



**AIRPORT CONCESSIONS  
DISADVANTAGED BUSINESS ENTERPRISE PROGRAM  
(ACDBE)**

**Federal Fiscal Years 2020-2022**

**Monterey Peninsula Airport District  
Monterey, CA**

200 Fred Kane Dr. Ste. 200

Monterey, CA 93940

Prepared by

Planning and Development Department

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In fulfillment of:

49 Code of Federal Regulation Part 23

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**OBJECTIVES/POLICY STATEMENT (§23.1, §23.23)**

The Monterey Peninsula Airport District, (“District”), in the State of California has established an Airport Concession Disadvantaged Business Enterprise (ACDBE) Program in accordance with regulations of the U.S. Department of Transportation (DOT), 49 CFR Part 23 “Participation of Disadvantaged Business Enterprise in Airport Concessions”. The District as owner and operator of the Monterey Regional Airport (“Airport”), a Non-Hub Primary Airport, has received federal funds authorized for airport development after January 1988 (authorized under Title 49 of the United States Code). Therefore, the District has executed airport grant assurances that state it will comply with 49 CFR Part 23.

It is the policy of the District to ensure that ACDBEs as defined in 49 CFR Part 23, have an equal opportunity to receive and participate in concession opportunities. It is also the policy of the District to:

1. Ensure nondiscrimination in the award and administration of opportunities for concessions by airports receiving DOT financial assistance;
2. Create a level playing field on which ACDBEs can compete fairly for opportunities for concessions;
3. Ensure that the ACDBE program is narrowly tailored in accordance with applicable law;
4. Ensure that only firms that fully meet the 49 CFR Part 23 eligibility standards are permitted to participate as ACDBEs at the Airport;
5. Help remove barriers to the participation of ACDBEs in opportunities for concessions at the Airport; and
6. Provide appropriate flexibility to the Airport in establishing and providing opportunities for ACDBEs.

Chris Morello, Deputy Director of Strategy and Development, has been designated as the ACDBE Liaison Officer (ACDBELO). In that capacity, the ACDBELO is responsible for implementing all aspects of the ACDBE program. Implementation of the ACDBE program is accorded the same priority as compliance with all other legal obligations incurred by the District in its financial assistance agreements with the US DOT.

The District will disseminate this policy statement to the District Board of Directors and all Airport Departments, and to ACDBE and non-ACDBE concessionaire communities that perform work for the District. The policy statement shall be made available to the ACDBEs listed in the Caltrans DBE directory online.



Michael La Pier, A.A.E.  
Monterey Regional Airport Executive Director

10/28/2019

Date

## **SECTION 1 – GENERAL REQUIREMENTS**

### **1.1 OBJECTIVES (§23.1)**

The objectives are found in the policy statement on Page 3 of this program.

### **1.2 DEFINITIONS (§23.3)**

The District will use terms in this program that have the meaning defined in 49 CFR Part 23<sup>1</sup> § 23.3 and 49 CFR Part 26<sup>2</sup> § 26.5 where applicable.

### **1.3 APPLICABILITY (§23.5)**

The District, owner and operator of a primary non-hub Airport, received a grant for airport development after January 1988 as authorized under Title 49 of the United States Code.

### **1.4 NON-DISCRIMINATION REQUIREMENTS (§23.9) (§26.7)**

The District will never exclude any person from participation in, deny any person the benefits of, or otherwise discriminate against anyone in connection with the award and performance of any concession agreement, management contract or subcontract, purchase or lease agreement or other agreement covered by 49 CFR Part 23 based on race, color, sex, or national origin.

In administering its ACDBE program, the District will not, directly or through contractual or other arrangements, use criteria or methods of administration that have the effect of defeating or substantially impairing accomplishment of the objectives of the ACDBE program with respect to individuals of a particular race, color, sex, or national origin.

The District acknowledges these representations are also in accordance with obligations contained in its Civil Rights, DBE and ACDBE Airport grant assurances.

The District will include the following assurances in concession agreements and management contracts it executes with any firm after April 21, 2005:

- (1) This agreement is subject to the requirements of the U.S. DOT's regulations, 49 CFR Part 23. The concessionaire or contractor agrees that it will not discriminate against any business owner because of the owner's race, color, national origin, or sex in connection with the award or performance of any concession agreement, management contract, or subcontract, purchase or lease agreement, or other agreement covered by 49 CFR Part 23.
- (2) The concessionaire or contractor agrees to include the above statements in any subsequent concession agreement or contract covered by 49 CFR Part 23, that it enters and cause those businesses to similarly include the statements in further agreements.

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<sup>1</sup> Federal Regulations 49 CFR Part 23 can be found at the following website link:  
[https://www.ecfr.gov/cgi-bin/text-idx?tpl=/ecfrbrowse/Title49/49cfr23\\_main\\_02.tpl](https://www.ecfr.gov/cgi-bin/text-idx?tpl=/ecfrbrowse/Title49/49cfr23_main_02.tpl)

<sup>2</sup> Federal Regulations 49 CFR Part 26 can be found at the following website link:  
[https://www.ecfr.gov/cgi-bin/text-idx?tpl=/ecfrbrowse/Title49/49cfr26\\_main\\_02.tpl](https://www.ecfr.gov/cgi-bin/text-idx?tpl=/ecfrbrowse/Title49/49cfr26_main_02.tpl)

## **1.5 COMPLIANCE AND ENFORCEMENT (§23.11)**

The District will comply with and is subject to the compliance and enforcement provisions of 49 CFR Part 26 (§§ 26.101 and 26.105 through 26.107).

