

SUFFOLK COUNTY



Purchasing Office

Kathleen C. Koppenhoefer
Government Liaison Officer

Jean DiNunzio
Chief Purchasing Agent



BID/RFP/RFEI
Legal
Appendices
& Forms

The central graphic features a stylized, light gray silhouette of a pair of scales of justice. The scales are positioned behind the text, with the pans hanging from a central vertical beam. The text is bold and black, centered within a white rectangular area that is part of a stack of overlapping document pages.

Suffolk County Purchasing Office
360 Yaphank Avenue
Yaphank, NY 11980
(631) 852-5196

Legal Appendices/Required Forms Packet

INDEX

I. Proposal/Bid Certification Form (SCPD-7) – (1 page - requires signature)

Note: The Proposal//Bid Certification Form references the following two laws, which are included with the Bid/RFP/RFEI:

- Suffolk County Local law No. 32-1980, Chapter 386 of the Suffolk County Code, entitled “Political Parties, Gifts to Officials Of” (2 pages)
- Suffolk County Local Law No. 25-1990, article II, Sections 143-7, both inclusive of the Suffolk County Code entitled, “Disqualification of Non-responsible Bidders” (3 pages)

II. Contractor’s/Vendor’s Public Disclosure Statement Form (SCEX 22) – (3 pages, 1 form - requires signature & notarization).

Note: The Contractor’s/Vendor’s Public Disclosure Statement references the following law, which is included in the RFP/RFEI/Bid:

- Suffolk County Administrative Code Section A5-7 (2 pages)

III. Local Business Certification Form SCDP-8A, rev. 4/7/09 – (1 page, requires signature)

Note: The Local Business Certification Form references the following laws:

- Suffolk County Local Law No. 4-1993
- Suffolk County Local Law No. 5-1993
- Suffolk County Local Law No 20-2004
- Suffolk County Local Law No. 41-2008

IV. Lawful Hiring Law Forms (LH1 and LH2) – (2 forms - require signature and notarization).

- Suffolk County Local Law No 52-2006 entitled “A Local Law to require companies doing business with the County to certify compliance with Federal Law with respect to lawful hiring of employees.” Rules and Regulations regarding this Law may be accessed online at the Suffolk County Department of Labor’s website at:
<http://www.co.suffolk.ny.us/labor/lh.pdf>

index continued.....

- The Department Of Labor’s “Lawful Hiring of Employees Unit” administers this program. The Unit reviews and grants final approval of the forms vendors submit to certify compliance.

The Unit can be reached at: (631) 853-3808

V. Suffolk County Living Wage Forms (LW) - (4 forms - require signature; Contractor’s unique circumstances determines which forms must be submitted) -
See the instructions for the Living Wage Forms in Section V within.

- Suffolk County Local Law No. 12-2001, Part IV, Regulatory Local laws, Chapter 347, Living Wage. (**14 pages**)
- The Department of Labor’s “Living Wage Unit” administers this program. The Unit reviews and then grants final approval of the forms submitted by vendors to certify compliance.

The Unit can be reached at: (631) 853-3808

Note: Also Included in the RFP is an exhibit entitled, “Suffolk County Living Wage Requirements Exhibit As Last Revised by the Suffolk County Department of Labor on 5/12/04”. This exhibit will become part of the contract executed with the County (**2 pages**).

VI. Child Sexual Abuse Reporting Policy - (3 pages, no form)

- Chapter 577, Article IV, of the Suffolk County Code entitled “Child Sexual Abuse Reporting Policy”

VII. Inconsistent Provisions, Indemnification & Additional Information - (1 page, no form)

VIII. Insurance Agreement (2 pages, no form)

I

**SUFFOLK COUNTY
PROPOSAL/BID
CERTIFICATION FORM**

Proposal/Bid Certification

The undersigned Contractor affirms as true, under the penalties of perjury, as follows:

The prices in this Proposal or Bid have been arrived at independently without collusion, consultation, communication or agreement, for the purpose of restricting competition as to any matter relating to such prices, with any other contractor or with any competitor;

Unless otherwise required by law, the prices which have been quoted in this Proposal or Bid have not been disclosed knowingly by the Contractor, and will not be disclosed knowingly by the Contractor, directly or indirectly, to any other contractor or to any competitor, prior to the opening;

No attempt has been made or will be made by the Contractor to induce any other person, partnership or corporation to submit a Proposal or Bid for the purpose of restricting competition;

Neither the undersigned nor, if the Contractor is a partnership, joint venture or corporation, any partner, principal, officer, director, employee or stockholder holding in excess of a five percent (5%) interest therein, is an officer or employee of Suffolk County or is paid with County funds, or is required to disclose an interest pursuant to the Suffolk County Code of Ethics;

Neither the undersigned, nor, if the Contractor is a partnership, joint venture or corporation, any partner, principal, officer, director, employee, stockholder, or any other person authorized by the undersigned or any of the foregoing persons, has offered or given any gratuity to any official, employee or agent of Suffolk County or New York State or of any political party, with the purpose or intent of securing an agreement or securing favorable treatment with respect to the awarding or amending of an agreement or the making of any determinations with respect to the performance of an agreement;

The undersigned, a principal or corporate officer of the business listed below, has read and is familiar with the provisions of Local Law No. 32-1980 of Suffolk County; and

The undersigned, as such principal or corporate officer, further certifies to the best of his/her information and belief that there have been no convictions for the crimes described in Local Law No. 25-1990 of Suffolk County of persons referred to in the Local Law or that the required documentation is annexed hereto.

Dated: _____

Signed: _____

Printed Name of Signor: _____

Title of Signor: _____

Name of Firm: _____

Ref. Suffolk County Local Laws
32-1980 and 25-1990,
Suffolk County Article 30.

Chapter 386, POLITICAL PARTIES, GIFTS TO OFFICIALS OF

[HISTORY: Adopted by the Suffolk County Legislature 12-9-1980 by L.L. No. 32-1980. Amendments noted where applicable.]

§ 386-1. Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

AGREEMENT -- Any written or oral contract or any implied contract, including but not limited to a contract for the sale of goods or services, a construction contract or a lease or contract relating to real or personal property. The term "agreement" shall also include any transaction whereby a person agrees to sell goods or services, or both, to the county pursuant to a successful bid.

GRATUITY -- Any money, benefit, entertainment, gift or any other consideration whatsoever.

OFFICIAL OF A POLITICAL PARTY -- A party officer as defined by § 1-104, Subdivision 5, of the Election Law.

PERSON -- Any individual, partnership, firm, corporation or other legal entity, as well as their employees, agents or representatives.

POLITICAL PARTY -- A party as defined by § 1-104, Subdivision 3, of the Election Law.

§ 386-2. Prohibited acts.

A. It shall be a crime for any person to offer or give any gratuity to an official of any political party with the purpose or intent of securing or obtaining an agreement with the County of Suffolk or securing favorable treatment with respect to the awarding or amending of such agreement or the making of any determination with respect to the performance of an agreement.

B. It shall be a crime for an official of a political party to solicit, receive or accept a gratuity in connection with securing or obtaining an agreement with the County of Suffolk or securing favorable treatment with respect to the awarding or amending of such agreement or the making of a determination with respect to the performance of such agreement.

§ 386-3. Clause required in all contracts.

In all agreements with the County of Suffolk made after the effective date of this chapter, there shall be a written representation by the person entering the agreement with the county that he has not offered or given any gratuity to any official, employee or agent of Suffolk County or New York State or of any political party, with the purpose or intent of securing an agreement or securing favorable treatment with respect to the awarding or amending of an agreement or the making of any determinations with respect to the performance of an agreement, and that such person has read and is familiar with the provisions of this chapter.

§ 386-4. Penalties for offenses

A. Criminal. A violation of § 386-2 of this chapter shall be a Class A misdemeanor and shall be punishable by a sentence of not more than one year in prison or a fine of not more than \$1,000, or by both such fine and imprisonment.

B. Civil remedies. A violation of § 386-2 or 386-3 of this chapter shall give the county the option, among other civil remedies, of either terminating the agreement or deducting the value of the gratuity from any amount due or to become due from the county thereunder.

§ 386-5. Excepted contributions.

This chapter shall not apply to contributions to political parties, committees or candidates as defined by § 14-100, Subdivision 9, of the Election Law. Such contributions shall be excluded from and shall not be in violation of this chapter.

ARTICLE II, Disqualification of Nonresponsible Bidders [Adopted 6-26-1990 by L.L. No. 25-1990]

§ 143-4. Legislative intent.

This Legislature finds that state law requires that most county contracts be awarded to the lowest responsible bidder. This Legislature also finds that the awards of municipal contracts have, on occasion, been made to individuals or entities having a record of a criminal conviction or otherwise not possessed of sufficient moral worth, skill and judgment, in addition to financial resources, as would guarantee good faith performance of the contract awarded. This Legislature also finds that it would be in the best interests of the county to exclude such individuals or entities from participation in the bidding process for a specified period of time. Therefore, it is the intent of the Legislature, in order to ensure that a successful bidder is also responsible, to require all bidders on county projects and contracts to disclose prior records of criminal convictions to require disqualification of any bidder, for a specified period of time, who has been determined to be nonresponsible as defined below.

§ 143-5. Definitions.

For the purpose of this article, the following terms shall have the meanings indicated:

AWARDING AGENCY -- The agency authorized by law to award the bid.

CONVICTION -- A finding of guilty after a trial or a plea of guilty to an offense covered under the provisions of § 143-5. [Added 8-24-2004 by L.L. No. 28-2004]

NOTE: Local Law No. 28-2004 also provided as follows:

Section 1. Legislative intent.

This Legislature hereby finds and determines that it is essential to ensure public confidence in the integrity of government operations.

This Legislature further finds and determines that in order to foster that public confidence, it is necessary to prevent dealings with persons or companies that have a history of attempting to corrupt government officials.

This Legislature also finds and determines that County employees should be protected from individuals and companies which have been convicted of a charge of bribery or corruption.

Therefore, the purpose of this legislation is to strengthen existing County law by increasing the time period during which an individual or entity is barred and disqualified from bidding on county projects or contracts subsequent to a conviction for an act of corruption prohibited by this chapter and by adding representation requirements and penalties for violation of this law.

Section 5. Effective date.

This law shall take effect on the 90th day immediately subsequent to filing in the office of the Secretary of State.

DISQUALIFY -- To bar and exclude any entity from participation in public or private bidding upon all county projects and/or contracts or subcontracts for a period of 10 years following a criminal conviction of an offense as defined herein. [Amended 8-24-2004 by L.L. No. 28-2004
EN]

ENTITY -- Any individual, firm, association, partnership, institution, joint venture, joint-stock

association or corporation, including an officer of a corporation, a shareholder owning over 5% of the outstanding shares of a corporation or a relative within the third degree of consanguinity of an officer or a shareholder owning over 5% of the outstanding shares of a corporation, participating in the municipal bidding process in the County of Suffolk.

NONRESPONSIBLE BIDDER [Amended 8-24-2004 by L.L. No. 28-2004^{EN}]

A. An entity other than an individual which submits a written bid to perform a county project or contract and possesses a record of criminal conviction(s) within 10 years prior to the date of submission of the bid for actions involving the following offense(s):

- (1) Extortion;
- (2) Coercion;
- (3) Bribery;
- (4) Theft;
- (5) Fraud;
- (6) Violence, specifically relating to business, labor or commerce;
- (7) Sabotage;
- (8) Collusive bidding/bid-rigging;
- (9) Combination in restraint of trade;
- (10) Conspiracy; and/or
- (11) Attempt(s) of any of the above offenses.

B. Any entity possessing a conviction under, or having been determined by the Departments of Labor of the State of New York or the County of Suffolk to be in violation of: [Added 9-19-2006 by L.L. No. 47-2006^{EN}]

NOTE: Local Law No. 47-2006 also provided as follows:

Section 1. Legislative intent.

This Legislature finds that state law requires that contracts on public projects be awarded only to responsible bidders, and that Chapter 143 of the Suffolk County Code enumerates the types of conduct which may lead to a determination that a bidder is nonresponsible.

This Legislature also finds that a proper factor in determining whether a contractor is a responsible bidder is to evaluate the contractor's history of compliance with wage and safety laws.

This Legislature also finds and determines that codified standards are needed to ensure that only contractors who comply with state and local wage and safety laws are awarded contracts for public projects.

Therefore, the purpose of this legislation is to amend Chapter 143 of the Suffolk County Code to establish that a factor to be used in determining that a bidding contractor on a public project is a responsible bidder is to consider whether the contractor has complied with state and local wage and safety laws.

Section 3. Applicability.

This law shall apply to any public project contract awarded on or after January 1, 2007.

- (1) Chapter 31 of the Consolidated Laws of the State of New York ("Labor Law"); or
- (2) Chapter 347 of the Laws of the County of Suffolk; or
- (3) Any provision of state or local law protecting workers' safety. Notwithstanding the foregoing, if the awarding agency finds that an entity has violated any provision of such law, the awarding agency may give due consideration to the size of the entity's business, the good faith of the entity, the gravity of the violation, the history of previous violations and the failure to comply with record-keeping or other requirements, and such other factors the awarding agency may deem relevant.

C. If the entity is an individual, a "nonresponsible bidder" shall mean an individual who submits a bid to perform a county project or contract and who possesses a record of felony criminal conviction(s) within 10 years prior to the date of submission of the bid for actions involving the above offenses.

