

Westchester County

George Latimer
County Executive

Office of the County Attorney
John M. Nonna
County Attorney

September 5, 2023

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

Dear Members of the Board of Legislators:

Attached for your consideration is an Act which, if adopted by your Honorable Board, will authorize the County of Westchester ("County") to (i) retain the law firm of Bryant Rabbino LLP ("Bryant Rabbino") as bond counsel to act in an "of counsel" capacity to the County Attorney on an "as needed" basis, for the period commencing upon execution of the agreement and terminating on July 31, 2024; and (ii) amend the existing agreements with Hawkins, Delafield & Wood LLP, Norton Rose Fulbright US LLP, and Harris Beach PLLC, ("Bond Counsel Agreements") in order to reflect the addition of Bryant Rabbino as a fourth bond counsel to the County that will share in the aggregate amount not to exceed \$450,000.00 through July 31, 2024.

Bryant Rabbino is a top tier bond counsel firm, with a strong public finance practice. Bryant Rabbino provides bond counsel legal services to government entities and public authorities, such as the Dormitory Authority of the State of New York (DASNY), the New York Thruway, the Metropolitan Transportation Authority (MTA), the New York City Industrial Development Agency (NYC IDA), New York City, Empire State Development Corporation and other local development corporations such as Hudson Yards Infrastructure Corporation, through experienced, highly qualified senior attorneys. Bryant Rabbino provides excellent client service with great degree of flexibility and at a lower cost and overhead as "Big Law" practice. Bryant Rabbino has worked on some of the most notable municipal bond transactions in New York.

This includes recent multi-billion dollar financings for the modernization and expansion of La Guardia and JFK international airports, which are among the Port Authority's most important

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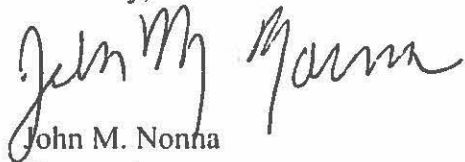
initiatives to modernize the region's air transportation infrastructure system and have been hailed in the industry for their innovation. In addition, Bryant Rabbino is a transactional boutique law firm certified as a Minority-Owned Business Enterprise ("MBE") and also Red Book certified as Sole Bond Counsel and Sole Underwriters' Counsel.

Accordingly, the attached legislation, if approved by your Honorable Board, would authorize the County to: (i) enter into an agreement with Bryant Rabbino for the provision of bond counsel services to the County, for a term commencing upon execution of the agreement by both parties and terminating on July 31, 2024; and (ii) amend the Bond Counsel Agreements in order to reflect the addition of Bryant Rabbino as a fourth bond counsel to the County that will share in the aggregate amount not to exceed \$450,000.00 through July 31, 2024.

The Planning Department has advised that based on its review, the proposed agreement and the amendments to the Bond Counsel Agreements do not meet the definition of an "action" under the State Environmental Quality Review Act ("SEQRA"), and its implementing regulations, 6 NYCRR, Part 617. Please refer to the memorandum from the Department of Planning dated January 12, 2023, which is on file with the Clerk of the Board of Legislators. Therefore, no environmental review is required. As you know, your Honorable Board may use such expert advice to make its own conclusion.

I most respectfully recommend the enactment of this proposed Act so that the County may also receive bond counsel services from Bryant Rabbino.

Sincerely,

A handwritten signature in black ink, appearing to read "John M. Nonna". The signature is written in a cursive, flowing style.

John M. Nonna
County Attorney

JMN/CMC
Attachments

HONORABLE BOARD OF LEGISLATORS
THE COUNTY OF WESTCHESTER

Your Committee is in receipt of a communication from the County Attorney recommending the enactment of an Act which, if adopted by your Honorable Board, would authorize the County to (i) retain the law firm of Bryant Rabbino LLP (“Bryant Rabbino”) as bond counsel to act in an “of counsel” capacity to the County Attorney on an “as needed” basis, for the period commencing upon execution of the agreement and terminating on July 31, 2024; and (ii) amend the existing agreements with Hawkins, Delafield & Wood LLP, Norton Rose Fulbright US LLP, and Harris Beach PLLC, (“Bond Counsel Agreements”) in order to reflect the addition of Bryant Rabbino as a fourth bond counsel to the County that will share in the aggregate amount not to exceed \$450,000.00 through July 31, 2024.

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Your committee is advised that the if approved by your Honorable Board, the proposed act would authorize the County to: (i) retain at the County's expense, the law firm of Bryant Rabbino LLP ("Bryant Rabbino") as bond counsel to act in an "of counsel" capacity to the County Attorney on an "as needed" basis, for the period commencing upon execution of the agreement by both parties and terminating on July 31, 2024; and (ii) amend the Bond Counsel Agreements in order to reflect the addition of Bryant Rabbino as a fourth bond counsel to the County that will share in the aggregate amount not to exceed \$450,000.00 through July 31, 2024.


