Westchester Community College
75 Grasslands Road
Valhalla, N.Y. 10595

Date Issued: January 30, 2015

INVITATION TO SUBMIT PROPOSALS
FOR THE PROVISION OF

In Person Credit Card and Web Based Payment Solutions and Services

PROPOSAL DUE DATE: February 23, 2015
SUMMARY

Westchester Community College (the “College”) uses PeopleSoft - Campus Solutions – Student Financial rel9.0, internally developed PeopleSoft forms and tables, and Papercut NG.

Westchester Community College currently uses Touchnet for credit card processing and reporting, Touchnet’s eMarketplace for processing when using internally developed PeopleSoft forms and table that require credit card processing, and the Papercut interface when adding funds to student printing accounts. This commerce management solution provides the ability to process online credit card, ACH tuition payments and PIN less Debit payments, and payment devices. The commerce management system must incorporate a single payment gateway through which all payment transactions are processed. The solution must also include real-time integration with our PeopleSoft - Campus Solutions – Student Financial rel9.0 and Papercut.

Proposal Submission Process:
Contractor Proposal Clarification - Contractor may be required to provide written clarification of portions of their proposal. Written clarifications will be clarified in the evaluation process.

Proposals – All proposals and accompany documentation will become the property of Westchester Community College and will not be returned.

Appropriate Proposal Format - Proposals must be received both in hard copy and in electronic format. The contractor is required to supply three (3) hard copy proposals.

Submission of Sealed Proposals – Contractors must submit a complete response to this Request for Proposals, using the format and forms provided in the Request for Proposals. Submission of the Contractor’s proposal, with submission of a cover letter, shall be construed by Westchester Community College as the Contractor’s acceptance of the procedures, evaluation criteria, and other instructions in the Request for Proposal. Proposals MUST be signed. Unsigned proposals will be rejected.

Non-compliance with the submission of proposals as required by this section may result in disqualification of the offering.

Proposer must complete all schedules and return this document in its entirely to Purchasing, Westchester Community College, 75 Grasslands Road, Administration Building, Room 226, Valhalla, New York 10595. All proposals must be submitted in a sealed envelope by no later than 2 p.m. on February 23, 2015, with “Proposal for In Person Credit Card and Web Based Payment Solutions and Services for WCC” written on the envelope.

Requests for clarification of this RFP must be written and submitted to Westchester Community College Purchasing at purchasing@sunywcc.edu no later than 2 p.m. on February 16, 2015. Written responses will be distributed by the Westchester Community College on or before February 19, 2015. NO COMMUNICATIONS OF ANY KIND WILL BE BINDING AGAINST THE COUNTY, EXCEPT FOR THE FORMAL WRITTEN RESPONSES TO ANY REQUEST FOR CLARIFICATION.
I. INTRODUCTION:

a. Westchester Community College (the “College”) invites proposals from qualified firms (“Firm”) to provide web based payment solution services as well as in-person credit card transactions solution services.

b. It is the College’s intent to select the Firm that provides the best solution for the College’s needs. Westchester Community College is seeking proposals from qualified software providers for a turnkey software system that must be hosted, easy to implement, have a single point of support, and keep pace with future commerce opportunities. The solution vendor should offer both a traditional software licensing agreement and an ASP. This RFP will be used to acquire the software, implementation services, customer support, and any required hardware devices.

c. The College reserves the right to amend this RFP. The College reserves the right to reject any or all of the proposals, or any part thereof, submitted in response to this RFP, and reserves the right to waive informalities, if such action is deemed to be in the best interest of the College. The College reserves the right to request additional information from any proposer.

d. This RFP is not intended and shall not be construed to commit the College to pay any costs incurred in connection with any proposal or procure or contract with any agency.

