

69871

Date: May 22, 2019

To: Honorable Board of Acquisition and Contract

From: John M. Nonna
County Attorney

Re: **Resolution to exempt from the procurement of an agreement with Steven G. Leventhal pursuant to which Mr. Leventhal will serve as both an Independent Consultant and Special Counsel to the Westchester County Board of Ethics, pursuant to Westchester County Procurement Policy and Procedures Section 3(a)xxi.**

Authority is hereby requested from your Honorable Board to exempt the procurement of an agreement with Steven G. Leventhal, pursuant to which Mr. Leventhal will serve as both an independent consultant and special counsel to the Westchester County Board of Ethics (the "BOE"), in an "of Counsel" capacity to the County Attorney, for a term commencing on August 1, 2019 and continuing through July 31, 2022 at a cost not-to-exceed \$150,000, from the Westchester County Procurement Policy and Procedures pursuant to Section 3(a)xxi thereof.

Ordinarily, under Section 7 of the County Procurement Policy, the County is required to issue a Request for Proposals to solicit such services. However, by resolution adopted on April 4, 2019, a copy of which is herewith attached (the "April 4th Resolution"), the BOE determined, approved and ratified the retention of Mr. Leventhal as the BOE's Independent Consultant and Special Counsel for a term of three (3) years, commencing on August 1, 2019 and terminating on July 31, 2022 at a cost not-to-exceed \$150,000, payable at the rate of \$275 per hour plus expenses. This determination was based on the BOE's favorable evaluation of Mr. Leventhal's work as the BOE's Independent Consultant during the previous year, as well as Mr. Leventhal's specialization in the field of government ethics and as an attorney admitted to practice in New York State. The April 4th Resolution further authorized the County Attorney, on behalf of the BOE, to seek an exemption from the procedures of the County Procurement Policy in the best interests of the County pursuant to section 3(a)xxi thereof.

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 this agreement from the County Procurement Policy.

Accordingly, a resolution to exempt the procurement of the agreement with Steven G. Leventhal is hereby submitted for your consideration.

RESOLUTION

Upon a communication from the County Attorney, 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 issuing a Request for Proposals, 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 Steven G. Leventhal to serve as an Independent Consultant and Special Counsel to the County Board of Ethics.

APPROVED BOARD OF ACQUISITION & CONTRACTS 06/20/2019 - ISAMRIJAJ, SECRETARY

RESOLUTION 1-2019

WHEREAS, the Laws of Westchester County Sections 192.41 and 883.91 (4)(5) authorize the County Board of Ethics (the "Board") to retain the services of an Independent Consultant who shall review financial disclosure forms, create an intra-agency report for the Board regarding any potential non-compliance or conflicts of interest, and a master list of all County vendors, contractors, and consultants; and

WHEREAS, since 2014, the Board has retained Steven G. Leventhal to serve as the Board's Independent Consultant pursuant to annual contracts commencing on August 1st ; and

WHEREAS, in 2018 the Board identified the need to expand the scope of services rendered by the Independent Consultant to include certain legal services, as more particularly described below; and

WHEREAS, the Board continues to need the Independent Consultant to provide certain legal services, as more particularly described below; and

WHEREAS, based upon his specialization in the field of ethics and his experience as an attorney admitted to practice in New York State, the Board would like to retain Mr. Leventhal as Special Counsel to the Board, in addition to serving as the Board's Independent Consultant; and

WHEREAS, in accordance with the County's Procurement Policy, and after due deliberation, the Board has determined that it would be in the best interests of the County for the Board to retain Steven G. Leventhal to perform these functions and complete these duties.

