



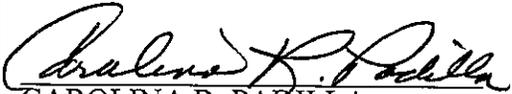
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**NOW, THEREFORE, IT IS HEREBY RESOLVED** that the City Council authorizes the City Manager or his designee to sign the Disadvantaged Business Enterprise (DBE) Annual Submittal Form for Federal Fiscal Year 2016/2017 on behalf of the City of Colton.

**PASSED, APPROVED AND ADOPTED** this 7th day of June 2016.

  
RICHARD A. DELAROSA  
Mayor

ATTEST:

  
CAROLINA R. PADILLA  
City Clerk

# **Exhibit A**

DBE Annual Submittal Form

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**EXHIBIT 9-B LOCAL AGENCY DBE ANNUAL SUBMITTAL FORM**

TO: CALTRANS DISTRICT 8  
District Local Assistance Engineer

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

The City of Colton submits our Annual 9-B information for the Federal Fiscal Year 2016/2017, beginning on October 1, 2016 and ending on September 30, 2017.

Disadvantaged Business Enterprise Liaison Officer (DBELO)

Victor Ortiz, P.E.  
Public Works Department  
160 South 10<sup>th</sup> Street  
Colton CA 92324  
Tel. (909) 370-5065  
Fax (909) 370-5072  
Email [vortiz@ci.colton.ca.us](mailto:vortiz@ci.colton.ca.us)

Planned Race-neutral Measures

The City of Colton is planning to advertise all the projects with local and regional newspaper, and trade journals indicating the DBE requirement of the projects. The City also plans to hold mandatory pre-bid meetings when necessary to ensure compliance with all DBE requirements of the projects.

The City of Colton utilized the 2014 Census Bureau Data, CUCP DBE Directory, and all Federal Funded Projects expected to be completed for FY 2016-2017 to establish the AADPL for Federal Fiscal Year 2016-2017. We have established an AADPL of 16.8% for New Race-Conscious (RC) DBE (Please see attachment identifying the methodology used to determine the AADPL and calculations to determine the DBE Goal).

Prompt Pay

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

The City's monitoring and enforcement mechanism is in- place to ensure that all subcontractors, including DBEs, are promptly paid include the following:

- Establish a contract clause that requires prime contractors to pay subcontractors for satisfactory performance of their contracts no later than 30 days from receipt of each payment from the agency.
- Establish a contract clause that requires prime contractors to include in their subcontracts language providing that prime contractors and subcontractors will use appropriate alternative dispute resolution mechanisms to resolve payment disputes.
- Establish a contract clause providing that the prime contractor will not be reimbursed for work performed by subcontractors unless and until the prime contractor ensures that the subcontractors are promptly paid for the work they have performed.

Prompt Pay Enforcement Mechanism

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

The City's monitoring and enforcement mechanisms in- place to ensure that all subcontractors, including DBEs, are promptly paid include the following:

- Establish a contract clause that requires prime contractors to pay subcontractors for satisfactory performance of their contracts no later than 30 days from receipt of each payment from the agency.
- Establish a contract clause that requires prime contractors to include in their subcontracts language providing that prime contractors and subcontractors will use appropriate alternative dispute resolution mechanisms to resolve payment disputes.
- Establish a contract clause providing that the prime contractor will not be reimbursed for work performed by subcontractors unless and until the prime contractor ensures that the subcontractors are promptly paid for the work they have performed.

