



City of Phoenix
OFFICE OF THE CITY ENGINEER
DESIGN AND CONSTRUCTION PROCUREMENT
200 W. Washington Street, 5th Floor
Phoenix, Arizona 85003-1611

LARGE DIAMETER SANITARY SEWER REHABILITATION

JOB ORDER CONTRACT SERVICES

JOC228

NOTIFICATION LETTER NO. 1

JANUARY 23, 2024

This notification letter shall become part of the Request for Qualifications for the above referenced project.

Q1. Are there any assessments for future lines?

A1. Some assessments have been completed and there will be future assessments within the next five years. The City of Phoenix typically assess all large diameter sewers every eight to ten years.

Q2. Was the assessment done by the City or a consultant?

A2. The assessment was done by a consultant.

Please see Exhibit B Small Business Enterprise Clause and Forms that were inadvertently left out of the Request for Services

All other terms and conditions remain unchanged.

Attachments: Exhibit B

A handwritten signature in black ink that reads "Heather Roye".

Heather Roye
Contracts Specialist II
CITY OF PHOENIX
DESIGN AND CONSTRUCTION PROCUREMENT

*****END OF NOTIFICATION*****

EXHIBIT B
SMALL BUSINESS ENTERPRISE CLAUSE AND FORMS

ATTACHED



City of Phoenix

Small Business Enterprise Program

Letter of Intent (LOI) To Perform as an SBE Subcontractor

(THIS FORM MUST BE COMPLETED BY THE SBE SUBCONTRACTOR – BOTH SBE SUBCONTRACTOR & PRIME SIGNATURE ARE REQUIRED)

Project Number: 4108JOC228
Contract #:

Project Description: Large Diameter Sanitary Sewer Rehab

TO: (Insert Name of Prime Contractor)

FROM: (Insert Name of SBE Firm)

A. The undersigned declares that the firm bidding to perform the work described herein, has been granted certification by the City of Phoenix (COP) as a Small Business Enterprise (SBE) in the area(s) of:

(COP) Certification Description:

B. The undersigned is bidding to perform the following scope(s) of work on the above referenced project:

Table with 4 columns: Scope of Work, Unit/Hourly Rate, # of Units/Hours, Total Quote Amount. Includes Section 1 and Section 2 headers.

C. Of the Total Quote Amount reflected in Part B-SECTION 2, the following scope(s) of work with the given amount will not be performed by the SBE or is/are not covered under the SBE's certification description:

Scope(s) of Work Amount \$

Subtract Amount in Part C above from the Total Quote Amount in Part B-Section 2 = * \$
* Only this amount shall be reflected on the Bidder's Statement of Proposed Utilization.

D. If trucking services are included in Part B - SECTION 1 above, SBE MUST complete the following:

Of the Total Quote Amount noted in part B-Section 1, the SBE affirms that the amount of * \$ shall be performed by drivers the firm employs, and trucks the SBE owns and leases without drivers.
(The amount referenced above is transferred from Step 9 of the Worksheet (L.O.I.W.-1). *Only this amount shall be on the Statement of Proposed Utilization)

E. All subcontractors providing Broker or Traffic Control/Security Services indicated in Part B-SECTION 1 above MUST Complete the Following:

Rate of the SBE's fees/commissions %; for a Total Amount in fees/commissions of: \$
The Percentage and Total Amount referenced above is transferred from Steps 2 and 3 of the Worksheet (page L.O.I. W.-1).
Only the Total Amt in fee/commissions shall be reflected on the Bidders Statement of Proposed Utilization.

Should the prime contractor receiving this form be selected for award of the contract, the undersigned affirms that he/she will enter into an agreement to perform the work bid herein.

(SBE Subcontractor Authorized Signature)

(Date)

(Print Name and Title)

(Phone Number)

By signing this LOI document, the Prime Contractor affirms that it has not altered or modified this document in any way other than, if applicable, entering the Unit/Hours and Total Quote Amount in Part B SECTION 1.

(Prime Contractor Authorized Signature)

(Date)

(Print Name and Title)

(Phone Number)



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**LETTER OF INTENT TO PERFORM AS A SUBCONTRACTOR/SUPPLIER
INSTRUCTIONS AND WORKSHEET - L.O.I. W.-1**

A Letter of Intent to Perform as a SBE Subcontractor/Supplier (required for each SBE subcontractor/supplier proposed). The form documents services to be performed by the subcontractor/supplier and the total dollar amount of the subcontract that will be awarded to the SBE. Only the services performed in the area(s) described by the SBE's certification description can be counted towards the SBE goal requirement.

