

EXHIBIT A

Small Business Opportunities Program (SBOP) Policy

1. PURPOSE

It is the policy of San Antonio Water System (SAWS) to provide equal opportunities to all contractors, and to redress the discrimination found in the relevant marketplace and in public procurement against small, minority, and woman-owned businesses (SMWBs) consistent with all local, state, and federal laws. SAWS seeks to encourage full participation in all phases of procurement activities and to afford a full and fair opportunity to all vendors to compete for SAWS contracts. The purposes and objectives of these policies are therefore as follows:

- (1) To ensure that SAWS is not a passive participant in a discriminatory marketplace.
- (2) To ensure that the program is narrowly tailored.
- (3) To provide opportunities for SMWBs to broaden and enhance their capacities to do business with SAWS.
- (4) To administer this program in a manner consistent with applicable federal and state law.

2. FINDINGS

The SAWS Board of Trustees hereby makes the following findings:

- (1) SAWS regularly enters into contracts for the procurement of goods and services of many kinds, including for construction.
- (2) In 1989, the U.S. Supreme Court, in the case styled *City of Richmond v. J.A. Croson Co.*, held that a local government may redress race discrimination in its contracting activities if it can demonstrate through relevant evidence a compelling governmental interest sought to be remedied, and that the remedies adopted are narrowly tailored to promote that interest.
- (3) SAWS participated in the 2009 San Antonio Regional Business Disparity Causation Analysis Study (the 2009 Study), conducted by MGT of America, Inc. (MGT). The 2009 disparity study reviewed procurement activity from 2002 through 2006.
- (4) The 2009 Study found evidence of ongoing effects of past discrimination in the local marketplace and in SAWS purchases of goods and services.
- (5) The 2009 Study examined Public Use Micro Sample data from 2002 to 2006 for the San Antonio Metropolitan Statistical Area and determined that there were statistically significant disparities in entry into, and earnings from, self-employment by women and minorities even after controlling for factors such as education, age, wealth and other variables as compared to non-minority males.
- (6) The 2009 Study also conducted an econometric analysis of data in the 2003 National Survey of Small Business Finance and found a statistically significant positive relationship between the probability of loan denial and African American ownership.

- (7) The 2009 Study also found evidence of negative stereotypes against Minority and Woman-owned Business Enterprises (M/WBEs) and public testimony confirmed exclusionary practices of prime contractors to avoid utilizing M/WBE subcontractors and subconsultants.
- (8) In 2011, SAWS implemented the B2Gnow software application (also called the Subcontractor Payment & Utilization Reporting [S.P.U.R.] System) to capture actual payments made to prime contractors and their subcontractors.
- (9) In September 2013, SAWS again contracted with MGT of America, Inc., (MGT) to conduct a new M/WBE Program Disparity Study (the “2015 Study”) in order to update the 2009 Study. Since the time that the prior study was approved by the SAWS Board of Trustees, SAWS has collected board-award, contract payment, and vendor registration data at the prime and subcontractor levels. The study reviewed procurement activity from January 1, 2011, through December 31, 2013. The final study was completed in October 2015.
- (10) The 2015 Study found the following:
 - a) In heavy civil/utility Construction prime contracts, there was disparity for all M/WBE groups except African American-owned firms, for whom there was no Construction prime availability.
 - b) In Engineering prime contracts, there was disparity for all M/WBE groups except Native American-owned firms, for whom there was no Engineering prime availability.
 - c) In other Professional Services prime contracts, there was disparity for Hispanic Americans. There was no prime availability for African American and Asian American-owned firms.
 - d) In Procurement prime contract Awards (Commodity Procurement and General Services contracting), there was disparity for all M/WBE groups although African American-owned disparity was not substantial.
 - e) In heavy civil/utility Construction subcontracting, there was disparity for all MBE groups except Native American-owned firms, for whom there was no heavy civil/utility Construction subcontracting availability.
 - f) In Engineering subconsulting, there was disparity for Hispanic American-owned firms.
 - g) In other Professional Services subconsulting, no disparity was calculated because of the small amount of subconsultant spending.
 - h) In Procurement subcontracting and subconsulting (Commodity Procurement and General Services contracting), no disparity was calculated because of the small amount of subcontractor and subconsultant spending.
 - i) The 2015 Study also found that M/WBE utilization in private sector commercial construction in the San Antonio Metropolitan Statistical Area (MSA) was very low, as measured by data from building permits.
 - j) The 2015 Study also analyzed data from the 2012 American Community Survey U.S. Census Bureau data for the San Antonio area and found statistically significant disparities for entry into self-employment for African Americans, Hispanic Americans and nonminority women. There were

statistically significant disparities in earnings from self-employment for Hispanic Americans, Asian Americans, and Nonminority Women.

- k) The 2015 Study also analyzed data in the National Survey of Small Business Finance (NSSBF) and found a statistically significant positive relationship between the probability of loan denial and African American ownership.
 - l) The evidence continues to demonstrate that business MBEs and WBEs have been underutilized in contracting opportunities on SAWS Contracts as a result of private sector discrimination.
- (11) In April 2020, SAWS contracted with Collette Holt & Associates (CH) to conduct a new M/WBE Program Disparity Study (the “2021 Study”) in order to update to the 2015 Study. The study reviewed procurement activity from September 1, 2016, through August 31, 2019. The final study was completed in December 2021.
- (12) The 2021 Study found the following:
- a) In combined prime and subcontracts, there was a disparity between utilization and availability for African American-, Native American- and white woman-owned firms. The disparity ratios were substantively significant.
 - b) In combined prime and subcontracts, utilization of Hispanic American- and Asian American-owned firms was greater than what would be expected based on the estimated availability in SAWS’ geographic market area. The 2021 Study results suggest that SAWS’ high utilization of Hispanic American- and Asian American-owned firms is primarily the result of the operation of the existing SMWVB Program , not the cessation of discrimination outside of contracting affirmative action programs.
 - c) The 2021 Study also analyzed 2015-2019 data from the U.S. Census Bureau American Community Survey for the San Antonio area and found statistically significant disparities in business formation for African Americans, Hispanic Americans, and white women. There were statistically significant disparities in business earnings for African Americans, Hispanic Americans, Asian Americans and white women.
 - d) The 2021 Study also analyzed data from the U.S. Census Bureau’s 2017 Annual Business Survey and found statistically significant disparities in sales of all firms, the sales of employer firms, and the payroll of employer firms for minority-owned businesses and woman-owned firms.
 - e) The 2021 Study also analyzed qualitative answers from business owner interviews and an anecdotal survey, which informed the consultant’s accompanying policy recommendations.
 - f) The evidence continues to demonstrate that minorities and women, and minority- and woman-owned businesses, have experienced disparities in the San Antonio marketplace where small business opportunity programs do not typically apply. The 2021 Disparity Study concluded that without the use of goals, SAWS may become a passive participant in marketplace discrimination.
- (13) Although SAWS has made substantial progress in eliminating discrimination in its own contracting practices, discrimination exists in the marketplace. As a result of

this discrimination, SAWS has been in the past a passive participant in a system of discrimination and, in the absence of programs to eliminate disparity in utilization, would continue to be a passive participant in such a system.

