



**110106**

DATE: December 6, 2024

TO: Board of Acquisition and Contract

FROM: John M. Nonna  
County Attorney

SUBJECT: Authority for the County of Westchester to enter into an outside counsel agreement with the law firm of Bleakley Platt & Schmidt, LLP to represent the Westchester County Board of Health in connection with an administrative matter pending before the Board referred to herein as *In re Playland Pool (Standard Amusements)*, subject to adoption by the Westchester County Board of Legislators of an Act authorizing the outside counsel agreement.

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Authority is requested for the County of Westchester (the “County”) to enter into an outside counsel agreement (the “Agreement”) with the law firm of Bleakley Platt & Schmidt, LLP (the “Firm”) to represent the Westchester County Board of Health (the “BOH”), in connection with an administrative matter pending before the BOH named herein as *In re Playland Pool (Standard Amusements)* (the “Administrative Matter”). The term of the proposed Agreement will commence retroactive to December 5, 2024 and will continue until the Administrative Matter has been resolved.

By way of background, the BOH has brought administrative charges under the State and local Sanitary Code against Standard Amusements (“Standard”) as operator of the Playland Pool, stemming from the death that occurred in August 2024. The BOH has requested legal assistance from the County Attorney in prosecuting those charges. The County has also received a notice of claim from the family of the deceased, and is being defended and indemnified in that matter pursuant to the operating agreement between the County and Standard, and Standard’s insurance contracts (the “Wrongful Death Matter”). Because the County Attorney’s office will be involved in the monitoring of outside counsel and defense of the Wrongful Death Matter, I believe there is a conflict which will prevent my office from providing the BOH with representation in the Administrative Matter. Accordingly, the Firm is needed to provide representation to the BOH in the Administrative Matter.

In accordance with the Laws of Westchester County (“LWC”) §158.11(2), I have submitted to the County Board of Legislators (“BOL”) an act to authorize the County to enter into the Agreement with the Firm (the “Act”). It is anticipated that the Act will be approved at a special meeting of the BOL currently scheduled to be held on December 16, 2024. In an effort to

expedite the approval process, I am seeking your Honorable Board's approval of the attached Resolution prior to approval of the Act by the BOL. However, the authority granted by the attached Resolution shall not take effect unless and until the Act authorizing the Agreement with the Firm is adopted by the BOL.

Under the proposed Agreement, the Firm will be paid a total amount not-to-exceed Twenty-Five Thousand Dollars (\$25,000.00), payable at the rate of Three Hundred Seventy-Five Dollars (\$375.00) per hour for the services of David Chen, Esq., and One Hundred Eighty-Five Dollars (\$185.00) per hour for paralegal services. In addition, the Firm will be reimbursed, at cost, for *reasonable and necessary* out of pocket expenses and disbursements.

The proposed Agreement is exempt from the Westchester County Procurement Policy and Procedures pursuant to Section 3(a) x thereof which exempts "procurements for the services of lawyers . . .".

The proposed Agreement will serve a public purpose by providing the BOH with the specialized knowledge and expertise necessary to ensure its proper handling of the Administrative Matter.

For the reasons set forth above, I most respectfully recommend the adoption of the attached resolution.

JMN/jpg/nm  
Attachment

APPROVED BOARD OF ACQUISITION & CONTRACT - 12/12/2024 RAYMOND SULKY, SECRETARY

## RESOLUTION

Upon a communication from the County Attorney, be it hereby:

**RESOLVED**, that the County of Westchester (the “County”) is hereby authorized to enter into an agreement (the “Agreement”) to retain, at County expense, the law firm of Bleakley Platt & Schmidt, LLP (the “Firm”), pursuant to which the Firm will represent the Westchester County Board of Health (the “BOH”), as needed, in connection with an administrative matter pending before the BOH named herein as *In re Playland Pool (Standard Amusements)* (the “Administrative Matter”), for a term commencing retroactive to December 5, 2024 and continuing until the Administrative Matter is fully resolved; and be it further

**RESOLVED**, that in consideration for services rendered, the County shall pay the Firm a total amount not-to-exceed Twenty-Five Thousand Dollars (\$25,000.00), payable at the rate of Three Hundred Seventy-Five Dollars (\$375.00) per hour for the services of David Chen, Esq., and One Hundred Eighty-Five Dollars (\$185.00) per hour for paralegal services. In addition, the Firm shall be reimbursed, at cost, for *reasonable and necessary* out of pocket expenses and disbursements; and be it further

**RESOLVED**, that the authority granted by this Resolution shall not take effect unless and until the Act authorizing the County to enter into the Agreement with the Firm, which is currently pending before the County Board of Legislators (“BOL”), is adopted by the BOL; and be it further

**RESOLVED**, that this Agreement is subject to County appropriations; and be it further

**RESOLVED**, that this Agreement is also subject to further financial analysis of the impact of any New York State Budget (the “State Budget”) proposed and adopted during the term of this Agreement. The County shall retain the right, upon the occurrence of any release by the Governor of a proposed State Budget and/or the adoption of a State Budget or any amendments thereto, and for a reasonable period of time after such release(s) or adoption(s), to conduct an analysis of the impacts of any such State Budget on County finances. After such analysis, the County shall retain the right to either terminate this Agreement or to renegotiate the amounts and rates approved herein. If the County subsequently offers to pay a reduced amount to the Contractor, then the Contractor shall have the right to terminate this Agreement upon reasonable prior written notice; and be it further

**RESOLVED**, that the County Executive or his duly authorized designee is hereby authorized to execute and deliver any and all documents and to take all action necessary and appropriate to effectuate the purposes hereof.

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Account to be  
Charged/Credited

Fund	Dept	Major Program, Program & Phase Or Unit	Object/ Sub-Object	Trust Account	Dollars
101	18	1000		4923	\$25,000.00

Budget Funding Year(s): 2025 Start Date: 12/05/24 End Date: When the matter is resolved.

Funding Source Tax Dollars: \$25,000.00  
 State Aid: \_\_\_\_\_  
\$25,000.00 Federal Aid: \_\_\_\_\_  
 (must match resolution) Other: \_\_\_\_\_

APPROVED BOARD OF ACQUISITION & CONTRACT - 12/12/2024 - RAYMOND SCUKY, SECRETARY