

BID NUMBER PA-00912 REBID
TO: CITY OF LONG BEACH
CITY MANAGER
ATTN: CITY CLERK
333 West Ocean Boulevard, Plaza Level
Long Beach, California 90802



INVITATION TO BID
ASPHALT CONCRETE

CONTRACT NO. PA-00912 REBID 32561

1. COMPLETE CONTRACT:

This Invitation to Bid, together with THE NOTICE INVITING BIDS, the entire Bid (including Specifications), or any items(s) thereof, the signature page, Instructions to Bidders, General Conditions, Special Conditions, Bid Section, Addendums, and when required, CONTRACTOR'S BOND shall become the Contract upon its acceptance by the City Manager or designee on behalf of the City of Long Beach, Contractor will be provided with a copy of the executed Contract. All materials or services provided by the Contractor shall comply with the City Charter, and all applicable Federal, State and City Laws.

2. SERVICES TO BE PROVIDED BY THE CONTRACTOR:

Contractor shall upon acceptance of this Bid by the City, furnish the goods and services herein specified according to the terms and conditions set forth herein.

3. AMOUNT TO BE PAID:

The City shall pay Contractor for the goods or services as described in the section entitled "PAYMENT" in the Instructions to Bidders.

4. CHOICE OF ALTERNATE PROVISIONS; OPTIONS; NOTIFICATION:

When alternative provisions are requested, or options are offered, Contractor will be notified as to which provision, or option, is being accepted at the same time that he is notified that he is the successful Bidder.

5. DECLARATION OF NON-COLLUSION:

The undersigned certifies or declares under penalty of perjury that this Bid is genuine and not sham or collusive, or made in the interest or on behalf of any person or entity not herein named; that the Bidder has not directly or indirectly induced or solicited any other Bidder to submit a sham bid, or any other person or entity to refrain from bidding, and that the Bidder has not in any manner sought by collusion to secure to himself any advantage over other Bidders.

BIDDER MUST COMPLETE AND SIGN BELOW:

(Signature of Corporate Officers or persons authorized to sign bids and contracts on behalf of the Contractor – refer to page 2 Instructions Concerning Signatures.)

EXECUTED AT: Downey, California ON THE FEB 07 2012 DAY OF FEB 20 2012
CITY STATE MONTH

COMPANY NAME: KELTERITE CORPORATION TIN: [REDACTED]
(FEDERAL TAX IDENTIFICATION NUMBER)

STREET ADDRESS: 12231 PANGLOSS AVE. CITY: Downey STATE: CA ZIP: 90241

PHONE: (562) 401-0011 FAX: (562) 401-1012

S/ [Signature] Shawn A. Smith, President
(SIGNATURE) (TITLE)

SHAWN A. SMITH Shawn.A.Smith@kcl.com
(PRINT NAME) (EMAIL ADDRESS)

S/ [Signature] SECRETARY
(SIGNATURE) (TITLE)

John A. Smith John.A.Smith@kcl.com
(PRINT NAME) (EMAIL ADDRESS)

ALL SIGNATURES MUST BE NOTARIZED FOR ALL COMPANIES LOCATED OUTSIDE THE STATE OF CALIFORNIA.
NO OUT-OF-STATE BID WILL BE CONSIDERED UNLESS A NOTARIAL ACKNOWLEDGMENT IS ATTACHED.
NOTARIES ARE NOT REQUIRED FOR CALIFORNIA BIDDERS.

IN WITNESS WHEREOF the City of Long Beach has caused this contract to be executed as required by law as of the date stated below.

THE CITY OF LONG BEACH [Signature] 4/23/12
BY [Signature] Director of Financial Management Date

APPROVED AS TO FORM 4-23 20 12
ROBERT E. SHANNON [Signature]
CITY ATTORNEY Deputy

BID NUMBER PA-00912 REBID

The City of Long Beach is committed to provide maximum opportunities for Disadvantaged, Minority, Women and Long Beach Business Enterprises (DBEs, MBEs, WBEs and Local) to compete successfully in supplying our needs for products and services.

The following information is submitted regarding the Bidder:

Legal Form of Bidder:

Corporation State of California
Partnership State of _____
General Limited
Joint Venture
Individual DBA _____
Limited Liability Company State of _____

Composition of Ownership (more than 51% of ownership of the organization):

OPTIONAL

Ethnic (Check one):

Black Asian Other Non-white
 Hispanic American Indian Caucasian

Non-ethnic Factors of Ownership (check all that apply):

Male Yes - Physically Challenged Under 65
 Female No - Physically Challenged Over 65

Is the firm certified as a Disadvantaged Business: Yes No

Has firm previously been certified as a minority-owned and/or woman-owned business enterprise by any other agency?

Yes No

Name of certifying agency: _____

INSTRUCTIONS CONCERNING SIGNATURES

Please use the proper notary form, which applies to your type of organization on all Bid documents, attachments and bonds requiring a signature by officers of your company.

NOTE: FAILURE TO COMPLY MAY RESULT IN DISQUALIFICATION OF YOUR BID.

INDIVIDUAL (Doing Business As)

- a. The only acceptable signature is the owner of the company. (Only one signature is required.)
- b. The owner's signature must be notarized if the company is located outside of the state of California.

PARTNERSHIP

- a. The only acceptable signature(s) is/are that of the general partner or partners.
- b. Signature(s) must be notarized if the partnership is located outside of the state of California.

CORPORATION

- a. Two (2) officers of the corporation must sign.
- b. Each signature must be notarized if the corporation is located outside of the state of California.

OR

- a. The signature of one officer or the signature of person other than an officer is acceptable if the Bid is accompanied by a certified corporate resolution granting authority to said person to execute contracts on behalf of the corporation.
- b. Signature(s) must be notarized if the corporation is located outside of the state of California.

LIMITED LIABILITY COMPANY

- a. The signature on the Bid must be a member or, if the Articles provide for a manager, must be the manager. (Only one signature is required.)
- b. Signature must be notarized if the company is located outside of the state of California.

THIS INFORMATION IS AVAILABLE IN AN ALTERNATIVE FORMAT BY CONTACTING 562-570-6200.

