

68392

Date: March 12, 2019

To: Board of Acquisition and Contract

From: John M. Nonna
County Attorney

Re: Authority for the County of Westchester to exercise its first option under its 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 or advisable for any matters or proceedings involving issues concerning energy or utilities, including, but not necessarily limited to, matters involving and proceedings before the New York State Public Service Commission, the New York Independent System Operator, the Federal Energy Regulatory Commission, and the Nuclear Regulatory Commission, and thereby extend the term of the agreement by one year, to a new termination date of June 11, 2020.

By Act No. 2018-24, the County Board of Legislators authorized the County of Westchester (the "County") to enter into an agreement (the "Agreement") with Duncan, Weinberg, Genzer & Pembroke, P.C. ("DWGP"), pursuant to which DWGP was to provide of all legal services and representation, and related technical, consulting, and expert witness services, that are necessary or advisable for any matters or proceedings involving issues concerning energy or utilities, including, but not necessarily limited to, matters involving and proceedings before the New York State Public Service Commission ("NYS PSC"), the New York Independent System Operator ("NYISO"), the Federal Energy Regulatory Commission ("FERC"), and the Nuclear Regulatory Commission ("NRC"), for a term commencing upon execution and continuing for one (1) year thereafter (the "Initial Term"), with the County having the sole option to extend the term of the agreement for up to three (3) additional one (1) year periods thereafter, utilizing all of the same pricing, terms and conditions, (each an "Option Term") for a total amount not-to-exceed \$100,000.00, payable at various hourly rates for different personnel. By a resolution approved on April 19, 2018, your Honorable Board authorized the County to enter into the Agreement. The Agreement was subsequently executed and commenced on June 12, 2018. Accordingly, the Initial Term of the Agreement will expire on June 11, 2019.

On January 18, 2019, Consolidated Edison Company of New York, Inc. ("Con Ed") announced a moratorium on new gas connections in Westchester County (the "Moratorium").

The timetable for the County's work with DWGP regarding the Moratorium (through NYS PSC case 17-G-0606) is uncertain. The County has become a party to the Moratorium case before the NYS PSC and has already submitted to the NYS PSC comments on the Moratorium and a request for a stay of the Moratorium until the NYS PSC completes its investigation. The County has also responded to Con Ed's responses to the County's initial submission.

On January 31, 2019, Con Ed filed for increases in electric and gas rates for New York City and Westchester County customers (the "Rate Increases"). The County's work with DWGP regarding the Rate Increases (through NYS PSC cases 19-E-0065 and 19-G-0066) is expected to continue until the end of 2019.

Therefore, in order to ensure that the County continues to have DWGP's services available to help the County handle the Moratorium and the Rate Increases beyond June 11, 2019, if necessary, the County respectfully requests that your Honorable Board authorize the County to amend the Agreement by exercising its first option thereunder, and thereby extend the term of the Agreement by one (1) year, to a new termination date of June 11, 2020 (the "Amendment").

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

The proposed Amendment will serve a public purpose by continuing to provide the County with the specialized knowledge and expertise necessary to ensure the County's proper handling of matters and proceedings before bodies such as the NYS PSC, the NYISO, FERC, and the NRC.

The goal and objective of the proposed Amendment is to continue to provide the County with the specialized knowledge and expertise necessary to ensure the County's proper handling of matters and proceedings before bodies such as the NYS PSC, the NYISO, FERC, and the NRC.

The goal and objective of the proposed Amendment is in the best interests of the County in terms of fiscal responsibility, as ensuring the County's proper handling of matters and proceedings before bodies such as the NYS PSC, the NYISO, FERC, and the NRC is expected to ultimately result in a cost savings to the County and its residents, such as in rates paid to Con Ed and New York State Electric & Gas Corporation.

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

I respectfully recommend the adoption of the attached resolution.

JMN/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 its agreement (the "Agreement") with the law firm of Duncan, Weinberg, Genzer & Pembroke, P.C. ("DWGP"), pursuant to which DWGP was to provide of all legal services and representation, and related technical, consulting, and expert witness services, that are necessary or advisable for any matters or proceedings involving issues concerning energy or utilities, including, but not necessarily limited to, matters involving and proceedings before the New York State Public Service Commission, the New York Independent System Operator, the Federal Energy Regulatory Commission, and the Nuclear Regulatory Commission, (the "Agreement") by exercising its first option thereunder, and thereby extending the term of the Agreement by one (1) year, to a new termination date of June 11, 2020; and be it further

RESOLVED, that except as specifically hereby authorized to be amended, 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.

Account to be
Charged/Credited

Fund	Dept	Major Program, Program & Phase Or Unit	Object/ Sub-Object	Trust Account	Dollars
					N/A

Budget Funding Year(s): _____
(must match resolution)

Start Date: 06/12/19

End Date: 06/11/20

Funding Source

Tax Dollars: _____

State Aid: _____

N/A

Federal Aid: _____

(must match resolution)

Other: _____