



PRINTED NAME OF BIDDER

SEDAN, MID-SIZED, ELECTRIC HYBRID

Invitation to Bid No. 121010 Issued: December 3, 2012

PURCHASING BUREAU CONTACT: Tymothi Howard, Purchaser, 585-428-7219

Bid responses are to be returned to the Office of the Purchasing Agent, City Hall Room 105A, Rochester, NY 14614, by the date and time indicated, at which time and place all bids will be opened, read and recorded.

BID OPENING: Tuesday, December 18, 2012 at 11:00 a.m.

The bidder's attention is directed to the General Conditions and Instructions to Bidders which appears immediately following this title page and is incorporated into the bidding document and contract by reference.

CONTRACT CHARACTERISTICS
(For definitions or explanations, see General Conditions)

Type of Contract: Term Contract, Until Manufacturers Build out for 2013

Bid Deposit Requirement: NONE

Performance Security Requirement: NONE

Insurance Requirement: NONE

Samples Requirement: UPON REQUEST

Descriptive Literature/Technical Data Requirement: SUBMIT WITH BID.

BIDDERS: Please note that prices, company identification and authorized signature are to be entered on the Proposal which appears at the end of the specifications.



1. SCOPE

The City of Rochester requests bids for a 2013 Malibu ECO 1SA electric vehicle with gas engine.

The City of Rochester reserves the right to order more or less than the quantity stated, due to budgetary considerations.

2. FORMS

All bid forms, Form of Proposal, Questionnaire sheets, and exceptions listing must be completed and returned at the time of bid opening by the bidder and duly executed where applicable. Failure to provide this information may be cause for rejection of the bid. This package must be returned to the Purchasing Bureau intact regardless of the number of sections being bid on.

3. PURCHASE ORDER REQUIRED

3.1 Advertisement and receipt of bids for an award of this contract for the equipment specified herein only signifies the City's intention to purchase the equipment specified. This contract shall not obligate the City to purchase any equipment. However, if the equipment specified is ordered during the period specified in this contract, the equipment will be ordered from the contract vendor.

3.2 The City is only obligated to purchase, and the vendor should only deliver, items ordered on a City of Rochester Purchase Order.

4. CHANGE ORDERS

Minor changes to the equipment specifications may be made subsequent to the order but prior to delivery, upon the mutual written agreement of the vendor and the City. Such changes are intended to permit modifications for upgrades or improvements during construction which the City determines will improve the quality and/or efficiency of the equipment. Additions or deletions which affect the total cost must be authorized by a Change Order approved by the Purchasing Agent.

5. CONTRACT PERIOD

5.1 Contract shall commence on the date of award and shall terminate upon the manufacturers build out for 2013 vehicles. The contract will be extendable for one additional year upon mutual consent of the City and the contract vendor.

6. PRICES

6.1 Prices quoted are to be all inclusive, i.e., FOB delivered to the City of Rochester, and inclusive of all costs such as dealer prep charges, etc.

7. COMPLIANCE WITH LAWS

The bidder shall at all times observe and comply with all laws, ordinances and regulations of the Federal, State, Local and City governments which may in any manner affect the preparation of proposals or the performance of this contract.

8. TAX

The City of Rochester is exempt from paying Manufacturer's Excise, Floor or Sales Tax, and for that reason the Bid Price shall not include any tax on the item(s) specified. The City of Rochester will furnish a signed exemption form covering the tax, if any, applying to the item or items covered by these specifications, as may be required by law.

9. BASIS OF AWARD

9.1 Contract(s) will be awarded to the lowest responsive and responsible bidder meeting or exceeding the specifications prescribed herein, based upon the lowest base unit prices.

9.2 The City of Rochester reserves the right to consider informal a bid not prepared and submitted in accordance with the provisions of the bid.

10. GUARANTEES AND WARRANTIES

10.1 The Contractor shall furnish the maximum warranty on the base unit as supplied by the manufacturer.

10.2 The starting date of warranty for each vehicle shall be the date the vehicle is placed into actual service, not the date when it is delivered by the Contractor.

10.3 Contractor will be notified by the City of Rochester in writing of the date the vehicle(s) are placed in service.

10.4 All guarantees and warranties shall be furnished by the Contractor and shall be delivered to the Equipment Services Division before the final payment on the contract is issued.

10.5 The Contractor will be required to supply to the City all dollar amounts for each warranty claim covered by that Contractor.

10.6 SPECIAL NOTE

If the Contractor is local, i.e., within the City of Rochester and/or within twenty (20) road miles of the Central Vehicle Maintenance Garage at 945 Mt. Read Blvd., the City will deliver the vehicles to the Contractor's garage for work to be performed under warranty and pick up the vehicle(s) when work is completed.

10.7 IF THE CONTRACTOR IS NOT LOCAL, ALL TRANSPORTATION SHALL BE AT CONTRACTOR'S EXPENSE.

- 10.8 In an attempt to keep vehicles in service, the City of Rochester's Equipment Services Division will be approved by the factory manufacturer to perform in-house warranty repairs with all books and forms required for reimbursement. The reimbursement rate will be stated on the proposal page of this document. This rate will not be less than 60% of the average labor rate of local new car dealers in the area. Warranty reimbursement will be made in check form, not credit.

SPECIAL NOTE: *Failure to approve and certify the City of Rochester's Equipment Services Division as a factory/manufacturer warranty repair facility will classify the bid as informal and subject to rejection.*

When operational restraints do not permit the Equipment Services Division to repair and replace defective parts or subassemblies, the City will require the Contractor to perform warranty repairs.

11. PAYMENT OR ACCEPTANCE NOT CONCLUSIVE

- 11.1 No payment made under the contract shall be conclusive evidence of the performance of the contract, either wholly or in part, and no payment made for the delivery of the items in whole or in part shall be construed as an acceptance of defective work or improper materials, nor relieve the Contractor from making good the defects.
- 11.2 The final acceptance shall not be binding upon the City of Rochester nor conclusive, should it subsequently develop that the Contractor had furnished inferior items or had departed from the specifications and/or the terms of the Contract. Should such a condition become evident, the Purchasing Agent of the City of Rochester shall have the right, notwithstanding final acceptance and payment, to cause the items or item to be properly furnished in accordance with the specifications (and drawings, if any) at the cost and expense of the Contractor, or his Surety, if any.

12. PAYMENT

- 12.1 Payment will be made by the City to the Contractor upon submission of an invoice by the Contractor in the form used by the City of Rochester within thirty (30) days after the equipment has been delivered, inspected and accepted, and approved by the Purchasing Agent in conjunction with the ordering department's representative for equipment purchases.
- 12.2 When a vehicle(s) is delivered by the Contractor, the City may process the claim voucher for the full amount of the Contract price if, in the Purchasing Agent's opinion, the unit(s) is in compliance with the specifications. However, if poor workmanship or deviations from specifications exist, the City may process up to 80% of the contract price upon delivery and delay payment of the balance until Contractor has made all necessary corrections.
- 12.3 The invoice(s) shall be forwarded to the ordering department.

