



Robert P. Astorino
County Executive

Kevin J. Plunkett
Deputy County Executive

May 14, 2012

Sent by Electronic Mail

James E. Johnson, Esq.
Debevoise & Plimpton LLP
919 Third Avenue
New York, N. Y. 10019

**Re: United States *ex rel* Anti-Discrimination Center of Metro New York,
Inc., v. Westchester County, New York (No. 06 Civ. 2860 (DLC))**

Dear Jim:

Pursuant to the Westchester County Affirmative Fair Housing Marketing Plan ("AFHMP"), the County is required to conduct an RFP or RFQ process to select an experienced housing counseling agency to serve as Marketing Consultant to assist in marketing the AFFH units.

Accordingly, as required by the AFHMP, we submit herewith for review by the Debevoise team and HUD a draft "Invitation to Submit Proposals for the Provision of Marketing Consulting Services." It will also be sent to local government officials and members of the development community for comment.

We would hope to have final comments by the week of May 21. We would like to be in a position to select the Marketing Consultant by the end of June, in order that the selected Marketing Consultant has adequate time to prepare both templates and marketing materials to support the specific marketing plans that must be formulated for each development.

Office of the County Executive

Michaelian Office Building
White Plains, New York 10601

Telephone: (914) 995-2909 Fax: (914) 813-4028 E-mail: kplunkett@westchestergov.com

We look forward to receiving your comments, and moving forward with the process outlined in the AFHMP.

Very truly yours,

A handwritten signature in black ink, appearing to read "Kevin Plunkett", written over the typed name.

Kevin J. Plunkett
Deputy County Executive

Attachments

Cc: Hon. Robert P. Astorino, County Executive
Robert Meehan, Esq., County Attorney
Mary Mahon, Esq., Special Assistant to the County Executive
Hon. Kenneth Jenkins, Chairman, Westchester County Board of Legislators
Erich Grosz, Esq., Debevoise & Plimpton LLP
Noelle Duarte Grohmann, Esq., Debevoise & Plimpton LLP
Jan P. Mensz, Esq., Debevoise & Plimpton LLP
Mirza Negron Morales, Deputy Regional Administrator, HUD
Glenda L. Fussa, Esq., Deputy Regional Counsel, HUD
Valerie M. Daniele, Esq., Attorney-Advisor, HUD

Attachment 1Estimated Number and Type of Developments
Included in RFP

Development Size	Estimated Number of Develop- ments	Estimated Number of Rental Units	Estimated Number of Owner Units	Development & Submission of Plan (by Year)			Initial Marketing Period (by Year)		
				Number of Developments			Number of Developments		
				2012	2013	2014	2012	2013	2014
1-4 Family									
• Owner w/Accessory ¹	8	1-8	8	3	3	2		3	3
• Condo	1		3	1				1	
• Small Rental	1	4		1				1	
• SRO	1	2			1				1
5-29 Unit									
• Ownership	8		115	4	2	2			4
30-50 Unit									
• Rental	7	200		1	3	3			1
50 Units or More ²									
• Rental	5	360		3	1	1			3
Totals	31	574	126	13	10	8		5	12

¹ Projected number of owner occupied properties which may accessory apartments.² Rental Developments ranging from 50 units to 120 units

Attachment 2**Scope of Services: Marketing Consultant**

The below scope of work worksheet is based upon the **Westchester County Affirmative Fair Housing Marketing Plan** ("County AFHMP") and the **Housing Development Affirmative Fair Housing Marketing Plan Requirements** (the "Plan Requirements"). For complete listing of responsibilities, both documents are located on the County's website at <http://homes.westchestergov.com/housingsettlement> in Appendix G-1(i) and G-1(ii).

The scope of work worksheet includes, but is not limited to, the activities necessary to develop and implement affirmative fair housing marketing plans (the "Plan(s)") specific to individual housing developments

Scope of Work

Work Item	<u>Item Cost</u>
<u>A. Preparation of the Plan(s)</u>	
1. Undertake steps to coordinate and centralize marketing for all affordable AFFH units and other units covered by the Plan Requirements.	
2. Develop a "template" for the Plans by development size for County approval. <ul style="list-style-type: none"> • 1 – 4 unit development • 5 – 29 unit development • 30 – 49 unit development • 50 or more unit development 	\$_____ Plan \$_____ Plan \$_____ Plan \$_____ Plan
3. The templates must be provided to the County in MS Word or in such form as may be requested by the County.	
4. The templates must include, but not be limited to: <ul style="list-style-type: none"> • The process to define the local market area ("LMA") which shall encompass a population of between 5,000 to 50,000, depending upon population density; or comprise a 1-2 mile radius surrounding a housing development site; list the census tracts within the LMA, and identify the racial/ethnic characteristics of the LMA population using relevant 2010 U.S. Census data obtained from http://www.census.gov or http://www.westchestergov.com/planning/research/default.htm. • The form of notice to the County, and others, of intent to begin marketing to be used at appropriate point in time for each development. • Provide for affirmative marketing to the income groups as expressed in 	

Scope of Services: Marketing Consultant

terms of the County's Area Median Income ("AMI"), at or below 80% AMI for homeownership developments and at or below 50% and 60% AMI for rental developments.

- Templates for Advertisements ("Ads"), Press Releases and Public Service Announcements ("PSA") to be used for each type of development including homeownership and rental developments, or grouped developments if multiple developments or properties are available about the same time. All advertising for all units will be consistent with the Fair Housing Advertising Regulations at 24 CFR 109 and Fair Housing Act Regulations at 24 CFR 100.75. State expected number of each template to be produced.
- Contact list and model PSA to be run on each municipal cable station in the LMA and in the entire marketing and outreach area (9 County area including Westchester, Putnam, Rockland and Fairfax Counties, and all five boroughs in New York City) for each type of development undergoing marketing.
- Templates for Ads, Press Release or PSA for placement on web-based media sites, and state expected number of each template to be produced
- Templates of marketing brochures, fliers or other material and of application forms in both English and Spanish. All must be produced in electronic PDF format so that they may be posted on websites and provided electronically to the County and others. State expected number of each template to be produced
- Provision for development of marketing materials in Spanish language, and alternative resources to address other language needs, such as opening an account with a "Language Line" or alternative provider that provides 24/7 translators which can be accessed as needed by marketing staff to assist in serving all other limited English proficient ("LEP") persons.
- Provide that all print materials produced will include the Equal Housing Opportunity ("EHO") logo and, where applicable, the International Accessibility logo.
- A plan to coordinate advertising for developments and properties so as to reduce overall costs which also takes into consideration the media outlets and data analysis regarding the readership/audiences of media outlets within the marketing and outreach area, and advertise in a manner that most effectively reaches the least likely to apply ("LLA") population. NOTE: Ad frequency and placement will be part of each development budget, and is not included as cost item in this

Scope of Services: Marketing Consultant

scope of services.

- For developments of 1 – 4 units, the template must provide whether there will be use of commercial media, and if there will be no use of any commercial media, the template plan should indicate the reasons for not using such media.
- Activities to seek opportunities for radio and television coverage (via interviews, press releases, and news coverage) including those serving LLA populations, as frequently as possible beginning on the date of initial marketing period; and that any press releases prepared should also be sent to all television and radio outlets.
- Provide steps to be undertaken by the marketing consultant to request community contacts and other outlets to distribute information through their social networks and use of Facebook and Twitter Pages; and also evaluation of use of social media to allow for updating over time, as new forms of social media emerge and gain mainstream membership.
- Steps to be undertaken to conduct outreach to all persons who have signed up on Westchester County's Centralized Intake System. The County will provide a contact list electronically upon request for those who have signed up for rental housing or those who have signed up for homeownership.
- A description of how the marketing consultant will:
 - Conduct or participate in at least two information workshops in locations with concentrations of LLA populations within the Marketing and Outreach Area which will be reasonably accessible to public transportation
 - Offer to provide in-person presentations to employees and union members of local businesses.
- The process to consult with municipal leadership and community contacts to conduct outreach to local civic organizations, neighborhood associations, faith-based organizations, and other groups to describe the housing, the value of diversity, and to encourage community members to welcome applicants and new residents of the housing, and encourage "open house" sessions welcoming the new residents.
- Ensure that all marketing materials to be provided to the applicants are also provided to the County for review prior to use with applicants; and that all marketing materials be provided to the County in electronic format.
- The steps and criteria for monitoring and evaluation of the outcome of marketing, including media, community contacts and other outreach efforts.

Scope of Services: Marketing Consultant

<ul style="list-style-type: none"> • The steps and criteria for collection and retention of data relating to race and ethnicity, household composition, and source of referrals from applications, inquiries or attendance at informational meetings. • Steps to assure marketing for any subsequent sale or leases of housing units in accordance with the County requirements, including marketing of the property. • All other items identified in the Plan Requirements. For complete listing of responsibilities are located on the County's website at http://homes.westchestergov.com/housingsettlement in Appendix G-1(ii). 	
<u>B. Implementation of the Plan(s)</u>	
<p>1. Work with Developers to draft a Plan for each development:</p> <p>The marketing consultant will have the primary responsibility to produce the Plan; and it must specify the roles and responsibilities of the developer and others – such as marketing agent and/or property manager – involved in marketing the development, accepting and reviewing applications, and selection of eligible applicants</p> <p>Submit each development specific Plan to the County for review and approval:</p> <ul style="list-style-type: none"> • 1 – 4 unit development • 5 – 29 unit development • 30 – 49 unit development • 50 or more unit development 	<p>\$_____/Plan</p> <p>\$_____/Plan</p> <p>\$_____/Plan</p> <p>\$_____/Plan</p>
<p>2. Implementation actions to be taken by the marketing consultant for each development must include, but not be limited to:</p> <ul style="list-style-type: none"> • Timely submission of all required documents to the County • Issue a Press Release announcing that the housing units are available to the entire marketing and outreach area (using the template(s) provided). • Issue Press Releases and PSAs to appropriate outlets as identified in the Plan, including those serving the LLA population for each development or group of developments or properties • Coordination of advertisements for all developments so as to reduce overall costs. NOTE: Ad frequency and placement will be part of each development budget, and is not included as cost item in this 	

Scope of Services: Marketing Consultant

scope of services.

