

**INVITATION TO SUBMIT PROPOSALS**  
**FOR A LICENSE TO OPERATE A TEXTILE RECOVERY CONCESSION AT THE**  
**VALHALLA HOUSEHOLD MATERIAL RECOVERY FACILITY (H-MRF)**  
**FOR**  
**THE WESTCHESTER COUNTY DEPARTMENT OF ENVIRONMENTAL**  
**FACILITIES DIVISION OF SOLID WASTE MANAGEMENT**  
**270 NORTH AVENUE**  
**NEW ROCHELLE, NEW YORK 10801**

**PROPOSAL DUE DATE: September 29, 2017 @ 12:00 p.m.**

Interested parties may obtain the complete Request for Proposals (“RFP”), including application, from the Westchester County website for RFPs at [www.westchestergov.com/rfp](http://www.westchestergov.com/rfp).

**Department of Environmental Facilities Contact:**

Marianne S. Gallagher-Petronella  
Director of Resource Management  
Westchester County Department of Environmental Facilities  
270 North Avenue  
New Rochelle, New York 10801  
Phone: (914) 813-5416  
Email: [msg3@westchestergov.com](mailto:msg3@westchestergov.com) with copy cc to: [jqwc@westchestergov.com](mailto:jqwc@westchestergov.com)

Please be advised that all matters concerning this RFP, from the date of issuance until the contract award is 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 September 29, 2017 at 12:00 p.m. at the following address:

Marianne S. Gallagher-Petronella  
Director of Resource Management  
Westchester County Department of Environmental Facilities  
270 North Avenue  
New Rochelle, New York 10801

**RFP Amendments or Addenda**

Should the County find it necessary to amend this RFP and/or issue any addenda, such documents will be posted to the County’s website for RFPs: <http://www.westchestergov.com/rfp>. Respondents shall have an affirmative obligation to periodically monitor the County’s website for amendments or addenda to this RFP.

## **REQUEST FOR PROPOSALS**

### **WESTCHESTER COUNTY DEPARTMENT OF ENVIRONMENTAL FACILITIES**

#### **I. INTRODUCTION**

The Westchester Department of Environmental Facilities (the “Department”) invites proposals from qualified firms for a license to operate a Textile Recovery Concession at the County’s H-MRF in Valhalla, N.Y. for an initial three (3) year term commencing on January 1, 2018 and continuing through December 31, 2020, with the County reserving an option to extend the term for up to two (2) additional one year periods.

Please be advised that a MANDATORY pre-proposal submission site visit is required. The site visit date is scheduled for Tuesday, August 8, 2017, at 11 a.m.

An original and three (3) completed copies of the proposal MUST be received no later than September 29, 2017 at 12:00 p.m. at the following address:

Marianne S. Gallagher-Petronella  
Director of Resource Management  
Westchester County Department of Environmental Facilities  
270 North Avenue  
New Rochelle, New York 10801

#### **II. BACKGROUND:**

The Westchester County Department of Environmental Facilities (DEF) is interested in starting a residential Textile Collection and Recovery Program by hosting a collection pod for textiles at the existing Household Material Recovery Facility (H-MRF) located at 15 Woods Road, on the Grasslands campus in Valhalla, N.Y. Residents make appointments to drop off waste at the facility, such as household hazardous waste, electronics, and medications. Textiles would be added to the list of materials accepted at the H-MRF, and the successful proposer would pick up the contents of the textile pod periodically when full.

#### **III. SCOPE OF WORK:**

The successful proposer will be required to:

1. Provide a turnkey program at no cost to the County of Westchester.
2. Furnish a tamper-proof stationary heavy gauge metal collection pod and/or container, approximately 20 cubic yard capacity that will be placed at on the grounds of the H-MRF.

3. Empty the collection pod on a scheduled and/or on-call basis and provide transportation of all material deposited in the pod or container.
4. Provide collection reports detailing the weight of collected textiles from the main pod and used clothing bins, and compensate Refuse Disposal District #1, on a monthly basis, the contracted amount based on the weight of used textiles.
5. Own, maintain, and insure all collection units. Maintenance shall include, but not be limited to, fresh paint, legible signage and general upkeep to maintain community standards. No third-party advertising will be permitted on any of the containers.
6. Remove the collection units no later than 15 days after the termination of the contract.
7. Provide proof of the attached required insurance provisions.

