

**NOTICE OF INTENT TO REQUEST RELEASE OF FUNDS  
FOR TIERED PROJECTS AND PROGRAMS**

**Date of Publication:** June 27, 2023

City of Rochester  
Department of Neighborhood and Business Development  
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**On or after** July 5, 2023 the City of Rochester will submit a request to the U.S. Department of Housing and Urban Development for the release of CDBG and HOME funds under Title 24 CFR Part 58 of the National Environmental Policy Act of 1969, as amended, to undertake the following projects:

**Tier 1 Broad Review Project/Program Title:** Business Development Financial Assistance Program – Rehab only 2023-24

**Purpose:** The program provides economic and workforce development.

**Location:** Various addresses, city-wide. Specific addresses will be assessed in the site-specific reviews.

**Project/Program Description:** The program provides loans, grants, grant-to-loans/loans-to-grants and interest rate subsidies to city businesses or businesses which are relocating to the City, or which are expanding and creating jobs. The maximum scope of construction activities covered under this tier 1 review would be minor rehab.

Funding can be used for purchase and renovation (interior and exterior) of real estate, purchase of machinery and equipment (including security equipment), predevelopment services including environmental testing, feasibility & planning studies and architectural assistance, targeted support to MWBEs, and working capital including payroll, insurance, utilities, lease/mortgage, inventory, supplies, architectural and accounting services.

The scope of projects covered under this review will only include a maximum environmental impact up to and including rehab of existing non-residential facilities through which building footprint will not be expanded, size or capacity will not be changed by more than 20 percent, and will not involve a change in land use, such as from non-residential to residential, commercial to industrial, or from one industrial use to another. Projects beyond this scope will not be covered by this tiered review and will be subject to an individual environmental review.

**Level of Environmental Review Citation:** Categorically Excluded Subject to 58.5, per 24 CFR 58.35(a)(3)(iii) – Rehab of non-residential structures

**Estimated Project Cost:** \$1,799,426.77

**Tier 1 Broad Review Project/Program Title:** Demolition Program 2023-24

**Purpose:** The program will help eliminate slum/blighting influences through the demolition of dilapidated structures.

**Location:** Various addresses, city-wide. Specific addresses will be assessed in the site-specific reviews.

**Project/Program Description:** Funds will be used for demolition of residential, industrial and/or commercial properties. Includes implementation of a Clean Demo Strategy, which requires the removal of all subsurface concrete structures and utilizing clean virgin soil for backfill focused on targeted areas of past and future development.

The scope of projects covered under this tier 1 review will only include a maximum environmental impact up to and including demolition of 1-4 unit residential buildings. Projects beyond this scope will be subject to an individual environmental review.

**Level of Environmental Review Citation:** Categorically Excluded Subject to 58.5, per 24 CFR 58.35(a)(4)(i), demolition of 1-4 housing unit building

**Estimated Project Cost:** \$1,960,439.00

**Tier 1 Broad Review Project/Program Title:** Lead Hazard Control Program 2023-24

**Purpose:** The program will improve the quality of housing stock through mitigation of lead hazards.

**Location:** Various addresses, city-wide. Specific addresses will be assessed in the site-specific reviews.

**Project/Program Description:** Funds will be used for rehab costs to mitigate lead hazards in residential units.

**Level of Environmental Review Citation:** Categorically Excluded Subject to 58.5, per 24 CFR 58.35(a)(3)(i) – Rehab

**Estimated Project Cost:** \$6,756,930.99

**Tier 1 Broad Review Project/Program Title:** Owner-Occupant Housing Rehabilitation Program 2023-24

**Purpose:** The program will improve the quality of housing stock through the rehabilitation of residential properties.

**Location:** Various addresses, city-wide. Specific addresses will be assessed in the site-specific reviews.

**Project/Program Description:** This program will provide financial assistance for rehabilitation to eligible property owners to address blight and hazards. The funds will be distributed to address a variety of efforts including: to enhance targeted areas of development, to address city-wide blight and to address health and safety hazards.

The scope of projects covered under this tier 1 review will only include a maximum environmental impact up to and including rehab of existing 1-4 unit residential buildings through which the density is not increased beyond four units, the land use is not changed, and the footprint of the building is not increased in a floodplain or in a wetland. Projects beyond this scope will not be covered by this tiered review and will be subject to an individual environmental review.