II. OVERVIEW OF WESTCHESTER COMMUNITY COLLEGE:

a. The College was established in 1946 and is sponsored by the County of Westchester (“County”) pursuant to the provisions of the New York State Education Law, and operates under the policies of the Board of Regents and the supervision of the State University of New York. The College is sponsored locally by the County of Westchester, is governed by a ten-member Board of Trustees and is accredited by the Middle States Association.

b. The College is one of the largest community colleges in the State of New York, providing services to more than 12,000 full-time and part-time credit students each semester as well as approximately 20,000 non-credit students.

c. Westchester Community College employs approximately 800 salaried employees, and approximately 1200 hourly employees. The 1200 hourly employees may be hired on a semester by semester basis, or maybe hired for the full academic year. There are three main pay groups at Westchester Community College: Faculty, Staff and Management.

d. The college accepts payments at the main campus and five extension sites located throughout Westchester County.
III. **SCOPE OF WORK:**

**GENERAL PROVISIONS**

Westchester Community College is seeking proposals from qualified credit card processing companies to install a web based payment solution that is integrated to the extent necessary with its PeopleSoft Student Administration System. The solution must be easy to implement, have a single point of support, and keep pace with future opportunities. Westchester Community College is seeking an integrated system implemented maintained and supported by a single vendor.

**Requirements Overview**

The primary function of this system is to provide an out-of-the-box solution that will allow Westchester Community College to continue to offer campus constituents secure electronic payment processing and the convenience of self-service, online access to campus payment systems. Further, it should meet today’s guidelines and requirements for the safeguarding of sensitive campus information, including PCI-DSS and PA-DSS

The system must provide campus constituents with a secure infrastructure for making online payments as well as a secure means of accepting credit card payments in person – using the delivered PeopleSoft cashiering functionality. The system should facilitate the management and operations of campus-wide e-commerce, in the manner that the college has chosen. In addition, solutions should be integrated in real time with campus student information.

The solution must be:

- a turnkey installation with configuration and support originating from one source;
- easy and fast to install without placing a demand on Westchester Community College resources

Requirements:

- A system that does not impose the need to form new third party banking relationships
- High performance but also very secure
- Be PCI DSS compliant and PA DSS compliant;
- Be flexible enough to communicate with our bank’s recommended credit card processor and to change processors in the future;
- Provide a central payment gateway capable of processing campus-wide payments, including transactions made by electronic checks, credit cards, and debit cards;
- Have a proven track record in institutions of Higher Education
- Provide web-based usage, reporting, and setup
- Integration with Papercut application for students to add funds to their College printing account.
- Support College applications written in PeopleSoft.
- Not require the College to store any credit card information.
- Cost-effective
Scalable to incorporate future expansion of the system
Proof of PeopleSoft certification.

Projected Environment:

Westchester Community College envisions an environment in which payments at all campus and extension sites are centralized through a single payment engine. The engine must be capable of integrating with user applications available online and to cashiers at the point of payment. The engine must be processor independent and allow Westchester Community College to continue its existing bank relationships.

Electronic Payment Processing:

System Integration Requirements

- The system must post payment transactions to our PeopleSoft - Campus Solutions – Student Financial rel9.0. in real-time. Please describe how payments collected through your solution are posted to our student system.
- The vendor must be a partner with PeopleSoft - Campus Solutions – Student Financial rel9.0. and the system must incorporate a certified integration for PeopleSoft - Campus Solutions – Student Financial rel9.0.
- The system must be capable of providing payment functionality to existing campus applications, credit payments, voids, refunds. Please describe your solution’s ability to meet this campus requirement.
- The system must not require additional third party transaction processing and must not introduce delays into the transaction processing cycle.

Credit Card Processing Requirements:

- Does your solution support in person credit card transaction processing?
- Describe your credit card authorization and settlement process. How long before funds are deposited into our bank account?
- The credit card processing software must be processor independent and work with our existing credit card processor. Please provide a current list of credit card processors with whom your solution is certified to work.
- Describe how your system can be used to refund, reverse, or void credit card transactions processed through your credit card payment engine.

Electronic Check Processing Requirements:

- Does you solution support ACH transaction processing?
- Is your organization a member of NACHA?
- Does your organization employ Accredited ACH Professionals (AAP)?
- Describe your electronic check authorization and settlement process. How long before funds are deposited into our bank account?
- Solution must provide a system that does not require changes to our current banking relationship. Describe the process for managing rejected ACH transactions.
PIN Debit and PIN less Debit:

- Does your solution support PIN debit transactions for in-person payments?
- Does your solution support PIN less debit for online payments?

Administrative Management and Payment Reporting:

- Does your system limit the number of merchant accounts a campus can have? Describe the process for setting up multiple campus merchants.
- The system must provide real-time payment reporting for all payment transactions. Provide a list and samples of payment reports available to administrators.
- Are payment reports available in Excel/CSV format?
- Describe how administrators can search for specific payment transactions.
- The system must allow multiple administrative users to securely access logging and reporting data. Describe the process for setting up administrative users and access rights.

