Caltrans Statewide Small Business Council
Minutes of Meeting – February 17, 2006

Caltrans, Office of Civil Rights
1823 14th Street, Room 207
Sacramento, CA 95814
Telephone: (916) 324-0449

Statewide Council Members Present:

Paul Guerrero, California Small Business Entrepreneurs, Inc.
K.C. Chaudhary, CELSOC
Eddy Lau, Asian American A&Es, San Francisco
Rebecca Llewellyn, WCOE
William Yang, Asian-Am A&Es – So Cal
Ezekiel Patten, Black Business Association
Raul Fernandez, Filipino-Am Society of A&Es- So Cal
Fred Jordan, S.F. Black Chamber of Commerce
Jeffrey Lee Jackson, American Indian Apprenticeship
Dennis Trinidad, Small Business Advocate, Governor's Office
Johnathan Hou, Asian Business Assoc.
Steve Sullivan, CA DVBE Alliance
Diana LaCome, National Concilio of America (NCA)
Stephen McGlover, California Community Connection Corp.
Alfred Quevedo, Society of American Military Engineers (SAME)
Roy Perez, Perez & Associates
Jordi Grant, American SubContractors Association of California, Inc.

Caltrans Staff Present:

Randell Iwasaki, Chief Deputy Director
Olivia Fonseca, Chair
Bijan Sartipi, District 4 Director
Angel Carrera, Civil Rights
Janice Salais, Civil Rights
Cris Galia, DPAC
Ginger Williford, Project Management
Esther Vicente, District 4
Steve Alston, DPAC
Nellie Richardson, District 11
Sonny Smith, District 7
Gene Shy, Local Areas

Guest Present:

Pat Padilla, Padilla & Associates
Laura Heringer, GCAP Services
Ernest Williams, Guest of Councilmember Stephen McGlover
Russell Snyder, AGC

Welcome/Introductions/Opening Remarks:

Chair Fonseca began the meeting by welcoming all attendees. Introductions were made around the room. She thanked everyone and especially new members Al Quevedo, representing Society of Military Engineers, Jordi Grant, representing the American Subcontractors Association of California and returning member, Roy Perez, representing California Manufactures. Chair Fonseca asked the new members to re-introduce themselves and to identify which organization they represent and which Committee interests their organization has. Each Committee Chair invited the new members to join their individual Committee. Chair Fonseca announced that Randy Iwasaki, Department Chief Deputy Director, expects to visit our meeting.

Council Action Needed: New Council members to identify their Committee interests by March 16, 2006.

ITEM #1: Approval of the November 18, 2005 SB Council Minutes

Chair Fonseca announced the November 18, 2005 minutes were corrected as addressed at the January 20, 2006 Council meeting.

Motion: Councilmember Lau
Second: Councilmember McGlover
Approved by consensus.

Chair Fonseca announced the January 20, 2006 minutes were not ready for release. Approval of the January 20, 2006 minutes was tabled.

Council Action Needed: Disseminate January 20, 2006 meeting minutes by March 17, 2006.

ITEM # 2: Update on the DBE Program

Mr. Carrera announced that Will Kempton, Caltrans Director, due to the community response, issued a 45-day extension of the Public Comment Forums. A copy of his memo was included in the member packets, detailing the purpose and scope of the forums and the revised schedule. In addition to public forums, a series of Local Agency meetings will be held and meeting with AGC, EUCA, etc. The public forums and Local Agency meetings will be held through March 20, 2006. When the extended public comment period closes, it will take the Department at least 30 days to analyze the data and a decision should be expected by mid- to late-April. Mr. Carrera further stated that the Request for proposal (RFP) is in final draft and includes input from the Council members that volunteered to review the draft RFP. Councilmember McGlover asked about the timeline for the Disparity Study. Chair Fonseca stated the RFP will be available to prospective contractors late February; final submission for proposal late March and award expected late April. The study will take 12 months from execution of the RFP.

Councilmember Lau introduced a cover letter dated January 10, 2005 from the Department of Public Works, City of Pasadena for a Request for Proposal (RFP). The RFP is for On-Call Construction Inspection Services for the State Route 710 Mitigation Project and the letter specifies proposals that are due no later than February 9, 2006 at 4:00 PM. His concern is that Local Agencies, such as the City of Pasadena, will change to a race neutral program prematurely. He cites from the letter on page 4 that, “The City has not established a Disadvantaged Business Enterprise (DBE) participation goal for this RFP, however, the City will recruit and encourage DBE firms to submit proposals for this RFP.”