The successful firm may also be required to:

1. Furnish a bond guaranteeing the removal of the containers.
2. Provide verifiable references of other customers, including municipal customers with similar programs. Prior New York State municipal experience is preferred but not required.

#### **IV. LICENSE FEE:**

In consideration for the grant of the license by the County, the successful proposer will compensate the County for the use of the public property (franchise). The fee paid to the County will be based on the following: 1) the weight of the collected used textiles; or 2) a monthly rental; or 3) a combination of the two; or 4) any other basis that is acceptable to the County. Proposers MUST include a proposed license fee to be paid to the County as part of their proposal.

#### **V. PROPOSAL EVALUATION:**

The County 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 County reserves the right to weigh its evaluation criteria in any manner it deems appropriate.

- Experience providing the services requested by this RFP
- Experience providing services requested by this RFP to New York counties of similar size to Westchester County.
- Listing of all textile products that your firm will accept for recycling
- Types of containers that will be furnished
- Frequency of pick-up services and response time for overfills
- How the collected textiles will be managed, repurposed and recycled
- How inquiries for lost property will be handled
- Reporting capabilities, including what kind of system will be used to track the textiles collected

- License fee paid to the County for the privilege of operating the franchise.

Proposers are requested to respond to the above as set forth in **SCHEDULE "A"**.

**VI. TERM:**

The term of any ensuing agreement will be for a period of three (3) years commencing on or about January 1, 2018 and continuing through December 31, 2020. The County, at its sole option, may extend the term of the agreement for up to two (2) additional one-year periods, on the same terms and conditions as the initial term.

**VII. 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 County of Westchester for the required services;
- By submitting a proposal, the proposing entity agrees and understands that the County of Westchester 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 County, 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 County of Westchester 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 County 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 County 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 County assumes no responsibility or liability of any kind for costs incurred in the preparation or submission of any proposal;
- The County 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.

### **VIII. PROPOSAL REQUIREMENTS**

PACKAGES MUST BE MARKED: “**REQUEST FOR PROPOSAL FOR TEXTILE RECOVERY CONCESSION AT THE VALHALLA H-MRF**”

- 1) The proposal MUST include the following information:
  - a. Scope of work to be performed. Provide a detailed narrative of how the County’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 County. The proposal must include the professional qualifications and experience of these individuals
  - c. Information to be supplied to the proposer. List the information that is not provided in the RFP that is necessary for the County to provide to you in order to complete the scope of work.

- d. Timetable. Provide a timetable for completion of the assignment (if the County has set forth specific deadlines above, then provide a timeline for meeting those deadlines, including all interim milestones necessary to complete the project).
- e. Proposed License Fee to be paid to the County. The license fee to be paid to the County shall be indicated as part of the proposal. Failure to include the fee proposal amount with the proposal shall disqualify the proposal.
- f. Experience: The Proposal should list the proposer's:
- Experience providing the services requested by this RFP
  - Experience providing services requested by this RFP to New York counties of similar size to Westchester County.
  - Membership in appropriate professional organizations.
  - Expertise of individuals who Proposer has identified as the individuals who will provide the services to the County.
- 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 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) An original and three (3) completed copies of the proposal MUST be received no later than September 29, 2017 at 12:00pm at the following address:
- Marianne S. Gallagher-Petronella  
Director of Resource Management  
Westchester County Department of Environmental Facilities  
270 North Avenue  
New Rochelle, New York 10801
- 5) 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.
- 6) 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.

- 7) **Requests for clarification of this RFP MUST be written and submitted to Marianne S. Gallagher-Petronella, Director of Resource Management, Westchester County Department of Environmental Facilities, 270 North Avenue, New Rochelle, New York 10801 no later than 12 p.m. on September 1, 2017. Requests for clarification may be hand-delivered or mailed to the address set forth above or emailed to the following email address: [msg3@westchestergov.com](mailto:msg3@westchestergov.com). Formal written responses will be posted on the County's website for RFPs [www.westchestergov.com/rfp](http://www.westchestergov.com/rfp) on or before *September 15, 2017*. NO COMMUNICATIONS OF ANY KIND WILL BE BINDING AGAINST THE COUNTY, EXCEPT FOR THE FORMAL WRITTEN RESPONSES TO ANY WRITTEN REQUEST FOR CLARIFICATION.**
- 8) Proposals MUST be signed. Unsigned proposals will be rejected.
- 9) Proposers may be required to give an oral presentation to the County to clarify or elaborate on the written proposal.
- 10) 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.

