

BID NUMBER PA-02710

TO: CITY OF LONG BEACH
CITY MANAGER
ATTN: CITY CLERK
333 West Ocean Boulevard, Plaza Level
Long Beach, California 90802



INVITATION TO BID

GAS PIPE FITTINGS & EQUIPMENT

CONTRACT NO. 31819

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: PORTSMOUTH, N.H. ON THE 7TH DAY OF MAY, 20 10.
CITY STATE MONTH

COMPANY NAME: ANVIL INTERNATIONAL, L.P. TIN: [REDACTED]
(FEDERAL TAX IDENTIFICATION NUMBER)

STREET ADDRESS: 110 CORPORATE DR. CITY: PORTSMOUTH STATE: NH ZIP: 03802

PHONE: (603) 422-8000 FAX: (603) 422-8033

SI [Signature] (SIGNATURE) VICE PRESIDENT, SALES (TITLE)

DEAN TAYLOR (PRINT NAME) DTAYLOR@ANVILINTL.COM (EMAIL ADDRESS)

SI [Signature] (SIGNATURE) PRESIDENT (TITLE)

THOMAS FISH (PRINT NAME) TFISH@ANVILINTL.COM (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
BY [Signature] Director of Financial Management
Date 10.9.10

APPROVED AS TO FORM 9-30, 2010.
ROBERT E. SHANNON
CITY ATTORNEY
[Signature] Deputy

BID NUMBER PA-02710

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 _____
Partnership State of NEW HAMPSHIRE
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 New Hampshire

County of Rockingham Dean Taylor - UP SALES

On 5-7-10 Before me, Thomas Fish President
DATE NAME, TITLE OF OFFICER - E.G. "JANE DOE, NOTARY PUBLIC"

Personally appeared Dean Taylor + Thomas Fish
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.



Linda M. Farrell
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

DESCRIPTION OF ATTACHED DOCUMENT

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

INVITATION TO BID PA-02710
TITLE OR TYPE OF DOCUMENT

14
NUMBER OF PAGES

MAY 10, 2010
DATE OF DOCUMENT

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

Michael C. Gray
SIGNER(S) OTHER THAN NAMED ABOVE

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/dlsr> 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: MAY 13, 2010

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)

LENORE BLUEFORD (562) 570-5384
BUYER TELEPHONE NUMBER

B. TECHNICAL (SPECIFICATIONS, DRAWINGS, ETC.)

ROLAND GARRELS (562) 570-2022
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 15.

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 _____ 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.
12. All royalties for patents, or charges 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 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.

CONTRACT – GENERAL CONDITIONS

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.

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.

CONTRACT – GENERAL CONDITIONS

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 \$100 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

One time purchase for Gas Pipe Fittings and Equipment for the City of Long Beach Energy Department.

DELIVERY

Delivery must occur all at one time. The City reserves the right to make award based on delivery time quoted.

DELIVERY TIME

The City reserves the right to make award based on delivery time quoted.

SHIPPING INSTRUCTIONS

Prices quoted shall include all handling, delivery and unloading charges to the City of Long Beach.

INSPECTION

All items furnished shall be subject to the inspection of the City, and unsuitable items may be rejected. Defective items shall be made good by the Contractor in a manner satisfactory to the city.

LIQUIDATED DAMAGES

Time is of the essence. If delivery is not completed by the time stated previously for delivery, the Contractor acknowledges and agrees that such delay would seriously affect the public welfare and the operation of the City and that damages for such delay would be impracticable or extremely difficult to determine. The parties agree that the sum of \$100 per day for each day of delay for each unit shall be fixed as liquidated damages (and not as a penalty or forfeiture for breach). Liquidated damages shall apply where delivery is delayed beyond the time stated and where delivery of materials to replace materials deemed substandard or nonconforming by the City is delayed beyond the time specified for such replacement.

If the Contractor is prevented or delayed in the work required to be done hereunder by changes in the work or by any default, act, or omission of the City, or by strikes, fire, act of God, or by the inability to obtain materials, equipment, or labor due to Federal Government restrictions, then the time of completion shall be extended for such period as may be agreed between the City and the Contractor. The City may, at the time of acceptance of the work, waive liquidated damages which may have accrued for failure to complete on time due to any of the above reasons after hearing evidence to the reasons for such delay and making a finding as to the cause of same.

BRAND NAMES

Whenever in the specifications any material or process is indicated or specified by patent or proprietary name and/or by name of manufacturer, such specifications shall be used for the purpose of facilitating descriptions of the material and/or process desired and shall be deemed to be followed by the words "or equivalent". See page 4, paragraph 6.

The Contractor may offer any material or process which shall be equal in every respect to that so indicated or specified, provided however, that if the material, process or article offered by the contractor is not, in the opinion of the City of Long Beach, equal in every respect to that specified, then the contractor must furnish the material, process or article specified or one that in the opinion of the City of Long Beach is the equal thereof in every respect.

If bidder desires to bid an "approved equal" item, the bidder shall submit a request to do so to the City in writing no later than seven (7) working days before bid opening. The request shall include all data necessary to substantiate that the item is equal. The City will notify the bidder, in writing, of approval or disapproval of the equivalent item no later than three (3) working days before bid opening.

BID SECTION

Item	Stock #	Description	Mueller Part #	Estimated Annual Usage	Unit Bid Price	Extension Price
1	659-50-09-678	Nipple, Save-A-Valve, Drilling, 1 x 3 in.	H-17490-1 x 3	250	\$ <u>12.83</u>	\$ <u>3208.33</u>
2	659-50-09-681	Nipple, Save-A-Valve, Drilling, 2 x 3 IN	H-17490-2 x 3	42	\$ <u>39.08</u>	\$ <u>1641.73</u>
3	659-54-37-335	Line Stopper (Half PC), 2 Inch	H-17190-2	130	\$ <u>57.71</u>	\$ <u>7502.44</u>
4	659-54-37-336	Line Stopper (Half PC), 3 INCH	H-17190-3	130	\$ <u>108.73</u>	\$ <u>14135.33</u>
5	659-54-37-337	Line Stopper (Half PC), 4 Inch	H-17190-4	30	\$ <u>125.21</u>	\$ <u>3756.33</u>
6	659-54-38-341	Line Stopper (Full PC), Weld, 2 Inch	H-17125-2	As required only	\$ <u>98.51</u>	\$ _____
7	659-54-38-650	Line Stopper, Bottom-Out (Full PC), Weld, 2 Inch	H-17160-2	2	\$ <u>97.08</u>	\$ <u>194.16</u>

BID SECTION

Item	Stock #	Description	Mueller Part #	Estimated Annual Usage	Unit Bid Price	Extension Price
8	659-54-39-342	Line Stopper (Full PC), Weld 3 Inch	H-17255-3	5	\$ <u>406.78</u>	\$ <u>2033.90</u>
9	659-54-39-343	Line Stopper (Full PC), 4 Inch	H-17255-4	1	\$ <u>491.23</u>	\$ <u>491.23</u>
10	659-54-39-345	Line Stopper (Full PC), 6 Inch	H-17255-6	2	\$ <u>775.94</u>	\$ <u>1550.68</u>
11	659-54-39-346	Line Stopper (Full PC), 8 Inch	H-17255-8	5	\$ <u>1234.40</u>	\$ <u>6172.00</u>
12	659-54-39-347	Line Stopper (Full PC), 10 Inch	H-17255-10	2	\$ <u>5139.93</u>	\$ <u>10,279.86</u>
13	659-54-39-348	Line Stopper (Full PC), 12 Inch	H-17255-12	2	\$ <u>5139.93</u>	\$ <u>10,279.86</u>
14	659-54-41-356	Line Stopper, Side-Out, Weld, 4 Inch	H-17355-4)	1	\$ <u>565.17</u>	\$ <u>565.17</u>

BID SECTION

Item	Stock #	Description	Mueller Part #	Estimated Annual Usage	Unit Bid Price	Extension Price
15	659-54-41-357	Line Stopper, Side-Out, Weld 6 Inch	H-17355-8)	As required only	\$ <u>871.34</u>	\$ _____
16	659-54-41-358	Line Stopper, Side-out, Weld 8 Inch	H-17355-8)	2	\$ <u>1357.91</u>	\$ <u>2715.82</u>
17	659-54-41-359	Line Stopper, Side-out, Weld 10 Inch	H-17355-10	As required only	\$ <u>5229.52</u>	\$ _____
18	659-54-41-360	Line Stopper, Side-out, Weld 12 Inch	H-17355-12	As required only	\$ <u>5229.52</u>	\$ _____
19	659-54-42-343	Line Stopper, Bottom-out, Weld, 3 Inch	H-17260-3	12	\$ <u>428.10</u>	\$ <u>5137.20</u>
20	659-54-42-344	Line Stopper, Bottom-Out, Weld, 4 Inch	H-17260-4	As required only	\$ <u>537.68</u>	\$ _____
21	659-54-42-345	Line Stopper, Bottom Out PC, 6 Inch	17260-6	As required only	\$ <u>823.40</u>	\$ _____

