

**69972**

DATE: May 29, 2019

TO: Board of Acquisition and Contract

FROM: John M. Nonna  
County Attorney

SUBJECT: Resolution to exempt from compliance with the Westchester County Procurement Policy, pursuant to Section 3(a)(xxi) thereof, the procurement of a law 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).

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Authority is hereby requested from your Honorable Board to exempt from compliance with the Westchester County Procurement Policy and Procedures, pursuant to Section 3(a)(xxi) thereof, the procurement of an agreement with a law 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; the “Case”).

Bankruptcy proceedings are complex, often involving numerous sophisticated parties with specialized representation. Accordingly, it is highly advisable for the County of Westchester (“County”) to have specialized outside counsel available for the Case.

Procurement of such legal services would, normally be conducted in accordance with Section 7 of the Westchester County Procurement Policy (“Section 7”). Under Section 7, the County is required to “solicit quotations, statements or other information regarding [the] experience, qualifications and capability to perform the proposed services” of “no fewer than three persons customarily performing such services.” Section 7 specifies that said solicitation is to be done in one of several different ways, depending upon the expected cost of the procurement.

It is expected that the procurement of outside counsel for the Case will exceed \$75,000. Accordingly, under Section 7, the County would be required to issue a written request for qualifications or request for proposals and then receive and review formal qualification statements or proposals. However, due to the extremely time-sensitive nature of the Case, and the need to take immediate steps to ensure that the County’s interests are protected, there is insufficient time to follow the above-described solicitation procedure.

In lieu of that longer process, my office has been soliciting written quotations, statements, and information from firms that customarily perform such services, in accordance with the shorter procedure that would be used under Section 7 for a procurement that is anticipated to cost \$75,000 or less. I believe that this procurement procedure will still yield services of maximum quality at the lowest possible cost under the circumstances. However, the County cannot rely upon Section 7 as the procurement basis for any agreement that results from the above-described process. Accordingly, the County must, instead, seek authority to exempt this procurement from compliance with the Westchester County Procurement Policy, pursuant to Section 3(a)(xxi) thereof.

Based upon the foregoing, it is proposed that the best interests of the County would be served by exempting from compliance with the Westchester County Procurement Policy and Procedures, pursuant to Section 3(a)(xxi) thereof, the procurement of an agreement with a law firm to serve in an "of counsel" capacity to the County Attorney, as needed, in connection with the Case.

Accordingly, a resolution to exempt this procurement is hereby submitted for your consideration.

JMN/bdm/nm

APPROVED BOARD OF ACQUISITION & CONTRACTS  
06/15/2019 - JMN/SECRETARY

**RESOLUTION**

Upon a communication from the County Attorney, 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 of Westchester (the "County") in connection with the procurement of an agreement with a law 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).

APPROVED BOARD OF ACQUISITION & CONTRACT - 05/30/2019 - JOHN G. SCARDI, SECRETARY