

## **INVITATION TO BID**

The City of Rochester, New Hampshire, will accept sealed bids from construction general contractors to rent construction equipment to the City of Rochester for emergency and non-routine construction activities associated with the repair or installation of various facets of the City of Rochester's Infrastructure. This equipment may be used to maintain or repair the water distribution system, sanitary or stormwater collection system, and/or minor street reconstruction. The contractor will be expected to have available and mobilize the necessary equipment and to provide a qualified operator to perform services to the City as required.

“Sealed Bid, **EQUIPMENT RENTAL AND EMERGENCY CONSTRUCTION SERVICES** ”

**Bid #07-41**

City of Rochester, New Hampshire  
31 Wakefield St.  
Rochester, NH 03867  
Attn: Purchasing Agent

All bids must be received no later than April 19, 2007 at 2:45 PM. No late bids or telephone bids will be accepted. Bid proposals and specifications may be obtained by visiting [www.rochesternh.net](http://www.rochesternh.net), or emailing [purchasing@rochesterh.net](mailto:purchasing@rochesterh.net), or by contacting the Purchasing Agent at City Hall, 31 Wakefield Street, Rochester, NH 03867, (603) 335-7602. All Bid questions must be submitted in writing (email preferred) to the Purchasing Agent. All bid proposals must be made on the bid proposal forms supplied, and the bid proposal forms must be fully completed when submitted.

## **I. Introduction**

From time to time, the City of Rochester, New Hampshire Department of Public Works (herein referred to as Rochester DPW) has the need for short-term maintenance or repair work to its infrastructure that requires equipment and personnel that is either not owned or maintained by the City or is beyond the capability of city forces to correct. Sometimes this maintenance and repair work occurs under emergency circumstances that require a quick and unplanned response.

The intent of this contract is to have the ability to have available to Rochester DPW the appropriate equipment and qualified personnel to operate them on a time and material (hourly) basis to respond to and repair or replace sections of the city's infrastructure, whether it be water mains, sanitary or storm sewers, and/or services, streets, and sidewalks located within the City right-of-way. The need for this equipment may or may not be under emergency circumstances.

## **II. Scope of Services**

The contractor shall make available the necessary equipment to complete maintenance or repair work on the City's infrastructure as directed and scheduled by The Commissioner of Public Works (referred herein as the Commissioner), or in his/her absence, the City Engineer or City Manager. The Commissioner may ask the contractor to provide a specific piece of equipment to complete a specific task or provide the scope of work to the contractor and recommend the equipment that will be brought to the job site to complete the task. It is expected that all equipment and labor provided will be furnishing on a time (hourly) basis according to the bid schedule provided. It is anticipated that the City will furnish all material to complete a task.

Definition of Emergency Work - If the Commissioner declares that a maintenance or repair situation is an emergency such that equipment is needed to complete the work immediately, it is expected that contractor will mobilize and have the appropriate equipment available and onsite within 8 hours of being called.

An example of a situation where an emergency would be the development of a sinkhole within a city street or on city owned property creating an imminent risk of damage to adjacent privately owned property. Investigation of origin of sinkhole suggests that a broken deep sewer main is carrying soil away from the area creating the sinkhole.

It is intended that the hourly rate paid for labor and equipment would be the same for emergency and non-emergency conditions, however the city will pay a mobilization premium in order have the necessary equipment on-site within 8-hours of being called. Additionally, the City will pay an overtime hourly rate for the first 48 consecutive hours on site as listed in the bid schedule for emergency work, for all hours that are not part of the normal working day, which is considered as Monday through Friday between 7am and 3pm.

Definition of Non-Emergency Work - Non-emergency work is considered small scale, routine maintenance or repair to water distribution, wastewater or stormwater collection system, streets, or sidewalks that needs to be completed and can not be completed by city forces because of work load or personnel or equipment deficiencies. It is expected that the duration of such work will be less than six weeks.