- Coordinate requests and placement of PSAs on each municipal cable station in the entire marketing and outreach area for developments of five (5) units or larger.
- Seek opportunities for media coverage, including Web-based media coverage including those that serve LLA populations, through interviews and available news coverage for the housing developments.
- Produce print and electronic brochures, fliers or other marketing material and application forms for each development in both English and Spanish. NOTE: Actual production of these marketing and application materials is specific to each development will be part of that development's budget, and is not included as cost item in this scope of services.
- Electronic Marketing brochures, fliers or other material and application forms in both English and Spanish must be produced in electronic PDF format so that they may be posted on websites and provided electronically to the County and others.
- Provision for alternative resources to address other language needs, such as opening an account with a "Language Line" or alternative provider that provides 24/7 translators which can be accessed as needed by marketing staff to assist in serving all other LEP persons.
- Request an electronic download of the contact information of all who have signed up on the County's Central Intake list two-weeks prior to initiation of the marketing period; and notify all on that list of the availability of the housing units and direct them to sources for additional information. NOTE: The specific outreach activities will be part of each development budget, and is not included as cost item in this scope of services.
- Document contact and follow-up with community contacts engaged in the outreach through such sources as call logs and email correspondence.
- Conduct or participate in at least two information workshops in locations with concentrations of LLA populations within the Marketing and Outreach Area, which are reasonably accessible to public transportation.
- Conduct outreach to local civic organizations, neighborhood associations, faith-based organizations and other groups in consultation with municipal leaders and community contacts to

Scope of Services: Marketing Consultant

<p>encourage community members to welcome applicants and new residents of the housing; and to describe the housing and the value of diversity.</p> <ul style="list-style-type: none"> • Encourage community groups to hold open house sessions for prospective residents. • Collect data on a monthly basis (including from the developer, the developer's marketing agent, or staff, as appropriate) that will be used to assess the effectiveness of the marketing efforts. The data analysis will be evaluated as described in the approved Plan for each development, and will be in accordance with HUD's Handbook 8025.1, Chapter 2. • Adjust or increase outreach activities and advertising as advised by the County based on the monthly report showing effectiveness of marketing efforts. • Provide for required training of marketing consultant's staff, as appropriate including, without limitation, as required by Federal, New York State and Local Fair Housing Laws, prior to the initiation of the marketing period for any housing development, and document that such training has been provided to all participants in the marketing of the development, including the Developer, Marketing Agents or other staff, including Property Management staff, as appropriate. • Any other items identified in the Plan Requirements. For complete listing of responsibilities are located on the County's website at http://homes.westchestergov.com/housingsettlement in Appendix G-1(ii). 	
<p>3. Upon completion of the initial marketing and occupancy of any owner occupied properties, the marketing consultant will be authorized, and must undertake re-marketing and income eligibility of the subsequent residents, in accordance with the County's requirements of the below types of properties. Such work includes, but is not limited to:</p> <ul style="list-style-type: none"> • Identification and selection of a new homebuyer of all owner-occupied units, where the initial or subsequent owner is selling or transferring their property; • Identification and selection of a new homebuyer of all owner-occupied 1 – 4 family properties; and • Identification and selection of new tenants in all owner-occupied 1 – 4 family properties, where the initial or subsequent owner has a vacancy and is offering rental units for lease. 	

Scope of Services: Marketing Consultant

<p>The charge for providing this service to the property owners will not exceed the maximum identified by type of property, including any escalation fee beyond 2012:</p> <ul style="list-style-type: none"> • Resale of a individual homeownership unit • Resale of a 2 – 4 family home • Identification of a tenants for one (1) rental unit in a owner occupied 2 – 4 family home • Annual Escalation Fee after 2012 (percent increase/year) 	<p>\$_____/Unit \$_____/ 2-4 Unit Property</p> <p>\$_____/ Rental Unit _____% per Year</p>
<u>C. Monitoring of Plan(s)</u>	
<p>1. Prepare and submit reports, in such form as may be requested by the County including:</p> <ul style="list-style-type: none"> • A monthly report to the County summarizing marketing activities for that month (include) documentation of compliance with County requirements and federal, state and local fair housing laws • Quarterly reports to the County summarizing the data from the monthly reports for that period • A report for each development upon completion of the initial marketing for the development 	<p>\$_____/ Year</p> <p>\$_____/ Quarter</p> <p>\$_____/ Development</p>
<p>2. The reports must include, but are not limited to:</p> <ul style="list-style-type: none"> • Number of inquiries and applications for each development • Disposition of the applications, including the number accepted for processing; the number rejected, with reason for rejections; or other disposition status and action including selection for occupancy. • Data on race and ethnicity, household composition and source of referral from applications or inquiries; referrals from community groups; and information provided by attendees at informational meetings for each development • Data on race and ethnicity, household composition of those households selected for the housing, and have occupied their unit. 	

Scope of Services: Marketing Consultant

- Such information should be provided to the County electronically in an excel file, in a format and content as approved by the County.
- Any other items, as identified in the Plan located on the County's website at <http://homes.westchestergov.com/housingsettlement> in Appendix G-1(ii).

The below listed work scope items are all items that the County must conduct as part of the **Westchester County Affirmative Fair Housing Marketing Plan** ("County AFHMP"), but may be provided under an agreement with the marketing consultant, at the County's discretion.

<u>D. Optional Work Items (County AFHMP)</u>	<u>Item Cost</u>
1. Conduct Housing Alive bus tours of affordable housing developments (estimated 5 tours, 1 in each of 5 regions)	\$_____/Tour
2. Update Housing Alive video (view the video at: _____)	\$_____/Update Video
3. Draft PSA & Press Releases for County (estimated ____ PSA or Press Release)	\$_____/PSA or Press Release
4. Work with community informational resources including libraries, churches community agencies, municipalities and non-profit agencies, including those which deal with the disabled community, seniors and minority groups who are LLA to help disseminate information to the public	\$_____/Annually
5. If requested, ensure that all County marketing materials include Spanish language materials, and access a language line to serve other LEP populations	\$_____/
6. Provide marketing material to faith based and community organizations the serve newly arrived immigrants	\$_____/Annually
7. Provide marketing material to adult-education training centers or ESL cases, as requested	\$_____/Annually
8. Encourage voluntary affirmative marketing agreements between local real estate industry trade associations and HUD-certified housing counseling agencies, including provisions for reduced fees and advice to potential customers about available AFFH units	\$_____/Annually

Attachment 3

OTHER MARKETING ACTIVITIES TO BE CONDUCTED BY DEVELOPER OR MARKETING CONSULTANT

In addition to the work items that must be provided for the required services included in the above referenced Plans, there are work items provided in the ***Housing Development Affirmative Fair Housing Marketing Plan Requirements*** which must be provided by either the marketing consultant or the developer. Responsibility for completion of those items must be in the specific housing development Plan which will describe each activity and the agency or individual involved in completion of the activity, such as the marketing consultant, the developer, the developer's marketing agent or property manager. Any costs related to completing such items are will be part of that development's budget, and is not included as cost item in this scope of services.

Such activities include, but are not limited to:

- Register rental housing developments, or any properties with rental units, on the free website: <http://www.nyhousingsearch.gov>.
- Create a Housing Development specific website for housing developments of 50 or more units
- Undertake steps to encourage community-based organizations, advocacy groups and libraries to include links on their websites to the County's Centralized Intake System (Homeseeker at <http://www.westchestergov.com/homeseeker>) and other specific development web pages.
- Ensure that a HUD Fair Housing Poster is posted at ay office or location where information is being provided to interested persons
- Contact and follow-up with community contacts and others in the entire marketing and outreach area
- Outreach efforts to real estate trade organizations to inform them of availability of the housing, and seek to have the units for homeownership listed on MLS, if this will be helpful in marketing to LLA population
- Provide for homebuyer education and counseling for homeownership developments and units
- Ensure applications are made available, in both English and Spanish, at the offices of those involved in marketing the units
- Provide applications in electronic format, or links to applications on a website, to the County for posting on the Homeseeker website.
- Actions to monitor and evaluate the effectiveness of the marketing efforts to LLA populations

- Collection and retention of data relating to race and ethnicity, household composition and source of referral from applications, inquiries or informational sessions.
- Request information from contact organizations included in the outreach activities that will aid in assessing the results of the outreach, and developing a plan to achieve a higher representation of LLA populations in the applicant pool.
- Develop other tools to assist in evaluation of a low response by LLA populations, including distribution of a survey to LLA populations or organizations which serve such population.
- Provide or arrange for training and instructions to all staff involved in marketing, handling applications, sales or property management, on federal, state and local fair housing laws and non-discrimination in housing; and provide for continued discussion, review and education of these topics on an ongoing basis.



Robert P. Astorino, County Executive

Edward Burroughs, AICP, Commissioner

**INVITATION TO SUBMIT PROPOSALS
FOR THE PROVISION OF
MARKETING CONSULTING SERVICES
FOR
THE WESTCHESTER COUNTY DEPARTMENT OF PLANNING
148 MARTINE AVENUE
WHITE PLAINS, NEW YORK 10601**

PROPOSAL DUE DATE: NO LATER THAN **4:00 PM** DATE

Interested parties may obtain the complete Request for Proposals ("RFP"), including application, from the Westchester County website for RFPs at www.westchestergov.com/rfp.

Department of Planning Contact:

Norma V. Drummond, Deputy Commissioner
Westchester County Department of Planning
148 Martine Avenue, Room 414
White Plains, NY 10601
Phone: 914-995-2427
Email: nvv1@westchestergov.com

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

An original and three (3) completed copies of the proposal MUST be received no later than DATE at **4:00 PM** at the following address:

**Westchester County Department of Planning
148 Martine Avenue, Room 414
White Plains, NY 10601**

REQUEST FOR PROPOSALS

WESTCHESTER COUNTY DEPARTMENT OF PLANNING

I. INTRODUCTION

Westchester County (the “County”) Department of Planning (“WCDP”) is soliciting proposals from agencies, firms or qualified individuals (hereinafter known as the “proposer” and/or “marketing consultant”) experienced with affirmative fair housing marketing of affordable housing properties and related housing counseling. The proposer to be selected should have a record of successful outreach and placement of applicants who might be considered least likely to know about and apply for such housing as defined by the United States Department of Housing and Urban Development (“HUD”) in its Handbook: Implementing Affirmative Fair Housing Marketing Requirements 8025.1 Rev2.