§ 143-6. Requirements. [Amended 8-24-2004 by L.L. No. 28-2004^{EN}]

A. Any entity bidding on a county project or contract must disclose in writing to the awarding agency at the time of submission of the bid all criminal convictions rendered within the ten-year period prior to the bid.

B. Prior to entering into contract with the County of Suffolk, the successful bidder shall make a written representation to the County of Suffolk that it has not been convicted of any offense set forth in this chapter within 10 years immediately preceding such representation. Such representation shall be made a part of such contract together with a representation that the person entering into the contract with the County has read and is familiar with the provisions of this law.

C. Upon the determination of the awarding agency that a bidder is nonresponsible as defined, that entity shall be barred from submitting a bid on the county contract or project and disqualified from further bidding on county contracts or projects in accordance with the requirements of this chapter.

§ 143-7. Prohibited acts. [Amended 8-24-2004 by L.L. No. 28-2004^{EN}]

A. An entity determined to be nonresponsible as defined by this article shall be disqualified from bidding on a county contract or project as defined.

B. No contract or project shall be awarded to an entity determined to be nonresponsible as defined by this article.

C. Any contract entered into in violation of this law shall be null and void ab initio and any entity entering into such agreement shall not be entitled to any compensation pursuant to said agreement.

D. Any entity disqualified under this article may seek a review of the determination of the awarding agency by means of an Article 78 proceeding.

§ 143-8. Penalties for offenses. [Added 8-24-2004 by L.L. No. 28-2004^{EN}]

Any intentional or knowing misrepresentation made pursuant to the requirements of this article shall constitute an unclassified misdemeanor, and the person making such intentional or knowing misrepresentation shall be subject to punishment of a fine of \$1,000 and/or up to one year of imprisonment and shall be barred from bidding on future County contracts. Each such violation shall constitute a separate and distinct offense.

§ 143-9. Exemption. [Added 8-24-2004 by L.L. No. 28-2004^{EN}]

This article shall not apply to any entity doing business with the County of Suffolk at the request or command of the United States Government for national security, anti-terrorist, or homeland defense reasons. In order to qualify for such an exemption, an entity shall submit to Suffolk County written documentation of such request or command issued by an appropriate official of the United States Government.

II

SUFFOLK COUNTY CONTRACTOR/VENDOR PUBLIC DISCLOSURE FORM

Suffolk County Form 22
Contractor's/Vendor's Public Disclosure Statement

Pursuant to Section A5-7 of the Suffolk County Administrative Code, this Public Disclosure Statement must be completed by all contractors/vendors that have a contract with Suffolk County, **with the exception of hospitals; educational or governmental entities; not-for-profit corporations; and contracts providing foster care, family day care providers, or child protective consulting services, who do not have to fill out this form at all.**

1. Contractor's/Vendor's Name _____
Address _____
City and State _____ Zip Code _____
2. Contracting Department's Name _____
Address _____
3. Payee Identification or Social Security No. _____
4. Type of Business Corporation Partnership Sole Proprietorship Other
- 5.a Is contractor/vendor entering into or has contractor/vendor entered into a contract with Suffolk County in excess of \$1,000? Yes No.
- 5.b Has contractor/vendor entered into three or more contracts, including the one for which you are now completing this form, with Suffolk County, any three of which, when combined, exceed \$1,000? Yes No.
6. Table of Organization. List names and addresses of all principals; that is, all individuals serving on the Board of Directors or comparable body, names and addresses of all partners, and names and addresses of all corporate officers. Conspicuously identify any person in this table of organization who is also an officer or an employee of Suffolk County. (Attach additional sheet if necessary).

7. List all names and addresses of those individual shareholders holding more than five percent (5%) interest in the contractor/vendor. Conspicuously identify any shareholder who is also an officer or an employee of Suffolk County. (Attach additional sheet if necessary).

8. Does contractor/vendor derive 50% or more of its total revenues from its contractual or vendor relationship with Suffolk County? Yes No.

9. If you answered yes to 8 above, you must submit with this disclosure statement, a complete financial statement listing all assets and liabilities as well as a profit and loss statement. These statements must be certified by a Certified Public Accountant. (Strike this out if not applicable.)
10. The undersigned shall include this Contractor's/Vendor's Public Disclosure Statement with the contract. (Describe general nature of the contract.) _____

11. **Remedies.** The failure to file a verified public disclosure statement as required under local law shall constitute a material breach of contract. Suffolk County may resort, use or employ any remedies contained in Article II of the Uniform Commercial Code of the State of New York. In addition to all legal remedies, Suffolk County shall be entitled, upon a determination that a breach has occurred, to damages equal to fifteen percent (15%) of the amount of the contract.
12. **Verification.** This section must be signed by an officer or principal of the contractor/vendor authorized to sign for the company for the purpose of executing contracts. The undersigned being sworn, affirms under the penalties of perjury, that he/she has read and understood the foregoing statements and that they are, to his/her own knowledge, true.

Dated: _____
 Printed Name of Signer: _____
 Title of Signer: _____
 Name of Contractor/Vendor: _____

Signed: _____

UNIFORM CERTIFICATE OF ACKNOWLEDGMENT
(Within New York State)

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

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

 (Signature and office of individual taking acknowledgement)

UNIFORM CERTIFICATE OF ACKNOWLEDGEMENT
(Without New York State)

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

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

(Insert the city or other political subdivision and the state or country or other place the acknowledgement was taken)

(Signature and office of individual taking acknowledgement)

SUFFOLK COUNTY ADMINISTRATIVE CODE SECTION A5-7

§ A5-7. Contractors and vendors required to submit full disclosure statement. [Derived from L.L. No. 14-1976, as amended 2-27-1979 by L.L. No. 6-1979]

- A. Definitions. As used in this section, the following terms shall have the meanings indicated:

CONTRACT -- Any written agreement between Suffolk County and a contractor or vendor to do or perform any kind of labor, service, purchase, construction or public work, unless the contract is for a federally or state-aided, in whole or in part, program required to be bid pursuant to § 103 of the New York General Municipal Law. [Amended 6-29-1993 by L.L. No. 28-1993 ^{EN}]

NOTE: L.L. No. 28-1993 also provided as follows:

Section 1. Legislative intent.

This Legislature hereby finds and determines that Suffolk County's comprehensive Contractor/Vendor Public Disclosure Statement Law currently applies to a broad array of contracts that exceed \$1,000 in value, subject to exemptions for contractors doing business with the County Department of Social Services; hospitals; educational, medical, and governmental entities; and not-for-profit corporations.

This Legislature further finds and determines that these exemptions prevent full disclosure of important information that may be useful to elected county officials in determining whether or not specific types of contracts are in the public interest, especially in light of recent trends towards privatization and use of outside consultants on an increased basis by municipalities. Therefore, the purpose of this law is to eliminate many of the exemptions from completing and filing verified public disclosure statements with the County Comptroller available to certain contractors providing social services or health services contracts.

CONTRACTOR or VENDOR [Amended 12-18-1990 by L.L. No. 41-1990^{en} 6-29-1993 by L.L. No. 28-1993^{en}] -- Any proprietorship, partnership or closely held corporation which has a contract with Suffolk County in excess of \$1,000 or which has three or more contracts with Suffolk County, any three of which, when combined, exceed \$1,000, except:

- (1) Hospitals.
- (2) Educational or governmental entities.
- (3) Not-for-profit corporations.
- (4) Contracts providing for foster care, family day-care providers or child protective consulting services.

FULL DISCLOSURE CLAUSE -- A proviso to be included as a material part of a contract imposing upon the contractor or vendor a material, contractual and statutory duty to file a verified public disclosure statement.

VERIFIED PUBLIC DISCLOSURE STATEMENT -- A declaration, the contents of which are acknowledged before a notary public, containing information required under this section.

- B. A full disclosure clause is to be included in all future contracts between Suffolk County and a contractor or vendor. Such full disclosure clause shall constitute a material part of the contract.
- C. Notice of the full disclosure clause shall be included and made a part of the specifications, if any, which are submitted to interested potential bidders.
- D. Each contractor or vendor shall file a verified public disclosure statement with the

Comptroller of Suffolk County as soon as practicable prior to being awarded the contract. An updated disclosure statement shall be filed by the contractor or vendor with the Comptroller by the 31st day of January in each year of the contract's duration. It shall be the duty of the Comptroller to accept and file such statements.

- E. No contract shall be awarded to any contractor or vendor, as defined in this section, unless prior to such award a verified public disclosure statement is filed with the Comptroller as provided in this section. Any verified public disclosure statement containing fraudulent information shall constitute, for all purposes, a failure to file such statement in the first instance.
- F. The verified public disclosure statement required by this section shall include:
 - (1) A complete list of the names and addresses of those individual shareholders holding more than five-percent interest in the firm.
 - (2) The table of organization for the company shall include the names and addresses of all individuals serving on the board of directors or comparable body, the names and addresses of all partners and the names and addresses of all corporate officers. The contractor or vendor shall conspicuously identify any such person in this table of organization who is an officer or an employee of Suffolk County.
 - (3) A complete financial statement listing all assets and liabilities as well as a profit-and-loss statement, certified by a certified public accountant. Such statement shall be the most current available and in no event shall have been prepared more than six months prior to the date of the filing of the bid. No financial statement or profit-and-loss statement shall be required from any contractor or vendor having 50% or more of their gross revenues from sources other than the County of Suffolk.
- G. A separate folio for each company shall be maintained alphabetically for public inspection by the Comptroller.
- H. Remedies. The failure to file a verified public disclosure statement as required under this section shall constitute a material breach of contract. Suffolk County may resort, use or employ any remedies contained in Article 2 of the Uniform Commercial Code of the State of New York. In addition to all legal remedies, Suffolk County shall be entitled, upon a determination that a breach has occurred, to damages equal to 15% of the amount of the contract.
- I. Under no circumstances shall the county be precluded from invoking any remedy contained in the preceding section by reason of its failure to invoke promptly its remedies.

III

SUFFOLK COUNTY LOCAL PREFERENCE LAW

Local Business Certification Form

The undersigned contractor affirms as true, under penalties of perjury, as follows:

The undersigned, a principal or corporate officer of the business listed below, has read and is familiar with the provisions of Local Law 4-1993, Local Law No. 5-1993, Local Law No. 20-2004, and Local Law No. 41-2008.

The undersigned, as such principal or corporate officer, further certifies to the best of his/her information and belief that such bidder maintains a principal place of business located within Suffolk County or located within Nassau County, or sells the contracted for supplies, material, or equipment manufactured and located within Suffolk County or located within Nassau County.

The undersigned claims qualification in the event that the contractor submits a bid not exceeding 10% more than the otherwise lowest responsible bidder.

Dated: _____

Signed: _____

Printed Name of Signor: _____

Title of Signor: _____

Name of Firm: _____

Bid Number: _____

LAWS OF SUFFOLK COUNTY, NEW YORK, v90 Updated 06-20-2010

PART II ADMINISTRATIVE CODE

ARTICLE IV, County Budget and Capital Program

§ A4-13. Preferences for businesses located within Suffolk and Nassau Counties. [Added 2-23-1993 by L.L. No. 4-1993]

§ A4-13. Preferences for businesses located within Suffolk and Nassau Counties. [Added 2-23-1993 by L.L. No. 4-1993]

NOTE: Local Law No. 4-1993 also provided as follows:

Section 1. Legislative intent.

This Legislature hereby finds and determines that millions of dollars worth of contracts for consulting services are expended by Suffolk County each year for specialized personal or professional services necessary to perform essential functions of Suffolk County government.

This Legislature further finds that the current economic downturn being experienced by Long Island is adversely affecting local business through a reduction in business activity and a concomitant loss of jobs.

This Legislature further finds and determines that many of these contracts are awarded to individuals or entities that are located outside both Suffolk County and Nassau County.

This Legislature also finds and determines that the award of such contracts to individuals or entities outside of both counties at a time when Suffolk County is experiencing an economic downturn and less economic activity than even neighboring Nassau County has achieved tends to exacerbate the economic difficulties currently experienced in Suffolk County.

This Legislature also determines that the award of such contracts to individuals or entities located within Suffolk County and Nassau County would help promote local economic activity and thereby generate additional sales tax revenues which would alleviate fiscal and budgetary constraints currently being experienced by Suffolk County.

Therefore, the purpose of this law is to limit the award of such contracts to individuals or entities located and doing business within Suffolk County and Nassau County when practical and with the best interests of the County and to promote the use of local businesses as County consultants so as to encourage increased economic activity on Long Island by putting County tax dollars to work at home.

Section 2. Definitions. [Amended 10-14-2008 by L.L. No. 41-2008 [EN](#)]

As used in this section the following definitions shall have the meanings indicated:

CONTRACT -- Any claim, account, or demand against or agreement, other than a collective bargaining agreement, upon sufficient consideration, with Suffolk County or any divisions, departments, agencies, or entity thereof, express or implied, for the rendering or performance of personal or professional services and shall include extensions, modifications, renewals, or amendments.

CONSULTING SERVICES -- The expertise, advice, professional services, or any other personal services provided by any individual, association, proprietorship, partnership, corporation, or joint venture by contract with Suffolk County, including, but not limited to, design work, planning work, medical, legal, engineering, computer, accounting, or educational services.

