

Westchester County

Office of the County Attorney

110755

Date: March 21, 2025

To: Honorable Board of Acquisition and Contract

From: John Nonna
County Attorney

Re: Resolution to exempt from the Westchester County Procurement Policy pursuant to Section 3(a)xxi thereof, an agreement between the County and Latham & Watkins LLP for The Honorable Jonathan Lippman (Ret.) to serve as Chair of an Arbitration Panel in connection with a dispute that has arisen between the County and Standard Amusements, LLC under the Second Restated and Amended Playland Management Agreement.

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, an agreement between the County of Westchester (the "County") and Latham & Watkins LLP for The Honorable Jonathan Lippman (Ret.) ("Judge Lippman") to serve as Chair of an Arbitration Panel, alongside fellow arbitrators Judge Shira A. Scheindlin and Judge Anthony J. Carpinello, in connection with a dispute that has arisen between the County and Standard Amusements, LLC under the Second Restated and Amended Playland Management Agreement.

The County alleges, *inter alia*, that Standard wrongfully terminated the Second Restated and Amended Playland Management (the "Second Restated Agreement") and Standard disputes this allegation (the "Dispute"). The alternative dispute resolution procedures set forth in Section 43 of the Second Restated Agreement control any disputes arising between the parties in connection therewith. In accordance with subparagraph ii of Section 43 of the Second Restated Agreement, the Dispute is subject to binding, expedited arbitration before a panel of three (3) arbitrators consisting of each party's Party-appointed arbitrator and a neutral umpire selected by the two party-appointed arbitrators. The two party-appointed arbitrators have selected Judge Lippman to serve as a neutral umpire in connection with the Dispute.

Ordinarily, under Section 6 of the County Procurement Policy, the County is required to issue a Request for Proposals to solicit such services. However, in this instance, the Second Restated Agreement controls the selection process. As noted above, it requires the two party-appointed arbitrators, not the County, to select the neutral umpire. As such, the County's normal procurement procedures do not apply.

Notably, Judge Lippman, has had a long and distinguished career as a jurist. Among other things, he served as Chief Judge of the State of New York and Chief Judge of the Court of Appeals from February 2009 through December 2015. During his tenure on the Court of Appeals, Judge Lippman authored major decisions addressing constitutional, statutory and common law issues shaping the law of New York and the contours of state government. As such, he is highly qualified to serve as the neutral umpire in connection with the Dispute.

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 the best interests of the County would be served by exempting the procurement of this agreement from the County Procurement Policy.

Accordingly, an appropriate resolution to exempt this Agreement from the County Procurement Policy is hereby submitted for your Honorable Board's consideration.

KWJ/jpg/nn
Attachment

APPROVED BOARD OF ACQUISITION & CONTRACT - 03/27/2025 - RAYMOND SCULKY, SECRETARY

RESOLUTION

Upon a communication from the County Executive, 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 issuing a Request for 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 between the County and Latham & Watkins LLP for The Honorable Jonathan Lippman (Ret.) to serve as a neutral umpire in connection with a dispute that has arisen between the County and Standard Amusements, LLC under the Second Restated and Amended Playland Management Agreement.

APPROVED BOARD OF ACQUISITION & CONTRACT - 03/27/2025 - RAYMOND J. CUCKY, SECRETARY