

City of Rochester  
Request for Proposals  
**Foreclosure Prevention Services**

**Proposals to be received by 4:00 PM**

**February 26, 2025**

Submit Proposals to:

Lia Anselm, Business and Housing

30 Church Street, Room 005A

Rochester, NY 14614

[Lia.anselm@cityofrochester.gov](mailto:Lia.anselm@cityofrochester.gov)

585-428-9368

# REQUEST FOR PROPOSAL

The City of Rochester is seeking proposals from a qualified Consultant(s) to provide counseling and advocacy, and/or legal services that prevent and or mitigate foreclosure or tax default including but not limited to advocacy, financial counseling, support for settlement conferences, or prevention of foreclosures due to predatory lending practices or services, (the “Project”).

## BACKGROUND

Each year, several hundred households in Rochester fall behind on their mortgage due to a number of factors. Research shows that households are far more likely to avoid the loss of their property to foreclosure when assisted by an experienced and committed organization. The City is committed to assisting eligible Rochester homeowners in preventing foreclosures due to mortgage arrears, tax default, or predatory loans and servicing that could result in foreclosures. The City is seeking an agreement(s) with a Consultant(s) experienced in any/all of the following: supporting households who are experiencing mortgage or real estate tax default; providing services to represent and/or advocate for low and moderate income homeowners in foreclosure settlement conferences or with their lender/servicer; and/or evaluations of loan terms and lending practices that impact homeowners who may face mortgage foreclosure or be potential targets or victims of predatory lending.

## Timeline

Activity	Time	Date
RFP Release		January 14, 2025
Deadline for questions		January 24, 2025
Response for questions submitted		January 28, 2025
Proposals due	4:00 p.m.	February 26, 2025
Consultant Selection and Award Notification		March 27, 2025
City Council Approval of agreement with Consultant		May 20, 2025
Agreement Start Date		July 1, 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.

## Communications

All communications by parties who have indicated an intent to submit or have submitted a proposal in response to this RFP ("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 RFP shall be sent, in writing, to the following City staff person ("City Contact"):

Lia Anselm, [lia.anselm@cityofrochester.gov](mailto:lia.anselm@cityofrochester.gov)

No contact is permitted with any other City staff member with regard to this RFP during the RFP 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 RFP, the City will respond to all timely questions submitted via e-mail to the City Contact by the question deadline stated above. Questions and the responding answers will be sent via e-mail to all Respondents who have provided an e-mail address to the City Contact and will be posted on the City's web page for this RFP. The City's failure to timely respond 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 RFP.

The City will make every reasonable effort to keep Respondents informed about the RFP process. Notifications about Timeline date changes, amendments to the RFP, and other information about the RFP will be sent by e-mail to Respondents who have provided an e-mail address to the City Contact and will be posted on the City's website for this RFP. The City's failure to provide such information shall not delay or invalidate the City's right to make a decision to award an agreement pursuant to this RFP.

## SCOPE OF SERVICES

The City is seeking the services of a Consultant(s) to perform the following services to implement the Program(s). Respondents' proposals shall address each of the requested services, using the same identifying language, including any paragraph or section numbers or letters as used in the RFP. If a Respondent cannot or does not wish to perform one or more of the activities, please specify which activities are applicable to the proposal. A detailed description of the Respondent's services, methods, and process should be included.

1. Intake/Assessment: Counseling sessions, in person or by phone/virtually to accommodate the homeowners' schedule or preference. The nature, severity, and causes of the mortgage and other debt obligations or arrears are determined at these counseling sessions. The ability to provide services in other languages is a plus and should be described in the proposal.
2. Foreclosure Prevention Support and Advocacy: Assessment of each client's individual financial situation and next steps. Advocacy between the client and the lender/servicer or other appropriate parties to prevent foreclosure. Information on outside resources and referrals for immediate needs such as: medical, food, legal assistance, or employment opportunities, are provided based on individual needs. May include activities related to preparing or accompanying/representing clients for settlement conferences as required by New York State. A detailed description of the Respondent's process and services should be provided.
3. Legal Services: Specifically related to predatory lending, subprime lending, illegal or unethical servicing practices. This may include any of the following:
  - a. Bring affirmative suits directly against: predatory mortgage lenders, mortgage servicing companies engaging in predatory lending, and loan brokers who initiate predatory loans.
  - b. Provide legal services and, as appropriate, legal representation to clients who:
    - i. are in default or foreclosure and need representation at the mandatory settlement conferences;
    - ii. are at risk of default or foreclosure due to predatory lending practices
    - iii. are in default or foreclosure due to predatory lending practices
  - c. Provide advice on loans and referrals to appropriate agencies for clients.
4. Services related to other trends or issues that directly impact stability and ownership for owner-occupants. Please describe these issues, including data/other empirical evidence of their impact on the Rochester community, and the Respondent's ability to impact that arena.

Eligible clients shall be those city homeowners whose household annual gross incomes do not exceed 80% of Median Family Income (MFI) for the Metropolitan Statistical Area (MSA); and/or homeowners, regardless of income, who are residents of HUD Qualified Census Tracts\* (\*QUALIFIED CENSUS TRACT (QCT): Any census tract (or equivalent geographic area defined by the Census Bureau) in which at least 50 percent of households have an income less than 60 percent of the area median gross income or have a poverty rate of at least 25 percent.)

Clients may be either referred to the Consultant(s), or contact the Consultant(s) directly. Their financial status may include an array of issues including mortgage arrears and imminent foreclosure, and predatory terms on loans.

A Professional Services Agreement resulting from this RFP shall commence on July 1, 2025 for a term of one year, with an option to renew for up to four additional years upon agreement of the parties. Funding for Consultant(s) will depend on the number of awards given and the work to be completed by each Consultant(s). It is anticipated that awards will range between \$20,000 to a maximum of \$100,000 for the upcoming program year.

## PROPOSAL PREPARATION AND SUBMISSION PROCESS

Proposals must be received by the City via email no later than 4:00pm February 26, 2025. Please provide one electronic version of the proposal to the following:

Lia Anselm, [lia.anselm@cityofrochester.gov](mailto:lia.anselm@cityofrochester.gov), 585-428-9368

This RFP is designed to facilitate the evaluation and selection of a Consultant(s) that is/are best able to achieve the City's objectives. The proposal shall contain a table of contents. All pages shall be numbered and major sections and all attachments shall be referenced in the table of contents. The proposal should also be searchable. In order to enable the City to effectively review the information contained in the proposals, proposals shall reference the numbered and lettered sections of the RFP. The response to each section shall be clearly indicated and addressed or an explanation provided for why the Respondent is not submitting a proposal for a specific section or requirement of the RFP. If desired, the proposal may include an executive summary of no more than two pages.

