

REQUEST FOR QUALIFICATIONS:

**Mechanical, Electrical and Plumbing Engineering
Professional
Term Services Agreement**

City Project No. 25032

Issued: December 17, 2024



City of Rochester

**Department of Environmental Services
Bureau of Architecture and Engineering**

**Holly E. Barrett, P.E.
City Engineer**

**City Hall
30 Church Street, Room 300B
Rochester, New York 14614**

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1.0 GENERAL INFORMATION

Project Title and Location

Title: Mechanical, Electrical, and Plumbing Engineering Professional Term Services Agreement.

Locations: Various City facilities located within the Rochester City limits as well as Hemlock and Rush, New York.

Project Objectives

The City of Rochester, through this Request for Qualification (RFQ), seeks to enter into a Professional Service Term Agreement with multiple Consultants to provide mechanical, electrical, and plumbing engineering services for various City facilities and projects. Projects may involve new construction, renovation, rehabilitation, preservation, maintenance and repair of existing City facilities and properties including but not limited to public, municipal, operations, public safety, library, recreation, and water services facilities. Services are as generally described in Section 2.0 Qualifications Overview and in Exhibit A Part 2, Description of Professional Services and Appendix I, General Scope of Services.

Consultant(s) must demonstrate that they have the capability and resources to respond quickly and efficiently to the City's requests on small and large scale projects.

For an electronic version of this request for qualifications, please go to the following web site: <http://www.Cityofrochester.gov/bidandrfp/>

Professional Term Services Agreement

A draft Professional Term Services Agreement (PTSA) is included in Exhibit A.

Subject to City Council approval, the PTSA with each selected firm shall have a term of three years with the option to renew for one additional two-year term.

Once a PTSA is in place, Consultants will be authorized to proceed with individual projects on an as-needed basis. A maximum not-to-exceed budget will be established for each individual project. For each specific task or individual project needed, Consultant(s) will be asked for a cost proposal, including, as applicable, a sub-consultant team. Upon acceptance of each specific proposal, a purchase order (PO) and any necessary reporting requirements will be issued for that specific project. The PO will constitute the notice to proceed for a specific project.

Payment for services is anticipated to be on the basis of an approved hourly rate schedule. The magnitude of services to be provided can vary from \$500 on up.

The Department of Environmental Services (DES), Bureau of Architecture and Engineering, will administer the PTSA with each Consultant. Project involvement may include consultation with various divisions within DES or in partnership with other City Departments. Consultant services may also include consultation and task implementation with granting agencies, State agencies,

Federal agencies and other non-City agencies (utilities, neighborhood associations, community organizations, etc.) with coordination through DES.

Timetable

A draft implementation schedule (subject to change) is as follows:

- RFQ release Tuesday, December 17, 2024
- Deadline for questions Friday, January 10, 2025
- Response to questions submitted Tuesday, January 28, 2025
- Proposal due Tuesday, February 11, 2025
- Consultant selection(s) & award notification(s) Spring 2025

The dates shown above may be subject to change within the City of Rochester’s sole discretion and upon written notification as set forth herein.

Submission Delivery Information

Respondent’s proposal should be addressed to:

Holly E. Barrett, P.E., City Engineer
Department of Environmental Services
Bureau of Architecture and Engineering
City Hall
30 Church Street, Room 300B
Rochester, New York

One (1) electronic proposal and five (5) proposal hard-copies are to be submitted no later than **Tuesday, February 11, 2025 at 4:00 pm to:**

Holly E. Barrett, P.E. C/O Kevin Howell, PE, Senior Mechanical Engineer

City of Rochester
Department of Environmental Services
Bureau of Architecture and Engineering
Kevin Howell
414 Andrews Street
Rochester, New York 14604
Kevin.Howell@CityofRochester.gov

Communications

All communications by parties who have indicated an intent to submit or have submitted a proposal in response to this RFQ (“Respondents”), including any questions or requests for clarifications, submission of the proposal, requests for status updates about the proposal selection process and any other inquiries whatsoever concerning this RFQ shall be sent, in writing (email preferred), to the following City staff person(s):

Kevin Howell, PE, Senior Mechanical Engineer

Kevin.Howell@CityofRochester.gov
585-428-9796

Laura Civiletti, PE, Manager of Architectural Services

Laura.Civiletti@CityofRochester.gov

585-428-7742

No contact is permitted with any other City staff member with regard to this RFQ during the RFQ process unless specifically authorized in writing. Prohibited contact may be grounds for disqualification.

To ensure that all Respondents have a clear understanding of the scope and requirements of this RFQ, the City will respond to all questions submitted in writing (preferably by email) to the City contact by the deadline for questions stated above. The City will make every reasonable effort to keep Respondents informed about the RFQ process. Questions and responses, notifications about timeline date changes, amendments to the RFQ and other information will be sent via email to all Respondents who have provided an email address to the City contact, and will be posted on the City's web page for this RFQ.

There are no pre-proposal conferences or site visits scheduled.

General

- 1) The City reserves the right to amend or withdraw this RFQ in the City's sole discretion, including any timeframes herein, upon notification of all Respondents as set forth above, and in such case, the City shall have no liability for any costs incurred by any Respondent.
- 2) The City may request additional information from any Respondent to assist the City in making its evaluation.
- 3) The proposal and all materials submitted with the proposal shall become property of the City and will be subject to NYS Freedom of Information Law. If any proprietary information is submitted with the proposal, it must be clearly identified and a request to keep such information confidential must be submitted.
- 4) The selection of a Consultant is within the City's sole discretion and no reasons for rejection or acceptance of a proposal are required to be given. The decision will be based on qualifications and compliance with the requirements of this RFQ. The City reserves the right to reject any or all proposals or to accept a proposal that does not conform to the terms set forth herein. The City further reserves the right to waive or modify minor irregularities in the proposals and negotiate with Consultants to serve the City's best interest.
- 5) Questions must be submitted in writing (preferably by email) to the RFQ contact listed above. Questions and responses will be sent via email to all Respondents who have provided an email address to the City contact, and will be posted on the City's web page for this RFQ. The City's failure to respond in a timely fashion or provide responses to any questions shall not delay or invalidate the City's right to make a decision to award an agreement pursuant to this RFQ.

2.0 REQUEST FOR QUALIFICATIONS OVERVIEW

Services

The City of Rochester is responsible for the maintenance, capital repairs, alterations, and renovations of over 190 City buildings and related facilities. Term MEP engineering services related to the care of this inventory are being sought by the City from the local engineering community. Such services may include, but are not limited to, the following as requested by the City:

- Conduct planned MEP investigations, scoping, designs, and estimates
- Conduct same day emergency inspections and investigations, including providing direction, details, and contractor oversight for any required emergency repairs or mitigation
- Prepare design and contract documents for contracted construction work and provide inspection of the work during construction. Projects may be specific MEP projects or MEP work as part of a project designed by the City's Architecture and Engineering Bureau or other outside consultants.
- Review designs or reports prepared by other consultants under contract to the City for specific construction or reconstruction projects.
- Provide construction oversight/RPR services.
- Respond quickly and efficiently to the city's requests on a small or large scale.
- Conduct investigations, assessments, scoping, designs and estimates.
- Assist in permit(s) and approval(s) processes.
- Advise on health and safety, [building] code and accessibility improvements.
- Perform life-cycle analysis.
- Provide reviews of designs or reports prepared by other consultants under contract to the City.
- Identify and document environmental conditions and impacts.
- Provide construction administration and/or resident project representation services.

Work may be specific MEP projects or included as part of a multi-discipline project designed by the City's Architecture and Engineering Bureau or other outside Consultants. Respondents are expected to provide services quickly and efficiently in accordance with the City's requests regardless of the size or scale project.

Policy and Procedures

The design of all projects under the PTSA shall be progressed in accordance with the City of Rochester policies and procedures.

Respondents should familiarize themselves with the City's standard Public Works Construction documents available on the City's website at:

<https://www.cityofrochester.gov/departments/des/public-works-construction-documents>.

DRAFT SCOPE OF TERM SERVICES

Overview

The Consultant(s) selected through this Request for Qualifications process will enter into a PTSA with the City of Rochester to provide mechanical, electrical and plumbing engineering design services related to various City facilities and projects. The Consultant shall provide mechanical, electrical and plumbing engineering services meeting all standards and codes as required on projects including, but not limited to, the following:

- A. Pre-Design Evaluation
- B. Condition Survey and Report
- C. Program Development
- D. Site Evaluation
- E. Schematic Design
- F. Design Development
- G. Contract Documents
- H. Bidding and Award Services
- I. Construction Administration
- J. Resident Project Representation (RPR)
- K. Commissioning

A detailed range of anticipated services is provided in Exhibit A, Draft Professional Term Services Agreement, Appendix I - General Scope of Services. Please refer to this draft and Section 4.0 of this RFQ for details on potential tasks and areas of expertise that may be requested under the agreements.

The City requires a broad spectrum of MEP expertise to care for the large inventory of buildings and facilities. The City encourages the participation of a diverse group of firms including those specialized skills and firms of varying sizes. Proposing firms do not necessarily need to be able to provide all of the outlined services and will be authorized to utilize sub-consultants as part of their project team, as necessary, on assigned projects. For this RFQ, the qualification proposal shall showcase the specific areas of expertise that can be provided by the respondent:

What specific areas of mechanical, electrical and plumbing engineering design expertise does your firm provide? Define the specialties provided by your firm such as: mechanical design, electrical design, plumbing design, controls design, repairs and renovations of existing buildings, adaptive reuse, existing building condition assessment, building component replacements, historic preservation, design of new buildings and additions, construction phase services, sustainability and building efficiency, etc.

Sub-Consultants

This is a Request for Qualifications for primary responding firms only, who will be entering directly into a PTSA with the City. **With the exception of the MWBE summary as requested in the next section, qualifications are not being asked for at this time for sub-consultants. Sub-consultant qualifications will be sought on a project by project basis as deemed necessary for that specific project under the PTSA.**

3.0 QUALIFICATION PROPOSAL REQUIREMENTS

Overview

Each qualification proposal shall be signed by an individual authorized to enter into and execute contracts on the Respondent's behalf. Unless otherwise specified in its proposal, Respondent represents that it is capable of meeting or exceeding all requirements specified in the RFQ.

Submission of qualification proposal shall be deemed authorization for the City to contact Respondent's references. Evaluation of qualification proposal will be conducted by the City based on information provided in the Respondent's qualification proposal and on such other available information that the City determines to be relevant.

