

**CITY OF MONTPELIER
CAPITAL CITY OF VERMONT**

City Manager's Weekly Report – 10/28/2016

UPCOMING MEETINGS ...

Tuesday, November 1 Wayfinding Masterplan Public Meeting, 5:30 P.M. at the Vermont League of Cities and Towns (89 Main Street)

Infrastructure Committee, 6:00 P.M. in the Memorial Room

Wednesday, November 2 Montpelier Business Association, 8:30 A.M. in the Memorial Room

FOR YOUR CALENDAR ...

Thursday, February 9, 2017 “Welcome Legislators” Reception, 5:00 – 7:00 P.M. in the Capitol Plaza’s Ballroom

ATTACHMENTS ...

-  Police Press Release: Montpelier Man Arrested for Burglary of Marijuana Dispensary
-  Wayfinding Masterplan Public Meeting Invitation
-  City of Montpelier’s Disadvantaged Business Enterprise Program

CITY MANAGER’S REPORT ...

1 Taylor Street Redevelopment

A contract was signed this week with DuBois Construction to repair the retaining wall along 1 Taylor Street in preparation for the transit center and upper floor housing to be developed in future years. This work is funded with Community Development Block Grant – Disaster Recovery Funds. Next week parking at the 1 Taylor Street will be limited as the contractor begins to mobilize to complete this work in the next two months.

Additionally, the easement with the Jacobs family was signed this week.

Legal

Illuzzi vs City, et al: No further action to report since the July 12, 2016 VT Superior Court of Washington County issued its “Opinion and Order on Defendant’s Motions to Compel, Enlarge, and Amend”.

VCFA vs. City, Supreme Court Appeal: Oral argument is scheduled for this Wednesday, October 26, 2016 at 2:30 P.M. Represented by Robert Fletcher.

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WEEKLY REPORTS FROM DEPARTMENT HEADS ...

Senior Center

In addition to our affordable 62 weekly classes, onsite meals, drop-in groups, and free activities, here are three of the special events included in MSAC programming next week. All three events are at 58 Barre Street, free, and open to the public:

Election 2016: The Vermont Story **Wednesday, November 2, 7:00-8:30 pm**

Join Secretary of State Jim Condos, Mark Johnson, senior reporter and editor at VT Digger.org, and Susan Clark, co-author of "Slow Democracy: Rediscovering Community, Bringing Decision Making Back Home," for a discussion of Vermont elections. Secretary Condos will talk about the election process. What happens when the polls close? How does a recount work? Mark Johnson will discuss the turnover of leadership in the State House next year, with a new Gov., Lt. Gov., Speaker of the House and President Pro Tem of the Senate. Susan Clark will discuss how Vermont's local democratic traditions foster participation in elections and representative democracy. Presented by MSAC and the League of Women Voters of VT. Free and open to the public.

Learn about our April 2017 Trip to China: Slideshow and Introduction **Thursday, November 3, 10:30-11:30 am**

Immerse yourself in Chinese culture on our 11-day, 10-night trip to China that departs April 14, 2017. This special trip, custom designed by Milne Travel for the Montpelier Senior Activity Center, will provide you with interactive opportunities to understand and learn about Chinese medicine and senior life in China while exploring the nation's rich history and modern transformation. MSAC Director Janna Clar, who speaks the language and spent years living in China, will escort the group, along with native professional tour guides. Call 223-2518 or visit MSAC in person or online to learn more about pricing, what's included, and detailed itinerary. A deposit of \$350 per person is due by December 15 to reserve a spot. Non-members are welcome! Email jclar@montpelier-vt.org if you're interested but can't make it.

Trip highlights include:

- Climb the Great Wall of China, visit the Forbidden City and Tiananmen Square, and see the ancient Terracotta Warriors in Xian.

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- Experience a full-day traditional Chinese medicine workshop and tour. Learn about Chinese herbal medicine, acupuncture, qigong, and more.
- Learn tai chi from a tai chi master.
- Visit a local senior center, experience the local senior activities, interact with the local seniors, watch their performances, and learn Chinese folk dance.
- Visit a local family in a traditional residential area and learn how to make Chinese dumplings.
- Visit a rural ancient village outside Xian, where you will have an opportunity to visit local children and teach them English. In addition, you will meet local seniors in the village; a great opportunity to compare senior life in urban and rural areas.
- Enjoy delicious traditional cuisine, including a Peking Duck welcome dinner.

