

**TOWN OF PARADISE
RESOLUTION NO. 10-31**

**RESOLUTION OF APPROVAL OF ANNUAL DBE SUBMITTAL FORM FOR
FEDERAL FISCAL YEAR 2010/2011.**

WHEREAS, The Town of Paradise is required by federal law (49 CFR, Part 26) to comply with DBE policies and submit an Annual DBE Submittal Form to be eligible for federal department of transportation (DOT) funds **and**

WHEREAS, the Town of Paradise has designated a Disadvantaged Business Enterprise Liaison Officer for FFY 2010-11, stated planned race-neutral measures, and designated prompt payment provision which are to be included in future contract documents, **and**

WHEREAS, the Town will be submitting similar annual forms in the future.

NOW, THEREFORE, BE IT RESOLVED by the Town Council of the Town of Paradise as follows:

Section 1. The Town Council approves the Annual DBE Submittal Form for Federal Fiscal Year 2010/2011.

Section 2. The Town Council authorizes the Town Manager to execute the attached "Local Agency DBE Annual Submittal Form" for FFY 2010-11.

Section 3. The Town Council authorizes the Town Manager to execute future DBE annual submittal forms similar in nature and context.

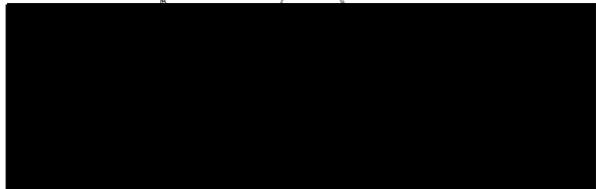
PASSED AND ADOPTED by the Town Council of the Town of Paradise, County of Butte, State of California, on this 14th day of September, 2010 by the following vote:

AYES: Steve "Woody" Culleton, Joe DiDuca, Alan White, and Scott Lotter, Mayor

NOES: None

ABSENT: Frankie Rutledge

NOT VOTING: None



Scott Lotter, Mayor

ATTEST:

By: 

Joanna Gutierrez, Town Clerk

APPROVED AS TO FORM:



Dwight L. Moore, Town Attorney

ATTACHMENT A

**“LOCAL AGENCY DBE ANNUAL SUBMITTAL FORM”
FOR FFY 2010/11**

(CALTRANS EXHIBIT 9-B; v.7-1-10)



TOWN OF PARADISE

PUBLIC WORKS DEPARTMENT

5555 Skyway Paradise, CA 95969

Bus: (530) 872-6291, Fax: (530) 877-5059 www.townofparadise.com

LOCAL AGENCY DBE ANNUAL SUBMITTAL FORM FFY 2010-11

(LAPM EXBT. 9B)

Caltrans Local Assistance Procedures Manual Exhibit 9-B, obtained 7-9-10, July 1, 2010 version

TO: CALTRANS DISTRICT 3

District Local Assistance Engineer

The information for exhibit 9-B presented herein, in accordance with Title 49 of the Code of Federal Regulations (CFR), Part 26, and the State of California Department of Transportation Disadvantaged Business Enterprise (DBE) Program Plan.

The Town of Paradise, submits our annual 9-B information for the Federal Fiscal Year 2010/2011, beginning on October 1 and ending on September 30.

Disadvantaged Business Enterprise Liaison Officer (DBELO):

Radley Ott

Associate Engineer, Town of Paradise

5555 Skyway, Paradise, CA 95969

p: 530.872.5858 f: 530.877.5059 radleyott@townofparadise.com

Planned Race-Neutral Measures

The Town will meet the maximum feasible portion of its AADPL by using race neutral means of facilitating DBE participation. Race neutral DBE participation includes any time a DBE wins a prime contract through customary competitive procurement procedures, is awarded a subcontract on a prime contract that does not carry a DBE goal, or even if there is a DBE goal, wins a subcontract from a prime contractor that did not consider its DBE status in making the award (e.g., a prime contractor that uses a strict low-bid system to award subcontracts).

The race neutral means in which the Town plans to implement for the upcoming Federal Fiscal Year include, but are not limited to, the following:

- 1) Arranging solicitations, times for the presentation of bids, quantities, specifications, and delivery schedules in ways that facilitate DBE, and other small businesses, participation (e.g., unbundling large contracts to make them more accessible to small businesses, requiring or encouraging prime contractors to subcontract portions of work that they might otherwise perform with their own forces);
- 2) Providing technical assistance and other services;
- 3) Carrying out information and communication programs on contracting procedures and specific contract opportunities (e.g., ensuring the inclusion of DBEs and other small businesses on recipient mailing lists of bidders; ensuring the dissemination to bidders on prime contracts of lists of potential subcontractors; provision of information in languages other than English, where appropriate);
- 4) Ensuring distribution of your DBE directory through print and electronic means to the widest feasible universe of potential prime contractors.



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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.

Please refer to the listing below of three prompt payment provision where the Town has selected a prompt payment provision.

Method 1: 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.

Method 2: 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.

Method 3: 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.

49 CFR Part 26.29(d) requires providing appropriate means to enforce prompt payment. These means may include appropriate penalties for failure to comply with the terms and conditions of the contract. The means may also provide that any delay or postponement of payment among the parties may take place only for good cause, with the local agency's prior written approval.

[Redacted Signature]

(Signature)

Charles L. Rough, Jr., Town Manager

9/24/10

Date

(530) 877-4627

Phone Number

[Redacted Signature]

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

10/20/10

Date

Distribution: (1) Original - DLAE (2) Signed copy by the DLAE - Local Agency DBE Annual Submittal Form (07/1/10)