

Exhibit "A"

DISADVANTAGED BUSINESS ENTERPRISE (DBE) PROGRAM FOR SAN MATEO COUNTY DEPARTMENT OF PUBLIC WORKS

ANNUAL OVERALL GOAL 2004/2005

The amount of overall goal, methodology, breakout of estimated race-neutral and race-conscious participation, and any DBE program updates are presented herein in accordance with Title 49 of the Code of Federal Regulations Part 26, and as described in the *Local Assistance Procedures Manual*.

The County of San Mateo California submits our annual overall goal information for your review and comment. We have established an annual overall DBE goal of 10% for the Federal Fiscal Year 2004/2005, beginning on October 1, 2004 and ending on September 30, 2005.

Methodology

Data for one federal funded project was used in the development of the DBE goal. All of the contracting opportunities in this project are covered by one NAICS code, 237310 (Census 234110), Highway and Street Construction. The field was more narrowly tailored by license types (utilizing the website: http://www.dot.ca.gov/hq/bep/dbe_query.htm) related to the project work. The project is a Safe Routes to School project that will use contractors licensed as C08, Concrete Contractor; C12, Earthwork and Paving Contractor; C32 Parking and Highway Improvement Contractor; D06 Concrete Related Services; and D42, Sign Installation. The total DBEs defined as willing to work either in San Mateo County or statewide were compared to the total available contractors located in San Mateo County's geographic service area of seven counties – Alameda, Contra Costa, San Francisco, San Joaquin, San Mateo, Santa Clara and Stanislaus by utilizing the United States Census Website (www.census.gov/epcd/www/naics.html). This comparison resulted in a base goal of 10%. Upon establishing the base goal, we looked to more narrowly tailoring the goal. It was ascertained that past projects were very different from the one project for this year and would not be an accurate reflection of DBE capacity in the type of work being performed this year. Therefore there was no adjustment to the base goal of 10% for the DBE participation in San Mateo County, Department of Public Works' DOT- assisted contracts projected to be expended in FY 2004/2005.

Additionally, in reviewing past goals and participation, it was determined that the carry-over of projects made it difficult to project an estimate of DBE participation that would meet the 10% goal. The 10% greatly exceeds our last two goals of 3% for 2002/2003 and 2.9% for 2004/2005; therefore, San Mateo County Department of Public Works plans to achieve the 10% DBE goal utilizing a contract goal of 10% for the one Federally funded project in Federal Fiscal Year 2004/2005

Breakout of Estimated Race-Neutral and Race-Conscious Participation

Of the overall annual 10% goal for DBE participation, the Department estimates the race-conscious participation goal to be 10% and the race-neutral participation goal to be 0%. The 10% race-conscious annual goal will be accomplished by establishing a specific contract goal of 10% on the one Federally funded project. The contract does have sub-contracting possibilities.

DBE Program Updates

Section XII Required Contract Clauses of the County's DBE Program is amended by deleting the portions titled Satisfactory Performance and Release of Retainage and replacing them with the following:

Prompt Progress Payment to Subcontractors

A prime contractor or subcontractor shall pay a subcontractor not later than 10 days of receipt of each progress payment in accordance with the provisions in Section 7108.5 of the California Business and Professions Code concerning prompt payment to subcontractors. The 10 days is applicable unless, a longer period is agreed to in writing. Any violation of Section 7108.5 shall subject the violating contractor or subcontractor to the penalties, sanction and other remedies of that section. Federal regulation (49 CFR 26.29) requires that any delay or postponement of payment over 30 days of receipt of each payment may take place only for good cause and with the agency's prior written approval. These requirements shall not be construed to limit or impair any contractual, administrative, or judicial remedies otherwise, available to the prime contractor or subcontractor in the event of a dispute involving late payment, or nonpayment by the prime contractor, deficient subcontract performance, or noncompliance by a subcontractor. This provision applies to both DBE and non-DBE prime contractors and subcontractors.

Prompt Payment of Withheld Funds to Subcontractors

The County holds retainage from the prime contractor and shall make prompt and regular incremental acceptances of portions, as determined by the agency of the contract work and pay retainage to the prime contractor based on these acceptances. The prime contractor or

subcontractor shall return all monies withheld in retention from all subcontractors within 30 days after receiving payment for work satisfactorily completed and accepted including incremental acceptances of portions of the contract work by the agency. Any delay or postponement of payment may take place only for good cause and with the agency's prior written approval. Any violation of these provisions shall subject the violating prime contractor to the penalties, sanctions, and other remedies specified in Section 7108.5 of the California Business Professions Code. This requirement shall not be construed to limit or impair any contractual, administrative, or judicial remedies otherwise, available to the prime contractor or subcontractor in the event of a dispute involving late payment, or nonpayment by the contractor, or deficient subcontractor's performance, or noncompliance by a subcontractor. This clause applies to both DBE and non-DBE subcontractors

Public Notice Comments

A Public Notice was published August 2004 in available minority-focused media and trade association publications (Small Business Exchange,-August 12-18 and The Challenge News-August 10, 2004), and August 10, 2004, in general circulation media (Redwood City Tribune) per 49CFR, Part 26, Section 26.45(g) (2). No comments were received during the 45-day comment period.