INVITATION TO SUBMIT PROPOSALS
TO PROVIDE
CONSULTING SERVICES
IN CONNECTION WITH A
REVIEW OF THE OPERATIONS OF
WESTCHESTER COMMUNITY COLLEGE
75 GRASSLANDS ROAD
VALHALLA, NEW YORK 10595

PROPOSAL DUE DATE: August 20, 2014 @ 5pm EST

Contact:

Richard Cashman
Deputy Purchasing Agent
Westchester Community College
Administration Building
75 Grasslands Road
Valhalla, New York 10595
Phone: 914-606-8501
Email: Richard.cashman@sunywcc.edu

Please be advised that all matters concerning this RFP, from the date of issuance until the contract awards are made, are to be directed in writing to the above named contact person.

An original and three (3) completed copies of the proposal MUST be received no later than August 20, 2014 at 5pm EST at the following address:

Westchester Community College
Purchasing Department
Administration Building
75 Grasslands Road
Valhalla, New York 10595
REQUEST FOR PROPOSALS

I. INTRODUCTION

The County of Westchester, acting by and through Westchester Community College (the “County” or the “College”) invites proposals from qualified firms to provide professional consulting services in connection with a review of the operations of the College.

An original and three (3) completed copies of the proposal MUST be received no later than August 20, 2014 at 5pm EST at the following address:

Westchester Community College
Purchasing Department
Administration Building
75 Grasslands Road
Valhalla, New York 10595

II. BACKGROUND:

Westchester Community College was founded in 1946 as the New York State Institute of Applied Arts and Sciences in White Plains. A State University of New York institution, the College is sponsored locally by the County of Westchester and is governed by a Board of Trustees and is accredited by the Middle States Commission on Higher Education (MSCHE). WCC is now hovering near record enrollments in both the credit (13,781 credit enrollments) and non-credit areas. Students attend on the Valhalla (main campus); extension sites in New Rochelle, Mount Vernon, Yonkers, Shrub Oak, Mahopac, Ossining, Port Chester and Peekskill (Center for the Digital Arts) and White Plains (Center for the Arts). The College offers free job and high school equivalency training and education through the Educational Opportunity Center in Yonkers.

The College is currently engaged in several large scale planning initiatives; preparation for its decennial MSCHE self-study visit, scheduled for April 2015; the development of its 2014-2019 strategic plan; and the launch of a large capital campaign by the WCC Foundation to support student success. In addition, SUNY is refreshing its strategic plan and has outlined the following key areas as strategic priorities: increase college readiness; increase degrees and credentials conferred; strengthen the value of a SUNY degree; and increase external investments and research. As a result of these planning processes, the College has identified increasing student success as the key priority.
The budget at Westchester Community College is primarily derived from three funding sources, Westchester County (23%), the State of New York (26.6%) and tuition (46.7%). Recognizing that revenue from state and county sources will likely remain flat, the College is seeking to use its available resources to better serve and increase the success of our students. Challenges that have been identified by the College in the self-study draft include:

- Planning, budgeting and resource allocation to best utilize the available resources;
- Institutional evaluation and decision-making, based on metrics, that guides the expansion of current programs/initiatives, the launch of new programs/initiatives, and the elimination of others to reallocate resources;
- Lack of consistent policies and processes that are efficient and effective, and fully utilize available technology;
- Organizational structure that maximizes existing human resources to improve student success.

In the midst of this planning, the College is experiencing its first presidential transition in 42 years as a result of the retirement of President Joseph N. Hankin. There has also been recent transition in members of the Board of Trustees and College Vice-Presidents. A search for the new president is underway with an expected hire date of September 1, 2014.

The College seeks to use this unique opportunity to engage a consultant to:
- provide an external and objective perspective on the current planning initiatives;
- identify the most critical challenges facing the college, identify strengths that serve as the foundation for moving forward, and make high level recommendations for next steps. This information will be provided to the new President, Cabinet, and the Chair of the Board of Trustees and will be used to focus current and future planning initiatives. The College anticipates that the results of this project will yield the foundation for the development of additional planning projects and/or an Academic Master Plan.

III. SCOPE OF WORK:

Specifically the consultant would be expected to:

- Review and examine current planning initiatives and documentation, including but not limited to: the draft Middle States Self Study and previous recommendations from MSCHE; the SUNY Strategic Plan and SUNY Refresh; the College’s 2008-2013 and the draft 2014-2019 strategic plans; the plans for the WCC Foundation Capital Campaign; existing reports for WCC’s Office of Institutional Research including Fact
Books and Research Briefs; and organizational documents such as the college’s budget, capital projects plan and organizational chart.

- Conduct in-person interviews with campus leadership and representatives from each Division of the college.

- Analyze the College’s planning and resource allocation in the context of national accreditation standards (MSCHE), state education requirements (SUNY), the College’s role in the economic and workforce development of Westchester County, the County of Westchester’s role as it relates to funding, contract approval processes and personnel matters (including salaries), the College’s goal to increase student success, and the challenges facing higher education, in general.

- Develop a report that identifies the most critical challenges facing the College and the strengths that serve as the foundation for moving forward, and provides specific recommendations for next steps. It is expected that the outcome would be high level recommendations regarding: the College’s alignment with accreditation standards, the efficacy of its organizational structure, programs and services (including all college divisions, programs and the EOC); and recommendations on alignment of its planning, budget, and resource allocation processes to move forward on the key initiative of increasing student success.

IV. PROPOSAL EVALUATION:

The College shall apply the following evaluation criteria in selecting a proposer with whom to commence contract negotiations. Such criteria are not necessarily listed in order of importance. The College reserves the right to weigh its evaluation criteria in any manner it deems appropriate.

- Experience as a consultant for community colleges and a broad understanding of the historic and evolving roles of community colleges.

- Thorough understanding and experience with regional accreditation agencies, preferably Middle States Commission on Higher Education.

- Thorough knowledge of community college models similar to Westchester Community College in mission, size, scope, make-up of student body, and service area.

- Experience in analyzing complex budget structures.
• Experience as a consultant with community colleges that have local
governing boards as well as a system-level governance structure.

• An understanding of effective organizational change models.

• Cost of services.

• Client references.

V. **TERM:**

The ensuing agreement will have a term of commencing on or about September
15, 2014. The Consultant would be expected to complete all services and provide
a final written report within six (6) weeks of execution of the agreement.

VI. **LEGAL UNDERSTANDINGS**

*Please take notice,* by submission of a proposal in response to this RFP,
proposing entity agrees to and understands:

• That any proposal, attachments, additional information, etc. submitted
pursuant to this RFP constitute merely a suggestion to negotiate with the
County of Westchester and is not a bid under Section 103 of the New
York State General Municipal Law;

• Submission of a proposal, attachments, and additional information shall
not entitle the proposing entity to enter into a service agreement with the
College for the required services;

• By submitting a proposal, the proposing entity agrees and understands that
the College is not obligated to respond to the proposal, nor is it legally
bound in any manner whatsoever by submission of same;

• That any and all counter-proposals, negotiations or any communications
received by a proposing entity, its officers, employees or agents from the
College, its elected officials, officers, employees or agents, shall not be
binding against the County of Westchester, its elected officials, officers,
employees or agents unless and until a formal written agreement for the
services sought by this RFP is duly executed by both parties and approved
by the Westchester County Board of Acquisition & Contract and the
Office of the Westchester County Attorney.

