



George Latimer
County Executive

Office of the County Attorney

John M. Nonna
County Attorney

February 3, 2021

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

Dear Honorable Members of the Board:

Attached for your consideration is an Act which, if approved by your Honorable Board, would authorize the County of Westchester (the "County") to amend a retainer agreement with the law firm of Sheppard, Mullin, Richter & Hampton LLP ("Sheppard Mullin") for the provision of outside counsel legal services in connection with the civil matter *Yonkers Contracting Company, Inc. v. County of Westchester, et al* /Index Number: 63929/2015 ("*Yonkers Contracting*"), by extending the term thereof through December 31, 2021.

By way of background, on February 26, 2018 by Act No. 2018-18, your Honorable Board authorized the County to enter into a retainer agreement with the law firm of Pepper Hamilton, LLP ("Pepper Hamilton"), pursuant to which Pepper Hamilton agreed to defend the County against claims commenced against it and to prosecute appropriate cross-claims in the *Yonkers Contracting* matter for a term commencing on January 11, 2018 and continuing through January 10, 2021 (the "Agreement"). In consideration for services rendered, your Honorable authorized the County to pay Pepper Hamilton an amount not-to-exceed \$150,000.00 at the following rates: \$520.00 per hour for the services of Ira M. Schulman, Esq.; \$412.00 per hour for Vincent Torna, Esq.; \$312.00 per hour for Alex Corey, Esq., and \$150.00 per hour for paralegal Erin Tornabene; or personnel within Pepper Hamilton with comparable experience and ability as those mentioned at the same rate of pay.

Thereafter, on May 6, 2019 by Act No. 2019-83, your Honorable Board authorized the County to pay Pepper Hamilton an additional amount not-to-exceed \$200,000.00, thereby increasing the total cap from \$150,000.00 to \$350,000.00.

Thereafter, on October 7, 2019 by Act No. 2019-198, your Honorable Board authorized the County to pay Pepper Hamilton an additional amount not-to-exceed \$265,000.00, thereby increasing the total cap from \$350,000.00 to \$615,000.00.

Thereafter, on May 18, 2020 by Act No. 2020-89, your Honorable Board authorized the County to: 1) further amend the Agreement with Pepper Hamilton by increasing the not-to-exceed cap thereunder by an additional \$69,100 to compensate Pepper Hamilton for legal services rendered through April 1, 2020; 2) consent to the assignment of the Agreement with Pepper Hamilton to the law firm of Sheppard Mullin, effective April 2, 2020; and 3) amend the Agreement, as assigned to Sheppard Mullin, to increase the not-to-exceed amount thereunder by an additional \$175,000.00 for services to be rendered by Sheppard Mullin during the period from April 2, 2020 through January 10, 2021.

The Agreement with Sheppard Mullin expired on January 10, 2021. However, since this litigation is ongoing, the County will continue to require the services of the firm at least through the end of this year. Accordingly, authority is requested to retroactively amend the Agreement with Sheppard Mullin by extending the term thereof from January 11, 2021 through December 31, 2021. For the aforesaid services rendered to the County by Sheppard Mullin, the firm will continue to be paid at the following rates: \$520.00 per hour for the services of Ira M. Schulman, Esq.; \$412.00 per hour for Sophia Cahill, Esq.; \$312.00 per hour for Michelle Cooper, Esq., and \$150.00 per hour for paralegal Leigh Ann Tencza; or personnel within Sheppard Mullin with comparable experience and ability as those mentioned at the same rate of pay. In no event will the total amount payable by the County to Sheppard Mullin during the term of the proposed amendment to the Agreement exceed the sum of One Hundred Seventy-Five Thousand (\$175,000.00) Dollars.

The Planning Department has advised that this is not an action subject to the State Environmental Quality Review Act.

