

City of Redondo Beach



DISADVANTAGED BUSINESS ENTERPRISE (DBE) PROGRAM

July 2015
Updated September 2016

**49 CODE OF FEDERAL REGULATIONS PART 26—Issue date: October 2, 2014
PARTICIPATION BY DISADVANTAGED BUSINESS ENTERPRISES**

TABLE OF CONTENTS

Subpart A – General Requirements

26.1 and 26.3 DBE Program Objectives.....	.4
26.5 Definitions.....	.4
26.7 Discriminatory Actions Are Forbidden.....	.6
26.11 Record Keeping, Reports and Bidder’s List Requirements.....	.6
26.13 Federal Financial Assistance Agreement.....	.7
26.15 DBE Program Exemptions or Waivers.....	.8

Subpart B - Administrative Requirements

26.21 Administering a DBE Program and Updates.....	8
26.23 DBE Policy Statement.....	9
26.25 DBE Liaison Officer.....	9
26.27 DBE Financial Institutions.....	10
26.29 Prompt Payment Mechanisms.....	10
26.31 DBE Directory.....	11
26.33 Overconcentration of DBEs.....	11
26.35 Business Development Programs.....	12
26.37 Monitoring and Enforcement Mechanisms.....	12
26.39 Fostering Small Business Participation.....	15

Subpart C - Goals, Good Faith Efforts, and Counting

26.43 Set Asides or Quotas.....	16
26.45 DBE Overall Goals.....	16
26.47 Accountability.....	16
26.49 Transit Vehicle Manufacturers Goals.....	18
26.51 (a-c) Measures Used to Meet the Race-Neutral Participation Projections.....	18
26.51(d-f) Measures Used to Meet the Race-Conscious Participation Projections.....	19
26.53 Good Faith Efforts Procedures	21
26.55 Counting DBE Participation Towards Goals.....	24

Subparts D and E - Certification Standards and Procedures

26.61 through Section 26.91 DBE Certification Procedures.....	25
---	----

Subpart F - Compliance and Enforcement

26.101 Compliance Procedures.....	26
26.107 Enforcement Actions that Apply to Firms Participating in the DBE Program.....	26
26.109 Information, Confidentiality, Cooperation, Intimidation or Retaliation.....	26

ATTACHMENTS

- A. CITY OF REDONDO BEACH Policy Statement
- B. Uniform Report of DBE Awards or Commitments and Payments Form
- C. Self-Certification Statement of Compliance
- D. Appendix A to 49 CFR Part 26 - Guidance Concerning Good Faith Efforts
- E. Good Faith Effort Memorandum
- F. CITY OF REDONDO BEACH Declaration As Non-Certifying Member
- G. CITY OF REDONDO BEACH DBE Overall DBE Goal and Methodology for FFY 2016-2018
- H. CITY OF REDONDO BEACH 2016 DBE Shortfall Analysis
- I. CITY OF REDONDO BEACH DBE Organizational Chart

For questions regarding the City of Redondo Beach DBE Program Plan contact:

John La Rock, DBE Liaison Officer
City of Redondo Beach
415 Diamond Street
Redondo Beach, CA 90277
www.redondo.org
(310) 318-0610
John.LaRock@redondo.org

City of Redondo Beach

REVISED DISADVANTAGED BUSINESS ENTERPRISE PROGRAM PLAN

SUBPART A – GENERAL REQUIREMENTS

Section 26.1 and 26.3 DBE Program Objectives

The CITY OF REDONDO BEACH has refined its Disadvantaged Business Enterprise (DBE) Program in accordance with regulations of the U.S. Department of Transportation (DOT), 49 Code of Federal Regulation (CFR) Part 26. The refined DBE Program plan incorporates Final Rules dated February 2, 1999, November 15, 2000, June 16, 2003, June 28, 2006, April 2, 2007, April 3, 2009, February 3, 2010, January 28, 2011, September 6, 2012 and November 3, 2014. The CITY OF REDONDO BEACH is a recipient of federal financial assistance from the Federal Transit Administration (FTA) and Federal Highway Administration (FHWA). As a condition of receiving federal financial assistance, CITY OF REDONDO BEACH has signed a policy statement of assurance that it will comply with the objectives of providing a level playing field for DBEs to compete in the CITY OF REDONDO BEACH federal assisted contracts. Refer to Attachment A for a copy of CITY OF REDONDO BEACH's signed Policy Statement.

The CITY OF REDONDO BEACH is a Charter City managed under the Council/City Manager form of government. The City is approximately 6.4 square miles and has a base population of 67,693. The federal resources assist the City operate and maintain the Beach Cities Transit system. The City anticipates receiving small measures of FTA and FHWA funding, in which case the DBE Program Plan is prepared in response to the federally assisted funding resources from FTA and FHWA.

Section 26.5 Definitions

The terms used in this program have the same meanings as defined in Section 26.5.

Alaska Native means a citizen of the United States who is a person of one-fourth degree or more Alaskan Indian (including Tsimshian Indians not enrolled in the Metlaktla Indian Community), Eskimo, or Aleut blood, or a combination of those bloodlines. The term includes, in the absence of proof of a minimum blood quantum, any citizen whom a Native village or Native group regards as an Alaska Native if their father or mother is regarded as an Alaska Native.

Alaska Native Corporation (ANC) means any Regional Corporation, Village Corporation, Urban Corporation, or Group Corporation organized under the laws of the State of Alaska in accordance with the Alaska Native Claims Settlement Act, as amended.

Compliance means that a recipient has correctly implemented the requirements of this part.

Contract means a legally binding relationship obligating a seller to furnish supplies or services (including, but not limited to, construction and professional services) and the buyer to pay for them. For purposes of this part, a lease is considered to be a contract.

Contractor means one who participates, through a contract or subcontract (at any tier), in a DOT-assisted highway, transit, or airport program.

DOT means the U.S. Department of Transportation, including the Office of the Secretary, the Federal Highway Administration, the Federal Transit Administration, and the Federal Aviation Administration (FAA).

Disadvantaged business enterprise or DBE means a for-profit small business concern—

- (1) That is at least 51 percent owned by one or more individuals who are both socially and economically disadvantaged or, in the case of a corporation, in which 51 percent of the stock is owned by one or more such individuals; and
- (2) Whose management and daily business operations are controlled by one or more of the socially and economically disadvantaged individuals who own it.

DOT-assisted contract means any contract between a recipient and a contractor (at any tier) funded in whole or in part with DOT financial assistance, including letters of credit or loan guarantees, except a contract solely for the purchase of land.

Good faith efforts means efforts to achieve a DBE goal or other requirement of this part which, by their scope, intensity, and appropriateness to the objective, can reasonably be expected to fulfill the program requirement. Refer to Appendix A of Title 49 CFR Part 26.

Indian tribe means any Indian tribe, band, nation, or other organized group or community of Indians, including any ANC, which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians, or is recognized as such by the State in which the tribe, band, nation, group, or community resides. See definition of “tribally-owned concern” in this section.

Joint venture means an association of a DBE firm and one or more other firms to carry out a single, for-profit business enterprise, for which the parties combine their property, capital, efforts, skills and knowledge, and in which the DBE is responsible for a distinct, clearly defined portion of the work of the contract and whose share in the capital contribution, control, management, risks, and profits of the joint venture are commensurate with its ownership interest.

Native Hawaiian means any individual whose ancestors were natives, prior to 1778, of the area which now comprises the State of Hawaii.

Noncompliance means a recipient has not correctly implemented the requirements of this part.

Operating Administration or OA means any of the following parts of DOT: the FAA, FHWA, and FTA. The “Administrator” of an operating administration includes his or her designees.

Primary industry classification means the North American Industrial Classification System (NAICS) designation which best describes the primary business of a firm. The NAICS is described in the *North American Industry Classification Manual—United States*, which is available on the internet at U.S. Census Bureau website at: <http://www.census.gov/eos/www/naics>.

Primary recipient means a recipient which receives DOT financial assistance and passes some or all of it on to another recipient.

Program means any undertaking on a recipient's part to use DOT financial assistance, authorized by the laws to which this part applies.

Race-conscious measure or program is one that is focused specifically on assisting only DBEs, including women-owned DBE firms.

Race-neutral measure or program is one that is, or can be, used to assist all small businesses. For the purposes of this part, *race-neutral* includes gender-neutrality.

Recipient is any entity, public or private, to which DOT financial assistance is extended, whether directly or through another recipient, through the programs of the FAA, FHWA, or FTA, or who has applied for such assistance.

Set-aside means a contracting practice restricting eligibility for the competitive award of a contract solely to DBE firms.

Small business concern means, with respect to firms seeking to participate as DBEs in DOT-assisted contracts, a small business concern as defined pursuant to section 3 of the Small Business Act and Small Business Administration regulations implementing it (13 CFR part 121) that also does not exceed the cap on average annual gross receipts specified in §26.65(b).

Socially and economically disadvantaged individual means any individual who is a citizen (or lawfully admitted permanent resident) of the United States and who is—

(1) Any individual who a recipient finds to be a socially and economically disadvantaged individual on a case-by-case basis.

(2) Any individual in the following groups, members of which are rebuttably presumed to be socially and economically disadvantaged:

(i) “Black Americans,” which includes persons having origins in any of the Black racial groups of Africa;

(ii) “Hispanic Americans,” which includes persons of Mexican, Puerto Rican, Cuban, Dominican, Central or South American, or other Spanish or Portuguese culture or origin, regardless of race;

(iii) “Native Americans,” which includes persons who are American Indians, Eskimos, Aleuts, or Native Hawaiians;

(iv) “Asian-Pacific Americans,” which includes persons whose origins are from Japan, China, Taiwan, Korea, Burma (Myanmar), Vietnam, Laos, Cambodia (Kampuchea), Thailand, Malaysia, Indonesia, the Philippines, Brunei, Samoa, Guam, the U.S. Trust Territories of the Pacific Islands (Republic of Palau), the Commonwealth of the Northern Marianas Islands, Macao, Fiji, Tonga, Kiribati, Juvalu, Nauru, Federated States of Micronesia, or Hong Kong;

(v) “Subcontinent Asian Americans,” which includes persons whose origins are from India, Pakistan, Bangladesh, Bhutan, the Maldives Islands, Nepal or Sri Lanka;

(vi) Women;

(vii) Any additional groups whose members are designated as socially and economically disadvantaged by the SBA, at such time as the SBA designation becomes effective.

Tribally-owned concern means any concern at least 51 percent owned by an Indian tribe as defined in this section.

Section 26.7 Discriminatory Actions are Forbidden

The CITY OF REDONDO BEACH provides assurance that Title VI of the Civil Rights Act of 1964 is applied at all times in the execution of the DBE Program. The CITY OF REDONDO BEACH will not 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 this part on the basis of race, color, sex, or national origin.

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

Section 26.11(b)(c) Record Keeping, Reports and Bidder's List Requirements

Record Keeping

The CITY OF REDONDO BEACH will maintain records of committed DBE goal attainments, actual payment by contract, and a bidder's list. The records will be maintained for a period of five (5) years. In the case of contract awards, the DBE records will be maintained for a period of five (5) years after performance, completion and acceptance of the contracted work.

Reports

The CITY OF REDONDO BEACH will submit the following reports:

- Uniform Report of DBE Award or Commitment and Payments--reports DBE awards or commitments and payments biannually using the Uniform Report of DBE Awards or Commitments and Payments form (Attachment B). The report due June 1 will cover data from October 1 to March 31 and the report due December 1 will cover data from April 1 to September 30. All dollar amounts reported will reflect the federal share of such contracts. The report will separate the dollar amount awarded to certified DBEs through the use of race conscious methods and race neutral methods.
- In any year in which the CITY OF REDONDO BEACH proposes to meet part of the goal through race-neutral means and the remainder through contract goals, the CITY OF REDONDO BEACH will maintain data separately on DBE achievements in those contracts with and without contract goals, respectively, per §26.51(g). The report is due on an annual basis by October 1, as an assessment of compliance towards meeting the triennial DBE goal.
- Ad-Hoc Reports—Information regarding the DBE Program is submitted as directed or requested.

Bidder's List

The CITY OF REDONDO BEACH is a small agency and maintains a bidder's list, consisting of information regarding firms that bid or quote on federally-assisted contracts. The bidder's list will include the business name and address. The CITY OF REDONDO BEACH will use the DBE database directory to supplement the bidder's list as needed for the business status, age, certification status, and a range of the firm's annual gross receipts.

Section 26.13 Federal Financial Assistance Agreement

The CITY OF REDONDO BEACH will provide the following assurance statement on each federal financial assistance agreement it obtains.

§26.13(a) Assurance

The CITY OF REDONDO BEACH shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of any DOT-assisted contract or in the administration of its DBE Program or the requirements of 49 CFR Part 26. CITY OF REDONDO BEACH shall take all necessary and reasonable steps under 49 CFR Part 26 to ensure nondiscrimination in the award and administration of DOT-assisted contracts. The DBE Program, as required by 49 CFR part 26 and as approved by DOT, 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 REDONDO BEACH of its failure to carry out its approved program, the Operating Administration may impose sanctions 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.).

The CITY OF REDONDO BEACH will ensure that the following assurance clause is placed verbatim in federally-assisted contracts and subcontracts:

§26.13(b) Contract Assurance

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 federally assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as CITY OF REDONDO BEACH deems appropriate, which may include, but not limited to, (1) withholding monthly progress payments, (2) assessing sanctions, (3) liquidated damages, and/or (4) disqualifying the contractor from future bidding as non-responsive.

Section 26.15 DBE Program Exemptions or Waivers

The CITY OF REDONDO BEACH may apply for an exemption from any provision on 49 CFR Part 26 and or for a waiver of any provision of Subparts B or C including, but not limited to, any provisions regarding administrative requirements, overall goals, contract goals or good faith efforts. Program waivers are for the purpose of authorizing the CITY OF REDONDO BEACH to operate a DBE Program that achieves the objectives by means that may differ from one or more of the requirements of Subparts B or C. To request an exemption or program waiver, the CITY OF REDONDO BEACH will submit its written request to FTA and or FHWA for approval.

SUBPART B - ADMINISTRATIVE REQUIREMENTS

Section 26.21 Administering a DBE Program and Updates

The CITY OF REDONDO BEACH is a recipient of federal financial assistance and it must administer a DBE Program as approved by FTA or FHWA. The CITY OF REDONDO BEACH is not required to submit regular updates to the program plan, however, the CITY OF REDONDO BEACH will submit, significant changes to the DBE Program for approval. The update will supplement or amend the CITY OF REDONDO BEACH's approved DBE Program Plan.

The FTA approved the CITY OF REDONDO BEACH's prior DBE Program plan that was submitted in August 2012. The August 2015 DBE Program plan is based on refinements that were made as a result of the DBE regulatory requirements set forth in the Final Rule, issued November 3, 2014.

