administrative Analyst / Labor Compliance Officer
Address: 2442 Headington Rd
Placerville, California 95667
Phone: 530-642-4969
Email: stephanie.lisius@edcgov.us

Department





RESOLUTION NO. 076-2021

OF THE BOARD OF SUPERVISORS OF THE COUNTY OF EL DORADO TO APPROVE THE CALIFORNIA DEPARTMENT OF TRANSPORTATION'S DISADVANTAGED BUSINESS ENTERPRISE PROGRAM FOR EL DORADO COUNTY

WHEREAS, on May 5, 2009, per Resolution 088-2009, the Board approved El Dorado County's current Disadvantaged Business Enterprise (DBE) program and authorized the Board Chairman to sign the DBE Implementation Agreement (AGMT 09-52635). The State of California Department of Transportation (Caltrans) provided their approval on May 8, 2009. The El Dorado County Department of Transportation established this program in accordance with regulations of the United States Department of Transportation (US DOT) Title 49, Part 26 of the Code of Federal Regulations; and,

WHEREAS, to receive US DOT Federal funding, including potential emergency funds, the County must have a US DOT approved DBE program; and,

WHEREAS, the US DOT has delegated approval authority for local agency DBE programs to Caltrans; and,

WHEREAS, on September 4, 2020, Caltrans announced that it and its federal transportation assistance subrecipients will implement a revised DBE Implementation Agreement for Local Agencies to better comply with the Code of Federal Regulations (CFR); and,

WHEREAS, this new DBE Implementation Agreement will replace the previous DBE Implementation Agreement previously approved on May 5, 2009.

NOW, THEREFORE, BE IT RESOLVED, that the El Dorado County Board of Supervisors hereby approves the Caltrans DBE program for El Dorado County for projects involving US DOT Federal funding, thus replacing the current DBE program previously approved on May 5, 2009, and authorizes the Board Chairman to sign the DBE Implementation Agreement.

PASSED AND ADOPTED by the Board of Supervisors of the County of El Dorado at a regular meeting of said Board, held the 29th day of June, 2021 by the following vote of said Board:

Ayes: Hidahl, Parlin, Thomas, Turnboo, Novasel
Noes: None
Absent: None

Attest:
Kim Dawson
Clerk of the Board of Supervisors

By: Kim Schaufberger
Deputy Clerk

John Hidahl
Chair, Board of Supervisors
John Hidahl

I CERTIFY THAT:

THE FOREGOING INSTRUMENT IS A CORRECT COPY OF THE ORIGINAL ON FILE IN THIS OFFICE.

Attest: Kim Dawson, Clerk of the Board of Supervisors of the County of El Dorado, State of California.

By: Kim Dawson
Kim Dawson, Clerk of the Board of Supervisors

Date: 7/11/2021

Memorandum

*Making Conservation
a California Way of Life*

To: JAMES DAY
Office of Local Assistance
District 3

Date: September 8, 2020

From: BOMASUR BANZON **BB**
District Local Assistance Engineer
(Chief, Office of Local Assistance)

Subject: **DELEGATION OF AUTHORITY TO JAMES DAY**

This letter formalizes the delegation of authority provided to you as an Associate Transportation Planner in the Office of Local Assistance, District 3.

Pursuant to the rights, duties, and privileges given to me by delegation from the Local Assistance Procedures Manual (LAPM), Local Assistance Program Guidelines (LAPG), and other Division of Local Assistance policies and procedures, I hereby sub-delegate authority to Associate Transportation Planner, James Day, to review and sign on behalf of the District Local Assistance Engineer the following project documents pertaining to local programs project implementation:

- Federal Project Log Sheet, LAPM Exhibit 3-G
- Local Agency Invoice, LAPM-5A
- Preliminary Environmental Study (PES) Form, LAPM Exhibit 6-A
- Field Review Form, LAPM Exhibit 7-B
- **DBE Implementation Agreement, LAPM Exhibit 9-A**
- **Local Agency DBE Annual Submittal Form, LAPM Exhibit 9-B**
- PS&E Checklist, LAPM Exhibit 12-D
- Cover Letter & Federal Report of Expenditures Checklist, LAPM Exhibit 17-A
- Final Inspection Form, LAPM Exhibit 17-C
- Cover Letter & Federal Report of Expenditures Checklist (PE Only), LAPM Exhibit 17-H
- Final Project Expenditure Report, LAPM Exhibit 17-M
- CTC Allocation Request Form
- LP2000 Finance Letter
- Zero DBE Goal Determination Concurrence Letters

James Day is hereby authorized to pursue all necessary activities and approvals involved in the above listed sub-delegations. This sub-delegation shall be exercised personally and shall not be sub-delegated to others.

c: Adam Ambrosini, HQ Area Engineer, Office of Project Implementation - North,
Division of Local Assistance

Exhibit 9-B: Local Agency DBE Annual Submittal Form

TO: CALTRANS DISTRICT 3
District Local Assistance Engineer

The information for Exhibit 9-B presented herein is in accordance with Title 49 of the Code of Federal Regulations (CFR), Part 26, and the State of California Department of Transportation (Caltrans) Disadvantaged Business Enterprise (DBE) Program Plan.

