

**LANE TRANSIT DISTRICT
RESOLUTION NO. 2015-030**

A Resolution Adopting Revisions to
Lane Transit District's Disadvantaged Business Enterprise (DBE) Policy and Program

Pursuant to 49 CFR §26.23, Lane Transit District (LTD), agencies who let United States Department of Transportation-assisted contracts, including Federal Transit Administration (FTA) recipients receiving planning, capital, and/or operating assistance who will award prime contracts (excluding transit vehicle purchases) exceeding \$250,000 in FTA funds in a Federal fiscal year, must have a Disadvantaged Business Enterprise (DBE) program.

LTD's Board of Directors is responsible for establishing the DBE Policy and Program for the District.

LTD's General Manager is responsible for adherence to the DBE Policy and Program.

LTD's DBE Liaison Officer (DBELO) is responsible for implementing all aspects of the DBE Program and coordinating elements of the program with various LTD representatives who make decisions with respect to LTD contracts.

LTD has revised the DBE Policy to reflect a change in the DBELO from the former Purchasing Manager Jeanette Bailor to the present Director of Administrative Services Roland Hoskins.

The revised DBE Policy and Program documents reflecting this change are set forth in Exhibit A.

NOW, THEREFORE, BE IT RESOLVED:

LTD hereby adopts the DBE Policy and Program as set forth in Exhibit A, which is attached hereto and is incorporated herein by this reference.

Adopted by the LTD Board of Directors on the 15th day of July, 2015.

July 15, 2015

Date



LTD Board President

**LANE TRANSIT DISTRICT
DISADVANTAGED BUSINESS ENTERPRISE POLICY**

Revised July 2015

I. POLICY STATEMENT

Lane Transit District ("District") is committed to a Disadvantaged Business Enterprises (DBE) Program for the participation of "DBEs" in District contracting opportunities in accordance with 49 Code of Federal Regulations (CFR) Part 26, effective March 4, 1999, as may be amended ("Regulations"). The District has received federal financial assistance from the Department of Transportation; and as a condition of receiving this assistance, the District has signed an assurance that it will comply with 49 CFR Part 26 (see Appendix E). It is the policy of the District to ensure nondiscrimination on the basis of race, color, sex, or national origin in the award and administration of the U.S. Department of Transportation ("U.S. DOT")-assisted contracts. It is the intention of the District to ensure DBEs, as defined in 49 CFR Part 26, have an equal opportunity to receive and participate in contracting opportunities, and create a level playing field on which DBEs can compete fairly for contracts and subcontracts relating to the District's construction, procurement, and professional services activities.


The Lane Transit District Board of Directors is responsible for establishing the DBE policy of the District. The General Manager of the District is responsible for adherence to this policy. The DBE Liaison Officer is responsible for the development, implementation, and monitoring of a DBE Program for Contracts in furtherance of the District's nondiscrimination policy and to ensure that the DBE program is fully compliant with applicable law. It is the expectation of the Board of Directors and the General Manager that all District personnel shall adhere to the provisions and the spirit of this program.

This policy statement will be circulated to all District personnel and to members of the community who perform or are interested in performing work on District contracts. The complete DBE Program and overall annual goals analysis are available for review on the LTD website at www.ltd.org or at:

Lane Transit District
3500 East 17th Avenue
Eugene, Oregon 97403

The policy statement will be published in a newspaper of statewide (Oregon) general circulation at least once.

If you have any questions or would like further information regarding this program, please contact the assigned DBE Liaison Officer, Roland Hoskins, by telephone at 541-682-6100 or by fax at 541-682-6111.



Ronald J. Kilcoyne
General Manager

July 15, 2015
Date

LANE TRANSIT DISTRICT

DISADVANTAGED BUSINESS ENTERPRISE POLICY AND PROGRAM

I. GENERAL

A. Applicability

Lane Transit District of Oregon ("District") has established this Disadvantaged Business Enterprise (DBE) program in accordance with regulations of the U.S. Department of Transportation (U.S. DOT), 49 CFR Part 26. The District has received federal financial assistance from the U.S. DOT; and as a condition of receiving this assistance, has signed an assurance that it will comply with 49 CFR Part 26. The Program outlined herein applies to all District contracts that are funded, in whole or in part, by U.S. DOT federal financial assistance.

B. Objectives

The objectives of this Program are as follows:

1. To remove barriers to DBE participation in the bidding, award, and administration of District contracts;
2. To assist DBEs to develop and compete successfully outside of the Program;
3. To ensure that the Program is narrowly tailored in accordance with 49 CFR Part 26;
4. To ensure that the DBE program is fully compliant with applicable law and only DBEs meeting the eligibility requirements are allowed to participate as DBEs;
5. To identify business enterprises that are eligible as DBEs to provide the District with required materials, equipment, supplies, and services; and to develop a good rapport with the owners, managers, and sales representatives of those enterprises;
6. To develop communications programs and procedures that will acquaint prospective DBEs with the District's contract procedures, activities, and requirements and allow DBEs to provide the District with feedback on existing barriers to participation and effective procedures to eliminate those barriers; and
7. To administer the Program in close coordination with the various divisions and departments within the District so as to facilitate the successful implementation of this Program.

C. Prohibited Discrimination

The District shall not exclude persons from participation in, deny benefits to, or otherwise discriminate against any persons in connection with the award and performance of any contract governed by 49 CFR Part 26 on the basis of race, color, sex, or national origin. The District shall not directly, or through contractual or other arrangements, use criteria or

methods of administration that have the effect of defeating or substantially impairing accomplishment of the objectives of this program with respect to individuals of a particular race, color, sex, or national origin.

LTD does not use quotas in any way in the administration of this DBE program.

II. DEFINITIONS

The definitions of terms contained in 49 CFR §26.5 shall be used as definitions in the LTD DBE program and are hereby incorporated by reference. http://www.ecfr.gov/cgi-bin/text-idx?c=ecfr&tpl=/ecfrbrowse/Title49/49cfr26_main_02.tpl

III. RESPONSIBILITY FOR DBE PROGRAM IMPLEMENTATION

A. Duties of DBE Liaison Officer

Pursuant to 49 CFR § 26.23, the Program shall be administered by the DBE Liaison Officer, who shall be appointed by and report directly to the General Manager of the District. The current DBE Liaison Officer for the District is Roland Hoskins who may be contacted as follows:

Roland Hoskins
Director of Administrative Services
Lane Transit District
3500 East 17th Avenue
Eugene, Oregon 97403
Phone: 541-682-6100
E-mail: roland.hoskins@ltd.org

The DBE Liaison Officer will be the primary person responsible for implementing all aspects of this Program and will work closely with operating divisions and other departments and consultants of the District, including those who provide for legal, procurement, engineering, insurance, and other types of services, and who are responsible for making decisions relative to the District's construction, procurement, and professional service contracts. The DBE Liaison Officer:

1. Gathers and reports statistical data and other information as required by DOT;
2. Reviews third-party contracts and purchase requisitions for compliance with this program;
3. Ensures that bid notices and requests for proposals are available to DBEs in a timely manner;
4. Identifies contracts and procurements so that DBE goals are included in solicitations (both race-neutral methods and contract specific goals) and monitors results;
5. Analyzes District's progress toward goal attainment and identifies ways to improve progress;

6. Participates in pre-bid meetings;
7. Advises the General Manager and Board of Directors on DBE matters and achievement;
8. Participates with legal counsel and project director to determine contractor compliance with good-faith efforts;
9. Provides DBEs with information and assistance in preparing bids; and
10. Participates in DBE training seminars.