- (14) Despite SAWS' efforts to create equal opportunities in its marketplace, the evidence continues to indicate that, absent the programs authorized under this policy, MBEs and WBEs would be underutilized on SAWS Contracts relative to their availability.
- (15) Under these circumstances and based on the factual predicate which has been established after careful study and review, SAWS has a compelling governmental interest in remedying the racial and gender discrimination that exists in the market segments in which SAWS does business, and in ensuring that SAWS is not a participant in such discrimination.
- (16) The program adopted herein is narrowly tailored to remedy that discrimination.

3. ESTABLISHMENT OF PROGRAM

- 3.1 Based on the foregoing findings, it is the policy of SAWS to establish this Small Business Opportunities Program (SBOP) to remedy the ongoing effects of marketplace discrimination that continue to adversely affect the participation of M/WBE firms in SAWS Contracts.
- 3.2 SAWS seeks to exercise its spending powers in a manner that promotes economic inclusion of all segments of the business population that it serves, regardless of race or gender, so as to maximize the economic vitality and development of the San Antonio region, to expand and diversify SAWS' supplier base in order to maximize competition, and to obtain the best value on behalf of its customers for its purchased goods and services.
- 3.3 Based upon the foregoing findings and pursuant to the foregoing declaration of policy, hereby is established an updated Small Business Opportunities Program (SBOP) for SAWS.

4. PROGRAM ELIGIBILITY

- 4.1 Only Business Enterprises that perform a Commercially Useful Function and meet the criteria of Small Business Enterprises (SBE), which do not exceed size limits established by the United States Small Business Administration (i.e. "small" businesses), and are certified as an SBE may participate in the SBOP;
- 4.2 All SBEs, MBEs, and WBEs must be certified prior to participating in the Program.
- 4.3 Only Business Enterprises with a Significant Local Business Presence in the Relevant Marketplace may participate in the SBOP Program.
- 4.4 Certifications shall be conducted by the South Central Texas Regional Certification Agency, or another entity designated by SAWS.

- 4.5 If state law requires the owner(s) to have a particular license or other credential to own and/or control a certain type of Firm, then the owner(s) must possess the required license or credential. If state law does not require that the owner possess the license or credential, the fact that the owner(s) lacks such license or credential is only a factor in the certification decision.

5. DEFINITIONS

Awarded. The final selection by the SAWS Board of Trustees to a Respondent for a specified Prime Contract. Contract awards are made by SAWS to Prime Contractors or Prime Consultants, and by Prime Contractors or Prime Consultants to Subcontractors or Subconsultants, usually pursuant to a solicitation process.

Best Value Contracting. A purchasing solicitation process which may evaluate factors other than price. Evaluation criteria for selection may include a Respondent's previous experience, location, SBOP goal compliance, and quality of product or services procured, and other factors identified in the applicable state law.

Bid. A complete, properly signed response to a competitive bidding Solicitation issued by SAWS, submitted by the required time and date on the prescribed forms required by SAWS, to perform or provide labor, materials, equipment, supplies or services to or for the SAWS for a stated price.

Bidder. A person, Firm, or Business Enterprise that submits a Bid in response to a Solicitation (Invitation for Bid, Best Value Bid, Request for Competitive Sealed Proposal, Construction Manager at Risk, Design-Build). A Bidder may be represented by an agent if such agent provides evidence demonstrating the agent's authority.

Business Enterprise or Firm. A corporation, partnership, sole proprietorship, Joint Venture, joint stock company, professional association, or any other legal entity, that is properly licensed and/or otherwise authorized to do business in the State of Texas.

Certification. The process by which the South Central Texas Regional Certification Agency, or another designated entity determines a firm to be a bona-fide small, minority, or woman-owned business enterprise that is located in the Relevant Marketplace. Any firm may apply for multiple Certifications that cover each category (e.g., SBE, MBE, or WBE) for which it is able to satisfy eligibility standards.

Commercially Useful Function. An SMWB firm performs a Commercially Useful Function when it is responsible for execution of the work of the contract and is carrying out its responsibilities by actually performing, staffing, managing and supervising the work involved. To perform a Commercially Useful Function, the SMWB firm must also be responsible, with respect to materials and supplies used on the contract, for negotiating price, determining quantity and quality, ordering the material, and installing (where applicable) and paying for the material itself. To determine whether an SMWB firm is performing a Commercially Useful Function, an evaluation must be performed of the

amount of work subcontracted (or subconsulted), normal industry practices, whether the amount the SMWB firm is to be paid under the contract is commensurate with the work it is actually performing, the SMWB credit claimed for its performance of the work, and other relevant factors. Specifically, an SMWB firm does not perform a Commercially Useful Function if its role is limited to that of an extra participant in a Contract through which funds are passed in order to obtain the appearance of meaningful and useful SMWB participation, when in similar transactions in which SMWB firms do not participate, there is no such role performed.

Consultant. A person or Business Enterprise that submits a Proposal or statement of qualifications to provide Engineering, Professional, or General services to SAWS by Contract, and any person or Business Enterprise who is Awarded a Contract to provide Engineering, Professional or General services to SAWS.

Contract. The entire and integrated binding legal agreement between SAWS and a Contractor or Consultant to provide or procure labor, materials, equipment, supplies or services to, for or on behalf of SAWS. Except as otherwise specifically defined in this section, an SMWB-available Contract does not include:

- a) sales transactions where SAWS sells its personal or real property;
- b) a loan transaction where SAWS is acting as a debtor or a creditor;
- c) lease and franchise agreements;
- d) agreements to use SAWS real property;
- e) gifts of materials, equipment, supplies or services to SAWS;
- f) interlocal or intergovernmental agreements between or among political subdivisions or quasi-governmental organizations;
- g) procurements of commodities or services that are sole source by virtue of intellectual property rights or other exclusive rights and for which there are no other subcontracting opportunities; or
- h) Purchases or leases water rights.