The services are required for the period DATE through DATE.

An original and three (3) completed copies of the proposal MUST be received no later than DATE at **4:00 PM** at the following address:

**Westchester County Department of Planning
148 Martine Avenue, Room 414
White Plains, NY 10601**

II. BACKGROUND:

The County is in the process of implementing the requirements of that certain Stipulation and Order of Settlement and Dismissal, filed as of August 10, 2009, entered into in connection with the settlement of the lawsuit titled, *U.S. ex rel. Anti-Discrimination Center of Metro New York v. Westchester County* (“Settlement Agreement”). The Settlement Agreement requires the County to ensure the development of at least seven-hundred and fifty (750) fair and affordable housing units (the “Affordable AFFH Units”) which will affirmatively further fair housing (“AFFH”), as set forth in 42 U.S.C. §5304(b)(2). Of this number, an estimated 150 are already being marketed under an approved marketing plan. The remaining Affordable AFFH Units will be in developments of various sizes, ranging from 1-4 family units to developments of 50 units or larger.

The purpose of this RFP is to ensure the following:

- 1.) that the remaining Affordable AFFH Units to be developed, estimated at approximately 600, must be marketed in accordance with the Settlement Agreement and specifically in accordance with the requirements contained in the Settlement Agreement

Monitor approved *Housing Development Affirmative Fair Housing Marketing Plan Requirements* (the “Plan Requirements”), which can be found on that County’s website, <http://homes.westchestergov.com/housingsettlement>, as Appendix G-1(ii); and

2.) that other developments and units funded by the County and not eligible under the Settlement Agreement (the “Fair and Affordable Units”) must also be marketed in accordance with the requirements contained in the Plan Requirements .

The successful proposer will assist the County in conducting affirmative fair housing marketing of the developments containing Affordable AFFH Units and other developments containing Fair and Affordable Units in coordination with the County, as well as the developers and individual owners of such housing, including Affordable AFFH Units (hereinafter collectively known as “Developer(s)”).

III. SCOPE OF WORK:

The proposer will develop an implementation plan designed to meet the obligations contained in the Plan Requirements. In addition, the County may also request assistance in the development and implementation of the scope of work contained within the *Westchester County Affirmative Fair Housing Marketing Plan* (the “County AFHMP”) which can be found on the County’s website <http://homes.westchestergov.com/housingsettlement> as Appendix G-1(i).

Attachment 1 to this RFP outlines the number of developments, units and timeframe for the work expected to be performed under this RFP.

The proposer must also coordinate marketing efforts with the County with regard to development of marketing materials for housing developments containing both Affordable AFFH Units and Fair and Affordable Units. In addition, the proposer must coordinate and assist Developer(s) in drafting the affirmative fair housing marketing plan (the “Plan(s)”) for such developments to be marketed in accordance with the Plan Requirements.

Attachment 2 to this RFP contains a proposed Scope of Services, which include a Scope of Work Worksheet based upon the Plan Requirements and the County AFHMP. . However, proposers must conduct their own review of each of these documents to assure their understanding of the role and responsibility of the successful proposer.

The proposer should also be aware that the Plan Requirements allows the Developer of the affordable housing to conduct certain portions of the Plan for the development following its preparation and approval by the County, or may directly contract with the proposer as the Developer’s marketing consultant to do so. A sample listing of those tasks is included in **Attachment 3** to this RFP.

The proposer should be aware that the all deliverables created hereunder, including but not limited to reports, templates, press releases, computer printouts, graphs, charts, plans, specifications and all other similar recorded data, shall become and remain the property of the County and will be considered works made for hire.

IV. PROPOSAL EVALUATION:

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

Proposal Evaluation Criteria -

- Experience with HUD housing programs;
- Experience in providing Housing Counseling Services as defined by HUD in its guidebook, *Housing Counseling Program Handbook* 7610.1 and is certified by HUD to provide housing counseling services;
- Record of successful outreach and placement of applicants who might be considered least likely to apply (“LLA”) in accordance with HUD’s guidebook: *Implementing Affirmative Fair Housing Marketing Requirements* 8025.1;
- At least 5 years experience by firm and/or assigned staff in providing the services requested by this RFP;
- Experience providing services requested by this RFP to create and implement marketing of affordable housing units and developments of various sizes and tenure;
- Credentials of the professionals conducting the work;
- Expertise of individuals who proposer has identified as the professionals who will provide the services to the County;
- Evidence that the proposer understands and has the ability to comply with the requirements of the Plan Requirements and the County AFHMP in furtherance of the Settlement Agreement;
- Expertise of individuals who proposer has identified as the principals who will provide services to the County and Developer(s); noting that to the extent the proposer may be providing both services to market units under either or both the approved development specific Plans and the County AFHMP, including to those LLA, and providing services to qualify tenant applicants for said units, the proposer has sufficient personnel and procedures in place to avoid even the appearance of impropriety;

- Price proposal for services to be provided in connection with the following:
 - Marketing consultant responsibilities included in the Plan Requirements. The cost for the foregoing services should be based upon the estimated number of developments by size of development to be included in the marketing plan;
 - Marketing consultant assistance requested for certain responsibilities included in the County AFHMP; and
 - The cost for the foregoing services should be based upon the estimated number of developments by development size to be included in the marketing plan, as follows:
 - one to four (1-4) family units;
 - 5 – 29 unit developments;
 - 30 – 49 unit developments; and
 - 50 + unit developments.

Proposers are requested to respond to the above as set forth in **SCHEDULE “A”**, which must include a completed Scope of Work Worksheet included in Attachment 2 to this RFP.

V. TERM:

The term of any ensuing agreement will be for three (3) years with one additional three (3) year option exercisable in the County’s sole discretion.

VI. LEGAL UNDERSTANDINGS

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

- That any proposal, attachments, additional information, etc. submitted pursuant to this RFP constitute merely a suggestion to negotiate with the County of Westchester and is not a bid under Section 103 of the New York State General Municipal Law;
- Submission of a proposal, attachments, and additional information shall not entitle the proposing entity to enter into a service agreement with the County of Westchester for the required services;
- By submitting a proposal, the proposing entity agrees and understands that the County of Westchester is not obligated to respond to the proposal, nor is it legally bound in any manner whatsoever by submission of same;

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

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

- To reject proposals that do not conform in all material respects to the RFP or meet the minimum evaluation criteria;
- To reject all proposals;
- To issue additional solicitations for proposals and/or amendments to this RFP;
- To waive any irregularities in proposals received after notification to all proposers;
- To negotiate for amendments or other modifications to proposals;
- To conduct investigations with respect to the qualifications of each proposer;
- To exercise its discretion and apply its judgment with respect to any aspect of this RFP, the evaluation of proposals, and the negotiations and award of any contract;
- To enter into an agreement for only portions (or not to enter into an agreement for any) of the services contemplated by the proposals with one or more of the proposers;
- To select the proposal that best satisfies the interests of the County and not necessarily on the basis of price or any other single factor in the evaluation criteria;
- While this is an RFP and not a bid, the County reserves the right to apply the case law under General Municipal Law § 103 regarding bidder responsibility in determining whether a proposer is a responsible vendor for the purpose of this RFP process;
- The County assumes no responsibility or liability of any kind for costs incurred in the preparation or submission of any proposal;
- The County is not responsible for any internal or external delivery delays which may cause any proposal to arrive beyond the stated deadline. To be considered, proposals MUST arrive at the place specified herein and be time stamped prior to the deadline.

VII. PROPOSAL REQUIREMENTS

PACKAGES MUST BE MARKED:

“PROPOSAL FOR WESTCHESTER COUNTY MARKETING CONSULTANT SERVICES”

AND ADDRESSED TO:

**Westchester County Department of Planning
148 Martine Avenue, Room 414
White Plains, NY 10601**

- 1) The proposal must include the following information:
 - a. Scope of work to be performed. Provide a detailed narrative of how the scope would be performed to assure that the work can be completed within the three (3) year period.
 - b. Identification of Key Personnel. Identify and provide credentials/background information on the key personnel who would provide services to the County. The proposal must include the professional qualifications and experience of these individuals
 - c. Information to be supplied to the proposer. List any information that is not specifically identified in the required scope, but that will be necessary for the County to provide to you in order to complete the scope of work.
 - d. Timetable. Provide a timetable for completion of the assignment (if the County has set forth specific deadlines above, then provide a timeline for meeting those deadlines, including all interim milestones necessary to complete the project).
 - e. Proposed Fee. The fee proposed for these services shall be indicated as part of the proposal, using the Scope of Work worksheet included in Attachment 2 to this RFP. Failure to include the fee proposal amount with the proposal shall disqualify the proposal. If the fee is a not-to-exceed amount based on your estimate of hourly rates and costs necessary to complete the scope of work, you must provide a detailed budget outlining all such hourly rates and cost estimates.
 - f. Experience: The Proposal should list the proposer's:
 - Experience providing the services requested by this RFP
 - Experience providing services requested by this RFP for buildings of similar size as those described in this proposal.
 - Membership in appropriate professional organizations.
 - Licenses or Certificates for Professionals conducting the work

- Expertise of individuals who Proposer has identified as the individuals who will provide the services to the County and to Developer(s) .
- 2) Proposals must be submitted on the proposer's letterhead or standard proposal form and signed by an authorized representative of the proposer. Telephone or facsimile proposals will not be accepted.
- 3) The proposal cover letter signed by a person authorized by the proposer to make a binding proposal must set forth that that "this proposal constitutes a valid, binding and continuing offer at the prices set forth in the proposal for a period of sixty (60) days from the deadline for acceptance of proposals as set forth herein."
- 4) An original and three (3) completed copies of the proposal **MUST** be received no later than 4:00 PM, _____, _____, 2012 at the following address:

**Westchester County Department of Planning
148 Martine Avenue, Room 414
White Plains, NY 10601**

- 5) Proposal must be typed or printed in black ink. All corrections made by the proposer prior to the opening must be initialed and dated by the proposer. No changes will be allowed after proposals are opened.
- 6) Proposals delivered prior to the deadline shall be secured unopened so long as the package is properly marked as set forth above. Late proposals will not be accepted.
- 7) Requests for clarification of this RFP **MUST** be written and submitted to:

**Norma V. Drummond
Deputy Commissioner
Westchester County Department of Planning
148 Martine Ave. Room 414
White Plains NY 10601**

or via email at nvv1@westchestergov.com

no later than 4:00 PM on _____ DATE _____ . Formal written responses will be distributed by the County on or before _____ DATE _____ .