The District will comply with this part or be subject to formal enforcement action under §26.105 or appropriate program sanctions, such as the suspension or termination of Federal funds, or refusal to approve projects, grants or contracts until deficiencies are remedied. Program sanctions may include actions consistent with 49 U.S.C. §§ 47106(d), 47111(d), and 47122. The District's compliance with all requirements of this part is enforced through the procedures of Title 49 of the United States Code, including 49 U.S.C. 47106(d), 47111(d), and 47122, and regulations implementing them.

Compliance reviews: The Federal Aviation Administration (FAA) may review the District's compliance with this part at any time, including but not limited to, reviews of paperwork, on-site reviews, and review of the District's monitoring and enforcement mechanism, as appropriate. The FAA Office of Civil Rights may initiate a compliance review based on complaints received. Any person who knows of a violation of this part by the District may file a complaint under 14 CFR Part 16 "Rules of Practice for Federally-Assisted Airport Enforcement Proceedings", with the Federal Aviation Administration Office of Chief Counsel.

The following enforcement actions apply to firms participating in the District's ACDBE program:

- (a) For a firm that does not meet the eligibility criteria of subpart C of this part and that attempts to participate as an ACDBE based on false, fraudulent, or deceitful statements or representations or under circumstances indicating a serious lack of business integrity or honesty, the DOT or the FAA may initiate suspension or debarment proceedings against the firm under 49 CFR Part 29. Additionally, the District can initiate procedures to remove ACDBE eligibility as outlined in 49 CFR Part 26.87.
- (b) For a firm that, in order to meet ACDBE goals or other ACDBE program requirements, uses or attempts to use, based on false, fraudulent or deceitful statements or representations or under circumstances indicating a serious lack of business integrity or honesty, another firm that does not meet the eligibility criteria of subpart C of this part, DOT or FAA may initiate suspension or debarment proceedings against the firm under 49 CFR Part 29.
- (c) In a suspension or debarment proceeding brought under paragraph (a) or (b) of this section, the FAA may consider the fact that a purported ACDBE has been certified. However, such certification does not preclude DOT from determining that the purported ACDBE, or another firm that has used or attempted to use it to meet ACDBE goals, should be suspended or debarred.
- (d) DOT may take enforcement action under 49 CFR Part 31, Program Fraud and Civil Remedies, against any participant in the ACDBE program whose conduct is subject to such action under 49 CFR Part 31.
- (e) DOT may refer to the Department of Justice, for prosecution under 18 U.S.C. §§ 1001 or other applicable provisions of law, any person who makes a false or fraudulent statement

in connection with participation of an ACDBE in the District’s ACDBE program or otherwise violates applicable Federal statutes.

**SECTION 2 – ACDBE PROGRAMS**

**2.1 ACDBE PROGRAM UPDATES (§23.21)**

As a condition of eligibility for FAA financial assistance, the District will submit its ACDBE program and overall goals to FAA according to the following schedule:

Type of Airport	Initial Program and Goal Due	Second Goal Due	Subsequent Goals Due
Non-hub Primary	October 1, 2020	October 1, 2022	Every 3 years on October 1

Until the updated ACDBE Program is submitted and approved, the District will continue to implement the previously approved ACDBE Program, except with respect to any provision that is contrary to 49 CFR Part 23. When the District makes significant changes to its ACDBE program, the District will provide the amended program to the FAA for approval prior to implementing the changes.

**2.2 ADMINISTRATIVE PROVISIONS (§23.23)**

The District’s **Policy Statement** is elaborated on Page 3 of this ACDBE Program.

The District has designated Chris Morello, Deputy Director of Strategy and Development as the **ACDBE Liaison Officer (ACDBELO)**. In that capacity, the ACDBELO is responsible for implementing all aspects of the ACDBE program and ensuring that the District complies with all provision of 49 CFR Part 23. The ACDBELO has direct, independent access to the District Board of Directors and Airport Executive Director concerning ACDBE program matters. An organizational chart displaying the ACDBELOs position in the organization is found in **Attachment 1**.

The ACDBELO is responsible for developing, implementing and monitoring the ACDBE program, in coordination with other appropriate officials. The duties and responsibilities include the following:

1. Gathers and reports statistical data and other information as required by FAA or DOT.
2. Reviews third party contracts and purchase requisitions for compliance with this program.
3. Works with all Airport departments to set overall annual goals.
4. Ensures bid notices and requests for proposals are available to ACDBEs in a timely manner.
5. Identifies contracts and procurements so that ACDBE goals are included in solicitations (both race-neutral methods and contract specific goals)
6. Analyzes the District’s progress toward attainment and identifies ways for improvement.
7. Participates in pre-bid meetings.

8. Advises the Executive Director/Board of Directors on ACDBE matters and achievement(s).
9. Provides ACDBEs with information/resources to assist them in preparing bids, obtaining bonding, financing, and insurance; acts as a liaison to the Office of Small and Disadvantaged Business Utilization (OSDBU) -Minority Resource Center (MRC).
10. Participates in ACDBE training seminars.
11. Coordinates with Monterey Bay PTAC in reaching out to ACDBEs, small businesses and community organizations for potential opportunities.
12. Reviews Caltrans updated Certified ACDBE Directory.

**Directory:** The State of California DOT (Caltrans) maintains a directory identifying all firms eligible to participate as ACDBEs/DBEs. The Directory lists the firm's name, address, phone number, date of the most recent certification, and the type of work the firm has been certified to perform as an ACDBE/DBE. The directory is updated daily and is available and accessible on the State of California's web site at: [http://www.dot.ca.gov/hq/bep/find\\_certified.htm](http://www.dot.ca.gov/hq/bep/find_certified.htm)

### **2.3 ENSURING NONDISCRIMINATORY PARTICIPATION OF ACDBEs (§23.25)**

The District will take the following measures to ensure nondiscriminatory participation of ACDBEs in concession, and other covered activities (§23.25(a)).