Example of such non-emergency work would be the replacement of a short section (1500 feet or less) of water or sewer main with street restoration within the repaired section. Such work

would occur during normal business hours and would be scheduled in advance with the contractor. The City will normally provide or contract for the delivery of all principal materials to be used. It is expected that the contractor would provide all labor and equipment to complete the work.

### **III. Quality of Work**

The contractor shall complete the work as directed by the City Engineer and/or the Commissioner in a workman like manner in accordance with the requirements of the Standard Specifications for Road and Bridge Construction as published by the New Hampshire Department of Transportation, 2002 edition. All utility work shall be comply with the City of Rochester construction standards for water, sewer, and drainage systems unless modified by the Commissioner or City Engineer.

If work is not completed in a workmanlike manner that is satisfactory to the Commissioner, then the city can terminate the remaining period of the contract without obligation or recourse.

### **IV. Materials**

The City will normally provide or contract for the delivery of all principal materials to be used. An example of materials will be pipe, manholes, hydrants, gravel, etc. If the city is unable to provide an item in such that it causes an undue delay to the job, the contractor shall make every effort to provide the item in an expeditious manner so to keep the job running. At the city's option, the city will replace the provided item in kind as soon as possible or will pay for the item at the contractor's cost plus a 12.5 percent mark-up as a convenience fee.

### **V. Term of the Contract**

This contract will be for an approximately a two construction season term (2007 and 2008), commencing the day the contract is signed and continuing to its expiration on December 31, 2008.

### **VI. Water and Sewer Licensure**

Any contractor who will be renting the city excavation equipment or utility trucks for pipe work must have been licensed by the City of Rochester to perform both water and sewer work for at least three of the last five years beginning in 2002. The contractor must have performed satisfactorily during the past five years and must not have had any license revocations or warning issued by the City during this period.

### **VII. Posting of Performance Bond**

Prior to the beginning of any scheduled, non-emergency work under this contract, the City has the right at its sole option, to require the contractor to post a performance bond in the amount of the estimated cost to complete the job as determined by the Commissioner and City Engineer. Such a determination will be made not less than 10 calendar days prior to the agreed startup date for the work. The performance bond shall remain in effect for the duration of the work. All but 10 percent of the surety can be eliminated from the job within 30 days substantial completion of the job. The remaining 10 percent can be eliminated 365 days after substantial completion of the job.

**VIII. Description of Desired Equipment.**

Description of desired equipment and its purposes. This is equipment that either the city does not possess but has a need to use from time to time to ensure that its infrastructure works according to its intended purposes. Occasionally, there are breaks or other maintenance issues. Not all equipment will be required for all jobs. In fact, only a small subset of the desired equipment listed here would be needed for any one project.

1. Large Excavator - Track -
2. Medium Excavator - Track
3. Excavator w/ hoe-ram
4. Excavator - Rubber Tires
5. Large Payloader
6. Medium Payloader
7. Backhoe
8. Tri-axle Dump Truck
9. 10-wheel Dump Truck
10. 6-wheel Dump Truck
11. 1-ton dump body Truck
12. Grader
13. Vibratory Rollers
14. Small Bulldozer
15. Medium Bulldozer
16. Road Reclaimer
17. Trench Box
18. General Labor
19. Utility Pipe Layer
20. Labor Foreman
21. Utility Truck
22. Crew Supervision/Layout
23. Power Broom
24. Water Truck

It is assumed that the utility truck would carry small-engine equipment commonly used for utility and roadway maintenance work such as plate compactors and pipe saws. Cost of this equipment and similar items should be included in this item

CONSTRUCTION EQUIPMENT RENTAL AND EMERGENCY  
CONTRACTING SERVICES

CITY OF ROCHESTER, NH

BID NO. 07-41

**BID FORM Bid #07-41**

Proposal of

Hereinafter called "**BIDDER**", organized and existing under the laws of the state of

