



TO: Mayor and Councilmembers

FROM: Steve Wagner, Community Services Director

SUBJECT: Annual Anticipated Race Conscious Disadvantaged Business Enterprise Program

RECOMMENDATION:

Adopt Resolution No. 09-__ entitled “A Resolution of the City Council of the City of Goleta Authorizing the Community Services Director to Take All Necessary Steps to Establish and Submit the Annual Anticipated Race Conscious Disadvantaged Business Enterprise Participation Level and to Execute DBE Implementation Agreements and Any Related Amendments to the Agreements with the California Department of Transportation and the Federal Transit Administration.”

BACKGROUND:

As an eligible recipient of federal-aid funding, the City is required to comply with Title 49 of the Code of Federal Regulations, Part 26, which states that grantees must establish and implement a Disadvantaged Business Enterprise (DBE) program and annually set DBE participation targets.

Each year the City must provide to the Caltrans District Local Assistance Engineer (DLAE) and the Federal Transit Administration (FTA) Civil Rights Officer for Region IX a completed “Disadvantaged Business Enterprise (DBE) Annual Submittal Form for Local Agencies,” by June 1 of each year for the following Federal Fiscal Year. The City must also submit a completed “Uniform Report of DBE Awards or Commitments and Payments” to the FTA semi-annually. These reports will provide information for the upcoming Federal Fiscal Year, which includes:

- The local agency’s Annual Anticipated Disadvantaged Participation Level (AADPL);
- The methodology for establishing the AADPL;
- Identification of the Disadvantaged Business Enterprise Liaison Officer (DBELO); and
- Prompt pay provision to be used in contracts.

These forms must be received by Caltrans prior to submitting a “Request for Authorization” to proceed with a federal-aid project administered by Caltrans or prior to approval of a FTA grant. If the City does not have an AADPL on file with Caltrans and

the FTA, the City is not eligible for federal funding reimbursement from the respective agencies.

DISCUSSION:

On March 4, 2009, Caltrans established a new DBE Program that includes a “race conscious” component requiring immediate implementation. The City was notified that jurisdictions which fail to transition to the Race Conscious DBE Program would be ineligible for federal fund reimbursement for all federal-aid projects awarded after June 2, 2009. (This does not apply to locally funded projects that have no federal funds.)

With the recent enactment of the American Recovery and Reinvestment Act (ARRA) of 2009 and the increase in transportation contracting opportunities it will bring, the urgency to implement contract goals has heightened. Under the Race Conscious DBE Program, the City must calculate race conscious DBE goals and incorporate new race conscious contract specifications into all federal-aid consultant and construction contracts.

The City has worked with Caltrans to determine the calculation methodology and related contract boilerplate language that would need to be included in federal-aid contract bid documents. Caltrans has stated that, for this year, there are no public notice requirements for the Race Conscious DBE Program nor any needed amendment to the City’s current approved AADPL (under the Race Neutral DBE Program). Caltrans has further stated that Community Services Directors can be delegated the authority by Council to establish and submit the DBE Program report and agreements.

With \$1.27 million in federal economic stimulus funds programmed for the City’s Street Improvement Program this summer, it is imperative that the City thoroughly evaluate the new requirements and ensure compliance by the June 2, 2009 deadline. In order to quickly review and evaluate the new Race Conscious DBE Program requirements, and to establish Race Conscious DBE goals, a delegation of authority to the Community Services Director to establish, finalize and submit the Race Conscious DBE Program for this year and subsequent years is recommended. A draft resolution delegating this authority has been prepared and is included as Attachment 1 to this report.

GOLETA STRATEGIC PLAN:

While the implementation of the new DBE program requirements is not specifically identified in the City’s Strategic Plan, the recommended action supports several strategic goals and objectives relating to maintenance of the City’s infrastructure and implementation of the City’s Capital Improvement Program.

ALTERNATIVES:

The Council may decide not to authorize the Community Services Director to take all necessary steps to establish, finalize and submit the Race Conscious DBE Program. However, this may impact the timeliness of the submittal of the Race Conscious DBE Program which may jeopardize receiving federal funding reimbursements.

FISCAL IMPACTS:

There are no anticipated fiscal impacts with the delegation of authority to the Community Services Director.