Start the Conversation —

A Community Discussion About Family, Aging & End-of-Life Choices

Friday, November 4, 11:00 am-12:30 pm

Planning for end-of-life care before it becomes a worry, or a financial burden, is as important as all the other life plans we make. It makes it easier for you, your loved ones, and your physician, to know your wishes and ensures that your choices will be heard. More importantly, it means that when time becomes short, your focus can be on doing what you most enjoy and not making hurried, last-minute decisions. The first step is having a conversation. Emily McKenna, Marketing Manager for Central Vermont Home Health & Hospice, will show a 26-minute video, *Nine to Ninety*, that explores the challenges of aging and planning for end-of-life care in today's world. The video will be followed by a brief description of the CVHHH Start the Conversation Initiative. Free and open to the public.

Department of Public Works

Retaining Wall Projects Planned for November & December Construction:

Project Completion – Retaining Walls & Paving:

Beginning the week of October 31st, the City's contractor, DuBois Construction will be repairing the granite block retaining wall adjacent to the river at the One Taylor Street

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property. Dubois Construction was selected from a field of six interested contractors through a competitive bidding process. The project involves dismantling the existing failing wall and re-assembly with the replacement of the backfill material with select gravel. In addition to a variety of construction equipment and a job trailer, the site will also contain stockpiles of excavated soils, some of which may include contaminants. A construction fence will be placed around the entire site and all stockpiles will be covered with plastic while the engineer awaits soil test results to determine if the soil can be re-used, conventionally disposed of or must be hauled away and handled as hazardous materials. Due to the work extent and possibility of contaminants, public parking and unauthorized access to the site will be prohibited. The work will be completed by mid-December.

As mentioned in a previous report, a retaining wall on River Street located easterly of the Phelps Street intersection is also planned for late season construction. This project is now projected to begin in mid-November and will take about 2-3 weeks to complete. Traffic impacts are expected to be relatively minimal with two-way traffic flow anticipated the majority of the time.

TOPICS FOR UPCOMING COUNCIL MEETINGS ...

November 9

Goal: Excellent Services
Junkyard Ordinance – 2nd Public Hearing
Budget Targets
Department Update - Fire
Department Update – Police
Community Fund Budget
Central Vermont Public Safety Authority

November 30

Parking Plan
Goal: Steady State
2016 Construction Summary
2017 Construction Work Plan
Department Update – DPW
Department Update – Planning
Berlin Pond

December 14

Goal: Healthy Community
Department Update – Community Services
Department Update – Government Services

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December 21

Goal: Affordable Community
Budget

January 4, 11, 18, 26

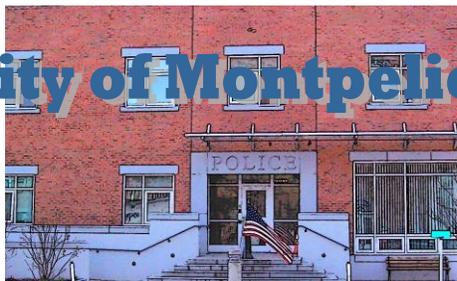
Budget, Warning, Public Hearings,
Zoning



William J. Fraser
City Manager



City of Montpelier Police Department



Anthony J. Facos
Chief of Police

PRESS RELEASE

For more information, contact:
Chief Anthony J. Facos
Corporal Kevin Moulton
(802) 223-3445

FOR IMMEDIATE RELEASE

October 3, 2016

Montpelier man arrested for burglary of marijuana dispensary

On October 3, 2016 the Montpelier Police Department received an alarm activation at the Vermont Patient Alliance located in Montpelier, Vermont. Upon arrival to the building, officers discovered an open door to the facility. Officers and Montpelier's K9 were deployed into the building. During a search of the building, the K9 located a lone male suspect who had gained entry into the facility.

Tyson Lissor, (32) of Montpelier, Vermont was arrested for burglary. Lissor, who is active with the Vermont Department of Corrections and out on parole, was lodged at the Northeast Regional Correctional Facility for the parole violation. Lissor was cited to appear in Vermont Superior Court Washington Criminal Division on November 24, 2016 to answer to the charge of Burglary while in possession of a deadly or dangerous weapon.

