



# **CITY OF LONG BEACH**

## **PURCHASING DEPARTMENT**

1 WEST CHESTER STREET, ROOM 509

LONG BEACH, NY 11561

(516) 431-1006

FAX: (516) 431-1839

### **CONTRACT DOCUMENTS**

### **FOR**

### **REQUEST FOR PROPOSAL:**

Operation of Bayfront Water Services  
At City of Long Beach Recreation Complex

**May 5, 2016**

CITY OF LONG BEACH  
NEW YORK

CITY MANAGER

JACK SCHNIRMAN

CITY COUNCIL

LEN TORRES, PRESIDENT

ANTHONY ERAMO, V.P.  
SCOTT J. MANDEL

EILEEN J. GOGGIN  
ANISSA D. MOORE

CORPORATION COUNSEL

ROBERT M. AGOSTISI

**ATTENTION\*\*\*\*\***

Read thoroughly "Instructions to Bidders" and the legal advertisement relative to bid and other details on submitting offers.

If bidder is a co-partnership, all partners must execute the bid, unless one partner has been authorized to sign for the co-partnership, in which case evidence of such authority shall be submitted.

If a bidder is a corporation, the President and Secretary shall execute the bid.

The Corporate Seal must be affixed.

In the event that this bid is executed by a Vice-President in lieu of the President, please attach hereto a certified copy of that section of Corporate By-Laws authorizing the Vice-President to execute contracts of this kind.

## **REQUEST FOR PROPOSALS**

PLEASE TAKE NOTICE that sealed proposals will be received up until 2:00 p.m. on May 5, 2016 in Room 509, Purchasing Department, City Hall, Long Beach, New York 11561, for the following:

Operation of Bayfront Water Services  
At City of Long Beach Recreation Complex

Specifications may be obtained on the City's website at [www.longbeachny.gov](http://www.longbeachny.gov) or by contacting the Purchasing Department, Room 509, City Hall, Long Beach, New York (516-431-1006). The City of Long Beach reserves the right to reject any and all proposals, to waive all formalities on same and to accept those proposals which are in the best interest of the City of Long Beach.

Date: Long Beach, New York  
April 11, 2016

JACK SCHNIRMAN  
City Manager

## **Objective**

The City of Long Beach is seeking proposals from qualified vendors capable of operating a seasonal water service located in the City of Long Beach adjacent to the City's Recreation Complex along West Bay Drive. Such services may include, but are not limited to, sunset cruises, water taxi operations and other water related activities.

The primary purpose of the bay front water services is to provide City residents and visitors with services that will build upon the identity of the City of Long Beach as a recreational destination and encourage residents and visitors to utilize the many amenities available in the City. The City views bay front water services as a prime link in the City's efforts to continue to promote the economic development of the City. The successful proposer will be required to provide a centralized point of information for water services relative to the various businesses, restaurants, and historic and cultural assets of the City.

The City of Long Beach will be selecting one (1) proposer from this solicitation to both furnish and install a floating dock, and operate the water services. The contract period for this solicitation is five (5) years. In order to effectuate a successful operation, as part of the contract, the City will allow the successful proper to rent for a monthly fee the Gazebo Offices located thereat for ticket sales and restrooms for its patrons and staff.

## **Background and Available Information**

As part of this proposal, the successful vendor would be required to install, at their own cost and expense, a floating dock. The floating dock would be required to be no larger than 10' x 100'. Further, in order to access the floating dock for loading and off-loading, the City will allow the successful vendor to install a 10' x 16' pier/platform and a 6' x 24' gangway ramp leading onto the floating dock. The proposer is required to obtain all necessary permits to conduct this work, and provide copies of such to the City. All plans must be approved by the City prior to the commencement of any work.

It is the intent of the City of Long Beach to have this process completed in an expeditious manner so as to allow for operation during the upcoming Summer Season. The proposer would be required to be in compliance with all applicable Local, County, State and Federal standards and/or regulations. Proposer shall provide certificate of insurance.