The Respondent selected by the City will be required to enter into a PTSA with the City. The establishment of a PTSA is contingent upon approval by City Council for all agreements in excess of \$20,000 and upon the availability of funds for such an agreement. Unless otherwise stated in the proposal, the Respondent's response to this RFQ shall be deemed its acceptance of the terms of the draft PTSA. (Note: Attention is directed to the City's Living Wage requirements, MWBE goals and minority workforce goals).

Respondents shall provide sufficient information in their written proposals to enable the City review team to make a recommendation to the Mayor. The City reserves the right to invite any or all Respondents to an interview to discuss their qualification proposal. Any expenses resulting from such an interview will be the sole responsibility of the Respondent. The City is under no obligation to select any of the responding Respondents or to execute a PTSA described herein. The City may amend or withdraw the RFQ at any time, within its sole discretion. The City shall have no liability for any costs incurred in preparing a proposal or responding to the City's requests with respect to the proposal.

The selection of a Consultant is within the City's sole discretion and no reasons for rejection or acceptance of a qualification proposal are required to be given. Although costs are an important consideration, the decision will be based on qualifications and compliance with the requirements of this RFQ and not solely on cost. The City reserves the right to reject any or all proposals or to accept a proposal that does not conform to the terms set forth herein. The City further reserves the right to waive or modify minor irregularities in the qualification proposal and negotiate with Consultants to serve the City's best interest.

Qualification Proposal Evaluation Criteria

Proposals must be succinct and all pages must be numbered. ***In no case shall specified page maximums in any section be exceeded.*** Boilerplate and glossy promotional materials are discouraged; any such materials deemed necessary should be included as a separate appendix and may or may not be considered as part of the evaluation.

Consultant selection will be based on a rating of Consultant qualifications. **The criteria will be as follows: Firm Qualifications (10% of total score), Technical Qualifications (40% of total score), and Team Qualifications (50% of total score).**

The Qualification Proposal (with transmittal letter) shall address the following at a minimum:

Firm Qualifications (10% of total score – 1 page max)

- 1) Firm Identification & Qualifications: A description of the firm, including the number of employees and their disciplines, their philosophy on serving clients, location, and number of years the firm has been in the business of conducting the described services.
- 2) City Presence: Information about Respondent's presence in the City of Rochester including office location(s) and the number of employees and their disciplines that are available locally.
- 3) MWBE: Statement as to whether respondent is on the New York State MWBE list and/or a statement as to whether respondent would consider subcontracting with another firm(s) on the New York State MWBE list.
- 4) Consultant Information Form: Complete the form provided in Exhibit B. Verify Consultant information listed on New York State Department of State database is correct. Also provide local contact information.

Technical Qualifications (40% of total score – 3 page max)

- 1) Understanding and Approach for Professional Term Services: The Consultant must demonstrate that they have the capability and resources to respond quickly and efficiently to the City's requests on a small or large scale project. Provide a detailed description of the Consultant's proposed unique approach for providing services. This portion of the proposal should communicate a complete in-depth understanding and approach for all services to be provided. This portion should also communicate the team's knowledge and experience with the City's general project policies and procedures as applicable.
- 2) Technical Experience, Recent Clients, & Relevant Projects: Demonstrate specific qualifications and areas of expertise with brief examples of projects or work related to scope of services listed herein, with particular emphasis on projects located in the City of Rochester. Include a summary list of relevant projects including client name and contact information, specific dates when the work was performed, and type of work services performed. Greater detail relevant to firm experience in mechanical, electrical and plumbing engineering services and familiarity with the City's general project policies and procedures should be showcased.

For any projects included in this section, provide the name of the client and approximate dates the work was performed at a minimum.

- 3) Technical Understanding: Provide a summary to demonstrate an understanding of the scope of services for the completion of the tasks identified in this RFQ including, but not limited to, the following:

- Demonstrates understanding of the Draft PTSA scope and General Qualification Proposal Clarity
- Demonstrates understanding of the mechanical, electrical and plumbing engineering services for projects in the RFQ that may be requested by the City.
- Demonstrates understanding and capacity to respond quickly and efficiently to the City's requests on small or large scale projects.
- Demonstrates understanding of the City's procedures and facilities.
- Demonstrates understanding of administering projects on budget and on schedule.
- Demonstrates understanding of implementing projects of varied scope with sub-consultants.
- Demonstrates understanding of need for detailed and accurate estimates early and throughout all phases of project.
- Demonstrates understanding of construction administration and resident project representative services.
- Demonstrates internal redundancy and ability to administer project on time.
- Responsiveness to City/RFQ MWBE Criteria: Provide MWBE potential partnership list.

Team Qualifications (50% of total score)

- 1) **Team Organization (2 page max):** Present a detailed organizational chart of the Respondent's internal team showing the names and roles of all key personnel. This section should showcase, as applicable, team member's experience and demonstrate the person's capability relevant to his/her proposed **area of expertise** as well as familiarity with the City's general project policies and procedures.
- 2) **Team Summary (1 page max):** Any other factors that would be helpful to the Selection Committee in evaluating the Consultant for this project based on the types of services and requirements described in this RFQ.
- 3) **Team Resumes (1 page maximum per team member):** Include for all **key** team members that are proposed to provide professional term services, including a list of their specific **relevant** projects. Include summaries of the work specifically performed by each team member.

For any projects included in this section, provide the name of the client and approximate dates the work was performed at a minimum.

City Firm Evaluation Criteria

Respondents can qualify for additional evaluation weighting points in the amount of 10% for a working office located within the City of Rochester. This does not include offices used as mail drop locations.

MWBE Evaluation Criteria: MWBE and Minority Workforce Goals

Respondents can qualify for additional evaluation weighting points in the amount of 10% as an MWBE firm on the New York State Department of Labor (NYS DOL) Certified MWBE list.

Additional evaluation weighting points for sub-consultant utilization and minority workforce goals will not be applied as there is no specific scope of work, task or project in this RFQ. Refer to Section 5.0 City Provisions for MWBE requirements that may be applicable on a project-by-project basis. Respondents shall not be required to submit a Minority Utilization Plan (Form A) or a Workforce Staffing Plan as part of their proposal. These forms have been provided in Exhibits C and D for informational purposes only.

Consultant's demonstrated ability to meet City MWBE utilization goals and minority workforce participation goals on individual projects requested under the mechanical, electrical and plumbing engineering PTSA **will be a factor in evaluating qualification proposals and assigning specific projects under executed PTSAs.**

The Consultants shall showcase an understanding of, and ability to participate in, the City MWBE participation goals. A summary of MWBE consulting partners that may potentially be utilized on a given project and a BRIEF description of their areas of expertise shall be included in the Firm Qualifications section of the qualification proposal.

The Consultants shall include an understanding of the City workforce utilization goals and their general ability to achieve them in the Firm Qualifications section of the qualification proposal.

Information on the ability to meet MWBE goals and minority workforce goals should be easily found and understood within the qualification proposal. Boilerplate, glossy promotional materials, hourly rates, and resumes for sub-consultants are not requested at this time.

Fees

Provide a schedule of hourly billing rates for the next three years for ALL professional roles that may be involved from your firm using in the format provided in Exhibit A, Appendix II – Schedule A Template. Year two and three shall be calculated using a cost of living multiplier applied equally to all listed rates. **Upon request, an Excel spreadsheet of Schedule A: Hourly Rates Schedule will be provided to the respondent.**

Professional roles shall be listed by title and shall be based on the services as identified in this RFQ and in the draft PTSA in Exhibit A. Please provide the Schedule A form in a separate, sealed envelope and in a separate folder on any USB submitted. Hourly billing rates of potential sub-consultants should ***not*** be included.

Non-personnel costs (travel, duplication, etc.) and sub-consultant fees will be negotiated on project-by-project basis as applicable.

The Consultant shall provide duplication services for all deliverables including, but not limited to, drawings, reports, renderings, public meeting material, bid documents and any addenda as a reimbursable expense.

Refer to "Qualification Proposal Evaluation Criteria" regarding the method the City will use to evaluate the proposals independent of the fees.

Payment for services is anticipated to be on the basis of an approved Schedule A: Hourly Rates Schedule, plus reimbursable expenses. Consultants will be authorized to proceed with individual project phases and tasks on an as-needed basis. Under the PTSA, individual proposals will be solicited by the City for various phases and tasks associated with project implementation and purchase orders will be issued for invoicing of hours and reimbursable expenses.

Eligibility Qualifications and Requirements

The City of Rochester requires that all firms present evidence of experience, ability, and financial standing. Designated firm(s) must be able to submit proof of authority to practice engineering/surveying/architecture in New York State immediately upon designation. The City requires that all firms at the time of entrance into a PTSA with the City, present information that includes insurance certificate(s) that prove both professional and general liability, and Worker's Compensation coverage. The certificates must list the City of Rochester as an additional insured.

Other Criteria

Other criteria may be considered and evaluated by the City if it is determined to be in the best interest of the City to do so.

4.0 CITY PROVISIONS

Living Wage Requirements

Living wage requirements were adopted into the Municipal Code of the City of Rochester effective July 1, 2001. Section 8A-18, known as the “Rochester Living Wage Ordinance”, requires covered employers who are awarded City service contracts of \$50,000 or more to pay a Living Wage to their employees who perform work under the contract. Under the Rochester Living Wage Ordinance, if the total amount of all project fees under the PTSA is \$50,000 or more during the period of one year, a written commitment to pay all covered employees a Living Wage. For purposes of this RFQ, a list of the job titles and wages levels of all covered employees in each of the years for which this agreement is sought shall be submitted with the proposal. Refer to Fees section of 4.0 Qualification Proposal Requirements for additional information.

Local Preference

The City favors contracting with firms located in the City of Rochester and a preference will be given to Consultants located in the City. Non-local firms may wish to consider partnerships or other collaborative arrangements with local firms as a strategy to address this criterion. Refer to Section 4.0 Qualification Proposal Requirements for evaluation criteria related to local preference.