IV. ADMINISTRATIVE REQUIREMENTS

A. DBE Program Updates

The District will continue to carry out this program until all funds from U.S. DOT financial assistance have been expended. The District will provide to U.S. DOT updates representing significant changes in the program

B. DBE Financial Institutions

Pursuant to 49 CFR § 26.27, the DBE Liaison Officer shall explore the full extent of services offered by banks and other financial institutions that qualify as DBEs in the Eugene-Springfield area and determine areas in which the District reasonably may utilize their services. The District also shall encourage its prime contractors to use the services of DBE financial institutions. (There currently are no DBE financial institutions in Oregon that meet the needs of the District.)

An annual search will be completed in September of each year reviewing the State of Oregon Financial Institutions and the Federal Deposit Insurance Corporation (FDIC) list for minority-owned financial institutions.

C. DBE Directory

The Oregon Office of Minority, Women, and Emerging Small Business (OMWESB) Database Directory is a consolidated and automated directory that identifies firms that have been certified either as a minority-owned business enterprise (MBE), women-owned business enterprise (WBE), or disadvantaged business enterprise (DBE) by the OMWESB. This DBE Database is maintained and updated daily by the OMWESB. Pursuant to 49 CFR Part 26, the DBE Liaison Officer will use the DBE Database as the primary resource in developing overall and contract-specific DBE participation goals, and in conducting outreach and other activities to promote DBE participation in U.S. DOT contracts. The DBE directory of certified firms is available on the Internet at <http://www.cbs.state.or.us/external/omwesb/>. The directory is updated daily; it shall be distributed to contractors and made available at the District to the public on request. The DBE Database shall include the firm's name, address, telephone number, and types of work for which the firm is certified as a DBE. The DBE Database shall not in any way prequalify the identified DBE firms with respect to licensing, bondability, competence, or financial responsibility.

D. Bidders' List

Pursuant to 49 CFR § 26.11, the DBE Liaison Officer will create and maintain a bidders list consisting of all firms bidding or proposing on District contracts as prime contracts and bidding or quoting on subcontracts on U.S. DOT-assisted projects. For every firm, the following information will be included: firm name, firm address, firm status as a DBE or non-DBE, firm's age, and firm's annual gross receipts. The DBE Liaison Officer will maintain the confidentiality of any proprietary information in accordance with applicable Oregon and federal law. This information will be requested of all bidders as further described in Section IX below.

E. Dissemination of Policy Statement

Pursuant to 49 CFR § 26.23, the DBE Liaison Officer shall issue a signed and dated Policy Statement throughout the District and to the business community, including DBEs and non-DBEs that perform work on U.S. DOT-assisted contracts for the District. The entire Program will be made generally available to the public upon request. The Policy and Program will be available on the District website. It will be sent to the Office of Minority Women and Emerging Small Business at the State of Oregon and minority business organizations each time the goal is updated.

F. Reporting to Federal Transit Administration

The DBE Liaison Officer will continue to provide the reports regarding DBE participation required by the Regulations to the Federal Transit Administration (FTA).

G. Overconcentration

The District has not currently identified over-concentration in any of the types of work that are the subject of its procurements. The District will continue to monitor over-concentration when data becomes available.

H. Business Development Program

At this time there is no formal business development program.

I. Fostering Small Business Participation

The District is taking steps to eliminate obstacles to the participation by small business concerns in contracting opportunities including, but not limited to, the following:

- Eliminating or reducing unnecessary and unjustified bundling of contract requirements, such as restrictive bonding or insurance requirements, that may preclude small business participation in procurements as prime contractors.
- Each September, identify contracting opportunities by reviewing projects with involved departments and Finance staff and determining budgeted projects, developing a contracting plan for the year and then looking at individual

contracting opportunities, and determining the approach for best fostering small business participation.

- Upon identification of potential projects, a meeting will be held with small and disadvantaged business enterprises to get input from the community on contract participation.
- Requiring the prime contractors on certain contracts, such as construction or engineering contracts over \$1 million, to specify elements of the contract or specific subcontracts that are of a size and type that small businesses, including DBE businesses, can reasonably perform. Review possibility of requiring the contractor to set aside the contracting opportunity to small businesses only.
- Identifying alternative acquisition strategies and conducting outreach to small business forums to inform them of opportunities. The outreach will include working with prime contractors on large projects to ensure their subcontracting plan has included such an outreach program to small businesses.
- Monitoring the small business prime contractors or subcontractors to verify that they meet small business criteria.

V. DETERMINING OVERALL ANNUAL DBE PARTICIPATION AND ACHIEVING GOALS

Pursuant to 49 CFR § 26.45, the Board of Directors shall establish overall annual goals on a fiscal year basis for the participation of DBEs in all budgeted contracts utilizing FTA financial assistance. The overall annual goals shall be expressed as a percentage of the total amount of FTA funds that the District anticipates expending in the fiscal year. The District's overall annual goals represent the amount of ready, willing, and able DBEs that are available to participate in contracting opportunities and is reflective of the amount of DBE participation that the District would expect absent the effects of discrimination. The District intends to meet those goals to the maximum extent feasible through the race-neutral measures described in Section V. D.

A. Methodology for Setting Overall Annual DBE Goal

1. Projecting U.S. DOT-Assisted Contract Expenditures for Fiscal Year

In conjunction with the preparation and adoption of the budget for each fiscal year, the DBE Liaison Officer, in consultation with the appropriate District divisions and departments responsible for contracting activities, will conduct a thorough analysis of the projected number, types of work, and dollar amounts of contracting opportunities that will be funded, in whole or in part, by U.S. DOT federal financial assistance for the next three federal fiscal years. This analysis will exclude projected contract expenditures with transit vehicle manufacturers, which are exempt from the Program. The projection is shown in Appendix C.