Contractor. A person or Business Enterprise that submits a response to an Invitation for Bid, a Best Value Bid, a Request for Competitive Sealed Proposal, Construction Manager at Risk, or Design-Build solicitation with the intention of competing for the Award of a Contract to provide Construction services, Commodities, or General Services to SAWS by Contract, and any person or Business Enterprise who is Awarded a Contract to provide Construction services, Commodities, or General Services to SAWS.

Control. The authority of a person or business owner to sign responses to solicitations and Contracts, make price negotiation decisions, sell or liquidate the business, and have the primary authority to direct the day-to-day management and operation of a business enterprise without interference from others.

Formal Solicitation. An invitation for bids, request for proposals, request for competitive sealed proposals, request for qualifications or other solicitation documents issued by a SAWS department for a Contract that requires Board approval, in accordance with the procurement rules adopted by SAWS through an official Policy or Standard Operating

Procedure under the authority of Board of Trustees or pursuant to statutory requirements.

Goals. The targeted participation percentage of SMWBs established for a particular Solicitation or Contract. Goals set for all solicitations shall be aspirational.

Good Faith Efforts. Documentation of the Respondent's intent to comply with SBOP Program Goals and procedures including, but not limited to, the efforts set forth in Section 10.

Good Faith Effort Plan. The plan submitted with the Submittal detailing the Respondent's plan to achieve the Goals or documenting its Good Faith Efforts to meet the Goals for all elements of the Solicitation. A Good Faith Effort Plan must be submitted with a Submittal for any SAWS project for which Goals have been established.

Marketplace. The geographic market defined as the Relevant Marketplace.

Minority Business Enterprise (MBE). A business structure that is Certified as being 51% owned, operated, and controlled by a male or female ethnic minority group member(s) who is legally residing in or a citizen of the United States. The ethnic minority group members recognized by SAWS are African Americans, Hispanic Americans, Asian Americans, and Native Americans.

Minority Group Members. African Americans, Hispanic Americans, Asian Americans, and Native Americans legally residing in, or that are citizens of, the United States or its territories, as defined below:

African Americans: Persons having origins in any of the black racial groups of Africa.

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

Asian Americans: Persons having origins in any of the original peoples of the Far East, Southeast Asia, the Indian subcontinent, or the Pacific Islands, including India, Pakistan, Bangladesh, Sri Lanka, Maldives Islands, Bhutan, or Nepal.

Native Americans: Persons having no less than 1/16th percentage origin in any of the Native American 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.

Overall Annual Aspirational Goal. A non-mandatory annual aspirational percentage goal for SMWB prime and subcontractor or subconsultant participation in SAWS Contracts is set to 20 percent for the SBOP. This goal is based upon the weighted availability of minority- and woman-owned business enterprises provided in the 2021 Disparity Study. This Overall Annual Aspirational Goal will be established approximately every five years or so by a duly-authorized disparity study and based upon the availability statistics provided therein.

Payment. Dollars actually paid to Prime Contractors or Prime Consultants and/or Subcontractors or Subconsultants for SAWS contracted goods and/or services.

Prime Contractor. The Respondent to whom a purchase order or Contract is issued by SAWS for purposes of providing Commodities, General Services, or Construction services to SAWS.

Prime Consultant. The Respondent to whom a purchase order or Contract is issued by SAWS for purposes of providing Engineering services, General Services, or Professional Services to SAWS.

Proposal. A complete, properly signed response to a Solicitation by the required time and date that, if accepted and awarded, would bind the Respondent to fulfil the resultant Contract.

Relevant Marketplace. The geographic market area affecting the SBOP as determined for purposes of collecting data for the prior and any future Disparity Study, and for determining eligibility for participation under various programs established by this Policy. The Relevant Marketplace consists of the following Texas counties: Bexar, Comal, Guadalupe, Hays, Kendall, Travis, and Williamson.

Respondent. A contractor, consultant, distributor, manufacturer, or supplier submitting a bid, a best value bid, a Request for Competitive Sealed Proposals submittal, a Construction Manager at Risk, or Design-Build submittal, a statement of qualifications, or a proposal in response to a solicitation issued by SAWS.

Responsible. A firm that is capable in all respects to fully perform contract requirements and has the integrity and reliability which will assure good faith performance of contract specifications.

Responsive. A firm's submittal at the required time and date (Bid or Proposal) that conforms in all material respects to a solicitation (Invitation for Bid, Best Value Bid, Request for Qualifications, Request for Proposal, or Request for Competitive Sealed Proposal, Construction Manager at Risk, Design-Build) and shall include compliance with SBOP requirements.

Significant Local Business Presence. A Firm has a Significant Local Business Presence if it has an established place of business in the Relevant Marketplace, at which one or more of its employees is regularly based. Such a place of business must have a substantial role in the SBEs', MBEs', and WBEs' performance of a Commercially Useful Function. A location utilized solely as a post office box, mail drop, or telephone message center or any combination thereof, with no other substantial work function, shall not be construed to constitute a Significant Local Business Presence.

Small Business Enterprise (SBE) Certification. A business structure that is formed with the purpose of making a profit, which is independently owned and operated, and which

meets the United States Small Business Administration (SBA) size standard for a small business.

Small Business Enterprise (SBE) aspirational goal. The SBOP Manager may set a specific percentage SBE goal on contracts with subcontracting opportunities, and for supplier contracts, and shall have the authority to establish such SBE goal on a contract-by-contract basis based upon the type of contract, the type of subcontracting work that will be required, and the availability of SBEs to perform the work for that specific contract.

SBOP Manager. The individual responsible for oversight, tracking, monitoring, administration, implementation, and reporting of the SAWS SBOP Policy. The SBOP Manager is also responsible for enforcement of Contractor and Consultant compliance with subcontractor and subconsultant participation requirements and ensuring that overall program objectives are met.

Small Business Opportunities Program (SBOP) Office. The office within SAWS primarily responsible for general oversight and administration of the SBOP.

Solicitation. A Solicitation means an Invitation for Bids, a Request for Proposals, a Request for Qualifications, a Request for Competitive Sealed Proposals Construction Manager at Risk, Design Build, Best Value Bid, or such other request as defined by SAWS.

