



Santa Cruz Metropolitan Transit District

Disadvantaged Business Enterprise (DBE) Program

FFY11 Goal

June 2010



PUBLIC NOTICE
DISADVANTAGED BUSINESS ENTERPRISE
GOAL FOR FEDERAL FISCAL YEAR 2011(FFY11)

Notice is hereby given that the Santa Cruz Metropolitan Transit District (Santa Cruz METRO) is proposing an overall Disadvantaged Business Enterprise (DBE) goal of 2.12% (0.36% of which it projects to meet through race neutral means and 1.76% through race conscious means) for U.S. Department of Transportation assisted contracts for FFY11. This goal has been set based upon information currently available. As part of this program, Santa Cruz METRO must establish an annual target for DBE participation in all new contracts that are eligible to be funded with federal funds. A DBE firm is defined as a for-profit “small business concern” that is at least 51 percent owned and controlled by one or more socially and economically disadvantaged individuals. California DBE firms are certified as such through the California United Certification Program (CUCP).

It is the policy of Santa Cruz METRO to ensure nondiscrimination on the basis of race, color, sex, national origin, disability and/or sexual orientation in the award and administration of DOT-assisted contracts. It is the intention of Santa Cruz METRO to create a level playing field on which DBEs can compete fairly for DOT-assisted contracts.

The rationale for this goal and supporting information regarding Santa Cruz METRO’s DBE Program will be available for public inspection at Santa Cruz METRO’s Administrative Offices, 110 Vernon Street, Santa Cruz, CA 95060. These documents are available for inspection from 8 am to 5 pm, Monday through Friday, from June 1, 2010 through July 16, 2010 at the above address, on METRO’s website www.scmtd.com and at the Santa Cruz Central Branch Library, 224 Church Street, Santa Cruz, CA 95060 and the Watsonville Main Library, 275 Main Street, Watsonville, CA 95076, during regular library hours.

Santa Cruz METRO and the Federal Transit Administration will accept written comments on Santa Cruz METRO’s proposed DBE goal and its rationale for 45 days from the date of this notice. Comments should be submitted to Angela Aitken, Finance Manager and Acting Assistant General Manager, at the address listed above, or by email: DBE@scmtd.com or to the Federal Transit Administration, Civil Rights Office, Region IX, 201 Mission Street, Suite 1650, San Francisco, CA 94105.

Santa Cruz METRO will hold a Public Hearing on its FFY11 DBE goal at 9:00 am on June 25, 2010 at the Santa Cruz City Council Chambers at 809 Center Street, Santa Cruz, CA 95060. Members of the public may address Santa Cruz METRO’s Board of Directors at this meeting.



AVISO AL PÚBLICO

EMPRESA DE NEGOCIOS EN DESVENTAJA META PARA EL AÑO FISCAL FEDERAL 2011 (FFY11)

Se hace saber que el Distrito de Tránsito Metropolitano de Santa Cruz, (Santa Cruz METRO) propone una meta conjunta para la Empresa de Negocios en Desventaja (DBE) de 2.12% (0.36% de cual sus proyectos se cumplan a través de medios neutrales de raza y 1.76% a través de medios conscientes de raza) para los contratos de asistencia del Departamento de Transporte de EE.UU. (U.S. DOT) para el año fiscal federal 2011 (FFY11). Este objetivo se ha creado basándose en la información actualmente disponible. Como parte de este programa, el Santa Cruz METRO debe establecer una meta anual para participación de DBE en todos los contratos nuevos que son elegibles de ser financiados con fondos federales. Una empresa DBE se define como una “empresa pequeña” con fines de lucro que es al menos el 51 por ciento de propiedad y controlada por uno o mas individuales con desventaja social y económica. Empresas DBE de California están calificadas como tales a través del Programa de Certificación Unido de California (CUCP).

Es la póliza del Santa Cruz METRO de asegurar la no discriminación por motivos de raza, color, sexo, origen nacional, discapacidad, y/u orientación sexual en la concesión y administración de contratos asistidos del DOT. Es la intención del Santa Cruz METRO de crear una igualdad de condiciones en la que DBEs pueden competir en condiciones justas para contratos asistidos de DOT.

La razón de este objetivo y la información relativa apoyando el programa DBE del Santa Cruz METRO estará disponible para inspección pública en las oficinas administrativas de Santa Cruz METRO, 110 Vernon Street, Santa Cruz, CA 95060. Estos documentos estarán disponibles para inspección de las 8 am a las 5 pm, lunes a viernes, desde el 1 de junio de 2010 hasta el 16 de julio de 2010 en la dirección arriba indicada, en el sitio web de METRO www.scmttd.com y en la Biblioteca Central de Santa Cruz, 224 Church Street, Santa Cruz, CA 95060 y la Biblioteca Principal de Watsonville, 275 Main Street, Watsonville, CA 95076, durante las horas regulares de las bibliotecas.

Santa Cruz METRO y la Administración Federal de Tránsito aceptarán comentarios por escrito sobre el objetivo propuesto de DBE del Santa Cruz METRO y su razón de ser por 45 días a partir de la fecha de esta notificación. Los comentarios deben ser sometidos a Angela Aitken, Gerente de Finanzas y Asistente Interino al Gerente General, en la dirección arriba indicada, o por correo electrónico: DBE@scmttd.com o a la Administración Federal de Tránsito, Oficina de Derechos Civiles, Región IX, 201 Mission Street, Suite 1650, San Francisco, CA 94105.