BID SECTION

Item	Stock #	Description	Mueller Part #	Estimated Annual Usage	Unit Bid Price	Extension Price
22	659-54-42-348	Line Stopper (Bottom Out) PC, Weld 8 Inch	H-17280-8	2	\$ <u>1296.78</u>	\$ <u>2593.56</u>
23	659-84-09-934	Tee, Valve (Pin-Off), HP, 1 Inch, No-Blow, Weld x Weld	H-17650-1	298	\$ <u>24.50</u>	\$ <u>7301.00</u>
24	659-84-09-935	Tee, Valve (Pin-Off), HP, 1- 1/4 Inch, No-Blow, Weld x Weld	H-17650-1-1/4	20	\$ <u>39.77</u>	\$ <u>795.40</u>
25	659-84-09-938	Tee, Valve (Pin-Off), HP, 2 Inch, No-Blow, Weld x Weld	H-17650-2	5	\$ <u>92.43</u>	\$ <u>462.15</u>
26	659-84-10-944	Tee, Service, 2 Inch, Weld x Weld	H-17500-2	20	\$ <u>45.84</u>	\$ <u>916.80</u>
27	670-52-08-075	Clamp, 1/2 x 3 Inch, Pipe Repair, 1-Bolt	MUELLER- ADAMS NO. 212-03-0105	12	\$ <u>4.43</u>	\$ <u>53.16</u>
28	670-52-08-103	Clamp, 1 x 3 Inch, Pipe Repair, 1 Bolt	MUELLER- ADAMS NO. 220-03-0131	6	\$ <u>4.62</u>	\$ <u>27.72</u>

BID SECTION

Item	Stock #	Description	Mueller Part #	Estimated Annual Usage	Unit Bid Price	Extension Price
29	670-52-06-123	Clamp, 1- 1/4 x 3 inch, Pipe Repair, 1 - Bolt	MUELLER-ADAMS NO. 212-03-0166	14	\$ <u>4.99</u>	\$ <u>69.86</u>
30	670-52-06-150	Clamp, 1- 1/2 x 3 inch, Pipe Repair, 1-Bolt	MUELLER-ADAMS NO. 210-03-0190	As required	\$ <u>5.12</u>	\$ _____
31	670-52-06-203	Clamp, 2 x 3 inch, Pipe Repair, 1-Bolt	MUELLER-ADAMS NO. 200-03-0237 <i>210-03-237</i>	6	\$ <u>5.29</u>	\$ <u>31.74</u>
32	670-52-06-206	Clamp, 2 x 6 inch, Pipe Repair, 2-Bolt	MUELLER NO. 220-03-0237	1	\$ <u>5.08</u>	\$ <u>5.08</u>
33	890-75-01-019	Key, Barrel Lock-F, Swivel Handle	MUELLER NO 504980	69	\$ <u>50.66</u>	\$ <u>3495.54</u>
34	890-75-05-002	Lock, meter Stop, 3/4 Inch	H-11093-3/4	1109	\$ <u>16.79</u>	\$ <u>18,620.11</u>
35	890-75-05-003	Lock, Meter Stop, 1 inch	H-11093-1	10	\$ <u>19.11</u>	\$ <u>191.10</u>

BID SECTION

Item	Stock #	Description	Mueller Part #	Estimated Annual Usage	Unit Bid Price	Extension Price
36	670-53-01-027	Valve, By-Pass, H-17025 Control Chamber	682089 KIT	5	\$ <u>65.12</u>	\$ <u>325.60</u>
37	670-53-02-030	Machine, Completion H-17045, Model No. 2	H-17045	1	\$ <u>392.67</u>	\$ <u>392.67</u>
38	670-53-03-043	Valve Changer, ¼ H-17010, Model no. 2.	H-78740	2	\$ <u>47.58</u>	\$ <u>95.16</u>
39	670-53-06-090	Shaft, H-17015-¾ Inch, H-17015 Plugging unit	83815	5	\$ <u>85.58</u>	\$ <u>427.90</u>
40	670-53-07-092	Unit, Plugging 1 Inch, H-17015	588475 83963	1	\$ <u>455.51</u>	\$ <u>455.51</u>
41	670-53-19-299	Cutter, Shell, 2-¾ Inch.	504223	As requirement only	\$ <u>96.70</u>	\$ _____
42	670-53-19-300	Cutter, Shell, 3-¾ Inch.	504224	As requirement only	\$ <u>688.28</u>	\$ _____

BID SECTION

Item	Stock #	Description	Mueller Part #	Estimated Annual Usage	Unit Bid Price	Extension Price
43	670-53-22-418	Lubricant, Rubber Stopper,	580657	11	\$ <u>12.07</u>	\$ <u>132.77</u>
44	670-53-23-410	Stopper, Rubber Replacement, Expanding 3 Inch.	53195	1	\$ <u>241.20</u>	\$ <u>241.20</u>
45	670-53-23-449	Stopper, Rubber Only 6 Inch by-Pass, <i>NOT A VALID PART NUMBER</i>	51151 <i>PART NUMBER</i>	1	\$ <u>N/A</u>	\$ _____
46	670-53-23-468	Stopper Steel Wedge, Mueller <i>NOT A VALID PART NUMBER</i>	589814	1	\$ <u>N/A</u>	\$ _____
47	670-53-23-470	Bolt flanged w/nut,	36446	36	\$ <u>6.93</u>	\$ <u>249.48</u>
48	670-53-25-513	Tool Re-lubricating,	H-11199	1	\$ <u>93.52</u>	\$ <u>93.52</u>
					\$ _____	\$ _____

BID SECTION

Item	Stock #	Description	Mueller Part #	Estimated Annual Usage	Unit Bid Price	Extension Price
49	938-54	Maintenance/Repair 5 inch Gate Valves <i>88611-R</i>		2	\$ 3667.00	\$ <i>7334.00</i>
50	938.54	Maintenance/Repair 9 inch Gate Valves <i>88953-R</i>		2	\$ 4222.00	\$ <i>8444.00</i>
51	938-54	Maintenance/Repair 2 inch Slide Gate Valves		5	\$ <i>N/A</i>	\$ <i>N/A</i>
52	938-54	Maintenance/Repair 3 inch Slide Gate Valves		5	\$ <i>N/A</i>	\$ <i>N/A</i>
53	938-54	Maintenance/Repair 4 inch Slide Gate Valves		3	\$ <i>N/A</i>	\$ <i>N/A</i>
					Sub-total: \$	_____
					Tax (9.75%) \$	_____

Sub-total: \$ _____

Freight: \$ *0*

TOTAL: \$ _____

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 proprietor (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.

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ORDINANCE NO. ORD-09-0036

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LONG BEACH AMENDING THE LONG BEACH MUNICIPAL CODE BY ADDING CHAPTER 2.73 ESTABLISHING AN "EQUAL BENEFITS ORDINANCE" REQUIRING CONTRACTORS ON CITY CONTRACTS TO PROVIDE EMPLOYEE BENEFITS TO THEIR EMPLOYEES WITH DOMESTIC PARTNERS EQUIVALENT TO THOSE PROVIDED TO THEIR EMPLOYEES WITH SPOUSES

**OFFICE OF THE CITY ATTORNEY
ROBERT E. SHANNON, City Attorney
333 West Ocean Boulevard, 11th Floor
Long Beach, CA 90802-4664**

WHEREAS, employee benefits comprise a significant portion of total employee compensation; and

WHEREAS, discrimination in the provision of employee benefits between employees with domestic partners and employees with spouses results in unequal pay for equal work; and

WHEREAS, the City of Long Beach prohibits discrimination based on marital status and/or sexual orientation; and

WHEREAS, contractors with the City of Long Beach are required to comply with the City's nondiscrimination laws; and

WHEREAS, the City Council finds and determines that the public, health, safety and welfare will be furthered by requiring that public funds be expended in such a manner as to prohibit discrimination in the provision of employee benefits by City contractors between employees with spouses and employees with domestic partners, and between domestic partners and spouses of such employees;

NOW, THEREFORE, the City Council of the City of Long Beach ordains as follows:

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Section 1. Chapter 2.73 is added to the Long Beach Municipal Code to read as follows:

Chapter 2.73
EQUAL BENEFITS TO EMPLOYEES OF CITY CONTRACTORS

2.73.010 Title and purpose.

This ordinance shall be known as the "Long Beach Equal Benefits Ordinance". The purpose of this Chapter is to protect the public health, safety and welfare by requiring that public funds be expended in such a manner as to prohibit discrimination in the provision of employee benefits by City contractors between employees with spouses and employees with domestic partners, and/or between domestic partners and spouses of such employees.

2.73.020 Definitions.

A. "Contractor" shall mean any person or persons, firm, partnership, corporation, or combination thereof, who enters into a contract with the City.

B. "Domestic partner" shall mean any person who has a currently registered domestic partnership with a governmental body pursuant to state or local law authorizing such registration or with his or her employer or his or her domestic partner's employer.

C. "Non-profit" shall mean a non-profit organization described in Section 501(c)(3) of the Internal Revenue Code of 1954 which is exempt from taxation under Section 501(c)(3) of that Code, or any nonprofit educational organization qualified under Section 23701(d) of the Revenue and Taxation Code.

///

1 2.73.030 Contractors subject to requirements.

2 A. The following contractors are subject to this Chapter:

3 1. For-profit entities which enter into an agreement with
4 the City for public works or improvements to be performed, or for goods or
5 services to be purchased, for an amount of One Hundred Thousand Dollars
6 (\$100,000) or more; and

7 2. For-profit entities which generate Three Hundred Fifty
8 Thousand Dollars (\$350,000) or more in annual gross receipts and which
9 occupy City property pursuant to a written agreement for the exclusive use
10 or occupancy of said property for a term exceeding twenty-nine (29) days in
11 any calendar year.

12 B. The requirements of this Chapter shall only apply to those
13 portions of a contractor's operations that occur (i) within the City; (ii) on real
14 property outside the City if the property is owned by the City or if the City
15 has a right to occupy the property, and if the contractor's presence at that
16 location is connected to a contract with the City; and (iii) elsewhere in the
17 United States where work related to a City contract is being performed. The
18 requirements of this Chapter shall not apply to subcontracts or
19 subcontractors of any contract or contractor.

