

Central Business District Tree Maintenance

1. SCOPE

- 1.1 It is the intent of the City of Rochester to establish a contract for Street Tree Maintenance of the Central Business District (CBD) and High Falls District (HFD).
- 1.2 The extent of the tree maintenance will include the planting, watering, various types of pruning, removal, stump grinding, fertilization, applying pesticides, planting and analyzing foliar nutrient of trees within the Central Business District (CBD) and High Falls District (HFD). Map of Districts stated in Appendix A.

2. SPECIFICATIONS

Services requested shall be performed in accordance with the Technical Specifications stated in Appendix B.

3. TERMS OF CONTRACT

- 3.1 The term of the contract resulting from this bid offering shall be for approximately one (1) year, commencing on date of award and ending on December 31, 2017.
- 3.2 The City may extend this contract under the same terms and conditions for up to two (2) additional periods of one (1) year or less, provided such extension is agreeable to both the City and the Contractor.

4. ESTIMATED QUANTITIES

Estimated quantities have been given on the proposal; however, there is no guarantee as to the actual quantities that will be ordered.

5. METHOD OF AWARD

- 5.1 Award will be made to the lowest responsive and responsible bidder based on **Total Bid Price**.
- 5.2 Bidders must enter prices for all items in order to have their bid considered valid.
- 5.3 The City of Rochester reserves the right to reject any bid where unit prices are unbalanced, or not consistent with the market prices.

6. REQUEST FOR PRICE INCREASE

- 6.1 This shall be a firm price contract. All prices bid shall remain firm for the original contract term.

- 6.2 Price increases may be granted upon any extension of the contract, provided a written request is submitted to the Purchasing Agent with the offer to extend or earlier. Approval of any increase can only be granted by the Purchasing Agent prior to the extension.
- 6.3 Requests for increase must be documented as representing increased costs only; no request shall be granted to increase net profit. Further, no increase shall be granted which would result in a contract price of more than the CPI-Urban for that year.
- 6.4 If a price request is not acceptable to the City, the City reserves the right to seek new competitive bids.

7. QUALIFICATIONS OF BIDDER

- 7.1 The bidder must demonstrate the ability to perform the required work, within the time frame stipulated, in addition to any other work the bidder may have.
- 7.2 The bidder is further required to be a member in good standing of at least one of the following organizations:

American Forestry Association
International Society of Arboriculture
Tree Care Industry Association
New York State Arborist Association
- 7.3 Further, the city requires that the pruning portion of this work be performed under the direct supervision of an International Society of Arboriculture Certified Arborist. A copy of the certification card(s) or certificate(s) are required prior to the issue of a proceed order. Certification must be current at time of bid, and throughout the term of the contract.
- 7.4 The City reserves the right, at its sole discretion, to reject any bidder who, on the basis of past experience, cannot adequately demonstrate the ability to perform the work as specified, in terms of either quality of work or timeliness of work.

8. LABOR STANDARDS REQUIREMENTS

8.1 COMPLIANCE WITH LABOR LAWS

- 8.1.1 The contractor's attention is directed to the requirements of Sections 220 and 220-a through 220-e of the Labor Law of the State of New York, compliance with the provisions of which shall be deemed a condition to the satisfactory performance of this contract.
- 8.1.2 The contractor shall cause to be posted and maintained at all times in a conspicuous place at the Site of the Work a clearly legible copy of the Schedule of Wage Rates as prescribed by the State Commissioner of Labor. The contractor shall further certify on any statement to the City for a partial or final payment that the wage rates paid to employees on this project have been in conformity with the wage rates so set forth as

determined by the State Commissioner of Labor pursuant to and in conformity with Section 220 of the New York State Labor Law.

- 8.1.3 The contractor shall keep a copy of his payrolls for this project available at all times for inspection by representatives of the City or other public agency having jurisdiction over the project, and shall produce them for such inspection at the request of said duly authorized representatives. The contractor and subcontractors shall submit weekly certified payroll records to the Project Manager, for transmission to the City's Director of Finance or his designee. The contractor shall be responsible for the submission of copies of certified payrolls of all subcontractors. Payments shall be withheld from the contractor for failure to comply with this requirement.
- 8.1.4 In all operations related to the Work, all other State or Federal Laws, Local Ordinances and Laws, controlling or limiting in any way the actions of those engaged in the Work, shall be strictly complied with by the contractor and all employees working under his direction. The foregoing shall apply to subcontractors of the contractor.

8.2 ANTI-KICKBACK RULES

Employees of the contractor and his subcontractors performing work under this contract shall be paid unconditionally and not less often than once a week without deduction or rebate on any account except only such payroll deductions that are mandatory by law or permitted by the applicable regulations issued by the State Commissioner of Labor pursuant to the New York Labor Law. The contractor shall comply with applicable "Anti-Kickback" regulations and shall insert appropriate provisions in all subcontracts covering work under this contract to insure compliance by subcontractors with such regulations, and shall be responsible for the submissions of affidavits required of subcontractors thereunder except as the Commissioner of Labor may specifically provide for variations of or exemptions from the requirements thereof.

8.3 WITHHOLDING OF PAYMENTS FROM CONTRACTOR

When a complaint is filed with the City of Rochester alleging the failure of a contractor or subcontractor to pay or provide the prevailing wages or supplements, or when the City of Rochester has reason to believe that unpaid wages or supplements may be due, payments on the public work contract may be withheld from the prime contractor in sufficient amount to satisfy the alleged unpaid wages and supplements, including interest and civil penalty which may be imposed. The amounts withheld may be disbursed by the City of Rochester for and on account of the contractor or subcontractor to the respective employees to whom they are due.

9. PREVAILING WAGE RATES

- 9.1 Incorporated in these Contract Documents is the Prevailing Wage Rates Schedule in effect at the time of publication of these Contract Documents. Any

Prevailing Wage Rates Redetermination which may arise prior to the bid opening will be distributed by addendum.

- 9.2 In the event that the prevailing rate of wages or supplements change after the bids have been opened, or after the contract is let, an updated schedule will be issued by the State Department of Labor. Said updated schedule will be transmitted to the contractor by the City. Each workman, laborer or mechanic shall be paid or provided not less than the new updated rates.
- 9.3 The City will not be responsible for any of the contractor's increased labor costs which result from defects in the Wage Rate Schedule provided, or from amendments to the Prevailing Wage Rate Schedule, whether that increase occurs before advertisement, before Bid opening, before award of the contract, after the contract has been let, or during the life of the contract. No change in the contract price shall be allowed to the contractor for any such increases, except as provided for elsewhere in these documents.
- 9.4 Information about current wage rates may be obtained on an advisory basis by contacting the City's Contract Administrator, Department of Finance, City Hall, Rochester, New York, (585) 428-7398.

10. BONDS

- 10.1 There is no bid bond required.
- 10.2 There are no performance bonds required.