Chair Fonseca stated the direction given by FHWA for the Department's highway funds might be different for the other transportation modal funds (air, rail, and mass transit). FHWA. FTA and FAA dictate the direction for their individual recipients, therein lie the challenges to the Department and local agencies as direct recipients of the FTA and FAA funds. The City of Pasadena's letter references the project in question is transit funded and not highway funded. Councilmember Hou asked if the City of Pasadena actions are compliant with to federal guidelines and definitions. Councilmember McGlover further asked what strategies have been employed to halt such actions and can we ask the Governor to step in? Chair Fonseca stated the agency is compliant as long as they are following their funding source guidance. She further indicated Norm Mineta, Secretary of the U.S. Department of Transportation has the authority to affect the three transportation modals to follow the same guidance, not the California Governor. Councilmember Quevedo asked how the federal government is looking at this. Chair Fonseca stated her understanding from the federal guidance is that each modal is issuing their own guidance. Further, that with respect to Disparity Studies performed by individual states, federal guidance shows a balanced approach to compliance with the issues raised in the court ruling.

Councilmember Llewellyn stated that more information, specific outreach is needed beyond the Small Business community and should extend to the general public. Mr. Carrera stated that a part of the Disparity Study is an "availability" goal. Chair Fonseca reminded the membership that the Department's approach continues to be "business as usual" and that Director Kempton supports a more positive message to the contracting and general public that a race conscious approach to the Department's contracting process is a valuable one.

ITEM #3: District Updates and Update on SR 125 Project

District 4: Esther Vicente reported the District continues to hold outreach events aimed at small businesses on Department construction projects. A local agency DBE presentation is scheduled for February 15, 2006 and a public comment forum March 1, 2006. Ms. Vicente also announced a Procurement Fair tentatively scheduled for April 11, 2006 in District 4. Councilmember Lau asked if DPAC could update the Council at the next meeting in regards to the pilot project to award Minor B contracts in 2-3 weeks or less. Mr. Steve Alston agreed to provide an update.

Council Action Needed: DPAC to provide update at March 17, 2006 meeting on pilot project to award Minor B projects in2-3 weeks.

District 7: Sonny Smith announced its DBE Public Forum is February 27, 2006. The Procurement Fair is planned for April 27, 2006. Councilmember McGlover acknowledged the success and full circle District 7 has in hosting procurement fairs. Councilmember McGlover further explained, for the new members on the Council, the history on initiating a procurement fairs, what makes it different from the usual government small business events and the positive outcomes on having actual contracts exchange hands across tables.

District 11: Nellie Richardson reported that the District is hosting its Procurement Fair on March 7, 2006. The Fair will feature elements of a small business on-the-spot procurement of Cal Cards and no-limit Purchase Orders in advance. Councilmember Jordan recommended the procurement fair announcement state how much is expected to be available for procurement and to identify what purchases are made using the VISA credit card. Councilmember Jordan asked if the California Strategic Sourcing, administered by Department of General Services (DGS) has any bearing on the procurement fairs. Chair Fonseca answered, no. Because the directive from DGS allows State Department to forgo the Strategic Sourcing only when the Department uses a certified SB or DVBE instead.

Commodities Committee Action Needed: District Procurement Fair Planning team to look into adding onto the flyers, the dollar amount and types of commodities available by CalCard and Purchase Orders at the procurement fairs.

California Transportation Ventures (CTV): Pat Padilla, representing the SR125 Developer, South Bay Express Way (SBX) provided an update on the two SR125 Design Build Projects (Toll Road and the Gap/Connector Projects), announcing that the Design Builder Otay Rivers Constructors (ORC) has committed to meet the overall DBE project goal of 12% for the **Toll Road Design Build Project** as of November 10, 2005 based on DBE subcontract awards. Additionally, as of December 31, 2005, ORC and SBX have reported combined DBE commitments amounting to $38,416,936.00 for the Toll Road Design Build Project. It was also reported that ORC had recently (January 2006) awarded a $1.4 million to a DBE firm for the Mainline Toll Plaza, after contract specific DBE goals were no longer applied since the overall Toll Road Project DBE goal had be met. Of the 1.4 million award, $721,632 (based on the amount of work which would be performed by the DBE's own workforce) would be credited to toward the overall project DBE goal for the Toll Road (thereby exceeding the overall 12% DBE project goal).