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

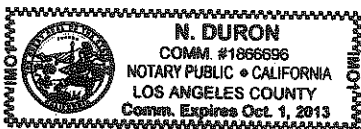
State of California

County of Los Angeles

On FEB 07 2012 Before me, N. Duron, Notary Public,
DATE NAME, TITLE OF OFFICER - E.G. "JANE DOE, NOTARY PUBLIC"

Personally appeared Shawn A Smith, President John A. Smith, Secretary
NAME(S) OF SIGNER(S)

personally known to me - OR - proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.



WITNESS my hand and official seal.

[Signature]
SIGNATURE OF NOTARY

OPTIONAL

Though the data below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent reattachment of this form.

CAPACITY CLAIMED BY SIGNER

- INDIVIDUAL
- CORPORATE OFFICER
- PARTNER(S) TITLE(S)
 - LIMITED
 - GENERAL
- ATTORNEY-IN-FACT
- TRUSTEE(S)
- GUARDIAN/CONSERVATOR
- OTHER:

DESCRIPTION OF ATTACHED DOCUMENT

TITLE OR TYPE OF DOCUMENT

NUMBER OF PAGES

DATE OF DOCUMENT

SIGNER(S) OTHER THAN NAMED ABOVE

SIGNER IS REPRESENTING:
NAME OF PERSON(S) OR ENTITY(IES):

INSTRUCTIONS TO BIDDERS

1. PREPARATION OF BID:

The preparation of the Bid, including visits to the Site prior to submittal of the Bid, shall be at the expense of Bidder. All prices and notations must be typewritten or written in ink. Any markings in pencil shall not form part of the Bid and shall be disregarded by the City. Any changes or corrections in the Bid must be initialed in ink by the person signing the Bid. Bidder shall state brand name or make of each item bid. If not bidding on item as described, the manufacturer's name and catalog number of the substitute must be given. Bidder shall also attach specifications and furnish other data to establish the suitability of the substitute. Bidder shall quote separately on each item. Bidder shall quote his lowest price and best delivery date as no changes are permitted after the bid opening. Cash discounts offered for payment within fourteen (14) days or less will not be considered when evaluating bids. No telephonic, telegraphic or fax Bids are acceptable.

NOTE: ALL PAGES OF THE INVITATION TO BID MUST BE RETURNED.

2. EXAMINATION OF BID:

Bidder is responsible for examining the Invitation to Bid and submitting its Bid complete and in conformance with these instructions.

3. CONDITIONS OF WORK:

Bidder shall carefully examine the Site to become fully informed regarding all existing and expected conditions and matters, which could affect performance, cost or time of the Work.

4. DISCREPANCIES IN BID DOCUMENTS:

If Bidder finds discrepancies in or omissions from the Invitation to Bid, if the intent of the Invitation is not clear, or if provisions of the Specifications restrict Bidder from bidding, he may request in writing that the deficiency(s) be modified. Such request must be received by the City Purchasing Agent at least five (5) working days before bid opening date. Bidders will be notified by Addendum of any approved changes in the Invitation to Bid.

5. ORAL STATEMENTS:

The City of Long Beach shall not be bound by oral statements made by any employee or agent concerning this Invitation to Bid. If Bidder requires specific information, Bidder must request it in writing and obtain a reply in writing from the City.

6. BRAND NAMES AND SPECIFICATIONS:

The detailed specifications and/or brand names stated are descriptive only and indicate quality, design and construction of items required. **Offers will be considered to supply articles substantially the same as those described herein but with minor variations. Bidders must describe variations in the Bid.** Substitute items must be equal in quality, utility and performance. **The phrase "or approved equal" throughout the specifications means that the City in its sole and absolute discretion shall make the final determination whether or not the substitute items are equal.**

7. AWARD:

Bid shall be subject to acceptance by the City for a period of three (3) months unless a lesser period is prescribed in the quotation by Bidder. The City reserves the right to award all items to one Bidder, or to award separate items or groups of items to various Bidders, or to increase or decrease the quantities of any item. Bidder may submit alternate prices or name a lump sum or discount conditional on two or more items being awarded to him.

The City's purchases of goods and services are based on the City's actual needs and requirements. The City is obligated under this contract/purchase order to purchase and pay for only those goods and services that the City needs and requires, and that the City actually orders and receives. Any dollar amount identified as a "not to exceed:" amount in any City document is not a guaranteed payment amount to any contractor or service provider. Furthermore, the City may determine that its needs and requirements may be met by City labor or by a second contractor or service provider, even after an award is made to one contractor or service provider. An award is not a promise or guarantee of exclusivity.

Bidders are cautioned that comments and statements, whether oral or written, made by City employees regarding the validity of Bids, the waiver of deviations from Specifications, the possibility or probability of an award being made to a particular Bidder, and other similar matters are NOT binding on the City. Bidders should not order materials, obtain financing or take other actions based on such comments and statements. Only authorization of a Contract by the City Council or issuance of a Purchase Order is conclusive and binding on the City with respect to this Bid and its resulting Contract or Purchase Order. However, prior to authorization by the City Council or issuance of the Purchase Order, Bidders may rely on: (1) approval of an "equal" or "substitute" item which will be issued in writing, and (2) written notice of intent to award by the City Council, which is often issued prior to the authorization by the City Council so that a Bidder can order materials that have a long lead time.

8. PAYMENT:

Payment terms are NET/30 unless Bidder otherwise quotes. All Cash Discounts shall be taken and computed from the date of delivery or completion and acceptance of the material, or from date of receipt of invoice, whichever occurs last. Invoices must be submitted as specified at the time of shipping authorization. Partial payments may be made by the City on delivery & acceptance of goods and on receipt of goods and on receipt of Contractor's invoice.

In the event the Contract to be awarded hereunder, including specifications and other documents incorporated therein by reference, provides for the withholding of moneys by the City to ensure performance of such Contract, Contractor may deposit with the City, as a substitute for said withheld moneys, securities listed in Section 16430 of the California Government Code or bank or savings and loan certificates of deposit, or both, equivalent to the amount withheld, provided Contractor requests permission to make such substitution and bears all expenses in connection therewith.