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

- 8) Proposals **MUST** be signed. Unsigned proposals will be rejected.

- 9) Proposers may be required to give an oral presentation to the County to clarify or elaborate on the written proposal.
- 10) No proposal will be accepted from nor any agreement awarded to any proposer that is in arrears upon any debt or in default of any obligation owed to the County.
- 11) Additionally, no agreement will be awarded to any proposer that has failed to satisfactorily perform pursuant to any prior agreement with the County.

VIII. CONTRACT

After selection of the successful proposer, and following contract negotiations, a formal written contract will be prepared by the County and will not be binding until signed by both parties and approved by the Westchester County Board of Acquisition & Contract and the Office of the County Attorney.

NO RIGHTS SHALL ACCRUE TO ANY PROPOSER BY THE FACT THAT A PROPOSAL HAS BEEN SELECTED BY THE COUNTY FOR SUBMISSION TO THE BOARD OF ACQUISITION & CONTRACT FOR CONTRACT APPROVAL. SAID BOARD HAS THE RIGHT TO REJECT ANY RECOMMENDATION AND THE APPROVAL OF SAID BOARD IS NECESSARY BEFORE A VALID AND BINDING CONTRACT MAY BE EXECUTED BY THE COUNTY.

The successful proposer will be asked to sign a contract which will include provisions substantially in the form attached hereto as **SCHEDULE "F"**, but may also include provisions required by HUD or the Housing Monitor as provided under the Settlement Agreement.

IX. 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.

X. 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.

XI. PROPOSALS SUBJECT TO FREEDOM OF INFORMATION LAW

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

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

“NOTICE

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

The proposer requests that such information be used only for the evaluation of the proposal, but understands that any disclosure will be limited to the extent that the County considers proper under the law. If the County enters into an agreement with this proposer, the County shall have the right to use or disclose such information as provided in the agreement, unless otherwise obligated by law.”

and

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

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

XII. MBE/WBE

Pursuant to Local Law No. 27-1997, it is the goal of the County to use its best efforts to encourage, promote and increase the participation of business enterprises which are owned and controlled by persons of color or women in contracts and projects funded by the County. Therefore, the County asks Proposers to complete the questionnaire attached hereto as **SCHEDULE "B"**

XIII. REFERENCES:

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

- a. Agency, Firm or Individual Name
- b. Address
- c. Year Agency or Firm was founded
- d. Total Number of Employees in Agency or Firm
- e. References: Indicate three (3) current client references for similar services, include
 - 1) Client Name
 - 2) Client Address
 - 3) Contact Name, Title and Telephone Number
 - 4) Description of Services

XIV. DISCLOSURE FORM:

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

XV. CRIMINAL DISCLOSURE FORM

The Proposer agrees to complete the Criminal Background Disclosure as required by Executive Order No. 1-2008 and attached hereto as **SCHEDULE "E" through "E-5"** which is hereby incorporated by reference.

XVI. PROPOSER CERTIFICATION

The Proposer must provide a signed and notarized certification as included in the following pages.

PROPOSER CERTIFICATION

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

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

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

Proposer Name

By: _____
Name and Title

ACKNOWLEDGMENT

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

On the _____ day of _____ in the year 20__ before me, the undersigned, personally appeared _____, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

Date: _____

Notary Public

SOLE CORPORATE OFFICER ACKNOWLEDGMENT

STATE OF NEW YORK)
 ss.:
COUNTY OF)

On this _____ day of _____, 20__, before me, the undersigned,
personally appeared _____, personally known to me or

(Name of Sole Officer)

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 executed the same in
his/her capacity as President and sole officer and director of _____,
the corporation described in and which executed the

(Name of Corporation)

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

CERTIFICATE OF AUTHORITY
(CORPORATION)

I, _____,
(Officer other than officer signing contract)

certify that I am the _____ of
(Title)
the _____
(Name of Corporation)

a corporation duly organized and in good standing under the _____ (Law
under which organized, e.g., the New York Business Corporation Law) named in the foregoing
agreement; that

(Person executing agreement)

who signed said agreement on behalf of the _____
(Name of Corporation)

was, at the time of execution _____
(Title of such person)

of the Corporation and that said agreement was duly signed for and on behalf of said Corporation
by authority of its Board of Directors, thereunto duly authorized and that such authority is in full
force and effect at the date hereof.

(Signature)

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

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

Notary Public
Date

CERTIFICATE OF AUTHORITY
(PARTNERSHIP)

I, _____,
(Partner other than Partner signing contract)

certify that I am a General Partner of _____,
(Name of Partnership)

a partnership duly organized under _____,
(Law under which partnership is organized)

and named in the foregoing Agreement; that _____,
(Partner Executing Agreement)

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

(Signature)

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

On this _____ day of _____, in the year 20__ before me, the undersigned, a Notary Public in and for said State, _____ personally appeared, personally known to me or proved to me on the basis of satisfactory evidence to be the General Partner described in and who executed the above certificate, who being by me duly sworn did depose and say that he/she resides at _____, and he/she is a general partner of said Partnership; that he/she is duly authorized to execute said certificate on behalf of said Partnership, and that he/she signed his/her name thereto pursuant to such authority.

Notary Public

SCHEDULE "A"

Agency Name: _____

Please respond to the below items in responding to the evaluation criteria, and attach the completed "Scope of Work" from Attachment 2 to this RFP. If more room is necessary to provide an adequate response, please feel free to attach additional pages.

(fill in below, corresponding to the Proposal Evaluation Criteria from Part IV)

Examples:

- ***Years of general experience?*** _____
- ***Years of experience serving government entities?*** _____
- ***Proposed fee for the services outlined shall be as follows:*** _____

SCHEDULE "B"

For Informational Purposes Only

**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 classifications 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 Firm/Business Enterprise: _____

Address: _____

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

Signature: _____

SCHEDULE "C"

REFERENCES

- a.** Firm Name
- b.** Address
- c.** Year Firm was founded
- d.** Total Number of Employees in Firm
- e.** References: Indicate three (3) current client references for similar services, include
 - 1)** Client Name
 - 2)** Client Address
 - 3)** Contact Name, Title and Telephone Number
 - 4)** Description of Services

SCHEDULE "D"

REQUIRED DISCLOSURE OF RELATIONSHIPS TO COUNTY

(Prior to execution of a contract by the County, a potential County consultant must complete, sign and return this form to the County)

Contract Name and/or ID No.:

(To be filled in by County)

Name of Consultant:

(To be filled in by Consultant)

A.) Related Employees:

1. 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:

1. If you are the owner of the Consultant, 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
 - iv. 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 Consultant or in any proposer
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 "E"

CONSULTANT
CRIMINAL BACKGROUND DISCLOSURE INSTRUCTIONS

Pursuant to Executive Order 1-2008 and subject to the applicable provisions of New York Correction Law §§ 752 and 753, the County shall have the right to bar the following "Persons Subject to Disclosure" (Persons shall mean individuals or legal entities) from providing work or services to the County or from being on County property:

(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.

If any of the above mentioned Persons Subject to Disclosure 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 Subject to Disclosure 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 Subject to Disclosure 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).

Accordingly, the Consultant is required to review these Instructions and complete Schedule "E-1" as well as any other applicable criminal disclosure forms (i.e., "Schedules E-2" through "E- 5," together with "E-1," collectively referred to as "Disclosure Forms").

However, the following Persons Subject to Disclosure are **exempt** from Executive Order 1-2008: (i) those persons for whom the County has already conducted a background check and issued a security clearance that is in full force and effect; or (ii) those persons 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 this Contract that is in full force and effect.

If a Person Subject to Disclosure is exempt from the disclosure described in Executive Order 1-2008 because of either "i" or "ii" above, then the Consultant shall notify the Procuring Officer¹ in the respective Department of its claim of exemption and it shall be the responsibility of the Procuring Officer to verify each exemption. If the Procuring Officer determines that the Consultant is exempt under sections "i" or "ii" above, the Procuring Officer shall confirm same with the Consultant and maintain a written record including all supporting details of the verification of and acknowledgement of said exemption.

If the Procuring Officer determines that the Consultant is not exempt under sections "i" or "ii" above, the Procuring Officer shall notify the Consultant in writing, and the appropriate Disclosure Forms shall be required.

¹ "Procuring Officer" shall mean the head of the department or the individual(s) 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.

It shall be the Consultant's duty to disclose and to inquire of each and every Person Subject to Disclosure, whether they have been convicted of a crime or whether they are currently subject to pending criminal charges. It shall be the duty of the Consultant to submit a completed Certification Form annexed hereto as Schedule "E-1," which certifies that the Consultant and every Person Subject to Disclosure has been asked whether they have been convicted of a crime or are currently subject to pending criminal charges.

Should the Consultant or any Person Subject to Disclosure (also referred to as "Person") affirmatively advise that they have been convicted of a crime said Person shall be identified in Schedule "E-2" and shall complete Schedule "E-3," entitled, "Criminal Background Disclosure Form For Persons Who Have Been Convicted of A Crime."

Should the Consultant or any Person Subject to Disclosure advise that they are subject to pending criminal charges, said Person shall be identified in Schedule "E-2" and shall complete the form annexed hereto as Schedule "E-4," entitled, "Criminal Background Disclosure Form For Persons Who Are Subject to Pending Criminal Charges."

Should the Consultant or any Person Subject to Disclosure refuse to answer whether they have been convicted of a crime or are currently subject to pending criminal charges, the name and title of said Person(s) shall be listed in Schedule "E-5."

It shall be the duty of the Consultant to submit to the Procuring Officer all of the attached applicable Disclosure Forms prior to the commencement of this Contract. It is the responsibility of each Consultant to assure that all of their proposed Subconsultants complete the criminal background and disclosure certification forms and submit the forms to the Procuring Officer before they will be approved to perform work on the contract.

Under no circumstances shall the existence of a language barrier serve as a basis for the waiver of or an exception to this obligation. If the Consultant needs to obtain translation services to fulfill this obligation, it shall be at the sole cost and expense of the Consultant.

