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Date: October 15, 2014

To: Board of Acquisition and Contract

From: Robert F. Meehan
County Attorney

Kevin M McGuire
Commissioner of Social Services

Subject: Resolution to exempt from the Westchester County Procurement Policy an agreement between the County of Westchester and the law firm of Whiteman Osterman & Hanna, LLP for the provision of legal representation on behalf of the County in connection with obtaining recovery of medical assistance reimbursements that may be owed by New York State to the County, pursuant to Section 3(a)xxi of the Westchester County Procurement Policy and Procedures.

Authority is hereby requested from your Honorable Board to exempt from the Westchester County Procurement Policies and Procedures an agreement with the law firm of Whiteman Osterman & Hanna, LLP (“WOH”) for the provision of legal representation on behalf of the County in connection with obtaining recovery of medical assistance reimbursements that may be owed by New York State (the “State”) to the County, having a term of three (3) years, commencing upon execution and to be paid in accordance with contract rates.

Ordinarily, under Section 6 of the Procurement Policy, the County is required to issue a Request for Proposals for such services. It is proposed that compliance with the Procurement Policy would not be in the best interests of the County with respect to this procurement because we have been advised that to date, WOH and its proposed sub-consultant, the law firm of Nancy Rose Stormer, P.C. (hereinafter collectively referred to as the “Law Firms”), have recovered approximately \$20 million in overburden reimbursement for various counties in the State. We have been advised that the Law Firms have litigated enforcement of overburden reimbursement claims in more than thirty-five (35) proceedings at the trial level and nine (9) appeals to the Appellate Division, Third and Fourth Departments. We have been further advised that the Law Firms and their respective clients have prevailed in each of those proceedings and appeals and have successfully defended numerous applications by the New York State Department of Health for leave to appeal to the Court of Appeals. In addition, the Law Firms have unique and technical expertise associated with the identification and submission of the overburden claims.

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 WOH is uniquely qualified to represent the County in connection with obtaining recovery of medical assistance reimbursements from the State and that the best interests of the County would be served by exempting this agreement from the procedures of the County's Procurement Policy. A resolution to exempt this agreement from procurement is hereby submitted for your consideration.

RFM/jpi

APPROVED BOARD OF ACQUISITION & CONTRACT - 11/20/2014 - JONATHAN ALPERT, SECRETARY

RESOLUTION

Upon a communication from the County Attorney and the Commissioner of Social Services, 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 soliciting proposals, is neither cost effective nor expedient, and accordingly, not in the best interests of the County in connection with the procurement of an agreement with Whiteman Osterman & Hanna, LLP for the provision of legal representation on behalf of the County in connection with obtaining recovery of medical assistance reimbursements that may be owed by New York State to the County.

APPROVED BOARD OF ACQUISITION & CONTRACT - 11/20/2014 - SOMBY VEIRA, SECRETARY