

City of Rochester

Request for Proposals

Innovative Healthy Food Models

August 4, 2023

Proposals to be received by 11:59 p.m. on September 22, 2023

Submit Proposals Electronically to:

InnovativeFoodModels@CityofRochester.Gov

REQUEST FOR PROPOSALS

The City of Rochester (“City”) received a \$202.1 million dollar award from the Coronavirus State and Local Fiscal Recovery Fund (“SLFRF”) established by the American Rescue Plan Act (“ARPA”). The City engaged the community for direct input on the use of ARPA funds to transform Rochester’s recovery from the pandemic, and used this input to [develop a blueprint for the allocation of ARPA SLFRF funds](#). Based on that feedback, as well as input gathered to develop Rochester’s Comprehensive Plan, [Rochester 2034](#), the City allocated \$5 million of ARPA SLFRF to a Healthy Food Loan and Grant Program to “invest in activities that increase healthy food access for low-income residents and/or in areas with limited healthy food retail” across the city. The Program is meant to cover a range of different activities and was unanimously passed by City Council via [Ordinance 2022-299](#) in October 2022.

Now, as part of the Healthy Food Loan and Grant Program, the City seeks partner organizations to implement innovative healthy food models (“Project(s)”) on its behalf as a Subrecipient or Grantee. In issuing this Request for Proposals (RFP), the City intends to explore a wide range of innovative, creative, alternative, or strategic approaches to expand healthy food retail and/or healthy food access for low-income city residents and in areas with limited healthy food access.

BACKGROUND

Rochester has too many neighborhoods with high rates of poverty, food insecurity, and diet-related chronic disease, and too many low-income city residents do not have easy, affordable access to fresh, healthy, culturally-relevant food. Full-line for-profit grocery stores tend to provide the widest variety of healthy, fresh, packaged, and prepared foods at the lowest price, but operate on margins that are not financially sustainable in many low-income city neighborhoods or at a smaller scale than typical suburban stores without ongoing subsidies. City residents routinely express a desire for healthy food retail in their neighborhoods, but much food for sale in low-income neighborhoods comes from corner¹ stores or fast food outlets, which tend to have limited healthy options and higher price points due to challenges of scale and market capacity.

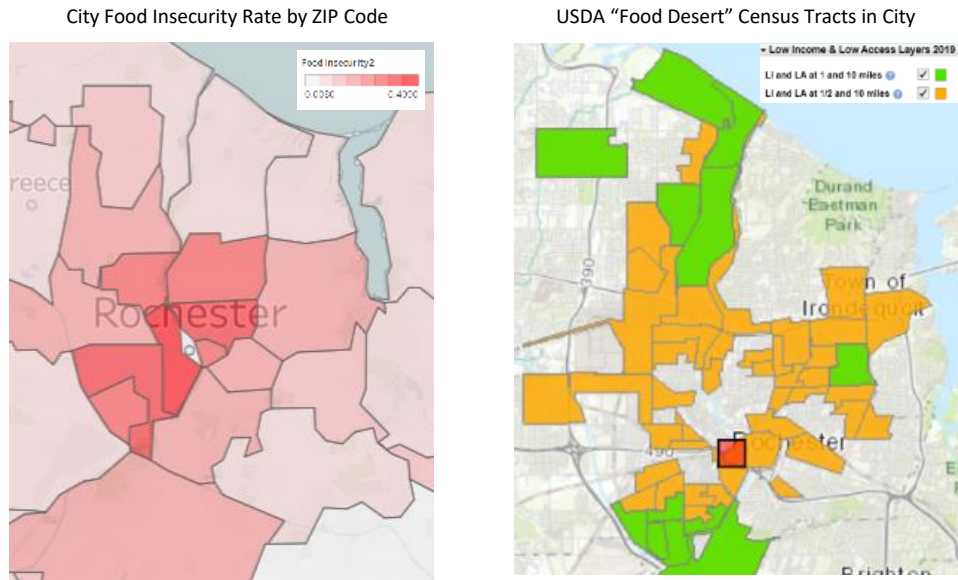
Access to healthy food is an important component of community and individual health, but too many Rochester residents experience barriers to healthy, affordable food:

- According to 2021 ACS 5-year estimates, approximately 31 percent of households in the City receive SNAP benefits.
- A 2018 analysis² of data from Feeding America’s Map the Meal Gap estimated that the City of Rochester was home to three of the ten ZIP codes with the highest rates of food insecurity in New York State – 14608, 14605, and 14611 – each with more than a third of their populations estimated to be food insecure.

¹ All times referenced herein refer to local time in Rochester, New York.

² <https://foodlinkny.org/new-food-insecurity-data-show-level-of-need-in-rochester-other-communities/>

- 2019 mapping from the USDA Food Access Research Atlas³ indicates that 9 census tracts in the city have populations that are low-income and more than one mile to the nearest supermarket and nearly half of city census tracts have populations that are low-income and more than half of a mile to the nearest supermarket (two of USDA’s potential definitions of the term “food desert”).



Commonly recognized barriers to healthy food access include low household income, low spatial proximity to affordable healthy food retail, transportation/mobility barriers, lack of time/convenience and/or experience/knowledge cooking healthy meals, the cost of healthy food/ingredients, lower than desired utilization and participation in programs designed to address income barriers to healthy food such as SNAP and WIC (by both consumers and vendors), etc. The COVID-19 pandemic had negative economic and public health impacts on many communities, but disproportionately impacted low-income populations and low-income communities. As such, many of the barriers to healthy food access were exacerbated by the pandemic, and food insecurity rose during this time.

The City of Rochester is involved a number of efforts related to healthy food access, including work at the Rochester Public Market (and its significant SNAP benefit), with the Summer Meals Program, and through its Business Development loans and grants, but does not have a centralized, coordinated, body of work to promote healthy access across city neighborhoods. A growing awareness of food insecurity coming out of the COVID-19 Pandemic, combined with the significant community input and concern about healthy food access gathered during the development of the City’s [Rochester 2034 Comprehensive Plan](#) inspired the City to allocate \$5 million of ARPA SLFRF funding to create a Healthy Food Loan and Grant Program. The goal of this program is to “invest in activities that increase healthy food access for low-income residents and/or in areas with limited healthy food retail.”

³ <https://www.ers.usda.gov/data-products/food-access-research-atlas/go-to-the-atlas.aspx>

Portions of funding from the Healthy Food Loan and Grant Program have already been set aside to 1) create a small business Healthy Food Grant to help local businesses expand their healthy food offerings, and 2) engage a consultant to develop a Community Food System Plan that will inform City data, planning, policy, partnerships, and initiatives to improve healthy food access and food system resilience moving forward. ***Now, in issuing this Request for Proposals (RFP), the City intends to add to those efforts by engaging selected partners to implement innovative, creative, alternative, or strategic models that complement or work synergistically with these efforts to expand healthy food access for low-income city residents.***

Given the various barriers to healthy food access that currently exist, solutions will need to be creative and multi-pronged. They should build on local assets such as the Rochester Public Market, local farmers and food-based entrepreneurs, existing local business supports, innovative non-profits, and other resources. The City recognizes that there may be a wide range of different approaches and strategies that may serve program goals. These could include, but are not necessarily limited (so long as they serve low-income populations or low-income neighborhoods) to Projects like⁴:

- Pop-up grocers and/or mobile markets
- Subsidized direct-to-consumer sales by local and regional farmers, urban growers, local wholesalers, or community food hubs (e.g., CSA or food box shares) distributed at strategic community sites
- Community based free/low cost grocery or meal delivery to homes – e.g., virtual grocer, click and collect, SNAP online, etc.
- Small-format, non-profit or social purpose healthy food retail models
- Farmers Market expansion and/or planning or operational support services to expand access
- Services that grow the market for food purchases in low-income neighborhoods and among low-income populations – e.g., helping small businesses get set up to accept SNAP/EBT, WIC, and/or Double Up Food Bucks, services to help enroll eligible residents in SNAP or WIC, etc.
- Incentive programs that stretch limited food dollars – e.g., healthy food prescriptions, extra matching funds or incentives that increase the purchasing power of SNAP/WIC benefits, etc. – particularly those that directly support local farmers and food businesses
- Technical assistance and related backbone support services to help small local businesses to successfully expand healthy food offerings to target populations or in target neighborhoods in a financially sustainable way – e.g., support to small businesses that receive Healthy Food Grants from the City’s ARPA Healthy Food Grants and/or support to help establish a network of Healthy Corner Stores across the city
- Projects to build out local and regional wholesale supply chains to improve healthy food access for target populations and/or target businesses or institutions
- Community food rescue or recovery models that expand access for target populations
- Food carts or trucks specifically targeted to serving low-income neighborhoods or populations
- Establishment or expansion of food business incubators to benefit target populations or neighborhoods
- Establishment or expansion of local or regional food hubs, focused on serving or benefitting target populations or neighborhoods

⁴ So long as they comply with all local, state, and federal laws and regulations and meet ARPA SLFRF eligibility, compliance, and procurement requirements.

- Technical assistance, communications/marketing, software, or business planning services to help entities who are trying to launch a small-medium scale mission-driven food business that would serve target populations or neighborhoods.
- Food production sites and/or equipment (e.g. community garden, urban farm, food forest) located in and/or designed to directly serve target populations.
- *Other innovative creative, alternative, or strategic models that address barriers to healthy food access for low-income city residents or low-income neighborhoods in the city.*

Eligible Respondents may be non-profit organizations, community-based organizations, community-oriented small businesses, government agencies, or faith-based organizations implementing non-religious innovative healthy food access projects/services. Individuals and faith-based organizations proposing religious-based projects/services are not eligible.

Selected Subrecipient(s) or Grantee(s) will be qualified organizations with experience in the field who can demonstrate the ability to implement their proposed Project(s) in a skillful and competent manner in the timeline proposed. They must have the skills and experience necessary to implement their proposed Project, and shall have the ability to comply with all applicable State, Local, and Federal laws, rules, and regulations as required by ARPA SLFRF funding. They must agree to work collaboratively to eliminate silos toward the City's objective of improving healthy food access for low-income residents and in low-income neighborhoods across Rochester. The City will likely hold occasional meetings to share information and learnings among the participating organizations and may conduct an evaluation to gather insight about the most effective efforts in this space.

As a part of this RFP process, each Respondent must develop a written Proposal and budget, as described in the Proposal Content section of this RFP below, as well as submit a completed ARPA Funding Application, ARPA Compliance & Reporting Acknowledgement Form, and Conflict of Interest Disclosure Form, all of which are included for reference in **Appendix A**. Fillable forms and a budget template in Excel are also all available on the RFP webpage and should be used as the basis for developing complete Responses to this RFP. The forms will be reviewed as part of, and considered in conjunction with the written Proposal and budget that are submitted pursuant to this RFP, and serve to provide the City with the information needed to determine potential eligibility of proposed uses pursuant to ARPA SLFRF.

The selected Subrecipient(s) or Grantee(s) will be required to have a Unique Entity Identifier (UEI) created at www.SAM.gov, as well as to certify that they have not been banned from doing business with the Federal government and can comply with the ARPA Final Rule, U.S. Treasury's Compliance and Reporting Guidelines, and any pertinent local, state, and federal laws. Information about ARPA SLFRF regulations, including the Final Rule, and Compliance and Reporting Guidelines from U.S. Treasury, and an ARPA eligible service area locator map may be found in **Appendix B**, as well as below:

- U.S. Treasury Department's [ARPA SLFRF resources](#) and [Final Rule](#)
- U.S. Treasury Department's [ARPA SLFRF Compliance and Reporting](#) resources
- [ARPA Eligible Service Area Locator Map of Qualified Census Tracts \(QCTs\)](#) in Rochester

The successful Subrecipient or Grantee will be required to follow any additional rules and procedures as established and implemented by the City. Once selected proposals receive final approval, the City will

enter into a Professional Services Agreement (PSA) or Contract agreement with the selected Subrecipient(s) or Grantee(s). Compliance requirements will be identified in the final Subrecipient or Grantee PSA or contract. An example PSA template is attached as **Appendix C** for reference. It is not the final agreement that parties will execute and only serves as an example of a City boilerplate.

Awarded Project agreements are designed to be structured as reimbursable agreements, where an agency is reimbursed for expenses incurred and paid in response to adequate supporting documentation verifying expenses, however some Projects may qualify for funding in draws or other financial assistance depending on the nature of the individual Project proposed (to be determined on a case by case basis). The City reserves the right to require underwriting review of awarded projects.

TIMELINE

Activity	Time	Date
RFP release		August 4, 2023
Pre-Proposal Virtual Conference	3:30-4:30 p.m.	August 23, 2023
Questions due (in writing)		August 24, 2023
Answers to Questions posted to RFP webpage		August 30, 2023
Proposals due	11:59 p.m.	September 22, 2023
Potential interviews with finalist respondent(s)	9 a.m. – 5 p.m.	October 4-6 or 9-13, 2023
Sub-recipient or Grantee Selections submitted to City Council for approval		October 24, 2023
City Council authorization of Professional Services Agreement(s) or Contract(s)		November 14, 2023
Professional Services Agreement or Contract execution/start date		December 2023 – January 2024
<i>Assessment of individual Subrecipient and/or Grantee performance, with City reserving the right to terminate projects if there are performance concerns</i>		<i>September 1-15, 2024</i>
Projects completed and final compliance and payment information submitted to the City for close-out		No later than June 30, 2026*

**Projects that strongly align with the summer growing season may request permission to use a later completion/close-out date up to September 30, 2026, so long as there is a clear evidence of a need to do so for the Project to have intended impact and the Respondent demonstrates strong performance and timely reporting during earlier phases of Project implementation.*

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, 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 by e-mail to the following City Contact:

InnovativeFoodModels@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.

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.

PRE-PROPOSAL VIRTUAL CONFERENCE

In order to provide Respondents with an opportunity to ask questions, clarify the RFP and Project opportunity, and meet other Respondents who may be interested in joining a team, a pre-Proposal virtual conference will be held via Zoom:

- **August 23, 2023 from 3:30 – 4:30 p.m.** To join the session, please register at: <https://cityofrochester.zoom.us/meeting/register/tZwrde6qqjloEtfzvZ7nL5BtOUJJclehyjLb>

There is no requirement to attend the pre-Proposal virtual conference and no obligation by the City to provide information from the conference to parties who fail to attend, but a recording of the session will be made available on the RFP webpage.

In addition, questions that are submitted by potential Respondents to the City Contact by **no later than August 24, 2023** will be summarized and answered in writing and posted on the City's web page for this RFP.

PROPOSAL CONTENT

Each Respondent Proposal should include the following information in the order specified:

- A. Table of Contents** – All major sections and attachments shall be referenced in a table of contents and all pages shall be numbered.

B. Proposed Project Overview – A summary page with:

1. Brief summary description of Respondent’s proposed Project and the unique value that Respondent brings to it.
2. Brief summary of Respondent’s proposed Project team and roles, including subcontractor/s (if proposed).
3. Name, title, contact information, office address, and signature of an individual authorized to enter into and execute contracts on Respondent’s behalf.