Jessie C. Baker

From: Jessie C. Baker
Sent: Friday, October 28, 2016 11:21 AM
To: Sandy Pitonyak
Subject: FW: [BULK] [MKTG] WAYFINDING MASTERPLAN PUBLIC MEETING

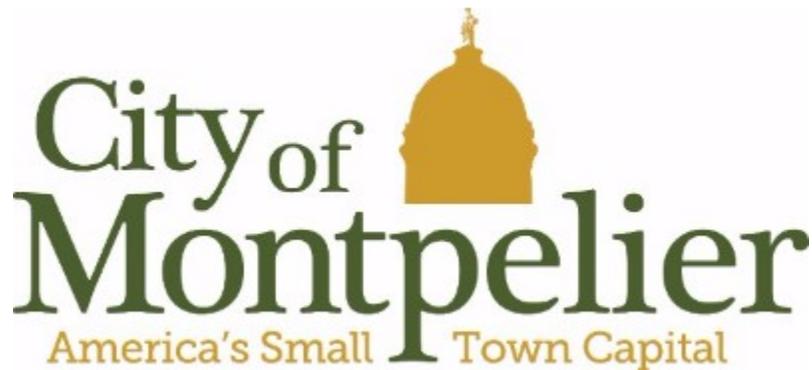
Please attach this to the weekly memo.

Thank you,
Jessie

From: Montpelier Alive [mailto:director=montpelieralive.org@mail93.atl161.mcsv.net] **On Behalf Of** Ashley Witzenberger-Director
Sent: Thursday, October 27, 2016 4:32 PM
To: Jessie C. Baker
Subject: [BULK] [MKTG] WAYFINDING MASTERPLAN PUBLIC MEETING

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**WAYFINDING MASTERPLAN &
CREATING SENSE OF PLACE**

**You are invited to a public presentation by Montpelier
Alive and our design partner, SurfaceMatter**

**Design who is working with the City on new
Wayfinding and Signage Master Plan for the Capital
City.**

Tuesday, November 1, 2016

5:30-7:00 pm

**Conference Room at Vermont League of Cities and
Towns**

89 Main Street (Inside City Center)

The first part of the meeting will be a presentation of beginning steps in this exciting new initiative for the community including thoughts on the multi-use wayfinding, existing conditions, Montpelier's unique sense of place, and strategy to improve the visitor experience to find their way and to support local businesses and culture.

For the second part of the meeting we will be soliciting your feedback and ideas to incorporate into the project and answering questions about the process and final product.

Please share this information with your colleagues, family and friends. All are welcome.

LINKS:

FB event page:

<https://www.facebook.com/events/870565046410944/>

SurfaceMatter Design: <http://www.surfacematterdesign.com/>

Please note that there are two additional meetings in case you cannot make the public meeting or receive a double invitation:

Montpelier Business Meeting

Wednesday, November 2, 9 am

Memorial Room, City Hall

Montpelier Arts & Culture Meeting

Wednesday, November 2, 2 pm

Memorial Room, City Hall



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City of Montpelier, Vermont

Disadvantaged Business Enterprise Program

Policy Statement

The City of Montpelier, Vermont has established a Disadvantaged Business Enterprise (DBE) program in accordance with regulations of the U.S. Department of Transportation (DOT), 49 CFR Part 26. The City of Montpelier has received Federal financial assistance from the Department of Transportation, and as a condition of receiving this assistance, the City has signed an assurance that it will comply with 49 CFR Part 26.

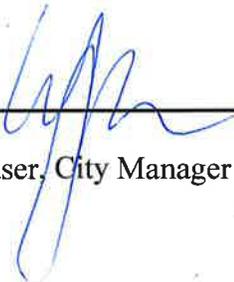
It is the policy of the City of Montpelier (City) to ensure that DBEs, as defined in part 26, have an equal opportunity to receive and participate in DOT-assisted contracts. It is also our policy:

- To ensure nondiscrimination in the award and administration of DOT assisted contracts;
- To create a level playing field on which DBEs can compete fairly for DOT-assisted contracts;
- To ensure that the DBE Program is narrowly tailored in accordance with applicable law;
- To ensure that only firms that fully meet 49 CFR Part 26 eligibility standards are permitted to participate as DBEs;
- To help remove barriers to the participation of DBEs in DOT-assisted contracts; and
- To assist the development of firms that can compete successfully in the market place outside the DBE Program.

The department head of the Public Works Department and the department head of the Planning and Community Development Department have been designated as the DBE Liaison Officer. In that capacity, they are responsible for implementing all aspects of the DBE program.

Implementation of the DBE program is accorded the same priority as compliance with all other legal obligations incurred by the City in its financial assistance agreements with the Department of Transportation.

The City of Montpelier will disseminate this policy statement to the Montpelier City Council and all the components of our organization. We will distribute this statement to DBE and non-DBE business communities that perform work for us on DOT-assisted contracts via direct mail to certified DBEs and potential DBEs utilized by the City of Montpelier in recent years.



William Fraser, City Manager

10/28/16

Date

Definitions of Terms

The terms used in this program have the meanings defined in 49 CFR 26.5.

