



STAFF REPORT

SAUSALITO CITY COUNCIL

AGENDA TITLE:

Approval of a Disadvantaged Business Enterprise (DBE) Program for use with U.S. Department of Transportation (DOT) Federally Funded Projects.

RECOMMENDED MOTION:

Adopt a resolution approving a DBE Program that establishes a DBE participation goal of 16.3% for the Fiscal Year 2008/2009 and Fiscal Year 2009/2010 for transportation projects supported by Federal Funds

SUMMARY

To qualify for Federal transportation funding the City must establish a program that creates opportunities for Disadvantaged Business Enterprises (DBEs). To do this the City must adopt a DBE program and define annual goals for participation. The City's existing DBE program goals have been evaluated and updated. The following report and attached program have been prepared based upon the current Caltrans Model and are recommended for adoption.

The Sausalito DBE program was revised from race-neutral operations to race conscious, relying on the model DBE program developed by Caltrans. Caltrans race neutral model program was revised in response to the 2003 State Proposition 54 directives regarding race, ethnicity, color, or national origin. The model programs were revised to race conscious to remain in compliance with Federal law.

The DBE Goal for the remaining portion of the current Federal Fiscal year and the Federal Fiscal Year 2009-2010 is 16.3% including an 11.6% race-conscious component for underutilized DBE's and a 4.7% race-neutral component for other DBE categories.

The current Federal Transportation Program includes \$25 million dollars for the Non-Motorized Transportation Pilot Program in Marin County. Marin County allocated \$640,000 of this \$25 million to the City of Sausalito for three projects:

- 1) The Bridgeway Path Plan,
- 2) Bridgeway to Ferry Landing Improvements,

The Federal Fiscal year runs from October 1 to September 30. The Council is requested to approve the draft program for the remaining months of the Federal 2008-09 Fiscal Year and the 2009-2010 Fiscal Year.

The model DBE program was developed by Caltrans in coordination with the Federal Highway Administration and is required for transportation projects. The City is also seeking Federal Stimulus Funds for Sewer and Storm Water Projects which are administered through other Federal Agencies and State Departments. At this time staff expects that DBE policies will be necessary for Federally funded sewer and storm water projects. The Sausalito policy includes terms to allow optional application for other Federally funded non-transportation type capital improvement projects.

FISCAL IMPACT

None. This DBE Program was prepared in-house and funded from the operating budget of the Public Works Department.


STAFF RECOMMENDATIONS

Adopt a resolution approving the DBE Program with a 16.3% DBE participation goal including an 11.6% race-conscious component for underutilized DBE's and a 4.7% race-neutral component for other DBE categories for Federal Department of Transportation assisted projects for the FY 2008-2009 and FY 2009-10.

ATTACHMENTS


1. Resolution approving the DBE Program and establishing a DBE Goal of 16.3% including an 11.6% race-conscious component for underutilized DBE's and a 4.7% race-neutral component for other DBE categories.
2. Annual DBE Submittal Form.

PREPARED BY:



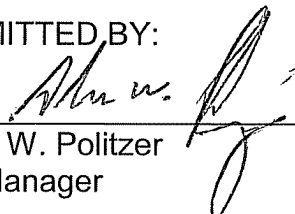
Todd Teachout, City Engineer

REVIEWED BY (Department Head):



Jonathon Goldman,
Director of Public Works

SUBMITTED BY:



Adam W. Politzer
City Manager

RESOLUTION No. _____

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAUSALITO APPROVING THE SAUSALITO DBE PROGRAM FOR THE REMAINDER OF FEDERAL FISCAL YEAR 2008-09 AND FOR FEDERAL FISCAL YEAR 2009-10

WHEREAS, the City of Sausalito was awarded Federal Grant to fund three Non-motorized Transportation Pilot Program Projects, and

WHEREAS, the City must assure that disadvantage business enterprises (DBE) are provided opportunities to work on federally funded transportation projects, and

WHEREAS, in response to the grant condition a DBE Program was prepared to establish DBE participation levels, and

WHEREAS, the market needs to be evaluated to determine reasonable DBE participation levels in the DBE program, and

WHEREAS, based upon an evaluation of the local construction market a Goal of 16.3% Total DBE participation and comprised of a 4.7% race neutral component and a 11.6% is race conscious component is established in the program, and

WHEREAS, this Goal is established for the remainder of the Federal Fiscal year 2008-09 as well as for the Federal Fiscal Year 2009-10.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Sausalito:

1. Approves the Sausalito Disadvantaged Business Enterprise Program Goals for Federally Funded Projects for the remainder of Federal Fiscal Year 2008-09.
2. Approves the Sausalito Disadvantaged Business Enterprise Program for Federally Funded Projects for Federal Fiscal Year 2009-10.
3. Authorizes the City Engineer to execute necessary DBE reporting documents and submit them to the California Department of Transportation on behalf of the City.

AYES: Councilmembers:
NOES: Councilmembers:
ABSTAIN: Councilmembers:

Mayor, City of Sausalito

ATTEST:

City Clerk

Item #: 4B5
Meeting Date: July 21, 2009
Page #: 35

Exhibit 9-B Local Agency DBE Annual Submittal Form

TO: CALTRANS DISTRICT 4
District Local Assistance Engineer

The amount of the Annual Anticipated DBE Participation Level (AADPL) and methodology are presented herein, in accordance with Title 49 of the Code of Federal Regulations, Part 26, and the State of California, Department of Transportation Disadvantaged Business Enterprise (DBE) Program Plan.

The City of Sausalito, submits our AADPL information. The City established an AADPL of Not Applicable for the Federal Fiscal Year 2008/2009, beginning on July 21, 2009, and ending on September 30, 2009.