9. SAFETY APPROVAL:

Where required by City Regulations, any items delivered must carry Underwriters Laboratories Approval or City of Long Beach City Safety Officer approval. Failure to so comply will be cause to reject Bid. Also, any equipment must conform with the Safety Orders of the California Division of Industrial Safety and OSHA regulations.

10. BUSINESS LICENSE:

The Long Beach Municipal Code (LBMC) requires all businesses operating in the City of Long Beach to pay a business license tax. In some cases the City may require a regulatory permit and/or evidence of a State or Federal license. Prior to issuing a business license, certain business types will require the business license application and/or business location to be reviewed by the Development Services, Fire, Health, and/or Police Departments. For more information, go to www.longbeach.gov/finance/business_license.

INSTRUCTIONS TO BIDDERS

11. PUBLIC WORK AND PREVAILING WAGES:

The Contractor to whom the contract is awarded, along with its subcontractors, shall pay not less than the general prevailing rate of per diem, holiday and overtime wages established by the Department of Industrial Relations (DIR) of the State of California for the locality in which the public work is to be performed for each craft, classification or type of worker needed to execute the contract. Refer to the California DIR's website, <http://www.dir.ca.gov/dlir> for such prevailing wages and additional information.

The Director of Public Works of the City by and on behalf of the City Council has obtained from the Director of the Department of Industrial Relations of the State of California the general prevailing rate of per diem wages and the general prevailing rate of holiday and overtime work in the locality in which the public work is to be performed for each craft, classifications or type of workers needed to execute the Contract, and the same is on file with the City Engineer, 9th floor, City Hall, 333 W. Ocean Boulevard, Long Beach, California 90802. It shall be mandatory upon the Contractor to whom the Contract is awarded, and his Subcontractors to pay not less than the said prevailing rate of wages to all workers employed by Contractor or said Subcontractors in the execution of the Contract.

12. RIGHT TO REJECT:

The City reserves the right to reject at any time any or all Bids, or parts thereof, and to waive any variances, technicalities and informalities which do not impair the quality, utility, durability or performance of the items.

13. SAMPLES:

Samples of items when requested or required must be furnished to the City free of expense to the City and, if not destroyed by tests, will upon request be returned at Bidder's expense.

14. PRICES:

Prices shall be in accordance with those extended to other governmental agencies. In case of error in extension of prices, unit price will govern. All prices must be firm for the Contract term unless the City specifically provides for adjustment.

15. CITY'S POLICY FOR MINORITY AND WOMEN-OWNED BUSINESSES:

The City of Long Beach is committed to providing maximum opportunities for Disadvantaged, Minority, Women and Long Beach Business Enterprises (DBEs, MBEs, WBEs and Local) to compete successfully in supplying our needs for products and services.

Please visit <http://www.longbeach.gov/purchasing/diversity.asp> for more information on the City's Diversity Outreach Program.

SUBCONTRACTORS

To assist the City in maintaining records of its Minority and Women Outreach Program, Bidder is requested to provide the following information. Answers are optional, and failure to answer will not disqualify Bid. If additional space is required, Bidder shall attach a separate sheet.

The following Minority- or Woman-owned subcontractors are to be utilized to provide equipment, material, supplies and/or services for this Contract requirement:

Company Name: _____

Address: _____

Commodity/Service Provided: _____
 Circle appropriate designation: MBE WBE

Ethnic Factors of Ownership: (more than 51%)
 Black () American Indian ()
 Hispanic () Other Non-white ()
 Asian () Caucasian ()

Certified by: _____

Valid thru: _____

Dollar value of participation: \$ _____

16. BID SUBMITTAL AND WITHDRAWAL OF BIDS:

Each Bid must be delivered to the location and received on or before the due date and time stated herein. Bids will not be accepted after the date and time stated herein. Bids may be withdrawn without prejudice providing the written request is received by the City Clerk no later than the time set for opening Bids. Withdrawals will be returned to Bidder unopened.

SUBMIT TO:
 CITY OF LONG BEACH
 CITY CLERK
 333 W OCEAN BLVD/PLAZA LEVEL
 LONG BEACH CA 90802

BID DUE DATE: FEBRUARY 16, 2012
TIME: 11:00 am

IF BIDDER HAS ANY QUESTIONS REGARDING THIS INVITATION TO BID PLEASE CONTACT THE FOLLOWING CITY PERSONNEL.

- A. COMMERCIAL (TERMS AND CONDITIONS, ETC.)
- | | |
|------------------------|-----------------------|
| <u>LENORE BLUEFORD</u> | <u>(562) 570 5384</u> |
| BUYER | TELEPHONE NUMBER |
- B. TECHNICAL (SPECIFICATIONS, DRAWINGS, ETC.)
- | | |
|--------------------|-----------------------|
| <u>ART COX</u> | <u>(562) 570 2784</u> |
| DEPARTMENT CONTACT | TELEPHONE NUMBER |

17. BID OPENING PROCEDURES:

All Bids will be publicly opened and read at the date and time specified in Instructions to Bidders, item 16.

It is our policy **not** to release price information on these Bids until the department has reviewed them and award has been approved by the City Council and the City Attorney. At that time, the information becomes public. You are welcome to review the results at that time by calling the buyer that handled that Bid and setting up an appointment. Due to the large volume of Bids received, Bid results will **not** be given out by phone and information will not be faxed.

After the Purchasing Division has analyzed the Bids, the name of the apparent low Bidder will be posted on the Internet for a period of one (1) month, together with the rankings of the top three Bidders. These rankings will not contain price information.

CAUTION: Only the City Council has authority to make an award, and a contract is not in effect until the City Council makes an award and contract documents (including insurance and bonds) are signed, submitted and approved.

Bid protest procedures may be obtained from the Buyer. Protests must be submitted within seven (7) calendar days after the date of the Bid opening.

INSTRUCTIONS TO BIDDERS

18. INTER-AGENCY PARTICIPATION:

IF OTHER AGENCIES EXPRESS AN INTEREST IN PARTICIPATING IN THIS BID, WOULD YOU SUPPLY THE SAME ITEMS.

YES X NO

(If yes, any agency electing to participate in this Bid will order its own requirements without regard to the City of Long Beach. The City of Long Beach assumes no liability or payment guarantee on any units sold to participating agencies.)