Section 26.23 DBE Policy Statement

It is the policy of CITY OF REDONDO BEACH to ensure compliance with Title VI of the Civil Rights Act of 1964 and related statutes. A related statute, to Title VI, is 49 CFR Part 26, which is to ensure DBEs have an equal opportunity to receive and participate in federally assisted contracts. The signed DBE Policy is referenced as Attachment A. The policy is:

- ▶ Ensure nondiscrimination in the award and administration of federally assisted contracts;
- ▶ Create a level playing field on which DBEs can compete fairly on all contracts;
- ▶ Ensure the DBE Program is narrowly tailored in accordance with regulations;
- ▶ Ensure that only firms that fully meet DBE eligibility standards are permitted to participate as DBEs;
- ▶ Refer DBE firms to local Small Business Development Centers for technical assistance so that they may compete successfully in the market place outside the DBE Program;
- ▶ Increase the participation of all small businesses including DBEs, in the CITY OF REDONDO BEACH's procurement of services, materials, equipment, supplies, and construction; and,
- ▶ Facilitate the implementation of the DBE Program using race-neutral measures to the maximum extent feasible.

Responsibilities and Accountability

Overall responsibility and accountability for implementing the DBE policy rests with the CITY OF REDONDO BEACH Council and City Manager. The Council and City Manager have delegated responsibility for the daily DBE Program operations to the DBE Liaison Officer (DBELO).

Dissemination of the Policy Statement

The City Manager has disseminated the signed policy statement to the departments with DBE components. The policy statement and program plan will be disseminated to industry organizations, minority and women business organizations, local Small Business Development Centers, Chambers of Commerce, and DBE and non-DBE business communities. The DBE Policy will appear on the website at www.redondo.org

Section 26.25 DBE Liaison Officer

The DBELO has direct and independent access to the CITY OF REDONDO BEACH Council and City Manager. The DBELO contact information is:

John La Rock, DBE Liaison Officer
City of Redondo Beach
415 Diamond Street
Redondo Beach, CA 90277
(310) 318-0610
John.LaRock@redondo.org

The DBELO is responsible for implementing all aspects of the DBE Program and collaborates with appropriate officials, to comply with the provisions of 49 CFR Part 26. The DBELO has a staff of two (2) to assist in the administration of the program and are jointly responsible in the execution of the following duties and responsibilities:

- ▶ Advises the Council and City Manager on DBE matters and attainments.
- ▶ Provides guidance and oversight to CITY OF REDONDO BEACH administrators on their functional responsibilities to implement the DBE Program components.
- ▶ Identifies and implements innovative acquisition processes, such as payment processes and other strategies to encourage and assist small business enterprises participate in CITY OF REDONDO BEACH contracts.
- ▶ Gathers, prepares and submits the semi-annual, annual, ad-hoc, statistical data reports and other relevant information as required by FTA/FHWA and the City Manager.
- ▶ Reviews contracts and purchase requisitions for compliance with this program plan.
- ▶ Collaborates with departments to establish the triennial overall DBE goal, as appropriate.
- ▶ Collaborates with departments to establish appropriate individual DBE contract goals, under a race conscious DBE Program, prior to contract solicitation.
- ▶ Ensures bid notices and requests for proposals are readily available on the website.
- ▶ Analyzes the CITY OF REDONDO BEACH's progress toward overall goal attainment and identifies methods to improve participation, where appropriate.
- ▶ Participates in meetings and presents the DBE Program requirements, where appropriate.
- ▶ Collaborates with local Small Business Development Centers (SBDC) on directing DBEs to the SBDC services where DBEs may find information and assistance in preparing bids, obtain bonding and insurance, obtain business development and attend training seminars.
- ▶ Encourages minority and women businesses, in service area, to obtain DBE certifications from the California Unified Certification Program partners.
- ▶ Conducts triennial DBE Program compliance reviews of the department's that have a significant responsibility to implement DBE Program components.

The DBE Program organizational chart is referenced as Attachment I.

Section 26.27 DBE Financial Institutions

It is the policy to consider the full extent of services offered by financial institutions owned and controlled by socially and economically disadvantaged individuals in the community and make reasonable efforts to use these institutions. At this time, there are no financial institutions that are owned and controlled by socially and economically disadvantaged individuals in the service area.

The DBELO will periodically review the availability of such institutions from the US DOT, Office of Small, Disadvantaged Business Utilization website at: <http://osdbuweb.dot.gov/index.cfm>.

Section 26.29 Prompt Payment Mechanisms

The CITY OF REDONDO BEACH will include the following clause in each federal assisted prime contract:

The prime contractor/consultant agrees to pay each subcontractor/consultant, service providers or supplier under this prime contract for satisfactory performance of its contract no later than 10 days from the receipt of each payment the prime contract receives from the CITY OF REDONDO BEACH. The prime contractor agrees further to return retainage payments to each subcontractor, etc. within 14 days after the subcontractors, subconsultant, service provider or supplier's work is satisfactorily

completed. Any delay or postponement of payment from the above referenced time frame may occur only for good cause following written approval of the CITY OF REDONDO BEACH. This prompt payment and release of retention clause applies to both DBE and non-DBE subcontractors, subconsultants, service providers or suppliers.

Monitoring Payments to DBEs

The prime contractors are required to maintain records and documents of payments to DBEs for five (5) years following the performance, completion and acceptance of the contracted work. These records will be available for inspection upon request by any authorized representative of the CITY OF REDONDO BEACH or FTA/FHWA.

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

Evidence of payment made to subcontractors must be provided to verify compliance. Credit toward overall or individual contract goals will only be given upon satisfactory evidence that payments were actually made to DBEs. Such evidence shall be provided by the prime contractor through the submission of a progress report on DBE utilization to the CITY OF REDONDO BEACH directed by the CITY OF REDONDO BEACH staff. The information collected includes:

- a. Name of each DBE and Subcontractor.
- b. Type of work assignment for each DBE or Subcontractor.
- c. The dollars committed to each firm.
- d. The dollars paid to each firm during the reporting period.
- e. The dollars paid to the firm as a result of a change order or other cost modification.
- f. Contractor signature under penalty of perjury that it has complied with all prompt payment requirements per State laws and 49 CFR 26.29.

If the CITY OF REDONDO BEACH determines that the prime contractor has failed to comply with the prompt payment provisions set forth, the CITY OF REDONDO BEACH may give written notice to the prime contractor and the prime contractor's Surety that, if the default is not remedied within a specified period of time (at least 10 days), the contract may be terminated. The contract may be terminated for cause in accordance with the contract terms and conditions for failing to meet the prompt payment provisions.

Section 26.31 DBE Directory

The CITY OF REDONDO BEACH will utilize the California Unified Certification Program (CUCP) DBE Directory to identify certified DBEs eligible to participate as DBEs on federal assisted projects. The CITY OF REDONDO BEACH will make certain it identifies in the contract specification the availability of the CUCP DBE Directory for prime contractors to use in soliciting DBE subbids. The CUCP DBE Directory is on the Caltrans website at: www.dot.ca.gov/hq/bep/find_certified.htm

Section 26.33 Overconcentration of DBEs

The City's analysis of its contracting opportunities over the past three years indicated that DBE's are not concentrated in any one area.

The City of Redondo Beach issued one invitation for bid that was for a Federally funded (ARRA) project, over the past three years. DBE firms did not submit proposals for the project, and DBE subcontractors were not used.

The City will monitor and analyze the type of contracts/subcontracts awarded to DBE's to determine if there is an overconcentration in particular fields. If overconcentration is found to exist, the City will inform the FTA/FHWA. The City will also take measures to encourage DBEs within the area of overconcentration to expand into other fields, and enhance its communication with its prime contractors and its outreach within the network of DBE vendors to address the overconcentration.

Section 26.35 Business Development Programs

The CITY OF REDONDO BEACH will leverage existing business development resources and refer DBEs for technical assistance to the local Small Business Development Centers (SBDC) who will provide business development, training and technical assistance to DBEs, small, minority and women businesses, in the service area. The SBDCs are located at:

El Camino College Business Training Center

13430 Hawthorne Blvd.
Hawthorne, CA 90250
(310) 973-3177

Long Beach Community College District

Office of Economic & Resource Development
4900 E. Conant Street, Bldg. 2, Suite 108
Long Beach, CA 90808
(562) 938-5020

The CITY OF REDONDO BEACH does not implement a Mentor Protégé Program at this time. However if the CITY OF REDONDO BEACH identifies the need for such a program in the future, the rationale for adopting such a program and a comprehensive description, of the program, will be submitted as a significant update to the DBE Program Plan.

Section 26.37 Monitoring and Enforcement Mechanisms

The CITY OF REDONDO BEACH will implement appropriate mechanisms to ensure compliance with this Plan's requirements by all program participants to ensure that work committed to DBEs at contract award or subsequently (e.g., as the result of modification to the contract) is actually performed by the DBEs to which the work was committed.

Written Certification

The mechanism includes a written certification that the CITY OF REDONDO BEACH has reviewed contracting records and monitored work sites for DBE participation. The Resident Engineer (RE) will monitor every contract with DBE requirements, on paper and in the field and will include a written certification that this compliance monitoring effort took place in accordance with the Contract Close-Out Report. Refer to Attachment C Self Certification- Statement of Compliance. The mechanisms include comparing the DBE commitments to actual DBE attainments.

Procedures to Monitor Compliance

Monitoring will occur after contract award and will be assigned to the RE or Contract Manager to monitor actual DBE participation through contractor and subcontractor reports. After the contract award the CITY OF REDONDO BEACH will review the award documents for the portion of work each DBE and first tier subcontractor will be performing and the dollar value of that work. With these documents the RE/Contract Manager will be able to determine the work to be performed by the listed DBE's or subcontractor's listed.

Preconstruction Conference

Where appropriate, a preconstruction conference will be scheduled between the RE and the contractor or their representative to discuss, among other contract requirements, the work each DBE subcontractor will perform.

Before work can begin on a subcontract, the CITY OF REDONDO BEACH will require the contractor to submit a completed "Subcontracting Request". When the RE receives the completed form it will be checked for agreement of the first tier subcontractors and DBE's. The RE will not approve the request when it identifies someone other than the DBE or first tier subcontractor listed in the previously completed "Bidder DBE Information." The "Subcontracting Request" will not be approved until discrepancies are resolved. If an issue cannot be resolved at that time, or there is some other concern, the RE will require the contractor to eliminate the subcontractor in question before signing the "Subcontracting Request." A change in the DBE or first tier subcontractor may be addressed during a substitution process at a later date. See "Substitution of DBE" in this Plan for additional information on substitution procedures.

Suppliers, vendors, or manufacturers listed on the "Bidder DBE Information" will also be verified. Differences must be resolved by either making corrections or requesting a substitution.

The Fair Practices Act (FPA) requires the contractor to list all subcontractors in excess of one half of one percent (0.5%) of the contractor's total bid or \$10,000, whichever is greater. The statute is designed to prevent bid shopping by contractors. The FPA explains that a contractor may not substitute a subcontractor listed in the original bid except, with the approval of the awarding authority.

The RE will give the Contractor a blank "Final Report Utilization of Disadvantaged Business Enterprises, First Tier Subcontractor" and will explain to the Contractor that the document will be required at the end of the project, for which payment can be withheld if not submitted.

Construction Contract On-Site Monitoring

The RE will ensure that the RE's staff and inspectors know what items of work each DBE is responsible for performing. Inspectors will notify the RE immediately of apparent violations.

When a firm other than the listed DBE subcontractor is found performing the work, the RE will notify the Contractor of the apparent discrepancy and potential loss of payment. Based on the Contractor's response, the RE will take appropriate action. If the Contractor fails to adequately explain why there is a discrepancy, payment for the work will be withheld and a letter will be sent to the contractor referencing the applicable specification violation and the required withholding of payment.

This monitoring effort is fully incorporated into DBE On-site Compliance field observation process. The observed work will be reconciled against the DBE commitment.

Record Keeping and Final Utilization Report of DBE

The Contractor shall maintain records showing each listed DBE and first-tier subcontractor. These records will be made available for inspection upon request by any authorized representative of CITY OF REDONDO BEACH, or FTA/FHWA. The records shall include:

1. Contract number, DBE goal commitment and brief description of the work.
2. Name and address of each DBE listed and certifications held.
3. The dollar amount of each subcontract, including supplies and services.
4. Reports from Contractor with an accounting of actual expenditures to DBEs and the progress to date in meeting the DBE participation commitment.
5. Evidence to support subcontractor substitution requests, where appropriate.
6. Evidence to support prompt payments made, with date of payment and total dollar figure paid to each DBE, subcontractor and suppliers.
7. The DBE prime contractor shall also show the date of work performed by their own forces along with the corresponding dollar value of the work claimed toward DBE goals.

Contract Close-Out Report

When a contract has been completed, the Contractor will provide a summary of the records stated above. The DBE utilization information will be documented on the form "Final Report-Utilization of Disadvantaged Business Enterprises (DBE), First-Tier Subcontractors" will be submitted to the RE/Contract Manager. The RE will compare the completed "Final Report-Utilization of Disadvantaged Business Enterprises (DBE), First-Tier Subcontractors" form to the contractor's completed "Bidder-DBE-Information" and, if applicable, to the completed "Subcontracting Request". The DBE's shown on the completed "Final Report-Utilization of Disadvantaged Business Enterprises (DBE), First-Tier Subcontractors" form should be the same as those originally listed unless an authorized substitution was allowed, or the contractor used more DBE's and they were added. The dollar amount should reflect any changes made in planned work done by the DBE. The Contractor will be required to explain in writing why the names of the subcontractors, the work items or dollar figures are different from what was originally shown on the completed "Bidder-DBE-Information" form when:

- There have been no changes made by the RE.
- The Contractor has not provided a sufficient explanation in the comments section of the completed "Final Report-Utilization of Disadvantaged Business Enterprises (DBE), First-Tier Subcontractors" form.

The explanation will be attached to the completed "Final Report-Utilization of Disadvantaged Business Enterprises (DBE), First-Tier Subcontractors" form for submittal. The RE will file this report in the project records. The forms are available on the California Department of Transportation, Local Agency Program Manual, Chapter 9 website at www.dot.ca.gov/hq/LocalPrograms/lam/lapm.htm.

Administrative Remedies for Non-Compliance

A Contractor deemed to be in non-compliance shall be informed in writing, by certified mail, by the RE or DBELO or designee, that administrative remedies shall be imposed for failure to meet DBE committed goal and/or submit evidence of good faith efforts to the satisfaction of the CITY OF

REDONDO BEACH. The Contractor shall be given five (5) working days from the date of the notice to file a written appeal to the RE or DBELO. Failure to respond within the five (5) day period shall constitute a waiver of appeal. The notice shall state the specific administrative remedy to be imposed.

The CITY OF REDONDO BEACH may schedule an informal hearing to gather additional facts and evidence and shall issue a final determination on the matter within five (5) working days of receipt of the written appeal. The written decision of the CITY OF REDONDO BEACH or designee is final and there is no further appeal.

The CITY OF REDONDO BEACH reserves the right to initiate Administrative Remedies, which may include but are not limited to:

- a. Withholding of payments due equivalent to the difference between the actual DBE attainment and the overall project and/or contract specific DBE goal.
- b. Suspension of payment to the Contractor of any other monies held by the CITY OF REDONDO BEACH; and
- c. Termination of the Contract in part or in whole.

