

REQUEST FOR PROPOSALS

FOR

**CIVIL LITIGATION SERVICES FOR
THE WESTCESTER COUNTY ATTORNEY'S OFFICE
FOR REPRESENTATION IN THE COUNTY'S LIABILITY
AND CASUALTY SELF-INSURANCE PROGRAM**

ISSUE DATE:

Friday, September 8, 2017

DUE DATE:

Wednesday, October 4, 2017 at 3:00 pm

Issued By:

**Robert F. Meehan
County Attorney**

**Westchester County Attorney's Office
148 Martine Avenue, 6th Floor
White Plains, New York 10601**

I. PROPOSAL INFORMATION

The County of Westchester (the “County”) is soliciting proposals for the provision of legal services and representation to the County, in an “of counsel” capacity to the County Attorney, as needed, in connection with civil litigation (primarily negligence matters) in which the County is or may become involved pursuant to the County’s liability and casualty self-insurance program, which was established, under Chapter 295 of the Laws of Westchester County, in accordance with New York State General Municipal Law §6-n (the “6-n Program”). The County may enter into an agreement with more than one proposer, based upon the County’s needs and the ability of the proposer(s) to meet the County’s needs. The County will only consider responses wherein it is proposed that the legal services and representation will be performed by a law firm or practitioner.

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 (“MBEs”) or women (“WBEs”) in contracts and projects funded by the County. Accordingly, the County encourages MBEs and WBEs to submit proposals in response to this Request for Proposals (“RFP”).

Copies of this RFP may be downloaded from the County’s website for RFPs:
<http://www.westchestergov.com/rfp> under “Civil Litigation Services”

A.) PROCUREMENT SCHEDULE

Issue Date:	September 8, 2017
Requests for Clarification Due:	September 19, 2017 at 3:00 p.m.
Written Responses to Requests for Clarification Posted:	on or before September 26, 2017
Due Date:	October 4, 2017 at 3:00 p.m.

B.) REQUESTS FOR CLARIFICATION

All requests for clarification of this RFP must be submitted, as set forth below, no later than 3:00 pm on September 19, 2017. All requests for clarification must be in writing and emailed to: Jeffrey P. Goldman at jpg2@westchestergov.com

Formal written responses will be distributed by the County on or before September 26, 2017 by being posted on the County’s website for RFPs: <http://www.westchestergov.com/rfp>

NO COMMUNICATIONS OF ANY KIND WILL BE BINDING AGAINST THE COUNTY, EXCEPT FOR THE FORMAL WRITTEN RESPONSES TO ANY REQUEST FOR CLARIFICATION.

C.) PROPOSAL SUBMISSION

Each proposer must submit a package of one (1) original and three (3) copies of its proposal to the following address:

Jeffrey P. Goldman
Assistant County Attorney
Westchester County Attorney's Office
148 Martine Avenue, 6th Floor
White Plains, New York 10601

The proposal must be in a sealed envelope clearly marked: "Proposal - Civil Litigation Services"

The original and all copies of each proposer's proposal must be received by the County by the stated due date. The County is not responsible for any internal or external delivery delays that may cause the proposer's proposal to arrive beyond the deadline. 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.

D.) 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 website for any amendments or addenda.

[NO FURTHER TEXT ON THIS PAGE]

II. SCOPE OF WORK, ANTICIPATED TERM, & ADDITIONAL REQUIREMENTS

A.) SCOPE OF WORK

As described above, the County is soliciting proposals for the provision of legal services and representation to the County, in an “of counsel” capacity to the County Attorney, as needed, in connection with civil litigation (primarily negligence matters) in which the County is or may become involved pursuant to the County’s 6-n Program. The County may enter into an agreement with more than one proposer, based upon the County’s needs and the ability of the proposer(s) to meet the County’s needs.

Each proposer with whom the County enters an agreement for the services solicited by this RFP shall furnish legal services to the County, in an “of counsel” capacity to the County Attorney. All papers served and/or filed in any action or proceeding pursuant to this Agreement must indicate that “of counsel” relationship. For each such proposer, an attorney/client relationship with the County and with its elected officials, officers, and employees acting in their official capacity shall be established and all communications between that proposer and the County and such elected officials, officers, and employees of the County shall be confidential and privileged to the fullest extent permitted by law, unless such privilege is specifically waived in writing by the County Attorney.

