

**NOTICE OF PUBLIC MEETING OF THE
CARSON AREA METROPOLITAN PLANNING ORGANIZATION
WEDNESDAY, JANUARY 11, 2012 4:30 P.M.
COMMUNITY CENTER- SIERRA ROOM
851 EAST WILLIAM STREET
CARSON CITY, NEVADA**

NOTE: The Carson Area Metropolitan Planning Organization is pleased to make reasonable accommodations for members of the public who are disabled and wish to attend the meeting. If special arrangements for the meeting are necessary, please notify Carson Area Metropolitan Planning Organization staff in writing at 3505 Butti Way, Carson City, Nevada, 89701, or ppittenger@carson.org, or call Patrick Pittenger at (775) 887-2355 as soon as possible (requests are required prior to 12:00 p.m. on January 9, 2012).

For more information regarding any of the items listed on the agenda, please contact the Metropolitan Planning Organization staff at (775) 887-2355. Additionally, the agenda with all supporting material is posted on the CAMPO website at www.carsonareampo.com.

AGENDA

A. ROLL CALL AND DETERMINATION OF A QUORUM

B. PUBLIC COMMENT: Members of the public who wish to address the Metropolitan Planning Organization may approach the podium and speak on matters related to the Metropolitan Planning Organization. Comments are limited to three minutes per person per topic. If your item requires extended discussion, please request the Chair to calendar the matter for a future Metropolitan Planning Organization meeting. No action may be taken upon a matter raised under this item of the agenda until the matter itself has been specifically included on an Agenda as an item upon which action may be taken.

C. For Possible Action: APPROVAL OF MINUTES

C-1 For Possible Action: Action to approve the minutes of the December 14, 2011 meeting.

D. AGENDA MANAGEMENT NOTICE: Items on the agenda may be taken out of order; CAMPO may combine two or more agenda items for consideration; and CAMPO may remove an item from the agenda or delay discussion relating to an item on the agenda at any time.

E. DISCLOSURES: Any member of the Metropolitan Planning Organization that may wish to explain any contact with the public regarding an item on the agenda or business of the Metropolitan Planning Organization.

F. PUBLIC MEETING ITEMS:

F-1 For Possible Action: To approve the proposed solicitation, screening, and prioritization process for Transportation Enhancement applications submitted for projects within the CAMPO metropolitan planning area.

Staff Summary: Staff will present a proposed process for soliciting, screening, and prioritizing Transportation Enhancement projects within the CAMPO planning area.

F-2 For Possible Action: To approve revisions to the CAMPO/RTC Disadvantaged Business Enterprise (DBE) Program, required by a February 2011 change to the DBE regulation.

Staff Summary: The DBE Program that is shared by CAMPO and RTC must include an element for fostering small business participation.

G. INTERNAL COMMUNICATIONS AND ADMINISTRATIVE MATTERS (Non-Action Items)

G-1 Future Agenda Items

H. BOARD COMMENTS: Status reports and comments from the members of the Carson Area Metropolitan Planning Organization Board.

I. PUBLIC COMMENT: Members of the public who wish to address the Metropolitan Planning Organization may approach the podium and speak on any matter that is not specifically included on the agenda as an action item and allowable under the Open Meeting Law. Comments are limited to three minutes per person per topic. If your item requires extended discussion, please request the Chair to calendar the matter for a future Metropolitan Planning Organization meeting. No action may be taken upon a matter raised under this item of the agenda until the matter itself has been specifically included on an Agenda as an item upon which action may be taken.

J. For Possible Action: ADJOURNMENT

The next meeting is tentatively scheduled for 4:30 p.m., Wednesday, February 8, 2012, at the Sierra Room - Community Center, 851 East William Street.

This agenda has been posted at the following locations
on Thursday, January 5, 2012, before 5:00 p.m.:
CITY HALL, 201 North Carson Street
CARSON CITY LIBRARY, 900 North Roop Street
COMMUNITY CENTER, SIERRA ROOM, 851 East William Street
CARSON CITY PUBLIC WORKS, 3505 Butti Way
CARSON CITY PLANNING DIVISION, 108 E. Proctor Street
DOUGLAS COUNTY EXECUTIVE OFFICES, 1594 Esmeralda Avenue, Minden
LYON COUNTY MANAGER'S OFFICE, 27 South Main Street, Yerington
NEVADA DEPARTMENT OF TRANSPORTATION, 1263 S. Stewart Street, Carson City

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A regular meeting of the Carson Area Metropolitan Planning Organization was scheduled for 4:30 p.m. on Wednesday, December 14, 2011, in the Community Center Sierra Room, 851 East William Street, Carson City, Nevada.

PRESENT: Chairperson Charles Des Jardins
Member Robert Crowell
Member Ray Fierro
Member James Mallery
Ex-Officio Member Dennis Taylor

STAFF: Darren Schulz, Deputy Public Works Director
Patrick Pittenger, Transportation Manager
Daniel Doenges, Senior Transportation Planner
Ken Smithson, Transit Coordinator
Tina Russom, Deputy District Attorney
Kathleen King, Deputy Clerk / Recording Secretary

NOTE: A recording of these proceedings, the CAMPO's agenda materials, and any written comments or documentation provided to the recording secretary during the meeting are part of the public record. These materials are available for review, in the Clerk's Office, during regular business hours.

A. ROLL CALL AND DETERMINATION OF A QUORUM (4:31:05) - Chairperson Des Jardins called the meeting to order at 4:31 p.m. Roll was called; a quorum was present. Vice Chairperson Foltz and Members Aldean and Carpenter were absent.

B. PUBLIC COMMENT (4:33:19) - Chairperson Des Jardins entertained public comment; however, none was forthcoming.

C. POSSIBLE ACTION ON APPROVAL OF MINUTES - November 9, 2011 (4:34:04) - Member Fierro moved to approve the minutes, as presented. Member Mallery seconded the motion. Motion carried 4-0.

D. AGENDA MANAGEMENT NOTICE (4:34:37) - Chairperson Des Jardins entertained modifications to the agenda; however, none were forthcoming.

E. DISCLOSURES (4:35:05) - None.

F. PUBLIC MEETING ITEMS:

F-1. INFORMATION ON THE RESULTS OF THE CAMPO TRAFFIC SIGNAL OPTIMIZATION STUDY (4:35:40) - Chairperson Des Jardins introduced this item, and Mr. Pittenger reviewed the agenda materials. In response to a question, he described modifications made to signals on College Parkway. Chairperson Des Jardins entertained additional CAMPO member questions or comments and public comments; none were forthcoming.

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F-2. INFORMATION REGARDING A MODIFICATION TO THE CAMPO FY 2012 UNIFIED PLANNING WORK PROGRAM (“UPWP”) (4:39:52) - Chairperson Des Jardins introduced this item, and Mr. Pittenger reviewed the agenda materials. In response to a question, he anticipates being able to spend most of the budgeted funding. “We are well on track to spend most of the money. Frankly, in previous years, we have never spent every penny of the money that’s in the budget, but ... it’s better to go a little under than a little over. If you exceed, we’re on the hook for it. If we go under, we can carry it over to the next year.” Ex-Officio Member Taylor advised of NDOT’s commitment “that should there be any carry-over money, barring such a case that we get a federal rescission ..., then that carry-over money is going to be reprogrammed and added to next year regardless.”

Chairperson Des Jardins entertained additional comments or questions from the CAMPO members and, when none were forthcoming, entertained public comments. None were forthcoming.

F-3. POSSIBLE ACTION TO APPROVE THE PROPOSED COOPERATIVE AGREEMENT FOR REGIONAL TRANSPORTATION PLANNING BETWEEN CAMPO AND THE NEVADA DEPARTMENT OF TRANSPORTATION (4:43:23) - Chairperson Des Jardins introduced this item, and Mr. Pittenger reviewed the agenda materials. In response to a question, Ex-Officio Member Taylor provided background information on development of the original agreements in 2007-08, and the recently proposed amendments. In response to a further question, he reviewed the time line for finalizing the revised agreement. In response to a further question, he advised that MAC-21 was extended through March 31, 2012. “Unfortunately, as of last Wednesday ..., we have no spending authority. However, the money ... contained in that agreement was previous to this MAC-21 so, therefore, that money has been programmed and is currently available.” Ex-Officio Member Taylor acknowledged this will extend through September 30, 2012. “... and then, after September 30th, there is a 90-day grace period for billing because we realize that not everything goes second to second; that there’s processes. ... there’s typically a 90-day grace period for final billing, invoicing, close-out, etc.”

