



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:

*Fire Safety Services for the
City of Long Beach, New York*

June 11, 2019

CITY OF LONG BEACH
NEW YORK

ACTING CITY MANAGER

ROBERT M. AGOSTISI

CITY COUNCIL

ANTHONY ERAMO, PRESIDENT

CHUMI R. DIAMOND, V.P.
SCOTT J. MANDEL

JOHN BENDO
ANISSA D. MOORE

CORPORATION COUNSEL

ROBERT M. AGOSTISI

ATTENTION*****

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

If Proposer 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 Proposer 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 in Room 509, Purchasing Department, City Hall, Long Beach, New York 11561, **up until 2:00 p.m. on Tuesday, June 11, 2019**, for the following:

Fire Safety Services for the City of Long Beach, New York

Specifications may be obtained on the City's website at 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.

Dated: Long Beach, New York
May 14, 2019

ROBERT M. AGOSTISI
Acting City Manager

Objective

The City of Long Beach, (the “City”), is seeking proposals for fire safety services for the City of Long Beach, New York. The City is seeking proposals from highly qualified entities to provide the requested services.

The City anticipates that the selected firm will be awarded a contract period of an initial one (1) year term with two (2) subsequent one (1) year renewals. All renewals will be contingent upon mutual and written agreement.

Purpose

This engagement will focus on performing all fire safety services for the testing, inspection, and scheduled maintenance at the locations listed below for the Fire Suppression Systems for gas pumps, AES Fire Suppression Systems, Fire Alarm Systems, Sprinkler Systems (Wet and Dry), Portable Fire Extinguishers, Trip Test of the Dry Sprinkler System and Sprinkler Flow Test(s). In addition, for locations with a kitchen area (6 separate areas), the following services are also required: changing of fusible links and hood cleaning(s).

Locations

The City has identified the following locations to be incorporated into any contract entered into as a result of an award from this Request for Proposal:

- ❖ City of Long Beach Municipal Building, 1 West Chester Street;
- ❖ City of Long Beach Central Garage, 601 Long Beach Boulevard;
- ❖ City of Long Beach Maintenance Department, 150 West Pine Street;
- ❖ City of Long Beach Highway Department, 150 West Pine Street;
- ❖ City of Long Beach Sanitation Department, 150 West Pine Street;
- ❖ Long Beach Soup Kitchen, 140 West Pine Street;
- ❖ Long Beach Surf Rake Garage, 100 West Pine Street;
- ❖ Long Beach Pay Loader Garage, 100 West Pine Street;
- ❖ Martin Luther King Community Center, 615 Riverside Boulevard;
- ❖ City of Long Beach Ice Arena, 1 West Bay Drive;
- ❖ City of Long Beach Recreation Center, 700 Magnolia Boulevard;
- ❖ City of Long Beach Magnolia Senior Center, 650 Magnolia Boulevard;
- ❖ City of Long Beach Water Pollution Control, 700 National Boulevard;
- ❖ City of Long Beach Sewer Maintenance Department, 700 National Boulevard;
- ❖ City of Long Beach Water Purification Plant, 765 Park Place;
- ❖ Long Beach Animal Shelter, 770 Park Place;
- ❖ City of Long Beach Water Transmission, 791 Park Place;
- ❖ City of Long Beach Fire Station #1, 300 Maple Boulevard;
- ❖ City of Long Beach Fire Station #2, 1039 West Park Avenue;

- ❖ West End Community Center, 91 Maryland Avenue;
- ❖ Grand Boulevard Concession, Grand Boulevard & the Boardwalk;
- ❖ Lafayette Comfort Station, Lafayette Boulevard & the Boardwalk;
- ❖ National Boulevard Concession, National Boulevard & the Boardwalk;
- ❖ Edwards Boulevard Concession, Edwards Boulevard & the Boardwalk;
- ❖ Riverside Boulevard Concession, Riverside Boulevard & the Boardwalk;
- ❖ Lincoln Boulevard Concession, Lincoln Boulevard & the Boardwalk;
- ❖ Pacific Boulevard Concession, Pacific Boulevard & the Beach;
- ❖ West End Pump House Location, @ Fire Station #2 in Parking Lot Below Street;
- ❖ New York Pump House Location, New York Avenue & West Park Avenue;
- ❖ Roosevelt Pump House Location, Roosevelt Boulevard & East Park Avenue;
- ❖ Well #9, Lafayette Boulevard & West Bay Drive;
- ❖ Well #11, Pacific Boulevard;
- ❖ Well #12, West Pine Street Behind Senior Community Center;
- ❖ Well #13, Under Water Towers Behind Animal Shelter, 770 Park Place;
- ❖ Well #15, Maple Boulevard & East Park Avenue;
- ❖ Well #16, 17 & 18 @ Water Purification Plant, 765 Park Place.