The District will seek ACDBE participation in most types of concession activities, rather than concentrating participation in one category or a few categories to the exclusion of others (§23.25(c)).

The District's overall goal methodology and description of the race-neutral measures it will take to meet the goals are described in **Attachment 3 and 4** (§23.25). The goals are set consistent with the requirements of Subpart D (§23.25(b), (d)). If the District projects that race-neutral measures, standing alone, are not sufficient to meet an overall goal, it will use race-conscious measures, when required, as described in §23.25(e)(1-2).

The District will require businesses subject to ACDBE goals at the Airport to make good faith efforts to explore all available options to meet goals, to the maximum extent practicable, through direct ownership arrangements with ACDBEs (excluding car rentals). The District will not use set-asides or quotas as a means of obtaining ACDBE participation (23.25 (f) (g)).

### **2.4 REPORTING (§23.27)**

The District will retain sufficient basic information about the ACDBE program implementation, ACDBE certification and the award and performance of agreements and contracts to enable the FAA to determine their compliance with Part 23. This data will be retained for a minimum of three (3) years following the end of the concession agreement or other covered contract. The District will submit to the FAA Regional Civil Rights Office, an annual ACDBE participation report on the form in Appendix A to Part 23, on October 1st.



## **2.5 COMPLIANCE AND ENFORCEMENT PROCEDURES (§23.29)**

The District will take the following monitoring and enforcement mechanisms to ensure compliance with 49 CFR Part 23.

1. The District will bring to the attention of the U.S. DOT any false, fraudulent, or dishonest conduct in connection with the program, so that DOT can take the steps (e.g., referral to the Department of Justice for criminal prosecution, referral to the DOT Inspector General, action under suspension and debarment or Program Fraud and Civil Penalties rules) provided in §26.107.
2. Remedies available to the District for false, fraudulent, or dishonest conduct include, but are not limited to, withholding of payment (if applicable), requiring certified participation letters, lien release letters, and/or breach of contract proceedings.
3. The District will investigate and act on complaints regarding lack of prompt payment. If the prime contractor is determined to be delinquent with prompt payments, the District will notify the prime contractor that immediate payment to the subcontractor is required, and may recommend suspending the prime contractor's pre-qualification status for bidding on future projects.
4. In reports for ACDBE participation to the FAA, the District will show both commitments and attainments, as required by the DOT reporting form.

## **SECTION 3 – CERTIFICATION AND ELIGIBILITY**

### **3.1 49 CFR Part 23.31**

The District is a member of a Unified Certification Program (UCP) administered by the State of California, specifically, Caltrans. Caltrans will make ACDBE certification decisions on behalf of the District. The UCP agreement is provided in a link on **Attachment 6**.

Prior to entering into a new contract, extension, or option with a currently certified ACDBE, Airport will verify their DBE status in the CUCP directory. Additionally, the District will direct eligible ACDBEs to the Monterey Bay Procurement Technical Assistance Center (PTAC) to assist them in the certification process.

## **SECTION 4 – GOALS, GOOD FAITH EFFORTS, AND COUNTING**

### **4.1 BASIC OVERALL GOAL REQUIREMENT (§23.41)**

The District will establish two separate overall ACDBE goals for: 1) car rentals; and 2) Concessions other than car rentals. The overall goals will cover a three-year period and the District will review the goals annually to make sure the goal continues to fit the District's circumstances. The District will report any significant overall goal adjustments to the FAA.

If the average annual concession revenues for car rentals over the preceding three (3) years do not exceed \$200,000, the District needs not submit an overall goal for car rentals. Likewise, if the average annual concession revenues for concessions other than car rentals over the preceding three (3) years do not exceed \$200,000, the District needs not submit an overall goal for concessions other than car rentals. The District understands that “revenue” means total revenue generated by concessions, not the fees received by the Airport from concessionaires.

The District’s overall goals will provide for participation by all certified ACDBEs and will not be subdivided into group-specific goals.

**4.2 CONSULTATION IN GOAL SETTING (§23.43)**

The District will consult with stakeholders before submitting the overall goals to the FAA. Stakeholders include:

- 1) Minority and women’s business groups;
- 2) Community organizations;
- 3) Trade associations representing concessionaires currently located at the Airport;
- 4) Existing concessionaires; and/or
- 5) Other officials or organizations which could be expected to have information concerning the availability of disadvantaged businesses, the effects of discrimination on opportunities for ACDBEs, and the District’s efforts to increase participation of ACDBEs.

When submitting their overall goals, the District will identify the stakeholders that the District consulted with and provide a summary of the information obtained from the stakeholders.

**4.3 OVERALL GOALS (§23.45)**

As a condition of eligibility for FAA financial assistance, the District, as owner and operator of a Non-hub Primary Airport, will submit its overall goals according to the following schedule:

Type of Airport	Initial Program and Goal Due	Second Goal Due	Subsequent Goals Due
Non-hub Primary	October 1, 2020	October 1, 2022	Every 3 years on October 1

If a new concession opportunity arises at a time that falls between the normal submission dates above and the estimated average of annual gross revenues are anticipated to be \$200,000 or greater, the District will submit an appropriate adjustment to their overall goal to FAA for approval at least six months before executing the new concession agreement.