CONSULTANT -- Any individual, association, proprietorship, partnership, corporation, or joint venture to be contracted by Suffolk County to provide expertise, advice, professional services, or any other personal services, including, but not limited to, design work, planning work, medical, legal, engineering, computer, accounting, or educational services.

LOCATED AND DOING BUSINESS WITHIN SUFFOLK COUNTY OR NASSAU COUNTY -- Maintaining a place of business and a staffed, operational office at an address within the geographical boundaries of Suffolk County or Nassau County for a period of at least one year from which a majority of the employees performing the contracted for services are assigned. In the case of a joint venture, this term shall be construed to require at least one entity, in the case of a two-party venture, to maintain a place of business within Suffolk or Nassau County for a period of at least one year, and in the case of a multi-party venture, require a majority of the entities to maintain a place of business within Suffolk or Nassau County.

Section 4. Applicability.

This law shall apply to contracts awarded on or after the effective date of this law.

A. All contracts for consulting services shall be awarded by the appropriate officer, board or agency of the County of Suffolk to a consultant that is located and doing business within Suffolk County or Nassau County, anything in Article 5-A of the General Municipal Law to the contrary notwithstanding; except that where there is no local consultant who has the necessary professional expertise or credentials to provide the needed service, or where a local consultant's response to a request for proposals (RFP) exceeds the otherwise lowest response by more than 10%, the contract may be awarded to a consultant not located and doing business within Suffolk County or Nassau County in accordance with Article 5-A of the General Municipal Law and Chapter 708 of the Suffolk County Code. [Amended 10-14-2008 by L.L. No. 41-2008]

NOTE: Local Law No. 41-2008 also provided as follows:

Section 1. Legislative Intent.

This Legislature hereby finds and determines that the County of Suffolk enacted Local Law No. 4-1993 and Local Law No. 5-1993, generally known as the "local preference laws," to give businesses located in Suffolk County and Nassau County a better chance to win contracts for consulting services, construction of public works, and provision of supplies, materials and equipment.

This Legislature further finds that in the case of public works and procurement contracts, Local Law No. 5-1993 (codified in § A4-14 of the Suffolk County Administrative Code) authorizes County officials to award a contract to a local business as long as its bid does not exceed the lowest bid by more than 10%. Local Law No. 4-1993 (codified in § A4-13 of the Suffolk County Administrative Code) states that all consulting contracts shall be awarded to a local consultant unless there is no local consultant with the requisite expertise or credentials.

This Legislature also determines that the County of Suffolk enacted these laws to assist Long Island businesses and protect local jobs during an economic downturn. While these goals were and are worthy, Local Law Nos. 4 and 5 of 1993 have had the unintended effect of disqualifying some businesses that have a substantial local presence from competing for County contracts.

This Legislature also finds and determines that the County's local preference laws should be amended to encourage broader competition and obtain greater cost savings for Suffolk County taxpayers.

Therefore, the purpose of this law is to update the County's local preference laws in order to achieve greater cost savings from fuller competition while continuing to promote the use of local businesses and strengthen the local economy.

Section 3. Applicability.

This law shall apply to all contracts awarded on or after the effective date of this law.

B. In the event that the County Executive certifies, in writing, to the County Legislature that a sudden disaster, such as a hurricane, tornado, flood, blizzard, explosion, airplane crash, earthquake, nuclear war, radiological emergency, war, civil unrest or disobedience, act of God or comparable act has occurred or in the event that a written declaration of such a disaster is adopted in the form of a resolution by an affirmative vote of at least 2/3 of the entire membership of the County Legislature, then the requirement in Subsection A of this section may be waived by the County Executive.

C. Any contract entered into in violation of Subsection A or B of this section shall be null and void ab initio, and the County Comptroller shall be prohibited from making any payment on any such contract.

D. No contract for consulting services shall be awarded by the appropriate officer, board, or agency of the County of Suffolk to a business previously incorporated within the United States of America which has reincorporated outside the United States of America. Any solicitation for services shall contain a requirement that the successful proposer must be in compliance with this subsection, and this representation of compliance shall be a part of the contract with the successful proposer. [Added 7-2-2004 by L.L. No. 20-2004]

NOTE: Local Law No. 20-2004 also provided as follows:

Section 1. Legislative intent.

This Legislature hereby finds and determines that millions of dollars worth of contracts for goods and services are awarded by the County of Suffolk each year.

This Legislature further finds that many jobs are being lost to corporations that reincorporate overseas whose workers are often forced to live in substandard conditions.

This Legislature also finds and determines that the County Legislature has historically led the way in encouraging and promoting businesses located on Long Island.

Therefore, the purpose of this law is to prohibit the County of Suffolk from entering into contracts with corporations who reincorporated outside the United States of America.

Section 3. Applicability.

This law shall apply to contracts entered into on or after the effective date of this law.

**RESOLUTION NO. 849 -2008, ADOPTING LOCAL LAW
NO. 41 -2008, A LOCAL LAW TO STRENGTHEN
COMPETITIVE PROCUREMENT PROCEDURES AND
MAXIMIZE SAVINGS FOR TAXPAYERS**

WHEREAS, there was duly presented and introduced to this County Legislature at a meeting held on August 5, 2008, a proposed local law entitled, "**A LOCAL LAW TO STRENGTHEN COMPETITIVE PROCUREMENT PROCEDURES AND MAXIMIZE SAVINGS FOR TAXPAYERS**;" now, therefore be it

RESOLVED, that said local law be enacted in form as follows:

LOCAL LAW NO. 41 -2008, SUFFOLK COUNTY, NEW YORK

**A LOCAL LAW TO STRENGTHEN COMPETITIVE PROCUREMENT
PROCEDURES AND MAXIMIZE SAVINGS FOR TAXPAYERS**

**BE IT ENACTED BY THE COUNTY LEGISLATURE OF THE COUNTY OF
SUFFOLK**, as follows:

Section 1. Legislative Intent.

This Legislature hereby finds and determines that the County of Suffolk enacted Local Law No. 4-1993 and Local Law No. 5-1993, generally known as the "local preference" laws to give businesses located in Suffolk County and Nassau County a better chance to win contracts for consulting services, construction of public works, and provision of supplies, materials and equipment.

This Legislature further finds that in the case of public works and procurement contracts, Local Law No. 5-1993 (codified in § A4-14 of the SUFFOLK COUNTY ADMINISTRATIVE CODE) authorizes county officials to award a contract to a local business as long as their bid does not exceed the lowest bid by more than 10%. Local Law No. 4-1993 (codified in § A4-13 of the SUFFOLK COUNTY ADMINISTRATIVE CODE) states that all consulting contracts shall be awarded to a local consultant unless there is no local consultant with the requisite expertise or credentials.

This Legislature also determines that the County of Suffolk enacted these laws to assist Long Island businesses and protect local jobs during an economic downturn. While these goals were and are worthy, Local Law Nos. 4 and 5 of 1993 have had the unintended effect of disqualifying some businesses that have a substantial local presence from competing for County contracts.

This Legislature also finds and determines that the County's local preference laws should be amended to encourage broader competition and obtain greater cost savings for Suffolk County taxpayers.

Therefore, the purpose of this law is to update the County's local preference laws in

order to achieve greater cost savings from fuller competition while continuing to promote the use of local businesses and strengthen the local economy.

Section 2. Amendments.

I. Section 2 of Local Law No. 4-1993 is hereby amended to read as follows:

Section 2. Definitions.

As used in this section the following definitions shall have the meanings indicated:

"CONTRACT" shall mean any claim, account, or demand against or agreement, other than a collective bargaining agreement, upon sufficient consideration, with Suffolk County or any divisions, departments, agencies, or entity thereof, express or implied for the rendering or performance of personal or professional services and shall include extensions, modifications, renewals, or amendments.

"CONSULTING SERVICES" shall mean the expertise, advice, professional services, or any other personal services provided by any individual, association, proprietorship, partnership, corporation, or joint venture by contract with Suffolk County including, but not limited to, design work, planning work, medical, legal, engineering, computer, accounting, or educational services.

"CONSULTANT" shall mean any individual, association, proprietorship, partnership, corporation, or joint venture to be contracted by Suffolk County to provide expertise, advice, professional services, or any other personal services, including, but not limited to, design work, planning work, medical, legal, engineering, computer, accounting, or educational services.

"LOCATED AND DOING BUSINESS WITHIN SUFFOLK COUNTY OR NASSAU COUNTY" shall mean maintaining a place of business and a staffed, operational office at an address within the geographical boundaries of Suffolk County or Nassau County for a period of at least one year from which a majority of the employees performing the contracted for services are assigned. In the case of a joint venture, this term shall be construed to require at least one entity, in the case of a two-party venture, to maintain a place of business within Suffolk or Nassau County for a period of at least one year, and in the case of a multi-party venture, require a majority of the entities to maintain a place of business within Suffolk or Nassau County.

II. Section 2 of Local Law No. 5-1993 is hereby amended to read as follows:

Section 2. Definitions.

As used in this section, the following definitions shall have the meanings indicated:

"CONTRACT" shall mean any claim, account, or demand against or agreement, other than a collective bargaining agreement, upon sufficient consideration, with Suffolk County or any divisions, departments, agencies, or entity thereof, express or implied for the rendering or performance of personal or professional services and shall include extensions, modifications, renewals, or amendments.

"LOCATED AND DOING BUSINESS WITHIN SUFFOLK COUNTY OR NASSAU COUNTY" in the case of a contract for the provision of services or the construction of public works, shall

mean maintaining a place of business and a staffed, operational office at an address within the geographical boundaries of Suffolk County or Nassau County for a period of at least one year, from which a majority of the employees performing the contracted for services are assigned. In the case of a contract for the purchase of supplies, materials or equipment, means maintaining a place of business and a staffed, operational office at an address within the geographical boundaries of Suffolk County or Nassau County and either i) manufacturing or producing supplies, materials or equipment in Nassau or Suffolk, or ii) keeping a representative inventory of its supplies, materials or equipment within Suffolk County or Nassau County.

III. Section A4-13(A) of the SUFFOLK COUNTY ADMINISTRATIVE CODE is hereby amended to read as follows:

- A.) All contracts for consulting services shall be awarded by the appropriate officer, board or agency of the County of Suffolk to a consultant that is located and doing business within Suffolk County or Nassau County, anything in Article 5-A of the General Municipal Law to the contrary notwithstanding; except that where there is no local consultant who has the necessary professional expertise or credentials to provide the needed service, or where a local consultant's response to a Request for Proposals (RFP) exceeds the otherwise lowest response by more than 10% the contract may be awarded to a consultant not located and doing business within Suffolk County or Nassau County in accordance with Article 5-A of the General Municipal Law and Chapter 708 of the Suffolk County Code.

IV. Section A4-14(A) of the SUFFOLK COUNTY ADMINISTRATIVE CODE is hereby amended to read as follows:

- A.) Prior to making any purchase of supplies, materials or equipment or entering into a contract for the provision of services or the construction of public works, the Commissioner of the procuring department, the Purchasing Agent, or the Commissioner of the Department of Public Works, as the case may be, shall provide an opportunity for competition under the applicable state and county laws, rules and regulations. Contracts that are subject to competitive bidding shall be awarded to the lowest responsible bidder, who shall give security for the performance of the contract if so required by the awarding officer. However, the Commissioner of the procuring department, the Purchasing Agent or the Commissioner of the Department of Public Works, as the case may be, may award such contract to a bidder other than the lowest responsible bidder where such other bidder is located and doing business within Suffolk County or Nassau County and submits a bid not exceeding the otherwise lowest bid by more than ten percent (10%), except as follows:

- 1.) In those instances in which the supply being purchased by Suffolk County, either directly or through third-party intermediaries, is a medicine, a prescription drug, an over-the-counter drug, a generic drug, a brand-name drug, a pharmaceutical, or any other drug, in which case the contract shall be awarded to the lowest responsible bidder. The County shall, to the maximum extent feasible, join together with public institutions, state or local agencies, other agencies, the Suffolk County Labor/Management Committee for the administration of the Employee Medical Health Plan (EMHP), other municipalities, private for-profit entities, and/or private not-for-profit entities for the purchase of bidding on a large-volume basis for such medicines, prescription drugs, over-the-counter drugs, generic drugs, brand-name drugs, pharmaceuticals, or any other drugs in order to qualify for volume discounts or other favorable price concessions associated with joint

purchasing.

Section 3. Applicability.

This law shall apply to all contracts awarded on or after the effective date of this law.

Section 4. Severability.

If any clause, sentence, paragraph, subdivision, section, or part of this law or the application thereof to any person, individual, corporation, firm, partnership, entity, or circumstance shall be adjudged by any court of competent jurisdiction to be invalid or unconstitutional, such order or judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section, or part of this law, or in its application to the person, individual, corporation, firm, partnership, entity, or circumstance directly involved in the controversy in which such order or judgment shall be rendered.

Section 5. SEQRA Determination.

This Legislature, being the State Environmental Quality Review Act (SEQRA) lead agency, hereby finds and determines that this law constitutes a Type II action pursuant to Section 617.5(c)(20), (21), and/or (27) of Title 6 of the NEW YORK CODE OF RULES AND REGULATIONS (6 NYCRR) and within the meaning of Section 8-0109(2) of the NEW YORK ENVIRONMENTAL CONSERVATION LAW as a promulgation of regulations, rules, policies, procedures, and legislative decisions in connection with continuing agency administration, management and information collection. The Suffolk County Council on Environmental Quality (CEQ) is hereby directed to circulate any appropriate SEQRA notices of determination of non-applicability or non-significance in accordance with this law.

