

**Office of Public Integrity
City of Rochester, NY**



Request for Proposals:

Internal Audit Peer Review

Timothy R. Weir
Director of the Office of Public Integrity
Buckingham Commons Building
85 Allen Street, Suite 100
Rochester, New York 14608

SECTION I: SCOPE OF SERVICES

1.1 Purpose:

The City of Rochester's Office of Public Integrity (OPI) is soliciting proposals from qualified service providers for the performance of a peer review as well as an independent validation of OPI's self-assessment of its internal audit activity. The peer review is intended to provide an evaluation of OPI's conformance with the Generally Accepted Government Auditing Standards (GAGAS) set by the Government Accountability Office (GAO) and the external validation of OPI's self-assessment will provide an evaluation of OPI's conformance with the International Professional Practices Framework (IPPF) Standards set by the Institute for Internal Auditing (IIA).

1.2 Issuing Office

This Request for Proposal is issued by the City of Rochester's Office of Public Integrity. There will not be a pre-proposal conference or meeting of interested consultants.

All questions regarding proposals must be directed in writing to:

Tim Weir	Cheryl Ferguson
Director of the Office of Public Integrity	Integrity Compliance Officer
Timothy.Weir@CityofRochester.gov	<u>OR</u> Cheryl.Ferguson@CityofRochester.gov
Phone: 585-428-6001	Phone: 585-428-6962

Buckingham Commons Building
85 Allen Street, Suite 100
Rochester, New York 14608
Fax: 585-428-7972

All questions and responses will be shared with all who have indicated intent to submit a proposal and have provided an e-mail address.

1.3 Scope of Services to be Provided

1.3.1 Objectives of External Peer Review (Yellow Book)

- Conduct a peer review that complies with the GOA's Generally Accepted Government Auditing Standards (GAGAS), commonly referred to as the *Yellow Book*. (In accordance with GAGAS 3.98).

Specifically, the peer review team or independent assessor should include the following elements in the scope of the peer review:

- Review OPI's quality control policies and procedures.
 - Consider the adequacy and results of the OPI's internal monitoring procedures.
 - Review selected auditors' reports and related documentation.
 - Review other documents necessary for assessing compliance with standards, for example independence documentation, CPE records, and relevant human resource management files.
 - Interview a selection of the OPI's professional staff at various levels to assess their understanding of and compliance with relevant quality control policies and procedures.
- Assess OPI's internal audit activity's conformance with GAGAS.
 - Identify and note deficiencies in OPI's internal audit activity that hinder its ability to perform at an effective level or conform to one or more of the standards outlined in the *Yellow Book* and/or *Yellow Book* ethical principles.
 - Provide recommendations to the Director of OPI and internal audit staff for improving effectiveness of internal audit activity and/or achieving a greater level of compliance with the *Yellow Book* standards and/or *Yellow Book* ethical principles.
 - Determine opportunities and present ideas to the Director of OPI and the internal audit staff for how to increase the value of internal audit activity amongst various stakeholders.
 - Evaluate the efficiency and effectiveness of OPI's internal audit activity. During the evaluation process, consider: OPI's charter; its processes and infrastructure (both physical and technological); the mix of knowledge, experience, and expertise of OPI's auditing staff; and the expectations of the City of Rochester's City Council, Senior Management, the Mayor, the Director of OPI, and other stakeholders.
 - Prepare a written report(s) that meet the requirements outlined in the *Yellow Book* Standard 3.100.

Per Standard 3.100, the peer review team or individual assessor should prepare one or more written reports communicating the results of the peer review, including the follow:

- A description of the scope of the peer review, including any limitations.
- An opinion on whether the system of quality control of OPI's audit practices was adequately designed and complied with during the period reviewed to provide OPI with reasonable assurance of conforming with applicable professional standards.

