

2022-584



George Latimer
County Executive

Office of the County Attorney

John M. Nonna
County Attorney

November 14, 2022

Westchester County Board of Legislators
County of Westchester
800 Michaelian Office Building
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 ("County") to amend its agreement (the "Agreement") with the law firm of Abrams, Fensterman, Fensterman, Eisman, Formato, Ferrara, Wolf & Carone, LLP (the "Firm"), pursuant to which the Firm serves in an "Of Counsel" capacity to the County Attorney in connection with various legal issues relating to the upgrade of the County Trunk Sanitary Sewer System located on River Street in the Village of Hastings-On-Hudson on certain real property owned by ARCO Environmental Remediation LLC ("ARCO"), which is classified as Inactive Hazardous Waste Disposal Site (the "Superfund Site"), in order to extend the term thereof through November 28, 2023.

By way of background, on October 4, 2021 by Act No. 2021-183, your Honorable Board authorized the County to enter into the Agreement with the Firm for a term commencing upon execution and continuing for a one (1) year term for an amount not-to-exceed of Seventy-Five Thousand (\$75,000.00) Dollars at various hourly rates for various personnel. Subsequent to the adoption of the Act, the County entered into the Agreement with Firm, dated November 29, 2021.

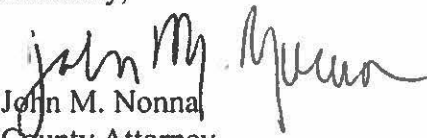
With the assistance of the Firm, the County and ARCO have commenced negotiating an easement agreement, pursuant to which the County would be granted the right to upgrade the County trunk sanitary sewers and pumping station located on the Superfund Site. The negotiations are ongoing. However, the Agreement with the Firm is set to expire on November 28, 2022, and the County continues to need the Firm's expertise in the area of environmental law and CERCLA liability with regard to these negotiations. Accordingly, authority is hereby requested to amend the Agreement to extend the term thereof through November 28, 2023. All other terms and conditions of the Agreement shall remain in full force and effect.

In terms of procurement, the County originally procured the services of the Firm in accordance with Section 7(a) of the Westchester County Procurement Policy and Procedures (the "Policy"). The proposed amendment is a no-cost time extension with no additional funds being requested. Moreover, the proposed amendment will allow the County to continue to avail itself of the Firm's expertise in the area of environmental law and CERCLA liability and, thereby, protect the County's rights with respect to the County trunk sanitary sewers and pumping station located on the Superfund Site. Based upon these factors, a resolution has been approved by the Board of Acquisition and Contract to exempt the procurement of the amendment from the application of the Policy pursuant to Section 3(a)xxi thereof.

The proposed amendment to the Agreement does not meet the definition of an action under the New York State Environmental Quality Review Act and its implementing regulations 6 NYCRR Part 617. Please refer to the memorandum from the Department of Planning, dated January 14, 2022, which is on file with the Clerk of the Board of Legislators.

Accordingly, your Honorable Board's approval of the attached Act is most respectfully requested.

Sincerely,


John M. Nonna
County Attorney

JMN/ran
Attachment

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

Your Committee is in receipt of a proposed Act transmitted by the County Attorney, which, if adopted by your Honorable Board, would authorize the County of Westchester (“County”) to amend its agreement (the “Agreement”) with the law firm of Abrams, Fensterman, Fensterman, Eisman, Formato, Ferrara, Wolf & Carone, LLP (the “Firm”), pursuant to which the Firm serves in an “Of Counsel” capacity to the County Attorney in connection with various legal issues relating to the upgrade of the County Trunk Sewer System located on River Street in the Village of Hastings-on-Hudson on certain real property owned by ARCO Environmental Remediation LLC (“ARCO”), which is classified as Inactive Hazardous Waste Disposal Site (the “Superfund Site”), in order to extend the term thereof through November 28, 2023 and change the name of the Firm to Abrams Fensterman, LLP.

On October 4, 2021 by Act No. 2021-183, your Honorable Board authorized the County to enter into the Agreement with the Firm for a term commencing upon execution and continuing for a one (1) year term for an amount not-to-exceed of Seventy-Five Thousand (\$75,000.00) Dollars at various hourly rates for various personnel. Subsequent to the adoption of the Act, the County entered into the Agreement with Firm, dated November 29, 2021.

