

COUNCIL MEETING  
August 1, 2006

Honorable Mayor and Members  
of the City Council  
City Hall  
Torrance, California

Members of the Council:

**SUBJECT:** Adoption of Torrance Transit's Overall Annual Disadvantaged Business Enterprise (DBE) Goal of 2% for Federal Fiscal Year 2006/2007

**RECOMMENDATION**

Recommendation of the Transit Director that City Council approve the Overall Annual DBE Goal of 2% for FFY 2006/2007, developed in conformance with revised Title 49 CFR Part 26 provisions; *Participation by Disadvantaged Business Enterprises in U.S. Department of Transportation (DOT) Programs and New Policy Race Neutral Directives*, for submission to the funding operating administration, the Federal Transit Administration (FTA).

**FUNDING**

City Council approval of the Overall Annual DBE Goal for FFY 2006/2007 is required to ensure compliance with DOT's funding agreements. Failure to do so will compromise Torrance Transit's DOT financial assistance.

**BACKGROUND AND ANALYSIS**

*DOT New Policy Race Neutral Directives*

As a direct recipient of federal funds, Torrance Transit has developed its Overall Annual Goal for DBE participation in its Federal Fiscal Year 2006/07 DOT-assisted contracts. However, in response to new policy race neutral directives issued by the Department of Transportation, Torrance Transit will implement its DBE Overall Annual Goal race neutrally. In a wholly race-neutral program, the recipient does not set contract goals on any of its U.S. DOT-assisted contracts for which DBE subcontracting possibilities exist.

Therefore, effective April 24, 2006, Torrance Transit has implemented a wholly race-neutral Disadvantaged Business Enterprise (DBE) program based upon the absence of readily available evidence of discrimination or its effects on Torrance Transit's marketplace to sufficiently support the

use of race-conscious measures in the implementation of its DBE Program.

The application of race neutral measures is in direct response to the Ninth Circuit U.S. Court of Appeals decision in the Western States Paving Co. v. United States & Washington State Department of Transportation, whereby the Federal Transit Administration (FTA) issued a NOTICE (guidance) (Docket No. FTA-2006-24063) on March 23, 2006 stipulating a New Policy implementation and requests for comments to Public Transportation Providers regarding DOT's DBE Program. As such, each recipient is requested to do the following:

- ❑ If a recipient does not currently have sufficient evidence of discrimination or its effects, then the recipient would submit an all race-neutral overall DBE goal for FFY 2006/07.
- ❑ The recipient submission shall include a statement concerning the absence of adequate evidence of discrimination and its effects and a description of plans to either conduct a disparity/availability study or other appropriate evidence gathering process to determine the existence of discrimination or its effects on the recipient's marketplace.
- ❑ An action plan describing the study and timeline for its completion should also be included.

Based upon Torrance Transit's review of the new policy requirements, Torrance Transit has determined that it is not feasible to conduct its own independent disparity study. However, it is Torrance Transit's understanding that the California Department of Transportation (Caltrans) and the Los Angeles County Metropolitan Transportation Authority (MTA) will be conducting disparity studies to assess the existence of discrimination or its effects in the corresponding marketplace. Caltrans' study is anticipated to be completed May 2007. Torrance Transit will actively participate in both these studies and utilize all relevant results in its application of future goal setting analysis.

#### Overall Annual DBE Goal

As a direct recipient of DOT grant funds, and in response to federal regulations set forth in Title 49 CFR Part 26 and DOT new policy directives, Torrance Transit is required to annually develop and calculate a narrowly tailored goal for DBE participation in Torrance Transit's DOT-assisted contracts. In accordance with these DBE regulations, Torrance Transit has developed an Overall Annual Goal for five (5) contracts to be awarded and/or expended this federal fiscal year. This analysis is performed annually to maintain relevancy to local market conditions and factors potentially impacting DBE availability.

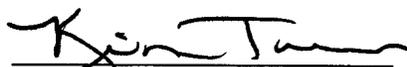
The recommended Overall Annual DBE Goal for Torrance Transit's DOT-assisted contracting program for FFY 2006/2007 is 2%. The goal was established utilizing the federal two-step goal setting methodology as prescribed by regulation, and represents the level of DBE participation that could reasonably be expected on federal-aid contracts. The overall annual DBE goal for FFY 2006/07 is the same as in FFY 2005/06 and 2004/2005. Based on the current data available, Torrance Transit's current average goal attainment on its Specialized Transportation Service Providers contracts of 2% is consistent with the Overall Annual DBE Goal.

