

74100

DATE: January 22, 2020

TO: Board of Acquisition and Contract

FROM: John M. Nonna
County Attorney

SUBJECT: Authority for the County of Westchester to amend an agreement with the law firm of Paul, Weiss, Rifkind, Wharton & Garrison LLP, pursuant to the County retained the firm to serve in an “of counsel” capacity to the County Attorney, as needed, in connection with the bankruptcy filing by Standard Amusements LLC in the United States Bankruptcy Court for the Southern District of New York (Case No. 19-23061), by, a.) changing its commencement date to May 31, 2019, and b.) increasing the authorized not-to-exceed amount of the agreement by \$2,000,000.00.

Authority is respectfully requested for the County of Westchester (the “County”) to amend an agreement with the law firm of Paul, Weiss, Rifkind, Wharton & Garrison LLP (“Paul, Weiss”), pursuant to which the County retained Paul, Weiss, at County expense, to serve in an “of counsel” capacity to the County Attorney, as needed, in connection with the bankruptcy filing (Case No. 19-23061; the “Case”) by Standard Amusements LLC in the United States Bankruptcy Court for the Southern District of New York, for a term commencing on June 3, 2019 and continuing until the County no longer has an interest in the Case, as the County may determine in its sole discretion; the County determines, in its sole discretion, to cease participating in the Case; or the County otherwise terminates the agreement, for a total amount not to exceed Five Hundred Thousand Dollars (\$500,000.00), payable at various hourly rates for various personnel, (the “Agreement”) by, a.) modifying the term of the Agreement, so that its commencement date will be changed from June 3, 2019 to May 31, 2019, and b.) increasing the authorized not-to-exceed amount of the Agreement by Two Million Dollars (\$2,000,000.00), from an amount not-to-exceed Five Hundred Thousand Dollars (\$500,000.00) to a new amount not-to-exceed Two Million Five Hundred Thousand Dollars (\$2,500,000.00), which shall be payable at various hourly rates for various personnel (the “Amendment”).

The County’s motion to dismiss the Case was denied by United States Bankruptcy Judge Robert Drain. Accordingly, the Case is now moving forward to adjudicate the issue of Standard’s breach, whether that breach is curable and potentially whether Standard can meet the requirements of the Bankruptcy Code for assuming the management agreement. The County has asserted a number of counterclaims against Standard. The proceeding has involved extensive document discovery and numerous (fifteen) depositions and expert testimony. Standard has

moved for summary judgment. The County is opposing the motion. Therefore, the County will expend additional funds on these highly specialized legal services from Paul, Weiss in order to protect its interests in the Case.

Except as described above, all terms and conditions of the Agreement shall remain in full force and effect.

The proposed Amendment will serve a public purpose by enabling the County to continue to receive from Paul, Weiss the specialized knowledge and expertise necessary to ensure the County's proper handling of the Case.

The goal and objective of the proposed Amendment is to enable the County to continue to receive from Paul, Weiss the specialized knowledge and expertise necessary to ensure the County's proper handling of the Case.

The goal and objective of the proposed Amendment is in the best interests of the County in terms of fiscal responsibility, as ensuring the County's continued proper handling of the Case is expected to ultimately protect the financial interests of the County.

The goal and objective of the proposed Amendment will be tracked and monitored by the Office of the County Attorney.

An Act which authorized the County to enter into the proposed Amendment to the Agreement, was adopted by the County's Board of Legislators on January 21, 2020.

I respectfully recommend the adoption of the attached Resolution.

JMN/bdm/nn

RESOLUTION

Upon a communication from the County Attorney, be it hereby

RESOLVED, that the County of Westchester (the “County”) is hereby authorized to amend an agreement with the law firm of Paul, Weiss, Rifkind, Wharton & Garrison LLP (“Paul, Weiss”), pursuant to which the County retained Paul, Weiss, at County expense, to serve in an “of counsel” capacity to the County Attorney, as needed, in connection with the bankruptcy filing (Case No. 19-23061; the “Case”) by Standard Amusements LLC in the United States Bankruptcy Court for the Southern District of New York, for a term commencing on June 3, 2019 and continuing until the County no longer has an interest in the Case, as the County may determine in its sole discretion; the County determines, in its sole discretion, to cease participating in the Case; or the County otherwise terminates the agreement, for a total amount not to exceed Five Hundred Thousand Dollars (\$500,000.00), payable at various hourly rates for various personnel, (the “Agreement”) by, a.) modifying the term of the Agreement, so that its commencement date will be changed from June 3, 2019 to May 31, 2019, and b.) increasing the authorized not-to-exceed amount of the Agreement by Two Million Dollars (\$2,000,000.00) to a new amount not-to-exceed Two Million Five Hundred Thousand Dollars (\$2,500,000.00), which shall be payable at various hourly rates for various personnel; and be it further

RESOLVED, that except as hereby authorized to be amended, all terms and conditions of the Agreement shall remain in full force and effect; 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 hereof.

Account to be
Charged/Credited

Fund	Dept	Major Program, Program & Phase Or Unit	Object/ Sub-Object	Trust Account	Dollars
101	18	1000		4923	\$2,000,000.00

Budget Funding Year(s): _____ Start Date: 5/31/19 End Date: When the County no longer has an interest in the Case, as the County may determine in its sole discretion; the County determines, in its sole discretion, to cease participating in the Case; or the County otherwise terminates the Agreement.

Funding Source Tax Dollars: _____
 State Aid: _____
\$2,000,000.00 Federal Aid: _____
 (must match resolution) Other: _____

APPROVED BOARD OF ACQUISITION & CONTRACT - 01/23/2020 - LISA MRJ/AJ SECRETARY