LOH
05/12/05
Item #33

AN ORDINANCE 100873

AMENDING THE CITY'S SMALL BUSINESS ECONOMIC DEVELOPMENT ADVOCACY PROGRAM POLICY ORDINANCE NO. 100182 BY SPECIFYING PERFORMANCE STANDARDS FOR DESIGN-BUILD CONSTRUCTION PROJECTS, IN ORDER TO PROVIDE CONTRACTING OPPORTUNITIES FOR LOCAL SMALL, MINORITY, WOMEN AND AFRICAN-AMERICAN OWNED BUSINESSES ON DESIGN-BUILD CONSTRUCTION PROJECTS.

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WHEREAS, the Small Business Economic Development Advocacy Program Policy Ordinance No. 100182 (the "SBEDA Ordinance"), passed and approved by City Council on December 16, 2004, specifies performance standards for certain contracts; and

WHEREAS, Design-Build Construction ("Design-Build") is a contracting method where a single firm provides both design and construction services; and

WHEREAS, the typical Design-Build project team consists of an architect, engineer and constructor with selection of the team based on a two-step process; and

WHEREAS, this two-step process involves a request for qualifications ("RFQ"), followed by a request for proposals ("RFP") from a list of respondents narrowed in the RFQ process with the final selection based on the respondent who offers the best value to the City; and

WHEREAS, due to changes in state law, the City of San Antonio has the ability to use the Design-Build contract selection method for specific public works construction projects; and

WHEREAS, the SBEDA Ordinance authorized the establishment of a Public Works Construction Workgroup (the "Workgroup") to advise City staff and City Council on procedures to be used on Design-Build projects; and

WHEREAS, as with most discretionary contract solicitations, City staff typically uses a 100-point evaluation system and includes various categories upon which respondents are scored, such as financial capacity, technical management competence and expertise in a particular field; and

WHEREAS, twenty percent of the scoring is related to compliance with the City's SBEDA Ordinance, however the standard selection and scoring criteria requires modification since the selection process for a Design-Build team is different than the traditional bid contracting process; and

WHEREAS, the Design-Build team involves a variety of disciplines including architects, engineers, project managers and construction prime contractors, subcontractors and suppliers, a fraction of which is assembled during the proposal solicitation period; and

WHEREAS, the majority of team members, namely construction subcontractors, are selected after the City has awarded the contract, thus leaving respondents unable to maximize their efforts to meet the objectives of the SBEDA Ordinance; and

WHEREAS, the Workgroup, supported by staff from the Small Business Outreach Division of the Economic Development Department, convened to review the issue in February and March of 2005; and

WHEREAS, the Workgroup recommends that a narrative form response, rather than the standard Good Faith Effort Plan, would be more effective in determining the potential for compliance with the SBEDA Ordinance objectives in Design-Build projects; and

WHEREAS, the Workgroup also recommends that the 20 points typically reserved for Small Business compliance within the SBEDA Ordinance be allocated as follows for Design-Build project solicitations:

- **Five (5) Points**
  - Respondent's local business status
  - Extent of local business participation at the prime contractor level
- **Five (5) Points**
  - Respondent's previous experience in implementing a similar small business program in public and private sector project
- **Five (5) Points**
  - Respondent's specific narrative plan to provide contracting opportunities to Small, Minority, Women, & African-American Owned Businesses
- **Five (5) Points**
  - Extent of Small, Minority, Women, & African-American Owned Business utilization already identified by respondent; and

WHEREAS, respondents that are awarded a Design-Build contract will be held accountable for the information submitted on their request for proposal response in subsequent phases of the Design-Build project, with the respondent's proposal incorporated into the final agreement with the City as a utilization requirement with all other applicable provisions of the SBEDA Ordinance included as contractual provisions; **NOW THEREFORE:**

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SAN ANTONIO:

SECTION 1. The City Council hereby approves the amendment to the Small Business Economic Development Advocacy Program Policy Ordinance No. 100182 (the "SBEDA Ordinance") to specify separate performance standards for Design-Build Construction Projects, all as more particularly described in Section IV, revised paragraphs B, C and D of Attachment B

incorporated herein, to provide for greater contracting opportunities for local Small, Minority, Women and African-American owned businesses.

SECTION 2. This ordinance shall be effective on and after the tenth (10th) day after passage hereof.

PASSED AND APPROVED this 12th day of May, 2005.

M A Y O R
EDWARD D. GARZA

ATTEST: Leticia Y. Vacek
City Clerk

APPROVED AS TO FORM: Gm Zertuche
for City Attorney

ATTACHMENT "A"

CONTRACTING CATEGORY	FY 04-05 and FY 05-06 GOALS
CONSTRUCTION	
Minority Business Enterprise	24%
Women-Owned Business Enterprise	11%
African-American Owned Business Enterprise	1.5%
Small Business Enterprise	50%
PURCHASING	
Minority Business Enterprise	15%
Women-Owned Business Enterprise	10%
African-American Owned Business Enterprise	3%
Small Business Enterprise	50%
PROFESSIONAL SERVICES/LEASE & CONCESSIONS AND OTHER SERVICES CONTRACTS	
Minority Business Enterprise	31%
Women-Owned Business Enterprise	10%
African-American Owned Business Enterprise	2.2%
Small Business Enterprise	50%

*Goal Achievement will be based on plus or minus 2.5% margin of business availability (Except in AABE category).

ATTACHMENT "B"

SECTION I. DEFINITIONS

A) **African American Business Enterprise** (hereinafter referred to as **AABE**): a sole proprietorship, partnership or corporation owned, operated and controlled by an African American Group member(s) who has at least 51% ownership. The African American group member(s) must have operational and managerial control, interest in capital, expertise and earnings commensurate with the percentage of ownership and be legal residents or citizens of the United States or its territories. To qualify as an AABE, the enterprise shall be headquartered in Bexar County or the San Antonio Metropolitan Statistical Area (the "SAMSA") for any length of time or shall be doing business in a locality or localities from which the City regularly solicits, or receives bids on or proposals for, City contracts within the AABE's category of contracting for at least one year.

B) **Airport Concession:** a for-profit business enterprise, located at the Aviation Department aviation facility that is engaged in the sale of consumer goods or services to the public.

C) **Best Value Bid**: a purchasing solicitation process which may evaluate factors other than price. Evaluation criteria for selection may include offerors previous experience and quality of the product being procured.

D) **Certification**: the process by which the SMALL BUSINESS Program staff determines a firm to be a bona-fide small, minority, African American or women's business enterprise as set forth herein. The Small Business Program staff may contract these services to a Regional Certification Agency.

E) **Contracting Agency**: the City agency or department or authorized representative of the City which issues invitations to bid or requests for proposals.

F) **Control**: the authority to sign bids and contracts, make price negotiation decisions, sell or liquidate the business at will and have the primary authority to direct the day-to-day management and operation of a business enterprise.

G) **Construction Project Delivery Methods:**

a) **Competitive Bidding:** is a delivery method wherein the City selects the Architect/Engineer to design the project. Once construction documents are fully complete, the City requests lump sum bids from general contractors to perform the work. Selection of the prime contractor is based on the lowest price submittal and award is made to a single prime contractor.

b) **Competitive Sealed Proposals:** is a delivery method similar to competitive bidding in that the City selects an Architect/Engineer to design the project. Once construction documents are fully completed, the City solicits proposals from contractors to perform

the work. Selection of the prime contractor is based on a combination of price and other factors such as project team personnel & contractor's past experience.

c) **Construction Management at Risk:** is a delivery method wherein the City selects an Architect/Engineer to design the project and separately selects a Construction Manager to serve as the Prime Contractor. The Construction Manager assumes the risk for construction guaranteed price and provides design phase consultation in evaluating costs, schedule, implications of alternative designs and systems and materials during and after design of the facility. Selection is based on criteria that combine qualifications, experience and may involve fee and general conditions.

d) **Construction Design/Build:** is a method where a single contractor provides both design and construction. The Design/Build team consists of builder, architect and engineer. The Design/Builder contracts directly with the subcontractors and is responsible for delivery of the project. Selection is based on the proposal offering the best value to the City.

