

Office of the County Attorney

33942

Date: May 13, 2013

To: Honorable Board of Acquisition and Contract

From: Robert F. Meehan
County Attorney

Re: **Resolution authorizing the County of Westchester to enter into an Agreement with Vincent Toomey for the provision of consulting services in connection with labor negotiations and related matters for a term commencing March 1, 2013 and terminating February 28, 2014 in an amount of \$160,000, inclusive of all expenses, payable quarterly.**

Attached for your consideration is a Resolution which, if approved by your Honorable Board, would authorize the County to enter into an Agreement with Vincent Toomey for the provision of consulting services in connection with labor negotiations and related on-going contractual matters, including, but not limited to, arbitrations, grievances, unfair labor practices, improper practice charges and labor-management committee meetings, for a term commencing March 1, 2013 and terminating February 28, 2014 for an amount of One Hundred Sixty Thousand Dollars (\$160,000.00), comprised of \$150,000 for consulting services rendered plus an additional \$10,000 for reasonable and necessary expenses, payable quarterly upon submission of an invoice for completed work for the prior quarter.

Vincent Toomey will serve as a valuable resource to the County in its contract talks with the County's various labor unions. Mr. Toomey has negotiated on behalf of the County, agreements with the Teamsters, COBA, SOA and NYSNA which have been ratified by the respective unions. In fact, the County's contract with NYSNA was only just approved by the Board of Legislators on May 6, 2013 by Act No. 2013-70. In addition, Mr. Toomey has begun negotiations with the District Attorney Investigator's P.B.A. Mr. Toomey has also been assisting in the County's fact finding with the CSEA and interest arbitration with the P.B.A. In addition to labor negotiations, Mr. Toomey's services will also be utilized to provide the County with advice on various on-going related matters such as grievances, unfair labor practices and labor management-committee meetings. Mr. Toomey has extensive experience and expertise in labor negotiations, particularly with municipalities. Mr. Toomey has been engaged exclusively in the practice of labor and employment law since 1985 and has successfully negotiated hundreds of collective bargaining agreements on behalf of his clients. Mr. Toomey serves as lead negotiator in collective bargaining for many communities in Westchester, Nassau and Suffolk Counties. He

has represented his public sector clients in practically every type of labor dispute including discrimination actions under federal and state statutes, proceedings before the Public Employment Relations Board and labor arbitrations including interest arbitration proceedings.

Mr. Toomey has also litigated a number of precedent setting cases, including several before the New York State Court of Appeals, including Town of Southampton v. PERB, which is a leading case on interest arbitration and collective bargaining. He has also testified as an expert witness on labor and employment law matters and has been cited as an expert on labor and employment law by various publications including Newsday. Mr. Toomey has lectured extensively before municipal and bar association groups on labor and employment law and collective bargaining and has earned Martindale Hubbell's highest rating for legal ability and ethics.

This Agreement will serve a public purpose by ensuring that the County's interests are adequately represented during contract negotiations with its labor unions. In addition, this Agreement serves the public purpose of fiscal responsibility, because the consultant's experience may enable the County to negotiate more favorable contracts with its labor unions. As your Honorable Board is aware, there are a number of outstanding labor contracts that have expired. In addition, fiscal pressures that the County is facing now and well into the foreseeable future will require having a skilled labor negotiator to address these issues with the various bargaining units that represent most County employees.

The goals and objectives of this Agreement are to achieve the aforementioned public purposes. The goals and objectives will be tracked and monitored through regular consultation with the consultant, as well as through written progress reports and recommendations made by the consultant.

Authority to exempt this Agreement from the requirements of the Westchester County Procurement Policy and Procedures pursuant to Section 3(a)xxi thereof, has been submitted to your Honorable Board in accordance with a separate resolution of even date herewith.

Accordingly, your favorable action on the annexed Resolution is most respectfully urged and recommended.

RFM/JPG
Att.

RESOLUTION

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

RESOLVED, that the County of Westchester is hereby authorized to enter into an Agreement with Vincent Toomey for the provision of consulting services in connection with labor negotiations and related on-going contractual matters, including, but not limited to, arbitrations, grievances, unfair labor practices, improper practice charges and labor-management committee meetings, for a term commencing March 1, 2013 and terminating February 28, 2014; and be it further

RESOLVED, that the total amount payable under such agreement shall be in the sum of One Hundred Sixty Thousand Dollars (\$160,000.00), comprised of an amount not-to-exceed \$150,000 for consultant services rendered plus an additional amount not-to-exceed \$10,000 for reasonable and necessary expenses, payable quarterly upon submission of an invoice for completed work for the prior quarter; and be it further

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

RESOLVED, that this Agreement is also subject to further financial analysis of the impact of any New York State Budget (the "State Budget") proposed and adopted during the term of this Agreement. 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 Agreement or to renegotiate the amounts and rates approved herein. If the County subsequently offers to pay a reduced amount to the Consultant, then the Consultant shall have the right to terminate this Agreement 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.

Account to be Charged/Credited

Fund	Dept	Major Program, Program & Phase Or Unit	Object/ Sub-Object	Trust Account	Dollars
101	18	1000	4420		\$160,000

Budget Funding Year(s) 2013-2014 Start Date 03/01/13 End Date 2/28/14
(must match resolution)

Funding Source Tax Dollars \$160,000
State Aid _____
\$ 160,000 Federal Aid _____
(must match resolution) Other _____