MWBE Goals

City Ordinance No. 2018-54 established the goal that Minority-owned and Women-owned Business enterprises (MWBE) for PTSAs receive 30% of the total aggregate annual contract awards with aggregate Minority-owned (M) and Women-owned (W) award goals of 15% each. During the course of completing individual projects under the PTSA, **the Consultant is expected to make a good faith effort to achieve these goals through the use of state certified MWBE sub-consultants, appropriate to the scope and nature of the work, if the Consultant itself is not a state certified MWBE. MWBE participation will be a factor in the selection of Consultants for specific projects under the PTSAs.**

Refer to Section 4.0 Qualification Proposal Requirements for evaluation criteria related to MWBE goals. **For informational purposes, Exhibit C provides the Professional Consultant Services MWBE Utilization Plan form (Form A). This form shall be required to be completed by the selected Consultants on a project-by-project basis under the Professional Term Service Agreement but is not required for the RFQ.**

If your firm is not a state certified MWBE, you are encouraged, on each individual project assigned under your professional term service agreement, to employ sub-consultants who are state certified MWBE to the greatest extent possible. State certified MWBE firms in the City’s MWBE Directory can be found on the City’s web site here: <http://www.Cityofrochester.gov/mwbe/> and are searchable on the NYS DOL website (Finger Lakes Region) here: <https://ny.newnycontracts.com/FrontEnd/searchcertifieddirectory.asp>. However, NYS DOL certified MWBE firms in other regions may be considered for meeting these goals.

Minority Workforce Goals

City Council Ordinance No. 2018-54 establishes minority workforce goals for City PTSAs. The aggregate workforce goals shall be 20% minorities and 6.9% women. The goals apply to the Consultant and/or sub-consultant staff who work on a project under the PTSA.

Proposers should understand that the Minority Workforce Goals shall be implemented, as practical, on a project-by-project basis. **Consultants are not required to submit a workforce staffing plan as part of this RFQ, as there is no scope of work, task or specific project to base percentages on at this time.** Consultants may be asked to provide workforce staffing plans on a project under the PTSA, if requested by the MWBE. **For informational purposes, Exhibit D provides the Professional Consultant Services Workforce Staffing Plan form. This form shall be required to be completed by the selected Consultants on a project-by-project basis under the Professional Term Service Agreement but is not required for the RFQ.**

MWBE Goals and Minority Workforce Goals Reporting

For PTSAs, MWBE utilization goals are tracked on a project-by-project basis, where applicable, by invoices. MWBE workforce participation goals are tracked on a project-by-project basis, where applicable, by self-reporting. The selected Consultant may be required to submit an MWBE utilization plan for meeting MWBE utilization goals and/or a workforce staffing plan for meeting the minority workforce participation goals as requested by the MWBE Officer.

Examples of all MWBE forms for Public Works and Professional Services Consulting Contracts are accessible on the City's website at <https://www.Cityofrochester.gov/departments/finance-department/minority-and-women-owned-business-enterprises-mwbe>.

END OF RFQ

EXHIBIT A

DRAFT PROFESSIONAL TERM SERVICES AGREEMENT
(INCLUDING APPENDIX I AND APPENDIX II)

AGREEMENT FOR PROFESSIONAL SERVICES

Project Name: Mechanical, Electrical and Plumbing Engineering Professional Services Term Agreements
Project No.: 25032
Consultant Name: XXXXXX
Agreement #: _____
Authorizing Ordinance: 2025-XXX

I N D E X

ARTICLE I

- Part 1. DESCRIPTION OF PROJECT**
- Part 2. DESCRIPTION OF PROFESSIONAL SERVICES**
 - Section 1.201 General
 - Section 1.202 Basic Services
 - Section 1.203 Additional Services
 - Section 1.204 Reimbursable Services
- Part 3. SUBCONTRACTS**
- Part 4. CITY RESPONSIBILITIES**
- Part 5. FEES**
 - Section 1.501 General
 - Section 1.502 Fee for Basic Services
 - Section 1.503 Fee for Additional Services
 - Section 1.504 Fee for Reimbursable Expenses
- Part 6. TERM**
- Part 7. TIME OF PERFORMANCE**
- Part 8. REMOVAL OF PERSONNEL**
- Part 9. AUTHORIZED AGENT**
- Part 10. OWNERSHIP OF DOCUMENTS**
- Part 11. CONFIDENTIALITY**
 - Section 1.1101 General
 - Section 1.1102 Freedom of Information Law
- Part 12. ORGANIZATIONAL CONFLICT OF INTEREST**

ARTICLE II

- Part 1. QUALIFICATIONS, INDEMNITY AND INSURANCE**
Section 2.101 Consultant's Qualifications for Duties, Compliance and Permits
Section 2.102 Consultant's Liability
Section 2.103 Professional Liability Insurance
Section 2.104 General Liability Insurance
Section 2.105 Worker's Compensation and Disability Benefits Insurance
Section 2.106 Copyright or Patent Infringement
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- Part 2. SPECIFIC DESIGN RESTRICTIONS**
Section 2.201 Environmental Policy
- Part 3. EMPLOYMENT PRACTICES**
Section 2.301 Equal Employment Opportunity and MWBE and Workforce Utilization Goals
Section 2.302 Title VI of the Civil Rights Act of 1964
Section 2.303 The MacBride Principles
Section 2.304 Compliance with Labor Laws
Section 2.305 Living Wage Requirements
- Part 4. OPERATIONS**
Section 2.401 Compliance with Air and Water Acts
Section 2.402 Political Activity Prohibited
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Section 2.407 Status as Independent Contractor
- Part 5. DOCUMENTS**
Section 2.501 Patents and Copyrights
Section 2.502 Audit
Section 2.503 Content of Sub-Agreements
- Part 6. TERMINATION**
Section 2.601 Termination for Convenience of the City
Section 2.602 Termination for Default
- Part 7. GENERAL**
Section 2.701 Prohibition Against Assignment
Section 2.702 Compliance with All Laws
Section 2.703 Successors
Section 2.704 Interest of City and Consultant in Contract
Section 2.705 Permits, Laws and Taxes
Section 2.706 Obligations Limited to Funds Available
Section 2.707 Extent of Agreement
Section 2.708 Law and Forum
Section 2.709 No Waiver
Section 2.710 Severability

ATTACHMENTS

- Appendix I** General Scope of Services
Appendix II Schedule A: Hourly Rates Schedule

AGREEMENT

THIS AGREEMENT, entered into on the ___ day of _____, 2020, by and between the CITY OF ROCHESTER, a municipal corporation having its principal office located at CITY HALL, 30 Church Street, Rochester, New York, 14614, hereinafter referred to as the "City", and [insert firm name] with offices at [insert firm address] hereinafter referred to as the "Consultant".

WITNESSETH:

WHEREAS, the City through the Department of Environmental Services, Bureau of Architecture and Engineering desires to secure the professional services of the Consultant for the purpose of providing mechanical, electrical and plumbing engineering professional services for various projects to be undertaken, hereinafter referred to as the "Project", and

WHEREAS, the Consultant covenants that it has the personnel, skills and expertise required and wishes to undertake the Project.

NOW THEREFORE, the City and the Consultant do mutually agree, in consideration of the covenants, terms and conditions contained herein, as follows:

ARTICLE I

ARTICLE I, Part 1. DESCRIPTION OF PROJECT

Section 1.101 General Description

For each individual Project, the City Project Manager, Architect, Engineer or Landscape Architect will provide a written description of the Project, including a budget and/or schedule (if known), and a written description of the services to be provided on the Project. The Consultant shall provide a proposal specifying the number of hours anticipated to be expended and by phase, a not-to-exceed fee for the Consultant's services, estimated reimbursable expenses, and a schedule for completion of services.

ARTICLE I, Part 2. DESCRIPTION OF PROFESSIONAL SERVICES

Section 1.201 General

- A. Upon receipt of Notice to Proceed, perform in a professional and workmanlike manner to the satisfaction of the City, all of the services required and identified in the Consultant's proposal as accepted by the City. Specific services may vary on individual Projects but will, in general, consist of those described in the General Scope of Services contained in Appendix I herein.
- B. Have on its staff and retain during the performance of its services all appropriate personnel necessary to completely and accurately perform the work and services required. Where the design of architectural, landscape architectural, move management, structural, mechanical, electrical, civil, or other engineering features of the work are included in the Project, such must be performed by an Architect, Landscape Architect or Engineer registered to practice in the State of New York.
- C. Maintain an up-to-date, orderly assembled Project file including a history of the design of the Project, correspondence, calculations, documentation, references, and other material necessary to establish the basis of design.
- D. Report regularly to the City upon the progress and quality of the work. The Consultant shall conduct regular (as specified) on-site observations of the general progress of the work and shall

consult with the City designated representative and the contractor giving its opinions and suggestions based on its observations, as to any defects or deficiencies in the contractors work.

- E. Prepare and furnish to the City, minutes of any meetings held. Weekly, bi-weekly, or monthly progress reports may be requested.
- F. If requested, furnish during the construction period, a full-time or part-time resident project representative (RPR), who shall be under the supervision of a licensed professional architect and/or engineer, as applicable to the Project. The qualifications and selection of project representative shall be subject to the approval of the City.
- G. The Consultant shall perform technical inspections as directed by the City's Project Manager or Engineer in general furtherance of the duties set forth below.
- H. Furnish, except as otherwise specified in this Agreement, all equipment, materials and supplies required to carry out the provisions of this Agreement and to perform the services described above. All such equipment, materials and supplies shall be of commercially acceptable quality and suitable for their purpose to the reasonable satisfaction of the City.
- I. Provide Reimbursable Services enumerated herein if approved in writing by the City.
- J. Provide Additional Services, if required, at the written request of the City.
- K. Develop a plan and schedule for the timely completion of the requirements of this Agreement on a project-by-project basis. The utilization of appropriate graphics to illustrate the plan, i.e., bar charts, is required.

Section 1.202 Basic Services

The Scope of Services will be developed for each individual Project on an as-needed basis. The Consultant shall carry out the scope of services identified in the Notice to Proceed for the individual Project. Services to be provided include, but are not limited to, those generally described in Appendix I.

Section 1.203 Additional Services

The following shall constitute Additional Services:

- A. Performing work not described under Basic Services when requested and authorized in writing by the City's Authorized Agent including, but not limited to the following:
 - Expense to the Consultant caused by substantial revisions of previously approved studies, design documents, drawings or specifications, such revisions having been ordered in writing by the City.
 - Resident project representation Services (RPR). Description of RPR services are included in Appendix I.
 - Preparing Environmental Impact Statements (EIS).
 - Serving as an expert witness on behalf of the city.

Section 1.204 Reimbursable Services:

The following shall constitute reimbursable services if approved in writing by the City:

1. Out-of-town Travel Expenses
2. Printing Expenses (Bid, Award and Construction sets only)
3. Surveys
4. Borings and Subsurface Investigation
5. Special Presentation Material (Models, Renderings, etc.)