Each 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 this RFP.

Submission of a proposal shall be deemed authorization for the City to contact Respondent's references. Evaluation of proposals will be conducted by the City based on information provided in the Respondent's proposals and on such other available information that the City determines to be relevant. The evaluation of proposals may include an on-site assessment, meetings with authorized personnel, and may involve the use of a third-party consultant.

The Respondent selected by the City will be required to enter into a Professional Services Agreement (PSA) with the City (see Attachment A, the City's standard PSA form). The establishment of a PSA is contingent upon approval by City Council for all Agreements in excess of \$10,000 or for a period of more than one year and upon the availability of funds for such an agreement. Unless otherwise stated in the proposal, the Respondent's response to this RFP shall be deemed its acceptance of the terms of this PSA. (Note: Attention is directed to the City's Living Wage requirements and Minority and Women-owned Business Enterprise (MWBE) and Workforce Utilization 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 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 conduct the Project described herein. The City may amend or withdraw the RFP 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.

## PROPOSAL CONTENT

The proposal should include the following information in the order specified:

- A. Program statement: A Project/Program narrative that describes the Respondent's understanding of the City's needs, the community's needs, and the unique value the Respondent will bring to the process.
- B. Description of Services: Methodology the Respondent will use to perform the services required in this RFP and how it will impact the number of defaulting owners in the area. The proposal should address, in detail, the tasks as described in the Scope of Services, identified by numbered or lettered sections.
- C. Respondent's Qualifications: Information about the Respondent and its qualifications for this Program. Include information about prior or concurrent engagements similar to that being solicited herein by the City. Documented evidence of the Respondent's capacity to perform the work, including references, contact names, and phone numbers.
- D. Program Budget: An itemized budget including staff hours and billing rates which addresses each of the tasks identified in the Scope of Services.
- E. Project personnel: The name and resume of the Respondent's lead person for the Program. Names, resumes, and roles of all staff who will be involved in the Program. Provide data on the diversity of Respondent's overall workforce, including total number of employees, and percentages of minorities and females employed.
- F. Subcontractors: Names, resumes, and roles of sub-contractors, associates, or any non-employees who will be involved in the Program.
- G. Rochester presence: Information about Respondent's presence in the City of Rochester and/or any collaborative relationships with local firms that are to be formed for this Program.
- H. MWBE: Statement as to whether or not the Respondent is a bona fide MWBE firm, will use bona fide MWBE subcontractors and the percentage of the workforce utilized to perform the work of this contract who will be either Minority (M) or Women (W), including both the Consultant's workforce and that of any subcontractors who will be utilized.

## EVALUATION CRITERIA

The following is a summary of the proposal evaluation criteria. It is within the City's sole discretion to determine the value assigned to each of these criteria.

**Proposal Quality (30%):** The Respondent's comprehension of the needs of the City as demonstrated by its description of its approach to the elements listed in the Scope of Services section of this RFP.

**Experience (35%):** The Respondent's relevant experience in providing the same or similar services.

**Cost (20%):** The total cost of the Respondent's proposal is important to the City, however, based on the evaluation of the other criteria, the City will not necessarily select the lowest bidder.

**References (10%):** Evaluation of the Respondent's work for previous clients receiving similar services to those proposed in this RFP.

**Commitment of key principals to the Project (5%):** Demonstration of availability of senior-level staff or associates to be assigned to this Project to ensure depth, accountability, and diversity of perspective.

**MWBE and Workforce Goals:** The City of Rochester desires to encourage minority and women owned (MWBE) businesses to participate in opportunities to enter into PSAs with the City and to encourage minorities and women in the workforce. Pursuant to Ordinance No. 2018-54, the City has a goal that 30% of the aggregate annual contract awards for professional service contracts over \$10,000 be awarded to minorities (M) (15%) and women (W) (15%). The City has also established minority workforce goals of 20% M and 6.9% W for professional services consulting contracts. For more information please see <http://www.cityofrochester.gov/mwbe>.

Respondents shall be awarded MWBE bonus weighting as follows:

1. The City will give preference to Consultants who are New York State certified MWBEs. Consultants who meet this requirement shall receive **an additional weighting of 10%**.
2. The City will give preference to Consultants who utilize state certified MWBE subcontractors with bona fide offices and operations in the Empire State Development Finger Lakes Region, which includes the following counties: Genesee, Livingston, Monroe, Ontario, Orleans, Seneca, Wayne, Wyoming and Yates. State-certified MWBEs from outside the Region may be counted if there are insufficient businesses in the Region to perform the specialized work or consulting services required. If one or more MWBE subcontractors will perform 10% to 20% of the work of the contract – measured as either a percent of the total contract amount or as a percent of the total full-time-

equivalent labor hours budgeted for this project, the consultant shall receive an **additional weighting of 5%**. If MWBE subcontractors will perform more than 20% of the work of the contract, the Consultant shall receive an **additional weighting of 10%**.

3. Respondents shall provide sufficient documentation with their proposal to support the additional preference weighting as an MWBE Consultant or for use of MWBE subcontractors. If one or more MWBE subcontractors are proposed, they must be named and the size of the subcontract identified. If selected, the Respondent shall submit an MWBE Utilization Plan on the City’s form for approval by the MWBE Officer. Once approved, the Utilization Plan shall be incorporated into the PSA.
  - a. If the total amount of a PSA is increased by 5% or more at any time during the term of the PSA, the Consultant shall submit a revised MWBE Utilization Plan for approval by the MWBE Officer. The MWBE Officer may also issue a revised MWBE Utilization Plan for unforeseen changes in the availability of MWBE subcontractors during the term of the PSA.
4. The City will give preference to Consultants who meet or exceed the City’s workforce goals, which are: 20% M and 6.9% W. Consultants who demonstrate that their and/or their subcontractors’ workforce on this Project meets or exceeds these goals shall receive an **additional weighting of 10%**. If selected, the Respondent shall submit a Workforce Staffing Plan on the City’s Form for review by the MWBE Officer. Once reviewed, the Workforce Staffing Plan shall be incorporated into the PSA. 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.
5. If selected, the Respondent shall provide MWBE utilization and subcontractor/supplier payment certification and/or workforce utilization reports on the City’s forms. These reports shall be submitted with each invoice or as otherwise requested by the MWBE Officer.
6. A failure to submit the required subcontractor/supplier payment certification and/or workforce utilization reports shall constitute a default in the performance of the Agreement subject to potential termination for default by the City. In addition, if the selected Respondent fails to meet the most recent MWBE Utilization Plan and/or Workforce Staffing Plan, for which additional weight was awarded by the end of the PSA, such failure may result in disqualification from award of future contracts with the City.
7. Summary of additional evaluation weighting points for MWBE and Workforce Goals:

<b>Category of Additional Evaluation Points</b>	<b>Additional Weight Awarded</b>
Respondent is New York State Certified MWBE	10%
Utilize MWBE Subcontractors for 10-20% of work	5%
Utilize MWBE Subcontractors for more than 20% of work	10%
Meet or exceed workforce goals of 20% M and 6.9% W	10%



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 and the success of the Project to do so.

