

RESOLUTION NO. 92-188

**A RESOLUTION OF THE CITY COUNCIL
OF THE CITY OF EL PASO DE ROBLES
APPROVING A DISADVANTAGED BUSINESS ENTERPRISE (DBE)
PROGRAM FOR FEDERAL-AID PROJECTS**

WHEREAS, the Congress of the United States has in the 1986 U.S. Surface Transportation Assistance Act declared it to be in the national interest for federal funds to be expended for highway projects; and

WHEREAS, the City and the State have entered into Master Agreement No. 05-5084 for Federal-Aid Projects; and

WHEREAS, as a condition to receiving any Federal-Aid funds the City agrees to comply with Federal Regulation 49CFR Part 23, "Participation by Minority Business Enterprises in Department of Transportation Program"; and

WHEREAS, the Federal Regulation includes requirements that recipients of Federal-Aid funds adopt a "Disadvantaged Business Enterprise ("DBE") Program"; and

WHEREAS, State policy requires that the City will administer its Federal-Aid projects.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Paso Robles hereby:

1. Approves Exhibit A attached, entitled "Disadvantaged Business Enterprise ("DBE") Program", and the City Manager is authorized to execute the same.

2. Directs the City Clerk to transmit a copy of the adopted DBE Program and this resolution to:

Mr. John Ritter
Asst. Dist. Local Streets & Roads Engr.
California Dept. of Transportation
P.O. Box 8114
San Luis Obispo, CA 93403-8114

3. Directs the City Clerk upon receiving State approval of this City DBE Program, to prepare a public Notice to be published in the Country News for one day, and transmit a "Declaration or Proof of Publication" of said Public Notice to:

Mr. John Ritter
Asst. Dist. Local Streets & Roads Engr.
California Dept. of Transportation
P.O. Box 8114
San Luis Obispo, CA 93403-8114

PASSED AND ADOPTED by the City Council of the City of El Paso de Robles, this 1st day of December, 1992, on the following vote:

AYES:	Heggarty, Macklin, Martin, Picanco, and Iversen
NOES:	None
ABSENT:	None



Christian E. Iversen, Mayor

ATTEST:



Richard J. Ramirez, City Clerk

EXHIBIT "A"

DISADVANTAGED BUSINESS ENTERPRISE (DBE) PROGRAM
CITY OF PASO ROBLES

I. POLICY STATEMENT

It is the policy of the City of Paso Robles to utilize Disadvantaged Business Enterprises (DBE) in all aspects of contracting to the maximum extent feasible. This policy is fully described herein which constitutes policy and commitment to substantially increase Disadvantaged Business and Women Business utilization. This policy addresses any program activity or facility funded wholly or in part by any U.S. Department of Transportation (DOT) modal element.

This Agency, its contractors and subcontractors, which are the recipients of Federal-aid funds, agree to ensure DBE firms have the maximum opportunity to participate in the performance of contracts and subcontracts. In this regard, this Agency and all of its contractors and subcontractors will take all reasonable steps in accordance with 49 CFR 23 to ensure that DBE firms have the maximum opportunity to compete for and perform contracts.


Richard J. Ramirez, City Manager

II. DISADVANTAGED BUSINESS ENTERPRISE (DBE) AND WOMEN-OWNED BUSINESS ENTERPRISE LIAISON OFFICER

John McCarthy, Director of Public Works/City Engineer, is the DBE Liaison Officer for this agency and shall report to the City Manager. He will be assigned such staff as is necessary to fully implement the provision of 49 CFR Part 23 and such other DBE programs as may be required. The reporting structure and duties of support staff are shown on Attachment I.

III. DUTIES OF THE DBE LIAISON OFFICER

The DBE Liaison Officer shall develop, manage and implement the DBE Program on a day-to-day basis. The Liaison Officer shall:

- A. Develop and carry out technical assistance programs for DBE's.
- B. Arrange solicitations, time for the presentation of bids, quantities, specifications, and delivery schedules so as to facilitate the participation of DBE's. Where such changes are found necessary to increase DBE utilization, they will be made in consultation and cooperation with the functional unit involved.
- c. Provide guidance to DBE's in overcoming barriers, such as inability to obtain bonding or financing.
- D. Carry out information and communication programs on contracting opportunities in a timely manner. Programs shall be bilingual where appropriate.
- E. Investigate the services offered by banks owned and controlled by Disadvantaged Business Enterprises and Women-Owned Business Enterprises.
- F. Unless noted elsewhere herein the listing of DBE's certified by Caltrans will be utilized. Said listing is to be made available to all project bidders. Such listing will include the following information: Name, address, telephone number, ethnic and/or sexual ownership and type of work performed by the firm.
- G. Prior to approval of the substitution of any DBE sub-contractor, the prime contractors will be required to prove

performance of good faith efforts to replace the DBE with another eligible DBE.

- H. Establish a DBE overall annual goal. The goal shall be evaluated annually and adjusted as necessary.
- I. Establish an appropriate individual project DBE goal for each Federal Aid Project advertised.
- J. Perform good faith analysis when the project goal is not achieved.
- K. Maintain such documentation as is necessary to verify performance of all activities included in this program.

IV. PUBLIC NOTIFICATION

- A. At the time of submittal of this program to the State Department of Transportation, a notice in both minority and majority local media will be published. Said publication shall include:
 - 1. The annual overall DBE goal.
 - 2. Notification that a description of how the goal was set is available for public inspection for a period of 30 days.
 - 3. Notification that both U.S. DOT and this agency will accept comments on the goal for 45 days from the date of the notice. The notice shall advise interested parties that comments are for information purposes only.
- B. This program will be reaffirmed by public notice annually at the time of publication of overall goal. If substantial changes are made to this document, the entire document shall be subject to notification noted in (A) above.
- C. In addition to the foregoing, interested disadvantaged and majority contractor organizations will receive direct mailings of this complete program.

