CITY OF VACAVILLE

650 MERCHANT STREET
VACAVILLE, CALIFORNIA 95688-6908
www.cityofvacaville.com

ESTABLISHED 1850

STEVE HARDY
Mayor

DILENNA HARRIS
Vice Mayor

CURTIS HUNT
Councilmember

MITCH MASHBURN
Councilmember

RON ROWLETT
Councilmember

Department of Public Works
Office of the Director

August 14, 2013

Sent Via: USPS & Email

Mr. Derrin Jourdan
Civil Rights Officer, Region IX
U.S. Department of Transportation
Federal Transit Administration
201 Mission Street, Suite 2210
San Francisco, CA 94105

SUBJECT: CITY OF VACAVILLE – TRIENNIAL DISADVANTAGED BUSINESS ENTERPRISE GOAL for FEDERAL FISCAL YEARS 2013/14, 2014/15, & 2015/16 for FEDERAL TRANSIT ADMINISTRATION-ASSISTED PROJECTS

Dear Mr. Jourdan:

In accordance with 49 CFR Part 26.45, the City of Vacaville has established a Triennial Disadvantaged Business Enterprise (DBE) Goal of 3% (2% Race Conscious and 1% Race Neutral) for its Federal Transportation Administration ("FTA") assisted contracting program for Federal Fiscal Years 2013/14, 2014/15 and 2015/16. The City of Vacaville hereby submits the DBE Program and methodology supporting our proposed DBE Goal. The City of Vacaville is committed to fulfilling the objectives outlined in 49 CFR Part 26.1 and its DBE Program as outlined in the attached.

Please let me know if this submittal is acceptable. Once you have given your preliminary approval, we will advertise our proposed program as outlined in our DBE Program and CFR Part 26. Should you have any questions regarding this matter, please contact me. My telephone number is (707) 449-5305 and my Email address is cdorsey@cityofvacaville.com.

Sincerely,

Carole L. Dorsey
DBE Liaison Officer

Attachment

cc: Shawn Cunningham, Interim Director of Public Works
Tim Burke, Interim Assistant Director of Public Works
Brian McLean, Transit Manager
Tawnia Skow, Senior Civil Engineer – Construction Manager
Tracy Rideout, Acting Senior Civil Engineer - Design

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CITY OF VACAVILLE

TRIENNIAL DISADVANTAGED BUSINESS ENTERPRISE PROGRAM
FEDERAL TRANSIT ADMINISTRATION-ASSISTED CONTRACTS
FOR FEDERAL FISCAL YEARS 2013/14, 2014/15 & 2015/16

POLICY STATEMENT

Section 26.1, 26.23 Objectives/Policy Statement

The City of Vacaville (CITY) has established a Disadvantaged Business Enterprise (DBE) program in accordance with regulations of the Federal Transit Administration (FTA), 49 CFR Part 26. The CITY has received Federal financial assistance from the FTA, and as a condition of receiving this assistance, the CITY has signed an assurance that it will comply with 49 CFR Part 26.

It is the policy of the CITY to ensure that DBEs as defined in Part 26 have an equal opportunity to receive and participate in FTA–assisted contracts. It is also our policy to:

1. To ensure nondiscrimination in the award and administration of FTA – assisted contracts;
2. To create a level playing field on which DBEs can compete fairly for FTA-assisted contracts;
3. To ensure that the DBE Program is narrowly tailored in accordance with applicable law;
4. To ensure that only firms that fully meet 49 CFR Part 26 eligibility standards are permitted to participate as DBEs;
5. To help remove barriers to the participation of DBEs in FTA-assisted contracts;
6. To assist the development of firms that can compete successfully in the market place outside the DBE Program.

Carole L. Dorsey, Contract Compliance Specialist II, has been delegated all responsibilities as the DBE Liaison Officer (DBELO). In that capacity, the DBELO is responsible for implementing all aspects of the DBE program. Implementation of the DBE program is accorded the same priority as compliance with all other legal obligations incurred by the CITY in its financial assistance agreements with the FTA.

CITY has disseminated this policy statement to the City Council of the CITY and all of the components of our organization. We have distributed this statement to DBE and non-DBE business communities that perform work for us on FTA-assisted contracts by Public Notice posted at the City Hall of the CITY and advertised in the *Vacaville Reporter.* The CITY has also placed advertisements of the CITY's DBE Program Plan in the Napa/Solano Builders Exchange and posted on Construction

Update's website's website at e.goodfaitheffort.com and Construction Bidboard's website at www.planroom@ebidboard.com.

Shawn Cunningham, Interim Director of Public Works

8-12-13
Date

SUBPART A – GENERAL REQUIREMENTS

Section 26.1 Objectives

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

Section 26.3 Applicability

The CITY is the recipient of federal transit funds authorized by Titles I, III, V, and VI of ISTEA, Pub. L. 102-240 or by Federal transit laws in Title 49, U.S. Code, or Titles I, II, and V of the Teas-21, Pub. L. 105-178.

Section 26.5 Definitions

The CITY will adopt the definitions contained in Section 26.5 for this program.

Section 26.7 Non-discrimination Requirements

The CITY 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 contract covered by 49 CFR Part 26 on the basis of race, color, sex, or national origin.

In administering its DBE program, the CITY 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 DBE program with respect to individuals of a particular race, color, sex, or national origin.