Section 6. Effective Date.

This law shall take effect on the thirtieth (30th) day immediately subsequent to filing in the Office of the Secretary of State.

DATED: October 14, 2008

EFFECTIVE PURSUANT TO SECTION 2-15(D) OF THE SUFFOLK COUNTY CHARTER,
RETURNED BY THE COUNTY EXECUTIVE UNSIGNED NOVEMBER 14, 2008

After a public hearing duly held on October 28, 2008
Filed with Secretary of State on December 3, 2008

IV

SUFFOLK COUNTY LAWFUL HIRING LAW FORMS

SUFFOLK COUNTY DEPARTMENT OF LABOR
NOTICE OF APPLICATION TO CERTIFY COMPLIANCE WITH FEDERAL LAW
(8 U.S.C. SECTION 1324A)
WITH RESPECT TO LAWFUL HIRING OF EMPLOYEES
Suffolk County Code, Chapter 234 (2006)

To Be Completed By Applicant/ Covered Employer//Owner

EMPLOYER/CORP./BUSINESS/COMPANY NAME: _____

1) ADDRESS: _____

2) NOT-FOR-PROFIT: YES_____ NO_____ (SUBMIT PROOF OF IRS NOT-FOR-PROFIT STATUS)

3) VENDOR #: _____ **4) **CONTRACT ID:** _____
(If known) (If known)

5) CONTACT: _____ **6) TELEPHONE #:** _____

7) TERM OF CONTRACT OR EXTENSION (PROVIDE DATES): _____

8) AMOUNT OF CONTRACT OR EXTENSION: _____

9) BRIEF DESCRIPTION OF PROJECT OR SERVICE _____

SUBCONTRACTOR: _____

1) ADDRESS: _____

2) VENDOR#: _____ **3) TELEPHONE #:** _____

4) CONTACT: _____

5) DESCRIPTION OF COMPENSATION, PROJECT OR SERVICE: _____

EVIDENCE OF COMPLIANCE:

COPIES OF THE FOLLOWING MUST BE MAINTAINED BY COVERED EMPLOYERS OR THE OWNERS THEREOF FOR EACH EMPLOYEE FOR THE TIME PERIODS SET FORTH IN SUFFOLK COUNTY CODE, CHAPTER 234, SECTION 5 (C):

- A. United States passport; or**
- B. resident alien card or alien registration card; or**
- C. birth certificate indicating that person was born in the United States; or**
- D. (1) a driver's license, if it contains a photograph of the individual; and
(2) a social security account number card (other than such a card which specifies on its face that the issuance of the card does not authorize employment in the United States); or**
- E. employment authorization documents such as an H-1B visa, H-2B visa, and L-1 visa, or other work visa as may be authorized by the United States Government at the time the County contract is awarded for all covered employees.**

V

**SUFFOLK COUNTY
LIVING WAGE
FORMS**

SUFFOLK COUNTY DEPARTMENT OF LABOR - LIVING WAGE UNIT

NOTICE OF APPLICATION FOR COUNTY COMPENSATION (Contract)

Living Wage Law, Suffolk County Code, Chapter 347 (2001)

To Be Completed By Applicant/ Employer/Contractor

1) NAME: _____

2) VENDOR #: _____ (If known) 3) CONTRACT ID #: _____ (If known)

4) CONTACT : _____ 5) TELEPHONE #: _____

6) ADDRESS: _____

7) TERM OF CONTRACT (DATES): _____

8) PROJECT NAME: (IF DIFFERENT FROM #1) _____

9) AMOUNT: LEAVE BLANK (Amount in Sealed Cost Proposal)

10) AWARDING AGENCY: _____

11) BRIEF DESCRIPTION OF PROJECT OR SERVICE:

12) **PROJECTED EMPLOYMENT NEEDS:** (attach a statement listing, by job classification, the total workforce dedicated to performing this contract or service, including calculation of estimated net increase or decrease in jobs as a result of funding).

13) **PROJECTED WAGE LEVELS:** (attach a statement listing projected wage levels, compensated days off and medical benefits for total workforce dedicated to fulfilling the terms of this contract, broken down annually for each year of the term of the contract).

SUFFOLK COUNTY DEPARTMENT OF LABOR – LIVING WAGE UNIT

LIVING WAGE CERTIFICATION/DECLARATION – SUBJECT TO AUDIT

If either of the following definitions of ‘compensation’ (*Living Wage Law Chapter 347 – 2*) applies to the contractor’s/recipient’s business or transaction with Suffolk County, the contractor/recipient must complete Sections 1, 3, 4 below; and Form LW-1 (Notice of Application for County Compensation). If the following definitions do not apply, the contractor/recipient must complete Sections 2, 3 and 4 below. Completed forms must be submitted to the awarding agency.

“Any grant, loan, tax incentive or abatement, bond financing subsidy or other form of compensation of more that \$50,000 which is realized by or provided to an employer of at least ten (10) employees by or through the authority or approval of the County of Suffolk,” or

“Any service contract or subcontract let to a contractor with ten (10) or more employees by the County of Suffolk for the furnishing of services to or for the County of Suffolk (except contracts where services are incidental to the delivery of products, equipment or commodities) which involve an expenditure equal to or greater than \$10,000. For the purposes of this definition, the amount of expenditure for more than one contract for the same service shall be aggregated. A contract for the purchase or lease of goods, products, equipment, supplies or other property is not ‘compensation’ for the purposes of this definition.”

Section I The

Living Wage Law applies to this contract. I/we hereby agree to comply with all the provisions of Suffolk County Local Law No. 12-2001, the Suffolk County *Living Wage Law* (the Law) and, as such, will provide to all full, part-time or temporary employed persons who perform work or render services on or for a project, matter, contract or subcontract where this company has received compensation, from the County of Suffolk as defined in the Law (compensation) a wage rate of no less than \$10.83 (\$9.25 for child care providers) per hour worked with health benefits, as described in the Law, or otherwise \$12.33 (\$10.50 for child care providers) per hour or the rates as may be adjusted annually in accordance with the Law. (**Chapter 347-3 B**)

Check if applicable

I/we further agree that any tenant or leaseholder of this company that employs at least ten (10) persons and occupies property or uses equipment or property that is improved or developed as a result of compensation or any contractor or subcontractor of this company that employs at least ten (10) persons in producing or providing goods or services to this company that are used in the project or matter for which this company has received compensation shall comply with all the provisions of the Law, including those specified above. (Chapter 347-2)

I/we further agree to permit access to work sites and relevant payroll records by authorized County representatives for the purpose of monitoring compliance with regulations under this Chapter of the Suffolk County Code, investigating employee complaints of noncompliance and evaluating the operation and effects of this Chapter, including the production for inspection & copying of payroll records for any or all employees for the term of the contract or for five (5) years, whichever period of compliance is longer. All payroll and benefit records required by the County will be maintained for inspection for a similar period of time. (**Chapter 347-7 D**)

The County Department of Labor shall review the records of any Covered Employer at least once every three years to verify compliance with the provisions of the Law. (**Chapter 347-4 C**)

Section II The

Living Wage Law does not apply to this contract for the following reason(s): _____

Check if applicable

Section III

Contractor Name: _____

Federal Employer ID#: _____

Contractor Address: _____

Amount of compensation: _____

Contractor Phone #: _____

Vendor #: _____

Description of project or service: _____

Section IV

I declare under penalty of perjury under the Laws of the State of New York that the undersigned is authorized to provide this certification, and that the above is true and correct.

Authorized Signature

Date

Print Name and Title of Authorized Representative

SUFFOLK COUNTY DEPARTMENT OF LABOR – LIVING WAGE UNIT

REQUEST FOR GENERAL LIVING WAGE EXEMPTION

Living Wage Law, Suffolk County Code, Chapter 347 (2001)

To Be Completed By Applicant/Employer/Contractor

BASIS FOR A GENERAL EXEMPTION

EXEMPTIONS MAY BE GRANTED BY THE SUFFOLK COUNTY DEPARTMENT OF LABOR WHERE APPLICATION OF THE LIVING WAGE LAW TO A PARTICULAR FORM OF COMPENSATION IS FOUND BY THE COUNTY TO VIOLATE SPECIFIC STATE OR FEDERAL STATUTORY, REGULATORY OR CONSTITUTIONAL PROVISION OR PROVISIONS.

NAME: _____ DATE: _____

REPRESENTATIVE: _____

ADDRESS: _____ TELEPHONE #: _____

AWARDING AGENCY: _____ CONTACT: _____

TYPE OF CONTRACT: _____

AMOUNT OF AWARD: _____ TERM OF CONTRACT: _____

1) TOTAL ESTIMATED ANNUAL BUDGET:

(a) WITH EXEMPTION: _____ (b) WITHOUT EXEMPTION: _____

2) ANNUAL COST OF APPLICATION OF THE LIVING WAGE LAW: [1 (b) - 1 (a)] (c) _____

3) PERCENTAGE INCREASE OF TOTAL ANNUAL BUDGET IF THE APPLICATION FOR EXEMPTION IS DENIED: [2 (c) ÷ 1 (a)] (d) _____

4) NUMBER OF EMPLOYEES AFFECTED BY THE APPLICATION OF THE LIVING WAGE REGULATIONS TO APPLICANT: (e) _____

PARTICULARS OF EXEMPTION

The type of contract to which the *Living Wage Law* applies: _____
(Chapter 347-13 B1)

The specific or official name of the program: _____
(Chapter 347-13 B2)

The statutory or regulatory authority for granting the contract*: _____
(Chapter 347-13 B2)

The conflicting statutory, regulatory or constitutional provision(s) that makes compliance with the Living Wage Law unlawful*: _____
(Chapter 347-13 B3)

* Enclose a copy of each provision and any factual explication & analysis of how compliance with Living Wage Law would violate the cited provision(s) and the legal consequences that would attach if this violation were to occur. LW-4 Revised 4-05

SUFFOLK COUNTY DEPARTMENT OF LABOR – LIVING WAGE UNIT

REQUEST FOR SPECIFIC LIVING WAGE EXEMPTION

Living Wage Law, Suffolk County Code, Chapter 347 (2001)

To Be Completed By Applicant/Employer/Contractor

NAME: _____ **DATE:** _____

REPRESENTATIVE: _____

ADDRESS: _____ **TELEPHONE #:** _____

AWARDING AGENCY: _____ **CONTACT:** _____

AMOUNT OF AWARD: _____ **TERM OF CONTRACT:** _____

BASIS FOR SPECIFIC EXEMPTION

1) YOUTH - Must submit proof on separate sheet of the following:

Recipient is an organization that regularly employs individuals under the age of 21 in a summer youth or school-to-work program. Exemption applies only to such employees. (Chapter 347-13 A2) _____

2) SEASONAL EMPLOYMENT - Must submit proof on separate sheet of the following:

Recipient is an organization that employs seasonal employees. May be granted a permanent exemption with respect to these employees with submission of proof that employees are “seasonal” as defined in the Law. (Chapter 347-13 A4) _____

3) WAGE OR BUDGET EXEMPTION ** - Must submit proof of the following:

a) Recipient provides proof that the highest paid employee of the corporation earns a salary which, calculated on an hourly basis, is less than six times the lowest wage or salary paid by the corporation (Chapter 347-13 A3a) **OR** _____

b) Recipient demonstrates that fulfilling the requirements of the Living Wage Law will present a hardship, directly increasing the expected total annual budget in an amount greater than 10% of the prior year’s adopted budget. (Chapter 347-13 A3b) _____

**** NOTE: THE INFORMATION ON REVERSE SIDE MUST BE COMPLETED FOR REQUESTS AS DESCRIBED IN 3 (a) OR 3 (b) ABOVE**

CONTINUED
LW-5 (revised 4-05)

REQUEST FOR SPECIFIC LIVING WAGE EXEMPTION

REMINDER: THE FOLLOWING INFORMATION MUST BE COMPLETED FOR EXEMPTION REQUESTS AS DESCRIBED IN SECTIONS 3 (a) OR 3 (b) ON REVERSE SIDE.

- 1) TOTAL ESTIMATED ANNUAL BUDGET:
WITH EXEMPTION (a) _____
WITHOUT EXEMPTION (b) _____
- 2) ANNUAL COST OF APPLICATION OF LIVING WAGE LAW TO EMPLOYER: [subtract 1 (a) from 1 (b)] (c) _____
- 3) PERCENTAGE INCREASE OF TOTAL ANNUAL BUDGET IF EXEMPTION IS DENIED: [$2 (c) \div 1 (a)$] (d) _____
- 4) NUMBER OF EMPLOYEES AFFECTED BY THE LIVING WAGE LAW: (e) _____

Suffolk County Living Wage Requirements Exhibit
As Last Revised by the Suffolk County Department of Labor on 5/14/04

Pursuant to Section 6 of Chapter 347 of the Suffolk County Local Law No. 12-2001, "A Local Law to Implement Living Wage Policy for the County of Suffolk" (the "Living Wage Law"), all RFPs, County contracts and financial assistance agreements subject to the law shall contain the following two paragraphs or substantially equivalent language:

This Agreement is subject to the Living Wage Law of the County of Suffolk. The law requires that, unless specific exemptions apply all employers (as defined) under service contracts and recipients of County financial assistance, (as defined) shall provide payment of a minimum wage to employees as set forth in the Living Wage Law. Such rate shall be adjusted annually pursuant to the terms of the Suffolk County Living Wage Law of the County of Suffolk.