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. Although costs are an important consideration, the decision will be based on qualifications and compliance with the requirements of this RFP 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 proposals and negotiate with Consultants to serve the City's best interest.

## MISCELLANEOUS

The City reserves the right to amend or withdraw this RFP 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.

The City may request additional information from any Respondent to assist the City in making its evaluation.

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.

Submission of a proposal shall constitute a binding offer by Respondent to provide the services at the prices described therein until such time as the parties enter into a PSA.

Attachment A  
**AGREEMENT BETWEEN  
THE CITY OF ROCHESTER  
AND  
TBD - SUBRECIPIENT  
FOR  
TBD – PROGRAM  
("Agreement")**

THIS AGREEMENT, entered this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ ("Effective Date") 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 (herein called the "Grantee") and \_\_\_\_\_, with offices at \_\_\_\_\_, Rochester, NY 146\_\_ (herein called the "Subrecipient").

WHEREAS, the Grantee has applied for and received funds from the United States Government under Title I of the Housing and Community Development Act of 1974, as amended (HCD Act), Public Law 93-383, as amended; and

WHEREAS, the Grantee wishes to engage the Subrecipient to assist the Grantee in utilizing such funds; and

WHEREAS, this Agreement is authorized by City Council Ordinance #20\_\_ - \_\_ deemed duly adopted on \_\_\_\_\_, 20\_\_\_\_\_

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

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

**I. SCOPE OF SERVICE**

**A. Activities**

## Program Delivery

**Activity # 1**

**Activity # 2**

**Activity # 3**

## II. GENERAL ADMINISTRATION

### RECORDS AND REPORTS

The Subrecipient agrees to maintain all project records and to provide all required reports.

#### A. Annual Single Audit/Financial Statement

The Subrecipient will provide two copies of its official annual single audit as soon as the preparer releases it to the Subrecipient. The City may withhold reimbursement if this report is not submitted.

The City recognizes that the Subrecipient may provide services under more than one agreement with the City. Therefore, it is appropriate for the Subrecipient to satisfy this requirement with one submission of the audit and a cover letter stating the project names and agreement numbers for all City-funded agreements administered by Housing and Project Development.

#### B. Records

1. Operating expenses and related documentation - The Subrecipient shall maintain documentation of operating expenses including time sheets, payroll registers, overhead, supplies, services and subcontractors' expenses. Receipts shall indicate the date, provider, item and cost. The Subrecipient is reminded that, as a not-for-profit corporation, it is sales tax exempt.

2. Clients - The Subrecipient shall continue to maintain client service records and data base. Included shall be clients' family status, income, ethnicity, location and case details and outcome.

3. Analyses - The data base may be used to provide information useful in analyses and mapping of incidence of Project client demographics and patterns. Upon mutual agreement with the City, the Subrecipient will provide analyses and/or mapping helpful in the further development of efforts to strengthen the array of services.

#### C. Reports

1. Periodic reports - In format acceptable to the City, the Subrecipient will submit a report covering cases opened. The Subrecipient may provide additional narrative pertinent to the Project. This report shall be submitted with each request for reimbursement.
2. Final report - The report for the last month of the Agreement term may be considered the final report provided that cumulative figures for the term are shown. The City may require narrative or analysis that summarizes the Project term and indicates issues that surfaced during the Project term.
3. HUD – IDIS – With each request for reimbursement, the Subrecipient will submit data required by HUD on the Integrated Data Information System (IDIS) form. The HUD IDIS form will be supplied by the City.

#### D. National Objectives

All activities funded with CDBG funds must meet one of the CDBG program's National Objectives: benefit low- and moderate-income persons; aid in the prevention or elimination of slums or blight; or meet community development needs having a particular urgency, as defined in 24 CFR 570.208 ("National Objectives").

The Subrecipient certifies that the activity(ies) carried out under this Agreement will benefit low and moderate income persons pursuant to 24 CRR 570.208.

#### E. Levels of Accomplishment – Goals and Performance Measures

The levels of accomplishment may include such measures as units rehabbed, persons or households assisted, or meals served, and should also include time frames for performance.

The Subrecipient agrees to provide the following levels of program services:

Activity

Total Units/Year

Activity #1

Activity #2, etc

*[NOTE: Units of Service defined as low-moderate income households]*

F. Staffing

Any changes in the Key Personnel assigned or their general responsibilities under this project are subject to the prior approval of the Grantee.

G. Program Income Retention and Disbursement

During performance of any and all terms and conditions of this Agreement the Subrecipient shall retain and distribute program income as specified in Section IX of this Agreement in a manner consistent with all terms and conditions herein.

III. TIME OF PERFORMANCE

A. Start and Completion Dates

Services of the Subrecipient shall start on the 1<sup>st</sup> day of July, 20\_\_ and end on the 30<sup>th</sup> day of June 20\_\_.

B. Performance Monitoring

The Grantee will monitor the performance of the Subrecipient based on goals and performance standards as stated above along with all other applicable federal, state and local laws, regulations, and policies governing the funds provided under this Agreement. Substandard performance as determined by the Grantee will constitute noncompliance with this Agreement. If corrective action is not taken by the Subrecipient within a reasonable period of time after being notified by the Grantee, Agreement suspension or termination

procedures will be initiated. Developer agrees to provide HUD, the HUD Office of Inspector General, the General Accounting Office, the Grantee, or the Grantee's internal auditor(s) access to all records related to performance of activities in this Agreement.

C. Progress Reports and Other Reports

Subrecipient hereby agrees to provide in a timely manner all necessary progress reports and other reports required by Grantee on forms to be provided by Grantee.