Nondiscrimination

The City of Montpelier will never exclude any person from participation in, deny any person the benefits of, or otherwise discriminate against anyone in connection with the award and performance of any contract covered by 49 CFR Part 26 on the basis of race, color, gender, sexual orientation, or national origin.

In administering its DBE program, the City will 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 the DBE program with respect to individuals of a particular race, color, gender, sexual orientation, or national origin.

DBE Program Updates

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

Quotas

We do not use quotas in any way in the administration of this DBE program.

DBE Liaison Officer (DBELO)

We have designated the following individuals as our DBE Liaison Officer:

Jessie Baker
Assistant City Manager
City of Montpelier
39 Main Street, City Hall
Montpelier, VT 05602
(802) 262-6250
jbaker@montpelier-vt.org

Corey Line (alternate)
Project Management Director
City of Montpelier
39 Main Street, City Hall
Montpelier, VT 05602
(802) 262-6272
cline@montpelier-vt.org

In that capacity, Ms. Baker and Mr. Line are responsible for implementing all aspects of the DBE program as it relates to projects administered through their respective departments and ensuring that the City of Montpelier complies with all provisions of 49 CFR Part 26. They have direct, independent access to the City Manager concerning DBE program matters. The City provides procurement guidance through its Finance Department with support of DBE and W/MBE-specific activities through the city's Department of Planning and Community Development.

The DBELO is responsible for developing, implementing and monitoring the DBE program, in coordination other appropriate officials. Duties and responsibilities include the following:

Project Managers

- Gather and report statistical data and other information as required by DOT.
- Reviews third party contracts and purchase requisitions for compliance with this program.

Liaison Officer

- Ensures that bid notices and requests for proposals are available to DBEs in a timely manner.
- Identifies contracts and procurement so that DBE goals are included in solicitations (both race-neutral methods and contract specific goals) and monitors results.
- Participates in pre-bid meetings.
- Plans and participates in DBE training seminars.
- Certifies DBEs according to the criteria set by DOT and acts as liaison to the Uniform Certification Process in Vermont.

Planning & Community Development Department

- Analyzes the City of Montpelier's progress toward goal attainment and identifies ways to improve progress.
- Advises the City Manager and City Council on DBE matters and achievement.
- Participates with the legal counsel and project manager to determine contractor compliance with good faith efforts.
- Provides DBEs with information and assistance in preparing bids, obtaining bonding and insurance.
- Provides outreach to DBEs and community organizations to advise them of opportunities
- Refers DBEs to the state's directory and provides assistance with the registration process.
- Will develop and maintain a government contracting link on the City's Web site <<http://www.montpelier-vt.org>> that lists various DBE registries and includes information on how DBEs can access government contracting information.

Federal Financial Assistance Agreement Assurance

The City has signed the following assurance, applicable to all DOT-assisted contracts and their administration and includes this language in financial assistance agreements with sub-recipients:

The City of Montpelier shall not discriminate on the basis of race, color, national origin, or gender, sexual orientation in the award and performance of any 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 City of Montpelier 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.).

DBE Financial Institutions

To the extent that there may be DBE financial institutions operating in the state of Vermont, the City of Montpelier will solicit bids for service. No such financial institution currently exists in Vermont.

Directory

The State of Vermont Agency of Transportation (VTrans) maintains a directory identifying all firms eligible to participate as DBEs. The City of Montpelier relies on this directory to identify firms eligible to participate as DBEs. The directory lists the firm's name, address, phone number, date of most recent certification, and the type of work the firm has been certified to perform as a DBE. VTrans regularly updates the registry and publishes it on its Civil Rights Web site <http://vtranscivilrights.vermont.gov>. The directory is searchable by business name and NAICS code.

Over concentration

The City of Montpelier has not identified an over-concentration of DBEs in any particular field. If an over-concentration is identified, the City will work closely with the VTrans to reach out to business development agencies to assist in moving DBEs into additional areas of work.

Required Contract Clauses

Contract Assurance

We 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, gender, or sexual orientation 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.

Prompt Payment

We will include the following clause in each DOT-assisted prime contract:

The prime contractor agrees to pay each subcontractor under this prime contract for satisfactory performance of its contract no later than seven days from the receipt of each

payment the prime contractor receives from the City of Montpelier. The prime contractor agrees further to return retainage payments to each subcontractor within 30 days after the subcontractor's work is satisfactorily completed. Any delay or postponement of payment from the above referenced time frame may occur only for good cause following written approval of the City of Montpelier. This clause applies to both DBE and non-DBE subcontractors.

