



Office of the Public Administrator

Christopher R. Cuomo, Esq.  
Public Administrator

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Deputy Public Administrator

**73939**

DATE: December 18, 2019

TO: Board of Acquisition and Contract

FROM: Christopher R. Cuomo  
Public Administrator

SUBJECT: Authority for the County of Westchester to execute, on behalf of the Westchester County Public Administrator, a third-party custody agreement with Sterling National Bank and The Bank of New York Mellon, pursuant to which Sterling National Bank will agree to provide security, as required by applicable law, for funds it holds for the Westchester County Public Administrator, and The Bank of New York Mellon will agree to provide safekeeping services and hold any securities pledged by Sterling National Bank for the benefit of the Westchester County Public Administrator.

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The Westchester County Public Administrator (the “Public Administrator”) is described in Section 164.31 of the Westchester County Charter, which states that “[t]here shall be a Public Administrator, appointed in the manner and to serve as now provided by law, and who shall, except where inconsistent with the provisions of this act, have and exercise all the powers and duties imposed on him by law.” The powers and duties of the Public Administrator are specified in Article 12 of the New York Surrogate’s Court Procedure Act (“SCPA”).

The Public Administrator regularly comes into possession of moneys during the performance of his duties. As specified in Section 1208(1) of the SCPA, “[a]ll moneys collected shall be deposited by the public administrator in a state or national bank, savings bank, savings and loan association or trust company....”

Sterling National Bank (“Sterling”) is one of the national banks with which the Public Administrator may deposit moneys he collects. The Investment Policy for the County of Westchester (“Investment Policy”) requires that the depository banks used by the County collateralize such deposits. Pursuant to the Investment Policy, eligible securities that are used to

collateralize the deposits in a depository bank are required to be held by a third party custodian bank. By a resolution approved on February 23, 2017, your Honorable Board authorized the County to enter into a third-party custody agreement with Sterling and Manufacturers and Traders Trust Company (the "M&T-Sterling Agreement"). The County subsequently executed the M&T-Sterling Agreement, and thereby complied with the Investment Policy.

Sterling has notified the County that it is seeking to transition to a new third party custodian: The Bank of New York Mellon ("BNY Mellon"). Accordingly, in order to continue to use Sterling as a depository bank, with BNY Mellon as the third-party custodian, the County must enter into a third-party agreement with Sterling and BNY Mellon.

Therefore, the County respectfully requests authority from your Honorable Board for the County to execute, on behalf of the Westchester County Public Administrator, a third party custody agreement with Sterling and BNY Mellon, pursuant to which Sterling will agree to provide security, as required by applicable law, for funds it holds for the Public Administrator, and BNY Mellon will agree to provide safekeeping services and hold any securities pledged by Sterling for the benefit of the Public Administrator, on specified terms and conditions.

The proposed agreement will serve a public purpose by enabling the Public Administrator to continue to use Sterling as a depository bank while ensuring adequate and safe collateralization of the deposited funds through a new third-party custodian.

The goal and objective of the proposed agreement is to enable the Public Administrator to continue to use Sterling as a depository bank while ensuring adequate and safe collateralization of the deposited funds through a new third-party custodian.

The goal and objective of the proposed agreement is in the best interests of the County in terms of fiscal responsibility, as ensuring adequate and safe collateralization of the deposited funds, through a new third-party custodian, helps assure that such deposited funds will remain safe and available and allow the Public Administrator to perform his duties.

The goal and objective of the proposed agreement will be tracked and monitored by the Public Administrator.

This procurement is exempt from the requirements of the Westchester County Procurement Policy pursuant to Section 3(a)(xx) thereof.

I respectfully recommend the adoption of the attached resolution.

CC/bdm/nn

**RESOLUTION**

Upon a communication from the Westchester County Public Administrator, be it hereby

**RESOLVED**, that the County of Westchester (the “County”) is hereby authorized to execute, on behalf of Westchester County Public Administrator, a third party custody agreement with Sterling and The Bank of New York Mellon (“BNY Mellon”), pursuant to which Sterling will agree to provide security, as required by applicable law, for funds it holds for the Public Administrator, and BNY Mellon will agree to provide safekeeping services and hold any securities pledged by Sterling for the benefit of the Public Administrator, on specified terms and conditions; and be it further

**RESOLVED**, that the County Executive or his duly authorized designee is hereby authorized to execute and deliver any and all documents and to take all action necessary and appropriate to effectuate the purposes of this resolution.

Account to be  
Charged/Credited

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

Budget Funding Year(s): \_\_\_\_\_ Start Date: \_\_\_\_\_ End Date: \_\_\_\_\_  
(must match resolution)

Funding Source Tax Dollars: \_\_\_\_\_  
\$ \_\_\_\_\_ State Aid: \_\_\_\_\_  
(must match resolution) Federal Aid: \_\_\_\_\_  
Other: \_\_\_\_\_