Santa Cruz METRO tendrá una Audiencia Pública sobre su meta del FFY11 de DBE a las 9:00 am el 25 de junio, 2010 en las Salas de Consejo de la Ciudad de Santa Cruz en 809 Center Street, Santa Cruz, CA 95060. Miembros del público podrán dirigirse a la Junta Directiva del Santa Cruz METRO en esta sesión.



METHODOLOGY FOR CALCULATING THE PROPOSED DBE GOAL FOR FEDERAL FISCAL YEAR 2011

Santa Cruz Metropolitan Transit District (Santa Cruz METRO) is proposing an overall Disadvantaged Business Enterprise (DBE) goal of 2.12% (0.36% of which it projects to meet through race neutral means and 1.76% through race conscious means) for U.S. Department of Transportation assisted contracts for FFY11.

To calculate Santa Cruz METRO's proposed DBE Goal for FFY11, staff first determined the projects that Santa Cruz METRO anticipates awarding in the upcoming federal fiscal year. The DBE spreadsheet contains a list of the projects and the 6-digit North American Industry Classification (NAIC) category which corresponds to that particular project. Caltrans has identified its certified DBE vendors by county using the NAIC System, which corresponds exactly to the classification system used by the U.S. Census Bureau's County Business Pattern data.

Second, staff determined the market area from which DBE vendors would likely be chosen. Since it is conceivable that a vendor may come from as far north as Sonoma, or as far south as Santa Barbara for the award of a large contract, staff included all of Caltrans Districts 04 and 05 when conducting its DBE calculation. The following fourteen counties fall within Districts 04 and 05, creating Santa Cruz METRO's market area:

- Alameda County
- Contra Costa County
- Marin County
- Monterey County
- Napa County
- San Benito County
- San Francisco County
- San Luis Obispo County
- San Mateo County
- Santa Barbara County
- Santa Clara County
- Santa Cruz County
- Solano County
- Sonoma County

Third, staff determined the total number of DBE firms within Santa Cruz METRO's market area that can perform the work for each NAIC work category. To accomplish this, staff used the DOT's statewide online directory of eligible DBE vendors within the California Unified Certification Program to estimate the number of DBEs available in Santa Cruz METRO's market area.

Fourth, staff narrowed the number of DBE firms from the statewide directory to those that are located within Santa Cruz METRO's market area. This was accomplished by printing out the list of DBE firms and simply crossing off any firms that were not within the fourteen counties that constituted Santa Cruz METRO's market area.

Fifth, staff calculated the percentage of DBEs, by dividing the number of DBE firms listed in the relevant NAIC categories in Santa Cruz METRO's market area by the number of all firms in those counties in the same NAIC categories as counted by the U.S. Bureau of Census County Business Patterns for 2007. This yielded an Annual Anticipated DBE Participation Level (AADPL) of 2.12% for FFY11.

Sixth, staff calculated the portions of the AADPL to be attained using Race Conscious and Race Neutral means. To obtain the Race Conscious portion of AADPL, staff used the same method above but substituted Underutilized DBEs (UDBEs) for DBEs in the previous step. UDBEs are DBE classes determined to have statistically significant underrepresentation in previously awarded transportation contracts and consist of DBEs owned by African Americans, Native Americans, Asian-Pacific Americans and women. UDBEs represent 1.76% of the AADPL, which is the percentage of the DBE goal to be attained through Race-Conscious measures. In the final step, the Race-Conscious portion (1.76%) is subtracted from the AADPL (2.12%) to obtain a Race-Neutral portion of 0.36%. For FFY11, Santa Cruz METRO will establish, if approved by METRO's Board of Directors, a DBE goal of 2.12% with 1.76% to be attained through Race Conscious means and 0.36% to be attained through Race Neutral means.

Santa Cruz METRO's proposed DBE Goal for FFY11 and supporting information regarding Santa Cruz METRO's DBE Program is available for public inspection at Santa Cruz METRO's Administrative Offices, 110 Vernon Street, Santa Cruz, CA 95060, on METRO's website www.scmtd.com, and at the Santa Cruz Central Branch Library, 224 Church Street, Santa Cruz, CA 95060 and the Watsonville Main Library, 275 Main Street, Watsonville, CA 95076 through July 16, 2010.



METODOLOGÍA DE CÁLCULO DE LA META DBE PROPUESTA PARA EL AÑO FISCAL FEDERAL 2011

El Distrito de Tránsito Metropolitano de Santa Cruz (Santa Cruz METRO), propone una meta conjunta para Empresas de Negocios en Desventaja (DBE) del 2.12% (0.36% de cual sus proyectos se cumplan a través de medios neutrales de raza y 1.76% a través de medios conscientes de raza) para los contratos de asistencia del Departamento de Transporte de EE.UU. (U.S. DOT) para el año fiscal federal 2011 (FFY11).

Para calcular la meta propuesta por el Santa Cruz METRO de DBE para FFY11, el personal primero determino los proyectos que Santa Cruz METRO anticipa adjudicar en el próximo año fiscal federal. La hoja de cálculo DBE contiene una lista de los proyectos y la categoría de 6-dígitos de Clasificación Industrial de América del Norte (NAIC) que corresponde a ese proyecto en particular. Caltrans ha identificado a sus proveedores certificados de DBE por condado utilizando el Sistema de NAIC, que corresponde exactamente con el sistema de clasificación utilizado por los datos de Diseño de Negocios del Condado de la Oficina del Censo de los EE.UU.