11. INSURANCE

- 11.1 The contractor shall procure and maintain at his/her own expense until final acceptance of the work covered by the contract documents, insurance for liability for damages imposed by law of the kinds and in the amounts hereinafter provided from insurance companies authorized to do such business in the State of New York covering all operations under the contract documents whether performed by him or his subcontractors.
- 11.2 Within ten days of request, the contractor shall furnish to the City Purchasing Agent a certificate or certificates of insurance in form satisfactory to the City Purchasing Agent showing that he/she has complied with this Section, which certificate or certificates shall provide that the policies shall not be materially changed or canceled until ten days' written notice has been given to the City Purchasing Agent.
- 11.3 In each policy of insurance except insurance for Workers' Compensation and Disability Insurance, the City shall be named as an additional insured for liability arising under this agreement. Except for Workers' Compensation and Disability Insurance, no insurance required herein shall contain any exclusion of municipal operations performed in connection with the project.

11.4 The kinds and amounts of insurance are as follows:

11.4.1 WORKERS' COMPENSATION AND DISABILITY INSURANCE

The agreement shall be void and of no effect unless the person or corporation making or executing same shall secure Compensation and Disability coverage, covering all operations under the contract--whether performed by him or his subcontractors--for the benefit of, and keep insured during the life of said agreement, employees in compliance with the provisions of the Workers' Compensation Law.

A. Workers' Compensation Insurance

A policy covering the operations of the contractor in accordance with the provisions of Chapter 41 of the Laws of 1914, as amended, known as the Workers' Compensation Law.

B. Disability Insurance

A policy covering the operations of the contractor in accordance with the provisions of Article 9 of the Workers' Compensation Law, known as the Disability Benefits Law (Chapter 600 of the Laws of 1949) and amendments thereto.

11.4.2 PROPERTY AND CASUALTY INSURANCE

A. CONTRACTOR'S COMPREHENSIVE GENERAL LIABILITY INSURANCE issued to the contractor and covering the liability for damages imposed by law upon the contractor with respect to all work performed by him under the within agreement. The coverage shall be written on an occurrence form utilizing ISO coverage form CG 00 01 12 07 or its equivalent. The comprehensive general liability policy shall furnish limits of not less than:

BODILY INJURY AND PROPERTY DAMAGE LIABILITY
Limit \$1,000,000 each occurrence

Products/Completed Operations Limit
\$1,000,000 aggregate

Personal Injury and Advertising Injury Limit
\$1,000,000 each person or Organization

General Aggregate
\$2,000,000 applicable on a per project bases

The City of Rochester, their officers, employees and agents and all other appropriate Funding Agencies shall be named as an additional insured for liability arising under this Contract applicable to both ongoing and completed operations on a primary and non-contributory basis.

There shall be no exclusions relating to NYS Labor Law or municipal operations.

- B. **COMMERCIAL AUTOMOBILE LIABILITY**
issued to the Contractor and covering all owned, non-owned and hired automobiles with limits not less than:

Bodily Injury and Property Damage Liability Combined
Single Limit
\$1,000,000

- C. **UMBRELLA EXCESS LIABILITY**
Issued to the Contractor providing follow form coverage over the General Liability and Automobile Liability requirements stipulated above with the minimum limits of:

Bodily Injury and Property Damage Limit
\$2,000,000

Products/Completed Operations limit
\$2,000,000

General Aggregate
\$2,000,000

All policies shall be endorsed to provide Waiver of Subrogation Endorsement(s) shall be included with the Certificate of Insurance

12. BIDDER IDENTIFICATION DOCUMENTS

Bidders are required to provide additional documentation as indicated in this section:

12.1 Bidder must submit along with Proposal Page, the bidder's W-9 Form.

12.2 Upon request of the City, the bidder must provide the City with one of the following:

12.2.1 A copy of the bidder's IRS Form SS-4 EIN Assignment Letter

12.2.2 A copy of the bidder's IRS Form 147C

13. POLITICAL SUBDIVISIONS

Bidders should note that other political subdivisions with which the City has entered into municipal cooperation agreements, may participate in the contract resulting from this bid award. 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 other than to notify the political subdivisions that this contract is available to them for purchases.

14. CERTIFICATION OF COMPLIANCE WITH THE IRAN DIVESTMENT ACT

14.1 The contract resulting from this bid shall be subject to the requirements of the Iran Divestment Act of 2012 (the "Act"), Chapter 1 of the 2012 Laws of New York, State Finance Law (SFL) § 165-a and New York General Municipal Law § 103-g both effective April 12, 2012. Under the Act, the Commissioner of the Office of General Services (OGS) is responsible for developing a list of "persons" who are engaged in "investment activities in Iran" (both are defined terms in the law) (the "Prohibited Entities List"). The Prohibited Entities List as required by SFL § 165-a (3) (b) is found on the OGS web site at

<http://www.ogs.ny.gov/about/regs/docs/ListofEntities.pdf>.

14.2 CERTIFICATION. "By submission of this bid, each bidder and each person signing on behalf of any bidder certifies, and in the case of a joint bid each party thereto certifies as to its own organization, under penalty of perjury, that to the best of its knowledge and belief that each bidder is not on the list created pursuant to paragraph (b) of subdivision 3 of section 165-a of the State Finance Law."

14.3 Any bidder/contractor seeking to renew or extend this contract or assume the responsibility of the contract awarded in response to this bid solicitation must certify at the time the contract is renewed, extended or assigned that it is not included on the Prohibited Entities List.

14.4 During the term of the contract or any extension, should the City receive information that the contractor is in violation of the above-referenced certification, the City will offer the person or entity an opportunity to respond. If the person or entity fails to demonstrate that he/she/it has ceased engagement in the investment which is in violation of the Act within 90 days after the determination of such violation, then the City shall take such action as may be appropriate including, but not limited to, imposing sanctions, seeking compliance, recovering damages or declaring the contractor in default.

14.5 The City reserves the right to reject any bid or request for assignment for a bidder/contractor that appears on the Prohibited Entities List prior to the award of a contract and to pursue a responsibility review with respect to any bidder/contractor that is awarded a contract and subsequently appears on the Prohibited Entities List.

15. NON-COLLUSIVE BIDDING CERTIFICATION

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

15.1 The prices in this bid have been arrived at independently without collusion, consultation, communication, or agreement, for the purpose of

restricting competition, as to any matter relating to such prices with any other bidder or with any competitor.

- 15.2 Unless otherwise required by law, the prices that have been quoted in this bid have not knowingly been disclosed by the bidder and will not knowingly be disclosed prior to the bid opening, directly or indirectly, to any other bidder or to any competitor.
- 15.3 No attempt has been or will be made by the bidder to induce any other person, partnership or corporation to submit or not to submit a bid for the purpose of restricting competition.