The Planning Department has advised that based on its review, the proposed agreement and the amendments to the Bond Counsel Agreements do not meet the definition of an "action" under the State Environmental Quality Review Act ("SEQRA"), and its implementing regulations, 6 NYCRR, Part 617. Please refer to the memorandum from the Department of Planning dated January 12, 2023, which is on file with the Clerk of the Board of Legislators. Therefore, no environmental review is required. Your Committee has reviewed the annexed SEQR documentation and concurs with this recommendation.

Please note that an affirmative vote of a majority of the members of your Honorable Board is required in order to approve the attached Act authorizing the County to retain Bryant Rabbino to serve as bond counsel. Accordingly, your Board's favorable action on the annexed Act is most respectfully urged and recommended.

Dated: _____, 2023
White Plains, New York

COMMITTEE ON

TO: George Latimer, County Executive
Kenneth Jenkins, Deputy County Executive
John Nonna, County Attorney

FROM: David Kvinge, AICP, RLA, CFM 
Assistant Commissioner

DATE: January 12, 2023

SUBJECT: **ACTIVITIES NOT SUBJECT TO STATE ENVIRONMENTAL QUALITY
REVIEW**

As required by the New York State Environmental Quality Review Act and its implementing regulations 6 NYCRR Part 617 ("SEQR"), the Board of Legislators ("BOL") is the body that must assess the environmental significance of all actions that the BOL has discretion to approve, fund or directly undertake. The Planning Department has historically conducted the necessary environmental review for the BOL to undertake its responsibility under SEQR. Additionally, contracts going before the Board of Acquisition and Contracts ("BAC") must be reviewed for conformance with SEQR.

Pursuant to Section 617.2(b) of SEQR, "Actions" are defined as:

- (1) projects or physical activities, such as construction or other activities that may affect the environment by changing the use, appearance or condition of any natural resource or structure, that:
 - (i) are directly undertaken by an agency; or
 - (ii) involve funding by an agency; or
 - (iii) require one or more new or modified approvals from an agency or agencies;
- (2) agency planning and policy making activities that may affect the environment and commit the agency to a definite course of future decisions;
- (3) adoption of agency rules, regulations and procedures, including local laws, codes, ordinances, executive orders and resolutions that may affect the environment; and
- (4) any combinations of the above.

As part of the Planning Department's ongoing review of its processes, we are streamlining the process for SEQR review and related document preparation for the BOL and BAC. The most effective method to achieve a more timely SEQR review is to create a list of categories of activities **that do not meet the definition of an "action"** as defined in SEQR. This list (attached) references activities that are routine and which do not change the use, appearance or condition of any natural resource or structure, nor do they involve policies or regulations that may affect the environment. The creation of this list in no way eliminates the BOL's or BAC's

responsibilities under SEQR. Rather, it establishes a workflow for items that are routine and do not, under the law, require environmental review.

Accordingly, the Planning Department advises that no environmental review is required and no SEQR documentation is necessary for submission with BOL legislation or with resolutions or contracts requiring BAC approval regarding activities on the attached list.

County departments and agencies may reference this memorandum in the legislation in order to document compliance with SEQR for actions listed herein. As such, this memorandum should be kept on file with the Clerk of the Board of Legislators. Legislation should include a statement similar to the following: "The proposed project does not meet the definition of an action under 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 12, 2022, which is on file with the Clerk of the Board of Legislators."

This memorandum will be distributed to all Commissioners as part of County operations.

Please contact me if you have any questions.

Att.

cc: Malika Vanderberg, Clerk and Chief Administrative Officer to the Board of Legislators
Joan McDonald, Director of Operations
Andrew Ferris, Chief of Staff
Steve Bass, Director of Intergovernmental Relations
Paula Friedman, Assistant to the County Executive
Stacey Dolgin-Kmetz, Chief Deputy County Attorney
Tami Altschiller, Assistant Chief Deputy County Attorney
Norma Drummond, Commissioner of Planning

**ACTIVITIES THAT DO NOT MEET THE DEFINITION OF AN “ACTION”
PURSUANT TO SEQR AND ARE, CONSEQUENTLY, NOT SUBJECT TO SEQR**

1. BUDGETS AND AMENDMENTS

- Municipal budgets and amendments to them – The budgeting process merely sets aside funds without a commitment to their expenditure. Operating expenditures are typically for government-related activities that would also not meet the definition of an action. Even the establishment of the Capital Budget is not subject to SEQR because many of the capital projects are usually not definitive enough with respect to potential impacts to be reviewable at the time the budget is adopted. However, any subsequent authorization, such as bonding, to undertake a particular capital project is an action that requires SEQR compliance before it may be approved.
- The transfer of funds within the County operating and capital budgets for the purpose of balancing accounts – It is understood that these actions are purely budgetary, where accounts with excess funds are moved to accounts with existing or anticipated deficits. It is further understood that the activities covered by these accounts have either already occurred or been reviewed in accordance with SEQR, are Type II actions or actions that are not subject to SEQR, or are actions that will require future approval prior to being undertaken, at which time further SEQR review may be appropriate.
- Rescissions or reduction of bond acts to cancel unspent funds.

