



METROPOLITAN
TRANSPORTATION
COMMISSION

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Memorandum

TO: Administration Committee

DATE: October 7, 2015

FR: Executive Director

W.I. 1150

RE: MTC Resolution No. 4203 – Small Business Enterprise (SBE) Construction Project Program

This memo requests the Committee refer MTC Resolution No. 4203, Construction Project Small Business Enterprise (SBE) Program, to the Commission for approval. Similar SBE programs were adopted by the Bay Area Toll Authority and the Bay Area Infrastructure Authority in September.

Background

In an effort to increase competition on MTC construction projects, promote SBE firm participation on MTC construction contracts, and increase SBE construction contracting opportunities with MTC, staff has developed a proposed Construction Project SBE Program (“Program”).

There are a variety of programs giving certain types of contractor preference in place in the region. The types of programs and preferences vary greatly throughout the region and are applied based on requirements for size (SBE programs), ownership (Disadvantaged Business Enterprise (DBE) programs), or location (Local Business Enterprise (LBE) programs).

Since MTC is a regional agency and many of MTC’s construction projects are state and locally funded, it was determined that a SBE Program was most appropriate for MTC as it intended to:

1. Increase the number of certified SBEs competing for MTC’s construction projects and increase overall competition on these projects, potentially allowing for the completion of projects at a lower overall cost;
2. Ensure that only firms (prime or subcontractor) that are certified by the State of California as SBEs per the requirements listed at <http://www.dgs.ca.gov/pd/Programs/OSDS/SBEligibilityBenefits.aspx> (see Attachment A) are eligible for the bid preference allowed under the Program; and
3. Help remove barriers to the participation of SBEs in MTC’s construction contracts.

DBE and SBE Outreach

Staff works with other transportation partner agencies as the Business Outreach Committee (BOC) to implement race-neutral measures to increase SBE and DBE participation in contracting. The BOC provides business outreach, networking events with prime contractors and agency procurement officers, a quarterly newsletter that includes upcoming procurement opportunities, and direct referral of SBEs and DBEs to prime contractors.

Recent events hosted by the BOC and MTC were the “Meet the Buyers” event on March 25th, and the “Why Get Certified” webinar in July 2015. Staff also participated in the Caltrans District 4 Quarterly Professional Liaison and Cal-Mentor Program meeting and networking events on May 5th and July 23rd, and in the Northern California Construction Management Association of America (CMAA) Owners’ Night on July 15th. The most recent newsletters and flyers for the outreach events staff planned and participated in are included in Attachment B.

DBE and SBE Monitoring

Staff has implemented contract compliance software that will facilitate monitoring and reporting of SBE/DBE utilization for all agency contracts regardless of fund type. The software will facilitate automated workflows to reduce the manual paper processing currently in place. In addition to the current practice of noting SBE/DBE status on committee memoranda, staff will include SBE/DBE utilization information in all committee memoranda requesting contract approval or additional funding for contract amendments after the compliance software is fully implemented. This will allow Commissioners to be better informed of SBE/DBE participation on all agency contracts.

SBE Program

The Program, attached as Attachment C, includes:

- Designation of a SBE Liaison Officer (SBELO), who will be Mamie Lai of MTC staff;
- A requirement for State of California Department of General Services (DGS) SBE certification;
- A SBE preference of 5% in the form of a bid discount, when the bidder meeting specifications is a certified SBE and is performing 40% of the work **or** a SBE preference of 5% when a non-SBE prime contractor subcontracts with a SBE firm or firms for 40% of the work;
- A requirement that SBE subcontractors not be removed or replaced, unless prior written concurrence of SBE substitution is provided by the SBELO; and
- A compliance component that requires monitoring and refinement of these initiatives.

Staff reviewed the Santa Clara Valley Transportation Authority (VTA), the City of Oakland, and San Francisco Bay Area Rapid Transit (BART) SBE programs to assist in the development of this Program.

Recommendation

Staff recommends that the Committee refer MTC Resolution No. 4203, Construction Project Small Business Enterprise (SBE) Program, to the Commission for approval.



Steve Heminger

Attachments

J:\COMMITTEE\Administration\2015 by Month\10_October 2015\4d_SBE Memo.docx

Attachment A



Procurement Division

[Programs & Services \(http://www.dgs.ca.gov/pd/Programs.aspx\)](http://www.dgs.ca.gov/pd/Programs.aspx) > [Office of Small Business & Disabled Veteran Business Enterprise Services \(OSDS\) \(http://www.dgs.ca.gov/pd/Programs/OSDS.aspx\)](http://www.dgs.ca.gov/pd/Programs/OSDS.aspx) > [Small Business Certification Eligibility Requirements & Benefits \(http://www.dgs.ca.gov/pd/Programs/OSDS/SBEligibilityBenefits.aspx\)](http://www.dgs.ca.gov/pd/Programs/OSDS/SBEligibilityBenefits.aspx)

Small Business Eligibility Requirements

In order for a small business to be eligible for certification, the small business must meet the following requirements:

- Be independently owned and operated;
- Not dominant in field of operation;
- Principal office located in California;
- Owners (officers, if a corporation) domiciled in California; and,
- Including affiliates, be either,
 - A business with 100 or fewer employees; an average annual gross receipts of \$14 million or less, over the last three tax years;
 - A manufacturer* with 100 or fewer employees; or,
 - A microbusiness. A small business will automatically be designated as a microbusiness, if gross annual receipts are less than \$3,500,000; or the small business is a manufacturer with 25 or fewer employees.

* For Small Business Certification purposes, a manufacturer is a business that is both of the following:

1. Primarily engaged in the chemical or mechanical transformation of raw materials or processed substances into new products.
2. Classified between Codes 31 to 339999, inclusive, of the North American Industrial Classification System (NAICS) Manual, published by the United States Census Bureau, 2007 edition.

Small Business Certification Benefits

Upon meeting the Small Business Certification eligibility requirements, certified small business (SBs) and microbusinesses (MBs) are entitled to the following benefits:

- A five percent (5%) bid preference on applicable State solicitations;
- As a certified small business/microbusiness, you are eligible for the State's Small Business Participation Program. This program sets a goal for the use of small businesses in at least 25% of the State's overall annual contract dollars;
- Under the Prompt Payment Act, the State must pay a certified SB / MB higher interest penalties for late payment of an undisputed invoice. Prompt payment penalties for construction firms are addressed separately under Public Contract Code, Section 10261.5);
- State agencies may use a streamlined process, known as the SB/DVBE Option, by contracting directly with a California certified small business/microbusiness for goods, services, information technology and Public Works projects. The solicitation must be valued at more than \$5,000 and the State agency must obtain price quotes from at least two California certified small business/microbusiness;

Effective January 1, 2010, the maximum thresholds are:

Goods, Services, or Information Technology - \$249,999.99

Public Works - \$250,000

Effective January 12, 2012, the maximum thresholds are:

Goods, Services, or Information Technology - \$249,999.99

Public Works - \$281,000 (Effective 1/30/14: BL 14-01)

- The DGS-PD charges State and local agencies an administrative fee, when contracting with a California Multiple Award Schedules

Attachment A

(CMAS) vendor. As an incentive, the fee is waived, if the CMAS vendor is a certified small business/microbusiness;

- As an incentive, a non-small business prime contractor, who uses certified small business/microbusiness subcontractors for at least 25% of its net bid price, is eligible for a bid preference of five percent (5%) of the lowest responsible bid, when competing against another non-small business; and, When applying bidder preferences, in which non-small business bidders may be eligible, certified small business/microbusiness bidders have precedence over non-small business bidders.