Additionally, each proposer with whom the County enters an agreement for the services solicited by this RFP shall not, during the term of such agreement, represent or agree to represent a client in any action or proceeding against the County, or against any elected official, officer or employee of the County in their official capacity, except with the express prior written consent of the County Attorney after full disclosure by the proposer. This prohibition shall be deemed to include and prohibit the assertion of any third party claim, counterclaim, or cross-claim by the proposer.

The County will not guarantee any minimum level of activity or business. No exclusive rights are, or are intended to be, granted pursuant to any award under this request for proposals and the agreement(s) with the provider(s) of service(s) shall be only for services for such matters as the County, in its sole discretion, shall deem appropriate.

In addition to all other requirements, in providing legal services provided to the County involving the County’s 6-n Program, the selected proposer(s) must be mindful of the County’s need to comply with New York State General Municipal Law §6-n and any and all amendments thereto; Chapter 295 of the Laws of Westchester County (attached hereto as Schedule “A”) and any and all amendments thereto; and Chapters 158 and 217 of the Laws of Westchester County (attached hereto as Schedule “B”) and any and all amendments thereto.

B.) ANTICIPATED TERM

The term of any agreement(s) resulting from this RFP is/are anticipated to be one (1) year, commencing on January 1, 2018, with the County having the option, in its sole discretion, to extend the term of such agreement(s) for up to three (3) additional one (1) year periods thereafter, utilizing all of the same pricing, terms and conditions.

C.) ADDITIONAL REQUIREMENTS

The County will only consider proposals wherein it is proposed that the legal services and representation will be performed by a law firm or practitioner.

D.) PROPOSAL CONTENT

Each proposal must include the items listed below. Any proposal that does not contain everything specified below and/or does not conform to the below-described guidelines for proposals will not be reviewed or considered. Please be sure to include all information requested.

- 1.) Cover letter, conforming to the guidelines specified below.
- 2.) All of the information requested in Schedule "F".
- 3.) Section IV: Proposer Certification, including the applicable acknowledgement and certificate of authority document(s).
- 4.) Schedule C: Questionnaire Regarding Business Enterprises Owned and Controlled by Women or Persons of Color
- 5.) Schedule D: Required Disclosure of Relationships to County

Please be advised that proposals must conform to the following guidelines:

- 1.) Proposals **MUST** be signed with **ORIGINAL SIGNATURES** on **ALL DOCUMENTS** that require signatures. The proposal must contain a cover letter written on the proposer's letterhead, which states the date of submission of the proposal and states the following: "This proposal constitutes a valid, binding and continuing offer at the prices set forth in this proposal for a period of one hundred and twenty (120) days from the date of submission of this proposal." The cover letter must be signed by a person authorized by the proposer to make a binding proposal. Proposals that lack the required statement or have an unsigned cover letter will be rejected.
- 2.) Proposals must be typed or printed in black ink. All corrections made by the proposer must be made prior to the due date for proposals, and must be initialed and dated by the proposer. No changes will be allowed after the due date for proposals.

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

III.) LEGAL

A.) UNDERSTANDINGS

Please take notice, by submission of a proposal in response to this RFP, the proposer 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;
- 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 requirements;
- To reject all proposals;
- To issue additional solicitations for proposals and/or amendments to this RFP;
- To waive any minor irregularities in proposals received;
- 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 one or more agreements, for all or only portions of the services solicited by this RFP, with one or more of the proposers, or to not to enter into any agreement(s) for any of the services solicited by this RFP;
- To select the proposal(s) that is(/are) most advantageous to the County, and not necessarily on the basis of price or any other single factor or criterion;
- 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.

B.) EVALUATION CRITERIA

In selecting the proposer(s) with whom to commence contract negotiations, and in ultimately awarding this RFP, the County will choose the proposal(s) from the responsible proposer(s) that is(/are) most advantageous to the County, and otherwise in accordance with the County's Procurement Policy.

In order to determine what proposal(s) is(/are) most advantageous, the County will evaluate all proposals on the basis of the criteria specified below. These 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. While price will be a factor in consideration of the proposals, it is not the sole criterion.

