

RESOLUTION NUMBER 3756

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
PERRIS, CALIFORNIA, ADOPTING A RACE-NEUTRAL
DISADVANTAGED BUSINESS ENTERPRISE (DBE)
PROGRAM PLAN**

WHEREAS, the City of Perris has adopted a race-conscious Disadvantaged Business Enterprise Program; and

WHEREAS, the Ninth Circuit Court of Appeals, in a decision regarding the Washington State Department of Transportation, determined that sufficient evidence must exist to support the use of race-conscious measures on federal-aid contracts; and

WHEREAS, Caltrans conducted an assessment of its DBE program, including an extended public comment period, and determined that the use of race-conscious programs and goals could violate the Ninth Circuit ruling, which is controlling authority for California; and

WHEREAS, as of May 1, 2006, Caltrans adopted and began implementing the “California Department of Transportation Disadvantaged Business Enterprise Program Plan” (“Caltrans DBE Program”) to institute a solely race-neutral DBE program at both the state and local level; and

WHEREAS, the Caltrans DBE Program replaces the existing Caltrans race-conscious DBE program as well as all existing local agency DBE programs, unless a local agency program has been directly approved by a federal agency; and

WHEREAS, local agencies no longer have their own separate DBE programs, but must instead complete a “Disadvantaged Business Enterprise Race-Neutral Implementation Agreement” between the local agency and Caltrans; and

WHEREAS, rather than establishing their own DBE goals, local agencies are now required to calculate their Annual Anticipated DBE Participation Level (AADPL) based on factors set forth in the Local Programs Procedures, which revise the Local Assistance Procedures Manual to provide for a solely race-neutral program, and to submit the AADPL to Caltrans via the “DBE Annual Submittal Form” for the relevant federal funding year; and

WHEREAS, in order to comply with the new Caltrans DBE Program, local agencies must also make certain changes to all federal-aid contracts, including the addition of certain boiler plate provisions for all federal-aid construction contracts, and the inclusion of new exhibits to all federal-aid consultant contracts;

**NOW, THEREFORE, THE PERRIS CITY COUNCIL HEREBY RESOLVES
AS FOLLOWS:**

Section 1. The City of Perris hereby adopts its DBE Program and authorizes the City Manager to take the following actions:

- A. Execute the “Disadvantaged Business Enterprise Race-Neutral Implementation Agreement” on behalf of the City Council, pursuant to legal counsel review;
- B. Execute the Local Agency “DBE Annual submittal form” on behalf of the City, pursuant to legal counsel review;
- C. Approve modifications required by Caltrans to the City’s model federal-aid construction agreement and model federal-aid construction agreement and model federal-aid professional services agreement, pursuant to legal counsel review.

Section 2. The City of Perris hereby adopts .47% as its annual anticipated DBE participation level (AADPL) for the federal funding year 2006-2007, based on the methodology set forth in Exhibit “A” to this Resolution.

ADOPTED, SIGNED and **APPROVED** this 29th day of August, 2006.

Mayor, Daryl R. Busch

ATTEST:

City Clerk, Judy L. Haughney

STATE OF CALIFORNIA)
COUNTY OF RIVERSIDE) §
CITY OF PERRIS)

I, Judy L. Haughney, CITY CLERK OF THE CITY OF PERRIS, CALIFORNIA, DO HEREBY CERTIFY that the foregoing Resolution Number 3756 was duly and regularly adopted by the City Council of the City of Perris at a regular meeting thereof held the 29th day of August, 2006, and that it was so adopted by the following called vote:

AYES: Rogers, Yarbrough, Landers, Motte, Busch
NOES:
ABSENT:
ABSTAIN:

City Clerk, Judy L. Haughney

EXHIBIT "A"
(RESOLUTION NUMBER 3756)

CITY OF PERRIS FEDERAL FISCAL YEAR 2006-07
Annual Anticipated DBE Participation Level (AADPL)

The City of Perris is required to calculate the level of DBE participation and utilization that the city expects can be achieved on contracts that are to be awarded within its jurisdiction in the following federal fiscal year. The information must be provided to Caltrans, for Caltrans' use in establishing the statewide overall DBE goal.