Subconsultant. A person, Firm, or Business Enterprise providing Engineering Services, Professional Services, or General Services to a Prime Consultant if such professional or nonprofessional services are procured or used in fulfillment of the Prime Consultant's obligations arising from a Contract and including every level of subconsulting required to fulfill a Contract with SAWS.

Subcontractor. A person, Firm, or Business Enterprise that is providing Construction services, Commodities, or General Services to a Prime Contractor in furtherance of the Prime Contractor performance, including every level of subcontracting required to fulfill a Contract or purchase order with SAWS.

Submittal. A response to an Invitation for Bids, a Request for Proposals, a Request for Qualifications, a Request for Competitive Sealed Proposals, a Construction Manager at Risk solicitation, Design Build solicitation, Best Value Bid, or such other request as defined by SAWS, that has been submitted to SAWS at the required time and date for the purpose of competing for the Award of a Contract.

Utilization Documentation. A Prime Contractor or Prime Consultant will be required to report the actual payments to all Subcontractors and Subconsultants by using the Subcontractor Payment and Utilization Reporting (S.P.U.R.) System, in the time intervals and format prescribed by SAWS. This information will be utilized for subcontractor and subconsultant payment tracking purposes, regardless of a subcontractor's or subconsultant's SMWB certification status. Any unjustified failure to comply with the committed SBOP percentages of participation may be considered breach of contract. Additions, substitutions,

deletions, or a modification of the utilization amounts of Subcontractors/Subconsultants requires a written request to be submitted to the SBOP Manager, and approval by the SBOP Manager and the Director of Contractor or the Director of Purchasing before any changes can be made.

Woman-owned Business Enterprises (WBEs). A business structure that is certified as being 51% owned, operated, and controlled by a woman or women who are legally residing in or are citizens of the United States.

6. OVERALL ANNUAL ASPIRATIONAL GOALS

6.1 A non-mandatory annual aspirational percentage goal for overall SMWB prime and subcontractor or subconsultant participation shall be set for SAWS Contracts. This annual aspirational goal is to be based upon the SMWB availability and utilization data collected and analyzed approximately every five years or so as part of a duly-authorized disparity study. The annual aspirational goal is intended to serve as a benchmark against which to measure the overall effectiveness of the SBOP Policy, and to gauge the need for future adjustments to the program, including the various remedies applied under the program.

7. ESTABLISHMENT OF SBOP PARTICIPATION GOALS FOR INDIVIDUAL CONTRACTS

7.1 For ease of SBOP administration, individual Solicitations may contain a contract-specific SBOP Goal, if applicable, expressed as a round number using mathematical rounding principles.

7.2 Based on the size of the Contract, the type of work of the Contract, and the availability of each group of SMWBs to perform elements of the work of the Contract, SAWS may set a contract-specific SBOP Goal.

7.3 SAWS recognizes that the availability of SMWBs is not uniformly present across all areas of procurement. Therefore, where appropriate, the SBOP Manager may establish project participation Goals for individual Contracts, based on any or all of the following guidelines:

- (1) normal industry practice;
- (2) the availability of at least three certified MBEs or WBEs to perform the functions of those individual Contracts;
- (3) SAWS utilization of SMWBs to-date, so as to achieve the Annual Aspirational Goal; and
- (4) any additional relevant factors.

7.4 Goals set for all contracts shall be aspirational.

8. PAYMENT REPORTING

- 8.1 Contractors and Consultants shall be required to electronically submit Subcontractor or Subconsultant utilization and payment information by reporting payment data into the Subcontractor Payment and Utilization Reporting (S.P.U.R.) System, beginning with the first SAWS payment for services under the Contract, and with every payment thereafter (for the duration of the Contract). Utilization should be reported and collected at six-digit NAICS code level into the S.P.U.R. System.

9. COUNTING PARTICIPATION OF MBES AND WBES

- 9.1 When an SMWB participates in a Contract as a Contractor, a Consultant, a Vendor, or a Subcontractor, Supplier, or Subconsultant, count the value of the work actually performed by the SMWB toward the contract-specific SBOP Goal.
- 9.2 The entire amount of that portion of a Contract that is performed by the SMWB's own forces shall be counted, including the cost of supplies and materials obtained by the SMWB for the work of the Contract, and supplies purchased, or equipment leased by the SMWB (except supplies and equipment the SMWB Subcontractor purchases or leases from the Prime Contractor or its Affiliate).
- 9.3 Notwithstanding clause (9.1) above, on a single Contract, an MBE that is also a WBE may only be counted once (i.e., toward the SBOP Goal).
- 9.4 The entire amount of fees or commissions charged by an SMWB Firm for providing a bona fide service, such as professional, technical, consultant, or managerial services, or for providing bonds or insurance specifically required for the performance of a Contract will count toward an SBOP Goal, provided the fee is reasonable and not excessive as compared with fees customarily allowed for similar services shall be counted.
- 9.5 When an SMWB subcontracts part of the work of its Contract to another Firm, the value of the subcontracted work may be counted toward an SBOP Goal only if the second-tier Subcontractor is itself an SMWB. Work that an SMWB subcontracts to a non-SMWB Firm does not count toward an SBOP Goal.
- 9.6 If a Subcontractor contracts part of its work to an SMWB Firm, the value of that work may be counted toward an SBOP Goal. Work that an SMWB Subcontractor contracts to another SMWB Firm shall not be counted twice towards the SBOP Goal.
- 9.7 When an SMWB performs as a participant in a Joint Venture, only the portion of the total dollar value of the Contract equal to the distinct, clearly defined portion of the work of the Contract that the SMWB performs with its own forces and for which it is at risk shall be counted towards an SBOP Goal.
- 9.8 Only expenditures to an SMWB Contractor or Consultant or a Subcontractor or Subconsultant that is performing a Commercially Useful Function shall be counted.