Section 26.11 Record Keeping Requirements

Reporting to FTA: 26.11(b)

The CITY will report DBE Participation to the FTA as follows:

We will report DBE Participation on a quarterly basis, using FTA Form 4630. These reports will reflect payments actually made to DBEs on FTA-assisted contracts.

Bidder's List: 26.11(c)

The CITY will create a bidder's list, consisting of information about all DBE and non-DBE firms that bid or quote on FTA-assisted contracts. The purpose of this requirement is to allow use of the bidder's list approach to calculating overall goals. The bidder's list will include the name, address, DBE or non-DBE status, age, and annual gross receipts of firms.

We will collect this information in the following ways:

The CITY requires listing of all subcontractors and suppliers who are contacted by potential contractors in its bid process. This information is collected and retained in our bidders list. For federally--funded projects, the CITY calculates project goals using the California Unified Certification Program (CUCP) database for certified contractors and consultants who are certified as disadvantaged by race, gender or economics.

Section 26.13 Federal Financial Assistance Agreement

CITY has signed the following assurances, applicable to all FTA-assisted contracts and their administration:

Contract Assurance 26.13(a)

> CITY shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of any FTA--assisted contract or in the administration of its DBE Program or the requirements of 49 CFR Part 26. The recipient shall take all necessary and reasonable steps under 49 CFR Part 26 to ensure nondiscrimination in the award and administration of FTA--assisted contracts. The recipient's DBE Program, as required by 49 CFR Part 26 and as approved by FTA, is incorporated by reference in this agreement. Implementation of this program is a legal obligation and failure to carry out its terms shall be treated as a violation of this agreement. Upon notification to the CITY of its failure to carry out its approved program, the Department may impose sanction as provided for under Part 26 and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C. 1001 and/or the Program Fraud Civil Remedies Act of 1986 (31 U.S.C. 3801 *et seq.*).

This language will appear in financial assistance agreements with sub-recipients.

Contract Assurance 26.13(b)

We will ensure that the following clause is placed in every FTA-assisted contract and subcontract:

> *The contractor, sub-recipient, 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 FTA-assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract and may result in the termination of this contract or such other remedy as the CITY deems appropriate.*

SUBPART B – ADMINISTRATIVE REQUIREMENTS

Section 26.21 DBE Program Updates

Since the CITY has received a grant of $250,000 or more in FTA planning capital, and or operating assistance in a federal fiscal year, the CITY will continue to carry out this program until all funds from FTA financial assistance have been expended. We will provide to FTA updates representing significant changes in the program.

Section 26.23 Policy Statement

The Policy Statement is elaborated on the first page of this program.

Section 26.25 DBE Liaison Officer (DBELO)

We have designated the following individual as our DBE Liaison Officer:

Carole L. Dorsey
Public Works Engineering Services
650 Merchant Street
Vacaville, CA 95688

Phone: (707) 449-5305
Fax: (707) 449-5346
Email: cdorsey@cityofvacaville.com

In that capacity, the DBELO is responsible for implementing all aspects of the DBE program and ensuring that the CITY complies with all provisions of 49 CFR Part 26. The DBELO has direct, independent access to the CITY's Director of Public Works concerning DBE program matters. An organization chart displaying the DBELO's position in the organization is attached as Attachment #1 to this program.

The DBELO is responsible for the administration of the CITY's DBE program, which includes, but is not limited to the following:

1. Researches, compiles, analyzes and reports statistical data and other information as required for DBE goal analysis; Good Faith Efforts for awards of FTA--assisted contracts.
2. Reviews contracts and purchase requisitions for federally-funded design and construction contracts; to assure compliance with this program.
3. Identifies contracts and procurements so that DBE goals are included in solicitations for both race-neutral methods and contract specific goals attainment; and identifies ways to improve progress.
4. Compiles data and prepares submittals of FTA mandated DBE reports submitted through **TEAM**.
5. Analyzes CITY's progress toward attainment and identifies ways to improve progress.
6. Reviews and updates CITY's boilerplate special provisions and contract documents for FTA-funded Capital Improvement Program projects to assure compliance with FTA's DBE guidelines and the CITY's DBE program.
7. Ensures that bid notices and requests for proposals are made available to DBEs and SBEs in a timely manner.
8. Analyzes Good Faith Efforts of bidders to determine the successful bidder who would be awarded the contract.
9. Prepares and approves "Evaluation of Good Faith Effort" memorandum for FTA.
10. Analyzes DBE and SBE participation in order to identify and implement methods to encourage their participation through race neutral means.
11. Participates in pre-bid meetings.
12. Advises CITY Director of Public Works and the City Council on DBE matters and DBE and SBE race neutral issues.
13. Plans and participates in DBE training seminars.
14. CITYs resource for contractors, subcontractors, and suppliers who wish to participate in the CITY's bid process for FTA-assisted contracts.

15. Available to provide outreach to DBEs and community organizations to fully advise them of contracting opportunities.
16. Maintains the CITY's DBE Directory.

Section 26.27 DBE Financial Institutions

It is the policy of the CITY to investigate the full extent of services offered by financial institutions owned and controlled by socially and economically disadvantaged individuals in the community, and in order to make reasonable efforts to encourage prime contractors on FTA-assisted contracts to make use of these institutions.

We have posted the Federal Reserve's list of Minority-Owned Financial Institutions on the CITY's website. This list can be found at www.federalreserve.gov/releases/mob/current/

Section 26.29 Prompt Payment Mechanisms

49 CFR Part 26.29(d) requires appropriate means to enforce prompt payment. These means may include appropriate penalties for failure to comply with the terms and conditions of the contract. The means may also provide that any delay or postponement of payment among the parties may take place only for good cause with the CITY's prior written approval.