I. GOAL METHODOLOGY

The following methodology was used in establishing the AADPL for FY 2006-07:

- NUMERATOR – DBE firms in the four county area (Riverside, San Bernardino, Los Angeles, and Orange)
- DENOMINATOR – Total number of construction firms, the work category identified within the four-county area based on the more recent available data from the U.S. Census Bureau – 2003

Under the construction/consulting categories, the following lists the number of DBEs in each of the four county areas:

CONSTRUCTION

CALTRANS DBE CODE	NAICS CODE	COUNTY	COUNTY	NO. OF FIRMS
19	037		Los Angeles	12,300
30	059		Orange	6,373
33	065		Riverside	3,938
36	071		San Bernardino	3,142
			TOTAL	25,753

Of the 25,753 firms, there are 552 identified available DBE firms in the Caltrans DBE directory of firms in the construction work codes that operate within the four-county areas.

CONSULTING SERVICES

Caltrans DBE Code	NAICS County Code	Count	No. of Firms
19	037	Los Angeles	27,664
30	059	Orange	12,184
33	065	Riverside	2,502
36	071	San Bernardino	2,057
		TOTAL	44,407

Of the 44,407 firms, there are 1,341 identified available DBE firms in the Caltrans DBE directory of firms in the consultant services work codes that operate within the four-county areas.

Please note that for this fiscal year, there are two construction awards.

WORK CATEGORY	AMOUNT OF FY 06-07 CONTRACTS	ESTIMATED AMOUNT OF FEDERAL FUNDS	% OF FEDERAL FUNDS
Consultant Services	.00	.00	0
Construction (including materials and trucking)	5,500,000	1,200,000	22%

The formula that is provided to determine calculation of DBE goal is as follows. The weighted Base Figure is calculated by first determining the number of ready, willing, and able DBEs in the four counties for the work category shown above, divided by the number of total firms in the category. Using this method determines the availability by the number of firms that have directly participated in, or attempted to participate in, past federally-funded assisted contracting efforts.

The application of the formula yields the following baseline information:

$$\frac{\text{Number of Ready, Willing and Able DBEs}}{\text{Number of All Ready, Willing and Able Firms}} = \text{Base Figure}$$

The Base Figure resulting from the calculation is as follows:

A. Construction

$$\frac{552}{25,753} = 2.14\%$$

B. Consulting Services

$$\frac{1,341}{44,407} = 3.02\%$$

C. Base Figure

Using the percentage of federal funds projected to be available for FY 2006/076 and the percentage of available for each DBEs for each work category, the result is a base figure of .47%

$$0.22 \frac{(552)}{25,753} + 0.00 \frac{(1,341)}{44,407} = 0.0047$$

II. ADJUSTMENTS TO THE BASE FIGURE:

Staff reviewed and assessed other known relevant evidence to determine what additional adjustments, if any, were needed to adapt the Base Figure to the four-county area marketplace. Several factors, as outlined in the Local Programs Procedures process for establishing the AADPL, were considered to see if there was a need to adjust the base goal. Since the city has not utilized any federal funds since 2004, staff recommends that the city adopts its base figure and proposed Annual Anticipated DBE Participation Level (AADPL) for FY 2006-2007 at .47%.

III. ANTICIPATED PROJECTS FOR FISCAL YEAR 2006/07

The following projects represent the projected federally funded contractors for DBE fiscal year beginning October 1, 2006 through September 30, 2007.

A.	Murrieta Road Rehabilitation		
	Estimated Total Amount of Contract:	\$	400,000.00
	Estimated Federal Funds:	\$	300,000.00
B.	Case Road Bridge Improvements		
	Estimated Total Amount of Contract:	\$	1,300,000.00
	Estimated Federal Funds:	\$	900,000.00

IV. ESTABLISHMENT OF AADPL

Based on the information presented, it is proposed that the City Council overall AADPL for federal FY 2006/07 be established at .47%.