The City requires prime contractors to provide evidence of compliance with prompt payment provisions if requested. Evidence may include providing copies of invoices and payment vouchers. Failure to comply with the prompt payment provisions may result in contract termination. Whenever possible, The City will provide the contractor with an opportunity to remedy the error or negotiate a fair remedial agreement.

Monitoring and Enforcement Mechanisms

Prime contractors shall be required to submit detailed invoices that include a tally of payments actually made to all subcontractors, including DBE contractors. Prior to approval for payment, the project manager will review invoices for the extent to which performance has matched promises.

The City will bring to the attention of the Department of Transportation any false, fraudulent, or dishonest conduct in connection with the program, so that DOT can take the steps (e.g., referral to the Department of Justice for criminal prosecution, referral to the DOT Inspector General, action under suspension and debarment or Program Fraud and Civil Penalties rules) provided in 26.109. We also will consider similar action under our own legal authorities, including responsibility determinations in future contracts.

Overall Goal

Amount of Goal

For the period covering FY2017 through FY2019, the City of Montpelier intends to expend 2.44% of the Federal financial assistance received under the Department of Transportation with small business concerns owned and controlled by socially and economically disadvantaged individuals (DBEs). The City intends this expenditure be obtained through a race and gender neutral program and will exclude FTA funds used for the purchase of transit vehicles.

Goal Methodology

Pursuant to February 2010 USDOT rule amendments to 49 CFR Section 26.45, the City of Montpelier's overall annual goal of 2.44% on FTA-funded contracts is effective for a period of three years: FY 2017 – FY 2019. The following describes the goal methodology used to determine this three-year goal:

Step 1: Base Figure for the Relative Availability of DBEs

As specified in Section 26.45(c) of the DBE Regulations, the method used to calculate the relative availability of DBEs (“base figure”) for Step 1 of the goal setting process is a percentage figure calculated by dividing a number representing available DBEs by a number representing all available firms (Method 1). The City used the Vermont DBE directory administered by VTrans and Census Bureau data for calculating a base figure. We obtained our data and calculated the relative availability percentage in the following manner:

- All spending of FTA funds by the City is directly related to the multi-modal transit center project. The most recent project budget was used to estimate the spending in the coming three years by NAICS category. Each line item in the budget was assigned to a NAICS code, as shown below in Table 1. This table represents project spending of FTA dollars on the transit center portion of the project. The housing component of the project was not included, as it does not involve any FTA funding.

Table 1. Projected Spending by NAICS Code

NAICS Code	Description	FY17-FY19 Spending	% of Total
237110	Water and Sewer Line and Related Structures Construction	\$57,580	2.2%
237310	Highway, Street, and Bridge Construction	\$306,469	11.6%
237990	Other Heavy and Civil Engineering Construction	\$147,783	5.6%
238110	Poured Concrete Foundation and Structure Contractors	\$251,130	9.5%
238120	Structural Steel and Precast Concrete Contractors	\$210,815	8.0%
238130	Framing Contractors	\$22,781	0.9%
238140	Masonry Contractors	\$7,010	0.3%
238150	Glass and Glazing Contractors	\$149,728	5.6%
238160	Roofing Contractors	\$36,547	1.4%
238170	Siding Contractors	\$87,827	3.3%
238190	Other Foundation, Structure, and Building Exterior Contractors	\$204,550	7.7%
238210	Electrical Contractors and Other Wiring Installation Contractors	\$71,943	2.7%
238220	Plumbing, Heating, and Air-Conditioning Contractors	\$130,568	4.9%
238310	Drywall and Insulation Contractors	\$132,609	5.0%
238340	Tile and Terrazzo Contractors	\$15,231	0.6%
238350	Finish Carpentry Contractors	\$59,573	2.2%
238390	Other Building Finishing Contractors	\$77,044	2.9%
238910	Site Preparation Contractors	\$338,449	12.8%
238990	All Other Specialty Trade Contractors	\$20,886	0.8%
531210	Offices of Real Estate Agents and Brokers	\$125,000	4.7%
541110	Offices of Lawyers	\$50,000	1.9%
541310	Architectural Services	\$147,783	5.6%
TOTAL		\$2,651,306	

- For each NAICS code, we determined the number of ready, willing and able DBEs in our market from the VTrans DBE directory. Then, using the Census Bureau's County Business Pattern (CBP) database, we determined the number of all ready, willing and able businesses available in our market that perform work in the same NAICS codes. For the purpose of setting an overall DBE goal for funds received from FTA, it was determined that our market or service area was the State of Vermont, with six exceptions.

