

**HONORABLE BOARD OF LEGISLATORS
THE COUNTY OF WESTCHESTER**

**DRAFT
AGREEMENT
ON FILE**

Your Committee is in receipt of a communication from the County Attorney recommending the enactment of an Act which, if adopted by this Honorable Board, would authorize the County of Westchester (the "County") to enter into an agreement with Steven G. Leventhal ("Mr. Leventhal"), pursuant to which the Mr. Leventhal will serve as both 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, 2022 and continuing through July 31, 2025 at a cost not-to-exceed \$90,000.00 (the "Agreement").

Your Committee is advised that in 2010, the Office of the New York State Comptroller (the "Comptroller") recommended that the County undertake certain actions to improve the administration of its Code of Ethics (the "Code"), such as verifying that all reporting individuals file completed financial disclosure statements and reviewing such financial disclosure statements to detect and prevent conflicts of interest.

In an effort to effectuate the Comptroller's recommendations, on September 6, 2011 your Honorable Board adopted Local Law 10-2011, which was codified in Chapters 192 and 883 of the Laws of Westchester County. Chapter 883, § 883.91, required, *inter alia*, that the BOE hire an "independent consultant" to (1) review all annual financial disclosure statements to consider whether County officers and employees are in compliance with the Code, or have any financial involvement or outside employment in a business or organization that may impair their ability to fairly and impartially perform their duties as County officers or employees; (2) create a draft intra-agency report for the BOE regarding any potential non-compliance or conflicts of interest; and (3) create a draft master list of County vendors, contractors, and consultants (the "Services"). Your Committee notes that by Local Law No. 15-2021, adopted on March 22, 2021, your Honorable Board repealed the former Chapters 192 and 883 and enacted a new Chapter 883, which sets forth a clear and comprehensive code of ethics in order to ensure both the reality and appearance of integrity in County government.

Thereafter, on April 11, 2014, the BOE issued a Request for Quotes and Qualifications ("RFQ") inviting qualified candidates to submit their qualifications and a price proposal to

provide the Services of the independent consultant as required by the former § 883.91. By letter dated May 8, 2014, Mr. Leventhal submitted his qualifications and a price proposal to the BOE to perform the Services (the "Proposal Letter"). Following a review of the Proposal Letter by the BOE, Mr. Leventhal was selected to perform the Services under a "short form" contract for the period from August 1, 2014 through July 31, 2015 for an amount not-to-exceed \$20,000.

Thereafter, a second "short form" contract was entered into between the County and Mr. Leventhal for the provision of Services for the period from August 1, 2015 through July 31, 2016, followed by two (2) additional "short form" contracts for the periods August 1, 2016 through July 31, 2017 and August 1, 2017 through July 31, 2018, respectively. Your Committee is advised that an exemption from procurement pursuant Section 3(a) xxi of the County Procurement Policy was granted by the Board of Acquisition & Contract for each successive short form contract, as the exemption was deemed to be in the best interest of the County.

Thereafter, on October 1, 2018 by Act No. 2018-163, your Honorable Board authorized the County to enter into an agreement with Mr. Leventhal to serve as both independent consultant and special counsel to the BOE for a term commencing retroactive to August 1, 2018 and continuing through July 31, 2019 for an amount not-to-exceed \$60,000 payable at the rate of \$275 per hour plus expenses.

Most recently, on May 20, 2019 by Act No. 2019-98, your Honorable Board authorized the County to enter into an agreement with Mr. Leventhal to serve as both independent consultant and special counsel to the BOE for a term commencing on August 1, 2019 and continuing through July 31, 2022 for an amount not-to-exceed \$150,000 payable at the rate of \$275 per hour plus expenses.

In anticipation of the expiration of the current agreement with Mr. Leventhal on July 31, 2022, the BOE now seeks the authority of your Honorable Board to enter into a new three (3) year agreement with Mr. Leventhal to serve as both independent consultant and special counsel to the BOE for a term commencing on August 1, 2022 and continuing through July 31, 2025.