- 9.9 When an SMWB is presumed not to be performing a Commercially Useful Function as provided in this section, the SMWB may present evidence to rebut this presumption. The SBOP Manager may determine that the Firm is performing a Commercially Useful Function given the type of work involved and normal industry practices.
- 9.10 Expenditures with SMWBs for materials or supplies shall be counted toward an SBOP Goal as follows:
- (1) If the materials or supplies are obtained from an SMWB manufacturer or distributor, 100 percent of the cost of the materials or supplies toward an SBOP Goal shall be counted.
 - (2) With respect to materials or supplies purchased from an SMWB that is neither a manufacturer nor a distributor, count the entire amount of fees or commissions charged for assistance in the procurement of the materials and supplies, or fees or transportation charges for the delivery of materials or supplies required on a job site, toward an SBOP Goal only if the payment of such fees are a customary industry practice and such fees are reasonable and not excessive as compared with fees customarily allowed for similar services. Do not count any portion of the cost of the materials and supplies themselves toward an SBOP Goal, however.
 - (3) If a Firm ceases to be a certified SMWB during a Contract, the dollar value of work performed under a Contract with that Firm after it has ceased to be certified shall not be counted.
 - (4) In determining achievement of an SBOP Goal, the participation of an SMWB Subcontractor shall not be counted until the amount being counted toward the SBOP Goal has begun to be paid to the SMWB.

10. PROGRAM REQUIREMENTS AND GOOD FAITH EFFORTS

- 10.1 In all Solicitations Awarded, for which an SBOP Goal has been established for a Contract, SAWS shall indicate its Goal for the use of SMWBs in the solicitation documents. Respondents must make a Good Faith Effort to meet the stated Goal.
- 10.2 All Solicitation and Contract documents for which a Goal has been established shall contain:
- (1) the requirements related to achieving the Goal;
 - (2) if Goals are not achieved, the requirement of documentation of the Respondent's Good Faith Efforts of outreach toward SMWBs for the purpose of achieving the Goals.
- 10.3 Achievement of Goals or, in the alternative, the documentation of Good Faith Efforts, applies to every Contract for which an SBOP Goals is established.
- 10.4 SMWB lists that may be provided by SAWS to a Respondent shall establish the

minimum universe from which a Respondent may solicit Subcontractors or Suppliers to meet the Goals.

- 10.5 The Respondent's Good Faith Effort Plan shall be due, in most instances, at the time set out in the Solicitation documents.
- 10.6 Any agreement between a Respondent and an SMWB Subcontractor or Subconsultant, in which the Respondent requires that the SMWB Subcontractor or Subconsultant not provide quotations to other Respondents, is prohibited.
- 10.7 Any agreement between a Respondent and a first-tier SMWB Subcontractor or Subconsultant, in which the Respondent requires that the SMWB Subcontractor or Subconsultant shall subcontract work to one or more second-tier subcontractors or subconsultants is prohibited.
- 10.8 During the solicitation period, a non-SMWB firm that requires an SMWB firm to use them (the non-SMWB) on the SMWB's proposed team in exchange for using said SMWB firms on their own proposed team (quid pro quo) is strongly discouraged.
- 10.9 SMWB Subcontractors and Subconsultants must be competitive with non-SMWB Subcontractors and Subconsultants in terms of price, quality, and delivery. SMWB Subcontractors and Subconsultants shall respond to relevant requests for quotations.
- 10.10 The SBOP Manager will determine whether the Respondent has made Good Faith Efforts. In making this determination, the SBOP Manager will consider, at a minimum, the Respondent's efforts to do the following:
 - (1) Soliciting SMWBs within the Relevant Marketplace who have the capability to perform the Contract work. The Respondent must solicit this interest within sufficient time to allow the SMWBs to respond to the Solicitation. The Respondent must take appropriate steps to follow up initial Solicitations with interested SMWBs. The Respondent must state a specific and verifiable reason for not contacting each certified Firm with a Significant Local Business Presence.
 - (2) Providing interested SMWBs with adequate information about the plans, specifications, and requirements of the Contract, including addenda, in a timely manner to assist them in responding to a Solicitation.
 - (3) Negotiating in good faith with interested SMWBs that have submitted Bids or Proposals to the Respondent.
- 10.11 That there may be some additional costs involved in soliciting and using SMWBs is not a sufficient reason for a Respondent's failure to meet the Goals, as long as such costs are reasonable.
- 10.12 SMWBs may not be rejected without sound reasons based on a thorough investigation of their capabilities and qualifications. The SMWBs' standing within

their respective industries, membership (or presumed membership) in specific groups, organizations, or associations and political or social affiliations (for example union vs. non-union employee status) are not legitimate causes for rejecting or not soliciting M/WBEs to meet an SBOP Goal.

- 10.13 Respondents are not required to accept higher quotes in order to meet an SBOP Goal.
- 10.14 Effectively using the services of SMWB-oriented community organizations; SMWB-oriented Contractors groups; local, state, and federal SMWB business assistance offices; and other organizations to provide assistance in solicitation and utilization of SMWBs.
- 10.15 The performance of other Respondents in meeting SBOP Goals. For example, when other Respondents meet the SBOP Goal, it may be reasonably questioned whether, with additional reasonable efforts, the apparent successful Respondent could have met the SBOP Goal. Similarly, if the apparent successful Respondent fails to meet the SBOP Goal but meets or exceeds the average SMWB participation obtained by other Respondents, this may be evidence that the apparent successful Respondent made Good Faith Efforts.
- 10.16 The SBOP Manager shall review the Good Faith Effort Plan prior to award, including the scope of work, within a reasonable time so as not to unduly delay award of the Contract.
- 10.17 If the SBOP Manager determines that the Goal has been achieved or the Respondent showed Good Faith Efforts, then the SBOP Manager shall recommend award of the Contract.
- 10.18 In the event the applicable SBOP Goal has not been achieved, then the SBOP Manager shall evaluate the Respondent's Good Faith Efforts to achieve the SBOP Goal as documented in the Good Faith Effort Plan. The SBOP Manager may request clarification in writing of items listed in the Good Faith Effort Plan.
- 10.19 If the SBOP Manager finds that a Respondent did not submit a Good Faith Effort Plan document, and Good Faith Effort outreach was not conducted, the SBOP Manager shall communicate the finding to the SAWS Director of Contracting or Director of Purchasing. The SBOP Manager may recommend that the Bid/ Proposal be rejected as non-responsive based on failure to comply with this Policy.
- 10.20 The SAWS Director of Contracting or Director of Purchasing may reject the Submittal as not being in compliance with this Policy or may advise the SBOP Manager of additional considerations which may form the basis for accepting the Submittal as being in the best overall interest of the SBOP Policy and SAWS.
- 10.21 The rejection of Submittals in conformance with this section does not affect the ability of the SAWS Contracting Department or SAWS Purchasing Department to continue to evaluate and consider the remaining Submittals that achieve an SBOP

Goals or demonstrate Good Faith Efforts and to develop a recommendation to SAWS for award of the Contract.

