



**ROCHESTER SCHOOLS MODERNIZATION
PROGRAM - PHASE 2**

REQUEST FOR PROPOSALS FOR LEGAL SERVICES

The Rochester Joint Schools
Construction Board, on behalf of
Rochester Schools Modernization
Program, is seeking proposals for
Legal Services related to Phase 2 of
the Program.

Re-Issued on April 5, 2016

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1. SCOPE AND CLASSIFICATION

The Rochester Joint Schools Construction Board “the RJSCB” solicits proposals from experienced individuals or law firms in response to this Request for Proposals “the RFP” to provide General Legal Services to the RJSCB and its representatives. Law firms submitting proposals shall have experience and qualifications in representing New York State public school districts and municipalities, preferably the Big 5 city school districts.

It is the intention of these specifications that the individual/law firm hereunder could be engaged to provide general legal advice, assistance and counsel to the Rochester Joint Schools Construction Board on one or a variety of services, including but not limited to the following items:

- Education Law – matters pertaining to Education Law, specifically the laws affecting education institutions, New York State Education Law and other federal, state and local laws.
- Municipal Law – matters pertaining to Municipal Law, specifically the laws affecting public bodies and other federal, state, and local laws.
- Public Finance Law – Potential financing arrangements, bonding, etc., separate and distinct from bond counsel.
- Contracts, particularly relating to planning, financing, design, and construction.
- General Municipal Law Section 103 and M/WBE requirements.
- Real Estate and Development Law - Matters involving land development, real estate, leasing, and land use.

2. PROPOSAL CALENDAR AND INFORMATION

CALENDAR

EVENT	DATE
Issuance of RFP	April 5, 2016
Clarification Questions Due	April 13, 2016 at COB
Clarification Answers Provided	April 15, 2016 before COB
Proposals Due No later than	April 20, 2016 at 2:30 pm
Interviews	April 27, 2016
Final Selection / Award	May 2, 2016
Contract Start	Immediately upon final Contract execution

INFORMATION

Proposals must be received in the RJSCB office, 1776 N. Clinton Avenue, Rochester, NY 14621 no later than 2:30 PM (Eastern Daylight Time) on Monday, April 20, 2016, attention Tom Renauto, RJSCB Executive Director.

Individuals or law firms must submit **one signed original** proposal and **ten (10) bound copies** clearly marked. Individuals or law firms must submit a pdf format electronic version or proposal on a compact disc or flash drive. The CD or flash drive is to be enclosed with the signed original. Proposals must be submitted as stipulated above to:

Rochester Joint Schools Construction Board
Attn: Tom Renauto, Executive Director
1776 N. Clinton Ave
Rochester, New York 14621

The package shall be marked **“SEALED PROPOSAL FOR LEGAL SERVICES - TO BE OPENED BY ADDRESSEE ONLY – Date Here.”** Please ensure that your name/law firm's name is included on the outside of the package. If you are using a commercial delivery company that requires you to use its shipping package or envelope, your Proposal should be placed within a second sealed package labeled as detailed above. This will ensure your Proposal is not prematurely opened. Proposals not received by the time and date shown above will not be considered and shall be disqualified. There will be no exceptions.

Individuals/law firms not able to submit a Proposal are asked to inform the RJSCB of their regrets and interest in future work in writing in order to be considered for future solicitations. This letter should be directed to the above address.

Proposals will not be publicly opened. Cost information will not be released because the award will be made on best value analysis. Select individuals/law firms may be invited to give a formal presentation with time for a question and answer period. The session will last approximately one (1) hour.

All Proposal responses must include a clearly referenced index that corresponds to the format of the original RFP document. Major sections within each response must be separated by appropriately labeled index tabs. In order to be considered for the award, Proposals must be clearly labeled, concise and easy to follow.

Proposers shall indicate in their proposals what information, if any, is proprietary and confidential. Proposers are hereby advised that the RJSCB is subject to the New York State Freedom of Information Law (FOIL). Material marked “Confidential and Proprietary” will be treated as such to the extent consistent with the obligations under FOIL, other applicable law, regulation or legal process, and will not be disclosed by the RJSCB except as necessary for the evaluation of proposals.

