

70358

TO: Board of Acquisition and Contract

FROM: Hugh J. Greechan, Jr., P.E.
Commissioner of Public Works and Transportation

DATE: June 25, 2019

SUBJECT: **Resolution to exempt from the Westchester County Procurement Policy the procurement of an agreement with Pepper Hamilton, LLP, Attorneys at Law, for consulting services in connection with the preparation of certain bid specifications for the design and possible construction of a denitrification process at the Port Chester Water Resource Recovery Facility (“WRRF”) in order to ensure continued compliance with the County’s aggregate Long Island Sound Total Nitrogen (“TN”) discharge limit per Consent Order Case No. CO 3-20080730-65 and the State Pollutant Discharge Elimination System (“SPDES”) Permit for the New Rochelle WRRF, pursuant to Section 3(a)xxi of the Westchester County Procurement Policy and Procedures. (Agreement No. 19-806)**

Authority is hereby requested from your Honorable Board to exempt the procurement of an agreement with Pepper Hamilton, LLP, Attorneys at Law (“the firm”), to provide consulting services in connection with the preparation of certain bid specifications for the design and possible construction of a denitrification process at the Port Chester WRRF to ensure continued compliance with the County’s aggregate Long Island Sound TN discharge limit per Consent Order Case No. CO 3-20080730-65 and the SPDES Permit for the New Rochelle WRRF as required from the application of the Westchester County Procurement Policy and Procedures pursuant to Section 3a(xxii) thereof.

The agreement with the firm will be for a term of one year, for an amount not to exceed \$35,000.00 payable pursuant to an approved budget and subject to budget appropriations.

On January 4, 2017, the County submitted a report on the Evaluation of DN (“Denitrification”) BAF (“Biological Anoxic Filter”) Alternatives at the Port Chester WRRF to NYSDEC. The report also included the study of an Ultraviolet (“UV”) disinfection process due to potential regulations for effluent limitations on enterococcus (entero) bacteria (or other pathogen indicator) in the plant discharge. The report proposed an upgrade to the Port Chester WRRF in order to ensure the continued compliance of the WRRF with the Consent Order Case No. CO 3-20080730-65 and the SPDES Permit. The proposed upgrade consisted of the design and possible construction of a denitrification process at the Port Chester WRRF should it be needed to meet the County’s aggregate Long Island Sound TN discharge limit per Consent Order Case No. CO 3-20080730-65 and the SPDES Permit for the New Rochelle WRRF. On September 12, 2017, NYSDEC approved the report, stating that it “considers the proposed upgrade to be acceptable.”

To complete this design, the Department seeks the assistance of an attorney with expertise in construction matters to provide guidance in the preparation of bid specifications and related issues. The Department recommends, and the Department of Law concurs, that the firm be retained to perform these services.

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Mr. Ira M. Schulman, currently a partner with the firm, in 2009, while with Mazur, Carp, Rubin & Schulman, P.C., provided similar consulting services to the Department in connection with American Recovery and Reinvestment Act ("ARRA") funded projects, including but not limited to, the construction of nitrogen removal systems at the County's WRRF's to comply with the Order on Consent entered into with the NYSDEC. The Department was extremely satisfied with the services. Moreover, Mr. Shulman is uniquely familiar with the County's contracting practices and procedures. To procure an unknown firm or individual at this juncture would be extremely time consuming and costly since anyone else would need to first learn about the County's contracting procedures, the specifics of the consent order requirements and projects constructed to date to meet the order.

Pursuant to Section 3(a)xxi, the Westchester County Procurement Policy and Procedures are not applicable to any procurement for which this Honorable Board determines, by resolution passed prior to commencing such procurement, that compliance with the policy would not be in the best interests of the County. Based upon the foregoing, it is proposed that the best interests of the County would be served by exempting this agreement from the procedures of the County's Procurement Policy. A resolution to exempt this agreement from procurement is hereby submitted for your consideration.

If the resolution were not approved, the Department would need to spend additional time and money procuring a consultant and once awarded, bringing that consultant up to speed on the County's contracting procedures and construction practices.

A resolution to exempt the procurement with Pepper Hamilton is submitted for your consideration.

HJG/lr

RESOLUTION

Agreement No. 19-806

Upon a communication from Commissioner of Public Works and Transportation, be it hereby

RESOLVED, that pursuant to Section 3(a)(xxi) of the Westchester County Procurement Policy and Procedures, it is hereby determined that application of the procedural requirements contained therein, including the necessity of soliciting price quotations, is neither cost effective nor expedient, and accordingly, not in the best interests of the County of Westchester in connection with the procurement of an agreement with Pepper Hamilton, LLP, Attorneys at Law, for consulting services in connection with the preparation of certain bid specifications for the design and possible construction of a denitrification process at the Port Chester Water Resource Recovery Facility ("WRRF") in order to ensure the continued compliance with the County's aggregate Long Island Sound Total Nitrogen ("TN") discharge limit per Consent Order Case No. CO 3-20080730-65 and the State Pollutant Discharge Elimination System ("SPDES") Permit.

APPROVED BOARD OF ACQUISITION & CONTRACT ADMINISTRATION
PUBLIC WORKS SECRETARY