

City of Rochester

Request for Proposals

**Organizational Evaluation of the Rochester Fire Department Fire  
Suppression Deployment Model (Engine/Truck)**

Proposals to be received by 4:00 PM

February 6, 2018

Submit Proposals to:  
Sarah Ruekberg, Budget Analyst  
City of Rochester  
30 Church Street, Room 200A  
Rochester, NY 14614  
[Sarah.Ruekberg@CityofRochester.Gov](mailto:Sarah.Ruekberg@CityofRochester.Gov)

Proposals shall be sealed and labeled on the outside of the package to clearly indicate they are in response to the City's RFP for an **Organizational Evaluation of the Rochester Fire Department Fire Suppression Deployment Model (Engine/Truck)**. Consultants shall submit only one proposal. Ten (10) printed copies of the proposal and any supporting documentation, along with one electronic copy of the proposal on a CD shall be mailed or delivered to: Sarah Ruekberg, City Hall, 30 Church Street, Room 200A, Rochester, NY 14614. Proposals submitted by facsimile or other electronic means will not be accepted.

# REQUEST FOR PROPOSAL

The City of Rochester is seeking proposals from qualified Consultants (“Consultant(s)”) to perform an **organizational effectiveness and efficiency evaluation of the Rochester Fire Department (RFD) fire suppression deployment model (Engine/Truck) including the following areas of the current operating model: service delivery and response performance for fire suppression services as well as all special operations services (e.g. hazardous material response, high rise response, confined space rescue, water rescue, extrication, etc.); staffing, company deployment, truck size, and analysis of operating and capital resources.** This is not a request for recommendations to suggest an alternate deployment model, rather it is a request to evaluate the effectiveness and efficiency of the current deployment model and provide enhancements or changes. The City of Rochester requests proposals from qualified individuals or organizations to complete this analytical review.

The primary intent and goal of this RFP is to retain a consultant that can conduct an evaluation to determine whether the current fire suppression deployment model (Engine/Truck) is adequate to provide a level of service within the City of Rochester that aligns with generally accepted standards and benchmarks for safety by similar cities and based on standards and “best practices” for modern day fire service, while maintaining sound fiscal responsibility for the City’s residents and taxpayers.

The City will cooperate fully with the Consultant in sharing of data, information, and insight about current and prior operations.

## BACKGROUND

The Suppression Division operates with the Truck/Engine model and consists of a company of one (1) apparatus staffed by one (1) officer and three (3) Firefighters. A full fire company with a supervising officer is dispatched to every incident. Sixteen (16) fire stations are staffed.

The City of Rochester Fire Department describes its deployment as following an Engine/Truck model because that is the functional model utilized under normal circumstances for fire attack. The RFD purchases quints instead of traditional truck apparatus. This allows the RFD to staff three fire stations with a single apparatus which carries the designation of a truck. Since quints have a fire pump the RFD is able to meet requirements of deploying a unit with engine capabilities to areas around stations staffed by a unit with a truck designation within NFPA 1710 specified time targets. In 2016 The National Insurance Services Office Inc. (ISO) ranked Rochester as a Class 1 for fire protection. Rochester had been a Class 2 city prior to its most recent evaluation. The Fire Department was graded on a wide range of activities, including training requirements; station location and personnel deployment; and the quality and maintenance of its equipment. The Fire Marshal’s office was also graded for fire prevention and code enforcement.

Some stakeholders have expressed concern over staffing levels and truck size. The administration has requested an evaluation to study the efficiency and effectiveness of the current fire suppression deployment model.

### **TIMELINE**

<b>Activity</b>	<b>Who</b>	<b>Date</b>
RFP Release	Office of Management & Budget	December 15, 2017
Deadline for questions	Respondents	January 4, 2018 4:00 p.m.
Response for questions submitted	Office of Management & Budget	January 12, 2018
Proposals due	Respondents	February 6, 2018 4:00 p.m.
Consultant Selection	Proposal Review Committee	February 27, 2018
City Council Vote	City Council	April 17, 2018
Contract Award & Agreement Start Date	Office of Management and Budget	April 18, 2018
Contract Completion	Consultant	August 24, 2018

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"): Sarah Ruekberg at [Sarah.Ruekberg@CityofRochester.Gov](mailto:Sarah.Ruekberg@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 to perform the following services to implement the Project. Respondent's proposal shall address each of the following services, with a separate cost and timeline for each identified task. The proposal 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.