3. COMMUNICATIONS / CORRESPONDENCE

Pursuant to State Finance Law sections 139-j and 139-k, this RFP includes and imposes certain restrictions on communications between the RJSCB and Proposers during the procurement process. A Proposer is restricted from making contacts (i.e., any oral, written or electronic communications which a reasonable person would infer as an attempt to influence the award, denial, or amendment of a contract) from issuance of the RFP through final award and approval of the resulting Procurement Contract by the RJSCB.

The RJSCB’s only designated contact for this RFP is Tom Renauto, Executive Director. All communications and correspondence relative to this RFP should be sent by electronic mail to: trenauto@aol.com.

Other than as provided for in this RFP, any contact with RJSCB Board members, staff, or RJSCB consultants during the pendency of this RFP may be grounds for disqualification from the RFP process.

4. QUESTIONS

To assist any and all individuals/law firms in obtaining clarity of scope and a clear understanding of the requirements of this RFP, individuals/law firms may present clarifying questions. All questions should be submitted via email to trenauto@aol.com by 5 PM (EDT) on April 13, 2016. Questions and the resulting answers will be sent to all interested parties by April 15, 2016.

5. AFFIRMATIVE ACTION

Provide a copy of your firm's affirmative action policy. This may be provided in an appendix that will not count against the page limit.

6. ORGANIZATION PROFILE

The Rochester Joint Schools Construction Board (RJSCB) is an agent of the City of Rochester and the Rochester City School District as authorized by Chapter 416, Laws of New York State 2007. The principal offices of the RJSCB are located at 1776 N. Clinton Ave, Rochester, New York, 14621.

The RJSCB is charged with oversight of all Phases of the Rochester City School District's Facilities Modernization Program (FMP). Phase 2 will include a maximum of 25 projects plus a District wide Technology project not to exceed \$435 million, financed through the short term BANs, and issuance of serial bonds.

7. INDIVIDUAL/LAW FIRM RESPONSIBILITIES

All employees covered by this RFP shall be on the individual's/law firm's payroll, and be paid by the individual/law firm.

The individual/law firm shall be responsible for all benefit costs, including Social Security, State and Federal Unemployment Insurance, Disability Insurance, Workers Compensation, and all other costs as required by state and federal law.

The individual/law firm shall be responsible to maintain all payrolls, personnel and other records required by law.

For clarification, the intent of Section 7 is to prevent a Prime firm from "loaning" their employees to an M/WBE firm and then subcontracting work to that M/WBE firm to meet the Business Diversity requirements for the program. Section 7 does not preclude a law firm from subcontracting a portion of the scope to another law firm. If a firm is subcontracted, that subcontracted firm will be responsible for paying its own lawyers who are performing services.

The individual/law firm shall bill the RJSCB at the agreed-upon rate on a monthly basis and supply any required verification with the invoices.

8. REQUIREMENTS/FORMAT

The RJSCB has established the following criteria to be provided by the successful individual/law firm. The RJSCB reserves the right to revise the scope of services prior to the execution of a contract to (1) reflect changes arising out of this proposal process; (2) incorporate any RJSCB requirements adopted after the publication of this Request for Proposal and (3) incorporate any other changes it deems necessary.

All Proposals must contain a Statement of Work that at a minimum clearly identifies sections that address the areas below. Please use a tab in your Proposal for each of the following (there should be eleven (11) tabs):

- a. Provide a brief history and description of the individual/law firm including a presentation of qualifications, limited to not more than ten (10) pages, exclusive of resumes and other forms.
- b. Provide a summary of experience you have with the subject scope of work. Identify specific qualifications that you believe especially qualify you or your law firm to perform this work.
- c. Identify all similar engagements that you have performed within New York State and the dates you provided same.
- d. Provide a description, location, date of completion and client contact person regarding services carried out by you or your law firm within the last five years that are comparable in scope to the proposed project.
- e. Provide the names and resumes of all professionals to be assigned to the project and identify the project manager or lead attorney who will be the RJSCB's point of contact. The attorney(s) who will be providing legal services on behalf of the RJSCB must be admitted to all of the Courts of the State of New York.
- f. Provide contact information for at least three references for which you or your law firm has provided legal services comparable to the scope of the services set forth in Section 1.
- g. Disclose actual or potential conflicts of interest to accepting an award of the contract with the RJSCB, and if a conflict of interest exists, the manner in which said conflict of interest would be rectified, if said contract is awarded to the individual/law firm. The individual/law firm must disclose all legal actions it is currently involved with that pertain to the Rochester City School District or the City of Rochester.
- h. Sample of your own or your law firm's contract.
- i. Signed Non-Collusive Bidding Certification (Appendix A).
- j. Describe any recommendations or suggestions above and beyond the requirements listed in the RFP. Include any additional costs related to these suggestions
- k. Provide hourly rates for every attorney who will be working on the project. The hourly rates quoted shall be firm until the end of this agreement.