2. Establishing a Base Figure

Pursuant to 49 CFR § 26.45(c), the District will develop a base figure based upon the projected budget for the next three federal fiscal years to express the

availability of DBEs as a percentage of all consultants, contractors, subcontractors, manufacturers, and suppliers in the relevant contracting markets. The District will follow one of the methodologies provided in the Regulations.

(a) Analyzing Available Businesses in the Relevant Contracting Markets

The DBE Liaison Officer, in conjunction with the appropriate District divisions and departments, will conduct a thorough analysis of the relevant contracting markets in which the District will solicit participation from consultants, subconsultants, contractors, subcontractors, manufacturers, and suppliers for the fiscal year. This analysis will include a description of geographical boundaries of the solicitations, the North American Industry Classification System (NAICS) for the types of work to be contracted, and any other indicators that the District determines to be relevant in defining its contracting markets for the fiscal year. The DBE Liaison Officer then will determine the total available businesses according to the relevant contracting markets, as shown in Appendix D. The DBE Liaison Officer will consult a variety of sources including, but not limited to, the District's Bidders' List, the U.S. Census County Business Patterns Database, and any relevant disparity studies that are available.

(b) Analyzing Available DBEs in the Relevant Contracting Markets

The DBE Liaison Officer will conduct a similar analysis to determine the DBEs that are available to participate as contractors, subcontractors, manufacturers, and suppliers in the projected contracts for the fiscal year. This analysis will include a description of the available DBEs relative to the geographical boundaries of the solicitations and the NAICS codes for the types of work to be contracted. The District will consult a variety of sources including, but not limited to, the OMWESB Database, the District's Bidders' List, the U.S. Census, and any relevant disparity studies that are available.

(c) Calculating the Base Figure

The DBE Liaison Officer will compare the available DBEs in the relevant contracting markets for the fiscal year to the available businesses in the relevant contracting markets for the fiscal year. The calculation will include a weighting factor according to the contract expenditure patterns and is shown in Appendix C.

3. Adjusting the Base Figure

Pursuant to 49 CFR § 26.45(d), the District will examine all the evidence available to determine if an adjustment is necessary to the base figure to reflect the level of DBE participation expected absent the effects of discrimination. Included among the typed of evidence that must be considered are the current capacity of DBEs to perform work on LTD's federally assisted contracts, as measured by the volume of work DBEs have performed in recent years, and evidence from disparity studies conducted within LTD's jurisdiction, to the extent not already accounted for in the base figure. If available, LTD also must consider available evidence from related

fields that affect the opportunities for DBEs to form, grow, and compete, including statistical disparities in the ability of DBEs to obtain the financing, bonding, and insurance required to participate in the Program. Any adjustment to the base figure must be based on "demonstrable evidence that is logically and directly related to the effect for which the adjustment is sought," §26.45 (d) (3). At a minimum, the DBE Liaison Officer will analyze the results of the District's efforts to contract with DBEs for the current and past two years, any available and relevant disparity studies (to the extent that they are not accounted for in the base figure), and any available and relevant results of other and similar U.S. DOT recipients' efforts to contract with DBEs.

(a) Past DBE Utilization

LTD considered the current capacity of DBEs to perform work in the local area, as measured by the amount of work performed by certified DBEs on projects for the current and past two years. The median for LTD's participation for Federal Fiscal Year (FFY) 2011 through Federal Fiscal Year 2013 is 2.34 percent.

Calculation:

DBE Participation FFY 2011	1.01 percent
DBE Participation FFY 2012	4.91 percent
DBE Participation FFY 2013	1.12 percent

Median	2.34 percent
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(b) Evidence from Local Disparity Studies

There have been no disparity studies done in the local area; therefore, there is no evidence to review.

(c) Evidence of Disparities Affecting DBE Opportunities

No studies have been done to examine statistical disparities in the ability of DBEs to obtain the financing or other resources needed to participate in the program. There has been no evidence from historical information of disparities.

(d) Adjustment Evaluation

After reviewing evidence, there is no indication to revise the base figure.

4. Projection of Percentage of Overall Goals to Be Achieved Through Race-Neutral and Race-Conscious Measures

The U.S. DOT regulations require that the DBE Overall Annual Goal be met by using race-neutral methods.

B. Publishing and Adopting the Overall Annual Goals**1. Overall Annual Goals Analysis Report**

Upon completion of the analysis described in Section V.A., the DBE Liaison Officer will prepare an Overall Annual Goals Analysis Report. The report shall document the analysis and methodology as well as the proposed goal and estimate to be achieved through race-neutral measures. The DBE Liaison Officer shall furnish it to the General Manager. Upon the General Manager's approval and recommendation, the DBE Liaison Officer shall concurrently notify all DBE resource and community organizations of the availability of the Overall Annual Goals Analysis Report for review and comment.

2. Publication of the Proposed Overall Annual Goals

Pursuant to 49 CFR § 26.45(g), the District will publish the proposed overall annual goals on the LTD website, www.ltd.org, and in general circulation, trade association, and DBE-oriented media. The notice shall include a statement that the methodology and proposed goals are available for inspection by the public for thirty (30) days from the date of publication. The notice also shall include a statement that the District will accept public comments regarding the proposed goals and methodology for a period of forty-five (45) days from the date of publication and provide instructions for the submission of comments. Upon receipt of public comments, if any, the DBE Liaison Officer will prepare a summary report analyzing the public comments and recommending any modifications to the overall annual goals or methodology. The DBE Liaison Officer shall furnish the General Manager with a final Overall Annual Goals Analysis Report to be presented to the Board of Directors for adoption. If no comments are received that would change the goals analysis substantially, the results of the public comment period will be presented as an informational matter to the Board of Directors with no further action required.

3. Adoption of Total Overall Annual Goals

Following review of the Overall Annual Goals Analysis Report, the Board of Directors shall adopt overall annual goals for DBE participation in FTA-assisted contracts, which shall include a projection of the portion of the goals that can be achieved through race-neutral and race-conscious measures. Unless otherwise directed, Overall Annual Goals Analysis Reports shall be submitted to FTA for approval by August 1.

C. Transit Vehicle Manufacturer's Certification

The District shall require any transit vehicle manufacturers to certify that they have established an overall annual DBE participation goal that has been approved by FTA before they can bid on any District contracts. Expenditures for FTA-assisted transit vehicle procurements are not included in the funding base to which the overall annual goal for other FTA-assisted contract expenditures applies.

D. Achieving the Overall Annual Goals

The District shall achieve the overall annual goals for DBE participation through race-neutral measures goals.