- 1.) Proposer's demonstrated capability to provide the solicited legal services.
- 2.) Evaluation of the professional qualifications, personal background and resume(s) of individual(s) proposed to be involved in providing the solicited legal services.
- 3.) Proposer's experience performing the legal solicited services.
- 4.) Proposer's financial ability to provide the legal solicited services.
- 5.) Evaluation of the proposer's price proposal. It should be noted that while price is not the only consideration, it is an important one.
- 6.) A determination that the proposer has submitted a complete and responsive proposal as required by this RFP.
- 7.) An evaluation of the proposer's projected approach and plans to meet the requirements of this RFP.

C.) CONTRACT

After selection of the successful proposer(s), 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.**

Each proposer accepts and agrees that, if selected by the County, it will be asked to sign a contract containing the following, or language in substantially the following form:

a.) INSURANCE, INDEMNIFICATION, AND DEFENSE

“The Attorney agrees to procure and maintain insurance naming the County as additional insured, as provided and described in Schedule “E”, 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 “E”, the Attorney agrees:

(a) that except for the amount, if any, of damage contributed to, caused by, or resulting from the negligence of the County, the Attorney shall indemnify and hold harmless the County, its officers, employees, agents, and elected officials 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 Attorney or third parties under the direction or control of the Attorney; 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.”

See: Schedule “E” for the “Standard Insurance Provisions”.

b.) NON-DISCRIMINATION

“The Attorney expressly agrees that neither it nor any contractor, subcontractor, 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 Attorney 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.”

c.) COMPLIANCE WITH LAWS

“The Attorney 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 Attorney as an employer of labor. The Attorney 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 Services hereunder.”

d.) REPRESENTATION AND CONFLICTS OF INTERESTS

The Attorney agrees to conduct a conflict of interest check prior to providing any of the Services under this Agreement and shall inform the County Attorney if said check reveals anything that would cause a conflict of interest in its representation of the County.

On an on-going basis, the Attorney agrees to fully inform and review with the County Attorney any matter which could present a conflict of interest, or present the appearance of a conflict of interest, at the earliest possible time.

Additionally, during the term of this Agreement, the Attorney expressly agrees to not represent or agree to represent a client in any action or proceeding against the County, or against any elected official, officer or employee of the County in their official capacity, except with the express prior written consent of the County Attorney after full disclosure by the Attorney. The parties expressly agree that this prohibition shall be deemed to include and prohibit the assertion of any third party claim, counterclaim or cross-claim by the Attorney.

e.) ATTORNEY/CLIENT RELATIONSHIP

The Attorney shall furnish legal services to the County, in an “of Counsel” capacity to the County Attorney, in connection with civil litigation in which the County is or may become involved pursuant to the County’s self-insurance program. All papers served and/or filed in any action or proceeding pursuant to this Agreement must indicate that “of counsel” relationship.

The Attorney shall have an Attorney/Client relationship with the County and with its elected officials, officers and employees acting in their official capacity, and all communications between the Attorney and the County and such elected officials, officers and employees of the County shall be confidential and privileged to the fullest extent permitted by law unless such privilege is specifically waived in writing by the County Attorney.

D.) 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.

E.) 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.

F.) CONTENTS OF PROPOSAL AND 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.

G.) 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, all proposers are required to complete the questionnaire attached hereto as Schedule "C".

H.) REQUIRED DISCLOSURE OF RELATIONSHIPS TO COUNTY

To avoid conflicts of interest and the appearance of impropriety, the proposer shall be required to complete and submit with their proposal the Disclosure Form attached hereto as Schedule "D".

I.) INDEPENDENT PRICE DETERMINATION

By submission of a proposal, the proposer certifies, and in the case of a joint proposal each party certifies as to its own organization, that in connection with this proposal:

1. The prices in the proposal have been arrived at independently, without consultation, communication, or agreement, for the purpose of restricting competition, as to any matter relating to such prices with any proposer; and
2. Unless otherwise required by law, the prices which have been quoted in the proposal have not been knowingly disclosed by the proposer and will not knowingly be disclosed by the proposer prior to award directly or indirectly to any other proposer; and
3. No attempt has been made or will be made by the proposer to induce any other person or firm to submit or not to submit a proposal for the purpose of restricting competition.