Part I. Trucking and Hauling: SBEs should indicate on Part B-Section 1 and Part D, of the LOI form, the information regarding trucks to be used in executing the contract. The City allows the counting of all payments for services provided by trucks which the SBE owns. Trucks which the SBE leases on a long-term basis and are operated with drivers the SBE employs may also be counted in full. The payments for short-term leased trucks, with or without SBE employed drivers cannot be counted.

Only trucks for which leasing agreements have been submitted and approved by EOD as part of the SBE firm's current certification file shall be considered eligible for counting towards the goal.

STEP ONE	STEP TWO	STEP THREE
Value of work expected to be performed by trucks owned by the SBE (2 Trucks)	Value of work expected to be performed by trucks leased (with drivers) by the SBE on a long-term basis (2 Trucks)	Combined value of work expected to be performed by other trucking firms and/or trucks leased (without drivers) by the SBE (3 Trucks)
\$20,000	\$20,000	\$33,000
STEP FOUR	STEP FIVE	STEP SIX
Estimated value for services provided by all trucks the SBE will use on the contract. (Add Steps One, Two, and Three)	Expected value of work performed by trucks not eligible for counting as SBE participation (Value in Step Three)	Total estimated value that can be counted for SBE participation (Subtract Step Five from Step Four)
\$73,000	\$33,000	\$73,000 - \$33,000 =\$40,000

Part II. Fees and Commissions: Insert the information from below under Step Three-Commission/Fees Percentage and the Countable Amount for SBE Participation into Part E of the LOI form. This part is applicable for the use of uniformed officers to provide traffic control and security and other services provided at an hourly rate by non-employees of the SBE contractor.

(The following information is provided as a sample only)

STEP ONE			
Total Number of Hours	Per Hour Bid Amount	Calculation Formula: Total Gross Bid Amount	
200	\$35	200 × \$35 = \$7,000	
STEP TWO			
Per Hour Bid Amount	Officers Hourly Rate	SBE Firm Commission/Fee	Calculation Formula: Fees/Commissions Percentage
\$35	\$25	\$10	(10 / 35) * 100 = 28.57%
STEP THREE			
Gross Bid Amount (from Step One)	Commission/Fee % (from Step Two)	Calculation Formula: Amount Countable for SBE Participation	
\$7,000	28.57%	\$7,000 × .2857 = \$2,000	

Part III. Construction Trade Areas: SBE must indicate in the Scope of Work of Part B-Section 2 of the LOI form, **all** scope(s) of work associated with the Total Quote Amount. The SBE must complete Part C of the LOI form by entering the Scope of Work and amount not expected to be performed by the SBE or which is not covered under the SBE's certification description. Subtracting this amount from the Total Quote Amount in Part B-Sect. 2 will result in the portion of work that can be counted as SBE participation.



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JOB ORDER CONTRACT CLAUSE

PROJECT #: 4108JOC228

CONTRACT #: TBD

PROJECT TITLE: Large Diameter Sanitary Sewer Rehab

The City of Phoenix Small Business Enterprise Program (SBE) is managed and administered by the Equal Opportunity Department, Contract Compliance Division. Phoenix is one of the fastest growing, multicultural cities in the country and has shown a historical commitment to business diversity. The City strives to advance the economic growth of businesses through its Small Business Enterprise (SBE) Program.

Through a coordinated effort among several city departments, the SBE Program provides SBE certification, procurement opportunities, construction subcontracting utilization, small business management and technical assistance and educational services and networking opportunities.

The Small Business Enterprise (SBE) participation goal for this project is as follows:

SBE Required Goal = 2.5%

An annual SBE subcontracting participation goal of 2.5% has been established under this Contract. The Job Order Contract (JOC) Prime Contractor is required to demonstrate good faith efforts to utilize certified SBE firms to achieve this goal on each Job Order Agreement (JOA) and must meet the above stated goal annually during each year of the contract and overall at the term of the contract.

Failure to meet the required annual goal without sufficient demonstration of good faith efforts shall be deemed as a breach the SBE provisions of this JOC.