System Security and Fraud Controls:

- System must support the use of a card verification number (CVV2, CVC2, CID). System must support address verification (AVS).
- Payment system must be PCI-DSS and PA-DSS compliant. List any other relevant industry certifications.

Fees:

Does your solution charge per-transaction fees? Please list all fees, including fees for processing payments, refunds, deposits, returns, statement generation, or file transfers.

The system shall consist of the necessary fee payment software; credit card clearinghouse communications and software; electronic check software and the host data access and management infrastructure for the purpose of providing secure information and transaction access for students, staff and financial personnel of Westchester Community College.

The system will require the following features and capabilities as defined in this Request for Proposal:

The system must:

- Interface with Westchester Community College’s PeopleSoft - Campus Solutions – Student Financial rel9.0.
- Consist of a central server functions as the gateway between the fee payment software and the campus information systems
- Be able to provide ACH transactions to be used a payment method:
- Communicate with the credit card clearinghouse used by our current local financial institution. Be able to generate web-based usage reports of transactions performed by the system:
• Have proven installations in higher education for the system proposed and:

• Provide a stated commitment to ongoing support and development of company solutions, including plans for future system enhancement:

SERVICE REQUIREMENTS SPECIFICATION SUMMARY

In this section of the RFP, Westchester Community College outlines some key service requirements. Vendors are asked to verify compliance with the desired functionality and to provide all information requested below:

Description: Connectivity
The system must be able to connect to Westchester Community College host systems. The system must be able to connect to external payment processors. The system must be able to run on either Windows or UNIX based servers.

Description: Software
System software must be developed, updated, and supported by the vendor’s internal development staff.

Description: External Payment Processor Compatibility
The system must be compatible with the customer’s external credit card processor Chase Payment tech and the ACH Network.

Description: Credit Cards Accepted
The system must be capable of accepting all major credit cards, including VISA, MasterCard, and Discover and maintain compliance with credit card associations.

Description: Transactions
The system must be capable of performing standard authorizations, individual settlement (“settle now”), and batch settlement transactions. The system must be capable of performing multiple authorization transactions per connection (“piggy-backing”) with the external payment processor. The system must be capable of processing credits or refunds. The system must be capable of processing credits refunds. The system must be capable of processing large transactions volumes.

Description: Student Access
Describe the student authentication process during login.

Description: Student Account Updates
The system should have integration with PeopleSoft’s delivered quick post and group post processes. The system should be able to update the student’s account in real-time. Describe the process of updating student accounts.

Description: Administration
Describe the administrative features of the solution.

Description: Finance
Describe the financial reporting functions of the solution.
Description: Payment Process
Describe a credit card payment transaction, including information gathering card authorization, settlement and processing. Describe the ability to authorize payments in real-time.

Description: Integration with Information Systems
The system must have the ability to interface in real-time with Westchester Community College’s PeopleSoft - Campus Solutions – Student Financial rel9.0.

Description: ACH Payment
Describe the system’s ability to accept payment via ACH.

Description: Fit With Existing Campus Web Sites
Describe the system’s ability to integrate with Westchester Community College’s existing web sites or portals (PeopleSoft Campus Solutions and Enterprise Web Portal; Papercut Web Portal).

Description: Optional Applications
Describe optional web applications (if available) that may be integrated with your application.

Description: Security
The system must be physically discrete and offer security measures such as encryption and client and host identification and verification.

Description: Financial Reporting
The system must grant secured access to finance personnel for reporting information and financial transaction data.

IV. TERM:

The term of the agreement will be for a five (5) year period commencing on or about May 1, 2015 and terminating on or about April 30, 2020.

V. UNDERSTANDINGS:

Please take notice, by submission of a proposal in response to this request for proposals, proposing entity agrees to and understands;

- that any proposal, attachments, additional information, etc. submitted pursuant to this Request for Proposals 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 Request for Proposals:

- To reject any or all proposals;
- To issue additional solicitations for proposals;
- To issue amendments to this RFP;
- To waive any irregularities in proposals received after notification to proposers affected;
- To select any proposal as the basis for negotiations of a contract, and to negotiate with one or more of the proposers for amendments or other modifications to their 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.

