

**82252**

DATE: January 25, 2021

TO: Board of Acquisition and Contract

FROM: John M. Nonna  
County Attorney

SUBJECT: Resolution to exempt from the Westchester County Procurement Policy and Procedures, pursuant to Section 3(a)(xxi) thereof, the procurement of an agreement with the law firm of Tulis & Geiger LLP to serve in an “of counsel” capacity to the County Attorney, as needed, in connection with ACME Bus Corp. v. Westchester County Department of Health, No. 8-20-08208-reg (E.D.N.Y.).

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Authority is hereby requested from your Honorable Board to exempt from the Westchester County Procurement Policy and Procedures, pursuant to Section 3(a)(xxi) thereof, the procurement of an agreement between the County of Westchester (the “County”) and the law firm of Tulis & Geiger LLP (“T&G”), pursuant to which T&G will serve in an “of counsel” capacity to the County Attorney, as needed, (the “Services”) in connection with ACME Bus Corp. v. Westchester County Department of Health, No. 8-20-08208-reg (E.D.N.Y.) (the “Case”), for a term commencing on January 11, 2021 and continuing until the County no longer has an interest in the Case, as the County may determine in its sole discretion, or the County otherwise terminates the Agreement.

The Case is part of a larger bankruptcy proceeding concerning ACME Bus Corp. Bankruptcy proceedings are complex, often involving numerous sophisticated parties with specialized representation. Accordingly, it is highly advisable for the County to have specialized outside counsel available for the Case.

Procurement of the Services would, normally, be conducted in accordance with Section 7 of the Westchester County Procurement Policy and Procedures (“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.” However, due to the time-sensitive nature of the Case, and the need to take immediate steps to ensure that the County’s interests are protected, there was insufficient time to follow the normal solicitation procedure.

In lieu of that longer process, my office determined that T&G, as a firm expert in bankruptcy law, can competently and readily provide the Services, and that the hourly rates proposed are reasonable in light of my office’s knowledge of the overall marketplace for legal

services.

Based upon the foregoing, it is proposed that the best interests of the County would be served by exempting from the Westchester County Procurement Policy and Procedures, pursuant to Section 3(a)(xxi) thereof, the procurement of the Agreement.

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

JMN/bdm/nn

APPROVED BOARD OF ACQUISITION & CONTRACT - 01/28/2021 - LISA MARIJAJ, 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, 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 the law firm of Tulis & Geiger LLP ("T&G"), pursuant to which T&G will serve in an "of counsel" capacity to the County Attorney, as needed, in connection with ACME Bus Corp. v. Westchester County Department of Health, No. 8-20-08208-reg (E.D.N.Y.) (the "Case"), for a term commencing on January 11, 2021 and continuing until the County no longer has an interest in the Case, as the County may determine in its sole discretion, or the County otherwise terminates the Agreement.

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APPROVED BOARD OF ACQUISITION & CONTRACT ADMINISTRATION SECRETARY