The District will establish overall goals in accordance with the 2-Step process as specified in §23.51. After determining the total gross receipts for the concession activity, the first step is to determine the relative availability of ACDBEs in the market area, “base figure”. The second step

is to examine all relevant evidence reasonably available in the District’s jurisdiction to determine if an adjustment to the Step 1 “base figure” is necessary so that the goal reflects as accurately as possible the ACDBE participation the sponsor would expect in the absence of discrimination. Evidence may include, but is not limited to past participation by ACDBEs, or evidence from related fields that affect ACDBE opportunities to form, grow, and/or compete.

A description of the methodology to calculate the overall goal for car rentals can be found in **Attachment 4** to this program. A description of the methodology to calculate the overall goal for concessions other than car rentals can be found in **Attachment 3** to this program.

#### **4.4 PROJECTION OF ESTIMATED RACE-NEUTRAL & RACE-CONSCIOUS PARTICIPATION (§23.45(f), §23.25(d-e))**

The breakout of estimated race-neutral and race-conscious participation can be found with the goal methodology in **Attachments 3 and 4**. This section of the program will be reviewed annually when the goal calculation is reviewed under 23.41(c).

#### **4.5 CONCESSION SPECIFIC GOALS (§23.25(c)(e)(1)(iv))**

The District will use concession specific goals to meet any portion of the overall goals the District does not meet using race-neutral means, when required.

The District will establish concession specific goals only on those non-car rental concessions that have direct ownership arrangements, sublease, or subcontracting possibilities. The District will require businesses subject to ACDBE goals at the Airport to make good faith efforts to explore all available options to meet goals, to the maximum extent practicable, through direct ownership arrangements with DBEs (§23.25 (f)).

In the case of a car rental concession goal, a permissible alternative is to structure the goal entirely in terms of purchases of goods and services.

The District needs not establish a concession specific goal on every such concession. If the objective of a concession specific goal is to obtain ACDBE participation through direct ownership with an ACDBE, the District will calculate the goal as a percentage of the total estimated annual gross receipts from the concession, (§23.25(e)(1)(i)).

If the concession specific goal applies to purchases and/or leases of goods and services, the District will calculate the goal by dividing the estimated dollar value of such purchases and/or leases from ACDBEs by the total estimated dollar value of all purchases to be made by the concessionaire (§23.25(e)(1)(ii)).

#### **4.6 GOOD FAITH EFFORTS ON CONCESSION SPECIFIC GOALS (§23.25(e)(1)(iii/iv))**

To be eligible to be awarded a concession that has a concession specific goal; bidders/offerors must make good faith efforts to meet the goal. A bidder/offeror may do so either by obtaining enough ACDBE participation to meet the goal or by documenting that it made sufficient good faith

efforts to do so, (§23.25(e)(1)(iv)). Examples of good faith efforts are found in Appendix A to 49 CFR Part 26. The procedures applicable to 49 CFR §§ 26.51 and 26.53, regarding contract goals apply to the District's concession specific goals.

#### **4.7 GOOD FAITH EFFORTS PROCEDURES (§26.53)**

##### Demonstration of good faith efforts (§26.53(a) & (c))

The District's ACDBE Liaison Officer is responsible for determining whether a concessionaire that has not met the concession specific goal has documented sufficient good faith efforts to be regarded as responsive.<sup>3</sup> The District will ensure that all information is complete and accurate and adequately documents the bidder/offeror's good faith efforts.

##### Information to be submitted (§26.53(b))

The District treats bidder/offeror's compliance with good faith effort requirements as a matter of responsibility. Each solicitation for which a concession specific goal has been established will require the concessionaire to submit documentation of the participating ACDBE firms and/or ACDBE suppliers of goods and services. If the contract goal is not met, evidence of good faith efforts must be provided using the Districts Good Faith Effort Form(s) (**Attachment 5**).

##### Administrative reconsideration (§26.53(d))

Within 10 days of being informed by the District that it is not responsible because it has not documented sufficient good faith efforts, a concessionaire may request administrative reconsideration. Concessionaire should make this request in writing to the following reconsideration official: Michael La Pier, A.A.E. Executive Director.

The reconsideration official will not have played any role in the original determination that the concessionaire did not document sufficient good faith efforts.

As part of this reconsideration, the concessionaire will have the opportunity to provide written documentation or argument concerning the issue of whether it met the goal or made adequate good faith efforts to do so. The concessionaire will have the opportunity to meet in person with the reconsideration official to discuss the issue of whether it met the goal or made adequate good faith efforts to do. The District will send the concessionaire a written decision on reconsideration, explaining the basis for finding that the concessionaire did or did not meet the goal or make adequate good faith efforts to do so. The result of the reconsideration process is not administratively appealable to the US DOT.

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<sup>3</sup> The bidder can demonstrate good faith efforts in two ways: 1) The bidder can meet the goal, documenting commitments for participation by ACDBE/DBE firms sufficient for this purpose; or 2) the bidder can show that it took all necessary and reasonable steps to achieve the District's ACDBE participation goal, even if not successful.

#### Good Faith Efforts when an ACDBE is replaced on a concession (§26.53(f))

The District will require a concessionaire to make good faith efforts to replace an ACDBE that is terminated or has otherwise failed to complete its concession agreement, lease, or subcontract with another certified ACDBE, to the extent needed to meet the concession specific goal. The District will require the concessionaire to notify the ACDBELO immediately of the ACDBEs inability or unwillingness to perform and provide reasonable documentation.

In this situation, the District will require the concessionaire to obtain their prior approval of the substitute ACDBE and to provide copies of new or amended subcontracts, or documentation of good faith efforts.

If the concessionaire fails or refuses to comply in the time specified, their contracting office will notify the concessionaire that it is in default. If the concessionaire still fails to comply, the contracting officer may issue a termination for default proceeding.