ARTICLE I, Part 3. SUBCONTRACTS

All services to be performed under this Agreement shall be performed with the Consultant's own employees, unless the City agrees that the Consultant may subcontract such services. Copies of all proposed Agreements between the Consultant and subcontractors shall be submitted to the City along with a statement of the subcontractor's qualifications. Such Agreements shall be approved by the City in writing prior to initiation of work. All subcontracts under this Agreement are subject to all applicable provisions of this Agreement unless otherwise directed in writing by the City. The Consultant is responsible for the completion of all services under this Agreement in an acceptable and timely manner, including any services performed by a subcontractor, supplier or other party with whom the Consultant has a contract.

ARTICLE I, Part 4. CITY RESPONSIBILITIES

The City shall:

- A. Provide as complete information as is reasonably possible as to its requirements for the Project to the Consultant.
- B. Assist the Consultant by making available to the Consultant any information pertinent to the Project, including previous reports, existing plans and any other available relevant data.
- C. Examine all studies, reports, sketches, estimates, drawings, specifications, proposals and other documents presented to the City by the Consultant for review and render decisions pertaining thereto within a reasonable period of time, so as not to delay the work of the Consultant.
- D. Designate a representative (Authorized Agent) to act as liaison between the City and the Consultant. The Authorized Agent will have the authority and responsibility to transmit instructions and to receive information with respect to the City policies and pertinent to the work covered by this Agreement, except as otherwise limited by Code or Charter of the City.
- E. Give written notice to the Consultant where the City observes or otherwise becomes aware of any default in the Consultant's performance hereunder or where the City does not concur with the design or other recommendations of the Consultant.
- F. Obtain or provide in a timely manner permission for the Consultant to enter upon any sites, buildings, and facilities as deemed necessary by the Consultant to perform the services required pursuant to this Agreement.
- G. Advertise for proposals from bidders, open proposals at the appointed time and place, and pay all costs associated thereto.

ARTICLE I, Part 5. FEES

Section 1.501 General

- A. The Consultant shall perform the services at the maximum not-to-exceed fees established in the Notice to Proceed for the individual Project, in conjunction with the hourly rate schedule included in Appendix II of this Agreement.
- B. The Consultant shall provide Project invoices based on an approved format or upon forms which shall be supplied by the City in order to receive payment.

Section 1.502 Fee For Basic Services:

- A. The Consultant's fee shall be computed on the basis of the number of hours expended by professional and technical personnel on the Project times hourly rates established pursuant to Section D below.
- B. Overtime will be billed at straight time rates. The Consultant will pay its employees whatever overtime or premium rate is required by the labor law or labor agreement.
- C. Hourly rates shall not exceed those established in the Schedule A included in Appendix II. Rates used for each individual Project to be undertaken shall be based on the rates shown in Schedule A for the year in which the Project commences and shall not change for the duration of the individual Project.
- D. All hourly rates for professional and technical personnel and the identity of project managers and principals shall be approved by the City prior to the Notice to Proceed. No changes will be made without approval of the City. Hourly increases anticipated to take effect during the course of the Project shall be indicated at the Project commencement. Any changes in personnel not approved by the City at the outset may be instituted during the course of the Project only with City's approval.

Section 1.503 Fee For Additional Services:

- A. Where mutually agreed, the City agrees to pay the Consultant for additional services performed by the Consultant on the basis of the hourly rates for principals and technical employees in Schedule A of this Agreement.
- B. The City shall pay the Consultant as an expert witness at the rate of \$400.00 per day for any day or portion thereof for which the Consultant is required to appear as a witness.

Section 1.504 Reimbursable Expenses:

- A. The Consultant will not be reimbursed any expenses incurred by it, other than those defined in Reimbursable Services and in writing by the City's Authorized Agent. No markup will be allowed.
- B. All reimbursable claims must be supported by adequate documentation and shall be reimbursed at actual cost.

ARTICLE I, Part 6. TERM

- A. The services required of the Consultant pursuant to this Agreement shall commence upon execution of this Agreement and shall terminate upon completion of the work authorized to be undertaken pursuant to the Agreement. However, no such termination shall relieve the Consultant of any outstanding duties imposed by this Agreement, including the requirement to hold the City harmless against loss arising out of any Project performed under this Agreement.
- B. The term of the Agreement shall be three years with the option to renew for two additional years for a maximum of five years total.

ARTICLE I, Part 7. TIME OF PERFORMANCE

- A. For each phase of the work, the Consultant shall not commence work until receipt of a written Notice to Proceed and shall perform the work for that phase according to the Schedule agreed to by the City.
- B. The Consultant shall not be held responsible for delays caused by the City of Rochester or by other parties not directly under its control.
- C. The above time limits may be extended only by mutual written agreement of the parties hereto. It is understood that it is the intention of the City to have the service performed under this Agreement carried out as expeditiously as possible.

ARTICLE I, Part 8. REMOVAL OF PERSONNEL

All personnel assigned by the Consultant shall be subject to the approval of the City and be required to cooperate with the City project personnel. In the event that the Consultant's personnel fail to cooperate or perform their assigned tasks in a reasonable manner as determined by the City, the City may require the Consultant to replace such personnel.

ARTICLE I, Part 9. AUTHORIZED AGENT

- A. The City hereby designates the:

Holly E. Barrett, P.E., City Engineer
City of Rochester
Department of Environmental Services
Bureau of Architecture and Engineering
30 Church Street, Room 300 B
Rochester, New York 14614-1278

- C. The Consultant hereby designates:

[insert agreement signatory name, credentials and title]
[insert firm name]
[insert firm street address]
Rochester, New York 146[XX]

or an authorized representative in case of absence, as Authorized Agents for the receipt of all notices, demands, vouchers, orders, permissions, directions, and other

communications pursuant to this Agreement, if dispatched by registered or certified mail, postage prepaid, or delivered personally to the Authorized Agents designated herein.

The parties reserve the right to designate other or additional Authorized Agents upon written notice to the other.

ARTICLE I, Part 10. OWNERSHIP OF DOCUMENTS

All original notes, drawings, specifications and survey maps prepared by the Consultant under this Agreement, upon completion of the work required herein, or upon acceptance by the City of each individual Assessment report will become the property of the City and shall be delivered to the City's Authorized Agent. The Consultant may provide a complete set of CADD files as well as a reproducible set of drawings, specifications, survey maps and all other documents in lieu of the originals.

Project documents and graphics shall also be submitted to the city in digital format on USB flash drive in PDF and Autodesk® DWG formats or such other format as requested by the City.

ARTICLE I, Part 11. CONFIDENTIALITY

Section 1.1101 General

The Consultant agrees that any and all data, analyses, materials or other information, oral or written, made available to the Consultant with respect to this Agreement, and any and all data, analyses, materials, reports or other information, oral or written, prepared by the Consultant with respect to this Agreement shall, except for information which has been or is publicly available, be treated as confidential; and shall not be utilized, released, published or disclosed by the Consultant at any time for any purpose whatsoever other than to provide consultation or other services to the City.

Section 1.1102 Freedom of Information Law

Disclosures required by New York's Freedom of Information Law ("FOIL") shall not be considered a breach of any confidentiality provisions in this Agreement. Should Consultant provide the City with any records it deems confidential and exempt from FOIL, Consultant shall clearly mark such portions of those records as confidential and exempt from FOIL disclosure. Upon any request for disclosure of information so marked, the City will inform Consultant of the request and give Consultant ten (10) business days to submit a written statement of necessity for exempting the records from disclosure pursuant to New York Public Officers Law 89(5). As required by the Public Officers Law, the City will issue a determination as to disclosure within seven (7) business days. If the City determines that the records must be disclosed, Consultant may appeal the City's determination within seven (7) business days. Thereafter, the City shall respond to Consultant's appeal within ten (10) business days. If the City issues an adverse determination, Consultant may appeal the decision within fifteen (15) days of service by commencing an Article Seventy-Eight (78) proceeding under New York's Civil Practice Law and Rules.

ARTICLE I, Part 12. ORGANIZATIONAL CONFLICT OF INTEREST

- A. The Consultant warrants that to the best of the Consultant's knowledge and belief, there are not relevant facts or circumstances which could give rise to an organizational conflict of interest, as herein defined, or that the Consultant has disclosed all such relevant information.

- B. An organizational conflict of interest exists when the Consultant performs or agrees to perform services for another party that could foreseeable implicate the City as a potentially responsible party in an environmental enforcement action or claim against the City or otherwise increase the potential liability of the City.
- C. The Consultant agrees that if an actual or potential organizational conflict of interest is discovered, the Consultant will make a full disclosure as soon as possible in writing to the City. This disclosure shall include a description of actions which the Consultant has taken or proposed to take, after consultation with the City, to avoid, mitigate, or neutralize the actual or potential conflict.
- D. The City may terminate this Agreement in whole or in part, if it deems such termination necessary to avoid an organizational conflict of interest. If the Consultant was aware of a potential organizational conflict of interest prior to award, or discovered an actual or potential conflict after award and did not disclose it, or misrepresented relevant information to the City, the City may terminate the Agreement, debar the Consultant from contracting with the City, or pursue such other remedies as may be permitted by law or this Agreement. In such event, termination of this Agreement shall be deemed a termination for default pursuant to Section 2.602.
- E. The Consultant further agrees to insert in any subcontract hereunder, provisions which shall conform to the language of this Article.

ARTICLE II

ARTICLE II, Part 1. QUALIFICATIONS, INDEMNITY AND INSURANCE

Section 2.101 Consultant's Qualifications for Duties, Compliance and Permits

- A. The Consultant hereby agrees that it has, or will have, on its staff and will retain during the performance of this service under this Agreement, all appropriate professional personnel necessary to completely and accurately perform the work and services under this Agreement.
- B. The Consultant further agrees that the design of architectural or engineering features of the work shall be accomplished by professionals licensed to practice in New York State.
- C. The Consultant further agrees to insure that its subcontractors, agents or employees shall possess the experience, knowledge and character necessary to qualify them individually for the particular duties they perform.

Section 2.102 Consultant's Liability

The Consultant hereby agrees to defend, indemnify and save harmless the City of Rochester against any and all liability, loss, damage, detriment, suit, claim, demand, cost, charge, attorney's fees and expenses of whatever kind or nature which the City may directly or indirectly incur, suffer or be required to pay by reason or in consequence of the carrying out of any of the provisions or requirements of this Agreement, where such loss or expense is incurred directly or indirectly by the City, its employees, subcontractors or agents, as a result of the negligent act or omission, breach or fault of the Consultant, its employees, agents or subcontractors. If a claim or action is made or brought against the City and for which the Consultant may be responsible hereunder in whole or in part, then the Consultant shall be notified and shall be required to handle or participate in the handling of the portion of the claim for which it may be responsible as a result of this section.