20 C. The City Manager or designee will provide a report to the City
21 Council regarding the implementation of this ordinance no later than one
22 year following the effective date of this Ordinance, and will consider among
23 other items, whether the dollar thresholds set forth in subsections (A) and
24 (B) should be modified.

25
26 2.73.040 Non-discrimination in provision of benefits.

27 A. No contractor subject to this Chapter pursuant to Section
28 2.73.030 shall discriminate in the provision of bereavement leave, family

1 medical leave, health benefits, membership or membership discounts,
2 moving expenses, pensions and retirement benefits or travel benefits or in
3 the provision of any benefits other than bereavement leave, family medical
4 leave, health benefits, membership or membership discounts, moving
5 expenses, pensions and retirement benefits or travel benefits between
6 employees with domestic partners and employees with spouses, and/or
7 between the domestic partners and spouses of such employees except as
8 set forth in Subsections 2.73.040.A.1 and 2 below;

9 1. In the event that the contractor's actual cost of
10 providing a particular benefit for the domestic partner of an employee
11 exceeds that of providing it for the spouse of an employee, or the
12 contractor's actual cost of providing a particular benefit for the spouse of an
13 employee exceeds that of providing it for the domestic partner of an
14 employee, the contractor shall not be deemed to discriminate in the
15 provision of employee benefits if the contractor conditions providing such
16 benefit upon the employee agreeing to pay the excess costs.

17 2. The contractor shall not be deemed to discriminate in
18 the provision of employee benefits if, despite taking reasonable measure to
19 do so, the contractor is unable to extend a particular employee benefit to
20 domestic partners, so long as the contractor provides the employee with a
21 cash equivalent.

22 B. Provided that a contractor does not discriminate in the
23 provision of benefits between employees with spouses and employees with
24 domestic partners, a contractor may:

25 1. Elect to provide benefits to individuals in addition to
26 employees' spouses and employees' domestic partners;

27 2. Allow each employee to designate a legally domiciled
28 member of the employee's household as being eligible for spousal

1 equivalent benefits; or

2 3. Provide benefits neither to employees' spouses nor to
3 employees' domestic partners.

4 C. A contractor will not be deemed to be discriminating in the
5 provision of benefits where the implementation of policies ending
6 discrimination in benefits is delayed following the first award of a City
7 contract to a contractor after the effective date of this Chapter:

8 1. Until the first effective date after the first open
9 enrollment process following the date the contract with the City is executed,
10 provided that the contractor submits evidence that it is making reasonable
11 efforts to end discrimination in benefits. This delay may not exceed two (2)
12 years from the date the contract with the City is executed and only applies
13 to benefits for which an open enrollment process is applicable.

14 2. Until administrative steps can be taken to incorporate
15 nondiscrimination in benefits in the contractor's infrastructure. The time
16 allotted for these administrative steps shall apply only to those benefits for
17 which administrative steps are necessary and may not exceed three (3)
18 months. An extension of this time may be granted at the discretion of the
19 City Manager upon the written request of a contractor, setting forth the
20 reasons that additional time is required.

21 3. Until the expiration of a contractor's current collective
22 bargaining agreement(s) where all of the following conditions have been
23 met:

24 a. The provision of benefits is governed by one or
25 more collective bargaining agreement(s); and

26 b. The contractor takes all reasonable measures to
27 end discrimination in benefits by either requesting that the union(s) involved
28 agree to reopen the agreement(s) in order for the contractor to take

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Long Beach, CA 90802-4684

1 whatever steps are necessary to end discrimination in benefits or by ending
2 discrimination in benefits without reopening the collective bargaining
3 agreement(s); and

4 c. In the event that the contractor cannot end
5 discrimination in benefits despite taking all reasonable measure to do so,
6 the contractor provides a cash equivalent to eligible employees for whom
7 benefits are not available. Unless otherwise authorized, in writing by the
8 City Manager, this cash equivalent payment must begin at the time the
9 union(s) refuse to allow the collective bargaining agreement(s) to be
10 reopened, or in any case no longer than three (3) months from the date the
11 contract with the City was executed. This cash equivalent payment shall not
12 be required where it is prohibited by federal labor law.

13 D. Employers subject to this Chapter pursuant to Section
14 2.73.030 shall give written notification to each current and new employee of
15 his or her potential rights under this Chapter in a form specified by the City.
16 Such notice shall also be posted prominently in areas where it may be seen
17 by all employees.

18
19 2.73.050 Required contract provisions.

20 Every contract subject to this Chapter shall contain provisions
21 requiring it to comply with the provisions of this Chapter as they exist on the
22 date when the contractor entered the contract with the City or when such
23 contract is amended. Such contract provisions may include but need not be
24 limited to the contractor's duty to promptly provide to the City documents
25 and information verifying its compliance with the requirements of this
26 Chapter and sanctions for noncompliance.

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2.73.060 Waivers and exemptions.

A. The City may waive the requirements of this Chapter where the City Manager makes one or more of the following findings:

- 1. Award of a contract or amendment is necessary to respond to an emergency;**
- 2. The contractor is a sole source;**
- 3. The contractor is a non-profit entity as defined in Section 2.73.020, above;**
- 4. Non compliant contractors are capable of providing goods or services that respond to the City's requirements;**
- 5. The contractor is a public entity;**
- 6. The requirements of this Chapter are inconsistent with a grant, subvention or agreement with a public agency;**
- 7. The City is purchasing through a cooperative or joint purchasing agreement;**
- 8. The contract involves specialized legal services such that it would be in the best interests of the City to waive the requirements of this Chapter, as determined by the City Attorney;**
- 9. The contract involves investment of trust moneys or agreements relating to the management of trust assets, City moneys invested in U.S. government securities or under pre-existing investment agreements, or the investment of City moneys where no person, entity or financial institution doing business with the City which is in compliance with this Chapter is capable of performing the desired transactions or the City will incur financial loss if the requirements of this Chapter are enforced;**
- 10. After taking all reasonable measures to find an entity that complies with this Chapter, the City may waive any or all requirements of this Chapter for any contract or bid package advertised and made**

1 available to the public, or any competitive or sealed bids received by the
2 City as of the effective date of this Chapter under the following
3 circumstances:

4 a. There are no qualified responsive bidders or
5 prospective contractors who comply with this Chapter and the contract is for
6 goods, a service or a project that is essential to the City or City residents; or

7 b. The requirements of this Chapter would result in
8 the City's entering into a contract with an entity that was set up, or is being
9 used for the purpose of evading the intent of this Chapter.

10 B. The requirements of this Chapter shall not be applicable to
11 contracts executed or amended prior to the effective date of this Chapter, or
12 to bid packages advertised and made available to the public, or any
13 competitive or sealed bids received by the City prior to the effective date of
14 this Chapter, unless and until such contracts are amended after the effective
15 date of this Chapter and would otherwise be subject to this Chapter.

16 C. The City Manager or designee may issue regulations from
17 time to time implementing the provisions of this ordinance.

18 D. The City Manager shall report to the City Council annually on
19 the status of waivers and exemptions.

20
21 **2.73.070 Retaliation and discrimination prohibited.**

22 A. No employer shall retaliate or discriminate against an
23 employee in his or her terms and conditions of employment by reason of the
24 person's status as an employee protected by the requirements of this
25 Chapter.

26 B. No employer shall retaliate or discriminate against a person in
27 his or her terms and conditions of employment by reason of the person
28 reporting a violation of this Chapter or for prosecuting an action for

1 enforcement of this Chapter.

2
3 **2.73.080 Employee complaints to City.**

4 A. An employee who alleges violation of any provision of the
5 requirements of this Chapter may report such acts to the City. The City
6 Manager may establish a procedure for receiving and investigating such
7 complaints and take appropriate enforcement action.

8 B. The City shall have the power to examine contractors' benefit
9 programs covered by this Chapter.

10 C. Any complaints received shall be treated as confidential
11 matters, to the extent permitted by law. Any complaints received and all
12 investigation documents related thereto shall be deemed exempt from
13 disclosure pursuant to California Government Code Sections 6254 and
14 6255.

15
16 **2.73.090 Remedies.**

17 A. Upon a finding by the City Manager that a contractor has
18 violated the requirements of this Chapter, the City shall have the rights and
19 remedies described in this Section, in addition to any rights and remedies
20 provided at law or in equity.

21 1. The City Manager shall be authorized to terminate said
22 contract and bar the contractor from bidding on future contracts with the City
23 for three (3) years from the effective date of the contract termination.

24 2. In the City Manager's sole discretion, a contractor found
25 to have willfully violated the requirements of this Chapter may be required to
26 pay liquidated damages.

27 3. The City may seek recovery of reasonable attorneys'
28 fees and costs necessary for enforcement of this Chapter.

OFFICE OF THE CITY ATTORNEY
ROBERT E. SHANNON, City Attorney
333 West Ocean Boulevard, 11th Floor
Long Beach, CA 90802-4664

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B. Notwithstanding any provision of this Chapter or any other Chapter to the contrary, no criminal penalties shall attach for any violation of this Chapter.

C. No remedy set forth in this Chapter is intended to be exclusive or a prerequisite for asserting a cause of action to enforce any rights hereunder in a court of law. This Chapter shall not be construed to limit an employee's right to bring a common law cause of action for wrongful termination.