IV. BUDGET

<u>Line Item</u>	<u>Amount:</u>
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Any indirect costs charged must be consistent with the conditions of Paragraph IX (C)(2) of this Agreement. In addition, the Grantee may require a more detailed budget breakdown than the one contained herein, and the Subrecipient shall provide such supplementary budget information in a timely fashion in the form and content prescribed by the Grantee. Any amendments to the budget must be approved in writing by both the Grantee and the Subrecipient.

V. **RECAPTURE AND REALLOCATION OF SUBRECIPIENT'S ALLOCATION OF FUNDS**

If Subrecipient fails to expend funds as indicated with regard to the goals and delivery schedule in Section III, Grantee at its sole discretion may recapture a portion or all of the Subrecipient's total funding allocation. The portion recaptured will be equal to Grantee's estimate of the amount of funds that would remain unspent by the spending deadlines described herein, based on Subrecipient's activities to date and capacity to complete the work.

In addition, the amount of Subrecipient's funding allocation that is not obligated or expended by the deadlines in Section II herein will be recaptured immediately unless Grantee grants a brief extension of the deadline in writing based on extenuating circumstances and compelling evidence that obligations will be completed during the extended period.

VI. **PAYMENT**

It is expressly agreed and understood that the total amount to be paid by the Grantee under this Agreement shall not exceed **\$XXX (XXX Dollars)**. Drawdowns for the payment of eligible expenses shall be made against the line item budgets specified in Paragraph IV herein and in accordance with

performance. Expenses for general administration shall also be paid against the line item budgets specified in Paragraph IV and in accordance with performance.

The Subrecipient shall have the right to bill the Grantee for services performed and not already billed at project completion. No payments shall be made except upon execution of contract and the Subrecipient shall submit invoices and necessary documentation for the request must be attached in the manner described by the Grantee to receive payment.

Payments may be contingent upon certification of the Subrecipient's financial management system in accordance with the standards specified in 24 CFR 84.21.

## **VII. NOTICES**

Notices required by this Agreement shall be in writing and delivered via mail (postage prepaid), commercial courier, or personal delivery or sent by facsimile or other electronic means. Any notice delivered or sent as aforesaid shall be effective on the date of delivery or sending. All notices and other written communications under this Agreement shall be addressed to the individuals in the capacities indicated below, unless otherwise modified by subsequent written notice.

Communication and details concerning this Agreement shall be directed to the following representatives:

Carol Wheeler, Manager, Division of Housing

Bureau of Business and Housing Development

City Hall - Room 005A

30 Church Street

Rochester, New York 14614

And

## **VIII. GENERAL CONDITIONS**

A. General Compliance

The Subrecipient agrees to comply with the requirements of Title 24 of the Code of Federal Regulations, Part 570 (the U.S. Housing and Urban Development regulations concerning Community Development Block Grants ) including subpart K of these regulations, except that (1) the Subrecipient does not assume the recipient's environmental responsibilities described in 24 CFR 570.604 and (2) the Subrecipient does not assume the recipient's responsibility for initiating the review process under the provisions of 24 CFR Part 52. The Subrecipient also agrees to comply with all other applicable Federal, state and local laws, regulations, and policies governing the funds provided under this Agreement. The Subrecipient further agrees to utilize funds available under this Agreement to supplement rather than supplant funds otherwise available.

B. "Independent Contractor"

Nothing contained in this Agreement is intended to, or shall be construed in any manner, as creating or establishing the relationship of employer/employee between the parties. The Subrecipient shall at all times remain an "independent contractor" with respect to the services to be performed under this Agreement. The Grantee shall be exempt from payment of all Unemployment Compensation, FICA, retirement, life and/or medical insurance and Workers' Compensation Insurance, as the Subrecipient is an independent contractor.

C. Indemnification

The Subrecipient hereby agrees to defend, indemnify and save harmless the Grantee against any and all liability, loss, damage, suit, charge, attorney's fees and expenses of whatever kind or nature which the Grantee may directly or indirectly incur, or be required to pay by reason or in consequence of the intentionally wrongful or negligent act or omission of the Subrecipient, its agents, employees or contractors. If a claim or action is made or brought against the Grantee and for which the Subrecipient may be responsible hereunder in whole or in part, then the Subrecipient shall be notified and shall handle or participate in the handling of the defense of such matter.

D. Workers' Compensation and Disability Benefits Insurance

This Agreement shall be void and of no effect unless the Subrecipient shall secure compensation for the benefit of, and keep insured during the life of this Agreement, any and all employees as are required to be insured under the provisions of the Workers' Compensation Law of the State of New York or the state of the Subrecipient's residence, whichever may apply. The Subrecipient shall provide proof to the City, duly subscribed by an insurance carrier, that such Workers' Compensation and Disability Benefits coverage have been secured. In the alternative, Subrecipient shall provide proof of self-insurance or shall establish that Workers' Compensation



and/or Disability Benefits coverage is not required by submitting the then current and required New York State Workers' Compensation Board's form.

E. General Liability Insurance

The Subrecipient shall obtain at its own expense general liability insurance in the amount of at least One Million Dollars, for protection against claims of personal injury, including death, or damage to property, arising out of the Project. 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. The Subrecipient 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 Subrecipient 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.

F. Insurance & Bonding

The Subrecipient shall carry sufficient insurance coverage to protect contract assets from loss due to theft, fraud and/or undue physical damage, and as a minimum shall purchase a blanket fidelity bond covering all employees in an amount equal to cash advances from the Grantee.

The Subrecipient shall comply with the bonding and insurance requirements of 24 CFR 84.31 and 84.48, Bonding and Insurance.

G. Grantee Recognition

The Subrecipient shall insure recognition of the role of the Grantee in providing services through this Agreement. All activities, facilities and items utilized pursuant to this Agreement shall be prominently labeled as to funding source. In addition, the Subrecipient will include a reference to the support provided herein in all publications made possible with funds made available under this Agreement.

H. Amendments

The Grantee or Subrecipient may amend this Agreement at any time provided that such amendments make specific reference to this Agreement, and are executed in writing, signed by a duly authorized representative of each organization, and approved by the

Grantee's governing body. Such amendments shall not invalidate this Agreement, nor relieve or release the Grantee or Subrecipient from its obligations under this Agreement.