Ms. Padilla further reported that as of December 31, 2005, ORC has met 11% of the overall DBE project goal of 15% for the **Gap/Connector Design Build Project**, representing $11,488,313 awarded to DBEs. Additionally, as of December 31, 2005 ORC and SBX have reported combined DBE commitments amounting to $12,520,415 for the Gap/Connector. SR125 Quarterly DBE Goal Commitment and Attainments reports were disseminated to the council, covering the period from October 1, 2005 through December 31, 2005 for each of these projects. Pat additionally reported that ORC was anticipating awarding a minimum of a $3 million Landscaping contract to a DBE on the Gap/Connector Design Build Project which would close the gap on meeting the overall project DBE goal for this project significantly, dollars remaining to meet the project goal would amount to approximately, $1.7 million if this award is solidified. It was further reported that both of these projects were approximately 44% complete. Pat also disseminated to the council an Outreach Bulletin prepared by ORC, which included current and upcoming subcontracting opportunities.

Council Action Needed: Councilmember McGlover asked Councilmember Guererro and Councilmember Perez to prepare an article regarding the September 2005 Caltrans Small Business Council meeting and how that meeting was the impetus for ORC and CTV to meet and now exceed the DBE goal on the Toll Road project.

ITEM #4: Committee Updates

COMMODITIES:

Councilmember McGlover reported the committee continues to develop guidelines for successful procurement fairs with the assistance of Department staff Janice Salais, as well as District Small Business Liaisons. The guidelines include a post event evaluation report to District Directors. Councilmember McGlover strongly encouraged the Department to be a part of the Small Business Recognition Day scheduled for May 17, 2006 at the Sacramento Convention Center. As the Committee chair, Councilmember McGlover hopes to involve the District Small Business Liaisons with the Commodities Committee planning and direction.

Commodities Committee Action Needed: To add to the action item listing, host a videoconference meeting with all Caltrans Small Business Liaisons to obtain their support of the procurement fairs and brainstorm ideas to increase SB/DVBE participation.

See Action Item listing for the 2006 Commodities Committee goals and updates.

Council Action Needed: Councilmember Perez suggested a master calendar be developed for all Caltrans and significant small business events.

PROFESSIONAL SERVICES:

Councilmember Lau expressed his appreciation to Mr. Alston and staff for meeting with the Committee on February 16, 2006. He said the meeting was very productive. Steve Alston has assigned specific staff to address the different action item issues. The issues include the CAICE software (looking for affordable software), providing timely payments submittals to sub contractors, standardization of sub contractors payroll, selection criterion, the lack of oversight on DBE substitution on A & E contracts, formal protest filing process of A & E contracts. On the protest procedures, District 6 will be used as a pilot to obtain data on the process. Committee members will attend the Contract Manager's meeting to be held in Sacramento on March 21 and 22, 2006 at the Radisson Hotel. A new action item for the Committee is to obtain and review the final utilization of DVBE participation on state funded contracts to see if DVBEs are being substituted after award of contract.

Councilmember Guerrero said the Construction Committee has the same action item on prompt payment and he has letters from 2003 that indicate Caltrans is in compliance, but he does not agree since enforcement is not being done. The two Council Chairs agreed to coordinate the prompt payment action item issue for resolution since the issues were the same. See Action Item listing for the 2006 Professional Services Committee goals and updates.

Professional Services Action Needed: Add to Action Item listing DVBE final utilization report on A&E State contracts and coordinate issues with prompt payment.

CONSTRUCTION

Councilmember Llewellyn reported on several issues the committee continues to work on, such as Prompt Payment, a Uniform Contract Administration process between subcontractors and Caltrans Resident Engineers, use of temporary traffic strip tape (versus striping), temporary night time safety lane closures (Blue Light) which may require legislative action, and the Owner Controlled Insurance Program proposal. See Action Item listing for the 2006 Construction Committee goals and updates.

SPECIAL PRESENTATION

Chief Deputy Director, Randell Iwasaki encouraged the membership to participate in the Department's collection of statistical evidence of past or present discriminatory practices within the transportation contracting industry. Such practices include discriminatory effects on factors (i.e. availability, capacity, financial resources, and locality of businesses) related to a DBE's ability to compete for transportation contracts and testimony ascertaining discriminatory effects for each disadvantaged group separate from the rest. He stated that if sufficient data can be collected, a Disparity Study may not be necessary.