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

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

\_\_\_\_\_  
Bill Smith, City Manager  
CITY OF COLTON  
(Authorized Governing Body Representative)

\_\_\_\_\_  
(909) 370-5051  
(Phone Number)

\_\_\_\_\_  
(Signature of Caltrans District Local Assistance Engineer)

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

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

(Attachment)

**Prompt Payment of Withheld Funds to  
Subcontractors**

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

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

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

## Methodology

The process for establishing the Annual Anticipated DBE Participation Level (AADPL) was derived from data gathered from the U.S. Census Bureau - 2014 County Business Patterns (NAICS) and California Department of Transportation (Caltrans) Civil Rights Program. The data was gathered based upon four counties in which City of Colton lies and neighbors. These four counties include Los Angeles, Orange, Riverside, and San Bernardino, in the State of California. The U.S. Census Bureau's Economic Census and the County Business Patterns contain all business and minority business data which are to be compiled as of the latest published version. For the purpose of calculating the City's overall DBE goal, we used these neighboring counties as the market area. Those jurisdictions and municipalities most closely reflect the same jurisdictions where businesses are located that typically participate in the bid process for DBE projects awarded by the City of Colton. Also, in researching the most reliable sources of data available to complete our calculations, it was discovered that the best data could be obtained for the jurisdictions and municipalities contained in these areas.

In order to establish the City of Colton's base figure reflecting the relative availability of DBEs in relation to all comparable firms available to participate in the City's DOT assisted and other federally funded contracts. The City elected to use the Directory of Certified Firms with Census Bureau Data methodology. The strategy used to determine DBE availability involved a multi-step process. First, we identified the major work types (North American Industrial Classification System - NAICS) for the contracts anticipated for award in the upcoming fiscal year. Second, using the United States Census Bureau's 2014 County' Business Patterns data, we identified the businesses located in the counties noted for which data was available and recorded the number of businesses found for each work type. This particular database was used because it contained the most recent information available for counting the number of businesses located in the jurisdiction for each work type. Then, using Caltrans' database of DBE firms, we queried DBE firms for the appropriate NAICS codes and license type. Using that list, we identified the DBE firms ready, willing and able to perform services in our market area. Projected DOT and Federally assisted contracts by work type and NAICS Code For FY 2016-2017, we took the dollar value of work related to each work type (from the chart of federal DBE projects anticipated for award for the fiscal year) and calculated the percentage of federal funds applicable to each work type. Then, using Caltrans' Directory of Certified firms, we determined the availability of DBE firms for each work type by dividing the number of DBEs in the directory by the number of firms found in the census bureau data for each work type. Using the same Caltrans directory, Disadvantage Business Enterprise (DBE) Male firms (African Americans, Asian Pacific American, Native American, Women, Hispanic American, and Subcontinent Asian American and any other groups whose members are certified as socially and economically disadvantaged) and Female firm were further set aside to calculate for the Race Neutral DBE. AADPL calculations for New Race Neutral DBEs are shown on the succeeding page.

**FY 2016-2017 Annual DBE Submittal  
Establishment Located in Market Area  
From 2014 County Business Patterns (NAICS)**

Counties	237310 Highway	238210 Electrical	541330 Engineering	541370 Surveying	541620 Environmental	541380 Testing
Los Angeles	84	1726	1511	53	231	182
Orange	67	795	1099	45	169	125
Riverside	46	467	260	35	46	36
San Bernardino	54	360	206	31	39	28
<b>Total Establishment</b>	<b>251</b>	<b>3348</b>	<b>3076</b>	<b>164</b>	<b>485</b>	<b>371</b>

**DBE in Market Area (MA)**

Trade/Work	DBE Female		DBE Male		All DBE Firms	
	Working in MA	Located in MA	Working in MA	Located in MA	Working in MA	Located in MA
237310 - Highway	58	35	139	79	197	114
238210 - Electrical	22	13	101	75	123	88
541330-Engineering	104	56	256	127	360	183
541370-Surveying	23	10	48	18	71	28
541620-Environmental	184	84	118	58	302	142
541380-Testing	27	17	43	24	70	41
<b>Total</b>	<b>418</b>	<b>215</b>	<b>705</b>	<b>381</b>	<b>1123</b>	<b>596</b>