#### **IX. 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 Westchester County Board of Acquisition & Contract and 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 **SCHEDULE "F"** and will be required to maintain insurance as provided in the certificate attached hereto as **SCHEDULE "G"**.

#### **X. NON-COLLUSION**

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.

## **XI. APPLICABLE LAWS/CONFLICT OF INTEREST**

Any contract that results from this RFP will be subject to the applicable 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 has an interest in the proposal. An interest is defined in this agreement in accordance with section 883.11(f) of the Laws of Westchester County as:

a direct or indirect pecuniary or material benefit accruing to a county officer or employee, his or her spouse, child or dependent, whether as the result of a contract with the county or otherwise. For the purpose of this chapter, a county officer or employee shall be deemed to have an "interest" in the contract of:

- i. His spouse, children and dependents, except a contract of employment with the county;
- ii. A firm, partnership or association of which such officer or employee is a member or employee;
- iii. A corporation of which such officer or employee is an officer, director or employee; and
- iv. A corporation of which more than five (5) percent of the outstanding capital stock is owned by any of the aforesaid parties.

Such disclosure shall be made on a separate piece of paper attached to the proposal and signed and dated by the same person signing the proposal.

## **XII. 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.

### **XIII. MBE/WBE**

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 which are owned and controlled by persons of color or women in contracts and projects funded by the County. Therefore, the County asks Proposers to complete the questionnaire attached hereto as **SCHEDULE “B”**

### **XIV. REFERENCES:**

The Agency shall provide a profile on **SCHEDULE "C"** which, at a minimum includes the following items:

- a. Agency Name
- b. Address
- c. Year Agency was founded
- d. Total Number of Employees in Agency
- 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

### **XV. DISCLOSURE FORM:**

To avoid conflicts of interest and the appearance of impropriety, the Proposer shall be required to complete the Disclosure Form attached hereto as **SCHEDULE “D”**.

### **XVI. CRIMINAL DISCLOSURE FORM**

The Proposer agrees to complete the Criminal Background Disclosure as required by Executive Order No. 1-2008 and attached hereto as **SCHEDULE "E"** which is hereby incorporated by reference.

**XVI. PROPOSER CERTIFICATION**

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.

\_\_\_\_\_  
Proposer Name

By: \_\_\_\_\_  
Name and Title

**ACKNOWLEDGMENT**

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

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



**CERTIFICATE OF AUTHORITY**  
**(CORPORATION)**

I, \_\_\_\_\_,  
(Officer other than officer signing contract)

certify that I am the \_\_\_\_\_ of  
(Title)  
the \_\_\_\_\_  
(Name of Corporation)

a corporation duly 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



**CERTIFICATE OF AUTHORITY**  
**(PARTNERSHIP)**

I, \_\_\_\_\_,  
*(Partner other than Partner signing contract)*

certify that I am a General Partner of \_\_\_\_\_,  
*(Name of Partnership)*

a partnership duly organized under \_\_\_\_\_,  
*(Law under which partnership is organized)*

and named in the foregoing Agreement; that \_\_\_\_\_,  
*(Partner Executing Agreement)*

who signed said Agreement on behalf of the Partnership was, at the time of execution, a General Partner of said Partnership; that said Agreement was duly signed for and in behalf of said Partnership and as the act and deed of said proposer for the purposes therein mentioned.

\_\_\_\_\_  
*(Signature)*

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

On this \_\_\_\_\_ 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 General Partner 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 a general partner of said Partnership; that he/she is duly authorized to execute said certificate on behalf of said Partnership, and that he/she signed his/her name thereto pursuant to such authority.

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



4. Please describe your pick-up services in detail (options for weekly, bi-weekly, monthly, as well as your response time to address overfilled containers).

5. Explain how the collected textiles will be managed, repurposed and recycled.

6. Please address how you handle inquiries for lost property, i.e. if a resident claims to have left a valuable object in a pocket of a collected item of clothing.

7. Please describe your reporting capabilities, including what kind of system you use to track the textiles collected. Attach samples of reports that you have generated for other municipal customers.

8. Provide information on payment to the County for the privilege of operating the franchise (including price per pound/ton, method of payment, payment schedule).

9. Describe your company and its history.

## SCHEDULE "B"

### QUESTIONNAIRE REGARDING BUSINESS ENTERPRISES OWNED AND CONTROLLED 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**
- 3.) is a business enterprise certified as a small disadvantaged business concern pursuant to the Small Business Act, 15 U.S.C. 631 et seq., and the relevant provisions of the Code of Federal Regulations as amended.