The Grantee may, in its discretion, amend this Agreement to conform with Federal, state or local governmental guidelines, policies and available funding amounts, or for other reasons. If such amendments result in a change in the funding, the scope of services, or schedule of the activities to be undertaken as part of this Agreement, such modifications will be incorporated only by written amendment signed by both Grantee and Subrecipient.

#### I. Suspension or Termination

In accordance with 24 CFR 85.43, or 84.62 the Grantee may suspend or terminate this Agreement if the Subrecipient materially fails to comply with any terms of this Agreement, which include (but are not limited to) the following:

1. Failure to comply with any of the rules, regulations or provisions referred to herein, or such statutes, regulations, executive orders, and HUD guidelines, policies or directives as may become applicable at any time;
2. Failure, for any reason, of the Subrecipient to fulfill in a timely and proper manner its obligations under this Agreement;
3. Ineffective or improper use of funds provided under this Agreement; or
4. Submission by the Subrecipient to the Grantee reports that are incorrect or incomplete in any material respect.

In accordance with 24 CFR 85.44, this Agreement may also be terminated for convenience by either the Grantee or the Subrecipient, in whole or in part, by setting forth the reasons for such termination, the effective date, and, in the case of partial termination, the portion to be terminated. However, if in the case of a partial termination, the Grantee determines that the remaining portion of the award will not accomplish the purpose for which the award was made, the Grantee may terminate the award in its entirety.

## **IX. ADMINISTRATIVE REQUIREMENTS**

### A. Financial Management

1. Accounting Standards

The Subrecipient agrees to comply with 24 CFR 84.21 - 28 and agrees to adhere to the accounting principles and procedures required therein, utilize adequate internal controls, and maintain necessary source documentation for all costs incurred.

2. Cost Principles

The Subrecipient shall administer its program in conformance with OMB Circular 2 CFR Part 200, "Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards" as applicable. These principles shall be applied for all costs incurred whether charged on a direct or indirect basis.

B. Documentation and Record Keeping

1. Records to be Maintained

The Subrecipient shall maintain all records required by the Federal regulations specified in 24 CFR 570.506 that are pertinent to the activities to be funded under this Agreement. Such records shall include but not be limited to:

- a. Records providing a full description of each activity undertaken;
- b. Records demonstrating that each activity undertaken meets one of the National Objectives of the CDBG program;
- c. Records required to determine the eligibility of activities;
- d. Records required to document the acquisition, improvement, use or disposition of real property acquired or improved with CDBG assistance;
- e. Records documenting compliance with the fair housing and equal opportunity components of the CDBG program;
- f. Financial records as required by 24 CFR 570.502, and 24 CFR 84.21 - 28; and
- g. Other records necessary to document compliance with Subpart K of 24 CFR Part 570.

2. Retention

The Subrecipient shall retain all financial records, supporting documents, statistical records, and all other records pertinent to the Agreement for a period of four (4) years. The retention period begins on the date of the submission of the Grantee's annual performance and evaluation report to HUD in which the activities assisted under the Agreement are reported on for the final time. Notwithstanding the above, if there is litigation, claims, audits, negotiations or other actions that involve any of the records cited and that have started before the expiration of the four-year period, then such records must be retained until completion of the actions and resolution of all issues, or the expiration of the four-year period, whichever occurs later.

### 3. Client Data

The Subrecipient shall maintain client data demonstrating client eligibility for services provided. Such data shall include, but not be limited to, client name, address, income level or other basis for determining eligibility, and description of service provided. Such information shall be made available to Grantee monitors or their designees for review upon request.

### 4. Disclosure

The Subrecipient understands that client information collected under this Agreement is private and the use or disclosure of such information, when not directly connected with the administration of the Grantee's or Subrecipient's responsibilities with respect to services provided under this Agreement, is prohibited by the [insert applicable State or Federal law] unless written consent is obtained from such person receiving service and, in the case of a minor, that of a responsible parent/guardian.

### 5. Close-outs

The Subrecipient's obligation to the Grantee shall not end until all close-out requirements are completed. Activities during this close-out period shall include, but are not limited to: making final payments, disposing of program assets (including the return of all unused materials, equipment, unspent cash advances, program income balances, and accounts receivable to the Grantee), and determining the custodianship of records. Notwithstanding the foregoing, the terms of this Agreement shall remain in effect during any period that the Subrecipient has control over CDBG funds, including program income.

### 6. Audits & Inspections, Ownership of Documents

All original documents and files prepared by the Subrecipient or Subgrantee under this Agreement are the property of the City of Rochester. The Subrecipient of Subgrantee may produce for their records a complete reproducible set of all documents. All Subgrantee records with respect to any matters covered by this Agreement shall be made available to the Subrecipient, the Grantee, the City of Rochester Office of Public Integrity, grantor agency, and the Comptroller General of the United States or any of their authorized representatives, without delay, at any time during normal business hours, as often as deemed necessary, to retrieve, audit, examine, and make excerpts or transcripts of all relevant data. Any deficiencies noted in audit or investigation reports must be fully cleared by the Subgrantee within 30 days after receipt by the Subgrantee. Failure of the Subgrantee to comply with the above audit requirements will constitute a violation of this Agreement and may result in the withholding of future payments or other sanctions as allowed by law and this Agreement. The Subgrantee hereby agrees to have an annual agency audit conducted in accordance with current Subrecipient and Grantee policy concerning Subrecipient audits and OMB Circular 2 CFR Part 200.

C. Reporting and Payment Procedures

1. Program Income

- a. At the expiration of this Agreement, the Subrecipient shall remit to Grantee all or part of any program income balances (including investments thereof) held by the Subrecipient (except those needed for immediate cash needs, cash balances of a revolving loan fund, cash balances from a lump sum drawdown, or cash or investments held for section 108 security needs).
- b. When program income is retained by the Subrecipient:
  - i. Activities undertaken with said program income will comply with the provisions of this Agreement.
  - ii. Transfer of CDBG funds by the City to the Lender shall be adjusted according to the principals described in 24 C.F.R. § Section 570.504.
  - iii. Any program income on hand when this Agreement expires or received after such expiration shall be paid to the City as required under 24 C.F.R. § Section 570.503 (b) (8).

2. Indirect Costs

If indirect costs are charged, the Subrecipient will develop an indirect cost allocation plan for determining the appropriate Subrecipient's share of administrative costs and shall submit such plan to the Grantee for approval, in a form specified by the Grantee.