While this is a Request For Proposals 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.

Evaluation 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.

VI. PROPOSAL REQUIREMENTS

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 Westchester Community College. Additionally, no agreement will be awarded to any proposer that has failed to satisfactorily perform pursuant to any prior agreement with the County.

VII. PROPOSAL RESPONSE CONTENT AND FORM:

Response Format:

Part A: A brief understanding of the project objectives and scope of work.
Part B: A listing of recent and relevant experience in similar projects that includes the firm’s function during those projects (prime or sub consultant, project cost, the firm’s share of total projects costs, etc.). Three references from the above list including a contact’s phone number and address at the agency where the work was performed.

Part C: Any exception to this RFP or any of its Schedules.

Part D: Pricing (in a format similar to Schedule A)

Part E: Schedules D, E, F, G and H.

Part F: Proposer Certification

VII. CONTRACT

After selection of the successful proposer, a form written contract (in a form substantially similar to the attached Schedule B) 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.

IX. INDEMNIFICATION AND INSURANCE:

The proposer accepts and agrees that language is substantially the following form will be included in the contract between the proposer and the County:

In addition to, and not in limitation of the insurance requirements contained herein the Consultant agrees:

(a) that except for the amount, if any, of damages contributed to, caused by or resulting from the negligence of the COUNTY including the COLLEGE, the proposer shall indemnify and hold harmless the COUNTY including the COLLEGE, their employees, agents and officers from and against any and all liability, damages, claims, demands, costs, judgments, fees, attorney’s fees or loss arising directly or indirectly out of the negligent acts, errors and omissions of selected proposer or third parties under the direction or control of the proposer; and

(b) to provide defense for and defend, at its sole cost and 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.

Upon execution of any contract between the proposer and the County, the proposer will be required to provide proof of the insurance coverage described in SCHEDULE “D”.

Insurance coverage in amount and form shall not be deemed acceptable until approved by the County of Westchester, Department of Risk Management. The Director of Risk Management may alter insurance requirements at his discretion.

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 to any fee, commission, compensation, gift, gratuity or consideration of any kind, directly or indirectly, to any County employee, officer or official.

XI. **CONFLICT OF INTEREST:**

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

XII. **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 it 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 proposal 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 POLICY:**

Pursuant to Local Law No. 27-1997, it is the goal of the County to encourage, promote and increase participation of business enterprises which are owned and controlled by persons of color or women in contracts and projects funded by the County, and to monitor such participation. In furtherance of this goal, proposers are asked to complete the questionnaire attached hereto as SCHEDULE “E”.

XIV. **MACBRIDE PRINCIPLES:**

Pursuant to Act No. 56-1999, no County procuring officer may award or recommend for award any contract not subject to competitive bidding to a proposer that does not execute a certification substantially in the form attached hereto as SCHEDULE “F”. Therefore, the County asks proposers to complete the questionnaire attached hereto as SCHEDULE “F”.

XV. **RELATIONSHIPS TO COUNTY**

Proposers are required to complete the questionnaire entitled “Required Disclosure of Relationships to County” attached hereto as SCHEDULE “G.” In the event that any information provided in the completed questionnaire changes, Proposer agrees to provide a revised “Required Disclosure of Relationships to County” form to the County within ten (10) business days of such event.

XVI. **QUALIFIED TRANSPORTATION FRINGE PROGRAM**

Executive Order No. 7-2005 requires that contractors, concessionaires and vendors doing business with the County enroll in a Qualified Transportation Fringe Program as defined in §132(f)(1) of the IRS Tax Code for all contracts for goods or services of $100,000 or more in any twelve month period during the contract term if such contractor, concessionaire or vendor employs more than 25 individuals who utilize public transportation and/or pay for commuter parking at least 1 day per week regardless of whether those employees are engaged in work pursuant to the contract.

Proposers shall submit the signed statement which is attached hereto as page 1 of SCHEDULE "H". Notwithstanding the above, a Proposer may submit to the Commissioner a Waiver Application in the form attached hereto as page 2 of SCHEDULE "H".