In response to a question, Mr. Pittenger reviewed the provisions of Article III, Paragraph 5, relative to the composition of the Metropolitan Planning Organization. Ex-Officio Member Taylor advised that the NDOT Director had appointed him to the CAMPO as her designee. Member Fierro advised of necessary grammatical corrections, and offered to convey them to Mr. Pittenger after the meeting.

Chairperson Des Jardins entertained public comment and, when none was forthcoming, a motion. **Member Mallery moved to approve the proposed cooperative agreement for regional transportation planning, between CAMPO and the Nevada Department of Transportation, Agreement No. PR404-11-804, for \$389,863, for FY 2011, and \$250,370 for FY 2012. Member Crowell seconded the motion. Motion carried 4-0.**

G. INTERNAL COMMUNICATIONS AND ADMINISTRATIVE MATTERS

G-1. FUTURE AGENDA ITEMS (4:53:25) - Chairperson Des Jardins entertained requested future agenda items from the CAMPO members. When none were forthcoming, Mr. Pittenger reviewed the tentative agenda for the January meeting.

H. CAMPO MEMBER COMMENTS (4:54:52) - None.

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I. PUBLIC COMMENT (4:55:06) - Chairperson Des Jardins entertained public comments; however, none were forthcoming.

J. ACTION TO ADJOURN (4:55:50) - Member Crowell moved to adjourn the meeting at 4:55 p.m. Member Mallery seconded the motion. Motion carried 4-0.

The Minutes of the December 14, 2011 Carson Area Metropolitan Planning Organization meeting are so approved this _____ day of January, 2012.

CHARLES DES JARDINS, Chair

**CARSON AREA METROPOLITAN PLANNING ORGANIZATION
REQUEST FOR COMMISSION ACTION**

Date Submitted: December 29, 2011

Meeting Date: January 11, 2012

To: Carson Area Metropolitan Planning Organization

From: Patrick Pittenger, Transportation Manager

Subject Title: For Possible Action: To approve the proposed solicitation, screening, and prioritization process for Transportation Enhancement applications submitted for projects within the CAMPO metropolitan planning area.

Staff Summary: Staff will present a proposed process for soliciting, screening, and prioritizing Transportation Enhancement projects within the CAMPO planning area.

Type of Action Requested: (check one)

() None – Information Only

() Formal Action/Motion

Recommended Board Action: I move to approve the proposed solicitation, screening, and prioritization process for Transportation Enhancement applications submitted for projects within the CAMPO metropolitan planning area.

Explanation for Recommended Action: The Nevada Department of Transportation (NDOT) has requested that each of the Nevada metropolitan planning organizations (MPOs) develop and approve individual selection and prioritization processes for Transportation Enhancement applications submitted for proposed projects within their respective planning area boundaries. NDOT administers their own process for ranking Transportation Enhancement applications for projects in the non-urbanized areas of the state. However, it is up to the MPOs to determine the applications that are moved forward in the urbanized areas, and in what priority order they are to be considered. NDOT staff has reviewed the proposed CAMPO Transportation Enhancement Project Solicitation, Screening, and Prioritization Process, and have indicated that it meets their requirements.

NDOT has recently revised their Transportation Enhancement application review and approval process. Under the current process, CAMPO receives 5% of the total amount of the Federal Transportation Enhancement funding awarded to the state for each funding cycle. There is no limit to the number of applications that can be submitted to

CAMPO. However, CAMPO may only forward as many eligible applications to NDOT as there is funding available. The number of proposed projects may exceed the amount of Transportation Enhancement funds allocated to CAMPO only if additional funds are provided by the applicant(s). Projects not submitted to NDOT may become eligible for funding in the in the future in the event that there is money left over from other areas or if unused money is redistributed as a result of a lapse in the progress of a selected project. In these cases, the Statewide Transportation Technical Advisory Committee (STTAC) will take action to prioritize and distribute funds to projects not selected during the initial award process.

Applicable Statue, Code, Policy, Rule or Policy: N/A

Fiscal Impact: N/A

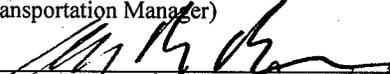
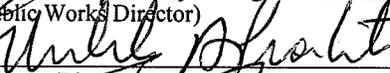
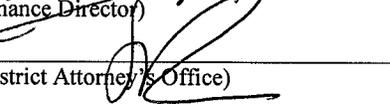
Explanation of Impact: N/A

Funding Source: N/A

Alternatives: Approve the proposed solicitation, screening, and prioritization process as it is written, or modify the proposed process.

Supporting Material: Transportation Enhancement Project Solicitation, Screening, and Prioritization Process within the CAMPO Planning Area.

Prepared By: Patrick Pittenger, Transportation Manager

Reviewed By:	<u></u>	Date: <u>1/3/12</u>
	(Transportation Manager)	
	<u></u>	Date: <u>1/3/12</u>
	(Public Works Director)	
	<u></u>	Date: <u>1/3/12</u>
	(Finance Director)	
	<u></u>	Date: <u>1/3/12</u>
	(District Attorney's Office)	

Board Action Taken:

Motion: _____

1) _____ Aye/Nay

2) _____

_____ (Vote Recorded By)

Transportation Enhancement Project Solicitation, Screening, and Prioritization Process within the CAMPO Planning Area

Transportation Enhancements are transportation-related activities designed to strengthen the cultural, aesthetic, and environmental aspects of the Nation's intermodal transportation system. The Transportation Enhancements Program provides for the implementation of a variety of non-traditional projects. Eligible Transportation Enhancement activities are listed as follows:

- Provision of facilities for pedestrians and bicycles.
- Provision of safety and educational activities for pedestrians and bicyclists.
- Acquisition of scenic easements and scenic or historic sites (including historic battlefields).
- Scenic or historic highway programs (including the provision of tourist and welcome center facilities).
- Landscaping and other scenic beautification.
- Historic preservation.
- Rehabilitation and operation of historic transportation buildings, structures, or facilities (including historic railroad facilities and canals).
- Preservation of abandoned railway corridors (including the conversion and use of the corridors for pedestrian or bicycle trails).
- Inventory, control and removal of outdoor advertising.
- Archaeological planning and research.
- Environmental mitigation to address water pollution due to highway runoff or reduce vehicle-caused wildlife mortality while maintaining habitat connectivity.
- Establishment of transportation museums.

The Transportation Enhancement Program is a reimbursement program, with monies being reimbursed following the expenditure of funds for the completion of a project or a phase of a project. The Nevada Department of Transportation (NDOT) retains responsibility for the projects funded under the enhancement program. Any proposed project for Transportation Enhancement funding within the Carson Area Metropolitan Planning Organization (CAMPO) metropolitan planning area (MPA) boundaries must meet the minimum Federal requirements set forth in the application administered by the NDOT. The following sections describe the process that CAMPO has adopted for the solicitation, screening, and prioritization of applications submitted for Transportation Enhancement funding.

Project Solicitation

CAMPO staff will notify entities within the CAMPO planning area of the call for applications for the Transportation Enhancement program. This includes, at a minimum, the following entities: Carson City, Douglas County, Lyon County, and the Washoe Tribe of Nevada and California. Staff will contact the appropriate representatives of each of these entities and rely on those representatives to inform key staff in their respective jurisdictions. CAMPO staff will notify these entities after being notified by NDOT that applications will be accepted for the Transportation Enhancement program. Notification of a call for applications will be sent via email. In addition, a notice will be posted on the home page of the CAMPO website. Please note that the CAMPO notification process is supplemental to the NDOT notification process, as NDOT is the funding agency and the primary agency that oversees the Transportation Enhancement program.

Project Screening

All pre-applications and applications for Transportation Enhancement projects within the CAMPO area must be submitted to both CAMPO staff and NDOT staff simultaneously. Eligible projects must meet the following criteria.

- A proposed project must be completely contained within the CAMPO metropolitan planning area boundaries. Any project that does not meet this requirement will not be considered by the CAMPO Board. A map of the CAMPO planning area can be found on the CAMPO website or requested from CAMPO staff.
- Proposed projects must have a preliminary design, cost estimate, and a statement that the required local match has been committed. Please note that a 5% match is required for the first \$400,000 of the total project cost. If a project is estimated to cost more than \$400,000, then any additional amount beyond the \$400,000 threshold is subject to a 12% match.
- Projects should also be reviewed by a licensed professional engineer, architect, or landscape architect.
- Proposed projects must be included in the CAMPO Regional Transportation Plan (RTP). If a project is not identified in the current RTP, the applicant may petition the CAMPO Board to amend the RTP to include the proposed project prior to the submittal of a Transportation Enhancement application. In some cases, some projects may not be necessary or appropriate for inclusion in the RTP. In this event, staff will request verification from NDOT in the form of a written statement as to whether or not the project has to be included in the RTP.
- If a project is selected for funding, the CAMPO Transportation Improvement Program (TIP) must be amended to include the project.