Since the facility will be occupied and operational during the project, the proposer will be required to schedule his or her operations so as to have the least impact on occupants. Coordination with City Officials will be required.

The successful proper shall clean up and remove all debris and rubbish resulting from his work as required or directed. Upon completion of the dock installation, the premises shall be left in a neat, unobstructed condition and the area broom cleaned resulting in everything in perfect repair and order as deemed by the City. Old materials are the property of the successful bidder unless otherwise specified.

Equipment, supplies and materials shall be stored at the site only on the approval of the City and at the proposer's own risk. In general, such on-site storage should be avoided to prevent possible damage or loss of the material. Work shall be progressed so as to cause the least inconvenience to the City and with proper consideration for the rights of the City and its residents. The successful proposer shall keep in touch with the entire operation and install his work promptly.

Proposers shall acquaint themselves with conditions to be found at the site and shall assume all responsibility for placing and installing the equipment in the locations required. Before submitting responses to this proposal, each bidder shall inform himself by investigations and examinations necessary to ascertain any and all additional areas, conditions and requirements necessary to correct and affect the full performance of this contract and to verify any representations made by the City that the bidder will rely upon. No pleas of ignorance of such conditions and requirements resulting from failure to make such investigations and examinations shall relieve the successful bidder from its obligation to comply in every detail with all the provisions and requirements of this contract's documents, nor will the City entertain any claim whatsoever for additional monetary consideration on the part of the proposer. All questions pertaining to this Request for Proposals shall be addressed to [ralton@longbeachny.gov](mailto:ralton@longbeachny.gov).

## **General Requirements**

Proposals will be received up to 2:00 p.m. on Thursday, May 5, 2016. An original and four (4) copies of proposals must be submitted in a sealed envelope with title of RFP, due date and time, and name of proposer so marked clearly on the outside envelope. Costing sheet must be submitted in separate envelope marked with title of RFP, due date and time, and name of proposer so marked clearly on the outside of envelope and the words "COSTING PROPOSAL". Each proposer must submit two (2) envelopes. Costing proposal must contain a deposit of not less than 10% of the total amount of proposal. The Bid Bond shall be secured by a guaranty or surety company licensed in New York State. Proposals should be sent to:

Purchasing Department  
City of Long Beach  
1 West Chester Street, Room 509  
Long Beach, NY 11561

**Qualifications and Experience** - The firm's overall qualifications and "relevant" experience will be evaluated under this criterion. Also considered will be past performance in ventures of this or similar nature. (Total Points 35)

**Time frame for completion of project** - Since the City is anxious to have this project completed, it is imperative that this work be performed expeditiously. (15 points)

**Quality of Proposal** – The proposal work plan will be evaluated to determine the contractor’s approach, methods and projected products. (Total Points 25)

**Price Response** – The contractors projected fees to undertake this project will be weighed heavily under this criterion. (Total Points 25)

The decision of the City Council as to which proposal offered is in the best interest of the City of Long Beach shall be final. The City reserves the right to reject any and all proposals.

Proposals will only be considered from companies which have an established reputation in this field.

The City of Long Beach hereby notifies all proposers that it will affirmatively insure that in regard to any contract entered into pursuant to this advertisement, minority business enterprises will be afforded full opportunity to submit proposals in response to this invitation and will not be discriminated against on grounds of race, color or national origin in consideration for an award.

Any changes to these specifications must be by written consent of both the successful vendor and the City of Long Beach. No oral, telegraph or telephone bids or modifications will be considered.

This RFP constitutes only an invitation to make a proposal to the City. The City reserves, holds, and may in its sole discretion exercise the following rights and options with respect to the RFP and subsequent agreement:

- To waive any informalities with respect to the submission requirements.
- To reject any or all proposals.
- To cancel this RFP with or without the substitution of another RFP.
- To supplement, amend, or otherwise modify this RFP, prior to the time of public opening.
- To issue additional and or subsequent RFPs.
- To negotiate with the proposers for amendments or other modifications to their proposals.
- To select and enter into an agreement with a vendor whose proposal best satisfies the overall interests of the City.