1. **Identify Strengths and Weaknesses of the Current Model**—Study the current fire suppression deployment model and identify areas that are working and areas that are in need of improvement. Areas of the evaluation should include but not be limited to staffing and deployment of all companies; service delivery performance and response time/reliability for fire suppression services as well as all special operations services; and truck size.
2. **Budgetary Analysis**- Analysis of the adequacy of operating and capital resources the City of Rochester currently commits to the current fire suppression deployment model.
3. **Inter-jurisdictional Comparisons**—Review the Rochester, NY fire suppression deployment model compared to the fire department response systems of other major upstate cities in the State of New York (e.g., Albany, Syracuse, Buffalo, Yonkers), as well as to three of the listed comparable cities outside of New York State: Patterson, NJ; Elizabeth, NJ; Jersey City, NJ; Worcester, MA; Springfield, MA; Providence, RI; Bridgeport, CT; New Haven, CT. Demonstrate comparisons of national standards such as NFPA 1710 among benchmark cities on key measures such as stations, staffing and equipment, calls for service, effective response force, response times, cost per capita, and outcome based metrics.
4. **Recommendations**—Identify whether the current fire suppression deployment model is adequate to provide a level of service within the City of Rochester that aligns with generally accepted standards and benchmarks for safety by similar cities and based on standards and “best practices” for modern day fire service. Include recommendations for how the City of Rochester might make adjustments in its response system to ensure top quality fire and emergency response, as well as sound fiscal responsibility, for the City's residents and taxpayers, and recommend metrics by which to measure operations going forward. Some examples of outcome based metrics include: fires confined to a room or object of origin, reduction in dollars of fire loss in the community, CPR return of spontaneous circulation, and naloxone (e.g. Narcan) administration return of respiration. Any recommendations for change and improvement should include implementation cost estimates and annual recurring costs, as well as any potential off-setting expense reductions or revenue increases. Any recommendations should also review the change elements that either enhance or diminish the effectiveness or efficiency of the current deployment.

## DELIVERABLES

The City of Rochester seeks the following deliverables from the selected Consultant:

- 1) A schedule for regular (likely monthly) meetings with the Consultant and the City's Steering Committee to ensure consistency in planning and coordination of all components of the analysis, including a kick-off meeting, a mid-project check-in meeting, and a final presentation. The Steering Committee will consist of individuals from the Rochester Fire Department, Rochester Fire Fighters Association Local 1071 (IAFF), Mayor's Office, and the Office of Management and Budget.
- 2) A detailed Project action plan, including a timeline for start and completion of all items in the scope of services, and a proposed breakdown of roles and responsibilities of the Consultant and the City/Steering Committee.
- 3) Monthly written (e-mail) updates on the status of all items in the scope of services.
- 4) Interim report with preliminary findings.
- 5) A final report, written in an executive summary style, which summarizes the Consultant's recommendations, major findings, and a summary of the analytical approach.
- 6) A PowerPoint version of the final report, appropriate for presentation to senior executives both inside the City, and to external stakeholders.
- 7) Up to three final in-person presentations.

## PROPOSAL PREPARATION AND SUBMISSION PROCESS

Proposals shall be postmarked or received by the City no later than February 6, 2018 at 4:00 p.m. Proposals shall be sealed and labeled on the outside of the package to clearly indicate they are in response to the City's RFP for an **Organizational Evaluation of the Rochester Fire Department Fire Suppression Deployment Model (Engine/Truck)**. Respondents shall submit only one proposal. Ten (10) printed copies of the proposal and any supporting documentation, along with one electronic copy of the proposal on a CD shall be mailed or delivered to: Sarah Ruekberg, City Hall, 30 Church Street, Room 200A, Rochester, NY 14614. Proposals submitted by facsimile or other electronic means will not be accepted.

This RFP is designed to facilitate the evaluation and selection of a Consultant that is 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. 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. Respondents are encouraged to include copies or links of prior reports for evaluations that they have conducted.

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)

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. Project statement: A Project narrative that describes the Respondent's understanding of the City's needs and the unique value the Respondent will bring to the process.
- B. Proposal/Description of Services: Methodology the Respondent will use to perform the services required in this RFP. The proposal should address, in detail, the tasks as described in the Scope of Services, identified by numbered or lettered sections.
- C. Respondent's Experience and Qualifications: Information about the Respondent and its qualifications for this Project. Include information about prior engagements similar to that being solicited herein by

the City. Include documented evidence of the Respondent's capacity to perform the work and relevant experience in analysis and evaluation of municipal public safety department organizational structures, including cost/benefit analysis.