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

Very truly yours,

John M. Nonna
County Attorney

JMN/jpg
Attachment

**HONORABLE BOARD OF LEGISLATORS
COUNTY OF WESTCHESTER**

Your Committee is in receipt of a proposed Act transmitted by the County Attorney which, if adopted, would authorize the County of Westchester (the “County”) to amend a retainer agreement with the law firm of Sheppard, Mullin, Richter & Hampton LLP (“Sheppard Mullin”) for the provision of outside counsel legal services in connection with the civil matter *Yonkers Contracting Company, Inc. v. County of Westchester, et al* /Index Number: 63929/2015 (“*Yonkers Contracting*”), by extending the term thereof through December 31, 2021.

The County Attorney has advised that due to the special and complex nature of construction law litigation and the evaluation and analysis of damages, it is in the best interests of the County to retain counsel qualified to handle such litigation. Accordingly, on February 26, 2018 by Act No. 2018-18, your Honorable Board authorized the County to enter into a retainer agreement with the law firm of Pepper Hamilton, LLP (“Pepper Hamilton”), pursuant to which Pepper Hamilton agreed to defend the County against claims commenced against it and to prosecute appropriate cross-claims in the *Yonkers Contracting* matter for a term commencing on January 11, 2018 and continuing through January 10, 2021. In consideration for services rendered, your Honorable authorized the County to pay Pepper Hamilton an amount not-to-exceed \$150,000.00 at the following rates: \$520.00 per hour for the services of Ira M. Schulman, Esq.; \$412.00 per hour for Vincent Torna, Esq.; \$312.00 per hour for Alex Corey, Esq., and \$150.00 per hour for paralegal Erin Tornabene; or personnel within Pepper Hamilton with comparable experience and ability as those mentioned at the same rate of pay.

Thereafter, on May 6, 2019 by Act No. 2019-83, your Honorable Board authorized the County to pay Pepper Hamilton an additional amount not-to-exceed \$200,000.00, thereby increasing the total cap from \$150,000.00 to \$350,000.00.

Thereafter, on October 7, 2019 by Act No. 2019-198, your Honorable Board authorized the County to pay Pepper Hamilton an additional amount not-to-exceed \$265,000.00, thereby increasing the total cap from \$350,000.00 to \$615,000.00.

Thereafter, on May 18, 2020 by Act No. 2020-89, your Honorable Board authorized the County to: 1) further amend the Agreement with Pepper Hamilton by increasing the not-to-exceed cap thereunder by an additional \$69,100 to compensate Pepper Hamilton for legal services rendered through April 1, 2020; 2) consent to the assignment of the Agreement with Pepper Hamilton to the law firm of Sheppard Mullin, effective April 2, 2020; and 3) amend the Agreement, as assigned to Sheppard Mullin, to increase the not-to-exceed amount thereunder by an additional \$175,000.00 for services to be rendered by Sheppard Mullin during the period from April 2, 2020 through January 10, 2021.

Your Committee is advised that the Agreement with Sheppard Mullin expired on January 10, 2021. However, since this litigation is ongoing, the County will continue to require the services of the firm at least through the end of this year. Accordingly, authority is requested to retroactively amend the Agreement with Sheppard Mullin by extending the term thereof from January 11, 2021 through December 31, 2021.

For the aforesaid services rendered to the County by Sheppard Mullin, the firm will continue to be paid at the following rates: \$520.00 per hour for the services of Ira M. Schulman, Esq.; \$412.00 per hour for Sophia Cahill, Esq.; \$312.00 per hour for Michelle Cooper, Esq., and \$150.00 per hour for paralegal Leigh Ann Tencza; or personnel within Sheppard Mullin with comparable experience and ability as those mentioned at the same rate of pay. In no event will the total amount payable by the County to Sheppard Mullin during the term of the proposed amendment to the Agreement exceed the sum of One Hundred Seventy-Five Thousand (\$175,000.00) dollars.

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.

Your Committee recommends approval of the attached Act.

Dated: _____, 2021
White Plains, New York

COMMITTEE ON

c:JPG 2.1.21

FISCAL IMPACT STATEMENT

SUBJECT: Sheppard, Mullin -Term Extension

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 \$ -

Total Current Year Revenue \$ -

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

Additional Appropriations Other (explain)

Identify Accounts: N/A

Potential Related Operating Budget Expenses: Annual Amount N/A

Describe: An act authorizing the County to amend a retainer agreement with Sheppard, Mullin, Richter & Hampton LLP, for outside counsel legal services in connection with Yonkers Contracting Co., Inc. v. Westchester County by extending the term through December 31, 2021.