H) **Corporation**: a separate legal entity incorporated under the authority of federal or state laws, apart from the individuals that may own it or manage it.

I) **Director**: the Director of the Economic Development Department.

J) **Disadvantage Business Enterprise**: is defined in accordance with regulations of the U.S. Department of Transportation (DOT), set forth in 49 CFR Part 26 and relates specifically to City contract solicitations that are federally-assisted.

K) **Division**: the Small Business Outreach Division.

L) **Federally-Assisted Projects**: any contract between the City and a contractor (at any tier) that is funded in whole or in part with federal financial assistance, including letters of credit or loan guarantees.

M) **Expertise:** demonstrated skills, knowledge or ability to perform in the field of endeavor in which certification is sought by the business enterprise as defined by normal industry practices.

N) **Goal:** the percentage of small, minority, African-American and/or women business enterprise participation in an applicable project determined by the City, based on the availability of such businesses in the Marketplace and the subcontracting/supplier opportunities of the project.

O) **Good Faith Effort**: the measures taken to identify and utilize minority, women-owned and African-American owned businesses for subcontracting opportunities as outlined in the U.S. Department of Transportation regulations "Guidance Concerning Good Faith Efforts" published as Appendix A to 49 CFR sec. 26.45 and amendments thereto.

P) **Historically Underutilized Enterprise** (hereinafter referred to as **HUE**): a certified SBE which is a corporation, partnership, sole proprietorship, or other legal entity that also qualifies as an MBE, WBE, M/WBE, or AABE. The HUE designation is used to determine Small Business Performance Standards during the evaluation period and by the Purchasing Department in their informal bidding procedures.

Q) **Joint Venture**: an association that provides for the sharing of economic interest and equal proportionate control over management, interest in capital and earnings.

R) **Leases and Concessions**: the renting of City-owned space on a contractual basis for the purpose of making a profit by selling a commodity/service.

S) **Local Business Enterprise** (hereinafter referred to as **LBE**): a corporation, partnership, sole proprietorship, or other legal entity, which is headquartered within Bexar County for at least one year. For a branch office of a non-headquartered business to qualify as an LBE, the branch office must be located in Bexar County for at least one year and must employ a minimum of ten (10) residents of Bexar County for use at the local branch office.

T) **Manager**: the Manager of the Small Business Outreach Division.

U) **Managing Department**: the department responsible for overseeing the day-to-day completion of the contract.

V) **Market-Place**: the geographic market area defined as the San Antonio Metropolitan Statistical Area (the SAMSA - currently including the Counties of Atascosa, Bandera, Bexar, Comal, Guadalupe, Kendall, Medina and Wilson).

W) **Minority and Women Business Enterprise** (hereinafter referred to as **M/WBE**): a corporation or partnership owned, operated and controlled by a minority group member(s) and woman or women who, when combined, have at least 51% ownership. The minority group member(s) and woman or women must have operational and managerial control, interest in capital, expertise and earnings commensurate with the percentage of ownership and be legal residents or citizens of the United States or its territories. To qualify as a M/WBE, the enterprise shall be headquartered in Bexar County or in the SAMSA for any length of time or shall be doing business in a locality or localities from which the City regularly solicits, or receives bids on or proposals for, City contracts within the M/WBE's category of contracting for at least one year.

X) **Minority Business Enterprise** (hereinafter referred to as **MBE**): a sole proprietorship, partnership or corporation owned, operated, and controlled by a minority group member(s) who has at least 51% ownership. The minority group member(s) must have operational and managerial control, interest in capital, expertise and earnings commensurate with the percentage of ownership and be legal residents or citizens of the United States or its territories. To qualify as an MBE, the enterprise shall be headquartered in Bexar County or the SAMSA for any length of time, or shall be doing business in a locality or localities from

which the City regularly solicits, or receives bids on or proposals for, City contracts within the MBE's category of contracting for at least one year.

Y) **Minority Group Members(s):** African-Americans, Hispanic Americans, Asian Americans, American Indians and disabled individuals legally residing in or that are citizens of the United States or its territories, as defined below:

1) African-Americans: persons having origins in any of the black racial groups of Africa as well as those identified as Jamaican, Trinidadian or West Indian.

2) Hispanic Americans: persons of Mexican, Puerto Rican, Cuban, Spanish or Central or South American origin.

3) Asian-Pacific Americans: persons having origins in any of the original peoples of the Far East, Southeast Asia, the Indian subcontinent or the Pacific Islands.

4) Asian-Indian Americans: persons whose origins are from India, Pakistan, Bangladesh and Sri Lanka.

5) American Indians: persons having no less than 1/16 percentage origin in any of the American Indian Tribes, as recognized by the U.S. Department of the Interior, Bureau of Indian Affairs and as demonstrated by possession of personal tribal role documents.

6) Disabled Individuals: persons (a) with one or more disabilities as defined by 42 U.S.C.A. §12102, known as the Americans with Disabilities Act (the "ADA") and amendments thereto, (b) having a record of such disabilities, and (c) regarded as having such disabilities.

Z) **Offeror**: one who submits a bid/proposal to the City in response to an invitation to bid or to a request for proposal.

AA) **Partnership**: an association of two or more persons who function as co-owners of a business.

BB) **Prime Contractor**: the person, firm or legal entity with whom the City intends to or has entered into an agreement.

CC) **Professional Investment Banker**: defined as staff having a National Association of Securities Dealers (NASD) Series 7 license, Municipal Rulemaking Board (MSRB) Series 7 license or State of Texas Series 63 license.

DD) **Professional Services**: the consulting, designing, advising or conducting of services in any areas of academia such as architecture, engineering, accounting, economics, legal, medicine, etc.

EE)**Public Works Construction**: the construction, improvement, rehabilitation, repair, renovation or maintenance of any property owned by the City of San Antonio or financed, in whole or in part, by the City of San Antonio including:

a) **Horizontal Construction:** construction of roads, streets, bridges, utilities, airport runways and taxiways, drainage projects, or related types of projects associated with civil engineering construction.

b) **Vertical Construction:** construction of a facility building, the design and construction of which is governed by accepted building codes. The term does not include buildings or structures that are incidental to projects that are primarily civil engineering construction projects.

FF) **Public Works Construction Program Workgroup:** a staff and citizen committee that advises the SBAC, City Manager & City Council about procedures for alternative Public Works Construction delivery methods such as design build and competitive bid proposals.

GG) **Purchasing**: the buying, otherwise obtaining or acquiring any supplies, materials, and equipment.

HH) **SAMSA**: also known as the Market-Place, the geographic market area defined as the San Antonio Metropolitan Statistical Area (currently including the Counties of Atascosa, Bandera, Bexar, Comal, Guadalupe, Kendall, Medina and Wilson).

II) **SBAC**: the Small Business Advocacy Committee; a citizens committee appointed by the City Council to advise the City Council and City Manager on issues affecting Small Business in the San Antonio area.

JJ) **SBEDA**: Small Business Economic Development Advocacy.

