



George Latimer
County Executive

Office of the County Attorney

John M. Nonna
County Attorney

June 26, 2025

Westchester County Board of Legislators
800 Michaelian Office Building
148 Martine Avenue
White Plains, New York 10601

Dear Honorable Members of the Board of Legislators:

Transmitted herewith is an Act which, if adopted by your Honorable Board, would authorize the County of Westchester (the "County") to amend an agreement (the "Agreement") to retain, at County expense, the law firm of Bleakley Platt & Schmidt, LLP (the "Firm"), pursuant to which the Firm agreed to represent the Westchester County Board of Health ("BOH"), as needed (the "Services"), in connection with the administrative matter, *In re Playland Pool (Standard Amusements)* (the "Administrative Matter"), in order to increase the not-to-exceed amount authorized thereunder by an additional \$50,000.00, from \$25,000.00 to \$75,000.00.

As your Honorable Board may recall, the BOH brought administrative charges under the State and local Sanitary Code against Standard Amusements ("Standard"), as the prior operator of the Playland Pool, stemming from the death that occurred in August 2024. The BOH requested legal assistance from the County Attorney in prosecuting those charges. The County 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 is involved in the monitoring of outside counsel and defense of the Wrongful Death Matter, I determined that a conflict existed which prevented my office from providing the BOH with representation in the Administrative Matter, and that retaining outside counsel to provide such representation would be appropriate.


Accordingly, by Act No. 3-2025 (the "Act"), your Honorable Board authorized the County to enter into the Agreement with the Firm to provide the Services to the BOH in connection with the Administrative Matter, for a term commencing on December 5, 2024 and continuing until the Administrative Matter is resolved. The Act further authorized the County to pay the Firm a total amount not-to-exceed \$25,000.00, payable at the rate of \$375.00 per hour for the services of David Chen, Esq., and \$185.00 per hour for paralegal services, as well as to reimburse the Firm, at cost, for *reasonable and necessary* out of pocket expenses and disbursements. The Agreement was subsequently executed.

The Administrative Matter has taken more time to adjudicate than originally expected. Consequently, the not-to-exceed cap under the Agreement will soon be depleted. In order to have sufficient funds available to continue to pay the Firm going forward, it has become necessary to increase the not-to-exceed cap by an additional \$50,000.00. Accordingly, authority of your Honorable Board is respectfully requested to amend the Agreement with the Firm in order to increase the not-to-exceed amount by an additional \$50,000.00, from an amount not-to-exceed \$25,000.00, to a new amount not-to-exceed \$75,000.00.

Except as otherwise specifically amended hereby, all remaining terms and conditions set forth in the Agreement shall remain in full force and effect.

For the reasons set forth above, I most respectfully recommend your Honorable Board's approval of the attached Act.

Sincerely,



John M. Nonna
County Attorney

JMN/jpg/nn

**HONORABLE BOARD OF LEGISLATORS
THE COUNTY OF WESTCHESTER**

Your Committee is in receipt of a communication from the County Attorney recommending the approval of an Act which, if adopted by your Honorable Board, would authorize the County of Westchester (the “County”) to amend an agreement (the “Agreement”) to retain, at County expense, the law firm of Bleakley Platt & Schmidt, LLP (the “Firm”), pursuant to which the Firm agreed to represent the Westchester County Board of Health (“BOH”), as needed (the “Services”), in connection with the administrative matter, *In re Playland Pool (Standard Amusements)* (the “Administrative Matter”), in order to increase the not-to-exceed amount authorized thereunder by an additional \$50,000.00, from \$25,000.00 to \$75,000.00.

As your Committee may recall, the BOH has brought administrative charges under the State and local Sanitary Code against Standard Amusements (“Standard”) as the prior operator of the Playland Pool, stemming from the death that occurred in August 2024. The BOH requested legal assistance from the County Attorney in prosecuting those charges. The County 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, the County Attorney determined that a conflict existed which would prevent him from providing the BOH with representation in the Administrative Matter, and that retaining outside counsel to provide such representation would be appropriate.

Accordingly, by Act No. 3-2025 (the “Act”), your Honorable Board authorized the County to enter into the Agreement with the Firm to provide the Services to the BOH in connection with the Administrative Matter, for a term commencing on December 5, 2024 and continuing until the Administrative Matter is resolved. The Act further authorized the County to pay the Firm a total amount not-to-exceed \$25,000.00, payable at the rate of \$375.00 per hour for the services of David Chen, Esq., and \$185.00 per hour for paralegal services, as well as to

reimburse the Firm, at cost, for *reasonable and necessary* out of pocket expenses and disbursements. The Agreement was subsequently executed.