13. ITEMS REQUIRED AT DELIVERY

Each Contractor invoice shall be accompanied with the following at the time of vehicle delivery:

- 13.1 City Contract Number
- 13.2 Year, Make, and Model
- 13.3 Delivery Date
- 13.4 P.O. Number
- 13.5 Vehicle Titles and Certificates of Origin all registered to:

CITY OF ROCHESTER
945 MT. READ BLVD.
BLDG. 100
ROCHESTER, NY 14606

- 13.6 An Odometer Disclosure Statement for each vehicle
- 13.7 Each vehicle shall be supplied with:
 - 13.7.1 Engine Serial Number
 - 13.7.2 Transmission Serial Number
 - 13.7.3 Paint Code Number
 - 13.7.4 Key Code
- 13.8 All Warranty and Certification Documents
- 13.9 The contractor shall provide three (3) sets of keys for each vehicle at the time of delivery.

14. PROGRESS PAYMENTS

In the event that delivery is not accomplished at one time, the City of Rochester may make progress payments upon receipt and acceptance of the partial deliveries.

15. PROOF OF INTENT

- 15.1 The successful bidder must furnish to the Purchasing Agent of the City of Rochester, upon his request, a copy of the factory order and number covering the equipment bid upon within fifteen (15) days after the date of the receipt of Purchase Order.
- 15.2 The Purchasing Agent of the City of Rochester may require the successful bidder to furnish copies of all letters, correspondence, or purchase orders placed with

the various manufacturers or suppliers for materials, supplies, and equipment being bid upon for which a contract has been awarded, as proof that the contract is being fulfilled as expeditiously as possible. Failure to furnish these documents within fifteen (15) working days after receipt of a written request, or failure to submit documents which clearly demonstrate that the contract will be fulfilled within the required delivery date, shall be deemed sufficient grounds for cancellation of the contract. The City of Rochester Purchasing Agent's decision in these matters shall be accepted as final.

16. INTERCHANGEABILITY

- 16.1 All assemblies, sub-assemblies, and component parts, etc., of the items supplied under these specifications shall be interchangeable throughout the quantity of units supplied.
- 16.2 The items furnished under these specifications shall be new and shall be the manufacturer's current production model.

17. INFORMATION TO BE FURNISHED WITH BID

- 17.1 The bidder shall submit with his bid a complete description, including pictures and catalogs, and all other pertinent data on the equipment he proposes to furnish.
- 17.2 Bids offered without said data may be declared "INFORMAL."
- 17.3 The City, however, reserves the right to request additional information deemed necessary for proper evaluation of bids.

18. MOTOR VEHICLES REGULATIONS

Each vehicle delivered shall be furnished with all equipment necessary to comply with all applicable rules and regulations of the New York State Department of Motor Vehicles and shall be equipped with Safety Standards required by the Federal Motor Vehicles Safety Standards established by the National Traffic Safety Administration, and the Safety Standards required by O.S.H.A. with reference to the operation of such vehicle(s) within the State of New York. A valid New York State inspection sticker will be supplied with each vehicle.

19. SERVICING

Each vehicle shall be completely serviced. Service shall include not less than the following: lubrication, wash, engine tune-up, wheel alignment, front wheel balancing, body conditioning, and all other checks and adjustments required for proper complete servicing of a new vehicle. Particular attention shall be given to door alignment, weather stripping, hardware, paint conditioning, and tagging of cooling system. It shall be the contractor's responsibility to insure at that time all components and accessories have been properly installed.

20. PARTS AVAILABILITY

The bidder understands and agrees that by submitting this bid he is obligated to make available to the City of Rochester, Original Equipment Manufacturer's (OEM) parts for this equipment for a period of five years. In the event that during such five-year period the City is unable to establish a contract for the purchase of OEM parts by the standard advertised bidding process, the successful bidder agrees to supply to the City OEM parts at a price no greater than the then current Fleet list Price, F.O.B. delivered, within the time frames standard to the industry.

21. TECHNICAL SERVICE BULLETINS

The contractor shall also furnish any and all bulletins, modification notices, service letters, and related addenda throughout the life of equipment being furnished under this contract. This data shall be sent to the City of Rochester, Motor Equipment Division, 945 Mt. Read Boulevard, Bldg. #100, Rochester, NY 14615, Attn: Fleet Manager.

22. ADVERTISING

Except for inconspicuous identification plates, serial number plates, precautionary instruction plates, etc., no name trademark, decal, or other identification, other than that of the manufacturer, shall be applied to the vehicle. Identification of chassis and equipment dealers and installers shall not be attached to the vehicle. In any instance of violation of these restrictions, the cost to the City for removal of such advertising will be deducted from contractor's outstanding balance.

23. DATA PLATE

Identification plates listing data specifically applicable to the vehicle shall be permanently and inconspicuously installed on the appropriate piece of equipment. Plates shall include at least the model and serial number.

24. INSPECTION OF WORK

24.1 Representative and/or agents of the City of Rochester, as designated by the Purchasing Agent of the City of Rochester, shall, for the purpose of inspection, have free and safe access at any and all reasonable times to the buildings and shops of the Contractor, his subcontractors and material men, wherever any items for this Contract are being prepared or manufactured. The cost of any such inspection trip(s) by agent(s) of the City of Rochester shall be at the expense of the City of Rochester.

24.2 If, during the final inspection, items to be furnished under this contract are found to be defective, or fail in any way to meet the terms of the contract, or fail to meet any of the specifications, the item or items will be rejected by the Purchasing Agent of the City of Rochester. Any rejected item or items shall be altered or replaced to comply with the specifications at the expense of the Contractor.

- 24.3 If the item or items called for in the specifications are delivered and fail to meet specifications in any respect, the bidder will be notified and he will arrange for their removal from the City of Rochester property at no expense to the City of Rochester. If the successful bidder fails to remove the items which, in the opinion of the Purchasing Agent of the City of Rochester, do not meet specifications, the City will arrange to have such items removed and any expense connected therewith will be the responsibility of the Contractor.

25. DELIVERY

The equipment and components to be furnished under this contract shall be delivered to the City of Rochester, F.O.B. the ordering agency's facility as described on the Purchase Order(s), which shall be in Rochester, New York.

26. DELIVERY DATE

- 26.1 The City of Rochester requires delivery of the vehicle(s) as soon as possible, but in no event more than one hundred twenty (120) calendar days after award of contract. The vehicle(s) shall remain the property of the bidder until accepted by the City of Rochester. Upon delivery, the vehicle(s) shall be thoroughly tested in operation in the presence of an authorized representative of the City to check on the performance of the equipment and operation of the unit as a whole. The successful bidder shall make, at his own expense, any adjustments or alterations that may be required by the City as a result of the operation test.
- 26.2 Each bidder is required to list on the Proposal and Bid Form the latest date he expects delivery to be made at the destination defined herein. Failure to include a specific date may be sufficient grounds for rejection of bid. Quoted delivery dates in excess of one hundred twenty (120) calendar days may, at the City's option, be cause for rejection of the bid.

27. MANUFACTURER'S REBATES

- 27.1 Any manufacturer's rebate that is offered to the general public upon the issuance of a purchase order covering the vehicle(s) in these specifications will also be afforded to the City of Rochester at full value.
- 27.2 Prices bid herein shall not reflect such a rebate unless it is full and unconditional.

