TO:                      HONORABLE CITY COUNCIL
FROM:                    CITY MANAGER          DEPARTMENT: ADMINISTRATIVE SERVICES
DATE:                    JANUARY 17, 2006    CMR: 100:06
SUBJECT:                 CITY OF PALO ALTO’S 2005-06 DISADVANTAGED BUSINESS ENTERPRISE (DBE) PROGRAM

This is an informational report and no Council action is required. Council approval of the DBE Program and goal is not required since there are no material changes to the City’s DBE Program from the prior year and the 2005-06 DBE participation goal has been established based upon strict criteria specified in the federal guidelines.

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 category 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. This is because other agencies generally do not have the same number, type and/or category of projects that the City of Palo Alto would be performing.

DISCUSSION
Utilizing the federal regulations, staff has established a DBE participation goal of 17.0 percent in 2005-06. Data related to two DOT-funded projects was used in the development of this goal (Page Mill, University, and Embarcadero Street Resurfacing Project with a federal funding amount of $829,729; and Municipal Service Center Fuel Station Relocation Project with a federal funding amount of $300,000). First, staff defined the main categories of work for these two projects. Next, 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 each of these categories. 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 these designated work categories was compared to the total available contractors. Staff then reviewed other known relevant data to determine what additional adjustments were needed to narrowly tailor the base goal to the City of Palo Alto marketplace and contracting program. Specifically, staff looked at its actual experience with federally funded projects and with the same type of work bid in the prior year. This analysis resulted in the establishment of an overall DBE goal of 17.0 percent for federal fiscal year 2005-06. This goal represents an increase from the prior year goal of 14.0 percent. This increase is due to the large number of DBE firms represented in the street resurfacing work category.

On September 29, 2005, the proposed 17.0 percent participation goal was submitted to Caltrans for its review and comment. On October 5, 2005, 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 3, 2005. No comments were received, nor have any been received in the last several years.

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 following DOT-funded projects are underway or have been recently completed:

<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>3.5 %</td>
</tr>
<tr>
<td>Citywide Traffic Signal Upgrade Project</td>
<td>$885,000</td>
<td>3.0 %</td>
<td>6.0 %</td>
</tr>
<tr>
<td>Embarcadero Pedestrian/Bike Bridge &amp; Path</td>
<td>$800,000</td>
<td>3.0 %</td>
<td>3.9 %</td>
</tr>
<tr>
<td>Intermodal Transit Center Retrofit Project</td>
<td>$247,507</td>
<td>14.0 %</td>
<td>14.5%</td>
</tr>
<tr>
<td>Sand Hill Road Seismic Retrofit Project</td>
<td>$69,226</td>
<td>2.5 %</td>
<td>4.3 %</td>
</tr>
</tbody>
</table>

* Each goal pertains to the type of work or trade for each project.
As the table indicates, these projects have DBE goals ranging from 2.5 percent to 14.0 percent. In every case, actual DBE participation exceeds the established DBE goal. It is important to note that Palo Alto’s DBE goal has increased significantly in the last two fiscal years (17.0 percent in 2005-06 and 14.0 percent in 2004-05). This is because the specific projects planned for these two fiscal years are in industries having high DBE involvement.

**RESOURCE IMPACT**
The City currently has four transportation projects with federal financial support estimated to total $2,262,236. 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.

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EMILY HARRISON  
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**ATTACHMENTS**
Attachment A: Disadvantaged Business Enterprise Program

cc: Arthur Duffy, DBE Coordinator, Caltrans