(Insert "a corporation", "a partnership", or "an individual" as applicable)

to the **City of Rochester, New Hampshire**, hereinafter called "**OWNER**"

In compliance with your Advertisement for Bids, **BIDDER** hereby proposes to supply all required **EQUIPMENT AND LABOR** as determined by the Rochester City Engineer or Commissioner of Public Works for the **VARIOUS EMERGENCY AND/OR NON-ROUTINE INFRASTRUCTURE REPAIR OR MAINTENANCE PROJECTS** in strict accordance with the CONTRACT DOCUMENT, within the time set forth therein, and at the prices stated on the following sheets

City of Rochester  
Bid Solicitation No. 07-41

**CONSTRUCTION EQUIPMENT RENTAL AND NON-ROUTINE CONSTRUCTION SERVICES**

**REGULAR CONTRACT (April 2007-December 2008)**

Non-emergency Rates

Emergency Rate

| Item                     | Example             | Rate/hour | Mobilization Cost | Overtime<br>Rate/hour | Emergency<br>Mobilization Rate |
|--------------------------|---------------------|-----------|-------------------|-----------------------|--------------------------------|
|                          |                     |           |                   |                       |                                |
| Large Excavator - Track  | Cat 345 or similar  |           |                   |                       |                                |
| Medium Excavator - Track | Cat 320B or similar |           |                   |                       |                                |
| Excavator w/ hoe-ram     |                     |           |                   |                       |                                |
| Excavator - Rubber Tires | Cat M318 or similar |           |                   |                       |                                |
| Large Payloader          | Cat 966G or similar |           |                   |                       |                                |
| Medium Payloader         | Cat 938G or similar |           |                   |                       |                                |
| Backhoe                  | Case 580 or similar |           |                   |                       |                                |
| Tri-axle Dump Truck      |                     |           |                   |                       |                                |
| 10-wheel Dump Truck      |                     |           |                   |                       |                                |
| 6-wheel Dump Truck       |                     |           |                   |                       |                                |
| 1-ton dump body Truck    |                     |           |                   |                       |                                |
| Grader                   |                     |           |                   |                       |                                |

CONSTRUCTION EQUIPMENT RENTAL AND EMERGENCY  
CONTRACTING SERVICES

CITY OF ROCHESTER, NH

BID NO. 07-41

| Item                      | Example                               | Rate/hour  | Mobilization Cost | Overtime Rate/hour | Emergency Mobilization Rate |
|---------------------------|---------------------------------------|------------|-------------------|--------------------|-----------------------------|
| Vibratory Soil Compactors | Cat CS-563C or similar<br>10 ton min. |            |                   |                    |                             |
| Small Bulldozer           | Cat D3                                |            |                   |                    |                             |
| Medium Bulldozer          | Cat D5                                |            |                   |                    |                             |
| Road Reclaimer            |                                       |            |                   |                    |                             |
| Trench Box                |                                       | / per day  |                   | /per day           |                             |
| General Labor             |                                       |            | XXXXXXXXXX        |                    |                             |
| Utility Pipe Layer        |                                       |            | XXXXXXXXXX        |                    |                             |
| Crew Supervision/Layout   |                                       |            | XXXXXXXXXX        |                    |                             |
| Labor Foreman             |                                       |            | XXXXXXXXXX        |                    |                             |
| Utility Truck             |                                       |            |                   |                    |                             |
| Power Broom               |                                       |            |                   |                    |                             |
| Water Truck               |                                       |            |                   |                    |                             |
| Traffic Control Signage   |                                       | / per day  |                   | /per day           |                             |
| Variable Message Board    |                                       | / per day  |                   | /per day           |                             |
| Variable Message Board    |                                       | / per week |                   | /per week          |                             |

QUESTIONS MAY BE DIRECTED TO **Thomas H. Willis, Jr., PE @ (603) 332-4096**

NOTE: It is understood that the various unit prices bid will control any contract which may be awarded arising from this Proposal; that the estimated quantities above are approximate only and used only for the comparison of bids; and are subject to increase or decreases required to properly complete the Contract Work. It is further understood that any portion, or the entire amount, of any bid item(s) may be deleted in order to meet the allocated budget dollar amount. If any quantity in the BID is increased or decreased by 25% of the amount in the BID SCHEDULE, or any item(s) or work is extended or increased by 25% of the amount in the BID SCHEDULE, the OWNER retains the right to renegotiate the unit price of said item(s).