D. Nothing in this Chapter shall be interpreted to authorize a right of action against the City.

Section 2. The City Clerk shall certify to the passage of this ordinance by the City Council and cause it to be posted in three (3) conspicuous places in the City of Long Beach, and it shall take effect on the thirty-first (31st) day after it is approved by the Mayor.

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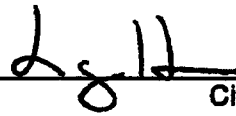
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I hereby certify that the foregoing ordinance was adopted by the City Council of the City of Long Beach at its meeting of December 8, 2009, by the following vote:

Ayes: Councilmembers: Garcia, Lowenthal, DeLong,
O'Donnell, Schipske, Andrews,
Reyes Uranga, Gabelich, Lerch.

Noes: Councilmembers: None.

Absent: Councilmembers: None.



City Clerk

Approved: 12/11/09 
(Date) _____ Mayor

OFFICE OF THE CITY ATTORNEY
ROBERT E. SHANNON, City Attorney
333 West Ocean Boulevard, 11th Floor
Long Beach, CA 90802-4064

EQUAL BENEFITS ORDINANCE DISCLOSURE

As a condition of being awarded a contract with the City of Long Beach ("City"), the selected Contractor/Vendor ("Contractor") may be required during the performance of the Contract, to comply with the City's nondiscrimination provisions of the Equal Benefits Ordinance ("EBO") set forth in the Long Beach Municipal Code section 2.73 et seq. The EBO requires that during the performance of the contract, the Contractor shall provide equal benefits to its employees with spouses and employees with domestic partners. Benefits include but are not limited to, health benefits, bereavement leave, family medical leave, membership and membership discounts, moving expenses, retirement benefits and travel benefits. A cash equivalent payment is permitted if an employer has made all reasonable efforts to provide domestic partners with access to benefits but is unable to do so. A situation in which a cash equivalent payment might be used is where the employer has difficulty finding an insurance provider that is willing to provide domestic partner benefits.

The EBO is applicable to the following employers:

- For-profit employers that have a contract with the City for the purchase of goods, services, public works or improvements and other construction projects in the amount of \$100,000 or more
- For-profit entities that generate \$350,000 or more in annual gross receipts leasing City property pursuant to a written agreement for a term exceeding 29 days in any calendar year

Contractors who are subject to the EBO must certify to the City before execution of the contract that they are in compliance with the EBO by completing the EBO Certification Form, attached, or that they have been issued a waiver by the City. Contractors must also allow authorized City representatives access to records so the City can verify compliance with the EBO.

The EBO includes provisions that address difficulties associated with implementing procedures to comply with the EBO. Contractors can delay implementation of procedures to comply with the EBO in the following circumstances:

- 1) By the first effective date after the first open enrollment process following the contract start date, not to exceed two years, if the Contractor/vendor submits evidence of taking reasonable measures to comply with the EBO; or
- 2) At such time that the administrative steps can be taken to incorporate nondiscrimination in benefits in the Contractor/vendor's infrastructure, not to exceed three months; or
- 3) Upon expiration of the contractor's current collective bargaining agreement(s).

Compliance with the EBO

EQUAL BENEFITS ORDINANCE CERTIFICATION OF COMPLIANCE

Section 1. CONTRACTOR/VENDOR INFORMATION

Name: ANULL INTERNATIONAL Federal Tax ID No. [REDACTED]
 Address: 110 CORPORATE DRIVE
 City: PORTSMOUTH State: N.H. ZIP: 03803
 Contact Person: MIKE GRAY Telephone: (951) 216-5595
 Email: MGRAY@ANULLINTL.COM Fax: (951) 302-9125

Section 2. COMPLIANCE QUESTIONS

- A. The EBO is inapplicable to this Contract because the Contractor/Vendor has no employees. Yes No
- B. Does your company provide (or make available at the employees' expense) any employee benefits? Yes No
 (If "yes," proceed to Question C. If "no," proceed to section 5, as the EBO does not apply to you.)
- C. Does your company provide (or make available at the employees' expense) any benefits to the spouse of an employee?
 Yes No
- D. Does your company provide (or make available at the employees' expense) any benefits to the domestic partner of an employee?
 Yes No (If you answered "no" to both questions C and D, proceed to section 5, as the EBO is not applicable to this contract. If you answered "yes" to both Questions C and D, please continue to Question E. If you answered "yes" to Question C and "no" to Question D, please continue to section 3.)
- E. Are the benefits that are available to the spouse of an employee identical to the benefits that are available to the domestic partner of an employee?
 Yes No
 (If "yes," proceed to section 4, as you are in compliance with the EBO. If "no," continue to section 3.)

Section 3. PROVISIONAL COMPLIANCE

A. Contractor/vendor is not in compliance with the EBO now but will comply by the following date:

_____ By the first effective date after the first open enrollment process following the contract start date, not to exceed two years, if the Contractor/vendor submits evidence of taking reasonable measures to comply with the EBO; or

_____ At such time that the administrative steps can be taken to incorporate nondiscrimination in benefits in the Contractor/vendor's infrastructure, not to exceed three months; or

_____ Upon expiration of the contractor's current collective bargaining agreement(s).

B. If you have taken all reasonable measures to comply with the EBO but are unable to do so, do you agree to provide employees with a cash equivalent? (The cash equivalent is the amount of money your company pays for spousal benefits that are unavailable for domestic partners.)

___ Yes ___ No

Section 4. REQUIRED DOCUMENTATION

At time of issuance of purchase order or contract award, you may be required by the City to provide documentation (copy of employee handbook, eligibility statement from your plans, insurance provider statement, etc.) to verify that you do not discriminate in the provision of benefits.

Section 5. CERTIFICATION

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that I am authorized to bind this entity contractually. By signing this certification, I further agree to comply with all additional obligations of the Equal Benefits Ordinance that are set forth in the Long Beach Municipal Code and in the terms of the contract of purchase order with the City.

Executed this 5TH day of OCTOBER, 2010, at TERRACULA, CA

Name MICHAEL C. GRAY Signature Michael C. Gray

Title SALES REPRESENTATIVE Federal Tax ID No. 

If a contractor has not received a waiver from complying with the EBO and the timeframe within which it can delay implementation has expired but it has failed to comply with the EBO, the Contractor may be deemed to be in material breach of the Contract. In the event of a material breach, the City may cancel, terminate or suspend the City agreement, in whole or in part. The City also may deem the Contractor an irresponsible bidder and disqualify the Contractor from contracting with the City for a period of three years. In addition, the City may assess liquidated damages against the Contractor which may be deducted from money otherwise due the Contractor. The City may also pursue any other remedies available at law or in equity.

By my signature below, I acknowledge that the Contractor understands that to the extent it is subject to the provisions of the Long Beach Municipal Code section 2.73, the Contractor shall comply with this provision.

Printed Name: MICHAEL C. GRAY Title: SALES REPRESENTATIVE
 Signature: [Handwritten Signature] Date: 10/5/10
 Business Entity Name: ADVIL INTERNATIONAL, L.P.

ATTACHMENT "2"



CITY OF LONG BEACH

DEPARTMENT OF FINANCIAL MANAGEMENT
Business Relations Bureau

SMALL BUSINESS ENTERPRISE (SBE) PROGRAM

PARTICIPATION INSTRUCTIONS

Rev. July 28, 2009

PROJECT:

INSTRUCTIONS TO BIDDERS

SUMMARY

This Small Business Enterprise (“SBE”) Program shall apply to all City Manager Departments, in accordance to Ordinance #ORD-09-0005, adopted April 7, 2009 and enacted on May 13, 2009 (Attachment A).

Each prospective bidder who is successful in a bid to provide goods or services to the City must comply with the City’s SBE policy.

I. Small Business Enterprise (SBE) Certification

Only those Small Business Enterprises certified by City of Long Beach Business Relations Bureau shall be eligible for the fulfillment of the SBE participation goal. SBE listings may be obtained from the Department of Financial Management, Business Relations Bureau, Purchasing Division. If a Small Business Enterprise elects to compete for city business without being certified as such, they may do so, but any bid submitted will not be counted towards fulfillment of the SBE participation goal.

An SBE desiring certification with the City of Long Beach must complete the online certification process. The online certification process can be viewed and completed at the following link:

<http://www.longbeach.gov/purchasing>

Upon receipt, the Business Relations Bureau will review the application and determine SBE certification status. In addition, the vendor will be eligible to receive notices to bid on their selected commodities or services.

II. SBE Participation Goal

The Long Beach City Council has established an overall 20% goal in all procurement categories for Small Business Enterprise program participation with the following City Manager Departments:

- Department of Public Works
- Department of Gas & Oil
- Department of Parks, Recreation and Marine

The exception of goals established by the Manager of Business Relations Bureau on a contract-by-contract basis based on market availability and useful function within the contract.

The SBE Participation goal can be achieved in the following manner(s):

- a) **Non-SBE prime contractors/consultants** shall meet the combined SBE/VSBE/LSBE participation goal, or document and submit an acceptable good faith effort, for their bid or proposal to be deemed responsive.
- b) **SBE & LSBE prime contractors/consultants** are deemed to have met the SBE component of the combined SBE/LSBE participation goal, but shall meet the VSBE component of the goal, or document and submit an acceptable good faith effort, for their bid or proposal to be deemed responsive.
- c) **VSBE prime contractors/consultants** are deemed to have met both components of the combined SBE/VSBE participation goal.