19. AMERICANS WITH DISABILITIES ACT:

Contractor shall have and be allocated the sole responsibility to comply with the Americans with Disabilities Act of 1990 ("ADA") with respect to performance hereunder and contractor shall defend, indemnify and hold the City, its officials and employees harmless from and against any and all claims of failure to comply with or violation of the ADA as said claim relates to this Contract.

20. EQUAL BENEFITS ORDINANCE:

Bidders/Proposers are advised that any contract awarded pursuant to this procurement process shall be subject to the applicable provisions of Long Beach Municipal Code section 2.73 et seq., the Equal Benefits Ordinance. Bidders/Proposers shall refer to Attachment/Appendix for further information regarding the requirements of the Ordinance.

All Bidders/Proposers shall complete and return, with their bid/proposal, the Equal Benefits Ordinance Compliance form contained in the Attachment/Appendix. Unless otherwise specified in this procurement package, Bidders/Proposers do not need to submit supporting documentation verifying with their bids/proposals. However, supporting documentation verifying that the benefits are provided equally shall be required if the Bidder/Proposer that is selected for award of a contract.

CONTRACT – GENERAL CONDITIONS

1. Acceptance of the offer contained in this Contract is expressly limited to the terms and conditions of such offer as herein stated.
2. No charges for taxes, transportation, boxing, packaging, crating or returnable containers will be allowed and paid by the City unless separately stated hereon. All sales, use, excise or similar taxes to be paid by the City must be itemized separately hereon and on invoices. The City is exempt from payment of Federal Excise Tax under Certificate No. 95-73 0502K and none shall be charged to the City.
3. The City's obligation to pay the sum herein stated for any one fiscal year shall be contingent upon the City Council of the City appropriating the necessary funds for such payment by the City in each fiscal year during the term of this Contract. For the purposes of this section a fiscal year commences on October 1 of the year and continues through September 30 of the following year. In the event that the City Council of the City fails to appropriate the necessary funds for any fiscal year, then, and in that event, the Contract will terminate at no additional cost or obligation to the City.
4. Contractor shall deliver the materials, equipment, supplies or services, or cause the work to be performed, within the time and in the manner specified in the Contract. Times and dates stated herein are of the essence. If at any time Contractor has reason to believe that deliveries will not be made as scheduled, written notice setting forth the cause of the anticipated delay shall be given immediately to the City. Deliveries must be prepaid. C.O.D. shipments will not be accepted.
5. The City reserves the right at any time to make changes in drawings and specifications, in methods of shipment and packaging and in place of delivery as to any articles covered by this Contract. In such event there will be made an equitable adjustment in price and time of performance mutually satisfactory to Contractor and the City; but any claim by Contractor for such an adjustment must be made within thirty (30) days of such change.
6. Contractor warrants that the goods, machinery or equipment delivered or the work performed hereunder shall conform to the specifications, drawings, samples or other description specified by the City and shall be fit and sufficient for the purpose intended, merchantable, of good material and workmanship, in good working order and free from defect or faulty workmanship for a period of ninety (90) days. When defective goods, machinery, or equipment or faulty workmanship is discovered which requires repair or replacement pursuant to this warranty, Contractor shall provide all labor, materials, parts and equipment to correct such defect at no expense to the City.
7. Contractor shall defend, indemnify and hold the City, its officials and employees harmless from any and all loss, damage, liability, demands, claims, causes of action, costs and expenses (including reasonable attorney' fees) for injuries to persons (including death) or damage or destruction of property connected with or arising from the negligent acts or omissions of Contractor, its officers, agents and employees in the performance of this Contract.
8. The City reserves the right to terminate this Contract at any time in whole or in part even though Contractor is not in default hereunder. In such event there will be made an equitable adjustment of the terms that is mutually satisfactory to the City and Contractor. Upon receipt of any notice of such termination, Contractor shall, unless such notice otherwise directs, immediately discontinue all work on the Contract and deliver, if and as directed, to the City all completed and partially completed articles, work in process and materials purchased or acquired for performance of the Contract. The provisions of this section shall not limit or affect the right of the City to terminate this Contract immediately upon written notice of breach.
9. The City reserves the right to cancel this Contract or any part thereof and reject delivery of goods if delivery is not undertaken and completed when specified and in accordance with specifications. Contractor shall be charged for any direct losses, but not any consequential damages, sustained by the City by reason of such delay or failure, excepting losses caused by a delay for reasons beyond Contractor's reasonable control. Direct losses shall include any costs to the city in excess of the Contract price of obtaining goods from other sources similar to those cancelled or rejected hereunder.
10. The City shall pay to Contractor the price(s) specified in the Contract on delivery of the materials, equipment, supplies or services and acceptance thereof by the City Manager or his designee, or upon completion of the work to be performed and accepted thereof, as specified in the Contract. Defective articles or articles not in accordance with the City's specifications shall be held for Contractor's instructions at Contractor's risk, and if Contractor so directs will be returned at Contractor's expense.
11. No return or exchange of material, equipment or supplies shall be permitted without written approval of the City Purchasing Agent.

CONTRACT – GENERAL CONDITIONS

12. All royalties for patents, or changes for the use of patents, which may be involved in any article to be furnished under this Contract shall be included in the Contract price.

13. In cases where a price subject to escalation has been agreed upon, the price escalation shall be shown as a separate item on the invoice. Unless an escalator clause has been shown as a specific part of this Contract Contractor shall not be entitled to reimbursement for costs incurred due to escalation.