**NON-OFFICIAL SPEC
DO NOT USE**

PROPOSAL

ITEM DESCRIPTION

4. FERTILIZE ONCE ANNUALLY A TYPICAL STREET TREE

Size	Est. Quantity	Unit Price	Total Price
2" - 4" Caliper	20	\$ _____	\$ _____
>4" - 6" Caliper	20	\$ _____	\$ _____
>6" - 7" Caliper	20	\$ _____	\$ _____
Total			\$ _____

5. WATERING OF ONE TYPICAL TREE,
20 GALLON MINIMUM APPLICATION:

Estimated Quantity: 50 Per tree \$ _____ Total Price \$ _____

6. SOIL INJECTION PESTICIDE APPLICATION.
(Not including pesticide supply price)

<u>Size</u>	<u>Est. Quantity</u>	<u>Unit Price</u>	<u>Total Price</u>
1" - 2" Caliper	10	\$ _____	\$ _____
>2" - 4" Caliper	10	\$ _____	\$ _____
>4" - 6" Caliper	10	\$ _____	\$ _____
Total			\$ _____

7. SOIL OR FOLIAR NUTRIENT ANALYSIS
PERFORMED BY A PROFESSIONAL
TESTING LABORATORY:

Estimated Quantity: 10 Per tree \$ _____ Total Price \$ _____

Authorized Signature

Typed Name and Title of Authorized Signer

Typed Name of Company
(Continued through Page16)

PROPOSAL

ITEM DESCRIPTION

9. TREE PIT SUMP INSTALLATION

Estimated Quantity: 10 Per tree \$ _____ Total Price \$ _____

10. INSTALLATION OF 2.5" Caliper TREES WITHIN EXISTING TREE PIT, TREE LAWN OR TREE PLANTER

Genus species	Cultivar, Variety, Form	Estimated Quantity	Unit Cost for Installation – (Including Removal of Existing stump ≤ 6")	Total Cost for Installation - (Including Removal of Existing Stump ≤ 6")
Acer campestre		5	\$ ea.	
Acer fremanii	Armstrong	5	\$ ea.	
Carpinus caroliniana		5	\$ ea.	
Celtis occidentalis	'Prairie Pride'	5	\$ ea.	
Crataegus crusgalli inermis		5	\$ ea.	
Ginkgo biloba		5	\$ ea.	
Gleditsia triacanthos, inermis	'Halka', 'Moraine', 'Trueshade', 'Shalem aster', 'Skyline' and others	5	\$ ea.	
<i>Koelreuteria paniculata</i>		5	\$ ea.	
Malus	'Prairie Fire', 'Snow Drift', 'Donald Wyman' and others	5	\$ ea.	

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Authorized Signature

Typed Name and Title of Authorized Signer

Typed Name of Company
(Continued through Page16)

PROPOSAL

Platanus x acerifolia	'Bloodgood', 'Liberty', Columbia' and others	5	\$	ea.	
Picea pungens	12-14' Height	1	\$	ea.	
Prunus	'Accolade', 'Kwanzan' and others	5	\$	ea.	
Genus species	Cultivar, Variety, Form	Estimated Quantity	Unit Cost for Installation – (Including Removal of Existing stump ≤ 6")		Total Cost for Installation - (Including Removal of Existing Stump ≤ 6")
Pyrus calleryana	'Chanticleer' and others	5	\$	ea.	
Quercus acutissima		5	\$	ea.	
Quercus rubra		5	\$	ea.	
Quercus bicolor		5	\$	ea.	
Quercus robur		5	\$	ea.	
Quercus robur	Upright	5	\$	ea.	
Syringa reticulata	'Ivory Silk' and others	5	\$	ea.	
Ulmus parvifolia		5	\$	ea.	
Zelkova serrata	'Green Vase', 'Halka', 'Village Green' and others	5	\$	ea.	
					TOTAL TREE PLANTING WITH ≤ 6" STUMP
					\$

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Authorized Signature

Typed Name and Title of Authorized Signer

Typed Name of Company
(Continued through Page16)

PROPOSAL

GROUP TOTALS

Item 1.	"TRAIN" OR "MAINTENANCE PRUNE" IN-GROUND STREET TREES	\$ _____
Item 2.	"SAFETY PRUNING" OF VARIOUS SIZE	\$ _____
Item 3.	REMOVAL OF VARIOUS SIZE TREES:	\$ _____
Item 4.	STUMP GRINDING OF VARIOUS SIZE:	\$ _____
Item 5.	FERTILIZE ONCE ANNUALLY A TYPICAL STREET TREE	\$ _____
Item 6.	WATERING OF ONE TYPICAL TREE	\$ _____
Item 7.	SOIL INJECTION PESTICIDE APPLICATION	\$ _____
Item 8.	SOIL OR FOLIAR NUTRIENT ANALYSIS	\$ _____
Item 9.	TREE PIT SUMP INSTALLATION	\$ _____
Item 10.	INSTALLATION OF STREET TREES WITHIN EXISTING TREE PIT, TREE LAWN OR TREE PLANTER	\$ _____
TOTAL BID PRICE:		\$ _____
ADD ITEM 1 THROUGH ITEM 10		

DO NOT USE
NON-OFFICIAL SPEC

Authorized Signature	Typed Name and Title of Authorized Signer
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Typed Name of Company
(Continued through Page16)

PROPOSAL

PRINT OR TYPE THE FOLLOWING INFORMATION:

Name of Firm or Corporation

Street Address

City State Zip Code

Telephone / Fax No./ Cell No. Federal Employer ID No.

E-Mail Address of Company Employee authorized to receive Contract Awards & Extensions

Website Date

ACCEPTED ON BEHALF OF THE CITY OF ROCHESTER FOR:

CENTRAL BUSINESS DISTRICT TREE MAINTENANCE

Contract No. Contract Term: _____

Purchasing Agent

Date: _____

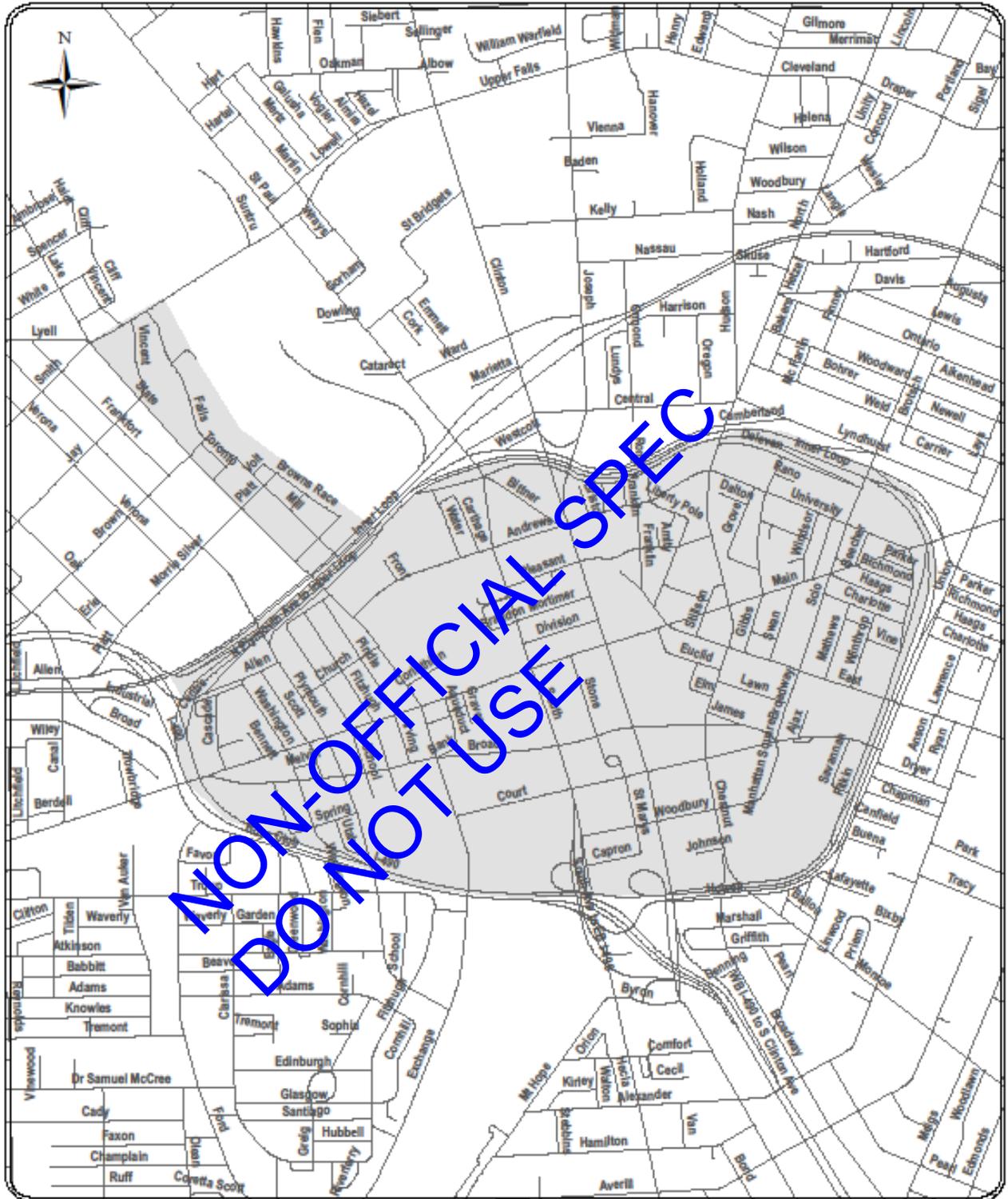
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APPENDIX "A"

MAP

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CENTRAL BUSINESS & HIGH FALLS DISTRICTS



City of Rochester, NY
Department of Environmental Services
Forestry Division

0 500 1,000
Feet

APPENDIX "B"

TECHNICAL SPECIFICATIONS

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TECHNICAL SPECIFICATIONS

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GENERAL NOTES

1. The City of Rochester's Contract Manager for the CBD Tree Maintenance contract is as follows:

Brian Liberti
City Forester
City of Rochester
Department of Environmental Services
Forestry Division
210B Colfax Street
Rochester, New York 14606
(585) 428 - 6971

2. The public spaces covered by this contract include all streets and parks within the Central Business District and High Falls District (HFD). It is not the intent of this contract to have all trees within these District pruned and fertilized every calendar year. The Proposal numbers are provided for bid comparison only.

The City Contract Manager shall provide the Contractor with lists and maps of trees to be removed, fertilized, pruned, planted, etc. The lists may be issued at any time. The Contractor shall only perform and be paid for work under this contract as ordered by the City Contract Manager.

3. The contractor shall visit the site before bidding and inform self of all conditions that may affect future work. No allowances will be made for failing to determine pre-existing site conditions.
4. The City may perform itself or contract out additional work on trees at any time during this contract. Such additional work may include but not be limited to, tree removal and planting, watering, tree grate removal and replacement, tree pit improvements, electrical wiring improvements for Christmas lights, and removal or stringing of Christmas lights.
5. The contractor shall perform all work at times when the City Contract Manager or his designated representative can closely monitor the work. The City Contract Manager must always be notified before any work is to be done, as well as after the work is completed. This notification shall take place on a daily basis while work is being performed. The contractor shall only work Monday through Friday between the hours of 7:00 am and 5:00 pm excluding city recognized holidays. Any request to work outside of these specified times must be made in writing and approval granted in writing by the City Forester.

The following schedule shall be followed for timing and completion of all work (on a yearly basis):

Fertilization - To be completed by May 1, but not prior to City Crews performing spring tree pit flush, or after September 1.

Pruning, Removal, Stump Grinding - To be performed upon request

Watering and emergency removal of trees to be performed upon request and completed no later than forty eight (48) hours after request by City Contract Manager

Pesticide application to be performed upon request and completed no later than 1 week after request by City Contract Manager.

Tree installation and pruning to be performed upon request and completed as directed by City Contract Manager.

6. The total project is to be one prime contract with all labor, materials, and equipment required to complete the contract according to the specifications.

No work shall be sub-contracted out unless approved by the City Contract Manager.

All work is to be closely monitored and approved by the City Contract Manager or his designated representative. It is the responsibility of the contractor to inform the City Contract Manager of the time, location, and nature of the work to be performed two days prior to beginning the work. The contractor may also notify the City Contract Manager when each task has been completed for verification prior to submitting an invoice.

7. The owner will not provide a staging area for any phase of this contract. The contractor must provide suitable mobile equipment to conduct this work. The contractor shall provide at his expense, all required power and water services. The contractor must clean up at the end of each work day and entirely after their work has been completed.
8. Payment claims for completed maintenance may be submitted on a monthly basis, after all work has been approved by the City Contract Manager or his designated representative. Payment claims for additional services/materials authorized by the owner may be made after installation and acceptance by the City Contract Manager or his designated representative.
9. While performing work under this contract the contractor shall report any observed hazardous condition, insect and disease damage, or infestations to the City Contract Manager as soon as observed.
10. Contractor shall be responsible for any damage caused to the surrounding streetscape as a direct result of his actions while performing under this contract.
11. The Contractor is to follow the provisions of the City of Rochester Standard Construction Contract Documents, except for those as revised in this contract document. The revised specifications supersede the Construction Contract Documents.
12. The Contractor is to use the City of Rochester Standard Details, except for those delineated within the contract plans. The details delineated within the Contract Plans supersede the Standard Details.
13. The Water Bureau requires a permit to use water from fire hydrants. The permit requires the use of a water meter and backflow preventer, which are to be provided by the Contractor.
14. MAINTENANCE AND PROTECTION

Work sites with Motor Vehicle Access

All state and local laws applying to zone set up and traffic control on City streets shall be adhered to.