En segundo lugar, el personal determinó el área del mercado de la que los vendedores DBE probablemente serían elegidos. Como es concebible que un vendedor puede venir de tan norte como Sonoma, o de tan sur como Santa Bárbara para la adjudicación de un contrato de gran envergadura, el personal incluyó todos los Distritos de Caltrans 04 y 05 a la hora de realizar su cálculo de DBE. Los siguientes catorce condados caen dentro de los Distritos 04 y 05, creando la zona de mercado del Santa Cruz METRO:

- Condado de Alameda
- Condado de Contra Costa
- Condado de Marín Condado de Monterey
- Condado de Napa
- Condado de San Benito
- Condado de San Francisco
- Condado de San Luis Obispo
- Condado de San Mateo
- Condado de Santa Bárbara
- Condado de Santa Clara
- Condado de Santa Cruz
- Condado de Solano
- Condado de Sonoma

En tercer lugar, el personal determino el número total de empresas DBE dentro del área de mercado del Santa Cruz METRO que puedan realizar las tareas para cada categoría de trabajo del NAIC. Para lograr esto, el personal utilizo el directorio en línea a nivel estatal del Departamento de Transporte de proveedores elegibles DBE dentro del Programa de Certificación Unido de California para estimar el número de DBEs disponibles en el área de mercado del Santa Cruz METRO.

En cuarto lugar, el personal redujo el número de empresas DBE desde el directorio estatal a los que se encuentran dentro del área de mercado del Santa Cruz METRO. Esto se logró mediante la impresión de la lista de empresas DBE y simplemente tachando cualquier empresa que no estaba dentro de los catorce municipios que constituyen la zona de mercado del Santa Cruz METRO.

En quinto lugar, el personal calculó el porcentaje de DBEs, dividiendo el número de empresas DBE enumeradas en las categorías pertinentes de NAIC en el área de mercado del Santa Cruz METRO por el número de todas las empresas en esos condados en las mismas categorías NAIC según la contabilidad del Diseño de Negocios del Condado de la Oficina del Censo de los EE.UU. para el 2007. Esto dio un Nivel de Participación Anticipada Anual de DBE (AADPL) de 2.12% para FFY11.

En sexto lugar, el personal calculó las porciones de la AADPL que debe alcanzarse a través de medios Conscientes de Raza y medios Neutrales de Raza. Para obtener la parte Conscientes de Raza de AADPL, el personal utilizo el mismo método anterior, pero sustituido por DBE Subutilizadas (UDBEs) por DBEs en el paso anterior. UDBEs son clases de DBE que se ha determinado que estadísticamente tienen representación escasa significativa en los contratos de transporte previamente concedidos y se componen de propietarios DBE afroamericanos, nativos americanos, asiático-americanos del Pacífico y mujeres. UDBEs representan 1.76% del AADPL, que es el porcentaje de la meta DBE que debe alcanzarse a través de medios Conscientes de Raza. En el paso final, la parte Consciente de Raza (1.76%) se resta del AADPL (2.12%) para obtener una porción Neutral de Raza del 0.36%. Para FFY11, el Santa Cruz METRO establecerá, si es aprobado por la Junta Directiva de METRO, una meta DBE de 2.12% con 1.76% que debe alcanzarse a través de medios Conscientes de Raza y 0.36% que debe alcanzarse a través de medios Neutrales de Raza.

La meta de DBE propuesta por el Santa Cruz METRO para FFY11 e información de apoyo sobre el Programa DBE del Santa Cruz METRO está disponible para inspección pública en las oficinas administrativas de Santa Cruz de METRO, 110 Vernon Street, Santa Cruz, CA 95060, en la página web de METRO www.scmttd.com, y en la Biblioteca Central de Santa Cruz, 224 Church Street, Santa Cruz, CA 95060 y la Biblioteca Principal de Watsonville, 275 Main Street, Watsonville, CA 95076 a través de 16 de julio, 2010.

DBE Calculations for FFY 2011

<i>Contracts to be Awarded</i>	<i>NAIC</i>	<i>Category Description</i>	<i># of DBEs (Numerator)</i>	<i># of UDBEs</i>	<i>Total Establishments in Districts 04 & 05 (Denominator)</i>	<i>Project Cost</i>	<i>%DBE</i>	<i>%UDBE</i>	<i>Weight</i>	<i>AADPL</i>	<i>RC AADPL</i>	<i>RN AADPL</i>
Smartcard Farebox System (purchase)	334514	Totalizing Fluid Meter & Counting Device Manufacturing	0	0	14	\$ 2,267,000	0.00%	0.00%	55.76%	0.00%	0.00%	0.00%
Facilities Video Surveillance Project (installation)	238210	Electrical Contractors & other wiring installation Contractors	102	69	2,140	102,088	4.8%	3.2%	2.5%	0.12%	0.08%	0.04%
Facilities Video Surveillance Project (cameras & equipment)	423410	Photographic Equipment & Supplies	5	5	46	62,571	10.9%	10.9%	1.5%	0.17%	0.17%	0.00%
Land Mobile Radio Project (Fleet)	334220	Radio Broadcasting & Wireless Communications Equipment	3	2	95	143,370	3.2%	2.1%	3.5%	0.11%	0.07%	0.04%
Automated Purchasing System Software	423430	Computer Equipment & Software	28	24	757	85,000	3.7%	3.2%	2.1%	0.08%	0.07%	0.01%
Metro Center Shelter Replacement (lane 4)	236220	Commercial & Institutional Building Construction	82	55	1,086	75,000	7.6%	5.1%	1.8%	0.14%	0.09%	0.05%
Repair/Reseal parking lot at Operations	238990	All Other Specialty Trade Contractors	203	121	786	4,000	25.8%	15.4%	0.1%	0.03%	0.02%	0.01%
Dental Insurance for Employees	524114	Direct Health & Medical Insurance Carriers	1	1	79	892,997	1.3%	1.3%	22.0%	0.28%	0.28%	0.00%
Long-term Disability Insurance for Employees	524113	Direct Life Insurance Carriers	2	2	172	110,000	1.2%	1.2%	2.7%	0.03%	0.03%	0.00%
Lobbying Services	541820	Public Relations Agencies	122	115	285	64,000	42.8%	40.4%	1.6%	0.67%	0.64%	0.04%
Purchase of Tires	423130	Tire & Tube Merchant Wholesalers	1	1	30	160,000	3.3%	3.3%	3.9%	0.13%	0.13%	0.00%
Concrete Finishing (Golf Club Drive)	238110	Poured Concrete Foundation & Structure Contractors	84	44	568	99,948	14.8%	7.7%	2.5%	0.36%	0.19%	0.17%
						\$ 4,065,974			100.0%	2.12%	1.76%	0.36%