In six of the major construction classifications, there were relatively few Vermont firms, and the great majority of the firms in the Vermont DBE registry (in some cases, all of them) were from out of state. Thus, for the following classifications, an expanded market area was used:

- Water and sewer lines (NAICS 237110): 5 of the 8 DBE firms were from Massachusetts, New York, or Pennsylvania, so establishments from those states were added to the Vermont total
- Street construction (NAICS 237310): 15 of the 24 DBE firms were from Massachusetts, New York, or Pennsylvania, so establishments from those states were added to the Vermont total
- Civil engineering construction (NAICS 237990): 8 of the 12 DBE firms were from were from Massachusetts, New Jersey, New York, or Pennsylvania, so establishments from those states were added to the Vermont total
- Structural steel (NAICS 238120): 4 of the 5 DBE firms were from Massachusetts, New York, or Pennsylvania, so establishments from those states were added to the Vermont total
- Other foundation, structure contractors (NAICS 238190): 1 of the 3 DBE firms was from Pennsylvania, so establishments from that state were added to the Vermont total
- Site preparation (NAICS 238910): 7 of the 17 DBE firms were from Massachusetts or New York, so establishments from those states were added to the Vermont total

Table 2 shows the number of VTrans-certified DBE firms in each of these categories and calculates the unweighted relative availability of DBEs.

Table 2. Relative Availability of DBE Firms

NAICS	Code Description	VT DBE Firms	CBP Total for VT
237110	Water and Sewer Line and Related Structures Construction*	8	958
237310	Highway, Street, and Bridge Construction*	24	1,133
237990	Other Heavy and Civil Engineering Construction*	12	599
238110	Poured Concrete Foundation and Structure Contractors	1	66
238120	Structural Steel and Precast Concrete Contractors*	5	396
238130	Framing Contractors	1	48
238140	Masonry Contractors	3	96
238150	Glass and Glazing Contractors	1	13
238160	Roofing Contractors	2	73
238170	Siding Contractors	0	19
238190	Other Foundation, Structure, and Building Exterior Contractors*	3	172
238210	Electrical Contractors and Other Wiring Installation Contractors	7	269
238220	Plumbing, Heating, and Air-Conditioning Contractors	3	293
238310	Drywall and Insulation Contractors	2	65
238340	Tile and Terrazzo Contractors	0	7
238350	Finish Carpentry Contractors	0	109
238390	Other Building Finishing Contractors	2	13

238910	Site Preparation Contractors*	17	2,714
238990	All Other Specialty Trade Contractors	13	75
531210	Offices of Real Estate Agents and Brokers	2	206
541110	Offices of Lawyers	1	418
541310	Architectural Services	3	83
		110	7,825

*Includes establishments from other states in addition to Vermont (see above)

The 110 ready, willing, and able DBE firms in the Vermont DBE Registry, divided by the 7,825 total Vermont (and other state) firms from the County Business Patterns database, yields an unweighted base figure of 1.4%.

In order to better reflect the availability of DBE contractors with regard to potential spending, we recalculated the relative availability using a weighted approach, so that the NAICS codes with higher spending are weighted more heavily. The percentages of total spending represented by each of the NAICS categories, shown in the rightmost column of Table 1, were multiplied by the percent availability of DBE contractors for each NAICS code. The results of this calculation are shown below in Table 3.

Table 3. Weighted Average of DBE Availability

NAICS Code	Number of DBEs available to perform this work	Number of all firms available (including DBEs)	Pct Available		Weight	Weighted Availability
237110	8	958	0.8%	x	2.2%	0.02%
237310	24	1,133	2.1%	x	11.6%	0.24%
237990	12	599	2.0%	x	5.6%	0.11%
238110	1	66	1.5%	x	9.5%	0.14%
238120	5	396	1.3%	x	8.0%	0.10%
238130	1	48	2.1%	x	0.9%	0.02%
238140	3	96	3.1%	x	0.3%	0.01%
238150	1	13	7.7%	x	5.6%	0.43%
238160	2	73	2.7%	x	1.4%	0.04%
238170	0	19	0.0%	x	3.3%	0.00%
238190	3	172	1.7%	x	7.7%	0.13%
238210	7	269	2.6%	x	2.7%	0.07%
238220	3	293	1.0%	x	4.9%	0.05%
238310	2	65	3.1%	x	5.0%	0.15%
238340	0	7	0.0%	x	0.6%	0.00%
238350	0	109	0.0%	x	2.2%	0.00%
238390	2	13	15.4%	x	2.9%	0.45%
238910	17	2,714	0.6%	x	12.8%	0.08%
238990	13	75	17.3%	x	0.8%	0.14%

531210	2	206	1.0%	x	4.7%	0.05%
541110	1	418	0.2%	x	1.9%	0.00%
541310	3	83	3.6%	x	5.6%	0.20%

The weighted average DBE availability is the sum of the weighted availabilities in the rightmost column, which comes out to 2.44%. This is the step 1 base figure.