CONSTRUCTION EQUIPMENT RENTAL AND EMERGENCY  
CONTRACTING SERVICES

CITY OF ROCHESTER, NH

BID NO. 07-41

Bid Submitted by:

\_\_\_\_\_

Price Good Until:

\_\_\_\_\_

Company Name

Available start date:

\_\_\_\_\_

\_\_\_\_\_  
Signature of Authorized Representative

\_\_\_\_\_  
Title

\_\_\_\_\_  
Address

\_\_\_\_\_  
City/Town

State

\_\_\_\_\_  
Zip

\_\_\_\_\_  
Phone Number

## **INSTRUCTION TO BIDDERS**

### **PREPARATION OF BID PROPOSAL**

1. The Bidder shall submit her/his proposal upon the forms furnished by the City (attached). The bidder shall specify a unit price, both in words and figures if requested, for each pay item for which a quantity is given. All words and figures shall be in ink or typed.
2. If a unit price or lump sum bid already entered by the bidder on the proposal form is to be altered it should be crossed out with ink, the new unit price or lump sum bid entered above or below it, and initialed by the bidder, also with ink. In case of discrepancy between the prices written in words and those written in figures, the prices written in words shall govern.
3. The bidder's proposal must be signed with ink by the individual, by one or more members of the partnership, by one or more members or officers of each firm representing a joint venture; by one or more officers of a corporation, or by an agent of the contractor legally qualified and acceptable to the owner. If the proposal is made by an individual, his name and post office address must be shown, by a partnership the name and post office address if each partnership member must be shown; as a joint venture, the name and post office address of each must be shown; by a corporation, the name of the corporation and its business address must be shown, together with the name of the state in which it is incorporated, and the names, titles, and business addresses of the President, Secretary, and Treasurer.
4. All questions shall be submitted in writing to the Purchasing Agent. The Purchasing Agent will then forward both the question and the City's response to the question to all prospective bidders.

### **IRREGULAR PROPOSALS**

Bid proposals will be considered irregular and may be rejected for any of the following reasons:

1. If the proposal is on a form other than that furnished by the Owner or if the form is altered or any thereof is detached.
2. If there are unauthorized additions, conditional or alternate bids, or irregularities of any kind which may tend to make the proposal incomplete, indefinite or ambiguous as to its meaning.
3. If the bidder adds any provisions reserving the right to accept or reject an award, or to enter into a contract pursuant to an award.
4. If the proposal does not contain a unit price for each pay item listed, except in the case of authorized alternate pay items.

### **DELIVERY OF BID PROPOSALS**

When sent by mail, the sealed proposal shall be addressed to the owner at the address and in the care of the official in whose office the bids are to be received. All proposals shall be filed prior to the time and at the place specified in the invitation for bids. Proposals received after the time for opening of the bids will be returned to the bidder, unopened. Faxed bid proposals are not acceptable.

### **WITHDRAWAL OF BID PROPOSALS**

A bidder will be permitted to withdraw his proposal unopened after it has been deposited if such request is received in writing prior to the time specified for opening the proposals.

### **PUBLIC OPENING OF BID PROPOSALS**

Proposals will be opened and read publicly at the time and place indicated in the invitation for bids. Bidders, their authorized agents, and other interested parties are invited to be present.



## **DISQUALIFICATION OF BIDDERS**

Either of the following reason may be considered as being sufficient for the disqualification of a bidder and the rejection of his proposal of proposals:

1. Evidence of collusion among bidders.
2. Failure to supply complete information as requested by the bid specifications.