C. Respondent Organization Overview, Experience, and Evidence of ARPA Funding Readiness –

Summary description of Respondent’s overall organization, experience, services, and operations to demonstrate competence and skill, with information needed to assess its readiness to accept and utilize ARPA funds to complete the proposed Project, including:

1. Completed ARPA Funding Application, ARPA Compliance & Reporting Acknowledgement Form, and Conflict of Interest Disclosure Form (see Appendix A)
2. Brief history of organization with summary of major milestones and organizational chart
3. Summary of current services provided and where, including those related to healthy food access, with summary of what populations are served
4. Description of specific, verified outcomes and impact of current services provided, including those related to healthy food access, including how many households are served and estimates of what portion are low-income city resident households
5. Summary of existing relationships with City of Rochester neighborhoods and populations, particularly low-income populations and neighborhoods
6. Experience, if any, administering past federally funded projects, with summary of reporting and compliance measures taken
7. Summary of Respondent’s local, state, and federal lobbying efforts, and a description of its efforts and policies to prevent commingling of funds from federal funding sources with which such activities are not permitted

D. Project Overview and Scope of Work – A detailed description of the proposed Project and the

proposed scope of work that shows how Respondent will implement it, including major tasks, activities, methods, and timelines for Project components, with description of the Project need, how requested funding will be used, and the estimated Project impacts, including:

1. Project summary, with analysis of the need and a description of what makes the Project an innovative, creative, alternative, or strategic approach to expanding healthy food retail or access for low-income city residents or low-income neighborhoods
2. Detailed scope of work needed to implement the Project
3. Targeted demographics to be served by the Project, including low-income city residents and households at a minimum, plus any additional categories being proposed
4. Number of low-income households who will be served during your proposed Project term, along with one (1) to three (3) additional measures of impact⁵
5. Description of long-term sustainability of the proposed Project beyond the grant term
6. Estimation of long term impact of the proposed project beyond the grant period

⁵ See ARPA specific definition of “low-income” in the ARPA SLFRF [Final Rule](#).

E. Project Personnel – Summary of key personnel who will be involved the Project, including sub-contractors, with their names, titles, description of Project roles (with number of hours and billing rate if staff cost is proposed in the Project), and high level summary of their relevant experience. The Respondent’s lead person for the Project should also be clearly identified.

F. Project Budget – A detailed, itemized budget demonstrating how funds will be spent to accomplish the Project in the timeline proposed, including specific expenses as well as staff names, Project roles, hours, and billing rates, including sub-contractors (if/as proposed). If additional resources are being leveraged in addition to the amount of City ARPA funds requested, please clearly show them in the budget (cash and in-kind). Please also clearly show information included in documentation for section H. M/WBE and Workforce Diversity below in the budget *and attach a copy of the budget in Excel along with full proposal PDF.*

At a minimum, the following budget summary template (available in Excel on the RFP webpage) should be used, though additional budget materials and formats are welcome if they will help to communicate additional or important aspects of the proposed Project. The Budget portion of the Proposal narrative should include a high-level description of the budget along with description of any additional funding or resources being leveraged by the Project, including the sources of leveraged funds/resources and how they will be integrated to implement and/or sustain the project.

EXPENSE LINE	City ARPA Requested	Description/ Assumptions	Funding from Other Sources	Description/ Assumptions	TOTAL
PERSONNEL COSTS					
Salary/wages - Staff 1	\$ -		\$ -		\$ -
Salary/wages - Staff 2 (as needed)	\$ -		\$ -		\$ -
Fringe Benefits	\$ -		\$ -		\$ -
Subtotal Personal	\$ -		\$ -		\$ -
OTHER DIRECT COSTS					
Supplies	\$ -		\$ -		\$ -
Equipment	\$ -		\$ -		\$ -
Contract Services - 1	\$ -		\$ -		\$ -
Contract Services – 2 (as needed)					
Phone	\$ -		\$ -		\$ -
Occupancy	\$ -		\$ -		\$ -
Travel	\$ -		\$ -		\$ -
Participant Stipends	\$ -		\$ -		\$ -
Data Processing	\$ -		\$ -		\$ -
Postage	\$ -		\$ -		\$ -
Other (list out as many needed)	\$ -		\$ -		\$ -
Subtotal Other Direct Costs	\$ -		\$ -		\$ -
INDIRECT COSTS (not to exceed 10%)					
Subtotal Indirect Costs	\$ -		\$ -		\$ -
PROJECT TOTAL	\$ -		\$ -		\$ -

- G. Qualifications and References** – A page with summary information about the Respondent’s specific qualifications for this Project and references from three prior related projects, including:
1. A brief description of prior experience implementing three similar or related projects, including the number of low-income households served, and their impact/s.
 2. Reference information with the reference’s name, title, organization, phone, and email; the name of the project that Respondent performed for the reference; and the name(s) and role(s) of any of the Respondent’s proposed Project team who worked on the reference’s project (including sub-contractors, if applicable).
- H. M/WBE and Workforce Diversity** – Provide documentation or information about the following:
1. Is the Respondent a NYS certified M/WBE firm
 2. Are any of the proposed sub-contractors NYS certified M/WBE firms
 3. State the total cost and total full-time equivalent labor hours in the proposed budget and summarize the number and percent of each that would be performed by NYS certified M/WBE firms (listed by individual firms). Be sure that this information can also be verified in the proposed Project Budget above.
 4. List of the Respondent’s proposed workforce, including the workforce of any proposed subcontractors. Show the number and percent of total proposed staff hours needed to complete the Project that will be worked by Minority workers and by Women workers.

TERM

ARPA funds must be obligated by December 31, 2024, and expended on eligible activities by December 31, 2026. In order to meet U.S. Treasury’s timeline, the City requires that the selected Subrecipient(s) and Grantee(s) complete their Projects, including expenditure of all funds and submittal of all requests for payment and final required compliance information or documentation by June 30, 2026.⁶ Failure to meet these deadlines will result in claw-back of funds by the U.S. Treasury and/or the City of Rochester.

The City reserves the right to assess progress, compliance, and/or performance of individual Subrecipient(s) and Grantee(s) in early September 2024 and terminate any agreements that are determined to have a performance issue.

CITY RESPONSIBILITIES

The City’s role in the Project will be determined after the acceptance of successful Proposals. However, it should be noted that by accepting money as a Subrecipient or Grantee of ARPA SLFRF funds, the Subrecipient or Grantee becomes a fiduciary to the City, and shares in compliance and reporting responsibilities. As such, the City will, at a minimum, be responsible for assisting in compliance and reporting, and will work closely with the chosen Subrecipient or Grantee, with

⁶ *Projects that strongly align with the summer growing season, however, may request permission to use a later completion/close-out date up to September 30, 2026 in their Proposals, so long as there is a clear evidence of a need to do so for the Project to have intended impact and the Respondent demonstrates strong performance and timely reporting during earlier phases of Project implementation.*

access to financials, review and approval of work plans and reports, and site visits as necessary as a means of monitoring implementation.

PROPOSAL PREPARATION AND SUBMISSION PROCESS

Digital proposals must be received by email to the City Contact no later than 11:59 p.m. on September 22, 2023. Respondents may attach their Proposal file/s to the email submission or include a link to a file sharing platform if files are too large for email attachments. Email submittals should be directed to:

InnovativeFoodModels@CityofRochester.Gov

This RFP is designed to facilitate the evaluation and selection of Subrecipient(s) and Grantee(s) 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.

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, the 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 the 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 interview, on-site assessment, meetings with authorized personnel, and may involve the use of a third-party consultant.

The Subrecipient(s) and Grantee(s) selected by the City will be required to enter into a Professional Services Agreement (PSA) with the City (see Appendix C, Example City of Rochester PSA) or in the alternative, depending on the nature of proposals received, may determine that a Grant Agreement is preferable, in its sole discretion. The establishment of a PSA or Grant Agreement is contingent upon approval by City Council for all Agreements in excess of \$20,000 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, MWBE and Workforce Utilization Goals, and compliance with American Rescue Plan Act (ARPA) regulations and reporting requirements as addressed in the example PSA (see Appendix C). By submitting a response to this RFP, it is expressly understood by the Respondent that, while the PSA boilerplate is a standard template, this particular project is funded with SLFRF ARPA funds, and therefore the ultimate PSA or Grant Agreement to be signed by the parties will be significantly more complex, and terms may differ.