9. SELECTION PROCESS

After the RJSCB evaluation team has reviewed all of the Proposals and finished any interviews, the members will make a decision based upon the best value, service, capabilities and experience that each individual/law firm offers.

10. EQUAL OPPORTUNITY

The Rochester Joint Schools Construction Board (RJSCB) recognizes the need to take action to ensure that minority and women-owned business enterprises, disadvantaged business enterprises, and minority and women employees and principals are given the opportunity to participate in the performance of contracts of the RJSCB. This opportunity for full participation in our free enterprise system by persons traditionally, socially and

economically disadvantaged is essential to obtain social and economic equality. Accordingly, the RJSCB fosters and promotes the participation of such individuals and business firms in contracts with the RJSCB.

Each firm for this undertaking should acknowledge its understanding and support of the social policy herein stated and will be expected to demonstrate its efforts to solicit the participation of such individuals as partners, and/or employees. In this regard, the RJSCB expects the successful firm to undertake or continue the existing programs to ensure that minority group members and women are afforded equal employment opportunities without discrimination.

The RJSCB is committed to provide Women, Minorities, Women and Minority-Owned Businesses, and Disadvantage Businesses with equal opportunities in the performance of contracts. In order to achieve the Business Development goals of the Program, each contractor, supplier, professional service firm or other business providing goods or services with a Board contract of \$20,000 or more shall strive to and use best efforts to meet the above stated commitment of the RJSCB regarding the participation and use of Women, Minorities, Women and Minority Owned Business and Disadvantaged Businesses.

One of the principal goals of the RJSCB is to support workforce development and the creation of diversification opportunities. As such, all contractors, suppliers, professional service firms and/or other business entities providing goods or services under a RJSCB contract of \$20,000 or more shall agree to comply with the following workforce diversity goals:

- Minority Workforce: 20% of project personnel, including skilled trades people, trainees, journeymen, apprentices and supervisory staff
- Female Workforce: 6.9% of project personnel, including skilled trades people, trainees, journeymen, apprentices and supervisory staff

The RJSCB is also committed to the meaningful participation of qualified minority-owned, women-owned, disadvantaged business entities and small business entities throughout the RSMP.

The RJSCB's Business Utilization goal is that a minimum of 30% of the work be allocated to M/WBE sub-consultant firms. Respondents should demonstrate in their proposal how the firm will achieve the Business Utilization goal for the program.

For purposes of this solicitation, the RJSCB will also require the awarded individual/firm to participate in the Phase 2 Business Opportunities Program currently being established by the Program Manager. The Business Opportunities Program will, in part, provide training and mentoring in several key areas of business operations to M/WBE firms. The primary goals of the Business Opportunities Program are to educate, inform, and prepare M/WBE firms to participate in the RSMP and other business endeavors outside of the Program. The awarded individual/firm will dedicate a minimum of four (4) hours per month, for the duration of Phase 2, to provide classroom training/instruction and as a resource for other general legal questions/advice to firms participating in the Business Opportunities Program. The awarded individual/firm will work with the Phase 2 Program Manager to further define their role and to establish the best use of the hours/personnel to accomplish these objectives.

The service being requested is considered limited generic industry legal advice. It is not the intent of the RJSCB for the awarded individual/firm to be legal counsel representing a participant of the Business Opportunities Program.

Related to the above requirements the proposing firm should describe the following:

- 1. How will the awarded individual/firm handle a conflict of interest when providing advice to a Business Opportunity Program participant?**

- 2. How will the awarded individual/firm incorporate these special services into its proposal and how will these services be provided?**
- 3. Provide the name(s) of staff who would be provided for this service**
- 4. Provide any other suggestions/recommendations that will assist the RJSCB in meeting the Diversity goals for the program?**

The RJSCB reserves the right to revise, adjust and/or modify the above goals for contracts awarded at a later date in Phase 2 of the RSMP.