Potential Related Operating Budget Revenues: Annual Amount N/A

Describe: _____

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

Current Year: N/A

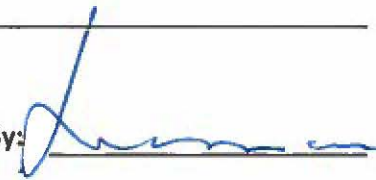
Next Four Years: N/A

Prepared by: Patricia Haggerty

Title: Sr. Budget Analyst

Department: Budget


Date: January 29, 2021

Reviewed By: 
PH

Budget Director

Date: 1/29/21

TO: Jeffrey P. Goldman,
Senior Assistant County Attorney

FROM: David S. Kvinge, AICP, RLA, CFM 
Director of Environmental Planning

DATE: February 2, 2021

SUBJECT: **STATE ENVIRONMENTAL QUALITY REVIEW FOR SHEPPARD,
MULLIN, RICHTER & HAMPTON LLP AGREEMENT AMENDMENT**

PROJECT/ACTION: Amend a retainer agreement with the law firm of Sheppard, Mullin, Richter & Hampton LLP for the provision of outside legal services in connection with the civil matter *Yonkers Contracting Company, Inc. v. County of Westchester, et al.* As litigation is still ongoing, but the most recent agreement expired on January 10, 2021, the amendment will retroactively extend the term of the agreement from January 11, 2021 through December 31, 2021.

With respect to the State Environmental Quality Review Act and its implementing regulations 6 NYCRR Part 617, the Planning Department recommends that no further environmental review is required because the project/action:

- DOES NOT MEET THE DEFINITION OF AN "ACTION" AS DEFINED UNDER SECTION 617.2(b)**
- MAY BE CLASSIFIED AS TYPE II PURSUANT TO SECTION 617.5(c)():**
-

COMMENTS: None

DSK/dvw

cc: Andrew Ferris, Chief of Staff
Paula Friedman, Assistant to the County Executive
Tami Altschiller, Assistant Chief Deputy County Attorney
Norma Drummond, Commissioner
Claudia Maxwell, Associate Environmental Planner

ACT NO. – 2021

AN ACT authorizing the County of Westchester to further amend a retainer agreement with the law firm of Sheppard, Mullin, Richter & Hampton LLP, for the provision of outside counsel legal services in connection with the civil matter *Yonkers Contracting Company, Inc. v. County of Westchester, et al*, by extending the term thereof through December 31, 2021.

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

Section 1. The County of Westchester (the “County”) is hereby authorized to further amend a retainer agreement with the law firm of Sheppard, Mullin, Richter & Hampton LLP (“Sheppard Mullin”) for the provision of outside counsel legal services in connection with the civil matter *Yonkers Contracting Company, Inc. v. County of Westchester, et al* /Index Number: 63929/2015 (“*Yonkers Contracting*”), by extending the term thereof from January 11, 2021 through December 31, 2021.

§2. For the aforesaid services rendered to the County by Sheppard Mullin, the County shall continue to pay the firm at the following rates: \$520.00 per hour for the services of Ira M. Schulman, Esq.; \$412.00 per hour for Sophia Cahill, Esq.; \$312.00 per hour for Michelle Cooper, Esq., and \$150.00 per hour for paralegal Leigh Ann Tencza; or personnel within Sheppard Mullin with comparable experience and ability as those mentioned at the same rate of pay. In no event shall the total amount payable by the County to Sheppard Mullin during the agreement extension exceed the sum of One Hundred Seventy-Five Thousand (\$175,000.00) Dollars.

§3. That except as otherwise expressly amended hereby, all other terms and conditions of the retainer agreement, as previously amended and assigned, shall remain in full force and effect.

§4. This Act shall take effect immediately.