The JOC Prime Contractor agrees if the Equal Opportunity Department determines that the contractor will fail, or has failed, to meet the SBE subcontracting goals, and/or has failed to act in good faith to ensure compliance with the SBE provisions contained herein; it shall deem the contractor "noncompliant" and not in good standing with this City contract.

A noncompliant status shall result in the rejection of all future contract bids or offers for all projects or other procurements with the City until such time that the contractor has cured its breaches and demonstrates that it has faithfully performed its approved SBE utilization plan and all other provisions of this article required to be deemed in good standing. In addition, the City may also exercise its option to impose any or all of the following remedies:

- Withholding from the contractor ten percent (10%) of all future payments on the involved eligible project until it is determined that the contractor is in compliance.
- Withholding from the contractor all future payments on the involved project until it is determined that the contractor is in compliance.

Failure to cure a non-compliance status by the date provided by the City may result in further action, including but not limited to any or all of the following penalties:

- Rejection of all future bids or offers from the contractor for any eligible project with the City or any of its departments or divisions for a period of (1) year after termination of the contract.
- Cancellation of the contract.

SBE PROGRAM DEFINITIONS

Bidder is an individual, partnership, joint venture, limited liability company, corporation, or firm submitting a proposal or bid to the City of Phoenix to perform services or provide goods required by the contract. The submittal may be direct or through an authorized representative.

Broker is defined as a firm that arranges or expedites services or transactions through the use of individuals not directly employed by the company. Brokers are not regular suppliers. Only costs associated with the fees and commission paid to the certified firm for providing such services may be applied towards the SBE contract goal.



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Commercially Useful Function means that an SBE prime contractor or subcontractor is responsible for execution of the work of the contract and is carrying out its responsibilities by actually performing, managing, and supervising the work involved. An SBE must perform at least 75% of the total cost of its contract with its own work force in order to be determined to be performing a commercially useful function on the contract.

Contract is a written agreement obligating the seller or business enterprise to furnish goods or services as proposed to the Purchaser, and obligating them to pay for such goods or services.

Manufacturer means a firm that operates or maintains a factory or establishment that produces, on the premises, the materials, supplies, articles, or equipment required under the contract.

Proposed SBE Subcontracting Participation Percentage means the sum of all proposed SBE Utilization shall be the numerator and the Total Base Bid shall be the denominator.

Purchaser or Buyer means, for purposes of this contract, the City of Phoenix.

Supplier is defined as firm that has an established, regular business that engages, as its principal business and under its own name, in the purchase and sale or lease of the products in question. A supplier is a firm that owns, operates, or maintains a store, warehouse, or other establishment in which the materials, supplies, articles or equipment of the general character described by the specifications and required under the contract are bought, kept in stock, and regularly sold or leased to the public in the usual course of business (Wholesaler and Regular Dealer also fall under this category).

Small Business Enterprise means a business with gross receipts or number of employees consistent with the definition of a small business as defined in Chapter 18, Article VIII of the Phoenix City Code AND has been certified as a SBE with the City of Phoenix.

Subcontract is a contract at any tier below the prime contract, including purchase orders.

Submitter is an individual, partnership, joint venture, corporation, or firm providing a submittal to the City to perform services required by the contract. The submittal may be direct or through an authorized representative.

Total Base Bid means "The total of all the unit prices, or the lump sum total, including contingencies and allowances as determined by the City."

SECTION I. GENERAL REQUIREMENTS

- A. The Contractor agrees to meet the SBE annual goal established for this Contract by making opportunities available for SBE firms to participate in the work of Job Orders each year that the contract is in force. In the case of multi-year contracts, the established SBE goal must be met each year the contract is in force.
- B. The contractor shall participate in compliance reviews as determined necessary by the City. This includes, but is not limited to participating in on-site reviews, providing signed copies of subcontracts and/or purchase orders with each SBE listed on the Contractor's Statement of Proposed SBE Utilization form, completing monthly payment audit reports on the City's online database. Reports are to reflect the participation of all SBE and non-SBE subcontractors that has occurred during each audit period. In addition to the above, the Contractor shall comply with any and all requests for information the City deems appropriate for effectively monitoring this contract for compliance with the SBE Program requirements. **All Monthly audit reports are to be completed online by the 15th of every month.** (<https://phoenix.diversitycompliance.com>).
- C. The Contractor shall provide a Statement of Proposed SBE Utilization form identifying the SBE subcontractors that will be utilized on each Job Order Agreement to meet the required annual contract goal. The Statement of Proposed SBE Utilization Form is due to the Equal Opportunity Department at the beginning of each JOA.
- D. The contractor shall not withhold monies from subcontractor as part of retention on this job order contract. In cases where the City is withholding monies from the Contractor for this purpose, Contractor may only hold



