

**CONTRACT TO CONDUCT SPECIAL SERVICES FOR THE
SACRAMENTO METROPOLITAN AIR QUALITY MANAGEMENT DISTRICT**

This Contract is entered between the **Sacramento Metropolitan Air Quality Management District** (District), a California local public agency, and _____ (Contractor).

1.0 Recitals

- 1.1 Under the District's Purchasing Policies, the Air Pollution Control Officer (APCO) may execute non-incentive purchases for an amount not to exceed \$200,000, and establish the term of the contract as deemed necessary to fully deliver the goods and/or perform the services purchased.
- 1.2 Contractor is ready, willing and able to provide the requested services to District as described in the Scope of Services.

2.0 Terms and Conditions

- 2.1 **Scope of Services:** Contractor will perform the services described in Exhibit A, Scope of Services, in accordance with the limits and conditions established in Exhibit A.
- 2.2 **Payments:** District will make the payments outlined in Exhibit B to the Contractor so long as the Contractor is providing the services set forth in Exhibit A.
 - A. **Invoices:** Payment will be made on a reimbursement basis. Contractor will submit one original monthly invoice to District in a District-approved format.
 1. Invoices must include:
 - i. the contract number
 - ii. Taxpayer Identification Number (TIN)
 - iii. Purchase Order Number, if applicable
 - iv. an itemization of Contractor and subcontractor staff costs
 - v. appropriate documentation for all costs and expenses – original receipts (if applicable)
 2. Invoices that do not contain the information required under this section are incomplete and will not be paid until complete information is submitted.
 3. District will authorize payment to Contractor no later than 30 calendar days after receipt of a completed invoice.
 4. Contractor must submit the final invoice within 30 days of the Contract termination date.
 - B. **Invoicing Limitations:** The following restrictions limit District's obligation to pay invoices:
 1. District will reimburse Contractor only for Contractor's approved costs. The Contractor must document these costs through invoices, receipts and other appropriate records. District will not, under any circumstances, reimburse Contractor for any commitments made by Contractor for services not yet performed.
 2. Contractor is solely responsible for payment to all vendors, subcontractors and consultants used in the performance of this Contract. It is not the intent of District and Contractor to create third party beneficiary rights in these entities.
 3. In the event Contractor fails to comply with any material provision of this Contract, District may withhold payment until Contractor has corrected the noncompliance.

4. If this Contract involves media placements, Contractor may not retain commissions on media placements purchased for the benefit of District. At the discretion of District, the value of any commissions will be applied toward the purchase of additional District media placement or discounted from the total bill. Contractor will be paid an hourly rate for media placement services as provided for in this Contract.

2.3 **Contract Term:** The term of this Contract will commence **upon execution of this Contract by all parties** and terminates _____, unless extended by mutual consent of the parties.

2.4 **Applicable Laws/Choice of Law/Venue:** Contractor must observe and comply with all applicable laws and regulations. This Contract is executed in Sacramento County, California and is governed by the laws of the State of California. Any action arising out of this Contract must be filed in a state court or federal court located in Sacramento, California.

2.5 **Status of Contractor:** Contractor is an independent contractor, and no relationship of employer-employee exists between District and Contractor, or Contractor's employees, subcontractors, or consultants. Accordingly, Contractor, its employees, subcontractors and consultants do not have any of the entitlements of a District employee.

A. **Direction and Control:** Contractor is subject to the control and direction of the APCO regarding the designation of tasks to be performed and the results to be accomplished under this Contract, but not the means, methods, or sequence used by Contractor for accomplishing the tasks and results.

B. **Direction of Third Parties:** If the Contractor employs any third persons, these persons will be under the exclusive control of Contractor. All terms of employment, including but not limited to hours, wages, working conditions, discipline, hiring, and discharging will be determined by Contractor.

C. **Right to Bind:** Neither the Contractor nor its employees, subcontractors or consultants have the right to act on behalf of District in any capacity, or to bind District to any obligation, and may not represent to any person that they have such authority.