XVIII. **CRIMINAL BACKGROUND DISCLOSURE**

PLEASE TAKE NOTICE that pursuant to Executive Order No. 1-2008, the County shall have the right to bar any contractor, consultant, licensee or lessee 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, sublessees or sublicensees or 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 from providing work or services to the County or from being on County property if any of the above mentioned persons has either one of the following: (a) A conviction 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); (b) A pending criminal proceeding for a crime(s) as defined
above; or (c) A refusal to answer such questions; where the following criteria apply: (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, Social Security Numbers and other personal/secure data); facilities (secure facilities and/or communication equipment); and/or vulnerable populations (for example, children, seniors and the infirm).

Bidders/Proposers that are awarded a contract shall be required to submit a Certification Form and any additional applicable criminal disclosure forms as attached hereto as SCHEDULE “I,” along with the executed contract. Notwithstanding the above, a Bidder/Proposer may qualify for an exemption from Executive Order 1-2008 if: (i) the County has already conducted a background check and issued a security clearance that is in full force and effect for those persons; or (ii) if 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 the agreement that is sought by this RFP and the same is in full force and effect.
SCHEDULE “A”

PRICING

Describe the pricing structure for the solution. What are all of the direct and indirect costs and fees associated with the solution?

- Per transaction
- Cost of software/ licensing fees
- Cost of all hardware
- Cost of vendor installation services
- Any one time charges at installation
SAMPLE AGREEMENT

SCHEDULE “B”

THIS AGREEMENT, made the _____ day of _______________, 200_

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 (hereinafter referred to as the "County",)

and

_______________________., having an office at _____________________ (hereinafter referred to as the "Consultant").

W I T N E S S E T H:

WHEREAS, the County desires to obtain professional services in connection with __________________________________________________________________________; and

WHEREAS, the Consultant desires to provide such services for the compensation and on the terms herein provided.

NOW, THEREFORE, in consideration of the terms and conditions herein contained, the parties agree as follows:

FIRST: The Consultant shall furnish professional services as provided and more fully described in its proposal dated _______________________, which is attached hereto and made a part hereof as Schedule "A".

SECOND: For the services rendered pursuant to Paragraph "FIRST", the Consultant shall be paid a fee not to exceed _______________________, payable at the rates specified in Schedule “A”.

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

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

Any and all requests for payment, including any request for partial payment made in proportion to the work completed, shall be submitted by the Consultant on properly executed payment vouchers of the County and paid only after approval by the Commissioner. In no event shall final payment be made to the Consultant prior to completion of all professional services, the submission of reports and the approval of same by the Commissioner.

All payment vouchers must be accompanied by a numbered invoice and must contain the invoice number where indicated. All invoices submitted during each calendar year shall utilize consecutive numbering and be non-repeating.

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

Prior to the making of any payments hereunder, the County may, at its option, audit such books and records of the Consultant as are reasonably pertinent to this Agreement to substantiate the basis for payment. The County will not withhold payment pursuant to this paragraph for more than thirty (30) days after payment would otherwise be due pursuant to the provisions of this paragraph “SECOND”, but the County shall not be restricted from withholding payment for cause found in the course of such audit or because of failure of the Consultant to cooperate with such audit. The County shall, in addition, have the right to audit such books and records subsequent to payment, if such audit is commenced within one year following termination of this Agreement.
THIRD: All services rendered and work performed by the Consultant shall be under the direction and subject to the complete approval of the Commissioner.

The work to be performed pursuant to the terms of this Agreement shall commence promptly on __________, 200_ and shall be completed no later than __________, 200_ unless terminated sooner or extended by the Commissioner in writing.

The Consultant shall properly maintain a detailed daily log relative to the services rendered for which compensation is to be paid by the County pursuant to the terms of this Agreement, which shall include, but not be limited to, the following:

1. Date.
2. Names and titles of employees rendering service.
4. Required time expended.

This log shall be submitted on a monthly basis. All work shall be performed on County premises unless otherwise agreed to by the County in advance.

FOURTH: The Consultant shall issue progress reports to the County as the Commissioner may direct and shall immediately inform the Commissioner in writing of any cause for delay in the performance of its obligations under this Agreement.

FIFTH: (a) The County, upon thirty (30) days notice to the Consultant, may terminate this Agreement in whole or in part when the County deems it to be in its best interest. In such event, the Consultant shall be compensated and the County shall be liable only for payment for services already rendered under this Agreement prior to the effective date of termination at the rates specified in Schedule “A”.