28. DEFAULT

- 28.1 The City may, subject to the provisions below, by written notice of default to the Contractor, terminate the whole or any part of this contract in any one of the following circumstances:
- 28.1.1 If the Contractor fails to make delivery of the supplies or to perform the services within the time specified herein or any extensions thereof; or

28.1.2 If the Contractor fails to perform any of the other provisions of this contract, or so fails to make progress as to endanger the performance of this contract in accordance with its terms, and in either of these two circumstances does not cure such failure within a period of ten (10) days (or such other period as the Purchasing Agent may authorize in writing) after receipt of notice from the Purchasing Agent specifying such failure.

28.2 In the event the Purchasing Agent of the City terminates this contract in whole or in part as provided above, the City may procure, upon such terms and in such manner as the Purchasing Agent may deem appropriate, supplies or services similar to those so terminated, and the Contractor shall be liable to the City for any excess costs for such similar supplies or service; provided, that the Contractor shall continue the performance of this Contract to the extent not terminated under the provisions of this clause.

28.3 The Contractor shall not be liable for any excess of costs if acceptable evidence has been submitted to the Purchasing Agent that failure to perform the contract was due to causes beyond the control and without the fault or negligence of the Contractor.

29. QUALIFICATION OF BIDDER

29.1 The City reserves the right to disqualify any bidder unless the firm submitting the bid can meet the following conditions:

29.1.1 That the manufacturer(s) or bidder(s) has in operation a factory adequate for and actively engaged in the manufacture of the equipment which he proposes to furnish.

29.1.2 That there are at least fifty (50) units similar to the type bid upon which have been in satisfactory operation for a period of at least two (2) years. This shall not be construed as prohibiting the manufacturer from having altered or improved the design or construction of its machinery as evidenced by engineering changes incorporated in the manufacturing blueprints. The manufacturer shall furnish evidence upon request of the Purchasing Agent that the model, including the power train components to be furnished, has been commercially available through him to the trade for a period of not less than two (2) years and has been fully field tested. The City of Rochester will verify to its satisfaction that the model to be furnished has met such field tests.

29.1.3 That it has in operation, and has had for at least six (6) months prior to the time of bid opening, in or reasonably near the City of Rochester, a service station adequately equipped and carrying in stock sufficient parts and service and regularly employs qualified personnel to render prompt and efficient service on the equipment bid upon.

29.2 Bids will be considered only from vehicle manufacturers and from authorized dealers of vehicle manufacturers.

29.3 In the event a bid submitted by other than the manufacturer, a certificate executed by the manufacturer may be required stating that the bidder is an

authorized agent, dealer, or distributor of the manufacturer in the Rochester, New York area, and that the equipment offered is completely in compliance with the specifications and proposal and will be available during the life of the contract.

- 29.4 The City reserves the right to reject any proposal from any person, firm, or corporation that has failed to perform faithfully any previous contract with the City.

30. SPECIFICATIONS

30.1 The detailed design specifications prescribed herein are intended to describe units which have been determined to meet performance parameters and characteristics required by the City of Rochester. Bidders having units which fully meet the intent of the specifications, but may vary in a non-substantial manner from the specified design characteristics, may offer such equipment as they can demonstrate meets the intended performance requirements. In such case the bidder shall be required to submit with his bid a detailed listing of design variances and a full explanation as to how the units offered will meet the desired performance characteristics. A decision as to equivalency shall be made by the Purchasing Agent, whose decision shall be final.

30.2 Any references herein to a particular make or model are not intended to be restrictive, but to set forth an acceptable level of quality, design, and performance.

31. POLITICAL SUBDIVISIONS

Bidders should note that other political subdivisions may participate in the contract resulting from this bid award as authorized by General Municipal Law. Use of this contract by any other political subdivision must be coordinated between that subdivision and the contractor. The City will have no responsibility for any such purchases and will have no other role than to provide other political subdivisions a copy of this contract if requested.

32. REJECTION OF BIDS

32.1 The City of Rochester reserves the right to reject any and all bids or proposals if the best interest of the City of Rochester will be served by such action.

32.2 The Purchasing Agent reserves the right to reject any bid that is unrealistic or where a disproportionate unit cost is proposed.

32.3 The Purchasing Agent reserves the right to reject any bidder who proposes an unacceptable product or cannot prove to the satisfaction of the City its ability to execute the terms and conditions of this contract

33. VEHICLE TYPE

Malibu ECO 1SA

34. ENGINE

34.1 ECORTEC 2.4L DOHC 4-cylinder DI gas/electric engine, 182 HP, direct injecton.

34.2 Front wheel drive

35. TRANSMISSION

35.1 Automatic type, heavy duty, six (6) speed.

35.2 All units shall be supplied with a limited-slip differential.

36. ELECTRICAL SYSTEM AND ELECTRICAL EQUIPMENT

eAssist electric motor generator 15 KW

37. BRAKES

Four wheel disc with ABS

38. WHEEL BASE

107 inches

39. PASSENGERS

Five (5)

40. TIRES AND WHEELS

40.1 P225/55R 17" BSW Steel Belted Radials

40.2 All tires shall be an all-season design.

40.3 Tires supplied under this contract shall be of first line or better grade of a major manufacturer - Firestone, Uniroyal, Goodyear or Goodrich.

40.4 Spare tires are to be mounted on the rims and there is to be one (1) spare tire and rim per vehicle, full size and fully inflated, same as above.

40.5 Standard wheel covers

41. CAB

41.1 Regular cab of welded steel construction, and insulated.

SEDAN, MID SIZED, ELECTRIC HYBRID

41.2 Driver/passenger bucket seats shall be of heavy duty spring construction with foam rubber padding and heavy duty vinyl covering.

41.3 Heavy duty rubber floor throughout the cab

41.4 Two 12V power outlets with covers

41.5 Multi speed intermittent electric windshield wipers and washers

41.6 Arm rest L.H. and R.H. doors

41.7 Dual sun visors

41.8 Dual front and side airbags.

41.9 Tinted glass

41.10 Power windows and locks with three (3) keys per vehicle.

41.11 Tilt and telescoping wheel

41.12 AM/FM radio

41.13 Daytime running lights

41.14 Air Conditioning

42. COLOR

42.1 Exterior – Black Granite

42.2 Interior – Jet Black/Titanium

43 INSTRUMENTS

43.1 All major functions and gauges shall have warning lights.

43.2 All instruments and switches shall be clearly identified in a permanent manner, tape not acceptable.

44 MISCELLANEOUS

44.1 The fuel tank shall be at least $\frac{1}{4}$ full with recommended type fuel and will be approximately fifteen (15) gallon.

44.3 Mud and stone deflectors, front and rear, rubber type, heavy duty

45. REJECTION OF BIDS

- 45.1 The City of Rochester reserves the right to reject any and all bids or proposals if the best interest of the City of Rochester will be served by such action.
- 45.2 The Purchasing Agent reserves the right to reject any bid that is unrealistic or where a disproportionate unit cost is proposed.
- 45.3 The Purchasing Agent reserves the right to reject any bidder who proposes an unacceptable product or cannot prove to the satisfaction of the City its ability to execute the terms and conditions of this contract.

