

13208

Date: July 23, 2010

To: Honorable Members of the Board of Acquisition and Contract

From: Robert F. Meehan  
County Attorney

Re: Resolution authorizing the County of Westchester to enter into agreements with thirteen additional law firms to perform "Of Counsel" Legal Services to the County Attorney pursuant to the County's Self-Insurance Program, for the period July 1, 2010 through December 31, 2010, with the County's option to extend the contracts for three one year periods thereafter, utilizing the same pricing, terms and conditions, for a total aggregate amount not-to-exceed \$2,700,000.00 for the year 2010 for all law firms performing such services

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Since the County's Casualty Insurance Program with Bayly, Martin & Fay expired in December of 1985, the County has contracted with various law firms to perform legal services in an "Of Counsel" capacity to the County Attorney in conjunction with the County's Self-Insurance Program (*See Chapter 295, Laws of Westchester County*). It is prudent for the County to have access to experienced litigation attorneys and law firms to serve as additional resources in cases involving the potential for significant liability.

In October 2009, the County Attorney's Office issued a Request for Proposals (RFP) to law firms for civil litigation services related to the Self-Insurance Program. Based upon the proposals submitted in response to that RFP, twenty-one firms were selected. By resolution approved on December 7, 2009, your Honorable Board authorized the County to enter into a contract with each of the twenty-one firms, for the period from January 1, 2010 through December 31, 2010, with the County's option, subject to appropriations, to extend the contracts for three additional one year periods utilizing the same pricing, terms and conditions, for a total aggregate amount not-to-exceed Two Million Seven Hundred Thousand (\$2,700,000.00) Dollars for the year 2010.

On May 24, 2010, the County Attorney's Office issued a supplemental RFP to law firms for civil litigation services related to the Self-Insurance Program. The RFP was placed on the County's internet site on May 24, 2010. A notice was published in the New York Law Journal on May 24 and 25, 2010 indicating that the RFP was on the internet site and requesting interested firms to respond. Any party that submitted a proposal in response to the County's

previous October 2009 RFP for such services did not have to submit a proposal in response to this supplemental RFP.

Thirteen proposals were submitted and I have found all thirteen firms to be qualified. Based upon my evaluation of these firms, I recommend that the County utilize the services of the firms hereinafter listed:

1. Canter Law Firm P.C.
2. Pannone Lopes Devereaux & West LLC
3. Faga Savino, LLP
4. Harris Beach PLLC
5. Gonzalez Saggio & Harlan LLP (MBE<sup>1</sup>)
6. Rawle & Henderson LLP
7. Sokoloff Stern, LLP
8. Wilson, Elser, Moskowitz, Edelman & Dicker LLP
9. Bleakley Platt & Schmidt, LLP
10. Lyons McGovern, LLP
11. Kevin O'Rourke Moore
12. Robert A. Peirce & Associates
13. Harriton & Furrer, LLP

Accordingly, attached for your consideration is a resolution which, if approved by your Honorable Board, would authorize the County to enter into contracts commencing on July 1, 2010 and terminating on December 31, 2010, with the County's option, subject to appropriations, to extend the contracts for three one year periods thereafter, utilizing the same pricing, terms and conditions, with the listed law firms for the purpose of performing "Of Counsel" legal services to the County Attorney pursuant to the County's Self-Insurance Program. The total aggregate amount not-to-exceed for these thirteen contracts and the twenty-one previously-authorized contracts for firms providing "Of Counsel" legal services to the County Attorney pursuant to the County's Self-Insurance Fund will be Two Million Seven Hundred Thousand (\$2,700,000.00) Dollars for the year 2010.

The rates to be charged for the provision of "Of Counsel" legal services to the County Attorney range from \$150.00 to \$250.00 per hour for attorney time depending upon the expertise of the attorney working on the matter, and include rates from \$70.00 to \$115.00 per hour for paralegal services.

