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**ADMINISTRATIVE INSTRUCTION**

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**SUBJECT:** Disadvantage Business Enterprise Program **NUMBER 115**

**REFERENCE:** Federal Guidelines when administering projects funded with Federal monies pursuant to 44 Code of Federal Regulations, Part 13 Subpart C, Section 13.36(e), as amended, and other requirements as may deemed applicable.

**SUPERSEDE:** NONE

**EFFECTIVE:** November 22, 2010

**I. PURPOSE**

The purpose of this policy is to:

1. Evidence the City of Emeryville's ("City") commitment to a policy of nondiscrimination in the conduct of its business, including the procurement of goods and services for federally funded projects. The City recognizes its responsibilities to the community in which it operates and to the society it serves and reaffirms that commitment through adoption of this Disadvantaged Business Enterprise<sup>1</sup> ("DBE") Program contained within this Administrative Instruction.
2. In October, 2010 Emeryville established a DBE Program in accordance with the regulations of the U.S. Department of Transportation ("DOT"), 49 CFR, Part 26<sup>2</sup> which applies to all DOT-assisted projects and this Administrative Instruction would extend this commitment to all Federally funded projects pursuant to 44 CFR, Part 13 Subpart C, Section 13.36(e)<sup>3</sup>, as amended, and other requirements as maybe deemed applicable.
3. Ensure that all necessary affirmative steps are undertaken by the City to assure that firms owned by persons of color, women, and labor surplus area firms (collectively, referred to here as "Disadvantage Business Enterprises") are used when possible.

**II. POLICY**

It shall be policy of the City to encourage Disadvantaged Business Enterprises to fully participate in the City's procurement process. As such, the City shall make a good faith effort to increase the participation in bidding of Disadvantaged Businesses Enterprises for the procurement of goods

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<sup>1</sup> A DBE is a for-profit, small business concern that is: (i) at least fifty-one percent (51%) owned and/or controlled by one or more individuals who are both socially and economically disadvantaged, or, women (WBE); (ii) a Small Business Enterprise (SBE); or (iii) a Labor Surplus Area Firm (LSAF).

<sup>2</sup> 49 Code of Federal Regulations, Part 26 is a policy to ensure that DBEs have an equal opportunity to receive and participate in DOT-assisted contracts.

<sup>3</sup> 44 CFR, Part 13 Subpart C, Section 13.36(e) ensures that all necessary affirmative steps are undertaken to assure that DBEs are used in federally funded projects with state or local governments.

and services for federally funded projects.

1. The DBE Program goals are as follows:

- A. To create a level playing field on which DBEs can compete fairly and participate fully in the performance of all Federally funded contracts and subcontracts;
- B. To help remove barriers in the participation of DBEs in Federally funded contracts and subcontracts;
- C. To ensure nondiscrimination on the basis of race, color, national origin or sex in the award and administration of Federally funded contracts and subcontracts;
- D. To ensure that the DBE Program is narrowly tailored in accordance with applicable laws;
- E. Total requirements of a project will be divided when economically feasible, into small tasks or quantities to permit maximum participation of DBEs;
- F. To assist the development of firms that can compete successfully in the marketplace outside the DBE Program; and
- G. To ensure that only firms that fully meet 44 CFR, Part 13 eligibility standards are permitted to participate as DBEs.

2. The responsibility for carrying out the City's commitment is delegated to the DBE Liaison Officer. The City Manager will rely upon the assistance of the DBE Liaison Officer in the day-to-day implementation of this Policy. However, all Department Managers, Division Managers and other employees share in the responsibility for making the City's DBE Program a success by interfacing with the DBE Liaison Officer during the planning phases of upcoming projects prior to seeking federal funding.

#### V. SUMMARY

The City of Emeryville is dedicated to ensuring nondiscrimination in the conduct of its business, including the procurement of goods and services. The DBE Liaison Officer is here to serve the community as a whole to coordinate and ensure equal access and provide a level playing field on which DBEs can compete fairly and participate fully in the performance of federally funded projects within the City. Any questions or concerns about the DBE Program should be directed to the City of Emeryville DBE Liaison Officer.



Patrick O'Keeffe, City Manager