11. EVALUATION OF CONSTRUCTION CONTRACTS PROCURED THROUGH ALTERNATIVE DELIVERY METHODS

- 11.1 For any construction contract that is let pursuant to construction alternative delivery methods (e.g., Requests for Competitive Sealed Proposals, Design- Build, and Construction Manager At Risk), the SBOP Manager may reserve up to 10% of the total points awarded in weighted selection criteria to be awarded in connection with a Respondents' community outreach efforts, including the evaluation of the Respondents' proposed team. In determining whether to reserve up to the 10% of the total points for an evaluation of the Respondents' community outreach efforts, the SBOP Manager shall consider whether there are at least three M/WBEs that are available and capable to perform as Prime Contractors or Subcontractors for the contract.

12. POST-AWARD CONTRACT ADMINISTRATION AND COMPLIANCE PROCEDURES

- 12.1 Upon award of a Contract by SAWS that included an SBOP Goal, the Goal becomes a covenant of performance by the Contractor in favor of SAWS.
- 12.2 Prior to Contract expiration or closeout, the SBOP Manager shall evaluate the Contractor's fulfillment of the contracted SBOP Goal, taking into account all approved substitutions, terminations and changes to the Contract's scope of work. Should the SBOP Manager find the Contractor has not fulfilled the contracted Goal, the SBOP Manager shall request justification from the Prime Consultant or Prime Contractor for why the SBOP Goal was not met, and whether there will be any rectification for the SMWB Subcontractors or Subconsultants.
- 12.3 The Contractor cannot substitute Subcontractors listed in the Good Faith Effort Plan without the prior written approval of the SBOP Manager. Unauthorized changes or substitutions shall be a violation of this Policy and may constitute grounds for termination of the executed Contract for breach, and/or subject the Prime Contractor or Prime Consultant to penalties or other sanctions.
- 12.4 All requests for changes or substitutions of the Subcontractors or Suppliers listed in the Good Faith Effort Plan shall be made to the SBOP Manager in writing and shall clearly and fully set forth the basis for the request. A Contractor shall not substitute a Subcontractor or perform the work designated for a Subcontractor in the Good Faith Effort Plan with its own forces unless and until the SBOP Manager approves such substitution in writing. A Contractor shall not allow a substituted Subcontractor to begin work until both the SBOP Manager and SAWS' Contracting Director or Purchasing Director have approved the substitution.

- 12.5 Substitutions of the Subcontractor shall be permitted only on the following basis:
- (1) unavailability after receipt of reasonable notice to proceed;
 - (2) failure of performance;
 - (3) financial incapacity;
 - (4) refusal by the Subcontractor to honor the Bid or Proposal price;
 - (5) mistake of fact or law about the elements of the scope of work of a Solicitation where a reasonable price cannot be agreed;
 - (6) failure of the Subcontractor to meet insurance, licensing or bonding requirements; or
 - (7) the Subcontractor's withdrawal of its Bid or Proposal.

13. PROGRAM RESPONSIBILITIES

- 13.1 **Administration:** The SBOP Office has overall responsibility to interpret, administer, and enforce the SBOP policy, standards, definitions, criteria, and procedures to govern the implementation, interpretation, and application of this program in a manner to achieve its stated objectives and purposes.
- 13.2 **Reporting:** The SBOP Manager shall be responsible for reporting to the SAWS Board of Trustees on at least an annual basis regarding progress toward satisfying the SBOP Policy objectives, and to make recommendations for any necessary adjustments or amendments to the policy and administration of the SBOP to fully effectuate its purposes. To this end, the SBOP Manager shall also have oversight responsibility to ensure that appropriate data tracking systems are maintained by SAWS to enable accurate reporting on the relative availability and utilization of SAWS Prime Contractors, Prime Consultants, Subcontractors, and Subconsultants by race and gender of business ownership, and by industry.
- 13.3 **Certification Agency Representation:** The SBOP Manager shall be appointed by the SAWS Director of Contracting to serve as the official SAWS representative on the South Central Texas Regional Certification Agency (SCTRCA) Board and shall represent SAWS' interests in SMWB certification standards and program eligibility criteria so as to maintain the integrity of this Policy without unduly burdening certification applicants. An alternate employee representative shall also be appointed, who will represent SAWS on the South Central Texas Regional Certification Agency (SCTRCA) Board in the SBOP Manager's absence.
- 13.4 **Contract Administration:**
- (1) The Contracting and Purchasing Departments shall have primary responsibility for ensuring that contract specifications provided by the SBOP Manager relating to SBOP requirements are included in all appropriate solicitation documents. Compliance with such SBOP bid and proposal specifications shall be material in determining whether a bid or proposal is responsive.
 - (2) The Contracting and Purchasing Departments are also responsible for ensuring that such specified SBOP requirements are appropriately incorporated and

included in all contract documents.

- (3) The Contracting and Purchasing Departments shall be primarily responsible for informing the SBOP Manager of change orders and contract amendments, including proposed changes to Subcontractors' or Subconsultants' participation on a contract.

13.5 **Complaints:** Abuse, suspected fraud, or any violation of this program's rules and standards may be referred to the SBOP Manager for investigation, review, and appropriate sanctions or resolution.

14. RACE AND GENDER-NEUTRAL MEASURES TO ENSURE EQUAL OPPORTUNITY FOR ALL CONTRACTORS

14.1 SAWS shall develop and use measures to facilitate the participation of all Business Enterprises in SAWS contracting activities with respect to Construction, Professional Services, and Purchasing. These measures shall include, but are not limited to:

- (1) Arranging Solicitation times for the presentations of Requests for Bids, Requests for Competitive Sealed Proposals, Design-Build, Construction Manager at Risk, Requests for Information, Requests for Proposals, Best Value Bids, and Cooperative Contracts, so as to facilitate the participation of interested Contractors and Subcontractors;
- (2) Segmenting Contracts so as to facilitate the participation of Business Enterprises;
- (3) Providing timely information programs on contracting procedures, Solicitation preparation, and specific contracting opportunities;
- (4) Developing an annual procurement forecast webpage providing information on upcoming bid opportunities with anticipated contract type, advertisement date and subcontracting opportunities;
- (5) Holding pre-Bid and pre-Proposal conferences, where appropriate, to explain the projects and to encourage other Contractors to use all available Business Enterprises as Subcontractors;
- (6) Adopting prompt payment procedures, including requiring by Contract that Prime Contractors pay Subcontractors (and Consultants pay Subconsultants, as the case may be) within 10 calendar days of receipt of payment from SAWS;
- (7) Collecting information for expenditures to Subcontractors (or Subconsultants) utilized by Prime Contractors (or Consultants) on SAWS Contracts;
- (8) Maintaining a continuous process for information flow between Contractors or Consultants and SAWS, including information of firms that were awarded a contract and contract amount;
- (9) Developing training videos explaining certification criteria and referrals to certifying agencies, contract goal settings, good faith efforts criteria and documentation, other bid submission requirements, compliance monitoring, substitution requests and how to contact the fraud hotline.
- (10) Operating an outreach program to identify SMWBs interested in competing

- for SAWS contracts;
- (11) Reviewing bonding and insurance requirements to eliminate unnecessary barriers to contracting with SAWS; and
- (12) Referring complaints of discrimination to the appropriate state or federal agency for investigation and resolution; or taking other action as appropriate.

15. ESTABLISHMENT OF SBE PARTICIPATION GOALS FOR INDIVIDUAL CONTRACTS

15.1 The SBOP Manager may set a specific percentage SBE goal on a contract-by-contract basis for prime contracts, for contracts with subcontracting opportunities, and for supplier contracts, and shall have the authority to establish such SBE goals on a contract-by-contract basis based upon the type of contract, the type of subcontracting work that will be required, and the availability of SBEs to perform the work for that specific contract.

16. COUNTING PARTICIPATION OF SBEs

- 16.1 When an SBE participates in a Contract as a Contractor, a Consultant, or a Subcontractor, Supplier, or Subconsultant, count the value of the labor, services, or product actually provided or performed by the SBE toward the SBE Goal.
- 16.2 The entire amount of that portion of a Contract that is performed by the SBE's own forces shall be counted, including the cost of supplies and materials obtained by the SBE for the work of the Contract, and supplies purchased, or equipment leased by the SBE (except supplies and equipment the SBE Subcontractor purchases or leases from the Prime Contractor or its Affiliate).
- 16.3 Notwithstanding clause (1) above, on a single Contract, an SBE may only be counted once (i.e., toward the SBE Goal).
- 16.4 The entire amount of fees or commissions charged by an SBE Firm for providing a bona fide service, such as professional, technical, Consultant, or managerial services, or for providing bonds or insurance specifically required for the performance of a Contract will count toward the SBE Goal, provided the fee is reasonable and not excessive as compared with fees customarily allowed for similar services shall be counted.
- 16.5 When an SBE subcontracts or subconsults part of the work of its Contract to another Firm, the value of the subcontracted or subconsulted work may be counted toward an SBE Goal only if the second-tier Subcontractor or Subconsultant is itself an SBE. Work that an SBE subcontracts or subconsults to a non-SBE Firm does not count toward the SBE Goal.
- 16.6 If a Subcontractor contracts part of its work to an SBE Firm, the value of that work may be counted toward the SBE Goal. Work that an SBE Subcontractor contracts to another SBE Firm shall not be counted twice towards the Goal.

- 16.7 When an SBE performs as a participant in a Joint Venture, only the portion of the total dollar value of the Contract equal to the distinct, clearly defined portion of the work of the Contract that the SBE performs with its own forces and for which it is at risk shall be counted towards an SBE Goal.
- 16.8 Only expenditures to an SBE Contractor, Consultant, Subcontractor, Supplier, or Subconsultant that is performing a Commercially Useful Function shall be counted.
- 16.9 When an SBE is presumed not to be performing a Commercially Useful Function as provided in this section, the SBE may present evidence to rebut this presumption. The SBOP Manager may determine that the Firm is performing a Commercially Useful Function given the type of work involved and normal industry practices.
- 16.10 Expenditures with SBEs for materials or supplies shall be counted toward the SBE Goal as follows:
 - (1) If the materials or supplies are obtained from an SBE Manufacturer or Regular Dealer, 100 percent of the cost of the materials or supplies toward the SBE Goal shall be counted.
 - (2) With respect to materials or supplies purchased from an SBE that is neither a manufacturer nor a distributor, count the entire amount of fees or commissions charged for assistance in the procurement of the materials and supplies, or fees or transportation charges for the delivery of materials or supplies required on a job site, toward the SBE Goal only if the payment of such fees are a customary industry practice and such fees are reasonable and not excessive as compared with fees customarily allowed for similar services.
 - (3) If a Firm ceases to be a certified SBE during a Contract, the dollar value of work performed under a Contract with that Firm after it has ceased to be certified as an SBE shall not be counted.
 - (4) In determining achievement of SBE Goals, the participation of an SBE Subcontractor shall not be counted until the amount being counted toward the Goal has begun to be paid to the SBE.

17. RACE AND GENDER NEUTRAL (SBE) PROGRAM REQUIREMENTS AND GOOD FAITH EFFORTS

- 17.1 In all Solicitations Awarded, for which a Goal has been established for Contracts, SAWS shall indicate its Goal for the use of SBEs in the Solicitation documents. Respondents must meet the stated Goals or, in the alternative, demonstrate a documented Good Faith Effort to meet the stated Goals.
- 17.2 All Solicitation and Contract documents for which a Goal has been established shall contain the requirements related to achieving the Goal;
- 17.3 The Respondent's Good Faith Effort Plan shall be due, in most instances, at the time set out in the Solicitation documents. Any agreement between a Respondent and an SBE subcontractor or subconsultant, in which the Respondent requires that the SBE

not provide subcontracting or subconsulting quotations to other Respondents, is prohibited.