Perimeter of the work zone shall be delimited by cones, barricades or signage.

Sidewalks are to be coned off.

Cutting and dropping of limbs is not permitted without ground personnel to assure public safety.

Two way traffic must be maintained at all times when street is not closed.

Pedestrian traffic is to be maintained at all times.

Street Closing

No arterial shall be closed.

911 must be notified of any street closing.

Barricades must be placed at intersecting streets.

No work is permitted within posted School Zones during arrival and departure times.

On street parking conflicts shall be resolved by the contractor and shall not excuse the contractor from completing the tree removal under the specified time frame.

Work with Limited or No Motor Vehicle Access:

The perimeter of the work zone shall be delimited by cones, barricades, barricade tape or signs.

Limbs and branches larger than three (3) inches in diameter shall be lowered to the ground through the use of ropes or mechanical means.

DAMAGE

All damage to public or private property must be immediately reported to the Forestry Division Office and/or the respective Forestry technician.

All damage to utilities must be reported to the managing utility company and the Forestry Division Office immediately.

The Contractor is responsible for any damage caused by its crews.

Incidental lawn damage shall be repaired.

UTILITIES

Contractor is responsible for any damage caused to utilities.

Contractor is responsible for having guy wires removed from trees. Managing utility companies must be notified at least two weeks prior to tree removal.

Presence of utilities does not excuse contractor from performing tree removal.

TREE PRUNING

A. STANDARD

All pruning work on city trees shall be completed by qualified personnel in accordance with the latest International Society of Arboriculture's; Tree Pruning Standard, the latest American National Standards Institute's; ANSI A300 and the latest Pruning, Trimming, Repairing, Maintaining and Removing Trees, and Cutting Brush - Safety Requirements," ANSI Z133 and the following specifications.

Complete a walk around inspection of the tree prior to beginning work. If a tree is in poor or stressed condition do not complete a maintenance prune. This could cause further stress to the tree and worsen it's condition. Decide which limbs will be removed and which limbs may need to be headed to meet clearance standards or remove hazards during your walk around inspection. Evaluate the percentage of live crown you will be removing to eliminate hazards and meet clearance standards. If that percentage is more than 25% or one-fourth (1/4) of the live crown, do not complete additional pruning. If it is less, let your percentage estimate drive the amount of additional pruning you will complete based on the priorities listed below and not removing more than 25% or one-quarter (1/4) of the live crown.

- a. No more than 25% or one-fourth (1/4) of the live crown shall be removed unless limbs present a hazard.
- b. All cuts shall be made with sharp pruning tools as close as possible to the trunk or parent limb, without cutting into the branch collar or leaving a protruding stub.
- c. All branches too large to support by one hand shall be pre-cut to avoid splitting or ripping of the bark. When necessary, ropes or other equipment shall be used to lower large branches or stubs to the ground.
- d. The use of climbing spurs or hooks is prohibited.
- e. Drop crotch pruning should be avoided. Removing the entire limb is preferable. Where drop crotching may be considered, the whole limb or leader shall be removed to the parent leader or limb, unless the ratio of the live wood to leaf area of the limb or leader is sufficient to support that limb or leader; if more than 1/4 leaf surface area of the limb or leader needs to be removed, remove the whole limb.
- f. When removing a parent leader or limb to a lateral (drop crotching), the lateral shall be one-third (1/3) to one-half (1/2) the diameter of the parent leader or limb.
- g. Priorities for pruning: The following priorities shall be followed to assist in the decision process for limb removal relative to adhering to item #1:
 1. Crown Cleaning
 2. Crown Raising
 3. Crown Restoration
 4. Structural
 5. Crown Thinning

- h. Crown Raising: Crown raising is specified in two diameter ranges. These are guidelines. Crown raising shall be completed to provide adequate clearance based on the site conditions and location of the tree. Limb removal decisions should be based on the goal of reaching clearance standards through whole limb removal and the health of the tree.

B. SPECIFICATIONS:

1. Maintenance Prune (Prune C2)

Objective

The purpose of this pruning is to alleviate hazards, improve structural integrity, thin to improve light distribution and decrease wind resistance, and improve tree health.

- a. Crown Cleaning - Hazardous limbs to be removed.
- Broken limbs lodged in the tree.
 - Broken hanging limbs in the tree.
 - Dead branches one (1) inch in diameter or greater.
 - Split branches one (1) inch in diameter or greater.
 - Decaying branches with less than 65% sound wood one (1) inch in diameter or greater.
- b. Crown Restoration - Storm Damaged Branches to be removed.
- Broken lateral branches living or dead one (1) inch or greater in diameter.
 - Broken leaders living or dead.
- c. Crown Raising (Clearance over right of way, buildings, traffic control devices and street lights.)
- Trees 6.01" to 12.00" diameter breast height:
 - Limbs shall be removed to provide five (5) feet of clearance over permanent structures.
 - Limbs shall be removed to provide five (5) feet of clearance from the side of permanent structures.
 - Limbs shall be removed from the lower one third of the total height of the tree to provide an overhead clearance under the canopy of the tree.
 - Trees greater than 12.01" diameter breast height:
 - Limbs shall be removed to provide ten (10) feet of clearance over permanent structures.
 - Limbs shall be removed to provide ten (10) feet of clearance from the side of permanent structures.
 - Limbs shall be removed to provide ten (10) feet of clearance under the tree canopy.
 - Limbs shall be removed to provide an overhead clearance of fifteen (15) feet over the street.
 - Limbs shall be removed to provide an overhead clearance fifteen (15) feet over the sidewalk.

- d. Structural
- Branches which rub, abrade or cross a more important limb shall be removed.
 - Branches forming multiple leaders in a single leader type tree shall be removed. Leave the dominant leader.
 - Branches whose branch angle attachment is less than 45 degrees to the parent limb or leader shall be removed.
- e. Crown Thinning
- Selective branches two (2) inches or greater in diameter shall be removed throughout the crown creating a scaffold effect moving up or out the main stem(s), leaders, and limbs.

2. Train Prune

Objective

To promote a single central leader, strong scaffold branch structure and suitable permanent branch selection for clearance requirements at maturity of vigorously growing young trees.