Small Business Enterprises – Eligibility Requirements

I. SBE, VSBE and LSBE Eligibility

- a) **SBE** eligibility is determined utilizing federal U.S. Small Business Administration (SBA) size standards either by the average gross annual revenue or by the number of employees, based on North American Industrial Classification System (NAICS) codes. The current table of size standards can be accessed on the SBA website at www.sba.gov/ca/la. Examples of maximum gross annual revenue averaged over the past three years to qualify as an SBE: general contractor \$33.5 million; specialty trade contractor \$14.0 million; engineering services \$4.5 million.
- b) **VSBE** eligibility is determined utilizing maximum allowable annual gross revenues consistent with those of the State of California's Department of General Services' "micro-business" designation. The current guidelines for this designation can be accessed on the State of California's website at <http://www.pd.dgs.ca.gov/smbus/default.htm>.
- c) Local Small Business Enterprise (**LSBE**) eligibility shall be determined by the criteria established in Municipal Code section 2.84.030, subdivisions (1) and (2), <http://www.municode.com/resources/gateway.asp?pid=16115&sid=5> in addition to the SBE eligibility criteria described in section a, above.

SBE/VSBE/LSBE Good Faith Effort

Good Faith Effort Evaluation Criteria for Contracts

A proposer whose proposal/SOQ fails to meet the SBE, VSBE or LSBE participation goal shall be found responsive if an acceptable Good Faith Effort (GFE) is demonstrated. The GFE should be submitted in a letter or memo showing the following information and attaching the related documentation in the bid packet. The following criteria shall be used in evaluating a proposer's GFE:

1. **Attend Pre-Proposal Meeting:** The proposer submitted written evidence that he/she attended the pre-proposal conference.

Tip: To receive credit for attending the pre-proposal meeting, the attendee must be a person who will be directly involved with the project, i.e., owner, project manager, etc. A copy of the sign-in sheet must be submitted. If no pre-proposal meeting is held, the proposer will receive 10 points credit for this criterion.

2. **Subdivide the Work:** The proposer prepared and followed a plan to subdivide the work into disciplines or work elements that could be economically performed by small businesses. It is the proposer's responsibility to demonstrate that sufficient work was made available to SBEs, VSBEs and LSBEs to meet contract requirements (combined SBE/VSBE/LSBE goal established for that contract).

Tip: The work should be subdivided into categories or disciplines to allow for maximum SBE, VSBE and LSBE participation. For example:

<i>Name of Project:</i>	<i><u>Pipeline Relocation Design</u></i>
<i>Work Elements:</i>	<i>Civil engineering – 70%</i>
	<i>Geotechnical – 10%</i>
	<i>Structural engineering – 10%</i>
	<i>Mechanical engineering – 10%</i>

3. **Advertise:** The proposer submitted written evidence of commercial advertising for small business subconsultants, subcontractors, vendors and/or suppliers at least 14 calendar days prior to the proposal/SOQ due date. A copy of the advertisement, showing the advertisement date(s), name of publication, type of work and amount of work being solicited, must be provided.

Tip: A copy of the advertisement must be provided, including the date(s) of advertisement and name of the publication.

4. **Use Public Databases:** The proposer submitted written evidence of using the City's SBE/VSBE/LSBE database, small business, minority business, and

women-owned business associations, and chambers of commerce to help solicit small businesses. In addition, databases from the agencies below are available.

- Metropolitan Water District
<http://www.mwdh2o.com/mwdh2o/pages/business/business01.html>
- Los Angeles Community College District
http://www.build-laccd.org/bidding_and_contracting/index.asp?pg=oao

5. **Provide Relevant Information to Small Businesses:** The proposer submitted written evidence that he/she has provided interested small businesses with information about the requirements of the contract at least 14 calendar days prior to the proposal/SOQ due date.

Tip: Submitting the information included in the ad copy and also in direct written solicitations satisfies this requirement.

6. **Directly Solicit Small Businesses:** The proposer submitted written evidence of directly soliciting small business subconsultants. A copy of the written notices sent directly to SBEs, VSBEs and LSBEs must be provided. A direct solicitation should include the type of work, amount of work, and a brief specific description of the work being solicited.

Tip: Written evidence must include the following information: name of agency, name of project, company name, scope of work required, date of contact, method of contact (in-person, phone, fax, email), person contacted, result of contact (waiting for response, waiting for proposal/SOQ, left message, no answer, etc.).

7. **Conduct Follow-Up:** The proposer submitted written evidence of specific activities used to follow up initial solicitations in preparing the proposal/SOQ.

Tip: Follow-up activities must include documentation of repeat contact efforts if the first contact was unsuccessful.

8. **Offer Assistance:** The proposer demonstrated that he/she has offered to assist small businesses in obtaining bonding, insurance or equipment.

Tip: Negotiations include give-and-take by both parties with the intention of reaching a mutually satisfactory agreement. This includes responding in writing to proposals/SOQs from small businesses.

9. **Negotiate:** The proposer submitted written evidence that he/she has negotiated in good faith with interested small businesses. Documentation must include company name, contact person, method of contact, and specific items that were

negotiated (scope of work, materials, equipment, insurance, bonding, personnel, timing of project, etc.)

Tip: Submitting the offer to assist with bonding/insurance/equipment included in the ad copy and also in direct written solicitations satisfies this requirement.

- 10. Document proposal (price) and negotiation results:** For any negotiations which were unsuccessful and/or proposals received but not accepted, the proposer submitted the unsuccessful proposer's company name, telephone number, contact person, price proposed, and the reason for rejecting the proposal. If price was the reason for rejecting the proposal, the proposer listed the price proposed by both the SBE/VSBE and the low proposer for that element of work.

Note: For successful proposals/SOQs, Contractor must submit the name of the successful proposer(s) on COLB Form SBE-2P - SBE/VSBE Commitment Plan for Professional Services Contracts. Please refer to the ITB or RFP for submittal deadlines.

Each of the 10 criteria will be assigned 10 points and will be graded with 0 or 10 points; there is no partial credit. The proposer must achieve a score of 70 out of a possible 100 points in order for the SBE Administrator to determine that the proposer has made an acceptable GFE.

SBE/VSBE/LSBE Commitment Plan

For SBE designated contracts, prime contractors must submit a completed SBE Commitment Plan Form (Attachment B) to the City of Long Beach, Business Relations Bureau listing information for each SBE used for contract goal satisfaction or a good faith effort explaining why the goal could not be reached. The Business Relations Bureau will approve the initial SBE commitment or good faith effort submitted by the prime contractor. The Business Relations Bureau office is responsible for approving any revisions to the contract SBE commitment approved by City of Long Beach.

For a prime contractor to request a revision to its approved contract SBE commitment, it must submit a Substitution Replacement Form (Attachment C) to the City for approval. (Contact Business Relations Bureau at [562] 570-6200 for more information on this form.) Upon receipt of this form, the City will implement the following procedure:

1. Contact the SBE subcontractor being terminated or replaced to verify information provided by the prime contractor.
2. Do not consider a more advantageous subcontract with another subcontractor as a valid reason for SBE subcontractor termination or replacement.
3. Ensure the substitution procedure outlined in the contract SBE Special Provision is followed prior to approving the termination or substitution of an approved SBE subcontractor.
4. Obtain a completed SBE Commitment Plan form from the prime contractor with original prime contractor and SBE subcontractor signatures, for any new or replacement SBE subcontractors to be added to the previously approved contract SBE commitment. Ensure the following information is included with the SBE Commitment Plan form:
 - o items and quantity of work to be performed
 - o materials being supplied
 - o dollar value of subcontract, materials or services
 - o total amount of SBE commitment
 - o if the SBE is a material supplier, an explanation of the function performed
5. Notify the prime contractor and the Business Relations Bureau of the approval or denial of the SBE commitment revision. Forward the COLB Substitution/Change Form, the appropriate letter, and any file documentation to the prime contractor and BOP.

Notify the Business Relations Bureau if the SBE commitment revision request is not approved, and the prime contractor is in non-compliance with the contract SBE requirements.

INSTRUCTIONS FOR COLB FORM SBE-2P: SBE/VSBE/LSBE COMMITMENT PLAN FOR CONTRACTS

INSTRUCTIONS FOR SECTION 2

1. List all SBE/VSBE/LSBE subconsultants, vendors, suppliers, and other businesses that will render materials or services under this contract. Only list SBEs/VSBEs/LSBEs.
2. If the prime contractor is an SBE/VSBE/LSBE, list the prime 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, accessible from the SBE/VSBE/LSBE Program page of the City's website (www.longbeach.gov/purchasing).
4. The City does NOT issue VSBE certifications; VSBE eligibility will be reviewed and determined upon submittal of the Commitment Plan.

5. The prime contractor 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 via the small business search function; and/or
- b. contacting the City's SBE Program staff to verify SBE/VSBE/LSBE status.

6. Lower tier SBE/VSBE/LSBE subcontractors/subconsultants and SBE/VSBE/LSBE vendors/suppliers rendering materials or services to lower tier subconsultants 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/subconsultant 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 render 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's/VSBE's/LSBE's 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.