2. SERVICES

- Consultant services – Contracts or agreements that provide for administrative services, training, reports for Boards and Commissions, but not including studies or design of physical improvements, which has been listed under SEQR as Type II.
- Social Services – Actions or agreements that provide services to persons in need, such as employment assistance, family/domestic intervention and respite care.
- Youth services – Actions or agreements that provide for youth services, such as a Resource Allocation Plan, Invest-in-Kids Program, after-school programs, camp programs and head-start programs.
- Senior programs & services – Actions or agreements that provide for services to seniors, such as provision of information/education, home care, nutrition & transportation assistance, caregiver support, and acceptance of federal and state grants providing for such services (e.g., OAA Title III grants and NYSOFA grants, including CSE, CSI, CRC, EISEP, NYSTP, WIN & NSIP).
- Public Safety services – programs that promote public safety, such as STOP-DWI, Police Night Out, and intermunicipal agreements (IMAs) for shared training, equipment and response to emergencies, including E-911.
- Fire services – Fire district IMAs for shared training, equipment and response to emergencies.
- Legal services – Contracts for outside counsel, litigation or associated monetary settlements.

- Medical Services – Contracts with medical providers for medical examinations, testing, vaccinations or medical treatment of County employees or the public.
- Mental Health Services – Contracts with agencies to provide treatment, services or education related to mental health.

3. PERSONNEL MATTERS

- Actions related to employment or employees.
- Contracts for temporary staff assistance.
- Legislation pertaining to establishment and membership of boards and commissions.

4. FINANCES

- Tax Anticipation Notes.
- Bond acts to finance tax certiorari payments.
- Banking contracts/agreements for money management services.
- Mortgage tax receipts disbursements (County Clerk).
- Refinancing of affordable housing mortgages.
- Payment in Lieu of Taxes (PILOT) agreements.

5. LAWS

- New laws or amendments of existing laws that regulate the sale or use of products for the protection of public health.
- New laws or amendments of existing laws that regulate businesses for the protection of consumers.
- Pertaining to consumer protection, not including professional licensing, which have been classified as Type II.
- Pertaining to animal welfare, excluding regulations involving habitat management.
- Pertaining to public safety.
- Pertaining to taxation, such as establishment of new taxes or tax exemptions.
- Pertaining to establishment or modification of fees.
- Pertaining to notices, publications and record keeping.
- Pertaining to hiring or contracting procedures.
- Pertaining to the functioning of County government, such as term limits, board appointments, etc. that do not impact the environment.

6. MISCELLANEOUS

- Amendments to existing agreements for changes in name or consultants.
- Education/training programs, contracts for clinical instruction.
- Prisoner Transport IMAs.
- Tourism Promotion Agency designation.
- Software licenses.

- IMAs for temporary housing in existing facilities (homeless, inmate, troubled youths, domestic violence victims).
- Naming or renaming of streets, buildings, parks or other public facilities.

WCDP
JAN 2023

FISCAL IMPACT STATEMENT

SUBJECT: Bryant Rabbino LLP-Bond Counsel

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: _____

Potential Related Operating Budget Expenses: Annual Amount _____

Describe: An act authorizing the County of Westchester to retain the law firm of Bryant Rabbino LLP as bond counsel, and to amend the existing bond counsel agreements in order to reflect the addition of a fourth bond counsel to the County.

Potential Related Operating Budget Revenues: Annual Amount _____

Describe: _____

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

Current Year: _____

Next Four Years: _____

Prepared by: Dianne Vanadia

Title: Associate Budget Director

Department: Budget

Date: August 29, 2023

Reviewed By: 

Budget Director

Date: 8/31/23

ACT NO. 2023- ____

AN ACT authorizing the County of Westchester to retain the law firm of Bryant Rabbino LLP as bond counsel to act in an “of counsel” capacity to the County Attorney on an “as needed” basis, for the period commencing upon execution of the agreement by both parties and terminating on July 31, 2024, and to amend the existing bond counsel agreements with law firms of Hawkins, Delafield & Wood LLP; Norton Rose Fulbright US LLP; and Harris Beach PLLC in order to reflect the addition of the fourth bond counsel to the County.

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

Section 1. The County of Westchester (“County”) is hereby authorized to retain the law firm of Bryant Rabbino LLP (“Bryant Rabbino”) as bond counsel to act in an “of counsel” capacity to the County Attorney on an “as needed” basis, for the period commencing upon execution of the agreement by both parties and terminating on July 31, 2024.

§ 2. The County is further authorized to amend its existing agreements with Hawkins, Delafield & Wood LLP, Norton Rose Fulbright US LLP, and Harris Beach PLLC, in order to reflect the addition of Bryant Rabbino as a fourth bond counsel to the County that will share in the aggregate amount not to exceed \$450,000.00 through July 31, 2024.

§ 2. The County Attorney, or his authorized designee, is hereby authorized to execute all instruments and to take all actions reasonably necessary to effectuate the purposes of this Act and to pay Bryant Rabbino, for the aforesaid services rendered to the County by said firms.

§ 3. This Act shall take effect immediately.