KK)**SBE/MBE/WBE/AABE Subcontractor(s)/Supplier(s)**:

1) Subcontractor: SBE/MBE/WBE/AABE having a direct contract with the prime contractor for the performance of a portion of the work.

2) SBE/MBE/WBE/AABE Supplier(s): an SBE/MBE/WBE/AABE that furnishes needed items to the prime contractor and performs a commercially useful function in the supply process. The supplier must be involved in the manufacture or distribution of the supplies or materials or must otherwise warehouse and ship the supplies.

3) SBE/MBE/WBE/AABE Manufacturer: a firm which produces goods from raw materials or substantially alters or fabricates them for resale to the prime contractor and the SBE/MBE/WBE/AABE assumes the actual and contractual responsibility for the provision of the materials and supplies.

LL) **Segmentation**: the act of subdividing a contract to provide SBE/MBE/WBE/AABE's a reasonable contracting opportunity.

MM) **Service Contracts**: includes procurements for nutrition, catering, communications, and other similar services not classified under the Professional Services definition.

NN) **Small Business Enterprise** (hereinafter referred to as **SBE**): a corporation, partnership, sole proprietorship or other legal entity for the purpose of making a profit, which is independently owned and operated and which meets the U.S. Small Business Administration (SBA) size standard for a small business. All firms meeting these thresholds will be considered an SBE.

OO) **SMALL BUSINESS Program**: the Small Business Economic Development Advocacy ("SBEDA") Program governed by this ordinance and managed by the SMALL BUSINESS Program Office.

PP) **SMALL BUSINESS Program Office**: the office within the City's Economic Development Department responsible for managing the SMALL BUSINESS Program governed by the SBEDA ordinance.

QQ) **Sole Proprietorship**: a form of business in which one person owns all assets of the business and is solely liable for all the debts of the business.

RR) **Subcontract**: an agreement between the prime contractor and another business entity for the performance of work or provision of supplies furthering the prime contractor's contracted project with the City, if awarded, encompassing:

1. **Subcontract/supplier opportunity**: an area where there is more than one S/M/W/ and/or AA/BE subcontractor/subconsultant/supplier in the market place.

2. **Tier**: the level of subcontracting below that of the prime contractor/consultant; for example, a direct payment from the prime contractor to a subcontractor is considered 1ST tier, a payment from a subcontractor to its supplier is considered 2nd tier, etc.

SS) **Woman Business Enterprise** (hereinafter referred to as **WBE**): a sole proprietorship, partnership or corporation owned, operated and controlled by women who have at least 51% ownership. The woman or women must have operational and managerial control, interest in capital, expertise and earnings commensurate with the percentage of ownership and be legal residents or citizens of the United States or its territories. To qualify as a WBE, the enterprise shall be headquartered in Bexar County or the SAMSA for any length of time or shall be doing business in a locality or localities from which the City regularly solicits, or receives bids on or proposals for, City contracts within the WBE's category of contracting for at least one year.

SECTION II. PROGRAM GOALS

A) Contracting goals for the utilization of SBEs, MBEs, WBEs and AABEs shall be considered for adoption by the City Council following the review and recommendation of the SBAC to the City Council and City Manager. These goals shall be expressed in terms of a percentage of the total dollar value of all contracts to be awarded by the City and shall be established separately for categories of contracting such as construction, professional services, leases and concessions and purchasing contracts as well as any other categories that the City Council deems appropriate.

B) The Director of Economic Development or designee, in consultation with the SBAC, shall have the authority to establish contracting goals based on the availability of businesses for specific projects and specific ethnic groups, as deemed appropriate, in order to meet the City-wide contracting goals established by the City Council.

C) Goals shall be reasonable and shall be based upon:

1) The existence and extent of past and present discrimination against MBEs, WBEs and AABEs in contracts awarded by the City and the likelihood of continuing discrimination if there were no annual goal;

2) The level of participation of MBEs, WBEs and AABEs on past contracts awarded by the City which have contained MBE, WBE and AABE requirements;

3) The level of participation of MBEs, WBEs and AABEs on contracts awarded by other governmental agencies in the San Antonio area which have utilized MBE, WBE and AABE requirements;

4) The percentage goals for different categories, ethnic groups and women which shall be reviewed and recommended by the SBAC on a biennial basis; and

5) The administration of the goals should ensure that applicable ethnic groups participate commensurate with their availability in the SAMSA.

6) Goals may be eliminated, or sunset, in contracting areas where the City has been consistent in meeting or exceeding the goal for three (3) consecutive years.

SECTION III. COUNTING SBE/MBE/WBE/AABE PARTICIPATION

SBE/MBE/WBE/AABE participation shall be counted toward meeting SBE, MBE, WBE and AABE goals in accordance with the following provisions:

1) For the purpose of determining compliance with these goal requirements, businesses will be counted as SBEs, MBEs, WBEs and AABEs only when they have been certified as such by the City's certifying body or as approved by the Director of Economic Development or designee prior to bid/response opening. Any business

listed by an Offeror that is not certified at the time of bid/response opening must file an application for certification within a reasonable time for the City to consider the dollar amount toward meeting the goals.

2) The bidder/proposer may count toward its SBE, MBE, WBE or AABE goal only expenditures to SBEs, MBEs, WBEs and AABEs that perform commercially useful functions in the execution of a contract. An SBE, MBE, WBE or AABE is considered to perform a commercially useful function when it is responsible for executing a distinct element of the work and carries out its responsibilities by actually performing, managing and supervising the work involved. To determine whether an SBE, MBE, WBE or AABE is performing a commercially useful function, the City will evaluate the amount of work subcontracted, type/use and amount of supplies provided, industry practices and other relevant factors.

3) A bidder/proposer may count toward its SBE, MBE, WBE or AABE goal a portion of the total dollar value of a contract with a joint venture equal to the percentage of SBE, MBE, WBE or AABE participation in the joint venture. The SBE, MBE, WBE or AABE must be responsible for a clearly defined portion of the work to be performed, equal to a share in the ownership, control, management, responsibility, risks and profits of the joint-venture.

4) A bidder/proposer may count its entire expenditure to an SBE, MBE, WBE or AABE manufacturer (i.e., a supplier who produces goods from raw materials or substantially alters them before resale) and/or suppliers at the various tier levels.

5) The bidder/proposer may not count toward the goal any agreements with SBE, MBE, WBE or AABE subcontractors/suppliers that do not meet the definition of SBE/MBE/WBE/AABE subcontractors/suppliers, as set forth in Section I, Definitions "Subcontract".

6) Self-performed work done by an SBE/MBE/WBE/AABE prime contractor may be counted toward the appropriate goal provided that the SBE/MBE/WBE/AABE conducts good faith efforts to meet or exceed the contracting goals specified in the bid/proposal solicitation.

SECTION IV. PERFORMANCE STANDARDS

A. The following Performance Standard Percentage Points **(20% TOTAL)** shall be utilized for the award of professional services, leases and concessions, best value bids, and other discretionary contracts:

1) Up to ten percentage (10%) points based on the following criteria:

i. Prime contractors meeting the definition of a Local Business Enterprise (LBE) shall receive ten percent (10%) of the selection points.

ii. Prime contractors who have a local branch office shall receive six percent (6%) of the selection points.

iii. Non-local prime contractors shall receive selection points for subcontracting with local businesses proportional to the amount of work performed by those local subcontractors/suppliers (i.e., 50% to local = 5 points).