[NO FURTHER TEXT ON THIS PAGE]

IV.) 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:
Title:

You Must Complete the Applicable Acknowledgement and Certificate of Authority Document(s), Which Are on the Pages Following This Page

ACKNOWLEDGMENT

STATE OF _____)
) 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

SOLE CORPORATE OFFICER ACKNOWLEDGMENT

STATE OF _____)
) ss.:
COUNTY OF _____)

On this _____ day of _____, 20____, before me, the undersigned,
personally appeared _____,
(Name of Sole Officer)

on the basis of satisfactory evidence to be the individual whose name is subscribed to the within
instrument and acknowledged to me that he/she executed the same in his/her capacity as

President and sole officer and director of _____,
(Name of Corporation)

the corporation described in and which executed the within instrument, and acknowledged that
he/she owns all the issued and outstanding capital stock of said corporation, and that by he/she
signed the within instrument on behalf of said corporation.

Notary Public

SOLE LLC MEMBER ACKNOWLEDGMENT

STATE OF _____)
) ss.:
COUNTY OF _____)

On this _____ day of _____, 20____, before me, the undersigned,
personally appeared _____,
(Name of Sole Member)

on the basis of satisfactory evidence to be the individual whose name is subscribed to the within
instrument and acknowledged to me that he/she executed the same in his/her capacity as

Managing Member and sole member of _____,
(Name of LLC)

the LLC described in and which executed the within instrument, and acknowledged that he/she
owns the entire ownership interest in the LLC, and that by he/she signed the within instrument
on behalf of said LLC.

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 _____)
) 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.

Date: _____

Notary Public

SCHEDULE "A"

Sec. 295.01 — Definitions.

"Judgments," "actions" and "claims," as used in this chapter, shall mean those judgments, actions and claims against the County of Westchester that are founded upon tort or that arise out of any acts or omissions of officers or employees of the County of Westchester that result in personal injury or property damage, if such officers or employees, at the time the damages were sustained, were executing or performing, or in good faith purporting to exercise or perform, their powers and duties.

Sec. 295.11 — Establishment of liability and casualty reserve fund.

There is hereby established a reserve fund to be known as the "liability and casualty reserve fund."

Sec. 295.21 — Management of fund.

1. There may be paid into such fund:
 - a. Such amounts as may be provided by budgetary appropriations;
 - b. Amounts from any other fund authorized by the General Municipal Law by resolution subject to permissive referendum; and
 - c. Such other funds as may be legally appropriated.
2. The cash balance of such fund at the end of any fiscal year shall not exceed \$100,000.00 or five percentum of the total budget for such fiscal year, whichever is the greater amount. The amount paid into such fund during any fiscal year shall not exceed \$33,000.00 or 1 2/3 percentum of the total budget for such fiscal year, whichever is the greater amount.
3. The moneys in such fund shall be deposited in one or more of the banks or trust companies designated in the manner provided by law as depositories of the funds for the County of Westchester. The Commissioner of Finance may invest the moneys in such fund in obligations specified in the General Municipal Law. Any interest earned or capital gain realized on the money so deposited or invested shall accrue to and become part of such fund.
4. The Commissioner of Finance shall account for this fund separate and apart from all other funds of the County of Westchester. Such accounting shall show: the source, date and amount of each sum paid into the fund; the interest earned by such fund; capital gains or losses resulting from the sale of investments of this fund; the order, source thereof, date and amount of each payment from this fund; the assets of this fund, indicating cash balance and a schedule of investments. The Commissioner of Finance, within 60 days of the end of each fiscal year, shall furnish a detailed report of the operation and condition of this fund to the County Board.

Sec. 295.31 — Expenditures.

An expenditure may be made from this fund for the payment of all or part of the costs, including interest, of:

1. Judgments;
2. Actions and claims.
 - a. Actions that have been compromised or settled and that have been approved

- by the court in which the action or proceeding is pending;
- b. Claims that have been compromised or settled and that have been approved by a Justice of the Supreme Court of the Ninth Judicial District;
 - c. Expert or professional services rendered in connection with investigation, adjustment, settlement or defense of claims, actions or judgments;
 - d. Claims, demands or actions that have been compromised, settled or adjusted by the County Attorney or County Board of Acquisition and Contract pursuant to Chapter 158.

Sec. 295.41 — Court order.