- a. Trunk Development - One Central Leader
- Branches forming multiple leaders in a single leader type tree shall be removed. Leave the most dominate lead. If you cannot remove a leader head it.
- b. Crown Raising
- At least $\frac{1}{2}$ the foliage should be on branches (temporary or permanent) arising from the lower 2/3rds of the tree.
- c. Permanent Branch Selection (A branch which will be allowed to grow throughout the life span of the tree.)
- The lowest permanent branches should be selected to provide specified clearances at maturity.
 - Permanent branches should be spaced 6-12 inches apart by thinning for the first 5 years after planting. After 5 years, 18 inches apart the tree will grow to be larger than 12 inches at maturity.
 - Permanent branches directly above each other should be selected to maintain 15-36 inch spacing for small to medium sized trees and 60 inches for large trees.
 - A permanent branch should be less than $\frac{1}{2}$ the diameter of the parent branch or trunk.
- d. Temporary Branches (A branch which will be left at this pruning, however, it will be pruned at a later pruning.)
- Temporary branches should be left at a spacing of 4-6 inches between permanent branches however none within 6 inches of a permanent branch.
 - Select the least vigorous branches as temporary branches. If larger than desired branches need to be kept as temporaries, head them 2 or 3 buds back.
 - Leave several trunk sprouts if present, evenly spaced and the least vigorous heading 2 to 3 buds back.
- e. Structural
- Branches which rub, abrade, or cross a more important limb shall be removed.
 - Branches with included bark shall be removed.

3. SAFETY PRUNING (Prune C3)

Safety Pruning as defined below shall be the only pruning performed as a contingent item, all other types of pruning (Maintenance and Train Prune) shall be performed as standard items of the contract.

All pruning work on city trees shall be completed by qualified personnel in accordance with the International Society of Arboriculture's; "Tree Pruning Guidelines", 1995, the American National Standards Institute's; ANSI A300-1995 and "Pruning, Trimming, Repairing, Maintaining and Removing Trees, and Cutting Brush - Safety Requirements," ANSI Z133. 1-1994 or later issue and the following specifications:

Objective

The purpose of this pruning is to alleviate hazards, prune storm damage, provide adequate clearance for permanent structures, and elevate for under-canopy clearance.

- a. Crown Cleaning - Hazardous limbs to be removed.
 - Broken limbs lodged in the tree.
 - Broken hanging limbs in the tree.
 - Dead branches one (1) inch in diameter or greater.
 - Split branches one (1) inch in diameter or greater.
 - Decaying branches with less than 65% sound wood one (1) inch or greater in diameter.
- b. Crown Restoration - Storm Damaged Branches to be removed.
 - Broken lateral branches living or dead one (1) inch or greater in diameter.
 - Broken leaders living or dead.
- c. Crown Raising - Clearance over right of way, buildings, traffic control devices, signs and street lights.
 - Trees 6.01" to 12.00" diameter breast height.
 - Limbs shall be removed to provide five (5) feet of clearance over permanent structures.
 - Limbs shall be removed to provide five (5) feet of clearance from the side of permanent structures.
 - Limbs shall be removed from the lower one third of the total height of the tree to provide an overhead clearance under the canopy of the tree.
 - Trees greater than 12.01" diameter breast height.
 - Limbs shall be removed to provide ten (10) feet of clearance over permanent structures.
 - Limbs shall be removed to provide ten (10) feet of clearance from the side of permanent structures.
 - Limbs shall be removed to provide ten (10) feet of clearance under the tree canopy.
 - Limbs shall be removed to provide an overhead clearance of fifteen (15) feet over the street.
 - Limbs shall be removed to provide an overhead clearance fifteen (15) feet over the sidewalk.

FERTILIZATION

A. STANDARD

All fertilization work on city trees shall be completed by qualified personnel in accordance with the latest American National Standards Institute's; ANSI A300 (Part 2) and "Tree, Shrub, and the latest Other Woody Plant Maintenance - Standard Practices (Fertilization)"; ANSI A300 and the latest "Pruning, Trimming, Repairing, Maintaining and Removing Trees, and Cutting Brush - Safety Requirements," ANSI Z133.1 and the following specifications.

B. SPECIFICATIONS

1. General

- a. All fertilizers shall be used in accordance with manufacturer's recommendations.
- b. Fertilizer safety precautions should be followed for all products.
- c. No tree planted within the past two (2) years is to be fertilized.
- d. Fertilizer to be pumped into the soil under agitation using a probe or other liquid injection system.
 - Injection sites shall be evenly spaced within the tree pit.
 - Injection sites should be 12" - 36" apart and 4" - 12" deep.
 - Pressure of the liquid injection system shall not exceed 200 lbs. per square inch.
 - Fertilizer shall be evenly distributed among the injection sites.
- e. Contractor to recommend the fertilizer to be used. Contractor shall supply nutrient ratios (including secondary and micro nutrients), ingredient analysis, application rates and information, salt index rating, and other information as necessary for City Contract Manager to make a final approval for product use. No materials are to be applied until written approval has been issued by the City Contract Manager.
 - Fertilizer shall be appropriate for use in a sub-surface liquid injection application.
 - Fertilizer ratio shall be 3:1:1 or 3:1:2
 - Fertilizer with a salt index of less than 50 shall be provided
 - Slow release nitrogen product
- f. Contractor shall deliver all materials to the site in unopened and clearly labeled bags for inspection by the City contract manager. The Contractor shall not mix the fertilizer into the water tank until after inspection and approval.

- g. If it becomes necessary to remove tree grates to properly fertilize the trees, it shall be the Contractor's responsibility to properly reset the grates. Grate sections once set shall tightly abut and align squarely with each other. Grates shall be perfectly flush with the surrounding sidewalk and shall not rock or wobble, shimming may be necessary.

If joint openings between the new concrete tree grate and the adjacent sidewalk pavers exceed 1/2 inch after the grate has been properly set and adjusted the contractor shall fill the joint with backer rod and sealant. Sealant color to match that of the surrounding sidewalk as closely as possible.

Any tree grates broken or damaged as a result of the Contractor's actions shall be replaced in-kind at no cost to the City.

WATERING

SPECIFICATIONS

Watering shall include the application of 20 gallons of water to an individual tree pit. The water shall be allowed to soak into the tree pit and not overflow.

TREE REMOVAL

REMOVAL SPECIFICATIONS

Location

A list of trees to be removed will be included with each order to proceed. This list will be provided by the Forestry Division.

Removal location, species, removal type and diameter will be provided.

Marking of trees for removal:

Street trees scheduled for removal will be identified by street address and a white dot on the trunk.

Measurements

Tree caliper (DBH) is measured at 4.5 feet above ground level.

It is the contractor's responsibility to reconcile any discrepancy in DBH with the Forestry Division prior to removal. Discrepancies after removal will not be considered and listed DBH will be used in payment.

Work shall be performed in accordance with ANSI Z133.1-2006 Standard for removing trees and cutting brush.

No work shall be subcontracted out.

Debris Removal:

All wood, limbs or brush to be removed and area cleaned up daily.

Brush will not be allowed to accumulate so as to create a hazard.

The tree shall be cut flush with the top of the root ball or root crown and the resulting void shall be filled with pea stone to a level flush with the adjacent sidewalk

The contractor shall notify the Forestry Division on a DAILY basis of their work location. This notice shall be faxed or emailed to the Forestry Division prior to beginning any work on that day. PHONE NOTIFICATION IS NOT ACCEPTABLE. Failure to notify the Forestry Division of the daily work location prior to work beginning will result in a stop work order to be issued.