The Consultant shall be required to make the same inquiry and forward updated Disclosure Forms to the Procuring Officer regarding additional Persons Subject to Disclosure in connection with this Contract during the term of this Contract. **NO NEW PERSON SUBJECT TO DISCLOSURE SHALL PERFORM WORK OR SERVICES OR ENTER ONTO COUNTY PREMISES UNTIL THE UPDATED DISCLOSURE FORMS ARE FILED WITH THE PROCURING OFFICER.**

THE CONSULTANT HAS A CONTINUING OBLIGATION TO MAINTAIN THE ACCURACY OF THE DISCLOSURE FORMS FOR THE DURATION OF THIS CONTRACT, INCLUDING ANY AMENDMENTS OR EXTENSIONS THERETO AND SHALL PROVIDE ANY UPDATES TO THE COUNTY AS NECESSARY TO COMPLY WITH THE DISCLOSURE REQUIRED BY EXECUTIVE ORDER 1-2008.

Any failure by the Consultant to comply with the disclosure requirements of Executive Order 1–2008, absent proof of exemption deemed satisfactory by the County Procuring Officer, may be considered by the County a material breach by the Consultant and shall be grounds for immediate termination of this Agreement by the County.

Contract # _____
Name of Consultant/Subconsultant _____

SCHEDULE "E-1"

**CONSULTANT AND ALL PERSONS SUBJECT TO DISCLOSURE²
CERTIFICATION FORM**

IF THIS FORM IS COMPLETED BY A SUBCONSULTANT CHECK HERE³

I, _____,
(Name of Person Signing Below)

(CHECK APPLICABLE ANSWER BELOW)

_____ a principal of the Consultant & authorized to execute this Certification Form;

_____ a representative of the Consultant & authorized to execute this Certification Form;

(CHECK APPLICABLE RESPONSES FOR SECTIONS A AND B BELOW)

A. PRINCIPAL/REPRESENTATIVE/CONSULTANT DISCLOSURE

I am a principal or a representative of the Consultant authorized to execute this Certification Form and based upon my own personal knowledge or having made all necessary efforts to obtain the facts my answers to the questions below are as follows:

1) Have you or the Consultant 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?

_____ Yes

_____ No

² Persons Subject to Disclosure are identified and defined in Schedule "E," pursuant to Executive Order 1-2008.

³ If this Certification Form is being completed by a Subconsultant, please consider all references to "Consultant" to mean "Subconsultant."

2) Are you or the Consultant 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)?

_____ Yes

_____ No

B. PERSONS SUBJECT TO DISCLOSURE

I hereby certify that all of the Persons Subject to Disclosure, as previously defined under this Contract that will or are intended to provide services, work or intended to be on County property under this Contract have been asked the following questions and their responses are as follows:

1) Have you 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?

_____ Yes

_____ No

2) Are you 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)?

_____ Yes

_____ No

If the answer is “yes,” to any of the questions in Sections “A,” or “B” above, please list the names and titles of all such Persons in Schedule “E-2.”

In addition, the Persons identified in Schedule “E-2” must complete Schedule “E-3” or “E-4.”

Schedule “E-3” must be completed by those Persons who have previously been convicted of a crime.

Schedule “E-4” is provided for those Persons who are subject to pending criminal charges.

If a Person refuses to answer any of the questions in Sections “A” or “B” above, the name and title of said Person shall be listed in Schedule “E-5.”

CONSULTANT CERTIFICATION

I hereby certify that all of the information provided herein is true and accurate and that all additional required Disclosure Forms have been completed.

It is understood and agreed that to the extent that new Persons Subject to Disclosure are proposed to be added after execution of this Certification Form, the Consultant shall not utilize such persons or permit said individual onto County property until the updated Disclosure Forms are filed with the Procuring Officer.

No Person Subject to Disclosure shall perform work or services or enter onto County premises until the Disclosure Forms are filed with the Procuring Officer.

It is further understood and agreed that the Consultant has a continuing obligation to maintain the accuracy of the Disclosure Forms 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

**** ATTENTION ****

**IF YOU HAVE ANSWERED “NO”
TO ALL OF THE QUESTIONS
CONTAINED IN SCHEDULE “E-1,”
PLEASE DISREGARD ALL OF THE
FORMS LOCATED AFTER THIS
PAGE.**



Robert P. Astorino, County Executive
Edward Burroughs, AICP, Commissioner

Contract # _____
Name of Consultant/Subconsultant _____

SCHEDULE "E-2"⁴

**NAMES AND TITLES OF PERSONS SUBJECT TO DISCLOSURE
THAT ANSWERED "YES" TO ANY QUESTION IN SCHEDULE "E-1"**

1. _____
2. _____
3. _____
4. _____
5. _____
6. _____

Note: If more names and titles must be added, please attach a separate page entitled, "Schedule E-2 Continued."

CONSULTANT CERTIFICATION

I hereby certify that all of the information provided herein is true and accurate and that all additional required Disclosure Forms have been completed.

No Person Subject to Disclosure shall perform work or services or enter onto County premises until the Disclosure Forms are filed with the Procuring Officer.

It is understood and agreed that to the extent that new Persons Subject to Disclosure are proposed to be added after execution of this Certification Form, the Consultant shall not utilize such persons or permit said individual onto County property until the updated Disclosure Forms are filed with the Procuring Officer.

It is further understood and agreed that the Consultant has a continuing obligation to maintain the accuracy of the Disclosure Forms 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 and Date:

Notary Public

⁴ If this Certification Form is being completed by a Subconsultant, please consider all references to "Consultant" to mean "Subconsultant."

Contract # _____
Name of Consultant/Subconsultant _____

SCHEDULE "E-3"

**CRIMINAL BACKGROUND DISCLOSURE FORM FOR
PERSONS WHO HAVE BEEN CONVICTED OF A CRIME**

The conviction of a crime will not automatically result in a denial of your right to work on a County contract, your right to be on County property or your license, but may, if the County determines that the prior conviction(s) create an unacceptable risk. However, if you fail to list any part of your conviction history, whether due, but not limited to any omission, intentional falsification or any failure to disclose for any reason, you may be prohibited from working or being on County property without any risk assessment. If it is later determined that you failed to disclose a criminal conviction for any reason, your right to work on a County contract, be on County property or your license may be terminated at any time.

I, _____, am _____
(Name of Person Signing Below) (Title Relevant to Contract)

- 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.

I certify that this information is correct and complete. 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 employment on this project.

No Person Subject to Disclosure shall perform work or services or enter onto County premises until the Disclosure Forms are filed with the Procuring Officer.

I understand that I have a continuing obligation to maintain the accuracy of this form 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.

By my signature below I hereby affirm that all of the facts, statements and answers contained herein and all attachments are true and correct.

Name:
Title:
Date:

Notary Public

Date

Contract # _____
Name of Consultant/Subconsultant _____

SCHEDULE "E-4"

**CRIMINAL BACKGROUND DISCLOSURE FORM FOR
PERSONS WHO ARE SUBJECT TO PENDING CRIMINAL CHARGES**

A pending criminal charge will not automatically result in a denial of your right to work on a County contract, your right to be on County property or your license, but may, if the County determines that the pending charge(s) create an unacceptable risk. However, if you fail to list any part of your conviction history, whether due, but not limited to any omission, intentional falsification or any failure to disclose for any reason, you may be prohibited from working or being on County property without any risk assessment. If it is later determined that you failed to disclose a criminal conviction for any reason, your right to work on a County contract, be on County property or your license may be terminated at any time.

I, _____, am _____
(Name of Person Signing Below) (Title Relevant to Contract)

- 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 certify that this information is correct and complete. 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 employment on this project.

No Person Subject to Disclosure shall perform work or services or enter onto County premises until the Disclosure Forms are filed with the Procuring Officer.

I understand that I have a continuing obligation to maintain the accuracy of this form 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.

By my signature below I hereby affirm that all of the facts, statements and answers contained herein and all attachments are true and correct.

Name:
Title:
Date:

Notary Public

Date

Contract # _____

Name of Consultant/Subconsultant _____

SCHEDULE "E-5"⁵

PERSONS THAT REFUSED TO ANSWER

Please list the names and titles of each Person that refused to answer any of the questions in "Schedule E-1."

1. _____
2. _____
3. _____
4. _____
5. _____
6. _____

CONSULTANT CERTIFICATION

I hereby certify that all of the information provided herein is true and accurate.

No Person Subject to Disclosure shall perform work or services or enter onto County premises until the Disclosure Forms are filed with the Procuring Officer.

It is understood and agreed that to the extent that new Persons Subject to Disclosure are proposed to be added after execution of this Certification Form, the Consultant shall not utilize such persons or permit said individual onto County property until the updated Disclosure Forms are filed with the Procuring Officer.

It is further understood and agreed that the Consultant has a continuing obligation to maintain the accuracy of the Disclosure Forms 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

⁵ If this Certification Form is being completed by a Subconsultant, please consider all references to "Consultant" to mean "Subconsultant."

SCHEDULE "F"

THIS AGREEMENT made the _____ day of _____ 2010 by and between

THE COUNTY OF WESTCHESTER, a municipal corporation of the State of New York, having an office and place of business in the Michaelian Office Building, 148 Martine Avenue, White Plains, New York 10601

(hereafter the "County")

and

_____, having an office and principal place of business at _____

(hereinafter the "Consultant")

FIRST: The Consultant shall provide (***FILL IN SERVICES TYPE***) for the Westchester County Department of (***FILL IN DEPARTMENT***), as more particularly described in the Firm's proposal, dated _____, 2010 which is attached hereto and made a part hereof as Schedule "A" (the "Work"). The Work shall be carried out by the Consultant in accordance with current industry standards and trade practices.

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

SECOND: The term of this Agreement shall commence on _____, 2010 and shall terminate on _____, 2015, unless terminated earlier pursuant to the provisions of this Agreement.

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

THIRD: For the Work to be performed pursuant to Paragraph "FIRST," the Consultant shall be paid an amount not to exceed _____ (\$ _____) DOLLARS, payable in accordance with the budget in Schedule "B", which is attached hereto and made a part hereof. 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 Work to be performed hereunder.

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

FOURTH: 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 Agreement, unless the County shall find cause to withhold payment in the course of such audit or the Consultant fails to cooperate with such audit. The County shall, in addition, have the right to audit such books and records subsequent to payment, if such audit is commenced within one year following termination of this Agreement.