The order of the court or the justice approving such settlement or compromise may be granted upon motion of the County Attorney or his designee, supported by an affidavit setting forth the cause of actions or claim against the County of Westchester, and also such other information which, in the opinion of the County Attorney or his designee, will enable the court or the justice to arrive at a determination that such settlement or compromise is just, reasonable and to the interest of the County of Westchester. The County Attorney or his designee may also present the affidavits of other persons in support of such motion. The court or the justice, in order to arrive at such determination, may require the County Attorney or his designee to present additional information by a supplementary affidavit or affidavits or may require other persons to present additional information by their affidavits.

Sec. 295.51 — Accounting.

Where an expenditure from the fund is authorized as provided herein:

1. Payment shall be made upon the audit and warrant of the Commissioner of Finance; and
2. Upon such audit and warrant, the Commissioner of Finance shall transfer the amount of such expenditure from the fund to the appropriate departmental budget line and shall thereupon debit such expenditure from the said budget line.

Sec. 295.61 — Discontinuance of fund.

If, after the establishment of such fund, the County of Westchester determines that such fund is no longer needed, the moneys remaining in such fund may be transferred to any other reserve fund of the County of Westchester authorized by the General Municipal Law that is comprised of moneys which were raised on the same tax base as the moneys in the reserve fund established under this chapter, only to the extent that the moneys in this fund shall exceed the sum sufficient to pay all liabilities incurred or accrued against it. Prior to the discontinuance of such fund, the Commissioner of Finance, Budget Director and the County Attorney shall certify to the County Board the amount that may be necessary to retain in such fund to satisfy all liabilities incurred or accrued against it and such sum shall be retained in the fund for payment of such amounts or until later certified that such funds are no longer needed.

SCCHEDULE "B"

Sec. 158.01 — Appointment; qualifications.

There shall be a Department of Law, the head of which shall be the County Attorney, appointed by the County Executive with the approval of the County Board. He shall be an attorney admitted to practice in this state at least ten (10) years prior to his appointment.

Sec. 158.11 — Powers and duties.

1. The County Attorney of the County of Westchester when appointed as provided in section 158.01 of this act shall have charge of and conduct all of the civil law business of the County of Westchester and its departments. He shall have charge of and conduct all legal proceedings instituted for and on behalf of or against the county and shall prepare and approve as to form, all leases, deeds and contracts of the county which are to be executed by the county executive or on behalf of the county board, also all contract bonds and/or undertakings executed to the county, and certify that the same are in proper form and properly executed. In addition, the County Attorney shall also have the authority to present criminal proceedings relating to violations of probation to the Courts in conjunction with the Westchester County Probation Department.
2. He shall be legal advisor to the County Board and to each and every board, body, commission or officer of the County of Westchester and to each and every employee of the County of Westchester as may be required by section 297.31 of the Westchester County Administrative Code. It shall be his duty to furnish to such county board, body, commission officer or employee all such advice and legal assistance as counsel and attorney in and out of court as may be required by them, or either of them. No such officer, employee, board, body, commission or department of the county shall have or employ any attorney or counsel at the expense of the county unless specifically authorized to do so by the County Board.
3. The County Attorney shall not have the power to institute any proceedings on behalf of the county, or any of its officers, unless directed to do so by the County Board or an officer, board, commission or body having power or authority under statute to direct the starting of any such action or proceeding, except a proceeding for a money judgment only where the amount involved does not exceed ten thousand dollars (\$10,000.00) exclusive of costs, or except as provided in subsection 4. hereof.
4. When an accident, occurrence or condition arises whereby circumstances affecting county buildings or property or the life, health, safety or property of the inhabitants of the county require immediate court action, which cannot await a stated or special meeting of the County Board, the County Executive may direct the County Attorney to apply for injunctive or other appropriate relief or remedy on behalf of the county to protect its rights, interests, property and privileges. When the County Executive so directs the County Attorney to commence an action or proceeding, he shall at the same time file a report and notification thereof with the County Board.
5. Except as otherwise provided in this subdivision, the county attorney shall not be empowered to compromise, settle or adjust any rights, claims, demands or causes of action in favor of or against the County of Westchester without the previous authority of the county board or of the board, body, commission or office authorized or empowered by statute to direct or consent to such compromise, settlement or

adjustment. He shall not permit, offer or confess judgment against the county or accept any offer or judgment in favor of the county for less than the amount claimed by the county, unless previously duly authorized to do so by the County Board.