The CITY's procedure for enforcing prompt payment to subcontractors is included in the each federally-funded project's Special Provisions. Section 5-1.22, "Prompt Progress Payment to Subcontractors," as follows:

> *"A prime contractor or subcontractor shall pay any subcontractor not later than 10 days of receipt of each progress payment in accordance with the provision in Section 7108.5 of the California Business and Professions Code concerning prompt payment to subcontractors. The 10 days is applicable unless a longer period is agreed to in writing. Any delay or postponement of payment over 30 days may take place only for good cause and with the City's prior written approval. Any violation of Section 7108.5 shall subject the violating contractor or subcontractor to the penalties, sanction and other remedies of that section. This requirement shall not be construed to limit or impair any contractual, administrative or judicial remedies otherwise available to the contractor or subcontractor in the event of a dispute involving late payment or nonpayment by the prime contractor, deficient subcontract performance, or noncompliance by a subcontractor. This clause applies to both DBE and non-DBE subcontracts."*

Section 26.31 Directory

The CITY uses the California Unified Certification Program (CUCP) database to find certified DBE and SBE firms to derive contract goals and identify potential contractors and consultants who may wish to participate in our bidding and/or solicitation process.

The CITY requires submission of contractor, subcontractor, and supplier DBE certification information with each bid proposal or solicitation for FTA-funded contracts.

Section 26.33 Overconcentration

The CITY has not identified that overconcentration exists in the types of work that DBEs perform on CITY's contracting opportunities.

Section 26.35 Business Development Programs

The CITY has not established a business development program.

Section 26.37 Monitoring and Enforcement Mechanisms

The CITY will take the following monitoring and enforcement mechanisms to ensure compliance with 49 CFR Part 26.

1. We will bring to the attention of the FTA any false, fraudulent, or dishonest conduct in connection with the program, so that FTA can take the steps (e.g., referral to the Department of Justice for criminal prosecution, referral to the FTA Inspector General, action under suspension and debarment or Program Fraud and Civil Penalties rules) provided in 26.109.
2. We will consider similar action under our own legal authorities, including responsibility determinations in future contracts. Attachment #3 lists the regulation, provisions, and contract remedies available to us in the events of non-compliance with the DBE regulation by a participant in our procurement activities.
3. We will also provide a monitoring and enforcement mechanism to verify that work committed to DBEs at contract award is actually performed by the DBEs. This will be accomplished by:
   - Prior to execution of the contract, the prime contractor submits a Subcontracting Request form which must be approved by CITY.
   - The contract administrator inputs information from each subcontractor in a Subcontracting Request Worksheet which lists subcontracting work by pay item.
   - The CCS marks the Progress Pay Estimate line item to reflect information from the Subcontracting Request Worksheet in order to track and verify work performed by subcontractors.
   - The prime contractor submits monthly progress pay requests. The monthly progress pay request must include a Conditional Lien Release from the prime contractor. The Conditional Lien Release must cover all work performed by the prime contractor and all subcontractors, as well as payments to all suppliers based on the current progress payment.
   - The Project Inspector ("PI") reviews the monthly request to pay from the prime Contractor to verify the work completed on each line item and approves the draft pay voucher. The CCS prepares the monthly progress pay voucher, which includes all contract work, contract change order work, and an updated summary of the work completed. Also included on the progress pay voucher are the updated amounts for any deductions applied to the contract. The monthly pay voucher is reviewed and approved for payment by the Senior Civil Engineer -Construction Manager.
   - Upon approval of the current progress pay request, a check is issued by the CITY.
   - Each subsequent progress payment request must include:
     1) An Unconditional Lien Release from the prime contractor which covers all work performed by prime and all subcontractors, and materials purchased and paid for in the previous progress payment; and
     2) A Conditional Lien Release which covers all work performed by the prime contractor, all subcontractors and all payments on the current progress pay request.
     3) The CCS contacts subcontractors directly to confirm payment prior to release of monthly progress payments to prime contractor.

4) Should CCS determine that subcontractors have not been paid; the CITY will withhold payment and also assess administrative deductions against the prime contractor until payment is made to the unpaid subcontractor.

Section 26.39 Fostering Small Business Participation

The CITY will recognize and monitor small business participation by those firms certified by the State of California, Department of General Services (www.eprocure.dgs.ca.gov) and/or the US Small Business Administration (www.SBE.gov).

The CITY will post information about certification and other resources for Small Business Enterprises (SBE) on its website:

www.cityofvacaville.com/departments/public_works/dbeprogram.php

The CITY includes Race Neutral Measures to solicit SBE firms for contracting opportunities for FTA-assisted construction projects and procurement of services, supplies and equipment.

The CITY will include a Race Neutral SBE contract goal in its calculation of contract goals for each contracting opportunity for FTA-assisted construction projects and procurement of services, supplies and equipment.

SUBPART C – GOALS, GOOD FAITH EFFORTS, AND COUNTING

Section 26.43 Set-asides or Quotas

The CITY does not use quotas in any way in the administration of this DBE program.

Section 26.45 Overall Goals

A description of the methodology to calculate the overall goal and the goal calculations can be found in Attachment #4 to this policy. This section of the program will be updated annually.