NON-OFFICIAL SPEC
DO NOT USE TO BID

PROPOSAL

The undersigned bidder hereby agrees to furnish the goods or services specified and to otherwise fully meet all terms, conditions, and specifications contained in this Invitation to Bid without exception, unless exceptions are clearly noted in this proposal. SIGNATURE MUST BE THAT OF THE BIDDER OR OF AN EMPLOYEE OR AGENT AUTHORIZED TO SIGN ON BEHALF OF THE BIDDER.

2013 Malibu Eco 1SA in accordance with these specifications and provisions

\$ _____ X 5 \$ _____
Unit Price (Each) TOTAL BID PRICE

Make and Model Bid _____

Delivery will be made in _____ calendar days after receipt of order.

City In-house Warranty Reimbursement Rate \$ _____ /hr.

Manufacturer's Build-Out Date: _____ (if known)

Authorized Signature

Typed Name and Title of Authorized Signer

Typed Name of Company

(Continued through Page 17)

TO BE FILLED IN BY THE BIDDER AND PRESENTED WITH THE BID PROPOSAL.

PROPOSED UNIT: MAKE _____ MODEL _____

YEAR _____ GVWR _____

UNLADEN WEIGHT _____

GENERAL DIMENSIONS:

WHEELBASE _____

ENGINE: MAKE _____ MODEL _____

NET HP. _____ NO. CYL. _____

CU. IN. DISP. _____

ENGINE OIL CAPACITY _____ QTS.

TRANSMISSION: MAKE: _____ MODEL: _____

COOLING SYSTEM: CAPACITY _____ QTS.

TYPE RADIATOR _____

STEERING: MAKE _____ MODEL _____

BRAKES: MAKE _____

FRONT SIZE _____

REAR SIZE _____

TIRES: MAKE _____ TYPE _____

FRONT SIZE _____ PLY _____ LOAD RATING _____

REAR SIZE _____ PLY _____ LOAD RATING _____

Authorized Signature

Typed Name and Title of Authorized Signer

Typed Name of Company

(Continued through page 17)

SEDAN, MID SIZED, ELECTRIC HYBRID

WHEELS: MAKE _____ TYPE _____
SIZE _____ CAPACITY _____

SUSPENSION: FRONTS SPRINGS: TYPE _____
CAPACITY _____

REAR SPRINGS: TYPE _____
CAPACITY _____

ALTERNATOR: MAKE _____ MODEL _____
CAPACITY _____ RATING _____

BATTERY: MAKE _____ Capacity _____

FUEL TANK: CAPACITY _____

BASIC WARRANTY COVERAGE IN YRS./MILES:

CHASSIS _____ yrs. _____ miles

DRIVE TRAIN _____ yrs. _____ miles

BODY _____ yrs. _____ miles

LOCATION OF PART AND SERVICE FACILITY: Street and No. _____
City and State _____
Name of Bidder _____

Authorized Signature

Typed Name and Title of Authorized Signer

Typed Name of Company

(Continued through page 17)

PROPOSAL

PRINT OR TYPE THE FOLLOWING INFORMATION:

Name of Firm or Corporation

Street Address

City State Zip Code

Telephone/Fax No./ Cell Federal Employer Identification Number

E-mail Address of Recipient of Contract Awards and Extensions

Date

ACCEPTED ON BEHALF OF THE CITY OF ROCHESTER FOR:

Contract No. 121010

Contract Term: _____

Purchasing Agent

Date: _____



City of Rochester

Bureau of Purchasing

Department of Finance

GENERAL CONDITIONS AND INSTRUCTIONS TO BIDDERS

(Vendor: The general rules and conditions which follow apply to all purchases and become a definite part of each formal invitation to bid, purchase order or other award issued by the City Purchasing Agent, unless otherwise specified. Bidders or their authorized representative are expected to fully inform themselves as to the conditions, requirements and specifications before submitting bids. Failure to do so will be at the bidder's own risk and he cannot secure relief on the plea of error.)

Subject to applicable Federal, State and Local laws, ordinances, rules, regulations and limitations, bids on all advertisements and invitations issued by the Department of Finance, Purchasing Bureau will bind bidders to applicable conditions and requirements herein set forth unless otherwise specified in the Invitation to Bid.

CONDITIONS OF BIDDING

- 1. Proposal Forms:** Bids shall be submitted only on the forms provided by the City. The bidder shall retain one copy for his files and submit two (2) copies signed and sealed in the envelope provided by the City for that purpose. When using an envelope other than the one provided by the City, the following required information must be entered in the lower left corner on the face of the envelope: Bid Number, Bid Title, Bid Open Date and Time, and Submitted By. The envelope must be mailed or hand delivered to the Office of the Purchasing Agent, City Hall, Room 105A, 30 Church St., Rochester, NY 14614.
- 2. Late Bids:** Formal bids, amendments thereto, or requests for withdrawal of bids received by the City after time specified for bid opening will not be considered.
- 3. Withdrawal of Bids:** A written request for the withdrawal of a bid or any part thereof may be granted if the request is received by the City prior to the specified time of opening.
- 4. Mailing of Bids:** Bids which are to be publicly opened will have attached a special mailing envelope which must be used by bidders in presenting such bids. In the event that the bid contains bulky subject material, the special mailing envelope must be firmly affixed to any other wrapper being used. Bids not received in the actual office of the Purchasing Agent at the time established for bid opening will not be considered, even if mailed earlier.
- 5. Completeness:** All information required by Invitation to Bid must be supplied to constitute a proper bid.
- 6. Bids Binding 45 Days:** Unless otherwise specified, all formal bids submitted shall be binding for forty-five (45) days following bid opening date unless the bidder(s), upon request of the Purchasing Agent, agrees to an extension.

7. **Conditional Bids:** Qualified bids are subject to rejection in whole or in part.

NON-OFFICIAL SPEC
DO NOT USE TO BID

8. **Payment Terms:** Prompt payment discounts allowing less than thirty (30) days for discount to apply shall not be considered as a cost factor in the evaluation of bids. In connection with any prompt payment discount offered, time will be computed from the date of receipt of correct invoice or receipt and acceptance of shipment, whichever is later.
9. **Bids for All or Part:** Unless otherwise specified by the City or by the bidder, the Purchasing Agent reserves the right to make award on all items, or on any of the items according to the best interests of the City. The Purchasing Agent shall further have the right to award separate items or groups to different vendors. Bidder may restrict his bid to consideration in the aggregate by so stating, but should name a unit price on each item bid upon; any bid in which the bidder names a total price of all the articles without quoting a price on each and every separate item may be rejected at the option of the City.
10. **Errors in Bids:** When an error is made in extending total prices, the unit bid price will govern. Carelessness in quoting prices, or in preparation of bid otherwise, will not relieve the bidder. Erasures or changes in bids should be initialed.
11. **Questions Re: Specifications:** Except for Public Works, any information relative to interpretation of specifications and drawings shall be requested of the Purchasing Agent, in writing, in ample time before the opening of bids.

DO NOT MAKE INQUIRES BY PHONE OR IN PERSON.