CONTRACT – GENERAL CONDITIONS

14. All materials, supplies and equipment provided under this Contract shall be in full compliance with the Safety Orders and Regulations of the Division of Industrial Safety of the State of California, Title 8, California Code of Regulations (CAL/OSHA) and all applicable OSHA regulations as well as all other applicable California Code of Regulations. Contractor shall indemnify and hold the City, its officials, and employees harmless for, of and from any and all loss, including but not limited to fines, penalties and corrective measures, the City may sustain by reason of Contractor's failure to comply with said laws, rules and regulations in connection with the performance of this Contract.
15. Contractor shall keep confidential and not disclose to others or use in any way to the detriment of the City confidential business or technical information that the City may disclose in conjunction with this Contract or Contractor may learn as a result of performing this Contract.
16. This Contract shall not be assigned in whole or in part, nor any duties delegated without the City's prior written approval.
17. The remedies herein reserved shall be cumulative and additional to any other remedies at law or in equity. The waiver of any breach of this Contract shall not be held to be a waiver of any other or subsequent breach. The City's failure to object to provisions contained in any communication from Contractor shall not be deemed an acceptance of such provisions or a waiver of the provisions of this Contract.
18. This Contract shall not be amended or modified, except by written agreement signed by the parties and expressly referring to this Contract.
19. Contractor shall indemnify, hold harmless and defend the City, its officials and employees from any damage, claim, loss, cost, liability, cause of action or expense, including reasonable attorney's fees, whether or not reduced to judgment, arising from any infringement or claimed infringement of any patent, trademark or copyright, or misappropriation of confidential information or trade secrets of any third party and based on the manufacture, sale or use of goods, machinery or equipment supplied hereunder.
20. Contractor shall furnish further itemization and breakdown of the Contract price when requested by the City.
21. Contractor, in the performance of any work or the furnishing of any labor under this Contract, shall be considered as an independent contractor. Contractor, his agents and employees shall not be considered as employees of the City.
22. Contractor and subcontractor(s) shall not discriminate against any person in the performance of this Contract and shall comply with applicable federal, state and city equal employment opportunity laws, ordinances, rules and regulations. Contractor and subcontractor(s) shall not discriminate against any employee or applicant for employment or against any subcontractor on the basis of race, color, religion, national origin, sex, sexual orientation, AIDS, HIV status, age, disability, or handicap, subject to federal and state laws, rules and regulations.
23. Contractor shall comply with all applicable federal, state and local laws pertaining to the subject matter hereof.
24. Contractor shall submit samples of all documents that Contractor may require the City to execute to complete this transaction. By accepting these samples as part of the bid or by awarding the Contract to a Contractor who has submitted said samples, the City does not agree to the terms stated in said samples. This Invitation to Bid and Contractor's bid shall take priority over said samples and this Invitation and Contractor's bid shall become the Contract between the City and the Contractor.
25. All quantities stated herein are only ESTIMATES. The City reserves the right to increase or decrease these estimated quantities based on its actual needs and funds available.
26. The City reserves the right to exercise, at its option, an increase in expenditures by ten (10) percent annually, but the City does not guarantee such an increase.
27. Contractor shall cooperate with the City in all matters relating to taxation and the collection of taxes, particularly with respect to the self-accrual of use tax. Contractor shall cooperate as follows: (i) for all leases and purchases of materials, equipment, supplies or other tangible personal property totaling over \$100,000 shipped from outside California, a qualified Contractor shall complete and

CONTRACT – GENERAL CONDITIONS

submit to the appropriate governmental entity the form in Appendix "A" attached hereto; and (ii) for construction contracts and subcontracts totaling \$5,000,000 or more, Contractor shall obtain a sub-permit from the California Board of Equalization for the Work site. "Qualified" means that the Contractor purchased at least \$500,000 in tangible personal property that was subject to sales or use tax in the previous calendar year.

In completing the form and obtaining the permit(s), Contractor shall use the address of the Work site as its business address and may use any address for its mailing address. Copies of the form and permit(s) shall also be delivered to the Purchasing Agent. The form must be submitted and the permit(s) obtained as soon as Contractor receives a notice of award. Contractor shall not order any materials or equipment over \$100,000 from vendors outside California until the form is submitted and the permit(s) obtained and, if Contractor does so, it shall be a material breach of the Agreement. In addition, Contractor shall make all purchases from its Long Beach sales office and the Long Beach sales office of its vendors if those vendors have a Long Beach office and all purchases made by Contractor under this Agreement which are subject to use tax of \$500,000 or more shall be allocated to the City of Long Beach. Contractor shall require the same form and permit(s) from its subcontractors.

Contractor shall not be entitled to and by signing this Contract waives any claim or damages for delay against City if Contractor does not timely submit these forms to the appropriate governmental entity. Contractor may contact Rosie Bouquin at 562-570-7079 for assistance with the form.

28. The California Integrated Waste Management Act (Public Resources Code, Sec. 40000 et seq.) requires governmental entities to achieve fifty (50) percent diversion of waste. In conjunction with the City's Integrated Resources Bureau, the City is currently developing an Environmentally Preferable Product (EPP) procurement plan. These guidelines enable the City Purchasing Agent to greatly expand procurement programs by moving beyond a singular consideration of "recycled-content". EPP procurement facilitates the purchase of products that qualify within a broad range of "environmentally preferable" criteria, such as: minimal packaging; energy savings; non-toxic; manufactured from sustainably-harvested materials. Contractor shall monitor products that fall within the EPP guidelines and document all criteria that qualifies the product as an EPP. Documentation from the manufacturer will be acceptable and may be required during the term of the Contract.

29. NOTICE TO BIDDERS REGARDING THE PUBLIC RECORDS ACT:

Responses to this Invitation to Bid become the exclusive property of the City of Long Beach. All Bids submitted in response to this Invitation to Bid are a matter of public record and shall be regarded as public records. Exceptions will be only those elements in each Bid that are defined by the Bidder as business or trade secrets and are marked as "Trade Secrets", "Confidential" or "Proprietary".

The City shall not be liable or responsible in any way for disclosure of any records not marked as "Trade Secrets", "Confidential" or "Proprietary". The City shall not be liable or responsible in any way for disclosure of any records so marked if disclosure is deemed to be required by law or by a court order.