In addition to the foregoing, by submitting a proposal, the proposing entity also
understands and agrees that the College reserves the right, and may at its sole
discretion exercise, the following rights and options with respect to this RFP, except to the extent restricted by applicable law, including, but not limited to, the Westchester County Procurement Policy, as amended:

- To reject proposals that do not conform in all material respects to the RFP or meet the minimum evaluation criteria;
- To reject all proposals;
- To issue additional solicitations for proposals and/or amendments to this RFP;
- To waive any irregularities in proposals received after notification to all proposers;
- To negotiate for amendments or other modifications to proposals;
- To conduct investigations with respect to the qualifications of each proposer;
- To exercise its discretion and apply its judgment with respect to any aspect of this RFP, the evaluation of proposals, and the negotiations and award of any contract;
- To enter into an agreement for only portions (or not to enter into an agreement for any) of the services contemplated by the proposals with one or more of the proposers;
- To select the proposal that best satisfies the interests of the College and not necessarily on the basis of price or any other single factor in the evaluation criteria;

While this is an RFP and not a bid, the College reserves the right to apply the case law under General Municipal Law § 103 regarding bidder responsibility in determining whether a proposer is a responsible vendor for the purpose of this RFP process;

The College assumes no responsibility or liability of any kind for costs incurred in the preparation or submission of any proposal;

The College is not responsible for any internal or external delivery delays which may cause any proposal to arrive beyond the stated deadline. To be considered, proposals MUST arrive at the place specified herein and be time stamped prior to the deadline.
VII. PROPOSAL REQUIREMENTS

Packages must be marked:

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1) The proposal must include the following information:

a. Scope of work to be performed. Provide a detailed narrative of how the College’s scope would be performed.

b. Identification of Key Personnel. Identify and provide background information on the key personnel who would provide services to the College. The proposal must include the professional qualifications and experience of these individuals.

c. Timetable. Provide a timetable for completion of the assignment (if the College has set forth specific deadlines above, then provide a timeline for meeting those deadlines, including all interim milestones necessary to complete the project).

d. Proposed Fee. The fee proposed for these services shall be indicated as part of the proposal. Failure to include the fee proposal amount with the proposal shall disqualify the proposal. If the fee is a not-to-exceed amount based on your estimate of hourly rates and costs necessary to complete the scope of work, you must provide a detailed budget outlining all such hourly rates and cost estimates.

e. Information about firm. Provide a brief history of the firm including its size, location of office(s) and Principal’s names.

f. Experience: The Proposal should list the proposer’s:

- Experience providing the services requested by this RFP
• Membership in appropriate professional organizations.
• Expertise of individuals who Proposer has identified as the individuals who will provide the services to the College.

g. Other information. List the information that is not provided in the RFP that is necessary for the College to provide to you in order to complete the scope of work.

2) Proposals must be submitted on the proposer’s letterhead or standard proposal form and signed by an authorized representative of the proposer. Telephone or facsimile proposals will not be accepted.

3) The proposal cover letter signed by a person authorized by the proposer to make a binding proposal must set forth that “this proposal constitutes a valid, binding and continuing offer at the prices set forth in the proposal for a period of sixty (60) days from the deadline for acceptance of proposals as set forth herein.”

4) Proposal must be typed or printed in black ink. All corrections made by the proposer prior to the opening must be initialed and dated by the proposer. No changes will be allowed after proposals are opened.

5) Proposals delivered prior to the deadline shall be secured unopened so long as the package is properly marked as set forth above. Late proposals will not be accepted.

6) Requests for clarification of this RFP MUST be written and submitted to

Richard Cashman
Deputy Purchasing Agent
Westchester Community College
Administration Building
75 Grasslands Road
Valhalla, New York 10595
Email: Richard.cashman@sunywcc.edu

no later than August 6, 2014 at 5pm EST.

Formal written responses will be placed on the County of Westchester’s website (http://rfp.westchestergov.com/rfp/rfps.jsp) on or before August 13, 2014 at 5pm EST. NO COMMUNICATIONS OF ANY KIND WILL BE BINDING AGAINST THE COLLEGE, EXCEPT FOR THE FORMAL
WRITTEN RESPONSES TO ANY WRITTEN REQUEST FOR CLARIFICATION.

7) Proposals MUST be signed. Unsigned proposals will be rejected.

8) Proposers may be required to give an oral presentation to the College to clarify or elaborate on the written proposal.

9) No proposal will be accepted from nor any agreement awarded to any proposer that is in arrears upon any debt or in default of any obligation owed to the County. Additionally, no agreement will be awarded to any proposer that has failed to satisfactorily perform pursuant to any prior agreement with the County.

VIII. CONTRACT

After selection of the successful proposer, and following contract negotiations, a formal written contract will be prepared by the County of Westchester and will not be binding until signed by both parties and approved by the Office of the County Attorney. NO RIGHTS SHALL ACCRUE TO ANY PROPOSER BY THE FACT THAT A PROPOSAL HAS BEEN SELECTED BY THE COUNTY FOR SUBMISSION TO THE BOARD OF ACQUISITION & CONTRACT FOR CONTRACT APPROVAL. SAID BOARD HAS THE RIGHT TO REJECT ANY RECOMMENDATION AND THE APPROVAL OF SAID BOARD IS NECESSARY BEFORE A VALID AND BINDING CONTRACT MAY BE EXECUTED BY THE COUNTY.

The successful proposer will be asked to sign a contract substantially in the form attached hereto as EXHIBIT “A”.

IX. CONFLICT OF INTEREST

The award of a contract is subject to provisions of all Federal, State and County laws. All proposers must disclose with their proposals the name of any officer, director or agent who is also an employee of the County of Westchester. Further, all proposers must disclose the name of any County officer, employee, or elected official who owns, directly or indirectly, an interest of ten percent or more in the proposer or any of its subsidiaries or affiliates.

X. PROPOSALS SUBJECT TO FREEDOM OF INFORMATION LAW

The New York State Freedom of Information Law as set forth in Public Officers Law, Article 6, Sections 84-90, mandates public access to government records. However, proposals submitted in response to this RFP may contain technical, financial background or other data, public disclosure of which could cause
substantial injury to the proposer's competitive position or constitute a trade secret. Proposers who have a good faith belief that information submitted in their proposals is protected from disclosure under the New York Freedom of Information Law shall:

a) insert the following notice in the front of its proposal:

“NOTICE

The data on pages ___ of this proposal identified by an asterisk (*) contains technical or financial information constituting trade secrets or information the disclosure of which would result in substantial injury to the proposer’s competitive position.

The proposer requests that such information be used only for the evaluation of the proposal, but understands that any disclosure will be limited to the extent that the County considers proper under the law.

If the County enters into an agreement with this proposer, the County shall have the right to use or disclose such information as provided in the agreement, unless otherwise obligated by law.”

and

b) clearly identify the pages of the proposals containing such information by typing in bold face on the top of each page "* THE PROPOSER BELIEVES THAT THIS INFORMATION IS PROTECTED FROM DISCLOSURE UNDER THE STATE FREEDOM OF INFORMATION LAW."

The County assumes no liability for disclosure of information so identified, provided that the County has made a good faith legal determination that the information is not protected from disclosure under applicable law or where disclosure is required to comply with an order or judgment of a court of competent jurisdiction. The contents of the proposal which is accepted by the County, except portions "Protected from Disclosure", may become part of any agreement resulting from this RFP.

XI. REFERENCES:

The Proposer shall provide a profile on EXHIBIT "B" which, at a minimum includes the following items:

a. Proposer Name
b. Address
c. Year Proposer was founded
d. Total Number of Employees in Proposer
e. References: Indicate three (3) current client references for similar services, include
XII. **MACBRIDE PRINCIPLES:**

Pursuant to Act No. 56-1999, no County procuring officer may award or recommend for award any contract not subject to competitive bidding to a party that does not execute a certification in substantially the form attached hereto and forming a part hereof as Exhibit “C”. Therefore, the Proposer agrees to complete the form attached hereto as Exhibit “C”.
XIII. PROPOSER CERTIFICATION AND NON-COLLUSION

The undersigned agrees and understands that this proposal and all attachments, additional information, etc. submitted herewith constitute merely an offer to negotiate with the County of Westchester and is NOT A BID. Submission of this proposal, attachments, and additional information shall not obligate or entitle the proposing entity to enter into a service agreement with the County of Westchester for the required services. The undersigned agrees and understands that the County of Westchester is not obligated to respond to this proposal nor is it legally bound in any manner whatsoever by the submission of same. Further, the undersigned agrees and understands that any and all proposals and negotiations shall not be binding or valid against the County of Westchester, its directors, officers, employees or agents unless an agreement is signed by a duly authorized officer of the County of Westchester and approved by the Westchester County Board of Acquisition & Contract and by the Office of the County Attorney.