Torrance Transit will utilize strictly race-neutral measures to foster DBE attainment, including unbundling of contracts, technical assistance, and proactive, targeted outreach to small businesses to increase its contracting base of capable and interested firms with potential for DBE certification.

Torrance Transit is fully committed to fulfilling the spirit and intent of Title 49 CFR Part 26 and the new policy race neutral directives in all its DOT-assisted contracting and hereby recommends that the Council authorize the Transit Director to implement a wholly race neutral DBE goal as set forth in this report, to effectuate Torrance Transit's full compliance with U.S. DOT DBE federal regulations and financial assistance agreements.

Additionally, Public Outreach was initiated on July 24, 2006 with a series of letters that included a copy of the proposed goal and goal setting methodology being sent to DBE community leaders. In addition, Public Notice of the proposed goal will be published in two area publications.

Respectfully submitted,



Kim Turner  
Transit Director

CONCUR:



LeRoy Jackson  
City Manager

Attachment: Overall Annual DBE Goal for FFY 2006/07



**TORRANCE TRANSIT  
DISADVANTAGED BUSINESS ENTERPRISE (DBE)  
OVERALL ANNUAL DBE GOAL AND METHODOLOGY  
FOR  
FEDERAL FISCAL YEAR (FFY) 2006/07  
(Covering the period of October 1, 2006 to September 30, 2007)**

**I. INTRODUCTION**

Torrance Transit is required to develop and submit a Disadvantaged Business Enterprise (DBE) Overall Annual Goal for DBE participation as a condition of receiving federal assistance, pursuant to Section 1101 of the Transportation Equity Act for the 21<sup>st</sup> Century; 49 CFR Part 26 "Participation by Disadvantaged Business Enterprises in U.S. Department of Transportation Programs"; and the Federal Transportation Administration (FTA) Master Agreement.

**II. BACKGROUND**

Effective April 24, 2006, Torrance Transit implemented a wholly race-neutral Disadvantaged Business Enterprise (DBE) program in accordance with directives issued by the Department of Transportation. As a result of the Ninth Circuit U.S. Court of Appeals decision in the Western States Paving Co. v. United States & Washington State Department of Transportation, the Federal Transit Administration (FTA) issued a NOTICE (guidance) (Docket No. FTA-2006-24063) on March 23, 2006 stipulating a Notice of New Policy implementation and requests for comments to Public Transportation Providers regarding DOT's DBE Program.

**PERTINENT ASPECTS OF THE GUIDANCE (NOTICE):**

- If a recipient does not currently have sufficient evidence of discrimination or its effects, then the recipient would submit an all race-neutral overall DBE goal for FY 2007.
- The recipient submission shall include a statement concerning the absence of adequate evidence of discrimination and its effects and a description of plans to either conduct a disparity/availability study or other appropriate evidence gathering process to determine the existence of discrimination or its effects on the recipient's marketplace.

- An action plan describing the study and timeline for its completion should also be included.
- Effective April 24, 2006, FTA recipients, are required to implement a race-neutral DBE Program to ensure compliance with the Ninth Circuit Court's decision in the *Western States v. United States & Washington State DOT* ruling.
- Recipients will be required to continue to monitor, collect and report participation and utilization of DBEs on Federal-aid contracts.
- All DOT Federal-Aid procurements shall contain Race-Neutral DBE solicitation and contract language.
- Recipients may no longer advertise and award contracts with DOT Federal-aid funds containing race-conscious DBE goals.

**Accordingly, Torrance Transit hereby presents its Overall Annual DBE Goal Methodology for FFY 2006/07.**

### III. DOT-ASSISTED CONTRACTING PROGRAM FOR FFY 2006/07

**Table 1** represents Torrance Transit's DOT-assisted contracting program that were considered in preparing its **Overall Annual DBE Goal-Setting Methodology**. All projects are anticipated to be awarded within the upcoming federal fiscal year 2006/07. Additionally, these projects have viable contracting and subcontracting possibilities, required criteria for goal-setting consideration:

**Table 1**

PROJECT	Total Estimated Project Cost	Estimated Federal Dollar Share
Office/Admin Remodel	\$200,000.00	\$160,000.00
Engines and Transmissions	\$200,000.00	\$160,000.00
Transit Enhancements	\$182,500.00	\$146,000.00
Supervisor Vehicles (4)	\$100,000.00	\$80,000.00
Relief Vehicles (3)	\$56,250.00	\$45,000.00
<b>TOTAL USED IN ANALYSIS</b>	<b>\$738,750.00</b>	<b>\$591,000.00</b>
<b>Exempted Projects</b>		
Bus Tires	\$150,000.00	N/A
Preventive Maintenance	\$2,140,000.00	N/A
<b>TOTAL OF EXEMPTED PROJECTS</b>	<b>\$2,290,000.00</b>	<b>\$0.00</b>

