

71206

DATE: August 16, 2019

TO: Board of Acquisition and Contract

FROM: Kenneth W. Jenkins
Deputy County Executive

RE: **Resolution to exempt from the application of the Westchester County Procurement Policy pursuant to Section 3(a) xxi thereof the procurement of an agreement with Broad Avenue Realty Company, Inc. pursuant to which the County will purchase from Broad Avenue Realty Company, Inc. certain architectural plans developed for Broad Avenue Realty Company, Inc. for the County's use in connection with a proposed Family Court facility at 366 Pelham Road in New Rochelle.**

Authority is hereby requested from your Honorable Board to exempt from the Westchester County Procurement Policy the procurement of an agreement with Broad Avenue Realty Company, Inc. ("Broad"), the owner of the property located at 366 Pelham Road in New Rochelle (the "Premises"), pursuant to which the County will purchase from Broad certain plans developed for Broad for the County's use in connection with the New Rochelle Family Court facility (the "Plans"), pursuant to Section 3(a)xxi of the Westchester County Procurement Policy. In consideration for selling the Plans to the County, the County will pay Broad the sum of \$350,000, payable upon the County's receipt of the Plans.

By way of background, in contemplation of leasing the Premises to the County for use as a Family Court facility, Broad engaged an architect and an engineering firm to prepare plans for the County's installation (the "Plans"). Broad advanced payment for the Plans to the architect and engineering firm with the expectation that the County would reimburse Broad for such costs as additional rent during the term of the proposed lease. The County ultimately decided not to lease the Premises from Broad. Instead, it will now be leasing a yet to be constructed building located on Garden Street in New Rochelle from a different landlord (the "Garden Street Property"). However, the County would nevertheless like to purchase the Plans from Broad for possible use in the build out of the Family Court facility at the Garden Street Property.

Ordinarily, under Section 6 of the Procurement Policy, the County is required to issue an RFP to solicit such services. However, because Broad, in good faith, advanced payment for the Plans with the expectation that the County would reimburse it in the form of additional rent under the lease that was being negotiated by the parties at the time, it would be in the County's best interests to honor its commitment by reimbursing Broad for the cost of the Plans. In addition, the County may use some or all of the Plans for its installation at the Garden Street Property.

Pursuant to Section 3(a) xxi, the Westchester County Procurement Policy is 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 the best interests of the County would be served by exempting the procurement of this agreement from the County Procurement Policy. Accordingly, a Resolution is hereby submitted for your Honorable Board's consideration.

GL/KWJ/jpg

Att:

APPROVED BOARD OF ACQUISITION & CONTRACT - 08/22/2019 - LISA M. JAMES, SECRETARY

RESOLUTION

Upon a communication from Deputy County Executive, be it hereby

RESOLVED, that pursuant to Section 3(a) xxi of the Westchester County Procurement Policy, it is hereby determined that application of the procedural requirements contained therein, including the necessity of soliciting proposals by issuing a Request for Proposals, is neither cost effective nor expedient, and accordingly, not in the best interests of the County of Westchester in connection with the procurement of an agreement with Broad Avenue Realty Company, Inc., for the purchase of certain architectural plans developed for Broad Avenue Realty Company, Inc., for the County's use in connection with the New Rochelle Family Court facility.

APPROVED BOARD OF ACQUISITION & CONTRACT - 08/22/2019 - LEGAL COUNSEL SECRETARY