1. Race-Neutral Methods

The District intends to use race-neutral methods to the maximum extent feasible to achieve its overall annual goals. DBE participation that is obtained on contracts that have no specific DBE goal, or where prime contractors use a strictly competitive bidding process, or do not consider the DBE's status as a DBE in awarding a subcontract, shall be considered race-neutral DBE participation. In addition, the District will use the following measures as appropriate:

- (a) Configuring large contracts into smaller contracts when feasible. When to do so would make contracts more accessible to small businesses and would not impose significant additional cost, delay, or risk to the District.
- (b) Identifying components of the work that represent subcontracting opportunities and identifying the availability of DBE subcontractors to participate in an equitable proportion to total available subcontractors when it is not feasible to configure large contracts into smaller separate contracts. Contractors will be encouraged to consider subcontractors for components of the work, including DBEs, for which there is a known supply of ready, willing, and able subcontractors, including DBE subcontractors, in preparing their bids.
- (c) Providing technical assistance in orienting small businesses to public contract procedures, use of the Internet, and facilitating introductions to the District's and other U.S. DOT recipients' contracting activities.
- (d) Providing outreach and communications programs on contract procedures and contract opportunities to ensure the inclusion of DBEs.
- (e) Ensuring the distribution of the DBE Database to the widest feasible universe of potential prime contractors.

2. Good-Faith Efforts When a DBE Is Replaced on a Contract

When a contractor has established that they will meet a goal on a contract, the District will require a contractor to make good-faith efforts to replace a DBE that is terminated or otherwise has failed to complete its work on a contract with another certified DBE, to the extent needed to meet the contractor's goal. The District will require the prime contractor to notify the DBE Liaison Officer immediately of the DBE's inability or unwillingness to perform and provide reasonable documentation.

The prime contractor may not terminate a DBE firm for convenience.

The contractors may not terminate a DBE firm and perform the work with its own forces without the District's prior written consent.

In this situation, the District will require the prime contractor to obtain the District's prior approval of the substitute DBE and to provide copies of new or amended subcontracts or documentation of good-faith efforts. If the contractor fails or refuses to comply in the time specified, the District's contracting office will issue an order stopping all or part of the payment/work until satisfactory action has been taken. If the contractor still fails to comply, the contracting officer may issue a termination for default proceeding.

E. Counting and Tracking DBE Participation

Only the work actually performed by a DBE will be counted towards the DBE goal. The cost of supplies and materials obtained by the DBE or equipment leased (except from the prime contractor or its affiliate) also may be counted.

Work that a DBE subcontracts to a non-DBE firm does not count toward DBE goals. Expenditures may be counted only if the DBE is performing a commercially useful function. A DBE should perform at least 30 percent of the total cost of its contract with its own workforce.

If materials or supplies are obtained from a DBE manufacturer, 100 percent of the cost will be counted. If the materials and supplies are purchased from a DBE regular dealer, 60 percent of the cost will be counted.

DBE achievement will not be counted toward the overall goal until the DBE has been paid. The DBE Liaison Officer will track the participation of DBEs in contract-specific goal contracts separately from the participation of DBEs that are considered race-neutral. Additionally, the DBE Liaison Officer will not count that portion of a DBE's participation that is achieved after the certification of the DBE has been removed during the performance of a contract.

VI. REQUIRED CONTRACT PROVISIONS

FTA-assisted contracts that the District lets will include, as appropriate, the model contract provisions that are included in 49 CFR Part 26 and incorporated herein. The DBE Liaison Officer shall have discretion to modify the provisions for particular contracts as needed.

A. Contract Assurance

The District will ensure that the following clause is placed in every U.S. DOT-assisted contract and subcontract:

The contractor or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of U.S. DOT-assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this

contract, which may result in the termination of this contract or such other remedy, as the recipient deems appropriate.

B. General Conditions

1. DBE Program for Contracts.

Solicitation language shall require that contractors must meet all requirements of the DBE program as a matter of responsiveness.

2. Prompt Payment to Subcontractors.

The prime contractor agrees to pay each subcontractor under this prime contract for satisfactory performance of its contract no later than thirty (30) days from the receipt of each payment the prime contractor receives from the District. The prime contractor agrees further to return retainage payments to each subcontractor within thirty (30) days after the subcontractor's work is satisfactorily completed. Any delay or postponement of payment from the above-referenced timeframe may occur only for good cause following written approval of the District. This clause applies to both DBE and non-DBE subcontracts.

3. Monitoring and Enforcement.

LTD has established the following to monitor and enforce prompt payment and return of retainage:

The prime contractor will not be reimbursed for work performed by subcontractors unless and until the prime contractor ensures that the subcontractors are promptly paid for the work they have already performed.

Failure of any contractor to meet the DBE Supplemental Required Contract Provisions and program authorities shall constitute a breach of contract for which the imposition of the following sanctions may include but is not limited to the following:

- (a) Temporarily withholding progress payments possible through future performance
- (b) Permanently withholding payment for work already performed in a manner that constitutes a breach of contract

4. Payment Compliance Clause.

The contractor is required to submit information to LTD regarding payment to subcontractors on a monthly basis. This information shall include name and address of subcontractor and payment date and amount.

5. Contract Assurance Clause.

Lane Transit District will ensure that the following clause is placed in every DOT-assisted contract and subcontract:

The contractor or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of DOT-assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the recipient deems appropriate.

C. Special Provisions

Solicitation language shall require that contractors must meet all requirements of the DBE program as a matter of responsiveness.

D. Administrative Sanctions

Failure of any contractor to meet the DBE Contract Provisions shall constitute a breach of contract for which the imposition of the following sanctions could occur:

- Temporarily withholding progress payments until the contractor complies with these contract provisions through future performance
- Permanently withholding payment for work already performed in a manner that constitutes a breach of contract

VII. CERTIFICATION

A. Oregon Office of Minority, Women and Emerging Small Business Enterprise Program

The District does not certify DBEs; it relies upon the services of the Oregon Office of Minority, Women and Emerging Small Business Enterprise Program (OMWESB) for certification. As the sole certification authority in Oregon for targeted government contracts for emerging small businesses and disadvantaged, minority, and woman-owned businesses, OMWESB provides a unified certification process.

The OMWESB complies with 49 CFR Part 26 in determining whether to certify a firm as eligible to participate as a DBE. The certification forms and instructions can be found on the Internet at <http://www.oregon4biz.com/Grow-Your-Business/Business-services/Minority-Owned-Business-Certification/>

B. Unified Certification Program (UCP) (Section 26.81)

The District relies upon the services of the Oregon Office of Minority, Women and Emerging Small Business (OMWESB) Enterprise Program for certification. As the sole certification authority in Oregon for targeted government contracts for disadvantaged, minority, and woman-owned businesses, and emerging small businesses, OMWESB provides a unified certification process. The website to be certified is located at

<http://www.oregon4biz.com/Grow-Your-Business/Business-services/Minority-Owned-Business-Certification/>

The District is a member of the statewide DBE Unified Certification Program (UCP).