**Table 2** provides a summary of work grouped into one primary category: Professional Services, utilizing the North American Industry Classification System (NAICS) work categories and comparable 2003 Census Business Patterns NAICS Work Codes. **Table 2** also serves to identify the estimated Federal Dollar Share and Percent of Federal Funding, as follows:

**Table 2**

CONTRACT TYPE	CUCP 2002 NAICS WORK CATEGORY	ESTIMATED FEDERAL DOLLAR SHARE	% OF FEDERAL FUNDING
Construction	237310	-0-	0 %
Professional Services	237990	-0-	0%
Materials & Supplies	236220	\$ 591,000.00	100 %
<b>TOTAL</b>		<b>\$ 591,000.00</b>	<b>100 %</b>

#### IV. GOAL METHODOLOGY

### **Step 1: Determination of a Base Figure (26.45)<sup>1</sup>**

To establish Torrance Transit's Base Figure of the relative availability of DBEs to all comparable firms (DBE and Non-DBEs) available to propose on Torrance Transit's FFY 2006/07 DOT-assisted contracting opportunities projected to be solicited, Torrance Transit followed one of the five prescribed federal goal-setting methodologies in accordance with the 49 CFR Part 26 regulations. This was accomplished by accessing the **California Unified Certification Program (CUCP) Directory of Certified DBE Firms** and the **2003 U.S. Census Bureau County Business Patterns (CPB) Database**. Comparisons were made within Torrance Transit's market area (defined as Los Angeles County) and by specified industries and types of businesses identified in Table 2.

Torrance Transit made a concerted effort to ensure that the scope of businesses included in the numerator was as close as possible to the scope included in the denominator. For corresponding detail of all work category classifications grouped, refer to *Attachments I and II*. Torrance Transit's local market area represents where the substantial majority of Torrance Transit's contracting dollars are expended and/or where the substantial majority of contractors and subcontractors bids or quotes are received.

- For the numerator: CUCP Directory of Certified DBE Firms
- For the denominator: Census Bureau's Business Pattern Database

To determine the relative availability of DBEs, Torrance Transit divided the numerator<sup>2</sup> representing the ratio of ready, willing and able DBE firms, by the denominator<sup>3</sup> representing all firms (DBE and Non-DBEs) available in each work category. Application of this formula yielded the following baseline information:

$$\frac{\text{Number of Ready, Willing and Able DBEs}}{\text{Number of All Available Firms (including DBEs and Non-DBEs)}} = \text{BASE FIGURE}$$

The Base Figure was further adjusted by weighting the relative availability of DBEs grouped within the primary work category. The Base Figure resulting from this weighted calculation is as follows:

**Step 1: Base Figure: weighted by type of work to be performed and corresponding contracting dollars**

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<sup>1</sup> §26.45 represents Title 49 CFR Part 26 regulatory referenced section.

<sup>2</sup> Numerator represents all DBE firms established within TORRANCE TRANSIT's market area.

<sup>3</sup> Denominator represents all comparable available established firms.

### **Materials & Supplies**

$$\text{Base Figure} = 100 \% \left( \frac{\text{DBEs in 236220*}}{\text{CBPs in NAICS 233320**}} \right)$$

$$\text{Base Figure} = \left( 1. \frac{(43)}{2229} \right)$$

$$\text{Base Figure} = \left( 1. (.019291) \right)$$

$$\text{Base Figure} = \left( .01929 \right)$$

$$\text{Base Figure} = \left( .019291 \right)$$

$$\text{Base Figure} = 0.0193$$

$$\text{Base Figure} = (.0193) 100 = 1.93 = 2\%^{***}$$

\* For additional NAICS Codes from the California Unified DBE Directory, refer to Attachment I.

\*\* For additional NAICS Codes, refer to Attachment II.

\*\*\* Rounded to the nearest whole number

### **Step 2: Adjusting the Base Figure**

Upon establishing the Base Figure, Torrance Transit reviewed and assessed other known evidence potentially impacting the relative availability of DBEs within Torrance Transit's market area, in accordance with prescribed narrow tailoring provisions set forth under 49 CFR Part 26.45 Step II; DBE Goal Adjustment guidelines.

Evidence considered in making an adjustment to the Base Figure included Torrance Transit's *Past DBE Goal Attainments, Bidders List, Disparity Studies, and other Local Agencies' DBE Goals and Attainments within Torrance Transit's jurisdiction and Other Evidence*. A summary of these considered follows:

#### **A. Past DBE Goal Attainments**

While this is an important consideration in the overall goal setting analysis, Torrance Transit System has no historical records of DBE attainment. Additionally, the projects listed in the FFY 2005/06 analysis, are pending grant application approval. Torrance Transit System will continue to capture such information and will utilize this data in future goal-setting analysis.