CONTACT INFORMATION

For questions or assistance, please contact the Business Relations Bureau:

Department of Financial Management
Business Relations Bureau
333 W. Ocean Blvd., 7th Floor
Long Beach, CA 90802
(562) 570-6200 Telephone
(562) 570-5099 Fax
Email: sbe@longbeach.gov

ORDINANCE NO. ORD-09-0005

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LONG BEACH RELATING TO A SMALL, VERY SMALL AND LOCAL SMALL BUSINESS ENTERPRISE PILOT PROGRAM FOR CERTAIN CITY CONTRACTS WITH SPECIFIED CITY DEPARTMENTS, AND MAKING A DETERMINATION RELATED THERETO

WHEREAS, the economic health of the City depends on the strength of all its businesses, including small, very small and local small businesses that are sometimes unable to compete with large-scale enterprises for City contracts; and

WHEREAS, the City desires to strengthen the City's economic base by increasing the participation of small, very small and local small businesses in City contracts; and

WHEREAS, in order to assure an effective outcome, a "pilot program" for a period of one (1) year will be undertaken for specified City departments for applicable City contracts and procurement opportunities;

NOW, THEREFORE, the City Council of the City of Long Beach ordains as follows:

Section 1. The City Council hereby adopts Exhibit "A," setting forth the City of Long Beach Small, Very Small and Local Small Business Enterprise Program (the "Program"), attached hereto and incorporated herein by this reference.

Section 2. The Program shall expire one (1) year from the date of adoption of this ordinance, unless extended.

Section 3. The City Council hereby finds and determines that Exhibit "A" is statutorily exempt from the provisions of the California Environmental Quality Act.

///

OFFICE OF THE CITY ATTORNEY
ROBERT E. SHANNON, City Attorney
333 West Ocean Boulevard, 11th Floor
Long Beach, CA 90802-4664

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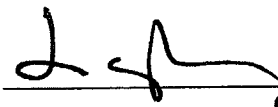
Section 4. The City Clerk shall certify to the passage of this ordinance by the City Council and cause it to be posted in three (3) conspicuous places in the City of Long Beach, and it shall take effect on the thirty-first (31st) day after it is approved by the Mayor.

I hereby certify that the foregoing ordinance was adopted by the City Council of the City of Long Beach at its meeting of April 7, 2009, by the following vote:

Ayes: Councilmembers: S. Lowenthal, DeLong, Schipske,
Andrews, Reyes Uranga, Gabelich,
Lerch.

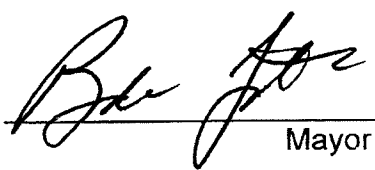
Noes: Councilmembers: None.

Absent: Councilmembers: O'Donnell.



City Clerk

Approved: 4/12/09
(Date)



Mayor

EXHIBIT A

The City of Long Beach Small Business Enterprises (SBE), Very Small Business Enterprises (VSBE) and Local Small Business Enterprise (LSBE) Pilot Program (the "Program").

1.0 Applicability

The Program shall apply to all applicable construction contracts, professional services contracts, and procurement activities undertaken by City of Long Beach Departments of Public Works and Parks, Recreation and Marine, funded with City general fund revenues and/or federal funds, except those subject to 49 CFR 26, "Disadvantaged Business Enterprises (DBE) Program" or those requiring compliance with the City's Section 3 program, and the Department of Gas and Oil, funded with gas or oil revenue. The Program shall not apply to projects or purchases using Tidelands funds or funds from the South East Resource Recovery Facility (SERRF) or projects performed by oil contractors Thums and Tidelands.

2.0 Policy

2.1 The City shall promote utilization of Small Business Enterprises (SBEs), Very Small Business Enterprises (VSBEs) and Local Small Business Enterprises (LSBEs) on construction contracts, professional services contracts, and purchase orders.

2.2 The goal of the Program is to provide the City with more competition, lower costs, and better community participation by reducing barriers to small and local business participation in the City's contracting and procurement process.

2.3 The Program shall be administered in a streamlined and cost effective manner by the City's Business Services Manager, operating under the appropriate bureau managing director, division director, and section manager.

2.4 For the Department of Parks, Recreation and Marine, VSBE participation will not be tracked separately from SBE participation, due to the large number of small contracts (less than \$100,000) and the administrative costs of tracking SBEs and VSBEs separately.

3.0 Program Structure

The Program was established by an ordinance adopted on _____, 2009 by the City Council of the City of Long Beach, and became effective on _____, 2009.

4.0 Program Applicability to Non-SBE Firms, SBE Firms and VSBE Firms

4.1 Non-SBE prime contractors/consultants/vendors shall meet the combined SBE/VSBE/LSBE participation goal, or document and submit an acceptable Good Faith Effort, for their bid or proposal to be deemed responsive.

4.1.1 The Department of Public Works shall identify and may exempt from the requirements of this Program any project requiring compliance with the City's Section 3 Program, established by federal court consent decree. In cases where a determination is made to exempt a project due to the Section 3 requirements, submission of a Good Faith Effort shall not be required for a bid or proposal to be deemed responsive.

4.2 SBE prime contractors/consultants/vendors, certified through the City's online SBE/VSBE/LSBE database and verified by the City, are deemed to have met the SBE component of the combined SBE/VSBE/LSBE participation goal, but shall meet the VSBE component for the goal, or document and submit an acceptable Good Faith Effort, for their bid or proposal to be deemed responsive.

4.3 City-certified SBE prime contractors/consultants/vendors who also qualify as a Very Small Business Enterprise (VSBE) based upon the Business Services Manager's review of qualifying information are deemed to have met both components of the combined SBE/VSBE/LSBE participation goal.

4.4 The City encourages all prime contractors/consultants/vendors to utilize small business subcontractors and subconsultants, whether at a first tier or lower tier sub level, as well as vendors and suppliers. Lower tier subs and vendors/suppliers must provide services/materials directly related to the project or they will not qualify to meet the goal.

5.0 SBE, VSBE and LSBE Eligibility

5.1 SBE eligibility is determined utilizing federal U.S. Small Business Administration (SBA) size standards, based on North American Industrial Classification System (NAICS) codes. The current table of size standards can be accessed on the SBA website at www.sba.gov/ca/la. Examples of maximum gross annual revenue averaged over the past three years to qualify as an SBE: general contractor \$31.0 million; specialty trade contractor \$13.0 million; engineering services \$4.5 million.

5.2 VSBE eligibility is determined utilizing maximum allowable annual gross revenues consistent with those of the State of California's Department of General Services' "micro-business" designation.

5.3 Local Small Business Enterprise (LSBE) eligibility shall be determined by the criteria established in section 2.84.030, subdivisions (1) and (2), in addition to the SBE eligibility criteria described in section 5.1, above.

6.0 Annual SBE/VSBE/LSBE Goals, Individual Contract Goals, Division Goals

6.1 For the first year of the Program, annual City-wide SBE/VSBE/LSBE goals for participation shall be twenty percent (20%) for procurement and contracting of services, which include ten percent (10%) general SBE participation; five percent (5%) LSBE participation and five percent (5%) VSBE participation.

6.2 In order to meet the established goals, the Program Manager for each contract will consult with the Business Services Manager. Goals may be adjusted due to the number of qualified SBE/VSBE/LSBE firms available to provide the required services. If the dollar value of the work elements of a contract that can be performed by SBEs, VSBEs and/or LSBEs is high, the contract will have a higher SBE, VSBE and/or LSBE participation goal than one where only a small portion of the work could be competitively performed by SBEs, VSBEs or LSBEs.

6.3 The following is a method for determining SBE/VSBE/LSBE contract goals. Starting with a detailed cost estimate for each contract, the contract Program Manager will identify the types and amounts of work to be performed in the contract using universal codes established by the North American Industrial Classification System (NAICS). The Business Services Manager will research government and City databases and locate potential small

businesses for each work discipline. The goals are then established based on two factors: (1) the number of SBEs/VSBEs/LSBEs available to perform a work discipline; and (2) the amount of work in the contract scope that the discipline represents.

6.4 For City contracts that do not have an assigned contract-specific SBE/VSBE/LSBE goal, additional targeted outreach to SBEs/VSBEs/LSBEs will be conducted, and every effort will be made to award the work to a small business.

6.5 Certain categories of work are exempted from the Program requirements for compelling reasons after consultation with the Business Services Manager and approval by appropriate division director.

7.0 Definitions of “Subcontractor” and “Vendor/Supplier”

7.1 A “Subcontractor” is defined as an individual, firm, or entity having a direct contract with the prime contractor or with any other subcontractor to perform a portion of the subject contract. A subcontractor must have a valid State of California Contractor’s License to the extent required by law.

7.2 A “Vendor/Supplier” is defined as an individual, firm, or entity providing materials or supplies directly to the subject contract. For a prime contractor to receive participation credit for utilizing an SBE/VSBE/LSBE vendor or supplier under the City’s SBE/VSBE/LSBE Program, the materials/supplies must be directly applicable to the subject contract or City facility.

8.0 City’s SBE/VSBE/LSBE Database: Vendor Registration and SBE Certification

8.1 All firms (large and small) wishing to do business with the City are strongly encouraged to register with the City’s online database. Vendor registration is relatively simple and quick. A link to vendor registration is provided from the SBE/VSBE/LSBE Program page on the City’s website.

8.2 All SBE/VSBE/LSBE firms listed on a City contract (prime contractor/consultant, subcontractors/subconsultants, vendors and suppliers) are required to register with, and obtain SBE certification from, the City’s online vendor database, in order to receive credit toward the established SBE/VSBE/LSBE goal for that contract.

8.3 For the prime contractor/consultant to receive credit for a small business as part of the prime’s commitment to meeting the established SBE/VSBE/LSBE goal for a contract, the SBE must be certified by the due date of the prime’s SBE/VSBE/LSBE Commitment Plan (COLB Form SBE- or SBE-).

8.4 To apply for VSBE status, the small business must check the “VSBE” box on its online SBE certification application. Separate VSBE certifications will not be issued. The City will determine VSBE eligibility at the time of review of the prime contractor’s/consultant’s SBE/VSBE/LSBE Commitment Plan.