EXHIBIT 9-D AADPL CALCULATIONS INCLUDING UDBES

AADPL Calculations Including UDBEs**Definitions:**

- **DBE** – Disadvantaged Business Enterprise. A for-profit “small business concern” that is at least 51 percent owned and controlled by one or more socially and economically disadvantaged individuals. One or more such individual must also control the management and daily business operations. This individual who is a citizen (or lawfully admitted permanent residents) of the United States and who is: (1) an individual whom 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: African Americans, Hispanic Americans, Native Americans, Asian-Pacific Americans, Subcontinent Asian Americans (persons whose origin are from India, Pakistan, Bangladesh, Bhutan, Maldives Islands, Nepal or Sri Lanka), Women, or any other group found to be socially and economically disadvantaged by the U.S. Small Business Administration. (See 49 CFR, Part 26.)
- **UDBE** – Underutilized DBE. DBE classes that have been determined in the 2007 Caltrans Disparity Study to have a statistically significant disparity in their utilization in previously awarded transportation contracts. UDBEs include: African Americans, Native Americans, Asian-Pacific Americans, and Women.
- **Non-UDBE** – The two DBE classes (Hispanic American and Subcontinent Asian American) that have been determined in the 2007 Caltrans Disparity Study to not have a statistically significant disparity in their utilization in previously awarded transportation contracts.
- **AADPL** – Annual Anticipated DBE Participation Level. This is the overall Local Agency goal based on demonstrated evidence of the availability of DBEs relative to all businesses that are ready, willing and able to participate on federally funded contracts.
- **RC AADPL** – Race Conscious portion of AADPL.
- **RN AADPL** – Race Neutral portion of AADPL.
- **Market Area** – Counties in the agency’s geographic area where contractors have historically bid on similar contracts.

Introduction:

Agencies shall use Exhibit 9-B from the *Local Assistance Procedures Manual* (LAPM) to report the Annual Anticipated DBE Percentage Level (AADPL) and methodology to Caltrans. The Race Conscious portion of the AADPL is the portion the agency believes it will not be able to meet using Race Neutral means alone. In the absence of information relating to an agency’s ability to meet the Race Neutral portion, the Race Conscious portion should be the same as the entire AADPL, and the Race Neutral portion should be zero. As always, individual contract goals should be adjusted throughout the year as the agency progress in attaining DBE participation is assessed.

There are several ways to calculate an AADPL. A method other than what is shown below may be used, as approved by the District DBE Coordinator. One such alternate method is the use of a current bidders list.

****Important Note:** While the determination of an AADPL utilizes the same calculation as before (during the Race Neutral mode), the Race Conscious/Race Neutral breakdown should always include consideration of not only the availability of UDBEs (Race Conscious), but also the specific non-UDBEs and the likelihood that they will be used on these contracts. If the likelihood is high that these non-UDBEs would not be used on the contracts, they should be removed from consideration. This would result in a higher RC AADPL and a lower RN AADPL. Periodically throughout the contracting year, these methods and assumptions should be revisited to more accurately tailor future contract goals.

AADPL Calculation:

First, determine the projects that the agency anticipates awarding in the upcoming Federal Fiscal Year (FFY). List these projects, including both construction and consultant contracts. Next, determine the various work types and amounts of work that will be involved, using the work categories and codes that can be found on the California Unified Certification Program (CUCP) Web site, as explained below. For each Work Category, calculate the percentage (Weight) of the total contract work to be performed.

To determine the number of DBE firms (for the *numerator* in the calculation):

1. For each NAICS Work Category, determine total number of DBEs in the agency's Market Area that can perform that type of work. To do this, use the CUCP web site, which can be accessed by going to: http://www.dot.ca.gov/hq/bep/dbe_query.htm and click on the "Click here to Access the DBE Query Form" link.
2. On the resulting page, go to the "County" box and highlight all the counties in the agency's Market Area. The control key can be used to highlight more than one county at a time.
3. Click on the appropriate 2-digit code in the "NAICS Categories" box. This will automatically bring up the more detailed 6-digit NAICS Work Category codes in a new box. Highlight the appropriate 6-digit code. Scroll down to "License Type" and highlight the appropriate license (e.g., Electrical Contractor). Finally, click the "Start Search" button at the bottom of the page. This will give the number of DBE firms available to do work in that NAICS Work Category, followed by a list of individual firms.
4. To narrow it down to the agency's Market Area, print out the list and cross off any firms that are not located within the Market Area counties. This will result in a list of DBE firms that are in the agency's Market Area. The number of firms remaining on the list becomes the numerator for that Work Category.
5. Repeat this process for each Work Category.