Section 2.103 Professional Liability Insurance

The Consultant shall procure at its own expense professional liability insurance for services to be performed pursuant to this Agreement, insuring the Consultant against malpractice or errors and omissions of the Consultant, in the amount of One Million Dollars. The Consultant shall provide the City with a certificate of insurance from an authorized representative of a financially responsible insurance company evidencing that such an insurance policy is in force. The certificate shall contain a thirty (30) day cancellation clause which shall provide that the City shall be notified not less than thirty (30) days prior to the cancellation, assignment or change of the insurance policy. The Consultant shall also give at least thirty (30) days notice to the City of such cancellation, amendment or change, and of any lapse of insurance coverage under this Agreement.

Section 2.104 General Liability Insurance

The Consultant shall obtain at its own expense general liability insurance for protection against claims of personal injury, including death, or damage to property, arising out of the Project. The amount of said insurance coverage shall be in the amount Two Million Dollars if said insurance is a "Defense within Limits" policy under which all claim expenses are included within both the applicable limit of liability and self-insured retention. Otherwise, the insurance coverage shall be in the amount of One Million Dollars. Said insurance shall be issued by a reputable insurance company, authorized to do business in the State of New York. Said insurance shall also name the City of Rochester as an insured and copies of the policy endorsements reflecting the same shall be provided. The Consultant shall provide the City with a certificate of insurance from an

authorized representative of a financially responsible insurance company evidencing that such an insurance policy is in force. Furthermore, the Consultant shall provide a listing of any and all exclusions under said policy. The insurance shall stipulate that, in the event of cancellation or modification the insurer shall provide the City with at least thirty (30) days written notice of such cancellation or modification. In no event shall such liability insurance exclude from coverage any municipal operations or municipal property related to this Agreement.

Section 2.105 Workers' Compensation and Disability Benefits Insurance

This Agreement shall be void and of no effect unless the Consultant shall require all the Consultant's subcontractors to keep insured, during the life of this Agreement, all employees of said subcontractors as are required to be insured under the provisions of the Workers' Compensation Law of the State of New York. In the event the Consultant hires its own employees to do any work called for by this Agreement, then the Consultant agrees to so insure its own employees. The Consultant shall provide proof to the City, duly subscribed by an insurance carrier, that such Workers' Compensation and Disability Benefits coverage has been secured. In the alternative, Consultant shall provide proof of self-insurance or shall establish that Workers' Compensation and/or Disability Benefits coverage is not required by submitting a completed New York State Workers' Compensation Board's form WC/DB-100.

Section 2.106 Copyright or Patent Infringement

The Consultant shall defend actions or claims charging infringement of any copyright or patent by reason of the use of adoption of any designs, drawings or specifications supplied by it, and it shall hold harmless the City from loss or damage resulting therefrom, providing however, that the City within ten days after receipt of any notice of infringement or of summons in any action therefor shall have forwarded the same to the Consultant in writing.

Section 2.107 No Individual Liability

Nothing contained in the Agreement shall be construed as creating any personal liability on the part of any officer or agent of the City.

ARTICLE II, Part 2. SPECIFIC DESIGN RESTRICTIONS

Section 2.201 Environmental Policy

The City has an obligation to assess the environmental impact of the Project and to prepare any necessary state, federal, and/or local environmental impact statements under the State Environmental Quality Review Act and the national Environmental Protection Act. The City wishes to enhance the environment by minimizing environmental degradation and by maximizing the Project benefits.

The Consultant, therefore, shall assist the City in determining whether environmental impact statements ("EIS") should be prepared and shall assist the City or the City's Environmental Specialist in preparing any necessary EIS. The Consultant shall not be required to prepare an EIS, unless specifically required by Article I of this Agreement.

ARTICLE II, Part 3. EMPLOYMENT PRACTICES

Section 2.301 Equal Employment Opportunity and MWBE and Workforce Utilization Goals

A. General Policy

The City of Rochester, New York reaffirms its policy of Equal Opportunity and 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. The City further does not discriminate on the basis of handicap status in admission, or access to, or treatment or employment in its programs and activities. The City is including these policy statements in all bid documents, contracts, and leases. Contractors, lessors, vendors and suppliers shall agree to comply with State and Federal Equal Opportunity laws and regulations and shall submit documentation regarding Equal Opportunity upon the City's request.

B. Definitions

MINORITY GROUP PERSONS - shall mean a person of Black, Hispanic, Asian, Pacific Islander, American Indian, or Alaskan Native ethnic or racial origin and identity.

C. Compliance

The Consultant shall comply with all of the following provisions of this Equal Opportunity Requirement:

1. The Consultant agrees that it will not discriminate against any employee for employment because of age, race, creed, color, national origin, sex, sexual orientation, gender identity or expression, disability, or marital status in the performance of services or programs pursuant to this Agreement, or in employment for the performance of such services or programs, against any person who is qualified and available to perform the work in which the employment relates. The Consultant agrees that in hiring employees and treating employees performing work under this Agreement or any subcontract hereunder, the Consultant, and its subcontractors, if any, shall not, by reason of age, race, creed, color, national origin, sex, sexual orientation, gender identity or expression, disability or marital status discriminate against any person who is qualified and available to perform the work to which the employment relates. The Consultant 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 age, race, creed, color, national origin, sex, sexual orientation, gender identity or expression, disability, or marital status. Such actions shall include, but not be limited to the following: employment, upgrading, demotions or transfers, recruitment and recruitment advertising, layoffs, terminations, rates of pay and other forms of compensation, and selection for training, including apprenticeship.
2. The Consultant agrees that its employment practices shall comply with the provisions of Chapter 63 of the Rochester Municipal Code, which restricts inquiries regarding or pertaining to an applicant's prior criminal conviction in any initial employment application.
3. If the Consultant is found guilty of discrimination in employment on the grounds of age, race, creed, color, national origin, sex, sexual orientation, gender identity or expression, disability, or marital status by any court or administrative agency that has jurisdiction pursuant to any State or Federal Equal 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 Consultant 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 Consultant can demonstrate its compliance with

this policy and all applicable Federal and State Equal Opportunity laws and regulations.

4. The Consultant 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.

D. MWBE and Workforce Utilization Goals

The City of Rochester has established a policy to promote the growth and development of Minority and Women Business Enterprises (MWBE) and to improve employment opportunities for minorities and women and has adopted MWBE goals and minority workforce participation goals that apply to public works and professional services consulting agreements with a maximum compensation exceeding \$10,000 pursuant to Ordinance No. 2018-54.

Ordinance No. 2018-54 established the goal that MWBE's receive 30% of the total annual contract awards with aggregate minority and women award goals of 15% each. Ordinance No. 2018-54 further established annual aggregate workforce goals of 20% Minority and 6.9% Women.

The Consultant shall submit a workforce staffing plan, which, when reviewed by the City's MWBE Officer, shall be incorporated into this Agreement as Exhibit A, detailing the percentage of the workforce utilized to perform the work of this agreement who will be either minority or women, including both the Consultant's workforce and that of any subcontractors who will be utilized. Consultant shall submit workforce utilization reports on the City's forms with each invoice or as otherwise requested by the MWBE Officer. The Consultant understands and accepts that the calculated percentages of workforce utilization shall be based on actual hours worked and billed over the term of the project. The final determination of a workforce goals accomplished during the contract shall be based on hours reported in the workforce utilization reports.

The Consultant shall submit an MWBE Utilization Plan with respect to any subcontractors or suppliers used to perform the services under this Agreement, which, when approved by the City's MWBE Officer, shall be incorporated into this Agreement as Exhibit B. Consultant shall submit MWBE utilization and subcontractor/supplier payment certification on the City's forms with each invoice or as otherwise requested by the MWBE Officer.

During the term of the Agreement, the Consultant shall notify the City if a change occurs that will result in a significant (5% or more) increase or decrease in the workforce staffing plan and/or MWBE utilization plan goals incorporated as Exhibit A and/or Exhibit B of this Agreement. A revised workforce staffing plan and/or MWBE utilization plan must be approved by the MWBE Officer. Once signed by the Consultant and the MWBE Officer, such revised plan(s) shall be incorporated into the Agreement as an amendment pursuant to Section 2.707.

Consultant's failure to submit MWBE and subcontractor/supplier payment certification forms, if required, and the workforce utilization reports shall constitute a default in the performance of this Agreement. Failure to meet the goals stated in the most recent workforce staffing plan and/or the MWBE utilization plan incorporated into the Agreement may result in disqualification from award of future contracts with the City.

The City of Rochester hereby gives public notice that it is Municipality's policy to assure full compliance with Title VI of the Civil Rights Act of 1964, the Civil Rights Restoration Act of 1987, and related statutes and regulations in all programs and activities. Title VI requires that no person in the United States of America shall, on the grounds of race, color, gender, or national origin be excluded from the participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity for which Municipality receives federal financial assistance. Any person who believes they have been aggrieved by an unlawful discriminatory practice under Title VI has a right to file a formal complaint with Municipality. Any such complaint shall be in writing and filed with the City Title VI Coordinator within one hundred eighty (180) days following the date of the alleged discriminatory occurrence. Title VI Discrimination Complaint Forms may be obtained from the City at no cost to the complainant, or on the City's website at www.cityofrochester.gov, or by calling (585) 428-6185.

Section 2.303 The MacBride Principles

The Consultant agrees that it will observe Ordinance No. 88-19 of the City of Rochester, which condemns religious discrimination in Northern Ireland and requires persons contracting to provide goods and services to the City to comply with the MacBride principles. A copy of the MacBride principles is on file in the Office of the Director of Finance.

Section 2.304 Compliance with Labor Laws

The Consultant specifically agrees to comply with the labor law requirements of Articles 8 and 9 of the Labor Law of the State of New York, and, more specifically, with the requirements of Sections 220, 220-a, 220-d and 220-e of the Labor Law. These provisions require the payment of prevailing wages and supplements to, the verification of payment of wages of, and require preference in the employment of New York residents, and prohibit discrimination based on race, creed, color, sex, national origin, or age, and prohibit the permitting or requiring of more than eight hours per day and forty hours per week from laborers, mechanics, or workers on a public works construction project. The foregoing requirements do not generally apply to professional staff, drafters, or clerical help or most other employees of an engineer or architect who is performing design, research, or inspection work only. The Consultant shall, however, comply with all state, federal and local non-discrimination and equal employment opportunity laws and rules and will be subject under this Agreement to fines, penalties and contract termination when the City reasonably determines that the Consultant has unlawfully discriminated because of the race, color, creed, national origin, sex or age of any applicant for employment or any employees.

