

63413

DATE: May 29, 2018

TO: Board of Acquisition and Contract

FROM: Sherlita Amler, MD
Commissioner of Health

RE: Authorization to Enter into Contracts with Susan H. Brailey, Joseph C. LoCascio, Robert Ponzini, Marc A. Seedorf, Judith A. Woods and Paula Johnson Kelly as Hearing Officers, for the term commencing on June 1, 2018 and terminating on February 28, 2019, for a total aggregate not-to-exceed amount of \$48,750 payable at the stated contract rates.

The Westchester County Department of Health (the "WCDH") seeks authorization to enter into contracts with each of the following persons: Susan H. Brailey, Joseph C. LoCascio, Robert Ponzini, Marc A. Seedorf, Judith A. Woods and Paula Johnson Kelly as Hearing Officers, for the term commencing on June 1, 2018 and terminating on February 28, 2019, for a total aggregate not-to-exceed amount of \$48,750 payable at the stated contract rates.

The WCDH shall pay the Hearing Officers a per diem fee calculated at the rate of \$125 per hour, not-to-exceed \$750 in any one day and \$50 for each Report of Findings issued.

By a Resolution approved on March 1, 2018, your Honorable Board approved the extension of the existing contracts with Susan H. Brailey, Joseph C. LoCascio, Robert Ponzini and Marc A. Seedorf from March 1, 2018 through May 31, 2018, to allow additional time for other prospective candidates to be brought before the Westchester County Board of Health ("Board") for consideration.

Recently, new candidates Judith A. Woods and Paula Johnson Kelly were presented to, reviewed and approved as qualified to act as Hearing Officers by the Board at its May 2018 meeting.

As written in the Uniform Procedures for the Designation of Hearing Officers in accordance with the Public Health Laws of the State of New York and Laws of Westchester County (see attachment), the Board is "responsible for and authorized to designate by resolution qualified persons as Hearing Officers" on an annual basis. The original Hearing Officers were previously reviewed and approved as qualified to act as Hearing Officers by the Board at its December 2017 meeting.

These contracts promote the public health and general welfare of County residents by enforcement of the Public Health Laws of the State of New York and the Westchester County Sanitary Codes. The Hearing Officers preside over and adjudicate cases regarding violations concerning health and safety, and provide County residents their due process during the Administrative Hearing process. The goal is to have professional, experienced, objective representation and interpretation of code rules and regulations, and report the case findings before the Westchester County Board of Health ("Board").

These contracts will be tracked and monitored by the WCDH's and Board of Health's monthly review of cases and findings and periodic meetings with the Hearing Officers. In 2017 the Hearing Officers presided over approximately 1,318 cases involving various sanitary code and public health law violations. From January to April 2018, approximately 691 cases have been presided over.

By Resolution submitted concurrently on this date, we request your Honorable Board to determine that application of the procedural requirements for procurement be waived in accordance with Section 3(a) xxi of the Westchester County Procurement Policy as it is not in the best interests of the County.

Authorization is respectfully requested to enter into separate contracts with Susan H. Brailey, Joseph C. LoCascio, Robert Ponzini, Marc A. Seedorf, Judith A. Woods and Paula Johnson Kelly as Hearing Officers, at the aforementioned rates, for the term commencing on June 1, 2018 and terminating on February 28, 2019, for a total aggregate not-to-exceed amount of \$48,750.

Approval of the attached Resolution is respectfully requested.

Attachment

APPROVED BOARD OF ACQUISITION & CONTRACT - 05/31/2018 - LISA M. P. SECRETARY

RESOLUTION

UPON A COMMUNICATION FROM THE COMMISSIONER OF HEALTH, BE IT HEREBY

- RESOLVED,** that the County of Westchester, acting by and through its Department of Health, is authorized to enter into contracts each with Susan H. Brailey, Joseph C. LoCascio, Robert Ponzini, Marc A. Seedorf, Judith A. Woods and Paula Johnson Kelly to provide services as Hearing Officers, for a term commencing on June 1, 2018 and terminating on February 28, 2019; and, be it further
- RESOLVED,** that the rates charged for Hearing Officer services by Susan H. Brailey, Joseph C. LoCascio, Robert Ponzini, Marc A. Seedorf, Judith A. Woods and Paula Johnson Kelly shall be specified in the contracts as a per diem fee calculated at the rate of \$125 per hour, not to exceed \$750 in any one day and \$50 for each Report of Findings issued, for a total aggregate not-to-exceed amount of \$48,750; and, be it further
- RESOLVED,** that the total aggregate amount to be expended under all contracts for the period of June 1, 2018 through February 28, 2019 shall not exceed \$48,750; and, be it further
- RESOLVED,** that each of the contracts is subject to County appropriations; and, be it further
- RESOLVED,** that each of the contracts is subject to further financial analysis of the impact of any New York State Budget (the "State Budget") proposed and adopted during the term of the contracts. Each of the contracts shall contain a provision that the County shall retain the right, upon the occurrence of any release by the Governor of a proposed State Budget and/or the adoption of the State Budget or any amendments thereto, and for a reasonable period of time after such releases(s) or adoption(s) to conduct an analysis of the impacts of any State Budget on County finances. After such analysis, the County shall retain the right to either terminate the contracts or to renegotiate the amounts and rates approved herein. If the County subsequently offers to pay a reduced amount and/or rate to any of the above Contractors, then the Contractor(s) shall have the right to terminate the Contract upon reasonable prior written notice; and, be it further
- RESOLVED,** that the County Executive or his duly authorized designee is hereby authorized to take such action and execute such documents as may be necessary and proper to effect the purposes hereof.

Department of Health
10 County Center Road, 2nd Floor
White Plains, New York 10607

Original Agreement	\$
First Amendment	\$
This Amendment	\$ _____
TOTAL	\$

Agreement #

Account to be Charged/Credited	Fund	Dept	Major Program, Program & Phase or Unit	Object/ Sub-Object	Trust Account	Dollars
	101	27	0010 - HSSN	4380-31		\$32,500 (2018)
	101	27	0010 - HSSN	4380-31		\$16,250 (2019)
Budget Funding Year(s) (must match resolution) <u>2018-2019</u> Start Date <u>06/01/18</u> End Date <u>02/28/19</u>						
Funding Source Tax Dollars <u>\$31,200</u>						
State Aid <u>\$17,550</u>						
\$48,750 Federal Aid _____						
(must match resolution) Other _____						