NOW, THEREFORE BE IT RESOLVED that

The Board of Ethics requests that in addition to serving as the Board's Independent Consultant, that Steven Leventhal be appointed to serve as Special Counsel (Ethics) to the Board through the County Attorney's Office, and that the County enter into a contract with Mr. Leventhal for a term commencing on August 1, 2019 and continuing through July 31, 2022, pursuant to which Mr. Leventhal will perform the following Scope of Work, for which he will be compensated at the

hourly rate of \$275, not to exceed the aggregate sum of \$150,000 payable monthly upon receipt of a bill, and reimbursed for necessary and reasonable expenses including but not limited to mailing costs, copying, tolls etc., excluding millage, lodging, and meals

Scope of Work-Special Counsel (Ethics) Should Include, but is not limited to:

- Special Counsel (Ethics) will review the list of persons required to file disclosure forms, review the filed disclosure forms, and prepare a report to the Board of Ethics which includes, but is not limited to, identifying individuals who have not filed.
- Special Counsel (Ethics) will assist the Board of Ethics in exploring the feasibility of electronic filing of Annual Statements of Financial Disclosure.
- Special Counsel (Ethics) will work with the Board of Ethics to develop a draft revision of the Code of Ethics for review and consideration for adoption by the Board of Legislators.
- Special Counsel (Ethics) will prepare a *Plain Language Guide to the County Code of Ethics*. The booklet would be printed and available for use in the annual ethics training session and for distribution to all employees especially newly hired employees and newly elected and appointed officials and posted on the Board of Ethics area of the County website.
- Pursuant to Section 192.41(F) of the Laws of Westchester County, the Board of Ethics is charged with the duty to "ensure the training of all County officers and employees regarding the Code of Ethics and emerging ethics issues on an annual basis." Special Counsel (Ethics) will conduct an annual ethics training session for department heads and members of boards or commissions as it is important for them to be aware of the Code of Ethics and its requirements and understand how potential conflicts of interest may arise.

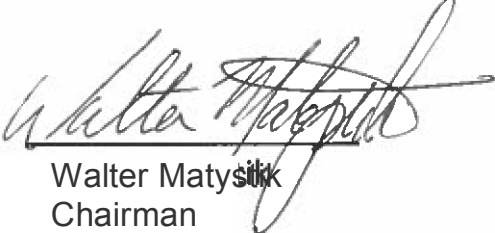
- Special Counsel (Ethics) will coordinate development of a link to a Board of Ethics page on the County website, and assist the Board of Ethics Secretary in posting information and materials to the webpage.
- Special Counsel (Ethics) will attend meetings of the Board of Ethics and provide ethics advice and guidance to the Board of Ethics and to County officers and employees, as requested.
- Special Counsel (Ethics) will draft advisory opinions for the Board of Ethics and the Office of the County Attorney.
- Special Counsel (Ethics) will develop due process procedures for investigations conducted by the Board of Ethics.
- Special Counsel (Ethics) will assist the Board of Ethics in conducting investigations and administrative hearings.
- Special Counsel (Ethics) will assist the Chair of the Board of Ethics at the conclusion of investigations conducted by the Board of Ethics, with drafting findings of fact and conclusions of law for consideration and adoption by the Board of Ethics and assist the Chair in responding to inquiries and other communications.
- Special Counsel (Ethics) will advise on records access for the Board of Ethics.
- Special Counsel (Ethics) will serve as records access officer for the Board of Ethics; and be it further

RESOLVED, that the County Attorney is authorized to seek an exemption from the procedures of the County Procurement Policy from the Board of Acquisition and Contract in connection with the proposed agreement with Mr. Leventhal as being in the best interest of the County pursuant to section 3(a)xxi of the Westchester County procurement policy and be it further;

RESOLVED, that the County Board of Ethics hereby ratifies the County Attorney's execution of such contract on behalf of the County Board of Ethics and

ratifies such action and execution of such documents as were, are, and may be necessary and proper to effectuate these purposes.

This will certify that the Board of Ethics unanimously approved this resolution at the meeting held on April 4, 2019.



Walter Matysik
Chairman

April 4, 2019

APPROVED BOARD OF ACQUISITION & CONTRACT - 06/20/2019 - LISA MRIJAJ, SECRETARY