



Kenneth W. Jenkins
County Executive

Department of Law

John M. Nonna
County Attorney

114023

Date: July 1, 2026

To: The Honorable Members of the Board of Acquisition and Contract

From: John M. Nonna
County Attorney

RE: Authority for the County of Westchester to retain, at County expense, the law firm Sheppard, Mullin, Richter & Hampton LLP to provide outside counsel and legal services to the County in connection with a dispute the County is having with NGM Insurance Company, for a term commencing retroactively on May 14, 2026 and continuing until matter has been resolved, for an amount not to exceed \$50,000.00, payable pursuant to approved rates and subject to appropriations.

On June 15, 2026, by Act No. 2026-131, the Westchester County Board of Legislators (the "BOL") authorized the County of Westchester (the "County") to retain, at County expense, the law firm Sheppard, Mullin, Richter & Hampton LLP ("Sheppard Mullin" or the "Firm") to provide outside counsel and legal services to the County in connection with a dispute the County is having with NGM Insurance Company ("NGM"), as the surety (the "Surety") under Department of Public Works & Transportation (the "Department") Contract No. 18-503 (the "Retainer"). The BOL authorized the Retainer for a term commencing retroactively on May 14, 2026 and continuing until the matter has been resolved, for an amount not to exceed \$50,000.00, payable pursuant to approved rates and subject to appropriations. Under Section 161.11(1) of the Laws of Westchester County, the authority of your Honorable Board is also required.

On October 4, 2018, the County, acting by and through the Department, entered into Contract No. 18-503 with MVM Construction LLC ("MVM") for Golf Course Improvements, New Maintenance Facility and Golf Cart Storage Facility Upgrades at Maple Moor Golf Course, White Plains, in the amount of \$11,598,373.00. MVM provided Performance and Payment Bond No. S308480 (the "Bond"), issued by NGM, as Surety on behalf of MVM, in favor of the County.

MVM defaulted on Contract No. 18-503 in 2022. The County terminated and entered into a Takeover Agreement with NGM dated September 21, 2022 to complete performance under the Bond. NGM has failed to complete the work, and is now claiming that there are underlying design defects which void its obligations to complete the work under the Takeover Agreement.

The County seeks to compel NGM to fulfill its Bond obligation to complete the project on behalf of MVM.

Due to the complex and special nature of construction law litigation, and the evaluation and analysis of damages related to such claims, it is in the best interests of the County to retain counsel qualified to handle such litigation. Sheppard Mullin is a firm that specializes in this type of litigation. Moreover, its lead attorney, Ira M. Schulman, Esq., is a nationally-recognized construction law attorney with over 40 years of experience in the field and has successfully represented the County in the past on similar matters. The Firm will be retained to provide legal advice to the County concerning the Surety dispute, and will represent the County in prosecuting any legal actions commenced by it regarding the dispute. Additionally, the Firm will be retained to defend the County in any legal action commenced by NGM against the County, and, if necessary, prosecute on the County's behalf, any appropriate counterclaims, cross claims, and/or the impleader of third parties (the "Services").

For the Services rendered, the Firm will be paid at the agreed upon rates as follows: \$650.00 per hour for the services of Ira M. Schulman, Esq.; \$500.00 per hour for Sophia Cahill, Esq.; \$475.00 per hour for Michelle Cooper, Esq.; \$375.00 per hour for Haley Adams, Esq.; and \$275.00 per hour for paralegal services; or personnel with comparable experience and ability as those mentioned at the same rate of pay. In no event shall the total amount payable to the Firm under the Retainer exceed Fifty Thousand (\$50,000.00) Dollars. In addition, the Firm will be reimbursed, at cost, for reasonable and necessary out of pocket expenses and disbursements. The term of the Retainer will commence retroactively on May 14, 2026 and will continue until the matter has been resolved.

The proposed Retainer is exempt from the Westchester County Procurement Policy and Procedures pursuant to Section 3(a)(xv) thereof, which exempts from procurement contracts "for the engagement of attorneys for representation in Civil litigation which are approved by an Act of the County Board in accordance with §297.31 of the Laws of Westchester County."

The proposed Retainer will serve a public purpose by retaining the Firm to provide the Services to defend the County in any legal action commenced by NGM against the County, and, if necessary, prosecute on the County's behalf, any appropriate counterclaims, cross claims, and/or the impleader of third parties

The goals and objectives of the proposed Retainer are to compel NGM to fulfill its Bond obligation to complete the project on behalf of MVM.

The goals and objectives of the proposed Retainer will be tracked and monitored by the County Attorney's Office.

Accordingly, I most respectfully recommend your Honorable Board's approval of the attached proposed Resolution.

JMN/mcz
Attachment

RESOLUTION

Upon a communication from the Westchester County Attorney, be it hereby:

RESOLVED, that the County of Westchester (the “County”), acting by and through the County Attorney’s Office, is hereby authorized to retain, at County expense, the law firm Sheppard, Mullin, Richter & Hampton LLP (“Sheppard Mullin” or the “Firm”) to provide outside counsel and legal services to the County in connection with a dispute the County is having with NGM Insurance Company, as the surety under Department of Public Works & Transportation Contract No. 18-503 (the “Retainer”), for a term commencing retroactively on May 14, 2026 and continuing until the matter has been resolved, for an amount not to exceed Fifty Thousand and 00/100 (\$50,000.00) Dollars; and be it further

RESOLVED, that, for the Services rendered, the Firm shall be paid at the agreed upon rates as follows: \$650.00 per hour for the services of Ira M. Schulman, Esq.; \$500.00 per hour for Sophia Cahill, Esq.; \$475.00 per hour for Michelle Cooper, Esq.; \$375.00 per hour for Haley Adams, Esq.; and \$275.00 per hour for paralegal services; or personnel with comparable experience and ability as those mentioned at the same rate of pay; and be it further

RESOLVED, that this Retainer is subject to County appropriations; and be it further

RESOLVED, that this Retainer is also subject to further financial analysis of the impact of any New York State Budget (“State Budget”) proposed and adopted during the term of the Retainer. The County shall retain the right, upon the occurrence of any release by the Governor of a proposed State Budget and/or the adoption of a State Budget or any amendments thereto, and for a reasonable period of time after such release(s) or adoption(s), to conduct an analysis of the impacts of any such State Budget on County finances. After such analysis, the County shall retain the right to either terminate this Retainer or to renegotiate the amounts and rates approved herein. If the County subsequently offers to pay a reduced amount to Sheppard Mullin, then the Firm shall have the right to terminate this Retainer upon reasonable prior written notice; and be it further

RESOLVED, that the County Executive or his duly authorized designee is hereby authorized and empowered to execute and deliver all instruments and to take any and all actions necessary or 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 |
|------|------|--|-----------------------|------------------|-------------|
| 101 | 18 | 1000 | 1000 | 4923 | \$50,000.00 |

Budget Funding Year(s): 2026 Start Date: 08/01/2026 End Date: _____
(must match resolution)

Funding Source Tax Dollars: \$50,000.00
State Aid: _____
\$50,000.00 Federal Aid: _____
(must match resolution) Other: _____