Your Committee is advised that in his capacity as independent consultant to the BOE, Mr. Leventhal will continue to perform the Services that were required by former § 883.91 and are now required under Section 883.304(j). In his capacity as special counsel to the BOE, Mr. Leventhal will continue to perform the following additional services: assist the BOE in

exploring the feasibility of electronic filing of Annual Statements of Financial Disclosure; prepare a *Plain Language Guide to the County Code of Ethics* to be printed and available for use in the annual ethics training session and for distribution to all employees and posted on the County website; conduct ethics training sessions as required by Chapter 883; coordinate the development of a link to a BOE page on the County website, and assist the BOE's Secretary in posting information and materials to the webpage; attend meetings of the BOE and provide ethics advice and guidance to the BOE and to County officers and employees, as requested; draft advisory opinions for the BOE and the Office of the County Attorney; develop due process procedures for investigations conducted by the BOE; assist the BOE in conducting investigations and administrative hearings; assist the Chair of the BOE at the conclusion of investigations conducted by the BOE, with drafting findings of fact and conclusions of law for consideration and adoption by the BOE; advise on records access for the BOE and serve as records access officer for the BOE (the "Additional Services").

In consideration for performing the Services and the Additional Services under the Agreement, Mr. Leventhal shall be paid at the hourly rate of \$295.00, plus reasonable and necessary out-of-pocket expenses (including but not limited to, mailing costs, copying and tolls, but excluding mileage, lodging and meals), not-to-exceed the aggregate sum of \$90,000.00, payable monthly upon receipt of a bill.

Your Committee is advised that in light of Mr. Leventhal's expertise and experience in the field of government ethics, including numerous lectures, training sessions and publications on the topic, as well as 8 years of experience working with the BOE, the County Attorney's Office will again seek a "best interest" exemption pursuant Section 3(a) xxi of the County Procurement Policy, from the County Board of Acquisition & Contract in connection with the proposed Agreement.

The Planning Department has advised that based on its review, the proposed agreement does not meet the definition of an "action" under the State Environmental Quality Review Act, 6 NYCRR part 617. As such, no environmental review is required. Please refer to the memorandum from the Department of Planning dated January 14, 2022, which is on file with the Clerk of the Board of Legislators.

An affirmative vote of a majority of the voting strength of the Board is required for approval of the attached Act.

Accordingly, your Committee concurs with the County Attorney's recommendation and requests approval of the attached Act.

Dated: July 11th, 2022
White Plains, New York

Nancy Bar
David J. Tubito
James Zeller-Boyer
Caitlin Parker
LSC
W.M. Mc
Colin O. [Signature]

Nancy Bar
Caitlin Parker
W.M. Mc
Colin O. [Signature]

COMMITTEE ON

c.jpg

Budget &
Appropriations

Law & Major Contracts

Dated: July 11, 2022

White Plains, New York

The following members attended the meeting remotely pursuant to Chapter 1 of New York State Laws of 2022, and approved this item out of Committee with an affirmative vote. Their electronic signature was authorized and is below.

Mary Jane Skimsky
Ty H. C.
Paul J. ...

Mary Jane Skimsky

COMMITTEES ON

Budget & Appropriations

Law & Major Contracts

FISCAL IMPACT STATEMENT

SUBJECT: Board of Ethics -Steven G. Leventhal NO FISCAL IMPACT PROJECTED

OPERATING BUDGET IMPACT

To Be Completed by Submitting Department and Reviewed by Budget

SECTION A - FUND

GENERAL FUND

AIRPORT FUND

SPECIAL DISTRICTS FUND

SECTION B - EXPENSES AND REVENUES

Total Current Year Expense \$ 12,500

Total Current Year Revenue \$ -

Source of Funds (check one): Current Appropriations Transfer of Existing Appropriations

Additional Appropriations

Other (explain)

Identify Accounts: 101_18_1000_4923

Potential Related Operating Budget Expenses: Annual Amount \$30,000

Describe: An act authorizing the County to enter into an agreement with Steven G. Leventhal to serve as both independent consultant and special counsel to the Westchester County Board of Ethics for a three year term, commencing on 8/1/22 through 7/31/25 for a NTE amount of \$90,000.00.