Procurement Process:

Pursuant to State Finance Law §§139-j and 139-k, this Request for Proposals includes and imposes certain restrictions on communications between the Board and an Offerer during the procurement process. An Offerer/bidder is restricted from making contacts from the earliest notice of intent to solicit offers through final award and approval of the Procurement Contract by the Board ("restricted period"), to other than the Board's Procurement Officer unless it is a contact that is included among certain statutory exceptions set forth in State Finance Law §139-j(3)(a). The Board's Procurement Officer(s) for this Governmental Procurement, as of the date hereof, is identified on page 3 of this Request for Proposals. Board employees are also required to obtain certain information when contacted during the restricted period and make a determination of the responsibility of the Offerer/bidder pursuant to these two statutes. Certain findings of non-responsibility can result in rejection for contract award and in the event of two findings within a four (4) year period, the Offerer/bidder is debarred from obtaining government Procurement Contracts. Further information about these requirements may be obtained from the Procurement Officer.

11. CONDITIONS OF RFP AND CONTRACTUAL INTENT

1. The issuance of the RFP constitutes only an invitation to submit a response to the RJSCB. It is not to be construed as an official and customary invitation to bid, but as a means by which the RJSCB can facilitate the acquisition of information related to the purchase of services.
2. The RJSCB reserves the right to determine, in its sole and absolute discretion, whether any aspect of the submission satisfactorily meets the criteria established in this RFP, the right to seek clarification from any individuals or law firm(s), the right to negotiate with any individuals/law firm(s), the right to reject any or all submissions with or without cause, and the right to cancel and/or amend, in part or entirely, the RFP.
3. It is understood that any submission received and evaluated by the RJSCB can be used as a basis for direct negotiation of the cost and terms of a contract between the RJSCB and the particular individual/law firm. In submitting a response, it is understood by the individual/law firm that the RJSCB reserves the right to accept any submission, to reject any and all submissions and to waive any irregularities or informalities that the RJSCB deems is in its best interest. The RJSCB may waive minor informalities or irregularities in a proposal that are merely a matter of form and not substance, and the correction of which would not be prejudicial to other proposals.
4. In the event that this RFP is withdrawn by the RJSCB for any reason, including but not limited to, the failure of any of those things or events set forth herein to occur, the RJSCB shall have no liability to any individual/law firm(s) for any costs or expenses incurred in connection with this RFP or otherwise. Accordingly, each submission should be submitted in the most favorable terms of costs and programmatic considerations and in a complete and understandable form. The RJSCB reserves the right to request additional data, oral discussion, or a presentation in support of the written submission. The RJSCB is not obligated to respond to any submission nor is it legally bound in any manner whatsoever by

the submission of a response. It is the intention of the RJSCB to enter into a contract with the individual/law firm with which the RJSCB can make the most satisfactory arrangements for its needs.

12. RJSCB OWNERSHIP OF SUBMISSIONS

Upon submission, all responses become the property of the RJSCB. The RJSCB reserves the right to use the information and any ideas presented in any submission in response to the RFP, whether or not the submission is accepted.

13. CONTRACT NEGOTIATIONS

The individual/law firm agrees that the RJSCB may use any part of the submission as the basis for negotiating the contract.

14. REJECTION OF SUBMISSION

The RJSCB, in its sole discretion, may reject any submission based on the format and submission requirements, or based on any other requirement in this document. The RJSCB's right in rejecting or retaining any and all submission is broad and it is at the sole discretion of the RJSCB.

15. CANCELLATION OR AMENDMENT OF RFP

The RJSCB reserves the right to cancel or amend this RFP at any time and will notify all known RFP recipients accordingly.

16. COSTS

The RJSCB shall not be responsible for any costs incurred by individuals/law firms in connection with this RFP. Individuals/law firms shall bear all costs associated with submission preparation, submission and attendance at presentation interviews, or any other activity associated with this RFP or otherwise.

17. CONTRACT TERM

The contract resulting from this RFP shall remain in effect for the duration of Phase 2, which is anticipated to conclude in 2021. Extension options shall be exercised at the sole option and discretion of the Rochester Joint Schools Construction Board. Continuance of any contract shall be dependent upon the individual's/law firm's ability to provide satisfactory service as set forth in this RFP. The RJSCB reserves the right to terminate this agreement with (30) thirty days written notice.