D. **Taxes:** District will not make any deductions or withholdings from the compensation paid to Contractor. Contractor must issue all forms required by federal and state laws for income and employment tax purposes for all of Contractor's assigned personnel.

2.6 **Conflict of Interest:** No officer or employee of District has any pecuniary interest, direct or indirect, in this Contract or the proceeds of the Contract. No officer or employee of Contractor may serve on District's governing body or hold any District position which nominates, recommends, supervises or authorizes payment to Contractor.

2.7 **Form 700:** _____ Check if District has determined that this paragraph applies to Contractor.

Section 18730 of Title 2 of the California Code of Regulations (CCR), a regulation of the Fair Political Practices Commission (FPPC) requires that all persons that make, influence or participate in the award of contracts file a FPPC Form 700 with the Sacramento County Clerk's office through the contract period and that, when the contract period ends, that the persons file statements within 30 days after leaving office. District has identified the following as designated filers: _____.

Copies of the required forms may be found at www.fppc.ca.gov. It is the Contractors sole responsibility to insure compliance with Section 18730. District will notify the County Clerk that the persons identified above have been added to our list of designated filers, and the County Clerk will send notices to the affected persons when annual statements are due. Contractor must provide its own contact information and not that of District so that it receives the notices directly. The FPPC sets fines of \$10 per day up to a maximum of \$100 for failure to promptly file the forms, including Leaving Office forms. Persons

who fail to timely file their Form 700 may be referred to the FPPC's enforcement division (and in some cases to the Attorney General or district attorney) for investigation and possible prosecution. In addition to the late filing penalties, a fine up to \$5,000 per violation may be imposed.

2.8 **Nondiscrimination:**

A. **Requirements:** Contractor must not discriminate based on:

1. Color, race, creed, national origin, religion, sex, age, or physical or mental handicap in violation of Title VI of the Civil Rights Act of 1964 (42 U.S.C. Section 2000d) and the Americans with Disability Act of 1990 (42 U.S.C. Section 12101, et seq.) and their implementing regulations, or in violation of any other state or federal law;
2. Sexual orientation as determined by federal, state, or local laws and regulations.

B. **Prohibited Discrimination:** Prohibited discrimination under this Contract means disparate treatment on the basis of race, color, creed, national origin or sexual orientation. Discrimination includes, but is not limited to:

1. Denying persons any service or benefit which is different, or is provided in a different manner or at a different time from that provided to other participants under this Contract;
2. Subjecting persons to segregation or separate treatment in any matter related to the receipt of services;
3. Restricting persons in any way from the enjoyment of any advantage or privilege enjoyed by others under this Contract;
4. Treating persons differently from others in determining whether they satisfy any admission, enrollment quota, eligibility, membership, or other requirement that individuals must meet in order to be provided any service or benefit under this Contract;
5. Assigning times or places for the provision of services on the basis of race, color, creed, national origin or sexual orientation of the persons to be served.

2.9 **Indemnification:**

A. **Scope:** Contractor will indemnify and defend District, its officers, agents, and employees from any and all liabilities of any kind that arise from any negligent or wrongful acts or omissions of Contractor in his/her performance of this Contract. District will indemnify and defend Contractor, its board, officers, agents, and employees, from any and all liabilities of any kind that arise from any negligent or wrongful acts or omissions of District in its performance of this Contract.

B. **Counsel:** Contractor will use counsel reasonably acceptable to District in carrying out its obligations under this section. The provisions of this section will survive the expiration or early termination of this Contract.

2.10 **Waiver of Claims:** Contractor waives any claims against District, its officers, agents, employees or volunteers from damage or loss caused by:

A. Any suit or proceeding directly or indirectly attacking the validity of this Contract, or any part of this Contract.

- B. Any judgment or award: (i) declaring this Contract, or any part of this Contract, either void or voidable, or (ii) delaying the performance of any part of this Contract.