Section 2.305 Living Wage Requirements

A. Applicability of Living Wage Requirements

This section shall apply and the Consultant shall comply with the requirements of Section 8A-18 of the Municipal Code of the City of Rochester, known as the "Rochester Living Wage Ordinance", in the event that payments by the City to the Consultant under this Agreement shall exceed fifty thousand dollars (\$50,000) during a period of one year. If this Agreement is amended to increase the amount payable hereunder to more than fifty thousand dollars (\$50,000) during a period of one year, then any such amendment shall be subject to Section 8A-18.

B. Compliance

The Consultant shall pay no less than a Living Wage to any part-time or full-time Covered Employee, as that term is defined in Section 8A-18B, who directly expends their time on this Agreement, for the time said person actually spends on this Agreement. Living Wage, as set forth in this Agreement, shall be the hourly amount set forth in Section 8A-18(C)(2), and any adjustments thereto, which shall be made on July 1 of each year and

shall be made available in the Office of the City Clerk and on the City's website, at www.cityofrochester.gov. Consultant shall also comply with all other provisions of Section 8A-18, including but not limited to all reporting, posting and notification requirements and shall be subject to any compliance, sanction and enforcement provisions set forth therein.

C. Exemption

This section shall not apply to any of Consultant's employees who are compensated in accordance with the terms of a collective bargaining agreement.

ARTICLE II, Part 4. OPERATIONS

Section 2.401 Compliance with Air and Water Acts

The Consultant and any and all subcontractors agree as follows:

- A. The Consultant, and its subcontractors warrant that any facility to be utilized in the performance of any non-exempt contract or subcontract is not listed on the list of Violating Facilities issued by the Environmental Protection Agency (EPA) pursuant to 40 CFR 15.20.
- B. The Consultant promises to comply with all of the requirements of Sections 144 of the Clean Air Act, as amended (47 USC 1857c-8) and Section 308 of the Federal Water Pollution Control Act, as amended (33 USC 1318) relating to the inspection, monitoring, entry, reports and information as well as all other requirements specified in Section 114 and Section 308, and all regulations and guidelines issued thereunder.
- C. A condition for the award of the Agreement is that prompt notice will be given to the City of any notification received from the Director, Office of Federal Activities, EPA, indicating that a facility utilized or to be utilized for the Agreement is under consideration to be listed on the EPA list of Violating Facilities.
- D. The Consultant warrants to the City that it has not been convicted under Section 113(c)(1) of the Clean Air Act or Section 309(c) of the Federal Water Pollution Control Act.

Section 2.402 Political Activity Prohibited

None of the funds, materials, property, or services provided directly or indirectly under this Agreement shall be used during the performance of the Agreement for any partisan political activity, or to further the election or defeat of any candidate for public office.

Section 2.403 Lobbying Prohibited

None of the funds provided under this Agreement shall be used for publicity or propaganda purposes designed to support or defeat legislation pending before the United States Congress, the Legislature of the State of New York or the Council of the City of Rochester.

Section 2.404 Anti-Kickback Rules

Salaries of employees performing work under this Agreement shall be paid unconditionally and not less often than once a month 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 Secretary of Labor pursuant to the "Anti-Kickback Act" of June 13, 1934 (48 Stat. 948; 62 Stat. 108; title 18 U.S.C., section 874; and title 40 U.S.C., section 276c). The Consultant shall comply with applicable "Anti-Kickback" regulations and shall insert appropriate provisions in all subcontracts covering work under this Agreement to insure compliance by subcontractors with such regulations and shall be responsible for the submission of affidavits required of subcontractors thereunder except as the Secretary of Labor may specifically provide for variations of or exemptions from the requirements thereof.

Section 2.405 Withholding of Salaries

If, in the performance of this Agreement, there is notice to the City of any underpayment of salaries by the Consultant or by any subcontractor thereunder, the City shall withhold from the Consultant out of payments due to it an amount sufficient to pay the employees underpaid the difference between the salaries required hereby to be paid and the salaries actually paid such employees for the total number of hours worked. The amounts withheld may be disbursed by the City for and on account of the Consultant or subcontractor to the respective employees to whom they are due.

Section 2.406 Discrimination Because of Certain Labor Matters

No person employed on the work covered by this Agreement shall be discharged or in any way discriminated against because the person has filed any complaint or instituted or caused to be instituted any proceeding or has testified or is about to testify at any proceeding relating to the labor standards applicable hereunder to that person's employer.

Section 2.407 Status as Independent Contractor

The Consultant, in accordance with its status as an independent contractor, covenants and agrees that it shall conduct itself in a manner consistent with such status, that it will neither hold itself nor its employees out as, nor claim to be an officer or employee of the City by reason hereof, and that it and its 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.

ARTICLE II, Part 5. DOCUMENTS

Section 2.501 Patents and Copyrights

The Consultant agrees that, in the event it, or any of its employees' develop any material for which a copyright can be obtained which material was developed as a result of or in connection with the work required pursuant to this Agreement, the City shall own the copyright to any copyrightable material and may, in its discretion, grant a royalty-free, non-exclusive license to use, reproduce and distribute such copyrightable material. The Consultant further agrees that in the event it, or any of its employees, develops any process, machinery or product for which a patent would be obtainable, the Consultant shall provide the necessary information to the City, so that the City can apply for such patent at its own expense. Such patent shall become the property of the City; provided, however, that the City, in its discretion, may grant to Consultant a royalty-free, non-exclusive license to produce or reproduce such patented product. The benefits of either a patent or a copyright shall also inure to any public agency which finances, in whole or in part, this project and such agency shall receive a royalty-free, non-exclusive license to use, reproduce, manufacture and distribute the product or mater which has been patented or copyrighted.

Section 2.502 Audit

The Consultant agrees to maintain sufficient on-site records and information necessary for the documentation of any and all facets of program operation specified by this Agreement. The Consultant shall maintain all books, documents, papers and other evidence pertinent to the performance of work under this Agreement in accordance with generally acceptable accounting principles, and 40 CFR Part 30 in effect during the term of this Agreement. The Consultant 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 to the performance of such audit. The Consultant agrees to maintain for a period of six (6) 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 six years for any and all records and information pertaining to unresolved questions, which have been brought to the Consultant's attention by written notice by the City. The Consultant agrees to furnish to the City data to include but not be limited to, intake records, status change notices, termination notices, and follow-up records. Said reports will be submitted periodically as required by the City.

Section 2.503 Content of Sub-Agreements

The Consultant agrees that all sub-agreements authorized by this Agreement shall be in written form. The Consultant shall require all subcontractors to comply with any of the following sections which may be in this Agreement: "Equal Employment Opportunity; Affirmative Action and Employment of Local Labor; Compliance with Labor Laws; Certifications Regarding Conflicts of Interest; Anti-Kickback Rules; Interest of City and Contractor in Contract." It is the purpose of this section to insure that all Agreements obligate all parties performing work under this Agreement to comply with necessary governmental programs and policies. The City may require the Consultant to submit copies of such sub-agreements to the City. If such copies are not submitted upon request, the City may have the right to withhold any and all payments to the Consultant to those items of work which have not complied with this section.

ARTICLE II, Part 6. TERMINATION

Section 2.601 Termination for Convenience of the City

- A. This Agreement may be terminated by the City in accordance with this section in whole, or from time to time, in part, whenever for any reason, the City shall determine that such termination is in the best interest of the City. Any such termination shall be effective upon written notice to the Consultant. However, no such termination shall relieve the Consultant of any outstanding duties imposed by the Agreement, including the requirement to hold the City harmless and to maintain insurance coverage insuring against loss arising out of the Project.
- B. If the Agreement is so terminated the City may take over the work and services and prosecute the same to completion by contract or otherwise. The Consultant, upon such termination, shall transfer title, and in the manner directed by the City, shall deliver to the City the completed or partially completed, plans, drawings information, other property and records of work being performed, which, if this Agreement had been completed, would be required to be furnished to the City.
- C. After receipt of written notice of termination, the Consultant shall promptly submit to the City its termination claim in a form acceptable to the City. Such claim shall in no event be submitted later than one year from the effective date of termination.

- D. In the event that the parties cannot agree, in whole or in part, as to the amount due by reason of the termination of the Agreement pursuant to this clause, the City shall pay the Consultant the amount determined as the total of the following:
1. The cost of all work performed prior to the effective date of termination.
 2. The cost of settling and paying claims arising out of and as a direct result of the termination;
 3. A sum as profit on subdivision 1. above, determined to be fair and reasonable, provided however, that if the Consultant would have sustained a loss on the entire Agreement had it been completed, no profit shall be included or allowed under this subdivision 3., and an appropriate adjustment shall be made reducing the amount of settlement to reflect the indicated rate of loss. The total sum to be paid under this section shall not exceed the total price of this Agreement specified hereinabove, reduced by the amount of payments otherwise made, and further secured by the value of work remaining incomplete at the time of the termination of this Agreement.

Section 2.602 Termination for Default

- A. The performance of work under this Agreement may be terminated by the City in accordance with this clause in whole, or, from time to time, in part, whenever the Consultant shall default in performance of this Agreement in accordance with its terms (including in the term "default" any failure by the Consultant to make progress in the prosecution of the work hereunder which endangers such performance) and shall fail to cure diligently such default within a period of ten days or (or such longer period as the City may allow) after delivery by the City of a notice specifying the default.
- B. If this Agreement is to be terminated, the City may take over the work and services and prosecute the same to completion by contract or otherwise, and the Consultant shall be liable to the City for any excess cost occasioned thereby.
- C. The total fee payable shall be such proportionate part of the fee as the value of the actual work completed and delivered bears to the value of the work required or contemplated by this Agreement.
- D. This Agreement may not be so terminated if the failure to perform arises from unforeseeable causes beyond the control and without the fault or negligence of the Consultant.
- E. If, after notice of termination of this Agreement under the provisions of this section, it is determined for any reason that the Consultant was not in default or that the default was excusable the rights and obligations of the parties shall be the same as if the notice of termination had been issued pursuant to the clause of this Agreement entitled "Termination for the Convenience of the City."
- F. The rights and remedies of the City provided in this clause are in addition to any other rights and remedies provided by law or under this Agreement.

ARTICLE II, Part 7. GENERAL

Section 2.701 Prohibition Against Assignment

The Consultant agrees that it is prohibited from assigning or otherwise disposing of this Agreement or any of its contents, or of its right, title or interest therein, or of its power to execute such contract to any other person or corporation without the previous consent in writing of the City.

Section 2.702 Compliance with All Laws

The Consultant agrees that during the performance of the work required pursuant to this Agreement, the Consultant, and all employees working under its 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.