Notwithstanding the foregoing, the County Attorney shall be empowered to compromise, settle, or adjust rights, claims, demands or causes of action against the county for an amount not to exceed ten thousand dollars (\$10,000.00) exclusive of interest and costs without the need for authorization from the County Board or of any other board, body, commission or office. In addition, the County Attorney with the approval of the County Board of Acquisition and Contract may compromise, settle or adjust rights, claims, demands or causes of action against the county for personal injury or property damage for an amount not to exceed seventy-five thousand dollars (\$75,000.00) exclusive of interests and costs. In no event shall any inhibition contained in this section operate to limit or abridge the discretion of the County Attorney in regard to the proper conduct of the trial or appeal of any proceedings or action at law, or to deprive said County Attorney of the powers or privileges ordinarily exercised in the course of litigation by attorneys at law when acting for private clients.

6. The deputies in the department shall act generally for and in the place of the County Attorney in reference to the particular branch of work assigned to them. The County Attorney shall make an annual report at the close of each fiscal year to the County Board covering generally the work of his office, and showing the status of all actions and proceedings then pending.

Sec. 158.21 — Duties relating to special districts.

Whenever the County Attorney, under and pursuant to the terms of this act, is required to act as the legal advisor or representative of a special county district, it shall be upon such terms as may be agreed upon by the County Executive and the governing board or body of such district.

Sec. 217.01 — Powers and obligations of County Attorney.

The County Attorney shall be the head of the Department of Law and shall have all the powers and duties and shall be subject to all the obligations and liabilities heretofore or hereafter lawfully granted or imposed by the County Charter and by any act of the legislature. No office, officer, department or court of the county shall require from the Department of Law any filing or recording fee or other charge pertaining to or in connection with the work of said department.

SCHEDULE "C"

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

Contract #: _____
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**¹ 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.

Signature: _____

Name: _____

Title: _____

Date: _____

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.

SCHEDULE "E"
STANDARD INSURANCE PROVISIONS
(Attorney)

1. Prior to commencing work, the Attorney 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 Attorney 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 Attorney 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 Attorney 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 Attorney to take out, maintain, or the taking out or maintenance of any required insurance, shall not relieve the Attorney from any liability under the Agreement, nor shall the insurance requirements be construed to conflict with or otherwise limit the contractual obligations of the Attorney 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 Attorney'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 Attorney until such time as the Attorney shall furnish such additional security covering such claims in form satisfactory to the County of Westchester.

2. The Attorney 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.

(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) Attorney's Professional Liability. The Attorney shall provide proof of such insurance. (Limits of \$1,000,000 per occurrence/\$3,000,000 aggregate).

3. All policies of the Attorney 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 Attorney.

SCHEDULE "F"

- 1.) Please provide a detailed narrative of how the proposer would perform the County's scope of work, including the proposer's projected approach and plans. This narrative must also include a description of the proposer's financial ability to perform the County's scope of work as described, and the proposer's demonstrated capability to provide the legal services.
- 2.) Please identify all key personnel for the proposer, as well as personal background information and a resume (including professional qualifications, experience, and expertise) for the key personnel who would provide services to the County.
- 3.) Please specify the hourly fee(s) proposed for these services, in the following format:

Partner: \$ _____ / hour
Senior Associate: \$ _____ / hour
Associate: \$ _____ / hour
Paralegal: \$ _____ / hour

For your fee proposal, please follow this same format for any additional pricing classifications for attorneys (e.g., 'senior partner', 'of counsel', etc.) that your firm uses but that is not specified above.

- 4.) Please provide information concerning the experience of the proposer, including specification of the proposer's:
 - a.) Experience providing the services requested by this RFP
 - b.) Experience providing services requested by this RFP to New York counties of similar size to Westchester County.
 - c.) Membership in appropriate professional organizations.
 - d.) Expertise of individuals who proposer has identified as the individuals who will provide the services to the County.
- 5.) Please provide basic information, contact information, and references for the proposer, which, at a minimum includes the following items:
 - a.) Firm Name
 - b.) Address
 - c.) Year Firm was founded
 - d.) Total Number of Employees and Total Number of Attorneys in Firm
 - e.) Three (3) current client references for similar services, including:
 - i) Client Name
 - ii) Client Address
 - iii) Contact Name, Title and Telephone Number
 - iv) Description of Services