2.11 **Insurance:**

- A. **Insurance Requirement:** Contractor will maintain insurance to cover its operations throughout this Contract and any Contract extensions.
1. The insurance must meet the requirements in Exhibit C.
 2. Any insurance or self-insurance maintained by District will apply in excess of, and not contribute to, insurance maintained by Contractor.
 3. Contractor will give District 30-days written notice prior to canceling or modifying the insurance obtained under this section. District may object to the cancellation or modification within 15 days of receiving the notice. If District objects, it may demand the relief specified in paragraph 2.17 (B).
 4. This section does not limit Contractor's indemnification obligation in Section 2.9.
- B. **Involuntary Policy Modifications:** If Contractor's insurer modifies its insurance in any manner that affects the specifications in Exhibit C, Contractor must notify District within 96 hours of the modification. District may demand that Contractor obtain additional coverage sufficient to comply with the specifications in Exhibit C, or may terminate this Contract as provided in section 2.17 (B).

- 2.12 **Assignments:** No performance required or payment due under this Contract may be subcontracted, delegated or assigned without the express written consent of District.

- 2.13 **Subcontracts:** If the Contractor submitted the name of a subcontractor in the proposal or application for this Contract, District's approval of the Contract is also an approval of the use of the named subcontractor.

In the event that any part of this Contract is subcontracted, Contractor agrees to document the following affirmative steps for utilizing Minority Business Enterprises (MBE) or Women Owned Business Enterprises (WBE) as required by the Environmental Protection Agency:

- A. Inclusion of MBEs and WBEs on solicitation lists.
- B. Assure MBEs and WBEs are solicited once they are identified.
- C. Where feasible, divide total requirements into smaller tasks to permit maximum MBE/WBE participation.
- D. Where feasible, establish delivery schedules which will encourage MBE and WBE participation.
- E. Encourage use of the services of the U.S. Department of Commerce's Minority Business Development Agency (MBDA) and the U.S. Small Business Administration to identify MBEs and WBEs.

- 2.14 **Successors:** This Contract will bind the successors of District and Contractor in the same manner as if they were expressly named.

- 2.15 **Alteration:** No alteration or variation of the terms of this Contract is valid unless made in writing and signed by both parties.

2.16 **Recordkeeping:**

- A. **Records:** Contractor will maintain all necessary records, books and accounts to verify that the Contract funds are used only for the purposes stated in this Contract.

- B. **Audits:** District may audit all expenditures made by the Contractor under this Contract. Contractor must ensure that District staff have access, at all reasonable times, to the documents kept by Contractor in connection with all funds expended under this Contract.
- C. **Duration:** Contractor must maintain these documents for 5 years after the termination of this Contract and any Contract extensions. At the end of the 5-year period, Contractor must either continue to maintain the documents or surrender the documents to District – unless the APCO states, in writing, that Contractor may destroy documents.

2.17 Termination:

- A. **30-day Notice Termination:** Either District or Contractor may terminate this contract for any reason by giving the other party 30-days written notice. If this contract is terminated under this paragraph, District may proceed with the work in any manner deemed proper by District without recourse by Contractor, its officers, agents, employees or volunteers. Contractor will be paid for work performed up to the termination date.
- B. **5-day Notice Termination:** District, through its APCO, may terminate this Contract with 5 days written notice if Contractor fails to perform any of the terms and conditions of this Contract in the time and manner specified. If the Contract is terminated under this paragraph, District may proceed with the work in any manner deemed proper by District without recourse by Contractor, its officers, agents, employees or volunteers.
- C. **Immediate Termination:** District, through its APCO, may terminate or amend this Contract without prior notice if advised that funds are not available for this Contract or any portion of this Contract, or if funds are not specifically appropriated for this Contract in District's final budget for the term of this Contract and any extensions to the Contract. If District terminates or amends this Contract under this paragraph, District must serve notice of the action on the Contractor within two (2) working days.
- D. **Subcontractor Termination:** District may require Contractor to immediately terminate any subcontractor if District, at its sole discretion, determines the subcontractor is unacceptable.