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.

As this project is funded through the City's American Rescue Plan Act (ARPA) funds, the selected Consultant/s will be required to comply with the ARPA Final Rule, U.S. Treasury's Compliance and Reporting Guidance Document (see Appendix B), and any pertinent local, state, and federal laws, rules, and regulations. The City reserves the right to request additional information and records related thereto if/when finalist Respondent/s is selected for an interview.

EVALUATION CRITERIA

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

Proposal Quality (60): The overall quality and clarity of Respondent's Proposal, including its comprehension of City goals and needs with this RFP, completeness with respect to the Proposal Content requirements listed above, the quality of the proposed Project and scope of work, and the potential impact in improving access to healthy food for low-income households and communities in the City of Rochester during the grant period and beyond.

Project Value (10): The value and cost effectiveness of the Proposal, as evidenced by the total proposed cost relative to the quality of the proposed project and/or services, as well as potential impact during the grant period, and potential sustainability of the project and impact beyond the grant period. While total cost is important, cost and value will be evaluated as part of a broader set of criteria and the City will not necessarily select the lowest bidder(s).

Respondent and Team Experience (20): The Respondent's relevant experience and impact in providing the same or similar projects or services, including the experience of individual staff on the proposed Project team.

References (10): The relevance of Respondent's previously completed project references that are similar to or indicative of potential success for the proposed Project.

Location Preference Goals (bonus weighting): The City favors contracting with firms located in the City of Rochester so additional weighting of 10% will be given to Respondents with at least one team member whose offices are located in the City. Non-local firms may wish to consider partnerships or other collaborative arrangements with local firms as a strategy to address this criterion.

MWBE and Workforce Goals (bonus weighting): The City of Rochester desires to encourage minority and women owned (MWBE) businesses to participate in opportunities to enter into PSAs with the City and to encourage minorities and women in the workforce. Pursuant to Ordinance No. 2018-54, the City has a goal that 30% of the aggregate annual contract awards for professional service contracts over \$10,000 be awarded to minority (M) (15%) and women (W) (15%) owned firms. The City has also

established minority workforce goals of 20% M and 6.9% W for professional services consulting contracts. For more information please see <http://www.cityofrochester.gov/mwbe>.

Consultants shall be awarded M/WBE bonus weighting as follows:

1. The City will give preference to Consultants who are New York State certified MWBEs. Consultants who meet this requirement shall receive **an additional weighting of 10%**.
2. The City will give preference to Consultants who utilize state certified MWBE subcontractors with bona fide offices and operations in the Empire State Development Finger Lakes Region, which includes the following counties: Genesee, Livingston, Monroe, Ontario, Orleans, Seneca, Wayne, Wyoming and Yates. State-certified MWBEs from outside the Region may be counted if there are insufficient businesses in the Region to perform the specialized work or consulting services required. If one or more MWBE subcontractors will perform 10% to 20% of the work of the contract – measured as either a percent of the total contract amount or as a percent of the total full-time-equivalent labor hours budgeted for this project, the consultant shall receive **an additional weighting of 5%**. If MWBE subcontractors will perform more than 20% of the work of the contract, the Consultant shall receive an **additional weighting of 10%**.
3. Consultants shall provide sufficient documentation with their Proposal to support the additional preference weighting as an MWBE Consultant or for use of MWBE subcontractors. If one or more MWBE subcontractors are proposed, they must be named and the size of the subcontract identified. If selected, the Consultant shall submit an MWBE Utilization Plan on the City’s form for approval by the MWBE Officer. Once approved, the Utilization Plan shall be incorporated into the PSA (see Attachment B, Example City of Rochester PSA).
 - a. If the total amount of a PSA is increased by 5% or more at any time during the term of the PSA, the Consultant shall submit a revised MWBE Utilization Plan for approval by the MWBE Officer. The MWBE Officer may also issue a revised MWBE Utilization Plan for unforeseen changes in the availability of MWBE subcontractors during the term of the PSA.
4. The City will give preference to Consultants who meet or exceed the City’s workforce goals, which are: 20% M and 6.9% W. Consultants who demonstrate that their and/or their subcontractors’ workforce on this Project meets or exceeds these goals shall receive an **additional weighting of 10%**. If selected, the Consultant shall submit a Workforce Staffing Plan on the City’s Form for review by the MWBE Officer. Once reviewed, the Workforce Staffing Plan shall be incorporated into the PSA. The calculated percentages of workforce utilization shall be based on actual hours worked and billed over the term of the project. The final determination of a workforce goals accomplished during the contract shall be based on hours reported in the workforce utilization reports.

5. If selected, the Consultant shall provide MWBE utilization and subcontractor/supplier payment certification and/or workforce utilization reports on the City's forms. These reports shall be submitted with each invoice or as otherwise requested by the MWBE Officer.
6. A failure to submit the required subcontractor/supplier payment certification and/or workforce utilization reports shall constitute a default in the performance of the Agreement subject to potential termination for default by the City. In addition, if the selected Consultant fails to meet the most recent MWBE Utilization Plan and/or Workforce Staffing Plan, for which additional weight was awarded by the end of the PSA, such failure may result in disqualification from award of future contracts with the City.
7. Summary of additional evaluation weighting points for MWBE and Workforce Goals:

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

Non-NYS certified MWBE firms may wish to consider partnerships or other collaborative arrangements with local NYS certified MWBE firms as a strategy to address this criterion. The City of Rochester compiles and periodically updates a list of NYS certified MWBE firms as a service to anyone looking to do business with M/WBE firms in our city and region. The most recent update of the list can be found under the Business Directories section of the City's MWBE webpage: <http://www.cityofrochester.gov/mwbe>

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 or Grant agreement.

The selection of a Subrecipient or Grantee 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.

APPENDIX A. ARPA FUNDING APPLICATION & FORMS

The American Rescue Plan Act (the “ARPA”) was signed into law on March 11, 2021. The City of Rochester (the “City”) has been deemed eligible for the direct allocation of Federal ARPA aid and intends to utilize a portion of such funding to provide local stimulus through sub-award to local entities (Subrecipients or Grantees).

APPLICATION AND FORM INSTRUCTIONS

1. Lead entity (Subrecipient or Grantee) on any submission must fill out the attached forms in their entirety. Providing incomplete or deficient information will result in potential disqualification from being selected to receive funding through this RFP.
2. By completing the ARPA Funding Application, ARPA Compliance & Reporting Acknowledgement Form, and Conflict of Interest Disclosure Form, and submitting a proposal to this RFP, Subrecipient or Grantee confirms that they understand that the requested information is required for ARP funding.
3. Tax returns for the last two years (2021 & 2022) and other materials or information may be required by the City at a future date to determine Respondent readiness and Project eligibility.