The Administrative Remedies shall not apply if the Contractor is able to demonstrate to the satisfaction of the CITY OF REDONDO BEACH that it exercised good faith efforts in an attempt to meet the contract-specific DBE goal, where applicable.

The CITY OF REDONDO BEACH will bring to the attention of the FTA/FHWA any false, fraudulent, or dishonest conduct in connection with the program, so that FTA/FHWA can take the steps (e.g., referral to the U.S. Department of Justice for criminal prosecution, referral to the USDOT Inspector General, action under suspension and debarment or Program Fraud and Civil Penalties rules) provided in §26.109.

The CITY OF REDONDO BEACH will also consider similar action under its own legal authorities, including responsibility determinations in future contracts.

The requirements of this section equally apply to a DBE operating as a prime contractor.

Section 26.39 Fostering Small Business Participation

The DBE Program includes elements to facilitate competition by small businesses in the CITY OF REDONDO BEACH contracts as prime contractors or subcontractors.

The DBELO is responsible for identifying and implementing innovative acquisition operating processes, such as payment processes and strategies to encourage and assist small businesses to participate in CITY OF REDONDO BEACH contracts. Activities to foster small business participation include, but are not limited to:

- ▶ Refer small businesses to the website on how to do business with the CITY OF REDONDO BEACH.
- ▶ Refer small businesses to the SBDC's for business development assistance.
- ▶ State in every contract that small businesses, including DBEs, are encouraged to submit a bid or offer as a prime contractor.
- ▶ Disseminate SBDC brochures to assist small businesses with business development
- ▶ Maintain business opportunities at www.redondo.org

- ▶ Encourage prime contractor's to provide subcontracting opportunities of a size that small businesses, including DBEs, can reasonably perform on.
- ▶ Continue issuing small size prime contracts so that a reasonable number of contracts are available for small businesses, including DBEs, to reasonably compete and perform on.

The City will implement the small business elements for applicable construction and capital projects. The DBELO and/or project manager will monitor the small business process to ensure the City's efforts to increase small business participation. Monitoring will include data collection and support documents that provide proof of the small business elements.

SUBPART C – GOALS, GOOD FAITH EFFORTS, AND COUNTING

Section 26.43 Set-asides or Quotas

The CITY OF REDONDO BEACH does not use quotas in any way in the administration of the DBE Program. The CITY OF REDONDO BEACH may consider establishing a Small Business set-aside program as allowed in §26.39-Foster Small Business Participation. If the CITY OF REDONDO BEACH selects to implement a small business set-aside program it will follow the requirements under §26.21—DBE Program Updates.

Section 26.45 DBE Overall Goals

The CITY OF REDONDO BEACH will follow the guidance for establishing the appropriate overall goal to be expressed as a percentage of funds for a specific grant, contract, or groups of contracts/grants. A description of the method used to establish the goal, including the base figure and calculations, and the portions of the overall goal expected to be met through race-neutral and race-conscious measures will be included in the submission.

In accordance with §26.45(f)(1)(i), the CITY OF REDONDO BEACH will establish an triennial DBE overall goal for all its projects that it anticipates to be awarded over three (3) federal fiscal years. The CITY OF REDONDO BEACH will submit the Triennial DBE overall goal by August 1 at three (3) year intervals, based on FTA/FHWA schedules. The CITY OF REDONDO BEACH will express the overall contract goal as a percentage of the total amount of the federal assistance received.

If the CITY OF REDONDO BEACH sets an overall DBE goal on a project or grant basis as provided in §26.45(e)(3) the goal will be submitted for review at a time determined by FTA/FHWA.

Prior to submitting the triennial DBE overall goal, the CITY OF REDONDO BEACH will perform public participation through these means:

- Consultation with minority, women and general contractor groups, community organizations, industry associations and other public officials which could be expected to have information concerning the availability of DBEs and non-DBEs, the effects of discrimination on opportunities for DBEs, and the CITY OF REDONDO BEACH's efforts to establish a level playing field for DBE participation.
- Publish a notice of the proposed overall goals, on the website, informing the public that the proposed goal and its rationale which will be available for inspection during normal business hours at our principal office for 30 days following the date of the notice.
- Inform the public that the CITY OF REDONDO BEACH will accept comments on the methodology and goal for 45 days from the date of the notice. The notice will be placed in

a general circulation newspaper and in a minority/women business focus publication. Normally, this notice, for comments will be issued by June 1 of the reporting year. The notice will include where the goal and methodology is available for review (office and website) and where comments may be sent.

The overall goal submission will include a summary of the consultation activities, general information and comments received during this public participation process and the CITY OF REDONDO BEACH responses or actions to the comments received, where applicable.

The CITY OF REDONDO BEACH will begin using the overall goal on October 1 of the triennial year, unless directed differently. If a DBE goal is used on a grant or per project basis, as previously discussed, the CITY OF REDONDO BEACH will begin using the project goal for the first contract solicitation on the project.

The CITY OF REDONDO BEACH may adjust the three-year overall goal during the three-year period to which it applies, in order to reflect changed circumstances. Should any adjustment be made the CITY OF REDONDO BEACH will submit such an adjustment to the concerned operating administration for review and approval.

While the CITY OF REDONDO BEACH is required to submit an overall goal to FTA or FHWA only every three years, the overall goal and the provisions of Sec. 26.47(c) apply to each year during that three-year period.

The CITY OF REDONDO BEACH may at its discretion make, for informational purposes, projections of the CITY OF REDONDO BEACH's expected DBE achievements during each of the three years covered by the CITY OF REDONDO BEACH overall goal.

If the CITY OF REDONDO BEACH awards and commitments shown on the CITY OF REDONDO BEACH's Uniform Report of Awards or Commitments and Payments at the end of any fiscal year are less than the overall goal applicable to that fiscal year, the CITY OF REDONDO BEACH's shall conduct a Shortfall Analysis and modifications to the Overall DBE goal will be made in order to demonstrate that the CITY OF REDONDO BEACH DBE program is being implemented in good faith:

Section 26.47 Accountability

The CITY OF REDONDO BEACH will administer the DBE Program in good faith at all times, assuring nondiscrimination in its services and contracting activities. The CITY OF REDONDO BEACH understands if the awards and commitments shown on the Uniform Report of Awards or Commitments and Payments at the end of any federal fiscal year are less than the overall goal applicable to that fiscal year, the CITY OF REDONDO BEACH will do the following in order to be regarded by the FTA as implementing the DBE Program in good faith:

- (1) Analyze in detail the reasons for the difference between the overall goal and the awards and commitments in that fiscal year; and
- (2) Identify specific steps and milestones to correct the problems identified in the analysis to enable meeting the goal for the new fiscal year.

The analysis and corrective actions will be submitted to FTA/FHWA by December 31 of each year that a correction action is required.

Section 26.49 Transit Vehicle Manufacturers Goals

The CITY OF REDONDO BEACH will require each Transit Vehicle Manufacturer (TVM), 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. The transit vehicle manufacturer:

(a) Will establish and submit for FTA's approval an annual overall percentage goal. In setting the TVM's overall goal, the TVM shall use, to the extent applicable, the principles underlying §26.45. The base from to calculate the overall goal is the amount of FTA financial assistance included in transit vehicle contracts that will be performed during the fiscal year in question. Exclude from this base funds work performed outside the United States and its territories, possessions, and commonwealths. The requirements and procedures of this part with respect to submission and approval of overall goals apply to the TVM as they do to recipients.

(b) May make the certification required by this section if the TVM has submitted the goal this section requires to FTA and FTA has previously approved the overall goal.

To further comply with this section, the CITY OF REDONDO BEACH may:

(c) With FTA approval, establish project-specific goals for DBE participation in the procurement of transit vehicles in lieu of complying with the procedures of this section.

Section 26.51(a-c) Measures Used to Meet the Race-Neutral Participation Projections

The CITY OF REDONDO BEACH will make efforts to meet the maximum feasible portion of the overall goal by using race-neutral means of facilitating DBE participation. Race-neutral DBE participation includes any time a DBE wins a prime contract through customary competitive procurement procedures, is awarded a subcontract on a prime contract that does not carry a DBE goal, or even if there is a DBE goal, wins a subcontract from a prime contractor that did not consider its DBE status in making the award (e.g., a prime contractor that uses a strict low bid system to award subcontracts).

Race-neutral measures, as described in the City's updated Overall DBE Goal and Methodology states, "In conformance with Title 49 CFR Part 26; "Participation by Disadvantaged Business Enterprises in Department of Transportation Programs" and in further response to FTA Notices issued to Public Transportation Providers regarding DOT's DBE Program and Race-Neutral Policy Implementation Guidance, the City of Redondo Beach is required to submit and implement a strictly Race- Neutral Overall DBE Goal for FFY 2016-2018, due to the absence of readily available evidence of discrimination and its effects in its marketplace. (Refer to Attachment G - DBE Overall DBE Goal and Methodology for FFY 2016-2018)

Race-neutral means include, but are not limited to, the following:

(1) Arranging solicitations, times for the presentation of bids, quantities, specifications, and delivery schedules in ways that facilitate participation by DBEs and other small businesses and by making contracts more accessible to small businesses, by means such as those provided under this Plan under §26.39—Fostering Small Business Participation.

(2) Ensuring the inclusion of DBEs, and other small businesses, on CITY OF REDONDO BEACH mailing lists for bidders.

- (3) Disseminating information on bidding opportunities on website, outreach and networking meetings.
- (4) Referring DBEs and small businesses to SBDC's where the firms may obtain supportive services to develop and improve immediate and long-term business management, record keeping, financial and accounting capability, utilize emerging technology, bonding, financing assistance, technical assistance and other services.

Additional Race-neutral measures outlined in the Overall Goal and Methodology also include, but are not limited to, the following

- (5) Posting the DBE Program Plan on the website to ensure construction and professional services communities are advised of the CITY OF REDONDO BEACH commitments to meet the requirements of 49 Part 26.
- (6) Unbundling large contracts to make them more accessible to small businesses, requiring or encouraging prime contractors to subcontract portions of work that they might otherwise perform with their own work forces.
- (7) Providing technical assistance and other services to small businesses, including DBE firms.
- (8) Providing information and communications programs on contracting procedures and specific contract opportunities.
- (9) Providing assistance to small businesses in overcoming limitations in obtaining bonding, lines of credit and building financing capital.

Section 26.51(d-f) Measures Used to Meet the Race-Conscious Participation Projections

In the event the CITY OF REDONDO BEACH DBE goal and methodology establishes a race-conscious goal in its DBE Program, the CITY OF REDONDO BEACH will use contract goals to meet any portion of the overall goal CITY OF REDONDO BEACH 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.

The CITY OF REDONDO BEACH triennial DBE goal and methodology will describe either race-conscious, race-neutral or a combination of the two measures to be used in meeting the overall goal.

CITY OF REDONDO BEACH Sample Bid Specification with DBE Contract Goal

In the event the CITY OF REDONDO BEACH establishes an individual DBE race-conscious contract goal, the following will be inserted in appropriate bid documents.

The requirements of 49 CFR Part 26, Regulations of the U.S. Department of Transportation, apply to this contract. It is the policy of CITY OF REDONDO BEACH 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/offers, including those who qualify as a DBE. A DBE contract goal of ____ percent has been established for this contract. The bidder/offeror shall make good faith efforts, as defined in

Appendix A – Guidance Concerning Good Faith Efforts-- 49 CFR Part 26 (Attachment D), 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(s) 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 (3); and if the contract goal is not met, evidence of good faith efforts.

The bidder/offeror shall utilize the specific DBEs listed to perform the work and supply the materials for which each is listed unless the contractor obtains written consent; that unless the consent is provided, the contractor shall not be entitled to any payment for work or material unless it is performed or supplied by the listed DBE.

The following provisions will be use, in the event a race-conscious contract goal is established.

- (1) When the CITY OF REDONDO BEACH contract has subcontracting possibilities, an appropriate DBE goal will be set, based on size of contract and type of work, availability of DBEs to perform the type of work.
- (2) Situate multiple contract goal projections so that they will cumulatively result in meeting any portion of the overall goal that the CITY OF REDONDO BEACH does not forecast being able to meet through the use of race-neutral means.
- (3) Provide for participation by all certified DBEs and must not be subdivided into group-specific goals.

The CITY OF REDONDO BEACH will ensure that the DBE Program continues to be narrowly tailored to overcome the effects of discrimination. The CITY OF REDONDO BEACH may adjust the use of race-conscious DBE contract goals as follows:

- (4) If the approved goal projection estimates that the CITY OF REDONDO BEACH can meet the entire overall goal for a given year through race-neutral means, the CITY OF REDONDO BEACH will implement the program without setting individual DBE contract goals during that year, unless it becomes necessary in order meet the overall DBE goal by the end of the triennial year.
- (5) If, during the course of any year in which the CITY OF REDONDO BEACH is using contract goals, the CITY OF REDONDO BEACH may determine that it will exceed the overall goal, then it will reduce or eliminate the use of individual DBE contract goals to the extent necessary to ensure that the use of DBE contract goals does not result in exceeding the overall DBE goal. If CITY OF REDONDO BEACH determines it will fall short of the overall goal, then it will make appropriate modifications in the use of race-neutral and/or race-conscious measures to allow CITY OF REDONDO BEACH to meet the overall goal.
- (6) If the DBE participation the CITY OF REDONDO BEACH has obtained by race-neutral means alone meets or exceeds the overall DBE goal for two (2) consecutive years, the CITY OF REDONDO BEACH is not required to make a projection of the amount of the overall DBE goal it can meet using such means in the next year. Then the CITY OF REDONDO BEACH will not set individual DBE contract goals on any contracts in the next year. The CITY OF

REDONDO BEACH will continue using only race-neutral means to meet the overall DBE goal unless and until the CITY OF REDONDO BEACH does not meet the overall DBE goal for a year.

(7) If the CITY OF REDONDO BEACH obtains DBE participation that exceeds the overall goal in two (2) consecutive years through the use of individual DBE contract goals (*i.e.*, not through the use of race-neutral means alone), the CITY OF REDONDO BEACH will reduce the use of DBE contract goals proportionately in the following year.

Examples on factors (4), (5), (6) and (7) of this section are expressed in the actual regulations at 49 CFR Part §26.51(f).

Section 26.53 Good Faith Efforts Procedures

Demonstration of good faith efforts §26.53(a)

In the event the CITY OF REDONDO BEACH establishes an individual DBE contract goal, the CITY OF REDONDO BEACH can only award the contract to the lowest bidder or offeror who:

- Provides documentation indicating that sufficient certified DBE participation was obtained to meet the goal; or
- If the goal is not met, provides documentation that demonstrates that adequate good faith effort was made to meet the goal.

Information to be submitted §26.53(b) and (c)

When the CITY OF REDONDO BEACH is operating under a race-conscious goal, each contract specification will outline the steps the bidder/offeror must take, in advance of the bid/proposal submittal, to demonstrate that good faith efforts were made. The City Manager shall designate a CITY OF REDONDO BEACH individual as 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.