2.18 Rights to Contracted Products:

- A. All reports, research data, and every other work product of any kind or character arising from or relating to this Contract are the exclusive property of District. District may use these work products for any purpose whatsoever and has the sole right to the copyright or trademark for these work products. Release of these work products in any form requires the prior written consent of District.
- B. Without limiting the foregoing, any intellectual property, including, but not limited to all material, information, data, methodologies, know-how and documents, of Contractor existing prior to date of work authorization, which Contractor incorporates or intend to incorporate into any work product delivered under any work authorization, must be disclosed in the work authorization in order to prevent the transfer of any rights to such intellectual property to District.

2.19 Disputes:

- A. **APCO Decision:** Any dispute under this Contract will be settled in a written decision by the APCO. The APCO must mail a copy of the decision to Contractor. Contractor is not excused from performance of this Contract while the APCO's decision is pending.

- B. **Finality of the Decision and Exceptions:** The APCO's decision is final unless Contractor files a written appeal with the District Board of Directors within 30 days from the date of the APCO's decision. Any appeal must detail the basis of the appeal and contain copies of all documentation supporting Contractor's position.
- C. **Appeals:** The District Board will hear the appeal at a public Board meeting. The Contractor may present testimony and evidence supporting its position at the meeting. Contractor and District will perform all duties and obligations in accordance with the APCO's decision pending final Board action. The decision of the Board is a final agency action and may be judicially appealed.
- 2.20 **Waiver of Contract Provisions:** Failure of either Party to take advantage of any default or breach of covenant on the part of the other Party is not, and will not be construed to be a waiver thereof. A waiver of a particular breach, or default, will not be deemed to be a waiver of any other subsequent breach or default. No waiver will be effective unless it is in writing and signed by the waiving Party.
- 2.21 **Time:** Time is of the essence with respect to attainment of the timely performance of tasks associated with this Contract.
- 2.22 **Severability:** If any provision of this Contract is held invalid or unenforceable, its invalidity or unenforceability will not affect any other provisions of this Contract, and this Contract will be construed and enforced as if such provision had not been included.
- 2.23 **Payments that contravene the law:** District has no liability for payments that are found to contravene the law. Contractor will reimburse District for any payments made by District to Contractor and later determined to contravene federal, state or local laws and regulations.
- 2.24 **Contingency Clause:** This contract is subject to any contingency clauses stated in Exhibit B – Payment Terms and Conditions.
- 2.25 **Special Provisions – Congestion Management and Air Quality (CMAQ) Funds:**
- A. **Applicability:** _____ (District staff to initial if CMAQ funds will be used.) This section applies only if the Contractor will receive CMAQ funds. Inclusion of this section is a requirement of the District Disadvantaged Business Enterprise (DBE) Program for CMAQ-funded projects. See Contract, Exhibit D.
- The District encourages the participation of DBEs as defined in Title 49, Code of Federal Regulations part 26 (49 CFR 26) in the performance of contracts financed in whole or in part with Federal Funds.
- B. **Provisions:** If this project is funded by federal funds, this project is subject to 49 CFR 26 entitled "Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs." If all or some of the funds paid to Contractor are CMAQ funds, the following additional contract terms apply:
1. **Subcontractor Payments:** The Contractor will pay each subcontractor for satisfactory performance no later than 10 days from the receipt of each payment the Contractor receives from District. Any delay or postponement of payment from this time frame may occur only for good cause following written approval of District. This paragraph applies to both Disadvantaged Business Enterprises (DBE) and nonDBE subcontractors.
 2. **Retainage Releases:** The Contractor will release retainage payments to each subcontractor within 30 days after the subcontractor's work is satisfactorily completed. Any delay or postponement of payment from this time frame may occur only for good

cause following written approval of District. This paragraph applies to both Disadvantaged Business Enterprises (DBE) and nonDBE subcontractors.