The DBE Liaison Officer is designated by the General Manager to represent the District as a member of the Unified Certification Program (UCP). The District will participate in UCP programs, activities, and efforts in the Eugene-Springfield area to create a level playing field on which DBEs can compete fairly, to enhance outreach and communication efforts with these firms, to provide appropriate assistance and information for participation in U.S. DOT-assisted contracts, to develop joint resources among recipients, and to coordinate DBE certification efforts through reciprocity and the development of a statewide Unified Certification Program. Toward this end, the DBE Liaison Officer will attend scheduled meetings of the UCP and will contribute to the achievement of UCP projects approved by the District's General Manager.

VIII. CERTIFICATION PROCEDURES

A. Certification Appeals to U.S. DOT (Section 26.89)

A firm that has been denied certification or whose eligibility is removed may make an administrative appeal to the U.S. DOT. A complainant in an ineligibility complaint to the District may appeal to U.S. DOT if the District does not find reasonable cause to propose removing the firm's eligibility. Pending the U.S. DOT appeal decision, the District's decision shall remain in effect. All appeals shall be sent to the following address:

Director, Office of Civil Rights
Federal Transit Administration
1200 New Jersey Avenue, SE
Washington, DC 20590

All requests for an appeal must be sent, in writing, within ninety (90) days of the District's final decision on the matter. The appeal request shall include information and arguments regarding why the decision should be reversed. If the appeal is from a firm, the request must include information regarding certification with other U.S. DOT recipients. If the appeal is from a third party, the party will be requested to provide the same information.

The DBE Liaison Officer shall provide a copy of a complete, well-organized, administrative record within twenty (20) days of a request from U.S. DOT. U.S. DOT will make its decision based solely on the entire administrative record without conducting a hearing. The firm and complainants shall have access to any information reviewed by U.S. DOT in accordance with public records and privacy laws.

U.S. DOT will affirm the District's decision if it determines, based on the entire administrative record, that the decision is supported by substantial evidence or is consistent with the substantive or procedural provisions concerning certification. U.S. DOT will reverse the District's decision if it determines it was unsupported by substantial evidence or inconsistent with certification provisions. U.S. DOT shall send written notification of its decision, including the reasons therefor to the District, the firm and any complainant. If the District's decision is reversed, the DBE Liaison Officer will

take all appropriate actions to conform to the U.S. DOT's decision immediately upon receiving the written notice. U.S. DOT decisions are final and binding on the District only.

IX. MONITORING AND RECORD KEEPING

A. Bidders List

The District will require all prime contractors bidding on FTA-assisted contracts to return, at the time of bid opening (options apply as to the time this information is required as long as it is prior to the award of the contract), the following information about the prime contractor and all subcontractors who provided a bid or were contacted by the prime contractor:

- Firm's name
- Firm's address
- Firm's status as a DBE or non-DBE
- Age of the firm
- Type of work

The District will use this information to maintain and update its Bidders List.

B. Monitoring Payments to DBEs

It is the contractor's responsibility to maintain records and documents for three (3) years following the performance of the contract. These records will be made available for inspection upon request by any authorized representative of the District, FTA, or U.S. DOT. This reporting requirement also is extended to any certified DBE subcontractor.

The District will perform interim audits of contract payments to DBEs. The audit will review payments to DBE subcontractors to ensure that the actual amount paid to DBE subcontractors equals or exceeds the dollar amounts stated in the report of proposed DBE participation.

C. Monitoring Actual DBE Participation

The DBE Liaison Officer shall monitor and track the actual DBE participation through contractor and subcontractor reports of payments and other appropriate monitoring, as further described in Section IX below. The DBE Liaison Officer shall ensure that DBE participation is counted toward contract goals and the overall annual goal in accordance with the Regulations.

Worksites shall be monitored periodically to ensure DBE contractors and subcontractors are performing assigned work and written verification shall be kept in contract files.

D. Reporting to FTA

The District will continue to report DBE participation and overall annual goal setting methods to the FTA as directed. Statistical data will be maintained as prescribed by FTA to provide reports to FTA reflecting the DBE participation on the District's federally

assisted procurement activities. These reports will provide DBE participation information on the District's race-neutral contracts, race-conscious contracts, and the combined DBE participation on all federally assisted procurement activities.

X. PUBLIC PARTICIPATION AND OUTREACH EFFORTS

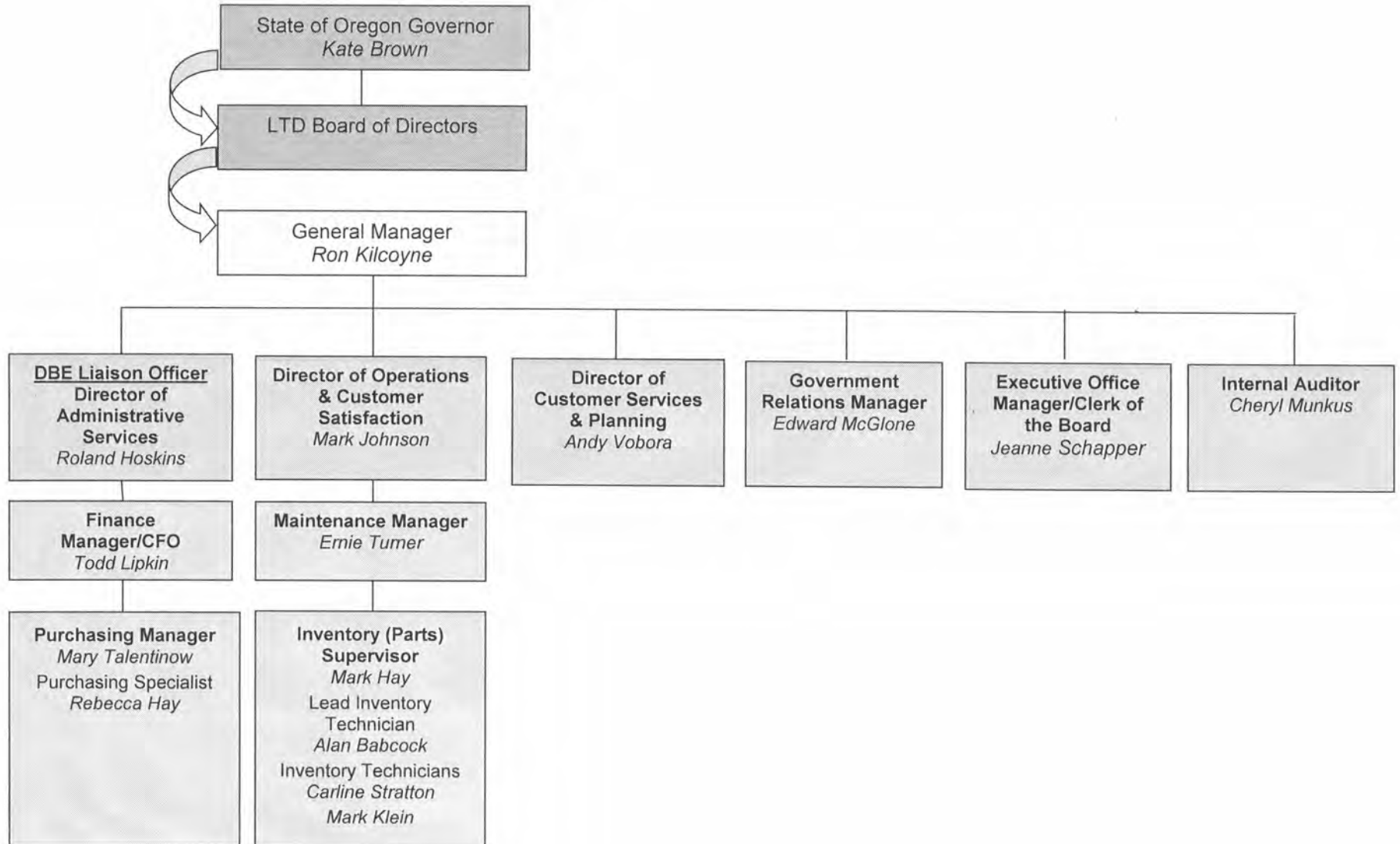
The District's activities managing public participation and outreach efforts are directed at assisting the District to solicit public input to set overall annual DBE participation goals and meet District overall annual DBE goals.