In accordance with Section 26.45(f) the CITY will submit its overall goal to FTA on August 1 of each year. Before establishing the overall goal each year, CITY will consult with the California Unified Certification Program database; California Department of General Services; Federal Department of Labor Small Business Administration, and other minority, women, small business, and Disabled American Veterans organization to obtain information concerning the availability of disadvantaged and non-disadvantaged businesses, the effects of discrimination on opportunities for DBEs, and the CITY's efforts to establish a level playing field for the participation of DBEs.

Following this consultation, CITY will publish a notice of the proposed overall goals, informing the public that the proposed goal and its rational are available for inspection during normal business hours at the City Hall of the CITY, 650 Merchant Street, Vacaville, CA, for 30 days following the date of the notice, and informing the public that the CITY you and FTA will accept comments on the goals for 45 days from the date of the notice. Notice will concurrently be published in the *Vacaville Reporter*, Napa/Solano Builder's Exchange; and posted online at Construction Bidboard, Inc. at www.planroom@ebidboard.com; and Construction Update at www.goodfaitheffort.com.

Our overall goal submission to FTA will include a summary of information and comments received during this public participation process and our responses.

We will begin using our overall goal on October 1 of each year, unless CITY has received other instructions from FTA. If CITY establishes a goal on a project basis, we will begin using our goal by the time of the first solicitation for an FTA-assisted contract for the project.

Section 26.49 Transit Vehicle Manufacturer's Goals

CITY will require each transit vehicle manufacturer, as a condition of being authorized to bid or propose on FTA-assisted transit vehicle procurements, to certify that it has complied with the requirements of this section. Alternatively, CITY may, at its discretion and with FTA approval, establish project-specific goals for DBE participation in the procurement of transit vehicles in lieu of the TVM complying with this element of the program.

Section 26.51(a-c) Breakout of Estimated Race-Neutral & Race-Conscious

Participation

The breakout of estimated race-neutral and race-conscious participation can be found in Attachment #5 to this policy. This section of the program will be updated annually when the goal calculation is updated.

Section 26.51(d-g) Contract Goals

The CITY will use contract goals to meet any portion of the overall goal CITY does not project being able to meet using race-neutral means. Contract goals are established so that, over the period to which the overall goal applies, they will cumulatively result in meeting any portion of our overall goal that is not projected to be met through the use of race-neutral means.

We will establish contract goals only on those FTA-assisted contracts that have subcontracting possibilities. We need not establish a contract goal on every such contract, and the size of contract goals will be adapted to the circumstances of each such contract (e.g., type and location of work, availability of DBEs to perform the particular type of work.)

We will express our contract goals as a percentage of the total amount of a FTA-assisted contract.

Section 26.53 Good Faith Efforts Procedures

Demonstration of Good Faith Efforts 26.53(a) & (c)

The obligation of the bidder/offeror is to make good faith efforts. The bidder/offeror can demonstrate that it has done so either by meeting the contract goal or documenting good faith efforts. Examples of good faith efforts are found in Appendix A to Part 26.

The following personnel are responsible for determining whether a bidder/offeror who has not met the contract goal has documented sufficient good faith efforts to be regarded as responsive.

CITY will ensure that all information is complete and accurate and adequately documents the bidder/offer's good faith efforts before CITY commits to the performance of the contract by the bidder/offeror.

Information to Be Submitted 26.53(b)

CITY treats bidder/offers' compliance with good faith efforts' requirements as a matter of responsiveness.

Each solicitation for which a contract goal has been established will require the bidders/offerors to submit the following information:

1. The names and addresses of DBE firms that will participate in the contract;
2. A description of the work that each DBE will perform;
3. The dollar amount of the participation of each DBE firm participating;
4. Written and signed documentation of commitment to use a DBE subcontractor whose participation it submits to meet a contract goal;
5. Written and signed confirmation from the DBE that it is participating in the contract as provided in the prime contractor's commitment; and
6. If the contract goal is not met, evidence of good faith efforts.

Administrative Reconsideration 26.53(d)

A bidder/offeror may request administrative reconsideration within 3 days of being informed by CITY that it is not responsive because it has not documented sufficient good faith efforts. Bidder/offerors should make this request in writing to the following reconsideration official:

Shawn Cunningham, Reconsideration Official
City of Vacaville Department of Public Works
650 Merchant Street, Vacaville, CA 95688
(707) 449-5170
slcunningham@cityofvacaville.com

As part of this reconsideration, the bidder/offeror 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 bidder/offeror will have the opportunity to meet in person with our Reconsideration Official to discuss the issue of whether it met the goal or made adequate good faith efforts to do so. We will send the bidder/offeror a written decision on reconsideration, explaining the basis for finding that the bidder 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 Department of Transportation.

Good Faith Efforts When a DBE Is Replaced On a Contract 26.53(f)

CITY will require a contractor to make good faith efforts to replace a DBE that is terminated or has otherwise failed to complete its work on a contract with another certified DBE, to the extent needed to meet the contract goal. We will require the prime contractor to notify the DBE Liaison Officer immediately of the DBE's inability or unwillingness to perform and provide reasonable documentation.

In this situation, CITY will require the prime contractor to obtain our prior approval of the substitute DBE and to provide copies of new or amended subcontracts, or documentation of good faith efforts.

If the contractor fails or refuses to comply in the time specified, our contracting office will issue an order stopping all or part of payment/work until satisfactory action has been taken. If the contractor still fails to comply, the contracting officer may issue a termination for default proceeding.