V. ESTABLISHMENT OF GOAL

- A. The DBE goal will be established both annually (overall) and on a per contract basis. The overall goal will be based on planned contract activity for the coming year. The overall goal established will be subject to methodology and procedures

established in 49 CFR 23, Subparts (C) and (D) and take effect on July 1st of each year.

- B. The overall DBE goal established with this initial program is 10% and covers the period of July 1, 1992 to June 30, 1993.
- C. Individual project goals will be established based on the following criteria:
 - 1. Attainment of established overall goals.
 - 2. Size of project.
 - 3. Opportunities for DBE's as subcontractors, vendors and suppliers.
 - 4. Minority population of geographic area in which work is to be performed.
 - 5. DBE goals being utilized in the geographic area by other State, Federal or local jurisdictions.
 - 6. Availability of certified DBE's.
 - 7. Past experience on projects similar to the project being evaluated.
 - 8. Such other factors as may effect the utilization of DBE's.

Complete evaluation documentation will be retained for each project.

- D. Projects which do not contain a specific goal will contain the following provisions:
 - 1. "Policy. It is the policy of the Department of Transportation that disadvantaged business enterprises as defined in 49 CFR Part 23 have the maximum opportunity to participate in the performance of contracts and subcontracts financed in whole or in part with Federal funds provided under this agreement. In this regard, all recipients or contractors shall take all necessary and reasonable steps in accordance with 49 CFR Part 23 to ensure that disadvantaged business enterprises have the maximum opportunity to compete for and perform contracts. Recipients and their contractors shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of DOT-assisted contracts."

VI. CONTRACT PROCEDURE

This program shall be implemented through the utilization of a contract special provision which will be provided/updated as necessary by Caltrans' Division of Local Streets and Roads. These procedures require bidders to submit the names of DBE subcontractors and suppliers, a description of the work each is to perform or material to be furnished, and the dollar value of each DBE subactivity.

VII. DBE NOTIFICATION

Projects will be advertised in local newspapers and minority focus newspapers when possible. These adds will include reference to DBE requirements and will indicate the DBE project goal.

DBE supportive service assistance centers will receive notification of projects scheduled to be advertised. Such Centers, will be afforded the opportunity to receive complimentary plans and specifications for projects within their geographical area of responsibility.

VIII. SELECTION CRITERIA FOR PROJECTS WITH DBE GOAL

Every project containing DBE goals shall be evaluated by the DBE Liaison Officer or his/her designee to ascertain bidding contractors' efforts to attain the DBE goal. The award of any project must be concurred with by the DBE Liaison Officer or his/her designee before said contract may be awarded. Should there be disagreement between functional units concerning contractors' efforts to attain contract goals for DBE participation, the matter shall be referred to the City Manager or his/her designee, for final determination.

Competitors that fail to meet the DBE goal and fail to demonstrate sufficient reasonable good faith efforts shall be declared non-responsive and ineligible for award of the contract.

All contracts that contain a DBE goal, pursuant to this policy, will be monitored on an ongoing basis by project personnel during

the course of construction. The DBE Liaison Officer is to be immediately advised of any circumstances wherein contractor compliance with the DBE provision is questionable. The contractor shall submit a final report for each project which includes total payments to the prime contractor as well as any payments the prime contractor has made to DBE subcontractors, vendors and suppliers. If the report indicates the prime contractor has not achieved the project goal, project personnel shall attach an evaluation, in narrative form, of the reasons for failure to attain the goal and any corrective action that was taken.

Prime contractors will be required to notify the Agency of any situation in which regularly scheduled progress payments are not made to DBE subcontractors, vendors, or suppliers.

IX. SET-ASIDES

If determined necessary by the DBE Liaison Officer, DBE Set-Asides will be considered as a tool to achieve annual overall goals.

X. COUNTING DBE PARTICIPANTS

This Agency, its contractors, and subcontractors shall count DBE participation in accordance with the provisions of Section 23.47, Title 49, of the Code of Federal Regulations.

XI. RECORDS AND REPORTS

A. The DBE Liaison Officer shall maintain such records, and provide such reports, as are necessary to ensure full compliance with this policy. Such records and reports shall include, as a minimum, the following information:

1. Awards to DBE's.
2. Awards to majority contractors.
3. Final project reports concerning DBE utilization.
4. Such other data as is needed to fully evaluate compliance with this program.

B. The DBE Liaison Officer shall submit reports to Caltrans and/or to the appropriate U.S. DOT element as required. These reports will include:

1. Number and dollar value of contracts awarded.
2. Number and dollar value of contracts and subcontracts awarded to DBE's.
3. Description of general categories of contracts awarded to DBE's.
4. The percentage of the dollar value of all contracts awarded during the year which were awarded to DBE's.
5. Indication as to the extent of which the percentage met or exceeded the overall goal.
6. Reports shall be broken down separately by ethnic grouping.

XII. COMPLAINTS

Any complaints received by the Agency concerning this program will be investigated by the City Manager. He/she will endeavor to resolve said complaints within 90 days of receipt by the DBE Liaison Officer. The appropriate DOT element and Caltrans will be furnished a copy of the complaint and may be invited to participate in the investigation/resolution. The DOT element and Caltrans will receive a complete investigative report on the complaint and may be requested to concur in the proposed disposition of said complaint.

Contractors will be directed to notify the Agency of any complaints they may receive concerning this program.