#### Sample Proposal/Bid Specification

The Airport will include any required contract language set forth in 49 CFR Part 23 in its concession agreements and any related Proposal/Bid specifications.

#### **4.8 COUNTING ACDBE PARTICIPATION FOR CAR RENTAL GOALS (§23.53)**

The District will count ACDBE participation toward overall goals for car rental concessions as provided in 49 CFR 23.53.

#### **4.9 COUNTING ACDBE PARTICIPATION FOR CONCESSIONS OTHER THAN CAR RENTALS (23.55)**

The District will count ACDBE participation toward overall goals other than car rental concessions as provided in 49 CFR 23.55.

#### **4.10 GOAL SHORTFALL ACCOUNTABILITY (23.57(b))**

If the awards and commitments on our Uniform Report of ACDBE Participation (found in Appendix A to this Part) at the end of any fiscal year are less than the overall goal applicable to that fiscal year, we will:

- 1) Analyze in detail the reasons for the difference between the overall goal and our awards and commitments in that fiscal year;
- 2) Establish specific steps and milestones to correct the problems we have identified in our analysis to enable us to fully meet our goal for the new fiscal year.

#### **4.11 QUOTAS OR SET-ASIDES (§23.61)**

The District will not use quotas or set-asides as a means of obtaining ACDBE participation.

**SECTION 5 – OTHER PROVISIONS**

**5.1 EXISTING AGREEMENTS (§23.71)**

The District will assess potential for ACDBE participation when an extension or option to renew an existing agreement is exercised, or when a material amendment is made. The District will use any means authorized by 4 CFR Part 23 to obtain a modified amount of ACDBE participation in the renewed or amended agreement.

**5.2 LONG-TERM EXCLUSIVE AGREEMENTS (§23.75)**

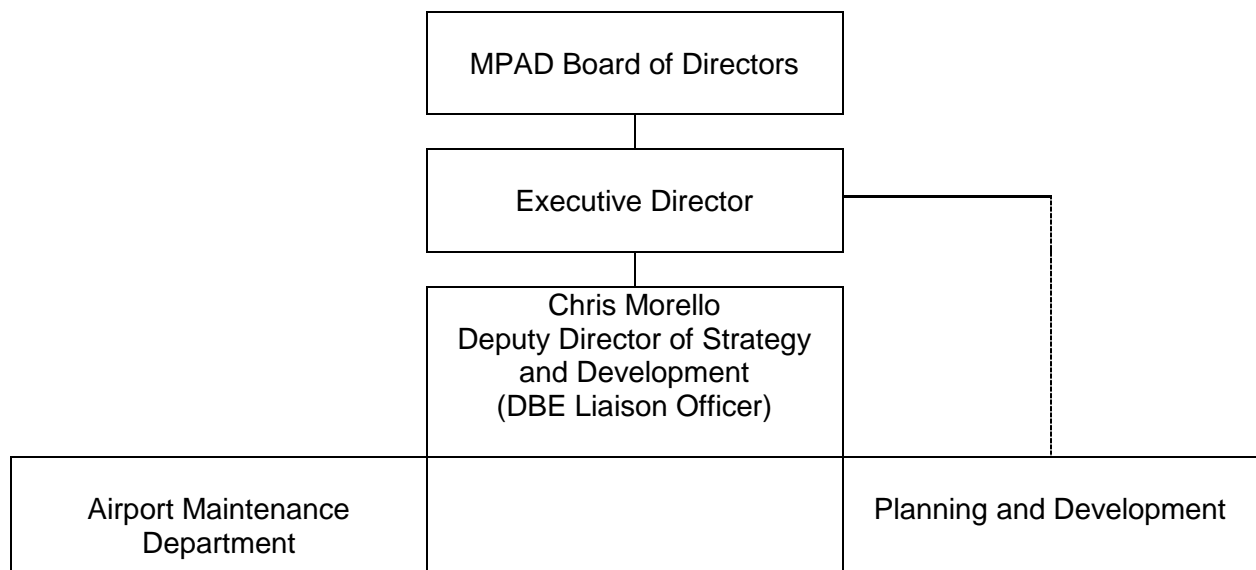
The District will not enter into a long-term exclusive agreement for concessions without prior approval of the FAA Regional Civil Rights Office. The District understands that a “long-term” agreement is one having a term of longer than 5 years. The District understands that an “exclusive” agreement is one in which an entire category of a particular business opportunity is limited to a single business entity. If special, local circumstances exist that make it important to enter into a long-term and exclusive agreement, the District will submit detailed information to the FAA Regional Civil Rights Office for review and approval.

**5.3 GEOGRAPHIC PREFERENCES (§23.79)**

The District will not use a “local geographic preference”, i.e., any requirement that gives an ACDBE located in one place (e.g., *your local area*) an advantage over ACDBEs from other places in obtaining business as, or with, a concession at the Airport.