2) Up to five percentage (5%) points based on the following criteria:

i. Prime contractors meeting the definition of a Historically Underutilized Enterprise (HUE) shall receive five percent (5%) of the selection points.

ii. Prime contractors who subcontract with HUEs shall receive selection points proportional to the amount of work performed by those HUEs (i.e., 50% to HUEs = 2.5 points).

iii. HUEs must be certified by the City's certifying agency or approved by the Director of Economic Development or designee.

iv. On Federally-Assisted Projects, as applicable in conformance with federal regulations, DBE certification status may be used in lieu of HUE status.

3) Up to five percentage (5%) points for Prime Contractor compliance with the SMALL BUSINESS policy:

i. One percent (1%) for submission/approval of the Good Faith Effort Plan (Contracts less than $200,000 will be evaluated based on submission of the list of sub-contractors/suppliers).
ii. One percent (1%) for meeting/exceeding the MBE goal.
iii. One percent (1%) for meeting/exceeding the WBE goal.
iv. One percent (1%) for meeting/exceeding the AABE goal.
v. One percent (1%) for meeting/exceeding the SBE goal.

B. **The following Performance Standard Percentage Points shall be utilized for Design-Build Construction.** The Respondent's demonstrated commitment to Small Business Economic Development Advocacy **must be provided in a narrative statement based on the following evaluation criteria, in lieu of a Good Faith Effort Plan,** describing the commitment to achieve the City's small business goals. Evaluation of the Respondent's narrative statement will be worth a total of twenty (20) percentage points, based on the criteria as follows:

The following Performance Standard Percentage Points **(20% TOTAL)** shall be utilized for the award of Design-Build projects:

1) Up to five percentage (5%) points based on the following criteria:

   i. Prime contractors meeting the definition of a Local Business Enterprise (LBE) shall receive five percent (5%) of the selection points
   ii. Prime contractors who have a local branch office shall receive three percent (3%) of the selection points. Local non-HQ branch office must be in Bexar County at least 1-year:
      - Construction Primes must employ at least **25** Bexar County residents at their local branch office
      - A & E Primes must employ at least **10** Bexar County residents at their local branch office
   iii. Non-Local Prime Contractor without a local branch may receive points in proportion to the level of work performed by identified local subcontractors (example: 30% to local subcontractors = 1.5 points)

2) Up to five percentage (5%) points based on Respondent's previous experience in implementing a similar small business program in project(s) for the last 3-5 years (Public and/or Private) as follows:

   i. Respondent has implemented a small business type program and attained the contracting goals specified by the client
   ii. Respondent has implemented a successful small business program in a private sector project
   iii. Respondent has a policy supporting the use of small, minority and women-owned businesses in their own contracting program
   iv. Respondent has demonstrated experience in using small businesses in all contracting opportunities
   v. Respondent's small business program has received recognition and/or award

3) Up to five percentage (5%) points based on Respondent's specific plan to provide contracting opportunities to Small, Minority, Women, & African-American Owned Businesses, and to comply with the City's small business policy including, but not limited to:

   i. Outreach to small business community
   ii. Listing of small business directories and/or databases to solicit participation
   iii. Advertising mediums to solicit bids
   iv. Targeting mediums that have Small, Minority, Women-Owned and African-American business orientation
   v. Respondent's memberships in Small Business Outreach Organizations. Examples: Chambers, Certification Organizations, Contractor Associations, etc.
   vi. Appointing Small Business Liaison(s)

4) Up to five percentage (5%) points for the extent of Small, Minority, Women, & African-American Owned Business utilization already identified by Respondent. Respondent has been pro-active in assembling a Project Team with Small, Minority, Women-Owned and African-American businesses at levels corresponding to the City's Professional Services Contract Category goals identified in Attachment A of this ordinance. Respondents will be evaluated based on identified Project Team's work as follows:

   i. Respondents attaining **all** Small, Minority, Women-Owned and African-American contracting goals will receive 5-points
   ii. Respondents attaining 50% of **all** Small, Minority, Women-Owned and African-American contracting goals will receive 2.5-points
   iii. Respondents attaining 25% of **all** Small, Minority, Women-Owned and African-American contracting goals will receive 1.25-points
   iv. Respondents attaining less than 25% of **all** Small, Minority, Women-Owned and African-American contracting goals will be evaluated proportional to the level of utilization identified by the respondent
   v. SBE/ MBE/WBE Prime Contractors may receive points proportional to level of participation in the contract

C. **The following Performance Standard Percentage Points shall be utilized for Competitive Sealed Proposals**:

Phase One: Initial Phase of bidding process:

1) Up to ten percentage (10%) points based on the following criteria:

   i. Prime contractors meeting the definition of a Local Business Enterprise (LBE) shall receive ten percent (10%) of the selection points.
   ii. Prime contractors who have a local branch office shall receive six percent (6%) of the selection points.
   iii. Non-local prime contractors shall receive selection points for subcontracting with local businesses proportional to the amount of work performed by those local subcontractors/suppliers (i.e., 50% to local = 5 points).

2) Up to five percentage (5%) points based on the following criteria:

   i. Prime contractors meeting the definition of a Historically Underutilized Enterprise (HUE) shall receive five percent (5%) of the selection points.
   ii. Prime contractors who subcontract with HUEs shall receive selection points proportional to the amount of work performed by those HUEs (i.e., 50% to HUEs = 2.5 points).
   iii. HUEs must be certified by the City's certifying agency or approved by the Director of Economic Development or designee

iv. On Federally Assisted Projects, as applicable, in conformance with federal regulations, DBE certification status will be used in lieu of HUE status.

Phase Two of Bidding Process:

1) The points received in Phase One will carry forward to the Phase Two evaluation. In addition, the following Performance Standard Percentage Points shall be applied:

   a. One percent (1%) for submission/approval of the Good Faith Effort Plan or List of Sub-Contractors/Suppliers, whichever is applicable.
   b. One percent (1%) for meeting/exceeding the MBE goal.
   c. One percent (1%) for meeting/exceeding the WBE goal.
   d. One percent (1%) for meeting/exceeding the AABE goal.
   e. One percent (1%) for meeting/exceeding the SBE goal.

D. All aforementioned Performance Standard evaluation criteria for Federally-Assisted Projects will be applied in conformance with federal regulations.

SECTION V. SBE, MBE, WBE and AABE UTILIZATION REQUIREMENTS

A) The contracting goals specified in **Attachment A** will be used in all formal bid/proposal solicitations.

B) The Managing Department shall furnish the SMALL BUSINESS Program Office with an informational copy of all bid conditions and requests for proposals, prior to solicitation of bids or proposals, and the Director of Economic Development or designee may make recommendations to the Managing Department with respect to SBEs, MBEs, WBEs and AABEs which can be solicited directly to submit bids.

C) Contracts for public works construction, professional services or other discretionary service contracts, the estimated cost of which exceeds $25,000, shall be awarded and administered in accordance with the following standards and procedures:

   1) In addition to the requirements set forth elsewhere, bid conditions and requests for proposals shall require offerors to include in their bid or proposal SBE, MBE, WBE and AABE participation in a percentage which equals or exceed the goals.

   2) Bids and proposals between $25,000 and $200,00 in value that have subcontracting opportunities shall include a SMALL BUSINESS department-approved "List of Subcontractors/Suppliers" form (**Attachment B-1**), which identifies the particular SBEs, MBEs, WBEs and AABEs to be utilized in performing the contract, specifying for each the dollar value of the participation, the type of work to be performed or supplies provided and such information as may reasonably be required to determine the responsiveness of the bid or proposal.