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that percentage which is being held by the City. Any reduction of retention by the City to the contractor shall result in a corresponding reduction to subcontractors or suppliers who have performed satisfactory work. The contractor has 14 days from the date their retention reduction takes effect to reduce retention to the subcontractors.

- E. **ONLY** firms certified by the City of Phoenix under Chapter 18, Article VIII of the Phoenix City Code are eligible to fulfill the SBE subcontracting goal established for this Job Order Contract. A directory of all eligible certified SBE firms is available online at <https://phoenix.diversitycompliance.com>
- F. SBE participation may only be counted in trade, product, or service areas for which the firm has been certified. The directory web site identifies the trade, product, and/or service areas performed or supplied by each certified SBE that may be counted towards meeting the utilization goals on this contract.
- G. The Contractor shall not remove, or reduce the scope of work or value for the certified SBE firms listed on the Statement of Proposed SBE Utilization form, without prior written approval of the Contract Compliance section of the City of Phoenix Equal Opportunity Department.
- H. If a firm is not certified at the time the Statement of Proposed SBE Utilization form is required for submittal, that firm's participation will not be counted towards meeting the annual and Contract SBE goal.

SECTION II. GOOD FAITH EFFORTS TO MEET SBE GOAL

- A. The following documentation is required to demonstrate that a good faith effort has been made to engage SBE subcontractors in the performance of this Contract:
 - Copy of notification sent to SBE firms that the Contractor has subcontracting opportunities and is requesting subcontractor bids. This should include the scope of work to be bid and performed on the project.
 - Documentation of each SBE firm contacted and the responses of the SBE firms or other action taken as a result of the contact. Documentation of contact with SBE firms may include, fax logs, telephone logs, mail receipts, etc, including documentation of the number of times that firms were contacted, the dates of contact, and the name, phone number, fax number, and address of the contact person associated with each SBE firm
 - Documentation of bid responses/quotes from all subcontractors who bid to perform work on the project in the areas that SBE firms were also bidding on, including information regarding the reasons why SBE bids were not considered.
 - Maintenance of all records reflecting the Contractor's efforts to obtain SBE participation through contact with SBE contractor organizations and/or with SBE assistance organizations.
 - Sub-division of Job Order work into smaller, economically feasible segments to facilitate the participation of SBE firms.
- B. The following factors are illustrative of matters which the City of Phoenix will consider in judging whether the Contractor made good faith efforts on this contract:
 - The number of contacts attempted or made with SBE firms that perform in trade areas where subcontracting work was available.
 - The timeliness of contacts made with SBE firms so as to allow the firms a reasonable amount of time to respond.
 - Attempts made to break down portions of the Job Orders and/or Contract into economically feasible units to facilitate SBE participation.



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- Whether the Contractor negotiated in good faith with interested SBE's and did not reject a bid as unqualified without sound reason.
- C. Nothing in this clause shall be construed to require the utilization of SBE firms that are not qualified or available to perform work. The JOC Contractor is responsible for compliance with state law which requires that only licensed contractors work on this Job Order. Suppliers, manufacturers, and service providers do not require a license.

SECTION III. ANNUAL SBE GOAL ATTAINMENT REVIEW

- A. At a minimum, the City will conduct an annual review of the performance of the Contractor in achieving the annual and Contract SBE goal.
- B. The Contractor will be required to provide to the City information related to its good faith efforts to identify, contract with, and utilize certified SBE firms in the performance of Job Order work on the contract. This information may include, but is not limited to, the number and dollar value of all Job Orders issued, a record of contacts made to solicit the participation SBE firms, and a listing of all subcontractors performing work on each Job Order including the dollar value of subcontracted work.
- C. The Equal Opportunity Department will perform annual reviews of the SBE participation on this contract to determine if the Contractor is in compliance with meeting the annual SBE goal requirement. Results obtained from these reviews will be provided to the Contractor and the Goal Setting Committee, made up of members of the Street and Equal Opportunity (EOD) Departments.
- D. The City may, at its discretion, conduct a review at any time during the course of the contract. The Contractor agrees to participate fully in such reviews and provide all information required for the City to determine the Contractor's compliance with the SBE requirements of the Contract.