Sample Bid Specification

The requirements of 49 CFR Part 26, Regulations of the U.S. Department of Transportation, apply to this contract. It is the policy of the CITY to practice nondiscrimination based on race, color, sex, or national origin in the award or performance of this contract. All firms qualifying under this solicitation are encouraged to submit bids/proposals. Award of this contract will be conditioned upon satisfying the requirements of this bid specification. These requirements apply to all bidders/offerors, including those who qualify as a DBE. When a DBE contract goal percentage has been established for a contract, the bidder/offeror shall make good faith efforts, as defined in Appendix A, 49 CFR Part 26, to meet the contract goal for DBE participation in the performance of this contract.

The bidder/offeror will be required to submit the following information: (1) the names and addresses of DBE firms that will participate in the contract; (2) a description of the work that each DBE firm will perform; (3) the dollar amount of the participation of each DBE firm participating; (4) written documentation of the bidder/offeror's commitment to use a DBE subcontractor whose participation it submits to meet the contract goal; (5) written confirmation from the DBE that it is participating in the contract as provided in the commitment made under (4); and (5) if the contract goal is not met, evidence of good faith efforts.

Section 26.55 Counting DBE Participation

We will count DBE participation toward overall and contract goals as provided in 49 CFR 26.55.

SUBPART D – CERTIFICATION STANDARDS

Section 26.61 – 26.73 Certification Process (Not Applicable)

SUBPART E – CERTIFICATION PROCEDURES

Section 26.81 Unified Certification Programs

CITY is the member of a California Unified Certification Program (CUCP) administered by the California Department of Transportation (CALTRANS). The CUPC will meet all of the requirements of this section. This program is maintained by CALTRANS. Details of the program are at www.caltrans.ca.gov/bep/ucp/htm.

Section 26.83 Procedures for Certification Decisions (See CUCP)

Re-certifications 26.83(a) & (c) (See CUCP)

SUBPART F – COMPLIANCE AND ENFORCEMENT

Section 26.109 Information, Confidentiality, Cooperation

CITY will safeguard from disclosure to third parties, information that may reasonably be regarded as confidential business information, consistent with Federal, state, and local law.

Notwithstanding any contrary provisions of state or local law, CITY will not release personal financial information submitted in response to the personal net worth requirement to a third party (other than FTA) without the written consent of the submitter.

Monitoring Payments to DBEs

We will require prime contractors to maintain records and documents of payments to DBEs for three years following the performance of the contract. These records will be made available for inspection upon request by any authorized representative of the CITY or FTA. This reporting requirement also extends to any certified DBE subcontractor.

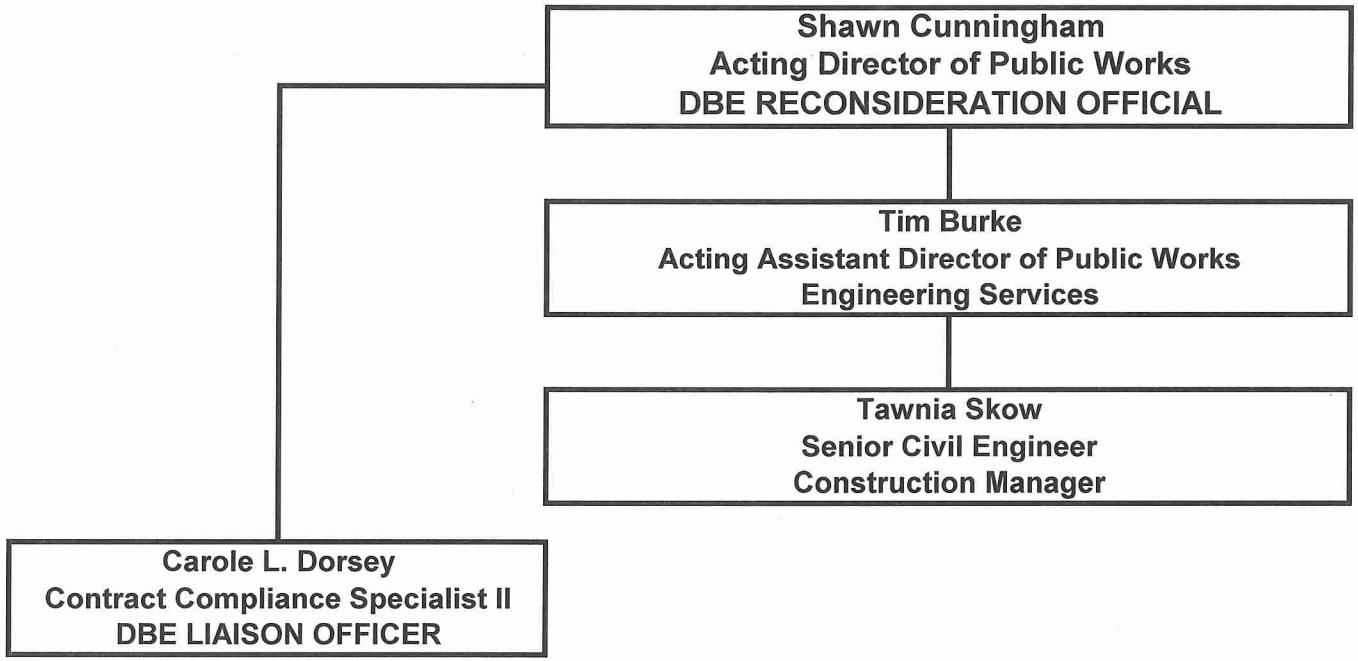
We will perform interim audits of contract payments to DBEs. The audit will review payments to DBE subcontractors to ensure that the actual amount paid to DBE subcontractors equals or exceeds the dollar amounts stated in the schedule of DBE participation.