To determine the total number of firms (for the *denominator* in the calculation):

1. For each NAICS Work Category, determine the total number of firms in the agency's Market Area that are willing to perform that type of work. To do this, go to the following web site:
<http://censtats.census.gov/cbpnaic/cbpnaic.shtml>
2. At the top of the page, select "California" and click on the "Go" button.
3. On the next page, use the drop-down menu to select one of the counties in the agency's Market Area, and click the "Select" button. The "Industry Codes" listed are the same as the NAICS codes. For each 2-digit category that is being used, click on the "Detail" button. This will bring up a list of all of the 6-digit Work Category codes contained within that category.
4. For each 6-digit Work Category to be used, click the "Detail" button to get a county-by-county list of the total number of establishments. Add the numbers for each county in the Market Area to get the total number of firms for this type of work, which becomes the denominator for that Work Category.
5. Repeat this process for each Work Category.

After completing the above tasks, make a table showing the following information for each NAICS Work Category:

- A. Number of DBE Firms (numerator)
- B. Number of Total Firms (denominator)
- C. Percentage of total contract funding in the NAICS Work Category (Weight).

Use this information as shown in the example that follows.

AADPL Calculation Example:

An agency has \$200,000 in Total Project Funding (both federal and local/state \$), broken down into the following Work Categories:

Contract #1 – <u>Main Street Re-paving</u> : (\$100,000 contract)	
(NAICS Code) 237310 - Highway and Street Construction	= \$80,000 = 40% Funding
238210 - Electrical Work	= \$20,000 = 10% Funding
Contract #2 – <u>4th Street Design</u> : (\$100,000 contract)	
541330 - Civil Engineering Services	= \$100,000 = 50% Funding

In order to determine the AADPL base figure, first compute the AADPL formula for each Work Category:

$$\text{AADPL (per Work Category)} = \left[\sum \frac{\text{No. of DBEs in a Work Category}}{\text{No. of All Firms in same Work Category}} \times \text{Weight} \right] \times 100$$

Each Work Category AADPL is then multiplied by its percentage (Weight) of the total work to be performed. The resulting numbers are then added up to obtain the overall AADPL Base Figure:

AADPL (Base Figure) =

$$\left[\frac{\text{\# of DBEs in 237310}}{\text{\# of all firms in 237310}} \times 0.4 + \frac{\text{\# of DBEs in 238210}}{\text{\# of all firms in 238210}} \times 0.1 + \frac{\text{\# of DBEs in 541330}}{\text{\# of all firms in 541330}} \times 0.5 \right] \times 100$$

Race Conscious Portion of AADPL (Using UDBEs):

To obtain the **RC AADPL**, use the same method shown above, except substitute UDBEs for DBEs in the formula.

To get the number of UDBE firms (UDBE firms = male-owned UDBE firms + all female-owned firms), eliminate all firms on the DBE lists from the CUCP database that are not designated as either female-owned or male-owned with the UDBE-designated ethnicities (see definitions above).

As before, make a table showing the number of UDBE firms, number of total firms, and Work Category Weights. Insert these as appropriate in the formula below:

$$\text{RC AADPL} = \left[\sum \frac{\text{No. of UDBEs in a Work Category}}{\text{No. of All Firms in same Work Category}} \times \text{Weight} \right] \times 100$$

Race Neutral Portion of AADPL:

The Race Neutral portion of the AADPL is the overall AADPL minus the Race Conscious portion.

$$\text{RN AADPL} = \text{AADPL} - \text{RC AADPL}$$

Entering Information onto Exhibit 9-B:

After adjusting the AADPL and RC/RN breakdowns determined above for other factors as needed (see ****Important Note**), enter the adjusted AADPL figure, as well as the adjusted Race Conscious and Race Neutral AADPLs, onto Exhibit 9-B.

Exhibit 9-A Disadvantaged Business Enterprise Implementation Agreement for Local Agencies

CALIFORNIA
DEPARTMENT OF TRANSPORTATION
DISADVANTAGED BUSINESS ENTERPRISE
PROGRAM
IMPLEMENTATION AGREEMENT
FOR
LOCAL AGENCIES

CALIFORNIA DEPARTMENT OF TRANSPORTATION DISADVANTAGED BUSINESS ENTERPRISE IMPLEMENTATION AGREEMENT

For the City/County of Santa Cruz Metropolitan Transit District, hereinafter referred to as "RECIPIENT."

I Definition of Terms

The terms used in this agreement have the meanings defined in 49 CFR § 26.5.

II OBJECTIVE/POLICY STATEMENT (§26/1, 26/23)

The RECIPIENT intends to receive federal financial assistance from the U. S. Department of Transportation (DOT) through the California Department of Transportation (Caltrans), and as a condition of receiving this assistance, the RECIPIENT will sign the California Department of Transportation Disadvantaged Business Enterprise Program Implementation Agreement (hereinafter referred to as Agreement). The RECIPIENT agrees to implement the State of California, Department of Transportation Disadvantaged Business Enterprise (DBE) Program Plan (hereinafter referred to as the DBE Program Plan) as it pertains to local agencies. The DBE Program Plan is based on U.S. Department of Transportation (DOT), 49 CFR, Part 26 requirements.

It is the policy of the RECIPIENT to ensure that DBEs, as defined in Part 26, have an equal opportunity to receive and participate in DOT-assisted contracts. It is also their policy:

- To ensure nondiscrimination in the award and administration of DOT-assisted contracts.
- To create a level playing field on which DBE's can compete fairly for DOT-assisted contracts.
- To ensure that their annual overall DBE participation percentage is narrowly tailored, in accordance with applicable law.
- To ensure that only firms that fully meet 49 CFR, Part 26 eligibility standards are permitted to participate as DBEs.
- To help remove barriers to the participation of DBEs in DOT-assisted contracts.
- To assist the development of firms that can compete successfully in the market place outside the DBE Program.