8.5 Prior to contract award, SBE, VSBE and LSBE status shall be verified and may be audited by the City.

9.0 Bidders’ Commitment to Meeting the Established SBE/VSBE/LSBE Participation Goals

9.1 All construction contract bidders shall submit a completed SBE/VSBE/LSBE Commitment Plan for Construction Contracts indicating the dollar value and percentage of SBE/VSBE/LSBE contract participation.

9.2 The City may, in its discretion, allow bidders up to three (3) additional business days to submit Good Faith Effort documentation. A bidder that does not meet the SBE/VSBE/LSBE participation goals and does not submit its GFE documentation is declared non-responsive and may forfeit its bidder's bond.

9.3 If all three lowest bidders are declared non-responsive, the fourth-lowest bidder shall submit its SBE/VSBE/LSBE Commitment Plan (COLB Form SBE-) within 48 hours of written request by the City. The bidder's Commitment Plan will be evaluated by the Business Services Manager. If the bidder does not meet the combined SBE/VSBE/LSBE participation goal established for that contract, the bidder shall submit its Good Faith Effort documentation within 48 hours of request by the City.

9.4 Bidders that do not meet the SBE, VSBE or LSBE participation goal shall be deemed non-responsive unless they demonstrate that they have made an acceptable Good Faith Effort to meet the SBE/VSBE/LSBE participation goals.

9.5 Within three business days of being informed by the City that a firm is non-responsive because it has failed to meet the SBE/VSBE/LSBE participation goal and has not documented an acceptable Good Faith Effort (GFE), the bidder may request administrative reconsideration. The bidder shall make this request in writing to appropriate Managing Director who will serve as the SBE Reconsideration Official. The SBE Reconsideration Official will not be involved in the initial evaluation of the bidder's GFE. Contractors shall forfeit their right for reconsideration if they fail to act within three business days.

9.6 The reconsideration process provides an opportunity for the affected bidder to meet with the SBE Reconsideration Official to discuss the basis of the City's determination of non-responsiveness. The SBE Reconsideration Official will send the affected bidder a written decision on reconsideration, via certified mail, explaining the basis for finding that the bidder did or did not meet the participation goal or demonstrate an acceptable Good Faith Effort.

10.0 Proposers' Compliance with SBE/VSBE/LSBE Participation Goals

10.1 All proposers shall submit, with their proposal or Statement of Qualifications, a completed COLB Form SBE- : SBE/VSBE/LSBE Commitment Plan for Professional Services Contracts, indicating the estimated dollar value and percentage of SBE/VSBE/LSBE contract participation. This will demonstrate the proposer's ability or intent to meet the SBE/VSBE/LSBE participation goals.

10.2 If, during the evaluation process, the City finds that the proposer was unable to show ability or intent to meet the SBE/VSBE/LSBE goals assigned to the project, the proposer will be required to submit a Good Faith Effort in order to continue in the selection process.

10.3 Consultants shall indicate SBE/VSBE/LSBE participation levels prior to receiving authorization for a work task.

10.4 After negotiations have been completed and the Consultant contract is executed, achieving the SBE/VSBE/LSBE goal is a contractual commitment and can only be altered with

written approval of the appropriate City division director, for unusual instances such as a change in scope of services.

11.0 Bidder and Proposer Compliance with Good Faith Effort Evaluation Criteria

A bidder/proposer whose bid or proposal fails to meet the SBE, VSBE or LSBE participation goal shall be found responsive if an acceptable Good Faith Effort is demonstrated. The following criteria shall be used in evaluating a bidder's/proposer's GFE:

11.1 **Attend Pre-Bid/Pre-Proposal Meeting:** The bidder/proposer submitted written evidence that he/she attended the pre-bid conference or pre-proposal meeting.

11.2 **Subdivide the Work:** The bidder/proposer prepared and followed a plan to subdivide the work into disciplines or work elements that could be economically performed by small businesses. It is the bidder's/proposer's responsibility to demonstrate that sufficient work was made available to SBEs, VSBEs and LSBEs to meet contract requirements.

11.3 **Advertise:** The bidder/proposer submitted written evidence of commercial advertising for small business subcontractors/subconsultants at least 14 calendar days prior to the bid/proposal due date. A copy of the advertisement showing the advertisement date(s), name of publication, type of work and amount of work that is being solicited, must be provided.

11.4 **Use Public Databases:** The bidder/proposer submitted written evidence of using the City's SBE/VSBE/LSBE database, shall business, minority business, and women-owned business associations, and chambers of commerce to help solicit subcontractors.

11.5 **Provide Relevant Information to Small Businesses:** The bidder/proposer submitted written evidence that he/she has provided interested small business with information about the requirements of the contract, and how to obtain plans and specifications, at least 14 calendar days prior to the bid/proposal due date.

11.6 **Directly Solicit Small Businesses:** The bidder/proposer submitted written evidence of directly soliciting for small business subcontractors/subconsultants. A copy of the written notices sent directly to SBEs, VSBEs and LSBEs must be provided. A direct solicitation should include the type of work, amount of work, and a brief specific description of the work being solicited.

11.7 **Conduct Follow-Up:** The bidder/proposer submitted written evidence of specific activities used to follow up initial solicitations in preparing the bid/proposal.

11.8 **Offer Assistance:** The bidder/proposer demonstrated that he/she has offered to assist small businesses in obtaining bonding, insurance or equipment.

11.9 **Negotiate:** The bidder/proposer submitted written evidence that he/she has negotiated in good faith with interested small businesses. Documentation must include company name, contact person, method of contact, and specific items that were negotiated (scope of work, materials, equipment, insurance, bonding, personnel, timing of project, etc.).

11.10 **Document Bid and Negotiation Results:** For any negotiations which were unsuccessful and/or bids/proposals received but not accepted, the bidder/proposer submitted the unsuccessful bidder's/proposer's company name, telephone number, contact person, price bid (if applicable), and the reason for rejecting the bid or proposal. If price is the reason for

rejecting the bid/proposal, list the price bid by both the SBE/VSBE/LSBE and the low bidder for that element of work.

Each of the 10 criteria will be assigned 10 points. The bidder/proposer must achieve a score of 70 out of a possible 100 points in order for the Business Services Manager to determine that the bidder/proposer has made an acceptable Good Faith Effort (GFE).

For detailed GFE submittal instructions and specific examples, log on to www._____ and click on "Good Faith Effect Evaluation criteria and Submittal Instructions."

12.0 Utilization/Substitution of SBEs/VSBEs/LSBEs on Construction Contracts

12.1 During the term of the contract, the prime Contractor shall be required to utilize all Subcontractors (as defined in Section 7.0 of this document) listed on its SBE/VSBE/LSBE Commitment Plan (COLB Form SBE-), in the amount and percentage specified on the form. Any SBE/VSBE/LSBE subcontractor substitution will require prior written approval by the appropriate City division director, and must meet all State laws and statutes.

12.2 All Subcontractors listed on COLB Form SBE- , who defined work is greater than ½ of one percent of the prime contract value, must be listed on the bidder's list of Subcontractors submitted with the bid documents. If an SBE/VSBE/LSBE Subcontractor is added after submittal of the bidder's list of Subcontractors, the bidder shall follow Subcontractor listing/substitution procedures pursuant to Public Contract Code 4107 et al.

12.3 If a prime Contractor substitutes an SBE/VSBE/LSBE vendor/supplier, the Contractor shall provide proof, to the satisfaction of the appropriate City division director, that a good faith effort was made to replace that vendor's/supplier's participation percentage with another SBE/VSBE/LSBE firm, to meet the combined SBE/VSBE/LSBE participation percentage specified on the Contractor's SBE/VSBE/LSBE Commitment Plan (COLB Form SBE-). At project close-out, if the prime Contractor fails to meet the combined SBE/VSBE/LSBE participation percentage specified on its SBE/VSBE/LSBE Commitment Plan, or fails to provide proof that it made a good faith effort to do so, the Contractor may be considered to be in material breach of contract (refer to Section 16.0).

13.0 Utilization/Substitution of SBEs/VSBEs/LSBEs on Professional Services Contracts

13.1 During the term of the contract, the prime Consultant shall be required to utilize all subconsultants listed on its SBE/VSBE/LSBE Commitment Plan (COLB form SBE-), unless the City approves a change in scope of work that would eliminate or reduce the utilization of an SBE, VSBE or LSBE subconsultant. Any SBE/VSBE/LSBE subconsultant substitutions require prior written approval by the appropriate City division director.

13.2 If a prime Consultant substitutes an SBE/VSBE/LSBE vendor/supplier, the Consultant shall provide proof, to the satisfaction of the appropriate City division director, that a good faith effort was made to replace that vendor's/supplier's participation percentage with another SBE/VSBE/LSBE firm, to meet the combined SBE/VSBE/LSBE participation percentage specified on the Consultant's SBE/VSBE/LSBE Commitment Plan.

14.0 Contract Amendments

If the City approves a change order or contract amendment, the SBE/VSBE/LSBE participation goals may, at the sole discretion of the appropriate City division director, apply to the change

order or contract amendment. If the additional work can be performed by SBEs, VSBEs or LSBEs that are already part of the Contractor's/Consultant's team, the SBE/VSBE/LSBE participation goals shall apply to the entire contract, including the amendment.