It should be noted that Section 295.31 (2)(c) of the Laws of Westchester County permits expenditures from the County's Liability and Casualty Reserve Fund for "expert or professional services rendered in connection with investigation, adjustments, settlement or

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<sup>1</sup> Gonzalez, Saggio, & Harlan LLP was established in 1989 and is one of the largest minority-owned law firms in the U.S. and has fifteen offices nationwide located in Atlanta, Georgia; Chicago, Illinois; Cincinnati, Ohio; Cleveland, Ohio; Columbus, Ohio; Des Moines, Iowa; Indianapolis, Indiana; Las Vegas, Nevada; Los Angeles, California; Milwaukee, Wisconsin; Nashville, Tennessee; New York, New York; Phoenix, Arizona; Washington D.C., and Wayne, New Jersey. It is registered with the County's Minority- and Women-Owned Business (MWOB) program. The MWOB program's database of registered businesses also notes that the firm is certified with New York State as a minority-owned business.

defense of claims actions or judgments” and that all costs incurred under these agreements for the year 2010 shall be charged to the County’s Self-Insurance Retention Fund, and total costs shall not exceed the stated aggregate maximum of Two Million Seven Hundred Thousand (\$2,700,000.00) Dollars for 2010.

These agreements will serve a public purpose by having outside law firms available to defend the County in lawsuits brought against it. The goal and objective of these agreements will be to provide outside legal representation to the County in connection with litigation under the County’s Self-Insurance Program. The goal and objective of the agreements is in the best interest of the County in terms of fiscal responsibility because the County Law Department does not have the resources or expertise in-house, to handle these types of cases. The goal and objective of the agreements will be tracked and monitored through regular consultation with the law firms.

Accordingly, your favorable action of the annexed resolution is urged and recommended.

RFM/JMR/bdm/nn

APPROVED BOARD OF ACQUISITION & CONTRACT - 9-2-2010 - JOMARY VIERA, SECRETARY

## RESOLUTION

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

**RESOLVED**, that the County is authorized to enter into agreements, each for a term commencing July 1, 2010 and terminating on December 31, 2010, with the law firms listed below for the provision of "Of Counsel" legal services to the County Attorney pursuant to the County's Self-Insurance Program:

1. Canter Law Firm P.C.
2. Pannone Lopes Devereaux & West LLC
3. Faga Savino, LLP
4. Harris Beach PLLC
5. Gonzalez Saggio & Harlan LLP (MBE)
6. Rawle & Henderson LLP
7. Sokoloff Stern, LLP
8. Wilson, Elser, Moskowitz, Edelman, & Dicker LLP
9. Bleakley Platt & Schmidt, LLP
10. Lyons McGovern, LLP
11. Kevin O'Rourke Moore
12. Robert A. Peirce & Associates
13. Harriton & Furrer, LLP

and be it further

**RESOLVED**, that for the year 2010, the aggregate amount to be expended under the foregoing thirteen contracts and the twenty-one contracts authorized by resolution approved on December 7, 2009 for the same services shall not exceed Two Million Seven Hundred Thousand (\$2,700,000.00) Dollars, and shall be charged against the County's Self-Insurance Retention Fund; and be it further

**RESOLVED**, that the rates charged for attorney services by these law firms shall be specified in the contract to be entered into but in no event shall the rate of any attorney exceed \$250.00 per hour and in no event shall the rate charged for any paralegal services exceed \$115.00 per hour; and be it further

**RESOLVED**, that the County shall have the option, subject to appropriations, to extend the contracts for three one year periods beyond the initial term, utilizing all of the same pricing terms and conditions; and be it further

**RESOLVED**, that each of the contracts is subject to County appropriations; and be it further

**RESOLVED**, that each of the contracts is also subject to further financial analysis of the impact of the New York State Budget (“State Budget”) proposed and adopted during the term of the contracts. Each of the contracts shall contain a provision that 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 the 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 State Budget on County finances. After such analysis, the County shall retain the right to either terminate the contracts or to renegotiate the amounts and rates approved herein. If the County subsequently offers to pay a reduced amount to any of the above firms, then such firm shall have the right to terminate their contract upon reasonable prior written notice; and be it further

**RESOLVED**, that the County Executive or his duly authorized designee is hereby authorized to take such action and execute such documents as may be necessary and proper to effect the purposes hereof.

APPROVED BOARD OF ACQUISITION & CONTRACTS 9-22-2010 JOMARY WEIRA, SECRETARY

Account to be  
Charged/Credited

Fund	Dept	Major Program, Program & Phase Or Unit	Object/ Sub-Object	Trust Account	Dollars
615	59	0510	0690		N/A

Budget Funding Year(s) 2010 Start Date 7/1/10 End Date 12/31/10  
(must match resolution)

Funding Source Tax Dollars \_\_\_\_\_

State Aid \_\_\_\_\_

**\$ N/A** Federal Aid \_\_\_\_\_

(must match resolution)

Other 6N \_\_\_\_\_

APPROVED BOARD OF ACQUISITION & CONTRACT - 9-2-2010 - JOMARY WEIRA, SECRETARY