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

## **SCHEDULE "C"**

### **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

Name of Contractor: \_\_\_\_\_

**SCHEDULE "D"**

**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**<sup>1</sup> 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: \_\_\_\_\_

<sup>1</sup> "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.

## SCHEDULE "E"

### CRIMINAL BACKGROUND DISCLOSURE INSTRUCTIONS

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.<sup>2</sup> 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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<sup>2</sup> 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 Officer<sup>3</sup>. 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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<sup>3</sup> 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, sublessees, or sublicensees 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.

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*PLEASE CONTINUE TO THE*

*Criminal Background Disclosure Form and Certification*

*BEGINNING ON THE NEXT PAGE*

Contract #: \_\_\_\_\_  
Name of Consultant, Contractor, Lessee, or Licensee:

\_\_\_\_\_

**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  
(Name of Person Signing Below)

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 "F"**

**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

(hereafter the "County")

and

\_\_\_\_\_, having an office and principal place of business at \_\_\_\_\_

(hereinafter the "Consultant")

**FIRST**: The Licensee shall operate a Textile Recovery Concession at the County's H-MRF in Valhalla, N.Y. for the Westchester County Department of Environmental Facilities as more particularly described in the Firm's proposal, dated \_\_\_\_\_, 20\_\_ which is attached hereto and made a part hereof as Schedule "A" (the "Work"). The Work shall be carried out by the Licensee in accordance with current industry standards and trade practices.

A list of key personnel of the Licensee, who shall be responsible for the implementation of this Agreement, is set forth in Schedule "A". The Licensee shall provide the County with prior written notice of any proposed changes in key personnel, and the (*FILL IN HEAD OF DEPT*) or his/her duly authorized designee (the "*FILL IN DIRECTOR/COMMISSIONER*") shall have sole discretion to approve or disapprove of any such personnel changes.

**SECOND**: The term of this Agreement shall commence on January 1, 2018 and shall terminate on December 31, 2020, unless terminated earlier pursuant to the

provisions of this Agreement. The County, at its sole option, may extend the term of the agreement for up to two (2) additional one-year terms.

The Licensee shall report to the County on its progress toward completing the Work, as the Director may request, and shall immediately inform the Director in writing of any cause for delay in the performance of its obligations under this Agreement.

**THIRD:** In consideration for the privilege of operating the concession, the Licensee shall pay the County the sum of \_\_\_\_\_ (\$\_\_\_\_\_) DOLLARS, payable (monthly/weekly).

The Licensee shall furnish all labor, services, materials, tools, equipment and other appliances necessary to complete the Work, unless specific additional charges are expressly permitted under this Agreement.

**FOURTH:** Unless the County shall, in writing, advise the Licensee to the contrary, the Licensee shall retain all financial records related to this Agreement for a period of six (6) years after the expiration or termination of this Agreement.

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

In the event of a dispute as to the value of the Work rendered by the Licensee prior to the date of termination, it is understood and agreed that the Director shall determine the value of such Work rendered by the Licensee. The Licensee 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 Licensee of any of the terms of the Agreement and such breach remains uncured for forty-eight (48) hours after service on the Licensee 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 Licensee. Without limiting the foregoing, upon written notice to the Licensee, repeated breaches by the Licensee 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.

**SEVENTH:** The Licensee 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 Licensee agrees:

(a) that except for the amount, if any, of damage contributed to, caused by, or resulting from the negligence of the County, the Licensee shall indemnify and hold harmless the County, 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 Licensee or third parties under the direction or control of the Licensee; 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.

**EIGHTH:** The Licensee represents and warrants that all prices quoted herein for the work to be performed hereunder have been arrived at by the Licensee

independently and have been submitted without collusion with any other vendor of similar materials, supplies, equipment or services.

**NINTH:** The Licensee expressly agrees that neither it nor any contractor, proposer, 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 Licensee 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.

**TENTH:** The Licensee 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 Licensee as an employer of labor. The Licensee 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, proposers and others employed to render the Work hereunder.

**ELEVENTH:** 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 persons of color or women 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 Persons of Color or Women. The Licensee agrees to complete the questionnaire attached hereto as Schedule "D", as part of this Agreement.