ATTACHMENTS

Attachment 1 Organizational Chart
Attachment 2 DBE Directory Information
Attachment 3 – Monitoring and Enforcement Mechanisms
Attachment 4 Overall Goal Calculation
Attachment 5 Breakout of Estimated Race-Neutral & Race-Conscious Participation
Attachment 6 Forms 1 & 2 for Demonstration of Good Faith Efforts

LINKS Regulations: 49 CFR Part 26 @ www.ecfr.gov

City of Vacaville
Disadvantaged Business Enterprises (DBE) Program
Organization Chart
for FFY 2014; 2015; & 2016
Disadvantaged Business Enterprise Program



Attachment #2
DBE Directory Information

City of Vacaville
Department of Public Works
Engineering Services

DISADVANTAGED BUSINESS ENTERPRISE (DBE)
CONTRACTOR SUBCONTRACTOR
DISADVANTAGED BUSINESS ENTERPRISE
CERTIFICATION INFORMATION

Firm Name:	Phone:
Address:	
Principal Service or Product:	Bid Amount $

PLEASE INDICATE PERCENTAGE OF OWNERSHIP BELOW

☐ DBE _____% Ownership	
☐ Prime Contractor	☐ Supplier of Material/Service
☐ Subcontractor	
☐ Sole Ownership	☐ Corporation
☐ Partnership	☐ Joint Venture
Certified by:	Title:

(Original signature and date required)

Name:	Date:

NOTE: *They must be certified by California Unified Certification Program (CUCP), Small Business Administration (SBA), Department of Transportation (DOT) or by State, Local, Tribal or private entities whose certification criteria meets CFR 49, Part 26.81-83.*

CITY OF VACAVILLE
DISADVANTAGED BUSINESS ENTERPRISE (DBE)
MONITORING & ENFORCEMENT MECHANISMS

1. City of Vacaville Municipal Code Chapter 2.74, "Disqualification of Contractors"

2. California Public Contract Code Sections 4100 – 4114 – Subletting & Subcontracting Fair Practices Act

3. Federal government enforcement mechanisms that it may apply to firms participating in the DBE problem, including, but not limited to, the following:

    a. Suspension or debarment proceedings pursuant to 49 CFR Part 26

    b. Enforcement action pursuant to 49 CFR Part 31

    c. Prosecution pursuant to 18 USC 1001

City of Vacaville
Department of Public Works
Engineering Services

SECTION 26.45: Overall Goal Calculation

Amount of Goal

1. CITY's overall goal for the following time period 2014 – 2016 is the following: 3% of Federal financial assistance we will expend in FTA-assisted contracts, exclusive of FTA funds used for the purchase of transit vehicles.

   The CITY's FTA-funded program for FFY 2014-2016 includes has one design project and the operation of its transit service operations.

   CITY BUS SERVICE: The CITY plans to extend the transit operator's current contract with yearly amendments through FFY 2016.

Vacaville Transit Service	
FFY	**FTA Funds**
2013/14	$1,046,844
2014/15	$1038,844
2015/16	$1,042,500
TOTAL:	**$3,128,188**

   There are no subcontracting opportunities for the CITY to calculate a goal.

   INTERMODAL STATION PHASE II – PARKING FACILITY – This is the only FTA-funded project scheduled for the next three years. This project is for the design of the parking lot expansion at the CITY's Intermodal Transportation Station. There is one subcontracting opportunity for this contract, which is a Landscape Architect. Therefore the goal calculation for FFY 2013/14 is as follows:

Total Project Budget	$430,000
Total FTA Funds	$430,000
Landscape Architect	$107,500

2. $430,000 is the dollar amount of FTA-assisted contracts that the CITY expects to award during FFY 2014. This means that CITY has set of goal of expending $8,600 with DBEs during this fiscal year.

Methodology Used To Calculate Overall Goal

Step 1: 26.56(c)

Determine the base figure for the relative availability of DBEs.

The base figure for the relative availability of DBEs was calculated as follows:

Base Figure	=	[1] Ready, Willing & Able DBEs (Attachment #4-A)	7	**1% Race Conscious**
		[2]All Firms Ready, Willing & Able in the CITY's Market Area (Attachment #4-B)	**178**	

Base Figure	=	Ready, Willing & Able SBEs (Attachment #4-A)	5	**1% Race Neutral**
		All Firms Ready, Willing & Able in the CITY's Market Area (Attachment #4-B)	**178**	

The data source used to derive the numerator was: CALIFORNIA UNIFIED CERTIFICATION PROGRAM DATABASE for race, gender and economically disadvantaged businesses.

The date source or demonstrable evidence used to derive the denominator was: US CENSUS BUREAU 2011 COUNTY BUSINESS PATTERNS

When we divided the numerator by the denominator we arrived at the base figure for our overall goal and that number was 2% which = $8,600 (1% Race Conscious & 1% Race Neutral)

Step 2: 26.56(d)

After calculating a base figure of the relative availability of DBEs, evidence was examined to determine what adjustment was needed to the base figure in order to arrive at the overall goal. There may be no subcontracting opportunities for a Landscape Architect. However, the CITY will solicit project bids from the DBE and SBE landscape architects certified by the CUCP.

