

EXHIBIT 7

DEVELOPER'S DBE PERFORMANCE PLAN

DBE PLAN

The following is submitted as an individual Disadvantaged Business Enterprise (DBE) Plan to address the applicable requirements in TxDOT's Disadvantaged Business Enterprise (DBE) Program adopted pursuant to 49 CFR Part 26, the Texas Administrative Code and the Comprehensive Development Agreement for the DFW Connector Project (CDA):

1. GOALS

A. Percentage Goals

The following realistic percentage goals are presented below to reflect the Developer's good faith effort to employ Disadvantaged Business Enterprises whenever possible in accordance with the regulations of the U.S. Department of Transportation (DOT), 49 CFR Part 26.

- i. 12.12 percent of the total professional services and construction Work performed under the CDA shall be offered to subcontractors and/or suppliers owned and controlled by socially and economically disadvantaged individuals.

2. PRINCIPAL TYPES OF SUPPLIES AND SERVICES TO BE SUBCONTRACTED

The principal products and/or services the Developer anticipates subcontracting as well as the identification of DBEs for performance of design work, other professional services and construction will be determined as work progresses and submitted to TxDOT on a form similar to TxDOT's Form SMS4901 Disadvantage Business Enterprise (DBE) Program Commitment Form.

3. METHOD FOR DEVELOPING GOALS

The work activities to be self-performed by the Developer's workforce will be identified by project management personnel based on best value assessment of each work activity and labor resource. The Developer's labor and materials sourcing strategy embodies preferences in offering subcontractor-designated work to qualified DBE's, as feasible.

The goals listed herein reflect internal policy objectives and procedures that require a careful review and evaluation process of the services and/or products to be subcontracted. The subcontracting data accumulated by the Developer

through our sourcing/evaluation process for this project will be based on an outreach program targeted at maximizing the utilization of qualified DBE's whenever practicable by using a broad base of resources to identify and source potential DBE's.

4. SOURCES FOR SOLICITATION

The following sources have been identified by the Developer as available resources to locate and solicit appropriate disadvantaged business enterprises and will be utilized as needed:

- i. Owner provided subcontractor listings
- ii. Texas Unified Certification Program (TUCP) directory
- iii. Procurement Marketing and Access Network (PRO-Net) of the Small Business Administration (SBA);
- iv. The Developer's Internal Vendor Database – created from letters of introduction, pre-qualification documents, and personal interviews with small, small disadvantaged, women-owned, HUB Zone, and service disabled veteran enterprise representatives;
- v. **The Blue Book of Building and Construction**, regional directories of building and construction vendors;
- vi. Community outreach meetings
- vii. Office of Small and Disadvantaged Business Utilization Specialist;
- viii. National Directories
 - *National Directory of Women-Owned Businesses*
 - *National Directory of Minority-Owned Business Firms*
 - *Smoke Signals*
 - *The Business Women's Network Directory*
 - *National Center of American Indian-Owned Businesses*
- ix. Databases
 - *Minority Business Development Agency (MBDA)*
 - *GSA's Office of Enterprise Development Vendor Profile Database*
 - *Databases Established by Various Government Agencies*
- x. Publications
 - *Small Business Resource Guide*
 - *Federal Acquisition Report*
 - *Washington Business Journal's Book of Lists*

- *Minorities in Business Daily*
- *Local Newspaper and Trade Publications*

xi. Trade and Professional Associations

- *National Foundation for Women Business Owners (NFWBO)*
- *National Minority Supplier Development Council, Inc.*
- *National Association of Minority Contractors*
- *National Center for American Indian Enterprise Development*
- *National Business League*
- *Latin American Management Association*
- *The National Black Business Council, Inc.*
- *Hispanic Business Professional Women Association*

All subcontractors considered for Invitations to Bid by the Developer, including DBEs are may be asked to complete a Prequalification Form. This form is reviewed internally by The Developer to evaluate the following areas:

- ◆ Quality of services and/or products;
- ◆ Pricing structure;
- ◆ Delivery schedule;
- ◆ Financial stability;
- ◆ Safety record;
- ◆ Insurance/Bonding information;
- ◆ Experience;
- ◆ Personnel;
- ◆ Equipment.

Additional information, if required, may be obtained from Dun and Bradstreet reports, personal interviews and contact with business references.

5. INVITATION TO BID

Following the identification and prequalification of a potential subcontractor/supplier, an Invitation to Bid is formulated and issued to the subcontractors. A log is maintained to track the subcontractors contacted and their response. Sample subcontract, material contract and/or purchase orders agreements are included with the Invitation as a resource document for the subcontractor's information and pricing consideration. All plans and specifications are made available for review. The CDA and applicable addenda may also be transmitted to the subcontractor.

6. SELECTION PROCESS AND AWARD

The responsive subcontractor quotes are evaluated based on price, qualifications of bid, inclusions/exclusions, prequalification information, etc.

After careful consideration with input from the project management team makes a selection of the successful subcontractors for each work scope subcontracted. If a DBE is not selected the reasons for this decision are documented. Appropriate agreements are drafted and forwarded to the subcontractor for execution.

7. PLAN ADMINISTRATION

The following individual will administer the subcontracting Program:

NAME: _____ *DBE Liaison*

ADDRESS: _____

PHONE: _____
FAX: _____

The _____ specific duties, as they relate to this subcontracting plan, include oversight of the subcontracting program, and the development, assist in the preparation and execution of individual subcontracting plans, documentation and the monitoring of performance relative to the contractual subcontracting requirements contained in this plan including, but not limited to:

- Preparing and submitting periodic governmental required subcontracting reports including a monthly DBE Plan assessment report.
- Coordinating activities during compliance reviews by Federal agencies.
- Coordinating activities involving small, small disadvantaged, women-owned, HUB Zone, and service disabled veteran enterprises, as related to the subcontracting program.
- Monitoring attainment of proposed goals.