In establishing overall annual DBE goals, the District will provide for public participation. This will include the following:

- Prior to finalizing the Overall Annual Goals Analysis Report, the District will consult with U.S. DOT agencies, other FTA grantees, minority, women's and general contractor groups, community organizations, or other officials or organizations that could be expected to have information concerning the availability of disadvantaged and non-disadvantaged businesses, the effects of discrimination on opportunities for DBEs, and the District's efforts to establish a level playing field for the participation of DBEs.
- The District will publish an annual notice announcing its proposed overall goals, informing the public that the District's Overall Annual Goals Analysis Report is available for inspection during normal business hours at the DBE Liaison Officer's Office for a period of thirty (30) days and that the District will accept comments on the proposed goals for forty-five (45) days from the date of the notice. The notice will be distributed in general circulation media, local minority-focused media, and trade association publications.
- The measures described in 49 CFR § 26.51 focusing on race-neutral means will be actively pursued, and the District also will encourage its contractors to make similar outreach efforts to include DBE participation in subcontracting opportunities. In conjunction with the UCP, the District will continue to organize and offer training programs for meeting DBE eligibility requirements, familiarize potential contractors with District procurement procedures and requirements, and to otherwise develop effective programs to further the inclusion of DBEs in the District's contracting activities.

APPENDIX A

ORGANIZATION CHART (DBE) July 2015



APPENDIX B

NORTH AMERICAN INDUSTRY CLASSIFICATION SYSTEM (NAICS) CODE LIST

**Lane County Business Pattern Census Report 2011
(Most Current Report for 2013 Submission of Goals to FTA for 2014-2016 Period)**

Service	All Firms	DBE Firms
237 Heavy Construction	44	2
238 Specialty Trades (including Landscape)	577	11
5413 Engineering & Architectural Services	209	12
Total	830	25

Total percentage of available DBE firms = 3.01 percent

APPENDIX C
GOAL CALCULATION

Step 1 - Determine the weight of each type of work by NAICS Code:

**FFY 2014
WORKSHEET**

* Enter all the FTA-assisted projects below. Project amounts should be assigned relevant NAICS Code(s).

	NAICS Code	Project	Amount of DOT funds on project:	% of total DOT funds (weight)
1)	237310	West Eugene EmX Construction	\$7,545,600.00	0.5688
2)	237310	Pavilion Station Construction	\$360,000.00	0.0271
3)	541330	West Eugene EmX Design	\$2,682,800.00	0.2022
4)	541330	Pavilion Station Design	\$160,000.00	0.0121
5)	541330	Main St/McVay Feasibility Study	\$390,000.00	0.0294
6)	541330	NW Eugene/LCC Corridor Alternatives Planning	\$240,000.00	0.0181
7)	237310	Misc. Station and Building Improvements	\$968,000.00	0.0730
8)	238910	West Eugene EmX Construction	\$800,000.00	0.0603
9)	238910	Pavilion Station Construction	\$120,000.00	0.0090
10)				0.0000
11)				0.0000
12)				0.0000
13)				0.0000
14)				0.0000
15)				0.0000
Total FTA-Assisted Contract Funds			\$13,266,400.00	1

Step 2 - Determine the relative availability of DBE's by NAICS Code:

* Use DBE Directory, census data and/or a bidders list to enter the number of available DBE firms and the number of available firms.

	NAICS Code	Project	Number of DBEs available to perform this work	Number of all firms available (including DBEs)	Relative Availability
1)	237310	West Eugene EmX Construction	2	44	0.0455
2)	237310	Pavilion Station Construction	2	44	0.0455
3)	541330	West Eugene EmX Design	12	209	0.0574
4)	541330	Pavilion Station Design	12	209	0.0574
5)	541330	Main St/McVay Feasibility Study	12	209	0.0574
6)	541330	NW Eugene/LCC Corridor Alternatives Planning	12	209	0.0574
7)	237310	Misc. Station and Building Improvements	2	44	0.0455
8)	238910	West Eugene EmX Construction	11	577	0.0191
9)	238910	Pavilion Station Construction			
10)					
11)					
12)					
13)					
14)					
15)					
Combined Totals			65	1545	0.0421
					<i>Overall availability of DBEs</i>

Step 3 - (Weight) x (Availability) = Weighted Base Figure

	NAICS Code	Project	Weight	x	Availability	Weighted Base Figure
1)	237310	West Eugene EmX Construction	0.56878	x	0.04545	0.0259
2)	237310	Pavilion Station Construction	0.02714	x	0.04545	0.0012
3)	541330	West Eugene EmX Design	0.20223	x	0.05742	0.0116
4)	541330	Pavilion Station Design	0.01206	x	0.05742	0.0007
5)	541330	Main St/McVay Feasibility Study	0.02940	x	0.05742	0.0017
6)	541330	NW Eugene/LCC Corridor Alternatives Planning	0.01809	x	0.05742	0.0010
7)	237310	Misc. Station and Building Improvements	0.07297	x	0.04545	0.0033
8)	238910	West Eugene EmX Construction	0.06030	x	0.01906	0.0011
9)	238910	Pavilion Station Construction	0.00905	x		
10)				x		
11)				x		
12)				x		
13)				x		
14)				x		
15)				x		
					Total	0.0466
					Expressed as a % (*100)	4.66%
					Rounded, Weighted Base Figure:	5%

Step 1 - Determine the weight of each type of work by NAICS Code:

**FFY 2015
WORKSHEET**

* Enter all the FTA-assisted projects below. Project amounts should be assigned relevant NAICS Code(s).