**This RFP is not a strictly competitive bid.** The City reserves the right to select a proposal, without the amount offered being the sole determinative factor. The City’s decision-making process, which may include a public hearing before the City Council, will be discretionary and will be in the best interests of the City.

The City Council will consider an award to a responsible proposer, who best demonstrates relevant experience and expertise; who, upon evaluation of all proposals received, best responds to this Request for Proposals and who, in the judgment of The City of Long Beach, will best serve the public interest.

## **Insurance Requirements**

The Contractor shall not commence work under this contract until he has obtained all insurance required under this paragraph and copies of such insurance have been provided to and approved by the City of Long Beach, New York. Said insurance premiums are to be paid up front and not by installments; the Contractor shall not allow any subcontractor to commence work on his subcontract until the subcontractor has obtained the same insurance coverage. The required insurance coverage is as follows:

- (1) Workmen's Compensation Insurance - in accordance with the Laws of the State of New York.
- (2) Comprehensive General Liability Insurance - to protect the Contractor and any subcontractor performing work in connection with this contract from claims for damages for bodily injury (personal injury, sickness or disease, including death resulting there from, as well as injury claimed to be sustained resulting from false arrest, detention and/or imprisonment, malicious prosecution, liable, slander and/or wrongful entry), as well as from claims for property damage which may arise from operations connected with this contract, by anyone directly or indirectly employed by either of them and the amounts of such insurance shall be as follows:
  - (a) Bodily Injury: 1,000,000 each person;  
1,000,000 each occurrence.
  - (b) Property Damage 300,000 each occurrence;  
1,000,000 Aggregate.

The parties to this agreement specifically and without ambiguity agree that they shall hold the City harmless and provide complete indemnity and defense to the City for any and all



claims and suits for personal injury, property damage, other tort or contract, which may be brought against the City of Long Beach, (including wrongful death or any other claim).

This complete and absolute duty to indemnify the City shall apply in any instance in which any person shall allege that the other parties to the contract were involved or connected in any manner with the damages alleged by the claimant, regardless of whether the claimant's claims, or alleged manner of involvement of the parties with the claims, shall have any merit.

To avoid any problem of interpretation, the parties agree that the mere allegation on the part of a claimant that the City was connected in any manner with the claim shall trigger the other parties' duty to provide legal defense and indemnity to the City.

This duty to indemnify the City shall apply even if it should be proven or adjudicated that the City's negligence was the sole proximate cause of the claimant's loss.

In order to protect the general public and claimants in general, the other parties to this agreement shall purchase a contract of general liability insurance (amounts of coverage specified elsewhere in this agreement) naming the City of Long Beach as an additional named insured. The policy shall also recite that this particular indemnity agreement is included within its coverage.

In the event that a claim arises against the City which is connected in any way with the other parties to this agreement, and it shall be found that the other parties to this agreement failed to purchase insurance coverage sufficient to fully protect the City for the claim, then the other parties agree to be liable to the City for full indemnity for any judgment rendered against the City, including the costs of defense of the claim.

For the purpose of determining which claims against the City shall be indemnified by the other parties, the following shall be included but not limited to:

Claims arising out of:

1. any performance directly called for by this agreement
2. any performance by a party which is necessarily related to performance under this agreement
3. any act of any employee of a party in the scope of his employment
4. any claim arising out of the physical condition of the premises, its fixtures and appurtenances
5. any condition of any item or object on the premises
6. the actual, intended or permitted use of the premises
7. the condition of any sidewalk or walkway, curb or gutter, or physical walking surface of any kind located within twenty feet of the vertical surface of any structure used by the other parties

8. the condition of any street or sidewalk or other walking surface within the area in which the parties perform work under this agreement

...shall all be subject to indemnification by the other parties to the City.

The intention of the parties, for purposes of further clarification, is that because the parties are providing for insurance coverage for the benefit of all parties, all the other parties to this agreement waive any claim for contribution or indemnity against the City in any claim for damages brought by a claimant.