NOTE: Small business/microbusiness bids cannot be displaced by non-small business/microbusiness bids, when applying any applicable lawful preferences.

If you have any questions regarding the Small Business Certification eligibility requirements and benefits, please contact OSDS Help at (916) 375-4940 or by [email \(mailto:OSDSHelp@dgs.ca.gov\)](mailto:OSDSHelp@dgs.ca.gov).

What's New

- [How to do Business with the State Webinars ... \(/pd/NewsEvents.aspx#1079\)](/pd/NewsEvents.aspx#1079)
- [Release of Cloud Computing Special Provisions for ... \(/pd/NewsEvents.aspx#1040\)](/pd/NewsEvents.aspx#1040)
- [Small Business & DVBE Outreach Events 2015 ... \(/pd/NewsEvents.aspx#856\)](/pd/NewsEvents.aspx#856)

[View All news and events items \(/pd/NewsEvents.aspx\)](/pd/NewsEvents.aspx)

PD Quick Links

- [Notice of Rulemaking \(/pd/Programs/OSDS/NoticeofRulemaking.aspx\)](/pd/Programs/OSDS/NoticeofRulemaking.aspx)
- [SB/DVBE Legislation & Executive Orders \(/pd/Programs/OSDS/legislation.aspx\)](/pd/Programs/OSDS/legislation.aspx)
- [Broadcast Bulletins \(/pd/Resources/BroadcastBulletins.aspx\)](/pd/Resources/BroadcastBulletins.aspx)
- [Communications & Outreach \(/pd/Programs/OSDS/CommunicationsOutreach.aspx\)](/pd/Programs/OSDS/CommunicationsOutreach.aspx)
- [RESD Small Business and DVBE Outreach Program \(/resd/RESDSBDVBEOutreach.aspx\)](/resd/RESDSBDVBEOutreach.aspx)
- [SB/DVBE Reports \(/pd/Programs/OSDS/ContractReporting.aspx\)](/pd/Programs/OSDS/ContractReporting.aspx)
- [eProcurement \(/pd/Programs/eprocure.aspx\)](/pd/Programs/eprocure.aspx)
- [Prompt Payment \(/pd/Programs/OSDS/PromptPayment.aspx\)](/pd/Programs/OSDS/PromptPayment.aspx)
- [DVBE Substitution Instructions and Form \(http://www.documents.dgs.ca.gov/pd/delegations/pac011910_DVBE.pdf\)](http://www.documents.dgs.ca.gov/pd/delegations/pac011910_DVBE.pdf)
- [How to Establish Disabled Veteran Business Enterprise \(DVBE\) Equipment Ownership for **New Certifications** \(http://www.documents.dgs.ca.gov/pd/smallbus/DVBE_Equipment_Ownership_Requirements-New.pdf\)](http://www.documents.dgs.ca.gov/pd/smallbus/DVBE_Equipment_Ownership_Requirements-New.pdf)
- [How to Establish Disabled Veteran Business Enterprise \(DVBE\) Equipment Ownership for **Renewal Certifications** \(http://www.documents.dgs.ca.gov/pd/smallbus/DVBE_Equipment_Ownership_Requirements-Renewal.pdf\)](http://www.documents.dgs.ca.gov/pd/smallbus/DVBE_Equipment_Ownership_Requirements-Renewal.pdf)

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Professional Liaison

NEW DATE: FEBRUARY 24, 2015

Enhancing the growth potential of small business

What: Caltrans District 4 Jt. Professional Liaison — Calmentor Program Quarterly Meeting

When: February 24, 2015, 1:00 p.m. to 3:00 p.m.

Where: Caltrans District 4 Office, 111 Grand Avenue, 15th Floor, Park View Room, Oakland.

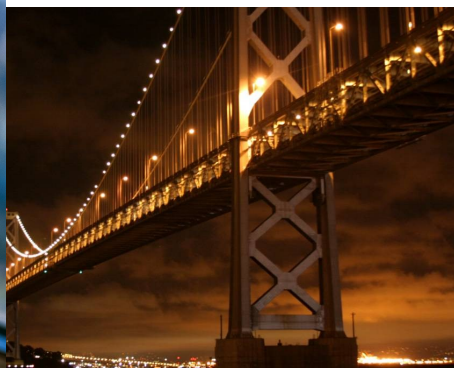
Meeting Agenda

- ⇒ Caltrans Look Ahead
- ⇒ Local Public Agency Updates
- ⇒ Presentation on California High Speed Rail Project
- ⇒ Protégé Firm 5-Minute Marketing Pitches
- ⇒ Formal Networking Session with Senior Public Transportation Agency Managers, Mentor Firms & Protégé Firms

The Joint Professional Liaison—Calmentor Program Quarterly Meeting facilitates networking opportunities with senior public transportation agency managers.

Register online today:

<http://goo.gl/forms/HyKe4gi1Xf>





Attachment B

**CALTRANS DISTRICT 4 OFFICE
JOINT PROFESSIONAL LIAISON-CALMENTOR PROGRAM
QUARTERLY MEETING**

AGENDA

Thursday, February 24, 2015
1:00 p.m. - 3:00 p.m.
Park View Room, 15th Floor, 15-700
111 Grand Avenue, Oakland, California

Item	Topics	Presenter(s)
1	Welcome and Introductions (5 min.) • Introductions & Executive Staff Welcome	Bijan Sartipi, Caltrans District 4 Director
2	Approvals (2 min.) • Approval of the 10/30/14 meeting minutes	Ali M. Banani, Office Chief, Consultant Services Unit, Caltrans District 4
3	District 4/Statewide Reports and Updates (8 min.) • Caltrans A&E Procurement Look Ahead • Governor's Budget Highlights	Ali M. Banani, Office Chief, Consultant Services Unit, Caltrans District 4
4	California High-Speed Rail Project (40 min.) • Presentation – 25 min. • Participant Questions – 15 min.	Karen Massie, Information Officer, California High-Speed Rail Authority Ricci Graham, Information Officer, Northern California High-Speed Rail Authority
5	Calmentor Steering Committee Update (10 min.) • Committee Report • Pledge Forms	Jim Dickey, Cinquini & Passarino, Chair, District 4 Calmentor Steering Committee
6	Public Agency Partner Reports (10 min.)	Liz Brazil, DBE Program Manager, Santa Clara VTA Luz Campos, Purchasing Technician, MTC
7	Protégé Firms: Give Us Your Best Pitch! (45 min.) • Albion Environmental, Inc. • Alfred Civil Engineering • HSI Engineering, Inc. • Lantex Landscape Architecture, Inc. • Surf to Snow Environmental Resource Management	Public Agency Partner Review Panel Liz Brazil, DBE Program Manager, Santa Clara VTA Luz Campos, Purchasing Technician, MTC Romy F. Fuentes, Branch Chief, Consultant Services Unit, Caltrans District 4
8	Adjourn Meeting Next Meeting: Annual Awards Luncheon & Public Agency Manager Networking Sessions – Cinco de Mayo, Tuesday, May 5, 2015, 12 noon – 3:00 p.m.	Romy F. Fuentes, Branch Chief, Consultant Services Unit, Caltrans District 4


Calmentor
Professional Liaison

SAVE THE DATE: MAY 5, 2015

Enhancing the growth potential of small business

2015 Annual Caltrans District 4 Calmentor Program Awards and Business Networking Event

Registration: 11:00 a.m. - 11:30 a.m., 1st Floor Lobby, Caltrans District 4 Office

Keynote & Awards Presentation: 11:30 a.m. - 12:15 p.m.