It is understood and agreed that the County of Westchester reserves the right to reject consideration of any and all proposals including, but not limited to, proposals which are conditional or incomplete. It is further understood and agreed that the County of Westchester reserves all rights specified in the Request for Proposals.

It is represented and warranted by those submitting this proposal that except as disclosed in the proposal, no officer or employee of the County of Westchester is directly or indirectly a party to or in any other manner interested in this proposal or any subsequent service agreement that may be entered into.

The proposer, by signing the proposal, does hereby warrant and represent that any ensuing agreement has not been solicited, secured or prepared directly or indirectly, in a manner contrary to the laws of the State of New York and the County of Westchester, and that said laws have not been violated and shall not be violated as they relate to the procurement or the performance of the agreement by any conduct, including the paying or the giving of any fee, commission, compensation, gift, gratuity or consideration of any kind, directly or indirectly, to any County employee, officer or official.

Proposer Name

By: ________________________________

Name and Title
EXHIBIT “A”

THIS AGREEMENT made the ____ day of ______________, 20__ by and between

THE COUNTY OF WESTCHESTER, a municipal corporation of the State of New York, having an office and place of business in the Michaelian Office Building, 148 Martine Avenue, White Plains, New York 10601, acting by and through Westchester Community College (hereinafter the “County”)

and

______________________________________, a _____________ of the State of ________________, having an office and place of business at __________________________________________________________

(hereinafter the “Contractor”)

WITNESSETH:

FIRST: The Contractor shall __________________________, all as more particularly described in Schedule “A”, which is attached hereto and made a part hereof (hereinafter the “Work”). The Work shall be carried out by the Contractor in accordance with current industry standards and trade practices.

SECOND: The term of this Agreement shall commence on ______________, 20__ and shall continue through ______________, 20__ unless terminated earlier pursuant to the provisions of this Agreement.

The Contractor shall report to the County on its progress toward completing the Work, as the President of Westchester Community College (the “College”) or his duly authorized designee (the “President”) may request, and shall immediately inform the President in writing of any cause for delay in the performance of its obligations under this Agreement.

THIRD: For the Work to be performed pursuant to Paragraph “FIRST”, the Contractor shall be paid a total amount not to exceed ________________________ Dollars
($_________________), payable ______________, in accordance with the budget attached hereto as Schedule “B”.

Except as otherwise expressly stated in this Agreement, no payment shall be made by the County to the Contractor for out-of-pocket expenses or disbursements made in connection with the services rendered or the work to be performed hereunder.

Any and all requests for payment to be made, including any request for partial payment, shall be submitted by the Contractor on properly executed payment vouchers of the County and paid only after approval by the President. All payment vouchers must be accompanied by a numbered invoice and must contain the invoice number where indicated. All invoices submitted during each calendar year shall utilize consecutive numbering and be non-repeating. In no event shall final payment be made to the Contractor prior to completion of all Work and the approval of same by the President.

**FOURTH:** The Contractor shall, at no additional charge, furnish all labor, services, materials, goods, equipment and any other things necessary to complete the Work, unless specific additional charges are expressly permitted under this Agreement. It is recognized and understood that even if specific additional charges are expressly permitted under this Agreement, in no event shall total payment to the Contractor exceed the not-to-exceed amount set forth above.

**FIFTH:** Prior to the making of any payments hereunder, the County may, at its option, audit such books and records of the Contractor as are reasonably pertinent to this Agreement to substantiate the basis for payment. The County will not withhold payment pursuant to this paragraph for more than thirty (30) days after payment would otherwise be due pursuant to the provisions of this Agreement, unless the County shall find cause to withhold payment in the course of such audit or the Contractor fails to cooperate with such audit. The County shall, in addition, have the right to audit such books and records subsequent to payment, if such audit is commenced within one year following termination of this Agreement.
In addition to any general audit rights to which the County may be entitled hereunder, the County also reserves the right to audit the Contractor’s performance under this Agreement. Such audit may include requests for documentation or other information which the President may, in his discretion, deem necessary and appropriate to verify the information provided by the Contractor as required by Paragraph “SECOND”. The County may also make site visits to the location/s where the services to be provided under this Agreement are performed in order to review Contractor’s records, observe the performance of services and/or to conduct interviews of staff and patrons, where appropriate and not otherwise prohibited by law.

**SIXTH:** The parties recognize and acknowledge that the obligations of the County under this Agreement are subject to annual appropriations by its Board of Legislators pursuant to the Laws of Westchester County. Therefore, this Agreement shall be deemed executory only to the extent of the monies appropriated and available. The County shall have no liability under this Agreement beyond funds appropriated and available for payment pursuant to this Agreement. The parties understand and intend that the obligation of the County hereunder shall constitute a current expense of the County and shall not in any way be construed to be a debt of the County in contravention of any applicable constitutional or statutory limitations or requirements concerning the creation of indebtedness by the County, nor shall anything contained in this Agreement constitute a pledge of the general tax revenues, funds or moneys of the County. The County shall pay amounts due under this Agreement exclusively from legally available funds appropriated for this purpose. The County shall retain the right, upon the occurrence of the adoption of any County Budget by its Board of Legislators during the term of this Agreement or any amendments thereto, and for a reasonable period of time after such adoption(s), to conduct an analysis of the impacts of any such County Budget on County finances. After such analysis, the County shall retain the right to either terminate this Agreement or to renegotiate the amounts and rates set forth herein. If the County subsequently offers to pay a reduced amount to the Contractor, then the Contractor shall have the right to terminate this Agreement upon reasonable prior written notice.

This Agreement is also subject to further financial analysis of the impact of any New York State Budget (the “State Budget”) proposed and adopted during the term of this Agreement. The County shall retain the right, upon the occurrence of any release by the
Governor of a proposed State Budget and/or the adoption of a State Budget or any amendments thereto, and for a reasonable period of time after such release(s) or adoption(s), to conduct an analysis of the impacts of any such State Budget on County finances. After such analysis, the County shall retain the right to either terminate this Agreement or to renegotiate the amounts and rates approved herein. If the County subsequently offers to pay a reduced amount to the Contractor, then the Contractor shall have the right to terminate this Agreement upon reasonable prior written notice.

**SEVENTH:** (a) The County, upon ten (10) days notice to the Contractor, may terminate this Agreement in whole or in part when the County deems it to be in its best interest. In such event, the Contractor shall be compensated and the County shall be liable only for payment for services already rendered under this Agreement prior to the effective date of termination, at the rates specified in Schedule “B”. Upon receipt of notice that the County is terminating this Agreement in its best interests, the Contractor shall stop work immediately and incur no further costs in furtherance of this Agreement without the express approval of the President, and the Contractor shall direct any approved subcontractors to do the same.

In the event of a dispute as to the value of the Work rendered by the Contractor prior to the date of termination, it is understood and agreed that the President shall determine the value of such Work rendered by the Contractor. The Contractor shall accept such reasonable and good faith determination as final.

(b) In the event the County determines that there has been a material breach by the Contractor of any of the terms of the Agreement and such breach remains uncured for forty-eight (48) hours after service on the Contractor of written notice thereof, the County, in addition to any other right or remedy it might have, may terminate this Agreement and the County shall have the right, power and authority to complete the Work provided for in this Agreement, or contract for its completion, and any additional expense or cost of such completion shall be charged to and paid by the Contractor. Without limiting the foregoing, upon written notice to the Contractor, repeated breaches by the Contractor of duties or obligations under this Agreement shall be deemed a material breach of this Agreement justifying termination for cause hereunder without requirement for further opportunity to cure.
**EIGHTH:** The Contractor agrees to procure and maintain insurance naming the County as additional insured, as provided and described in Schedule “C”, entitled “Standard Insurance Provisions”, which is attached hereto and made a part hereof. In addition to, and not in limitation of, the insurance provisions contained in Schedule “C”, the Contractor agrees:

(a) that except for the amount, if any, of damage contributed to, caused by, or resulting from the negligence of the County, the Contractor shall indemnify and hold harmless the County, its officers, employees, agents, and elected officials, and the College, its officers, employees, and agents from and against any and all liability, damage, claims, demands, costs, judgments, fees, attorney’s fees or loss arising directly or indirectly out of the performance or failure to perform hereunder by the Contractor or third parties under the direction or control of the Contractor; and

(b) to provide defense for and defend, at its sole expense, any and all claims, demands or causes of action directly or indirectly arising out of this Agreement and to bear all other costs and expenses related thereto.