30. THE FOLLOWING ADDITIONAL CONDITIONS APPLY ONLY IN CASES WHERE CONTRACTOR IS TO PERFORM WORK ON CITY PROPERTY:

- A. If at any time during the progress of the Work, Contractor shall allow any indebtedness to accrue for labor, equipment or materials, or which may become a claim against the City, Contractor shall immediately upon request from the City pay such claim or indebtedness or cause such lien to be dissolved and discharged by giving a bond or otherwise and, in case of his failure so to do, the City may withhold any money due Contractor until such claim or indebtedness is paid or may apply such money toward the discharge thereof; or in such event the City may, at its option, declare this Contract to be terminated, take possession and control of the Work, and complete the same or cause the same to be completed according to the specifications. Contractor shall pay to the City the difference between the Contract price and the actual cost to the City in completing or causing the Work to be completed.
- B. Contractor shall carry on the Work at its own risk until the same is fully completed and accepted and shall, in case of any accident, destruction or injury to the Work or materials before its final completion and acceptance, repair or replace the Work or materials so injured, damaged and destroyed, at his own expense and to the satisfaction of the City. When materials and equipment are furnished by others for installation or erection by Contractor, Contractor shall receive, unload, store and handle same at the Site and become responsible therefore as though such materials and equipment were being furnished by Contractor under the Contract.
- C. Contractor shall procure and maintain at Contractor's expense for the duration of the Contract the following insurance against claims for injuries to persons or damage to property which may arise from or in connection with the performance of the Contract by Contractor, its agents, representatives, employees or subcontractors:

- (1) Comprehensive General Liability: \$1,000,000 combined single limit for each occurrence or \$2,000,000 General Aggregate for bodily injury, personal injury and property damage, including products and completed operations coverage.

CONTRACT – GENERAL CONDITIONS

The City, its officials, employees and agents shall be named as additional insureds as respects: liability arising out of activities performed by or on behalf of Contractor; products and completed operations of Contractor; and premises owned, leased or used by Contractor.

- (2) Automobile Liability: \$500,000 combined single limit per accident for bodily injury and property damage covering owned, non-owned and hired vehicles.
- (3) Workers' Compensation as required by the California Labor Code and Employers Liability limits of \$1,000,000 per accident.

Any self-insurance program and self-insured retention must be separately approved in writing by the City.

Each insurance policy shall be endorsed to state that coverage shall not be cancelled by either party or reduced in coverage except after thirty (30) days prior written notice to the City.

Contractor shall maintain at its expense, until completion of performance and acceptance by City, from an insurer:

- a. Admitted (licensed) in the State of California with a current financial responsibility rating of A (Excellent) or better and a current financial size category (FSC) of V (capital surplus and conditional surplus funds of greater than \$10 million) or greater rating as reported by A.M. Best Company or equivalent, unless waived in writing by City's Risk Manager, or
- b. Non-admitted in the State of California with a current financial responsibility rating of A (Excellent) or better and a current financial size category (FSC) of VIII (capital surplus and conditional surplus funds of greater than \$10 million) or greater rating as reported by A.M. Best Company or equivalent, unless waived in writing by City's Risk Manager.

All coverages for Subcontractors shall be subject to the requirements stated herein and shall be maintained at no expense to the City.

Contractor shall furnish the City with certificates of insurance and original endorsements providing coverage as required above. The certificates and endorsements for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf.

Before any of Contractor's or Subcontractor's employees shall do any Work on the City's property, Contractor shall furnish the City with the required certificates evidencing that such insurance is being maintained. Such certificates shall specify the date when such insurance expires. Such insurance shall be maintained until after the Work under the Contract has been completed and accepted.

Such insurance as required herein or in any other documents to be considered a part hereof shall not be deemed to limit Contractor's liability under this Contract.

- D. Contractor shall defend, indemnify and hold harmless the City, its officials and employees from and against any and all liability for claims for bodily injury and property damage arising out of negligent acts, omissions or errors of any employee of Contractor at the Site.
- E. Contractor shall list the name and location of the place of business of each Subcontractor who will perform work, labor or services for Contractor, or who specially fabricates and installs a portion of the Work or improvement in an amount in excess of one-half of one percent of Contractor's total contract cost. The Subcontractor list shall be submitted with Contractor's Bid.

BID SECTION

CONTRACT PERIOD:

Twelve months after date of award or after the expiration of the current contract, whichever is the earlier. This Contract may be extended by mutual agreement for up to two additional year in accordance with terms and conditions stated herein.

It is agreed that if the City intends to renew this Contract, the City shall so notify the Contractor 90 days prior to the expiration date. Contractor shall be required to submit any price increases to the City Purchasing Agent for approval at least 60 days prior to expiration of Contract. Said notice shall show item number, price, Contract number, and purchase order number. The City reserves the right to accept or reject any price increase, and to cancel the renewal notice if price increases are not acceptable.

PRICE INCREASE:

Shall not exceed 9 % during the first renewal period.

Shall not exceed 9 % during the second renewal period.

ADDENDUM:

Bidders shall check the purchasing web page at www.longbeach.gov/purchasing or contact the assigned buyer three (3) days prior to the bid closing date to inquire about and include any addendums incorporated into this bid. Failure to include the addendum(s) with the bid may cause the bid to be rejected.

BASIS OF AWARD

Quantities will not be considered in making this award. The award will be based on the unit prices given.

The City may award a contract to one or more bidders, as the City determines in its sole discretion to be in the City's best interests.

PRICING AND DELIVERY

The materials included in this Invitation to Bid will be picked up at the successful bidder's plant and discharged into City-owned trucks within 30 minutes of arrival at facility.

Prices bid shall be at "picked up" prices.

PLANT LOCATION

Convenience of the plant location is an important factor to the City and will be considered in addition to price when determining lowest, responsive bidder(s).

BID SECTION

NO OBLIGATION TO BUY

The City's purchase of items hereunder is based on actual needs and requirements. The City is obligated under this contract to purchase and pay for only those items that the City needs and requires, and that the City actually orders and receives.

PRODUCTION AND DOWNTIME

Please describe production schedule and availability of materials listed above, including equipment downtime:

PRODUCTION STANDARD SCHEDULE 6:30 AM - 2:30 PM
MONDAY - FRIDAY, EQUIPMENT SCHEDULED
DOWNTIME WEEKENDS AND HOLIDAYS.