The County of El Dorado submits our annual 9-B information for the Federal Fiscal Year 2021 /2022 , beginning on October 1 and ending on September 30.

Disadvantaged Business Enterprise Liaison Officer (DBELO)

Brian Franklin, P.E., 2850 Fairlane Court, Placerville, CA 95667, Phone (530) 621-5311, Fax (530) 626-0387, brian.franklin@edcgov.us, is designated as the DBELO for the coming Federal Fiscal Year.

Planned Race-neutral Measures

In accordance with 49 CFR 26.51 and Section V of the Caltrans DBE Program Implementation Agreement for Local Agencies, Attachment A attached hereto provides the list of the Race Neutral measures the County of El Dorado plans to implement for the upcoming Federal Fiscal Year.

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 hereto as Attachment B is a listing of the three methods with the selected provision designated with an "X".

Prompt Pay Enforcement Mechanism

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. The following monitoring and enforcement mechanism is in place to ensure that all subcontractors, including DBEs, are promptly paid:

In addition to the penalties, sanctions, and other remedies specified in Section 7108.5 of the Business and Profession Code and Section 10262 of the California Public Contract Code, the County of El Dorado has included a contract clause in the special provisions that requires the prime contractors include in their subcontracts language that prime contractors and subcontractors will use appropriate alternative dispute resolution mechanisms to resolve payment disputes.

Submitted by:

COUNTY OF EL DORADO

By: 

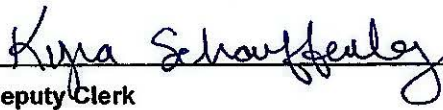
Dated: 6/29/21

Board of Supervisors
"County"

Attest:

Kim Dawson

Clerk of the Board of Supervisors

By: 
Deputy Clerk

Dated: 6/29/21

CALIFORNIA DEPARTMENT OF TRANSPORTATION

Reviewed by Caltrans:

James P. Day

Digitally signed by James P. Day
Date: 2021.07.06 09:03:29 -07'00'

By: _____

Dated: _____

For: **BOMASUR BANZON, P.E.**
District Local Assistance Engineer, District 3

Distribution: (1) Original – DLAE
(2) Signed copy by the DLAE – Local Agency

(Attachment A)**County of El Dorado****Disadvantaged Business Enterprise (DBE) Program****Race Neutral Measures**

County of El Dorado plans to implement the following Race Neutral measures for the upcoming Federal Fiscal Year 2021-2022:

1. Arrange 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. Through the Good Faith Effort requirements included in the County's contracts, provide 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. Ensure compliance with prompt payment specifications by requiring prime contractors to include in their subcontracts language providing that prime contractors and subcontractors will use appropriate alternative dispute resolution mechanisms to resolve payment disputes, and by enforcing the provisions of Section 7108.5 of the Business and Professions Code and Section 10262 of the California Public Contract Code;
4. Track all DBE participation on federally-assisted contracts, including monitoring the Commercially Useful Function of DBEs;
5. Host construction pre-bid meetings, encourage all businesses to attend, and facilitate networking among potential bidders; and
6. Maintain County website describing projects advertised for bids.

(Attachment B)

Prompt Payment of Withheld Funds to Subcontractors

Federal regulation (49 CFR 26.29(b)) 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 (Consultant Contract Option 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 and Section 10262 of the California Public Contract Code for construction contracts, and Section 3321 of the California Civil Code for consultant contracts. 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 (Consultant Contract Option 2):** No retainage will be held by the agency from progress payments due to the prime contractor. Any retainage kept by the prime contractor or by a subcontractor must be paid in full to the earning subcontractor in seven (7) days for construction contracts and fifteen (15) days for consultant contracts 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 and Section 10262 of the California Public Contract Code for construction contracts, and Section 3321 of the California Civil Code for consultant contracts. 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 (All Construction Contracts):** 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 seven (7) days for construction contracts and fifteen (15) days for consultant contracts 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 or subcontractor to the penalties, sanctions, and other remedies specified in Section 7108.5 of the California Business and Professions Code and Section 10262 of the California Public Contract Code for construction contracts, and Section 3321 of the California Civil Code for consultant contracts. 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.