**NINTH:** The Contractor represents and warrants that all prices quoted herein for the work to be performed hereunder have been arrived at by the Contractor independently and have been submitted without collusion with any other vendor of similar materials, supplies, equipment or services.

**TENTH:** The Contractor expressly agrees that neither it nor any contractor, consultant, subcontractor, subconsultant, employee, or any other person acting on its behalf shall discriminate against or intimidate any employee or other individual on the basis of race, creed, religion, color, gender, age, national origin, ethnicity, alienage or citizenship status, disability, marital status, sexual orientation, familial status, genetic predisposition or carrier status during the term of or in connection with this Agreement, as those terms may be defined in Chapter 700 of the Laws of Westchester County. The Contractor acknowledges and understands that the County maintains a zero tolerance policy prohibiting all forms of harassment or discrimination against its employees by co-workers, supervisors, vendors, contractors, or others.
**ELEVENTH:** The Contractor shall comply, at its own expense, with the provisions of all applicable local, state and federal laws, rules and regulations, including, but not limited to, those applicable to the Contractor as an employer of labor. The Contractor shall further comply, at its own expense, with all applicable rules, regulations and licensing requirements pertaining to its professional status and that of its employees, partners, associates, subcontractors and others employed to render the Work hereunder.

It is the intent and understanding of the County and Contractor that each and every provision required by law, contract, or other proper authority to be included in this agreement shall, for all intents and purposes, be considered and deemed included herein. The Contractor understands and acknowledges that for each and every such provision that has, through mistake or otherwise, either not been inserted in writing or been inserted in writing in an incorrect form, the Contractor hereby consents to amending this agreement in writing, upon receipt of notice from the County, for the purpose of inserting or correcting the provision in question.

**TWELFTH:** Pursuant to Section 308.01 of the Laws of Westchester County, it is the goal of the County to use its best efforts to encourage, promote and increase the participation of business enterprises owned and controlled by women or persons of color in contracts and projects funded by all departments of the County. Attached hereto and forming a part hereof as Schedule “D” is a Questionnaire entitled Business Enterprises Owned and Controlled by Women or Persons of Color. The Contractor agrees to complete the questionnaire attached hereto as Schedule “D”, as part of this Agreement.

**THIRTEENTH:** All records or recorded data of any kind compiled by the Contractor in completing the Work described in this Agreement, including but not limited to written reports, studies, drawings, blueprints, computer printouts, graphs, charts, plans, specifications and all other similar recorded data, shall become and remain the property of the County. The Contractor may retain copies of such records for its own use and shall not disclose any such information without the express written consent of the President. The County shall
have the right to reproduce and publish such records, if it so desires, at no additional cost to the County.

Notwithstanding the foregoing, all deliverables created under this Agreement by the Contractor are to be considered “works made for hire.” If any of the deliverables do not qualify as “works made for hire,” the Contractor hereby assigns to the County all right, title and interest (including ownership of copyright) in such deliverables and such assignment allows the County to obtain in its name copyrights, registrations and similar protections which may be available. The Contractor agrees to assist the County, if required, in perfecting these rights. The Contractor shall provide the County with at least one copy of each deliverable.

The Contractor agrees to defend, indemnify and hold harmless the County for all damages, liabilities, losses and expenses arising out of any claim that a deliverable infringes upon an intellectual property right of a third party. If such a claim is made, or appears likely to be made, the Contractor agrees to enable the County's continued use of the deliverable, or to modify or replace it. If the County determines that none of these alternatives is reasonably available, the deliverable may be returned.

FOURTEENTH: The Contractor shall not delegate any duties or assign any of its rights under this Agreement without the prior express written consent of the County. The Contractor shall not subcontract any part of the Work without the written consent of the County, subject to any necessary legal approvals. Any purported delegation of duties, assignment of rights or subcontracting of Work under this Agreement without the prior express written consent of the County is void. All subcontracts that have received such prior written consent shall provide that subcontractors are subject to all terms and conditions set forth in this Agreement. It is recognized and understood by the Contractor that for the purposes of this Agreement, all Work performed by a County-approved subcontractor shall be deemed Work performed by the Contractor and the Contractor shall insure that such subcontracted work is subject to the material terms and conditions of this Agreement.
All subcontracts for the Work shall expressly reference the subcontractor’s duty to comply with the material terms and conditions of this Agreement and shall attach a copy of the County’s contract with the Contractor. The Contractor shall obtain a written acknowledgement from the owner and/or chief executive of subcontractor or his/her duly authorized representative that the subcontractor has received a copy of the County’s contract, read it and is familiar with the material terms and conditions thereof. The Contractor shall include provisions in its subcontracts designed to ensure that the Contractor and/or its auditor has the right to examine all relevant books, records, documents or electronic data of the subcontractor necessary to review the subcontractor’s compliance with the material terms and conditions of this Agreement. For each and every year for which this Agreement continues, the Contractor shall submit to the President a letter signed by the owner and/or chief executive officer of the Contractor or his/her duly authorized representative certifying that each and every approved subcontractor is in compliance with the material terms and conditions of the Agreement.

**FIFTEENTH:** The Contractor and the County agree that the Contractor and its officers, employees, agents, consultants, contractors, subconsultants and/or subcontractors are independent contractors and not employees of the County or any department, agency or unit thereof. In accordance with their status as independent contractors, the Contractor covenants and agrees that neither the Contractor nor any of its officers, employees, agents, consultants, contractors, subconsultants, and/or subcontractors will hold themselves out as, or claim to be, officers or employees of the County or any department, agency or unit thereof.

**SIXTEENTH:** Failure of the County to insist, in any one or more instances, upon strict performance of any term or condition herein contained shall not be deemed a waiver or relinquishment of such term or condition, but the same shall remain in full force and effect. Acceptance by the County of any Work or the payment of any fee or reimbursement due hereunder with knowledge of a breach of any term or condition hereof, shall not be deemed a waiver of any such breach and no waiver by the County of any provision hereof shall be implied.

**SEVENTEENTH:** All notices of any nature referred to in this Agreement shall be in writing and either sent by registered or certified mail postage pre-paid, or delivered by hand or overnight courier, or sent by facsimile (with acknowledgment received and a copy of the notice
sent by registered or certified mail postage pre-paid), to the addresses as set forth below or to such other addresses as the respective parties hereto may designate in writing. Notice shall be effective on the date of receipt. Notices shall be sent to the following:

To the County:

    President
    Westchester Community College
    75 Grasslands Road
    Valhalla, New York 10595

with a copy to:

    County Attorney
    Michaelian Office Building
    148 Martine Avenue, Room 600
    White Plains, New York 10601

To the Contractor:

____________________
____________________
____________________

EIGHTEENTH: This Agreement and its attachments constitute the entire Agreement between the parties with respect to the subject matter hereof and shall supersede all previous negotiations, commitments and writings. It shall not be released, discharged, changed or modified except by an instrument in writing signed by a duly authorized representative of each of the parties.

    In the event of any conflict between the terms of this Agreement and the terms of any schedule or attachment hereto, it is understood that the terms of this Agreement shall be controlling with respect to any interpretation of the meaning and intent of the parties.