**ARPA FUNDING APPLICATION:
RESPONDENT ORGANIZATION INFORMATION**

Name of Lead Organization: _____

Type of Organization: Non-Profit Community-Based Org Small Business Government Faith-Based Food Access Group Religious Individual Other (Explain: _____)

Does Your Organization Possess a Current Tax-Exempt Status as a Public Charity Under Section 501(C)(3), 501(C)(4), or (19) of the Internal Revenue Code, Listed on the IRS Master File? No Yes
If YES, which: _____

Is your organization located in the City of Rochester: No Yes

Organization Office Address(es): _____

Founding Date: _____

Current Number of Employees: _____

Current Annual Budget (2023): _____

2022 Annual Budget: _____

2021 Annual Budget: _____

Has your organization implemented federally funded projects before? No Yes
If YES, please list: _____

If YES, has your organization ever received negative audit findings pertaining to federal funds previously received? No Yes
If YES, please summarize negative audit findings: _____

Has your organization been banned from doing business with the Federal Government? No Yes
Please provide your current Federal EIN Tax ID Number: _____
Please provide your current Federal Unique Entity Identifier (UEI): _____

Is your organization an MWBE registered with NY State? No Yes

**ARPA FUNDING APPLICATION:
RESPONDENT ORGANIZATION INFORMATION**

Primary Application Contact Name and title: _____
Primary Application Contact Phone (with Extension): _____
Primary Application Contact Email: _____

Name and Title of Person Authorized to Execute Agreements on Respondent's Behalf: _____

Phone Number of Person Authorized to Execute Agreements (with extension): _____
Email of Person Authorized to Execute Agreements: _____

Are you proposing any subcontractors as part of this Project? No Yes
If YES, how many subcontractor organizations are you proposing: _____

Name of subcontractor organization (1): _____
Is this organization an M/WBE registered with NYS? No Yes
What portion of the requested funding is going to this organization? _____
What is this organization's Federal UEI Number? _____

Name of subcontractor organization (2): _____
Is this organization an M/WBE registered with NYS? No Yes
What portion of the requested funding is going to this organization? _____
What is this organization's Federal UEI Number? _____

Name of subcontractor organization (3): _____
Is this organization an M/WBE registered with NYS? No Yes
What portion of the requested funding is going to this organization? _____
What is this organization's Federal UEI Number? _____

Name of subcontractor organization (4): _____
Is this organization an M/WBE registered with NYS? No Yes
What portion of the requested funding is going to this organization? _____
What is this organization's Federal UEI Number? _____

Name of subcontractor organization (5): _____
Is this organization an M/WBE registered with NYS? No Yes
What portion of the requested funding is going to this organization? _____
What is this organization's Federal UEI Number? _____

**FUNDING APPLICATION:
RESPONDENT PROJECT BUDGET AND IMPACT INFORMATION**

How much funding are you requesting from the City for your project: _____

Will your project leverage other funding or resources during the proposed grant period? No Yes

If YES, how much? Cash: _____ In-Kind: _____ Total: _____

Will the Proposed Project Allow you to Expand your Organization? No Yes

If YES, how: _____

If YES, how will the expansion be sustained after the grant period: _____

How long is the proposed term for implementing your project (in months): _____

How many total City Households and residents do you anticipate serving during that term?

Households: _____ Residents: _____

What portion of the total City households and residents you serve through your project will be low-

income*? Households: _____ Residents: _____

**See ARPA specific definition of "low-income" in the ARPA SLFRF [Final Rule](#).*

Will the project provide services in City Qualified Census Tracts (QCTs**)? No Yes

*** See [ARPA Eligible Service Area Locater Map of Qualified Census Tracts \(QCTs\)](#) to check whether areas you are proposing to provide services are in City of Rochester QCTs.*

If YES, where: _____

If YES, what portion of total City households and residents served will receive services in a QCT?

Households: _____ Residents: _____

**ARPA FUNDING APPLICATION:
RESPONDENT COVID-19 QUESTIONS**

Was your Organization Impacted by COVID-19? No Yes

If YES, please qualify and quantify how your organization was/is impacted by the COVID-19 Pandemic: _____

Did your organization lay off employees due to COVID-19? No Yes If YES, how many: _____

Did COVID-19 impact your hiring? No Yes

If YES, how: _____

Did COVID-19 impact your revenues? No Yes

If YES, how: _____

Have you ever applied for any form(s) of COVID-19 relief? No Yes

If YES, provide details: _____

If YES, are any awards pending: _____

ARPA SLFRF COMPLIANCE & REPORTING ACKNOWLEDGMENT FORM

This form is used to acknowledge receipt of the U.S. Treasury’s Compliance and Reporting Guidance for ARPA State and Local Fiscal Recovery Fund (SLFRF).

Complete the following steps:

1. Review [general resources from the United States Department of the Treasury regarding ARPA SLFRF](#), as well as and the [ARPA SLFRF Final Rule](#)
2. Read [U.S. Treasury’s Compliance and Reporting Guidance for ARPA SLFRF](#)
3. Sign and date in the spaces provided below
4. Return *this page* to the City as part of the ARPA application

By signing below, I agree to the following terms:

1. I have received, read and understand the U.S. Treasury’s Compliance and Reporting Guidance for State and Local Fiscal Recovery Funds, which is available via link in Appendix C to this application.
2. I confirm that I am able to and pledge to adhere to all compliance and reporting requirements of the U.S. Treasury as it relates to any State and Local Fiscal Recovery Funds. (The US Treasury guidance requires, at a minimum, quarterly reporting). Additional reporting requirements may be applicable.
3. I Understand the City will contact me if and when additional information is needed and that information will be provided to the City to support reporting requirements.
4. If for any reason I am unable to comply with the U.S. Treasury’s compliance and reporting requirements I will immediately notify the City by email.

Respondent/Applicant Signature

Respondent/Applicant Title

RESPONDENT CONFLICT OF INTEREST DISCLOSURE FORM

The Program for which you are applying may be part of one or more City of Rochester (hereinafter the "City"), federal, state, or other programs, including, but not limited to, the American Rescue Plan Act (ARPA), Community Development Block Grant (CDBG), Emergency Solutions Grant (ESG), HOME Investment Partnerships (HOME), Housing Opportunities with Persons with AIDS (HOPWA), Asset Control Area (ACA), Rochester Economic Development Corporation (REDCO) or City Development Fund (CDF). Each of these programs has rules and regulations prohibiting conflicts of interest. Conflicts generally arise where the applicant or his or her family or business may have an economic or employment interest in the program or the entity providing the program.

Program regulations generally limit the participation of employees, agents, consultants, officers, or elected appointed officials of the City or any designated public agencies, or sub-recipients receiving Program funds, and those with whom they have business or immediate family ties, during their tenure or for one year thereafter. For federally assisted housing and community development programs, this applies unless an exception is granted by the U.S. Department of Housing and Urban Development (HUD). In order for HUD to grant an exception to such persons there must be a public disclosure of the application and the City's Corporation Counsel must determine that the participation does not violate state or local law.

The objective of this form is to identify applicants that may have a conflict under the rules and regulations. The City will then determine whether an exception should be granted or requested. The City's Office of The Mayor, in cooperation with the Corporation Counsel, is responsible for conflict of interest determinations and the coordination of the exception process for federally assisted housing and community development programs.

Name of Applicant(s): _____

Applicant 1: _____

Applicant 1: I am employed at _____ in the position of _____

Applicant 2: _____

Applicant 2: I am employed at _____ in the position of _____

Business Name (if applicable): _____

Property Address: _____

Program Name: _____

I/We certify that **(Please ONLY check one option (1 or 2))**:

___1. I/we am/are NOT an employee, agent, consultant, officer, or elected or appointed official of the City of Rochester, and am NOT a relative of an employee, agent, consultant, officer or elected or appointed official of City of Rochester, nor part of any designated public agencies, business, or sub-recipients receiving CDBG or other Program funds.

___2. I/we AM/ARE an employee agent, consultant, officer or elected or appointed official of the City of Rochester OR I/we am/are a relative of an employee, agent, consultant, officer or elected or appointed official of the City of Rochester, or I/we am/are part of a designated public agency or worked any such agency within the last year, business or sub-recipient receiving CDBG or other Program funds.

I (___do) or (___do not) perform any duties relating to the Program.

For Family/Relative Affiliation:

_____ is the family member to whom I am related. (_____).
(Name) (Relationship)

This family member is employed at _____ in the position of _____.

This family member (___does) or (___does not) perform any duties relating to the program.

