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September 13, 2022

To: The Honorable Board of Acquisition and Contract

From: John M. Nonna
County Attorney

Re: Resolution to exempt from the Westchester County Procurement Policy pursuant to Sec. 3(a)xxi thereof the procurement of an amendment to an agreement with the law firm of Sheppard, Mullin, Richter & Hampton LLP, for the provision of outside counsel legal services in connection with the civil matter *Yonkers Contracting Company, Inc. v. County of Westchester, et al* /Index Number: 63929/2015 (“*Yonkers Contracting*”).

Authority is hereby requested from your Honorable Board to exempt from the Westchester County Procurement Policy pursuant to Sec. 3(a)xxi thereof, an amendment to a retainer agreement with the law firm of Sheppard, Mullin, Richter & Hampton LLP (“Sheppard Mullin”), for the provision of outside counsel legal services in connection with the civil matter *Yonkers Contracting Company, Inc. v. County of Westchester, et al* /Index Number: 63929/2015 (“*Yonkers Contracting*”). The proposed amendment would: 1) increase the not-to-exceed amount by an additional \$100,000.00, to a new total aggregate amount not-to-exceed of \$1,100,000.00; and 2) extend the term of the retainer agreement from January 1, 2023 through December 31, 2023

Ordinarily, under Section 7 of the Procurement Policy, the County is required to issue an RFQ or an RFP to solicit such services. However, Sheppard Mullin’s lead attorney, Ira Shulman, is a nationally recognized construction law attorney with over 37 years of experience in construction litigation and has worked on the *Yonkers Contracting* case since 2018. As such, he is uniquely familiar with the County’s litigation strategy in this matter. Moreover, Mr. Shulman has worked on many other construction law matters for the County and was instrumental in preparing the County’s bid book and performance bond templates.

Pursuant to Section 3(a)xxi thereof, the Westchester County Procurement Policy and Procedures are not applicable to any procurement for which this Board determines, by resolution passed prior to commencing such procurement, that compliance with the policy would not be in the best interest 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 to exempt the procurement of an amendment to an outside counsel agreement with the law firm of Sheppard, Mullin is hereby submitted for your Honorable Board's consideration.

JMN/jpg

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RESOLUTION

Based 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 interest of the County in connection with the procurement of an amendment to an agreement with the law firm of Sheppard, Mullin, Richter & Hampton LLP for the provision of outside counsel legal services in connection with the civil matter *Yonkers Contracting Company, Inc. v. County of Westchester, et al* /Index Number: 63929/2015.

APPROVED BOARD OF ACQUISITION & CONTRACT - 09/15/2022 - RAYMOND SOULIER SECRETARY