No inquiries, if received within five (5) days of the date set for the opening of bids, will be given any consideration. Any interpretation made to prospective bidders will be expressed in the form of an addendum to the specifications which, if issued, will be sent by ordinary or certified mail, at the City's option, to all prospective bidders no later than three (3) days before the date set for opening of bids. Oral answers will not be binding on the City.

12. **Response to Invitations:** In the event you cannot submit a bid on our requirements, as set forth in the "Invitation, Bid, and Agreement" attached hereto, please return the Invitation, Bid and Contract form with an explanation as to why you are unable to bid on these requirements. (Because of the large number of firms listed on the City's qualified lists of Bidders, it is necessary to delete from these lists the names of those persons, firms or corporation who fail to respond after having been invited to bid on a commodity or commodities for three successive bid openings). City reserves the right to delete.
13. **Multiple Bids:** No bidder will be allowed to offer more than one price on each item even though he may feel that he has two or more types or styles that will meet specifications. Bidders must determine for themselves which to offer. IF THE BIDDER SHOULD SUBMIT MORE THAN ONE PRICE ON ANY ITEM, ALL PRICES FOR THAT ITEM MAY BE REJECTED AT THE DISCRETION OF THE CITY PURCHASING AGENT.
14. **Taxes:** The City of Rochester is exempt from State and Local sales and use taxes under Certificate No. AC 946 and is exempt from paying Federal excise taxes.

15. **Catalogs:** Each bidder shall submit in duplicate where necessary or when requested by the Purchasing Agent, catalogs, descriptive literature, and detailed drawings, fully detailing features, designs, construction, finishes and the like necessary to fully describe the material or work he proposes to furnish.

NON-OFFICIAL SPEC
DO NOT USE TO BID

16. **Competency of Bidder:** No proposal will be accepted from or 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 had failed to perform faithfully within the prior three (3) years of any contract with the City. The bidder must present within 48 hours of a request evidence satisfactory to the Purchasing Agent of performance ability and possession of necessary facilities, pecuniary resources and adequate insurance to comply with the terms of these specifications and contract documents.

BID DEPOSIT

17. **Bid Bond, Cash, Certified or Cashier's Check:** When required, each bid shall be accompanied by a bid bond signed by a surety company authorized to do business in the State of New York, or by a cashier's check, certified business check, Treasurer's check or other direct obligation drawn on a responsible bank doing business in the United States, and shall be made payable to the City of Rochester, unless the bidder has on file with the Purchasing Agent an annual bid bond approved by the City with an uncommitted balance equal to the certified check requirements. When computing amount of Bid for Certified Check purposes, do NOT deduct for trade-ins. U.S. Postal Money Orders are acceptable in lieu of certified checks.

18. **Annual Bid Bonds:** Bidders who regularly do business with the City shall be permitted to file with the Purchasing Bureau an annual bid bond in the amount specified below. Such annual bonds shall be acceptable as surety in lieu of the furnishing of surety with each individual transaction.

Annual bid bonds shall be in an amount as determined by the bidder, of no less than Three Thousand Five Hundred Dollars (\$3,500.00). If at any time, the requirements of a specific bid invitation exceed the amount of the annual bid bond, or should the aggregate amount of the bid security requirements on all unresolved bids submitted by your firm exceed the amount of the annual bid bond, additional surety will be required in the appropriate sum.

19. **Performance Bond:** The successful bidder or bidders on this bid must furnish a performance bond as indicated on the bid cover, made out to the City of Rochester, prepared on an approved form or on a form supplied by an approved surety, as security for the faithful performance of his contract, within ten (10) days of his notification that his bid has been accepted. The surety thereon must be such surety company or companies as are authorized and licensed to transact business in the State of New York. Attorneys in fact who sign bid bonds must file with each bond a certified copy of their power of attorney to sign said bonds.

The successful bidder or bidders, upon failure or refusal to furnish within ten (10) days after his notification the required performance bond, shall forfeit to the City of Rochester as liquidated damages their bid deposit. At its option, the City shall have the right to accept cash, certified checks, letters of credit or such other security as the City deems appropriate in satisfaction of the foregoing bond requirements.

20. **Samples:** The samples submitted by bidders on items which they have received an award may be retained by the City until the delivery of contracted items is completed and accepted. Bidders whose samples are retained may remove them after delivery is accepted. Bidders who

SEDAN, MID SIZED, ELECTRIC HYBRID

are not awarded a bid must remove their samples as soon as possible after award has been made on the item or items for which the samples had been submitted. The City will not be responsible for such samples if not removed by the bidder within thirty (30) days after the award has been made.

NON-OFFICIAL SPEC
DO NOT USE TO BID

Bidders shall make all arrangements for delivery of samples to place designated by the City as well as the removal of samples. Cost of delivery and removal of samples shall be borne by the bidder. All samples packages should be marked "Samples for Purchasing Bureau" and each sample should bear the name of the bidder, item number, bid number, and shall be carefully tagged or marked in a substantial manner. Failure of the bidder to clearly identify samples as indicated may be considered sufficient reason for rejection of bid, and in such cases the City will not be liable for the loss of samples.

SPECIFICATIONS

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

The reference to a name brand 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, and forwards with his bid, a cut, illustration, or other descriptive matter which will clearly indicate the character of the article covered by the bid.

The Purchasing Agent hereby reserves the right to approve as an equal, or to reject as not being equal, any article the bidder proposes to furnish which contains major or minor variations from specification requirements but may comply substantially therewith.

If no particular brand, model, or make is specified, and if no data are required to be submitted with the bid, the successful contractor, after award and before manufacture or shipment, may be required to submit working drawings or detailed descriptive data sufficient to enable the Purchasing Agent to judge if each requirement of the specifications is being complied with.

22. **Formal Specifications:** The Bidder shall abide by and comply with the true intent of the specifications and not take advantage of any unintentional error or omission, but shall fully complete every part as the true intent and meaning of the specifications and drawings. Whenever herein mention is made of any article, material, or workmanship to be in accordance with laws, ordinances, building codes, underwriter's codes, A.S.T.M. standards, or similar expressions, the requirements of these laws, ordinances, etc. shall be construed as the minimum requirements of these specifications.

AWARD

23. **Award or Rejection of Bids:** The contract will be awarded to the lowest responsible and responsive bidder complying with the provisions of the Invitation, provided the bid price is reasonable and it is to the interest of the City to accept it. The Purchasing Agent reserves the right to reject any or all bids and to waive any informality in bids received whenever such rejection or waiver is in the interest of the City. The Purchasing Agent also reserves the right to reject the bid of a bidder who has previously failed to perform properly or complete on time

contracts of a similar nature, or a bid of a bidder where investigation shows the bidder is not in a position to perform the contract.