The Forestry Division reserves the right to prioritize the order in which removals are completed based on the needs of the Division.

STUMP GRINDING

Location

A list of stumps to be removed will be included with each order to proceed. This list will be provided by the Forestry division.

Location and diameter will be provided.

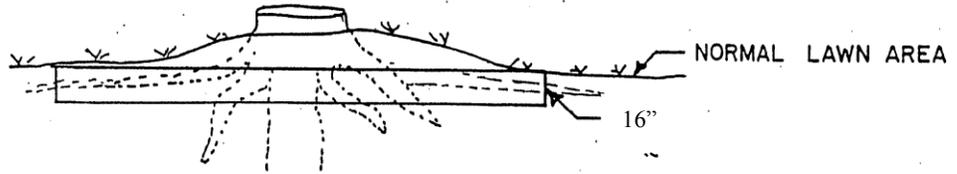
Measurements

Stump diameter **is not** measured at the cut surface after the tree has been removed. The dbh (diameter at breast height) is used as the stump diameter.

Work shall be performed in accordance with the latest ANSI Z133.1 (American National Standard for Arboricultural Operations - Safety Requirements).

No work shall be subcontracted out.

Stump to be ground to a minimum of a 16" inch depth below normal lawn or pit area (see diagram below).



STUMP GRINDING LIMIT

Grindings

All grindings are to be removed from site

If grindings are not immediately removed, they must be placed back in the stump hole area completely covering the hole.

When grindings are removed, all stump cavities are to be filled prior to leaving the site unattended.

No debris shall be left on site which creates a hazard.

Site and adjoining area, including but not limited to private and public lawn areas, sidewalks, driveways, and roads, shall be clean of all grinding debris.

Adjacent to the curb and/or sidewalk roots are to be removed to edge of the curb and/or sidewalk without damaging the sidewalk.

No grinding when area has snow cover

SOIL INJECTION PESTICIDE APPLICATION

- a. All pesticides shall be used in accordance with manufacturer's recommendations.
- b. Pesticide application shall be done in accordance with all NYS Dept of Environmental Conservation pesticide application law including applicator licensing, purchasing, use reporting, notification, labeling, etc.
- c. Contractor shall submit all product information on the proposed pesticide, including ingredients and manufacturer recommended application rates and uses, for review and approval by the City Contract Manager prior to product use. No materials are to be applied until written approval has been issued by the City contract manager.
- e. Contractor shall deliver all materials to the site in unopened and clearly labeled bags for inspection by the City contract manager. The Contractor shall not mix the pesticide into the water tank until after inspection and approval.

SOIL OR FOLIAR NUTRIENT ANALYSIS

Soil or Foliar Analysis shall include all work as necessary to collect and submit a soil or foliar analysis to an approved independent test laboratory or by agriculture unit of State University System to determine nutrient levels and deficiencies, pH, and other factors that may be affecting the health of a tree. The Contractor shall contact testing agency prior to sample collection and submissions to determine proper procedures and methods. Contractor shall supply the entire report as provided by the testing agency to the City for review.

SUMP INSTALLATION

Work includes excavation and backfill of drainage sumps and covering sumps with a geotextile fabric.

Materials:

A. Sump Stone/Mulch

Sump stone shall meet the requirements of NYSDOT Section 605 Underdrain Filter, Type I. Mulch stone shall meet the requirements of NYSDOT Section 703-02 Course Aggregates, Type 3.

B. Geotextile Fabric

The geotextile fabric shall be the type appropriate for the intended use as shown on the plans manufactured by Marifi Incorporated, Charlotte, NC., Geotech Services, Inc., Brookfield, CT., Amoco Fabrics Co., Atlanta, GA., or project manager approved equivalent.

Construction:

- A. The Contractor shall notify all operators of underground utilities of its intent to perform excavation work in the tree pit(s). Any conflicts shall be brought to the attention of the City Contract Manager. If utilities are to be staked-out, it is the responsibility of the Contractor to see that they are marked in chalk, not paint. The Contractor shall be responsible for the removal of paint applied to any paved surface.
- B. Drainage sumps shall be excavated by mechanical device (i.e. auger, back hoe) and manual apparatus to the dimensions on plans and details. All excavated materials shall be disposed of properly outside of the project area.
- C. The Contractor shall notify the City's Contract Manager to inspect all drainage sumps and tree pits prior to backfilling. The Contractor shall rectify any and all problems identified by the City's Contract Manager and receive approval prior to backfilling sumps and planting trees.
- D. Gravel shall completely fill the excavated sump. Upon completion of backfill, the bottom of each tree pit, including both drainage sumps, shall be covered with geotextile fabric.

INSTALLATION OF STREET TREES

The requirements of NYSDOT Section 611 - PLANTING shall remain in effect with the following exceptions.

Work shall include but not be limited to: tree purchase, delivery, and storage; removal and replacement of existing tree grate or pit surface; removal and disposal of remaining root ball, mulch, and pit backfill; tree planting; placement of soil barrier fabric and mulch; staking; watering; clean-up.

A. Plant Materials:

The Contractor will purchase all trees directly from nursery growers.

The Contractor shall solicit bids directly from nurseries in zone 5 or lower and in the Great Lakes region of the U.S. and Canada to ensure compatibility with our regional climate and soils. All trees shall be freshly dug. No healed-in or cold-storage trees will be accepted.

City representatives will reject materials which do not meet standards of quality and uniformity.

Trees shall be true to botanical name, grown in nurseries in USDA Zone 5 or colder and must meet the standards of the American Standard for Nursery Stock, latest edition by the American Association of Nurserymen: 1250 I Street N.W., Suite 500, Washington, D.C. 20005 (202) 789-2900.

All trees to be specimen quality trees grown for street tree use with single, strong central leaders for a minimum of 3/4 overall tree height. Trees shall have outstanding form; symmetrical, heavily branched with even branch distribution and straight trunks, and densely foliated when in leaf. Trees shall possess a normal balance between height and spread.

Branching height for all trees shall begin no lower than 60" from grade as measured at the nursery.

Trees shall be healthy and vigorous plants, free of disease, insect pests and their eggs and larvae. Trees shall be free of physical damage such as scrapes, broken or split branches, unhealed scars, bark abrasions, sun scalds, fresh limb cuts, disfiguring knots, or other defects.

All trees shall be balled and burlapped. Wire baskets are acceptable but only natural burlap and jute twine may be used in wrapping balls.

Trees shall have a well developed fibrous root system.

Trees shall not be pruned by the nursery at any point in the digging, loading and delivery process.

Calipers specified are minimums; trees will be accepted with a larger caliper at the bid price providing they have proper ball size.

B. Backfill

All backfill topsoil material shall be natural, fertile, friable soil typical of the region. It shall be free of hard fragments and stones larger than one inch across the greatest dimension, objectionable salts, noxious weeds and plants, partially disintegrated debris, or any other material inferior to the surface soils or that would be obtained from naturally drained sources..