In the event of a dispute as to the value of the services rendered by the Consultant prior to the date of termination, it is understood and agreed that the Commissioner shall determine the value of such services rendered by the Consultant. Such reasonable and good faith determination shall be accepted by the Consultant as final.

(b) In the event the Commissioner determines that there has been a material breach by the Consultant of any of the terms of the Agreement and such breach remains uncured for forty-eight (48) hours after service on the Consultant 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 services provided for in this Agreement, or contract for their completion, and any additional expense or cost of such completion shall be charged to and paid by the Consultant. Notice shall be effective on the date of receipt. Without limiting the foregoing, upon written notice to the Consultant, repeated breaches by Consultant of any particular duty or obligation under this Agreement shall be deemed a material breach of this Agreement justifying termination for cause hereunder without requirement for further opportunity to cure. Notice shall be effective on the date of receipt.
SIXTH: All deliverables created under this Agreement by the Consultant are to be considered “works made for hire”. If any of the deliverables do not qualify as “works made for hire”, the Consultant hereby assigns to the County all right, title and interest (including ownership of copyright) in such deliverables and such assignment allows the County to obtain in its’ name copyrights, registrations and similar protections which may be available. The Consultant agrees to assist the County, if required, in perfecting these rights. The Consultant shall provide the County with at least one copy of each deliverable.

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

All records compiled by the Consultant in completing the work described in this Agreement, including but not limited to written reports, studies, drawings, blueprints, negatives of photographs, computer printouts, graphs, charts, plans, specifications and all other similar recorded data, shall become and remain the property of the County. The Consultant may retain copies of such records for its own use.

SEVENTH: Any purported delegation of duties or assignment of rights under this Agreement without the prior express written consent of the County is void. The Consultant shall not subcontract any part of the work without the written consent of the County. All subcontracts shall provide that subcontractors are subject to all terms and conditions set forth in the contract documents. All work performed by a sub-contractor shall be deemed work performed by the Consultant.

EIGHTH: (a) The Consultant 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 as Schedule "B".

The Consultant 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 Consultant 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 Consultant) 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.

NINTH: The Consultant shall comply, at its own expense, with the provisions of all applicable state and municipal requirements and with all state and federal laws applicable to the Consultant as an employer of labor or otherwise. The Consultant shall further comply with all 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.

**TENTH:** The Consultant expressly agrees 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.

**ELEVENTH:** In addition to, and not in limitation of the insurance requirements contained in Schedule "C" entitled "Standard Insurance Provisions", attached hereto and made a part hereof, the Consultant agrees:

(a) the Consultant 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, attorneys' fees or loss arising directly or indirectly out of, and to the extent attributable to, the negligent acts or omissions or the willful misconduct hereunder by the Consultant or third parties under the direction or control of the Consultant; 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 which arise out of the negligent acts or omissions or the willful misconduct of the Consultant or third parties under the direction or control of the Consultant, and to bear all other costs and expenses related thereto.

**TWELFTH:** 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 sent by hand or overnight courier, or sent by facsimile (with acknowledgment received and a copy of the notice sent by overnight courier), to the respective addresses 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.

To the County:

______________
______________
______________

with a copy to:

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

_____________
_____________
_____________

THIRTEENTH: 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 Local Law No. 27-1997, the Consultant agrees to complete the questionnaire attached hereto as Schedule “D”.

FOURTEENTH: 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.

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

SIXTEENTH: 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.

SEVENTEENTH: In the event of any conflict between the terms of this Agreement and those of its attachments, the terms of the Agreement shall control.

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

THE COUNTY OF WESTCHESTER

By _________________________________

Commissioner

By _________________________________

(Name and Title)
Approved as to form and manner of execution:

______________________________
Sr. Assistant County Attorney
The County of Westchester
CERTIFICATE OF AUTHORITY

I, _________________________________________________________,
(Officer other than officer signing contract)
certify that I am the ____________________________________________________ of
the _________________________________________________________________
(the "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 Corporation was, at the time of execution
______________________________________________________________
>Title of such person)
of the Consultant and that said agreement was duly signed for and on behalf of said Consultant
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 WESTCHESTER)

On the ______ day of September in the year 2010 before me, the undersigned, a Notary
Public in and for said State, personally appeared __________________, personally known to me
or proved to me on the basis of satisfactory evidence to be the individual whose name
subscribed to the within instrument and acknowledged to me that he/she executed the same in
his/her capacity, and that by his/her signature on the instrument, the individual, or the person
upon behalf of which the individual acted, executed the instrument; and, acknowledged if
operating under any trade name, that the certificate required by the New York State General
Business Law Section 130 has been filed as required therein.