Chief Deputy Director Iwasaki spoke about six areas of disparate treatment, a change or impact of the current race conscious approach to the Department's contracting program, and that the bond measure for the Strategic Growth Plan should include the DBE Program. Councilmember Hou reminded the membership of the 1994 MTA report and Disparity Study. Chief Deputy Director Iwasaki added that in addition to gathering evidentiary data from contractors and subcontractors, we would seek the same from Local Agencies. Councilmember Sullivan suggested the Department adds closeout information and tie to the existing DBEs in California. He added that depending on the Local Agency funding stream, i.e. FHWA, FTA, etc., some of them are on a different level. Councilmember Hou restated the issues discussed earlier in the meeting regarding the City of Pasadena's letter.

Councilmember Jordan asked who sets the DBE goal for the bay bridge projects. Chief Deputy Director Iwasaki said the Department makes a recommendation and it is presented to the Toll Bridge Oversight Committee. The Chair of the Committee is Will Kempton and includes representatives from the Metropolitan Transit Authority, (includes the Bay Area Transit Authority) and the California Transportation Commission. Assembly Bill 144 created the Toll Bridge Oversight Committee membership and role.

DBE ANNUAL GOAL SUBCOMMITTEE

Councilmember Guerrero reported some of the issues discussed by the subcommittee; the need for a comprehensive vendor database by the Department, methodology for goal factoring, defining additional and specific action from the Disparity Study, and the possibility for providing Local Agencies with training in preparation of an impending Race Conscious-Race Neutral policy decision. See Action Item listing for the 2006 DBE Annual Goal Subcommittee goals and updates.

EXECUTIVE COMMITTEE

Council Chair Fonseca announced that the Executive Committee would be meeting with the Director on March 7, 2006.

ITEM #5: Public Comment/Good of the Order

Councilmember Trinidad reported the Governor's Strategic Growth Plan *GoCalifornia* ten-year cost estimate to achieve reduction in congestion and expanded throughput is $105.051 billion (capital and capital outlay support) plus $2 billion for air quality improvements and existing impacts related to ports and goods movement. He further reported that Governor Schwarzenegger met with U.S. SBA Administrator Hector Barreto, Jr. on February 8, 2006 and discussed the upcoming Small Business Recognition Day. Council-member Trinidad announced that the Governor is reauthorizing Executive Order 37 (State goals for Small Business procurement) and 43 (DVBE program and goals) and that a formal announcement is forthcoming. He also mentioned a Diversity of Small Business Owners event will be held possibly in the Fall 2006 in Southern California and Small Business Legislation Day in Sacramento on or about May 31, 2006.

Council Chair Fonseca thanked Councilmember Trinidad for his update and added that Councilmember Trinidad's report to this body would be placed as a standing item on the agenda and placed earlier on.

Chair Fonseca made note that several Councilmembers had already left the meeting. She indicated she understands members need to catch flights, etc. In order to accommodate all the agenda items, the future Committee reports by the Committee Chairs are to only address new action items and critical updates to the full Council. The Action Item listing updates should be referenced for detail.

For the record, Chair Fonseca reminded Council members of the Small Business Council Guidelines and their responsibilities as members. She specifically read, "Article IV – Membership, Section A (9)---No Primary or Alternate member shall use their membership on the Council or Committee for personal gain and or influence, as a means to obtain preliminary access to or obtain privileges to contract opportunities, contract administration, or access to government elected officials."

Chair Fonseca announced her plans to invite guest speakers to future Council meetings to address topics of interest, such as the Governor's Strategic Growth Plan, *GoCalifornia*, and the Department's policy on equipment rental rates.

Councilmember Guerrero offered to host the June 15, 2006 Small Business Council Committee meetings at his home in Stockton. Council Chair Fonseca thanked Councilmember Guerrero for his generous offer. She indicated coordination would be made with the District 10 Deputy Director to host the full Small Business Council the following day, June 16, 2006. In addition, this item will be on the March 17, 2006 Small Business Council meeting, since several members were absent at the time of his announcement.

Council Action Needed: Mention at the March 17, 2006 a change in the Council meeting location. Coordinate the June 16, 2006 SBC meeting with District 10 Director.

With no further business before the Council, the meeting adjourned at 12:55 p.m.

Next Meeting

March 17, 2006.

Approved by:

OLIVIA FONSECA
Deputy Director
Civil Rights