Project Prioritization

Once proposed projects are determined to be eligible, each eligible application received will be scored by CAMPO staff, and will be forwarded with a recommendation to the CAMPO Board. The CAMPO Board will then select and prioritize the application(s) that will move forward to NDOT for consideration. Applications will be scored in accordance with the criteria listed below. Each of the criteria met will be worth up to 10 points, for a maximum of 70 points possible per application. If funding is available for more than one project, then as many projects as can be funded will be submitted to NDOT for consideration. However, NDOT will not accept more applications than what they have available funding for unless additional funding is provided by the applicant.

Criteria (Score up to 10 Points for Each Criteria Met)	Points
Can the project be implemented with minimal environmental review?	
Does the project have the required right-of-way and not require the relocation of any utilities?	
Will the project improve user safety?	
Will the project improve connectivity/accessibility?	
Will the project have a positive impact on economic development?	
Has the project been offered for public review and was it well received?	
Will the project enhance the quality of life for the entire community?	
Total Points Out of 70	

**CARSON AREA METROPOLITAN PLANNING ORGANIZATION
REQUEST FOR BOARD ACTION**

Date Submitted: December 28, 2011

Meeting Date: January 11, 2012

To: Carson Area Metropolitan Planning Organization

From: Ken Smithson, Transit Coordinator

Subject Title: For Possible Action: To approve revisions to the CAMPO/RTC Disadvantaged Business Enterprise (DBE) Program, required by a February 2011 change to the DBE regulation.

Staff Summary: The DBE Program that is shared by CAMPO and RTC must include an element for fostering small business participation.

Type of Action Requested: (check one)

() None – Information Only

() Formal Action/Motion

Recommended Commission Action: I move to approve revisions to the CAMPO/RTC Disadvantaged Business Enterprise (DBE) Program, required by a February 2011 change to the DBE regulation.

Explanation for Recommended Commission Action: By February 28, 2012, CAMPO and RTC must submit an element to their DBE program for fostering small business participation. This new element, required by a February 2011 change to the DBE regulation, must include provisions to structure contracting requirements to facilitate competition by small business. CAMPO and RTC must take all reasonable steps to eliminate obstacles to DBE participation, including unnecessary and unjustified bundling of contract requirements that may preclude small business participation in procurements as prime contractors or subcontractors.

Since the DBE Program was last revised in 2008, other changes have occurred to job titles for persons responsible for the DBE program, as well as the timing of submissions of DBE goals to the Federal Transit Administration (FTA) – from annually to once every three years. These proposed revisions have also been made to the DBE Program.

The DBE Program is applicable to both CAMPO and RTC, since CAMPO is the designated recipient of FTA Section 5307 funds to the Carson City urbanized area and is responsible for federal reporting; and RTC is the administrator of 5307 funds for transit programs and projects, including contracting opportunities.

Applicable Statute, Code, Rule or Policy: 49 CFR Part 26, "Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs."

Fiscal Impact: N/A

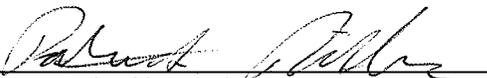
Explanation of Impact: N/A

Funding Source: N/A

Alternatives: N/A

Supporting Material: CAMPO/RTC DBE Program

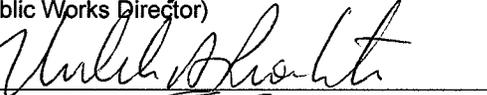
Prepared By: Ken Smithson, Transit Coordinator

Reviewed By: 
(Transportation Manager)

Date: 1/3/12


(Public Works Director)

Date: 1/3/12


(Finance Director)

Date: 1/3/12


(District Attorney's Office)

Date: 1/3/12

Board Action Taken:

Motion: _____

1) _____ Aye/Nay

2) _____

_____ (Vote Recorded By)

Carson Area Metropolitan Planning Organization
and
Regional Transportation Commission
of Carson City, Nevada

DISADVANTAGED BUSINESS ENTERPRISE PROGRAM

For Submission To:

FEDERAL TRANSIT ADMINISTRATION
REGION **IXNINE**
201 Mission Street, Suite 1650
San Francisco, CA 94105

January 201208

~~Carson Area Metropolitan Planning Organization
and
Carson City Regional Transportation Commission~~

~~Proposed DBE Goals
FY 2008~~

~~Name of Preparer: Keith Pearson, Transportation Planning Technician~~

~~Tel. Number: (775) 887-2355~~

~~Goal Period: From: July 1, 2007
To: June 30, 2008~~

~~FY 2008 Overall DBE Goal for Federally-Assisted Projects: 1.7%~~

~~Race-Neutral Goal: 1.7%~~

~~Race-Conscious Goal: 0.0%~~

~~This plan is intended to serve both the Carson Area Metropolitan Planning Organization (CAMPO) and the Carson City Regional Transportation Commission (RTC) as both agencies will be performing work and accessing funding that will be used to support, US DOT, FHWA and FTA planning, capital, and operating activities of the two agencies. The use of the terminology "CAMPO and RTC" or "CAMPO and/or RTC" is intended to allow either agency acting jointly or independently to follow the procedures included herein.~~

~~This document includes excerpts from federal regulation, 49 CFR Part 26, and components of approved Disadvantaged Business Enterprise Plans created by the Regional Transportation Commission of Washoe County, the Tahoe Regional Planning Agency/Tahoe Transportation District, and the Caltrans Model DBE Program.~~

~~Where appropriate and to serve the purpose of clarity full citations from the Codified Federal Regulation are included. In other instances, reference is provided to the~~

~~applicable citation. In every instance, it is the intent of the CAMPO and RTC to fully comply with federal regulation.~~

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STATEMENT OF POLICY

The Carson Area Metropolitan Planning Organization (CAMPO) and the Carson City Regional Transportation Commission (RTC) are committed to carrying out all of the Disadvantaged Business Enterprises (DBE) requirements of 49 CFR Part 26, effective March, 1999, as may be amended and modified from time to time. The procedures contained in the DBE program will assure that all contracts and procurements are administered without discrimination on the basis of race, color, sex or national origin, and DBEs have an equal opportunity to compete for and participate in the performance of all agreements, contracts and subcontracts awarded by CAMPO and RTC.

It is the policy of ~~the~~ CAMPO and RTC to ensure nondiscrimination on the basis of race, color, sex, ethnicity or national origin in the award and administration of federally funded contracts. It is the intention of CAMPO and ~~the~~ RTC to allow DBEs to compete fairly for agreements, contracts and subcontracts, including but not limited to construction, procurement and proposal contracts, professional and technical services agreements and purchase orders.

To ensure adherence to this policy, CAMPO and RTC have assigned the coordination of the DBE program to the ~~Transportation Manager Deputy City Engineer~~. The ~~Transportation Manager Deputy City Engineer~~ has delegated this responsibility to the ~~Transportation Coordinator~~ Planner and the ~~Transportation Coordinator~~ Planner will serve as the DBE Liaison Officer. The DBE Liaison Officer will be responsible for development, implementation and monitoring of the DBE program. It is the expectation of CAMPO and RTC that the provisions of this DBE program will be adhered to, both in the spirit and letter by all personnel.

This DBE program is intended to implement the federal requirements pertaining to the DBE program, including but not limited to 49 CFR Part 26. In the event of any inconsistencies between the terms of the ~~CAMPO and RTC's~~ DBE Program and the terms of 49 CFR Part 26, the latter will prevail.

This policy will be circulated to corporate employees and community and business organizations that perform work on federally funded contracts issued by CAMPO and RTC. CAMPO and RTC will provide further information regarding this program, including a copy of the overall annual DBE goal analysis, to the public or any individual requesting such information.

This policy document has been approved by CAMPO and RTC this ~~114~~ day of ~~January~~ September 2012~~05~~.

~~Richard Staub~~ Charles DesJardins Shelly Aldean
CAMPO Chairman RTC Chairperson

Regional Transportation Commission
Carson Area Metropolitan Planning Organization

I. OBJECTIVES

The objectives of this DBE Program are to:

1. Ensure nondiscrimination in the award and administration of federally funded contracts.
2. Allow DBEs to compete fairly for federally funded contracts.
3. Help remove barriers to DBE participation in the bidding, award, and administration of CAMPO and RTC contracts.
4. Assist in the development of DBE firms that can compete successfully in the market place outside of the DBE Program.
5. Ensure that only firms that fully meet the eligibility standards of 49 CFR Part 26 are permitted to participate as DBEs.
6. Ensure that the DBE Program is narrowly tailored in accordance with applicable law.
7. Identify business enterprises that are qualified as DBEs and are qualified to provide ~~the~~ CAMPO and RTC with required materials, equipment, supplies and services; and to develop a good rapport with the owners and management of those enterprises.
8. Develop communication programs and procedures which will acquaint prospective DBEs with ~~the~~ CAMPO and RTC's contract procedures, activities and requirements and allow DBEs to provide ~~the~~ CAMPO and RTC with feedback on existing barriers to participation and effective procedures to eliminate those barriers.
9. Administer the DBE Program in close coordination with the various departments within ~~the~~ CAMPO and RTC so as to facilitate the successful implementation of this Program.