Please join Caltrans District 4 Director Bijan Sartipi, Caltrans project managers, and regional and local public transportation managers from the nine Bay Area Counties to celebrate small business success!

2015 Annual Mentor Firm Recognition Awards

Silver Award presented to Harris & Associates, Inc.

Bronze Award presented to PSOMAS Engineering, Inc.

Quarterly Protégé Firm Graduation Recognition

Adanta, Inc., CBL Professional Services, and Designlab 252

Hosted Networking Lunch: 12:30 p.m. - 1:30 p.m.

Meet & Greet Public Agency Managers: 1:30 p.m. - 3:30 p.m.

Following lunch, meeting participants are invited to attend small group networking sessions with senior state, regional and local public agency transportation infrastructure managers including Caltrans, MTC, VTA, ACTC and others!

Registration is on a first come, first serve basis. Space is limited.

Register online today: <http://goo.gl/forms/PD33IUVVHD>

Event Location: Caltrans District 4 Office, 111 Grand Avenue, Oakland, California



Event Sponsors





2015 Annual Caltrans District 4 Calmentor Program Awards & Business Networking Event

Tuesday, May 5, 2015

Official Program

Welcome & Acknowledgements

Jim Dickey, Principal, Cinquini & Passarino, Inc.
Caltrans District 4 Calmentor Program Steering Committee Chairperson

Keynote Address

Bijan Sartipi, District 4 Director
California Department of Transportation

2015 Transportation Infrastructure Small Business Advocate Award Presentations

The Honorable Edmund G. Brown, Governor of California
The Honorable Gavin Newsom, Lt. Governor of California

Caltrans District 4 Calmentor Program Protégé Firm Graduations

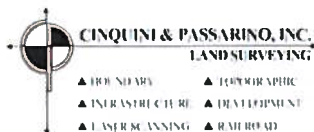
Adanta, Inc.
CBL Professional Services
Designlab 252

Caltrans District 4 Calmentor Program Mentor Firm Awards

Harris & Associates, Inc.—Silver Award
Psomas—Bronze Award

Calmentor Program Luncheon & Business Networking Sessions

Event Sponsors



Business Outreach Committee (BOC) Attachment B

Contracting Newsletter #27, Spring 2015

The goal of the BOC is to assist small and disadvantaged companies in doing business with Bay Area transportation agencies.

UPCOMING CONTRACTING OPPORTUNITIES (SELECTED AGENCIES):

GOLDEN GATE BRIDGE, HIGHWAY & TRANSPORTATION DISTRICT (GGBHTD)

Solicitation Letter: Purchase and Installation of a Wireless Infrastructure Upgrade	Due Date*: May 2015	Est.\$: 90K
Third Party Administrator for Public Liability and Fleet Claims Investigation and Adjustment Services	Due Date*: May 2015	Est.\$: 350K
Toll Plaza Administration Building Improvements	Due Date*: May 2015	Est.\$: 500K
San Rafael Improvements Employee Parking Lot	Due Date*: TBD	Est.\$: 1.5M
Larkspur Ferry Terminal Sewer and Fuel Systems Rehabilitation	Due Date*: TBD	Est.\$: 800K
Bus Stop Shelter & Signage Improvements	Due Date*: TBD	Est.\$: 500K
South Approach and Pier Security Improvements	Due Date*: TBD	Est.\$: 4M
Sausalito Ferry Terminal Gangway and Pier Improvements, Construction	Due Date*: TBD	Est.\$: 10M
San Francisco Ferry Terminal Gangway and Pier Improvements, Construction	Due Date*: TBD	Est.\$: 20M

METROPOLITAN TRANSPORTATION COMMISSION (MTC)

Business Process Identification and Documentation Project	Due Date*: May 8, 2015	Est. \$: TBD
Compensation Study	Due Date*: May 13, 2015	Est. \$: TBD
Program for Arterial System Synchronization (PASS)	Due Date*: May 15, 2015	Est. \$: TBD
SHRP2 Implementation Assistance and Technical Guidance and Support	Due Date*: May 22, 2015	Est. \$: TBD
511 System Integrator, Data Management & Dissemination, and Interactive Voice Response (IVR) Phone System	Issue Date*: TBD	Est. \$: TBD
Bay Area Infrastructure Financing Authority (BAIFA) I-680 Express Lanes Civil Construction Project	Issue Date*: TBD	Est. \$: TBD
Maintenance, Diagnostic and Repair Services of Traffic Operations System (TOS) Devices	Issue Date*: TBD	Est. \$: TBD
Transit Oriented Workforce Housing Assessment	Issue Date*: TBD	Est. \$: TBD
Express Lanes Backhaul Communications Network	Issue Date*: TBD	Est. \$: TBD

SAN FRANCISCO BAY FERRY (WETA)

San Francisco Bay Ferry Ridership Database	Issue Date*: May 2015	Est. \$: TBD
On-Call Planning, Engineering, and Professional Services	Issue Date*: May/June 2015	Est. \$: TBD
Vallejo Ferry Terminal Dredging (IFB)	Issue Date*: June 2015	Est. \$: TBD
Ferry Vessel Peralta Major Refit Phase 2	Issue Date*: July 2015	Est. \$: TBD
Central Bay Maintenance Facility	Issue Date*: Aug 2015	Est. \$: TBD
Vallejo Ferry Terminal Maintenance Dredging (RFP)	Issue Date*: Summer 2015	Est. \$: TBD
Harbor Bay Ferry Terminal Piling Replacement	Issue Date*: Sept 2015	Est. \$: TBD
Ferry Vessel Taurus Minor Refit	Issue Date*: Sept 2015	Est. \$: TBD
Ferry Vessels Gemini Class Emissions Reduction Systems Rehab	Issue Date*: Sept 2015	Est. \$: TBD
Ferry Vessel Replacement and New Ferry Vessels	Issue Date*: Fall 2015	Est. \$: TBD

SANTA CLARA VALLEY TRANSPORTATION AUTHORITY (VTA)

CCTV Surveillance Equipment	Issue Date*: May 2015	Est. \$: TBD
Montague Expressway & South Milpitas Blvd. Improvements	Issue Date*: June 2015	Est. \$: TBD
GFCI Switchgear Testing & Repair	Issue Date*: Aug 2015	Est. \$: TBD
VTA Communications Backbone	Issue Date*: Aug 2015	Est. \$: TBD
Pavement Manager	Issue Date*: Sept 2015	Est. \$: TBD



UPCOMING EVENTS



The Business Outreach Committee (BOC) will be hosting a

“How to Get Certified” Webinar

More information to follow.

A date and corresponding link will be available to all interested firms
as soon as possible.