Will plant stay open for City pickup when we give 4 hours advance notice? Yes No

VENDOR INFORMATION

Years of Operation: 1

Warranty Policies and Procedures:

1 YEAR

BID SECTION

<u>Item No.</u>	<u>Item Code</u>	<u>Item</u>	<u>Unit of Measure</u>	<u>Price</u>
1	43	Type B or equivalent	TON	\$ <u>53.89</u>
2	44	Type C-1 or equivalent	TON	\$ <u>53.89</u>
3	45	Type C-2 or equivalent	TON	\$ <u>53.89</u>
4	46	Type D-1 or equivalent	TON	\$ <u>54.89</u>
5	47	Type D-2 or equivalent	TON	\$ <u>54.89</u>
6	48	Type E or equivalent	TON	\$ <u>77.49</u>
7	49	Type F or equivalent	TON	\$ <u>77.49</u>
8	9	SC800 Asphalt Concrete or equivalent	TON	\$ <u>76.49</u>
9	60	SSIH Emulsion	GALS	\$ <u>4.97</u>

Please list available facilities for discharge of product.

1. Facility location address: 12231 PANGBURN AVE., DOWNNEY CA 90241

Please state if "Item Codes" are available at this facility. State YES or NO

43 YES 44 YES 45 YES 46 YES 47 YES 48 YES 49 YES 9 YES EM YES

2. Facility location address: 12231 PANGBURN AVE., DOWNNEY CA 90241

Please state if "Item Codes" are available at this facility. State YES or NO

43 _____ 44 _____ 45 _____ 46 _____ 47 _____ 48 _____ 49 _____ 9 _____ EM _____

PAYMENT TERMS: NET 30

City of Long Beach, CA

Commonly Made Errors

The following are commonly made errors when submitting a bid to the City of Long Beach:

It is essential that all requirements of the bid are completed as specified.

- Instructions concerning signatures (page 2 on bid) are NOT followed.
- **Bid must be signed by two corporate officers if the bidder is a corporation unless accompanied by a corporate resolution. Link to samples of acceptable documentation to allow other signature.**
- All pages of the Invitation to Bid are not returned as required.
- Invitation to Bid document is not fully completed as required.
- Notarial Acknowledgment is not submitted when required; i.e., companies located outside of the state of California or companies that do not have a business operation with an established address within California (must be same address as shown on Invitation to Bid; P.O. Boxes are not acceptable) are required to submit a Notarial Acknowledgment of Corporate Officer or of the authorized person that has signed the bid.
NOTE: Only one signature will be required of the "Principal" if the principal is a partnership, sole proprietary (individuals) or limited liability company.
- When bonds are required (Labor & Material or Performance Bonds), and Notarial Acknowledgments are not submitted. Three acknowledgments are required; two for the Principal (company submitting the bid), and one for the Surety (bonding company). If the Principal is a corporation, the signatures of two corporate officers are required for Labor & Material and Performance Bonds. Labor & Material and Performance Bonds are only required of companies that are being considered for an award (they are not required when Invitation to Bid is submitted).
NOTE: Bid Bonds require only two acknowledgments; one for the Principal (company submitting the bid), and one for the Surety (bonding company).
- Bonds are not submitted on City of Long Beach forms.
- The title of the individual signing the Invitation to Bid does not match the title shown on the Notarial Acknowledgment; (i.e., the signature on the Invitation to Bid appears to be the President. The same signature appears on the Notarial Acknowledgment, but the title differs (Vice President).
- The person that signed the Invitation to bid differs from that of the Notarial Acknowledgment.
- When references are required, they are not submitted with bid.
- Bids are not submitted on time (11:00 am) to the proper location (City Clerk's Office - Plaza Level of City Hall).
- Contractor does not allow for firm pricing when submitting Invitation to Bid as required.
- The Invitation to Bid is not signed.

SMALL BUSINESS ENTERPRISE PROGRAM

There will be a combined SBE/VSBE/LSBE goal of 1% on this contract.

**SMALL BUSINESS ENTERPRISES (SBE)/VERY SMALL BUSINESS ENTERPRISES (VSBE),
LOCAL SMALL BUSINESS ENTERPRISES (LSBE)**

PROGRAM PROCEDURES AND GOALS

The City has established a Small Business Enterprises (SBE), Very Small Business Enterprises (VSBE), Local Small Business Enterprise (LSBE) Program to encourage small business participation on City-wide contracts and procurements. The goal of the Program is to award a portion of the City's annual contracting and procurement dollars to SBEs and VSBEs. The City meets this goal by establishing SBE/VSBE/LSBE subcontracting goals on applicable contracts, and by encouraging SBEs, VSBEs, LSBEs to bid and submit quotes as primes. SBE participation instructions can be downloaded on our website at www.longbeach.gov/purchasing/sbe.asp.

The City's online bidding database, facilitates the City's effort to meet the annual SBE/VSBE/LSBE goal. All bidders/vendors (large and small) are strongly encouraged to register in the City's online bidder's database. Small businesses must apply for SBE certification via the database in order to receive SBE, VSBE or LSBE status for this or any future procurement. To register, log on to www.longbeach.gov/purchasing and click on "Bidder Registration." To apply for SBE certification, answer "Yes" to the following question on the online vendor registration site: "Would you like to be SBE certified by the City of Long Beach as a Small Business Enterprise?"

SBE eligibility is determined utilizing federal U.S. Small Business Administration (SBA) size standards based on North American Industrial Classification System (NAICS) codes. VSBE eligibility is determined utilizing criteria consistent with the State of California's Department of General Services' "micro-business" designation: contractors, consultants, and vendors with gross annual receipts, averaged over the past three tax years, of \$3.50 million or less, or small business manufacturers with 25 or fewer employees. LSBE eligibility is determined by having a current, valid business license from the City and a seller's permit showing a place of business within City limits and meet the SBE requirements.

Registration and certification are free to all businesses. As a registrant, you will receive e-notifications of contracting and procurement opportunities that match the product and service codes you selected at the time of registration. As a certified SBE, you will also be included in the online SBE/VSBE/LSBE directory.

To learn more about the City's SBE Program, please visit <http://www.longbeach.gov/purchasing/sbe.asp>.