RESOLUTION NO. 077-2021

OF THE BOARD OF SUPERVISORS OF THE COUNTY OF EL DORADO

COUNTY OF EL DORADO LOCAL AGENCY DISADVANTAGED BUSINESS ENTERPRISE (DBE) ANNUAL SUBMITTAL FORM (EXHIBIT 9B) FOR FEDERAL FISCAL YEAR 2021-2022

WHEREAS, on September 4, 2020, California Department of Transportation (Caltrans) updated the Disadvantaged Business Enterprise (DBE) Implementation Agreement for Local Agencies to update format changes, language to include consultants as contractors, revisions to prompt payment of withheld funds to subcontractor clauses, revisions to updated code references, and added Article XVII for prompt payment from Local Agencies to Contractors; and

WHEREAS, on May 6, 2021, Caltrans informed all local agencies that they shall re-execute/resubmit the updated September 2020 DBE Implementation Agreement for Local Agencies (Exhibit 9-A); and

WHEREAS, on June 29, 2021, per Resolution 077-2021, the Board approved and authorized the Board Chair to sign the updated September 2020 DBE Implementation Agreement for Local Agencies (Exhibit 9-A). Caltrans provided its approval on July 6th, 2021. The County of El Dorado Department of Transportation continued federal contract administration under the adopted Caltrans' Program in accordance with regulations of the United States Department of Transportation (US DOT) Title 49, Part 26, of the Code of Federal Regulations; and

WHEREAS, the DBE Program includes both Race-Neutral and Race-Conscious portions along with prompt payment requirements to subcontractors and contractors; and

WHEREAS, the September 2020 DBE Implementation Agreement for Local Agencies requires that local agencies provide to the Caltrans District Local Assistance Engineer a completed Local Agency DBE Annual Submittal Form (Exhibit 9-B) for the Federal Fiscal Year (FFY) 2021-2022, which includes the name, phone number, and electronic mailing address of the designated DBE Liaison Officer; the Race Neutral measures that the local agency intends to implement in that year; and the choice of the Prompt Payment Provision to be used by the County of El Dorado for FFY 2021-2022; and

NOW, THEREFORE, BE IT RESOLVED that the County of El Dorado Board of Supervisors authorizes the Board Chair to sign the Local Agency DBE Annual Submittal Form (Exhibit 9-B) and authorizes the Department of Transportation to submit the Local Agency DBE Annual Submittal Form and it's Resolution 077-2021 for Board adoption to Caltrans.

PASSED AND ADOPTED by the Board of Supervisors of the County of El Dorado at a regular meeting of said Board, held the 29th day of June, 20 21 by the following vote of said Board:

Ayes: Hidahl, Parlin, Novasel, Thomas, Turnbo
Noes: None
Absent: None

Attest:
Kim Dawson
Clerk of the Board of Supervisors

By: [Signature]
Deputy Clerk

[Signature]
Chair, Board of Supervisors
John Hidahl

I CERTIFY THAT:
THE FOREGOING INSTRUMENT IS A CORRECT COPY OF THE ORIGINAL ON FILE IN THIS OFFICE.

Attest: Kim Dawson, Clerk of the Board of Supervisors of the County of El Dorado, State of California.

By: [Signature]
Kim Dawson, Clerk of the Board of Supervisors

Date: 7/11/2021 21-0939 D 1 of 1

Memorandum

*Making Conservation
a California Way of Life*

To: JAMES DAY
Office of Local Assistance
District 3

Date: September 8, 2020

From: BOMASUR BANZON **BB**
District Local Assistance Engineer
(Chief, Office of Local Assistance)

Subject: **DELEGATION OF AUTHORITY TO JAMES DAY**

This letter formalizes the delegation of authority provided to you as an Associate Transportation Planner in the Office of Local Assistance, District 3.

Pursuant to the rights, duties, and privileges given to me by delegation from the Local Assistance Procedures Manual (LAPM), Local Assistance Program Guidelines (LAPG), and other Division of Local Assistance policies and procedures, I hereby sub-delegate authority to Associate Transportation Planner, James Day, to review and sign on behalf of the District Local Assistance Engineer the following project documents pertaining to local programs project implementation:

- Federal Project Log Sheet, LAPM Exhibit 3-G
- Local Agency Invoice, LAPM-5A
- Preliminary Environmental Study (PES) Form, LAPM Exhibit 6-A
- Field Review Form, LAPM Exhibit 7-B
- **DBE Implementation Agreement, LAPM Exhibit 9-A**
- **Local Agency DBE Annual Submittal Form, LAPM Exhibit 9-B**
- PS&E Checklist, LAPM Exhibit 12-D
- Cover Letter & Federal Report of Expenditures Checklist, LAPM Exhibit 17-A
- Final Inspection Form, LAPM Exhibit 17-C
- Cover Letter & Federal Report of Expenditures Checklist (PE Only), LAPM Exhibit 17-H
- Final Project Expenditure Report, LAPM Exhibit 17-M
- CTC Allocation Request Form
- LP2000 Finance Letter
- Zero DBE Goal Determination Concurrence Letters

James Day is hereby authorized to pursue all necessary activities and approvals involved in the above listed sub-delegations. This sub-delegation shall be exercised personally and shall not be sub-delegated to others.

c: Adam Ambrosini, HQ Area Engineer, Office of Project Implementation - North,
Division of Local Assistance