NINETEENTH: Nothing herein is intended or shall be construed to confer upon or give to any third party or its successors and assigns any rights, remedies or basis for reliance upon, under or by reason of this Agreement, except in the event that specific third party rights are expressly granted herein.
**TWENTIETH:** The Contractor recognizes that this Agreement does not grant the Contractor the exclusive right to perform the Work for the County and that the County may enter into similar agreements with other contractors on an “as needed” basis.

**TWENTY-FIRST:** The Contractor hereby represents that, if operating under an assumed name, it has filed the necessary certificate pursuant to New York State General Business Law Section 130.

**TWENTY-SECOND:** The Contractor shall use all reasonable means to avoid any conflict of interest with the County and shall immediately notify the County in the event of a conflict of interest. The Contractor shall also use all reasonable means to avoid any appearance of impropriety.

Attached hereto and forming a part hereof as Schedule “E” is a questionnaire entitled “Required Disclosure of Relationships to County.” The Contractor agrees to complete said questionnaire as part of this Agreement. In the event that any information provided in the completed questionnaire changes during the term of this Agreement, Contractor agrees to notify County in writing within ten (10) business days of such event.

The Contractor shall also have each approved subcontractor complete this questionnaire and shall advise the subcontractor of the duty to report any changes to the information contained therein to the Contractor within ten (10) business days of such event and such information shall be forwarded by the Contractor to the County.

**TWENTY-THIRD:** The Contractor represents and warrants that it has not employed or retained any person, other than a bona fide full-time salaried employee working solely for the Contractor to solicit or secure a contract with the County of Westchester for the goods or services specified herein, and that it has not paid or agreed to pay any person, other than payments of fixed salary to a bona fide full-time salaried employee working solely for the Contractor, any fee, commission, percentage, gift or other consideration, contingent upon, or resulting from, the award or making of such contract. For the breach or violation of this
provision, without limiting any other rights or remedies to which the County may be entitled, or any civil or criminal penalty to which any violator may be liable, the County shall have the right, in its discretion, to terminate this Agreement without liability, and to deduct from the contract price, or otherwise to recover, the full amount of such fee, commission, percentage, gift or consideration.

**TWENTY-FOURTH:** The Contractor agrees to complete the Criminal Background Disclosure as required by Executive Order No. 1-2008 and attached hereto as Schedule “F” which is hereby incorporated by reference.

**TWENTY-FIFTH:** Pursuant to Act No. 56-1999, no County procuring officer may award or recommend for award any contract not subject to competitive bidding to a party that does not execute a certification in substantially the form attached hereto and forming a part hereof as Schedule “G”. Therefore, the Contractor agrees, as part of this Agreement, to complete the form attached hereto as Schedule “G”.

**TWENTY-SIXTH:** Executive Order No. 7-2005 requires that certain contractors, concessionaires and vendors doing business with the County enroll in a Qualified Transportation Fringe Program, as defined in §132(f)(1) of the Internal Revenue Code. Attached hereto and forming a part hereof as Schedule “I” is a form entitled, “Enrollment in a Qualified Transportation Fringe Program”, which describes the requirements of Executive Order No. 7-2005. The Agency agrees to complete the form attached hereto as Schedule “I” as part of this Agreement.

**TWENTY-SEVENTH:** This Agreement may be executed simultaneously in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument. This Agreement shall be construed and enforced in accordance with the laws of the State of New York. In addition, the parties hereby agree that any cause of action arising out of this Agreement shall be brought in the County of Westchester.

If any term or provision of this Agreement is held by a court of competent jurisdiction to be invalid or void or unenforceable, the remainder of the terms and provisions of
this Agreement shall in no way be affected, impaired, or invalidated, and to the extent permitted by applicable law, any such term, or provision shall be restricted in applicability or reformed to the minimum extent required for such to be enforceable. This provision shall be interpreted and enforced to give effect to the original written intent of the parties prior to the determination of such invalidity or unenforceability.

**TWENTY-EIGHTH:** This Agreement shall not be enforceable until signed by both parties and approved by the Office of the County Attorney.

**IN WITNESS WHEREOF**, the County of Westchester and the Contractor have caused this Agreement to be executed.

**THE COUNTY OF WESTCHESTER**

By: ______________________________
    President
    Westchester Community College

By: ______________________________
    Name:
    Title:

Approved as to form
and manner of execution

______________________________
Assistant County Attorney
County of Westchester
ACKNOWLEDGMENT

STATE OF NEW YORK )
COUNTY OF ) ss.:

On the __________ day of ________________ in the year 20__ before me, the undersigned, 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.

Date: _______________ ________________________________

Notary Public

RPL § 309-a; NY CPLR § 4538
CERTIFICATE OF AUTHORITY
(CORPORATION)

I, _________________________________________________________,
(Officer other than officer signing contract)
certify that I am the ____________________________________________ of
>Title)
the _________________________________________________________ a corporation duly
(Name of Corporation)
organized and in good standing under the _____________________________________
(Law under which organized, e.g., the New York Business Corporation Law)
named in the foregoing agreement; that _______________________________________
(Person executing agreement)
who signed said agreement on behalf of the ____________________________________
(Name of Corporation)
was, at the time of execution ______________________________________________
>Title of such person)
of the Corporation and that said agreement was duly signed for and on behalf of said Corporation
by authority of its Board of Directors, thereunto duly authorized and that such authority is in full
force and effect at the date hereof.

______________________________
(Signature)

STATE OF NEW YORK            )  ss.:
COUNTY OF                              )

On the ______ day of ___________ in the year 20___ before me, the undersigned,
a Notary Public in and for said State, __________________________________ personally
appeared, personally known to me or proved to me on the basis of satisfactory evidence to be the
officer described in and who executed the above certificate, who being by me duly sworn did
depose and say that he/she resides at _______________________, and he/she is an officer of said
corporation; that he/she is duly authorized to execute said certificate on behalf of said
corporation, and that he/she signed his/her name thereto pursuant to such authority.

___________________________________
Notary Public
Date: __________
SCHEDULE “A”

SCOPE OF SERVICES
SCHEDULE “B”

APPROVED BUDGET

[TO BE INSERTED]
SCHEDULE “C”

STANDARD INSURANCE PROVISIONS

(Contractor)

1. Prior to commencing work, the Contractor shall obtain at its own cost and expense the required insurance from insurance companies licensed in the State of New York, carrying a Best's financial rating of A or better, and shall provide evidence of such insurance to the County of Westchester, as may be required and approved by the Director of Risk Management of the County. The policies or certificates thereof shall provide that thirty days prior to cancellation or material change in the policy, notices of same shall be given to the Director of Risk Management of the County of Westchester by registered mail, return receipt requested, for all of the following stated insurance policies. All notices shall name the Contractor and identify the Agreement.

If at any time any of the policies required herein shall be or become unsatisfactory to the County, as to form or substance, or if a company issuing any such policy shall be or become unsatisfactory to the County, the Contractor shall upon notice to that effect from the County, promptly obtain a new policy, submit the same to the Department of Risk Management of the County of Westchester for approval and submit a certificate thereof. Upon failure of the Contractor to furnish, deliver and maintain such insurance, the Agreement, at the election of the County, may be declared suspended, discontinued or terminated. Failure of the Contractor to take out, maintain, or the taking out or maintenance of any required insurance, shall not relieve the Contractor from any liability under the Agreement, nor shall the insurance requirements be construed to conflict with or otherwise limit the contractual obligations of the Contractor concerning indemnification. All property losses shall be made payable to and adjusted with the County.

In the event that claims, for which the County may be liable, in excess of the insured amounts provided herein are filed by reason of any operations under the Agreement, the amount of excess of such claims or any portion thereof, may be withheld from payment due or to become due the Contractor until such time as the Contractor shall furnish such additional security covering such claims in form satisfactory to the County of Westchester.