II. APPLICABILITY

Pursuant to 49 CFR Part 26, Subpart B, § Sections 26.213, ~~the FTA recipients receiving planning, capital and/or operating assistance who will award prime contracts (excluding transit vehicle purchases) exceeding \$250,000 in FTA funds in a Federal fiscal year CAMPO and RTC, recipients of federal financial assistance from the Federal Transit Administration (FTA) of the United States Department of Transportation (USDOT), are~~ required to implement a DBE Program meeting the requirements of this part in accordance with 49 CFR Part 26. The DBE Program outlined herein applies to all CAMPO and RTC contracts that are funded, in whole or in part, by FTAUSDOT.

In the administration of the DBE Program, ~~the~~ CAMPO and RTC will not directly or through contractual or other arrangements, use criteria or methods of administration that have the effect of defeating or substantially impairing the accomplishment of the

objectives of this DBE Program with respect to individuals of a particular race, color, sex or national origin.

III. DEFINITION OF TERMS

1. **Affiliates.** Firms are affiliates of each other when, either directly or indirectly: (1) one firm controls or has the power to control the other, or (2) a third party or parties controls or has the power to control both firms, or (3) an identity of interest between or among parties exists such that affiliation may be found.
2. **Alaska Native.** A citizen of the United States who is a person of one-fourth degree or more Alaskan Indian (including Tsimshian Indians not enrolled in the Metlaktla Indian community), Eskimo, or Aleut blood, or a combination of those bloodlines. The term includes, in the absence of proof of a minimum blood quantum, any citizen whom a Native village or Native group regards as an Alaska Native if their father or mother is regarded as an Alaska Native.
3. **Alaska Native Corporation (ANC).** Any Regional Corporation, Village Corporation, Urban Corporation, or Group Corporation organized under the laws of the State of Alaska in accordance with the Alaska Native Claims Settlement Act, as amended (43 U.S.C. 1601, et seq.).
4. **Appeal.** A formal filing with U.S. USDOT by a firm which has been denied certification.
5. **CAMPO.** The duly constituted Carson Area Metropolitan Planning Organization.
6. **Compliance.** Means that a recipient has correctly implemented the requirements of this part.
7. **Contract.** A legally binding relationship obligating a seller to furnish supplies or services (including, but not limited to, construction and professional services) and the buyer to pay for them. For purpose of this part, a lease is considered to be a contract.
8. **Contractor.** One who participates, through a contract or sub-contract (at any tier), in a DOT-assisted highway, transit or airport program.
9. **Challenge.** A written complaint filed with the CAMPO and/or RTC by a person alleging that a currently certified firm is ineligible.
10. **Commercially Useful Function.** A DBE performs a commercially useful function when it is responsible for execution of the work of the contract and is carrying out its responsibilities by actually performing, managing, and supervising

the work involved. To perform a commercially useful function, the DBE must also be responsible, with respect to materials and supplies used on the contract, for negotiating prices, determining quality and quantity, ordering the material, and installing and paying for the material itself. To determine whether a DBE is performing a commercially useful function, the amount of work subcontracted, industry practices, whether the amount the firm is to be paid under the contract is commensurate with the work it is actually performing and the DBE credit claimed for its performance of the work, and other relevant factors must be evaluated.

A DBE does not perform a commercially useful function if its role in the contract is limited to that of an extra participant through which funds are passed in order to obtain the appearance of DBE participation. If the DBE does not perform or exercise responsibility for at least 51% of the total cost of its contract with its own work force, or the DBE subcontracts a greater portion of the work of a contract than would be expected on the basis of normal industry practice for the type of work involved, the DBE is presumed not to be performing a commercially useful function.

11. **DBE Liaison Officer.** Coordinator and contact person for the DBE Program. The CAMPO/RTC ~~Transportation Planner~~Transit Coordinator has been designated as the DBE Liaison Officer.
12. **Disadvantaged Business Enterprise (DBE).** A for-profit small business concern:
 - a. Which is at least 51 percent owned by one or more individuals that are both socially and economically disadvantaged or, in the case of a corporation, in which at least 51 percent of the stock is owned by one or more such individuals; and
 - b. Whose management and daily business operations are controlled by one or more of the socially and economically disadvantaged individuals who own it.
13. **DOT-Assisted Contract.** Any contract between a recipient and a contractor (at any tier) funded in whole or in part with DOT financial assistance, including letters of credit or loan guarantees, except a contract solely for the purchase of land.
14. **DOT/SBA Memorandum of Understanding or MOU.** Refers to the agreement signed on November 23, 1999, between the Department of Transportation (DOT) and the Small Business Administration (SBA) streamlining certification procedures for participation in SBA's 8(a) Business Development (8(a) BD) and Small Disadvantaged Business (SDB) programs, and DOT's Disadvantaged Business Enterprise (DBE) program for small and disadvantaged businesses.
15. **Federally Funded Contract.** Any contract or modification of a contract between

- ~~the~~ CAMPO and/or RTC and a contractor which is paid for in whole or in part with funds from the US Department of Transportation.
16. **Federal Transit Administration (FTA)**. An agency of the U.S. Department of Transportation.
 17. **Goal**. A numerically expressed objective.
 18. **Good Faith Efforts**. Means efforts to achieve a DBE goal or other requirement of this part which, by their scope, intensity, and appropriateness to the objective can reasonably be expected to fulfill the program requirement.
 19. **Immediate Family Member**. Means father, mother, husband, wife, son, daughter, brother, sister, grandmother, grandfather, grandson, granddaughter, mother-in-law, or father-in-law.
 20. **Indian tribe**. Any Indian tribe, band, nation, or other organized group or community of Indians, including any ANC, which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians, or is recognized as such by the State in which the tribe, band, nation, group, or community resides.
 21. **Joint Venture**. An association of a DBE firm and one or more other firms to carry out a single, for-profit business enterprise, for which purpose the parties combine their property, capital, efforts, skills, and knowledge, and in which the DBE is responsible for a distinct, clearly defined portion of the work of the contract and whose share in the capital contribution, control, management, risks, and profits of the joint venture are commensurate with its ownership interest.
 22. **Manufacturer**. A business that operates or maintains a factory or establishment that produces on the premises the materials or supplies obtained by the contractor.
 23. **Native Hawaiian**. Any individual whose ancestors were natives, prior to 1778, of the area which now comprises the State of Hawaii.
 24. **Native Hawaiian Organization**. Any community service organization serving Native Hawaiians in the State of Hawaii which is a not-for-profit organization chartered by the State of Hawaii, is controlled by Native Hawaiians, and whose business activities will principally benefit such Native Hawaiians.
 25. **Non-Compliance**. The condition existing when a contractor has failed to implement or meet the requirements of 49 CFR Part 26, ~~the~~ CAMPO/~~and~~ RTC's Disadvantaged Business Enterprise Program, its policies and procedure pertaining to DBE participation, and any rules or regulations implementing the above.

26. **Operating Administration or OA.** Any of the following parts of DOT: the Federal Aviation Administration (FAA), Federal Highway Administration (FHWA), and Federal Transit Administration (FTA). The “Administrator” of an operating administration includes his or her designees.
27. **Personal Net Worth.** The net value of the assets of an individual remaining after total liabilities are deducted. An individual's personal net worth does not include: the individual's ownership interest in an applicant or participating DBE firm; or the individual's equity in his or her primary place of residence. An individual's personal net worth includes only his or her own share of assets held jointly or as community property with the individual's spouse.
28. **Pre-Bid or Pre-Proposal Conference.** A meeting held by ~~the~~ CAMPO and/or RTC, prior to the bid opening or proposal submittal date of a particular contract at which prospective bidders or proposers are advised of the CAMPO/RTC's DBE Program.
29. **Pre-Construction Conference.** A meeting held by ~~the~~ RTC after award of contract on a particular construction project, but prior to the commencement of any work, at which the prime contractor is advised of its compliance obligations including DBE, EEO, and labor standards requirements, and any final technical requirements.
30. **Primary Industry Classification.** The North American Industrial Classification System (NAICS) designation which best describes the primary business of a firm. The NAICS is described in the *North American Industry Classification Manual – United States, 1997* which is available from the National Technical Information Service.
31. **Primary Recipient.** A recipient which receives DOT financial assistance and passes some or all of it on to another recipient.
32. **Principal Place of Business.** The business location where the individuals who manage the firm's day-to-day operations spend most working hours and where top management's business records are kept. If the offices from which management is directed and where business records are kept are in different locations, the recipient will determine the principal place of business for DBE program purposes.
33. **Program.** Any undertaking on a recipient's part to use DOT financial assistance, authorized by the laws to which this part applies.
34. **Race-Conscious.** A measure or program that is specifically focused on assisting only DBEs, including women-owned DBEs. Race-conscious measures are primarily contract goals, however, things like set-asides or price credits for

DBEs would also be considered race-conscious measures.