In the event of any conflict between this indemnification clause and any other portion of this agreement, this indemnification clause shall supersede the conflicting provisions.

Proposals properly completed and executed on the forms provided by the City along with any supporting documents may be delivered in person by the bidder or his agent or may be mailed to the Purchasing Department. The Purchasing Agent or her designee must receive all bid proposals, ***without exception***, not later than the time specified for the bid proposal being opened on the Notice to Proposers.

**ALL PROPOSALS MUST BE IN WRITING AND BE RECEIVED IN THE PURCHASING DEPARTMENT OF THE CITY OF LONG BEACH, CITY HALL, ROOM 509, PRIOR TO 2:00 P.M. ON THURSDAY, MAY 5, 2016. ANY PROPOSAL RECEIVED AFTER SUCH TIME WILL NOT BE CONSIDERED.**

The decision of the City Council as to which proposal offered is in the best interest of the City of Long Beach, shall be final.

**The proposer assumes all risk of any delay, for any reason, for the delivery of their proposal if it is mailed utilizing the U.S. Postal service or if by personal delivery or any commercial package delivery service.**

Operation of Bayfront Water Services  
At City of Long Beach Recreation Complex

**Request For Proposal**

PROPOSAL SUBMITTED BY:

\_\_\_\_\_  
(Signature of Proposer)

\_\_\_\_\_  
(Printed Name and Title of Proposer)

\_\_\_\_\_  
(Company or Corporation) Date

\_\_\_\_\_  
Address, City, State, Zip

\_\_\_\_\_  
Telephone, FAX, Pager, e-mail address

\_\_\_\_\_  
CORPORATE SEAL

SCHEDULE OF \_\_\_\_\_

COSTING  
SIGNED AUTHORIZATION

<u>DESCRIPTION</u>	<u>TOTAL</u>
<u>PRICE</u> Operation of Bayfront Water Services At City of Long Beach Recreation Complex, as per specifications	\$ _____

BIDS MUST BE ACCOMPANIED BY A BID BOND OR CERTIFIED CHECK IN THE AMOUNT OF TEN PERCENT (10%) OF THE QUOTED PRICE.

APPROX. STARTING DATE \_\_\_\_\_

APPROXIMATE LENGTH OF JOB \_\_\_\_\_ Days.

FIRM: \_\_\_\_\_

SIGNED BY: \_\_\_\_\_

TITLE: \_\_\_\_\_

DATE: \_\_\_\_\_

**CITY OF LONG BEACH**  
**LONG BEACH, NEW YORK**

Bid submitted by: \_\_\_\_\_  
NAME

\_\_\_\_\_  
ADDRESS

\_\_\_\_\_  
TELEPHONE

to furnish \_\_\_\_\_  
in accordance with specifications attached, it being further understood that the CITY reserves the right to make an award on the basis of quotations received for any item or the aggregate total for all items on which quotations are received.

TO: City Purchasing Agent  
City of Long Beach  
1 West Chester Street  
Long Beach, NY 11561

The undersigned, desiring to submit a bid to furnish \_\_\_\_\_

\_\_\_\_\_ for the City of Long Beach, New York, does hereby accept all terms, conditions and agreements contained and set forth in the e Notice to Bidders, Information for Bidders and Specifications and the undersigned does hereby certify, agree and propose as follows:

The undersigned declares that he has examined all of the attached documents and hereby proposes and agrees that, if this bid is accepted, he will contract with the City to supply said materials and services and to perform the specified work in the manner and time required pursuant to the attached documents.