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

FIFTH: 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.

SIXTH: (a) The County, upon ten (10) 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 rate specified in Schedule "A", which rate shall be prorated to the actual date of termination. Upon receipt of notice that the County is terminating this Agreement in its best interests, the Consultant shall stop work immediately and incur no further costs in furtherance of this Agreement without the express approval of the Director, and the Consultant shall direct any approved proposers to do the same.

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

(b) In the event the County determines that there has been a material breach by the 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 Work provided for in this Agreement, or contract for its completion, and any additional expense or cost of such completion shall be charged to and paid by the Consultant. Without limiting the foregoing, upon written notice to the Consultant, repeated breaches by the Consultant of duties or obligations under this Agreement shall be deemed a material breach of this Agreement justifying termination for cause hereunder without requirement for further opportunity to cure.

SEVENTH: The Consultant agrees to procure and maintain insurance naming the County as additional insured, as provided and described in Schedule "C", entitled "Standard Insurance Provisions", which is attached hereto and made a part

hereof. In addition to, and not in limitation of the insurance provisions contained in Schedule "C", the Consultant agrees:

(a) that except for the amount, if any, of damage contributed to, caused by, or resulting from the negligence of the County, 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, attorney's fees or loss arising directly or indirectly out of the performance or failure to perform 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 and to bear all other costs and expenses related thereto.

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

NINTH: The Consultant expressly agrees that neither it nor any contractor, proposer, employee, or any other person acting on its behalf shall discriminate against or intimidate any employee or other individual on the basis of race, creed, religion, color, gender, age, national origin, ethnicity, alienage or citizenship status, disability, marital status, sexual orientation, familial status, genetic predisposition or carrier status during the term of or in connection with this Agreement, as those terms may be defined in Chapter 700 of the Laws of Westchester County. The Consultant acknowledges and understands that the County maintains a zero tolerance policy prohibiting all forms of harassment or discrimination against its employees by co-workers, supervisors, vendors, contractors, or others.

TENTH: The Consultant 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 Consultant as an employer of labor. The

Consultant shall further comply, at its own expense, with all applicable rules, regulations and licensing requirements pertaining to its professional status and that of its employees, partners, associates, proposers and others employed to render the Work hereunder.

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

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

Notwithstanding the foregoing, 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 defend, indemnify and hold harmless the County for all damages, liabilities, losses and expenses arising out of any claim that a deliverable infringes upon an intellectual property right of a third party. If such a claim is made, or appears likely to be made, the 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 may be returned.

THIRTEENTH: The Consultant shall not delegate any duties or assign any of its rights under this Agreement without the prior express written consent of the County. The Consultant shall not subcontract any part of the Work without the written consent of the County, subject to any necessary legal approvals. Any purported delegation of duties, assignment of rights or subcontracting of Work under this Agreement without the prior express written consent of the County is void. All subcontracts that have received such prior written consent shall provide that subconsultants are subject to all terms and conditions set forth in this Agreement. It is recognized and understood by the Consultant that for the purposes of this Agreement, all Work performed by a County-approved subconsultant shall be deemed Work performed by the Consultant and the Consultant shall insure that such subcontracted work is subject to the material terms and conditions of this Agreement.

All subcontracts for the Work shall expressly reference the subconsultant's duty to comply with the material terms and conditions of this Agreement and shall attach a copy of the County's contract with the Consultant. The Consultant shall obtain a written acknowledgement from the owner and/or chief executive of subconsultant or his/her duly authorized representative that the subconsultant has received a copy of the County's contract, read it and is familiar with the material terms and conditions thereof. The Consultant shall include provisions in its subcontracts designed to ensure that the Consultant and/or its auditor has the right to examine all relevant books, records, documents or electronic data of the subconsultant necessary to review the subconsultant's compliance with the material terms and conditions of this Agreement. For each and every year for which this Agreement continues, the Consultant shall submit to the Director a letter signed by the owner and/or chief executive officer of the Consultant or

his/her duly authorized representative certifying that each and every approved subconsultant is in compliance with the material terms and conditions of the Agreement.

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

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

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

To the County:

with a copy to:

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

To the Consultant:

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

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

NINETEENTH: Nothing herein is intended or shall be construed to confer upon or give to any third party or its successors and assigns any rights, remedies or basis for reliance upon, under or by reason of this Agreement, except in the event that specific third party rights are expressly granted herein.

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

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

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.

TWENTY-SECOND: In an effort to avoid conflicts of interest and the appearance of impropriety in County contracts, the Consultant agrees to complete the Disclosure Form attached hereto as Schedule "E". In the event that any information provided in the completed questionnaire changes during the term of this Agreement, Consultant agrees to notify County in writing within ten (10) business days of such event.

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

TWENTY-THIRD: The Consultant agrees to complete the Criminal Background Disclosure as required by Executive Order No. 1-2008 and attached hereto as Schedule "F" through "F-5" which is hereby incorporated by reference.

TWENTY-FOURTH: **VENDOR DIRECT PAYMENT:** All payments made by the County to the Consultant will be made by electronic funds transfer ("EFT") pursuant to the County's Vendor Direct program. Successful consultants doing business with Westchester County, who are not already enrolled in the Vendor Direct Program, will be required to fill out and submit an EFT Authorization Form prior to receiving an award or purchase order. The EFT Authorization Form, Instructions and related information are annexed hereto as Schedule "G". Payments will be automatically credited to the Consultant's designated bank account at the Consultant's financial institution. Payments are anticipated to be deposited two business days after the voucher/invoice is processed for payment. Saturdays, Sundays, and legal holidays are not considered business days. Under the Vendor Direct program you will receive an e-mail notification two days prior to the day the payment will be credited to your designated account. The e-mail notification will come in the form of a remittance advice with the same information that currently appears on County check stubs and will contain the date that the funds will be credited to your account. All information received will be treated and handled as strictly confidential. The completed Authorization Form must be returned by the Consultant to the Department of Finance prior to execution of the contract. In rare cases, a hardship waiver may be granted. For a Hardship Waiver Request Form, please contact the Finance Department. Any successful Consultant that fails to return the completed authorization form(s) prior to execution of the contract may be considered non-responsive and the contract may be rejected.

TWENTY-FIFTH: 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 hereto as Schedule "H". In addition, the Consultant hereby represents that, if operating under an assumed

name, it has filed the necessary certificate pursuant to New York State General Business Law Section 130.

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

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

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

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

[NO FURTHER TEXT ON THIS PAGE]

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

THE COUNTY OF WESTCHESTER

By: _____
Name:
Title:

By: _____
Name:
Title:

Approved as to form
and manner of execution

County Attorney
County of Westchester

SCHEDULE "F-1"

CONTRACT SCHEDULE "A"
SCOPE OF SERVICES

[SCOPE OF SERVICES WILL BE INSERTED HERE]

SCHEDULE "F-2"

CONTRACT SCHEDULE "B"
BUDGET

[BUDGET WILL BE INSERTED HERE]

SCHEDULE "F-3"

CONTRACT SCHEDULE "C"
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 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) 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.

SCHEDULE "F-4"

CONTRACT SCHEDULE "D"

**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 Section 308.01 of the Laws of Westchester County, completion of this form is required.

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. 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)

If yes, official documentation of such certification must be attached hereto.

3. If you are a business owned and controlled by persons of color, please specify, the minority classifications which apply: _____

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 Firm/Business Enterprise: _____

Address: _____

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

Signature: _____

SCHEDULE "F-5"

CONTRACT SCHEDULE "E"

REQUIRED DISCLOSURE OF RELATIONSHIPS TO COUNTY

(Prior to execution of a contract by the County, a potential County consultant must complete, sign and return this form to the County)

Contract Name and/or ID No.:

(To be filled in by County)

Name of Consultant:

(To be filled in by Consultant)

A.) Related Employees:

1. 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:

1. If you are the owner of the Consultant, 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
- v. 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 Consultant or in any subconsultant 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 “F-6”

CONTRACT SCHEDULE “F”

CONSULTANT
CRIMINAL BACKGROUND DISCLOSURE INSTRUCTIONS

Pursuant to Executive Order 1-2008 and subject to the applicable provisions of New York Correction Law §§ 752 and 753, the County shall have the right to bar the following “Persons Subject to Disclosure” (Persons shall mean individuals or legal entities) from providing work or services to the County or from being on County property:

(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.

If any of the above mentioned Persons Subject to Disclosure 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 Subject to Disclosure 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 Subject to Disclosure 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).

Accordingly, the Consultant is required to review these Instructions and complete Schedule “F-1” as well as any other applicable criminal disclosure forms (i.e., “Schedules F-2” through “F- 5,” together with “F-1,” collectively referred to as “Disclosure Forms”).

However, the following Persons Subject to Disclosure are **exempt** from Executive Order 1-2008: (i) those persons for whom the County has already conducted a background check and issued a security clearance that is in full force and effect; or (ii) those persons 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 this Contract that is in full force and effect.

If a Person Subject to Disclosure is exempt from the disclosure described in Executive Order 1-2008 because of either “i” or “ii” above, then the Consultant shall notify the Procuring Officer⁶ in the respective Department of its claim of exemption and it shall be the responsibility of the Procuring Officer to verify each exemption. If the Procuring Officer determines that the Consultant is exempt under sections “i” or “ii” above, the Procuring Officer shall confirm same with the Consultant and maintain a written record including all supporting details of the verification of and acknowledgement of said exemption.

⁶ “Procuring Officer” shall mean the head of the department or the individual(s) authorized by the head(s) of the department(s) undertaking the procurement and with respect to those matters delegated to the Bureau

If the Procuring Officer determines that the Consultant is not exempt under sections “i” or “ii” above, the Procuring Officer shall notify the Consultant in writing, and the appropriate Disclosure Forms shall be required.

It shall be the Consultant’s duty to disclose and to inquire of each and every Person Subject to Disclosure, whether they have been convicted of a crime or whether they are currently subject to pending criminal charges. It shall be the duty of the Consultant to submit a completed Certification Form annexed hereto as Schedule “F-1,” which certifies that the Consultant and every Person Subject to Disclosure has been asked whether they have been convicted of a crime or are currently subject to pending criminal charges.