With regards to the CITY's transit operations there are no Transit Operators certified as either DBE or SBE. The current contract with First Transit includes yearly options for renewal over the next 3 years. First Transit has reported that they have solicited DBE suppliers and subcontractors when feasible, but have had no DBEs ready, willing and able to participate in their contracting opportunities. The CITY will continue to monitor and encourage First Transit to seek DBE participation throughout FFY's 2013/14; 2014/15 & 2015/16.

[1] Source – CUCP Database
[2] Source 2011 US Census Bureau County Business Patterns

We anticipate that the there may be other DBE and SBE contracting opportunities that will be identified by the Landscape Architects who submit bids for the project. We will also work with First Transit to assist them in soliciting and contracting with DBE/SBE suppliers during the life of their contract. Therefore we will increase the overall triennial goal to 3%.

The data source used to derive the numerator was: CALIFORNIA UNIFIED CERTIFICATION PROGRAM DATABASE for race, gender and economically disadvantaged businesses.

The data source or demonstrable evidence used to derive the denominator was: US CENSUS BUREAU 2011 COUNTY BUSINESS PATTERNS

We published our goal information in these publications:

- Vacaville Reporter
- Napa/Solano Builders Exchange Newsletter
- Construction Update Website @ www.goodfaitheffort.com
- Construction Bidboard's Website @ www.eplanroom@bidboard.com

CITY OF VACAVILLE
TRIENNIAL DBE PROGRAM GOAL
FEDERAL TRANSPORTATION ADMINISTRATION-ASSISTED PROJECTS
FFY's 2013/14, 2014/15 & 2015/16

DBE Goal Analysis - Establishment of the NUMERATOR

CERTIFIED DISADVANTAGED BUSINESS ENTERPRISE CONTRACTORS

Number of Certified DBE & SBE Firms[1] by Primary Work Category for Design Professional Services and Transit Operators by the Corresponding NAICS and CUCP Work Codes within the City of Vacaville's Market Area[2]

DESIGN

2012 NAICS	WORK CODE	NAICS Description	[3]Certified DBE's	Certified SBE's	Certified DBE's & SBE's
541320	C 8744	Landscape Architects	7	5	12
		DESIGN CERTIFIED DBE & SBE FIRMS:	**7**	**5**	**12**

OPERATIONS

2012 NAICS	WORK CODE	NAICS Description	Certified DBE's	Certified SBE's	Certified DBE's & SBE's
485113	E 4170	Bus, Bus Terminial & Other Motor Vehicle Transit Systems	0	0	0
		OPERATIONS CERTIFIED DBE & SBE FIRMS:	**0**	**0**	**0**

[1] DATA SOURCE: California Unified Certification Program General Disadvantaged Business Enterprise Database

[2] Defined as Surrounding Counties

[3] Includes Minority & Women-Owned Business Enterprises

TRIENNIAL DBE PROGRAM GOAL
FEDERAL TRANSPORTATION ADMINISTRATION-ASSISTED PROJECTS
FFY's 2013/14, 2014/15 & 2015/16

DBE Goal Analysis - Establishment of the DENOMINATOR

MARKET AREA

Number of Established DBE Firms[1] by Primary NAICS Work Categories for Professional Services which Correspond to NAICS Work Codes within the City of Vacaville's Market Area (Defined as Surrounding Counties[2])

NAICS 2012	WORK CODES	NAICS DESCRIPTION	Alameda	Contra Costa	Marin	Napa	Sacramento	San Joaquin	Solano	Sonoma	Yolo	TOTAL
541320	C 8744	Landscape Architectural Services	54	36	26	6	24	5	3	22	2	178
TOTAL NUMBER OF ESTABLISHED DBE FIRMS			54	36	26	6	24	5	3	22	2	178

NAICS 2012	WORK CODES	NAICS DESCRIPTION	Alameda	Contra Costa	Marin	Napa	Sacramento	San Joaquin	Solano	Sonoma	Yolo	TOTAL
485113	E 4170	Bus, Bus Terminal & Other Motor Vehicle Transit Systems	4	2	0	1	2	5	6	2	2	24
TOTAL NUMBER OF ESTABLISHED DBE FIRMS			4	2	0	1	2	5	6	2	2	24

[2] **DATA SOURCE:** U.S. Census Bureau: 2011 County Business Patterns Utilizing NAICS Work Category Codes

TRIENNIAL DISADVANTAGED ENTERPRISE PROGRAM GOAL
FEDERAL TRANSPORTATION ADMINISTRATION-ASSISTED PROJECTS
FFY's 2013/14, 2014/15 & 2015/16

FFY 2013/14 - Intermodal Transportation Station Parking Facility Design

CALCULATION OF BASE FIGURE & GOAL

2011 NAICS	NAICS Description	Numerator			Denominator	SUBTOTAL	% of Contract Funding	BASE FIGURE
		DBE's Available in Market Area	SBE's Available in Market Area	TOTAL	All Firms Available in Market Area			
541320	Landscape Architectural Services	7	5	12	178	0.0674	25%	0.0169
	TOTAL ESTABLISHED DBE FIRMS:	7	5	12	178			0.02

Total FTA Dollars: $430,000

DBE Goal: 2%

CITY OF VACAVILLE
Section 26.51: Breakout of Estimated
Race-Neutral & Race Conscious Participation