By submission of this bid, each bidder and each person signing on behalf of any bidder, or in the case of a joint bid, each party thereto, certifies, under the penalty of perjury, that to the best of each of their knowledge and belief:

- A. That the prices in this bid have been arrived at independently without collusion, consultation, communication or agreement for the purpose of restricting competition as to any matter relating to such prices with any other bidder or with any competitor; and

- B. That unless otherwise required by law, the prices which have been quoted in this bid have not been knowingly disclosed by the bidder and will not knowingly be disclosed by the bidder, directly or indirectly, by the bidder to any other bidder or to any competitor, prior to opening of all bids upon this proposal; and
- C. That no attempt has been made or will be made by the bidder to induce any other person, partnership or corporation to submit or not to submit a bid for the purpose of restricting competition; and
- D. That neither the said bidder nor any of its officers, partners, owners, agents, representatives, employees or parties in interest, including this affiant has in any way colluded, conspired, connived or agreed, directly or indirectly, with any other bidder, firm or person to submit a collusive or sham bid in connection with the contract for which the attached bid has been submitted or to refrain from bidding in connection with such contract, or has in any manner, directly or indirectly, sought by agreement or collusion or communication or conference with any other bidder, firm or person to fix any overhead, profit or cost element of the bid price of any other bidder, or to secure through any collusion, conspiracy, connivance or unlawful agreement any advantage against the City of Long Beach or any person interested in the proposed contract; and
- E. That the price or prices quoted in the attached bid are fair and proper and are not tainted by any collusion, conspiracy, connivance or unlawful agreement on the part of the bidder or any of its agents, representatives, owner, employees or parties in interest, including this affiant.

Enclosed is bid bond or depositor' check (IF CALLED FOR IN BID) certified by (name of bank of deposit) \_\_\_\_\_ in the amount of \_\_\_\_\_ made payable to the City Treasurer, City of Long Beach, as a proposal guarantee which it is understood will be forfeited in case the contractor fails to comply with the requirements of the specifications.

(SIGN ATTACHED PAGE AND/OR PAGES)

SIGNATURES

(If an individual)

Date \_\_\_\_\_, 20\_\_\_\_\_

Signature of Bidder \_\_\_\_\_ (Seal)  
(Owner and Proprietor)

Business Name D/B/A \_\_\_\_\_

Business Address \_\_\_\_\_

SUBSCRIBED AND SWORN TO before me

this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_

\_\_\_\_\_

(If a co-partnership)

Date \_\_\_\_\_, 20\_\_\_\_\_

Firm Name \_\_\_\_\_(Seal)

By\_\_\_\_\_

Business Address\_\_\_\_\_

\_\_\_\_\_

Name and Address of all Members of the Firm: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

SUBSCRIBED AND SWORN to before me

This \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_

\_\_\_\_\_

Notary Public



(If a corporation)

Date \_\_\_\_\_, 20\_\_\_\_\_

Corporate Name\_\_\_\_\_

**By**

\_\_\_\_\_  
President

Business Address \_\_\_\_\_

\_\_\_\_\_

**CORPORATE SEAL**

President \_\_\_\_\_

Vice President \_\_\_\_\_

Secretary \_\_\_\_\_

Treasurer \_\_\_\_\_

Attest \_\_\_\_\_

Secretary

**SUBSCRIBED AND SWORN TO BEFORE ME**

This \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_

\_\_\_\_\_  
Notary Public

## INSTRUCTIONS TO BIDDERS

### 1. General:

Read all documents contained in the bid specifications.

Upon submitting a proposal, each bidder shall be assumed to have made a careful examination of the conditions and specifications and to have fully informed himself as to any special conditions, contracts and/or other documents.

Bidders are responsible for submitting their bids to the appropriate location at or prior to the time indicated in the specifications. No bids will be accepted after the designated time or date indicated in the bid specifications.

All bids must be filled out in ink or be typewritten. Bids submitted in pencil may be rejected as unresponsive. In the case of a discrepancy between the numerical number and written number, the written number will be controlling and will be considered to be the actual bid of the bidder.

The competency and responsibility of bidders will be considered in determining whether a bidder is qualified to perform the services or items required for the purpose of making the award.

The City may reject any and/or all bids. Any bid may be withdrawn prior to the scheduled time for the opening of bids.

No bid shall be considered which is not based upon these specifications and other contract documents attached or made a part there-to. Further no bid will be considered which contains any letters or memorandum modifying the bid, or which is not properly executed, or which is not accompanied with bid security in the form and amount as set forth herein. In case of discrepancy between the numerical number and written number, the written number will be controlling and will be considered to be the actual bid of the bidder.