COLB FORM SBE-2PD: SBE/VSBE/LSBE COMMITMENT PLAN FOR PRODUCTS/SUPPLIES CONTRACTS

SECTION 1

Project Name:	ASPHALT CONCRETE	Date:	FEB 07 2012
VENDOR:	KELTERSTE CORPORATION	Prime Contract \$ Amount:	100%
Estimated \$ Value of Vendor's Participation:	VARIABLE	Estimated % of Vendor's Participation:	100%
Estimated \$ Value of SBE Participation:	VARIABLE	Estimated SBE % of Vendor's Contract \$ Amount:	100%
Estimated \$ Value of VSBE Participation:	VARIABLE	Estimated VSBE % of Prime Contract \$ Amount:	100%
Estimated \$ Value of LSBE Participation:		Estimated LSBE % of Prime Contract \$ Amount:	

SECTION 2 (please refer to instructions on page 2)

Business Name, City, State, Contact Person, Phone #	Indicate "SBE", "VSBE" or LSBE	Indicate if 1 st Tier Sub, Lower Tier Sub, Vendor or Supplier	Contract With	Brief Description of Work	\$ Value of Subcontract, Materials or Services	% of Total Prime Contract Value
<i>Ex #1: ABC Land Surveyors Long Beach, CA Mr. Joe Smith, (562) 555-1212</i>	LSBE	1st tier sub	XYZ Prime Consultant	Land surveying	\$100,000	20%
<i>Ex #2: Tom's Survey Supplies Long Beach, CA Mr. Tom Jones, (562) 555-1313</i>	VSBE	Supplier	ABC Land Surveyors	Surveying supplies	\$5,000	1%
<i>Ex #3: Banana Blueprints Irvine, CA Mrs. Diane Tomas, (562) 555-1313</i>	SBE	Supplier	XYZ Prime Consultant	Blueprint Supplies	\$10,000	2%
<i>KELTERSTE CORPORATION Downey, CA: MR. SHAWN SMITH (562) 401-0011</i>	VSBE	PRIME	CITY OF L.B. LA	SUPPLIER	VARIABLE	100%

Shawn A Smith, President

(562) 401-0011

Completed by: Prime Consultant Contact (please print or type)

Phone #

[Handwritten Signature]

FEB 07 2012

[Handwritten Email Address]

Signature

Date

Email

**INSTRUCTIONS FOR COLB FORM SBE-2PD:
SBE/VSBE/LSBE COMMITMENT PLAN FOR PRODUCTS/SUPPLIES CONTRACTS**

SECTIONS 1 AND 2 ARE TO BE COMPLETED BY THE PRIME CONTRACTOR.

INSTRUCTIONS FOR SECTION 2:

1. List all SBE/VSBE/LSBE, vendors, suppliers, and other businesses that will render materials or services under this contract amendment. Only list SBEs/VSBEs/LSBEs.
2. If the prime vendor is an SBE/VSBE/LSBE, list the prime vendor first.
3. For a firm to be counted toward meeting the SBE/VSBE/LSBE goals, the firm must be SBE certified on the City's online vendor database (*BidsOnLine*) accessible from the SBE/VSBE/LSBE Program page of the City's website (www.longbeach.gov/purchasing/sbe.asp).
4. The City does NOT issue VSBE certifications; VSBE eligibility will be reviewed and determined upon submittal of the Commitment Plan.
5. The vendor must verify the current eligibility status of each SBE/VSBE/LSBE, prior to listing the firm(s) on the Commitment Plan, by:
 - a. locating the SBE/VSBE/LSBE on the City's website at (www.longbeach.gov/purchasing/sbe.asp).
 - b. contacting the City's SBE Program staff to verify SBE/VSBE/LSBE status.
6. Lower tier SBE/VSBE/LSBE subcontractors and SBE/VSBE/LSBE vendors/suppliers rendering materials or services to lower tier subcontractors must also be listed to receive participation credit. **See examples listed in the table in Section 2.**
7. The City reserves the right to request proof of payment from the prime contractor/subcontractor to the lower tier sub/vendor/supplier prior to contract close-out.
8. **All SBEs/VSBEs/LSBEs, regardless of tier, MUST be SBE certified for the materials/services that they will be rendering for the contract.**
9. **All SBEs/VSBEs/LSBEs, regardless of tier, MUST provide materials/services directly applicable to the contract.**
10. When listing the total dollar value of each SBE/VSBE/LSBE subcontract, materials or services provided, the prime contractor shall subtract payments made for any indirect or non-applicable materials/ services.
11. Use multiple copies of this form if necessary.



Certified Small Business Enterprise

10/5/2011

Account #: 40798
Mr. Albert Tene
Kelterite
12231 Pangborn Ave.
Downey, CA 90241

Dear Mr. Albert Tene:

Thank you for submitting your Vendor Application seeking Small Business Enterprise (SBE) recognition with *The Network*. Per our evaluation of the information you provided in your application and the North American Industry Classification System (NAICS) codes you identified, your status as a Small Business Enterprise (SBE) has been approved. This certification is recognized by the following agencies:

*Port of Long Beach**

*San Diego County Water Authority**

* There are currently six agencies participating in The Network; however, at the present time, only the Port of Long Beach and San Diego County Water Authority are administering a Small Business Enterprise (SBE) Program.

The Port of Long Beach is pleased to issue this SBE Certificate subject to the terms and conditions identified below:

<p>NAICS code(s) for which SBE status is recognized: 237310 SBE Certificate Effective Date: 10/5/2011 SBE Certificate Expiration Date: 10/5/2014</p>
--

Work performed by your firm that falls within the above-mentioned NAICS code(s) will be counted as SBE participation for work performed on contracts procured by the above agencies.

The agencies reserve the right to withdraw this certification if at any time it is determined that certification was knowingly obtained by false, misleading, or incorrect information. The agencies reserve the right to audit all statements. If any firm attempts to falsify or misrepresent information to obtain certification, the firm may be disqualified from participating in any contracts for a period of up to five years.

SBE Certification is valid for a period of three (3) years. To maintain SBE status, firms must update their existing SBE Vendor Application on or before the expiration date mentioned above. All information is subject to verification.

If there are any changes in your status that may impact your certification, you are required to update your account information online. You may view your SBE qualifying information at any time, by logging into your main menu and selecting the "Small Business Certification Form" link.

Sincerely,

A handwritten signature in black ink, appearing to read 'Sashi', written over a white background.

Sashi Muralidharan
SBE Administrator, Port of Long Beach

925 Harbor Plaza, P.O. Box 570, Long Beach, CA 90802, Ph. (562) 499-3472, Fax (562) 901-1763, www.polb.com/sbe