The following is required in each solicitation for FTA-assisted contracts for which a contract goal has been established:

- (1) Award of the contract will be conditioned on meeting the requirements of this section;
- (2) All bidders/offerors will be required to submit the following information to the CITY OF REDONDO BEACH, at the time provided in the contract solicitation:
 - (i) The names and addresses of each DBE that will participate in the contract;
 - (ii) A description of the work that each DBE will perform. Each DBE must be certified in a NAICS code applicable to the kind of work the firm would perform on the contract;
 - (iii) The dollar amount of the subcontracting agreement for each DBE participating in the contract;
 - (iv) Written documentation of the bidder/offeror's commitment to use a DBE subcontractor whose participation it submits will be used to meet a contract goal;
 - (v) Written confirmation from the DBE that it is participating in the contract as provided in the prime contractor's commitment; and

(vi) If the contract goal is not met, evidence of good faith efforts (Refer to Attachment D “Appendix A – Guidance Concerning Good Faith Efforts”).

The bidder/offeror will present the information required:

- Under sealed bid procedures, as a matter of responsiveness, or with initial proposals, under contract negotiation procedures;
- At the date and time specified in the contract solicitation and as a matter of solicitation responsibility, but no later than 7 days after bid opening as a matter of responsibility. The 7 days shall be reduced to 5 days beginning January 1, 2017.

The CITY OF REDONDO BEACH will make sure the information is complete and adequately documents the bidder/offeror's good faith efforts before committing to the performance of the contract by the bidder/offeror. The CITY OF REDONDO BEACH will make a determination of meeting the goal or demonstration of making a good faith effort to meet the goal. Attachment E is an example Good Faith Effort Memorandum to provide the analysis and determination of demonstrating a good faith effort to meet the goal.

Administrative Reconsideration §26.53(d)

If the CITY OF REDONDO BEACH determines that the apparent lowest bidder/offeror has failed to meet the DBE goal or demonstrate adequate good faith efforts, the CITY OF REDONDO BEACH will before awarding the contract, provide the bidder/offeror an opportunity for administrative reconsideration. The bidder/offeror will be allowed to provide written documentation or oral argument concerning the issue of whether it met the goal or made adequate good faith efforts.

The written argument must be submitted within five (5) working days of being informed by the CITY OF REDONDO BEACH that it is not responsive because it has not documented sufficient good faith efforts. A bidder/offeror may request an oral administrative reconsideration, by submitting a written request for a meeting within two (2) working days of being informed that it has not documented sufficient good faith efforts. Bidder/offerors should make this request in writing to the following Reconsideration Official:

City Manager
City of Redondo Beach
415 Diamond Street
Redondo Beach, CA 90277

The City Manager, or its designee, shall be the Reconsideration Official. The Reconsideration Official will not have taken part in the original determination that the bidder/offeror failed to meet the goal or make adequate good faith efforts to do so. The Reconsideration Official will provide a written decision on reconsideration, explaining the basis for finding that the bidder/offeror 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 USDOT or FTA.

Design Build §26.53(e)

In the event the CITY OF REDONDO BEACH obtains authority for a “design-build” or “turnkey” contracting situation, in which the CITY OF REDONDO BEACH lets a master contract to a contractor, who in turn lets subsequent subcontracts for the work of the project, the CITY OF REDONDO BEACH may establish a goal for the project. The master contractor then establishes contract goals, as

appropriate, for the subcontracts it lets. The CITY OF REDONDO BEACH must maintain oversight of the master contractor's activities to ensure that they are conducted consistent with the requirements of 49 CFR Part 26.

The CITY OF REDONDO BEACH will have the option to prescribe DBE provisions that are specific to the design build contract.

Substitution of DBE on Construction Contracts §26.53(f)

Substitutions will be subject to the appropriate State laws. For California projects the appropriate State law is the Subletting and Subcontracting Fair Practices Act (FPA), Sections 4100-4114.

The CITY OF REDONDO BEACH will require that a prime contractor not terminate a DBE subcontractor listed in its DBE commitment without prior written consent. This includes, but is not limited to, instances in which a prime contractor seeks to perform work originally designated for a DBE subcontractor with its own forces or those of an affiliate, a non-DBE, or with another DBE.

If there is any doubt in the RE/Contract Manager's mind regarding the requested substitution, the RE/Contract Manager may contact FTA for assistance and direction.

The CITY OF REDONDO BEACH may provide such written consent only if the prime contractor has good cause to terminate the DBE. For purposes of this paragraph, good cause includes the following circumstances:

- (i) The listed DBE subcontractor fails or refuses to execute a written contract.
- (ii) The listed DBE subcontractor fails or refuses to perform the work of its subcontract in a way consistent with normal industry standards. Provided, however, that good cause does not exist if the failure or refusal of the DBE subcontractor to perform its work on the subcontract results from the bad faith or discriminatory action of the prime contractor.
- (iii) The listed DBE subcontractor fails or refuses to meet the prime contractor's reasonable, nondiscriminatory bond requirements.
- (iv) The listed DBE subcontractor becomes bankrupt, insolvent, or exhibits credit unworthiness.
- (v) The listed DBE subcontractor is ineligible to work on public works projects because of suspension and debarment proceedings pursuant 2 CFR Parts 180, 215 and 1200 or applicable state law.
- (vi) The CITY OF REDONDO BEACH has determined that the listed DBE subcontractor is not a responsible contractor.
- (vii) The listed DBE subcontractor voluntarily withdraws from the project and provides written notice of its withdrawal.
- (viii) The listed DBE is ineligible to receive DBE credit for the type of work required.
- (ix) A DBE owner dies or becomes disabled with the result that the listed DBE contractor is unable to complete its work on the contract.
- (x) Other documented good cause that you determine compels the termination of the DBE subcontractor. Provided, that good cause does not exist if the prime contractor seeks to terminate a DBE it relied upon to obtain the contract, so that the prime contractor can self-

perform the work for which the DBE contractor was engaged or so that the prime contractor can substitute another DBE or non-DBE contractor after contract award.

Before the contractor transmits its request to terminate and/or substitute a DBE subcontractor, the prime contractor must give notice in writing to the DBE subcontractor, with a copy to the RE/Contract Manager, of its intent to request to terminate and/or substitute, and the reason for the request.

The Contractor must give the DBE five (5) days to respond to the prime contractor's notice. The DBE must advise the RE/Contract Manager and the contractor of the reasons, if any, why it objects to the proposed termination of its subcontract and why the RE/Contract Manager should not approve the prime contractor's action. If required in a particular case as a matter of public necessity (e.g., safety), the RE/Contract Manager may provide a response period shorter than five (5) days.

In addition to post-award terminations, the provisions of this section apply to preaward deletions of, or substitutions for, DBE firms put forward by offerors in negotiated procurements.

Substitution of a Terminated DBE §26.53(g)(h)

When a DBE subcontractor is terminated, or fails to complete its work on the contract for any reason, the prime consultant must make good faith efforts to find another DBE subcontractor to substitute for the original DBE. These good faith efforts shall be directed at finding another DBE to perform at least the same amount of work under the contract as the DBE that was terminated, to the extent needed to meet the contract goal established for the procurement. The good faith efforts shall be documented by the contractor and if requested, the contractor shall submit the documentation within 7 days of the request.

The prime contract will have a provision for appropriate administrative remedies that the CITY OF REDONDO BEACH will invoke if the prime contractor/prime consultant fails to comply with the requirements of this section.

Counting DBE Participation from a DBE Prime Bidder/Offeror §26.53(i)

These requirements equally apply to DBE bidders/offerors as prime contractors or consultants.

In determining whether a DBE bidder/offeror for a prime contract has met a contract goal, CITY OF REDONDO BEACH will count the work the DBE has committed to performing with its own forces as well as the work that it has committed to be performed by DBE subcontractors and DBE suppliers.

Copies of DBE Subcontracts § 26.53(j)

The prime contractor will make available upon request a copy of all DBE subcontracts. The subcontractor shall ensure that all subcontracts or an agreement with DBEs to supply labor or materials require that the subcontract and all lower tier subcontractors perform work as listed.

Section 26.55 Counting DBE Participation

When counting the DBE participation toward goals, the CITY OF REDONDO BEACH counts only the value of the work actually performed by the DBE and certified to perform. The DBE certification identifies the type of work, work category code or North American Industry Classification System code

that it has obtained from an approved DBE Certifying Agency. The CITY OF REDONDO BEACH will rely on the CUCP Directory to determine the listed DBE's certification and NAICS status.

To determine the value of the work that the DBE is listed to perform and that can be counted toward participation goals, the CITY OF REDONDO BEACH will count:

1. The entire amount of the construction contract that is performed using the DBE's own forces;
2. The entire amount of fees or commissions charged by a DBE for providing a genuine service, such as professional, technical, consultant, or managerial services or for providing bonds or insurance specifically required for the performance of the contract, provided the fee is not excessive as compared with fees customarily allowed for similar services.
3. The portion of the work that a DBE subcontracts to another DBE.
4. The expenditures to a DBE only if the DBE is performing a commercially useful function (CUF) on that contract.
5. The expenditures to a DBE truck operator or DBE trucking company, when the DBE is responsible for the management and supervision of the entire trucking operation for which it is responsible on a particular contract.
6. The DBE must itself own and operate at least one fully licensed, insured and operational truck on the contract.
7. The expenditures from a DBE manufacturer count 100 percent towards the DBE goal.
8. The expenditures from a DBE materials or supplier (regular dealer) counts 60 percent towards the DBE goal.
9. Count the provision of DBE materials or supplies on a case-by-case basis.

When counting DBE participation towards the overall goal achievements, the CITY OF REDONDO BEACH will:

10. Count the DBE commitment only if the DBE is certified at prior to bid opening or prior to proposal submittal.
11. Cease to count the DBE commitment, towards the overall goal, if the DBE has ceased to be certified, after contract award.
12. Count the DBE achievements towards the prime contractor's commitment only after the amount being counted towards the goal has been paid to the DBE.

SUBPARTS D and E – CERTIFICATION STANDARDS and PROCEDURES

Sections 26.61 through 26.91 DBE Certification Procedures

In order to reduce administrative burden associated with determining the eligibility of firms to participate as DBEs in FTA-assisted contracts, the CITY OF REDONDO BEACH will rely on the CUCP to perform the DBE certification determinations.

The CITY OF REDONDO BEACH will become a non-certifying member to the CUCP. Attachment F is the Declarations of the CITY OF REDONDO BEACH as a non-certifying member to the CUCP.

In addition, the CITY OF REDONDO BEACH will utilize the CUCP certification directory to determine the eligibility of DBEs, their work codes, etc., in order to participate as DBEs on CITY OF REDONDO BEACH projects. The CUCP DBE directory is on the Caltrans website at:
http://www.dot.ca.gov/hq/bep/find_certified.htm

For information about the DBE certification application process, contact:

CALTRANS
DBE Program- Certification Unit
1823 14th Street
Sacramento, CA 95811
Phone: (916) 324-1700 or (866) 810-6346
www.dot.ca.gov/hq/bep

SUBPART F – COMPLIANCE AND ENFORCEMENT

Section 26.101 Compliance Procedures

The CITY OF REDONDO BEACH understands that non-compliance in any provision of 49 CFR Part 26 may result in an enforcement action or program sanction by FTA. The CITY OF REDONDO BEACH ensures full compliance with the provisions of 49 CFR Part 26.

Section 26.107 Enforcement Actions that Apply to Firms Participating in the DBE Program

If a DBE or firm, in order to meet DBE contract goals or other DBE program requirements, uses or attempts to use, on the basis of 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 D of this DBE Program, the CITY OF REDONDO BEACH or FTA may initiate suspension or debarment proceedings against the firm under 2 CFR Parts 180 and 1200.

In a suspension or debarment proceeding brought under this section, the FHWA or FTA may consider the fact that a purported DBE has been certified by a recipient. Such certification does not preclude the CITY OF REDONDO BEACH from determining that the purported DBE, or another firm that has used or attempted to use it to meet DBE goals, should be suspended or debarred.

The CITY OF REDONDO BEACH may take enforcement action under 49 CFR Part 31, Program Fraud and Civil Remedies, against any participant in the DBE program whose conduct is subject to such action under 49 CFR Part 31.

The CITY OF REDONDO BEACH may refer to the U.S. Department of Justice, for prosecution under 18 United States Code (U.S.C.) 1001 or other applicable provisions of law, any person who makes a false or fraudulent statement in connection with participation of a DBE in any FTA-assisted program or otherwise violates applicable federal statutes.

Section 26.109 Information, Confidentiality, Cooperation, Intimidation or Retaliation

The CITY OF REDONDO BEACH complies with the Federal Freedom of Information and Privacy Acts (U.S.C. 552 and 552a) and makes available to the public any information concerning the DBE Program that is permissible. The CITY OF REDONDO BEACH:

1. Does not release business information to third parties without express written consent from the firm.
2. Keeps the identity of complainants confidential.
3. Cooperates fully and promptly with any request for information, investigation, or review from the U.S. DOT and understands that failure to do so could result in enforcement action.
4. Understands that intimidation and retaliation of contractors or program participants is strictly prohibited and results in non-compliance.



Disadvantaged Business Enterprise Policy Statement

The City of Redondo Beach has established a Disadvantaged Business Enterprise (DBE) Program for its U.S. Department of Transportation—Federal Transit Administration (FTA) federally assisted projects. The City of Redondo Beach assures equal opportunity in the award and performance of any contract to all persons, without regard to race, color, national origin, or sex. The DBE firms and other disadvantaged persons have the maximum opportunity to compete for and perform on contracts.

The intent of the DBE Program is to remedy past discrimination, eliminate discriminatory practices, ensure discrimination is not occurring, increase participation of DBEs in all contracting activities to the maximum extent feasible, and meet the overall annual DBE participation goal, in compliance with 49 Code of Federal Regulations (CFR) Part 26. The DBE Program may be administered through race-neutral and/or race-conscious measures. Adhering to this policy will ensure a level playing field; foster equal opportunity in the U.S. Department of Transportation federally-assisted contracts; and improve DBE Program flexibility, efficiency, and sustainability.

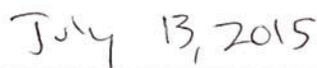
It is also our policy to:

- ▶ Ensure nondiscrimination in the award and administration of FTA – assisted contracts;
- ▶ Create a level playing field on which DBEs can compete fairly for FTA-assisted contracts;
- ▶ Ensure that the DBE Program is narrowly tailored in accordance with applicable regulations and law;
- ▶ Ensure that only firms that fully meet 49 CFR Part 26 eligibility standards are permitted to participate as DBEs;
- ▶ Refer DBE firms to local Small Business Development Centers for technical assistance so that they may compete successfully in the market place outside the DBE Program;
- ▶ Increase the participation of all small businesses meeting the requisite size standards, including DBEs, in the CITY OF REDONDO BEACH's procurement of services, materials, equipment, supplies, and construction; and,
- ▶ Facilitate the implementation of the DBE Program using race-neutral measures to the maximum extent feasible.

This policy applies to all City of Redondo Beach employees in administering 49 CFR Part 26, and to contractors, bidders/offerors and subrecipients.