3) In addition to requirements set forth elsewhere, for contracts of $200,000 or more and leases and concessions solicited through proposals, bid conditions and requests for proposals shall require offerors to include in their bid or proposal a Good Faith Effort Plan (GFEP) -- (see **Attachment B-2**) in which the offeror demonstrates a commitment to utilize SBEs, MBEs, WBEs and AABEs in a percentage which equals or exceeds the goal. Any bid or proposal that does not include the GFEP shall be declared non-responsive.

4) During the term of any contract that might be awarded, any unjustified failure to comply with the levels of SBE, MBE, WBE or AABE utilization levels identified in the bid or proposal and approved by the City Council through contract approval shall be considered a material breach of contract. The City Attorney's office will include a provision in the final contract specifying the subcontracting utilization levels committed and agreed to by the prime contractor.

5) During the term of the contract, if a contractor finds it necessary to change, add or delete subcontractors, the contractor will be required to submit the SMALL BUSINESS OFFICE-approved "Request for Approval of Change to Original Affirmed List of Subcontractors/Suppliers" form (Attachment B-3) for approval by the Director of the Managing Department, as well as the Director of Economic Development or designee.

6) Every contract shall be required to contain language mandating the above-mentioned provisions within this Section V, as applicable.

7) A contracting authority or department may request the Director of Economic Development or designee to waive the goal requirements of this subsection, or to reduce the amount of the goals, for SBE, MBE, WBE or AABE, in accordance with the provisions of the Section VI entitled *Exceptions and Waivers*.

C) In addition to such other requirements as may be set forth elsewhere, the following shall apply to construction, professional service, discretionary service and applicable procurement contracts awarded by the City:

1) Contracts shall incorporate this ordinance by reference and shall provide that the failure of any bidder/proposer, contractor or subcontractor to comply with this ordinance shall be a material breach of contract.

2) Contracts shall require that during the term of the contract, the contractor shall:

a) Fulfill the SBE, MBE, WBE and AABE participation commitments submitted with the bids or proposal;

b) Continue to make every effort to utilize SBEs, MBEs, WBEs and AABEs; and

c) Maintain records reasonably necessary for monitoring their compliance with the provisions of this ordinance.

3) Whenever contract alternatives, amendments or extra work orders are made individually or in the aggregate, which increase the total value of the contract by more than 10 percent of the dollar value of the original contract, the contractor shall comply with the provisions of this ordinance with respect to the alternates, amendment or extra work order.

4) All contracts or other agreements between the City of San Antonio and quasi-governmental agencies, public corporations or third party contractors, whereby such entities receive money from or through the City for the purpose of contracting with businesses to perform public works construction, professional service or procurement contracts, shall require such entities to comply with the provisions of this ordinance in awarding and administering such contracts to the maximum extent possible.

SECTION VI. EXCEPTIONS AND WAIVERS

A) If a bidder/proposer is unable to comply with the goal requirements established in the Program Goals section of this ordinance, such bidder/proposer shall submit, as part of the bid/proposal, a request for exception at the time of bid/proposal opening. The exception shall include specified documentation which demonstrates a good faith effort to comply with the goals requirements as described in the Program Goals section above.

B) If, after award of a contract, the contractor is unable to meet the goal requirement by utilizing the SBEs, MBEs, WBEs or AABEs specified at bid opening, the contractor must seek substitute MBEs, WBEs or AABEs to fulfill the requirements; the substitution must be approved by the Director of Economic Development (or designee) and the Managing Department Director. If, after reasonable good faith efforts, the contractor is unable to find a substitute, a post-award waiver may be requested. The request shall document the reasons for the contractor's inability to meet the goal requirement.

C) A contracting City department may request the Director of Economic Development or designee to waive or modify (waivers for advertising, posting, etc.) the goal requirements for SBEs, MBEs, WBEs and/or AABEs, by submitting the reasons in writing prior to solicitation of bids or proposals. The Director of Economic Development or designee may grant such a waiver or reduction upon determination that:

1) The reasonable and necessary requirements of the contract render subcontracting or other participation of business other than the bidder or proposer infeasible;

2) Sufficient qualified SBEs, MBEs, WBEs and AABEs providing the goods or services required by the contract are unavailable in the market area of the project despite every feasible attempt to locate them;

3) When sufficient qualified SBEs, MBEs, WBEs or AABEs are available for providing the goods and services required by the contract in a greater degree than required by the general category contracting goal, an increase in the specific industry goal may be justified.

Any modification of goal amounts granted by the Director of Economic Development or designee shall specify the amount to which the goal has been modified. Whenever the Director of Economic Development or designee denies a request to waive or modify a goal, the contract authority may appeal that denial to the City Manager whose decision on the request shall be final.

D) A contracting department may waive the utilization requirements of this ordinance for a specific contract under the following circumstances:

1) Whenever the Managing Department finds that needed goods or services are available only from a sole source and the prospective contractor is not currently disqualified from doing business with the City. Final approval of a waiver request shall be made by the City Manager or designee.

If the contracting department certifies: (a) that an emergency exists which requires goods or services to be provided with such immediacy that it is unable to comply with the requirements of this ordinance; and (b) that the prospective contractor is an SBE, MBE, WBE or AABE or, if not, that the prospective contractor will make every good faith effort to utilize SBEs, MBEs, WBEs and/or AABEs.

SECTION VII. SMALL BUSINESS PROCEDURES

A. Purchasing Contracts: Solicitation shall be handled under lowest competitive bid procedures as specified by state statute.

i. On informal bids, purchasing agents must solicit bids from at least three (3) HUEs.
ii. Purchasing Department staff shall do meaningful outreach to insure that the local business community is aware of procurement opportunities.
iii. The Purchasing Department staff shall be responsible for meeting the Purchasing goals specified in this Ordinance.

B. Professional Services, Leases & Concessions, Best Value Bids & Other Discretionary Contracts: Solicitations shall be handled through a competitive proposal process as specified by the City's Contract Services Department.

i. Proposal conditions shall include a statement of the SBE/MBE/WBE/AABE goals established for the project. The requirement also applies to circumstances where change orders or extra work give rise to contract opportunities outside the original scope of work.
ii. Proposal conditions shall require that offerors make a good faith effort to subcontract with or purchase supplies from SBE/MBE/WBE/AABE firms.

Such specifications will require the offeror to meet or exceed the stated goals or submit documentation of good faith efforts to determine compliance with the specifications.

iii. Any bid or proposal for a contract which has a value of $200,000 or more, based on the City's best estimate, that does not include the GFEP form (Attachment B-2) shall be declared non-responsive.

iv. Any bid or proposal for a contract which has a value of less than $200,000, based on the City's best estimate, that does not include the List of Subcontractors/Suppliers form (Attachment B-1), shall be declared non-responsive.

v. The Small Business Performance Standards of 20% as outlined in Section IV will be used as part of the overall evaluation criteria for selection of the prime contractor.

C. Construction Contracts: The Public Works Department will identify the appropriate Construction Project Delivery Method:

i. In addition to the requirements set forth elsewhere, bid conditions shall include a statement of the SBE/MBE/WBE/AABE goals established for the project. This requirement also applies to circumstances where change orders or extra work give rise to contract opportunities outside the original scope of work.

ii. Bid conditions shall require that offerors make a good faith effort to subcontract with or purchase supplies from SBE/MBE/WBE/AABE firms. Such specifications will require the offeror to meet or exceed the stated goals or submit documentation of good faith efforts to determine compliance with this requirement.

iii. On contracts where design/build, competitive bid proposals and other alternative project delivery methods are used, the Small Business Performance Standards of 20% as outlined in Section IV of this Ordinance will be used as part of the overall evaluation criteria for selection of the prime contractor.

iv. For public works construction contracts with a cost exceeding $200,000 based on the City's best estimate, bidders/proposers shall submit, at the time of bid/proposal submittal, a finalized SMALL BUSINESS Program Office-approved GFEP (Attachment B-2). Any bid or proposal in this category that does not include the GFEP shall be declared non-responsive.

v. Any bid or proposal, for a contract which has a value of less than $200,000, based on the City's best estimate, shall submit, at the time of bid/proposal submittal, a finalized SMALL BUSINESS Program Office-approved List of Subcontractors/Suppliers (Attachment B-1). Any Bid or proposal in this category that does not include the List of Subcontractors/Suppliers shall be declared non-responsive.