Under the provisions of the Living Wage Law, the County shall have the authority, under appropriate circumstances, to terminate this Agreement and to seek other remedies as set forth therein, for violations of this Law.

Suffolk County Local Law No. 18-2002, "A Local Law to Implement Living Wage Policy for the County of Suffolk" provided for certain amendments to the Living Wage Law.

Forms for Completion and/or Signature (as applicable)

- Suffolk County Department of labor – Living Wage Unit
Notice of Application for County Assistance (Contract)
Form LW-1 (consists of 1 page)
- Suffolk County Department of Labor – Living Wage Unit
Certification/Declaration – Subject to Audit
Form LW 38 (consists of 1 page) (Replaces LW2, LW3, and LW33)
- Suffolk County Department of Labor – Living Wage Unit
Request for General Living Wage Exemption
Form LW-4 (consists of 1 page)
- Suffolk County Department of Labor – Living Wage Unit
Request for Specific Living Wage Exemption
Form LW-5 (consists of 2 pages)

**Suffolk County Living Wage Requirements Exhibit
As Last Revised by the Suffolk county Department of Labor on 5/12/04**

Note: Pursuant to Section 7 of Local Law No. 18-2002, "A Local Law to Implement Living Wage Policy for County of Suffolk", all covered employers subject to the provisions of the Living Wage Law shall submit a completed and sworn (under penalty of perjury) Certification/Declaration – Subject to Audit Form LW-38, signed by an authorized representative, as part of an executed contract with the County of Suffolk. The complete Certification/Declaration – Subject Audit form LW-38 shall be made a part of any executed contract or project agreement and made available to the public upon request.

- To certify Living Wage compliance: Return Forms LW-1 and LW-38
or
 - To certify non –applicability of Living Wage law: Return Form LW-38
or
 - To request and document a general living wage exemption: Return Forms LW-1, LW-38 and LW-4.
or
 - To request and document a specific living wage exemption: Return Forms LW-1, LW-38 and LW-5.
-

- In the event that there is a change in circumstances, it is the Contractor's responsibility to submit to the County additional Living Wage forms which either replace or supplement prior submissions of Living Wage forms.
- Living Wage Law Information Fact Sheet, text of the Local Law, Frequently Asked Questions, Forms, and Rules and Regulations can be found on the Suffolk County web site at www.co.suffolk.ny.us

Click: Department Directory
Labor
Living Wage Law Info

- Suffolk county Department of Labor Living Wage Unit Tel. – (631) 853-3808

End of Text for Suffolk County Living Wage Requirements Exhibit As Last Revised by the Suffolk county Department of Labor on 5/12/04

LAWS OF SUFFOLK COUNTY, NEW YORK, v90 Updated 06-20-2010
PART IV REGULATORY LOCAL LAWS (Chapters 201 -- 500)
Chapter 347, LIVING WAGE

Chapter 347, LIVING WAGE

[HISTORY: Adopted by the Suffolk County Legislature 7-27-2001 by L.L. No. 12-2001. ^{EN}
Amendments noted where applicable.]

§ 347-1. Legislative intent.

A. This Legislature hereby finds and determines that the County of Suffolk provides grants, loans, tax incentives, contracts and other forms of assistance to businesses that result in the creation or maintenance of a wide variety of employment opportunities.

B. This Legislature further finds and determines that Suffolk County has a limited amount of taxpayer resources to expend, which must be spent wisely.

C. This Legislature also finds and determines that, even in the current booming economy, far too many working Suffolk County residents and their families live below or near the poverty line.

D. This Legislature hereby determines that employees of Suffolk County government currently receive a wage and benefit package that meets the living wage requirements contemplated by this chapter.

E. This Legislature finds that the use of taxpayer dollars to promote sustenance and the creation of living wage jobs will increase consumer income, decrease levels of poverty, reinvigorate neighborhood businesses and reduce the need for taxpayer-funded social programs.

F. This Legislature finds that the disclosure provisions contained in Resolution No. 232-2000 for County purchases of textile or apparel goods represents a first step on the road to a County-wide policy of living wages.

G. Therefore, the purpose of this chapter is to ensure that employees of County contractors and subcontractors and beneficiaries of tax, loan, grant and other subsidy assistance provided by the County earn an hourly wage that is sufficient for a family of four to live at or above the federal poverty level.

§ 347-2. Definitions. [Amended 8-6-2002 by L.L. No. 18-2002; 8-5-2003 by L.L. No. 25-2003]

NOTE: Local Law No. 18-2002 also provided as follows:

Section 1. Legislative intent.

This Legislature hereby finds that Local Law 12-2001, "A Local Law to Implement Living Wage Policy for the County of Suffolk," was adopted by the Suffolk County Legislature on July 27, 2001, via veto override.

This Legislature determines that the Executive Living Wage Task Force made four recommendations to modify the law to ensure a smooth implementation of that statute, as set forth in Exhibit A attached hereto and made a part hereof. ^{EN}

Therefore, the purpose of this law is to amend Local Law 12-2001 as to the following items, and to incorporate other suggested technical changes regarding collective bargaining agreements and covered employees.

- (1) Reporting requirements;
- (2) Exemptions for not-for-profit corporations;
- (3) Exemptions for worker classification; and
- (4) Bond financing for not-for-profit organizations;

Section 3. Applicability.

This law shall apply to all actions occurring on or after July 1, 2002.

NOTE: Local Law No. 24-2003 also provided as follows:

Section 1. Legislative intent.

This Legislature hereby finds and determines that Chapter 347 of the Suffolk County Code, "The Living Wage Policy for the County of Suffolk," was adopted by the Suffolk County Legislature on July 27, 2001 via veto override, requires further modification to ensure a smooth transition to full implementation.

This Legislature also determines that, since employees of child care providers are currently paid a wage that is below wages that are prevalent in other industries, full implementation of the Suffolk County living wage law for employees of child care providers will have to be accomplished on a phased-in basis because of current economic adverse circumstances and current fiscal difficulties.

Therefore, the purpose of this law is to amend Chapter 347 of the Suffolk County Code to further modify provisions dealing with annual increases in the living wage, access to work sites, transitional financial assistance, out-of-state contractors, implementation of a full living wage for employees of child care providers on a phased-in basis, and granting an additional temporary one-month exemption to child care agencies.

Section 3. Applicability.

This law shall apply to all actions occurring on or after the effective date of this law.

This Legislature hereby finds and determines that certain corrections are necessary to clarify the enforcement of Resolution No. 133-2005.

Therefore, the purpose of this law is to amend Resolution No. 133-2005 to clarify and correct the effective date.

Section 3. Applicability.

These amendments shall be applicable on the effective date of Resolution No. 133-2005.

Section 6. Effective date.

This law shall take effect on the effective date of Resolution No. 133-2005 and after filing in the office of the Secretary of State.

As used in this chapter, the following terms shall have the meanings indicated:

AWARDING AGENCY -- That subordinate or component entity or person of the County that is responsible for solicitation of proposals or bids and responsible for the administration of service contracts or financial compensation agreements. [Amended 3-15-2005 by L.L. No. 9-2005]

NOTE: Local Law No. 9-2005 also provided as follows:

Section 1. Legislative intent.

This Legislature hereby finds and determines that enforcement and implementation of the Suffolk County Living Wage Law currently in effect would benefit from clarification of certain terminology in order to be more effective.

Therefore, the purpose of this law is to clarify certain terminology used in the Living Wage Law to enhance compliance.

Section 3. Applicability.

This law shall apply to all actions occurring on or after January 1, 2005, except, however, § 347-13C shall be applicable January 1, 2006.

[Amended 4-5-2005 by L.L. No. 14-2005]

Section 6. Effective date.

This law shall take effect immediately upon filing in the office of the Secretary of State, except, however, § 347-13C shall be effective January 1, 2006.

[Amended 4-5-2005 by L.L. No. 14-2005]

NOTE: Local Law No. 14-2005 also provided as follows:

Section 1. Legislative intent.

COMPENSATION: [Amended 3-15-2005 by L.L. No. 9-2005 ^{EN}]

A. Any grant, loan, tax incentive or abatement, bond financing, subsidy or other form of compensation of more than \$50,000 which is realized by or provided to an employer of at least 10 employees by or through the authority or approval of the County of Suffolk, including, but not limited to, industrial development bonds, Community Development Block Grant (CDBG) loans and Enterprise-Zone-related incentives.

B. Any service contract or subcontract let to a contractor with 10 or more employees by the County of Suffolk for the furnishing of services to or for the County of Suffolk (except contracts where services are incidental to the delivery of products, equipment or commodities) which involves an expenditure equal to or greater than \$10,000. For the purposes of this definition, the amount of expenditure for more than one contract for the same service within one calendar year shall be aggregated. A contract for the purchase or lease of goods, products, equipment, supplies or other property is not "compensation" for the purposes of this definition.

COUNTY -- The County of Suffolk, any agency, office, position, administration, department, division, bureau, board, commission, corporation, public authority or unit of government, the expenses of which are paid in whole or in part by the County, or over which majority control is

exercised by officers of the County or of a County-affiliated agency or their appointees.

COVERED EMPLOYEE -- A person employed on either a full-time, part-time or temporary basis, by a covered employer, to perform work on or for the project or matter for which the recipient has received compensation; provided, however, that persons who are employed in construction work covered pursuant to federal, state or local prevailing wage laws shall be exempt from this chapter. [Amended 3-15-2005 by L.L. No. 9-2005^{EN}]

COVERED EMPLOYER -- A recipient of, or an applicant for, compensation that has not been granted an exemption from this chapter, and who has at least one covered employee working within the County of Suffolk or the County of Nassau. [Amended 3-15-2005 by L.L. No. 9-2005^{EN}]

LIVING WAGE -- Shall have the meaning stated in § 347-3 of this chapter.

PERSON -- One or more of the following or their agents, employees, representatives and legal representatives: individuals, corporations, partnerships, joint ventures, associations, labor organizations, educational institutions, mutual companies, joint-stock companies, trusts, unincorporated organizations, trustees, trustees in bankruptcy, receivers, fiduciaries and all other entities recognized at law by this County.

RECIPIENT -- Any person or entity that is a recipient of compensation, as defined in this chapter; and: [Amended 3-15-2005 by L.L. No. 9-2005^{EN}]

A. Any tenant or leaseholder of a recipient that employs at least 10 persons and occupies property or uses equipment or property that is improved or developed as a result of compensation; and

B. Any contractor or subcontractor of a recipient that employs at least 10 persons in producing or providing goods or services to a recipient that are used by that recipient in the project or matter for which the recipient has received compensation.

SEASONAL EMPLOYEE -- An employee hired temporarily for a period not to exceed 90 consecutive days at any given time within a six-month period.

§ 347-3. Living wage and other benefits. [Amended 8-6-2002 by L.L. No. 18-2002^{EN}; 12-18-2002 by L.L. No. 2-2003; 8-5-2003 by L.L. No. 24-2003^{EN,EN}; 4-20-2004 by L.L. No. 9-2004; 3-15-2005 by L.L. No. 9-2005^{EN}]

NOTE: Local Law No. 2-2003, also provided as follows:

Section 1. Legislative intent.

This Legislature hereby finds and determines that Local Law 12-2001, "A Local Law to Permanently Establish Living Wage Policy for the County of Suffolk," adopted by the County Legislature on July 27, 2001, via an override of the County Executive's veto, will require an additional eight-month transition period based on a request from the Child Care Council.

This Legislature also finds that the day care industry needs an extension of time to comply with the Living Wage Law because several for-profit agencies are not in compliance with the law and may reduce the number of day care slots available in the short run.

This Legislature further finds and determines that some of the not-for-profit agencies are planning on requesting County funds to meet their costs and ultimately fill the void in such slots, if any, that may materialize.

This Legislature determines that the County contracts with these agencies expire on December 31, 2002.

This Legislature further finds that in order to allow sufficient time for the not-for-profits to get to the County funds processed and to develop enough slots to cover the ones the County may lose and to provide for a smooth transition for children in day care so that they can be moved at the start of the new school year, the Child Care Council has requested an extension until September 1, 2003.

Therefore, the purpose of this law is to grant a temporary eight-month exemption to child-care agencies; provide upfront financing for child-care providers to meet increased payroll expenses; and clarify applicability of cafeteria plans to \$1.25 health benefit component of the law.

Section 3. Applicability.

This law shall apply to all actions occurring on or after the effective date of this law.

NOTE: Local Law No. 9-2004 also provided as follows:

Section 1. Legislative intent.

This Legislature hereby finds and determines that it is necessary to make further changes in the Living Wage Law in order to have all

sections conform to amendments contained in local laws 18-2002, "Local Law to Implement Living Wage Policy for County of Suffolk"; Local Law 2-2003, "Local Law to Grant Temporary Exemption to the Living Wage Policy for Child Care Agencies and to Implement Financial Assistance"; and Local Law 24-2003, "Local Law to Amend Living Wage Law for Transition to Full Implementation."

Therefore, the purpose of this law is to correct these technical deficiencies and to conform all provisions of the Living Wage Law to recent amendments.

Section 3. Applicability.

This law shall apply to all actions occurring on or after the effective date of this law.