8. OUTREACH EFFORTS

A. Efforts will be taken to assure that small, small disadvantaged, women-owned, HUB Zone, and service disabled veteran business concerns will have an equitable opportunity to compete, along with large businesses, for subcontract work. Outreach efforts will be made through:

- i. Contacts with minority and small business trade associations.

- ii. Contacts with business development organizations.
 - iii. Contacts with the TxDOT Business Opportunities Program (BOP) Office.
 - iv. Attendance at SBA procurement conferences and trade fairs.
 - v. Mentor-Protégé relationships.
- B. Internal efforts will be made to guide and encourage purchasing agents, buyers, etc., to utilize small, small disadvantaged, women-owned, HUB Zone, and service disabled veteran enterprises, as follows:
- i. By notifying appropriate internal purchasing agents and buyers of small, small disadvantaged, women-owned, HUB Zone, and service disabled veteran business sources.
 - ii. By monitoring efforts to achieve the goals of the subcontracting plan.

9. PLANS FOR SUBCONTRACTORS FOR THE DEVELOPER

- A. The Developer shall include in all subcontracts subject to this plan the following language incorporated by reference in accordance with all applicable FAR regulations:

The contractor or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of DOT-assisted contracts and subcontracts. 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 DEVELOPER deems appropriate.

Developer shall pay each Subcontractor for Work performed within ten days after receiving payment from TxDOT for the Work performed by the Subcontractor, and shall pay any retainage on a Subcontractor's Work within ten days after satisfactory completion of all of the Subcontractor's Work. Completed Subcontractor Work includes vegetative establishment, test, maintenance, performance, and other similar periods that are the responsibility of the Subcontractor.

Satisfactory completion shall have been accomplished when: (a) the Subcontractor has fulfilled the Subcontract requirements and the requirements under the CDA Documents for the subcontracted Work, including the submission of all submittals required by the Subcontract

and CDA Documents; and (b) the Work done by the Subcontractor has been inspected and approved by Developer and the final quantities of the Subcontractor's Work have been determined and agreed upon.

Subcontractor hereby specifically agrees to be bound and to comply with the subcontracting requirements of the terms and conditions of the CDA including but not limited to, the requirement that Subcontractor, except small business concerns, adopt and comply with a plan similar to this plan and submit such plan for review and acceptance by the Developer.

10. COMPLIANCE WITH REPORTING REQUIREMENTS

- A. The Developer agrees to submit monthly reports and to cooperate in any studies or surveys, as may be required by the Contracting Agency, in order to determine the extent of the compliance by the Owner to achieve the goal of the DBE plan. These reports will be due within 15 days after the end of a calendar month and will be submitted until all DBE subcontracting or material supply activity is completed.
- B. The Developer agrees to submit all applicable Standard Forms modified to fit the CDA. SMS 4901, SMS 4901-M/S, SMS 4901-T, SMS 4903 and SMS 4904 located on the TxDOT website at www.txdot.state.tx.us/forms/bop
- C. To ensure that DBE requirements are complied with, TxDOT will monitor The Developer's efforts by reviewing monthly reports submitted to TxDOT by The Developer indicating progress in achieving the DBE contract goal and by compliance reviews conducted on the project site by TxDOT.

11. RECORDS

- A. The Developer agrees to maintain the following types of records to document compliance with the DBE plan:
 - i. Small, small disadvantaged, women-owned, HUB Zone, and service disabled veteran business concern source lists, guides, and the other data identifying these suppliers, subcontractor, etc.
 - ii. Organizations contacted for providing small, small disadvantaged, women-owned, HUB Zone, and service disabled veteran business sources.
 - iii. Records on each subcontract solicitation resulting in an award showing whether or not small and small disadvantaged business concerns were contacted, and if not, why not; whether or not small, small disadvantaged, women-owned, HUB Zone, and service

disabled veteran business concerns were contacted, and if not, why not; and, if applicable the reason the award was not made to a small or small disadvantaged business concern.

- iv. Records of any outreach efforts to contact trade associations, business development, business development organizations, and conferences and trade fairs, to locate DBEs.
- v. Records of internal guidance and encouragement provided to buyers through workshops, seminars, training, etc., and performance monitoring to evaluate compliance with program requirements.
- vi. Records on a contract-by-contract basis to support award data submitted by the offeror to the government including name, address, and business size of each subcontractor.

12. TRAINING

The Developer will ensure that all applicable training requirements will be accomplished with each subcontractor through orientation and/or acknowledgement of safety requirements included in all subcontract agreements.

13. EEO

All Federal employment requirements to include EEO, affirmative action, labor, and all other applicable requirements will be posted at project site and reference to these requirements attached to all subcontract agreements.

14. IMPLEMENTATION

In order to effectively implement this plan to the extent consistent with efficient contract performance, The Developer shall perform the following functions:

- A. Assist disadvantaged businesses by allowing time for the preparation of bids, quantities, specifications and delivery schedules. Where the lists of potential DBE subcontractors are excessively long, reasonable effort shall be made to give all such business concerns an opportunity to compete over a period of time.
- B. Counsel and discuss subcontracting opportunities with representatives of DBE's.
- C. Provide notice to subcontractors concerning penalties and remedies for misrepresentations of business status as DBE's for the purpose of obtaining a subcontract that is to be included as part or all of a goal contained in The Developer's subcontracting plan.