D. Aviation Contracts: All solicitations for Federally Assisted Projects shall be handled in conformance with federal regulations.

i. Bids and proposals shall include additional forms in conformance with federal regulations. Any bid or proposal in this category that does not include these required forms shall be declared non-responsive.
ii. The Aviation staff shall be responsible for meaningful outreach and monitoring DBE goals in conformance with federal regulations.
iii. Bids and proposals shall be in conformance with City's SBEDA policy where applicable.

E. SMALL BUSINESS Program Office -Duties and Responsibilities.

The SMALL BUSINESS Program Office will be administered and managed by the SMALL BUSINESS Program Office Manager who shall report to the Office of the Director of Economic Development or designee. The Director of Economic Development or designee shall attend all City Council agenda meetings to address any SMALL BUSINESS issues. The Division shall be responsible for the overall administration of the City's SMALL BUSINESS Program. Its duties and responsibilities shall include:

1) Adopting rules and regulations to effectuate this ordinance;

2) Developing and distributing a directory of certified SBEs, WBEs, MBEs and AABEs;

3) Providing information and needed assistance to SBEs, WBEs, MBEs and AABEs to increase their ability to compete effectively for the award of City contracts;

4) Investigating alleged violations of this ordinance and making written recommendations to appropriate authorities for remedial action when appropriate;

5) Developing and distributing all necessary forms, applications and documents necessary to comply with this ordinance;

6) Reviewing, on a regular basis, the progress of departments toward achieving the category goals for the utilization of SBEs, MBEs, WBEs and AABEs;

7) Making recommendations to appropriate City officials regarding methods to further the policies and goals of this ordinance;

8) Determining SBE/MBE/WBE/AABE compliance on contracts before they are submitted to the City Council for award;

9) Maintaining an accurate contract performance reporting system; and

10) Providing staff support to the SBAC.

F. Contracting Departments - Duties and Responsibilities:

It shall be the responsibility of each contracting department to ensure that bids or proposals emanating from the department adhere to the procedures and provisions set forth in this ordinance.

1) The contracting department director or designee shall assume primary responsibility for achieving the goals of this program and shall review, on a continuing basis, all aspects of the program's operations to assure that the purpose is being achieved.

2) The contracting department shall take the following action to ensure that SBEs, MBEs, WBEs, and AABEs have the maximum opportunity to participate on City contracts:

   a) The advertisements for formal bids required to be advertised according to statute shall appear in minority-targeted media no less than thirty (30) days (for Purchasing Department procurement only – fifteen [15] days) before bids are due for specific contracting opportunities;

   b) A notification shall be sent to minority and female trade associations and contractor's associations (that the Economic Development Department has in its Plans Room/Library for viewing) of the availability of formally-advertised contracting opportunities no less than thirty days (for Purchasing Department procurement only - fifteen [15] days) before bids are due;

   c) All contract solicitations shall include the SMALL BUSINESS policy and any materials required by the SMALL BUSINESS bid documents;

   d) All contracting opportunities shall be evaluated in an effort to divide the total requirements of a contract to provide reasonable opportunities for SBEs/MBEs/WBEs/AABEs;

   e) Establish procedures to ensure that all contractors submitting correct invoices are paid within thirty (30) days and that subcontractors are paid within five (5) days after the City pays the general contractor;

   f) Ensure that a notice to proceed is not issued until signed Letters of Intent (Attachment B-4) or executed agreements with the SBEs, MBEs, WBEs, and/or AABEs have been submitted;

   g) Ensure that all required statistics and documentation are submitted to the SMALL BUSINESS Program Office as requested; and

   h) If circumstances prevent the contracting department from meeting the thirty (30) day advertising (fifteen [15] days for Purchasing Department

procurement bids) and notification requirements, the contracting department shall perform extensive outreach to SBE/MBE/WBE/AABE associations or other relevant organizations to inform them of the contracting opportunity.

SECTION VIII. SBE/MBE/WBE/AABE CERTIFICATION

The City of San Antonio may contract with a regional certification agency/organization, through an interlocal agreement, for the purpose of SBE/MBE/WBE/AABE certification services for the SMALL BUSINESS Program. The Certification entity and/or City staff shall use the following certification requirements:

A) An eligible SBE/MBE/WBE/AABE under this program shall be an independent, operating business. The ownership and control by minorities or females shall be real and substantial, and shall be indicated by customary incidents of ownership as demonstrated by an examination of the substance, rather than the form, of ownership and operating arrangements.

B) The minority or female owners must possess the power to direct or cause the direction of the management and policies of the firm and to make day-to-day decisions, as well as any decisions on matters of management, policy and operations. The firm shall not be subject to any formal or informal restrictions which limit the customary discretion of the minority, or female owners. There shall be no restrictions by partnership agreements, charter requirements or other arrangements which prevent the minority, or female owners from making business decisions of the firm without the cooperation or vote of any owner who is not minority, or female.

C) Certification of SBE/MBE/WBE/AABE will be in accordance with the definitions specified in Section I.

D) The claim of minority status must be directly related to the applicant's parents' minority status. Neither birthplace nor marriage has any bearing on minority status of the applicant.

E) Since the purpose of the certification is to assist those who have experienced systematic or other forms of discrimination, the extent of discrimination experienced by the minority or female person(s) will be taken into consideration in an effort to achieve the intent of the program.

F) A business wishing to be certified as an SBE/MBE/WBE /AABE shall cooperate with the City in supplying additional information or agreeing to participate in a site visit of the enterprise which may be requested in order to make a determination. Failure or refusal to cooperate shall result in denial or repeal of certification.

G) Proof of certification by another certifying entity may be accepted by the City of San Antonio to facilitate certification of a business if the certifying entity adheres to the same or similar policies as those embraced by the City of San Antonio.

H) Once certified, an SBE/MBE/WBE/AABE shall update its status biennially by submitting a recertification affidavit. If ownership or control of the firm has changed, the SBE, MBE, WBE or AABE shall submit a new certification affidavit to the SMALL BUSINESS Program Office within thirty (30) days of the change.

I) The Director of Economic Development or designee will notify applicants of staff's determinations on certification status.

J) A business which believes that it has been wrongly denied certification as an SBE, MBE, WBE or AABE may request a hearing with the Director to present any additional information or facts pertaining to the application. If approved, the SMALL BUSINESS staff will notify the applicant.

K) If certification status is further denied, the applicant may appeal to the SBAC. The SBAC will conduct a hearing at which time all information to be considered shall be entered into the record. Oral arguments of the applicants will be heard by the SBAC, which will ask such questions and conduct such discussion as deemed appropriate. The Committee's recommendation will be submitted to the City Manager for final determination.

L) A firm shall be de-certified when it no longer meets the qualifications for certification.

M) Any complaint regarding certification shall be forwarded to City staff for investigation of any possible violations of this ordinance.

