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DATE February 4, 2019

TO: Board of Acquisition and Contract

FROM: Patricia A. O'Callaghan, Esq.
Acting Executive Director, Solid Waste Commission

SUBJECT: Authority to exempt from the Westchester County Procurement Policy and Procedures an agreement with Bernard S. Gordon, Esq. for the provision of administrative hearing officer services on behalf of the Westchester County Solid Waste Commission, for a term commencing April 1, 2019 and continuing through March 31, 2020, in an amount not-to-exceed \$20,000.00.

Authority is hereby requested from your Honorable Board to exempt from the procedures of the Westchester County Procurement Policy and Procedures (the "Procurement Policy") an agreement between the County of Westchester (the "County") and Bernard S. Gordon, Esq. for Mr. Gordon to provide administrative hearing officer services on behalf of the Westchester County Solid Waste Commission (the "Commission"), for a term commencing April 1, 2019 and continuing through March 31, 2020, in an amount not-to-exceed amount \$20,000.00, and payable pursuant to an approved budget.

Mr. Gordon is a practicing attorney for thirty-five years, possesses substantive knowledge of the relevant laws, rules and regulations governing Commission hearings and the daily practices and procedures of the solid waste and recycling industry (the "Industry") within the County. He currently serves as a hearing officer in Administrative hearings conducted by the Commission for matters involving violations of Chapter 826-a. of the Laws of Westchester County (the "Solid Waste and Recyclables Collection Licensing Law"). His current agreement will expire on March 31, 2019. This knowledge and experience will enable Mr. Gordon to conduct hearings and to render recommendation reports to the Commission with far greater competency and nuanced insight than individuals with lesser experience. Furthermore, this acquired insight is integral to the Commission's obligation to provide and regulate Industry licensees within a fair legal forum, while simultaneously pursuing its legislative mandate to eliminate unlawful conduct within the Industry.

Ordinarily, under Section 5 of the Procurement Policy, the County is required to solicit written or oral quotations from no fewer than three persons customarily providing such services. However, Mr. Gordon already possesses substantive knowledge of the laws, rules and

regulations governing Commission hearings and the daily practices and procedures of the solid waste and recycling industry (the "Industry") within the County. This knowledge and experience enables Mr. Gordon to conduct hearings and to render recommendation reports to the Commission with far greater competency and nuanced insight than individuals who have not previously served as a Commission hearing officer. Furthermore, this acquired insight is integral to the Commission's obligation to provide and regulate Industry licensees within a fair legal forum, while simultaneously pursuing its legislative mandate to eliminate unlawful conduct within the Industry.

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. For the reasons set forth above, it is proposed that the best interests of the County would be served by exempting the procurement of an Agreement with Bernard S. Gordon from the County Procurement Policy.

The exemption is in the County's best interest regarding public health and safety since Mr. Gordon possesses substantive knowledge of the laws, rules and regulations governing Commission hearings and the daily practices and procedures of the solid waste and recycling industry (the "Industry") within the County. This knowledge and experience enables Mr. Gordon to conduct hearings and to render recommendation reports to the Commission with far greater competency and nuanced insight than individuals who have not previously served as a Commission Administrative Hearing Officer. Furthermore, this acquired insight is integral to the Commission's obligation to provide and regulate Industry licensees within a fair legal forum, while simultaneously pursuing its legislative mandate to eliminate unlawful conduct within the Industry.

The exemption is also in the County's best interest regarding fiscal responsibility since Mr. Gordon's experience as a Commission Hearing Officer enables him to efficiently conduct administrative hearings, thereby reducing County expenses through reduced time billings. Mr. Gordon's continuation as a Commission Hearing Officer is additionally in the County's best interest regarding public safety and fiscal responsibility since his experience will help to ensure that Commission decisions are properly rendered to withstand potential Article 78 proceedings and thereby limiting the County's potential monetary liability resulting from the same.

Accordingly, a resolution to exempt the procurement of agreements with the hearing officers set forth on the attached schedule is hereby submitted for your consideration.

PAO/jrc

RESOLUTION

Upon a communication from the Acting Executive Director of the Westchester County Solid Waste Commission, 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 quotations, is neither cost effective nor expedient, and accordingly not in the best interests of the County in connection with the procurement of an agreement with Bernard S. Gordon, Esq., for the provision of administrative hearing officer services on behalf of the Westchester County Solid Waste Commission.

APPROVED BOARD OF ACQUISITION & CONTRACT - 02/20/2019 - USFARIJAJ, SECRETARY