In determining responsibility, the following other qualifications, in addition to price, will be considered by the Purchasing Agent:

- a) The ability, capacity and skill of the bidder to perform the service required within the specified time.
- b) The character, integrity, reputation, judgment, experience and efficiency of the bidder.
- c) The quality of performance of previous contracts or services.
- d) The previous and existing compliance by the bidder with laws and ordinances relating to previous contracts with the City and to the bidder's employment practices.
- e) The sufficiency of the final resources and ability of the bidder to perform the contract or provide services.
- f) The quality, availability and adaptability of the supplies or contractual services to the particular use required.
- g) The ability of the bidder to provide future maintenance and service for the use of the subject of the contract.
- h) Whether the bidder is in arrears to the City, in debt on contract, is a defaulter on surety to the City, or whether the bidder's taxes or assessments are delinquent.
- l) Such other information as may be secured by the Purchasing Agent having a bearing on the decision to make the award.

In determining a bidder's responsiveness, the Purchasing Agent shall consider material deviations from the advertised specifications which materially affect price, quantity, quality or limit the bidder's liability.

24. **Notice of Acceptance:** A written award (or Acceptance of Bid) mailed (or otherwise furnished) to the successful Bidder within the time for acceptance specified in the Invitation to Bid shall be deemed to result in a binding contract without further action by either party.
25. **Tie Bids:** If two or more bidders submit identical bids and are equally qualified, the decision of the City to make award to one or more of such bidders shall be final. Selection may be made by drawing lots.
26. **Resident Bidders - Preference:** Price and other factors being equal, preference may be given first to resident bidders of the City, except when in the judgment of the City such purchases would operate to the disadvantage of the City, and selection by drawing lots shall not apply where the tie bids are between a resident and non-resident bidder.

27. **Specific Bid Quantities:** Where quantities are specifically stated, acceptance will bind the City to order quantities specified and to pay for at contract prices all such supplies or services delivered that meet specifications and conditions of the contract. However, the City will not be required to accept delivery of any unordered balances as of the contract expiration date unless the contractor furnishes the Purchasing Agent with a statement of unordered balances not later than ten (10) days after the termination date of the contract.
28. **Requirements Bid Quantities:** On "Requirements" bids, acceptance will bind the City to pay for, at unit bid prices, only quantities ordered and delivered.
29. **Availability of Funds:** The City shall be obligated to pay for goods and services received only to the extent that money has been appropriated and encumbered for such purpose. The contractor in turn shall be obligated to perform only so long as money is available to pay for the goods and services it supplies. If this contract extends through one fiscal year of the City into the next year, the City's obligations hereunder shall be specifically limited to and shall be conditioned upon the appropriations for such following year.
30. **Contract Alterations:** The contractual terms, conditions and provisions of this contract, including all general conditions and instructions to bidders, shall not be modified by the bidder. The Purchasing Agent shall have the right, at his option, to treat any bid submitted with additional or differing contract provisions as informal or to ignore such additional provisions and to award as if such additional provisions had not been submitted by the bidder. This section shall not apply if the request for bids or the specifications specifically invite the bidder to submit additional or modifying provisions, but only to the extent that such additional or modifying provisions are requested by and are acceptable to the Purchasing Agent. Where the bidder submits a bid for goods or services which vary from the City's specifications, the decision of the Purchasing Agent of whether such goods or services are functionally equivalent to the goods or services requested by the City shall be final. Alterations or changes in the specifications of the goods or services furnished under this contract can only be made upon the written authorization signed by the Purchasing Agent, and any other alteration or modification that is not signed by the Purchasing Agent or his designated representative shall be void. Alterations in contract language shall further require the approval of the City Department of Law.
31. **Term of Contract:** This contract shall remain in force for the period specified unless extended by mutual consent of both parties or terminated as provided herein.
32. **Termination of Contracts:** Contracts shall remain in force for full periods specified and until all articles ordered before date of termination shall have been satisfactorily delivered and accepted and thereafter until all requirements and conditions shall have been met, unless:
- a) terminated prior to expiration date by satisfactory deliveries of entire contract requirements.
 - b) extended upon written authorization of the Purchasing Agent and accepted by contractor, to permit ordering of unordered balances or additional quantities at contract prices and in accordance with contract terms.

33. **Subletting of Contract:** It is mutually understood and agreed that the Contractor shall not assign, transfer, convey, sublet or otherwise dispose of his contract or his right, title or interest therein, or his power to execute such contract, to any other person, firm or corporation without the previous written consent of the City Purchasing Agent, but in no case shall such consent relieve the Contractor from his obligations, or change the terms of the contract.
34. **Default:** The contract may be cancelled or annulled by the Purchasing Agent in whole or in part by written notice of default to the Contractor upon non-performance or violation of contract terms. An award may be made to next low bidder, or, articles specified may be purchased on the open market similar to those so terminated. In either event, the defaulting Contractor (or his surety) shall be liable to the City for costs to the City in excess of the defaulted contract prices. Provided, that the contractor shall continue the performance of this contract to the extent not terminated under the provisions of this clause. Failure of the contractor to deliver materials or services within the time stipulated on his bid, unless extended in writing by the Purchasing Agent, shall constitute contract default.
35. **Delivery Failures:** Failure of a Contractor to deliver within the time specified, or within reasonable time as interpreted by the Purchasing Agent, or failure to make replacements of rejected articles when so requested, immediately or as directed by the Purchasing Agent, shall constitute authority for the Purchasing Agent to purchase in the open market articles of comparable grade to replace the articles rejected or not delivered. On all such purchases, the Contractor shall reimburse the City within a reasonable time specified by the Purchasing Agent, for any expense incurred in excess of contract prices or the City shall have the right to deduct such amount from monies owed the defaulting Contractor. Such purchases shall be deducted from contract quantities. Should public necessity demand it, the City reserves the right to use or consume articles delivered which are substandard in quality, subject to an adjustment in price to be determined by the Purchasing Agent.
36. **Non-Liability:** The Contractor shall not be liable in damages for delay in shipment or failure to deliver when such delay or failure is the result of fire, flood, strike, act of God, act of government, act of an alien enemy or by any other circumstances which, in the Purchasing Agent's opinion, is beyond the control of the contractor. Under such circumstances, however, the Purchasing Agent may at his discretion, cancel the contract.
37. **New Goods, Fresh Stock:** All contracts, unless otherwise specifically stated, shall produce new commodities, fresh stock, latest model, design or pack.
38. **Equal Employment Opportunities:**
- a) The City of Rochester, New York reaffirms its policy of Equal Opportunity in its commitment to require all contractors, lessors, vendors and suppliers doing business with the City to follow a policy of Equal Employment Opportunity, in accordance with the requirements set forth herein. This policy is adopted pursuant to the City's Affirmative Action Plan, Article XV, Contract Compliance. The City does not discriminate on the basis of handicap status as defined in 31 CFR Part 51, in admission, access to, or treatment or employment in its programs and activities. The City is including this policy statement in all bidding documents, contracts, and leases. Contractors, lessors, vendors and suppliers shall agree to comply with State and Federal Equal

Opportunity laws and regulations and Federal regulations 31 CFR Part 51 and shall submit documentation regarding Equal Employment Opportunity upon the City's request.

b) Definitions:

1. Good Faith Effort - shall mean every reasonable attempt to comply with the provisions of this policy by making every reasonable effort to achieve a level of employment of minority groups and female workers that is consistent with their presence in the local work force.
2. Minority Group Persons - shall mean a person of Black, Spanish surname American, Asian American or American Indian ethnic or racial origin and identity.

c) Compliance: The Contractor shall comply with all of the following provisions of the Equal Employment Opportunity Requirement:

- 1) The Contractor agrees that he will not discriminate against any employee for employment because of race, color, religion, sex, age, or of employees for performance of work under this Agreement or any subcontract hereunder, the Contractor and its subcontractors, if any, shall not, by reason of race, creed, color, sex, age or national origin, discriminate against any person who is qualified and available to perform the work to which the employment relates. The Contractor agrees to take affirmative action to ensure that applicants are employed, and that applicants are hired and that employees are treated during their employment, without regard to their race, color, religion, sex, age or national origin.