- D. Project 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 Project. Names, resumes, and roles of all staff who will be involved in the Project. 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 Project.
- 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 Project.
- H. References: Proposals shall include three (3) external client references from clients who received similar services. The minimum information that shall be provided about each reference is:
  - 1. Name of individual or organization for whom services were provided
  - 2. Address of individual or organization
  - 3. Name of contact person
- I. M/WBE: Statement as to whether respondent is an M/WBE firm.

## 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:** 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. Points will be awarded for overall approach and the demonstration of understanding of the scope of the project.

**Experience:** The Consultant's relevant experience in analysis and evaluation of municipal public safety department organizational structures, including cost/benefit analysis.

**Cost:** 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: 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: Demonstration of availability of senior-level staff or associates to be assigned to this Project to ensure depth, accountability, and diversity of perspective.

M/WBE Businesses: The City of Rochester desires to encourage minority and women owned (M/WBE) businesses to participate in opportunities to enter into PSAs with the City. Additional weighting of 10% will be given to all Respondents on the list of City approved M/WBE firms.

City of Rochester location 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, through an additional weighting of 10%. Non-local firms may wish to consider partnerships or other collaborative arrangements with local firms as a strategy to address this criterion.

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 FOR  
PROFESSIONAL SERVICES**

**THIS AGREEMENT**, is made this \_\_, day of \_\_\_\_\_, 20\_\_, 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 \_\_\_\_\_, with offices located at \_\_\_\_\_, Rochester, N.Y. 14\_\_\_\_, hereinafter referred to as the "Consultant".

**WITNESSETH:**

**WHEREAS**, the City desires to secure the professional services of a Consultant to provide services required for \_\_\_\_\_, hereinafter referred to as the "Project", and,

**WHEREAS**, the Consultant has the necessary equipment, personnel and expertise to perform the Project.

**NOW THEREFORE**, in consideration of the terms and conditions contained herein, the parties do covenant and agree as follows:

**SECTION 1. DESCRIPTION OF SERVICES**

**A.** The Consultant shall, upon the commencement date specified in Section 2 hereof, perform in a professional and workmanlike manner to the reasonable satisfaction of the City, the following services:

**B.** 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 shall be furnished by the Consultant and shall be fit for their purpose to the reasonable satisfaction of the City.

**C. CITY RESPONSIBILITIES**

**SECTION 2. TERM**

The services required of the Consultant pursuant to this Agreement shall commence on \_\_\_\_\_ and shall terminate on \_\_\_\_\_.

**SECTION 3. FEE**

A. The City agrees to pay and the Consultant agrees to accept as full payment for the work and services performed pursuant to this Agreement, the following payable in the following manner:

1.

B. The total fee payable by the City pursuant to this Agreement, including all costs and disbursements whatsoever shall not exceed the sum of \_\_\_\_\_ Dollars (\$\_\_\_\_\_).

#### **SECTION 4. AUTHORIZED AGENT FOR THE CITY AND THE CONSULTANT**

A. The City hereby designates:

B. The Consultant hereby designates:

or their authorized representatives, as Authorized Agents of the City and of the Consultant for receipt of all notices, demands, vouchers and other communications pursuant to this Agreement,. The parties reserve the right to designate other or additional agents upon written notice to the other party. In no event shall the City's Authorized Agent be authorized to amend or extend this Agreement or to accept service for the commencement of any legal actions or proceedings related to the Agreement.

#### **SECTION 5. TERMINATION FOR DEFAULT**

The performance of work under this Agreement may be terminated by the City in accordance with this clause in whole, or in part, whenever the Consultant shall default in the performance of this Agreement in accordance with its terms. Upon termination, the City may take over the work to be performed and complete the same by contract or otherwise, in the City's discretion and the Consultant shall be liable to the City for any excess cost occasioned thereby. The total fee payable to the Consultant under this Agreement upon such termination shall be such proportionate part of the total fee as the value of the work satisfactorily completed and delivered to the City bears to the value of the work contemplated by this Agreement.

#### **SECTION 6. INDEMNIFICATION**

The Consultant hereby agrees to defend, indemnify and save harmless the City of Rochester against any and all liability, loss, damage, suit, charge, attorney's fees and expenses of whatever kind or nature which the City 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 Consultant, its agents, employees or contractors. 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 handle or participate in the handling of the defense of such matter.