Joe Hoefgen
City Manager



Date Signed

Appendix B to Part 26—Uniform Report of DBE Awards or Commitments and Payments Form

INSTRUCTIONS FOR COMPLETING THE UNIFORM REPORT OF DBE AWARDS/COMMITMENTS AND PAYMENTS

Recipients of Department of Transportation (DOT) funds are expected to keep accurate data regarding the contracting opportunities available to firms paid for with DOT dollars. Failure to submit contracting data relative to the DBE program will result in noncompliance with Part 26. All dollar values listed on this form should represent the DOT share attributable to the Operating Administration (OA): Federal Highway Administration (FHWA), Federal Aviation Administration (FAA) or Federal Transit Administration (FTA) to which this report will be submitted.

1. Indicate the DOT (OA) that provides your Federal financial assistance. If assistance comes from more than one OA, use separate reporting forms for each OA. If you are an FTA recipient, indicate your Vendor Number in the space provided.
2. If you are an FAA recipient, indicate the relevant AIP Numbers covered by this report. If you are an FTA recipient, indicate the Grant/Project numbers covered by this report. If more than ten attach a separate sheet.
3. Specify the Federal fiscal year (*i.e.*, October 1-September 30) in which the covered reporting period falls.
4. State the date of submission of this report.
5. Check the appropriate box that indicates the reporting period that the data provided in this report covers. For FHWA and FTA recipients, if this report is due June 1, data should cover October 1-March 31. If this report is due December 1, data should cover April 1-September 30. If the report is due to the FAA, data should cover the entire year.
6. Provide the name and address of the recipient.
7. State your overall DBE goal(s) established for the Federal fiscal year of the report being submitted to and approved by the relevant OA. Your overall goal is to be reported as well as the breakdown for specific Race Conscious and Race Neutral projections (both of which include gender-conscious/neutral projections). The Race Conscious projection should be based on measures that focus on and provide benefits only for DBEs. The use of contract goals is a primary example of a race conscious measure. The Race Neutral projection should include measures that, while benefiting DBEs, are not solely focused on DBE firms. For example, a small business outreach program, technical assistance, and prompt payment clauses can assist a wide variety of businesses in addition to helping DBE firms.

Section A: Awards and Commitments Made During This Period

The amounts in items 8(A)-10(I) should include all types of prime contracts awarded and all types of subcontracts awarded or committed, including: professional or consultant services, construction, purchase of materials or supplies, lease or purchase of equipment and any other types of services. All dollar amounts are to reflect only the Federal share of such contracts and should be rounded to the nearest dollar.

Line 8: Prime contracts awarded this period: The items on this line should correspond to the contracts directly between the recipient and a supply or service contractor, with no intermediaries between the two.

8(A). Provide the *total dollar amount* for all prime contracts assisted with DOT funds and awarded during this reporting period. This value should include the entire Federal share of the contracts without removing any amounts associated with resulting subcontracts.

8(B). Provide the *total number* of all prime contracts assisted with DOT funds and awarded during this reporting period.

8(C). From the total dollar amount awarded in item 8(A), provide the *dollar amount* awarded in prime contracts to certified DBE firms during this reporting period. This amount should not include the amounts sub contracted to other firms.

Attachment B

8(D). From the total number of prime contracts awarded in item 8(B), specify the *number* of prime contracts awarded to certified DBE firms during this reporting period.

8(E&F). This field is closed for data entry. Except for the very rare case of DBE-set asides permitted under 49 CFR part 26, all prime contracts awarded to DBES are regarded as race-neutral.

8(G). From the total dollar amount awarded in item 8(C), provide the *dollar amount* awarded to certified DBEs through the use of Race Neutral methods. See the definition of Race Neutral in item 7 and the explanation in item 8 of project types to include.

8(H). From the total number of prime contracts awarded in 8(D), specify the *number* awarded to DBEs through Race Neutral methods.

8(I). Of all prime contracts awarded this reporting period, calculate the *percentage* going to DBEs. Divide the dollar amount in item 8(C) by the dollar amount in item 8(A) to derive this percentage. Round percentage to the nearest tenth.

Line 9: Subcontracts awarded/committed this period: Items 9(A)-9(I) are derived in the same way as items 8(A)-8(I), except that these calculations should be based on subcontracts rather than prime contracts. Unlike prime contracts, which may only be awarded, subcontracts may be either awarded or committed.

9(A). If filling out the form for general reporting, provide the total dollar amount of subcontracts assisted with DOT funds awarded or committed during this period. This value should be a subset of the total dollars awarded in prime contracts in 8(A), and therefore should never be greater than the amount awarded in prime contracts. If filling out the form for project reporting, provide the total dollar amount of subcontracts assisted with DOT funds awarded or committed during this period. This value should be a subset of the total dollars awarded or previously in prime contracts in 8(A). The sum of all subcontract amounts in consecutive periods should never exceed the sum of all prime contract amounts awarded in those periods.

9(B). Provide the total number of all sub contracts assisted with DOT funds that were awarded or committed during this reporting period.

9(C). From the total dollar amount of sub contracts awarded/committed this period in item 9(A), provide the total dollar amount awarded in sub contracts to DBEs.

9(D). From the total number of sub contracts awarded or committed in item 9(B), specify the number of sub contracts awarded or committed to DBEs.

9(E). From the total dollar amount of sub contracts awarded or committed to DBEs this period, provide the amount in dollars to DBEs using Race Conscious measures.

9(F). From the total number of sub contracts awarded or committed to DBEs this period, provide the number of sub contracts awarded or committed to DBEs using Race Conscious measures.

9(G). From the total dollar amount of sub contracts awarded/committed to DBEs this period, provide the amount in dollars to DBEs using Race Neutral measures.

9(H). From the total number of sub contracts awarded/committed to DBEs this period, provide the number of sub contracts awarded to DBEs using Race Neutral measures.

9(I). Of all subcontracts awarded this reporting period, calculate the *percentage* going to DBEs. Divide the dollar amount in item 9(C) by the dollar amount in item 9(A) to derive this percentage. Round percentage to the nearest tenth.

Line 10: Total contracts awarded or committed this period. These fields should be used to show the total dollar value and number of contracts awarded to DBEs and to calculate the overall percentage of dollars awarded to DBEs.

10(A)-10(B). These fields are unavailable for data entry.

10(C-H). Combine the total values listed on the prime contracts line (Line 8) with the corresponding values on the subcontracts line (Line 9).

10(I). Of all contracts awarded this reporting period, calculate the *percentage* going to DBEs. Divide the total dollars awarded to DBEs in item 10(C) by the dollar amount in item 8(A) to derive this percentage. Round percentage to the nearest tenth.

Attachment B

Section B: Breakdown by Ethnicity & Gender of Contracts Awarded to DBEs This Period

11-17. Further breakdown the contracting activity with DBE involvement. The Total Dollar Amount to DBEs in 17(C) should equal the Total Dollar Amount to DBEs in 10(C). Likewise the total number of contracts to DBEs in 17(F) should equal the Total Number of Contracts to DBEs in 10(D).

Line 16: The “Non-Minority” category is reserved for any firms whose owners are not members of the presumptively disadvantaged groups already listed, but who are either “women” OR eligible for the DBE program on an individual basis. All DBE firms must be certified by the Unified Certification Program to be counted in this report.

Section C: Payments on Ongoing Contracts

Line 18(A-E). Submit information on contracts that are currently in progress. All dollar amounts are to reflect only the Federal share of such contracts, and should be rounded to the nearest dollar.

18(A). Provide the total dollar amount paid to all firms performing work on contracts.

18(B). Provide the total number of contracts where work was performed during the reporting period.

18(C). From the total number of contracts provided in 18(A) provide the total number of contracts that are currently being performed by DBE firms for which payments have been made.

18(D). From the total dollar amount paid to all firms in 18(A), provide the total dollar value paid to DBE firms currently performing work during this period.

18(E). Provide the total number of DBE firms that received payment during this reporting period. For example, while 3 contracts may be active during this period, one DBE firm may be providing supplies or services on all three contracts. This field should only list the number of DBE firms performing work.

18(F). Of all payments made during this period, calculate the percentage going to DBEs. Divide the total dollar value to DBEs in item 18(D) by the total dollars of all payments in 18(B). Round percentage to the nearest tenth.

Section D: Actual Payments on Contracts Completed This Reporting Period

This section should provide information only on contracts that are closed during this period. All dollar amounts are to reflect the entire Federal share of such contracts, and should be rounded to the nearest dollar.

19(A). Provide the total number of contracts completed during this reporting period that used Race Conscious measures. Race Conscious contracts are those with contract goals or another race conscious measure.

19(B). Provide the total dollar value of prime contracts completed this reporting period that had race conscious measures.

19(C). From the total dollar value of prime contracts completed this period in 19(B), provide the total dollar amount of dollars awarded or committed to DBE firms in order to meet the contract goals. This applies only to Race Conscious contracts.

19(D). Provide the actual total DBE participation in dollars on the race conscious contracts completed this reporting period.

19(E). Of all the contracts completed this reporting period using Race Conscious measures, calculate the percentage of DBE participation. Divide the total dollar amount to DBEs in item 19(D) by the total dollar value provided in 19(B) to derive this percentage. Round to the nearest tenth.

20(A)-20(E). Items 21(A)-21(E) are derived in the same manner as items 19(A)-19(E), except these figures should be based on contracts completed using Race Neutral measures. 20(C). This field is closed.

21(A)-21(D). Calculate the totals for each column by adding the race conscious and neutral figures provided in each row above. 21(C). This field is closed.

21(E). Calculate the overall percentage of dollars to DBEs on completed contracts. Divide the Total DBE participation dollar value in 21(D) by the Total Dollar Value of Contracts Completed in 21(B) to derive this percentage. Round to the nearest tenth.

Attachment B

23. Name of the Authorized Representative preparing this form.

24. Signature of the Authorized Representative.

25. Phone number of the Authorized Representative.

****Submit your completed report to your Regional or Division Office.**



Project No: _____

Project Name: _____

**Disadvantaged Business Enterprise (DBE)
Self-Certification
STATEMENT OF COMPLIANCE**

I, _____, undersigned, have the authority to act for and
(Name – Print and Position - Title)

on behalf of the CITY OF REDONDO BEACH, and certify under penalty of perjury that this federal-aided project has been monitored in conformance with Part 26 of Title 49 of the Code of Federal Regulations—DBE Regulations.

Date: _____

Signature: _____

Comments/Exceptions (Explanation): _____ _____ _____ _____
--

Enclosures: Copies of the DBE Final Payment Record

Maintain in contract file.

Appendix A to Part 26—Guidance Concerning Good Faith Efforts

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

II. In any situation in which you have established a contract goal, Part 26 requires you to use the good faith efforts mechanism of this part. As a recipient, you have the responsibility to make a fair and reasonable judgment whether a bidder that did not meet the goal made adequate good faith efforts. It is important for you to consider the quality, quantity, and intensity of the different kinds of efforts that the bidder has made, based on the regulations and the guidance in this Appendix.

The efforts employed by the bidder should be those that one could reasonably expect a bidder to take if the bidder were actively and aggressively trying to obtain DBE participation sufficient to meet the DBE contract goal. Mere pro forma efforts are not good faith efforts to meet the DBE contract requirements. We emphasize, however, that your determination concerning the sufficiency of the firm's good faith efforts is a judgment call. Determinations should not be made using quantitative formulas.

III. The Department also strongly cautions you against requiring that a bidder meet a contract goal (*i.e.*, obtain a specified amount of DBE participation) in order to be awarded a contract, even though the bidder makes an adequate good faith efforts showing. This rule specifically prohibits you from ignoring bona fide good faith efforts.

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

A. (1) Conducting market research to identify small business contractors and suppliers and soliciting through all reasonable and available means the interest of all certified DBEs that have the capability to perform the work of the contract. This may include attendance at pre-bid and business matchmaking meetings and events, advertising and/or written notices, posting of Notices of Sources Sought and/or Requests for Proposals, written notices or emails to all DBEs listed in the State's directory of transportation firms that specialize in the areas of work desired (as noted in the DBE directory) and which are located in the area or surrounding areas of the project.

(2) The bidder should solicit this interest as early in the acquisition process as practicable to allow the DBEs to respond to the solicitation and submit a timely offer for the subcontract. The bidder should determine with certainty if the DBEs are interested by taking appropriate steps to follow up initial solicitations.

B. Selecting portions of the work to be performed by DBEs in order to increase the likelihood that the DBE goals will be achieved. This includes, where appropriate, breaking out contract work items into economically feasible units (for example, smaller tasks or quantities) to facilitate DBE participation, even when the prime contractor might otherwise prefer to perform these work items with its own forces. This may include, where possible, establishing flexible timeframes for performance and delivery schedules in a manner that encourages and facilitates DBE participation.

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

D. (1) Negotiating in good faith with interested DBEs. It is the bidder's responsibility to make a portion of the work available to DBE subcontractors and suppliers and to select those portions of the work or material needs consistent with the available DBE subcontractors and suppliers, so as to facilitate DBE participation.

Attachment D

Evidence of such negotiation includes the names, addresses, and telephone numbers of DBEs that were considered; a description of the information provided regarding the plans and specifications for the work selected for subcontracting; and evidence as to why additional Agreements could not be reached for DBEs to perform the work.

(2) A bidder using good business judgment would consider a number of factors in negotiating with subcontractors, including DBE subcontractors, and would take a firm's price and capabilities as well as contract goals into consideration. However, the fact that there may be some additional costs involved in finding and using DBEs is not in itself sufficient reason for a bidder's failure to meet the contract DBE goal, as long as such costs are reasonable. Also, the ability or desire of a prime contractor to perform the work of a contract with its own organization does not relieve the bidder of the responsibility to make good faith efforts. Prime contractors are not, however, required to accept higher quotes from DBEs if the price difference is excessive or unreasonable.

E. (1) Not rejecting DBEs as being unqualified without sound reasons based on a thorough investigation of their capabilities. The contractor's standing within its industry, membership in specific groups, organizations, or associations and political or social affiliations (for example union vs. non-union status) are not legitimate causes for the rejection or non-solicitation of bids in the contractor's efforts to meet the project goal. Another practice considered an insufficient good faith effort is the rejection of the DBE because its quotation for the work was not the lowest received. However, nothing in this paragraph shall be construed to require the bidder or prime contractor to accept unreasonable quotes in order to satisfy contract goals.

(2) A prime contractor's inability to find a replacement DBE at the original price is not alone sufficient to support a finding that good faith efforts have been made to replace the original DBE. The fact that the contractor has the ability and/or desire to perform the contract work with its own forces does not relieve the contractor of the obligation to make good faith efforts to find a replacement DBE, and it is not a sound basis for rejecting a prospective replacement DBE's reasonable quote.

F. Making efforts to assist interested DBEs in obtaining bonding, lines of credit, or insurance as required by the recipient or contractor.

G. Making efforts to assist interested DBEs in obtaining necessary equipment, supplies, materials, or related assistance or services.