Special Projects

During the term of this contract, the Contractor may be asked to undertake various special projects that vary in scope from or are not covered herein. In such circumstances, the City will request a detailed cost proposal from the Contractor to address the specific action. The proposed fee will be subject to negotiation.

When a final price is agreed upon, the City will amend this contract, if necessary, to include the additional work item(s).

If an equitable fee cannot be agreed upon, the City reserves the right to either seek independent quotes or undertake a bidding exercise to obtain competitive bid prices.

General Requirements

Proposals will be received up to 2:00 p.m. on Tuesday, June 11, 2019. 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. 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 30)

Quality of Proposal – The proposal work plan will be evaluated to determine the respondent's approach, methods and projected products. (Total Points 30)

Price Response – The respondent's projected fees to undertake this project will be weighed heavily under this criterion. (Total Points 40)

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 TUESDAY, JUNE 11, 2019. 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.

*Fire Safety Services for the
City of Long Beach, New York*

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

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 Notice to Proposers, Information for Proposers 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 Proposer and each person signing on behalf of any Proposer, 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 Proposer 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 Proposer and will not knowingly be disclosed by the Proposer, directly or indirectly, by the Proposer to any other Proposer 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 Proposer 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 Proposer 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 Proposer, 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 Proposer, firm or person to fix any overhead, profit or cost element of the bid price of any other Proposer, 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 Proposer 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 Respondent fails to comply with the requirements of the specifications.

(SIGN ATTACHED PAGE AND/OR PAGES)

SIGNATURES

SIGNATURES

(If an individual)

Date _____, 20_____

Signature of Bidder _____

(Owner and Proprietor)

Business Name D/B/A _____

Business Address _____

SUBSCRIBED AND SWORN TO before me

this _____ day of _____, 20_____

(If a 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 / limited liability business entity)

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

(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

INSTRUCTIONS TO PROPOSERS

1. General:

Read all documents contained in the bid specifications.

Upon submitting a proposal, each Proposer 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.

Proposers 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 Proposer.

The competency and responsibility of Proposers will be considered in determining whether a Proposer 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 Proposer.

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

2. Submission of Proposals

All prospective Proposers shall submit sealed proposals.

The sealed envelope submitted by the prospective Proposer shall carry the following information on the FACE of the envelope: Proposer'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 Proposers 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 Proposers 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 Proposers, within forty-five (45) days after the City and the successful Proposer 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 Proposer 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 Proposer 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 Proposer's failure to complete the contract as specified herein.

5. Liquidated Damages for Failure to Enter into Contract:

The successful Proposer, 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 Proposer'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 Proposer or an authorized agent of the Proposer. If the Proposer is a corporation the bid shall be signed by a properly authorized officer of the corporation.

The bid shall indicate whether the Proposer 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 Proposer 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 Proposer 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 Proposer:

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 Proposers:

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

10. Time for Executing the Contract:

The Proposer 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 Proposer fails to furnish a performance bond when required in said period of fifteen (15) calendar days after acceptance of the Proposer's proposal by the City, then the bid deposit of the Proposer 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 Proposer'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 Proposers as shall have requested that they be furnished with a copy of each addendum. Failure on the part of the prospective Proposer 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 Proposer 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 Proposer proposes to furnish.

15. Non-Discrimination:

The Respondent, 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 Respondent 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 Respondent 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 Respondent, 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 Respondent 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 Respondent, after notice has been mailed by the City to the Respondent that such materials or components have been rejected.

21. Delay:

Should the Respondent 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 Respondent 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 Respondent 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 Respondent 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 Respondent 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 Respondent 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 Respondent, then the amount to be paid to the City in consequence of such default shall be a just claim against the Respondent 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 Respondent 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 Respondent 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 Respondent 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 Respondent 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 Respondent's price to others is below stipulated prices of this contract, the Respondent shall notify the City promptly of all such changes and the Respondent 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 Proposer 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 Proposer.

The reference to the above catalog is intended to be descriptive but not restrictive and only to indicate to the prospective Proposer articles that will be satisfactory. Bids on other makes and catalogs will be considered, provided each Proposer 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 Proposer proposes to furnish having major or minor variations from specification requirements but complying substantially therewith.

32. Permits:

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

33. Responsibility:

The Respondent 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.