	NAICS Code	Project	Amount of DOT funds on project:	% of total DOT funds (weight)
1)	237310	West Eugene EmX Construction	\$16,077,360.00	0.8011
2)	541330	West Eugene EmX Design	\$2,231,600.00	0.1112
3)	238910	West Eugene EmX Construction	\$800,000.00	0.0399
4)	541330	Main St./McVay NEPA	\$360,000.00	0.0179
5)	541330	NW Eugene/LCC Corridor Alternatives Planning	\$240,000.00	0.0120
6)	237310	Misc. Station and Building Improvements	\$359,000.00	0.0179
7)				0.0000
8)				0.0000
9)				0.0000
10)				0.0000
11)				0.0000
12)				0.0000
13)				0.0000
14)				0.0000
15)				0.0000
Total FTA-Assisted Contract Funds			\$20,067,960.00	1

Step 2 - Determine the relative availability of DBE's by NAICS Code:

* Use DBE Directory, census data and/or a bidders list to enter the number of available DBE firms and the number of available firms.

	NAICS Code	Project	Number of DBEs available to perform this work	Number of all firms available (including DBEs)	Relative Availability
1)	237310	West Eugene EmX Construction	2	44	0.0455
2)	541330	West Eugene EmX Design	12	209	0.0574
3)	238910	West Eugene EmX Construction	11	577	0.0191
4)	541330	Main St./McVay NEPA	12	209	0.0574
5)	541330	NW Eugene/LCC Corridor Alternatives Planning	12	209	0.0574
6)	237310	Misc. Station and Building Improvements	2	44	0.0455
7)					
8)					
9)					
10)					
11)					
12)					
13)					
14)					
15)					
Combined Totals			51	1292	0.0395
					<i>Overall availability of DBEs</i>

Step 3 - (Weight) x (Availability) = Weighted Base Figure

	NAICS Code	Project	Weight	x	Availability	Weighted Base Figure
1)	237310	West Eugene EmX Construction	0.80115	x	0.04545	0.0364
2)	541330	West Eugene EmX Design	0.11120	x	0.05742	0.0064
3)	238910	West Eugene EmX Construction	0.03986	x	0.01906	0.0008
4)	541330	Main St./McVay NEPA	0.01794	x	0.05742	0.0010
5)	541330	NW Eugene/LCC Corridor Alternatives Planning	0.01196	x	0.05742	0.0007
6)	237310	Misc. Station and Building Improvements	0.01789	x	0.04545	0.0008
7)				x		
8)				x		
9)				x		
10)				x		
11)				x		
12)				x		
13)				x		
14)				x		
15)				x		
Total						0.0461
Expressed as a % (*100)						4.61%
Rounded, Weighted Base Figure:						5%

Step 1 - Determine the weight of each type of work by NAICS Code:

**FFY 2016
WORKSHEET**

* Enter all the FTA-assisted projects below. Project amounts should be assigned relevant NAICS Code(s).

	NAICS Code	Project	Amount of DOT funds on project:	% of total DOT funds (weight)
1)	237310	West Eugene EmX Construction	\$20,707,200.00	0.7758
2)	237310	Franklin Blvd ROW Redevelopment Const	\$1,600,000.00	0.0599
3)	541330	West Eugene EmX Design	\$2,264,720.00	0.0849
4)	541330	Franklin Blvd ROW Redevelopment Design	\$400,000.00	0.0150
5)	541330	Main St./McVay NEPA	\$360,000.00	0.0135
6)	541330	NW Eugene/LCC Corridor NEPA	\$400,000.00	0.0150
7)	237310	Misc. Station and Building Improvements	\$158,800.00	0.0059
8)	238910	West Eugene EmX Construction	\$800,000.00	0.0300
9)				0.0000
10)				0.0000
11)				0.0000
12)				0.0000
13)				0.0000
14)				0.0000
15)				0.0000
Total FTA-Assisted Contract Funds			\$26,690,720.00	1

Step 2 - Determine the relative availability of DBE's by NAICS Code:

* Use DBE Directory, census data and/or a bidders list to enter the number of available DBE firms and the number of available firms.

	NAICS Code	Project	Number of DBEs available to perform this work	Number of all firms available (including DBEs)	Relative Availability
1)	237310	West Eugene EmX Construction	2	44	0.0455
2)	237310	Franklin Blvd ROW Redevelopment Const	2	44	0.0455
3)	541330	West Eugene EmX Design	12	209	0.0574
4)	541330	Franklin Blvd ROW Redevelopment Design	12	209	0.0574
5)	541330	Main St./McVay NEPA	12	209	0.0574
6)	541330	NW Eugene/LCC Corridor NEPA	12	209	0.0574
7)	237310	Misc. Station and Building Improvements	2	44	0.0455
8)	238910	West Eugene EmX Construction	11	577	0.0191
9)					
10)					
11)					
12)					
13)					
14)					
15)					
Combined Totals			65	1545	0.0421
					<i>Overall availability of DBEs</i>

Step 3 - (Weight) x (Availability) = Weighted Base Figure

	NAICS Code	Project	Weight	x	Availability	Weighted Base Figure
1)	237310	West Eugene EmX Construction	0.77582	x	0.04545	0.0353
2)	237310	Franklin Blvd ROW Redevelopment Const	0.05995	x	0.04545	0.0027
3)	541330	West Eugene EmX Design	0.08485	x	0.05742	0.0049
4)	541330	Franklin Blvd ROW Redevelopment Design	0.01499	x	0.05742	0.0009
5)	541330	Main St./McVay NEPA	0.01349	x	0.05742	0.0008
6)	541330	NW Eugene/LCC Corridor NEPA	0.01499	x	0.05742	0.0009
7)	237310	Misc. Station and Building Improvements	0.00595	x	0.04545	0.0003
8)	238910	West Eugene EmX Construction	0.02997	x	0.01906	0.0006
9)				x		
10)				x		
11)				x		
12)				x		
13)				x		
14)				x		
15)				x		
Total						0.0462
Expressed as a % (*100)						4.62%
Rounded, Weighted Base Figure:						5%

APPENDIX D

CENSUS BUREAU COUNTY BUSINESS PATTERN - LANE COUNTY REPORT

American FactFinder - Results

Page 1 of 2

1 Start
2 Topics
3 Geography
4 Industry Codes
5 Detailed Results
6 Table Viewer

CB1100A11 | 2011 County Business Patterns: Geography Area Series: County Business Patterns
2011 Business Patterns

[← BACK TO SEARCH RESULTS](#)

Release Date: 05/16/2013

NOTE: Data based on the 2011 County Business Patterns. CBP HTML tables and download files can be found at the County Business Patterns Website. For information on confidentiality protection, sampling error, nonsampling error, and definitions, see Survey Methodology. Data in this table represent those available when this report was created; data may not be available for all NAICS industries or geographies. Excludes most government employees, railroad employees, and self-employed persons.