III Nondiscrimination (§26.7)

RECIPIENT will never exclude any person from participation in, deny any person the benefits of, or otherwise discriminate against anyone in connection with the award and performance of any contract covered by 49 CFR, Part 26 on the basis of race, color, sex, or national origin. In administering the local agency components of the DBE Program Plan, the RECIPIENT will not, directly, or through contractual or other arrangements, use criteria or methods of administration that have the effect of defeating or substantially impairing accomplishment of the objectives of the DBE Program Plan with respect to individuals of a particular race, color, sex, or national origin.

IV Annual DBE Submittal Form (§26.21)

The RECIPIENT will provide to the Caltrans District Local Assistance Engineer (DLAE) a completed *Local Agency DBE Annual Submittal Form* (Exhibit 9-B) by June 1 of each year for the following Federal Fiscal Year (FFY). This form includes an Annual Anticipated DBE Participation Level (AADPL), methodology for establishing the AADPL, the name, phone number, and electronic mailing address of the designated DBELO, and the choice of Prompt Pay Provision to be used by the RECIPIENT for the following FFY.

V Race-Neutral Means of Meeting the Overall Statewide Annual DBE Goal (§26.51)

RECIPIENT must meet the maximum feasible portion of its AADPL 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 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 DBE, and other small businesses, participation (e.g., 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 forces);
2. Providing assistance in overcoming limitations such as inability to obtain bonding or financing (e.g., by such means as simplifying the bonding process, reducing bonding requirements, eliminating the impact of surety costs from bids, and providing services to help DBEs, and other small businesses, obtain bonding and financing);
3. Providing technical assistance and other services;
4. Carrying out information and communication programs on contracting procedures and specific contract opportunities (e.g., ensuring the inclusion of DBEs, and other small businesses, on recipient mailing lists of bidders; ensuring the dissemination to bidders on prime contracts of lists of potential subcontractors; provision of information in languages other than English, where appropriate);
5. Implementing a supportive services program to develop and improve immediate and long-term business management, record keeping, and financial and accounting capability for DBEs and other small businesses;
6. Providing services to help DBEs, and other small businesses, improve long-term development, increase opportunities to participate in a variety of types of work, handle increasingly significant projects, and achieve eventual self-sufficiency;
7. Establishing a program to assist new, start-up firms, particularly in fields in which DBE participation has historically been low;
8. Ensuring distribution of your DBE directory, through print and electronic means, to the widest feasible universe of potential prime contractors; and
9. Assisting DBEs, and other small businesses, to develop their capability to utilize emerging technology and conduct business through electronic media.

VI Race Conscious Means of Meeting the Overall Statewide Annual DBE Goal (§26.51(d))

RECIPIENT must establish contract goals for Underutilized Disadvantaged Business Enterprises (UDBEs) to meet any portion of your AADPL you do not project being able to meet using race-neutral means. UDBEs are limited to these certified DBEs that are owned and controlled by African Americans, Native Americans, Women, and Asian Pacific Americans.

VII Quotas (§26.43)

RECIPIENT will not use quotas or set-asides in any way in the administration of the local agency component of the DBE Program Plan.

VIII DBE Liaison Officer (DBELO) (§26.25)

RECIPIENT has designated a DBE Liaison Officer. The DBELO is responsible for implementing the DBE Program Plan, as it pertains to the RECIPIENT, and ensures that the RECIPIENT is fully and properly advised concerning DBE Program Plan matters. [Specify resources available to the DBELO; e.g., the DBELO has a staff of two professional employees assigned to the DBE program on a full-time basis and two support personnel who devote a portion of their time to the program.] The name, address, telephone number, electronic mail address, and an organization chart displaying the DBELO's position in the organization are found in Attachment A to this Agreement. This information will be updated annually and included on the DBE Annual Submittal Form.

The DBELO is responsible for developing, implementing, and monitoring the RECIPIENT's requirements of the DBE Program Plan in coordination with other appropriate officials. Duties and responsibilities include the following:

1. Gathers and reports statistical data and other information as required.
2. Reviews third party contracts and purchase requisitions for compliance with this program.
3. Works with all departments to determine projected Annual Anticipated DBE Participation Level.
4. Ensures that bid notices and requests for proposals are made available to DBEs in a timely manner.
5. Analyzes DBE participation and identifies ways to encourage participation through race-neutral means.
6. Participates in pre-bid meetings.
7. Advises the CEO/governing body on DBE matters and DBE race-neutral issues.
8. Provides DBEs with information and recommends sources to assist in preparing bids, obtaining bonding and insurance.
9. Plans and participates in DBE training seminars.
10. Provides outreach to DBEs and community organizations to fully advise them of contracting opportunities.

IX Federal Financial Assistance Agreement Assurance (§26.13)

RECIPIENT will sign the following assurance, applicable to and to be included in all DOT-assisted contracts and their administration, as part of the program supplement agreement for each project.

The recipient 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. The recipient 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 recipient's 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 recipient of its failure to carry out its approved program, the Department 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.). [Note – this language is to be used verbatim, as it is stated in §26.13(a).]

X DBE Financial Institutions (§26.27)

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

Information on the availability of such institutions can be obtained from the DBELO. The Caltrans' Disadvantaged Business Enterprise Program may offer assistance to the DBELO.