## **AWARD AND EXECUTION OF CONTRACT**

### **CONSIDERATION OF PROPOSALS**

1. Bids will be made public at the time of opening and may be reviewed only after they have been properly recorded. In case of discrepancy between the prices written in words and those written figures, the prices written in words shall govern. In case of a discrepancy between the total shown in the proposal and that obtained by adding the products of the quantities of items and unit bid prices, the latter shall govern.
2. The right is reserved to reject any or all proposals, to waive technicalities or to advertise for new proposals, if in the judgment of the City, the best interest of the City of Rochester will be promoted thereby.

### **AWARD OF CONTRACT**

If a contract is to be awarded, the award will be made to the lowest responsible and qualified bidder whose proposal complies with all the requirements prescribed as soon as practical after the bid opening. No bid shall be withdrawn for a period of (60) sixty days subsequent to the opening of bids without the consent of the City of Rochester. The successful bidder will be notified, by the form mailed to the address on his proposal, that his bid has been accepted and that he has been awarded the contract.

### **CANCELLATION OF AWARD**

The City reserves the right to cancel the award of any contract at any time before the execution of such contract by all parties without any liability against the City.

## **BID EVALUATION**

In addition to the bid amount, additional factors will be considered as an integral part of the bid evaluation process, including, but not limited to:

1. the bidder's ability, capacity, and skill to perform within the specified time limits
2. the bidder's experience, reputation, efficiency, judgment, and integrity
3. the quality, availability and adaptability of the supplies and materials sold
4. bidder's last performance
5. sufficiency of bidder's financial resources to fulfill the contract
6. bidder's ability to provide future maintenance and/or services
7. Other applicable factors as the City determines necessary of appropriate (such as compatibility with existing equipment.)

### **CONDITIONS AT SITE**

Not applicable because the site will be at a location as direct by the Commissioner or City Engineer.

## **LAWS, PERMITS AND REGULATIONS**

1. The Contractor shall obtain and pay for all licenses and permits as may be required of him by law, and shall pay for all fees and charges for connection to outside services, and use of property other than the site of the work for storage of materials or other purposes
2. The Contractor shall comply with all State and Local laws, ordinances, regulations and requirements applicable to work hereunder, including building code requirements. If the Contractor ascertains at any time that any requirement of this Contract is at variance with applicable laws, ordinances, regulations or building code requirements, he shall promptly notify the City of Rochester in writing.

## **CONTRACTOR'S AND SUBCONTRACTOR'S INSURANCE**

1. The Contractor shall deliver at the time of execution of the Contract, certificates of all insurance required hereunder and shall be reviewed prior to approval by the City of Rochester. The certificates of insurance shall contain the description of the Project, and shall state that the companies issuing insurance will endeavor to mail to the City of Rochester ten (10) days notice of cancellation, alteration or material change of any listed policies. The Contractor shall keep in force the insurance required herein for the period of the Contract. At the request of the City of Rochester, the Contractor shall promptly make available a copy of any and all listed insurance policies. The requested insurance must be written by a Company licensed to do business in New Hampshire at the time the policy is issued.
2. The City of Rochester, NH shall be listed as additional insured on all the Certificates of Insurance.
3. The Contractor shall require each Subcontractor employed on the Project to maintain the coverage listed below unless the Contractor's insurance covers activities of the Subcontractor on the Project.
4. No operations under this Contract shall commence until certificates of insurance attesting to the below listed requirements have been filed with and approved by the Department of Public Works, and the Contract approved by the City Manager.
  - a. Workmen's Compensation Insurance  
Limit of Liability - \$100,000.00 per accident
  - b. Commercial General Liability  
Limits of Liability  
Bodily Injury: \$1,000,000.00 per occurrence, \$1,000,000.00 aggregate  
Property Damage: \$500,000.00 per occurrence, \$500,000.00 aggregate  
Combined Single Limit, Bodily Injury and Property Damage:  
\$1,500,000.00 per occurrence, \$1,500,000.00 aggregate
  - c. Automobile Liability  
Limits of Liability - \$500,000.00 per accident
5. The Contractor shall indemnify, defend, and save harmless the City of Rochester and its agents and employees from and against any suit, action or claim of loss or expenses because of bodily injury. Including death at any time resulting therefrom, sustained by any person or persons or on account of damage to property, including loss of use thereof, whether caused by or contributed to by said City of Rochester, its agents, employees or others.