#### **B. TORRANCE TRANSIT 's Bidders List**

Based on the Bidders List data collected to date, *Los Angeles County* serves to represent Torrance Transit's market area. However, Torrance Transit's Bidders List was utilized in establishing the Step 1 Base Figure and therefore will not be applied in considering adjustments under Step 2. Torrance Transit will continue to capture such information from all proposers at the time of proposal submission and will utilize such information in future goal-setting analysis.

### **C. Evidence from Disparity Studies**

Torrance Transit is not aware of any current disparity study results available within Torrance Transit's market area to consider any further adjustment to the Step 1 Base Figure. However, it is Torrance Transit's understanding that the California Department of Transportation (Caltrans) and the Los Angeles County Metropolitan Transportation Authority (MTA) will be conducting disparity studies to assess the existence of discrimination or its effects in the corresponding marketplace. Caltrans' study is anticipated to be completed May 2007. Torrance Transit will actively participate in both these studies and utilize all relevant results in its application of future goal setting analysis.

### **D. Other Agencies DBE Goals**

Torrance Transit System surveyed other DOT-recipients (local agencies) within its jurisdiction, with similar contracting programs to assess their DBE goals and actual attainments toward making an adjustment. Local agencies included in the survey were Los Angeles County Metropolitan Transportation Authority and Transportation Corridor Agencies. Using the most current data available, the DBE Goal established for Los Angeles County Metropolitan Transportation Authority (FFY 2005) was 4%, while the DBE Goal established for Transportation Corridor Agencies (FFY 2005) was 2%. Since the goal projections and attainments are in alignment with Torrance Transit System's Base Figure of 2%, no adjustment is recommended.

### **E. Other Evidence**

Torrance Transit did not receive any anecdotal evidence nor is aware of any other factors or adverse considerations that would have had a material affect on DBEs availability within Torrance Transit's market place, or on DBEs ability to participate (meeting bonding, insurance and financial requirements) in Torrance Transit's FTA-assisted contracting programs. Therefore, no goal adjustment was made in consideration of this factor. However, Torrance Transit will continue to explore and consider all available evidence that materially would affect the opportunities for DBEs to form, grow, and compete in Torrance Transit's FTA-assisted contracting programs.

## **OVERALL RESULTANT GOAL ADJUSTMENTS:**

After careful consideration of the above and other relevant factors, particularly, Torrance Transit's historical DBE attainments and its unique contracting program, the Base Figure of 2% was not adjusted, resulting to Torrance Transit's Overall Annual DBE Goal of 2%.

## **V. RACE-NEUTRAL MEASURES**

**The Overall Annual DBE Goal for FFY 2006/07 for TORRANCE TRANSIT's DOT-assisted contracts is 2%.** Torrance Transit will implement race-neutral measures to meet its overall Annual DBE Goal objectives, including but not limited to:

- Arranging timely solicitations, times for the presentation of bids, quantities, specifications, and delivery schedules in ways that facilitate DBEs and other small business firms' participation.
- Unbundling large contracts to make them more accessible to small businesses, requiring or encouraging Service Providers to subcontract portions of work that they might otherwise perform with their own work forces.
- Providing information and communications programs on contracting procedures and specific contract opportunities.
- Providing assistance to interested DBEs in obtaining bonding, lines of credit, and/or insurance requirements.

## **VI. PUBLIC PARTICIPATION AND FACILITATION**

In accordance with Public Participation Regulatory Requirements of Title 49 CFR Part 26, minority, women, local business chambers, and community organizations within Torrance Transit's market area will be provided an opportunity to review the goal analysis. Torrance Transit will prepare Outreach Consultation Letters advising the aforementioned business community of the proposed DBE goals analysis and availability for review.

Torrance Transit will also issue a Public Notice in a general circulation media and in at least one other minority focused media publishing Torrance Transit's proposed Overall Annual Goal for the FFY 2006/07 DOT-assisted contracts. Such Notice will inform the public that the proposed goal and rationale are available for inspection at Torrance Transit's principal office during normal business hours for 30 days following the date of the Public Notice and that the Torrance Transit will accept comments on the goal analysis for 45 days from the date of the Public Notice. The required public participation provisions will

be fully satisfied prior to submitting Torrance Transit's Overall Annual DBE Goal to FTA for final review and approval.