2) If the Contractor is found guilty of discrimination in employment on the grounds of race, color, sex, religion, age or national origin by any court or administrative agency that has jurisdiction pursuant to any State or Federal Equal Employment Opportunity Laws or regulations, such determination will be deemed to be a breach of contract, and this Agreement will be terminated in whole or part without any penalty or damages to the City on account of such cancellation or termination and the Contractor shall be disqualified from thereafter selling to, submitting bids to, or receiving awards of contract with the City of Rochester for goods, work, or services until such time as the Contractor can demonstrate its compliance with this policy and all applicable Federal and State Equal Opportunity laws and regulations.

3. The Contractor shall cause the foregoing provisions to be inserted in all subcontracts, if any, for any work covered by this Agreement so that such provisions will be binding upon each subcontractor, provided that the foregoing provisions shall not apply to subcontracts for standard commercial supplies or raw materials.

39. Purchase of Products from Companies Doing Business in Northern Ireland Supporting Fair Employment:

1. The vendor understands that the City has adopted a policy prohibiting contracting for goods or services with a person, firm, or corporation doing business in Northern Ireland, who does not support fair employment without religious discrimination and does not cooperate with agencies monitoring equal opportunity employment.

2. If, because of applicable law, a contract is awarded to a contractor who does not support equal opportunity employment without religious discrimination, the contractor must submit a statement to the Director of Finance detailing the reasons for such nonsupport of fair employment.

40. Guarantee: Unless otherwise specified, the Contractor shall unconditionally guarantee the materials and workmanship of all equipment furnished by him for a period of one year from date of acceptance of the items delivered and installed, unless otherwise specified herein. If, within the guarantee period, any defects or signs of deterioration are noted, which, in the opinion of the City are due to faulty design and installation, workmanship, or materials, the Contractor, at his expense, shall repair or adjust the equipment or parts to correct the condition, or he shall replace the part or entire unit to the complete satisfaction of the City. These repairs, replacements or adjustments shall be made only at such time as will be designated by the City as least detrimental to the operation of City business.

41. Placing of Orders: Orders against contracts will be placed with the Contractor on either a Purchase Order or Blanket Purchase Order executed and released by the Purchasing Agent. Telephone orders placed directly with the contractor by the ordering Agency may be authorized by the Purchasing Agent only after execution of a Blanket Purchase Order.

42. Provisions for Other Agencies: Unless otherwise stipulated by the bidder, the bidder agrees when submitting his bid that he will make available to all City agencies and departments and the City School District the bid prices he submits in accordance with the bid terms and conditions, should any said department or agency wish to buy under this bid proposal.

DELIVERY PROVISIONS

43. **Responsibility for Materials Shipped and Risk of Loss:** The Contractor shall be responsible for the materials or supplies covered by this contract until they are delivered to the designated point and received, properly installed if necessary, and accepted by the City and the Contractor shall bear all risk on rejected materials or supplies. Rejected materials or supplies must be removed by and at the expense of the Contractor promptly after notification of rejection, unless public health and safety require immediate destruction or other disposal of rejected delivery. Upon failure to do so within ten (10) days after notification, the City may return the rejected materials or supplies to the contractor at his risk and expense, or dispose of them as its own property.

44. **Inspections:** Inspection and acceptance of materials or supplies will be made after delivery. Final inspection shall be conclusive except as regards latent defects, fraud, or such gross mistakes as amount to fraud. Final inspection and acceptance or rejection of the materials or supplies will be made as promptly as practicable, but failure to inspect and accept or reject materials or supplies shall not impose liability on the City for such materials or supplies as are not in accordance with the specifications. All delivered materials shall be accepted subject to inspection and physical count.

45. **Time of delivery:** Deliveries will be accepted between 9:00 A.M. and 4:00 P.M. on weekdays only. No deliveries will be accepted on Saturdays, Sundays or Holidays.

46. **Packing Slips or Delivery Tickets:** All shipments or deliveries shall be accompanied by Packing Slips or Delivery Tickets and shall contain the following information for each item delivered:

The Purchase Order Number

The Name of the Article and Stock Number (Supplier's)

The Quantity Ordered

The Quantity Shipped

The Quantity Back Ordered

The Name of the Contractor

Bidders are cautioned that failure to comply with these conditions SHALL BE CONSIDERED SUFFICIENT REASON FOR REFUSAL TO ACCEPT THE GOODS.

47. **FOB Destination Delivery:** Unless otherwise specifically stated in the City's request for bids, all goods, equipment and materials shall be delivered to the location designated by the City. The bidder shall include in his bid price all reasonable and necessary transportation, shipping, handling and delivery charges. Delivery shall not be complete until the goods, etc. are placed in the building, room, or other location specified by the City, either in the bid documents or in the Purchase Order.

48. **General Guaranty:** Contractor agrees to:

a) save the City, its agents and employees harmless from liability of any nature or kind for the use of copyrighted or non-copyrighted composition, secret process, patented or non-patented invention, article or appliance furnished or used in the performance of the contract which the contractor is not the patentee, assignee, licensee or owner.

b) protect the City against latent defective material or workmanship and to repair or replace any damages or marring occasioned in transit or delivery.

c) furnish adequate protection against damage to all work and to repair damages of any kind, to the building or equipment, to his own work or to the work of other contractors for which he or his workmen are responsible.

d) pay for all permits, licenses and fees and give all notices and comply with all laws, ordinances, rules and regulations of the City and the State of New York.

49. **Indemnity:** Contractor shall indemnify, keep and save harmless the City, its agents, officials and employees, against all injuries, death, loss, damages, claims, patent claims, suits, liabilities, judgments, costs and expenses, which may in anyway accrue against the City in consequence of the granting of this contract or which may in anyway result therefrom, whether or not it shall be alleged or determined that the act was caused through negligence or omission of the Contractor or his employees, of the subcontractor or his employees, if any, and the Contractor shall, at his own expense, appear, defend and pay all charges of attorneys and all costs and other expenses arising therefrom or incurred in connection therewith, and if any judgment shall be rendered against the City in any such action, the Contractor shall at his own expense, satisfy and discharge the same. Contractor expressly understands and agrees that any performance bond or insurance protection required by this contract, or otherwise provided by Contractor, shall in no way limit the responsibility to indemnify, keep and save harmless and defend the City as herein provided.

50. **Collusive Bidding:** The Bidder certifies that his bid is made without any previous understanding, agreement or connection with any person, firm or corporation making a bid for the same project without prior knowledge of competitive prices, and is in all respects fair, without outside control, collusion, fraud or otherwise illegal action.