## **ACCIDENT PROTECTIONS**

It is a condition of this Contract, and shall be made a condition of each subcontract entered into pursuant to the Contract. That a Contractor and any Subcontractors shall not require any laborer or mechanic employed in the performance of the Contract to work in surroundings or under working conditions which are unsanitary hazardous or dangerous to health or safety. As determined by construction safety and health standards of the Occupational Safety and Health Administration, United States Department of Labor, which standards include, by reference, the established Federal Safety and Health regulations for Construction. These standards and regulations comprise Part 1910 and Part 1926 respectively of Title 29 of the Code of Federal Regulations and are set forth in the Federal Register. In the event any revisions in the Code of Federal Regulations are published, such revisions will be deemed to supersede the appropriate Part 1910 and Part 1926, and be effective as of the date set forth in the revised regulation.

## **SUBCONTRACTS**

1. Nothing contained in the Specifications or Drawings shall be construed as creating any contractual relationship between any Subcontractor and the City of Rochester. The Division or Sections of the Specifications are not intended to control the Contractor in dividing the work among Subcontractors or to limit the work performed by any trade.
2. The Contractor shall be as fully responsible to the City of Rochester for the acts and omissions of Subcontractors and of persons employed by him, as he is responsible for the acts and omissions of persons directly employed by him.

## **PROTECTION OF WORK AND PROPERTY**

The Contractor shall, at all times, safely guard the City's property from injury or loss in connection with this Contract. He shall, at all times, safely guard and protect his own work and that of adjacent property from damage. All passageways, guard fences, lights and other facilities required for protection by State or Municipal laws, regulations and local conditions must be provided and maintained.

## **USE OF PREMISES AND REMOVAL OF DEBRIS**

The Contractor expressly undertakes at his own expense:

1. To take every precaution against injuries to persons or damage to property;
2. To comply with the regulations governing the operations of premises which are occupied and to perform his Contract in such a manner as not to interrupt or interfere with the operation of the Institution;
3. To perform any work necessary to be performed after working hours or on Sunday or legal holidays without additional expense to the City, but only when requested to do so by the City;
4. To store his apparatus, materials, supplies and equipment in such orderly fashion at the site of the work as will not unduly interfere with the progress of his work or the work of any other Contractors;
5. Daily to clean up and legally dispose of (away from the site), all refuse, rubbish, scrap materials and debris caused by his operation. Including milk cartons, paper cups and food wrappings left by his employees, to the end that at all times the site of the work shall present a neat, orderly and workmanlike appearance;
6. All work shall be executed in a workmanlike manner by experienced mechanics in accordance with the most modern mechanical practice and shall represent a neat appearance when completed.

## **MATERIALS AND WORKMANSHIP**

Unless otherwise specified, all materials and equipment incorporated into the work under the Contract shall be new. All workmanship shall be first class and by persons qualified in their respective trades.

Where the use of optional materials or construction method is approved, the requirements for workmanship, fabrication and installation indicated for the prime material or construction method shall apply wherever applicable. Required and necessary modifications and adjustments resulting from the substitution or use of an optional material or construction method shall be made at no additional cost to the City.