18. PAYMENT TERMS

The RJSCB strives to pay Net 30 days. Interest penalties will not be allowed.

19. AWARD

This Proposal may be awarded to more than one individual/firm if it is in the best interest of the RJSCB to do so.

The individual/law firm must comply strictly with all applicable provisions of the New York State Labor Law, as it may be amended and supplemented.

Individuals/law firms must agree to conform to Section 103-a, b, c, and d of the General Municipal Law of the State of New York.

Before commencing work, the successful individual/law firm shall furnish evidence of insurance coverages in the kinds and amounts specified in Section 21 of this RFP with a Certificate of Insurance acceptable to the RJSCB.

Individuals/law firms must comply with Federal and State Anti-Discrimination Laws. It is the mission of the RJSCB to ensure that minority business enterprises are given the opportunity to provide the RJSCB with goods and services at competitive prices.

The Rochester Joint Schools Construction Board is established under authority of the State of New York and is entitled to exemption from New York State, Federal and Local Taxes.

20. FEE PROPOSAL FORM

Provide separate single proposed hourly rates at which the services of partners, associates, and non-attorney law clerks, paralegals or other paraprofessionals would be provided to the RJSCB for the first year of the contract term.

Provide a blended hourly rate option for all services to be provided for the first year of the contract term.

Provide a schedule of all out-of-pocket disbursements the law firm anticipates would result in a charge to the RJSCB and the rate for each. Note that the RJSCB expects that disbursements would be charged at the firm's actual out-of-pocket cost, without mark-up.

State any special considerations with respect to billing or payment of fees and expenses that the firm offers and that you believe would differentiate it from other Proposers and make your firm's services more cost effective for the RJSCB.

The RJSCB expects to receive the lowest rates charged by your firm for its municipal clients. Please provide a statement affirmatively stating whether the rates proposed for the RJSCB are the lowest rates charged by your firm for its governmental clients. If for any reason your firm is not prepared to do so, please indicate your reasons.

Any rate increase after the first year of the contract shall not exceed the lesser of three (3%) percent or the percent increase in the "National Consumer Price Index for All Urban Consumers (CPI-U)", as published by the U.S. Department of Labor, Bureau of Labor Statistics, Washington D.C. 20212, for each of the previous contract years. The Proposer has the sole responsibility to submit to the RJSCB a service rate adjustment request thirty (30) days prior to the effective date of the price increase, providing a copy of the index and other supporting documentation necessary to support the request. Any rate increase will be granted at the RJSCB's sole discretion. Any contract(s) awarded pursuant to this RFP may have a Not-to-Exceed dollar cap as determined by the RJSCB, which may not be exceeded without the prior written authorization of the RJSCB.

21. INSURANCE

Consultant shall purchase and maintain, during the Term, at its own cost and expense, the insurance coverage described below.

- (a) Workers' Compensation Insurance (and such other forms of insurance which Consultant is required by law to provide) covering all employees engaged in the Services hereunder in accordance with the statutory requirements of the jurisdiction in which such Services are to be performed.
- (b) Employer's Liability Insurance with limits not less than \$1,000,000 for each accident or death of an employee engaged in performing Services hereunder.
- (c) General Liability Insurance (including contractual liability coverage, completed operations coverage and personal injury and advertising injury coverage) with a combined single limit of not less than \$1,000,000 per occurrence and \$2,000,000 aggregate.
- (d) Automobile Liability insurance covering all motor vehicles owned or leased by Consultant engaged in the performance of Services hereunder. Limits of liability shall not be less than \$1,000,000 combined single limit, for the accidental injury to or death of one or more persons or damage to or destruction of property as a result of one accident.
- (e) Professional Liability Insurance with a combined single limit of not less than \$2,000,000 per occurrence and \$3,000,000 aggregate.