No oral, telegraph, or telephone bids or modifications will be considered.

### 2. Submission of Proposals

All prospective bidders shall submit sealed proposals.

The sealed envelope submitted by the prospective bidder shall carry the following information on the FACE of the envelope: bidder's name, address, subject matter of proposal, advertised date of bid opening and the hour designated for bid opening as shown on the legal advertisement.

Where proposals are sent by mail to the City Purchasing Agent, the bidders shall be responsible for their delivery to the City Purchasing Agent before the advertised date and hour for the opening of bids. If the mail is delayed beyond the date and hour set for the bid opening, proposals thus delayed will not be considered. Under no circumstances is it necessary to submit the technical specifications with the bid.

3. Receipt and Opening for Bids:

Bids will be received and opened by the City Purchasing Agent as outlined in the Notice to Bidders or by her authorized representative.

4. Proposal Security

Each bid shall be accompanied by a bid bond or certified check (IF CALLED FOR IN THE BID SPECIFICATIONS) in the amount of ten percent (10%) of the bid and shall be made payable to the City Treasurer, City of Long Beach, unless otherwise specified. Such proposal security will be returned to the unsuccessful bidders, within forty-five (45) days after the City and the successful bidder have executed contract for the proposed purchase or services, or in the event no contract is executed, within (45) days after the date of the opening of the bids or upon the demand of the bidder at any time after the forty-five (45) days, so long as he has not been notified of the acceptance of his bid. The proposal security of the successful bidder may be accepted as a performance security to be retained pending successful completion of the contract and shall be retained by the City as liquidated damages, not as a penalty, for failure to complete the contract as specified herein, it being now agreed that said sum is a fair estimate of the amount of damages that said City will sustain due to the bidder's failure to complete the contract as specified herein.

5. Liquidated Damages for Failure to Enter into Contract:

The successful bidder, upon his failure or refusal to execute and deliver the Contract and Bonds required within fifteen (15) days after he has received notice of the acceptance of his bid, shall forfeit the proposal security deposited with his bid to the City as liquidated damages, not as a penalty, for such failure or refusal, it being now agreed that said sum is a fair estimate of the amount of damages that said City will sustain due to the bidder's failure or refusal to execute and deliver the executed Contract and Bonds as stated above.

6. Signatures:

Bids shall be signed with the full name of the bidder or an authorized agent of the bidder. If the bidder is a corporation the bid shall be signed by a properly authorized officer of the corporation.

The bid shall indicate whether the bidder is an individual, a partnership or a corporation. In case of a partnership, the full name of each individual partner shall be given. In case of a corporation, the corporate name, the State of incorporation, and the names of its officers shall be submitted.

7. Acceptance of Bid and its Effect:

Within forty-five (45) days after the opening of the bids, the City will act upon them. The acceptance of a Bid will be given to the successful bidder by notice in writing signed by a duly

authorized representative of the City. No other act of the City or any official shall constitute the acceptance of a Bid. The acceptance of a bid shall bind the successful bidder to execute the contract and to be responsible for liquidated damages as provided in paragraph 5 above. The rights and obligations provided for in the contract shall become effective and binding upon the parties only upon the formal execution of the contract.

8. Competency of Bidder:

No proposal will be accepted from or a contract awarded to any person, firm or corporation that is in arrears or is in default to the City upon any debt or contract, or that is a defaulter, as surety or otherwise, upon any obligation to said City or who had failed to perform faithfully any previous contract with the City.

9. Obligation of Bidders:

At the time of the opening of the bids, each bidder will be presumed to have read and to be thoroughly familiar with the specifications and all contract documents. The failure or omission of any bidder to receive or examine any form, instrument or document shall in no-way relieve any bidder from any obligation in respect to his proposal.