## **STANDARDS**

1. Materials specified by reference to the number, symbol or title of a specific standard, such as a Commercial Standard, a Federal Specification, Department's Standard Specifications, a trade association standard or other similar standard. Shall comply with requirements in the latest revision thereof and any amendment or supplement thereto in effect on the date of advertisement, except as limited to type, class or grade or modified in such reference.
2. Reference in the Specifications to any article, device, product, material, fixture, form or type of construction by name, make or catalog number shall be interpreted as establishing a standard of quality and shall not be construed as limiting competition. In such cases the Contractor may, at his option, use any articles, device, product, material fixture, form or type of construction which, in the judgment of the City expressed in writing to all Bidders before opening of bids as an addendum, is an acceptable substitute to the specified.
3. Substitution During Bid Time: Whenever any particular brand or make of material or apparatus is called for in the Specifications, a Bidder's Proposal must be based upon such material or apparatus, or upon a brand or make which has been specifically approved as a substitution in an Addendum issued to all Bidders during the bidding time.
4. The intent is that the brand or make of material or apparatus which is called for herein establishes a standard of excellence which, in the opinion of the Consultant and Engineer, is necessary for this particular Project.
5. Substitution After Bid Opening: No substitutions will be considered after bids have been opened unless necessary due to strikes, lockouts, bankruptcy or discontinuance of manufacture, etceteras. In such cases, the Contractor shall apply to the City, in writing within ten (10) days of his realizing his inability to furnish the article specified, describing completely the substitution he desires to make.

## **EXTRAS**

Except as otherwise herein provided, no charge for any extra work or material will be allowed unless the same has been ordered, in writing, by the Director of Public Works.

## **GUARANTEE OF WORK**

1. Except as otherwise specified, all work shall be guaranteed by the Contractor against defects result in from the use of inferior materials, equipment or workmanship for one (1) year from the Date of Final Acceptance.
2. Make good any work or material, or the equipment and contents of said building or site disturbed in fulfilling any such guarantee.
3. In any case, wherein fulfilling the requirements of the Contract or of any guarantee, should

the Contractor disturb any work guaranteed under another contract, the Contractor shall restore such disturbed work to a condition satisfactory to the Director of Public Works. And guarantee such restored work to the same extent as it was guaranteed under such other contracts.

4. If the Contractor, after notice, fails to proceed promptly to comply with the terms of the guarantee, the City of Rochester may have the defects corrected and the Contractor shall be liable for all expense incurred.
5. All special guarantees applicable to definite parts of the work that may be stipulated in the Specifications or other papers forming a part of the Contract shall be subject to the terms of this paragraph during the first year of the life of such special guarantee.

#### **DEFAULT AND TERMINATION OF CONTRACT**

If the Contractor:

1. Fails to begin work under Contract within the time specified in the notice to proceed; or
2. Fails to perform the work with sufficient workmen and equipment, or with sufficient materials to assume prompt completion of said work; or
3. Performs the work unsuitably or neglects or refuses to remove materials or to perform a new such work as may be rejected as unacceptable and unsuitable; or
4. Discontinues the prosecution of the work; or
5. Fails to resume work, which has been discontinued, within a reasonable time after notice to do so; or
6. Becomes insolvent or has declared bankruptcy, or commits any act of bankruptcy or insolvency; or
7. Makes an assignment for the benefit of creditors; or
8. For any other causes whatsoever, fails to carry on the work in an acceptable manner the City of Rochester will give notice, in writing, to the Contractor for such delay, neglect, and default.

If the Contractor does not proceed in accordance with the Notice, then the City of Rochester will have full power and authority without violating the Contract to take the prosecution of the work out of the hands of the Contractor. The City of Rochester may enter into an agreement for the completion of said Contract according to the terms and conditions thereof, or use such other methods as in his opinion will be required for the completion of said Contract in an acceptable manner.

All extra costs and charges incurred by the City of Rochester as a result of such delay, neglect or default, together with the cost of completing the work under the Contract will be deducted from any monies due or which may become due to said Contractor. If such expenses exceed the sum which would have been payable under the contract, then the Contractor shall be liable and shall pay to the City of Rochester the amount of such excess.