51. **Identical Bidding:** Executive Order No. 10946: All identical bids submitted to the City as a result of advertised procurement for materials, supplies, equipment or services exceeding \$1,000.00 in total amount may at the discretion of the City, be reported to the Attorney General of the United States in accordance with Form DJ-1510 and the Presidential Order dated April 24, 1961 for possible violation and enforcement of antitrust laws.

52. **Employees Not To Benefit:** As a prerequisite for the payment pursuant to the terms of this contract, there shall be furnished to the City a statement under oath that no employee or officer of the City, or members of his or her immediate family, including spouse, parents, or children, or any person representing or purporting to represent any member or members of the elected governing body has received or has been promised directly or indirectly, any financial benefit, by way of fee, commission, finder's fee, political contribution, or any other similar form of remuneration and/or on

account of the acts of awarding and/or executing the contract. Upon request by the City, as a prerequisite to payment pursuant to the terms of this contract, there will be furnished to the requester, under oath, answers to any interrogatories related to a possible conflict of interest as herein embodied. Any contract made or entered into where it is discovered that violation of the intent of this provision exists shall be declared null and void and all monies received by the Contractor shall be returned to the City.

Any person executing a false statement or violating the provisions of this section shall be subject to possible prosecution.

53. **Child Labor:** Pursuant to Resolution No. 37-38 of the City of Rochester, the bidder certifies to the best of his/her knowledge that Child Labor has not been employed in the manufacture of the materials, supplies, the containers thereof, or services represented hereon.
54. **Prevailing Wages:** Bidder hereby certifies that to the extent applicable to this contract the wage rates to be paid to employees on this contract shall be in conformity with the wage rates established by the Comptroller pursuant to and in conformity with Section 220 of the New York State Labor Law. To the extent that prevailing wages are not applicable to the contract, the bidder hereby certifies that he/she shall pay employees working hereunder the minimum wages established by law.
55. **Testimony Concerning Contracts:** The refusal of the vendor, or any of its officers, directors, partners, members or agents, when called before a Grand Jury, to testify concerning any transaction or contract had with the State of New York, any political subdivision thereof, a public authority or with any public department, agency or official of the State of New York or of any political subdivision thereof or of a public authority, to sign a waiver of immunity against subsequent criminal prosecution or to answer any relevant questions concerning such transaction or contract, shall disqualify the vendor and such officer, director, member or agent thereof from thereafter selling to or submitting bids to or receiving awards from or entering into any contracts with any municipal corporation in the State of New York or any public department, agency or official thereof, for goods, works or services, for a period of five (5) years after such refusal and any or all contracts made with any municipal corporation or a public department, agency or official thereof, by such person, and by any firm, partnership or corporation of which he is a member, partner, director or officer, may be cancelled or terminated by the municipal corporation without any liability on the part of the municipal corporation or any penalty or damages on account of such cancellation or termination.
56. **Status As Independent Contractor:** The Contractor, in accordance with his status as an independent contractor, covenants and agrees that he shall conduct himself in a manner consistent with such status, that he will neither hold himself nor his employees out as, nor claim to be an officer or employee of the City by reason hereof, and that he and his employees will not by reason hereof, make any claim, demand or application for any right or privilege applicable to an officer or employee of the City, including but not limited to Workers' Compensation coverage, unemployment insurance benefits, social security coverage, and retirement membership or credit.
57. **Audit:** The Contractor agrees to permit on-site inspection and auditing of all records, books, papers, and documents associated with this Agreement by authorized representatives of the City,

and further agrees to provide necessary staff support for the performance of such audit. The Contractor agrees to maintain for a period of three (3) consecutive years following termination of this Agreement any and all records, reports and other documentation arising from the performance of this agreement; however, this period shall be extended beyond three years for any and all records and information pertaining to unresolved questions, which have been brought to the Contractor's attention by written notice by the City.

58. **Compliance With All Laws:** The Contractor agrees that, during the performance of the work required pursuant to this Agreement, the Contractor, and all employees working under his direction, shall strictly comply with all local, state or federal laws, ordinances, rules or regulations controlling or limiting in any way their actions during their said performance of the work required by this Agreement. Furthermore, each and every provision of law and contractual clause required by law to be inserted in this Agreement shall be deemed to be inserted herein. If, through mistake or otherwise, any such provision is not inserted or is not correctly inserted, then upon the application of either party this Agreement shall be forthwith physically amended to make such insertion or correction.
59. **Extent of Agreement:** This Agreement constitutes the entire and integrated Agreement between and among the parties hereto and supersedes any and all prior negotiations, agreements, and conditions, whether written or oral. Any modification or amendment to this Agreement shall be void unless it is in writing and subscribed by the party to be charged or by its authorized agent.
60. **Law and Forum:** This Agreement shall be governed by and under the laws of the State of New York and the Charter of the City of Rochester. The parties further agree that the Supreme Court of the State of New York, held in and for the County of Monroe shall be the forum to resolve disputes arising out of either this agreement or work performed according thereto. The parties waive all other venue or forum selections. The parties may agree between themselves on alternative forums.
61. **No Waiver:** In the event that the terms and conditions of this agreement are not strictly enforced by the City, such non-enforcement shall not act as or be deemed to act as a waiver or modification of this Agreement, nor shall such non-enforcement prevent the City from enforcing each and every term of this Agreement thereafter.
62. **Severability:** If any provision of this Agreement is held invalid by a court of law, the remainder of this Agreement shall not be affected thereby, if such remainder would then continue to conform to the laws of the State of New York.

NOTICE TO BIDDERS

Effective October 1, 1984, Section 38, Part a) of the General Conditions and Instructions to Bidders incorporated in this document has been amended to read:

38. Equal Opportunities:

- a) The City of Rochester, New York reaffirms its policy of equal opportunity in its commitment to require all contractors, lessors, vendors, and suppliers doing business with the City to follow a policy of equal opportunity, in accordance with the requirements set forth herein. This policy is adopted pursuant to the City's Affirmative Action Plan, Article XV, Contract Compliance. The City does not discriminate on the basis of handicap status as defined in 31 CFR Part 51, in admission, access to, or treatment or employment in its programs or activities. The City is including these policy statements in all bidding documents, contracts, and leases. Contractors, lessors, vendors, and suppliers shall agree to comply with State and Federal equal opportunity laws and regulations and Federal regulation 31 CFR Part 51 and shall submit documentation regarding equal opportunity upon the City's request.

Effective June 15, 1989, the General Condition and Instructions to Bidders incorporated in this document has been amended by the insertion of the following new section:

38(A). Purchase of Products from Companies Doing Business in Northern Ireland Supporting Fair Employment

- 1) The vendor understands that the City has adopted a policy prohibiting contracting for goods or services with a person, firm, or corporation doing business in Northern Ireland, who does not support fair employment without religious discrimination and does not cooperate with agencies monitoring equal opportunity employment.
- 2) If, because of applicable law, a contract is awarded to a contractor who does not support equal opportunity employment without religious discrimination, the contractor must submit a statement to the Director of Finance detailing the reason for such nonsupport of fair employment.