**TORRANCE TRANSIT SYSTEM  
DBE PARTICIPATION LEVEL  
FOR FEDERAL FISCAL YEAR 2006/07**

ATTACHMENT I

**ESTABLISHMENT OF THE NUMERATOR:**

# OF ESTABLISHED DBE FIRMS BY WORK CATEGORIES (CONSTRUCTION, PROFESSIONAL SERVICES AND MATERIALS & SUPPLIES) AND CORRESPONDING NAICS WITHIN TORRANCE TRANSIT SYSTEM'S MARKET AREA (DEFINED AS LOS ANGELES COUNTY)<sup>1</sup>

MATERIALS & SUPPLIES:	BY CORRESPONDING ZIP CODE																	TOTAL	
	900	902	903	904	905	906	907	908	909	910	911	912	913	914	915	916	917		918
238350 Finish Carpentry Contractors	6	2	1	0	1	1	0	0	0	2	0	0	0	3	0	0	5	0	21
238330 Flooring Contractors	3	1	0	2	1	1	1	0	1	0	1	0	0	1	0	0	0	0	11
325510 Paint and Coating Manufacturing	0	0	1	0	0	0	0	0	0	0	0	0	0	0	0	0	1	0	2
337127 Institutional Furniture Manufacturing	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
327991 Cut Stone & Stone Product Manufacturing	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
337124 Office Furniture (except wood) manufacturing	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
334419 Other Electrical Component Manufacturing	1	0	0	0	0	0	1	0	0	0	0	1	0	0	0	0	0	3	
336322 Other Motor Vehicle Electrical & Electronic Equipment Manufacturing	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	
336312 Gasoline Engine & Engine Parts Manufacturing	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	
336350 Motor Vehicle Transmission & Power Train Parts Manufacturing	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	
336340 Motor Vehicle Brake System Manufacturing	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	
336399 All Other Motor Vehicle Parts Manufacturing	0	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1	
423120 Motor Vehicle Supplies and New Parts Merchant Wholesalers	0	1	0	0	1	1	0	0	0	0	0	0	0	0	0	0	0	3	
424950 Paint, Varnish, and Supplies Merchant Wholesalers	0	0	0	0	0	1	0	0	0	0	0	0	1	0	0	0	0	2	
811198 All Other Automotive Repair and Maintenance	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	
<b>TOTAL</b>	<b>10</b>	<b>5</b>	<b>2</b>	<b>2</b>	<b>3</b>	<b>4</b>	<b>2</b>	<b>0</b>	<b>3</b>	<b>0</b>	<b>1</b>	<b>5</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>6</b>	<b>0</b>	<b>43</b>	

<sup>1</sup>: DATA SOURCE: California UCP Directory of Certified DBE Firms.

**TORRANCE TRANSIT SYSTEM  
DBE PARTICIPATION LEVEL  
FOR FEDERAL FISCAL YEAR 2006/07**

**ESTABLISHMENT OF THE DENOMINATOR**

**# OF ESTABLISHED DBE FIRMS BY WORK CATEGORIES (CONSTRUCTION, PROFESSIONAL SERVICES AND MATERIALS & SUPPLIES) AND CORRESPONDING NAICS WITHIN TORRANCE TRANSIT SYSTEM'S MARKET AREA (DEFINED AS LOS ANGELES COUNTY)<sup>1</sup>**

Major Category:		Less: All Other Firms	Total
NAICS CODE	NAICS DESCRIPTION		
238350	Finish Carpentry Contractors	389	389
238330	Flooring Contractors	310	310
325510	Paint and Coating Manufacturing	61	61
337127	Institutional Furniture Manufacturing	45	45
327991	Cut Stone & Stone Product Manufacturing	35	35
337124	Office Furniture (except wood) manufacturing	36	36
334419	Other Electrical Component Manufacturing	77	77
336322	Other Motor Vehicle Electrical & Electronic Equipment Manufacturing	31	31
336312	Gasoline Engine & Engine Parts Manufacturing	43	43
336350	Motor Vehicle Transmission & Power Train Parts Manufacturing	19	19
336340	Motor Vehicle Brake System Manufacturing	6	6
336399	All Other Motor Vehicle Parts Manufacturing	66	66
423120	Motor Vehicle Supplies and New Parts Merchant Wholesalers	860	860
424950	Paint, Varnish, and Supplies Merchant Wholesalers	82	82
811198	All Other Automotive Repair and Maintenance	169	169
<b>TOTAL NUMBER OF ESTABLISHED DBE FIRMS</b>		<b>2229</b>	<b>2229</b>

<sup>1</sup>: DATA SOURCE: 2001 U.S. Census Bureau: County Business Patterns, NAICS Work Category Codes