35. **Race-Neutral.** A measure or program that is or can be used to assist all small businesses. For the purposes of this Program, race-neutral includes gender neutrality. Any time a DBE gets a prime or subcontract when nothing but its low bid is considered, that is race neutral participation.
36. **Recipient.** Any entity, public or private, to which DOT financial assistance is extended, whether directly or through another recipient, through the programs of the FAA, FHWA or FTA or who has applied for such assistance.
37. **RTC.** The Regional Transportation Commission.
38. **Regular Dealer.** A firm that owns, operates, or maintains a store, warehouse or other establishment in which the materials or supplies required for the performance of a contract are bought, kept in stock, and are regularly sold to the public in the usual course of business. To be a regular dealer, the firm must engage in, as its principal business and in its own name, the purchase and sale or lease of the products in question. A regular dealer in such bulk items as steel, cement, gravel, stone and petroleum products need not keep such products in stock, if it owns or operates distribution equipment for the products.
39. **Secretary.** The Secretary of Transportation or his/her designee.
40. **Set-aside.** A contracting practice restricting eligibility for the competitive award of a contract solely to DBE firms.
41. **Small Business Administration (SBA).** The United States Small Business Administration.
42. **SBA Certified Firm.** Firms that have a current, valid certification from or recognized by the SBA under the 8(a) BD or SDB programs.
43. **Small Business Concern.** With respect to firms seeking to participate as DBEs in DOT-assisted contracts, a small business as defined pursuant to section 3 of the Small Business Act and Small Business Administration regulations implementing it (13 CFR Part 121), except that a small business concern shall not include any concern or group of concerns which has annual average gross receipts over the previous three fiscal years in excess of \$16.6 million, as that amount may be adjusted from time to time by the Secretary of USDOT. In addition, firms are subject to applicable lower limits on business size standards established by the Small Business Administration in 13 CFR Part 121.
44. **Socially and Economically Disadvantaged Criteria.** Any individual who is a citizen (or lawfully admitted permanent resident) of the United States and who is – (1) any individual who a recipient finds to be a socially and economically

disadvantaged individual on a case-by-case basis; (2) Any individual in the following groups, members of which are reputedly presumed to be socially and economically disadvantaged: (i) "Black Americans," which includes persons having origins in any of the Black racial groups of Africa; (ii) "Hispanic Americans," which includes persons of Mexican, Puerto Rican, Cuban, Dominican, Central or South American, or other Spanish or Portuguese culture or origin, regardless of race; (iii) "native Americans," which includes persons who are American Indians, Eskimos, Aleuts, or Native Hawaiians; (iv) "Asian-Pacific Americans," which includes persons whose origins are from Japan, China, Taiwan, Korea, Burma (Myanmar), Vietnam, Laos, Cambodia (Kampuchea), Thailand, Malaysia, Indonesia, the Philippines, Brunei, Samoa, Guam, the U.S. Trust Territories of the Pacific Islands (Republic of Palau), the Commonwealth of the Northern Mariana Islands, Macao, Fiji, Tonga, Kiribati, Juvalu, Nauru, Federated States of Micronesia, or Hong Kong; (v) "Subcontinent Asian Americans," which includes persons whose origins are from India, Pakistan, Bangladesh, Bhutan, the Maldives Islands, Nepal or Sri Lanka; (vi) Women; (vii) Any additional groups whose members are designated as socially and economically disadvantaged by the SBA, at such time as the SBA designation becomes effective.

45. **Tribally-owned Concern.** Any concern at least 51 percent owned by an Indian tribe as defined in this section.

46. **USDOT.** The United States Department of Transportation.

IV. RESPONSIBILITY FOR DBE PROGRAM IMPLEMENTATION AND ADMINISTRATION

A. The CAMPO and RTC

~~A.~~ CAMPO and RTC are ultimately responsible for establishing DBE policy and ensuring that the DBE Program has a high priority.

B. The Transportation Manager Deputy City Engineer

~~A.~~ The Transportation Manager is responsible for seeing that CAMPO/RTC~~the Board's~~ policies are implemented and that the DBE Liaison Officer has adequate support to enable timely completion of duties.

C. The CAMPO Transportation Planner DBE Liaison Officer

~~B.~~ The Transit Coordinator has been designated ~~by the Deputy City Engineer~~ as the DBE Liaison Officer as referenced in 49 CFR Part 26. The DBE Liaison Officer is responsible for overseeing the DBE Program, recommending DBE policy, development and implementation of a written DBE program, and internal and external communication procedures. The DBE Liaison Officer shall have direct and independent access to the Transportation Manager Deputy City Engineer.

The DBE Liaison Officer is the primary person responsible for all aspects of this Program, and he/she will work closely with other departments, contractors and consultants of ~~the~~ CAMPO and ~~the~~ RTC, which are responsible for making decisions relative to ~~the~~ CAMPO/~~and~~ RTC's agreements, contracts and subcontracts, including but not limited to construction, procurement and proposal contracts, professional and technical services agreements and purchase orders.

In accordance with 49 CFR ~~Part 26, § Section~~ 26.253, the specific duties and responsibilities of the DBE Liaison Officer or his/her designee will include but not be limited to the following:

1. Gathers and reports statistical data and other information as required.
2. Reviews third party contracts and purchase requisitions for compliance with this program.
3. Works with all departments to set overall ~~three-year~~ annual goals.
4. Ensures that bid notices and requests for proposals are available to DBEs in a timely manner.
5. Identifies contracts and procurements so that DBE goals are included in solicitations (both race-neutral methods and contract specific goals) and monitors results.
6. Analyzes CAMPO and RTC progress toward goal attainment and identifies ways to improve progress.
7. Participates in pre-bid meetings.
8. Advises ~~the~~ CAMPO and RTC and the ~~Transportation Manager~~ Deputy City Engineer on DBE matters and achievement.
9. Participates with the legal counsel and project director to determine contractor compliance with good faith efforts.
10. Provides DBEs with information and assistance in preparing bids, obtaining bonding and insurance.
11. Plans and participates in DBE training seminars.
12. Provides outreach to DBEs and community organizations to advise them of opportunities.

V. ADMINISTRATIVE REQUIREMENTS

A. DBE Financial Institutions-

~~Pursuant to 49 CFR Part 26, § Section~~ 26.27, the DBE Liaison Officer will explore the full extent of services offered by banks and other financial institutions that qualify as DBEs in the Carson City and Reno/Sparks metropolitan area and determine areas in which ~~the~~ CAMPO and RTC may reasonably utilize their services. ~~The~~ CAMPO and RTC will also encourage its prime contractors to use the services of DBE financial institutions.

~~A.~~

B. DBE Directory.

~~B.~~ Pursuant to 49 CFR Part 26, §Section 26.31, the DBE Liaison Officer will refer all interested persons to the DBE Directory available from the Nevada Department of Transportation and the website at www.nevadadbe.com.

C. Over concentration.

Pursuant to 49 CFR Part 26, §Section 26.33, if the DBE Liaison Officer determines that DBE participation is so over concentrated in certain types of work or contracting opportunities that it unduly burdens the participation of non-DBEs in that type of work, the DBE Liaison Officer will develop appropriate measures to address the over concentration. The DBE Liaison Officer will seek approval from ~~the~~ FTA, and once approved, the measures will become part of this Program. Currently, ~~the~~ CAMPO and RTC are unaware of any types of work that have a burdensome over concentration of DBE participation.