**Attachment 1**

**Organizational Chart**



**The ACDBE Liaison Officer has direct access to Monterey Regional Airport Executive Director.**

## **Attachment 2**

### **Federal Fiscal Year 2020-2022**

### **Monterey Regional Airport Concessions Directory**

#### **NON-CAR RENTAL CONCESSIONS**

Certified Folders Display Services -Advertising Stand

ACDBE Firm: No

Address: 203 Lawrence Ave, South San Francisco, CA 94080

Gift's & More – Gifts, Novelty & Souvenir Shop

ACDBE Firm: Yes

Address: 200 Fred Kane Drive  
Monterey, CA 93940

Golden Tee - Restaurant & Full Bar

ACDBE Firm: No

Address: 200 Fred Kane Drive, Suite 201  
Monterey, CA 93940

Golden Tee & Fly Away Cafe - Cocktail Lounge/Snack Bar

ACDBE Firm: No

Address: 200 Fred Kane Drive, Suite 201  
Monterey, CA 93940

Golden Tee - Vending Machines

ACDBE Firm: No

Address: 200 Fred Kane Drive, Suite 201  
Monterey, CA 93940

Lamar Advertising -Terminal Advertising Displays

ACDBE Firm: No

Address: 225 Corey Center SE,  
Monterey, CA 93940

Republic Parking System – Parking Lots

ACDBE Firm: No

Address: 204 Fred Kane Drive,  
Atlanta, GA 30319

#### **CAR RENTAL CONCESSIONS**

Avis Car Rental

ACDBE Firm: No

Address: 200 Fred Kane Drive, Suite 201  
Monterey, CA 93940

Budget Car Rental

ACDBE Firm: No

Address: 200 Fred Kane Drive, Suite 201  
Monterey, CA 93940

Enterprise Car Rental

ACDBE Firm: No

Address: 200 Fred Kane Drive, Suite 201  
Monterey, CA 93940

Go Rentals

ACDBE Firm: No

Address: 300 Sky Park Drive  
Monterey, CA 93940

Hertz Car Rental

ACDBE Firm: No

Address: 200 Fred Kane Drive, Suite 201  
Monterey, CA 93940

National Car Rental

ACDBE Firm: No

Address: 200 Fred Kane Drive, Suite 201  
Monterey, CA 93940

## Attachment 3

### Section 23.45: Overall Goal Calculation for Non-Car Rental Concessions

#### ACDBE Participation Goal

The District's overall goal for Non-Car Rental Concessions during the period beginning on October 2019 and ending September 2022 is: **3% of the total gross receipts for non-car rental concessions (see methodology used to calculate the overall goal below).**

#### Current Non-Car Rental Concessions & Projected Gross Receipts

The Airport currently has seven types of Non-Car Rental Airport Concessions (see ACDBE Program **Attachment 2**). These include the following as provided in Table 1 below. The projected gross receipts for current concessionaires for Federal Fiscal Years 2020-2022 are based on the average gross receipts reported in FY 2017-2019.

**Table 1 – Total Projected Gross Receipts FFY 2020-2022**

	Concessionaire Type	Projection of Gross Receipts for FFY 2020-2022
1	Gift, Novelty & Souvenir Store	\$132,534.26
2	Full Service Restaurant/Bar	\$1,363,651.15
3	Cocktail Lounge/Snack Bar	\$407,324.37
4	Vending Machines	\$28,711.86
5	Advertisement Displays	\$174,284.23
6	Advertisement Stand	\$21,447.69
7	Metered Parking Lots	\$1,097,634.60
	<b>Total Projected Receipts</b>	<b>\$3,334,712.98</b>

Currently, there is one (1) ACDBE (Gift, Novelty & Souvenir Store). When the opportunity arises for a new non-car rental airport concession(s), the District will take good faith efforts to allow for the additional ACDBE(s) to participate in the District's non-car rental airport concession program. If a new concession opportunity arises prior to the end of this goal period and the Airport's estimated average of annual total gross revenues are anticipated to be \$200,000 or greater, the District will submit an appropriate adjustment to the overall goal.

#### ACDBE Market Area

The District has determined that the non-car rental concessions market area is within the State of California, primarily within/near the regions of Monterey, Santa Cruz, San Benito, Santa Clara, San Francisco and Alameda Counties. This is the geographical area in which the substantial majority of firms seeking to do concessions business with the Airport are located and the geographical area in which the firms receive a substantial majority of concessions related revenues are located.



**Methodology used to Calculate Overall ACDBE Goal**

***Goods and Services from ACDBEs/DBEs***

The District can meet the percentage goal by including the purchase of goods and services from DBEs/ACDBEs used for businesses conducted at the Airport. The District and the businesses at the Airport, shall make good faith efforts to explore all available options to achieve, to the maximum extent practicable, compliance with the goal through direct ownership arrangements, including joint ventures and franchises. The dollar value of goods and services from ACDBEs/DBEs may be added to the numerator, and the dollar value of goods and services from all firms may be added to the denominator (see Step 1 below).

***Management Contract or Subcontract with ACDBEs***

The District can meet the percentage goal by including any business operated through a management contract or subcontract with an ACDBE. The District and non-car rental concession will add the dollar amount of a management contract or subcontract with an ACDBE to the total participation.

***Step 1: 23.51(c) – Base Figure Calculation***

The base figure for the relative availability of non-car rental ACDBEs is calculated below:

$$\text{Base figure} = \frac{\text{Ready, willing, and able non-car rental ACDBEs in the market area}}{\text{All ready, willing and able non-car rental concession firms in the market area}}$$

The data source or demonstrable evidence used to derive the numerator was: The California ACDBE/DBE Directory as outlined in 23.51(c)(1). The data source or demonstrable evidence used to derive the denominator was: The US Census Bureau Data as outlined in 23.51(c)(1).