WHERE TO FIND CONTRACTING OPPORTUNITIES:

AC TRANSIT: http://www.actransit.org/purchasing/	NCTPA: http://www.nctpa.net/procurement-opportunities
ALAMEDA CTC: http://www.alamedactc.org/app_page_s/view/3999	SAMTRANS/CALTRAIN: http://procurement.samtrans.com
BART: http://www.bart.gov/about/business/procurement/	SFMTA: http://sfgsa.org/index.aspx?page=4767
COUNTY CONNECTION: http://countyconnection.com/about/business-advertising/procurements/	SOLTRANS: http://www.soltransride.com/procurement
RIO VISTA: http://riovistacity.com	TJPA: http://transbaycenter.org/tjpa/doin-g-business-with-the-tjpa
GGBHTD: http://www.goldengate.org/contracts/	VTa: http://www.vta.org/procurement/solicitations/
MARIN TRANSIT: http://www.marintransit.org/purchasing.html	WETA: https://watertransit.org/contract_opportunities.aspx
MTC: http://procurements.mtc.ca.gov	WESTCAT: http://www.westcat.org

**The BOC wants your help to make sure this newsletter brings you
the information you want. Send suggestions and topics to improve
newsletter content to:**

Kristina Martinez, County Connection

kmartinez@cccta.org

AGENCY CONTACTS

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Alameda CTC: Seung Cho
Contracting, Administration, and Fiscal
Resource Manager
(510) 208-7472 or scho@alamedactc.org

BART: Ron Granada
Senior Civil Rights Officer
(510) 464-6103 or RGranad@bart.gov

County Connection: Kristina Martinez
Civil Rights Administrator
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GGBHTD: Aretmise Davenport
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Marin Transit: Amy Van Doren
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MTC: Denise Rodrigues
Contract Compliance Manager
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NCTPA: Antonio Onorato
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SamTrans/Caltrain: Elke Campbell
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campbelle@samtrans.com

SFMTA: Sheila Evans Peguese
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(415) 701-4436 or sheila.evans-peguese@sfmta.com

SolTrans: Gary Albright, Program Analyst II,
(707) 736-6986 or
gary@soltransride.com

TJPA: Eddie Phillips
Contract Compliance Officer
(415) 597-4041 or
EPhillips@TransbayCenter.org

VTa: Liz Brazil
DBE Program Manager
(408) 321-5874 or liz.brazil@vta.org

WETA: Lauren Gularte
Admin/Policy Analyst, (415) 364-3188 or
gularte@watertransit.org

WestCAT: Laura Calica
DBE Liaison Officer
(510) 724-3331 Ext. 113 or
laura@westcat.org



**YOU ARE INVITED
TO THE BUSINESS OUTREACH COMMITTEE (BOC)
MEET THE BUYERS
PROCUREMENT FORUM**

Wednesday, March 25, 2015

1:30 p.m. to 3:30 p.m.

**at the Metropolitan Transportation Commission (MTC),
101 8th Street, Oakland, California**

(Conveniently located next to the Lake Merritt BART Station, see attached directions)

This event will provide the opportunity for Small, Local and Disadvantaged businesses to introduce their products and services and receive information from participating San Francisco Bay Area Transit and Transportation Agencies and the following Contractors:

**Stacy and
Witbeck**

ROBERT A.
BOTHMAN
CONSTRUCTION **B**



MCK Services, Inc.

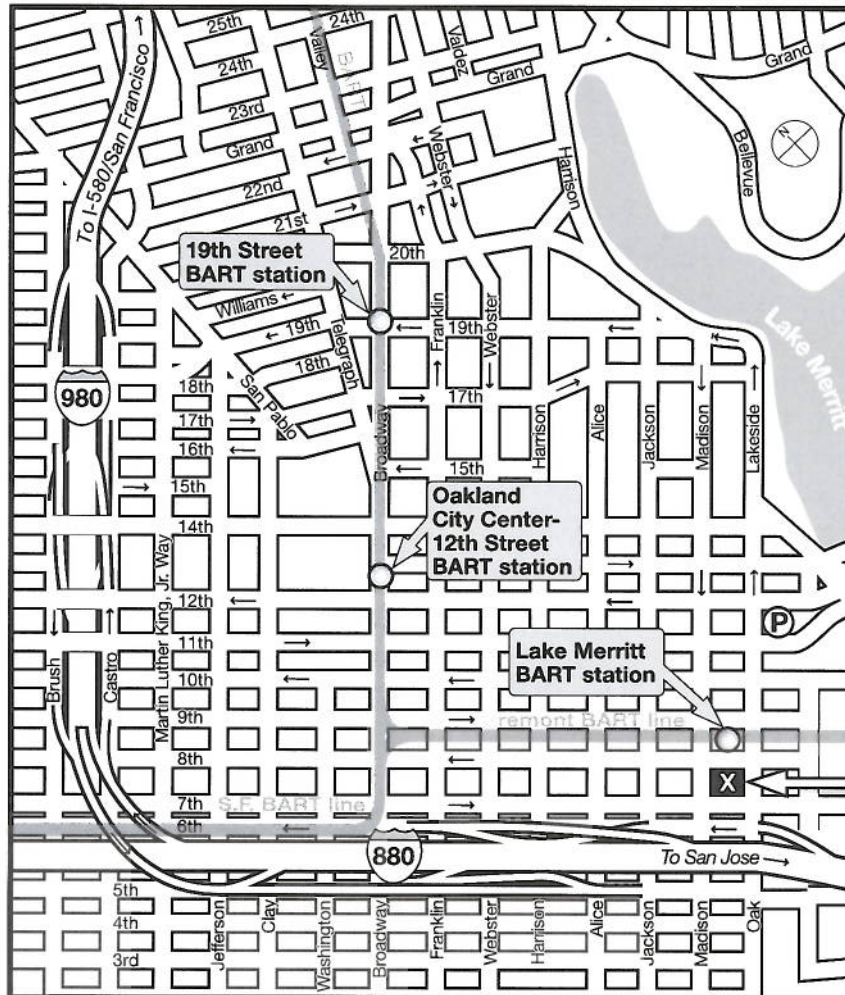
Asphalt Paving/Resurfacing/Rehabilitation

Don't miss your opportunity to show your products to prospective buyers. Please complete and bring copies of the attached Business Profile Form to distribute to the buyers.

RSVP is **not** required

Metropolitan Transportation Commission

Joseph P. Bort MetroCenter
101 Eighth Street, 3rd Floor
Oakland, CA 94607



- **BART**

Lake Merritt station

- **AC Transit**

11 from Piedmont or Montclair; 59 or 59A from Montclair; 62 from East or West Oakland; 88 from Berkeley.

- **Amtrak**

C.L. Dellums Station (2nd and Alice Streets)

- **Auto**

From the San Francisco Bay Bridge, take I-580 East, exit onto I-980 West, merge onto I-880 South, take the Jackson St. exit and go straight on 5th, left on Oak and left on 8th.

Travelling south on I-980, merge onto I-880 South, take the Jackson St. exit and go straight on 5th, left on Oak and left on 8th.

Travelling north on the Nimitz Freeway (I-880), take the Oak St. exit.

- **Parking**

Oakland Museum – 11th and Oak (underground parking, entrance on Oak between 11th and 12th). Metered parking is available on streets in the MetroCenter vicinity. Parking lot behind the MetroCenter is for BART patrons only.

- **From the Oakland Airport**

AIR BART shuttle from Oakland Airport to BART is near baggage claim, but outside terminal. Cost is \$3 (no change given). Take BART to Lake Merritt station.

For detailed transit directions, visit: www.511.org

Business Profile Form

Please complete this form and attach a business card, line card, brochure, and/or other marketing materials that describe your company's products and/or services and bring it with you to the Meet the Buyers Event to help inform Bay Area agencies and contractors about your business.