10. Time for Executing the Contract:

The bidder whose bid shall be accepted will be required to execute a Contract in the form hereto attached within fifteen (15) days after the notice that his proposal has been accepted. Failure or neglect to execute the Contract within the said period of Fifteen (15) days shall constitute a breach of the agreement affected by the acceptance of the bid and the proposal security shall thereupon become forfeited. The provisions contained in the said contract shall be considered a part of the Instructions and Specifications.

11. Time of Payment:

The City shall make payment within thirty (30) to forty-five (45) days after delivery of any purchase or rendering of services made under the terms of this contract acceptance, after a proper invoice of same is submitted and approved by the City Purchasing Agent, City of Long Beach.

12. Failure to Furnish Bond:

In the event that the bidder fails to furnish a performance bond when required in said period of fifteen (15) calendar days after acceptance of the bidder's proposal by the City, then the bid deposit of the bidder shall be retained by the City as liquidated damages and not as a penalty; IT BEING NOW AGREED that said sum is a fair estimate of the amount of damages that said City will sustain due to the bidder's failure to furnish said performance bond.

13. Interpretation of Contract Documents:

If any person contemplating submitting a proposal is in doubt as to the true meaning of any part of the specifications or other contract documents, he may submit to the Purchasing Agent a written request for an interpretation thereof. The person submitting the request will be

responsible for its prompt delivery. Any interpretation of the proposed documents will be made only by an addendum duly issued. A copy of such addendum will be mailed or delivered to each person receiving a set of such contract documents and to such other prospective bidders as shall have requested that they be furnished with a copy of each addendum. Failure on the part of the prospective bidder to receive a written interpretation prior to the time of the opening of bids will not be grounds for withdrawal of the proposal. If, after award of the contract, questions arise concerning interpretation of contract documents, it is understood that the decision of the Purchasing Agent will be final and binding.

14. Catalogs:

Each bidder shall submit in duplicate catalogs, descriptive literature, and detailed drawings, which fully detail the features, designs, construction, appointments, finishes and the like not covered in the specifications, but which details are necessary to fully describe the material work bidder proposes to furnish.

15. Non-Discrimination:

The Contractor, in performing under this contract, shall not discriminate against any worker, employee or applicant for employment because of race, creed, color or national origin. The Contractor further agrees that each subcontract made under this contract will contain a similar provision with respect to non-discrimination.

16. HOLD HARMLESS:

It is agreed that the Contractor shall indemnify, save and keep the City harmless against all liabilities, judgments, loss, costs, damages and expenses which may in any way be incurred by the City or its licensees, permittees, and assignees, respectively, by reason of the performance hereunder by the contractor, or the use of or any claim of the use of any patented material design, machinery, device, equipment or process furnished under this contract and accepted by the City.

17. Inspection and Responsibility:

The City shall have a right to inspect, by its authorized representatives, any material as herein specified. The City does not assume any responsibility for the availability of any controlled materials and equipment required under this contract.

18. Rejection of Material or Services:

Equipment, supplies or services that may fail to comply with the specifications herein as regards design, material or workmanship, are subject to rejection, and may at the option of the City Purchasing Agent, be rejected.

19. Replacement:

Materials or components, that have been rejected by the Purchasing Agent, in accordance with the terms of this contract, shall be replaced by the Contractor at no cost to the City.

20. Removal:

Any material or components rejected shall be removed within a reasonable time from the premises of the City at the entire expense of the Contractor, after notice has been mailed by the City to the Contractor that such materials or components have been rejected.

21. Delay:

Should the Contractor be delayed by the City for any cause, there shall be added to the Time of Completion a time equal to the period of such delay caused by the City; but the Contractor shall not be entitled to claim damages or extra compensation for such delay or suspension.

22. Time of Commencement and Performance:

The time of commencement, rate of progress and time of completion are essential conditions of this contract; however, if the time of performance of the contract is for any reason, either expressly or by implication, extended, such extension shall not affect the validity of this contract or the liability of the sureties upon the bid given for the faithful performance of the same.