- Specification of the professional standards to which OPI is being held.
- Reference to a separate written communication, if issued under the peer review program.
- Provide a rating of OPI's compliance with the *Yellow Book* standards as outlined in Standard 3.101

1.3.2 Objectives of Independent validation of OPI's Self-Assessment (*Red Book*)

- Assess OPI's internal audit activity's conformance with the IIA's International Standards for the Professional Practice of Internal Auditing Standards, commonly referred to the *Red Book*.
- Evaluate the efficiency and effectiveness of OPI's internal audit activity. During the evaluation process, consider: OPI's charter; its processes and infrastructure (both physical and technological); the mix of knowledge, experience, and expertise of OPI's auditing staff; and the expectations of the City of Rochester's City Council, Senior Management, the Mayor, the Director of OPI, and other stakeholders.
- Identify and note deficiencies in OPI's internal audit activity that hinder its ability to perform at an effective level or conform to one or more of the standards outlined in the *Red Book* and/or the *Red Book* Code of Ethics.
- Per *Red Book* Practice Advisory 1312-2:
 - Review OPI's self-assessment report and attempt to reconcile unresolved issues (if any).
 - Prepare an independent validation report, concurring or expressing disagreements with OPI's self-assessment of compliance with the Standards and Code of Ethics and, to the extent deemed appropriate, comment of the findings, conclusions, and recommendations of the self-assessment.
- Provide recommendations to the Director of OPI and internal audit staff for improving effectiveness of internal audit activity and/or achieving a greater level of compliance with the *Red Book* standards and/or the *Red Book* Code of Ethics.
- Determine opportunities and present ideas to the Director of OPI and the internal audit staff for how to increase the value of internal audit activity amongst various stakeholders.

1.3.3 Examiner Qualifications

- Demonstrate technical proficiency, business experience, and educational background appropriate for the audit activities to be reviewed.

- Collectively, the service provider's staff that would be assigned to the peer review and the external validation of self-assessment should be competent in internal auditing and the external assessment process for both the IIA's *Red Book* and/or the GAO's *Yellow Book* standards.
- It is preferred that the managing staff member or individual assessor for this assignment be a Certified Internal Audit professional, Certified Government Auditing Professional or Certified Public Accountant. Additionally, it is preferred that the managing staff member or individual assessor has conducted external quality assessments, has completed the IIA's quality assessment training course or similar training, and/or has extensive internal audit or senior internal audit management level experience.
- There should not be any relationship, either directly or indirectly, between the Office of Public Integrity and the service provider that creates an actual or apparent conflict of interest.

1.3.4 Successful service providers shall provide the following information prior to final award of a contract for services: (verification of education, licensing and experience of staff will be made following the selection of the top ranked proposal).

- Professional licensing of staff, and the qualifications that demonstrate they are skilled in conducting external quality assessments.

1.3.5 Other Elements to be included in the proposal for service

- The Office of Public Integrity shall be allowed to cancel scheduled on-site visits and/or staff interviews without charge, with a 24-hour notice.
- Identify one individual staff member to act as the Project Manager. This individual will monitor the peer review and external validation of self-assessment process and be available to meet with a representative from the Office of Public Integrity to discuss and clarify evaluation reports, findings, and recommendations.

1.3.6 Except as otherwise specified in a final agreement, all equipment, materials and supplies required to carry out the provisions of this proposal and to perform the services described above shall be furnished by the service provider and shall be fit for their purpose to the reasonable satisfaction of the Office of Public Integrity.

1.4 Service Experience Data

This will be the first peer review and external validation of a self-assessment to be conducted on OPI's internal audit activities.

OPI's audit staff is comprised of four (4) internal auditors who have a combined 65 years of internal audit experience with the City of Rochester. The audit staff complete approximately 12-15 internal audits per year.

1.5 Term of Agreement

The terms of this agreement for services shall be for one (1) peer review and one (1) external validation of OPI's self-assessment, which is to be completed with two separate reports (one for the GAGAS peer review and a separate one for the IPPF external validation) delivered to OPI no later than December 29, 2017.

1.6 Amendment of RFP

The City of Rochester may amend the RFP upon notification to all potential vendors.

1.7 RFP Withdrawal

The RFP may be withdrawn by the City of Rochester for any reason and the City of Rochester shall have no liability for any costs incurred in preparing the proposal.

1.8 Property of the City of Rochester

The proposal and all materials submitted with the proposal shall become the property of the City of Rochester and will be subject to the NYS Freedom of Information Law. Any proprietary information submitted with the proposal must be clearly identified and a request to keep such information confidential must be submitted.

1.9 Professional Service Agreement

The successful service provider will be required to enter into a Professional Service Agreement (PSA) with the City of Rochester. A sample PSA is included as Attachment A of this RFP, which is subject to change. All PSA's that exceed \$10,000 require City Council approval.