SECTION IX. CONTRACT MONITORING, REPORTING AND COMPLIANCE

A) The SMALL BUSINESS Program Office, along with Contracting Officers of each Department, shall monitor compliance with these requirements during the term of the contract. If it is determined that there is cause to believe that a contractor or subcontractor has failed to comply with any of the requirements of this ordinance, or the contract provisions pertaining to SBE/MBE/WBE/AABE utilization, the Division Manager shall so notify the contracting department and the contractor. The Director of Economic Development or designee may require such reports, information and documentation from contractors, bidders, contracting agencies and the head of any City of San Antonio department, division or office as are reasonably necessary to determine compliance with the requirements, within fifteen (15) calendar days after the notice of noncompliance. If the requested materials are not received within fifteen (15) calendar days, then a finding of noncompliance is determined and appropriate penalties and sanctions will apply as stated in Section VIII of this ordinance.

B) Joint responsibility by the Director of Economic Development and Managing Department or designee shall attempt to resolve the noncompliance with the requirements of this ordinance, or the contract provisions pertaining to SBE/MBE/WBE/AABE utilization, within fifteen (15) calendar days. If the noncompliance cannot be resolved within the fifteen (15) calendar days, the Director of Economic Development or designee and the Director of the contracting department shall submit written recommendations to the City Council through the City

Manager or designee and if the City Council concurs with the finding, it shall impose such sanctions as stated in this ordinance.

C) Whenever the Director of Economic Development or designee finds, after investigation, that a contracting department has failed to comply with the provisions of this ordinance or the contract provisions pertaining to SBE/MBE/WBE/AABE utilization, a written finding specifying the nature of the noncompliance shall be transmitted to the department and the Director of Economic Development or designee shall attempt to resolve any noncompliance through conference and conciliation. Should such attempt fail to resolve the noncompliance, the Director of Economic Development or designee shall transmit a copy of the finding of noncompliance, with a statement that conciliation was attempted and failed, to the City Manager who shall take appropriate action to secure compliance.

D) Contracting departments shall maintain accurate records for each contract awarded including dollar value, the nature of the goods or services to be provided, the name of the contractor awarded the contract, the efforts it employed to solicit bids from SBEs, MBEs, WBEs and AABEs and all subcontracts awarded by the contractor identifying for each its dollar value, the nature of the goods or services provided and the name of the subcontractor.

E) The Director of Economic Development or designee, through the City Manager, shall submit an annual report to the SBAC and City Council on the progress of the City toward the utilization goals established by this ordinance together with an identification of problems and specific recommendations for improving the City's performance.

F) The conditions of this ordinance shall apply to all bidders/proposers, as well as SBEs, MBEs, WBEs, and AABEs, specified in Section III that receive funds from the City of San Antonio.

G) The Division Manager shall work closely with the City Attorney's Office to include language in all City contracts that ensures compliance with the SMALL BUSINESS program. This language should also include a time period for the contractor to correct any and all deficiencies not later than fifteen (15) calendar days.

SECTION X. PENALTIES AND SANCTIONS

A) A determination by the Director of Economic Development or designee that the contractor has failed to comply with any portion of this ordinance, as herein provided and described, shall subject the offending party to any or all of the following penalties:

1) suspension of contract;

2) withholding of funds;

3) rescission of contract based upon a material breach of contact pertaining to SBE, MBE, WBE or AABE utilization;

4) refusal to accept a proposal;

5) disqualification of a bidder, contractor or other business from eligibility for providing goods or services to the City for a period not to exceed two years; and

6) imposition of a fine, applicable to each day not in compliance.

Violation; Disqualification. It is a violation of this ordinance to:

A Fraudulently obtain, retain, and attempt to obtain or retain or aid another in fraudulently obtaining or retaining or attempting to obtain or retain certification as an SBE, MBE, WBE or AABE for the purpose of this ordinance.

B) Willfully falsify, conceal or cover up by a trick, scheme or device, a material fact or make any false, fictitious or fraudulent statements or representations to make use of any false writing or document knowing the same to contain any false, fictitious or fraudulent state or entry.

C) Willfully obstruct, impede or attempt to obstruct or impede any authorized official or employee who is investigating the qualifications of a business entity which has requested certification as an SBE, MBE, WBE or AABE.

D) Fraudulently obtain, attempt to obtain or aid another person fraudulently obtaining or attempting to obtain public monies to which the person is not entitled under this attachment.

E) Make false statements to any entity that any other entity is or is not certified as an SBE, MBE, WBE or AABE for purposes of this attachment.

Any person who violates the provisions of this attachment shall be subject to the maximum penalty provided by law.

SECTION XI. SMALL BUSINESS ADVOCACY COMMITTEE (SBAC)

A citizens committee hereto referred as the Small Business Advocacy Committee will be established to function as an advisory group only, to assist the Director of Economic Development or designee, the City Manager and City Council in reviewing the continuing programs of contractors and subcontractors concerning MBE/WBE/AABE/SBE and LBE participation, shall hear appeals and challenges concerning certification status as granted by the City of San Antonio, shall coordinate activities and actions with the City Council Economic and Human Development Committee or corresponding committee designated by the Mayor and/or City Council and shall make recommendations to the Director of Economic Development or designee, the City Manager and City Council concerning such programs. The committee consists of 11 members appointed by the City Council. Members of the committee shall serve two-year terms. The membership of the committee shall include representatives of the Chambers of Commerce and the general business community.

i. The SBAC is hereby authorized to appoint a staff and citizens committee hereto referred to as the Public Works Construction Program Workgroup to

advise the SBAC, City Manager and City Council on procedures to be used in the various Public Works Construction Delivery Methods. The Committee shall consist of 7 members: The Director of Public Works Department or designee, the Director of the Economic Development Department or designee, the Director of the Contract Service Department or designee (who shall serve as Chairperson of the Workgroup), and 2 members representing the local General Contractor's Association (Vertical & Horizontal Construction), 1 member representing the local Architectural Organization and 1 member representing the local Engineering Association. The Workgroup shall strive to submit a report on procedures related to Construction Delivery Methods by March 1, 2005. Upon submission of this report, the Workgroup shall dissolve.

SECTION XII. FINANCE DEPARTMENT-INVESTMENT BANKING SERVICES

The evaluation criteria for request for proposals received by offerors will include incentives to encourage the hiring of investment bankers in the San Antonio area. The evaluation criteria shall include the following:

Provide a potential 10% in the proposal evaluation criteria for the category of **Professional Investment Bankers located in San Antonio;**

i.	1-3 Staff Members	5%
ii.	4-7 Staff Members	8 %
iii.	Greater than 8 Staff Members	10%

SECTION XIII. SEVERABILITY

If any provision of this attachment, or the application thereof, to any person or circumstance is held invalid for any reason in a court of competent jurisdiction, such invalidity shall not affect the other provisions of any other application of this attachment which can be given effect without the invalid provision or application and to this end, all the provisions of this attachment are hereby declared to be severable.

(ATTACHMENT B-1)
LIST OF SUBCONTRACTORS/SUPPLIERS
(FOR CONTRACTS LESS THAN $200,000)

The Bidder/Proposer, _____, as part of the procedure for the submission of bid/proposals on a project known as _____, submits the following list of subcontractors/suppliers for proposed subcontracting areas (use additional sheets if necessary) to be used in the performance of work to be done on said project.