Your Committee is advised that the Administrative Matter has taken more time to adjudicate than originally expected. Consequently, the not-to-exceed cap under the Agreement will soon be depleted. In order to have sufficient funds available to continue to pay the Firm going forward, it has become necessary to increase the not-to-exceed cap by an additional \$50,000.00. Accordingly, authority of your Honorable Board is respectfully requested to amend the Agreement with the Firm in order to increase the not-to-exceed amount by an additional \$50,000.00, from an amount not-to-exceed \$25,000.00, to a new amount not-to-exceed \$75,000.00.

Except as otherwise specifically amended hereby, all remaining terms and conditions set forth in the Agreement shall remain in full force and effect.

Your Committee is advised that the proposed amendment to the 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 Planning Department has advised that the proposed Agreement does not meet the definition of an “action” under the State Environmental Quality Review Act, 6 NYCRR part 617. As such, no environmental review is required. Please refer to the memorandum from the Department of Planning dated January 12, 2025, which is on file with the Clerk of the Board of Legislators.

Your Committee has been advised that the adoption of the proposed Act requires an affirmative vote of a majority of the members of your Honorable Board.

After due consideration, your Committee recommends adoption of the proposed Act.

Dated: _____, 2025
White Plains, New York

COMMITTEE ON

C:JPG-6/26/25

FISCAL IMPACT STATEMENT

SUBJECT: Amend an agreement -Playland Pool

☐ NO FISCAL IMPACT PROJECTED

OPERATING BUDGET IMPACT

To Be Completed by Submitting Department and Reviewed by Budget

SECTION A - FUND

☒ GENERAL FUND

☐ AIRPORT FUND

☐ SPECIAL DISTRICTS FUND

SECTION B - EXPENSES AND REVENUES

Total Current Year Expense Increase NTE by \$50K

Total Current Year Revenue \$ -

Source of Funds (check one): ☒ Current Appropriations ☐ Transfer of Existing Appropriations

☐ Additional Appropriations ☐ Other (explain)

Identify Accounts: 101_18_1000_4923

Potential Related Operating Budget Expenses: Annual Amount Increase NTE by \$50K

Describe: An Act authorizing the County to amend a retainer agreement with the law firm of Bleakley Platt & Schmidt, LLP to represent the Westchester Board of Health, in connection with the administrative matter In re Playland Pool, by increasing the NTE authorized by \$50,000.00.

Potential Related Operating Budget Revenues: Annual Amount N/A

Describe: _____

Anticipated Savings to County and/or Impact on Department Operations:

Current Year: N/A

Next Four Years: N/A

Prepared by: Patricia Haggerty

Title: Sr. Budget Analyst

Department: Budget

Date: June 26, 2025

Reviewed By: PH

Budget Director

Date: 6/25/25

ACT NO. 2025 - _____

AN ACT authorizing the County to amend a retainer agreement with the law firm of Bleakley Platt & Schmidt, LLP to represent the Westchester County Board of Health, as needed, in connection with the administrative matter *In re Playland Pool (Standard Amusements)*, by increasing the not-to-exceed amount authorized thereunder by \$50,000.00.

BE IT ENACTED by the Board of Legislators of the County of Westchester, as follows:

Section 1. The County of Westchester (the “County”) is hereby authorized to amend a retainer agreement (the “Agreement”) with the law firm of Bleakley Platt & Schmidt, LLP (the “Firm”), pursuant to which the Firm agreed to represent the Westchester County Board of Health, as needed, in connection with the administrative matter named here as *In re Playland Pool (Standard Amusements)*, in order to increase the not-to-exceed amount authorized thereunder by an additional Fifty Thousand (\$50,000.00) Dollars, from an amount not-to-exceed Twenty Five Thousand (\$25,000.00) Dollars, to an amount not-to-exceed Seventy-Five Thousand (\$75,000.00) Dollars.

§2. Except as specifically amended hereby, all remaining terms and conditions set forth in the Agreement shall remain in full force and effect.

§3. The County Executive or his authorized designee is hereby authorized to execute all instruments and take all actions reasonably necessary to carry out the purposes of this Act.

§4. This Act shall take effect immediately.

WESTCHESTER COUNTY
BOARD OF LEGISLATORS
JAN 14 2025
CLERK OF THE BOARD OF LEGISLATORS