- 17.4 SBE Subcontractors must be competitive with non-SBE Subcontractors in terms of price, quality, and delivery.
- 17.5 The SBOP Manager will determine whether the Respondent has made Good Faith Efforts. In making this determination, the SBOP Manager will consider, at a minimum, the Respondent's efforts to do the following:
 - (1) Soliciting SBEs within the Relevant Marketplace who have the capability to perform the Contract work. The Respondent must solicit this interest within sufficient time to allow the SBEs to respond to the Solicitation. The Respondent must take appropriate steps to follow up initial Solicitations with interested SBEs. The Respondent must state a specific and verifiable reason for not contacting each certified Firm with a Significant Local Business Presence.
 - (2) Providing interested SBEs with adequate information about the plans, specifications, and requirements of the Contract, including addenda, in a timely manner to assist them in responding to a Solicitation.
 - (3) Negotiating in good faith with interested SBEs that have submitted Bids or Proposals to the Respondent.
- 17.6 That there may be some additional costs involved in soliciting and using SBEs is not a sufficient reason for a Respondent's failure to meet the Goals, as long as such costs are reasonable.
- 17.7 Any agreement between a Respondent and a first-tier SBE Subcontractor or Subconsultant, in which the Respondent requires that the SBE Subcontractor or Subconsultant shall subcontract work to one or more second-tier subcontractors or subconsultants is prohibited.
- 17.8 During the solicitation period, a non-SMWB firm that requires an SBE firm to use them (the non-SMWB) on the SBE's proposed team in exchange for using said SBE firm on their own proposed team (quid pro quo) is strongly discouraged.
- 17.9 SBEs may not be rejected without sound reasons based on a thorough investigation of their capabilities. The SBE's standing within its industry, membership (or presumed membership) in specific groups, organizations, or associations and political or social affiliations (for example union vs. non-union employee status) are not legitimate causes for rejecting or not soliciting SBEs to meet a Goal.
- 17.10 Respondents are not required to accept higher quotes in order to meet an SBE Goal.
- 17.11 The performance of other Respondents in meeting the SBE Goal. For example, when other Respondents meet the SBE Goal, it may be reasonably questioned whether,

with additional reasonable efforts, the apparent successful Respondent could have met the SBE Goal. Similarly, if the apparent successful Respondent fails to meet the SBE Goal, but meets or exceeds the average SBE participation obtained by other Respondents, this may be evidence that the apparent successful Respondent made Good Faith Efforts.

- 17.12 The SBOP Manager shall review the Good Faith Effort Plan prior to award, including the scope of work, within a reasonable time so as not to unduly delay award of the Contract.
- 17.13 If the SBOP Manager determines that the Goal has been achieved or the Respondent showed Good Faith, then the SBOP Manager shall recommend award of the Contract.
- 17.14 In the event the applicable Goal has not been achieved, then the SBOP Manager shall evaluate the Respondent's Good Faith Efforts to achieve the Goal. The SBOP Manager may request clarification in writing of items listed in the Good Faith Effort Plan.
- 17.15 If the SBOP Manager finds that a Respondent did not make sufficient Good Faith Efforts, the SBOP Manager shall communicate the finding to the SAWS Director of Contracting or Director of Purchasing. The SBOP Manager may recommend that the Respondent be rejected as non-responsive based on failure to comply with this Policy.
- 17.16 The SAWS Director of Contracting or Director of Purchasing may reject the Submittal as not in compliance with this Policy or may advise the SBOP Manager of additional considerations which may form the basis for accepting the Submittal as being in the best overall interest of the SBOP Policy and SAWS.
- 17.17 The rejection of Submittals in conformance with this section does not affect the ability of the Contract Awarding Authority to continue to evaluate and consider the remaining Submittals that achieve the SBE Goal or demonstrate Good Faith Efforts and to develop a recommendation to SAWS for award of the Contract.

18. VIOLATIONS AND SANCTIONS

- 18.1 It is a violation of this Policy to:
 - (1) Fraudulently obtain, retain or attempt to obtain, retain or aid another in fraudulently obtaining, retaining or attempting to obtain or retain Certification status as an SBE, MBE, or WBE.
 - (2) Falsify, conceal or cover up a material fact or make any false, fictitious or fraudulent statements, reports, or representations, or make use of any false writing, document, or electronic report knowing the same to contain any false, fictitious or fraudulent statement or entry pursuant to the terms of this Policy.
 - (3) Make false statements to any entity that another entity is or is not certified as an SBE, MBE, or WBE.

- (4) Make false reports regarding payments made to subcontractors/subconsultants in the Subcontractor Payment & Utilization Reporting (S.P.U.R.) System.
 - (5) Require that an SBE Subcontractor or Subconsultant must subcontract work to one or more second-tier subcontractors or subconsultants that are designated by the Respondent.
- 18.2 Any person who violates the provisions of this section shall be subject to the following sanctions and to the maximum penalty provided by law:
- (1) Suspension of contract;
 - (2) Withholding of funds;
 - (3) Rescission of contract based upon material breach of contract pertaining to SBOP compliance;
 - (4) Refusal to accept a response or proposal;
 - (5) Where appropriate and lawful, SAWS may revoke or otherwise amend any Contract to such extent as may be necessary to withhold monies to protect the Owner from loss on account of persistent and uncured contractor non-compliance with the SBOP Policies, including, if the contractor fails to submit for three consecutive months subcontractor payment information utilizing the Subcontractor Payment and Utilization Reporting (S.P.U.R.) System; and
 - (6) In addition to other sanctions available to SAWS, the violation of any provision of this Policy may be included as an incident of breach in each Contract.
 - (7) On discretionary solicitations, prior Subcontractor or Subconsultant utilization compliance may be considered when totaling the SBOP score, based upon data from the Subcontractor Payment & Utilization Reporting (S.P.U.R.) System. This applies to SMWB and Non-SMWB Prime Contractors' and Prime Consultants' utilization of their SMWB Subcontractors or Subconsultants. Up to 3 points may be deducted from the SBOP score for discrepancies between the pledged SBOP goal, and the current/ongoing actual utilization of SMWB Subcontractors or Subconsultants on recent SAWS projects. This option does not apply to work order/unspecified contracts.

19. MISCELLANEOUS TERMS

- 19.1 **Graduation.** SBE, MBE, and WBE firms shall be graduated from participation when the firms are no longer eligible based upon the Certification standards and definitions set forth in this Policy or are no longer "small" as defined in the regulations of the United States Small Business Administration.
- 19.2 **Severability.** If any section, paragraph, sentence, clause, phrase or word of this SBOP Policy, or the application thereof, to any person or circumstance is for any reason held by a Court of competent jurisdiction to be unconstitutional, inoperative, invalid or void, such holding shall not affect the remainder of this Policy or the application of any other provisions of this Policy which can be given effect without the invalid provision or application, and to this end, all the provisions of this Policy are hereby declared to be severable.

20. EFFECTIVE DATE

20.1 The SBOP Policy shall become effective March 5, 2024.

21. SUNSET DATE

21.1 This policy shall sunset on December 31, 2027, unless the SAWS Board of Trustees affirmatively decides that the program should continue.