SECTION IV. COUNTING SBE PARTICIPATION

- A. Participation on the contract will be calculated based on that portion (dollar value) of the Contract that SBE firms actually perform with their own forces. This includes the cost of supplies and materials obtained by an SBE firm for the work the firm will perform, **except** when supplies and/or equipment is purchased or leased from the Contractor or its affiliate.
- B. Expenditures that may be counted in full towards meeting the SBE goal are:
- Monies paid to certified SBE firms that operate and maintain an establishment or factory to produce, on the premises, the materials or supplies purchased for the contracts.
 - Expenditures to certified SBE firms that operate and maintain a factory or facility that substantially alters materials or supplies to meet the specifications of the contract before resale.
 - Expenditures to certified SBE firms, including fees and commissions charged to provide bona fide technical and professional personnel recruitment for the Contract. The total cost must be comparable to the industry charges customarily charged for the same or similar services.
 - Expenditures to certified SBE firms, including fees and commissions, charged to provide bonds and insurance specifically required for the performance of the Contract.
- C. There is a limitation on the use of regular suppliers and brokers to fulfill the SBE goal established for this Contract. For purposes of this Contract, suppliers and brokers shall be defined in accordance with Section I of this Clause.
- D. Proposed expenditures to brokers and suppliers can be used to meet the utilization goal, provided that expenditures do not exceed 25 percent (25%) of the total SBE goal requirement. Contractors may count one hundred percent (100%) of the dollars proposed to be paid to a SBE supplier, and all costs associated with



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the fees and commission to be paid to a SBE broker. The combined SBE utilization in these two areas may not exceed the 25% limitation.

Example: An SBE goal of 10% has been established on a project where the contractor has submitted a base bid of \$1,000,000. This results in a dollar goal of \$100,000 to be subcontracted to SBE's. The contractor proposes to contract with a SBE supplier for \$100,000. Only \$25,000, or 25 percent (25%), may be counted towards achievement of the SBE goal for this project. The remaining amount must be achieved through the use of firms that are not suppliers or brokers.

- E. Payments to brokers, or expenditures for product or services made to a SBE business that is not a supplier or regular dealer as defined herein may only be counted up to the dollar amount actually retained as fees and commissions. The funds that flow through the broker to other firms for the product or services being supplied may not be counted.

Example: A firm providing uniformed officers for security or traffic control charges the Contractor \$30 per hourly for the services of the uniformed officers. The officers are not direct employees of the broker but are "at will" contractors. They are paid a flat rate of \$21 per hour and are responsible for their own employment taxes on these monies earned. Only the \$9 retained by the broker as fees and commissions can be counted towards meeting the SBE goal.

- F. Trucking & Hauling: The amount of a trucking/hauling subcontract that may be counted towards the utilization requirements may be limited.

- An SBE must itself own and operate at least one fully licensed, insured, and operational truck that will be used on the contract. In addition, trucks the SBE leases as part of a long-term leasing agreement may be counted as part of the trucking firm's workforce with the following conditions. Contractors may receive full credit for the work the SBE firm performs with trucks it leases on a long-term basis from another SBE firm. Contractors may also count the work performed by Non-SBE trucks the SBE leases, up to the value of transportation services provided on the contract by all the trucks the SBE owns and leases from other SBE firms. All Non-SBE trucks leased on a long-term basis must be operated by employees of the SBE trucking firm. Any additional non-SBE leased trucks may only be credited for the fees or commissions the SBE subcontractor retains over and above the cost of the lease arrangement. **All leasing agreements must be reviewed and approved by the Equal Opportunity Department prior to the subcontractor starting work.**

Example: A SBE trucking firm uses seven trucks on a job. Two are owned by the SBE and one is leased from another certified SBE firm. Four trucks are leased from a non-SBE. The amount paid to the SBE for the services of three of the SBE trucks can be counted in full towards meeting the SBE requirements. Only the brokerage fees that the SBE subcontractor receives for leasing the remaining truck(s) may be counted as SBE utilization.