**Table 2 – Total ACDBEs & Total Firms for Each Concession Type in the Market Area**

NAICS	Type of Concession	Total ACDBE's	Total All Firms
453220	Gift, Novelty, and Souvenir Store	47	413
454210	Vending Machine Operator	4	32
541850	Display Advertising	6	44
541870	Advertising Material Distribution Services	1	27
722110	Restaurant/Bar	20	5,324
722410	Cocktail Lounges/Snack Bar	14	762
812930	Automobile parking garages or lots	10	490
	<b>Total</b>	<b>102</b>	<b>7,092</b>

**Base Figure = 102 ACDBEs / 7,092 Total Establishments**  
**= 1.44%**  
**= \$47,961.18 (1.44% of \$3,334,712.98)**  
**Total ACDBE Gross Receipts**

***Step 2: 23.51(d) – Base Figure Adjustments***

After calculating a base figure of the relative availability of ACDBEs, it was determined that based on currently low availability of ACDBEs within the existing market area, 1.44% would have been considered reasonable. **However, one (1) of the non-car rentals concessions is an ACDBE with annual gross receipts ranging from \$10,204.24 to \$235,548.76. The concessionaire’s ACDBE certification application was recently approved in 2018 and this will be the first time the ACDBE would be included for the full program. Therefore, the Airport has determined that it is feasible to adjust its non-car rental ACDBE goal to 3% (1.56% increase from the base figure). This increase would account for the ACDBE firm as well as additional growth in ACDBE participation.**

**Breakout of Estimated Race-Neutral & Race Conscious Participation (§23.51)**

The District has determined that race-neutral means of facilitating ACDBE participation will be sufficient in attaining its ACDBE participation goal. The District will use the following race-neutral measures to increase ACDBE participation and understands that these steps are expected to be taken:

1. Locate and identify ACDBEs and other small businesses that may be interested in participating as airport concessionaires under 49 CFR Part 23;
2. Notify ACDBEs of concession opportunities and encourage them to compete, when appropriate;
3. Ensure competitors for concession opportunities are informed during pre-solicitation meetings about how the ACDBE program will affect the procurement process; and
4. Provide information concerning the availability of ACDBE firms to competitors to assist them in obtaining ACDBE participation.

If race-neutral measures, standing alone, are not sufficient to meet the overall goal, the following race-conscious measures will be taken:

1. Establish concession-specific goals for concession opportunities.
2. Negotiate with potential concessionaires to include ACDBE participation through direct ownership arrangements or measures, in the operation of the concession.
3. With prior FAA approval, other methods taken to ensure bidders/competitors provide ACDBE participation.

## Attachment 4

### Section 23.45: Overall Goal Calculation for Car Rentals

#### ACDBE Participation Goal

The District's overall goal for car rental concessions during the period beginning on October 2019 and ending September 2022 is: **.50 % (less than 1%) of the total gross receipts of car rental operations (see methodology used to calculate ACDBE goal below).**

#### Current Car Rental Concessions & Projected Gross Receipts

The Airport currently has six (6) Car Rental Airport Concessions none of which are ACDBEs (see **ACDBE Program Attachment 2**). Table 1 below represent the Projected Gross Receipts for car rental concessions for Federal Fiscal Years 2020-2022 based on the average gross receipts reported in FY 2017-2019.

**Table 1 – Total Projected Gross Receipts FFY 2020-2022**

Car Rental Company	Projected Gross Receipts
<b>Avis Car Rental</b>	\$1,937,963.51
<b>Budget Car Rental</b>	\$1,844,621.35
<b>Enterprise Car Rental</b>	\$2,186,294.72
<b>Go Rentals</b>	\$463,757.25
<b>Hertz Car Rental</b>	\$2,971,805.59
<b>National Car Rental</b>	\$2,196,457.59
<b>Total Projected Gross Receipts</b>	<b>\$11,600,900.01</b>

#### ACDBE Market Area

The District has determined that the car rental concessions market area is within the State of California, primarily within/near the regions of Monterey, Santa Cruz, San Benito, Santa Clara, San Francisco and Alameda Counties. This is the geographical area in which the substantial majority of firms which seek to do car rental concessions business with the Airport are located and the geographical area in which the car rental firms receive a substantial majority of concessions related revenues are located.

There is one (1) car-rental ACDBEs out of 199 car-rental businesses within the market area, however, when the opportunity arises for a new car-rental concession(s), the District will take good faith efforts to allow for ACDBEs to participate in the District's car rental concession program. If a new car rental concession opportunity arises prior to the end of this goal period and the Airport's estimated average of annual gross revenues for car rental airport concessions are anticipated to be \$200,000 or greater, the District will submit an appropriate adjustment to the overall goal.

**Methodology used to Calculate Overall Goal**

***Goods and Services from ACDBEs/DBEs***

The District can meet the ACDBE participation goal for car rentals entirely in terms of purchases of goods and services. However, the District and the car rental companies, shall make good faith efforts to explore all available options to achieve its ACDBE participation goal. The dollar value of goods and services from an ACDBEs/DBE may be added to the numerator, and the dollar value of goods and services from all similar firms may be added to the denominator (see Step 1 below).

***Step 1: 23.51(c) – Base Figure Calculation***

The base figure for the relative availability of ACDBEs other than car rentals is calculated below:

$$\text{Base Figure} = \frac{\text{Ready, willing, and able car rental ACDBEs in the market area}}{\text{All ready, willing and able car rental firms in the market area}}$$

The data source or demonstrable evidence used to derive the numerator was: The California DBE Directory as outlined in § 23.51(c)(1). The data source or demonstrable evidence used to derive the denominator was: The US Census Bureau Data as outlined in § 23.51(c)(1).