NAME OF SUBCONTRACTOR/SUPPLIER	SBE-MBE-WBE-AABE CERTIFICATION NUMBER	PERCENT AND DOLLAR AMOUNT OF SUBCONTRACT

The following section is to be completed if the contract (Project) is for less than $200,000. Please list subcontracting solicitations to all SBE-MBE-WBE-AABE contractors for participation on project. If none, explain (exclude successful bidders listed above). Use additional sheets if necessary. **The contractor is expected to solicit participation on subcontracts from available MBE-WBE-AABE-SBEs under this contract.**

NAME OF COMPANY PERFORMING WORK	SBE-MBE-WBE-AABE CERTIFICATION NUMBER	REASON FOR REJECTION

Only companies certified as an MBE, WBE, AABE or SBE by the City of San Antonio or its certifying organization can be applied toward the contracting goals. All MBE-WBE-AABE-SBE subcontractors or suppliers must submit a copy of their certification certificate through the Prime Contractor. Proof of certification must be attached to this form. If a business is not certified, please call the Small Business Program Office at (210) 207-3900 for information and details on how subcontractors/suppliers may obtain certification.

It is understood and agreed that, if awarded a contract by the City of San Antonio, the Contractor will not make additions, deletions, or substitutions to this certified list without consent of the Director of Economic Development and Director of the appropriate contracting department (through the submittal of the Request for Approval of Change to Affirmed List of Subcontractors/Suppliers form).

AFFIRMATION

I HEREBY AFFIRM THAT THE ABOVE INFORMATION IS TRUE AND COMPLETE TO THE BEST OF MY KNOWLEDGE AND BELIEF. I FURTHER UNDERSTAND AND AGREE THAT, IF AWARDED THE CONTRACT, THIS DOCUMENT SHALL BE ATTACHED THERETO AND BECOME A BINDING PART OF THE CONTRACT.

NAME AND TITLE OF AUTHORIZED OFFICIAL: _____

SIGNATURE: _____ DATE: _____

(ATTACHMENT B-2)
GOOD FAITH EFFORT PLAN
(FOR CONTRACTS $200,000 OR GREATER)

NAME OF PROJECT: _____

BIDDER/PROPOSER INFORMATION:

Name of Bidder/Proposer: _____

Address: _____

City: _____ State: _____ Zip Code: _____

Telephone: _____ E-mail Address: _____

Is your firm certified? ____ Yes _____ No (If yes, please submit Certification Certificate.)

1. List all subcontractors/suppliers that will be used for this contract. (Indicate all MBEs-WBEs-AABEs-SBEs. Use additional sheets as needed.)

NAME AND ADDRESS OF SUBCONTRACTOR'S/SUPPLIER'S COMPANY	CONTRACT AMOUNT	% LEVEL OF PARTICIPATION	MBE-WBE-AABE-SBE CERTIFICATION NUMBER

Only companies certified as an MBE, WBE, AABE or SBE by the City of San Antonio or its certifying organization can be applied toward the contracting goals. All MBE-WBE-AABE-SBE subcontractors or suppliers must submit a copy of their certification certificate through the Prime Contractor. Proof of certification must be attached to this form. If a business is not certified, please call the Small Business Program Office at (210) 207-3900 for information and details on how subcontractors and suppliers may obtain certification.

It is understood and agreed that, if awarded a contract by the City of San Antonio, the Contractor will not make additions, deletions, or substitutions to this certified list without consent of the Director of Economic Development and Director of the appropriate contracting department (through the submittal of the Request for Approval of Change to Original Affirmed List of Subcontractors/Suppliers form).

NOTE: If MBE-WBE-AABE-SBE contracting goals were met, skip to #9.

2. If MBE-WBE-AABE-SBE contracting goals were not achieved in a percentage that equals or exceeds the City's goals, please give explanation.

_____

_____

_____

3. List all MBE-WBE-AABE-SBE Listings or Directories utilized to solicit participation.

_____

_____

_____

4. List all contractor associations and other associations solicited for MBE-WBE-AABE-SBE referrals.

_____

_____

_____

5. Discuss all efforts aimed at utilizing MBE-WBE-AABE-SBE's.

_____

_____

_____

6. Indicate advertisement mediums used for soliciting bids from MBE-WBE-AABE-SBE's.

_____

_____

_____

7. List all MBE-WBE-AABE-SBE bids received but rejected. (Use additional sheets as needed.)

COMPANY NAME	MBE-WBE-AABE-SBE CERTIFICATION NUMBER	REASON FOR REJECTION

8. Please attach a copy of your company's MBE-WBE-AABE-SBE policy.

9. Name and phone number of person appointed to coordinate and administer the Good Faith Efforts of your company on this project.

_____

_____

10. This Good Faith Effort Plan is subject to the Economic Development Department's approval.

AFFIRMATION

I HEREBY AFFIRM THAT THE ABOVE INFORMATION IS TRUE AND COMPLETE TO THE BEST OF MY KNOWLEDGE AND BELIEF. I FURTHER UNDERSTAND AND AGREE THAT, IF AWARDED THE CONTRACT, THIS DOCUMENT SHALL BE ATTACHED THERETO AND BECOME A BINDING PART OF THE CONTRACT.

_____
SIGNATURE OF AUTHORIZED OFFICIAL

_____
TITLE OF OFFICIAL

_____
DATE PHONE

****

FOR CITY USE

Plan Reviewed By:_____

Recommendation: Approval_____ Denial_____

Action Taken: Approved_____ Denied_____

_____
DIRECTOR OF ECONOMIC DEVELOPMENT

(ATTACHMENT B-3)
REQUEST FOR APPROVAL OF CHANGE TO ORIGINAL AFFIRMED LIST OF SUBCONTRACTORS/SUPPLIERS

The Contractor, _____, performing work on a project known as _____, requests approval of the following addition(s) and/or deletion(s) on the Affirmed List of Subcontractors, as originally submitted as part of the BID/PROPOSAL on the above named project:

CHANGES

ADD	DELETE	NAME	MBE-WBE-AABE-SBE (Y/N)	PERCENT AND DOLLAR AMOUNT OF CONTRACT

JUSTIFICATION

_____

_____

_____

_____

_____

AFFIRMATION

THE ABOVE INFORMATION IS TRUE AND COMPLETE TO THE BEST OF MY KNOWLEDGE AND BELIEF, I FURTHER UNDERSTAND AND AGREE THAT THIS DOCUMENT SHALL BE ATTACHED THERETO AND BECOME A BINDING PART OF THE CONTRACT.

Name & Title of Authorized Official: _____

Signature: _____

DIRECTOR OF _____ Approved: _____

DIRECTOR OF ECONOMIC DEVELOPMENT _____

Approved: _____

Request for Approval of Change Rev.10/12/04

(ATTACHMENT B-4)
CITY OF SAN ANTONIO

LETTER OF INTENT FOR CONTRACTS UTILIZING SMALL BUSINESS CONTRACTING GOALS

NAME OF PROJECT: ______________________________

Name of bidder's/proposer's firm: ______________________________

Address: ______________________________

City: ____________________ State: ______________ Zip: __________

♦♦♦

Name of Subcontractor/Supplier: ______________________________

Address: ______________________________

City: ____________________ State: ______________ Zip: __________

Telephone: ____________________ Contact Person: ____________________

Is the above firm Certified?: Yes ______ No _____ If certified, Certification No: ______________

If firm is certified, please attach a copy of the Certification Certificate with this form.

Description of work to be performed by firm:

____

____

____

The bidder/proposer is committed to utilizing the above-named firm for the work described above. The estimated dollar value of this work is $ ______________________.

Affirmation

The above named firm affirms that it will perform the portion of the contract for the estimated dollar value as stated above.

By: ______________________________ ______________________
Signature of Firm's Representative Date

Title: ______________________________

Submit this page for each Subcontractor/Supplier to be utilized on this contract/project.