15.0 Contract Monitoring

15.1 The prime Contractor/Consultant shall report the dollar value of payments to small businesses at project close-out. This data will be verified. Construction contractors shall submit a completed COLB Form SBE- (SBE/VSBE/LSBE Monthly Utilization Report for Construction Contracts), and consultants shall submit a completed COLB Form SBE- (SBE/VSBE/LSBE Monthly Utilization Report for Professional Services Contracts).

15.2 If a firm's SBE, VSBE or LSBE status changes prior to contract award, the firm will not receive SBE/VSBE/LSBE status for that City contract.

15.3 If an SBE, VSBE or LSBE firm listed on a prime Contractor's/Consultant's SBE/VSBE/LSBE Commitment Plan (POLB Form SBE-2C or SBE-2P) loses its SBE or VSBE status prior to contract award, the Contractor/Consultant shall replace the affected SBE/VSBE/LSBE dollar amount/percentage and shall submit for approval, a revised COLB Form SBE- or SBE- , in order to proceed with contract award.

15.4 If a firm's SBE, VSBE or LSBE status changes during the term of a contract, work performed on that contract after the firm loses its certification will continue to be credited toward meeting the SBE, VSBE or LSBE participation goal. However, the firm will not be able to receive SBE/VSBE/LSBE status on subsequent City projects unless the firm is subsequently re-certified as an SBE, VSBE or LSBE.

15.5 Substitution of any SBE, VSBE or LSBE subcontractor/subconsultant listed on a prime Contractor's/Consultant's SBE/VSBE/LSBE Commitment Plan must be approved by the appropriate City division director.

15.6 {For Construction Contracts only} Nothing herein shall be construed to supersede or limit the requirements for contractor substitutions provided in Section 4100 et seq. of the California Public Contract Code.

15.7 The Construction Manager, Program Manager, Business Services Manager, or their designee may conduct site visits and subcontractor/subconsultant/vendor/supplier interviews and telephone calls to verify proper and full utilization of SBEs, VSBEs and LSBEs to meet contract requirements. Prime contractors/consultants/vendors and SBEs/VSBEs/LSBEs shall fully cooperate with such monitoring.

16.0 Contract Compliance

16.1 The Prime Contractor/Consultant may be considered in material breach of contract for any one or more of the following violations:

16.1.1 Failure to submit, in a timely manner, a SBE/VSBE/LSBE Monthly Utilization Report (COLB Form SBE- or SBE-);

16.1.2 Failure to correct discrepancies found on COLB Form SBE- or SBE- ;

16.1.3 Falsifying or misrepresenting any information provided to the City, including information provided on the City's online SBE/VSBE/LSBE database;

16.1.4 Substituting a SBE/VSBE/LSBE subcontractor/subconsultant without prior written City approval; and/or

16.1.5 Failure to meet the committed SBE/VSBE/LSBE participation percentage as listed on the prime's COLB Form SBE- or SBE- .

16.2 In addition to any other remedy the City may have under the Contract or by operation of law, the City, in its sole discretion, may impose any or all of the following provisions against Contractor/Consultant determined to be in breach of contract.

16.2.1 Assess the cost of the City's audit of the books and records of the Contractor/Consultant, subcontractors/subconsultants, and all other firms claiming SBE, VSBE or LSBE status, where such audit is necessary because the Contractor has failed to timely submit a required SBE, VSBE or LSBE program report;

16.2.2 Withhold payment up to ten percent of a monthly progress payment until the Contractor/Consultant is brought into compliance.

16.3 Within three business days of written notification of the intent to enforce any of the measure described above, the Contractor/Consultant may submit in writing a request for an administrative hearing conducted by the City's SBE Reconsideration Official, as defined in Section 9.0.

17.0 Small Business Facilitation

17.1 To the extent practicable, the City will endeavor to disassemble larger construction and procurement projects into contract packages of \$15 million or less. This amount is estimated to be the current bonding limit of heavy construction SBEs.

17.2 The City will conduct pre-bid meetings for individual construction projects between advertisements and bid openings. These will provide opportunities to raise questions about the SBE/VSBE/LSBE Program, plans and specifications, and will also provide an opportunity for primes, subcontractors, vendors and suppliers to meet.

17.3 The City will conduct training forums for SBEs, VSBEs and LSBEs interested in providing contracting and/or consulting services to the City.

17.4 The City will conduct periodic Good Faith Effort/small business outreach training for prime contractors/consultants/vendors interested in working with the City.

17.5 The City will cooperate with other agencies in providing SBE/VSBE/LSBE contractor and consultant training.

17.6 The City will provide referral information to SBE/VSBE/LSBE contractors and consultants on available loan, insurance, and bonding programs that could assist small businesses.

17.7 The City will coordinate outreach activities with the appropriate divisions of the City of Long Beach.

17.8 The City will participate in business and vendor fairs directed at local and small businesses.

18.0 Periodic Review

18.1 City staff will seek periodic comments from City contractors, consultants, and small businesses on the effectiveness of the SBE/VSBE/LSBE Program.

18.2 The Program is a pilot program, and shall be in effect for one year from the date of adoption of the ordinance, unless extended by action of the City Council. As soon as practicable following the conclusion of the initial year, City staff shall report to the City Council on the effectiveness and progress of the Program. The report shall include data on contracts issued in the preceding twelve months and payments to all SBE, VSBE and LSBE contractors, consultants, vendors and suppliers. To the extent possible, the cost effectiveness of the Program, including City staff costs, will also be measured.



COLB FORM SBE-2P: SBE/VSBE/LSBE COMMITMENT PLAN

SECTION 1

Project Name:		Date:	
Prime Vendor:		Prime Contract \$ Amount:	

Estimated \$ Value of Prime's Participation:		Estimated % of Prime's Participation:	
Estimated \$ Value of SBE Participation:		Estimated SBE % of Prime Contract \$ Amount:	
Estimated \$ Value of VSBE Participation:		Estimated VSBE % of Prime Contract \$ Amount:	
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 1st 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>	<i>LSBE</i>	<i>1st tier sub</i>	<i>XYZ Prime Consultant</i>	<i>Land surveying</i>	<i>\$100,000</i>	<i>20%</i>
<i>Ex #2: Tom's Survey Supplies Long Beach, CA Mr. Tom Jones, (562) 555-1313</i>	<i>VSBE</i>	<i>Supplier</i>	<i>ABC Land Surveyors</i>	<i>Surveying supplies</i>	<i>\$5,000</i>	<i>1%</i>
<i>Ex #3: Banana Blueprints Irvine, CA Mrs. Diane Tomas, (562) 555-1313</i>	<i>SBE</i>	<i>Supplier</i>	<i>XYZ Prime Consultant</i>	<i>Blueprint Supplies</i>	<i>\$10,000</i>	<i>2%</i>

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

Phone #

Signature

Date

Email

ATTACHMENT B



**COLB FORM SBE-4P: SBE/VSBE/LSBE SUBSTITUTION/CHANGE
FORM FOR CONTRACTS**

INSTRUCTIONS: Prime Vendor completes Sections 1 and 2, and Section 3 if applicable, and submits form to the City of Long Beach Business Relations Manager (BRM). City BRM completes Section 4 and submits form to SBE Administrator to complete Section 5.

Section 1: General Contract Information to be completed by Prime Consultant

Name of Prime Consultant:			
Contract Description: (from Section A, #2 of POLB Form SBE 3-P: SBE/VSBE/LSBE/LSBE Monthly Utilization Report - MUR):			
Contract #:		Prime Contract Value:	
SBE/VSBE/LSBE Participation Goal Established by City: (if applicable)		VSBE Portion of Combined Goal:	
SBE/VSBE/LSBE Participation Goal Commitment by Prime:		VSBE Portion of Committed Goal:	

Section 2: SBE/VSBE/LSBE Substitution/Addition Information: SBE/VSBE/LSBE To Be Added To be completed by Prime Consultant

Name of SBE/VSBE/LSBE:		Scope of Work:	
Type of Firm (check one):	<input type="checkbox"/> Professional Services Firm	Other (list): _____	
SBE/VSBE/LSBE Contract Value:		% of Prime Contract Value:	
Reason for Addition to Project (check one):	<input type="checkbox"/> New SBE/VSBE/LSBE	<input type="checkbox"/> Replacing Existing SBE/VSBE/LSBE	<input type="checkbox"/> Replacing Other Existing Firm (non-SBE/VSBE/LSBE)
Other/Additional Information:			

Is the added SBE/VSBE/LSBE a substitution for an existing SBE/VSBE/LSBE? YES _____ NO ____ If YES, complete Section 3.
If NO, proceed to Section 4.

Section 3: SBE/VSBE/LSBE Substitution Information: SBE/VSBE/LSBE To Be Removed To be completed by Prime Consultant

Name of SBE/VSBE/LSBE:		Scope of Work:	
Type of Firm (check one):	<input type="checkbox"/> Professional Services Firm	Other (list): _____	
SBE/VSBE/LSBE Contract Value:		% of Prime Contract Value:	
Reason for Substitution:			

Section 4: POLB Program Management Division - Substitution Approvals To be completed by Program Mgmt Division

Program Manager:		Signature:		Date:	
Division Manager:		Signature:		Date:	

Section 5: POLB SBE/VSBE/LSBE Program - Substitution Approvals To be completed by SBE Administrator

Is new SBE/VSBE/LSBE certified on <i>The City's database</i> and eligible for appropriate SBE/VSBE/LSBE status?	<input type="checkbox"/>	Yes	<input type="checkbox"/>	No
Comments/Additional Instructions:				
Verified by:	Erik Sund, SBE Administrator	Signature:		Date:

ATTACHMENT C

SBE Administrator will return a signed copy of the completed form to the Program Manager.