Name of Company: _____

Contact Person: _____

Address: _____

Phone: _____

E-mail: _____

My firm is a: ☐ Manufacturer ☐ Retailer ☐ Wholesaler

Check all that apply: ☐ DBE ☐ SBE ☐ WBE ☐ MBE ☐ LBE

Certified By (list all applicable certifying agencies):

Describe the major type(s) of product(s) or services your firm provides:

Suggestion: Make several copies of completed form and distribute to buyers.

Business Outreach Committee (BOC) Attachment B

Contracting Newsletter #28, Summer 2015

The goal of the BOC is to assist small and disadvantaged companies in doing business with Bay Area transportation agencies.

UPCOMING CONTRACTING OPPORTUNITIES (SELECTED AGENCIES):

ALAMEDA-CONTRA COSTA TRANSIT DISTRICT (AC TRANSIT)

Division 2 Transit Building Roof Replacement Construction	Issue Date*: July 2015	Est.\$: TBD
Division 6 Roof Replacement Construction	Issue Date*: July 2015	Est.\$: TBD
Division 3 Bid Package 1 – Fueling & Soils Remediation	Issue Date*: Aug 2015	Est.\$: TBD
Facilities Rehab, Construction, Division 3	Issue Date*: Aug 2015	Est.\$: TBD
Division 2 Storm Drain Construction	Issue Date*: Sept 2015	Est.\$: TBD
General Office Weatherization Construction	Issue Date*: Sept 2015	Est.\$: TBD
Bus Rapid Transit Bid Package 3	Issue Date*: Oct 2015	Est.\$: TBD

ALAMEDA COUNTY TRANSPORTATION COMMISSION (ACTC)

I-680 Northbound HOV/Express Lane Project	Issue Date*: July 2015	Est. \$: TBD
East Bay Greenway Maintenance: 75th Ave to 85th Ave, Oakland	Issue Date*: July 2015	Est. \$: TBD
Overall Monitoring Services	Issue Date*: Summer 2015	Est. \$: TBD

GOLDEN GATE BRIDGE, HIGHWAY & TRANSPORTATION DISTRICT (GGBHTD)

Golden Gate Bridge Physical Suicide Deterrent System & Wind Retrofit	Issue Date*: Summer 2015	Est.\$: 62M
Toll Plaza Administration Building Roof and HVAC Renovations	Issue Date*: Winter 2015	Est.\$: 1.75M
San Rafael Employee Parking Lot Improvements	Issue Date*: TBD	Est.\$: 1.5M
Bus Stop Shelter & Signage Improvements	Issue Date*: TBD	Est.\$: 500K
South Approach and Pier Security Improvements	Issue Date*: TBD	Est.\$: 4M
Sausalito Ferry Terminal Gangway & Pier Improvements, Construction	Issue Date*: TBD	Est.\$: 10M
San Francisco Ferry Terminal Gangway & Pier Improvements, Construction	Issue Date*: TBD	Est.\$: 20M

METROPOLITAN TRANSPORTATION COMMISSION (MTC)

375 Beale Street Mover Services RFP	Issue Date*: July 2015	Est. \$: TBD
Bridgeyard Building Seismic Retrofit	Issue Date*: TBD	Est. \$: TBD
I-880 Integrated Corridor Management (ICM)	Issue Date*: TBD	Est. \$: TBD
Transit Oriented Workforce Housing Assessment	Issue Date*: TBD	Est. \$: TBD

SAN FRANCISCO BAY FERRY (WETA)

Vessel Quarter Life Refurbishment (M/V Vallejo), RFP	Issue Date*: Aug 2015	Est. \$: TBD
Harbor Bay Ferry Terminal Piling Replacement, IFB	Issue Date*: Aug 2015	Est. \$: TBD
Vessel Midlife Refurbishment Phase 2 (M/V Peralta), RFP	Issue Date*: Aug 2015	Est. \$: TBD
Selective Catalyst Reduction (SCR) System Overhaul – 4 Vessels, RFP	Issue Date*: Aug 2015	Est. \$: TBD
Vessel Major Component Overhaul (M/V Intintoli), RFP	Issue Date*: Aug 2015	Est. \$: TBD
Vessel Construction Management Services (M/V Vallejo replacement, Richmond vessel), RFQ	Issue Date*: Aug 2015	Est. \$: TBD
Central Bay Operations & Maintenance Facility Construction, RFP	Issue Date*: Summer 2015	Est. \$: TBD
San Francisco Bay Ferry Ridership Database, RFP	Issue Date*: Summer 2015	Est. \$: TBD

SANTA CLARA VALLEY TRANSPORTATION AUTHORITY (VTA)

Bus Stop Pavement/Duckout Improvements	Issue Date*: Sept 2015	Est. \$: TBD
Capitol Expressway Pedestrian Connection to Eastridge	Issue Date*: Oct 2015	Est. \$: TBD
Pavement Management - North Yard	Issue Date*: Oct 2015	Est. \$: TBD
Younger Half-Grand and LRT Crossovers & Switches	Issue Date*: Nov 2015	Est. \$: TBD
Tasman Drive Sanitary Sewer	Issue Date*: Nov 2015	Est. \$: TBD
GFCI Switchgear Testing & Repair	Issue Date*: Nov 2015	Est. \$: TBD
Santa Clara Pedestrian Underpass Extension	Issue Date*: Dec 2015	Est. \$: TBD

ALL DATES SUBJECT TO CHANGE. PLEASE VISIT AGENCY WEBSITES FOR MORE INFORMATION.



UPCOMING EVENTS



"MEET THE PRIMES"

Friday, October 2nd, 2015

Napa County Transportation & Planning Agency (NCTPA)
625 Burnell Street, Napa, CA 94559



The Business Outreach will be hosting its annual "Meet the Primes" event. Businesses are encouraged to attend to connect with prime contractors and learn about upcoming projects and opportunities.

More information, including how to register for this event, will follow.

WHERE TO FIND CONTRACTING OPPORTUNITIES:

AC TRANSIT: http://www.actransit.org/purchasing/	NCTPA: http://www.nctpa.net/procurement-opportunities
ALAMEDA CTC: http://www.alamedactc.org/app_page_s/view/3999	SAMTRANS/CALTRAIN: http://procurement.samtrans.com
BART: http://www.bart.gov/about/business/p/rocurement/	SFMTA: http://sfgsa.org/index.aspx?page=4767
COUNTY CONNECTION: http://countyconnection.com/about/business-advertising/procurements/	SOLTRANS: http://www.soltransride.com/procurement
RIO VISTA: http://riovistacity.com	TJPA: http://transbaycenter.org/tjpa/doin-g-business-with-the-tjpa
GGBHTD: http://www.goldengate.org/contracts/	VTa: http://www.vta.org/procurement/solicitations/
MARIN TRANSIT: http://www.marintransit.org/purchasing.html	WETA: https://watertransit.org/contract_opportunity.aspx
MTC: http://procurements.mtc.ca.gov	WESTCAT: http://www.westcat.org

The BOC wants your help to make sure this newsletter brings you the information you want. Send suggestions and topics to improve newsletter content to:

Kristina Martinez, County Connection

kmartinez@countyconnection.com

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WestCAT: Laura Calica
DBE Liaison Officer
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laura@westcat.org



Professional Liaison

SAVE THE DATE: JULY 23, 2015

Enhancing the growth potential of small business

What: Caltrans District 4 Jt. Professional Liaison — Calmentor Program Quarterly Meeting

When: July 23, 2015, 1:00 p.m. to 3:00 p.m.