Should the Consultant or any Person Subject to Disclosure (also referred to as “Person”) affirmatively advise that they have been convicted of a crime said Person shall be identified in Schedule “F-2” and shall complete Schedule “F-3,” entitled, “Criminal Background Disclosure Form For Persons Who Have Been Convicted of A Crime.”

Should the Consultant or any Person Subject to Disclosure advise that they are subject to pending criminal charges, said Person shall be identified in Schedule “F-2” and shall complete the form annexed hereto as Schedule “F-4,” entitled, “Criminal Background Disclosure Form For Persons Who Are Subject to Pending Criminal Charges.”

Should the Consultant or any Person Subject to Disclosure refuse to answer whether they have been convicted of a crime or are currently subject to pending criminal charges, the name and title of said Person(s) shall be listed in Schedule “F-5.”

It shall be the duty of the Consultant to submit to the Procuring Officer all of the attached applicable Disclosure Forms prior to the commencement of this Contract. It is the responsibility of each Consultant to assure that all of their proposed Subconsultants complete the criminal background and disclosure certification forms and submit the forms to the Procuring Officer before they will be approved to perform work on the contract.

Under no circumstances shall the existence of a language barrier serve as a basis for the waiver of or an exception to this obligation. If the Consultant needs to obtain translation services to fulfill this obligation, it shall be at the sole cost and expense of the Consultant.

The Consultant shall be required to make the same inquiry and forward updated Disclosure Forms to the Procuring Officer regarding additional Persons Subject to Disclosure in connection with this Contract during the term of this Contract. **NO NEW PERSON SUBJECT TO DISCLOSURE SHALL PERFORM WORK OR SERVICES OR ENTER ONTO COUNTY PREMISES UNTIL THE UPDATED DISCLOSURE FORMS ARE FILED WITH THE PROCURING OFFICER.**

THE CONSULTANT HAS A CONTINUING OBLIGATION TO MAINTAIN THE ACCURACY OF THE DISCLOSURE FORMS FOR THE DURATION OF THIS CONTRACT, INCLUDING ANY AMENDMENTS OR EXTENSIONS THERE TO AND SHALL PROVIDE ANY UPDATES TO THE COUNTY AS NECESSARY TO COMPLY WITH THE DISCLOSURE REQUIRED BY EXECUTIVE ORDER 1-2008.

Any failure by the Consultant to comply with the disclosure requirements of Executive Order 1–2008, absent proof of exemption deemed satisfactory by the County Procuring Officer, may be considered by the County a material breach by the Consultant and shall be grounds for immediate termination of this Agreement by the County.

SCHEDULE "F-6-1"

Contract # _____
Name of Consultant/Subconsultant _____

CONTRACT SCHEDULE "F-1"

CONSULTANT AND ALL PERSONS SUBJECT TO DISCLOSURE⁷ CERTIFICATION FORM

IF THIS FORM IS COMPLETED BY A SUBCONSULTANT CHECK HERE⁸ _____

I, _____,
(Name of Person Signing Below)

(CHECK APPLICABLE ANSWER BELOW)

_____ a principal of the Consultant & authorized to execute this Certification Form;

_____ a representative of the Consultant & authorized to execute this Certification Form;

(CHECK APPLICABLE RESPONSES FOR SECTIONS A AND B BELOW)

A. PRINCIPAL/REPRESENTATIVE/CONSULTANT DISCLOSURE

I am a principal or a representative of the Consultant authorized to execute this Certification Form and based upon my own personal knowledge or having made all necessary efforts to obtain the facts my answers to the questions below are as follows:

1) Have you or the Consultant 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?

_____ Yes

_____ No

⁷ Persons Subject to Disclosure are identified and defined in Schedule "F," pursuant to Executive Order 1-2008.

⁸ If this Certification Form is being completed by a Subconsultant, please consider all references to "Consultant" to mean "Subconsultant."

2) Are you or the Consultant 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)?

_____ Yes

_____ No

B. PERSONS SUBJECT TO DISCLOSURE

I hereby certify that all of the Persons Subject to Disclosure, as previously defined under this Contract that will or are intended to provide services, work or intended to be on County property under this Contract have been asked the following questions and their responses are as follows:

1) Have you 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?

_____ Yes

_____ No

2) Are you 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)?

_____ Yes

_____ No

If the answer is “yes,” to any of the questions in Sections “A,” or “B” above, please list the names and titles of all such Persons in Schedule “F-2.”

In addition, the Persons identified in Schedule “F-2” must complete Schedule “F-3” or “F-4.”

Schedule "F-3" must be completed by those Persons who have previously been convicted of a crime.

Schedule "F-4" is provided for those Persons who are subject to pending criminal charges.

If a Person refuses to answer any of the questions in Sections "A" or "B" above, the name and title of said Person shall be listed in Schedule "F-5."

CONSULTANT CERTIFICATION

I hereby certify that all of the information provided herein is true and accurate and that all additional required Disclosure Forms have been completed.

It is understood and agreed that to the extent that new Persons Subject to Disclosure are proposed to be added after execution of this Certification Form, the Consultant shall not utilize such persons or permit said individual onto County property until the updated Disclosure Forms are filed with the Procuring Officer.

No Person Subject to Disclosure shall perform work or services or enter onto County premises until the Disclosure Forms are filed with the Procuring Officer.

It is further understood and agreed that the Consultant has a continuing obligation to maintain the accuracy of the Disclosure Forms 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

**** ATTENTION ****

**IF YOU HAVE ANSWERED “NO”
TO ALL OF THE QUESTIONS
CONTAINED IN SCHEDULE “F-1,”
PLEASE DISREGARD ALL OF THE
FORMS LOCATED AFTER THIS
PAGE.**



Robert P. Astorino, County Executive
Edward Burroughs, AICP, Commissioner

SCHEDULE "F-6-2"

Contract # _____
Name of Consultant/Subconsultant _____

CONTRACT SCHEDULE "F-2"⁹

**NAMES AND TITLES OF PERSONS SUBJECT TO DISCLOSURE
THAT ANSWERED "YES" TO ANY QUESTION IN SCHEDULE "F-1"**

1. _____
2. _____
3. _____
4. _____
5. _____
6. _____

Note: If more names and titles must be added, please attach a separate page entitled, "Schedule F-2 Continued."

CONSULTANT CERTIFICATION

I hereby certify that all of the information provided herein is true and accurate and that all additional required Disclosure Forms have been completed.

No Person Subject to Disclosure shall perform work or services or enter onto County premises until the Disclosure Forms are filed with the Procuring Officer.

It is understood and agreed that to the extent that new Persons Subject to Disclosure are proposed to be added after execution of this Certification Form, the Consultant shall not utilize such persons or permit said individual onto County property until the updated Disclosure Forms are filed with the Procuring Officer.

It is further understood and agreed that the Consultant has a continuing obligation to maintain the accuracy of the Disclosure Forms 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:

⁹ If this Certification Form is being completed by a Subconsultant, please consider all references to "Consultant" to mean "Subconsultant."

Title and Date:

Notary Public

SCHEDULE "F-6-3"

Contract # _____
Name of Consultant/Subconsultant _____

CONTRACT SCHEDULE "F-3"

**CRIMINAL BACKGROUND DISCLOSURE FORM FOR
PERSONS WHO HAVE BEEN CONVICTED OF A CRIME**

The conviction of a crime will not automatically result in a denial of your right to work on a County contract, your right to be on County property or your license, but may, if the County determines that the prior conviction(s) create an unacceptable risk. However, if you fail to list any part of your conviction history, whether due, but not limited to any omission, intentional falsification or any failure to disclose for any reason, you may be prohibited from working or being on County property without any risk assessment. If it is later determined that you failed to disclose a criminal conviction for any reason, your right to work on a County contract, be on County property or your license may be terminated at any time.

I, _____, am _____
(Name of Person Signing Below) (Title Relevant to Contract)

- 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.

I certify that this information is correct and complete. 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 employment on this project.

No Person Subject to Disclosure shall perform work or services or enter onto County premises until the Disclosure Forms are filed with the Procuring Officer.

I understand that I have a continuing obligation to maintain the accuracy of this form 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.

By my signature below I hereby affirm that all of the facts, statements and answers contained herein and all attachments are true and correct.

Name:
Title:
Date:

Notary Public

Date



Robert P. Astorino, County Executive
Edward Burroughs, AICP, Commissioner

SCHEDULE "F-6-4"

Contract # _____
Name of Consultant/Subconsultant _____

CONTRACT SCHEDULE "F-4"

**CRIMINAL BACKGROUND DISCLOSURE FORM FOR
PERSONS WHO ARE SUBJECT TO PENDING CRIMINAL CHARGES**

A pending criminal charge will not automatically result in a denial of your right to work on a County contract, your right to be on County property or your license, but may, if the County determines that the pending charge(s) create an unacceptable risk. However, if you fail to list any part of your conviction history, whether due, but not limited to any omission, intentional falsification or any failure to disclose for any reason, you may be prohibited from working or being on County property without any risk assessment. If it is later determined that you failed to disclose a criminal conviction for any reason, your right to work on a County contract, be on County property or your license may be terminated at any time.

I, _____, am _____
(Name of Person Signing Below) (Title Relevant to Contract)

- 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 certify that this information is correct and complete. 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 employment on this project.

No Person Subject to Disclosure shall perform work or services or enter onto County premises until the Disclosure Forms are filed with the Procuring Officer.

I understand that I have a continuing obligation to maintain the accuracy of this form 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.

By my signature below I hereby affirm that all of the facts, statements and answers contained herein and all attachments are true and correct.

Name:
Title:
Date:

Notary Public

Date

SCHEDULE "F-6-5"

Contract # _____
Name of Consultant/Subconsultant _____

CONTRACT SCHEDULE "F-5"¹⁰
PERSONS THAT REFUSED TO ANSWER

Please list the names and titles of each Person that refused to answer any of the questions in "Schedule F-1."

1. _____
2. _____
3. _____
4. _____
5. _____
6. _____

CONSULTANT CERTIFICATION

I hereby certify that all of the information provided herein is true and accurate.

No Person Subject to Disclosure shall perform work or services or enter onto County premises until the Disclosure Forms are filed with the Procuring Officer.