SECTION II: PROPOSAL SUBMISSIONS

2.1 Format

All proposals **must** be submitted in the format set forth below in order to assist a uniform review process.

2.1.1 Title Page

The title page will reflect the request for proposal subject, name of the company, address, contact person's name, e-mail address, telephone number, and fax number.

2.1.2 Signature

All proposals submitted **must** include a signature of an individual who is authorized to bind the service provider to a service agreement.

2.1.3 Table of Contents

The proposal must contain a table of contents which indicates the material included in the proposal and relevant page numbers.

2.1.4 Description of Service Provider

Provide a brief history and description of the service provider, including a copy of the most recent annual report, the size of the business, number of employees, annualized dollar of payroll, and number of years in existence.

Discuss the leadership of your organization and cite accomplishments of individuals who will provide direct oversight of services to be proposed for this contract.

2.1.5 Experience

Provide a summary of the service providers experience with conducting peer reviews and external validations of self-assessments.

2.1.6 Presentation

At the discretion of the Office of Public Integrity, all potential service providers may be requested to provide on-site presentations in addition to their written proposals.

2.1.7 Responses to Scope of Services to be Provided (Section 1.3, above)

Include a description of your proposed service approach and the rationale underlying that approach.

List each of the items outlined in Section 1.3 and affirm your organization's intent to comply as written, provide information regarding your firm's recommendations for fulfilling the requirements, or provide information needed to evaluate your organization's ability to meet the Office of Public Integrity's needs.

2.1.8 Cost Proposal

The cost proposal section must include all costs associated with the organization's plan to carry out the requested service.

In an effort to have OPI comply with both the *Red Book* and *Yellow Book*, the scope of services outlined in Section 1.3.1 - 1.3.2, captures objectives to be fulfilled by the service provider. Both sets of objectives are to be included in the scope of services provided and all proposals should reflect the cost of fulfilling both sets of objective.

2.2 Submission of Proposals

Five (5) copies of a written proposal are to be submitted to:

Timothy R. Weir
Director of the Office of Public Integrity
Buckingham Commons Building
85 Allen Street, Suite 100
Rochester, NY 14608

All proposals must be received by, or postmarked by, 5:00 PM on Thursday, September 30, 2017.

2.3 Schedule

The start date for services is tentatively one week after the agreement is awarded.

Services are to be completed with reports delivered to OPI no later than December 29, 2017. OPI may alter its timeframes as necessary.

SECTION III: REVIEW OF PROPOSAL

3.1 Review and Notification

All proposals will be reviewed by a committee appointed by the Director of the Office of Public Integrity. All responding service providers will be notified of the outcome of the review.

3.2 Selection Criteria

Criteria for selection of a successful proposal will include, but is not limited to:

- Knowledge of *Red* and/or *Yellow Book* standards, peer reviews, and external validation of self-assessments.
- Knowledge and/or experience in industry or internal auditing.
- Experience with performance of peer reviews and external validation of self-assessments.
- Qualification and skills of service manager and staff that will be providing the service.
- Ability to successfully complete the project based on staffing and other resources.
- An independent assessor or assessment team, with no actual or perceived conflict of interests.
- An understanding of scope of work and needs of OPI.
- A proposal that is complete, covering all points mentioned in the scope of services section of the Request for Proposal.
- A cost proposal that is reasonable and realistic.
- Preference will be given to service providers located in the City of Rochester and/or certified Minority or Women Business Enterprises (M/WBEs), through an additional weighting of 10%.
- OPI may request additional information from potential service providers as necessary to assist OPI in evaluating a proposal.

The selection of the consultant is within the City of Rochester's sole discretion. An explanation for the rejection or acceptance of a proposal is not required to be given and the decision will not be based solely on price.

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.

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. (describe payment as being either a lump sum payment or a phased payment, e.g., monthly, quarterly, upon completion of tasks etc.
- 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 the City's Authorized Agent be authorized to amend to 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 from time to time 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, 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, 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, the 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 the consultant of the request and give the 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, the consultant may appeal the City's determination within seven (7) business days. Thereafter, the City shall respond to the consultant's appeal within ten (10) business days. If the City issues an adverse determination, the 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. 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