Table Name
Geography Area Series: County Business Patterns: 2011

Release Date Status
5/16/13 - Complete

Key Table Information
Beginning with reference year 2007, CBP data are released using the Noise disclosure methodology to protect confidentiality. See Survey Methodology (<http://www.census.gov/cb/cbp/methodology.html>) for complete information on the coverage and methodology of the County Business Patterns data series.

Universe
The universe of this file is all operating establishments with one or more paid employees. This universe includes most establishments classified in the North American Industry Classification System (NAICS) Codes 11 through 813990. For specific exclusions and inclusions, see <http://www.census.gov/cb/cbp/intr.html>.

Geography Coverage
The data are shown at the U.S. level and by State, County, and Metropolitan and Microlocal Statistical Areas. Also available are data for the District of Columbia, Puerto Rico, and the Island Areas (American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, and the U.S. Virgin Islands) at the state and county equivalent levels.

Industry Coverage
The data are shown at the 2- through 6-digit NAICS code levels for all sectors with published data.

Data Items and Other Identifying Records
This file contains data on the number of establishments, total employment, first quarter payroll and annual payroll.

Sort Order
Data are presented in ascending geography by NAICS code sequence.

FTP Download
Download the entire table at <http://www2.census.gov/eon/2011/CB/section/D/CB1100A1.zip> (Approx. 500 MB).

Contact Information
U.S. Census Bureau
Economic Planning & Coordination Division
Register Analysis Branch
Tel: (301)763-2680
Email: epcd.county.business.patterns@census.gov

Geographic area name	2007 NAICS code	Meaning of 2007 NAICS code	Year	Number of establishments	Paid employees for pay period including March 12 (number)	First-quarter payroll (\$1,000)	Annual payroll (\$1,000)
Lane County, Oregon	237	Heavy and civil engineering construction	2011	44	692	5,977	46,601
Lane County, Oregon	338	Specialty trade contractors	2011	577	3,376	30,533	140,372
Lane County, Oregon	5411	Legal services	2011	232	1,186	12,952	59,856
Lane County, Oregon	5412	Architectural, engineering, and related services	2011	119	734	8,104	36,557
Lane County, Oregon	5419	Other professional, scientific, and technical services	2011	90	564	3,479	15,208

Source: U.S. Census Bureau, 2011 County Business Patterns

Source: U.S. Census Bureau | American FactFinder

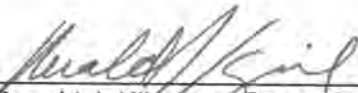
APPENDIX E

FEDERAL FINANCIAL ASSISTANCE
AGREEMENT ASSURANCE

I, Ronald J. Kilcoyne, General Manager, hereby certify on behalf of Lane Transit District that:

The undersigned shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of any U.S. Department of Transportation (DOT)-assisted contract or in the administration of its DBE Program or the requirements of 49 CFR Part 26. The recipient shall take all necessary and reasonable steps under 49 CFR Part 26 to ensure nondiscrimination in the award and administration of DOT-assisted contracts. The recipient's DBE Program, as required by 49 CFR Part 26 and as approved by DOT, is incorporated by reference in this agreement. Implementation of this program is a legal obligation, and failure to carry out its terms shall be treated as a violation of this agreement. Upon notification to the undersigned of its failure to carry out its approved program, the Department may impose sanctions as provided for under Part 26 and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C. 1001 and/or the Program Fraud Civil Remedies Act of 1986 (31 U.S.C. 3801 et seq.).

Executed this 15th day of July, 2015.

By: 

Ronald J. Kilcoyne, General Manager
Lane Transit District

Each contract LTD signs with a contractor (and each subcontract the prime contractor signs with a subcontractor) must include the following assurance:

The contractor, sub-recipient or subcontractor race, color, national origin, or sex in the performance of this contract: The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of DOT-assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the recipient deems appropriate.

APPENDIX F

DBE WEIGHTED CALCULATION - FEDERAL FY 2014-2016

NAICS Code & Description	Amount of Fed Funds on project	% of Federal Funding (weight)	Weight by NAICS Code
237 Heavy Construction	\$ 5,490,160.00	93.96%	0.9396
238 Specialty Trades (including Landscape)	\$ 1,000,000.00	2.07%	0.0207
5413 Engineering & Architectural Services	\$ 1,684,000.00	3.48%	0.0348
339 Misc. Mfg. (sign)	\$ 240,000.00	0.50%	0.005
	\$ 48,414,160.00	100.00%	1.0001

NAICS Code & Description	# of DBE Firms Available	# of Total Firms	% of Total Contract Funding	# of DBE's x Weight / all firms	Sum x 100
237 Heavy Construction	2	44	0.9396	1.88	0.0427
238 Specialty Trades (including Landscape)	11	577	0.0207	0.23	0.0004
5413 Engineering & Architectural Services	12	209	0.0348	0.42	0.0020
339 Misc. Mfg. (sign)	2	12	0.005	0.01	0.0008
					0.0459
				Sum x 100 = weighted goal	4.5935

Duties of Disadvantaged Business Enterprise (DBE) Liaison Officer (DBELO)

Pursuant to 49 CFR § 26.23, the Program shall be administered by the DBE Liaison Officer, who shall be appointed by and report directly to the General Manager of Lane Transit District ("District").

The DBE Liaison Officer will be the primary person responsible for implementing all aspects of this Program and will work closely with operating divisions and other departments and consultants of the District, including legal, procurement, engineering, insurance, and others who are responsible for making decisions relative to the District's construction, procurement, and professional service contracts. The DBE Liaison Officer:

1. Gathers and reports statistical data and other information as required by the U.S. Department of Transportation;
2. Reviews third-party contracts and purchase requisitions for compliance with this program;
3. Ensures that bid notices and requests for proposals are available to DBEs in a timely manner;
4. Identifies contracts and procurements so that DBE goals are included in solicitations (both race-neutral methods and contract-specific goals) and monitors results;
5. Analyzes District's progress toward goal attainment and identifies ways to improve progress;
6. Participates in pre-bid meetings;
7. Advises the District's General Manager and Board of Directors on DBE matters and achievement;
8. Participates with legal counsel and project director to determine contractor compliance with good-faith efforts;
9. Provides DBEs with information and assistance in preparing bids; and
10. Participates in DBE training seminars.