The CITY will meet the maximum feasible portion of its overall goal by using race-neutral means of facilitating both Disadvantaged Business Enterprises (DBE) and Small Business Enterprises (SBE) participation. The CITY uses the following race-neutral means to increase DBE participation:

- Arranging solicitations, times for the presentation of bids, quantities, specifications, and delivery schedules in ways that facilitate DBE, SBE and other economically disadvantaged business participation.
  - The CITY makes available to the contracting public the CITY's "Status of Capital Improvement Program" Quarterly Report. This document is available upon request and is also posted on the CITY's website at http://www.cityofvacaville.com/. The Quarterly Report includes detailed project descriptions and anticipated schedules for design and construction phases of the CITY's capital improvement program projects. This report includes the scopes of work and information potential DBE contractors and suppliers can use to assess contracting opportunities.
  - It is the CITY's standard procedure to publish a "Notice to Bidders" for all construction projects in the *Vacaville Reporter,* 21 to 30 days prior to the scheduled bid opening. Concurrently the CITY has contracted with ARC Northern California (http://upload.arc-norcal.com/vacaville/), whose services include providing electronic plans and specifications to all potential bidders and bidder resources. The CITY provides an initial list of plan rooms, construction industry publications, and Minority Business Enterprises and Small Business Enterprises resources, who receive notice of the CITY's contracting opportunities. The intent is to encourage these smaller construction companies and suppliers to contact potential prime contractors to bid on portions of all CITY projects and other FTA-assisted contracting opportunities.
  - The CITY posts detailed information on all "Notices to Bidders" and "Requests for Quotations" for all Capital Improvement Program projects on CITY's website www.cityofvacavile.com/publicworks/majorprojectsupdate .
  - The CITY posts information and resources for "DBE Programs for Federal-Assisted Construction Projects" on CITY's website at www.cityofvacavile.com/publicworks/majorprojectsupdate .

- Minority and small business focused publications and information clearing houses are added to the CITY's list upon request.
- The CITY solicits DBE and SBE participation for consultants in accordance with the CITY's contracting procedures for negotiated contracts.

- Unbundling large contracts to make them more accessible to small and disadvantaged businesses, encouraging prime contractors to subcontract portions of work that they might, otherwise perform with their own forces. The CITY breaks down contracts into bid items included in the bid proposal. These items identify subcontracting opportunities for various contractors.
- Maintaining an active Bidder's List which contains pertinent information about all DBE SBE and Non-DBE firms that bid and/or quote on Capital Improvement Program projects in the CITY.
- Providing information and communications programs on contracting procedures and specific contract opportunities.
  - The CITY is expanding information on its website to provide more detailed information about:
    - CITY's Race Neutral DBE Program
    - Resources and information links to FTA and CALTRANS
    - Resources and information links to minority/small business focused publications and programs
    - List of Minority-Owned Financial Institutions

We estimate that, in meeting our overall goals of 3%, we will obtain 1% from race-neutral participation and 2% through race-conscious measures.

In order ensure that our DBE Program will be narrowly tailored to overcome the effects of discrimination, if we use contract goals we will adjust the estimated breakout of race-neutral and race-conscious participation as needed to reflect actual DBE participation (see 26.51(f) and we will track and report race-neutral and race conscious participation separately. For reporting purposes, race-neutral DBE participation includes, but is not necessarily limited to, the following: DBE participation through a prime contract a DBE obtains through customary competitive procurement procedures; DBE participation through a subcontract on a prime contract that does not carry a DBE goal; DBE participation on a prime contract exceeding a contract goal; and DBE participation through a subcontract from a prime contractor that did not consider a firm's DBE status in making the award.

We will maintain data separately on DBE achievements in those contracts with and without contract goals, respectively.

City of Vacaville
Disadvantaged Business Enterprise (DBE) & Small Business Enterprise (SBE) Utilization Form

This Form must be submitted with the Bidder/Offerer's Bid Proposal. Bidders, who do not submit this form as directed in the bid documents, will be considered non-responsive.

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

___ The bidder/offeror is committed to a minimum of ___% DBE utilization on this contract

The bidder/offeror (if unable to meet the DBE goal of ____%) is committed to a minimum of ____% DBE utilization on this contract and submits documentation demonstrating Good Faith Efforts.

Name of bidder/offer's firm _____

State Registration No.[1] _____

By _____ _____
Signature Title

_____
Name in Print

[1] State Contractor's License # or other State Registration #

Attachment #6
Forms 2 Letter of Intent Form

City of Vacaville
Disadvantaged Business Enterprise (DBE) / Small Business Enterprise (SBE) Letter of Intent

This Form must be submitted with the Bidder/Offerer's Bid Proposal. Bidders, who do not submit this form as directed in the bid documents, will be considered non-responsive.

Name of bidder/offeror's firm: _____

Address: _____

City: _____ State: _____ Zip: _____

Name of DBE pr SBE firm: _____

Address: _____

City: _____ State: _____ Zip: _____

Telephone: _____ Email _____

DBE/SBE Certification #: _____ Certified by: _____

Description of work to be performed by DBE Firm (Include Bid Item Numbers (if applicable):

_____

_____

_____

_____

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

Affirmation

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

By _____ _____
(Signature) *(Title)*

_____ _____
(Printed Name) *(Date)*

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 AND A COPY OF THE CERTIFICATION FORM OR CALIFORNIA UNIFIED CERTIFIED CERTIFICATION PROGRAM DBE OR SBE LISTING FOR EACH DBE AND SBE SUBCONTRACTOR/SUPPLIER)