XI Directory (§26.31)

RECIPIENT will refer interested persons to the Unified Certification Program DBE directory available from the Caltrans Disadvantaged Business Enterprise Program's website at www.dot.ca.gov/hq/bep.

XII Required Contract Clauses (§§26.13, 26.29)

RECIPIENT ensures that the following clauses or equivalent will be included in each DOT-assisted prime contract:

A. CONTRACT ASSURANCE

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

[Note – This language is to be used verbatim, as is stated in §26.13(b). See Caltrans Sample Boiler Plate Contract Documents on the Internet at www.dot.ca.gov/hq/LocalPrograms under "Publications."]

B. PROMPT PAYMENT**Prompt Progress Payment to Subcontractors**

The local agency shall require contractors and subcontractors to be timely paid as set forth in Section 7108.5 of the California Business and Professions Code concerning prompt payment to subcontractors. The 10-days is applicable unless a longer period is agreed to in writing. Any delay or postponement of payment over 30 days may take place only for good cause and with the agency's prior written approval. Any violation of Section 7108.5 shall subject the violating contractor or subcontractor to the penalties, sanctions, and other remedies of that Section. This requirement shall not be construed to limit or impair any contractual, administrative, or judicial remedies, otherwise available to the contractor or subcontractor in the event of a dispute involving late payment or nonpayment by the contractor, deficient subcontractor performance, and/or noncompliance by a subcontractor. This clause applies to both DBE and non-DBE subcontractors.

Prompt Payment of Withheld Funds to Subcontractors

The local agency shall ensure prompt and full payment of retainage from the prime contractor to the subcontractor within thirty (30) days after the subcontractor's work is satisfactorily completed and accepted. This shall be accompanied by including either (1), (2), or (3) of the following provisions [local agency equivalent will need Caltrans approval] in their federal-aid contracts to ensure prompt and full payment of retainage [withheld funds] to subcontractors in compliance with 49 CFR 26.29.

1. No retainage will be held by the agency from progress payments due to the prime contractor. Prime contractors and subcontractors are prohibited from holding retainage from subcontractors. Any delay or postponement of payment may take place only for good cause and with the agency's prior written approval. Any violation of these provisions shall subject the violating contractor or subcontractor to the penalties, sanctions, and other remedies specified in Section 7108.5 of the California Business and Professions Code. This requirement shall not be construed to limit or impair any contractual, administrative, or judicial remedies, otherwise available to the contractor or subcontractor in the event of a dispute involving late payment or nonpayment by the contractor, deficient subcontractor performance, and/or noncompliance by a subcontractor. This clause applies to both DBE and non-DBE subcontractors.
2. No retainage will be held by the agency from progress payments due the prime contractor. Any retainage kept by the prime contractor or by a subcontractor must be paid in full to the earning subcontractor in 30 days after the subcontractor's work is satisfactorily completed. Any delay or postponement of payment may take place only for good cause and with the agency's prior written approval. Any violation of these provisions shall subject the violating contractor or subcontractor to the penalties, sanctions, and remedies specified in Section 7108.5 of the California Business and Professions Code. This requirement shall not be construed to limit or impair any contractual, administrative, or judicial remedies, otherwise available to the contractor or subcontractor in the event of a dispute involving late payment or nonpayment by the contractor, deficient subcontractor performance, and/or noncompliance by a subcontractor. This clause applies to both DBE and non-DBE subcontractors.

3. The agency shall hold retainage from the prime contractor and shall make prompt and regular incremental acceptances of portions, as determined by the agency of the contract work and pay retainage to the prime contractor based on these acceptances. The prime contractor or subcontractor shall return all monies withheld in retention from all subcontractors within 30 days after receiving payment for work satisfactorily completed and accepted including incremental acceptances of portions of the contract work by the agency. Any delay or postponement of payment may take place only for good cause and with the agency's prior written approval. Any violation of these provisions shall subject the violating prime contractor to the penalties, sanctions, and other remedies specified in Section 7108.5 of the California Business and Professions Code. This requirement shall not be construed to limit or impair any contractual, administrative, or judicial remedies, otherwise available to the contractor or subcontractor in the event of: a dispute involving late payment or nonpayment by the contractor; deficient subcontractor performance; and/or noncompliance by a subcontractor. This clause applies to both DBE and non-DBE subcontractors.

XIII Local Assistance Procedures Manual

The RECIPIENT will advertise, award and administer DOT-assisted contracts in accordance with the most current published Local Assistance Procedures Manual (LAPM).

XIV Transit Vehicle Manufacturers (§ 26.49)

If FTA-assisted contracts will include transit vehicle procurements, RECIPIENT will require each transit vehicle manufacturer, as a condition of being authorized to bid or propose on transit vehicle procurements, to certify that it has complied with the requirements of 49 CFR Part 26, Section 49.

XV Bidders List (§26.11(c))

The RECIPIENT will create and maintain a bidders list, consisting of information about all DBE and non-DBE firms that bid or quote on its DOT-assisted contracts. The bidders list will include the name, address, DBE/nonDBE status, age, and annual gross receipts of the firm.

XVI Reporting to the DLAE

RECIPIENT will promptly submit a copy of the Local Agency Bidder/Proposer-UDBE Commitment (Consultant Contract), (Exhibit 10-O(1) "Local Agency Bidder/Proposer-DBE Commitment (Consultant Contract)") or Exhibit 15-G(1) "Local Agency Bidder-UDBE Commitment (Construction Contract) to the DLAE at the time of award of the consultant or construction contracts.