Section 2.703 Successors

The City and the Consultant each bind their successors, executors, administrators and assigns in respect of all covenants of this Agreement.

Section 2.704 Interest of City and Consultant in Contract

The City and the Consultant agree that no member, officer, or employee of the City or of the Consultant or assignees agents shall have any interest, direct or indirect, in any contract or subcontract or the proceeds thereof, for work to be performed in connection with the program assisted under the Agreement.

Section 2.705 Permits, Laws and Taxes

- A. In the event that services performed by the Consultant for the City are subject to taxation under Article 28 of the Tax Law (sales and compensating use tax) the Consultant shall receive from the City the material necessary to obtain a tax exempt certificate upon written request.
- B. The Consultant shall pay all taxes, applicable to the work and materials supplied under this Agreement, it being understood that in no case shall any such tax be borne by the City, except as provided in subparagraph A. above.

Section 2.706 Obligations Limited to Funds Available

The parties specifically agree that the Consultant's duty to perform work under this Agreement and the City's obligation to pay for that work, including any out-of-pocket and subcontracting expenses of the Consultant, shall be limited to the amount of money actually appropriated by the City Council and encumbered (i.e., certified as being available) for this Project by the City Director of Finance (or his authorized deputy). This provision shall limit the parties' obligation to perform even though this Agreement may provide for the payment of a fee greater than the appropriated and encumbered amount.

Section 2.707 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.

Section 2.708 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 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.

Section 2.709 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.

Section 2.710 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.

IN WITNESS WHEREOF, the parties have duly executed this Agreement on the day first written above.

THE CITY OF ROCHESTER

[insert firm name]

BY: _____

BY: _____

Malik D. Evans, Mayor

[insert agreement signatory name, creds, title]

Federal Tax Payer Id No.: _____

STATE OF NEW YORK
COUNTY OF MONROE

On this ___ day of _____, 20___, before me, the subscriber, personally came MALIK D. EVANS to me known, who being by me duly sworn, did depose and say that he resides in the City of Rochester, that he is the Mayor of the City of Rochester, the municipal corporation described in the above Agreement; that he signed his name thereto by authority of Ordinance No. [insert council Ordinance Number].

Notary Public

STATE OF NEW YORK
COUNTY OF MONROE

On this _____ day of _____, 20__ before me, the undersigned, a Notary Public in and for said State, personally appeared _____, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

Notary Public

APPENDIX I

DRAFT GENERAL SCOPE OF SERVICES

Appendix I

Draft General Scope of Services

A. General Coordination

1. Kick-Off Meeting

In conjunction with the beginning of the Project, the City of Rochester will schedule a kick-off meeting. The purpose of the meeting will be to identify issues related to the various design components of the Project. The Consultant shall present their approach and schedule to the City for comment.

The Consultant shall provide written meeting minutes outlining agreements/understandings reached. The Consultant shall provide the finalized project schedule.

2. Review and Progress Meetings

The Consultant shall hold regular review and progress meetings with the City and all other parties designated by the City for the duration of the Project design and construction. The Consultant shall provide meeting agendas and minutes for all meetings.

3. Stakeholder/Utility Coordination Meetings

When requested, the Consultant shall notify and meet with all stakeholder/utilities impacted by the Project on an as-needed basis to assure full coordination throughout design. Stakeholder/utilities include, but are not limited to, businesses, schools, utilities, involved City departments, State and local agencies, grant agencies, and neighboring property owners impacted by this Project. The Consultant shall provide meeting agendas and minutes for all meetings.

4. Public Meetings

When requested, the Consultant, in collaboration with the City, shall conduct and lead Public Meetings. The Consultant shall prepare and distribute materials, agendas, and minutes for all Public Meetings.

The Consultant shall provide meeting materials and agendas that promote a comprehensive understanding of the Project and encourage input. Meeting materials may include, but are not limited to, presentation boards, design drawings, electronic images, renderings, and power point presentations.

When meetings are requested to be Hybrid (remote and in-person) the Consultant shall coordinate with the City to provide suitable equipment and additional staff to facilitate both mediums.

5. Sub-consultant Coordination and Management

The Consultant shall review the work of all sub-consultant(s), prior to its transmittal to the City, for quality assurance regarding its compliance with all City requirements. No sub-consultant work shall be submitted to the City for Project use without a prior quality assurance check.

The Consultant shall coordinate the scheduling of all sub-consultant work.

B. Pre-Design Evaluation

1. Develop with the City, the program requirements and outline in a program statement. Determine the financial and time requirements, and the scope of the Project.

C. Condition Survey and Report

1. Investigate, analyze and measure the existing facilities to the extent necessary to determine the information necessary for the work of the Project.
2. Measure and verify floor plans and equipment locations, prepare base plans which plot planimetric and utility details of the site.
3. Locate, identify, and note the physical condition of all storm, sanitary, or combined sewer laterals, catch basins, water laterals, manholes, and other similar structures within the Project area.
4. Prepare drawings and a report of the existing facilities, their condition, and their effect on the Project or the Project's effect on them.
5. Identify and document known accessibility, operational or structural impact to the Project area during proposed construction.
6. Identify and document environmental conditions and the impact to the Project.
7. Prepare probable construction cost estimates to assist in the preparation of Project budgeting.

D. Program Development

1. Consult with the City and other necessary and appropriate government units, utilities, organizations, and persons in order to ascertain the requirements of the Project, review the program prepared by the City and make necessary revisions herein.
2. Evaluate program data to include, but not be limited to, meetings with City staff and users to review, evaluate and establish their divisional space and functional needs, coordinate with architectural programming information.
3. Establish any building operational issues that may affect cost; i.e., security, operating hours, communication needs, etc.

E. Schematic Design

1. Upon receipt of written approval from the City, prepare up to two schematic designs for review and approval by the City. The schematic drawings shall show the proposed design character and the location of major facilities and design features of the Project.
 - a. A detailed cost estimate separating labor and materials shall accompany the schematic drawings for each of the design options developed.
 - b. Include concept elevations and drawings, adjacency drawings and code review drawings, and environmental remediation plans, if required.
2. Provide schematic design progress reviews at 30%, 60% and 90% to the City and other authorities as required.
3. Submit the final schematic design, satisfying the City's requirements.
4. Prepare presentations as necessary to representatives of the City, to satisfy the City and all

other required agencies.

F. Design Development

1. Submit detailed design reports including drawings showing the general design and appearance of all structures, facilities, and utilities to be provided, including a site plan showing the proposed location and arrangement of elements on the site and the materials to be used. The rationale for selection should be outlined; if alternate layouts, designs and materials exist, the alternatives are to be a recommendation of the best alternative.

The reasons for this selection should be outlined. Revise designs incorporating any modifications and submit to the City within a mutually agreed period of time

2. Provide an outline of specifications (titles, section numbers) for the Project.
3. At the completion of the design development phase, the Consultant shall provide an itemized construction cost estimate based on information available, separating labor and materials.
4. Provide engineering design drawings which shall include all Project components and accessories, including system elevations, plans, sections, notes, as applicable.
5. Provide a preliminary construction schedule showing, at minimum, target bid date and construction duration.
6. Present the City with a Design Development Report if requested. Such report shall include approved alternatives and recommended selection of alternatives.
 - a. Submit detailed design drawings showing the general design, outline specifications, revised cost estimates, material cut sheets and material selection.
7. Prepare the necessary documentation for the local and State environmental reviews and assist in the environmental review process, in accordance with 6NYCRR, Part 617 - the State Environmental Quality Review Act (SEQR).

G. Contract Documents

1. Perform the final design and the preparation of detailed contract documents in accordance with applicable City, County, State, and Federal regulations ("codes") for all elements of work including:
 - a. Site plan showing paved areas, lighting, drainage, details, etc. (if included in Project)
 - b. Architectural Designs (if included in Project)
 - c. Mechanical Designs; including plumbing
 - d. Structural Designs (if included in Project)
 - e. Electrical Designs
 - f. Other Designs: (Environmental, Soil Management Plan)
2. Provide design progress reviews with the City and other authorities as required. Provide progress prints, specifications, and revised cost estimates at 30%, 60% and 90% intervals for the City's review and approval.
3. Provide the City with a revised cost estimate for the Project based upon completed Contract Documents.
4. Prepare for approval by the City, the Contract Documents including bidding forms, the Contract

Agreement, and General Conditions, using standard City Contract Conditions, Project specifications and working drawings for the Project. The Bid Documents are to conform with City standards wherever applicable.

- a. Prepare a list of all permits, licenses, reviews, and approvals required by Contract Documents.
- b. Provide the City contract documents and specifications in both paper and electronic (pdf and AutoCAD) format.

H. Bidding Phase Services

Prior to contract letting and subsequent to bid document submission, the Consultant shall make necessary revisions and last minute changes to plans, specifications, and estimates that result from the City and other agency reviews.

The City shall prepare and distribute a bid invitation to select a construction contractor and draft advertisements to bid to be placed in local periodicals, the NYS Contract Reporter and uploaded electronically to BidNet.

The Consultant shall prepare addenda as needed during the bidding phase. Such addenda shall conform to the requirements of the City's Purchasing Agent. The Consultant shall assist the City with distribution of the addenda as directed.

The Consultant is to attend and assist the City in pre-bid meetings and pre-award meetings. Agenda and minutes of these meetings will be prepared by the Consultant.

The City will hold the public bid opening (letting).

The Consultant shall analyze the bid results and prepare a letter of recommendation for award. The analysis will include, as applicable, the following:

- Verification of the low bidder.
- Bid tabulation showing bid amounts by each bidder for each item.
- Ensuring receipt of all required bid documents (non-collusive bid certification, debarment history certification, MWBE, apprenticeship, bonding, etc., as applicable)
- Breaking the low bid into fiscal shares.
- Determining whether the low bid is unbalanced.
- For pay items bid 15% less than the Engineer's Estimate or more that 25% over the Engineer's Estimate:
 - Checking accuracy of quantity calculations.
 - Determining appropriateness of price bid for work in the item.
- Determining whether the low bidder is qualified to perform the work.
- This information shall be provided to the City within five (5) working days of the bid opening.

I. Construction Administration

The Consultant shall provide the following services:

1. For the duration of the construction contract to be entered into by the City for the construction of this Project, provide, to the satisfaction of the City, periodic engineering consultation services to verify adherence to the design and to assist in the administration of the construction until final completion and acceptance by City.

