

69404

Date: May 8, 2019

To: Board of Acquisition and Contract

From: John M. Nonna  
County Attorney

Re: Authority for the County of Westchester to amend 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, by increasing its not-to-exceed amount by \$500,000.00.

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By Act No. 2018-24, the County Board of Legislators authorized the County of Westchester (the "County") to enter into an agreement (the "Original 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 Original Agreement. The Original Agreement was subsequently executed and commenced on June 12, 2018. Accordingly, the Initial Term of the Original Agreement will expire on June 11, 2019.

By a resolution approved on April 4, 2019, your Honorable Board authorized the County to amend 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 (the "First Amendment"). The First Amendment was subsequently executed.

While the County's option-exercise via the First Amendment has provided an extended term for the Original Agreement, as amended by the First Amendment, (the "Agreement") it did

not provide additional funding. Many factors—nearly all of which are outside of the County’s control—will ultimately determine the costs that the County must incur in order to work with DWGP to properly protect the County’s interests concerning both the moratorium on new gas connections in Westchester County (through NYS PSC case 17-G-0606) and the proposed increases in electric and gas rates for New York City and Westchester County customers (through NYS PSC cases 19-E-0065 and 19-G-0066). However, based on the costs from previous rate-increase matters, and DWGP’s bills to-date, my office and the Department of the Budget reasonably expect that the above-stated requested increase in the not-to-exceed amount will pay for the vast majority, if not necessarily all, of the remaining expenses from DWGP that are associated with the above-mentioned NYS PSC cases.

Therefore, authority is now requested from your Honorable Board for the County to amend the Agreement by increasing its not-to-exceed amount by \$500,000.00, from an amount not-to-exceed \$100,000.00 to a new not-to-exceed amount of \$600,000.00 (the “Second Amendment”).

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

The proposed Second 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 Second 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 Second 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 Consolidated Edison Company of New York, Inc. and New York State Electric & Gas Corporation.

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

Act No. 2019-84, which authorized the County to enter into the proposed Second Amendment, was adopted by the County’s Board of Legislators on May 6, 2019 and approved by the County Executive on May 8, 2019.

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 ("NYS PSC"), the New York Independent System Operator ("NYISO"), the Federal Energy Regulatory Commission ("FERC"), and the Nuclear Regulatory Commission ("NRC"), for a term from June 12, 2018 through June 11, 2020, with the County having the sole option to extend the term of the agreement for up to two (2) additional one (1) year periods thereafter, utilizing all of the same pricing, terms and conditions, for a total amount not-to-exceed \$100,000.00, payable at various hourly rates for different personnel (the "Agreement"), by increasing its not-to-exceed amount by \$500,000.00, from an amount not-to-exceed \$100,000.00 to a new not-to-exceed amount of \$600,000.00; 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.

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Account to be  
Charged/Credited

Fund	Dept	Major Program, Program & Phase Or Unit	Object/ Sub-Object	Trust Account	Dollars
					See Attached FIS From Act 2019-84

Budget Funding Year(s): \_\_\_\_\_  
(must match resolution)

Start Date: 06/12/18

End Date: 06/11/20

Funding Source

**\$500,000.00**  
(must match resolution)

Tax Dollars: \_\_\_\_\_  
State Aid: \_\_\_\_\_  
Federal Aid: \_\_\_\_\_  
Other: \_\_\_\_\_

APPROVED BOARD OF ACQUISITION CONTRACT - 05/30/2019 - JOAN COLETTI, SECRETARY

# FISCAL IMPACT STATEMENT

SUBJECT: Duncan Weinberg Amendment  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 \$ 500,000

Total Current Year Revenue \$ 84,000

Source of Funds (check one):  Current Appropriations  Transfer of Existing Appropriations  
 Additional Appropriations  Other (explain)

Identify Accounts: 101-18-1000-4923; 101-46-3400-4923; 161-44-4110-4923; 221-60-0110-4923  
241-60-5110-4923; 243-60-5310-4923; 251-60-7100-4923

Potential Related Operating Budget Expenses: Annual Amount \_\_\_\_\_

Describe: Fund Breakdown: General - \$323,000; Airport - \$17,000; Sewer - \$148,000;

Water - \$3,000; Refuse - \$9,000

Potential Related Operating Budget Revenues: Annual Amount \_\_\_\_\_

Describe: Medical Center Reimbursement - \$84,000

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

Current Year: \_\_\_\_\_

Next Four Years: Utility savings resulting from lower Consolidated Edison rates.

Prepared by: Gideon Grande

Title: Deputy Director

Department: Budget

Date: April 18, 2019

Reviewed By:   
Budget Director

Date: 4/18/19