2. The Contractor shall provide proof of the following coverage (if additional coverage is required for a specific agreement, those requirements will be described in the "Special Conditions" of the contract specifications):

(a) Workers' Compensation. Certificate form C-105.2 (9/07) or State Fund Insurance Company form U-26.3 is required for proof of compliance with the New York State Workers' Compensation Law. State Workers' Compensation Board form DB-120.1 is required for proof of compliance with the New York State Disability Benefits Law. Location of operation shall be "All locations in Westchester County, New York."

Where an applicant claims to not be required to carry either a Workers' Compensation Policy or Disability Benefits Policy, or both, the employer must complete NYS
If the employer is self-insured for Worker's Compensation, he/she should present a certificate from the New York State Worker's Compensation Board evidencing that fact (Either SI-12, Certificate of Workers’ Compensation Self-Insurance, or GSI-105.2, Certificate of Participation in Workers’ Compensation Group Self-Insurance).

(b) Employer's Liability with minimum limit of $100,000.

(c) Commercial General Liability Insurance with a minimum limit of liability per occurrence of $1,000,000 for bodily injury and $100,000 for property damage or a combined single limit of $1,000,000 (c.s.1), naming the County of Westchester as an additional insured. This insurance shall include the following coverages:

   (i) Premises - Operations.
   (ii) Broad Form Contractual.
   (iii) Independent Contractor and Sub-Contractor.
   (iv) Products and Completed Operations.

   All Contracts involving the use of explosives and demolition shall provide the above coverage with elimination of the XCU exclusion from the policy, or proof that XCU is covered.

(d) Automobile Liability Insurance with a minimum limit of liability per occurrence of $1,000,000 for bodily injury and a minimum limit of $100,000 per occurrence for property damage or a combined single limit of $1,000,000 unless otherwise indicated in the contract specifications. This insurance shall include for bodily injury and property damage the following coverages:

   (i) Owned automobiles.
   (ii) Hired automobiles.
   (iii) Non-owned automobiles.

3. All policies of the Contractor shall be endorsed to contain the following clauses:

   (a) Insurers shall have no right to recovery or subrogation against the County of Westchester (including its employees and other agents and agencies), it being the intention of the parties that the insurance policies so effected shall protect both parties and be primary coverage for any and all losses covered by the above-described insurance.

   (b) The clause "other insurance provisions" in a policy in which the County of Westchester is named as an insured, shall not apply to the County of Westchester.
(c) The insurance companies issuing the policy or policies shall have no recourse against the County of Westchester (including its agents and agencies as aforesaid) for payment of any premiums or for assessments under any form of policy.

(d) Any and all deductibles in the above described insurance policies shall be assumed by and be for the account of, and at the sole risk of, the Contractor.
SCHEDULE “D”

QUESTIONNAIRE REGARDING BUSINESS ENTERPRISES
OWNED ANDCONTROLLED BY WOMEN OR PERSONS OF COLOR

As part of the County’s program to encourage the meaningful and significant participation of business enterprises owned and controlled by persons of color or women in County contracts, and in furtherance of Section 308.01 of the Laws of Westchester County, completion of this form is required.

A “business enterprise owned and controlled by women or persons of color” means a business enterprise, including a sole proprietorship, limited liability partnership, partnership, limited liability corporation, or corporation, that either:

1.) meets the following requirements:
   a. is at least 51% owned by one or more persons of color or women;
   b. is an enterprise in which such ownership by persons of color or women is real, substantial and continuing;
   c. is an enterprise in which such ownership interest by persons of color or women has and exercises the authority to control and operate, independently, the day-to-day business decisions of the enterprise; and
   d. is an enterprise authorized to do business in this state which is independently owned and operated.

2.) is a business enterprise certified as a minority business enterprise (“MBE”) or women business enterprise (“WBE”) pursuant to Article 15-a of the New York State Executive Law and the implementing regulations, 9 New York Code of Rules and Regulations subtitle N Part 540 et seq., OR


Please note that the term “persons of color,” as used in this form, means a United States citizen or permanent resident alien who is and can demonstrate membership of one of the following groups:

(a) Black persons having origins in any of the Black African racial groups;
(b) Hispanic persons of Mexican, Puerto Rican, Dominican, Cuban, Central or South American descent of either Indian or Hispanic origin regardless of race;
(c) Native American or Alaskan native persons having origins in any of the original peoples of North America; or
(d) Asian or Pacific Islander persons having origins in any of the Far East countries, South East Asia, the Indian subcontinent or the Pacific Islands.
1. Are you a business enterprise owned and controlled by women or persons of color in accordance with the standards listed above?

_________ No

_________ Yes

Please note: If you answered “yes” based upon certification by New York State and/or the Federal government, official documentation of the certification must be attached.

2. If you answered “Yes” above, please check off below whether your business enterprise is owned and controlled by women, persons of color, or both.

_________ Women

_________ Persons of Color (please check off below all that apply)

______ Black persons having origins in any of the Black African racial groups

______ Hispanic persons of Mexican, Puerto Rican, Dominican, Cuban, Central or South American descent of either Indian or Hispanic origin regardless of race

______ Native American or Alaskan native persons having origins in any of the original peoples of North America

______ Asian or Pacific Islander persons having origins in any of the Far East countries, South East Asia, the Indian sub-continent or the Pacific Islands

Name of Business Enterprise: _____________________________________________________

Address: _____________________________________________________________________

_______________________________________________________________________________

Name and Title of person completing questionnaire: _________________________________

_______________________________________________________________________________

Signature: _____________________________________________________________________

_______________________________________________________________________________

Notary Public ________________________ Date ________________________
Contract #: __________________________________
Name of Contractor: __________________________________

SCHEDULE “E”
REQUIRED DISCLOSURE OF RELATIONSHIPS TO COUNTY

A potential County contractor must complete this form as part of the proposed County contract.

1.) Are any of the employees that the Contractor will use to carry out this contract also a County officer or employee, or the spouse, child, or dependent of a County officer or employee?

   Yes _____ No _____

   If yes, please provide details (attach extra pages, if necessary): ________________________________

2.) Are any of the owners of the Contractor or their spouses a County officer or employee?

   Yes _____ No _____

   If yes, please provide details (attach extra pages, if necessary): ________________________________

3.) Do any County officers or employees have an interest in the Contractor or in any approved subcontractor that will be used for this contract?

   Yes _____ No _____

   If yes, please provide details (attach extra pages, if necessary): ________________________________

By signing below, I hereby certify that I am authorized to complete this form for the Contractor.

_________________________________________
Name: _____________________________

_________________________________________
Title: _____________________________

_________________________________________
Date: _____________________________

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1 “Interest” means a direct or indirect pecuniary or material benefit accruing to a County officer or employee, his/her spouse, child or dependent, whether as the result of a contract with the County or otherwise. For the purpose of this form, a County officer or employee shall be deemed to have an “interest” in the contract of:

1.) His/her spouse, children and dependents, except a contract of employment with the County;
2.) A firm, partnership or association of which such officer or employee is a member or employee;
3.) A corporation of which such officer or employee is an officer, director or employee; and
4.) A corporation of which more than five (5) percent of the outstanding capital stock is owned by any of the aforesaid parties.
Pursuant to Executive Order 1-2008, the County is required to maintain a record of criminal background disclosure from all persons providing work or services in connection with any County contract, including leases of County-owned real property and licenses:

a.) If any of the persons providing work or services to the County in relation to a County contract are not subject to constant monitoring by County staff while performing tasks and/or while such persons are present on County property pursuant to the County contract; and

b.) If any of the persons providing work or services to the County in relation to a County contract may, in the course of providing those services, have access to sensitive data (for example SSNs and other personal/secure data); facilities (secure facilities and/or communication equipment); and/or vulnerable populations (for example, children, seniors, and the infirm).

In those situations, the persons who must provide a criminal background disclosure (“Persons Subject to Disclosure”) include the following:

a.) Consultants, Contractors, Licensees, Lessees of County-owned real property, their principals, agents, employees, volunteers or any other person acting on behalf of said Contractor, Consultant, Licensee, or Lessee who is at least sixteen (16) years old, including but not limited to Subconsultants, subcontractors, Sublessess, or Sublicensees who are providing services to the County, and

b.) Any family member or other person, who is at least sixteen (16) years old, residing in the household of a County employee who lives in housing provided by the County located on County property.