**Level of Environmental Review Citation:** Categorically Excluded Subject to 58.5, per 24 CFR 58.35(a)(3)(i) – Rehab

**Estimated Project Cost:** \$918,404.57

**Tier 1 Broad Review Project/Program Title:** Emergency Assistance Program (EAP) 2023-24

**Purpose:** The program will improve the quality of housing stock by addressing homeowners' emergencies repairs

**Location:** Various addresses, city-wide. Specific addresses will be assessed in the site-specific reviews.

**Project/Program Description:** This program will provide financial assistance to address emergencies including repair or replacement of heating systems and/or hot water tanks and/or interior plumbing for income eligible owner-occupants.

The scope of projects covered under this tier 1 review will only include a maximum environmental impact up to and including rehab of existing 1-4 unit residential buildings through which the density is not increased beyond four units, the land use is not changed, and the footprint of the building is not increased in a floodplain or in a wetland. Projects beyond this scope will not be covered by this tiered review and will be subject to an individual environmental review.

**Level of Environmental Review Citation:** Categorically Excluded Subject to 58.5, per 24 CFR 58.35(a)(3)(i) – Rehab

**Estimated Project Cost:** \$200,000

**Tier 1 Broad Review Project/Program Title:** Rental Housing Rehabilitation Program 2023-24

**Purpose:** The program will improve the quality of housing stock through the rehabilitation of residential properties.

**Location:** Various addresses, city-wide. Specific addresses will be assessed in the site-specific reviews.

**Project/Program Description:** This program will provide financial assistance to landlords to enable them to make housing repairs to the benefit of low-income tenant households. The funds will be distributed to address a variety of efforts including: to enhance targeted areas of development, address city-wide blight and address health and safety hazards.

The scope of projects covered under this tier 1 review will only include a maximum environmental impact up to and including rehab of existing 1-4 unit residential buildings through which the density is not increased beyond four units, the land use is not changed, and the footprint of the building is not increased in a floodplain or in a wetland. Projects beyond this scope will not be covered by this tiered review and will be subject to an individual environmental review.

**Level of Environmental Review Citation:** Categorically Excluded Subject to 58.5, per 24 CFR 58.35(a)(3)(i) – Rehab

**Estimated Project Cost:** \$190,000

**Tier 1 Broad Review Project/Program Title:** Community Housing Development Organization (CHDO) 2023-24

**Purpose:** The program will increase the supply of affordable housing.

**Location:** Various addresses, city-wide. Specific addresses will be assessed in the site-specific reviews.

**Project/Program Description:** The HOME Rochester program to rehabilitate vacant 1-4 unit structures to be appropriate for sale to low-income first-time home buyers at no more than 95% of the Median Sales Price for the Rochester MSA. Each property is surveyed for lead paint, asbestos, and

other hazardous materials, and a complete scope of work is produced, to ensure that mechanicals as well as other safety, security, and health issues are addressed. In addition, many cosmetic improvements are made. If the roof, furnace, or other significant mechanicals are in the house prior to renovation but are well within their useful life, they will be repaired and retained rather than replaced. All work is completed by licensed contractors, and regularly overseen by a City inspector during construction. Possible work scope can also include improvement or repair of driveway, siding, shed/garage, and landscaping.

All properties are 1-4 unit structures on single parcels within the City of Rochester. At this time the addresses are not known. The property is purchased and held by the CHDO (the Rochester Housing Development Fund Corporation) until the construction is complete and the home is sold to the new owner- occupant. Properties are typically vacant and blighted structures purchased through the City's Tax Foreclosure Auction, available through the Rochester Land Bank or local lenders' REO listings, the City's agreement with HUD through the ACA agreement, and in some cases on the private market. Funding sources in addition to CHDO funds can include the purchase mortgage by the buyer, New York State assistance, foundation assistance, and City dollars.

The scope of projects covered under this tier 1 review will only include a maximum environmental impact up to and including rehab of existing 1-4 unit residential buildings through which the density is not increased beyond four units, the land use is not changed, and the footprint of the building is not increased in a floodplain or in a wetland. Projects beyond this scope will not be covered by this tiered review and will be subject to an individual environmental review.