Applicant #1
Signature _____ Date _____

Applicant #2
Signature _____ Date _____

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/Commissioner of Deeds

APPENDIX B. ARPA REGULATIONS AND COMPLIANCE RESOURCES

UNITED STATES DEPARTMENT OF THE TREASURY

ARPA STATE AND LOCAL FISCAL RECOVERY FUNDS (SLFRF)

[HTTPS://HOME.TREASURY.GOV/POLICY-ISSUES/CORONAVIRUS/ASSISTANCE-FOR-STATE-LOCAL-AND-TRIBAL-GOVERNMENTS/STATE-AND-LOCAL-FISCAL-RECOVERY-FUNDS](https://home.treasury.gov/policy-issues/coronavirus/assistance-for-state-local-and-tribal-governments/state-and-local-fiscal-recovery-funds)

ARPA SLFRF FINAL RULE

[HTTPS://WWW.GOVINFO.GOV/CONTENT/PKG/FR-2022-01-27/PDF/2022-00292.PDF](https://www.govinfo.gov/content/pkg/FR-2022-01-27/pdf/2022-00292.pdf)

ARPA SLFRF COMPLIANCE AND REPORTING GUIDANCE

[HTTPS://HOME.TREASURY.GOV/SYSTEM/FILES/136/SLFRF-COMPLIANCE-AND-REPORTING-GUIDANCE.PDF](https://home.treasury.gov/system/files/136/SLFRF-Compliance-and-Reporting-Guidance.pdf)

ARPA ELIGIBLE SERVICE AREA LOCATER MAP OF QUALIFIED CENSUS TRACTS (QCTs) IN CITY OF ROCHESTER

[HTTPS://ROCHESTERNY.MAPS.ARCGIS.COM/APPS/WEBAPPVIEWER/INDEX.HTML?ID=30D6E20EFB444381BE06DF67D0EE65F6](https://rochesterny.maps.arcgis.com/apps/webappviewer/index.html?id=30d6e20efb444381be06df67d0ee65f6)

APPENDIX C: EXAMPLE CITY OF ROCHESTER PROFESSIONAL SERVICES AGREEMENT (PSA), FOR REFERENCE ONLY

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, and

WHEREAS, on January 6, 2022, the United States Treasury issued the Final Rule to implement ARPA in Title 31, Part 35 of the Code of Federal Regulations ("Final Rule") and issued the Coronavirus State and Local Fiscal Recovery Funds Guidance on Recipient Compliance and Reporting Responsibilities, dated June 17, 2021 and reissued on November 15, 2021, and reissued on January 6, 2022 and February 28, 2022 ("Guidance Document"), and

WHEREAS, under ARPA Section 603(c)(1)(A) and (3) and in the Interim Final Rule, 31 CFR 35.6(b)(3)(i)(11)(iii) recipients may use SLFRF funds for investments in communities to promote improved health outcomes and public safety such as parks, recreation facilities, and programs that increase access to healthy foods for individuals in disproportionately impacted households, populations and communities, including those living in Qualified Census Tracts, and such response is presumed reasonably proportional to the negative impact of the COVID-19 pandemic, and

WHEREAS, the City seeks to engage Consultant to carry out the Project on its behalf as an eligible use of SLFRF ARPA funds, as a Subrecipient of said funds.

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:

The Consultant shall submit an invoice and any other supporting documentation in the manner prescribed by the City at a minimum of once every ninety (90) days during the term of this agreement, unless a different schedule is approved by the City.

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.

B. General Liability Insurance

C. The Consultant shall obtain at its own expense general liability insurance for protection against claims of personal injury, including death, or damage to property, arising out of the Project. The amount of said insurance coverage shall be in the amount of Two Million Dollars if said insurance is a "Defense within Limits" policy under which all claim expenses are included within both the applicable limit of liability and self-insured retention. Otherwise, the insurance coverage shall be in the amount of One Million Dollars. Said insurance shall be issued by a reputable insurance company, authorized to do business in the State of New York. Said insurance shall also name the City of Rochester as an insured and copies of the policy endorsements reflecting the same shall be provided. The Consultant shall provide the City with a certificate of insurance from an authorized representative of a financially responsible insurance company evidencing that such an insurance policy is in force. Furthermore, the Consultant shall provide a listing of any and all exclusions under said policy. The insurance shall stipulate that, in the event of cancellation or modification the insurer shall provide the City with at least thirty (30) days written notice of such cancellation or modification. In no event shall such liability insurance exclude from coverage any municipal operations or municipal property related to this Agreement.

SECTION 8. EQUAL OPPORTUNITY AND MWBE AND WORKFORCE UTILIZATION GOALS

A. General Policy

The City of Rochester, New York reaffirms its policy of Equal Opportunity and its commitment to require all contractors, lessors, vendors and suppliers doing business with the City to follow a policy of Equal 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

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 that in hiring employees and treating employees performing work under this Agreement or any subcontract hereunder, the Consultant, and its subconsultants, 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.
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 subconsultant, provided that the foregoing provisions shall not apply to subcontracts for standard commercial supplies or raw material

D. MWBE AND WORKFORCE UTILIZATION GOALS

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

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

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

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

During the term of the Agreement, the Consultant shall notify the City if a change occurs that will result in a significant (5% or more) increase or decrease in the workforce staffing plan and/or MWBE utilization plan goals incorporated as Exhibit A and/or Exhibit B of this Agreement. A revised workforce staffing plan and/or MWBE utilization plan must be approved by the MWBE Officer. Once signed by the Consultant and the MWBE Officer, such revised plan(s) shall be incorporated into this Agreement as an amendment pursuant to Section 17.

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

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 shall be in writing and filed with the City Title VI Coordinator within one hundred eighty (180) days following the date of the alleged discriminatory occurrence. Title VI Discrimination Complaint Forms may be obtained from the City at no cost to the complainant, or on the City's website at www.cityofrochester.gov, or by calling (585) 428-6185.

SECTION 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 shall 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. 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.

Specifically, Consultant agrees that it shall strictly comply with all funding source requirements, to the extent applicable, as outlined in Exhibit C, attached hereto.

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 subconsultants 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: _____
Malik D. Evans

CONSULTANT

BY: _____
Name:

STATE OF NEW YORK)
COUNTY OF MONROE) SS:

On this ____ day of _____, 20__, before me the subscriber, personally came **MALIK D. EVANS** known, who being by me duly sworn, did depose and say that he resides in the City of Rochester; that he is the Mayor of the City of Rochester, the municipal corporation described in and which executed the above instrument; and that he signed his 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

**EXHIBIT A
WORKFORCE STAFFING PLAN**

City of Rochester
Professional Consultant Services Workforce Staffing Plan

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

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

Reviewed by MWBE Officer:	Date:
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**EXHIBIT B
MWBE UTILIZATION PLAN**

CITY OF ROCHESTER
MWBE FORM A
MWBE UTILIZATION PLAN – PROFESSIONAL CONSULTANT SERVICES

MWBE GOALS: MBE 15%, WBE 15%

Project Name _____ Agreement # _____

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

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

*Total Contract equals contract award plus all change orders

Authorized Person _____ Title _____ Phone _____

Signature _____ Date _____ Email _____

Approved by MWBE Officer _____ Date _____

EXHIBIT C
AMERICAN RESCUE PLAN ACT FUNDING REQUIREMENTS

This project is funded in whole or part by funds provided by the United States Treasury pursuant to the American Rescue Plan Act of 2021 (ARPA).

On March 11, 2021, the American Rescue Plan Act (ARPA) was signed into law, and established the Coronavirus State Fiscal Recovery Fund and Coronavirus Local Fiscal Recovery Fund, which together make up the Coronavirus State and Local Fiscal Recovery Funds (“SLFRF”) program.

1. General Requirements – ARPA Funded Projects:

- a. **SAM.gov Requirements.** Consultants are required to have an active registration with the System for Award Management (SAM) (<https://www.sam.gov>).

Consultants shall obtain a DUNS Number, or SAM Unique Entity Identifier (UEI) Number as requested and shall provide it to the City of Rochester prior to payment by the City. It can take up to thirty (30) days or more to obtain a UEI number. Therefore, Consultants are strongly urged to obtain at least a UEI number as soon as possible.