The City Manager reserves the right finally to decide all questions arising as to the proper performance of this contract, and in case of failure by the Contractor to comply with this contract in any manner, then to declare the same forfeited, either as to a portion or the whole thereof, and to re-bid the same with or without further advertising; and in such case of default, or in any case of default, to adjust the difference of damage or price, if any, which according to the just and reasonable interpretation of this contract, the said Contractor should, in the opinion of said Purchasing Agent, pay to the City.

It is further understood and agreed that any amount of damage or price determined by the City Manager to be paid to the City by the Contractor for any such default, or for any money paid out by the City in consequence of any such default, there shall be applied in payment thereof a like amount of any money that may be due and owing to the Contractor under or on account of the contract, so far as there may be any such money and the same shall be sufficient; and if there shall not be a sufficient amount retained from the Contractor, then the amount to be paid to the City in consequence of such default shall be a just claim against the Contractor to be recovered at law in the name of the City in any court of competent jurisdiction.

23. Subletting of Contract:

No contract shall be assigned or any part of the same subcontracted without the written consent of the City Manager and in no case shall such consent relieve the Contractor from his obligation, or change the terms of the contract.

24. Increase of Prices:

Should it become proper or necessary, however, in the execution of this contract for any change in design, or to make alterations which will increase the expense, the amount, if any, by which the contract price shall be increased in consequence of such change in design or alterations shall be determined by the City Manager.

No payment shall be made to the Contractor for any extra material, or of any greater amount of money than stipulated to be paid in the Contract, unless some changes in or additions to the contract requiring additional outlay by the Contractor shall first have been expressly authorized and ordered in writing by the City Purchasing Agent.

25. Delivery by Truck:

If delivery is made by truck, arrangements must be made in advance by the Contractor in order that the City may arrange for receipt of the materials. The material must then be delivered where directed. Truck deliveries will be accepted before 4:00 P.M. on weekdays only. No deliveries will be accepted on Saturdays, Sundays, or Holidays.

26. Verification of Weight:

The quantity of material delivered by truck shall be ascertained from certified weight ticket. In the case of delivery by rail, weight will be ascertained from bill of lading from originating line, but the City reserves the right to re-weigh at the nearest available scale.

27. Demurrage:

The City will be responsible for demurrage charges only when such charges accrue because of the City's negligence in unloading the material.

28. Re-spotting:

The City will pay railroad charges due to the re-spotting of cars when such re-spotting is ordered by the City.

29. Escalation:

If during the term of the Contract, the Contractor's price to others is below stipulated prices of this contract, the Contractor shall notify the City promptly of all such changes and the Contractor shall/give the City the benefit of such reduction in prices on all material or specification applying against this contract, shipped on or after the date of such price reduction.

30. Deliveries:

All materials shipped to the City of Long Beach must be shipped F.O.B. Long Beach, N.Y.

31. Trade Names:

In cases where an item is identified by a manufacturer's name, trade name or catalog number or reference it is understood that the bidder proposes to furnish the item as identified and does not propose to furnish an "equal" unless the proposed "equal" is definitely indicated therein by the bidder.

The reference to the above catalog is intended to be descriptive but not restrictive and only to indicate to the prospective bidder articles that will be satisfactory. Bids on other makes and catalogs will be considered, provided each bidder clearly states on the face of his proposal

exactly what he proposes to furnish, or forwards with his bid a cut or illustration, or other descriptive matter which will clearly indicate the character of the article covered by his bid.

The City Manager hereby reserves the right to approve as an equal, or to reject as not being as equal, any article the bidder proposes to furnish having major or minor variations from specification requirements but complying substantially therewith.

32. Permits:

The Contractor shall take out at his own expense all permits and licenses necessary to carry out the work described in this contract.

33. Responsibility:

The Contractor shall be responsible for all materials or finished work furnished under this contract up to the time of final acceptance by the City.

34. Quantities:

If materials in this bid and contract are on a requirement basis, then the quantities may be increased or decreased, as the needs of the City shall require.

35. Firm Prices:

Firm price bids shall be given first consideration. Firm price shall mean a guarantee against price increase during the period of the Contract.