Topsoil shall meet the following requirements:

- Soil acidity range: moderate or ph 6.0 to ph 7.2 inclusive.
- Soil fertility shall rate "high" in natural nutrients based a Cornell Soil Test or shall be amended to acceptable levels based on a Cornell Soil Test.
- Should tests and analysis indicate that soil proposed for use is deficient in any of the above requirement, a system of ameliorating may be proposed for approval.

All topsoil obtained and used for work of this section shall be tested prior to being placed. All testing shall be done by approved independent test laboratory or by agriculture unit of State University System. Contractor shall provide required representative samples of material proposed for use to testing facility for analysis and recommended treatment. The Contractor shall bear any and all costs incurred in testing and analysis. Test reports shall also contain specific recommendations as to the exact types, times and rates of application of soil additives and fertilizers based upon the soil test results and type of material to be planted. Approved material shall be stockpiled so as not to be mixed with other fill materials. Recommendations shall be followed during planting operations.

Analysis shall include;

- Per cent organic content
- Soil pH
- Percent clay, silt and sand particles, and sand fractionation
- Nutrient analysis
- Recommendation shall include type of soil additive and fertilizer, their composition and rate and means of application.

C. Construction

C1. Tree Delivery

City Contract Manager must be notified at lease two (2) working days prior to delivery.

All trees will be delivered to a location chosen by the Contractor and approved by the City of Rochester. All trees to be delivered must be tagged with a label stating the nursery of origin, tree common name, genus, species, variety and caliper.

The City Contract Manager and the Contractor will inspect and approve (or reject) all trees untied and uncovered, prior to planting. Any trees rejected at this time are not

to be planted, and are to be replaced in-kind at no additional cost to the City. Handling and movement of root balls is to be kept to a minimum.

Initial inspection does not preclude the City from rejecting trees after installation for just cause (i.e. damage during handling, transportation, planting or other reasons for rejection as stated in the specifications).

C2. Storage and Maintenance

Prior to planting, the contractor is responsible for proper storage and maintenance of trees. All plants shall be properly protected from drying out. Such protection shall include the time when the plants are in transit, being handled or in temporary storage. Plants shall have their root balls protected by earth, straw, mulch or may be heeled-in and watered as approved or directed.

C3. Removal and Excavation

Remove and set aside tree grate or unit pavers, remove and dispose of mulch and landscape fabric, excavate the entire existing tree stump <6", remaining wire basket and/or root ball, and any subsurface wood stakes and banding previously used to guy the tree. All soil shall be removed from the pit and the site completely. If excavation is to be left overnight, pit shall be protected with cones, stakes, flags, etc.

C4. Tree Planting

The Contractor shall indicate which tree pits will be planted on a daily basis, by notifying the City's contract manager at least 48 hours prior to planting.

Pre-installation Inspection: The City's contract manager will inspect each tree prior to planting. Inspection will ensure that trees have not been damaged during transport from the contractor storage yard and that the trees have been properly maintained during the storage period prior to planting. All tree tags stating nursery, species, variety and size shall remain attached to each tree when delivered to the project site and shall not be removed by the Contractor. The tags will be used by the City's contract manager for purposes of final inspection.

Setting Plants: All plants shall be set plumb and at such a level that after settlement the top of the root ball is two (2") inches below the bottom of the tree grate. All rope and burlap shall be completely removed from the top third of the root ball. Backfill mix shall be carefully placed into the tree pit in layers not to exceed six (6) inches in depth and settled by watering each layer to fill around base and all voids.

C5. Pruning

Pruning shall be limited only to branches which are broken, dead, rubbing, have a tight branching angle, or sucker growth. Limbs to be pruned shall be cut with sharp, clean pruning tools with the final cut at the branch collar. When heading is necessary, the final cut to a lateral 1/3 to 1/2 the diameter of the parent limb with a leaf area to live wood ratio sufficient to support the wood tissue.

C6. Wrapping

No trunk wrapping will be permitted unless otherwise directed by the City Contract Manager.

C7. Tree Staking

Trees planted in pits with existing tree grates are not to be staked.

In pits or lawn area with no existing grates, stakes shall be placed directly opposite each other and parallel with the curb when applicable.

Wire and hoses shall be secured to lowest branch of tree and overlapped so that they do not slide down tree trunk and loosen. Wire shall be secured to metal tree stake so that it does not slide up or down stake. All loose wire ends are to be trimmed and secured so as to not pose a hazard to those persons traveling in the City ROW.

C8. Watering

Watering shall include the application of 20 gallons of water to each individual tree at the time of planting. The water shall be allowed to soak into the tree pit and not overflow.

C9. Protection and Clean Up

Includes properly protecting all existing street furniture, tree grates, pavings, fixtures and appurtenances from damage during the entire removal, excavation, and replanting operation. Upon completion, the entire project area shall be completely restored to the condition which existed prior to commencing work. The contractor shall be responsible for any damage caused to adjacent private property resulting from execution of the project.

If it becomes necessary to remove tree grates to properly plant the trees, it shall be the Contractor's responsibility to properly reset the grates. Grate sections once set shall tightly abut and align squarely with each other. Grates shall be perfectly flush with the surrounding sidewalk and shall not rock or wobble, shimming may be necessary.

C10. Care of Planting

The contractor shall comply with section 611-3.05 of the NYSDOT Standard Specifications with one modification; trees shall not be sprayed with an anti-desiccant unless otherwise directed by City contract manager.

D. Maintenance

The contractor shall maintain all planted trees and planting area for one year after final acceptance. Maintenance shall include resetting trees that have settled, straightening trees that lean from vertical, pruning of dead branches, minor mulch wash outs, and adjustment or repair of stakes and wires.

E. Replacement

There shall be a one (1) year guarantee on trees commencing after the final acceptance and the completion of all tree plantings.

The contractor shall replace, in accordance with contract specifications, any planted tree that is dead or, in the opinion of the Contract Manager, is in an unhealthy or unsightly condition, and/or has lost its natural shape due to dead branches, excessive pruning, inadequate or improper maintenance prior to final acceptance.

Replacements shall be made in the next planting season even if the planting season fall outside of the one year period. The cost of replacement(s) shall be included in the unit price bid for the furnished items of the contract.

Where vandalism or related cases are agreed by the Contract Manager as the cause for replacement, the contractor shall not be responsible for such replacement.

Where dead trees have been identified, the Contractor shall remove the dead trees including stakes and wire within three (3) weeks of notification. The contractor shall add topsoil or paving material to the planting area to eliminate a tripping hazard at the time of removal.

NON-OFFICIAL SPEC
DO NOT USE



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.
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.
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 the 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 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.

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 cuts 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 in 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.

NON-OFFICIAL SPEC
DO NOT USE