Where: Caltrans District 4 Office, 111 Grand Avenue, 15th Floor, Park View Room, Oakland.

Meeting Agenda

- ⇒ Caltrans District 4 Look Ahead:
 1. On-Call Hydraulic Engineering District Wide Contract
 2. On-Call Environmental Support Services- South Region
 3. On-Call Environmental Support Services – East Region
- ⇒ DPAC: Contracting Rules and Regulations Update
- ⇒ Local Public Agency Partner Updates
- ⇒ Firm 5-Minute Marketing Pitches
- ⇒ Informal Networking Session with Senior Public Transportation Agency Managers, Mentor Firms & Protégé Firms

The Joint Professional Liaison—Calmentor Program Quarterly Meeting facilitates networking opportunities with senior public transportation agency managers.

Register online today: <http://goo.gl/forms/mUhFLQyZXx>





OWNERS' NIGHT

Capital Program Updates

Confirmed Owners *as of June 20th*

CALTRANS
CALTRAIN
Contra Costa Transportation Authority
County of Alameda General Services
Metropolitan Transportation Commission
San Francisco Public Utilities Commission
San Francisco Public Works
State of CA - Dept. of Water Resources

Join us to learn about:

- Upcoming projects
- Opportunities for construction, engineering and professional services
- Small business opportunities

Gold Sponsors



OWNERS' NIGHT

Wednesday
July 15, 2015
5:30 - 8:00 pm

5:30 - 8:00 pm
Networking, Exhibits,
Light Buffet Dinner

Location:

Union Square Marriott
480 Sutter Street (at Powell)
San Francisco, CA

*Valet Parking available
BART / MUNI—Powell St. Station*

Cost:

\$65/person CMAA Members
\$85/person Non-Members

After July 10
\$105/person Non-members

**Pre Registration Required
Guarantee Admission**

On-line registration /
pay by credit card at
www.cmaanorcal.org

CMAA Northern California Chapter
Construction Management Association of America
www.cmaanorcal.org

Date: October 28, 2015
W.I.: 1150
Referred by: Administration

ABSTRACT

MTC Resolution No. 4203

This resolution adopts a Construction Project Small Business Enterprise (SBE) Program (“Program”) to assist SBE firms in participating in MTC’s contracts for locally funded formal construction projects. The Program is intended to provide economic opportunity for the residents and businesses, and stimulate economic development in the San Francisco Bay region.

Discussion of this action is contained in the Executive Director’s Memorandum to the Administration Committee, dated October 14, 2015.

Date: October 28, 2015
W.I.: 1150
Referred by: Administration

METROPOLITAN TRANSPORTATION COMMISSION
RESOLUTION NO. 4203

WHEREAS, the Metropolitan Transportation Commission (MTC) is the regional transportation planning agency for the San Francisco Bay Area pursuant to Government Code § 66500 *et seq.*; and

WHEREAS, MTC issues and oversees construction contracts from time to time; and

WHEREAS, MTC wishes to assist Small Business Enterprise (SBE) firms in participating in MTC's construction contracts, to provide economic opportunity for the residents and businesses, and stimulate economic development in the San Francisco Bay region; and

WHEREAS, providing assistance to SBE firms could increase competition for such contracts potentially allowing MTC to complete projects at a lower overall cost; and

WHEREAS, MTC has developed a Construction Project SBE Program ("Program") for its construction projects to assist SBE firms in participating in MTC's construction contracts; and

WHEREAS, the Program allows for a bid preference to be applied to locally funded construction projects when the requirements for participation are met; and

WHEREAS, the Program describes the monitoring and oversight requirements to ensure that SBE participation is achieved; now, therefore, be it further

RESOLVED, that MTC hereby adopts the Program described in Attachment A; and be it further

RESOLVED, that the Executive Director is hereby authorized to revise Attachment A as may be required from time to time due to changes in law, regulation or procedures relating to the

Program and to take such actions as may be necessary or appropriate to implement the Program;
and be it further

RESOLVED, that this Resolution shall take effect from and after its adoption.

METROPOLITAN TRANSPORTATION COMMISSION

Dave Cortese, Chair

The above resolution was entered into by
MTC at a regular meeting of the Commission
held in Oakland, California, on October 28,
2015.

Date: October 28, 2015
W.I.: 1150
Referred by: Administration

Attachment A
MTC Resolution No. 4203



METROPOLITAN
TRANSPORTATION
COMMISSION

Metropolitan Transportation Commission

Construction Project Small Business Enterprise (SBE) Program

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OBJECTIVES/POLICY STATEMENT

In order to provide economic opportunity for the residents and businesses, and stimulate economic development in the San Francisco Bay Area Region, the Metropolitan Transportation Commission (MTC) has established a Construction Project Small Business Enterprise (SBE) Program (“Program”) for its construction contracts to assist SBE firms in participating in MTC’s construction contracts. This Program is aimed at using the power of the public purse to stimulate economic development.

The objectives of the Program include:

1. To increase the number of certified SBEs participating in non-federally funded construction contracts;
2. To increase overall competition on non-federally-funded construction contracts potentially allowing for the completion of projects at a lower overall cost;
3. To create a level playing field on which SBEs can compete fairly on non-federally funded construction contracts;
4. To confirm that only firms (prime or subcontractor) certified by the State of California as SBEs per the requirements listed at <http://www.dgs.ca.gov/pd/Programs/OSDS/SBEligibilityBenefits.aspx> are eligible for the bid preference allowed under the Program; and
5. To help remove barriers to the participation of SBEs in non-federally funded construction contracts.

Mamie Lai, Director of Administrative Services Section (ADS), has been designated as the SBE Liaison Officer (SBELO). In that capacity, Mamie Lai is responsible for implementing all aspects of the Program.

SUBPART A – GENERAL REQUIREMENTS

A.1 Objectives

The objectives are found in the policy statement on the first page of this Program.

A.2 Applicability

MTC is a recipient of state and local funds. As a condition of this assistance, and in compliance with Proposition 209, MTC shall implement this Program without consideration of race, sex, or ethnicity. This Program sets forth the policies and procedures to be implemented by MTC to confirm that all small businesses have the maximum opportunity to participate in MTC non-federally funded construction contracts.

When a non-federally funded construction contract is awarded to a Contractor based on the bid preference described in C.1 of this Program, the Contractor must adhere to all the requirements included in this Program.

This Program applies solely to non-federally funded construction contracts with a budget in excess of \$25,000. This Program does not apply to construction contracts with a budget of \$25,000 or less or to contracts with federal funding.

A.3 Definitions

MTC adopts the following definitions listed below for this Program:

1st Tier Subcontractor – A subcontractor to a Contractor.

ADS – Administrative Services Section.

Bid – The offer of the bidder for the construction project when completed and submitted in response to an IFB on the prescribed bid form.

Bid Preference – The application of a percentage discount to the total amount of a bid submitted by a Bidder for a Contract solely for the purpose of bid comparisons when determining the lowest and best bid, or lowest responsible bid. The use of a bid preference for bid comparison does not alter the total amount of the bid submitted by a bidder or the contract executed based on a bid.

Business Suppliers – An individual or business entity that makes available a certain commodity for meeting demand or for purchase at a given price.