APPENDIX A

CERTIFICATION OF NON-COLLUSION IN BIDDING

By submission of this bid, each bidder and each person signing on behalf of any bidder certifies, and in the case of a joint bid, each party thereto certifies as to its own organization, under penalty of perjury that to the best knowledge and belief:

1. The prices of this 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 bidder or with any competitor.
2. Unless otherwise required by law, the prices which have been quoted in this bid have not been knowingly disclosed by the bidder and will not knowingly be disclosed by the bidder prior to opening, directly or indirectly, to any other bidder or to any competitor; and
3. No attempt has been made or will be made by the bidder to induce any other person, partnership or corporation to submit or not to submit a bid for the purpose of restricting competition.

FULL LEGAL NAME OF FIRM

BY _____
AUTHORIZED SIGNATURE

ADDRESS

TYPED NAME OF AUTHORIZED
SIGNATURE/TITLE

CITY, STATE, ZIP CODE

TELEPHONE AND FAX NUMBERS

DATE

E-MAIL ADDRESS

APPENDIX B

OFFERER'S AFFIRMATION OF UNDERSTANDING OF AND AGREEMENT PURSUANT TO STATE FINANCE LAW §139-j(6)(b)

Background:

State Finance Law §139-j(6)(b) provides that:

Every Governmental Entity (including, voluntarily, the Rochester Joint Schools Construction Board, the "Board") shall seek written affirmations from all Offerers as to the Offerer's understanding of and agreement to comply with the Board's procedures relating to permissible contracts during a Governmental Procurement pursuant to State Finance Law §139-j(3).

Instructions:

In connection with all proposals, bids, RFP's, etc., the Board must obtain the following affirmation of understanding and agreement to comply with procedures on procurement lobbying restrictions regarding permissible contacts in the Restricted Period for a Procurement Contract in accordance with State Finance Law §139-j and §139-k:

Offerer affirms that it understands and agrees to comply with the Rochester Joint Schools Construction Board's Procurement Disclosure Policy, which Policy conforms to the requirements of State Finance Law §139-j (3) and §139-j(6)(b).

BY

*LEGAL NAME OF FIRM OR CORPORATION

AUTHORIZED SIGNATURE

ADDRESS

TYPED NAME OF AUTHORIZED SIGNATURE/TITLE

CITY, STATE, ZIP CODE

TELEPHONE/DATE

APPENDIX C

OFFERER CERTIFICATION OF COMPLIANCE WITH STATE FINANCE LAW §139-k(5)

By signing below, I certify that all information provided to the Rochester Joint Schools Construction Board with respect to State Finance Law §139-k is complete, true and accurate.

BY

*LEGAL NAME OF FIRM OR CORPORATION

AUTHORIZED SIGNATURE

ADDRESS

TYPED NAME OF AUTHORIZED SIGNATURE/TITLE

CITY, STATE, ZIP CODE

TELEPHONE/DATE

*Indicate the complete legal name of your firm or corporation. Do not abbreviate. If a corporation, use name as it appears on corporate seal.

APPENDIX D

FORM OF OFFERER DISCLOSURE OF PRIOR NON-RESPONSIBILITY DETERMINATION

Name of Individual or Entity Seeking to Enter into the Procurement Contract:

Address: _____

Name and Title of Person Submitting this Form: _____

Contract Procurement Number: _____

Date: _____

1. Has any Government Entity made a finding of non-responsibility regarding the individual or entity seeking to enter into the Procurement Contract in the previous four years?
(Please circle):

No

Yes

If yes, please answer the next questions:

2. Was the basis for the finding of non-responsibility due to a violation of State Finance Law §139-j? (Please circle):

No

Yes

3. Was the basis for the finding of non-responsibility due to the intentional provision of false or incomplete information to a Government Entity? (Please circle):

No

Yes

4. If you answered yes to any of the above questions, please provide details regarding the finding of non-responsibility below.

Governmental Entity: _____

Date of Finding of Non-Responsibility: _____

Basis of Finding of Non-Responsibility: _____

(Add additional pages as necessary)

5. Has any Governmental Entity or other governmental agency terminated or withheld a Procurement Contract with the above-named individual or entity due to the intentional provision of false or incomplete information? (Please circle):

No

Yes

6. If yes, please provide details below:

Governmental Entity: _____

Date of Termination or Withholding of Contract: _____

Basis of Termination or Withholding: _____

(Add additional pages as necessary)

Offerer certifies that all information provided to the Rochester Joint Schools Construction Board with respect to State Finance Law §139-k is complete, true and accurate.

By: _____ Date: _____

Signature: _____