- b. **Recordkeeping Requirements.** Consultants must maintain records and financial documents for five years after the deadline for expenditure of all funds, December 31, 2026. Treasury may request transfer of records of long-term value at the end of such period. Such records should be collected, transmitted, and stored in open and both digital and machine-readable formats.

Your organization must agree to provide or make available such records to City of Rochester and/or Treasury upon request, and to the Government Accountability Office (“GAO”), Treasury’s Office of Inspector General (“OIG”), and their authorized representative in order to conduct audits or other investigations.

- c. **Prevailing Wages and Reporting Requirements.** Prevailing Wage requirements under New York State Labor Law Articles 8 and 9 and under federal law (often referred to as Davis-Bacon) may apply to the work in this contract. For the purpose of this project and contract, the prevailing wage rate is the higher of the federal or state.

Consultants and subconsultants shall submit Certified Payrolls, Workforce and Minority and Women-Owned Business Enterprise (MWBE) information on forms approved by the City, including but not limited to, the City approved web-based reporting system, and, if required by other funding agency on the approved (funding agency) reporting system.

- d. **Use of Funds.** Funds to be disbursed pursuant to this Agreement may only be used in compliance with section 603(c) of the Social Security Act (the Act), Treasury’s regulations implementing that section, and guidance issued by Treasury regarding the foregoing. Consultant will determine prior to engaging in the Purchase that it has the institutional, managerial, and financial capability to ensure proper planning, management, and completion of the Project.

- e. **Funding Deadlines.** Federal regulations require that any SLFRF funds used in connection with the Project be obligated by December 31, 2024, and actually expended by December 31, 2026, in all cases. Any funds not obligated or spent by those dates will be subject to recapture by the City and U.S. Treasury.
- f. **Conflict of Interest.** Consultant understands and agrees that it must maintain a conflict of interest policy consistent with 2 C.F.R. § 200.318(c) and that such conflict of interest policy is applicable to each activity funded under this award. Consultant must disclose in writing to the City, Treasury or the pass-through entity, as appropriate, any potential conflict of interest affecting the awarded funds in accordance with 2 C.F.R. § 200.112.
- g. **Remedial Actions.** In the event of Consultant's noncompliance with section 603 of the Act, other applicable laws, Treasury's implementing regulations, guidance, or any reporting or other program requirements, Treasury (and the City) may impose additional conditions on the receipt of a subsequent tranche of future award funds, if any, or take other available remedies as set forth in 2 C.F.R. § 200.339 or as otherwise set forth in an agreement. In the case of a violation of section 603(c) of the Act regarding the use of funds, previous payments shall be subject to recoupment as provided in section 603(e) of the Act.
- h. **False Statements.** The making of false statements or claims in connection with an agreement funded by ARPA is a violation of federal law and may result in criminal, civil, or administrative sanctions, including fines, imprisonment, civil damages and penalties, debarment from participating in federal awards or contracts, and/or any other remedy available by law.
- i. **Publications.** Any publications produced with funds from this award must display the following language: "This Purchase [is being] [was] supported, in whole or in part, by federal award number [enter Purchase FAIN] awarded to the City of Rochester by the U.S. Department of the Treasury."
- j. **Other Provisions** including applicable requirements imposed by the U.S. Treasury pursuant to 2 C.F.R. Part 200 not otherwise mentioned here, are hereby incorporated herein by reference. Further, Consultants must comply with 41 U.S.C. § 4712, Executive Order 13043, 62 FR 19217 (Apr. 18, 1997), and Executive Order 13513, 74 FR 51225.
- k. **City Obligations Contingent on Federal Funding and Consultant Compliance.** The payment of funds pursuant to this Agreement shall be contingent upon the receipt of ARPA funds by the City and shall be subject to the Consultant's continued eligibility to receive funds under the applicable provisions of State and Federal Law. If the amount of funds received by the City is reduced, the City may reduce the amount of funds awarded under this Agreement or terminate this Agreement. The City may also deny payment for Consultant's expenditures where invoices or other reports are not submitted by the deadlines specified in this Agreement or for failure of Consultant to comply with the terms and conditions of this Agreement.
- l. **Closeout.** Consultant shall close out this Agreement in accordance with 2 CFR § 200.344 and § 200.345. Final payment request(s) under this Agreement must be received by the City no later than thirty (30) days after the earlier of the Termination Date or Expiration of this Agreement. The City will not accept a payment request submitted after this date without prior

authorization from the City. In consideration of the execution of this Agreement by the City, Consultant agrees that acceptance of final payment from the City will constitute an agreement by Consultant to release and forever discharge the City, its agents, employees, officers, representatives, affiliates, successors and assigns from any and all claims, demands, damages, liabilities, actions, causes of action or suits of any nature whatsoever, which Consultant has at the time of acceptance of final payment or may thereafter have, arising out of, in connection with or in any way relating to any and all injuries and damages of any kind as a result of or in any way relating to this Agreement. The Consultant's obligations to the City under this Agreement shall not terminate until all closeout requirements are completed to the satisfaction of the City. Such requirements shall include submitting final reports to the City and providing any closeout-related information requested by the City by the deadlines specified by the City. This provision shall survive the expiration or termination of this Agreement.

m. **Contracting with Small and Minority Businesses, Women's Business Enterprises, and Labor Surplus Area Firms.** The Consultant must take all necessary affirmative steps to assure that minority businesses, women's business enterprises, and labor surplus area firms are used when possible, including:

- 1) Placing qualified small and minority businesses and women's business enterprises on solicitation lists;
- 2) Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources;
- 3) Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses and women's business enterprises;
- 4) Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority businesses and women's business enterprises;
- 5) Using the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce; and
- 6) Requiring subconsultants, if any, to take the same affirmative steps imposed by this section and 2 CFR Part 200, Subpart D, 200.321.

2. Contract Requirements – ARPA Funded Projects:

Consultants and subconsultants shall comply with the following federal laws and regulations during the performance of the work for this project:

- a. **Equal Employment Opportunity.** Executive Order 11246, "Equal Employment Opportunity" (30 FR 12319, 12935, 3 CFR Part, 1964-1965 Comp., p. 339), as amended by Executive Order 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," and implementing regulations at 41 CFR part 60, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor."
- b. **Debarment and Suspension (Executive Orders 12549 and 12689).** A contract award (see 2 CFR 180.220) must not be made to parties listed on the government-wide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR part 1986 Comp., p. 189) and 12689 (3 CFR part

1989 Comp., p. 235), “Debarment and Suspension.” SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.

- c. **Byrd Anti-Lobbying Amendment (31 U.S.C. 1352).** Consultants that apply or bid for a contract award exceeding \$100,000 must file the required certification. Each tier of Consultant or subconsultant certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the City of Rochester.
 - d. **The Hatch Act (5 U.S.C. §§ 1501-1508 and 7324-7328),** which limits certain political activities of State or local government employees whose principal employment is in connection with an activity financed in whole or in part by this federal assistance. Federal funds may not be used for this purpose under the same circumstances, and the same requirements apply to Consultants.
 - e. **Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, 2 C.F.R. Part 200,** other than such provisions as Treasury may determine are inapplicable to this Award and subject to such exceptions as may be otherwise provided by Treasury. Subpart F – Audit Requirements of the Uniform Guidance, implementing the Single Audit Act, shall apply to this award.
 - f. **Reporting Subaward and Executive Compensation Information, 2 C.F.R. Part 170,** pursuant to which the award term set forth in Appendix A to 2 C.F.R. Part 170 is hereby incorporated by reference
 - g. **OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement), 2 C.F.R. Part 180,** including the requirement to include a term or condition in all lower tier covered transactions (contracts and subcontracts described in 2 C.F.R. Part 180, subpart B) that the award is subject to 2 C.F.R. Part 180 and Treasury’s implementing regulation at 31 C.F.R. Part 19.
 - h. **Recipient Integrity and Performance Matters,** pursuant to which the award term set forth in 2 C.F.R. Part 200, Appendix XII to Part 200 is hereby incorporated by reference.
 - i. **Governmentwide Requirements for Drug-Free Workplace, 31 C.F.R. Part 20.**
 - j. **New Restrictions on Lobbying, 31 C.F.R. Part 21.**
 - k. **Uniform Relocation Assistance and Real Property Acquisitions Act of 1970 (42 U.S.C. §§ 4601-4655)** and implementing regulations.
3. City of Rochester’s Standard Policies and Procedures Applicable to ARPA Funded Projects:

- a. **Bonds and Insurance Forms.** Consultants shall comply with all requirements described in Article 4 Bonds and Insurance of the General Terms and Conditions, and as revised under the Supplementary Terms and Conditions section.
 - b. **Minority and Women Business Enterprise (MWBE) Plan.** Consultants shall comply with all requirements described in Subsection SLR 19 of the Supplementary Laws and Regulations.
 - c. **Workforce Goals and Requirements.** Consultants shall comply with all requirements described in Subsection SLR 20 of the Supplementary Laws and Regulations.
4. Statutes and regulations relating to the prohibition of discrimination relating to projects funded by the American Rescue Plan Act of 2021:
 - a. **Title VI of the Civil Rights Act of 1964 (42 U.S.C. §§ 2000d et seq.)** and Treasury's implementing regulations at 31 C.F.R. Part 22, which prohibit discrimination on the basis of race, color, or national origin under programs or activities receiving federal financial assistance;
 - b. **The Fair Housing Act, Title VIII of the Civil Rights Act of 1968 (42 U.S.C. §§ 3601 et seq.),** which prohibits discrimination in housing on the basis of race, color, religion, national origin, sex, familial status, or disability;
 - c. **Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794),** which prohibits discrimination on the basis of disability under any program or activity receiving federal financial assistance;
 - d. **The Age Discrimination Act of 1975, as amended (42 U.S.C. §§ 6101 et seq.),** and Treasury's implementing regulations at 31 C.F.R. Part 23, which prohibit discrimination on the basis of age in programs or activities receiving federal financial assistance; and
 - e. **Title II of the Americans with Disabilities Act of 1990, as amended (42 U.S.C. §§ 12101 et seq.),** which prohibits discrimination on the basis of disability under programs, activities, and services provided or made available by state and local governments or instrumentalities or agencies thereto.
5. Additional requirements applying to this contract include the following:
 - a. Consultant understands and agrees that the funds to be disbursed pursuant to this Agreement may only be used in compliance with Section 603(c) of the Social Security Act, Treasury's regulations implementing that section, 31 CFR Part 35, the Final Rule, and guidance issued by Treasury regarding the foregoing. As such, Consultant understands and agrees that the City is not obligated to reimburse Consultant for any work, materials, or otherwise, which are not approved in advance by the City, and which are not eligible pursuant to the foregoing authority.
 - b. Federal regulations require that any SLFRF funds used in connection with the Purchase be obligated by December 31, 2024, and actually expended by December 31, 2026, in all cases.

Any funds not obligated or spent by those dates will be subject to recapture by the City and U.S. Treasury. In the event that any proceeds have been paid by the City but work has not been performed as of December 31, 2026, funding provided for the Purchase shall immediately be returned to the City.

- c. The City shall only reimburse Consultant for documented expenditures incurred in the performance of this Agreement that are: (i) reasonable and necessary to carry out the scope of work described pursuant to this Agreement; (ii) in accordance with the budget approved by the City; (iii) incurred in accordance with all applicable requirements for the expenditure of funds payable under this Agreement. In no event shall the City pay or otherwise compensate Consultant for any costs that were incurred prior to the date of execution of this Agreement, after termination of this Agreement, and/or outside the scope of this Agreement.
- d. City Obligations Contingent on Federal Funding and Consultant Compliance. The payment of funds pursuant to this Agreement shall be contingent upon the receipt of ARPA funds by the City and shall be subject to the Consultant's continued eligibility to receive funds under the applicable provisions of State and Federal Law. If the amount of funds received by the City is reduced, the City may reduce the amount of funds awarded under this Agreement or terminate this Agreement. The City may also deny payment for Consultant's expenditures where invoices or other reports are not submitted by the deadlines specified in this Agreement or for failure of Consultant to comply with the terms and conditions of this Agreement.
- e. Termination for Convenience of the City
 - (1) This Agreement may be terminated by the City in accordance with this section in whole, or from time to time, in part, whenever for any reason, the City shall determine that such termination is in the best interest of the City. Any such termination shall be effective upon written notice to the Consultant. However, no such termination shall relieve the Consultant of any outstanding duties imposed by the Agreement, including the requirement to hold the City harmless and to maintain insurance coverage insuring against loss arising out of the Project.
 - (2) If the Agreement is so terminated the City may take over the work and services and prosecute the same to completion by contract or otherwise. The Consultant, upon such termination, shall transfer title, and in the manner directed by the City, shall deliver to the City the completed or partially completed, plans, drawings information, other property and records of work being performed, which, if this Agreement had been completed, would be required to be furnished to the City.
 - (3) After receipt of written notice of termination, the Consultant shall promptly submit to the City its termination claim in a form acceptable to the City. Such claim shall in no event be submitted later than one year from the effective date of termination.

(4) In the event that the parties cannot agree, in whole or in part, as to the amount due by reason of the termination of the Agreement pursuant to this clause, the City shall pay the Consultant the amount determined as the total of the following:

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

B. In addition to all other requirements in this Agreement, Consultant understands that the following compliance provisions applying to Revenue Loss Funds used for the Provision of Government Services pursuant to Uniform Guidance Subpart D and E apply to the funds utilized for this Agreement:

- 200.300 Statutory and national policy requirements.
- 200.302 Financial management.
- 200.303 Internal controls.
- 200.328 Financial reporting.
- 200.329 Monitoring and reporting program performance.
- Record Retention and Access (2 C.F.R. 200.334 – 200.338)
 - i. 200.334 Retention requirements for records.
 - ii. 200.335 Requests for transfer of records.
 - iii. 200.336 Methods for collection, transmission, and storage of information.
 - iv. 200.337 Access to records.
 - v. 200.338 Restrictions on public access to records.
- Remedies for Noncompliance (2 C.F.R. 200.339 – 200.343) to the extent that such provisions apply to the City
 - i. 200.339 Remedies for noncompliance.
 - ii. 200.340 Termination.
 - iii. 200.341 Notification of termination requirement.
 - iv. 200.342 Opportunities to object, hearings, and appeals.
 - v. 200.343 Effects of suspension and termination.
- 200.344 Closeout, to the extent that such provisions apply to the City
- 200.345 Post-closeout adjustments and continuing responsibilities, to the extent that such provisions apply to the City.
- 200.346 Collection of amounts due.
- 200.400(a) - (c), and (e) Policy guide.

- 200.403(a), (c), (d), (g), and (h) Factors affecting allowability of costs.
- 200.404(e) Reasonable costs.

6. Additionally, Consultants and sub-consultants shall comply with all applicable City of Rochester standard policies and procedures regarding lobbying including but not limited to, the following:

CERTIFICATION FOR FEDERAL AID CONTRACTS

The prospective participant certifies, by signing and submitting this agreement, to the best of his/her knowledge and belief, that:

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress, in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress, in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying", in accordance with its instructions.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U. S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000.00 and not more than \$100,000.00 for each such failure.

The Consultant also agrees that he/she shall require that the language of this certification be included in all lower tier subcontracts which exceed \$100,000.00 and that such Consultants shall certify and disclose accordingly.