Under Executive Order 1-2008, it is the duty of every County Consultant, Contractor, Licensee, or Lessee to inquire of each and every Person Subject to Disclosure and disclose whether they have been convicted of a crime or whether they are subject to pending criminal charges, and to submit this form with that information. Accordingly, you are required to complete the attached Criminal Background Disclosure Form and Certification.

Please note that under no circumstances shall the existence of a language barrier serve as a basis for the waiver of or an exception from the disclosure requirements of Executive Order 1-2008. If translation services are required by the Consultant, Contractor, Licensee, or Lessee to fulfill this obligation, it shall be at the sole cost and expense of the Consultant, Contractor, Licensee, or Lessee.

Please also note that the conviction of a crime(s) and/or being subject to a pending criminal

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1 For these disclosures, a “crime” or “pending criminal charge” includes all felonies and misdemeanors as defined under the New York State Penal Law or the equivalent under Federal law or the laws of any other State.
charge(s) will not automatically result in a denial of a person’s right to work on a County contract, right to be on County property, or license, but may, if the County determines that the prior conviction(s) or pending criminal charge(s) create an unacceptable risk. However, if a person fails to list or falsifies any part of his/her conviction history or any pending criminal charge(s) for any reason, he/she may be prohibited from working or being on County property without any risk assessment. If it is later determined that a Person Subject to Disclosure failed to disclose a criminal conviction or pending criminal charge for any reason, his/her right to work on a County contract, be on County property, or license may be terminated at any time.

Please further note that, pursuant to Executive Order 1-2008, and subject to the applicable provisions of New York Correction Law §§ 752 and 753, the County has the right to bar a Person Subject to Disclosure from providing work or services to the County or from being on County property if any such person has:

   a.) A conviction of a crime(s);
   b.) A pending criminal proceeding for a crime(s); or
   c.) Refused to answer questions concerning his/her criminal background

Please finally note that any failure by a County Consultant, Contractor, Licensee, or Lessee to comply with the disclosure requirements of Executive Order 1–2008 may be considered by the County to be a material breach and shall be grounds for immediate termination by the County of the related County contract.

Exemptions

Executive Order 1-2008 exempts from the aforementioned disclosure requirements Persons Subject to Disclosure:
   a.) for whom the County has already conducted a background check and issued a security clearance that is in full force and effect; and
   b.) for whom another state or federal agency having appropriate jurisdiction has conducted a security and/or background clearance or has implemented other protocols or criteria for this purpose that apply to the subject matter of a County contract that is in full force and effect.

If you are claiming an exemption for one or more Persons Subject to Disclosure, you must notify the Procuring Officer2. The Procuring Officer will then determine whether the Person(s) Subject to Disclosure are actually exempt, and provide written notification of his/her determination. If the Procuring Officer determines that a Person Subject to Disclosure is not exempt, the Procuring Officer will notify you of that determination, and you will have to include disclosures for that person on your Criminal Background Disclosure Form and Certification.

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2 Procuring Officer” shall mean the head of the department or the individual or individuals authorized by the head(s) of the department(s) undertaking the procurement and with respect to those matters delegated to the Bureau of Purchase and Supply pursuant to Section 161.11(a) of the Laws of Westchester County, the Purchasing Agent.
Subconsultants, Subcontractors, Sublessees, or Sublicensees

Under Executive Order 1-2008, it is your duty to ensure that any and all approved subconsultants, subcontractors, sublessees, or sublicensees complete and submit the attached Criminal Background Disclosure Form and Certification for all of their respective Persons Subject to Disclosure. This must be done before such a subconsultant, subcontractor, sublessee, or sublicensee can be approved to perform work on a contract.

New Persons Subject to Disclosure

Under Executive Order 1-2008, you have a CONTINUING OBLIGATION to maintain the accuracy of the Criminal Background Disclosure Form and Certification (and any accompanying documentation) for the duration of this contract, including any amendments or extensions thereto. Accordingly, it is your duty to complete and submit an updated Criminal Background Disclosure Form and Certification whenever there is a new Person Subject to Disclosure for this contract. NO NEW PERSON SUBJECT TO DISCLOSURE SHALL PERFORM WORK OR SERVICES OR ENTER ONTO COUNTY PREMISES UNTIL THE UPDATED CRIMINAL BACKGROUND DISCLOSURE FORM AND CERTIFICATION IS FILED WITH THE PROCURING OFFICER. You shall also provide the County with any other updates that may be necessary to comply with the disclosures required by Executive Order 1-2008.

PLEASE CONTINUE TO THE

Criminal Background Disclosure Form and Certification

BEGINNING ON THE NEXT PAGE
CRIMINAL BACKGROUND DISCLOSURE
FORM AND CERTIFICATION

If this form is being completed by a subconsultant, subcontractor, sublessee, or sublicensee, please consider all references in this form to “consultant, contractor, lessee, or licensee” to mean “subconsultant, subcontractor, sublessee, or sublicensee” and check here: __________________

I, _______________________________________________, certify that I am a principal or a representative of the Consultant, Contractor, Lessee, or Licensee and I am authorized to complete and execute this Criminal Background Disclosure Form and Certification. I certify that I have asked each Person Subject to Disclosure the following questions:

- Have you or your company ever been convicted of a crime (all felonies and misdemeanors as defined under the New York State Penal Law or the equivalent under Federal law or the laws of any other State) including, but not limited to, conviction for commission of fraud, embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements or receiving stolen property?

- Are you or your company subject to any pending criminal charges (all felonies and misdemeanors as defined under the New York State Penal Law or the equivalent under Federal law or the laws of any other State)?

I certify that the names and titles of Persons Subject to Disclosure who refused to answer either of the questions above are:

1. ________________________________________________________________

2. __________________________________________________________________

3. ________________________________________________________________

4. ________________________________________________________________

5. ________________________________________________________________

(If more space is needed, please attach separate pages labeled “REFUSED to Answer - Continued.”)
I certify that the names and titles of Persons Subject to Disclosure who answered “Yes” to either of the questions above are:

1. ________________________________________________________________
2. ________________________________________________________________
3. ________________________________________________________________
4. ________________________________________________________________
5. ________________________________________________________________

(If more space is needed, please attach separate pages labeled “YES Answers - Continued.”)

Each Person Subject to Disclosure listed above who has either been convicted of a crime(s) and/or is subject to a pending criminal charge(s) must answer additional questions. Those questions are below.

A Person Subject to Disclosure who has been convicted of a crime(s) must respond to the following (please attach separate pages with responses for each person, with their name and title):

1.) Describe the reason for being on County property if applicable, identify the specific duties and responsibilities on this project which you intend to perform for the County, including but not limited to, access to sensitive data and facilities and access to vulnerable populations.

2.) Please list all criminal convictions along with a brief description of the crime(s) (including all felonies and misdemeanors as defined under the New York State Penal Law or the equivalent under Federal law or the laws of any other State).

3.) Please provide the date and place of each conviction.

4.) Please provide your age at the time of each crime for which you were convicted.

5.) Please provide the legal disposition of each case.

6.) Please provide any information either produced by yourself or someone on your behalf in regards to your rehabilitation and good conduct.

A Person Subject to Disclosure who is subject to a pending criminal charge(s) must respond to the following (please attach separate pages with responses for each person, with their name and title):

1.) Describe the reason for being on County property and if applicable, identify the specific duties and responsibilities on this project which you intend to perform for the County, including but not limited to, access to sensitive data and facilities and access to
vulnerable populations.

2.) Please identify all pending criminal charges (all felonies and misdemeanors as defined under the New York State Penal Law or the equivalent under Federal law or the laws of any other State).

3.) Please briefly describe the nature of the pending charges and the date upon which it is alleged that a crime was committed.