The County Attorney has advised that, with the assistance of Edward Smith, the lead partner in the Firm, the County and ARCO have commenced negotiating an easement agreement, pursuant to which the County would be granted the right to upgrade the County trunk sanitary sewers and pumping station located on the Superfund Site. While the negotiations are ongoing, the Agreement with the Firm expired on November 28, 2022, and the name of the Firm has since changed from Abrams, Fensterman, Fensterman, Formato, Ferrara, Wolf & Carone, LLP to Abrams Fensterman, LLP. In addition, the County continues to need Mr. Smith’s expertise in the area of environmental law and CERCLA liability with regard to the negotiations with ARCO. Accordingly, authority is hereby requested to amend the Agreement to extend the term thereof through November 28, 2023 and change the name of the Firm from Abrams, Fensterman,

Fensterman, Formato, Ferrara, Wolf & Carone, LLP to Abrams Fensterman, LLP. All other terms and conditions of the Agreement shall remain in full force and effect.

The County Attorney has advised that the County originally procured the services of this Firm in accordance with Section 7(a) of the Westchester County Procurement Policy and Procedures (the "Policy"), and the proposed amendment is a no-cost time extension with no additional funds being requested. Of the \$75,000.00 not to exceed amount authorized for the Agreement, approximately \$16,194.00 in services have been spent to date. Moreover, the proposed amendment will allow the County to continue to avail itself of the Firm's expertise in the area of environmental law and CERCLA liability and, thereby, protect the County's rights with respect to the County trunk sanitary sewers and pumping station located on the Superfund Site. Based upon these factors, a resolution has been approved by the Board of Acquisition and Contract to exempt the procurement of the amendment from the application of the Policy pursuant to Section 3(a)(xxi) thereof.

The Planning Department has advised that this is not an action subject to the State Environmental Quality Review Act. Therefore, no further environmental review is required. Your Committee concurs with the Planning Department's conclusion.

An affirmative vote of a majority of the voting strength of the Board is required for approval of the attached Act.

Accordingly, your Committee recommends approval of the attached Act.

Dated: _____, 2022
White Plains, New York

COMMITTEE ON

c:ran

ACT NO. 2022 - _____

AN ACT authorizing the County of Westchester to amend the agreement with the law firm of Abrams, Fensterman, Fensterman, Eisman, Formato, Ferrara, Wolf & Carone, LLP for “Of Counsel” legal services in connection the County Trunk Sanitary Sewer System located on the real property owned by ARCO Environmental Remediation LLC and classified as an Inactive Hazardous Waste Disposal Site on River Street in the Village of Hastings-on-Hudson to extend the term by one (1) year from November 28, 2022 to November 28, 2023 and the change the name of the law firm from Abrams, Fensterman, Fensterman, Eisman, Formato, Ferrara, Wolf & Carone, LLP to Abrams Fensterman, LLP.

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

Section 1. The County of Westchester (“County”) is hereby authorized to amend the agreement dated November 29, 2021 (the “Agreement”) with the law firm of Abrams, Fensterman, Fensterman, Eisman, Formato, Ferrara, Wolf & Carone, LLP (the “Firm”), for the provision of “Of Counsel” legal services in connection with the portion of the County Trunk Sanitary Sewer System located on certain real property owned by ARCO Environmental Remediation LLC and classified as an Inactive Hazardous Waste Disposal Site on River Street in the Village of Hastings-on-Hudson, by extending the term thereof for one (1) year from November 28, 2022 through November 28, 2023 and changing the name of the Firm from Abrams, Fensterman, Fensterman, Eisman, Formato, Ferrara, Wolf & Carone, LLP to Abrams Fensterman, LLP.

§2. That except as otherwise expressly amended hereby, all other terms and conditions of the Agreement, shall remain in full force and effect.

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

§4. This Act shall take effect immediately.

FISCAL IMPACT STATEMENT

SUBJECT: No Cost 1 year Extension to Abrams Fensterman Agt

NO FISCAL IMPACT PROJECTED

OPERATING BUDGET IMPACT

(To be completed by operating department and reviewed by Budget Department)

A) GENERAL FUND AIRPORT SPECIAL REVENUE FUND (Districts)

B) EXPENSES AND REVENUES

Total Current Year Cost \$ _____

Total Current Year Revenue \$ _____

Source of Funds (check one): Current Appropriations

Transfer of Existing Appropriations Additional Appropriations Other (explain)

Identify Accounts: _____

Potential Related Operating Budget Expenses: Annual Amount \$ _____

Describe: To extend the agreement with the law firm of Abrams, Fensterman, Fensterman, Eisman
Formato, Ferrara, Wolf & Carone, LLP by one year through November 28, 2023

Potential Related Revenues: Annual Amount \$ _____

Describe: _____

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

Current Year: _____

Next Four years: _____

Prepared by: William Olli

Title: Assistant Budget Director

Department: Budget

Reviewed By: 

Budget Director

10/24/22

If you need more space, please attach additional sheets.