______________________________
Signature and Office of individual
Taking acknowledgement
CONSULTANT ACKNOWLEDGMENT

STATE OF NEW YORK )

COUNTY OF WESTCHESTER)

On the ______ day of September in the year 2000 before me, the undersigned, a Notary Public in and for said State, personally appeared ____________, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her capacity, and that by his/her signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument; and, acknowledged if operating under any trade name, that the certificate required by the New York State General Business Law Section 130 has been filed as required therein.

___________________________
Signature and Office of individual taking acknowledgement
SCHEDULE "C"

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 or the College, 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 Office of the County Attorney.

It is understood and agreed that the County of Westchester and the College reserve 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 and the College reserve 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.

_______________________
Proper Name

BY:________________________________
Name

___________________________________
Title
SCHEDULE “D”

STANDARD INSURANCE PROVISIONS
(Consultant)

1. Prior to commencing work, the Consultant 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 Consultant 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 Consultant 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 Consultant 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 Consultant to take out, maintain, or the taking out or maintenance of any required insurance, shall not relieve the Consultant from any liability under the Agreement, nor shall the insurance requirements be construed to conflict with or otherwise limit the contractual obligations of the Consultant concerning indemnification. All property losses shall be made payable to and adjusted with the County.

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

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

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

Where an applicant claims to not be required to carry either a Workers' Compensation Policy or Disability Benefits Policy, or both, the employer must complete NYS form CE-200, available to download at: www.wcb.state.ny.us (click on Employers/Businesses, then Business Permits/Licenses/Contracts to see instruction manual).

If the employer is self-insured for Worker's Compensation, he/she should present a certificate from the New York State Worker's Compensation Board evidencing that fact (Either

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

3. All policies of the Consultant 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 Consultant.
QUESTIONNAIRE REGARDING BUSINESS ENTERPRISES
OWNED AND CONTROLLED BY PERSONS OF COLOR OR WOMEN

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 Local Law No. 27-1997 we request that you answer the questions listed below.

The term persons of color 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 American; or (d) 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.

An enterprise owned and controlled by persons of color or women means a business enterprise including a sole proprietorship, limited liability partnership, partnership, limited liability corporation or corporation that is (a) at least 51% owned by one or more persons of color or women; (b) an enterprise in which such ownership by persons of color or women is real, substantial and continuing; (c) 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) an enterprise authorized to do business in this state which is independently owned and operated.

In addition, a business enterprise owned and controlled by persons of color or women shall be deemed to include any business enterprise certified as an MBE or WBE pursuant to Article 15-a of the New York State Executive Law and implementing regulations, 9 NYCRR subtitle N Part 540 et seq., or 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.

1. Are you a business enterprise which is owned and controlled by persons of color or women in accordance with the standards listed above?
   _____ No
   _____ Yes (as a business owned and controlled by persons of color)
   _____ Yes (as a business owned and controlled by women)

2. If you are a business owned and controlled by persons of color, please specify the minority classification which apply: __________________________________________

3. Are you certified with the State of New York as a minority business enterprise ("MBE") or a women business enterprise ("WBE")?
   _____ No
   _____ Yes (as a MBE)
   _____ Yes (as a WBE)

4. If you are certified with the State of New York as an MBE, please specify the minority classifications which apply: __________________________________________
5. Are you certified with the Federal Government as a small disadvantaged business concern?
   _____ No  _____ Yes

Name of Agency/Business Enterprise: _____________________________________________

Address:  _________________________________________________________________

Name/Title of Person completing MBE/WBE Questionnaire: ______________

Signature:  ________________________________________________________________
SCHEDULE "F"

CERTIFICATION REGARDING BUSINESS DEALINGS WITH NORTHERN IRELAND

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

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

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

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

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

AGREED:

NAME OF CONTRACTOR
___________________________________________________________

BY: (Authorized Representative)
___________________________________________________________

TITLE: ____________________________________________

DATE: _____________________
SCHEDULE “G”

REQUIRED DISCLOSURE OF RELATIONSHIPS TO COUNTY
(Prior to execution of a contract by the County, a potential County contractor must complete, sign and return this form to the County)

Contract Name and/or ID No.:  
(To be filled in by County)

Name of Contractor:  
(To be filled in by Contractor)

A.) Related Employees:
Are any of the employees that you will use to carry out this contract with Westchester County also an officer or employee of the County, or the spouse, or the child or dependent of such County officer or employee?