Commercially Useful Function (CUF) – A SBE performs a commercially useful function when it is responsible for the execution of the work of the contract and is carrying out its responsibilities by actually performing, managing, and supervising the work involved. A SBE

does not perform a CUF if it does not perform or exercise responsibility for at least 60 percent of the total cost of its contract than would be expected on the basis of normal industry practice for the type of work involved. If, in MTC's judgment, the SBE does not perform a CUF in the transaction, no bid preference will be awarded.

Community Based Organization (CBO) – A non-government agency created to provide training, employment or community assistance.

Contractor/Vendor – The individual, partnership, corporation, joint venture or other legal entity entering into a contractual agreement with MTC.

Invitation for Bid (IFB) – Invitation for Bid issued by MTC for construction services.

Manufacturer – A firm that operates or maintains a factory or establishment that produces on the premises the materials or supplies purchased.

MTC - Metropolitan Transportation Commission.

Monitoring – The system established to measure compliance with the Program.

Post Award – The meeting held between MTC and Contractors after the award of a construction project and before the issuance of a notice to proceed. Post award meetings occur at the request of either MTC or Contractor.

Program – The MTC Construction Project SBE Program.

Public works contract – As further defined in California Public Contract Code Section 22002, public works generally includes such work as construction, reconstruction, erection, alteration, renovation, improvement, and repair including painting and repainting of publicly-owned property. It does not include maintenance work such as routine or recurring work for protection or preservation, minor painting, or landscape maintenance.

Small Business Enterprise (SBE) – Firms certified by the State of California as SBEs per the requirements listed at <http://www.dgs.ca.gov/pd/Programs/OSDS/SBEligibilityBenefits.aspx>.

SBE Directory – The list of firms certified by the State of California which is used by MTC and its Contractors to identify SBE potential contractors and subcontractors and suppliers. The SBE directory can be accessed at the website link at <http://www.bidsync.com/DPXBisCASB>.

SBELO – Small Business Enterprise Liaison Officer.

Subcontractor - The individual, partnership, corporation or other legal entity that contracts to perform part of or all of the obligations of another's contract.

Subrecipient – Any agency that receives funds from MTC via statute, an interagency,

cooperative or funding agreement.

Web-based Diversity Tracking System - The diversity software provided by MTC to Contractors accessible from any internet browser on any platform or operating system.

SUBPART B - ADMINISTRATIVE REQUIREMENTS

B.1 Program Updates

The SBELO or designee will provide the Administration Committee with updates representing significant changes in the Program.

B.2 SBELO and Program Implementation

MTC has designated the following individual as its SBE Liaison Officer (SBELO):

Mamie Lai, Director of Administrative Services Section
Metropolitan Transportation Commission
101 8th Street, Oakland, CA 94607
Phone: (510) 817-5860, Email: mlai@mtc.ca.gov

In that capacity, the SBELO is responsible for implementing all aspects of the Program and ensuring that MTC complies with all provisions of the Program. The SBELO has direct, independent access to the Executive Director concerning Program matters.

The SBELO is responsible for developing, implementing and monitoring the SBE program, in coordination with other appropriate officials. The SBELO has staff to assist in the administration of the Program. The 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 the Program.
3. Works with ADS staff to determine if a Contractor has achieved the requirements for the bid preference.
4. Confirms that bid notices and Invitation for Bid are available to SBEs in a timely manner.
5. Identifies contracts and procurements so that SBE preferences are included in construction projects.
6. Analyzes MTC's progress toward SBE attainment and identifies ways to improve progress.
7. Participates in pre-bid meetings.
8. Advise the Executive Director and/or MTC Commissioners on SBE matters and achievement.
9. Provides outreach to SBEs and community based organizations to advise them of opportunities and technical assistance to SBEs to assist in bid preparation and obtaining bonding and insurance.

B.3 Certification Standards and SBE Directory

MTC does not administer a SBE certification program. Only firms (prime or subcontractor) that are certified by the State of California as SBEs per the requirements listed at <http://www.dgs.ca.gov/pd/Programs/OSDS/SBEligibilityBenefits.aspx> are eligible for the

bid preference allowed under the Program.

The State of California SBE Directory can be accessed at <http://www.bidsync.com/DPXBisCASB>.

B.4 Record Keeping Requirements

When a non-federally funded construction contract is awarded to a Contractor based on the bid preference listed in Subpart C, Section C.1 of this Program, ADS will monitor the contract as per Subpart D, to confirm that the Contractors are in compliance with the requirements of the Program. ADS staff will report SBE participation to the Administration Committee via reports generated from the web-based diversity tracking system.

MTC will require Contractors to maintain records and documents of payments to all subcontractors (SBEs and non-SBEs) for four years following the completion of the contract. MTC will perform interim reviews of contract payments to SBEs. Payments to SBE subcontractors will be reviewed to verify that the actual amount paid to SBE subcontractors equals or exceeds the dollar amounts stated in the schedule of SBE participation included in the contract.

B.5 Public Outreach

MTC will participate in outreach events with other San Francisco Bay Area transportation agencies and community based organizations to leverage its efforts to assist SBE firms. MTC will also participate in Caltrans' CalMentor Protégé Program for small business development.

SUBPART C – BID PREFERENCE AND SBE PARTICIPATION

C.1 Bid Preference

MTC will allow a bid preference applied as a percentage discount to the total amount of a bid submitted by a Bidder for a contract solely for the purpose of bid comparisons when determining the lowest and best bid, or lowest responsible bid. The use of a bid preference for bid comparison does not alter the total amount of the bid submitted by a bidder or the contract executed based on a bid. The bid preference will be applied to all locally-funded construction contracts with a budget in excess of \$25,000, based on the level of participation proposed prior to the award of a contract. Bid preferences will be applied as follows after MTC verifies responsiveness requirements have been met:

- A discount of five percent (5%) to the total amount bid, when the bidder meeting specifications is a certified SBE and is performing at least forty percent (40%) of the work, **or**
- A discount of five percent (5%) to the total amount bid, when the bidder is a non-SBE prime Contractor that commits to subcontract with SBE firms for at least forty percent (40%) of the work in its bid submittal.

ADS staff will monitor MTC's Program to confirm that the Contractors are in compliance with the requirements the Program. The report of SBE awards, commitments and payments will be generated from the web-based diversity tracking system.

C.2 Maintaining Participation

Once a project begins, it is important to achieve and maintain the participation that allowed the bid preference. Prime Contractors must maintain the SBE percentages indicated in the bid documents at the time of bid submittal throughout the term of the contract.

If MTC modifies the original scope of work, the Contractor must make reasonable efforts to maintain the SBE participation for the bid preference. In the event of change orders, ADS staff may use their discretion to allow adjustments to SBE percentages for the change order portion of the work. Upon request, MTC staff will help firms to determine methods of maintaining percentages.

Should the prime Contractor fail to maintain the SBE participation listed at the time of bid submittal, MTC reserves the right to enforce Contractors' compliance with this Program through one or more of the remedies included in Section D.3 of this Program.

C.3 Substitution of Listed Subcontractors

Substitution of listed subcontractors shall be in accordance with Public Contracts Code Section 4107. In addition, the SBELO must concur in any decision to permit substitution of a SBE subcontractor(s) when the award was made on the basis of the bid preference listed in Section C.1 above.