**Table 2 – Total ACDBEs & All Firms for Car Rental Concessions in the Market Area**

NAICS	Type of Concession	Total ACDBE's	Total All Firms
532111	Car Rental	1	199

**Base Figure = 1 ACDBEs / 199 Total Establishments  
= .50% (less than 1%)  
= \$58,295.98 in gross receipts (.50% of \$11,600,900.11)**

***Step 2 23.51(d) – Basefigure Calculation Adjustments***

After calculating a base figure of the relative availability of ACDBEs, it was determined that based on current availability of ACDBEs within the existing market area and having no past historic participation filed, **.50% is reasonable and no adjustments are necessary at this time.**

**Breakout of Estimated Race-Neutral & Race Conscious Participation (§23.51)**

The District has determined that race-neutral means of facilitating ACDBE participation will be sufficient in attaining its ACDBE participation goal. The District will use the following race-neutral measures to increase ACDBE participation and understands that these steps are expected to be taken:

5. Locate and identify ACDBEs and other small businesses that may be interested in participating as airport concessionaires under 49 CFR Part 23;
6. Notify ACDBEs of concession opportunities and encourage them to compete, when appropriate;

7. Ensure competitors for concession opportunities are informed during pre-solicitation meetings about how the ACDBE program will affect the procurement process; and
8. Provide information concerning the availability of ACDBE firms to competitors to assist them in obtaining ACDBE participation.

If race-neutral measures, standing alone, are not sufficient to meet the overall goal, the following race-conscious measures will be taken:

4. Establish concession-specific goals for concession opportunities.
5. Negotiate with potential concessionaires to include ACDBE participation through direct ownership arrangements or measures, in the operation of the concession.
6. With prior FAA approval, other methods taken to ensure bidders/competitors provide ACDBE participation.

## Attachment 5

### Forms 1 & 2 for Demonstrating Good Faith Efforts

#### **FORM 1: AIRPORT CONCESSION DISADVANTAGED BUSINESS ENTERPRISE (ACDBE) UTILIZATION**

The undersigned Airport Concession bidder/offeror has satisfied the requirements of the bid/proposal specification in the following manner (please check the appropriate space):

The bidder/offeror is committed to a minimum of \_\_\_\_ % ACDBE utilization on this contract.

The bidder/offeror (if unable to meet the ACDBE goal of \_\_\_\_ %) is committed to a minimum of \_\_\_\_% ACDBE utilization on this contract and attached documentation demonstrating good faith efforts taken.

Name of bidder/offeror: \_\_\_\_\_

ACDBE State Registration No(s). \_\_\_\_\_

\_\_\_\_\_  
Airport Concessionaire Signature

\_\_\_\_\_  
Date

**FORM 2: LETTER OF INTENT**

Name of bidder/offeror's firm: \_\_\_\_\_

Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Name of ACDBE firm: \_\_\_\_\_

Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Telephone: \_\_\_\_\_

Description of work to be performed by ACDBE firm:

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The bidder/offeror is committed to utilizing the above-named ACDBE firm for the work described above. The estimated dollar value of this work is \$ \_\_\_\_\_.

**Affirmation**

The above-named ACDBE firm affirms that it will perform the portion of the contract for the estimated dollar value as stated above.

By \_\_\_\_\_

(Signature) (Title)

**If the bidder/offeror does not receive award of the prime contract, any and all representations in this Letter of Intent and Affirmation shall be null and void.**

(Submit this page for each ACDBE subcontractor.)

## **Attachment 6**

### **References**

#### **49 CFR PART 23 - ACDBE PARTICIPATION REGULATIONS:**

[https://www.ecfr.gov/cgi-bin/text-idx?tpl=/ecfrbrowse/Title49/49cfr23\\_main\\_02.tpl](https://www.ecfr.gov/cgi-bin/text-idx?tpl=/ecfrbrowse/Title49/49cfr23_main_02.tpl)

#### **49 CFR PART 26 – DBE DOT FINANCIAL ASSISTANCE PROGRAM REGULATIONS:**

[https://www.ecfr.gov/cgi-bin/text-idx?tpl=/ecfrbrowse/Title49/49cfr26\\_main\\_02.tpl](https://www.ecfr.gov/cgi-bin/text-idx?tpl=/ecfrbrowse/Title49/49cfr26_main_02.tpl)

#### **ACDBE CERTIFICATION APPLICATION FORM**

[http://www.dot.ca.gov/hq/bep/downloads/pdf/ACDBE\\_UCP\\_Application\\_Rev\\_12-2009.pdf](http://www.dot.ca.gov/hq/bep/downloads/pdf/ACDBE_UCP_Application_Rev_12-2009.pdf)

#### **ACDBE CERTIFYING AGENCY CONTACT INFORMATION**

**Caltrans Office of Business & Economic Opportunity (Certification Agency)**

**1823 14th Street**

**Sacramento, CA 95811**

**Phone: 916-324-0449**

**Fax: 916-324-1949**

**DBE.Certification@dot.ca.gov**

<http://www.dot.ca.gov/obeo/>

#### **ACDBE/DBE REGULATORY AGENCY CONTACT INFORMATION**

**Ofelia Medina**

**FAA Office of Civil Rights**

**777 S. Aviation Blvd. Suite #150**

**El Segundo, CA 90245**

**Phone: 424-405-7205**

**Email: [ofelia.medina@faa.gov](mailto:ofelia.medina@faa.gov)**

[https://www.faa.gov/about/office\\_org/headquarters\\_offices/acr/bus\\_ent\\_program](https://www.faa.gov/about/office_org/headquarters_offices/acr/bus_ent_program)

#### **CALTRANS ACDBE/DBE DIRECTORY**

[http://www.dot.ca.gov/hq/bep/find\\_certified.htm](http://www.dot.ca.gov/hq/bep/find_certified.htm)

#### **THE CALIFORNIA UNIFIED CERTIFICATION PROGRAM**

<http://californiaucp.org>

#### **THE US CENSUS BUREAU DATA**

<https://factfinder.census.gov/faces/nav/jsf/pages/searchresults.xhtml?refresh=t>