Yes ______ No ______

If yes, please provide details: ___________________________________________________
________________________________________________________________________
________________________________________________________________________

B.) Related Owners:
If you are the owner of the Contractor, are you or your spouse, an officer or employee of the County?

Yes ______ No ______

If yes, please provide details: ___________________________________________________
________________________________________________________________________
________________________________________________________________________
________________________________________________________________________

To answer the following question, the following definition of the word “interest” shall be used:

Interest means 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/her 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

a corporation of which more than five (5) percent of the outstanding capital stock is owned by any of the aforesaid parties.

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

Yes _____  No _____

If yes, please provide details:

________________________________________________________________________
________________________________________________________________________
________________________________________________________________________

Authorized Company Official shall sign below and type or print information below the signature line:

Name:

Title:

Date:
SCHEDULE "H"

STATEMENT OF ENROLLMENT IN A
QUALIFIED TRANSPORTATION FRINGE PROGRAM

1. I am the ______________________ of ____________________________________.
   (title) (Bidder's/Proposer's full legal name)

2. This statement is not applicable because (check all that apply, skip number 3 and sign below):

   □ The total value of the contract is less than $100,000 in any twelve month period during the contract term.
   Bidder/Proposer employs less than 25 individuals who utilize public transportation and/or pay for commuter parking at least 1 day per week.

   (If question 2 does not apply proceed with question 3 and sign below).

3. This Statement is applicable and is submitted in order to comply with the requirements of Executive Order No. 7-2005 of the County of Westchester which requires prospective contractors, concessionaires and vendors to submit a signed statement at the time of procurement of the contract that they are enrolled in or have initiated the process to enroll in a Qualified Transportation Fringe Program as defined in §132(f)(1) of the IRS Tax Code.

As of the date hereof the above indicated Bidder/Proposer:

   □ is enrolled in a Qualified Transportation Fringe Program as set forth in §132(f) of the Internal Revenue Service Tax Code, or

   □ has initiated the process of enrolling in a Qualified Transportation Fringe Program as set forth in §132(f) of the Internal Revenue Service Tax Code and will notify the appropriate County personnel in writing upon the commencement of their participation in such a program.

_________________________  ___________________________  signature
date

page 1
This Application for a Waiver from the requirements of Executive Order No. 7-2005 is being submitted based upon one of the following:

☐ an inability to comply with Executive Order No. 7-2005, or

☐ hardship would result from such compliance.

Provide detailed explanation below:

_______________________________________________________________________
_______________________________________________________________________
__________________________________

signature of authorized company official

Approved: ____________________
Disapproved: _________________
Date: ________________

Commissioner or Department Head
SCHEDULE “I”

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, Sublessees, or Sublicensees who are providing services to the County, and

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

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

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

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

---

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

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

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

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

Exemptions

Executive Order 1-2008 exempts from the aforementioned disclosure requirements Persons Subject to Disclosure:

a.) for whom the County has already conducted a background check and issued a security clearance that is in full force and effect; and
b.) for whom another state or federal agency having appropriate jurisdiction has conducted a security and/or background clearance or has implemented other protocols or criteria for this purpose that apply to the subject matter of a County contract that is in full force and effect.

If you are claiming an exemption for one or more Persons Subject to Disclosure, you must notify the Procuring Officer. 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.

---

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

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

_________________________________________________________________________

PLEASE CONTINUE TO THE

Criminal Background Disclosure Form and Certification

BEGINNING ON THE NEXT PAGE
CRIMINAL BACKGROUND DISCLOSURE
FORM AND CERTIFICATION

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

________________________________________
Name: _____________________________
Title: _____________________________
Date: _____________________________

Notary Public                     Date