H. Effectively using the services of available minority/women community organizations; minority/women contractors' groups; local, State, and Federal minority/women business assistance offices; and other organizations as allowed on a case-by-case basis to provide assistance in the recruitment and placement of DBEs.

V. In determining whether a bidder has made good faith efforts, it is essential to scrutinize its documented efforts. At a minimum, you must review the performance of other bidders in meeting the contract goal. For example, when the apparent successful bidder fails to meet the contract goal, but others meet it, you may reasonably raise the question of whether, with additional efforts, the apparent successful bidder could have met the goal. If the apparent successful bidder fails to meet the goal, but meets or exceeds the average DBE participation obtained by other bidders, you may view this, in conjunction with other factors, as evidence of the apparent successful bidder having made good faith efforts. As provided in §26.53(b)(2)(vi), you must also require the contractor to submit copies of each DBE and non-DBE subcontractor quote submitted to the bidder when a non-DBE subcontractor was selected over a DBE for work on the contract to review whether DBE prices were substantially higher; and contact the DBEs listed on a contractor's solicitation to inquire as to whether they were contacted by the prime. Pro forma mailings to DBEs requesting bids are not alone sufficient to satisfy good faith efforts under the rule.

VI. A promise to use DBEs after contract award is not considered to be responsive to the contract solicitation or to constitute good faith efforts.



SAMPLE GOOD FAITH EFFORT

M e m o r a n d u m

To: PROJECT FILE **Date:**
Project Number:
Bid Opening Date: Month
Bidder: [Contractor/Consultant Name]
Type of Work: [General Description of Work]
Bid Amount: [\$ Award Amount]

From: CITY OF REDONDO BEACH _____ Department

Subject: Evaluation of Good Faith Effort

The City of Redondo Beach established a Disadvantaged Business Enterprise (DBE) goal of XX percent for this project. The bidder achieved [count only qualifying DBE participation, for more information see "A Guide to Counting DBE participation at <http://www.dot.ca.gov/hq/bep/>] XX percent DBE participation.

The City of Redondo Beach evaluation of the apparent low bidder's good faith efforts is based on the "*Guidance Concerning Good Faith Efforts*" contained in *49 CFR Part 26, Appendix A*. The efforts of the bidder were reviewed by the [Name of Agency or department] from the information provided in "DBE Information – Good Faith Efforts," signed and submitted by [Name of Low Bidder].

The City of Redondo Beach determined that the Low Bidder [did or did not] demonstrate a good faith effort to meet the participation goal of this project for the reasons cited in this evaluation report.

EVALUATION

A. Items of work the bidder made available to DBE firms

[Describe the work and approximate dollar amount, as a percentage of total work, made available to DBEs by the Low Bidder and was this sufficient to meet the DBE contract goal? If the bidder did not make enough work available to meet the goal it definitely did not make adequate efforts to meet the goal. The amount of work made available relative to the goal is generally positively correlated with the adequacy of the bidder's good faith efforts.]

[Did the Low Bidder separate the work into economically feasible units to facilitate DBE participation?]

MEMORANDUM TO FILE

Contract Number:

Date of Memorandum

Page 2 of 3

B. Solicitation effort documentation

[How many DBEs were originally contacted by the Low Bidder and did the Low Bidder conduct follow-up solicitations? What were the dates and was sufficient time allowed by the Low Bidder for the DBE to respond?]

[Was the DBE firm provided information about the contract (location of project, contract number, bid date, items of work made available and contact information) in the Invitation for Bid from the Low Bidder]:

[Did the Low Bidder solicit through all reasonable and available means (e.g. attendance at pre-bid meetings, advertising and/or written notices) the interest of all certified DBEs who have the capability to perform the work of the contract?"]

[Did the Low Bidder provide proof of aforementioned items?]

[How many DBEs are in the market area for the work identified in A? Use the California Unified Certification Program (CUCP) online database at http://www.dot.ca.gov/hq/bep/find_certified.htm]

C. Rejected DBE documentation

[How many DBE quotes were accepted or rejected by the Low Bidder? Why were the quotes rejected?]

[Was/were quote(s) rejected when it was only marginally higher and could have substantially increased its commitment or even allow it to meet the goal?]

D. Publication effort made to advertise the projects to include DBE participation

[What publications were used and when to request DBE participation for this the project? Did Low Bidder provide copies of publications?]

E. Agencies, organizations, or groups contacted to provide assistance in contacting, recruiting and using DBEs

[Did the Low Bidder make any contacts?]

MEMORANDUM TO FILE

Contract Number:

Date of Memorandum

Page 3 of 3

F. Efforts to provide information about the plans, specifications, and contract requirements

[Did the Low Bidder provide contract information to interested DBEs and were these listed in the GFE?]

G. Assistance with bonding, lines of credit, insurance, equipment, supplies, materials, and/or services

[Did the Low Bidder assist any DBEs and were these listed in the GFE?]

H. Additional data to support a demonstration of good faith effort

[Was any more information provided by the Low Bidder?]

[Does the Low Bidder's level of reported participation tend to support a finding of good faith?]

[Did the 2nd or 3rd low bidder meet the goal or get substantially more DBE commitment than the apparent low bidder? When an apparent low bidder fails to meet the goal and other bidders meet the goal, you may reasonably raise the question of whether, with additional reasonable efforts, the apparent low bidder could have met the goal.]

FINDINGS OF THE CITY OF REDONDO BEACH

The City of Redondo Beach finds that the Low Bidder [did or did not] demonstrate a good faith effort to meet the DBE participation for this contract, for the reasons cited in the evaluation report.

Submitted by:

Approved by:

Name
[Job Title]

Name*
[Job Title]

*Must be approved by someone other than the reviewer.

CUCP AGREEMENT/DECLARATION OF STATUS LETTER

TO: CALIFORNIA UNIFIED CERTIFICATION PROGRAM (CUCP)

FROM: CITY OF REDONDO BEACH (Recipient)

Address: 415 Diamond St., Redondo Beach, CA 90277

Recipient hereby acknowledges and agrees that:

- (1) As a recipient of Federal Financial Assistance from the U.S. Department of Transportation (DOT), Recipient has an established Disadvantaged Business Enterprise (DBE) program in accordance with 49 CFR Part 26.
- (2) By this Letter, Recipient officially becomes a signatory to the Memorandum of Agreement (MOA) for the establishment of a Unified Certification Program among all U.S. DOT recipients in California, as approved by the Secretary of Transportation on March 13, 2002, and amended on March 24, 2003.
- (3) In accordance with said MOA, Recipient hereby makes a declaration to become either a Certifying CUCP Member or a Non-Certifying CUCP Member.
 - (a) A Certifying CUCP Member maintains DBE certification processes including reviewing DBE applications, conducting site visits and making decisions on DBE status; processing annual updates; maintaining DBE certification files; and conducting appeal and third party challenge hearings. A Certifying CUCP Member is responsible for providing certification information and updates for inclusion in the DBE Database.
 - (b) A Non-Certifying CUCP Member does not process DBE certifications for inclusion in the DBE Database.
- (4) CUCP Members may be requested to contribute funds to support the CUCP.
- (5) All CUCP Members will accept the DBE status of firms included in the DBE Database for use in their contracting activities.

Based on the foregoing, Recipient hereby declares its status as:

A CERTIFYING CUCP MEMBER
 A NON-CERTIFYING CUCP MEMBER

Recipient may change its status upon submission of a new Declaration Letter to the Chair of the CUCP.

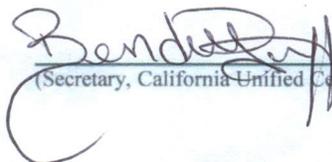
DATE: 8/9/10 _____



 (Signature of Recipient Agency Official)
Joyce Rooney, Transit Operations Manager

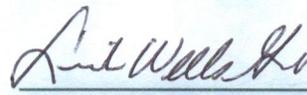
 (Name and Title)

Participation in CUCP acknowledged:



 (Secretary, California Unified Certification Program)

Date 10/12/10



 (Chair, California Unified Certification Program)

Date 9-17-10

CITY OF REDONDO BEACH
DISADVANTAGED BUSINESS ENTERPRISE (DBE)
OVERALL DBE GOAL AND METHODOLOGY
FOR
FEDERAL FISCAL YEARS (FFY) 2016-2018
(Covering the period of October 1, 2016 to September 30, 2018)
Updated December 2016

I. INTRODUCTION

The City of Redondo Beach (the City) is required to develop and submit a Disadvantaged Business Enterprise (DBE) Overall Goal for DBE participation as a condition of receiving federal assistance, pursuant to Fixing America's Surface Transportation Act (FAST) Act; 49 CFR Part 26 "Participation by Disadvantaged Business Enterprises in U.S. Department of Transportation Programs" and the Federal Transportation Administration (FTA) Master Funding Agreement.

II. BACKGROUND

Effective March 3, 2010, the United States Department of Transportation ("DOT") issued a final rule affecting the implementation and management of the Department's Disadvantaged Business Enterprise ("DBE") program. The final rule, requires submission of a goal-setting methodology on a three-year cycle. Pursuant to this final rule, the City is still required to conduct an annual review to account for changes that may warrant an adjustment to the overall goal or make an adjustment based on changed circumstances (i.e. significant change in the legal standards governing the DBE program, new contracting opportunities presented by the availability of new or different grant opportunities to ensure the goal and program as a whole are narrowly tailored throughout the goal period. Under the three-year schedule, the City's DBE goal and methodology submission was due to FTA on August 1, 2015 for proposed FTA funded contracting activities for Federal Fiscal Years (FFY) 2016/18. The City issued a DBE Overall Goal in 2015. The FTA Triennial Review was performed in January 2016 and the FTA required the City to revise the DBE Overall Goal. Based on the reanalysis, the DBE Overall Goal is being reissued.

The City herein presents its Proposed Overall DBE Goal Methodology for FFY 2016/18 goal period, which resulted in a 21% Overall DBE Goal.

III. DOT-ASSISTED CONTRACTING PROGRAM FOR FFY 2016-2018

Table 1 represents the City of Redondo Beach's U.S. DOT-assisted (FTA) contracting program, which includes three (3) projects considered in preparing its ***Overall DBE Goal-Setting Methodology***. The projects include: a Transit Center Construction Project and two Transit and Amenities Projects, which have viable subcontracting possibilities, a required criterion for Overall Goal consideration, and are anticipated to be awarded within FFYs 2016-2018.

Table 1

Project Name	Total Estimated Project Cost	Total Estimated Project Cost (Federal Share)	Estimated Federal Dollar Share of Construction	Estimated Federal Dollar Share of Professional Services	Estimated Federal Dollar Share of Materials & Supplies
Redondo Beach Intermodal Transit center – Phase II	\$5,350,000	\$2,281,811	\$1,003,996.84	\$775,815.74	\$501,998.42
Transit Amenities & Enhancements Phase II	\$247,151	\$197,721.00	\$137,306.36	\$38,445.66	\$21,968.98
Transit Amenities & Enhancements Phase I	\$1,250,000	\$1,059,695.00	\$370,893.00	\$211,939.00	\$476,863.00
TOTAL:		\$3,539,227.00	\$1,512,196.20	\$1,026,200.40	\$1,000,830.40

* Total project construction and final plans/specs cost is budgeted at approximately \$5,350,000.00 inclusive of \$1,200,000.00 in pending CMAQ funds which will require application Caltrans contract-specific goal methodology.

Table 2 provides a summary of work grouped into three (3) primary categories: Construction, Professional Services and Materials and Supplies, utilizing the North American Industry Classification System (NAICS) work categories and comparable 2013 Census Business Patterns NAICS Work Codes. **Table 2** also serves to identify the estimated Federal Dollar Share and the Percent of Federal funding, as follows:

Table 2

CONTRACT CATEGORY	NAICS CUCP DATABASE	ESTIMATED FEDERAL DOLLAR SHARE	% OF FEDERAL FUNDING
Construction	236220; 238110;238210; 238220; 238310; 238390; 238910; 238990	\$1,511,317.33	43%
Professional Services	541310,541330,541370,541 611,541620,561730	\$1,025,321.73	29%
Materials & Supplies	332312,332323,423320, 423510	\$1,000,610.73	28%
TOTAL		\$3,539,227.00**	100%

**Goal Calculation based on Federal Dollar share

Table 3 was developed in an effort to utilize the most refined data available and provides a summary of work grouped into scope of work categories within the overall primary work categories: utilizing the North American Industry Classification System (NAICS) work categories and comparable 2013 Census Business Patterns NAICS Work Codes. **Table 3** also serves to identify the estimated Percent of Federal Funding per related scope of work, as follows:

Table 3

CATEGORY OF WORK	NAICS CODES	ESTIMATED % OF CONTRACT
Commercial and Institutional Building Construction	236220	6.6%
Poured Concrete Foundation and Structure Contractors	238110	10.4%
Electrical Contractors and Other Wiring Installation Contractors	238210	3.1%
Plumbing, Heating, and Air Conditioning Contractors	238220	2.8%
Drywall and Insulation Building Contractors	238310	2.8%
Other Building Finishing Contractors	238390	6.6%
Site Preparation Contractors	238910	6.6%
All Other Specialty Trade Contractors	238990	5.0%
Other Miscellaneous Durable Goods	423990	5.1%
Architectural Services	541310	7.5%
Engineering Services	541330	14.4%
Surveying and Mapping Services	541370	*
Administrative Management and General Management Consulting Services	541611	4.1%
Environmental Consulting Services	541620	*
Landscaping Services	561730	4.1%
Fabricated Structural Metal Manufacturing	332312	5.1%
Ornamental and Architectural Metal Manufacturing	332323	3.4%
Brick, Stone and Related Construction Material Merchant Wholesalers	423320	12.7%
Metal Service Centers and Other Metal Merchant Wholesalers	423510	4.7%
TOTAL		100% (Federal \$)

*These scope areas produced anomalies within search results, therefore the weighting initially assigned to these scopes was redistributed to like scope areas.

IV. GOAL METHODOLOGY

Step 1: Determination of a Base Figure (26.45)¹

To establish the City of Redondo Beach’s Base Figure of the relative availability of DBEs to all comparable firms (DBE and Non-DBEs) available to propose on the City of Redondo Beach’s FFYs 2016-2018 DOT-assisted contracting opportunities projected to be solicited; the City of

¹ §26.45 represents Title 49 CFR Part 26 regulatory referenced section.

Redondo Beach followed the prescribed federal goal-setting methodologies in accordance with 49 CFR Part 26 regulations. This was accomplished by accessing the *California Unified Certification Program (CUCP) Directory of Certified DBE Firms* and the *2013 U.S. Census Bureau County Business Patterns (CBP) Database*. Comparisons were made within the City of Redondo Beach’s market area (defined as Los Angeles County) and by specified industries and types of businesses identified in Table 2. The City of Redondo Beach’s local market area represents where the substantial majority of the City of Redondo Beach’s contracting dollars are expended and/or where the substantial majority of contractors and subcontractors bids or quotes are received.

The City of Redondo Beach made a concerted effort to ensure that the scope of businesses included in the numerator was as close as possible to the scope included in the denominator. For corresponding detail of all work category classifications grouped, refer to *Table 4*.

