

35485

Date: August 12, 2013

To: Board of Acquisition and Contract

From: Robert F. Meehan  
County Attorney

Re: Authority for the County of Westchester to amend an agreement with the law firm of Duncan, Weinberg, Genzer & Pembroke, P.C. for the provision of all legal services and representation, and related technical, consulting, and expert witness services, that are necessary for administrative proceedings before the New York State Public Service Commission, in order to increase the authorized not-to-exceed amount by \$328,813.00.

---

By Act No. 2013-66, the County Board of Legislators authorized the County of Westchester (the "County") to enter into an agreement with Duncan, Weinberg, Genzer & Pembroke, P.C. ("DWGP"), pursuant to which DWGP was to furnish legal services and representation to the County, in an "of counsel" capacity to the County Attorney, in connection with administrative proceedings before the New York State Public Service Commission, for an amount not-to-exceed \$198,500, payable monthly at various hourly rates for different personnel, for a term from April 23, 2013 through April 22, 2014, with the County having the sole option to extend the term of the Agreement for three (3) additional one (1) year periods, utilizing all of the same pricing, terms and conditions (the "Agreement"). By a resolution approved on May 9, 2013 (the "May 9<sup>th</sup> Resolution"), your Honorable Board authorized the County to enter into the Agreement. The Agreement was subsequently executed.

The administrative proceedings before the NYS PSC for which DWGP has been providing services to the County under the Agreement include the rate cases recently filed simultaneously by Consolidated Edison Company of New York, Inc. ("Con Ed") for increases in electric, gas, and steam rates, under cases 13-E-0030, 13-G-0031, and 13-S-0032, respectively (the "Rate Cases").

DWGP recently notified my office that it will not be able to complete its representation of the County in the Rate Cases for the not-to-exceed amount authorized by Act 2013-66 and the May 9<sup>th</sup> Resolution, and specified in the Agreement.

By Act No. 2013-153, the County Board of Legislators authorized the County to amend the Agreement by increasing the authorized not-to-exceed amount by \$328,813.00, from the

previously-authorized not-to-exceed amount of \$198,500.00 to a new not-to-exceed amount of \$527,313.00.

Accordingly, the County now respectfully requests that your Honorable Board authorize the County to amend the Agreement by increasing the authorized not-to-exceed amount by \$328,813.00, from the previously-authorized not-to-exceed amount of \$198,500.00 to a new not-to-exceed amount of \$527,313.00 (the "First Amendment").

Except as described above, all other terms and conditions of the Agreement will remain the same.

The proposed First Amendment will serve a public purpose by providing additional funding in order to make available to the County the specialized knowledge and expertise necessary to ensure the County's proper handling of administrative proceedings before the NYS PSC.

The goal and objective of the proposed First Amendment is to provide additional funding in order to make available to the County the specialized knowledge and expertise necessary to ensure the County's proper handling of administrative proceedings before the NYS PSC.

The goal and objective of the proposed First Amendment is in the best interests of the County in terms of fiscal responsibility, as ensuring the County's proper handling of administrative proceedings before the NYS PSC is expected to ultimately result in a cost savings to the County and its residents, such as in rates paid to Con Ed.

The goal and objective of the proposed First Amendment will be tracked and monitored by the Office of the County Attorney.

I respectfully recommend the adoption of the attached Resolution.

RFM/bdm/nn

**RESOLUTION**

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

**RESOLVED**, that the County of Westchester (the "County") is hereby authorized to amend an agreement with Duncan, Weinberg, Genzer & Pembroke, P.C. ("DWGP"), pursuant to which DWGP was to furnish legal services and representation to the County, in an "of counsel" capacity to the County Attorney, in connection with administrative proceedings before the New York State Public Service Commission, for an amount not-to-exceed \$198,500, payable monthly at various hourly rates for different personnel, for a term from April 23, 2013 through April 22, 2014, with the County having the sole option to extend the term of the Agreement for three (3) additional one (1) year periods, utilizing all of the same pricing, terms and conditions (the "Agreement"), by increasing the authorized not-to-exceed amount by \$328,813.00, from the previously-authorized not-to-exceed amount of \$198,500.00 to a new not-to-exceed amount of \$527,313.00; and be it further

**RESOLVED**, that except as specifically amended hereby, all terms and conditions of the Agreement shall remain the same and in full force and effect; 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.

Original Agreement.       \$ 198,500.00  
 This Amendment.       \$ 328,813.00  
**Total:**                       **\$ 527,313.00**

Account to be  
 Charged/Credited

Fund	Dept	Major Program, Program & Phase Or Unit	Object/ Sub-Object	Trust Account	Dollars
101	52	2110	5100		\$38,566.00
101	46	3400	4380		\$125,328.00
161	44	4110	4380		\$21,111.00
221	60	0110	4380		\$134,369.00
251	60	7100	4380		\$9,439.00

Budget Funding Year(s): 2013-14        Start Date: 4/23/13        End Date: 4/22/14  
 (must match resolution)

Funding Source                      Tax Dollars: \$163,894  
    State Aid: \_\_\_\_\_  
\$328,813.00                            Federal Aid: \_\_\_\_\_  
 (must match resolution)        Other:            \$164,919