SECTION V. SBE PRIME CONTRACTOR

A Contractor that has been granted SBE certification with the City of Phoenix cannot meet the SBE goal through the work that it self-performs. The goal can only be met through goods or services that are sublet other eligible SBE firms.

SECTION VI. RECORDS AND REPORTING REQUIREMENTS

1. Records

During performance of the Contract, the Successful Submitter shall keep all records necessary to document the participation of all subcontractors and suppliers. The Successful Submitter shall provide the records to the Agency within 72 hours of the Agency's request and at final completion of the Contract. The Agency will prescribe the form, manner, and content of reports. The required records may include but not limited to:

- a) A complete listing of all Subcontractors and suppliers on the project;



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- b) Each Subcontractor's and supplier's scope performed;
- c) The dollar value of all subcontracting work, services, and procurement;
- d) Copies of all executed Subcontracts, purchase orders, and invoices; and
- e) Copies of all payment documentation.

2. Reports

- a. The contractor shall participate in all compliance reviews determined necessary by the City. This includes, but is not limited to participating in on-site reviews, providing monthly utilization reports of SBE activity, providing signed copies of subcontracts and/or purchase orders with each SBE listed on the Bidder's Statement of Proposed SBE Utilization form, and complying with any and all requests for information the City deems appropriate for effectively monitoring this contract for compliance with the SBE Program requirements.
- b. The contractor shall provide regular, monthly report/audit information that will assist us in effectively monitoring your compliance with the SBE Program requirements. This shall include listing all subcontractors working on the contract and reporting payments into the Certification and Compliance System <https://phoenix.diversitycompliance.com>. Reporting audits shall include all payments received from the City and payments you have issued to all subcontractors and suppliers. **Copies of the first 2 pages of the Pay Request submittal are required with each report. All Monthly audit reports are to be completed online by the 15th of every month.** (<https://phoenix.diversitycompliance.com>).
 - i. The total of all payments received from the City during the previous month.
 - ii. The first two pages of each payment application submitted for those payments.
 - iii. All payments made to Subcontractors during the previous month.
- c. For each Job Order Agreement, the contractor shall provide a completed and signed:
 - i. **Contractor's Statement of Proposed SBE Utilization** - The form shall document the name of each SBE firm that will be awarded a subcontract; services to be performed by each subcontractor; dollar amount to be paid for those services; and the total dollar amount that is being proposed in SBE participation.
 - ii. **A Letter of Intent to Perform as a SBE Subcontractor/Supplier** (required for each SBE subcontractor/supplier proposed) The form shall be completed by the SBE firm that will be awarded the subcontract. The form documents services to be performed by the subcontractor/supplier and the total dollar amount of the subcontract that will be awarded to the SBE. Only the services performed in the area(s) described by the SBE's certification description can be counted towards the SBE goal requirement.

Before the Agency processes the Successful Submitter's final payment and/or outstanding retention held against the Successful Submitter, the Successful Submitter shall submit to the Agency a final certification of full and final payment to each Subcontractor in the form prescribed by the Agency. The form must be completed and certified by the Successful Submitter's and each Subcontractor's duly authorized agents.

SECTION VII. PERFORMANCE OF A COMMERCIALY USEFUL FUNCTION

The prime contractor may count only expenditures to SBE subcontractors that perform a commercially useful function in the work of the contract, as defined in Chapter 18 Article VI of the City Code. A "commercially useful function" constitutes performing real and actual services related to the contract.

SBE subcontractors may enter into second-tier subcontracts consistent with normal industry practices. If an SBE subcontracts greater than twenty-five (25) percent of the work of their contract, the SBE subcontractor shall be presumed not to be performing a commercially useful function. In this event, the prime contractor will not be allowed to claim any expenditure to the SBE subcontractor.



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SECTION VIII. FAILURE TO COMPLY WITH THE SBE PROGRAM REQUIREMENTS

If the Equal Opportunity Department determines that the contractor will fail, or has failed to meet the SBE subcontracting goals, and/or has failed to act in good faith to ensure compliance with the SBE conditions of its contract; it shall deem the contractor "noncompliant" and not in good standing. A noncompliant status shall result in the rejection of all future contract bids or offers for all projects or other procurements with the City until such time that the contractor has cured its breaches and demonstrates that it has faithfully performed its approved SBE utilization plan and all other provisions of this article required to be deemed in good standing. In addition to this action, the City may also exercise its option to impose any or all of the following remedies:

1. Withholding from the contractor ten percent (10%) of all future payments on the involved eligible project until it is determined that the contractor is in compliance.
2. Withholding from the contractor all future payments on the involved project until it is determined that the contractor is in compliance.