Step 2: Adjustment to Base Figure

As specified in Section 26.45, once the relative availability of ready, willing and able DBEs in our marketplace has been determined, it is necessary to examine additional evidence and, if appropriate, make adjustments to the base figure, to ensure that our goal truly and accurately reflects the level of DBE participation we would expect absent the effects of discrimination. Since the City of Montpelier has not spent any FTA funds in the recent past and will not spend additional FTA funds beyond the transit center project, there is no reason to adjust the base figure. Indeed, the base figure is relatively close to that of the Vermont Agency of Transportation for the current period (2.14%) and to the goal of the Chittenden County Transportation Authority, which operates the local transit service in Montpelier (2.74%).

The City considered several other potential adjustments to the base figure before concluding the analysis:

- **Disparity Studies:** There has been no known disparity study performed in Vermont, New Hampshire, or Maine for any public agency or private sector company.
- **Statistical Disparities in the Ability of DBEs to Get the Financing, Bonding, and Insurance Required to Participate in the VTrans DBE Program:** VTrans offers training, mentoring, and one-on-one business coaching to its DBEs through the VTrans Business Development Program, and partners with the Small Business Administration and other agencies to promote accessible financing, bonding, and insurance to all certified DBEs. This has not been identified as a barrier to contracting and procurement opportunities for DBEs in Vermont.
- **Data on Employment, Self-Employment, Education, Training and Union Apprenticeship Programs, to the Extent They Relate to the Opportunities for DBEs to Perform in the VTrans DBE Program:** VTrans has not collected and analyzed this data related to transit contracts. Through the VTrans Business Development Program, DBEs are assessed for training needs, and VTrans funds DBE training to remove barriers, build capacity, and enhance critical business skills.

After full consideration of these factors, the City of Montpelier concludes that the weighted base figure of 2.44% is an appropriate goal for FY 2017 – 2019 for our FTA-assisted project.

Breakout of Estimated Race-Neutral and Race-Conscious Participation

The City of Montpelier will meet the maximum feasible portion of its overall goal by using race-neutral means of facilitating DBE participation. The City of Montpelier, with the assistance of

the Vermont Agency of Transportation, uses the following race-neutral means to increase DBE participation:

- Providing technical assistance and other services to DBEs, directly and via consultants, seminars, partnerships with technical assistance providers and academic institutions;
- Carrying out information and communications programs on contracting procedures and specific contract opportunities;
- Distributing VTrans' free How to Do Business with the Agency of Transportation Guide and other resource materials;
- Providing formal and informal training and presentations to DBEs and other Contractors
- Providing frequent updates to our DBEs on all bidding and subcontracting opportunities;
- Ensuring distribution of the VTrans DBE Directory, through print and electronic means, to the widest feasible universe of potential prime contractors, including mail distribution to all potential prime bidders, and widespread distribution at conferences, expos, and seminars;
- Networking with local, state and federal agencies, non-profits, academic and business communities to obtain maximum partnering opportunities and resources, and develop comprehensive resource and referral network with technical assistance and service providers;
- Referring potential DBEs to VTrans to establish prequalification status.

In addition to the above-described race-neutral means that The City of Montpelier already employs to increase DBE participation, we propose implementing and expanding our efforts by ensuring that our prime contractors consider the use of DBEs in all possible work categories, by providing quick reference guides detailing the expertise and capacities of our DBEs.

Contract Goals

The City of Montpelier anticipates being able to meet our overall goal using only race-neutral means. If the City of Montpelier is unable to meet the overall goal using race-neutral means we will employ contract goals to meet the overall goal. Contract goals are established so that, over the period to which the overall goal applies, they will cumulatively result in meeting any portion of our overall goal that is not projected to be met through the use of race-neutral means. We will establish contract goals only on those DOT-assisted contracts that have subcontracting possibilities. We need not establish a contract goal on every such contract, and the size of contract goals will be adapted to the circumstances of each such contract, such as the type and

location of work, or the availability of DBEs to perform the particular type of work. We will express our contract goals as a percentage of the total amount of a DOT-assisted contract.