2. Check and approve shop drawings for conformance with Project design and compliance with the information given by the Contract Documents. There shall be no change in the scope of the work or in materials specified by the Contract Documents until approval for such change has been given in writing by the City and the Architect/Engineer of Record.
3. Attend pre-construction conferences and job meetings.
4. Visit the job whenever scheduled or otherwise requested by the City for the purpose of clarifying or interpreting any phase of the work.
5. Regularly review field reports and special inspection documentation for compliance with the information given by the Contract Documents.
6. Determine, in company with the City and others designated by the City, the date of substantial completion and prepare a punch list of all remaining work items to be completed in the final two weeks of the Project construction.
7. Assist, in company with the City and others designated by the City, in the documentation and preparation of closeout requirements as required by the City, including closeout requirements for Project funding such as grants and awards.
8. Conduct, in company with the City and others designated by the City, a final inspection of the Project for conformance with the design of the Project and compliance with the information given in the Contract Documents.

The consultant is hereby authorized to stop work on all or part of the Project for up to twenty-four hours, without prior consultation with the City and for any reason which the professional judgment of the Consultant requires such stoppage. Upon issuing such stop work order, the Consultant shall immediately consult with the City to resolve the problem(s) which lead to the stop work order.

J. Construction Resident Project Representation (RPR)

If requested, the Consultant shall furnish during the construction period, a resident project representative. All RPR work shall be performed under the supervision of a New York State licensed professional engineer or architect of the Consultant and the Architect/Engineer of Record. The qualifications of all Consultant personnel doing work under this Agreement shall be subject to the review and approval of the City.

The Consultant shall report regularly to the City and the Architect/Engineer of Record on the progress and quality of the work. The Consultant shall conduct on-site observations of the general progress of the work and shall consult with the City and the contractor giving opinions, suggestions, and recommendations, based on the Consultant's observations, as to any defects or deficiencies in the contractor's work.

The Consultant shall perform technical inspection as directed by the Engineer of Record in general furtherance of the duties set forth below.

The specific duties of the RPR shall include, but not be limited to, the following:

1. Quality Control
 - a. Execute quality control and inspection measures in accordance with Project specifications, and coordinate special inspection and testing agencies activities.
 - b. Coordinate quality control with Architect/Engineer of Record.

2. Record Assembly
 - a. A list of the Contractor's suppliers and subcontractors.
 - b. A record of field tests, field samples, and special inspections
 - c. A complete set of contract documents with all revisions and agenda.
 - d. Shop drawing and submittal logs and a complete set of approved shop drawings.
 - e. A complete set of all correspondence and written records regarding the Project.
 - f. Copies of all guarantees, certifications and operation manuals for the Project.
 - g. A copy of all Project schedules of all contractors as amended.
 - h. A filed and labeled set of preconstruction and construction photographs.

3. Observation
 - a. On-site observations of the work in progress.
 - b. Attend and chair pre-construction conferences and job meetings
 - c. Consult with the City prior to and observe all on-site tests.
 - d. Observe such off-site operations as directed by the City.
 - e. Observe that all permits and licenses which are necessary have been obtained.
 - f. Conduct a final inspection of the Project

4. Liaison
 - a. Transmit to the contractor the Designer's interpretation of the contract.
 - b. Transmit all modifications to drawings for creation of a set of as-built drawings.
 - c. Coordinate and monitor all material testing
 - d. Coordinate work with construction that is occurring on other adjacent Projects
 - e. Receive from the Contractor weekly certified payroll records.

5. Construction Review
 - a. Construction schedules from each contractor.
 - b. Payment requisitions from each contractor for each fiscal share of the Project.
 - c. Requests of the Contractor for interpretation of the Contract Documents.
 - d. Claims by each contractor.
 - e. Contractor requests regarding proposed changes to the contract documents.
 - f. Change orders including recommendations
 - g. Construction schedules and proposed work locations of any contractor.

6. Record Creation

The Consultant shall create and maintain the Project records. Upon completion of the Project the Consultant shall deliver a bound, categorized set of these records which shall include the following:

- a. A list of all required permits, licenses, reviews and approvals
- b. A daily diary or log book
- c. Weekly and monthly reports
- d. Monthly progress payments (and final payment)
- e. Change Orders as required on forms approved by the City.
- f. All modifications to construction schedules for the Project.
- g. Minutes of all meetings.
- h. A final punch list of all items which remain incomplete
- i. A guarantee punch list
- j. Marked up prints, drawings and other data indicating all modifications
- k. Labeled pre-construction and construction photographs.
- l. Project unit quantities apportioned by final share
- m. Water service and sewer lateral tap cards
- n. All permits of any contractor doing work within the Project limits. The Consultant shall submit three sets of hard copy As-Built Plans, certified by a licensed professional architect, landscape architect and/or engineer as applicable. Submission shall include a USB flash

drive with electronic versions of the As-Built Plans in both CAD and PDF formats.

The RPR representative is hereby authorized to stop work on all or part of the Project for up to twenty-four hours, without prior consultation with the City and for any reason which the professional judgment of the Consultant requires such stoppage. Upon issuing such stop work order, the Consultant shall immediately consult with the City to resolve the problem(s) which lead to the stop work order.

K. Commissioning

1. If requested, the commissioning agent will develop and coordinate the execution of the testing plan, observe and document performance of the Project improvements in accordance with the Contract Documents.
 - a. Develop and coordinate the execution of the testing plan, observe and document performance of the Project improvements, system integration and functionality in accordance with the documented design intent of the Contract Documents.
 - b. Set up and conduct scoping meeting(s) with commissioning team members.
 - c. Review submittals and startup procedures.
 - d. Develop and implement specific equipment and system functional performance testing to ensure new work is properly integrated.
 - e. Witness testing of selected pieces and/or systems in the presence of City personnel, and coordinate re-testing, if required.
2. Participate in resolution of optimization deficiencies identified during commissioning in accordance with the Contract Documents.
3. Pre-approve and oversee staff training and system documentation.
4. Compile, organize, and index the commissioning data by equipment into three (3) sets of labeled, indexed, and tabbed three-ring binders and deliver to the City.
5. Prepare a Final Commissioning Report to be submitted in writing to the City.
6. Review and approve Operation and Maintenance Manuals from the Contractor for completeness.

APPENDIX II

SCHEDULE A

HOURLY RATE SCHEDULE

EXHIBIT B

CONSULTANT
INFORMATION FORM



City of Rochester
Department of Environmental Services
Bureau of Architecture and Engineering
Revised: September 23, 2021

Consultant/Contractor Information Form

Project Name: _____

(Please Note: Consultant/Contractor to verify and submit form for each new project)

Part A: Department of State Verification

Please supply the following information and verify that it matches the information shown on following website:

<https://apps.dos.ny.gov/publicInquiry/>

Current Entity Name:	
DOS ID #:	
Initial DOS Filing Date:	
County:	
Jurisdiction:	
Entity Type:	
Current Entity Status:	

Chief Executive Officer Information:

Name:	
Address:	

Principal Executive Office Information:

Name:	
Address:	

The information provided and located on the DOS website matches.

The information on the DOS website is out of date. The information provided is the corrected information.

Check box if your firm is certified and listed on the New York State Directory of Certified Minority and Women-Owned Business Enterprises (MWBE).

Part B: Local Office Information

Please supply the name of the person who will be administering the project. Also identify the local address of where the project will be administered.

Name:	
Title:	
Address:	

Part C: Executed Agreement Information

Please supply the name of the person who will be administering the executed agreement.

Name:	
Title:	

EXHIBIT C

PROFESSIONAL CONSULTANT SERVICES MWBE
UTILIZATION PLAN FORM

**CITY OF ROCHESTER
MWBE FORM A**

MWBE GOALS: MBE 15%, WBE 15%

MWBE UTILIZATION PLAN – PROFESSIONAL CONSULTANT SERVICES

Project Name _____ **Agreement #** _____

Consultant _____ **Total Contract Amount* \$** _____ **Original Plan** **Revised Plan**

MWBE Business Name	M B E	W B E	Scope of Work to be Performed	Projected Start Date	Projected End Date	Total Amount of MWBE Subcontract	Percentage of Total Contract*
TOTAL:							

*Total Contract equals contract award plus all change orders

Authorized Person _____ **Title** _____ **Phone** _____

Signature _____ **Date** _____ **Email** _____

Approved by MWBE Officer _____ **Date** _____

EXHIBIT D

PROFESSIONAL CONSULTANT SERVICES WORKFORCE
STAFFING PLAN FORM

City of Rochester
Professional Consultant Services Workforce Staffing Plan

WORKFORCE STAFFING PLAN FOR PROFESSIONAL CONSULTANT SERVICES								
PROJECT NAME:			DATE:			MINORITY GOAL	FEMALE GOAL	
CONSULTANT:			AGREEMENT NUMBER:			20.00%	6.90%	
CLASSIFICATION	NUMBER OF EMPLOYEES WORKING ON PROJECT						MINORITY %	FEMALE %
	TOTAL		MINORITY		NON-MINORITY			
	M	F	M	F	M	F		
Officials, Administrators								
Professionals								
Technicians								
Sales Workers								
Office, Clerical								
Craft Workers								
Laborers								
Temporary, Apprentices								
Other (Specify)								
TOTAL WORKFORCE								

Prepared by (Signature):	Title:	Phone:
Printed Name:	Date:	Email:

Reviewed by MWBE Officer:	Date:
---------------------------	-------

EXHIBIT E

CONSULTANT INVOICE TEMPLATE

Consultant Invoice Template

Date: (Date)

Project Name: (City Project Name)

Project No.: (City project number)

Invoice No.: (consultant number)

Consultant: (Consultant Name)

Period Covered: (Start) to (End)

City Project

Architect: (City PM Name)

Agreement No.: (number)

P.O.#: (if Applicable)

(Edit per PO)	<u>Per</u>	<u>Amount</u>	<u>Previous</u>	<u>Remainder</u>	<u>Total Amount</u>
Fee	<u>Proposal/</u>	<u>Billed this</u>	<u>Amount</u>	<u>To Bill</u>	<u>to Date</u>
Basic Services	<u>Agmt.</u>	<u>Period</u>	<u>Billed</u>		
Kickoff/Meetings, Program, Survey	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Schematic Design	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Design Development	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Contract Documents	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Bid/Award Services	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Construction Administration	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Subtotal I.	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Reimbursables					
Printing for bid	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Subtotal II.	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
<i>Additional Services*</i>	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Total	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00

Less previous Invoices \$0.00

Current Payment Due **\$0.00**

Balance to Finish \$0.00

**Approval by City in writing required*

Total paid M/WBE subconsult. to date (if applicable) \$ _____

Total agreed to be paid M/WBE subconsult. per this proposal (if appl.) \$ _____