3. Payment Procedures

The Grantee will pay to the Subrecipient funds available under this Agreement based upon information submitted by the Subrecipient and consistent with any approved budget and Grantee policy concerning payments. With the exception of certain advances, payments will be made for eligible expenses actually incurred by the Subrecipient, and not to exceed actual cash requirements. Payments will be adjusted by the Grantee in accordance with advance fund and program income balances available in Subrecipient accounts. In addition, the Grantee reserves the right to liquidate funds available under this Agreement for costs incurred by the Grantee on behalf of the Subrecipient.

4. Progress Reports

The Subrecipient shall submit regular Progress Reports to the Grantee in the form, content, and frequency as required by the Grantee.

D. Procurement

1. Compliance

The Subrecipient shall comply with current Grantee policy concerning the purchase of equipment and shall maintain inventory records of all non-expendable personal property as defined by such policy as may be procured with funds provided herein. All program assets (unexpended program income, property, equipment, etc.) shall revert to the Grantee upon termination of this Agreement.

2. OMB Standards

Unless specified otherwise within this Agreement, the Subrecipient shall procure all materials, property, or services in accordance with the requirements of 24 CFR 84.40

3. Travel

The Subrecipient shall obtain written approval from the Grantee for any travel outside the metropolitan area with funds provided under this Agreement.

E. Use and Reversion of Assets

The use and disposition of real property and equipment under this Agreement shall be in compliance with the requirements of 24 CFR Part 84 and 24 CFR 570.502, 570.503, and 570.504, 570.05 as applicable, which include but are not limited to the following:

1. The Subrecipient shall transfer to the Grantee any CDBG funds on hand and any accounts receivable attributable to the use of funds under this Agreement at the time of expiration, cancellation, or termination.
2. Real property under the Subrecipient's control that was acquired or improved, in whole or in part, with funds under this Agreement in excess of \$25,000 shall be used to meet one of the CDBG National Objectives pursuant to 24 CFR 570.208 until five (5) years after expiration of this Agreement [or such longer period of time as the Grantee deems appropriate]. If the Subrecipient fails to use CDBG-assisted real property in a manner that meets a CDBG National Objective for the prescribed period of time, the Subrecipient shall pay the Grantee an amount equal to the current fair market value of the property less any portion of the value attributable to expenditures of non-CDBG funds for acquisition of, or improvement to, the property. Such payment shall constitute program income to the Grantee. The Subrecipient may retain real property acquired or improved under this Agreement after the expiration of the five-year period [or such longer period of time as the Grantee deems appropriate].
3. In all cases in which equipment acquired, in whole or in part, with funds under this Agreement is sold, the proceeds shall be program income (prorated to reflect the extent to that funds received under this Agreement were used to acquire the equipment). Equipment not needed by the Subrecipient for activities under this Agreement shall be (a) transferred to the Grantee for the CDBG program or (b) retained after compensating the Grantee [an amount equal to the current fair market value of the equipment less the percentage of non-CDBG funds used to acquire the equipment].

## **X. RELOCATION, REAL PROPERTY ACQUISITION AND ONE-FOR-ONE HOUSING REPLACEMENT**

The Subrecipient agrees to comply with (a) the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (URA), and implementing regulations at 49 CFR Part 24 and 24 CFR 570.606(b); (b) the requirements of 24 CFR 570.606(c) governing the Residential Anti-displacement and Relocation Assistance Plan under section 104(d) of the HCD Act; and (c) the requirements in 24 CFR 570.606(d) governing optional relocation policies. [The Grantee may preempt the optional policies.] The Subrecipient shall provide relocation assistance to displaced persons as defined by 24 CFR 570.606(b)(2) that are displaced as a direct result of acquisition, rehabilitation, demolition or conversion for a CDBG-assisted project. The Subrecipient also agrees to comply with applicable Grantee ordinances, resolutions and policies concerning the displacement of persons from their residences.

## **XI. PERSONNEL & PARTICIPANT CONDITIONS**

### **A. Civil Rights**

#### **1. Compliance**

The Subrecipient agrees to comply with Article 15 of the New York State Human Rights Law, and with Title VI of the Civil Rights Act of 1964 as amended, Title VIII of the Civil Rights Act of 1968 as amended, Section 104(b) and Section 109 of Title I of the Housing and Community Development Act of 1974 as amended, Section 504 of the Rehabilitation Act of 1973, the Americans with Disabilities Act of 1990, the Age Discrimination Act of 1975, Executive Order 11063, and Executive Order 11246 as amended by Executive Orders 11375, 11478, 12107 and 12086.

#### **2. Nondiscrimination**

- a. The Subrecipient shall not discriminate on the basis of age, race, creed, color, national origin, sex, sexual orientation, disability and/or marital status in the performance of services or programs pursuant to this Agreement. The Subrecipient agrees to make a good faith effort to employ minority group persons and females and that in hiring employees and treating employees performing work under this Agreement or any subcontract hereunder, the Subrecipient and its subcontractors, if any, shall not, by reason of age, race, creed, color, national origin, sex, sexual orientation, disability and/or marital



status discriminate against any person who is qualified and available to perform the work to which the employment relates.

b. The Subrecipient shall comply with title VIII of the Civil Rights Act of 1968 (42 U.S.C. 3601 et seq.) popularly known as the Fair Housing Act, which provides that is the policy of the United States to provide, within Constitutional limitations, for fair housing throughout the limited States and prohibits any person from discriminating in the sale or rental of housing, the financing of housing, or the provision of brokerage services, including otherwise making unavailable or denying a dwelling unit to any person because of race, color, religion, sex or national origin.

c. The Subrecipient shall not subject an individual to segregated or separate treatment in any facility in, or in any matter of process related to receipt of any service or benefit under the program or activity.

d. The Subrecipient agrees to comply with the non-discrimination in employment and contracting opportunities laws, regulations, and executive orders referenced in 24 CFR 570.607, as revised by Executive Order 13279. The applicable non-discrimination provisions in Section 109 of the HCDA are still applicable.

### 3. Land Covenants

This Agreement is subject to the requirements of Title VI of the Civil Rights Act of 1964 (P. L. 88-352) and 24 CFR 570.601 and 570.602. In regard to the sale, lease, or other transfer of land acquired, cleared or improved with assistance provided under this Agreement, the Subrecipient shall cause or require a covenant running with the land to be inserted in the deed or lease for such transfer, prohibiting discrimination as herein defined, in the sale, lease or rental, or in the use or occupancy of such land, or in any improvements erected or to be erected thereon, providing that the Grantee and the United States are beneficiaries of and entitled to enforce such covenants. The Subrecipient, in undertaking its obligation to carry out the program assisted hereunder, agrees to take such measures as are necessary to enforce such covenant, and will not itself so discriminate.