RECIPIENT will promptly submit a copy of the Local Agency Bidder-DBE Information (Exhibit 15-G(2) "Local Agency Bidder-DBE (Construction Contracts) – Information" or Exhibit 10-O(2) "Local Agency Proposer/Bidder-DBE (Consultant Contracts)-Information" of the LAPM) to the DLAE at the time of execution of consultant or construction contract.

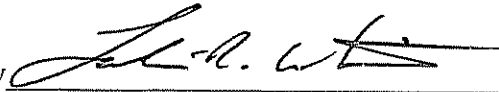
RECIPIENT will promptly submit a copy of the Final Utilization of DBE participation to the DLAE using Exhibit 17-F "Final Report – Utilization of Disadvantaged Business Enterprises (DBE), First-Tier Subcontractors" of the LAPM immediately upon completion of the contract for each consultant or construction contract.

XVII Certification (§26.83(a))

RECIPIENT ensures that only DBE firms currently certified by the California Unified Certification Program will participate as DBEs on DOT-assisted contracts.

XVIII Confidentiality

RECIPIENT will safeguard from disclosure to third parties, information that may reasonably be regarded as confidential business information consistent with federal, state, and local laws.

By 
(Signature)

Leslie R. White, General Manager
(Print Name and Title) ADMINISTERING AGENCY
(Authorized Governing Body Representative)

Phone Number (831) 426-6080

This California Department of Transportation's Disadvantaged Business Enterprise Program Implementation Agreement is accepted by:


[Signature of DLAE]

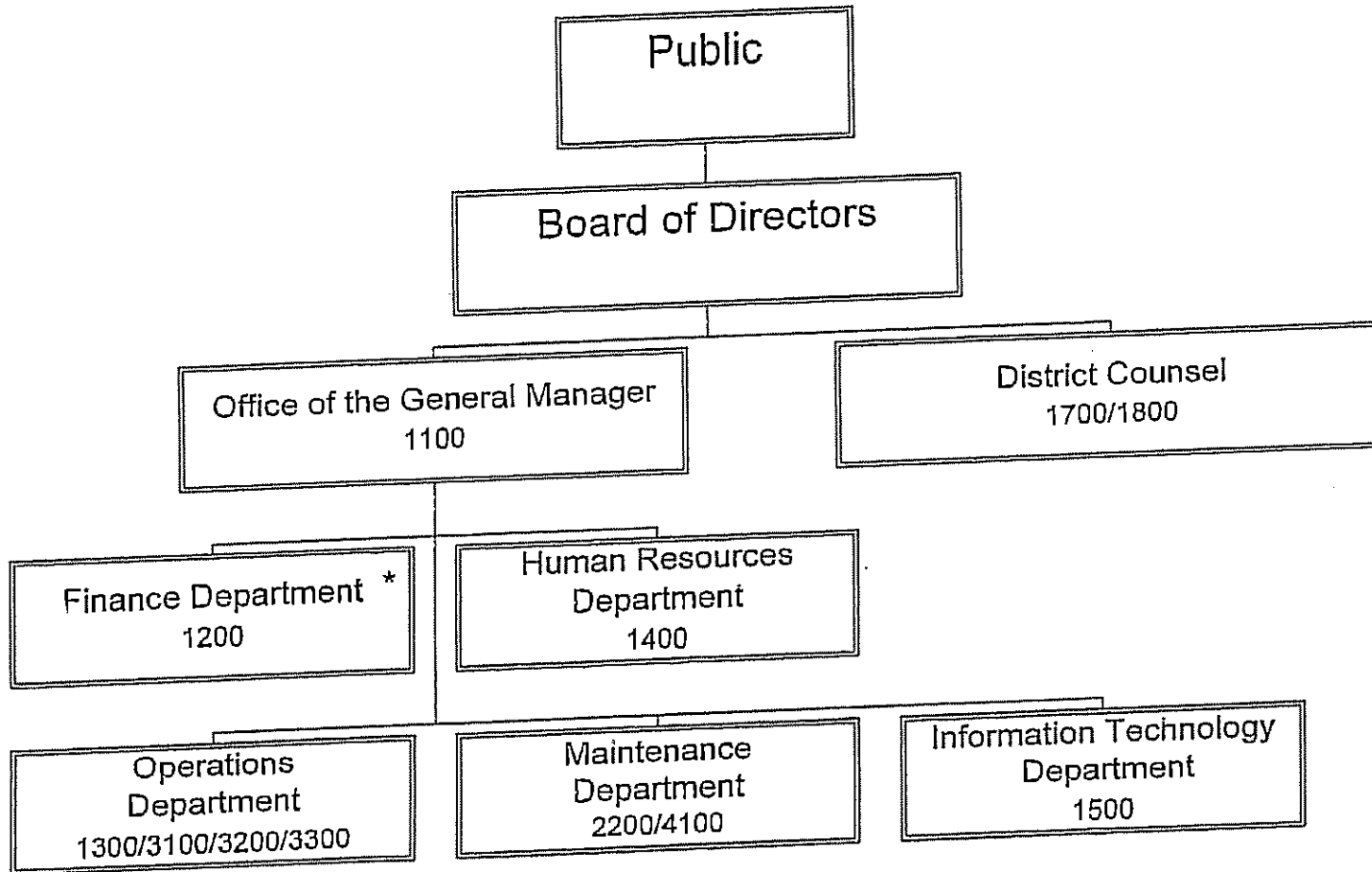
Date: 5/19/09

Michael A. Giuliano
[Print Name of DLAE]

Distribution: (1) Original – DLAE
(2) Signed copy by the DLAE – Local Agency

(Updated: March 4, 2009)

Santa Cruz Metropolitan Transit District



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