- ⇒ ***For the numerator:*** *California UCP DBE Database of Certified Firms*
- ⇒ ***For the denominator:*** *2013 U.S. Census Bureau’s Business Pattern Database (CBP)*

To determine the relative availability of DBEs, the City of Redondo Beach divided the numerator² representing the ratio of ready, willing and able DBE firms, by the denominator³ representing all firms (DBE and Non-DBEs) available in each work category. Application of this formula yielded the following baseline information:

$$\frac{\text{Number of Ready, Willing and Able DBEs}}{\text{Number of All Available Firms (including DBEs and Non-DBEs)}} = \text{BASE FIGURE}$$

² Numerator represents all DBE firms established within the City’s market area.

³ Denominator represents all comparable available established firms.

The Base Figure was further weighted by contract type and corresponding contract value. The Base Figure resulting from this weighted calculation is as follows:

Step 1: Base Figure (weighted by type of work to be performed and corresponding contracting dollars)

Table 4

236220 Commercial and Institutional Building Construction	238110 Poured Concrete Foundation and Structure Contractors
Base Figure = $\left(\frac{6.6\% \text{ (DBEs in NAICS 236220)}}{\text{(CBPs in NAICS 236220)}} \right)$	Base Figure = $\left(\frac{10.4\% \text{ (DBEs in NAICS 238110)}}{\text{(CBPs in NAICS 238110)}} \right)$
Base Figure = $\left(\frac{.066 \frac{195}{887}}{\phantom{.066 \frac{195}{887}}} \right)$	Base Figure = $\left(\frac{.104 \frac{77}{223}}{\phantom{.104 \frac{77}{223}}} \right)$
Base Figure = .066 (0.22)	Base Figure = .104 (.35)
Base Figure= .014	Base Figure = .036
238210 Electrical Contractors and Other Wiring Installation Contractors	238220 Plumbing, Heating, and Air Conditioning Contractors
Base Figure = $\left(\frac{3.1\% \text{ (DBEs in NAICS 238210)}}{\text{(CBPs in NAICS 238210)}} \right)$	Base Figure = $\left(\frac{2.8\% \text{ (DBEs in NAICS 238220)}}{\text{(CBPs in NAICS 238220)}} \right)$
Base Figure = $\left(\frac{.031 \frac{125}{1679}}{\phantom{.031 \frac{125}{1679}}} \right)$	Base Figure = $\left(\frac{.028 \frac{55}{1999}}{\phantom{.028 \frac{55}{1999}}} \right)$
Base Figure = .031 (.07)	Base Figure = .028 (0.03)
Base Figure = .002	Base Figure= .001
238310 Drywall and Insulation Building Contractors	238390 Other Building Finishing Contractors
Base Figure = $\left(\frac{2.8\% \text{ (DBEs in NAICS 238310)}}{\text{(CBPs in NAICS 238310)}} \right)$	Base Figure = $\left(\frac{6.6\% \text{ (DBEs in NAICS 238390)}}{\text{(CBPs in NAICS 238390)}} \right)$
Base Figure = $\left(\frac{.028 \frac{18}{276}}{\phantom{.028 \frac{18}{276}}} \right)$	Base Figure = $\left(\frac{.066 \frac{17}{143}}{\phantom{.066 \frac{17}{143}}} \right)$
Base Figure = .028 (.07)	Base Figure = .066 (0.12)
Base Figure = .002	Base Figure= .008

238910 Site Preparation Contractors	238990 All other Specialty Trade Contractors
<p>Base Figure = $\left(\frac{6.6\% \text{ (DBEs in NAICS 238910)}}{\text{(CBPs in NAICS 238910)}} \right)$</p> <p>Base Figure = $\left(\frac{.066 \frac{105}{324}}{\phantom{.066 \frac{105}{324}}} \right)$</p> <p>Base Figure = .066 (.32)</p> <p>Base Figure = .021</p>	<p>Base Figure = $\left(\frac{5\% \text{ (DBEs in NAICS 238990)}}{\text{(CBPs in NAICS 238990)}} \right)$</p> <p>Base Figure = $\left(\frac{.05 \frac{146}{496}}{\phantom{.05 \frac{146}{496}}} \right)$</p> <p>Base Figure = .05 (0.29)</p> <p>Base Figure= .015</p>
541310 Architectural Services	541330 Engineering Services
<p>Base Figure = $\left(\frac{7.5\% \text{ (DBEs in NAICS 541310)}}{\text{(CBPs in NAICS 541310)}} \right)$</p> <p>Base Figure = $\left(\frac{.075 \frac{111}{900}}{\phantom{.075 \frac{111}{900}}} \right)$</p> <p>Base Figure = .075 (.12)</p> <p>Base Figure = .009</p>	<p>Base Figure = $\left(\frac{14.4\% \text{ (DBEs in NAICS 541330)}}{\text{(CBPs in NAICS 541330)}} \right)$</p> <p>Base Figure = $\left(\frac{.144 \frac{357}{1484}}{\phantom{.144 \frac{357}{1484}}} \right)$</p> <p>Base Figure = .144 (.24)</p> <p>Base Figure = .035</p>
541611 Administrative Management and General Management Consulting Services	561730 Landscaping Services
<p>Base Figure = $\left(\frac{4.1\% \text{ (DBEs in NAICS 541611)}}{\text{(CBPs in NAICS 541611)}} \right)$</p> <p>Base Figure = $\left(\frac{.041 \frac{597}{2187}}{\phantom{.041 \frac{597}{2187}}} \right)$</p> <p>Base Figure = .041 (0.27)</p> <p>Base Figure= .011</p>	<p>Base Figure = $\left(\frac{4.1\% \text{ (DBEs in NAICS 561730)}}{\text{(CBPs in NAICS 561730)}} \right)$</p> <p>Base Figure = $\left(\frac{.041 \frac{292}{225}}{\phantom{.041 \frac{292}{225}}} \right)$</p> <p>Base Figure = .041 (.03)</p> <p>Base Figure = .001</p>

332312 Fabricated Structural Metal Manufacturing	332323 Ornamental and Architectural Metal Manufacturing
Base Figure = 5.1% $\frac{\text{DBEs in NAICS 332312}}{\text{CBPs in NAICS 332312}}$ Base Figure = $\left(\begin{array}{c} .051 \quad \frac{12}{52} \end{array} \right)$ Base Figure = .051 (.23) Base Figure = .012	Base Figure = 3.4% $\frac{\text{DBEs in NAICS 332323}}{\text{CBPs in NAICS 332323}}$ Base Figure = $\left(\begin{array}{c} .034 \quad \frac{17}{70} \end{array} \right)$ Base Figure = .034 (.24) Base Figure = .008
423320 Brick, Stone and Related Construction Material Merchant Wholesalers	423510 Metal Service Centers and Other Metal Merchant Wholesalers
Base Figure = 12.7% $\frac{\text{DBEs in NAICS 423320}}{\text{CBPs in NAICS 423320}}$ Base Figure = $\left(\begin{array}{c} .127 \quad \frac{18}{76} \end{array} \right)$ Base Figure = .127 (.24) Base Figure = .030	Base Figure = 4.7% $\frac{\text{DBEs in NAICS 423510}}{\text{CBPs in NAICS 423510}}$ Base Figure = $\left(\begin{array}{c} .047 \quad \frac{11}{412} \end{array} \right)$ Base Figure = .047 (.03) Base Figure = .001
BASE FIGURE	
Base Figure = 0.014 + 0.036 + 0.002 + 0.001 + 0.002 + 0.008 + 0.021 + 0.015 + 0.009 + 0.035 + .011 + .001 + .012 + .008 + .030 + .001 = 0.208 Base Figure= (0.225) 100 = 20.6 = <u>21%</u>* <i>* Rounded to the nearest whole number</i>	

Step 2: Adjusting the Base Figure

Upon establishing the Base Figure, the City of Redondo Beach reviewed and assessed other known evidence potentially impacting the relative availability of DBEs within the City of Redondo Beach’s market area, in accordance with prescribed narrow tailoring provisions set forth under 49 CFR Part 26.45 Step 2; DBE Goal Adjustment guidelines.

Evidence considered in making an adjustment to the Base Figure included the City of Redondo Beach’s *Past DBE Goal Attainments, Bidders List, Disparity Studies, and Other Evidence*. The final determination resulted in no adjustment to the base figure using a Step 2 Method, due to the lack of similar contracting opportunities during the prior period.

A. Past DBE Goal Attainments

Table 5

Project	DBE Contract Goal	DBE Goal Commitment	DBE Goal Attainment
Bus Stop Sign Replacement Project	0%	0%	0%
Average of Past Attainments = 0%			

The City of Redondo Beach considered an adjustment to the Base Figure based on historical DBE goal attainments on similar contracts to those contracting opportunities identified and considered in the Overall DBE Goal Analysis for federal fiscal years 2016/18.

One project was completed and found to have attainment data within the last three fiscal years. Although only one project was found to have attainment data, it will not be utilized to adjust the Base Figure. While there is similarity of the scopes of work included within the Transit Amenities and Enhancements Project, specifically enhancements to signage, bus shelters, upgrades to benches, trash receptacles, and enhanced access for persons with disabilities, the Transit Amenities and Enhancements Project Phase I (\$1,059,695.00) reflects only a portion of the total Federal project dollars (\$3,539,227.00) anticipated for the triennial goal period. Therefore the Base Figure of 21% will be the Overall DBE Goal, which will not be adjusted using the Step 2 method, as suggested by the FTA Civil Rights Office.

B. City of Redondo Beach’s Bidders List

The City of Redondo Beach’s Bidder’s List from similar contracts to those contracting opportunities identified and considered in the DBE Goal Analysis for federal fiscal years 2016/18 was assessed for DBE representation in comparison to the total pool of all bidders (DBE and non-DBE). At this time the City’s Bidder’s List does not include uniform reporting data and information from similar Federal projects procured in the past three years. The City will work to build and maintain a Bidder’s List that can be utilized for future goal development. Bidders lists will be developed based on the guidelines in the City’s revised DBE Plan. The City has not made a further adjustment to the Adjusted Base Figure based on a Bidder’s List.

C. Evidence from Disparity Studies

The City of Redondo Beach (City) did not find it feasible to conduct its own independent availability/disparity study; however, the City identified three (3) disparity studies that included the City's market area to consider in the assessment of whether a Race-Conscious DBE Program should be adopted by the City. The 3 identified Disparity Studies were the Caltrans Disparity Study, the Southern California Regional Disparity Study and The Los Angeles County Metropolitan Transportation Authority (Metro) Disparity Study.

The first Disparity Study considered was that of the California Department of Transportation (Caltrans), completed in 2012. The Caltrans Disparity Study reviewed more than 15,000 Construction and Engineering contracts state-wide between the years 2007 to 2010. As the Caltrans' Disparity Study included thousands of contracts from areas outside of the City's market area and utilized data based on contracts four (4) to seven (7) years old the City opted to not utilize this Disparity Study to apply an adjustment to their base figure or their current race-neutral DBE application measures. Caltrans is currently conducting a more up-to-date Availability and Disparity Study that is projected to be published in September of 2016. Upon release of the updated Availability and Disparity Study the City will consider the findings for an adjustment to their overall goal application.

The second Disparity Study considered was that of the Southern California Disparity Study, completed in 2009. The following Southern California agencies participated in the study: The Los Angeles County Metropolitan Transportation Authority (Metro), the Orange County Transportation Authority (OCTA), the Southern California Regional Rail Authority (SCRRA or "Metrolink") the San Diego Metropolitan Transportation System (MTS), and the San Diego Association of Governments (SANDAG). The Disparity Study reviewed contracting in Southern California between the years 2003 to 2007. As Metro was the Agency with the most similar market area and Metro has recently completed a more recent Disparity Study independently, the City opted to not utilize the Southern California Disparity Study and to review Metro's more recently completed Disparity Study for a possible adjustment to their base figure and current race-neutral DBE application measures.

The third Disparity Study taken into consideration was Metro's Disparity Study due to the similarities in market area, timeliness of the contracts reviewed and contracting opportunities. Upon review of the dollar value expended (within the Disparity period) on contracts by category, Metro spent 46% of the total federal contract dollar value on construction, 36% on architecture and engineering, 13% on goods and other services and 5% miscellaneous and other professional services, while the City spent 43% of their total federal contract dollar value in the category of construction, 29% in Professional Services and 28% in the area of Materials and Supplies. Due to significant variances in dollars expended in the categories listed above (specifically

Professional Services and Materials and Supplies), the City has concluded that the expenditure based on type of federal projects let by the two recipients vary too greatly to fully adopt Metro's Disparity Study and race-conscious implementation measures.

Additionally, Metro issued 182 contracts during the study period. The 182 contracts included 31 for construction, 17 for architecture and engineering, 63 for miscellaneous and other professional services, and 71 for goods and other services. The payments made by Metro during the study period totaled \$318,869,443 for all 182 contracts. Payments included \$146,949,873 for construction, \$114,676,893 for architecture and engineering, \$17,218,959 for miscellaneous and other professional services, and \$40,023,718 for goods and other services. In contrast, the City projects to award three projects in the triennial goal period totaling \$3,539,227.00 in federal dollars. A valid factor considered in the City's analysis was the fact that the larger value of the contracts let by Metro provide more opportunities for subcontracting than what is typically seen on smaller contracts.

For the reasons reviewed above, no adjustment to the Base Figure has been made at this time. The City will continue to review applicable Disparity Studies as they become available and apply the appropriate adjustments to their DBE Program.

D. Other Evidence

The City of Redondo Beach did not receive any anecdotal evidence nor is aware of any other factors or adverse considerations that would have had a material affect on DBEs availability within the City of Redondo Beach's marketplace, or on DBEs' ability to participate (meeting bonding, insurance and financial requirements) in the City of Redondo Beach's FTA-assisted contracting programs. Therefore, no goal adjustment was made in consideration of this factor. However, the City of Redondo Beach will continue to explore and consider all available evidence that materially would affect the opportunities for DBEs to form, grow, and compete in the City of Redondo Beach's FTA-assisted contracting programs.

OVERALL DBE GOAL AND PROJECTION OF RACE-NEUTRAL AND RACE-CONSCIOUS PARTICIPATION:

The Overall DBE Goal for FFY 2016-2018 for the City of Redondo Beach's FTA-assisted contracts is 21%. The Overall Goal is expressed as a percentage of all DOT-assisted funds that the City of Redondo Beach will expend in applicable DOT-assisted contracts in the given federal fiscal years.

The goal further serves to identify the relative availability of DBE's based on evidence of ready willing, and able DBE's to all comparable firms, which are known to be available to compete for and perform on the City of Redondo Beach's DOT-assisted contracts.

V. RACE-NEUTRAL MEASURES

In conformance with Title 49 CFR Part 26; “Participation by Disadvantaged Business Enterprises in Department of Transportation Programs” and in further response to FTA Notices issued to Public Transportation Providers regarding DOT’s DBE Program and Race-Neutral Policy Implementation Guidance, the City of Redondo Beach is required to submit and implement a **strictly Race-Neutral Overall DBE Goal for FFY 2016-2018**, due to the absence of readily available evidence of discrimination and its effects in its marketplace.

