TO: HONORABLE CITY COUNCIL

FROM: CITY MANAGER

DATE: JANUARY 18, 2005

SUBJECT: CITY OF PALO ALTO'S 2004-05 DISADVANTAGED BUSINESS ENTERPRISE (DBE) PROGRAM

This is an informational report and no Council action is required.

BACKGROUND
Federal regulations require recipients of U.S. Department of Transportation (DOT) funds to establish a Disadvantaged Business Enterprise (DBE) Program. The purpose of the DBE Program is to give disadvantaged firms (small businesses owned and controlled by socially and economically disadvantaged individuals; women and minorities are presumed to be socially and economically disadvantaged) equal opportunity to compete for and participate in the performance of DOT-assisted projects. The California Department of Transportation (Caltrans) is responsible for overseeing compliance with DBE Program requirements.

An important component of the DBE Program is the establishment of an annual DBE participation goal. Under the federal regulations, Caltrans is responsible for specifying the methodology that must be used to calculate the yearly goal. Caltrans also maintains a database of DBE contractors that are ready, willing and able to bid for DOT-funded contracts. The database includes the categories of work each contractor provides and the location of the business. The first step in the annual goal setting process is to define the DOT-funded projects that will go out to bid during the year. Next, staff must determine the categories of work involved in each project. The goal is then calculated by comparing the number of DBE firms to the total available firms in the local market for each category of federally funded work planned during the year.

It is common for DBE participation goals to fluctuate on a year-to-year basis due to changes in the number, type, and categories of federally-funded projects and the number of registered DBE firms. Since each jurisdiction calculates its annual DBE participation goal based upon its particular federally funded projects, comparisons to other jurisdictions are typically not meaningful because these projects are generally not the number, type and/or category that the City of Palo Alto would be performing.
Council approval of the DBE Program and goal is not required since there have been no material changes to the City’s DBE Program from the prior year and the 2004-05 DBE participation goal has been established based upon strict criteria specified by the federal guidelines. Therefore, staff is bringing the DBE Program to Council for informational purposes only.

DISCUSSION
Utilizing the federal regulations, staff has established a DBE participation goal of 14.0 percent in 2004-05. Data related to one potential DOT-funded project, the Intermodal Transit Center Retrofit Project, was used in the development of this goal. This is the only DOT-funded project that may go out to bid in 2004-05. It is expected that this project will have a federal funding amount of $247,507 and one category of work (environmental consulting) during the coming year. To determine the 2004-05 DBE goal, staff identified the DBE firms in a seven-county geographical area (Santa Clara, San Mateo, San Francisco, Alameda, Contra Costa, Santa Cruz and Solano counties) available to perform work in this work category. Staff selected these seven counties based upon the City’s past experience with contractors willing to work on federally funded projects. Utilizing the Caltrans database, the total number of DBE firms in this designated work category was compared to the total available contractors. This analysis resulted in the establishment of an overall DBE goal of 14.0 percent for federal fiscal year 2004-05 as shown in Attachment B. This goal represents an increase from the prior year goal of 2.5 percent.

On September 15, 2004, the proposed 14.0 percent participation goal was submitted to Caltrans for its review and comment. On October 6, 2004, Caltrans provided preliminary approval of this goal. Following approval, the proposed goal was published in local newspapers, inviting public comment for 45 days. The comment period ended on December 4, 2004. No comments were received, nor have any been received in the last several years.

Staff submitted the updated goal to Caltrans in order to remain eligible to receive funding from the DOT on this project for federal fiscal year 2004-05, which begins on October 1, 2004 and ends on September 30, 2005.

In accordance with the City’s DBE Program, staff will continue to take the following actions to meet or exceed this goal and to ensure that DBEs have an equal opportunity to participate in the performance of the City’s federally funded contracts. These actions include: 1) placing DBE goals in bid solicitation documents; 2) making bid notices available to registered DBE contractors; 3) placing DBE contract clauses in all DOT-funded contracts; and 4) monitoring performance of both the prime contractor and any subcontractors in attaining DBE goals.

The City currently has the following DOT-funded projects underway:

<table>
<thead>
<tr>
<th>Project</th>
<th>Federal Funding</th>
<th>DBE Goal</th>
<th>DBE Participation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Homer Avenue Undercrossing Project</td>
<td>$2,701,000</td>
<td>3.0 %</td>
<td>6.0 %</td>
</tr>
<tr>
<td>Citywide Traffic Signal Upgrade Project</td>
<td>$885,000</td>
<td>3.0 %</td>
<td>3.9 %</td>
</tr>
<tr>
<td>Embarcadero Pedestrian/Bike Bridge &amp; Path</td>
<td>$800,000</td>
<td>3.0 %</td>
<td>3.5 %</td>
</tr>
<tr>
<td>Sand Hill Road Seismic Retrofit Project</td>
<td>$69,226</td>
<td>2.5 %</td>
<td>4.3 %</td>
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</tbody>
</table>
As the table indicates, these projects have DBE goals ranging from 2.5 percent to 3.0 percent. In every case, the bids received for these projects include a DBE participation amount that exceeds the established DBE goal.

**RESOURCE IMPACT**
The City currently has five transportation projects with federal financial support estimated to total $4,702,733. Compliance with the DBE Program allows the City to remain eligible to receive federal funds for these and all new transportation projects.

**POLICY IMPLICATIONS**
This report does not represent any change to existing City policy.

**ENVIRONMENTAL REVIEW**
Implementation of a DBE Program is not considered a project under California Environmental Quality Act. No environmental assessment is required.

**ATTACHMENTS**
Attachment A: Disadvantaged Business Enterprise Program  
Attachment B: 2004-05 DBE Goal Development Calculation

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