Methodology

The City determined AADPL based upon an evaluation of DBE directories and Census Data. UDBE categories were determined based upon categories identified in the Caltrans Disparity Study and comprised of Asian Pacific Americans, Black Americans, Native Americans, and Women.

Disadvantaged Business Enterprise Liaison Officer (DBELO)

Todd Teachout, City Engineer, is the DBE Liaison Officer for the coming Federal Fiscal Year. Mr. Teachout can be reach as follows: Mail: City of Sausalito, Community Development Department, 420 Litho Street, Sausalito, CA 94965; Phone: (415) 289-4111; FAX: (415) 339-2256; E-Mail: tteachout@ci.sausalito.ca.us.

Prompt Pay

Federal regulation (49 CFR 26.29) requires one of three methods be used in federal-aid contracts to ensure prompt and full payment of any retainage, kept by the prime contractor or subcontractor, to a subcontractor.

Submitted by:

Signed _____
Todd Teachout
City Engineer, City of Sausalito

July 21, 2009
Date

Reviewed by Caltrans:

(Signature of Caltrans District Local Assistance Engineer [DLAE])

Date

Distribution: (1) Original -DLAE DBE Annual Submittal Form (05/01/06)
(2) Copy-local agency after signing by DLAE

(Attachment)

Prompt Payment of Withheld Funds to Subcontractors

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Federal regulation (49 CFR 26.29) requires one of the following three methods be used in federal-aid contracts to ensure prompt and full payment of any retainage kept by the prime contractor or subcontractor to a subcontractor.

Please check the box of the method chosen by the local agency to ensure prompt and full payment of any retainage.

- No retainage will be held by the agency from progress payments due to the prime contractor. Prime contractors and subcontractors are prohibited from holding retainage from subcontractors. Any delay or postponement of payment may take place only for good cause and with the agency's prior written approval. Any violation of these provisions shall subject the violating contractor or subcontractor to the penalties, sanctions, and other remedies specified in Section 7108.5 of the California Business and Professions Code. This requirement shall not be construed to limit or impair any contractual, administrative, or judicial remedies, otherwise available to the contractor or subcontractor in the event of a dispute involving late payment or nonpayment by the contractor, deficient subcontractor performance, and/or noncompliance by a subcontractor. This clause applies to both DBE and non-DBE subcontractors
- No retainage will be held by the agency from progress payments due the prime contractor. Any retainage kept by the prime contractor or by a subcontractor must be paid in full to the earning subcontractor in 30 days after the subcontractor's work is satisfactorily completed. Any delay or postponement of payment may take place only for good cause and with the agency's prior written approval. Any violation of these provisions shall subject the violating contractor or subcontractor to the penalties, sanctions, and remedies specified in Section 7108.5 of the California Business and Professions Code. This requirement shall not be construed to limit or impair any contractual, administrative, or judicial remedies, otherwise available to the contractor or subcontractor in the event of a dispute involving late payment or nonpayment by the contractor, deficient subcontractor performance, and/or noncompliance by a subcontractor. This clause applies to both DBE and non-DBE subcontractors.
- The agency shall hold retainage from the prime contractor and shall make prompt and regular incremental acceptances of portions, as determined by the agency of the contract work and pay retainage to the prime contractor based on these acceptances. The prime contractor or subcontractor shall return all monies withheld in retention from all subcontractors within 30 days after receiving payment for work satisfactorily completed and accepted including incremental acceptances of portions of the contract work by the agency. Any delay or postponement of payment may take place only for good cause and with the agency's prior written approval. Any violation of these provisions shall subject the violating prime contractor to the penalties, sanctions, and other remedies specified in Section 7108.5 of the California Business and Professions Code. This requirement shall not be construed to limit or impair any contractual, administrative, or judicial remedies otherwise available to the contractor or subcontractor in the event of: a dispute involving late payment or nonpayment by the contractor; deficient subcontractor performance and/or noncompliance by a subcontractor. This clause applies to both DBE and non-DBE subcontractors.

Attachment B

FY2008-2009
Step 1 - Source Data (2006 Census)

Market Counties	237310 Highway, Street, and Bridge Construction	238110 Poured Concrete Foundations	238210 Electrical Contractors & Other Wiring Installation Contractors	238990 All other specialty Trade Contractors	541330 Engineering and related Services
Alameda	36	57	342	111	420
Contra Costa	36	71	213	101	332
Marin	42	20	80	35	75
Napa	9	18	41	17	31
San Francisco	6	20	185	35	263
Solano	8	34	78	42	50
Sonoma	23	64	174	76	133
	42	20	22	44	43
	125	281	1113	417	1304
	33.6%	7.1%	2.0%	10.6%	3.3%
%DBE(AADPL)/All Businesses					
Race Conscious AADPL (#DBE /% UDBE)	30	12	21	33	31
	24.0%	4.3%	1.9%	7.9%	2.4%
Projects					
Bridgeway Path NMTTP5098(009)	Total Budget	% of Total Budget	% of Total Budget*	% of Total Budget**	% of Budget**
	\$100,000	15.6%	for Service Group	for Service Group	for Service Group
Bridgeway to Ferry Lndg Imp NPTP5098(010)	\$200,000	31.3%	\$ portion	\$ portion	\$ portion
Sausalito Stairs NMT 5098 (011)	\$340,000	53.1%	\$100,000	\$20,000	\$65,000
Total	\$640,000	100.0%	\$100,000	\$58,000	\$165,000
			\$245,000	\$78,000	\$165,000
			38.3%	12.2%	100.0%
					19.1%
					25.8%
Base DBE					
Race Conscious DBE					
Race Neutral DBE					
Source Data					
# DBE Firms: http://www.dot.ca.gov/lcp/QuerySubmit.do					
# All Firms: http://censtats.census.gov/epcd/cbp/view/cbpview.html					

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