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92745

TO: The Honorable Board of Acquisition and Contract

FROM: Tajian M. Nelson & Douglas A. Colety
Commissioners of the Board of Elections

DATE: March 31, 2022

RE: Resolution authorizing the County of Westchester to agree to hold harmless and indemnify the Scarsdale Union Free School District, owner of any and all polling places to be used by the County in connection with the upcoming Elections in 2022.

The County of Westchester (the "County"), acting by and through its Board of Elections ("Board of Elections"), uses many non-County owned facilities (such as schools, houses of worship and municipal buildings) as polling places in order to conduct Primary, Special and General Elections. The Board of Elections has advised that the Scarsdale Union Free School District, the owner of certain polling places ("Scarsdale"), has requested that the County agree to indemnify them, in writing, for any damage and/or injury that may result from the County's usage of their property as a polling place in connection with the upcoming State and Local Primary and Special Elections and the General Election in 2022.

If authorized by your Honorable Board, the attached resolution would authorize the County to agree as follows:

"The County of Westchester does hereby agree to defend, indemnify and hold harmless the Scarsdale Union Free School District, as well as any other parties which the County of Westchester is required under the contract documents to defend, indemnify and hold harmless, their agents, servants and employees from and against any claim, cost expense or liability (including costs and attorneys' fees incurred in enforcing this indemnity), attributed to bodily injury, sickness, disease or death, or to damage to or destruction of property including loss thereof, caused by, arising out of, resulting from or occurring in connection with the performance of the work by the County of Westchester, its Subcontractors and suppliers or their agents, servants and employees whether or not caused in part by the active or passive negligence, partial

negligence or other fault of the party indemnified hereunder; provided however, the County of Westchester's duty hereunder shall not arise if such injury, sickness, disease, death, damage or destruction is caused by the sole negligence of the party indemnified hereunder. The County of Westchester's obligation shall not be limited by the provision of any Workers' Compensation Law or similar Act."

The public purpose, as well as the goal and objective of this resolution, is to allow the Board of Elections to carry out its statutory duties in connection with all upcoming 2022 Primary, Special and General Elections and to ensure that polling places are available to enable all eligible County residents to exercise their right to vote.

As we believe this to be in the best interests of the County, and necessary for the Board of Elections to carry out its statutory duties in connection with the upcoming Elections, we most respectfully recommend and urge the adoption of the annexed Resolution.

TMN/DAC/di

APPROVED BOARD OF ACQUISITION & CONTRACT - 05/05/2022 - RAYMOND SCULLY SECRETARY

RESOLUTION

Upon a communication of the Commissioners of the Board of Elections, be it hereby

RESOLVED, that the County of Westchester (the "County") is hereby authorized to enter into an agreement with the Scarsdale Union Free School District to utilize school(s) as polling sites elections in 2022 which provides as follows:

"The County of Westchester does hereby agree to defend, indemnify and hold harmless the Scarsdale Union Free School District, as well as any other parties which the County of Westchester is required under the contract documents to defend, indemnify and hold harmless, their agents, servants and employees from and against any claim, cost expense or liability (including costs and attorneys' fees incurred in enforcing this indemnity), attributed to bodily injury, sickness, disease or death, or to damage to or destruction of property including loss thereof, caused by, arising out of, resulting from or occurring in connection with the performance of the work by the County of Westchester, its Subcontractors and suppliers or their agents, servants and employees whether or not caused in part by the active or passive negligence, partial negligence or other fault of the party indemnified hereunder; provided however, the County of Westchester's duty hereunder shall not arise if such injury, sickness, disease, death, damage or destruction is caused by the sole negligence of the party indemnified hereunder. The County of Westchester's obligation shall not be limited by the provision of any Workers' Compensation Law or similar Act."

; and be it further

RESOLVED, that the County Executive or his duly authorized designee be and hereby is authorized and empowered to execute all appropriate contracts or documents necessary to effectuate the purposes of this resolution in the manner prescribed by law.

Account to be
Charged/credited

Fund	Dept	Major Program, Program & Phase Or Unit	Object/ Sub Object	Trust Account	Dollars

Budget Funding Year(s) _____ Start Date 04/1/2022 End Date 12/31/22
(must match resolution)

Funding Source

Tax Dollars _____

State Aid _____

\$ 0
(must match resolution)

Federal Aid _____

Other _____