It is understood and agreed that to the extent that new Persons Subject to Disclosure are proposed to be added after execution of this Certification Form, the Consultant shall not utilize such persons or permit said individual onto County property until the updated Disclosure Forms are filed with the Procuring Officer.

It is further understood and agreed that the Consultant has a continuing obligation to maintain the accuracy of the Disclosure Forms 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

¹⁰ If this Certification Form is being completed by a Subconsultant, please consider all references to "Consultant" to mean "Subconsultant."

SCHEDULE "F-7"

CONTRACT SCHEDULE "G"

Westchester County Vendor Direct Program Frequently Asked Questions

1. WHAT ARE THE BENEFITS OF THE ELECTRONIC FUNDS TRANSFER (EFT) ASSOCIATED WITH THE VENDOR DIRECT PROGRAM?

There are several advantages to having your payments automatically deposited into your designated bank account via EFT:

Payments are secure – Paper checks can be lost in the mail or stolen, but money deposited directly into your bank account is more secure.

You save time – Money deposited into your bank account is automatic. You save the time of preparing and delivering the deposit to the bank. Additionally, the funds are immediately available to you.

2. ARE MY PAYMENTS GOING TO BE PROCESSED ON THE SAME SCHEDULE AS THEY WERE BEFORE VENDOR DIRECT?

Yes.

3. HOW QUICKLY WILL A PAYMENT BE DEPOSITED INTO MY ACCOUNT?

Payments are deposited two business days after the voucher/invoice is processed. Saturdays, Sundays, and legal holidays are not considered business days.

4. HOW WILL I KNOW WHEN THE PAYMENT IS IN MY BANK ACCOUNT AND WHAT IT IS FOR?

Under the Vendor Direct program you will receive an e-mail notification two days prior to the day the payment will be credited to your designated account. The e-mail notification will come in the form of a remittance advice with the same information that currently appears on your check stub, and will contain the date that the funds will be credited to your account.

5. WHAT IF THERE IS A DISCREPANCY IN THE AMOUNT RECEIVED?

Please contact your Westchester County representative as you would have in the past if there were a discrepancy on a check received.

6. WHAT IF I DO NOT RECEIVE THE MONEY IN MY DESIGNATED BANK ACCOUNT ON THE DATE INDICATED IN THE E-MAIL?

In the unlikely event that this occurs, please contact the Westchester County Accounts Payable Department at 914-995-4708.


7. WHAT MUST I DO IF I CHANGE MY BANK OR MY ACCOUNT NUMBER?


Whenever you change any information or close your account a new Vendor Direct Payment Authorization Form must be submitted. Please contact the Westchester County Accounts Payable Department at 914-995-4708 and we will e-mail you a new form.

8. WHEN COMPLETING THE PAYMENT AUTHORIZATION FORM, WHY MUST I HAVE IT SIGNED BY A BANK OFFICIAL IF I DON'T INCLUDE A VOIDED CHECK?

This is to ensure the authenticity of the account being set up to receive your payments.

Electronic Funds Transfer (EFT) Vendor Direct Payment Authorization Form

 New

 Change

Section I - Vendor Information

--	--	--	--	--	--	--	--

Date _____

Section II- Financial Institution Information

[illegible]

☐ Checking ☐ Savings

Date _____

--	--	--

Westchester County • Department of Finance • Treasury Division

Electronic Funds Transfer (EFT) Vendor Direct Payment Authorization Form

GENERAL INSTRUCTIONS

Please complete both sections of the Vendor Direct Payment Authorization Form and forward the completed form (along with a voided check for the account to which you want your payments credited) to: Westchester County Department of Finance, 148 Martine Ave, Room 720, White Plains, NY 10601, Attention: Vendor Direct. Please see item 14 below regarding attachment of a voided check.

Section I - VENDOR INFORMATION

1. Provide the name of the vendor as it appears on the W-9 form.
2. Enter the vendor's Taxpayer ID number or Social Security Number as it appears on the W-9 form.
3. Enter the vendor's complete primary address (not a P.O. Box).
4. Provide the name and telephone number of the vendor's contact person.
5. Enter the business e-mail address for the remittance notification. THIS IS VERY IMPORTANT. This is the e-mail address that we will use to send you notification and remittance information two days prior to the payment being credited to your bank account. We suggest that you provide a group mailbox (if applicable) for your e-mail address. You may also designate multiple e-mail addresses.
6. Please have an authorized Payee/Company official sign and date the form and include his/her title.

Section II - FINANCIAL INSTITUTION INFORMATION

7. Provide bank's name.
8. Provide the complete address of your bank.
9. Enter your bank's 9 digit routing transit number.
10. Indicate the type of account (check one box only).
11. Enter the vendor's bank account number.
12. Enter the title of the vendor's account.
13. Provide the name and telephone number of your bank contact person.
14. If you are directing your payments to a Savings Account OR you can not attach a voided check for your checking account, this line needs to be completed and signed by an authorized bank official. IF YOU DO ATTACH A VOIDED CHECK FOR A CHECKING ACCOUNT, YOU MAY LEAVE THIS LINE BLANK.

SCHEDULE "F-8"

CONTRACT SCHEDULE "H"

Index No.

STATE OF)
) ss.:
COUNTY OF)

_____, being duly
(Name)

sworn, deposes and says under penalty of perjury that the following statements are true:

1. I am the _____
(Title, Officer, Partner, Owner, etc.)

of _____ (the "Consultant")
(Name of Consultant)

which has been retained by the County of Westchester to provide consultant services in connection with _____

2. The Consultant agrees that it has no interest and will not acquire any interest direct or indirect, that would conflict in any manner or degree with the performance of services to be rendered to Westchester County.

3. The Consultant, further agrees that, in the rendering of services to the County, no person having any such interest shall be employed by it.

4. I make this Affidavit on behalf of the Consultant with its full knowledge and consent, pursuant to the requirements of Local Law No. 3-1988 of the Westchester County Board of Legislators and with the intent that the County of Westchester will rely on the statements contained herein.

Consultant

Sworn to before me this _____
day of _____, 2010

NOTARY PUBLIC

[Note to Consultants: Please file this Affidavit directly with the Office of the Westchester County Clerk, Legal Division. The filing fee is \$5.00.]

SCHEDULE "F-9"

CONTRACT SCHEDULE "I"

**CERTIFICATION REGARDING BUSINESS DEALINGS
WITH NORTHERN IRELAND**

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

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

(1) increase the representation of individuals from underrepresented religious groups in the work force, including managerial, supervisory, administrative, clerical and technical jobs;

(2) take steps to promote adequate security for the protection of employees from underrepresented religious groups both at the workplace and while traveling to and from work;

(3) ban provocative religious or political emblems from the workplace;

(4) publicly advertise all job openings and make special recruitment efforts to attract applicants from underrepresented religious groups;

(5) establish layoff, recall and termination procedures which do not in practice favor a particular religious group;

(6) abolish all job reservations, apprenticeship restrictions and differential employment criteria which discriminate on the basis of religion;

(7) develop training programs that will prepare substantial numbers of current employees from underrepresented religious groups for skilled jobs, including the expansion of existing programs and the creation of new programs to train, upgrade and improve the skills of workers from underrepresented religious groups;

(8) establish procedures to assess, identify and actively recruit employees from underrepresented religious groups with potential for further advancement; and

(9) appoint a senior management staff member to oversee affirmative action efforts and develop a timetable to ensure their full implementation.

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

D. The Consultant agrees that the warranties and representation in paragraph "A" are material conditions of this Agreement. If the County receives information that the Consultant is in violation of paragraph "A," the County shall review such information and give the Consultant opportunity to respond. If the County finds that such a violation has occurred, the County may declare the Consultant in default, and/or terminate this Agreement. In the event of any such

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

Agreed:

Name of Consultant _____

By: (Authorized Representative) _____

Title: _____ Date _____

SCHEDULE “F-9”

CONTRACT SCHEDULE “J”

Whistleblower Protections

The Consultant acknowledges and agrees to comply with the whistleblower protections under the American Recovery and Reinvestment Act of 2009 (Pub. L. 111-5) (“ARRA”) such that:

- (a) The Consultant shall post notice of employees rights and remedies for whistleblower protections provided under section 1553 of ARRA;
- (b) The Consultant shall include the substance of this clause in all subcontracts.

Access to Records and Project Sites

The Consultant acknowledges and agrees to comply with section 902 of ARRA, pursuant to which the U.S. Comptroller General and his representatives are authorized:

- (1) to examine any records of the Consultant or any of its subconsultants, or any State or local agency administering this contract, that directly pertain to, and involve transactions relating to, this contract or any subcontract; and
- (2) to interview any officer or employee of the Consultant or any of its subconsultants, or of any State or local government agency administering this contract, regarding such transactions.

The Consultant acknowledges and agrees to comply with section 1515 of ARRA, pursuant to which any representative of an appropriate inspector general appointed under section 3 or 8G of the Inspector General Act of 1978 (5 U.S.C. App.) is authorized:

- (1) to examine any records of the Consultant, any of its subconsultants, or any State or local agency administering this contract, that pertain to, and involve transactions relating to, this contract or any subcontract; and
- (2) to interview any officer or employee of the Consultant or any of its subconsultants regarding such transactions.

[NO FURTHER TEXT ON THIS PAGE]

State Rider A – Job Postings

American Recovery & Reinvestment Act of 2009, Vendor Obligations

1. Since this agreement contains ARRA stimulus funds, the vendor will post any jobs that it creates or seeks to fill as a result of the stimulus funding. Vendors will post through the New York State Department of Labor (<http://labor.state.ny.us>), notwithstanding any other posting they might make. Any advertisements posted by the vendor for positions pursuant to this contract must indicate that the position is funded with stimulus funds. The Department may waive the requirements of this section at its discretion.

2. The vendor will maintain detailed records of its expenditure of ARRA Stimulus Funds in connection with this agreement and submit reports as requested by the State of New York. The State of New York as the recipient of funds under the ARRA is subject to (various monthly and quarterly reporting requirements and oversight by federal agency inspectors. Additional reports may be required under this agreement.

3. The vendor is also responsible for holding all sub grantees to the above reporting requirements.

4. Agreement Funding

- a. State General Fund Dollars _____
- b. Federal Fund Dollars _____
- c. ARRA Stimulus Dollars _____
- d. Other Fund Dollars _____

Agreement Total _____