As used in this chapter, the following terms shall have the meanings indicated:

A. **Applicability.** Covered employers shall pay no less than a living wage to their covered employees who actually perform work or render services on or for a project, matter, contract, or subcontract for which the recipient has received compensation, provided that in the case of employees performing nonconstruction work that is covered by state or local prevailing wage laws, covered employers shall pay the greater of a living wage or said prevailing wage for nonconstruction work.

B. **Amount of wage.** The living wage shall be calculated on an hourly basis and shall be no less than \$9 per hour worked with health benefits, as described in this chapter, or otherwise \$10.25 per hour. For the employees of child-care providers only, the living wage shall be calculated on an hourly basis and shall be no less than \$9 per hour worked, with or without health benefits, of which no less than \$7.75 shall be attributable to non-benefit employee compensation until January 1, 2005. In the event that health benefits are not provided, then such employees shall receive \$9 per hour worked. Beginning on January 1, 2005, the living wage for employees of child-care providers shall be calculated on an hourly basis and shall be no less than \$9.75 per hour worked, with or without health benefits, of which no less than \$8.50 shall be attributable to non-benefit employee compensation. In the event that the health benefits are not provided, then such employees shall receive \$9.75 per hour worked. Beginning on January 1, 2006, the living wage for all covered employees of child-care providers will increase by \$0.75 per hour worked. The living wage shall be adjusted upwardly only, if applicable, each year beginning in 2010 in proportion to the increase of the area consumer price index as published by the U. S. Department of Labor and calculated on a period of 12 months ending in September of the previous year. The covered employer shall provide written notification of the rate adjustments to each of its covered employees and to its subcontractors and/or tenants, who shall provide written notices to each of their employees, if any, and make the necessary payroll adjustments by January 1, beginning in 2010. [Amended 6-9-2009 by L.L. No. 21-2009]

NOTE: Local Law No. 21-2009 also provided as follows:

Section 1. Legislative intent.

This Legislature hereby finds and determines that Local Law No. 12-2001 established a living wage policy for the County of Suffolk. This Legislature also further finds that the Living Wage Law contains a provision that the living wage shall increase annually in proportion to any increase in the Consumer Price Index, and such living wage adjustments are required to be implemented by covered employers on July 1 each year.

This Legislature finds that numerous not-for-profit organizations have asked that the annual implementation date for living wage adjustments be moved to January 1 to coincide with the term of their County contracts as well as their normal budget calendar.

This Legislature also determines that the County of Suffolk set a policy that precluded contract agencies from including personnel pay increase in their 2009 contracts. As a consequence of this policy, the scheduled July 1, 2009, living wage adjustment is, in effect, an unfunded mandate for contract agencies.

This Legislature further finds and determines that the deep national recession has had a severe negative effect on the fiscal health of not-for-profit agencies; deferring the scheduled living wage adjustment from July 1, 2009, to January 1, 2010, will provide necessary relief to these organizations.

Therefore, the purpose of this local law is to delay the date for the scheduled living wage adjustment from July 1, 2009, to January 1, 2010, and to establish January 1 as the date for annual cost-of-living adjustments in all years thereafter.

Section 4. Applicability. This law shall apply to living wage rate adjustments occurring on or after the effective date of this law.

C. **Health benefits.** Health benefits required by this chapter shall consist of the payment of at

least \$1.25 per hour towards the provision of health-care benefits for employees and their dependents. Proof of the provision of such benefits must be submitted to the agency not later than 30 days after execution of the contract to qualify for the wage rate in § 347-3 for employees with health benefits. Any employee-elected/needed benefit (health care and non-health-care options) shall be considered as an eligible item for the purpose of calculating the \$1.25 per hour benefit mandated if offered through a cafeteria-like plan, as long as the benefit is not mandated by state or federal law.

D. Certification of employers paying less than living wage barred. Prior to entering into any agreement with the County of Suffolk for any form of compensation, a covered employer must certify for the County Department of Labor that it will pay each of its covered employees no less than the living wage. A copy of this certification must be made available to the public, upon request, by the recipient and by the County Clerk.

E. No reduction in collective bargaining wage rates. Nothing in this chapter shall be construed to require or authorize any beneficiary to reduce wages established by a collective bargaining agreement or required under any prevailing wage law. Nothing in this chapter, however, shall be construed to increase or affect the wages, paid time-off entitlement, or benefits established in a collective bargaining agreement with regard to those employees of a recipient or covered employer during any period of time that an employee is not actually performing applicable work as defined in § 347-3A of this chapter.

F. Cuts in nonwage benefits prohibited. No recipient shall fund wage increases required by this chapter, or otherwise respond to the provisions of this chapter, by reducing the health, insurance, pension, vacation, or other nonwage benefits of any of its employees.

G. Living wage reporting. The County Department of Human Resources and Civil Service shall report to the Legislature within 60 days after enactment as to which full-time County positions pay less than the living wage standard. The County of Suffolk shall then use this information to comply with the standards of this chapter.

(1) Payroll recordkeeping and reporting. Each covered employer shall maintain payrolls for all covered employees and basic records relating thereto and shall preserve them for a period of three years. The records shall contain the number of hours worked each day, the gross wages, deduction made, actual wages paid, a record of fringe benefit payments, and any other data as may be required by the County Department of Labor from time to time, on a New York State Department of Labor Bureau of Public Works Form PW12, as modified by the County Department of Labor to conform to the requirements of this chapter. Upon request by the County Department of Labor, a covered employer shall produce, for inspection and copying, its payroll records for any or all of its covered employees for the prior three-year period. Covered employers shall maintain a listing of the name, date of hire, occupation classification, rate of pay, and benefits paid for each of its nonexempt covered employees.

(2) Notice of application for compensation. Any and all contracts or agreements to provide compensation shall be void, and no compensation may be awarded, unless, at least 21 days before compensation is awarded or an agreement to provide compensation is signed, the applicant for compensation files with the office of the County Clerk a publicly available application for compensation which shall include the following:

(a) The name, address, and phone number of both the prospective recipient and, if

different, the specific project for which the compensation is sought;

- (b) The amount and origin of compensation sought (e.g., state or County compensation program or contracting department);
- (c) A brief description of the project or service for which the compensation is sought;
- (d) A statement of projected employment needs, by job classification, under the prospective compensation, including calculation of estimated net increase or decrease in jobs as a result of compensation;
- (e) A statement of the projected wage levels of all covered employees in each of the years for which compensation is sought; and
- (f) A written commitment to pay all covered employees a living wage, as defined by this chapter.

(3) County compensation reports. Each awarding agency shall file a County Compensation Report with the County Department of Labor. The report shall include, for each compensation package or contract approved, by or through the authority or administration of the County Department of Labor, during the preceding year:

- (a) The name of the awarding agency, the name of the specific program under which the compensation was awarded, and the origin of funds for compensation;
- (b) A calculation of the total cost to the County of compensation provided to each recipient, including both face-value of compensation, as well as revenue not collected by the County as a result of the compensation;
- (c) A description of the purpose or project for which the compensation is awarded;
- (d) An accounting of the total number of jobs created per each project for which compensation was given; and
- (e) An accounting of the average wage paid on all jobs created by compensation granted by the awarding agency during the quarter.

H. Compensated days off. Employers shall provide at least 12 days off per year for sick leave, vacation, or personal necessity at the employee's request. Employees shall accrue one compensated day off per month of full-time employment. Part-time employees who work 20 or more hours per week shall accrue compensated time off in increments proportional to that accrued by full-time employees. The employees shall be eligible to use accrued days off after the first six months of employment or consistent with company policy, whichever is sooner. Paid holidays, consistent with established employer policy, may be counted toward provision of the required 12 compensated days off. Part-time employees earning 200% of the living wage rate may be exempted from receiving compensated time off.

I. No covered employer shall adjust the number of hours of work per day, per week, or per month required for a covered employee, who receives a salary instead of an hourly wage, for the purpose of evading or undermining, by punitive measure, the requirements of Subsection B or C of this section. In order to avoid being deemed an evasion or punitive measure under this chapter, any adjustment in the number of hours of work of a salaried covered employee must be by negotiated employment agreement or by a business-wide change in hours of the covered

employees by the covered employer, implemented in the ordinary course of business, and shall be accompanied by a corresponding adjustment in the covered employee's salary and/or benefits to ensure compliance with Subsection B or C of this section based on the new hourly work requirements.

§ 347-4. Recordkeeping. [Amended 8-6-2002 by L.L. No. 18-2002 ^{EN}; 3-15-2005 by L.L. No. 9-2005^{EN}]

A. The County Department of Labor shall promulgate rules and regulations necessary and appropriate for the implementation of this chapter.

B. The County Department of Labor shall submit annual reports to the County Legislature which shall include the following information at minimum:

(1) A listing and the status of all RFP's and RFQ's, service contracts and lease agreements executed and financial compensation awarded, to which this chapter applies including the term, dollar amount, and the service performed or compensation provided.

C. The County Department of Labor shall review the records of any covered employer at least once every three years to verify compliance with the provisions of this chapter.

D. The Department of Labor shall not require not-for-profit corporations which have no employees to submit the certification of compliance described in § 347-7 of this chapter; rather, not-for-profit corporations shall certify on a form established by the Department of Labor that the corporation has no employees. A not-for-profit corporation must submit this form only once annually even if that corporation is the recipient of compensation under multiple contracts. If a not-for-profit corporation submits this form and thereafter hires an employee during the calendar year, the not-for-profit corporation must immediately notify the Department of Labor or the awarding agency and thereafter comply with all applicable provisions of this article. [Added 8-5-2008 by L.L. No. 31-2008 ^{EN}]

§ 347-5. Noncompliance review and appeal. [Amended 4-20-2004 by L.L. No. 9-2004^{EN}]

A. Covered employers who fail to submit documents, certification or information required to demonstrate compliance with this chapter shall be deemed nonresponsive and subject to disqualification and other sanctions set forth herein.

B. The County Department of Labor shall develop an administrative procedure and appeal process for determining compliance with this chapter, subject to the following conditions:

(1) The appeals process shall be available to every bidder/proposer who has been deemed noncompliant with this chapter, or who disputes the determination of applicability of this chapter to its business operation which will be involved in the proposed contract. A contract shall not be executed until there is resolution of the relevant appeal.

(2) Appeals shall be filed with the County Department of Labor within seven calendar days after the date of the notice of the County's written determination of noncompliance and reasons therefor, or written determination of the applicability of this chapter.

(3) The County Department of Labor shall maintain records pertaining to all complaints,

hearings, determinations and findings, waivers requested and granted, and shall submit a regular report on compliance with this chapter no less than annually to the County Legislature. Special reports and recommendations on significant issues of interest to the Legislature shall be submitted as deemed appropriate by the County Department of Labor or as directed or requested by the Suffolk County Legislature.

C. Living Wage Advisory Committee.

- (1) A living wage Advisory Committee (Committee) is hereby created to review the effectiveness of this chapter at creating and retaining living-wage jobs in Suffolk County.
- (2) The Committee shall be comprised of seven members as follows:
 - (a) Two members of the Suffolk County Legislature, one to be appointed by the majority leader, and one to be appointed by the minority leader of the County Legislature.
 - (b) Two labor union members to be selected by labor union affiliates of the Long Island Federation of Labor, AFL-CIO.
 - (c) Three members to be appointed by the County Executive, including two representatives of covered employers, and one member from the community at large.
- (3) Members of this Committee shall serve a three-year term.
- (4) The Committee shall meet at least once a year and in special session as required. All meetings of the Committee shall be open to the public and shall allow for public testimony on the uses of County assistance generally, and on specific instances of assistance or proposed assistance as received or sought by individual enterprises.

§ 347-6. RFP, contract and financial assistance agreement language. [Amended 3-15-2005 by L.L. No. 9-2005 ^{EN}]

All RFP's, County contracts and financial compensation agreements subject to this chapter shall contain the following two paragraphs or substantially equivalent language:

A. "This contract is subject to the Living Wage Law of the County of Suffolk. The law requires that, unless specific exemptions apply, or a waiver is granted, all employers (as defined) under service contracts and recipients of County financial assistance, (as defined) shall provide payment of a minimum wage to employees (as defined) of \$9 per hour with health benefits of at least \$1.25 per hour or otherwise \$10.25 per hour. Such rate shall be adjusted annually pursuant to the terms of the Suffolk County Living Wage Law of the County of Suffolk." For the employees of child-care providers only, the living wage shall be no less than \$9 per hour worked, with or without health benefits, of which no less than \$7.75 shall be attributable to nonbenefit employee compensation until January 1, 2005. In the event that health benefits are not provided, then such employees shall receive \$9 per hour worked. Beginning January 1, 2005, the living wage for employees of child care providers shall be no less than \$9.75 per hour worked of which no less than \$8.50 shall be attributable to nonbenefit employee compensation. In the event that health benefits are not provided, then such employees shall receive \$9.75 per hour worked. Beginning on January 1, 2006, the living wage for all covered employees of child-care providers will increase by \$0.75 per hour worked.

B. "Under the provisions of the Living Wage Law, the County shall have the authority, under appropriate circumstances, to terminate this contract and to seek other remedies as set forth therein, for violations of this chapter."

§ 347-7. Obligations of covered employers. [Amended 8-6-2002 by L.L. No. 18-2002; 8-5-2003 by L.L. No. 24-2003^{EN, EN}; 4-20-2004 by L.L. No. 9-2004^{EN}; 3-15-2005 by L.L. No. 9-2005^{EN}]

A. All covered employers subject to the provisions of this chapter shall submit a completed sworn (under penalty of perjury) "Certification of Compliance Subject to Audit" form, signed by an authorized representative, as part of an executed contract with the County of Suffolk. The completed certification of compliance form shall be made a part of any executed contract or project agreement and shall be made available to the public upon request.