## **SECTION 7. INSURANCE**

### **A. Workers' Compensation and Disability Benefits Insurance**

This Agreement shall be void and of no effect unless the Consultant 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 Consultant's residence, whichever may apply. The Consultant 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, Consultant shall provide proof of self-insurance or shall establish that Worker' Compensation and/or Disability Benefits coverage is not required by submitting the current and required New York State Workers' Compensation Board's form.

## **SECTION 8. EQUAL OPPORTUNITY**

### **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 Opportunity, in accordance with the requirements set forth herein. The City further does not discriminate on the basis of disability, 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 comply with all State and Federal Equal Opportunity laws and regulations and shall submit documentation regarding Equal Opportunity upon the City's request.

### **B. Definitions**

GOOD FAITH EFFORT - shall mean every reasonable attempt to comply with the provisions of this policy by making every reasonable effort to achieve a level of employment of minority groups and female workers that is consistent with their presence in the local work force.

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 he 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 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 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 of 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. The Consultant agrees to post notices in conspicuous places available to employees and applicants for employment, and to include language in all solicitations or advertisements for employment placed by or on behalf of the Consultant, reflecting this nondiscrimination policy.

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.

## **SECTION 9.                    TITLE VI OF THE CIVIL RIGHTS ACT OF 1964**

The City of Rochester hereby gives public notice that it is the City'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 the City 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 the City. Any such complaint must 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](http://www.cityofrochester.gov), or by calling (585) 428-6185.

## **SECTION 10.                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.

## **SECTION 11.              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, whenever payments by the City to the Consultant under this Agreement shall equal or be greater than fifty thousand dollars (\$50,000) during a period of one year. If this Agreement is amended to increase the amount payable hereunder to fifty thousand dollars (\$50,000) or more 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 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). 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.

**SECTION 12. COMPLIANCE WITH 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 13. 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 the Consultant's direction shall strictly comply with all local, state, or federal laws, ordinances, rules or regulations controlling or limiting in any way the performance of the work required by this Agreement. Furthermore, each and every provision of law and 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 properly inserted, then upon the application of either party this Agreement shall be forthwith physically amended to make such insertion or correction.

**SECTION 14. AUDIT**

The Consultant agrees that the City shall, until the expiration of three (3) years after final payment, have access to and the right to examine, at no cost to the City, any directly pertinent books, documents, papers and records of the Consultant and of any of the subcontractors engaged in the performance of and involving transactions related to this Agreement or any subcontracts.

**SECTION 15. PROHIBITION AGAINST ASSIGNMENT**

The Consultant is prohibited from assigning, transferring, conveying, subletting or otherwise disposing of this Agreement or any of its contents, or of any right, title or interest therein, or of the power to execute this Agreement, to any other person or corporation without the previous written consent of the City.

## **SECTION 16. 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 17. 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 the party's Authorized Agent.

## **SECTION 18. STATUS AS INDEPENDENT CONTRACTOR**

The Consultant, as an independent contractor, covenants and agrees to conduct the work under this Agreement consistent with such status. The Consultant shall neither pretend nor claim to be an officer or employee of the City by reason hereof, nor make any claim, demand or application to or 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 or retirement membership or credit.

## **SECTION 19. LAW**

This Agreement shall be governed by and under the laws of the State of New York. In the event that a dispute arises between the parties, venue for the resolution of such dispute shall be the County of Monroe, New York.

## **SECTION 20. 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 21. 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 date first written above.

**CITY OF ROCHESTER**

BY: \_\_\_\_\_  
Lovely A. Warren, Mayor

**CONSULTANT**

BY: \_\_\_\_\_  
Name:



STATE OF NEW YORK)  
COUNTY OF MONROE ) SS:

On this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_, before me the subscriber, personally came **LOVELY A. WARREN** known, who being by me duly sworn, did depose and say that she resides in the City of Rochester; that she is the Mayor of the City of Rochester, the municipal corporation described in and which executed the above instrument; and that she signed her name to the foregoing instrument by virtue of the authority vested in her by the laws of the State of New York and the local laws and ordinances of the City of Rochester.

\_\_\_\_\_  
Notary Public

STATE OF NEW YORK)  
COUNTY OF MONROE) ss.:

On the \_\_\_\_\_ 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