### 4. Section 504

The Subrecipient agrees to comply with all Federal regulations issued pursuant to compliance with Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), which prohibits discrimination against the individuals with disabilities or handicaps in any Federally assisted program. The Grantee shall provide the Subrecipient with any

guidelines necessary for compliance with that portion of the regulations in force during the term of this Agreement.

B. Affirmative Action

1. Approved Plan

The Subrecipient agrees that it shall be committed to carry out pursuant to the Grantee's specifications an Affirmative Action Program in keeping with the principles as provided in President's Executive Order 11246 of September 24, 1966. The Grantee shall provide Affirmative Action guidelines to the Subrecipient to assist in the formulation of such program. The Subrecipient shall submit a plan for an Affirmative Action Program for approval prior to the award of funds.

2. Women- and Minority-Owned Businesses (W/MBE)

The Subrecipient will use its best efforts to afford small businesses, minority business enterprises, and women's business enterprises the maximum practicable opportunity to participate in the performance of this Agreement. As used in this Agreement, the terms "small business" means a business that meets the criteria set forth in section 3(a) of the Small Business Act, as amended (15 U.S.C. 632), and "minority and women's business enterprise" means a business at least fifty-one (51) percent owned and controlled by minority group members or women. For the purpose of this definition, "minority group members" are Afro Americans, Spanish-speaking, Spanish surnamed or Spanish-heritage Americans, Asian Americans, and American Indians. The Subrecipient may rely on written representations by businesses regarding their status as minority and female business enterprises in lieu of an independent investigation.

3. Access to Records

The Subrecipient shall furnish and cause each of its own subrecipients or subcontractors to furnish all information and reports required hereunder and will permit access to its books, records and accounts by the Grantee, HUD or its agent, or other authorized Federal officials for purposes of investigation to ascertain compliance with the rules, regulations and provisions stated herein.

4. Notifications

The Subrecipient will send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, a notice, to be provided by the agency contracting officer, advising the labor union or worker's representative of the Subrecipient's commitments hereunder, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

5. Equal Employment Opportunity and Affirmative Action (EEO/AA) Statement

The Subrecipient will, in all solicitations or advertisements for employees placed by or on behalf of the Subrecipient, state that it is an Equal Opportunity or Affirmative Action employer.

6. Subcontract Provisions

The Subrecipient will include the provisions of Paragraphs X.A, Civil Rights, and B, Affirmative Action, in every subcontract or purchase order, specifically or by reference, so that such provisions will be binding upon each of its own subrecipients or subcontractors.

C. Employment Restrictions

1. Prohibited Activity

The Subrecipient is prohibited from using funds provided herein or personnel employed in the administration of the program for: political activities; inherently religious activities; lobbying; political patronage; and nepotism activities.

2. Labor Standards

The Subrecipient agrees to comply with the requirements of the Secretary of Labor in accordance with the Davis-Bacon Act (40 U.S.C. 276a to 276a-7) as supplemented by Department of Labor regulations (29 CFR part 5), the provisions of Contract Work Hours and Safety Standards Act (40 U.S.C. 327-330 *et seq.*) and all other applicable Federal, state and local laws and regulations pertaining to labor standards insofar as those acts apply to the performance of this Agreement. The Subrecipient agrees to comply with the Copeland AntiKick Back Act (18 U.S.C. 874 *et seq.*) and its implementing regulations of the U.S. Department of Labor at 29 CFR Part 5. The Subrecipient shall maintain documentation that demonstrates compliance with hour

and wage requirements of this part. Such documentation shall be made available to the Grantee for review upon request.

D. Conduct

1. Assignability

The Subrecipient shall not assign or transfer any interest in this Agreement without the prior written consent of the Grantee thereto; provided, however, that claims for money due or to become due to the Subrecipient from the Grantee under this Agreement may be assigned to a bank, trust company, or other financial institution without such approval. Notice of any such assignment or transfer shall be furnished promptly to the Grantee.

2. Subcontracts

a. Approvals

The Subrecipient shall not enter into any subcontracts with any agency or individual in the performance of this Agreement without the written consent of the Grantee prior to the execution of such agreement.

b. Monitoring

The Subrecipient will monitor all subcontracted services on a regular basis to assure contract compliance. Results of monitoring efforts shall be summarized in written reports and supported with documented evidence of follow-up actions taken to correct areas of noncompliance.

c. Content

The Subrecipient shall cause all of the provisions of this Agreement in its entirety to be included in and made a part of any subcontract executed in the performance of this Agreement.

d. Selection Process

The Subrecipient shall undertake to insure that all subcontracts let in the performance of this Agreement shall be awarded on a fair and open competition basis in accordance with applicable procurement requirements. Executed copies of all subcontracts shall be forwarded to the Grantee along with documentation concerning the selection process.

3. Hatch Act

The Subrecipient agrees that no funds provided, nor personnel employed under this Agreement, shall be in any way or to any extent engaged in the conduct of political activities in violation of Chapter 15 of Title V of the U.S.C.

4. Conflict of Interest

The Subrecipient agrees to abide by the provisions of 24 CFR 84.42 and 570.611, which include (but are not limited to) the following:

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- a. The Subrecipient shall maintain a written code or standards of conduct that shall govern the performance of its officers, employees or agents engaged in the award and administration of contracts supported by Federal funds.
- b. No employee, officer or agent of the Subrecipient shall participate in the selection, or in the award, or administration of, a contract supported by Federal funds if a conflict of interest, real or apparent, would be involved.
- c. No covered persons who exercise or have exercised any functions or responsibilities with respect to CDBG-assisted activities, or who are in a position to participate in a decision-making process or gain inside information with regard to such activities, may obtain a financial interest in any contract, or have a financial interest in any contract, subcontract, or agreement with respect to the CDBG-assisted activity, or with respect to the proceeds from the CDBG-assisted activity, either for themselves or those with whom they have business or immediate family ties, during their tenure or for a period of one (1) year thereafter. For purposes of this paragraph, a "covered person" includes any person who is an employee, agent, consultant, officer,

or elected or appointed official of the Grantee, the Subrecipient, or any designated public agency.