**Level of Environmental Review Citation:** Categorically Excluded Subject to 58.5, per 24 CFR 58.35(a)(3)(i) – Rehab

**Estimated Project Cost:** \$1,099,700.57

**Tier 2 site specific reviews will be completed for each of the above programs for those laws and authorities not addressed in the tier 1 broad reviews for each address under this program when addresses become known, before funding is obligated.**

**Tier 2 Site Specific Reviews:** The site specific reviews will cover the following laws and authorities not addressed in the Tier 1 broad reviews: **Airport Hazards** 24 CFR Part 51 Subpart D; **Flood Insurance** Flood Disaster Protection Act of 1973 and National Flood Insurance Reform Act of 1994 [42 USC 4001-4128 and 42 USC 5154a] **Historic Preservation** [36 CFR Part 800]; **Floodplain Management** [24 CFR 55, Executive Order 11988]; **Wetland Protection** [Executive Order 11990]; **Airport Clear Zones and Accident Potential Zones** [24 CFR 51D]; and **Toxic Chemicals and Radioactive Materials** [24 CFR 58.5(i)(2)].

**Mitigation Measures/Conditions/Permits (if any):**

Each program covered under the tier 1 reviews noted above will utilize a tier 2 site specific environmental review checklist document to ensure staff complete a full review for the remaining laws and authorities

for each project site once they are identified. Maps and other attachments are required to certify compliance. The full environmental review record is then uploaded to the City's financial system as part of the compliance review before funds can be obligated for a site specific project. If the site specific project does not conform with the tier 1 program scope, it must complete its own separate environmental review. If the project incurs any of the laws or authorities below, mitigation steps are noted below. In some cases, a project may be forced to complete its own separate environmental review if mitigation can't be achieved.

### **Airport Hazards**

During the tier 2 site specific reviews, staff will confirm that each project does not include new construction or rehab that would substantially prolong the physical or economic life of the facility, increase the density or number of people living at the site, or introduce new explosive, flammable or toxic materials to the area. If any of these factors would be involved in the prospective project, it must proceed with its own standalone environmental review not covered under the tier 1 review.

Staff will then confirm that the project does not involve the purchase or sale of property. If not, it is in compliance with this review factor.

If it does involve sale or purchase of property, staff will check the address on an online map to determine whether project site is located within 3,000 feet of The Monroe County Airport. If so, they will check the attached airport Clear Zone map to determine whether the project is located in the Clear Zone. A printout of the map(s) will be attached for documentation.

If located in the Clear Zone, they will provide the prospective buyer with an official notice in accordance with 24 CFR § 51.303 (a)(3) that outlines what the implications of such a location are, and that there is a possibility that the property may, at a later date, be acquired by the airport operator. The buyer must sign a statement acknowledging receipt of this information. The notice and signed statement will be attached for documentation.

### **Flood Insurance**

During the tier 2 review staff will check each prospective site address on the FEMA interactive online map and attach a printout as documentation.

If a property is located in the Special Flood Hazard Area, the purchase of flood insurance is mandatory. This refers to any parcel located in the 1% Annual Chance Flood Hazard area as indicated by the light blue highlighted area on the FEMA Flood Map:

<https://msc.fema.gov/portal/search?AddressQuery=Rochester%2C%20ny#searchresultsanchor>

If the federal funding assistance is a grant, flood insurance must be maintained for the life of the property.

If the federal funds assistance is a loan (except for loans less than \$5,000 and repaid within 1 year), flood insurance must be maintained for the life of the loan.

If applicable, staff will attach documentation of the enforcement of this requirement.

### **Contamination and Toxic Substances**

During tier 2 site specific reviews, each location will be reviewed for the following potential toxic substances:

**Lead (only buildings built before 1978):** If the building is mixed residential/commercial use, a certified individual will conduct a visual inspection to determine the existence of lead-based paint and whether it will be disturbed. For commercial only rehab projects, lead testing is not required if intended occupants will not include children. For residential only projects, a lead dust wipe test will be conducted before and after the rehab and a clearance report will be required.

**Asbestos (only buildings built before 1977):** A certified individual will conduct a visual inspection to determine whether ACM will be disturbed as part of the proposed rehab. If ACM is suspected and will be disturbed the use of a licensed, certified contractor will be required to undertake the project.

**Other Substances:** Each project address will be reviewed on the following interactive maps for known sources of contamination: <https://www.epa.gov/superfund/search-superfund-sites-where-you-live#npl> for location near EPA superfund national priorities; and <http://www.dec.ny.gov/cfmx/extapps/derexternal/index.cfm?pageid=2> for spills incidents. There are no toxic or solid waste landfills in the city of Rochester. Non-residential properties must also research and consider any prior historical uses on the site that may be associated with elevated risk for contamination that may not be officially documented. Documentation of these review measures will be attached.

Determine whether any known contamination can be mitigated and document any environmental or soils management plans. Follow up with their implementation as the project proceeds. If a project site requires cleanup or an EMP it will be excluded from this tiered programmatic review and a standalone environmental review must be conducted.