The City of Redondo Beach will implement Race-Neutral measures to meet its Overall DBE Goal objectives in accordance with 49 CFR Part 26.51, including but not limited to:

- Reaching out to DBE’s under California Unified Certification Program, arranging timely solicitations, times for the presentation of bids, quantities, specifications, and delivery schedules in ways that facilitate DBEs and other small business firms’ participation.
- Unbundling large contracts to make them more accessible to small businesses, requiring or encouraging prime contractors to subcontract portions of work that they might otherwise perform with their own work forces.
- Providing technical assistance and other services to small businesses, including DBE firms.
- Providing information and communications programs on contracting procedures and specific contract opportunities, using the City’s procurement notification methods such as Demand Star and public noticing.

VI. SMALL BUSINESS ELEMENT

The City’s DBE Program includes elements to facilitate competition by small businesses in the City of Redondo Beach contracts as prime contractors or subcontractors. These elements include informational outreach on the City’s website, business development references, contract language for small business primes and goals for subcontracting opportunities. The revised DBE Program includes details of the City’s efforts to Foster Small Business Participation.

VII. PUBLIC PARTICIPATION AND FACILITATION

In accordance with Public Participation Regulatory Requirements of Title 49 CFR Part 26, minority, women, local business chambers, and community organizations within the City of Redondo Beach’s market area will be consulted and provided an opportunity to review the goal analysis and provide input. The City of Redondo Beach will prepare Outreach Consultation Letters advising the aforementioned business community of the proposed DBE goal analysis and its availability for review and comment.

Additionally, the City of Redondo Beach will hold in person consultation sessions with interested organizations and stakeholders who could be expected to have information concerning the availability of disadvantaged and non-disadvantaged businesses, the effects of discrimination on opportunities for DBEs, and efforts to establish a level playing field for the participation of DBEs.

The City of Redondo Beach will also issue a Public Notice in a general circulation media and in at least one other minority focused media publishing the City of Redondo Beach's proposed Overall Goal for the FFY 2016-2018 FTA-assisted contracts. Such Notice will inform the public that the proposed goal and rationale are available for inspection at the City of Redondo Beach's principal office during normal business hours for 30 days following the date of the Public Notice and that the City of Redondo Beach will accept comments on the goal analysis for 45 days from the date of the Public Notice. The City of Redondo Beach will give full consideration to all comments and input and assess its impact on the proposed Overall DBE Goal. If no impact and/or comments are received during the public participation process, the Goal will be considered final. If there are comments, the City will respond in accordance with the DBE Program.

City of Redondo Beach



2016 DBE SHORTFALL ANALYSIS

Federal Transit Administration Funded Projects

Fiscal Years 2014 and Fiscal Year 2015

September 2016



City of Redondo Beach

DBE Shortfall Analysis

Contents

1. Goals & Assumptions 2

2. DBE Performance 2014-2015..... 2

3. Shortfall Analysis..... 4

4. Remedy & Timeframe 4

A DBE shortfall analysis is a recipient's failure to meet its Triennial DBE goal by the end of the fiscal year. The purpose of the shortfall analysis is to assist Redondo Beach to identify the means to increase DBE participation and achieve its DBE goals, ensure Redondo Beach is complying with the spirit and the letter of the DBE rule, and increase Redondo Beach's DBE accountability on FTA-funded projects and activities.

1. Goals & Assumptions

The goals for 2014 and 2015 were set based on previous years' performance and the assumption that similar project activity would continue during this time period.

The actual project activity was limited to an American Recovery and Reinvestment Act (ARRA) funded project for Bus Stop Signage and transit bus procurements. There were no other activities for the City's Transit Center Construction Project and the Bus Stop Amenities Project as the projects did not begin as planned during this period.

The City also made the assumption that DBE participants would be readily available, and that it would not be difficult to find DBEs to fulfill the goal set.

2. DBE Performance 2013-2014 and 2014-15

All procurements during the 2013-14 fiscal years were for transit bus purchases. There was no federally financed construction or major repairs during this time period that necessitated the use of prime contractors or subcontractors.

In fiscal year 2015, one ARRA funded project was implemented for the Bus Stop Signage project. DBE contractors did not bid on the project, and the awardee did not find DBE subcontractors to perform work on the project.

The DBE tables below show the DBE shortfall percentage, based on the awards and commitments made during the 2013-2014 and 2014-15 reporting period. The tables represent Redondo Beach's overall DBE performance for this timeframe. Due to the inactivity of projects, the shortfall for both years is located at the bottom of the table, which was 10% for 2014 and 10% for 2015, as shown below:

DBE Shortfall FY 2013 -2014 - Table I

DBE Shortfall%: Awards/Commitments Made During this Report Period, FY 2013-14

	A. Total Dollars (\$)	B. Total Number (#)	C. Total to DBE's (\$)	D. Total to DBE's (#)	E. Total to DBE's/Race Conscious (\$)	F. Total to DBE's/Race Conscious (#)	G. Total to DBE's/Race Neutral (\$)	H. Total to DBE's/Race Neutral (#)	I. % of Total Dollars to DBE's
FY 2014									
Prime Contracts Awarded this Period:	0	0	0	0	0	0	0	0	0%
Subcontracts Awarded/Committed this Period:	0	0	0	0	0	0	0	0	0%
Total:	\$ -	0	\$	0	\$ -	0	\$	0	0%
2014 DBE Goal									10%
Shortfall Percentage:	Overall goal - DBE Awards & Commitments within FY								
	2014 Shortfall %:				10%				

DBE Shortfall FY 2014- 2015 - Table II

DBE Shortfall%: Awards/Commitments Made During this Report Period, FY 2014-15

	A. Total Dollars (\$)	B. Total Number (#)	C. Total to DBE's (\$)	D. Total to DBE's (#)	E. Total to DBE's/Race Conscious (\$)	F. Total to DBE's/Race Conscious (#)	G. Total to DBE's/Race Neutral (\$)	H. Total to DBE's/Race Neutral (#)	I. % of Total Dollars to DBE's
FY 2015									
Prime Contracts Awarded this Period:	0	0	0	0	0	0	0	0	0%
Subcontracts Awarded/Committed this Period:	0	0	0	0	0	0	0	0	0%
Total:	\$ -	0	\$	0	\$ -	0	\$	0	0%
2015 DBE Goal									10%
Shortfall Percentage:	Overall goal - DBE Awards & Commitments within FY								
	2015 Shortfall				10%				

DBE Shortfall ARRA 2014 – 2015 - Table III

DBE Shortfall%: Awards/Commitments Made During this Report Period, FY 2014-15 ARRA Funds

	A. Total Dollars (\$)	B. Total Number (#)	C. Total to DBE's (\$)	D. Total to DBE's (#)	E. Total to DBE's/Race Conscious (\$)	F. Total to DBE's/Race Conscious (#)	G. Total to DBE's/Race Neutral (\$)	H. Total to DBE's/Race Neutral (#)	I. % of Total Dollars to DBE's
FY 2015									
Prime Contracts Awarded this Period:	\$73,980	1	0	0	0	0	0	0	0%
Subcontracts Awarded/Committed this Period:	0	0	0	0	0	0	0	0	0%
Total:	\$73,980	1	\$	0	\$ -	0	\$	0	0%
2015 DBE Goal									10%
Shortfall Percentage:	Overall goal - DBE Awards & Commitments within FY								
	2015 Shortfall %:				10%				

The City's DBE Goal is Race Neutral. Thus, there is no race conscious data to report. As stated above, there was no federally funded project activity in fiscal year 2014 and only one ARRA funded contract was awarded in fiscal year 2015.

3. Shortfall Analysis

As noted in Section 2, Redondo Beach's DBE goal for both the 2014 and 2015 fiscal years was not achieved as the grantee expected, since only one Invitation For Bids (IFB) was issued for FTA funded projects during that time.

The City will conduct a shortfall analysis at the end of the fiscal year, as required by the FTA.

4. Remedy & Timeframe

The DBE Goal submitted for Federal Fiscal Years 2016-2018 was 9%. The 2016 Triennial Review Findings determined the DBE Goal needed to be revised. Based on further discussions with the FTA Triennial Review consultants, the revised DBE Goal is 18%. Detailed goal methodology is included in the updated document: City of Redondo Beach DBE Overall DBE Goal and Methodology For FFY 2016-2018.

Project activities have occurred during Fiscal Year 2016 that have resulted in the use of DBE's for professional services. Specific steps will be taken to ensure that the DBE goal efforts are improved in the upcoming fiscal year. In addition, these efforts will provide measures and milestones to strengthen the overall DBE program at Redondo Beach. The updated DBE Program is consistent with the analysis below:

a) DBELO: Role, Oversight and Training

- The role of the DBELO was re-assigned twice during the past three years, due to staff changes and temporary Department Director appointments. In January 2016, Redondo Beach appointed a permanent Department Director, who is the designated DBELO for the City's Transit programs.
- The Director will coordinate efforts with the Transit Division's Manager, the Public Works Director, and related Engineering Project Managers.
- Training for the DBELO role will be emphasized to ensure that the new candidate has adequate knowledge to meet the goal, remedy current deficiencies and disseminate that information to assigned Project Managers, which will strengthen the DBE program. The DBELO will take available DBE training.

b) Increased Project Activity

- Progress has been made on the federally funded Transit Center Construction Project. The Transit Center plans and specifications are nearly complete, and

under review by the State of California Department of Transportation (CalTrans). After CalTrans approval, the Transit Center Construction Project Invitation for Bids (IFB) will be issued.

- The Bus Stop Amenities Project is still in the planning phase and scheduled to be implemented during the upcoming three years.

c) Anticipated/Upcoming Procurements to Meet DBE Participation Goal

- All upcoming procurements planned will be addressed to ensure the upcoming goal will be met, and establish a baseline for comparison to actuals. A sample of Redondo Beach’s DBE Participation Opportunities is outlined in the table, as follows:

DBE Participation Opportunities - Table IV

DBE Goal	Opportunity for DBE Participation	Project Value Used to Determine DBE	Expected DBE Expenditure Based on DBE Goal	Action to Meet Goal
18%	Redondo Beach Intermodal Transit Center	5,350,000.00	\$963,000.00	Direct contact/ solicitation
	Transit Amenities Phase I	247,151.00	\$ 44,487.18	Direct contact/ solicitation
	Transit Amenities Phase II	1,250,000.00	\$225,000.00	Direct contact/ solicitation
Total DBE Expected Expenditure			\$1,232,487.18	

d) Searching out and finding qualified DBE firms, in accordance with the City’s DBE Plan:

- Redondo Beach has a section on the website for DBE-specific information, including notices for current and upcoming procurements.
- Redondo Beach will take a proactive role within the area to use current lists of qualified firms that is maintained by Los Angeles County Metro and CalTrans.
- Redondo Beach will take an active role to encourage participation and recruitment of DBE participants

e) DBE Reporting and Goal Performance Review

- The DBELO, Transit Manager and Public Works Department staff will work collaboratively to ensure that annual review processes and reports are implemented.

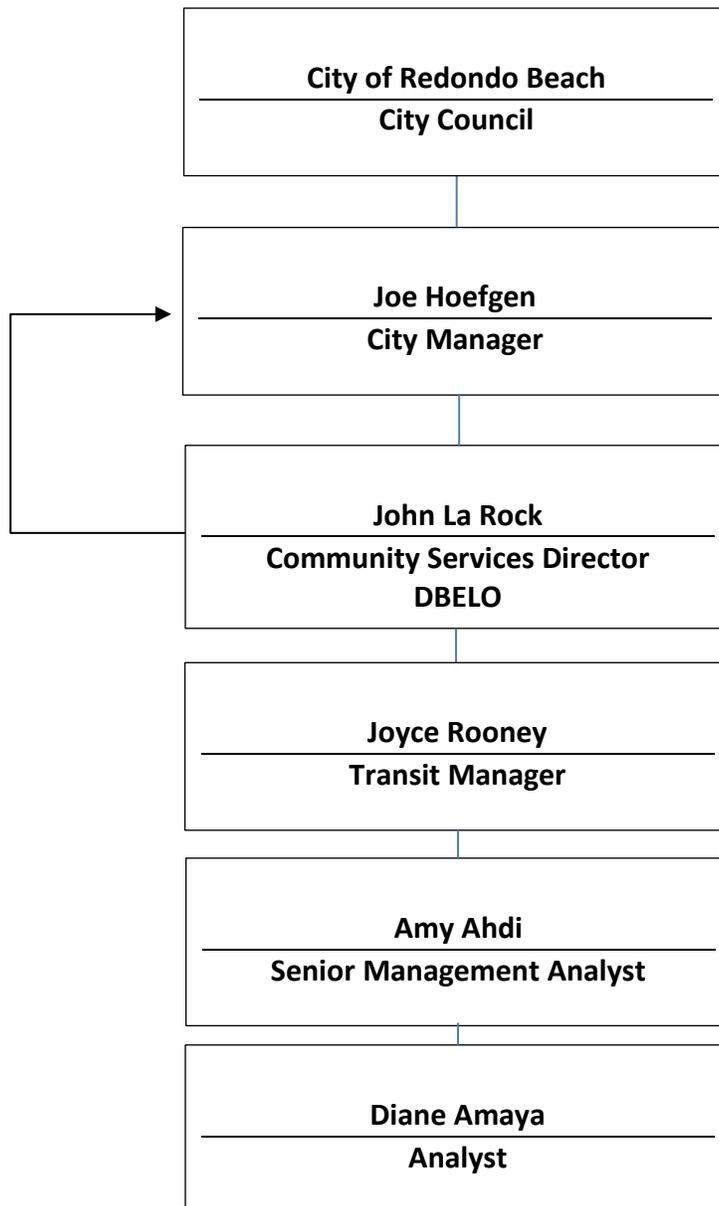
The timeframe for the remedies listed above are documented in the Timeline for Corrective Action below:

Timeline for Corrective Action – Table V

	FY 2nd Quarter			FY 3rd Quarter			FY 4th Quarter		
	<i>Oct-16</i>	<i>Nov-16</i>	<i>Dec-16</i>	<i>Jan-17</i>	<i>Feb-17</i>	<i>Mar-17</i>	<i>Apr-17</i>	<i>May-17</i>	<i>Jun-17</i>
	DBE Training -FTA website			DBE Training - TBD			DBE Training - TBD		
Submit Shortfall Analysis to FTA			Submit Semi-Annual Report						Submit Semi-Annual Report
		Hold DBE Outreach Meetings for Transit Center Project – pending project schedule			Hold DBE Outreach Meetings for Transit Center Project – pending project schedule			Hold DBE Outreach Meetings for Transit Center Project – pending project schedule	



DISADVANTAGED BUSINESS ENTERPRISE (DBE) PROGRAM ORGANIZATIONAL CHART



DBE Liaison Officer Contact Information:

Mr. John La Rock
City of Redondo Beach
415 Diamond Street
Redondo Beach, CA 90277
Phone (310) 318-0610
E-mail: john.larock@redondo.org