B. Covered employers shall inform their subcontractors to comply with the provisions of this chapter for as long as the covered employer is in receipt of compensation and shall inform tenants/leaseholders that they are required to comply with the provisions of this chapter for as long as they use and occupy a premises or lease equipment or property that is in receipt of compensation. Language indicating the subcontractor's or tenant's/leaseholder's requirement to comply shall be included in any contract or agreement between a covered employer and its contractors, subcontractors, tenants or leaseholders. A copy of such subcontracts or other such agreements shall be submitted to the County and made available to the public upon request.

C. Covered employers shall give written notification to each current and new covered employee, at time of hire, of his or her rights to receive the benefits under the provisions of this chapter. The notification shall be posted prominently in communal areas at the work site. A copy of said notification shall be forwarded to the County and shall include the following:

(1) Minimum compensation and health benefits. The initial rates of \$9 an hour with health benefits, or \$10.25 without health benefits, will be adjusted each year no later than April 1 in proportion to the increase at the immediately preceding December 31 over the year-earlier level of the consumer price index, as published by the U.S. Department of Labor, applied to \$10.25. Proof of the provision of qualified health benefits shall be submitted to the County not later than 30 days after execution of the contract to qualify for the wage rate in § 347-3. Health benefits shall be provided to part-time covered employees as well as full-time covered employees.

(2) Notice that the covered employers are required to file a certification of compliance form as part of the contract with the County and that the County will make said certifications available for public inspection and copying during its regular business hours.

D. Any recipient shall permit access to work sites and relevant payroll records by authorized County representatives for the purpose of monitoring compliance with this chapter, investigating employee complaints of noncompliance, and evaluating the operation and effects of this chapter, including the production for inspection and copying of its payroll records for any or all of its employees for the term of the contract or for five years, whichever period of compliance is applicable.

E. Covered employers shall inform covered employees making less than \$12 per hour of their possible right to the federal earned income credit (EIC) under Section 32 of the Internal

Revenue Code of 1954, 26 U.S.C. Section 32, and shall make available to employees forms informing them of the EIC and forms required to secure advance EIC payments from the employer. These forms shall be provided to the eligible covered employees in English, Spanish, and other languages spoken by a significant number of the covered employees within 30 days of employment under the terms of this section, and as required by the Internal Revenue Code.

§ 347-8. Retaliation and discrimination barred.

Covered employers shall not discharge, reduce the compensation of or otherwise discriminate against any employee for making a complaint to the County, participating in any of its proceedings, using any civil remedies to enforce his or her rights or otherwise asserting his or her rights under this chapter. covered employers shall also be in compliance with federal law proscribing retaliation for union organizing.

§ 347-9. Monitoring, investigation and compliance.

A. The provisions of this chapter shall augment the County's normal and customary procedure for administering its contracts. The County shall administer the requirements of this chapter as follows: [Amended 8-6-2002 by L.L. No. 18-2002 ^{EN}; 3-15-2005 by L.L. No. 9-2005^{EN}]

- (1) The County Department of Labor shall develop rules and regulations necessary and appropriate to review contract documents to insure that relevant language and information are included in County RFP's, agreements and other pertinent documents.
- (2) The County Department of Labor shall develop rules and regulations necessary and appropriate for the monitoring of the operations of the contractors, subcontractors, and financial assistance recipients to insure compliance, including the review, investigation, and resolution of specific concerns or complaints about the employment practices of a covered employer relative to this chapter. In such cases, the County shall attempt to resolve the problem within 30 days.
- (3) Where a violation of any provision of this chapter has been determined, the contractor shall be given a written notice by the County per the rules and regulations promulgated by the County Department of Labor. If the violation continues and/or no resolution is imminent, the County shall pursue all available legal remedies, including but not limited to any or all of the following penalties and relief:
 - (a) Suspension and/or termination of the contract, subcontract, or financial compensation agreement, for cause;
 - (b) Payback of any or all of the contract or financial compensation awarded by the County of Suffolk;
 - (c) Deem the covered employer ineligible for future County contracts and/or financial compensation until all penalties and restitution have been paid in full;
 - (d) A fine payable to the County of Suffolk in the sum of \$500 for each week for each covered employee found not to have been paid in accordance with this chapter;
 - (e) Wage restitution for each affected covered employee.

B. The Suffolk County Attorney shall promulgate procedures for legal enforcement of the requirements of this chapter.

§ 347-10. Covered employee complaint process. [Amended 8-6-2002 by L.L. No. 18-2002^{EN}]

A covered employee who alleges violation of any provision of this chapter may report such acts to the County and, at the covered employee's discretion, exhaust available employer internal remedies. The complaint to the County shall be handled as follows:

A. The covered employee shall submit to the County a completed complaint form and copies of all documents supporting the allegation.

B. The County shall notify the Awarding Agency and the Covered Employer of the complaint and seek resolution within five days from receipt of the complaint form. If resolution is not accomplished, the County shall initiate an investigation and seek legal remedies, if appropriate.

C. A covered employee claiming retaliation (such as termination, reduction in wages or benefits, or adverse changes in working conditions) for alleging noncompliance with this chapter may report the alleged retaliation in the same manner as the initial complaint.

§ 347-11. Applicability. [Amended 8-6-2002 by L.L. No. 18-2002^{EN}; 3-15-2005 by L.L. No. 9-2005^{EN}]

A. This chapter shall apply to all actions occurring on or after July 1, 2002, and shall apply to:

- (1) A contract or subcontract entered into or renewed and after the applicability date of this chapter;
- (2) Financial compensation awarded after the applicability date of this chapter;
- (3) A contract amendment consummated after the applicability date of this chapter which itself meets the financial threshold requirement of this chapter, and
- (4) Supplemental financial compensation provided for after the applicability date of this chapter which itself meets the requirements of this chapter.

B. This chapter shall not apply to:

- (1) Employees working in a bona fide executive, administrative or professional capacity; and
- (2) Employees earning annually at least \$23,660; or
- (3) Persons with disabilities (earning or productive capacity is impaired by age, physical deformity, mental deficiency, or injury) working in employment programs where the employer holds a current subminimum wage certificate issued by the United States Department of Labor, or where such certificate could be issued but for the fact that the employer is paying a wage higher than the minimum wage.

§ 347-12. Duration of requirements. [Amended 3-15-2005 by L.L. No. 9-2005^{EN}]

A. Receipts of compensation in an amount greater than \$50,000 in any twelve-month period shall require compliance with this chapter for the life of the project and for as long as such compensation is being received by a recipients.

B. Compensation in the form of a service contract or subcontract of at least \$10,000, as defined in Subsection B of the definition of "compensation" in § 347-2 of this chapter shall require compliance with this chapter for the term of the contract or subcontract.

§ 347-13. Exemptions. [Amended 8-6-2002 by L.L. No. 18-2002^{EN}; 12-18-2002 by L.L. No. 2-2003^{EN}; 8-5-2003 by L.L. No. 24-2003^{EN, EN}; 3-15-2005 by L.L. No. 9-2005^{EN}]

A. Grounds for granting exemptions.

(1) General exemption. Exemptions may be granted by the County Department of Labor where application of this chapter to a particular form of compensation is found by the County to violate specific state or federal statutory, regulatory or constitutional provision or provisions.

(2) Youth employment exemption. An exemption to this chapter may be granted where a recipient is an organization that regularly employs individuals under the age of 21 in a summer youth or school-to-work program. The exemption shall only apply to such employees.

(3) Not-for-profit and for-profit corporations. An exemption to this chapter may be granted for a maximum period of one year after the enactment of this chapter to any not-for-profit organization which is exempt from federal income tax under Section 501(c) of the Internal Revenue Code of 1986 and to any for-profit corporation and which performs services for the County or its departments for the benefit of the people of Suffolk County, provided:

(a) The Chief Executive Officer of such organization or corporation provides proof to the County of Suffolk that the highest paid employee of the organization or corporation earns a salary which, when calculated on an hourly basis, is less than six times the lowest wage or salary paid by the organization or corporation; or

(b) An applicant for an exemption demonstrates that the fulfilling of the requirement of this chapter will present a hardship in that the fulfilling of the requirement of this chapter will directly increase the expected total annual budget of the applicant in an amount greater than 10% of the prior year's adopted budget.

(c) An applicant for an exemption pursuant to Subsection A(3) of this section shall submit in writing to the Suffolk County Department of Labor an application for an exemption containing the following information:

[1] The anticipated total annual budget of the applicant should the exemption be granted;

[2] The annual cost of the application of this chapter to the applicant;

[3] The percentage increase of the anticipated total annual budget of the applicant

if the application for an exemption is denied; and

[4] The number of employees that would be affected by the application of this chapter to the applicant.

(d) The applicant agrees to submit all books and records to the Suffolk County Department of Labor, upon request, for examination and documentation of the basis for the request for such an exemption.

(4) Seasonal employees. A corporation that employs seasonal employees may be granted a permanent exemption from this chapter with respect only to those seasonal employees. Proof that employees are seasonal employees as defined in this chapter, and therefore eligible for an exemption, must be provided to the County before an exemption can be granted.

(5) An applicant for exemption for contracts awarded through competitive bidding or a request for proposal process shall request such exemption by completing a Request for Exemption - Living Wage form contained in each bid or request for proposal solicitation issued by the County of Suffolk.

(a) Applicants who are requesting an exemption to this section may submit more than one proposal or bid; i.e., one based on an approved exemption and one based on a disapproved exemption.

(b) The application requesting such exemption shall contain the following information:

[1] The anticipated total annual budget of the applicant should the exemption be granted;

[2] The annual cost of the application of this chapter to the applicant;

[3] The percentage increase of the anticipated total annual budget of the applicant if the application for an exemption is denied; and

[4] The number of employees that would be affected by the application of this chapter to the applicant.

B. Contents of exemption requests. All general exemption requests shall include the following:

(1) The nature of compensation to which this chapter applies;

(2) The specific or official name of the compensation and compensation program, the statutory or regulatory authority for the granting of the compensation, and a copy of that authority;

(3) The conflicting statutory, regulatory or constitutional provision or provisions that make compliance with the chapter unlawful, and a copy of each such provision; and

(4) A factual explication and legal analysis of how compliance with this chapter would violate the cited provision or provisions, and the legal consequences that would attach if this violation were to occur.

C. The exemptions in Subsection A(3)(a) and (b) of this section shall not apply to child-care

providers.

§ 347-14. Implementing regulations.

The County Department of Labor is hereby authorized and empowered to issue and promulgate such rules and regulations as shall be necessary and appropriate to implement this chapter.

§ 347-15. County transitional financial assistance. [Added 12-18-2002 by L.L. No. 2-2003^{EN}; amended 3-15-2005 by L.L. No. 9-2005^{EN}]

Not-for-profit corporations and all child-care providers shall be eligible for upfront financial assistance from the Suffolk County Living Wage Contingency Fund, or any successor fund thereto, in order to meet increased payroll expenses upon filing a pertinent request with the Suffolk County Department of Labor in such form as shall be prescribed by said Department of Labor. The Suffolk County Department of Labor shall require periodic documentation to verify the proper use of these moneys and shall conduct an annual audit until such time as the Contingency Fund, or any successor fund thereto, has been fully exhausted and the County is no longer providing financial assistance to implement this chapter.

Chapter 348, LOBBYISTS

[HISTORY: Adopted by the Suffolk County Legislature 10-25-1988 as L.L. No. 37-1988.^{EN} Amendments noted where applicable.]

§ 348-1. Legislative intent.

A. This Legislature hereby finds and determines that lobbyists who appear before agencies, departments, commissions and boards of the County of Suffolk often exercise an influence disproportionate to the actual interests they represent within the Suffolk County community.

B. Therefore, the purpose of this chapter is to require registration and monitoring of lobbyists who appear before Suffolk County government so as to make certain that the integrity of the decision making process in county government is preserved and protected against actual improprieties or perceptions of improper activity.