3. **Nondiscrimination:** The Contractor or subcontractor will not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The Contractor will carry out applicable requirements of 49 CFR part 26 in the award and administration of Department of Transportation 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 District deems appropriate. If there is a conflict between the provisions of this paragraph and section 2.4, this paragraph will control.

2.26 **Headings:** The headings of the various sections of this Contract are intended solely for convenience of reference and are not intended to explain, modify, or place any interpretation upon any of the provisions of this Contract.

2.27 **Counterparts:** This Contract may be executed in multiple counterparts, each of which will constitute an original, and all of which taken together will constitute one and the same instrument. Signatures transmitted via facsimile or portable document format (pdf) to other Parties to this Contract will be deemed equivalent to original signatures on counterparts.

2.28 **Amendments Required by Federal, State or Local/Regional Agencies:** If the FTA, FHWA, Caltrans, EPA, ARB, SACOG or any other federal or state agency having jurisdiction, requires a change to the terms of this Contract, the parties will amend this Contract as necessary, or will terminate it with 30 days notice.

2.29 **Entire Agreement:** This Contract constitutes the entire agreement between District and Contractor. Both parties revoke all prior or contemporaneous oral or written agreements between them that are inconsistent with this Contract. In the event of a dispute between the parties regarding the Contract, this Contract will be deemed to have been drafted by the parties in equal parts so that no presumptions or inferences concerning its terms or interpretation may be construed against any party to this Contract. This Contract includes the following documents, which are incorporated as though fully set forth herein:

- A. Exhibit A – Scope of Services
- B. Exhibit B – Payment Terms and Conditions
- C. Exhibit C – Insurance Requirements
- D. Exhibit D – DBE Requirements

2.30 **Communications:** Any communication between the parties that is required under the provisions of this Contract must be in writing, and be either: (i) personally delivered, (ii) sent by prepaid, certified first class mail, return receipt requested, or (iii) sent by electronic mail (provided confirmation of delivery is confirmed via a read receipt). Communications must be addressed to the parties as follows:

To Contractor	To District
Name	Contract Manager
Company	Title
Address	Sacramento Metropolitan Air Quality
Phone:	Management District
Email:	777 12 th Street, Third Floor
	Sacramento, CA 95814-1908
	Phone:
	Email:

A. **Change of Address:** Either party may change the address for service by giving 15 days advance written notice to the other party.

B. **Effective Date:** All notices will be effective upon receipt and will be deemed received: (i) upon delivery, if personally delivered, (ii) on the 5th day following deposit in the mail, if sent by certified mail, or (iii) upon the date stated in the electronic mail delivery confirmation, if sent by electronic mail.

2.31 **Contract Manager:** _____ is District’s named Contract Manager for this Contract. It is the responsibility of the Contract Manager to: 1) verify compliance with the terms and conditions of the contract, 2) determine that the work has been completed, 3) ensure that funding is available to pay approved invoices, and 4) approve all invoices under the Contract. The APCO may redesignate a new Contract Manager.

2.32 **Authority to Bind:** The persons signing on behalf of the parties to this Contract warrant that they have the legal authority to execute the Contract.

Executed by:

**Sacramento Metropolitan Air
Quality Management District**

Company Name

Alberto Ayala, Ph.D., M.S.E.
Executive Director/ Air Pollution Control Officer

Name
Title

Date: _____

Date: _____

Reviewed by:

Kathrine Pittard
District Counsel

**Exhibit A
Scope of Services**

Contractor will perform the following tasks:

SAMPLE

Exhibit B
Payment Terms and Conditions

1. Contractor must perform and complete all work required under this Contract in a professional manner and in accordance with the professional standards observed by competent practitioners of the profession in which Contractor, its subcontractors and agents, are engaged.
2. The APCO has the sole discretion to determine whether Contractor has successfully completed the tasks.
3. It is understood by Contractor that \$_____ is the maximum amount budgeted for this Contract. It is the responsibility of the Contractor to successfully complete the requested services as outlined in Exhibit A, and acquisition of materials and supplies, while remaining within the approved budget.
4. Payment will be made on a reimbursement basis. Monthly Invoices must include the contract number, Taxpayer Identification Number (TIN), Purchase Order Number, date of service, description of service or meeting topics, number of hours, and the total cost.
5. Contractor will not be paid for travel and expenses under this Contract
6. Section 2.2 of this Contract contains additional reporting and fiscal requirements.
7. Other Direct Costs and Expenses:
 - A. Acceptable Fees**
 - i. District will pay Contractor the labor rates listed under Table _.
 - ii. District will only pay for actual time spent completing an authorized task, with the time rounded to the nearest fifteen-minute increment.
 - B. Unacceptable Fees** – The District will not pay fees associated with the following:
 - i. Preparing bills and invoices
 - ii. Improper staffing assignments (e.g., specialized personnel performing routine research tasks).
 - iii. Employee courier services in excess of \$10.00 per delivery
 - iv. Staff overtime
 - v. Arranging travel/accommodations
 - C. Expenses**
 - i. Itemization: The District requires expenses to be itemized by date incurred and by category (e.g., photocopy, long distance telephone, parking).
 - ii. Detail: Each expense item must be adequately detailed so as to enable the District to determine the exact nature, purpose and necessity of the expense.
 - iii. Payment: All routine expenses should be paid directly by the Contractor and billed to the District as disbursements. **Original** receipts must be attached to the invoice.
 - iv. Travel (If applicable): Travel reimbursement will be consistent with the District Travel Policy.
 - D. Non-Reimbursable Costs** - District will not reimburse the Contractor for costs associated with the following:
 - i. Other: Costs of personnel associated with making travel arrangements, general clerical support, or "overhead" costs, such as rent or utilities.
 - ii. Markup: The District will not reimburse the Contractor a "markup" percentage associated with the purchase of products on District's behalf from outside vendors.

Exhibit C Insurance Requirements

Without limiting Contractor's indemnification, Contractor will procure and maintain for the duration of the contract, insurance against claims for injuries or persons or damages to property which may arise from or in connection with the performance of the work hereunder by the Contractor, his agents, representatives or employees. District will retain the right at any time to review the coverage, form, and amount of the insurance required hereby. If, in the opinion of the District's Liability & Property Insurance Office, the insurance provisions in these requirements do not provide adequate protection for District and for members of the public, District may require Contractor to obtain insurance sufficient in coverage, form and amount to provide adequate protection. District's requirement must be reasonable but will be imposed to assure protection from and against the kind and extent of risks that exist at the time a change in insurance is required.

Verification of Coverage

Contractor will furnish District with certificates evidencing coverage required above. Certified copies of required endorsements must be attached to provided certificates. All certificates are to be received and approved by District before work commences. District reserves the right to require that Contractor provide complete, certified copies of any policy of insurance offered in compliance with these specifications. As an alternative to insurance certificates, the Contractor's insurer may voluntarily provide complete, certified copies of all required insurance policies, including endorsements, affecting the coverage required by these specifications.

Minimum Limits of Insurance

Contractor will maintain limits no less than:

1. **General Liability:** \$1,000,000 per occurrence for bodily injury, personal injury and property damage. If Commercial General Liability Insurance or other form with a general aggregate limit is used, either the general aggregate limit will apply separately to this project/location or the general aggregate limit will be twice the required occurrence limit.
2. **Automobile Liability:** \$1,000,000 per accident for bodily injury and property damage.
3. **Workers' Compensation:** Statutory
4. **Employer's Liability:** \$1,000,000 per accident for bodily injury or disease.

Deductible and Self-Insured Retention

Any deductibles or self-insured retention must be declared to and approved by District. At the option of District, either: the insurer will reduce or eliminate such deductibles or self-insured retention as respects District, its officers, officials, employees and volunteers; or the Contractor will procure a bond guaranteeing payment of losses and related investigations, claim administration and defense expenses.