C.4 Joint Venture Agreements

A business that is bidding or competing for MTC contracts may associate with a certified SBE business to compete for contracts as a joint venture. A joint venture should be between two entities with the same discipline or license as required by MTC. Joint ventures receive a bid preference depending upon the SBE percentage of participation as set forth in Section C.1 of Subpart C, Bid Preference and SBE Participation. The parties must agree to enter into the relationship for at least the term of the project.

Basic Elements of the Joint Venture Agreement

A Joint Venture must submit a Joint Venture Management Plan and/or a Joint Venture Agreement in their bid. Each agreement or management plan must include, but is not limited to the following:

- Detailed explanation of the financial contribution of each partner;
- List of the personnel and equipment used by each partner;
- Detailed breakdown of the responsibilities of each partner;
- Explanation of how the profits and losses will be distributed;
- Description of the bonding capacity of each partner; and
- Management or incentive fees available for any one of the partners (if any).

Commercially Useful Functions (CUF) Performed by Joint Venture Partners

Each JV partner must perform a “commercially useful function” as that term is defined herein. A SBE that relies on the resources and personnel of a non-SBE firm will not be deemed to perform a CUF.

Joint Venture License Requirements

Each joint venture partner must possess licenses appropriate for the discipline for which a bid is being submitted. If a joint venture is bidding on a single trade project, at the time of bid submittal, each of the joint venture partners must hold a Joint Venture License and possess the requisite specialty license for that trade bid.

Delineation of Joint Venture Work

The SBE partner must clearly define the portion of the work to be performed during the project. This work must be of the similar type of work the SBE partner performs in the normal course of its business. The Joint Venture Participation Form must specify the project bid items to be performed by each individual joint venture partner. Lump sum joint venture participation is not acceptable.

Responsibilities of the SBE Joint Venture Partners

The SBE partner must share in the ownership, control, management responsibilities, risks, and profits of the joint venture in proportion with level of participation in the project; the SBE partner must perform work that is commensurate with its experience. The SBE partner

must use its own employees and equipment to perform its portion of the project. Only the portion of the total dollar value of the contract equal to the distinct, clearly-defined portion of the work of the contract that the SBE performs with its own forces will be counted toward SBE participation

Application of Bid Discounts for Joint Venture Agreements

To be eligible for a bid discount, at the time of bid submittal, each joint venture partner must each have the license that is appropriate for the project as required in the contract document of the contract award authority. Unless permission is granted by the SBELO or designee for good cause shown, based on sudden and unexpected necessity, the following actions are not permitted: i) the non-SBE partner performing work for the SBE partner; ii) leasing of equipment or property by the SBE partner from the non-SBE partner; and iii) the hiring of the non-SBE partner's employees by the SBE partner.

Other Joint Venture Conditions

The SBELO or a designee must first approve the SBE Joint Venture Agreement/Management Plan before the joint venture is eligible for a bid preference. Any changes must also receive the prior approval of the SBELO or designee. In addition to any other information required by conditions specified herein, each SBE joint venture must provide upon request, cancelled checks and any other financial records to MTC.

C.5 Counting SBE Participation

SBEs may perform as Contractors, or 1st tier subcontractors. Only the value of the work to be performed by the SBE, including materials and supplies, will be counted toward SBE participation.

A SBE must perform a commercially useful function, i.e., 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. If a SBE 1st Tier Subcontractor does not perform or exercise responsibility for at least sixty percent (60%) of the total cost of its contract with its own work force, or if the SBE subcontracts a greater portion of work of a contract than would be expected on the basis of normal industry practice, then it will be presumed that the SBE is not performing a CUF.

Credit for a SBE vendor of materials or supplies is limited to sixty percent (60%) of the amount to be paid to the vendor for the materials or supplies unless the vendor manufactures or substantially alters the goods. Credit for SBE brokers is limited to only the fees and commissions portion of the amount paid. All other firms receive 100% credit, less work subcontracted by the SBE to non-SBE firms.

During the term of a contract, work performed by SBE firms whose certification has expired will continue to be counted toward the SBE participation.

SUBPART D – COMPLIANCE AND ENFORCEMENT

D.1 Monitoring

When a contract is awarded to a Contractor based on the bid preference listed in Subpart C, Section C.1 of this Program, ADS will monitor the contract as per Subpart D, to confirm that the Contractors are in compliance with the requirements of the Program. ADS staff will report SBE participation to the appropriate MTC Administration Committee via reports generated from the web-based diversity tracking system.

MTC will require Contractors to maintain records and documents of payments to all subcontractors (SBEs and non-SBEs) for four years following the performance of the contract. MTC will perform interim reviews of contract payments to SBEs. Payments to SBE subcontractors will be reviewed to verify that the actual amount paid to SBE subcontractors equals or exceeds the dollar amounts stated in the schedule of SBE participation included in the contract.

Subrecipients may be required to submit verification of the SBE Program adopted for non-federal funds allocated construction projects and provide annual reports of SBE utilization on construction projects achieved under the adopted program.

MTC has implemented the following monitoring mechanisms to monitor Contractor compliance with Program requirements:

1. The SBELO or designee will verify that work committed to SBEs at contract award is actually performed by the SBEs.
2. The SBELO or designee will keep a running tally of actual payments to SBE firms for work committed to them at the time of contract award with the use of MTC's web-based diversity tracking system.

For public works projects valued over \$1,000.00, the State's Labor Code requires Contractors to pay their employees in accordance with general prevailing wages. The prime Contractor and all subcontractors including truckers and owner/operators are required to submit certified payroll records in accordance with Labor Code section 1776 upon request from MTC. Failure to submit certified payroll records could result in withholding of progress payment(s).

Upon request, Contractors will provide MTC with executed copies of its subcontractor agreements to verify dollar amounts stated for all SBEs.

D.2 SBE Utilization Report

Contractors are required to submit monthly SBE Utilization Reports electronically to MTC ADS. These monthly reports shall be submitted electronically and the Contractor will document the dollar value of payments to SBE firms and the percentage of the contract completed. MTC will monitor the contract for compliance with SBE

requirements.

This system is web-based, accessible from any computer via the internet. Each Contractor and subcontractor will receive an email providing them with Log On identification, and a temporary password and instructions on how to use the system. Training will also be provided upon request. Contractor will include this requirement in all of its subcontracts and purchase orders when required to provide or verify SBE utilization documentation.

If the SBE Utilization Reports indicate potential problems, such as a failure to comply with the contract SBE participation, the Contractor shall meet with the MTC SBELO or designee to address any deficiencies and discuss appropriate corrective actions. When the Contract completion reaches 50% and the SBE participation completed is less than 50%, a detailed report of the reasons why must be submitted to MTC stating a plan to reach the SBE participation by Contract completion.

Prior to final payment, Contractor will be required to submit a final SBE Utilization Report by selecting the "Final Audit" reporting designation within the web-based diversity tracking system. In addition to payments to the SBEs, the final report must include payments to and other information about all other businesses, including non-SBE subcontractors, suppliers of materials and others.

D.3 Program Enforcement

MTC has available several remedies to enforce compliance of the Program requirements contained in its contracts, including, but not limited to, the following:

1. Breach of contract action, pursuant to the terms of the IFB and contract.
2. Assessment of a penalty of up to one and one half times the amount that should have been awarded to SBE(s).
3. Termination of Contractor's performance of work under the contract.
4. Any other remedy available to MTC in the contract or the relevant IFB.