**AADPL CALCULATIONS**  
**FY 2016/2017**

	NAICS CODES					
	#237310 Highway/Bridge	#238210 Electrical	#541330 Engineering	#541370 Surveying	#541380 Material Testing	#541620 Environmental
(A) Total Establishment Located in Market Area (from CBP table)	251	3348	3076	164	371	485
All Female DBE Firms <u>Working</u> in Market Area (from CUCP)	58	22	104	23	27	184
Female DBE <u>Located</u> in Market Area	35	13	56	10	17	84
All Male DBE Firms <u>Working</u> in Market Area (from CUCP)	139	101	256	48	43	118
Male DBE <u>Located</u> in Market Area	79	75	127	18	24	58
Total DBE Firms <u>Working</u> in Market Area (from CUCP)	197	123	360	71	70	302
(C) Total DBE Firms <u>Located</u> in Market Area (from CUCP)	114	88	183	28	41	142
(D) Weight	0.237	0.341	0.276	0.047	0.013	0.086

$$\begin{aligned}
 \text{AADPL} = \text{New RC DBE} &= \left( \left( \frac{C}{A} \times D \right) + \left( \frac{C}{A} \times D \right) \right) \times 100\% \\
 &= \left( \left( \frac{114}{251} \times 0.237 \right) + \left( \frac{88}{3348} \times 0.341 \right) + \left( \frac{183}{3076} \times 0.276 \right) + \left( \frac{28}{164} \times 0.047 \right) + \left( \frac{41}{371} \times 0.013 \right) + \left( \frac{142}{485} \times 0.086 \right) \right) \times 100\% \\
 &= \left( 0.1076 \right) + \left( 0.0090 \right) + \left( 0.0164 \right) + \left( 0.0081 \right) + \left( 0.0014 \right) + \left( 0.0252 \right) \times 100\% \\
 &= \mathbf{16.8\%}
 \end{aligned}$$

**List of DOT Assisted/Federal Funded Project for FY 16/17**

Projects	NAICS Code						Total
	237310 Highway & Bridges	238210 Electrical	541330 Engineering	#541370 Surveying	#541620 Environmental	#541380 Testing	
1 Mt. Vernon Avenue Corridor Traffic Signal Improvement	\$ 274,700.00	\$ 395,300.00		\$ 15,000.00		\$ 15,000.00	700,000.00
2 Barton Road Bridge Replacement Project			\$ 320,000.00	\$ 40,000.00	\$ 100,000.00		460,000.00
							-
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<b>Total</b>	\$ 274,700.00	\$ 395,300.00	\$ 320,000.00	\$ 55,000.00	\$ 100,000.00	\$ 15,000.00	\$ 1,160,000.00
<b>Weighted %</b>	<b>0.237</b>	<b>0.341</b>	<b>0.276</b>	<b>0.047</b>	<b>0.086</b>	<b>0.013</b>	<b>1.000</b>

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STATE OF CALIFORNIA )  
COUNTY OF SAN BERNARDINO ) ss  
CITY OF COLTON )

**CERTIFICATION**

I, **CAROLINA R. PADILLA**, City Clerk of the City of Colton, California, do hereby certify that the foregoing is a full, true and correct copy of **RESOLUTION NO. R-51-16**, duly adopted by the City Council of said City, and approved by the Mayor of said City, at its Regular Meeting of said City Council held on the **7<sup>th</sup> day of June, 2016**, and that it was adopted by the following vote, to wit:

- |          |               |   |
|----------|---------------|---|
| AYES:    | COUNCILMEMBER | Toro, Jorin, Navarro, González, Suchil and Mayor DeLaRosa |
| NOES:    | COUNCILMEMBER | None  |
| ABSTAIN: | COUNCILMEMBER | None  |
| ABSENT:  | COUNCILMEMBER | Bennett   |

**IN WITNESS WHEREOF**, I have hereunto set my hand and affixed the official seal of the City of Colton, California, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
CAROLINA R. PADILLA  
City Clerk  
City of Colton

(SEAL)