## 5. Lobbying

The Subrecipient hereby certifies that:

- a. No Federal appropriated funds have been paid or will be paid, by or on behalf of it, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement;
- b. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, it will complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions; and
- c. It will require that the language of paragraph (d) of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all Subrecipients shall certify and disclose accordingly:
- d. Lobbying Certification

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S.C. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

## 6. Copyright

If this Agreement results in any copyrightable material or inventions, the Grantee and/or grantor agency reserves the right to royalty-free, non-exclusive and irrevocable license to reproduce, publish or otherwise use and to authorize others to use, the work or materials for governmental purposes.

## 7. Religious Activities

The Subrecipient agrees that funds provided under this Agreement will not be utilized for inherently religious activities prohibited by 24 CFR 570.200(j), such as worship, religious instruction, or proselytization.

## **XII. SEVERABILITY**

If any provision of this Agreement is held invalid, the remainder of the Agreement shall not be affected thereby and all other parts of this Agreement shall nevertheless be in full force and effect.

## **XIII. SECTION HEADINGS AND SUBHEADINGS**

The section headings and subheadings contained in this Agreement are included for convenience only and shall not limit or otherwise affect the terms of this Agreement.

## **XIV. WAIVER**

The Grantee's failure to act with respect to a breach by the Subrecipient does not waive its right to act with respect to subsequent or similar breaches. The failure of the Grantee to exercise or enforce any right or provision shall not constitute a waiver of such right or provision.

## **XV. LIVING WAGE REQUIREMENTS**

A. Applicability of Living Wage Requirements

This section shall apply and the Subrecipient 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 Subrecipient 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 Subrecipient 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 his or her 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](http://www.cityofrochester.gov). Subrecipient 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 Subrecipient's employees who are compensated in accordance with the terms of a collective bargaining agreement.

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 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 MWBE Officer has determined that because of the nature of these services of this Agreement neither the MWBE nor Workforce Goals apply.

## **XVI. 2 CFR PART 200 SINGLE AUDIT REQUIREMENT**

Pursuant to OMB Circular 2 CFR Part 200 the Subrecipient and Subgrantees shall provide the City with the following:

1. A Unique Entity Identifier;
2. A 2 CFR Part 200 Audit Report from a Single Audit conducted by an independent accounting agency. The Audit Report shall be submitted to both the City of Rochester and the Federal Audit Clearinghouse within the earlier of 30 days after receipt of the auditor's report, or within 9 months after the end of the fiscal year. The Audit Report shall contain a Financial Statement, schedule of expenditures of federal awards, related auditor reports, and the signature of the preparer ("Reporting Package"). Financial Statements contained in the Reporting Package should contain the following:
  - a. A report on financial statements and on the supplementary schedule of expenditures of Federal awards;
  - b. Opinion on the financial statements and on the supplementary schedule of expenditures of Federal awards;
  - c. A report on internal control over financial reporting and on compliance and other matters based on an audit of financial statements performed in accordance with General Accounting Standards;
  - d. A report on compliance with requirements applicable to each major program and on internal control over compliance in accordance with Circular 2 CFR Part 200;
  - e. Schedule of findings and questioned costs, if applicable;
  - f. Summary schedule of prior audit findings;
  - g. Corrective action plan for current findings;
  - h. A Data collection form.
3. Completion Letter: Upon completion of the Audit Report, a Completion letter stating either of the following:
  - a. Subrecipient and Subgrantee are subject to the requirements of 2 CFR Part 200, the audit has been completed and there were no material conditions of non-compliance with federal regulations; or,
  - b. Subrecipient and Subgrantee are subject to the requirements of 2 CFR Part 200, the audit has been completed, exceptions were noted.

## **XVII. COMPLIANCE WITH MACBRIDE PRINCIPLES**

The Subrecipient 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.

## **XVIII. DEBARMENT AND SUSPENSION**

The Subrecipient certifies, by the signing of this Agreement, that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily

excluded from participation in this Agreement by any Federal department or agency. Assistance under this part shall not be used directly or indirectly to employ, award contracts to, or otherwise engage the services of, or fund any contractor or Subrecipient during any period of debarment, suspension, or placement in ineligibility status under the provisions of 24 CFR Part 24.

## **XIX. COMPLIANCE WITH ALL LAWS**

The Subrecipient agrees that, during the performance of the work required pursuant to this Agreement, the Subrecipient and all employees working under its direction, shall strictly comply with all local, state or federal laws, ordinances, rules or regulations including but not limited to 24 CFR Part 85, Administrative Requirements for Grants and Cooperative Agreement to State, Local and Federally Recognized Indian Tribal Government for 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. Failure to comply may result in the City enforcing any remedy set forth in Section 24 CFR Part 85, Section 43.

## **XXI. 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.

## **XXII. PROHIBITION AGAINST ASSIGNMENT**

The Subrecipient agrees that he 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 Grantee.

## **XXIII. ENTIRE AGREEMENT**

This Agreement constitutes the entire agreement between the Grantee and the Subrecipient for the use of funds received under this Agreement and it supersedes all prior or contemporaneous communications and proposals, whether electronic, oral, or written between the Grantee and the Subrecipient with respect to this Agreement.

## **XXIV. COUNTERPARTS; SIGNATURES**

This Agreement may be executed in any number of counterparts, each such counterpart being deemed to be an original instrument, and all such counterparts shall together constitute the same agreement. This Agreement may be executed and delivered by e-mail delivery of a “.pdf” format data file. Photostatic, electronic, “.pdf” format data files or facsimile signatures of the original signatures of this Agreement shall have the same force and effect as an original thereof. The Parties hereto and/or beneficiaries hereof waive the “best evidence” rule or any similar law or rule in any proceeding in which this Agreement shall be presented as evidence or for enforcement.

[Intentional End of Page – Signature Pages Follow]

**IN WITNESS WHEREOF**, the City has duly executed this Agreement as of the Effective Date hereof.

**CITY OF ROCHESTER**

By:

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Malik D. Evans - Mayor

STATE OF NEW YORK)

COUNTY OF MONROE) SS:

On the \_\_\_\_ day of \_\_\_\_\_ in the year 20\_\_\_\_ before me, the undersigned, a Notary Public in and for said State, personally appeared **Malik D. Evans** personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

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Notary Public

**IN WITNESS WHEREOF**, the Subrecipient has duly executed this Agreement as of the Effective Date hereof.

<<INSERT CONSULTANT NAME>>

By: \_\_\_\_\_

Name:

Title:

Federal Tax Payer Id. No.:

STATE OF NEW YORK)

COUNTY OF MONROE) SS:

On the \_\_\_\_ day of \_\_\_\_\_, in the year 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 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