~~C.~~

D. Small Business Participation

CAMPO and RTC are committed to fostering small business participation in the DBE program by structuring contracting requirements to facilitate competition by small businesses. CAMPO and RTC will take all reasonable steps to eliminate obstacles to DBE participation, including unnecessary and unjustified bundling of contract requirements that may preclude small business participation in procurements as prime contractors or subcontractors. Strategies that CAMPO and RTC may utilize include, but are not limited to, the following:

- On prime contracts not having DBE contract goals, requiring the prime contractor to provide subcontracting opportunities of a size that small businesses, including DBEs, can reasonably perform, rather than self-performing all the work involved
- To meet the race-neutral portion of overall agency goal, ensuring that a reasonable number of prime contracts are of a size that small businesses, including DBEs, can reasonably perform

E. Business Development Programs, Outreach and Mentor-Protégée Programs.

CAMPO and RTC do not have a business development or mentor-protégée program. If the CAMPO and RTC identifies the need for such a program in the future, the rationale for adopting such a program and a comprehensive description of it will be submitted for approval.

~~A.~~

F. Hearing Officer.

A.In accordance with 49 CFR Part 26, §Sections 26.53(d)(2) and 26.87(e), all proceedings by ~~the~~ CAMPO and RTC in connection with the removal of certification or reconsideration of a determination that a bidder has not met the DBE goal or used good faith efforts will be made by an outside independent hearing officer selected in accordance with CAMPO and RTC procedures.

~~B.~~

G. Unified Certification Program.

~~The CAMPO, as the designated recipient of FTA Section 5307 funds to the Carson City urbanized area, and RTC is signatory to will participate in the Nevada Department of Transportation (NDOT) Unified Certification Program (UCP). All certifications will be performed by the UCP and are binding on CAMPO and RTC. CAMPO and RTC have requested participation in the Unified Certification Program.~~

~~A.~~

H. Transit Vehicle Manufacturer Certification.

~~B. The CAMPO and RTC will require that each transit vehicle manufacturer, as a condition of being authorized to bid or propose on FTA-assisted transit vehicle procurements, certify that it has complied with the requirements of 49 CFR Part 26, §26.49.~~

VI. ANNUAL DBE GOALS

Pursuant to 49 CFR Part 26, §26.45, ~~the~~ CAMPO and RTC will establish ~~an annual~~ overall three-year goals according to the procedures expressed in Appendix A, based on a fiscal year basis the FTA schedule for three-year goal submittal. The overall three-year goals will be submitted to FTA for review by August 1 preceding the Federal fiscal year in which the goal submission is due. The ~~annual~~ overall three-year goals will be expressed as a percentage of the total amount of FTA funds that CAMPO and ~~the~~ RTC anticipates expending in any of the three Federal fiscal years.

VII. CONTRACT-SPECIFIC DBE GOALS

In accordance with the procedures expressed in Appendix B, CAMPO and ~~the~~ RTC will establish contract-specific DBE goals on contracts with subcontracting opportunities to the extent that CAMPO and ~~the~~ RTC cannot achieve its ~~annual~~ overall three-year goals with race-neutral measures. Where a contract-specific DBE goal has been established, the bidder or proposer must meet the contract-specific goal or demonstrate that it made good faith efforts to do so. A bidder will be ineligible for award if it does not meet the goal or demonstrate good faith efforts.

VIII. REMEDIES FOR NONCOMPLIANCE

Non-compliance consists of failure or refusal to implement, meet or satisfy the applicable governmental requirements related to DBE participation, including but not limited to 49 CFR Part 26 and related federal guidelines. ~~The~~ CAMPO and RTC may impose any remedies for non-compliance authorized by the federal, state and local regulations and CAMPO and RTC contract specifications, including withholding of progress payments, liquidated damages and termination of the contract in whole or in

part.

IX. REQUIRED CONTRACT PROVISIONS

CAMPO and RTC agrees to include the following provisions in all federally funded contracts, where appropriate:

A. Nondiscrimination Assurance

Each federally funded contract ~~the~~ CAMPO and/or RTC signs with a contractor, and each subcontract the prime contractor signs with a subcontractor, will include the following statement:

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

B. Prompt Payment Policy and Provisions

Each federally funded contract ~~the~~ CAMPO and/or RTC signs with a contractor will include the following provision:

"The prime contractor must pay subcontractors for satisfactory performance of their contracts no later than 30 days from the receipt of payment made to the prime by ~~the~~ CAMPO and/or RTC. Prompt return of retainage payments from the prime contractor to the subcontractor will be made within 30 days after the subcontractor's work is satisfactorily completed. Any delay or postponement of payment among the parties may take place only for good cause and with ~~the~~ CAMPO and/or RTC's prior written approval. If the prime contractor determines the work of the subcontractor to be unsatisfactory, it must notify ~~the~~ CAMPO and/or RTC's project manager and DBE Liaison Officer immediately in writing and state the reasons. Failure by the prime contractor to comply with this requirement will be construed to be a breach of contract and may be subject to sanctions as specified in the contract or any other options listed in 49 CFR Part 26, §Section 26.29."

X. CONTRACT COMPLIANCE AND REPORTING

CAMPO and RTC will implement appropriate mechanisms s to ensure compliance with the DBE Program by all program participants under federal, state and local law.

XI. PUBLIC PARTICIPATION ~~AND OUTREACH~~

A. ~~Public Participation~~

CAMPO and RTC will provide for public participation in establishing ~~an~~ overall three-year annual DBE goals which includes: consultation with minority, women's and general contractor groups, community organizations, and other officials or organizations that may have information concerning the availability of DBE and non-DBE firms; the effects of discrimination on DBE opportunities, and efforts to establish a level playing field for DBE participation. CAMPO and RTC will publish a notice announcing proposed overall DBE goals informing the public that the proposed goal and its rationale are available for inspection during normal business hours at ~~the~~ CAMPO and RTC's principal office for 30 days following the date of the notice, and that CAMPO and ~~the~~ RTC and USDOT will accept comments on such goals for 45 days from the date of the notice. The notice will include the CAMPO and RTC's address and will be published in general circulation media, minority/women focus media, and trade association publications. (49 CFR Part 26, § 26.45(g))

XII. UNIFORM REPORT OF DBE AWARDS OR COMMITMENTS AND PAYMENTS

CAMPO, as the designated recipient of FTA funds, will submit a Uniform Report of DBE Awards or Commitments and Payments semi-annually in TEAM-Web. The report addresses the contracting opportunities of CAMPO and its subrecipients, and includes information on awarded and completed contracts; those that included DBE participation; and those that did not include DBE participation. Reports are due by June 1 (for the period covering October 1 – March 31) and by December 1 (for the period covering April 1 – September 30).

XIII. MISCELLANEOUS

A. Program Review

The DBE Program will be reviewed every five (5) years, or more frequently as necessary at the sole discretion of CAMPO and ~~the~~ RTC to ensure that elements of the DBE Program are tailored to address any discrimination that may exist in the industries relevant to ~~CAMPO~~ and RTC's contracting activities and to ensure that the DBE Program does not disproportionately impact any particular group.

B. Severability

Should any part, term, provision or element of this DBE Program be decided by the courts to be illegal or in conflict with any law of the United States or of the State of

Nevada or otherwise rendered unenforceable or ineffective, the validity of the remaining parts, terms, provisions, or elements shall not be affected.

**THE APPENDICES ARE PART OF THE DBE PROGRAM.
THE APPENDICES MAY BE SUBJECT TO REVISION, SUBSTITUTION,
DELETION OR ADDITION BY THE OFFICE OF CIVIL RIGHTS WITHOUT
BOARD REVISION OF THE DBE PROGRAM OR APPROVAL OF
CHANGES.**

APPENDIX A

Procedures for determining, ~~achieving and counting the annual overall three-year DBE goals~~

Pursuant to 49 CFR ~~Part 26, §Section~~ 26.45 and subject to the approval of CAMPO and ~~the~~ RTC, the DBE Liaison Officer will establish ~~an annual~~ overall three-year goals ~~on a fiscal year basis~~ for the participation of DBEs in contracts utilizing USDOT federal financial assistance, based on the FTA schedule for three-year goal submittal. The overall three-year goals will be submitted to FTA for review by August 1 preceding the Federal fiscal year in which the goal submission is due. The ~~annual~~ overall three-year goals will be expressed as a percentage of the total amount of USDOT funds that CAMPO and RTC anticipates expending in any of the three the Federal fiscal years. The CAMPO/~~and~~ RTC's ~~annual~~ overall three-year goal is reflective of the amount of ready, willing and able DBEs that are available to participate in contracting opportunities and is reflective of the amount of DBE participation CAMPO and RTC would expect absent the effects of discrimination. CAMPO and RTC intends to meet this goal to the maximum extent feasible through the race-neutral measures described below. ~~Where race-neutral measures are inadequate to meet the annual overall goal, CAMPO and RTC will establish specific contract goals for particular projects with subcontracting opportunities.~~ The DBE Liaison Officer will use the following procedures for establishing overall three-yearan annual DBE goals:

A. Projecting Federally Funded Contract Expenditures

Overall three-year agency goals are required of FTA grantees receiving planning, capital and/or operating assistance that project contracting opportunities (excluding transit vehicle purchases) exceeding \$250,000 with those funds in any of the three Federal fiscal years. In conjunction with the preparation and adoption of the Annual CAMPO and RTC Budget, tThe DBE Liaison Officer will conduct a thorough analysis of the projected number, types of work and dollar amounts of contracting opportunities that will be funded, in whole or in part, by USDOT federal financial assistance for the three-year period for which the goal submission is dueat fiscal year.