Public Notification

We will publish a notice of the proposed overall goal, informing the public that the proposed goal and its rationale are available for inspection during normal business hours at our principal office for 30 days following the date of the notice, and informing the public that we and DOT will accept comments on the goals for 45 days from the date of the notice. The notice will be published in the local daily newspaper *The Time-Argus* or the weekly *Seven Days*.

Our overall goal submission to DOT will include a summary of information and comments received during this public participation process and our responses.

Good Faith Efforts

Information to be submitted

The City of Montpelier treats bidder/offerors' compliance with good faith efforts requirements as a matter of responsiveness. Each solicitation for which a contract goal has been established will require the bidders/offerors to submit the following information under sealed bid procedures:

1. The names and addresses of DBE firms that will participate in the contract;
2. A description of the work that each DBE will perform;
3. The dollar amount of the participation of each DBE firm's participation;
4. Written and signed documentation of commitment to use a DBE subcontractor whose participation it submits to meet a contract goal;
5. Written and signed confirmation from the DBE that it is participating in the contract as provided in the prime contractor's commitment; and
6. If the contract goal is not met, evidence of good faith efforts.

Demonstration of good faith efforts

The obligation of the bidder/offeror is to make good faith efforts. The bidder/offeror can demonstrate that it has done so either by meeting the contract goal or documenting good faith efforts. Examples of good faith efforts are found in Appendix A to part 26.

The project manager and the DBELO are responsible for determining whether a bidder/offeror who has not met the contract goal has documented sufficient good faith efforts to be regarded as responsive.

The City will ensure that all information is complete and accurate and adequately documents the bidder/offeror's good faith efforts before we commit to the performance of the contract by the bidder/offeror.

Administrative reconsideration

Within 5 days of being informed by the City of Montpelier that it is not responsive because it has not documented sufficient good faith efforts, a bidder/offeror may request administrative reconsideration. Bidder/offerors should make this request in writing to the following reconsideration official:

William J. Fraser, City Manager
Montpelier City Manager's Office
39 Main Street, City Hall
Montpelier, VT 05602
Phone: 802-223-9506
Fax: (802) 223-9519

The reconsideration official will not have played any role in the original determination that the bidder/offeror did not make document sufficient good faith efforts. As part of this reconsideration, the bidder/offeror will have the opportunity to provide written documentation or argument concerning the issue of whether it met the goal or made adequate good faith efforts to do so. The bidder/offeror will have the opportunity to meet in person with our reconsideration official to discuss the issue of whether it met the goal or made adequate good faith efforts to do. We will send the bidder/offeror a written decision on reconsideration, explaining the basis for finding that the bidder did or did not meet the goal or make adequate good faith efforts to do so. The result of the reconsideration process is not administratively appealable to the Department of Transportation.

Good Faith Efforts When a DBE is Replaced on a Contract

The City of Montpelier will require a contractor to make good faith efforts to replace a DBE that is terminated or has otherwise failed to complete its work on a contract with another certified DBE, to the extent needed to meet the contract goal. We 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.

In this situation, we will require the prime contractor to obtain our 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, our contracting office will issue an order stopping all or part of payment/work until satisfactory action has been taken. If the contractor still fails to comply, and after consulting with the FTA and/or FHWA, the contracting officer may issue a termination for default proceeding or may initiate any other remedy which is deemed appropriate.

Counting DBE Participation

We will count DBE participation toward overall and contract goals as provided in 49 CFR 26.55.

Certification

The City of Montpelier defers to the Vermont Agency of Transportation (VTrans) Office of Civil Rights for the certification of DBEs. VTrans will employ the certification standards of Subpart D of part 26 and the certification procedures of Subpart E of part 26 to determine the eligibility of firms to participate as DBEs in DOT-assisted contracts. To be certified as a DBE, a firm must meet all certification eligibility standards. The VTrans Office of Civil Rights will make its certification decisions decision based on the facts as a whole.

Information Collection and Reporting

Monitoring Payments to DBEs

The City of Montpelier will require prime contractors to maintain records and documents of payments to DBEs for three years following the performance of the contract. Any authorized representative of the City, VTrans, or DOT will make these records available for inspection upon request. This reporting requirement also extends to any certified DBE subcontractor.

We will keep a running tally of actual payments to DBE firms for work committed to them at the time of contract award.

We 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 schedule of DBE participation.

Reporting to DOT

We will report DBE participation to DOT as follows:

The City of Montpelier will report DBE participation on a quarterly basis, using DOT Form 4630. These reports will reflect payments actually made to DBEs on DOT assisted contracts.

Confidentiality

The City of Montpelier will safeguard from disclosure to third parties information that may reasonably be regarded as confidential business information, consistent with Federal, state, and local law.