Failure to cure a non-compliance status within the time frame provided by the City may result in further action, including but not limited to imposing any or all of the following sanctions:

1. Rejection of all future bids or offers from the contractor for any eligible project with the City or any of its departments or divisions for a period of (1) year after substantial completion of the contract.
2. Cancellation of the contract.

SECTION IX. Subcontract Assurances

The following applies to contracts with **Small Business Enterprise Program (JOC)** requirements.

Each contract signed by the Agency and the Successful Bidder and each subcontract signed by the Successful Bidder with a Subcontractor, including Subcontractors with lower tier Subcontractors must include the following assurances verbatim:

Prompt Payment of Subcontractors *The Contractor and Subcontractor shall promptly pay its lower tier subcontractors, sub consultants, or suppliers upon receipt of payment from the City of Phoenix (Agency).*

Progress Payments: *In accordance with the Arizona Revised Statutes (ARS), Section 34-221(G), the Contractor(s) shall promptly pay its subcontractors, sub consultants, or suppliers within seven (7) calendar days of receipt of each progress payment from the Agency. Any diversion by the Contractor(s) of payments received for work performed on the contract, or failure to reasonably account for the application or use of such payments, constitutes grounds for a declaration of breach of the contract with the Agency.*

Changes to Subcontracts and Values *The City of Phoenix prohibits Contractor(s) from altering the Contractor's Statement of Proposed SBE Utilization form without receiving prior, written consent from the City. The Equal Opportunity Department must be informed, in writing, and in advance of the following:*

- *Reduction to the scope of work to be performed by subcontractors working on the contract*
- *Changes in any of the subcontract values resulting in a reduced dollar amount*
- *Replacement and/or release of any subcontractor after contract award*

Contractor(s) and Subcontractor(s) are required to complete a Request for Exemption Form and have the written approval of the Contract Compliance Office prior to taking action on any of the above listed matters related to SBE subcontractors.



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In the event that any provision of this subcontract varies from the provisions of the contract or subcontract, the provisions for SBE contract compliance as contained in Administrative Regulation 1.89, Section IX, shall provide definitive guidance.

Disclaimer: *Nothing in this section prevents the Contractor or Subcontractor from enforcing its subcontract with a lower tier Subcontractor or supplier for defective work, late performance, and other claims arising under the Subcontract.*



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CONTRACTOR'S STATEMENT OF PROPOSED SBE UTILIZATION - JOB ORDER CONTRACTS (JOC)

Project #: <u>4108JOC228</u> Contract #: _____ JOA #: _____	Required Annual SBE Goal
Project Description: <u>Large Diameter Sanitary Sewer Rehab</u>	2.5%
Job Order Proposal Amount: \$ _____	

Please list the SBE firms that will be utilized on the Job Order Agreement to meet the required goals.

Use a separate form for each JOA that is part of the overall contract. For JOA's in which no SBE firms are to be used, list "none" in the spaces below. **The SBE firms listed below must be certified with the City of Phoenix as of the proposal date or their subcontract amount will not be counted towards meeting the required goals.**

COMPANY NAME	Scope of Work to be Performed	Supplier (may not satisfy more than 25% of goal)	Sub-Contract \$ Amount
		<input type="checkbox"/> YES <input type="checkbox"/> NO	
		<input type="checkbox"/> YES <input type="checkbox"/> NO	
		<input type="checkbox"/> YES <input type="checkbox"/> NO	
		<input type="checkbox"/> YES <input type="checkbox"/> NO	
		<input type="checkbox"/> YES <input type="checkbox"/> NO	
		<input type="checkbox"/> YES <input type="checkbox"/> NO	
		<input type="checkbox"/> YES <input type="checkbox"/> NO	
		% of Contract = %	Total SBE \$ \$

COMPANY NAME: _____ EMAIL: _____ PHONE: _____

NAME & TITLE: _____

SIGNATURE: _____ DATE: _____