#### **Floodplain Management**

During the tier 2 site specific review, each site address will be reviewed to confirm whether the project will involve activities beyond minor rehab of existing 1-4 unit residential structures. If not, the project is exempt from further review for this factor and compliant per 24 CFR § 55.12(b).

If so, the site address will be checked on the FEMA mapping website to confirm the site is not in a floodplain: <https://msc.fema.gov/portal/home> A printout of the map will be attached as documentation.

If the project would occur in a 100- or 500-yr floodplain, staff will initiate and document the modified 5-Step process and required notices before project may commence. The 8-step process is not required because all projects will meet the exceptions in 24 CFR § 55.12 (a) as the program is limited to only include rehab of existing structures that don't rise to the level of substantial rehab.

If the project occurs in a floodway HUD funds may not be used in the project.

#### **Historic Preservation**

During the tier 2 site specific review, each address will be considered as to their potential for historic import, including but not limited to age of building constructed prior to 1976, Designated Building of Historic Value, or is located within a City of Rochester Preservation District; In such cases, the project will not commence until consultation with SHPO is complete. Documentation of the consultation will be attached to the review record.

If after consultation with SHPO a project is determined to have an Adverse Impact or need additional mitigation, a MOA should be negotiated. If substantial, these projects will not be covered by this tiered review, and will therefore require publication of a notice and separate Authority to Use Grant Funds from HUD before the funding agreement is signed with the sub-grantee.

The activity/activities proposed are categorically excluded under HUD regulations at 24 CFR Part 58 from National Environmental Policy Act (NEPA) requirements per the citation listed above: Categorically Excluded Subject to 58.5, per 24 CFR 58.35(a)(3)(iii) – Rehab of non-residential structures; Categorically Excluded Subject to 58.5, per 24 CFR 58.35(a)(4)(i) - Demolition of 1-4 housing unit building; and Categorically Excluded Subject to 58.5, per 24 CFR 58.35(a)(3)(i)(ii) – Rehab of residential buildings

An Environmental Review Record (ERR) that documents the environmental determinations for each project is on file at Department of Neighborhood and Business Development, 30 Church Street, Rm. 224B, Rochester, NY 14614 and may be examined or copied weekdays 9:00A.M to 5:00P.M. The EER may also be accessed online at <https://www.cityofrochester.gov/ConsolidatedPlan2020/> or in HEROS at <https://www.hudexchange.info/programs/environmental-review/environmental-review-records/>.

### **PUBLIC COMMENTS**

Any individual, group, or agency may submit written comments on the ERR to the Department of Neighborhood and Business Development All comments received by June 30, 2023 will be considered by the City of Rochester prior to authorizing submission of a request for release of funds.

### **ENVIRONMENTAL CERTIFICATION**

The City of Rochester certifies to HUD that Mayor Malik D. Evans, Certifying Officer, in his capacity as Mayor consents to accept the jurisdiction of the Federal Courts if an action is brought to enforce responsibilities in relation to the environmental review process and that these responsibilities have been satisfied. HUD's approval of the certification satisfies its responsibilities under NEPA and related laws and authorities and allows the City of Rochester to use HUD program funds.

### **OBJECTIONS TO RELEASE OF FUNDS**

HUD will accept objections to its release of fund and the City of Rochester's certification for a period of fifteen days following the anticipated submission date or its actual receipt of the request (whichever is later) only if they are on one of the following bases: (a) the certification was not executed by the Certifying Officer of the City of Rochester; (b) the City of Rochester has omitted a step or failed to make a decision or finding required by HUD regulations at 24 CFR part 58; (c) the grant recipient or other participants in the development process have committed funds, incurred costs or undertaken activities not authorized by 24 CFR Part 58 before approval of a release of funds by HUD; or (d) another Federal agency acting pursuant to 40 CFR Part 1504 has submitted a written finding that the project is unsatisfactory from the standpoint of environmental quality. Objections must be prepared and submitted in accordance with the required procedures (24 CFR Part 58, Sec. 58.76) and shall be addressed to HUD Community Planning and Development at the Buffalo Field Office at William T. O'Connell, CPD Director, Buffalo Field Office; 300 Pearl Street, Suite 301, Buffalo, NY 14202 Potential objectors should contact HUD Community Planning and Development at the Buffalo Field Office via email at [CPD\\_COVID-19OEE-BUF@hud.gov](mailto:CPD_COVID-19OEE-BUF@hud.gov) to verify the actual last day of the objection period.

**Malik D. Evans, Mayor, Certifying Officer**