Legal Review By:

Reviewed By:

Approved By:

Tim W. Giles
City Attorney

Michelle Greene
Administrative Services
Director

Daniel Singer
City Manager

ATTACHMENTS:

1. Resolution 09__ entitled "A Resolution of the City Council of the City of Goleta, California, Authorizing the Community Services Director to Establish and Submit the Annual Anticipated Race Conscious Disadvantaged Business Enterprise Participation Level and to Sign Disadvantaged Business Enterprise Implementation Agreements and Related Amendments with Caltrans and the Federal Transit Administration"

ATTACHMENT 1

Resolution 09__ entitled “A Resolution of the City Council of the City of Goleta, California, Authorizing the Community Services Director to Establish and Submit the Annual Anticipated Race Conscious Disadvantaged Business Enterprise Participation Level and to Sign Disadvantaged Business Enterprise Implementation Agreements and Related Amendments with Caltrans and the Federal Transit Administration”

RESOLUTION NO. 09-__

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF GOLETA, CALIFORNIA, AUTHORIZING THE COMMUNITY SERVICES DIRECTOR TO ESTABLISH AND SUBMIT THE ANNUAL ANTICIPATED RACE CONSCIOUS DISADVANTAGED BUSINESS ENTERPRISE PARTICIPATION LEVEL AND TO EXECUTE DISADVANTAGED BUSINESS ENTERPRISE IMPLEMENTATION AGREEMENTS AND RELATED AMENDMENTS WITH CALTRANS AND THE FEDERAL TRANSIT ADMINISTRATION

WHEREAS, as an eligible recipient of federal-aid funding, the City of Goleta is required to comply with Title 49 of the Code of Federal Regulations, Part 2, which states that grantees must establish and implement a Disadvantaged Business Enterprise (DBE) Program and annually set DBE participation targets; and

WHEREAS, The California Department of Transportation (Caltrans) DBE process requires grantees to provide information for the upcoming Federal Fiscal Year that includes the following:

1. The local agency's Annual Anticipated Disadvantaged Participation Level (AADPL);
2. The methodology for establishing the AADPL;
3. Identification of the Disadvantaged Business Enterprise Liaison Officer (DBELO); and
4. Prompt payment provisions to be used in contracts; and

WHEREAS, the Federal Transit Administration (FTA) process requires grantees to provide information annually that includes the following:

1. The grantees' AADPL;
2. The methodology for establishing the AADPL;
3. Identification of the DBELO;
4. Prompt payment provisions to be used in contract;
5. Semi-annual reporting of the Uniform Report of DBE Awards or Commitments and Payments; and

WHEREAS, on March 4, 2009, Caltrans established a new DBE Program that includes a Race Conscious component requiring immediate implementation; and

WHEREAS, the City was further notified by Caltrans that grantees which fail to transition to the Race Conscious DBE Program would be ineligible for Federal fund reimbursement for all federal-aid projects awarded after June 2, 2009; and

WHEREAS, the City is required to update the DBE Program on file with the FTA each time the program is amended; and

WHEREAS, under the Race Conscious DBE Program, the City must calculate Race Conscious DBE goals and incorporate new race conscious contract specifications into all federal aid consultant, construction, and Transit operating, vehicle and service contracts; and

WHEREAS, Caltrans and the FTA has allowed the City to establish a Race Conscious DBE Methodology and Goal for Fiscal Year 2008-2009 without the need to amend the Fiscal Year 2008-2009 AADPL; and

WHEREAS, it would be advantageous for the City to authorize the Community Services Director to take all necessary steps for compliance with the Race Conscious DBE requirement for Fiscal Year 2008-2009 and beyond; and

WHEREAS, the necessary steps include, but are not limited to, establishment of the Race Conscious DBE goals and signing the DBE Implementation Agreement and any related amendments to the agreement.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF GOLETA AS FOLLOWS:

SECTION 1.

That the Community Services Director is hereby authorized to take all necessary steps to establish and submit the Annual Anticipated Race Conscious Disadvantaged Business Enterprise Participation Level and to sign DBE Implementation Agreements and any related amendments with Caltrans and the Federal Transit Administration.

SECTION 2.

The City Clerk shall certify to the adoption of this Resolution.

PASSED, APPROVED AND ADOPTED this 19th day of May, 2009.

ROGER S. ACEVES, MAYOR

ATTEST:

APPROVED AS TO FORM:

DEBORAH CONSTANTINO
CITY CLERK

TIM W. GILES
CITY ATTORNEY

STATE OF CALIFORNIA)
COUNTY OF SANTA BARBARA) ss.
CITY OF GOLETA)

I, DEBORAH CONSTANTINO, City Clerk of the City of Goleta, California, DO HEREBY CERTIFY that the foregoing Resolution No. 09-___ was duly adopted by the City Council of the City of Goleta at a regular meeting held on the 19th day of May, 2009, by the following vote of the Council:

AYES: COUNCILMEMBERS

NOES: COUNCILMEMBERS

ABSENT: COUNCILMEMBERS

(SEAL)

DEBORAH CONSTANTINO
CITY CLERK