**TWELFTH:** All records or recorded data of any kind compiled by the Licensee 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 Licensee may retain copies of such records for its own use and shall not disclose any such information without the express written consent of the Director. The County shall have the right to reproduce and publish such records, if it so desires, at no additional cost to the County.

**THIRTEENTH:** The Licensee shall not delegate any duties or assign any of its rights under this Agreement without the prior express written consent of the County. The Licensee 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 subLicensees are subject to all terms and conditions set forth in this Agreement. It is recognized and understood by the Licensee that for the purposes of this Agreement, all Work performed by a County-approved subconsultant shall be deemed Work performed by the Licensee and the Licensee 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 subLicensee'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 Licensee. The Licensee shall obtain a written acknowledgement from the owner and/or chief executive of subLicensee or his/her duly authorized representative that the subLicensee has received a copy of the County's contract, read it and is familiar with the material terms and conditions thereof. The Licensee shall include provisions in its subcontracts designed to ensure that the Licensee and/or its auditor has the right to examine all relevant books, records, documents or electronic data of the subconsultant necessary to review the subLicensee's compliance with the material terms and conditions of this Agreement. For each and every year for

which this Agreement continues, the Licensee shall submit to the Director a letter signed by the owner and/or chief executive officer of the Licensee or his/her duly authorized representative certifying that each and every approved subconsultant is in compliance with the material terms and conditions of the Agreement.

**FOURTEENTH:** The Licensee and the County agree that the Licensee and its officers, employees, agents, contractors, proposers and/or consultants 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 Agency covenants and agrees that neither the Agency nor any of its officers, employees, agents, contractors, proposers and/or consultants will hold themselves out as, or claim to be, officers or employees of the County or any department, agency or unit thereof.

**FIFTEENTH:** 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.

**SIXTEENTH:** 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:

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\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

with a copy to:

Westchester County Attorney  
Michaelian Office Building  
148 Martine Avenue, Room 600  
White Plains, New York 10601-3311

To the Licensee:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**SEVENTEENTH:** 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.

**EIGHTEENTH:** 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 Licensee recognizes that this Agreement does not grant it the exclusive right to perform the Work for the County and that the County may enter into similar agreements with other agencies on an "as needed" basis.

**TWENTY-FIRST:** The Licensee expressly agrees that it has no interest and will not acquire any interest, direct or indirect, that would conflict in any manner or degree with the performance of the services and duties hereunder. The Licensee further agrees that, in the performance of this Agreement, no person having any such interest shall be employed by it. The Licensee 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 Licensee shall also use all reasonable means to avoid any appearance of impropriety.

The Licensee 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 Agency to solicit or secure this Agreement, 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 Agency) any fee, commission, percentage, gift or other consideration, contingent upon or resulting from the award or making of this Agreement. 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-SECOND:** In an effort to avoid conflicts of interest and the appearance of impropriety in County contracts, the Licensee agrees to complete the Disclosure Form attached hereto as Schedule "E". In the event that any information provided in the completed questionnaire changes during the term of this Agreement, Licensee agrees to notify County in writing within ten (10) business days of such event.

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

**TWENTY-THIRD:** The Licensee 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:** The Licensee represents that, as a material element of this agreement, and prior to the rendering of any services to the County, it has filed with the Westchester County Clerk an instrument in the form attached hereto as Schedule "H". In addition, the Licensee 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-SIXTH:** 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 "I". Therefore, the Licensee agrees, as part of this Agreement, to complete the form attached hereto as Schedule "I".

**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 for any cause of action arising out of this Agreement shall be brought in the County of Westchester.

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

[NO FURTHER TEXT ON THIS PAGE]

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

**THE COUNTY OF WESTCHESTER**

By: \_\_\_\_\_

Name:

Title:

\_\_\_\_\_

By: \_\_\_\_\_

Name:

Title:

Approved as to form  
and manner of execution

\_\_\_\_\_  
County Attorney  
County of Westchester

## SCHEDULE "G"

### 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 Contractor's negligent acts or omissions under the Agreement or by virtue of the provisions of the labor law or other statute or any other reason, 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 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 form CE-200, available to download at: <http://www.wcb.ny.gov/>. If the employer is self-insured for Workers' 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.

(e) Pollution Control Liability, either by separate policy of insurance or through endorsement to the General Liability Policy or Automobile Policy. Minimum Limit: \$1,000,000.00. This insurance shall indicate the following coverages:

(i) Transit

(ii) Sudden and Accidental

(iii) Clean-up

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.