B. Establishing a Base Figure

Pursuant to 49 CFR ~~Part 26, §Section~~ 26.45, CAMPO and RTC will develop a base figure to express the availability of DBEs as a percentage of all contractors, subcontractors, manufacturers and suppliers in the relevant contracting markets. CAMPO and RTC will follow one of the methodologies provided in ~~the~~ 49 CFR Part 26, but reserves the right to choose an alternative methodology. Generally, CAMPO and RTC expects to use the same data source in establishing the base figure for both available businesses and available DBE firms.

1. **Analyzing Total Available Businesses in Relevant Contracting Market**
 The DBE Liaison Officer, in conjunction with the appropriate CAMPO and RTC departments, will conduct a thorough analysis of the relevant contracting markets. This analysis will include the relevant geographic market for the types of work to be contracted, the relevant standard industry codes (SICs) for the types of work to be contracted and any other indicators that CAMPO and RTC determines to be relevant to defining its contracting markets for the fiscal year. The DBE Liaison Officer will then determine the total number of available businesses for the relevant contracting markets. The DBE Liaison Officer will consult a variety of sources, which may include, but are not limited to, ~~the~~Census Bureau data, appropriate private business databases, and relevant disparity studies.

2. **Analyzing Available DBEs in the Relevant Contracting Markets**
 The DBE Liaison Officer will conduct a similar analysis to determine the number of DBEs that are available to participate as contractors, subcontractors, manufacturers and suppliers in the projected contracts for the ~~three-year period~~~~fiscal year~~. This analysis will include the relevant geographic market for the types of work to be contracted, the SICs for the types of work to be contracted, and any other factors as described above. CAMPO and RTC will consult a variety of sources which may include, but are not limited to, the Minority Business Patterns Database, ~~the~~Census Bureau data and relevant disparity studies.

3. **Calculating the Base Figure**
 The DBE Liaison Officer will compare the number of available DBEs in the relevant contracting markets for the ~~fiscal three-year period~~ to the total number of available businesses in the relevant contracting markets for the ~~fiscal three-year period~~. The calculation ~~of the base figure for available DBEs will be expressed as a percentage of the total relevant contracting markets. will include a weighting factor according to the contract expenditure patterns.~~

C. Adjusting the Base Figure

Pursuant to 49 CFR ~~Part 26, §Section~~ 26.45(d), CAMPO and RTC will adjust the base figure based on demonstrable evidence indicating that the availability of DBEs for federally funded contracts for the ~~specific fiscal three-year period~~ may be higher or lower than the base figure indicates. At a minimum, the DBE Liaison Officer will analyze the current capacity of DBEs, evidence from disparity studies conducted anywhere within Carson City and Washoe County (to the extent that they are not accounted for in the base figure), evidence from related fields that affect the opportunities for DBEs to form, grow and compete, such as data on employment, education and training, statistical disparities in the ability of DBEs to obtain financing, bonding and insurance and the effects of past discrimination.

Based on the evaluation of the above factors, evaluation of data (if any) regarding over-concentration, and other necessary adjustments (e.g. duration of individual projects), a goal will be set at the level of DBE participation expected absent the effects of discrimination.

A description of the methodology used to establish the overall three-year annual goals, including the base figure and the evidence with which it was calculated and the adjustments made to the base figure and the evidence relied on for the adjustments will be included with the overall three-year annual DBE goals submission to FTAUSDOT. The submission will should also include CAMPO and RTC's projection of the portions of the annual three-year goals that will be met through race-neutral and race-conscious measures.

D. Projection of Percentage of Overall Goal to be Achieved Through Race-Neutral and Race-Conscious Measures

~~Once the annual overall goal is proposed, the DBE Liaison Officer will analyze and project the maximum feasible portion of that goal that can be achieved by using race-neutral methods. Where the projected portion of the goal using race-neutral methods is less than the annual overall goal, the remaining portion will be achieved by establishing contract goals for particular projects that have subcontracting opportunities. Any over concentration of DBEs in a particular trade will be excluded from race-conscious contract goals.~~

CAMPO and RTC intends to use race-neutral methods ~~to the maximum extent feasible~~ to achieve ~~their~~ annual overall three-year goals. This is in keeping with the Ninth Circuit Court decision that affects DBE programs in the states of Alaska, Arizona, California, Hawaii, Idaho, Montana, Nevada, Oregon and Washington [*Western States Paving Co. vs. State of Washington Dept. of Transportation*, 407 F. 3d 983 (9th Cir. 2005)]. For grantees in these states a disparity analysis must be completed before race conscious goals can be established.

DBE participation that is obtained on contracts that have no specific DBE goal, or where prime contractors use a strictly competitive bidding process or do not consider the DBE's status as a DBE in awarding a subcontract will be considered race-neutral DBE participation. In addition, CAMPO and RTC will use the following measures as appropriate:

1. unbundling large contracts;
2. assisting in overcoming limitations in bonding and financing;
3. providing technical assistance;
4. providing outreach and communications programs to DBEs;
5. distributing the DBE Directory electronically and otherwise as requested.

The DBE Liaison Officer will review and analyze the adjusted base figure to determine

the amount of the ~~annual three-year~~ goals that can be met through race-neutral measures and the type(s) of contracts to be selected unless review of information obtained during the ~~fiscal three-year~~ period demonstrates that an adjustment is appropriate. CAMPO and RTC will review that portion of the ~~annual overall three-year~~ DBE goals being met through race-neutral measures ~~on an annual basis, three (3) months after submission of the annual goal and on a quarterly basis thereafter.~~ As part of the review, CAMPO and RTC will verify compliance with the DBE Program and DBE goal attainment.

The DBE Liaison Officer will monitor and adjust the use of contract-specific goals in accordance with 49 CFR ~~Part 26, §Section~~ 26.51(f). When projecting the percentage of the overall ~~annual three-year~~ goals to be achieved through establishing contract-specific goals, the DBE Liaison Officer will analyze the actual achievement of the overall ~~annual three-year~~ goals through race-neutral methods in the previous two years. When establishing contract-specific goals during the current fiscal year, the DBE Liaison Officer will analyze the progress towards achieving the overall ~~annual three-year~~ goals and increase or reduce the use of contract-specific goals accordingly. ~~DBE race-conscious contract goals will be used only on those federally funded contracts that have subcontracting opportunities.~~ DBE contract goals will be established so as to cumulatively result in meeting that portion of the CAMPO and RTC's overall goal that is not projected to be met through race-neutral means.

E. Adjustment of Contract Goals

Pursuant to 49 CFR ~~Part 26, §Section~~ 26.51-(f) (1) - (4), CAMPO and RTC will adjust the use of contract goals to ensure that the Program continues to be narrowly tailored.

1. If the Report indicates that CAMPO and RTC can meet its entire overall ~~annual three-year~~ goals for any given year through race-neutral means, ~~the~~ CAMPO and RTC will implement its Program without setting contract goals during that year.
2. If during the course of the year, CAMPO and RTC is using contract goals and determines that it will exceed its overall ~~three-year annual~~ goals, CAMPO and RTC must reduce or eliminate the use of contract goals to the extent necessary to ensure that the use of contract goals does not result in exceeding the overall goal. If CAMPO and RTC determines that it will fall short of the overall goal, CAMPO and RTC must make appropriate modifications in the use of race-neutral ~~and race-conscious~~ goals in order to meet the overall goal.
3. If CAMPO and RTC meets or exceeds its overall annual goals for two (2) consecutive years using only race-neutral means, CAMPO and RTC will not set contract goals on any contracts in the next year. CAMPO and RTC will continue using only race-neutral means to meet its overall ~~three-year annual~~ goals unless and until it does not meet its overall ~~three-year annual~~ goal for a year.
4. If CAMPO and RTC's DBE participation exceeds the overall ~~three-~~ three-

~~year~~annual goal in two (2) consecutive years through the use of contract goals, CAMPO and RTC must reduce the use of contract goals proportionately in the following year.