Other Insurance Provisions

The general liability and automobile liability policies are to contain, or be endorsed to contain, the following provisions:

1. District, its officers, officials, employees, agents and volunteers are to be covered as additional insureds as respects: liability arising out of activities performed by or on behalf of the Contractor; products and completed operations of the Contractor; or premises owned, occupied, or used by the Contractor; or automobiles owned, leased, hired or borrowed by the Contractor. The coverage may not contain special limitations on the scope of protection afforded to District, its officers, officials, employees, agents or volunteers.
2. For any claims related to this project, the Contractor's insurance coverage will be primary insurance as respects District, its officers, officials, employees, agents and volunteers. Any insurance or self-

insurance maintained by District, its officers, officials, employees, agents or volunteers will be excess of the Contractor's insurance and will not contribute to it.

3. Any failure to comply with reporting or other provisions of the policies including breaches of warranties will not affect coverage provided to District, its officers, official, employees, agents or volunteers.
4. The Contractor's insurance will apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

Acceptability of Insurers

Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A:VII. District may waive or alter this requirement, or accept self-insurance in lieu of any required policy of insurance if, in the opinion of the Claims Manager (Special District Risk Management Authority) or District Counsel, the interests of District and the general public are adequately protected.

SAMPLE

Exhibit D
Disadvantaged Business Enterprises Requirements

I. DBE Participation Information
(Contractor must check Option 1 or Option 2 below)

_____ Option 1 – No certified DBE participation proposed under this Contract.

_____ Option 2 – It is proposed that the following DBE(s) be used on this Contract.

Name of Certified DBE	DBE Certification No.
DBE Address	DBE Telephone No.
	DBE E-Mail Address
Capacity of DBE (e.g., contractor, subcontractor, vendor)	\$ Amount DBE Participation
Description of services or material to be provided by DBE	
Submitted By:	
Signature	Date
Print Name and Title	
Name of Contractor, if different than signatory	

II. Identifying DBEs

Contractors shall be fully informed with respect to the requirements of the DBE Regulations. The DBE Regulations in their entirety are incorporated herein by this reference. The regulations include the following information:

- A. A DBE must be a small business concern as defined pursuant to Section 3 of U.S. Small Business Act and relevant regulations promulgated pursuant thereto.
- B. A DBE may participate as a prime contractor, subcontractor, joint venture partner with a prime or subcontractor, vendor of material or supplies or as a trucking company.
- C. 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 contributions, control, managements, risks and profits of the joint venture commensurate with its ownership interest.
- D. A DBE must perform a commercially useful function, i.e., must be responsible for the execution of a district element of the work and must carry out its responsibility by actually performing, managing and supervising the work.
- E. DBEs must be certified by the California Unified Certification Program (CUCP).

Listings of DBEs certified by the CUCP are available from the following sources:

- 1) The Caltran's "Civil Rights" web site at: <http://www.dot.ca.gov/hq/bep>.
 - 2) The Caltran's DBE Directory. This Directory may be obtained from the Department of Transportation, Materiel Operations Branch, Publication Distribution Unit, 1900 Royal Oaks Drive, Sacramento, California 95815, Telephone: (916) 445-3520.
- F. When Reporting DBE participation, contractors may count the cost of materials or supplies purchased from DBEs as follows:
- 1) If the materials or supplies are obtained from a DBE manufacturer, 100 percent of the cost of the materials or supplies will count toward 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 contract and of the general character described by the specifications.
 - 2) If the materials or supplies are 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 contract 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 as provided in this paragraph F.2. if the person 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 on an ad hoc or contract-by-contract basis. Packagers, brokers, manufacturers' representatives, or other persons who arrange or expedite transactions are not DBE regular dealers within the meaning of this paragraph F.2.
 - 3) If the DBE is neither a manufacturer nor a regular dealer, count only 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 a job site, provided the fees are reasonable and not excessive as compared with fees charged for similar services.
- G. Contractors are encouraged to use services offered by financial institutions owned and controlled by DBEs.