Potential Related Operating Budget Revenues: Annual Amount N/A

Describe: _____

Anticipated Savings to County and/or Impact on Department Operations:

Current Year: N/A

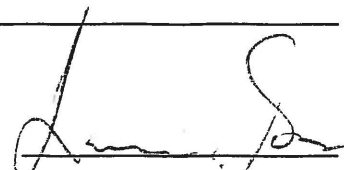
Next Four Years: N/A

Prepared by: Patricia Haggerty

Title: Sr. Budget Analyst

Department: Budget

Date: June 10, 2022

Reviewed By: 

Budget Director

Date: 6/13/22

AN ACT authorizing the County to enter into an agreement with Steven G. Leventhal to serve as both independent consultant and special counsel to the Westchester County Board of Ethics, for a three (3) year term commencing on August 1, 2022 and continuing through July 31, 2025 for an amount not-to-exceed \$90,000.00.

BE IT ENACTED by the Board of Legislators of the County of Westchester, as follows:

Section 1. The County of Westchester (the “County”) is hereby authorized to enter into an agreement with Steven G. Leventhal (“Mr. Leventhal”) pursuant to which Mr. Leventhal will serve as both independent consultant and special counsel to the Westchester County Board of Ethics (“BOE”), in an “of Counsel” capacity to the County Attorney, for a three (3) year term commencing on August 1, 2022 and continuing through July 31, 2025 (the “Agreement”).

§2. In his capacity as independent consultant, Mr. Leventhal shall (1) review all annual financial disclosure statements to consider whether County officers and employees are in compliance with the Westchester County Code of Ethics, or have any financial involvement or outside employment in a business or organization that may impair their ability to fairly and impartially perform their duties as County officers or employees; (2) create a draft intra-agency report for the BOE regarding any potential non-compliance or conflicts of interest; and (3) create a draft master list of County vendors, contractors, and consultants.

§3. In his capacity as special counsel, Mr. Leventhal will perform the following additional services: assist the BOE in exploring the feasibility of electronic filing of Annual Statements of Financial Disclosure; prepare a *Plain Language Guide to the County Code of Ethics* to be printed and available for use in the annual ethics training session and for distribution to all employees and posted on the County website; conduct ethics training

sessions as required by Chapter 883; coordinate the development of a link to a BOE page on the County website, and assist the BOE's Secretary in posting information and materials to the webpage; attend meetings of the BOE and provide ethics advice and guidance to the BOE and to County officers and employees, as requested; draft advisory opinions for the BOE and the Office of the County Attorney; develop due process procedures for investigations conducted by the BOE; assist the BOE in conducting investigations and administrative hearings; assist the Chair of the BOE at the conclusion of investigations conducted by the BOE, with drafting findings of fact and conclusions of law for consideration and adoption by the BOE; advise on records access for the BOE and serve as records access officer for the BOE

§4. In consideration for the aforesaid services to be rendered by Mr. Leventhal to the County under the Agreement, the County shall be authorized to pay Mr. Leventhal at the hourly rate of \$295.00, plus reasonable and necessary out-of-pocket expenses (including but not limited to mailing costs, copying and tolls, but excluding mileage, lodging and meals), not-to-exceed the aggregate sum of \$90,000.00, payable monthly upon receipt of a bill.

§5. The County Executive or his authorized designee, be and hereby is authorized to execute all instruments and to take all actions reasonably necessary to carry out the purposes of this Act.

§6. This Act shall take effect immediately.

STATE OF NEW YORK)
) ss.
WESTCHESTER COUNTY)

I HEREBY CERTIFY that I have compared the foregoing Act, Act No. 88 - 2022, with the original on file in my office, and that the same is a correct transcript therefrom, and of the whole, of the said original Act, which was duly adopted by the County Board of Legislators, of the County of Westchester on July 11, 2022, and approved by the County Executive on July 12, 2022.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Corporate Seal of said County Board of Legislators on this 13th day of July, 2022.



Malika Vanderberg

The Clerk of the Westchester County
Board of Legislators

County of Westchester, New York