F. Adopting and Publishing the Overall Annual DBE Goal

Upon completion of the analysis described above, the DBE Liaison Officer will prepare a Report ~~that. The Report will~~ documents the analysis and methodology as well as the proposed goal and estimate to be achieved through race-neutral measures. The Report will be furnished to the ~~Transportation Manager~~Deputy City Engineer. Upon the ~~Transportation Manager's~~Deputy City Engineer's recommendation, ~~the Report will be submitted to CAMPO and RTC for authority to~~the DBE Liaison Officer will publish the proposed goal~~s~~ for public comment.

1. Publication of Proposed Overall Three-Year Goals

~~Pursuant to 49 CFR Part 26, §26.45(g), the DBE Liaison Officer will publish the proposed overall three-year goals in general circulation, DBE-oriented and trade industry media. The notice will include a statement that the methodology and proposed goal are available for inspection by the public for 30 days from the date of publication. The notice will also include a statement that CAMPO and RTC will accept public comments to the proposed goal and methodology for a period of 45 days from the date of publication and provide instructions for the submission of comments. Upon receipt of public comments, the DBE Liaison Officer will prepare a summary report analyzing the public comments received, if any, to the Transportation Manager.~~

2. Adoption of Total Overall Annual Goal

Following the review of the Report ~~and consideration of any comments received during the public comment period~~, CAMPO and RTC will adopt an ~~annual~~ overall ~~three-year~~ goal for DBE participation which will include a projection of the portion of that goal that can be achieved through race-neutral ~~and race-conscious~~ measures. Unless otherwise directed, the Report will be submitted to FTA for approval by August 1 ~~for Fiscal Year 2005-2006, and by July 1 in succeeding years.~~preceding the Federal fiscal year in which the goal submission is due.

2. ~~Publication of Proposed Overall Annual Goal~~

~~Pursuant to 49 CFR Section 26.45(g), CAMPO and RTC will publish the proposed Report in general circulation and DBE-oriented media. The notice will include a statement that the methodology and proposed goal are available for inspection by the public for 30 days from the date of publication. The notice will also include a statement that CAMPO and RTC will accept public comments to the proposed goal and methodology for a period of 45 days from the date of publication and provide instructions for the submission of comments. Upon receipt of public comments, the DBE Liaison Officer will prepare a summary~~

| ~~report analyzing the public comments received, if any, to the Deputy City Engineer.~~

APPENDIX B

Overall three-year Annual Goals Development Process/ Base Figure Calculation

The CAMPO and RTC's overall three-year goal for Disadvantaged Business Enterprise (DBE) participation in U.S. Department of Transportation (USDOT) assisted contracts is based on demonstrable evidence of the availability of ready, willing, and able DBEs relative to all businesses that are ready, willing, and able (49 CFR Part 26, §26.45) to participate on USDOT assisted projects. The goal is derived from the Base Figure calculation. The Base Figure is a ratio of the number of DBE certified firms to all firms within a particular market area and for a particular business function.

For the purposes of the Base Figure Calculation, CAMPO and RTC assume that DBEs are those firms that have been certified by the Nevada Unified Certification Program (UCP) Department of Transportation. Each potential DBE was individually screened to determine whether they provide the types of goods and services used by CAMPO and RTC. Other applicable criteria for the inclusion of DBE and non-DBEs in the Base Figure calculation are:

1. Certified DBE firms included in Nevada UCP Department of Transportation (NDOT) DBE directory.
2. Professional service firms physically located in Carson City and Washoe County (see definition below)-a

Relevant Market Area

The criteria requires firms to be physically located in Carson City and Washoe County is based upon the definition of the relevant market area. The relevant market area for CAMPO and RTC is a region of the country which best reflects CAMPO and RTC's purchasing practices using Federal Transit Authority (FTA) funding. CAMPO and RTC buys goods and services from a variety of firms, some of which are located outside the State of Nevada. The question then becomes which geographic area (national, regional, or local), for the purpose of calculating the base figure, is most reflective of CAMPO and RTC's purchasing practices and best reflects the relative availability of -DBEs. A national market area tends to be the least reflective of CAMPO and RTC's purchasing practices.

Most out-of-state professional service firms which have bid or received contracts from CAMPO and RTC are located in western states. Professional service firms include engineers, planners, and management consulting firms. Use of out-of-state professional firms occurs periodically, and is typically non-recurring (e.g., there is no one single western state or region outside Nevada which consistently provides professional services to CAMPO and RTC). Therefore, it is difficult to define a region outside Nevada as part of the relevant market area.

Other factors which influence the determination of the relevant market area

include:

1. Over 80 percent of firms contained in CAMPO and RTC's relevant market area were located in Carson City/Washoe County.
2. With the exception of large general engineering and general building contractors, most construction firms perform work locally.
3. Inclusion of out-of-state firms creates a situation where the relevant market area is difficult to define. A count of out-of-state DBE and non-DBE firms would have to be included in the Base Figure calculation.
4. Only a limited number of out-of-state firms have bid on CAMPO and RTC projects.

For these reasons CAMPO and the RTC has limited the relevant market area to Carson City and Washoe County.

Base Figure Calculation

All of the purchasing and contracting opportunities with CAMPO and RTC, utilizing FTA funds ~~this year~~ typically falls into the professional services category. This category represents the primary business sectors utilized by CAMPO and RTC.

Professional Services

This category includes firms providing expertise in engineering, architecture, planning, consulting, transit management, etc. The Base Figure for Professional Services is calculated by dividing the total number of Carson City/Washoe County DBEs by the sum of all Carson City/Washoe County firms which have North American Industry Classification System (NAICS) code 5413 (architectural, engineering, and related services), and 5416 (management, scientific and technical consulting services). The classification of firms by NAICS codes was done in the course of developing the U.S. Census Bureau's 1997 County Business Patterns. The County Business Patterns database is one of the only available sources of business classifications. Using NAICS codes yields the following ratio:

DBE Professional Services Firms 16;
Total firms with corresponding NAICS codes 512;
Professional Services Base Figure 3.1%
 $\{(16/512) \times 100 = 3.13 \text{ or say } 3.1\}$

APPENDIX C

~~Guidance~~ GUIDANCE concerning CONCERNING good GOOD faith FAITH efforts EFFORTS

When CAMPO and/or RTC establish a contract goal on a DOT-assisted contract, a bidder must, in order to be responsible and/or responsive, make good faith efforts to meet the goal. The bidder can meet this requirement in either of two ways. First, the bidder can meet the goal, documenting commitments for participation by DBE firms sufficient for this purpose. Second, even if it doesn't meet the goal, the bidder can document adequate good faith efforts. This means that the bidder must show that it took all necessary and reasonable steps to achieve a DBE goal or other requirement of this part which, by their scope, intensity, and appropriateness to the objective, could reasonably be expected to obtain sufficient DBE participation, even if they were not fully successful.

In any situation in which a contract goal has been established, ~~P~~part 26 requires the good faith efforts mechanism of this part. CAMPO and RTC will make a fair and reasonable judgment whether a bidder that did not meet the goal made adequate good faith efforts. CAMPO and RTC will consider the quality, quantity, and intensity of the different kinds of efforts that the bidder has made. The efforts employed by the bidder should be those that one could reasonably expect a bidder to take if the bidder were actively and aggressively trying to obtain DBE participation sufficient to meet the DBE contract goal. Mere pro forma efforts are not good faith efforts to meet the DBE contract requirements. CAMPO and RTC recognize that the sufficiency of the firm's good faith efforts is a judgment call: meeting quantitative formulas is not required.

CAMPO and RTC will not require that a bidder meet a contract goal (i.e., obtain a specified amount of DBE participation) in order to be awarded a contract.

The following is a list of types of actions which CAMPO and RTC will consider as ~~-~~part of the bidder's good faith efforts to obtain DBE participation. It is not intended to be a mandatory checklist, nor is it intended to be exclusive or exhaustive. Other factors or types of efforts may be relevant in appropriate cases.

A. Soliciting through all reasonable and available means (e.g. attendance at pre-bid meetings, advertising and/or written notices) the interest of all certified DBEs who have the capability to perform the work of the contract. The bidder must solicit this interest within sufficient time to allow the DBEs to respond to the solicitation. The bidder must determine with certainty if the DBEs are interested by taking appropriate steps to follow up initial solicitations.

B. Selecting portions of the work to be performed by DBEs in order to increase the likelihood that the DBE goals will be achieved. This includes, where appropriate, breaking out contract work items into economically feasible units to facilitate DBE participation, even when the prime contractor might otherwise prefer to perform these work items with its own forces.

C. Providing interested DBEs with adequate information about the plans, specifications, and requirements of the contract in a timely manner to assist them in responding to a solicitation.