I hereby certify that all of the information provided herein (and in any and all attachments) is true and accurate and that all disclosures required by Executive Order 1-2008 and this Criminal Background Disclosure Form and Certification have been completed. By my signature below, I hereby affirm that all of the facts, statements and answers contained herein (and in any and all attachments) are true and correct. I understand that providing false or incomplete information or withholding by omission or intention pertinent information will be cause for refusing further consideration of my being utilized under this contract.

It is understood and agreed that no Person Subject to Disclosure shall perform work or services or enter onto County property until this required Criminal Background Disclosure Form and Certification is filed with the Procuring Officer.

It is understood and agreed that to the extent that new Persons Subject to Disclosure are proposed to perform work or provide services under this contract after filing of this Criminal Background Disclosure Form and Certification with the Procuring Officer, such new Persons Subject to Disclosure shall not perform work or provide services or enter into County property until an updated Criminal Background Disclosure Form and Certification has been filed with the Procuring Officer.

It is further understood and agreed that the consultant, contractor, lessee, or licensee has a continuing obligation to maintain the accuracy of the Criminal Background Disclosure Form and Certification for the duration of this contract, including any amendments or extensions thereto, and shall provide any updates to the information to the County as necessary to comply with the requirements of Executive Order 1-2008.

__________________________________________
Name: _____________________________
Title: _____________________________
Date: _____________________________

__________________________________
Notary Public

__________________________________
Date
SCHEDULE “G”

CERTIFICATION REGARDING BUSINESS DEALINGS
WITH NORTHERN IRELAND

A. The Contractor and any individual or legal entity in which the Contractor holds a ten percent (10%) or greater ownership interest and any individual or legal entity that holds a ten percent (10%) or greater ownership interest in the Contractor (a) has no business operations in Northern Ireland, or (b) shall take lawful steps in good faith to conduct any business operations in Northern Ireland in accordance with the MacBride Principles.

B. For purposes of this Certification, “MacBride Principles” shall mean those principles relating to nondiscrimination in employment and freedom of workplace opportunity which require employers doing business in Northern Ireland to:

(1) increase the representation of individuals from underrepresented religious groups in the workforce, including managerial, supervisory, administrative, clerical and technical jobs;
(2) take steps to promote adequate security for the protection of employees from underrepresented religious groups both at the workplace and while traveling to and from work;
(3) ban provocative religious or political emblems from the workplace;
(4) publicly advertise all job openings and make special recruitment efforts to attract applicants from underrepresented religious groups;
(5) establish layoff, recall and termination procedures which do not in practice favor a particular religious group;
(6) abolish all job reservations, apprenticeship restrictions and differential employment criteria which discriminate on the basis of religion;
(7) develop training programs that will prepare substantial numbers of current employees from underrepresented religious groups for skilled jobs, including the expansion of existing programs and the creation of new programs to train, upgrade and improve the skills of workers from underrepresented religious groups;
(8) establish procedures to assess, identify and actively recruit employees from underrepresented religious groups with potential for further advancement; and
(9) appoint a senior management staff member to oversee affirmative action efforts and develop a timetable to ensure their full implementation.

C. For purposes of this Certification, “Northern Ireland” shall be understood to be the six counties partitioned from the Irish Province of Ulster, and administered from London and/or from Stormont.

D. The Contractor agrees that the warranties and representation in paragraph “A” are material conditions of this Agreement. If the County receives information that the Contractor is in violation of paragraph “A,” the County shall review such information and give the Contractor opportunity to respond. If the County finds that such a violation has occurred, the County may declare the Contractor in default, and/or terminate this Agreement. In the event of any such termination, the County may procure the supplies, services or work from another source in accordance with applicable law. The Contractor shall pay to the County the difference between the contract price for the uncompleted portion of this Agreement and the cost to the County of
completing performance of this Agreement either by itself or by engaging another contractor. If this is a contract other than a construction contract, the Contractor shall be liable for the difference in price if the cost of procurement from another source is greater than what the County would have paid the Contractor plus any reasonable costs the County incurs in any new procurement and if this is a construction contract, the County shall also have the right to hold the Contractor in partial or total default in accordance with the default provisions of this Agreement. In addition, the Contractor may be declared not to be a responsible bidder or proposer for up to three (3) years, following written notice to the Contractor, giving the Contractor the opportunity for a hearing at which the Contractor may be represented by counsel. The rights and remedies of the County hereunder shall be in addition to, and not in lieu of, any rights and remedies the County has pursuant to this Agreement or by operation of law or in equity.

Agreed:

Name of Contractor__________________________________________

By: (Authorized Representative)_____________________________

Title:__________________________ Date___________________________
EXHIBIT “B”

REFERENCES

a. Firm Name
b. Address
c. Year Firm was founded
d. Total Number of Employees in Firm
e. References: Indicate three (3) current client references for similar services, include

1) Client Name
2) Client Address
3) Contact Name, Title and Telephone Number
4) Description of Services
EXHIBIT “C”

CERTIFICATION REGARDING BUSINESS DEALINGS WITH NORTHERN IRELAND

A. The Consultant and any individual or legal entity in which the Consultant holds a ten percent (10%) or greater ownership interest and any individual or legal entity that holds a ten percent (10%) or greater ownership interest in the Consultant (a) has no business operations in Northern Ireland, or (b) shall take lawful steps in good faith to conduct any business operations in Northern Ireland in accordance with the MacBride Principles.

B. For purposes of this Certification, “MacBride Principles” shall mean those principles relating to nondiscrimination in employment and freedom of workplace opportunity which require employers doing business in Northern Ireland to:

(1) increase the representation of individuals from underrepresented religious groups in the work force, including managerial, supervisory, administrative, clerical and technical jobs;
(2) take steps to promote adequate security for the protection of employees from underrepresented religious groups both at the workplace and while traveling to and from work;
(3) ban provocative religious or political emblems from the workplace;
(4) publicly advertise all job openings and make special recruitment efforts to attract applicants from underrepresented religious groups;
(5) establish layoff, recall and termination procedures which do not in practice favor a particular religious group;
(6) abolish all job reservations, apprenticeship restrictions and differential employment criteria which discriminate on the basis of religion;
(7) develop training programs that will prepare substantial numbers of current employees from underrepresented religious groups for skilled jobs, including the expansion of existing programs and the creation of new programs to train, upgrade and improve the skills of workers from underrepresented religious groups;
(8) establish procedures to assess, identify and actively recruit employees from underrepresented religious groups with potential for further advancement; and
(9) appoint a senior management staff member to oversee affirmative action efforts and develop a timetable to ensure their full implementation.

C. For purposes of this Certification, “Northern Ireland” shall be understood to be the six counties partitioned from the Irish Province of Ulster, and administered from London and/or from Stormont.

D. The Consultant agrees that the warranties and representation in paragraph “A” are material conditions of this Agreement. If the County receives information that the Consultant is in violation of paragraph “A,” the County shall review such information and give the Consultant opportunity to respond. If the County finds that such a violation has occurred, the County may declare the Consultant in default, and/or terminate this Agreement. In the event of any such termination, the County may procure the supplies, services or work from another source in
accordance with applicable law. The Consultant shall pay to the County the difference between the contract price for the uncompleted portion of this Agreement and the cost to the County of completing performance of this Agreement either by itself or by engaging another consultant. If this is a contract other than a construction contract, the Consultant shall be liable for the difference in price if the cost of procurement from another source is greater than what the County would have paid the Consultant plus any reasonable costs the County incurs in any new procurement and if this is a construction contract, the County shall also have the right to hold the Consultant in partial or total default in accordance with the default provisions of this Agreement. In addition, the Consultant may be declared not to be a responsible bidder or proposer for up to three (3) years, following written notice to the Consultant, giving the Consultant the opportunity for a hearing at which the Consultant may be represented by counsel. The rights and remedies of the County hereunder shall be in addition to, and not in lieu of, any rights and remedies the County has pursuant to this Agreement or by operation of law or in equity.

Agreed:

Name of Consultant __________________________________________

By: (Authorized Representative) ______________________________

Title: ___________________________ Date ________________________