VI

**SUFFOLK COUNTY
CHILD SEXUAL ABUSE
REPORTING POLICY**

CHAPTER 577, ARTICLE IV, **Child Sexual Abuse Reporting Policy** [Adopted 6-11-2002 by Res. No. 543-2002]

§ 577-16. **Policy established.**

The County of Suffolk hereby establishes a formal child sexual abuse reporting policy as follows:

- A. Each County Department that has a contract or agreement with any individual, partnership, corporation, joint venture, business organization, or other entity which receives payments from the County of Suffolk, either directly or as a conduit for payment from another level of government, shall notify such individual, partnership, corporation, joint venture, business organization, or other entity that Suffolk County requires full compliance with the reporting and disclosure provisions of Subsection C of this section, as a condition precedent to receipt of such payment and continuing receipt of such payment, in those instances in which an allegation has been made of sexual abuse of a minor by any employee or member of such contract vendor, including any member of the clergy, involving any of the following sex offenses:
- (1) Rape in the third degree, § 130.25 (less than 17 years old) of the New York Penal Law;
 - (2) Rape in the second degree, § 130.30 (less than 14 years old) of the New York Penal Law;
 - (3) Rape in the first degree, § 130.35 (less than 11 years old) of the New York Penal Law;
 - (4) Sodomy in the third degree, § 130.40 (less than 17 years old) of the New York Penal Law;
 - (5) Sodomy in the second degree, § 130.45 (less than 14 years old) of the New York Penal Law;
 - (6) Sodomy in the first degree, § 130.50 (less than 11 years old) of the New York Penal Law;
 - (7) Sexual abuse in the third degree, § 130.55 (less than 17 years old) of the New York Penal Law;
 - (8) Sexual abuse in the second degree, § 130.60 (less than 14 years old) of the New York Penal Law;
 - (9) Sexual abuse in the first degree, § 130.65 (less than 11 years old) of the New York Penal Law;
 - (10) Aggravated sexual abuse in the third degree, § 130.66 (less than 11 years old) of the New York Penal Law;
 - (11) Aggravated sexual abuse in the second degree, § 130.67 (less than 11 years old) of the New York Penal Law;
 - (12) Aggravated sexual abuse in the first degree, § 130.70 (less than 11 years old) of the New York Penal Law;
 - (13) Course of sexual conduct against a child in the first degree, § 130.75 (less than 11 years old) of the New York Penal Law; and
 - (14) Course of sexual conduct against a child in the second degree, § 130.80 (less than 11 years old) of the New York Penal Law;
 - (15) Sexual misconduct, § 130.20 (sexual intercourse without consent) of the New York Penal Law;
 - (16) Forcible touching, § 130.52 (sexual or intimate parts) of the New York Penal Law;
 - (17) Persistent sexual abuse, § 130.53 (two or more convictions within the past 10 years for less than 17 years old or 14 years old) of the New York Penal Law;
 - (18) Aggravated sexual abuse in the fourth degree, § 130.65a (less than 17 years old) of the New York Penal Law;
 - (19) Female genital mutilation, Section 130.85 (less than 18 years old, nonmedical procedure) of the New York Penal Law;
 - (20) Facilitating a sex offense with a controlled substance, § 130.90 (without consent to commit a felony) of the New York Penal Law.
- B. Definitions. For the purposes of this article, the following terms shall have the meanings indicated:

CLERGY -- A duly authorized bishop, pastor, rector, priest, rabbi, minister, imam, nun, or a person having authority from, or in accordance with, the rules and regulations of the governing ecclesiastical body of the denomination or order, if any, to which the church belongs, or otherwise from the church, synagogue, or mosque to preside over and direct the spiritual affairs of the church, synagogue, or mosque, as the case may be.

MINOR -- Anyone under the age of 18 years of age;

C. All supervisory, administrative, or management employees of any individual, partnership, corporation, joint venture, business organization, or other entity receiving payment from the County of Suffolk, either directly or as a conduit for payment from another level of government, under agreement or contract with the County of Suffolk, shall report or cause a report to be made to 911 or the pertinent village, town, or county Police Department when he/she, or it has reasonable cause to suspect that a minor coming before them is or has been the victim of sexual abuse, or when another person or clergy person comes before them and states from personal knowledge facts, conditions, or circumstances which, if correct, would render the minor a victim of sexual abuse under any of the following sex offenses, said reporting to occur within 24 hours after forming the reasonable cause or first learning of the allegations: [Amended 8-28-2002 by Res. No. 819-2002]

- (1) Rape in the third degree, § 130.25 (less than 17 years old) of the New York Penal Law;
- (2) Rape in the second degree, § 130.30 (less than 14 years old) of the New York Penal Law;
- (3) Rape in the first degree, § 130.35 (less than 11 years old) of the New York Penal Law;
- (4) Sodomy in the third degree, § 130.40 (less than 17 years old) of the New York Penal Law;
- (5) Sodomy in the second degree, § 130.45 (less than 14 years old) of the New York Penal Law;
- (6) Sodomy in the first degree, § 130.50 (less than 11 years old) of the New York Penal Law;
- (7) Sexual abuse in the third degree, § 130.55 (less than 17 years old) of the New York Penal Law;
- (8) Sexual abuse in the second degree, § 130.60 (less than 14 years old) of the New York Penal Law;
- (9) Sexual abuse in the first degree, § 130.65 (less than 11 years old) of the New York Penal Law;
- (10) Aggravated sexual abuse in the third degree, § 130.66 (less than 11 years old) of the New York Penal Law;
- (11) Aggravated sexual abuse in the second degree, § 130.67 (less than 11 years old) of the New York Penal Law;
- (12) Aggravated sexual abuse in the first degree, § 130.70 (less than 11 years old) of the New York Penal Law;
- (13) Course of sexual conduct against a child in the first degree, § 130.75 (less than 11 years old) of the New York Penal Law; and
- (14) Course of sexual conduct against a child in the second degree, § 130.80 (less than 11 years old) of the New York Penal Law;
- (15) Sexual misconduct, § 130.20 (sexual intercourse without consent) of the New York Penal Law;
- (16) Forcible touching, § 130.52 (sexual or intimate parts) of the New York Penal Law;
- (17) Persistent sexual abuse, § 130.53 (two or more convictions within the past 10 years for less than 17 years old or 14 years old) of the New York Penal Law;
- (18) Aggravated sexual abuse in the fourth degree, § 130.65a (less than 17 years old) of the New York Penal Law;
- (19) Female genital mutilation, § 130.85 (less than 18 years old non-medical procedure) of the New York Penal Law;
- (20) Facilitating a sex offense with a controlled substance, § 130.90 (without consent to commit a felony) of the New York Penal Law;

- D. Whenever a clergy person is required to report under this article, in his or her capacity as a member of the clergy, he or she shall immediately notify the person in charge of such church, synagogue, or mosque, or his or her designated agent, who shall then also become responsible to report or cause reports to be made to 911 or the pertinent village, town, or county Police Department when he or she has reasonable cause to suspect that a minor coming before them is or has been the victim of sexual abuse, or when another clergy person comes before them and states from personal knowledge facts, conditions, or circumstances which, if correct, would render the minor a victim of sexual abuse. [Amended 8-28-2002 by Res. No. 819-2002]
- E. No information derived from a confession or confidential communication to a clergyman shall be disclosed pursuant to the requirements of this article if the confession or confidence is made to the clergyman in his or her professional capacity as a spiritual advisor, unless the person so confessing or confiding waives this privilege.
- F. All contract vendors covered by this article shall inform all of their employees in writing as to the disclosure requirements of this article and shall also inform them that each of them must report any allegations of child abuse covered in paragraph (A) of the 1st RESOLVED clause of this article to supervisory, management, or designated administrative personnel of the employer.

§ 577-17. Failure to comply; penalties for offenses.

Failure to comply with the terms and conditions of this article shall result in the following:

- A. First violation: the contract vendor shall be issued a warning and all supervisory, administrative, and management employees of such contract vendor shall be required to attend a child sexual abuse prevention/education workshop provided by a contract agency approved by the County of Suffolk via duly enacted resolution, which workshop shall include specific skills for adults to help prevent childhood sexual abuse; skills that adults can teach children to help protect themselves from childhood sexual abuse; skills for detecting the signs of childhood sexual abuse; and how to report allegations of childhood sexual abuse. The cost of this training shall be paid for by the contract vendor. In addition, the contract vendor shall submit a corrective plan of action to the Suffolk County Office of Labor Relations.
- B. Second violation within a three-year period subsequent to a first violation: the contract vendor shall be subject to a fine of 10% percent of the contracts that the pertinent violating individual supervisor, manager, or administrator oversees, not to exceed \$50,000. In addition, the contract vendor shall be put on probation for three years. An annual review shall be conducted by the Suffolk County Department of Audit and Control.
- C. Third violation within a three-year period subsequent to a first violation: the termination of the agreements with such individual, partnership, corporation, joint venture, business organization, or other entity overseen by the pertinent violating individual supervisor, manager, or administrator and the withholding of all payments to said individual, partnership, corporation, joint venture, business organization, or other entity for such agreements regardless of whether such payments are for past or future goods or services. The contract vendor shall not be eligible for funding from the County for three years from the date of such termination.

§ 577-18. Authority to issue rules and regulations.

The Suffolk County Department of Law is hereby authorized, empowered, and directed to issue and promulgate such rules and regulations as shall be deemed necessary and appropriate to implement the provisions of this article.

VII

SUFFOLK COUNTY INCONSISTENT PROVISIONS AND INDEMNIFICATION POLICY

Inconsistent Provisions

The provisions of this Exhibit A shall prevail over inconsistent provisions of any other exhibit and over any other document not specifically referred to in this Agreement or made part hereof by the agreement or by a subsequent addendum or amendment or this Agreement in writing and signed by both parties, except to the extent that such provisions of this Exhibit A are specifically referred to an amended or superseded by such exhibit, addendum or amendment.

Indemnification

The Contractor agrees that it shall protect, indemnify and hold harmless the County and its officers, officials, employees, contractors, agents and other persons from and against all liabilities, fines, penalties, actions, damages, claims, demands, judgments, losses, costs, expenses, suits or actions and reasonable attorneys' fees, arising out of the acts or omissions or the negligence of the Contractor in connection with the services described or referred to in this Agreement. The Contractor shall defend the County and its officers, officials, employees, contractors, agents and other persons in any suit, including appeals, or at the County's option, pay reasonable attorney's fees for defense of any such suit arising out of the acts or omissions or negligence of the Contractor, its officers, officials, employees, subcontractors or agents, if any, in connection with the services described or referred to in this Agreement.

Additional Information

- A. The Contractor shall perform such professional services as may be necessary to accomplish the work required to be performed under and in accordance with this Agreement. The Contractor specifically represents and warrants that it has and shall possess, and that its employees, agents and subcontractors have and shall possess, the required education, knowledge and experience, if any, necessary to qualify them individually for the particular duties they perform.**
- B. The Contractor shall immediately notify the County in writing of any disciplinary proceedings against the holder of any license issued by the State of New York or other issuer of a license. In the event that the Contractor is no longer licensed for any one or more of the licensed services, the Contractor must immediately so notify the County.**
- C. Where legal services in support of County projects are required, the County Attorney's Office shall be contacted and they shall decide whether to provide the service in house or use outside council.**
- D. Where legal services are required to support a consultant doing work for the County, these costs are to be included in the consultant's lump fee.**
- E. Any legal consultant hired shall coordinate work with the County Attorney's Office.**

VIII

INSURANCE AGREEMENT

Insurance

- a. The Contractor agrees to procure, pay the entire premium for and maintain throughout the term of this Agreement, insurance in amounts and types specified by the County. The Contractor agrees to require that all of its subcontractors, in connection with work performed for the contractor related to this Agreement, procure, pay the entire premium for and maintain throughout the term of this Agreement insurance in amounts and types equal to that specified by the County for the contractor. Unless otherwise specified by the County and agreed to by the Contractor, in writing, such insurance will be as follows:**
 - i. Commercial General Liability insurance, including contractual liability Coverage, in an amount not less than Two Million Dollars (\$2,000,000.00) per occurrence for bodily injury and Two Million Dollars (\$2,000,000.00) per occurrence for property damage.**
 - ii. Automobile Liability insurance (if any vehicles are used by the Contractor in Performance of this Agreement) in an amount not less than Five Hundred Thousand Dollars (\$500,000.00) per person, per accident, for bodily injury and not less than One Hundred Thousand (\$100,000.00) for property damage per occurrence.**
 - iii. Worker's Compensation and Employer's Liability insurance in compliance with all applicable New York State laws and regulations and disability Benefits insurance, if required by law. Contractor shall furnish to the County, prior to its execution of this Agreement, the documentation required by the State of New York Workers' Compensation Board of coverage or exemption from coverage pursuant to §§57 and 220 of the Workers' Compensation Law. In accordance with General Municipal Law §108m this agreement shall be void and of no effect unless the Contractor shall provide and maintain coverage during the term of this Agreement for the benefit of such employees as are required to be covered by the provisions of the Worker's Compensation Law.**
 - iv. Professional Liability insurance in an amount not less than Two Million Dollars (\$2,000,000.00) on either as per occurrence or claims made coverage basis.**
- b. All policies providing such coverage shall be issued by insurance companies with an A.M. Best rating of A_ or better.**

- c. The Contractor shall furnish to the County Declaration Pages for each such policy of insurance and upon request, a true and certified original copy of each such policy, evidencing compliance with the aforesaid insurance requirements. In the case of commercial general liability insurance, the County of Suffolk shall be named as an additional insured and the Contractor shall furnish a Declaration Page and endorsement page evidencing the County's status as an additional insured on said policy.**
- d. All such Declaration Pages, certificates and other evidence of insurance shall provide for the County of Suffolk to be notified in writing thirty (30) days prior to any cancellation, nonrenewal or material change in said policies. Such Declaration Pages, certificates, policies and other evidence of insurance and notices shall be mailed to the Department at its address set forth in the paragraph entitled "Notices and Contact Persons" or at such other address of which the County shall have the Contractor notice in writing.**
- e. In the event Contractor shall fail to provide the Declaration Pages or certificates of insurance or to maintain any insurance required by this Agreement, the County may, but shall not be required to, obtain such policies and deduct the cost thereof from payments due Contractor under this Agreement or any other agreement between the County and Contractor.**
- f. If the Contractor is a town or other municipal corporation and has a self-insurance program under which it acts as a self-insurer for any of such required coverage, it may provide self-funded coverage and certificates or other evidence of such self-insurance in lieu of insurance by insurance companies.**