



Office of the County Attorney

42690

Date: October 15, 2014

To: Board of Acquisition and Contract

From: Robert F. Meehan
County Attorney

Re: Authority to amend an agreement with The TASA Group, Inc. (“TASA”), pursuant to which TASA will refer Robert Fuhrman, MBA and John Downie, MBA, experts in the field of economics relating to environmental enforcement cases, to assist the County Attorney’s Office in defending the County in connection with the civil matter U.S. v. County of Westchester, 13-cv-5475, for the period from August 1, 2014 through December 1, 2014, in order to increase the not-to-exceed amount under the Agreement by an additional \$20,000, from \$60,000 to \$80,000.

By resolution approved on September 11, 2014, your Honorable Board authorized the County to enter into an agreement with TASA, an expert witness referral firm, pursuant to which TASA would refer Robert Fuhrman, MBA, and John Downie, MBA, experts in the field of economics relating to environmental civil penalty litigation, to assist the County Attorney’s Office in defending the County in connection with the civil matter, U.S. v. County of Westchester, 13-cv-5475, for the period August 1, 2014 through December 1, 2014 in an amount not-to-exceed \$60,000 payable at approved hourly rates plus expenses (the “Agreement”). The Agreement was subsequently executed.

It has been determined that the initial not-to-exceed amount of \$60,000 is insufficient to cover the costs of Mr. Fuhrman’s assistance relating to the deposition of the EPA’s expert and travel expenses related thereto. As such, an additional amount not-to-exceed \$20,000 will be required to pay TASA for these costs. Accordingly, authority is respectfully requested to amend the Agreement with TASA for the expert services of Robert Fuhrman, MBA, and John Downie, MBA in connection with the civil matter U.S. v. County of Westchester, 13-cv-5475, for the period August 1, 2014 through December 1, 2014, by increasing the not-to-exceed amount authorized thereunder by an additional \$20,000, from an amount not-to-exceed \$60,000 to an amount not-to-exceed \$80,000.

Except as specifically amended hereby, all remaining terms and conditions of the Agreement shall remain in full force and effect.

The goals and objectives of this Agreement are to retain experts who are knowledgeable in the areas of ability-to-pay, economic benefit, and other types of analyses as they relate to environmental civil penalty cases, to assist the County in defending itself in connection with the instant litigation. The goals and objectives are in the best interests of the County in terms of fiscal responsibility because without the expertise of these experts, the County would not be able to contest the value of the fines the EPA is seeking. The performance of this agreement will be tracked and monitored by the in-house attorney assigned to monitor this matter.

This Agreement is exempt from the procedural requirements of the Westchester County Procurement Policy pursuant to Section 3(a)vii thereof as this contract is required for the services of expert witnesses for use in, or in anticipation of, an adjudicatory proceeding or litigation.

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

RFM/JA/jpg

APPROVED BOARD OF ACQUISITION & CONTRACTS 10/16/2014 - COUNTY CLERK SECRETARY

RESOLUTION

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

RESOLVED, that the County of Westchester is hereby authorized to amend an agreement with The TASA Group, Inc. ("TASA"), pursuant to which TASA will refer Robert Fuhrman, MBA and John Downie, MBA, experts in the field of economics relating to environmental enforcement cases, to assist the County Attorney's Office in defending the County in connection with the civil matter U.S. v. County of Westchester, 13-cv-5475, for the period August 1, 2014 through December 1, 2014 (the "Agreement"), by increasing the not-to-exceed amount under the Agreement by an additional \$20,000, from \$60,000 to \$80,000; and be it further

RESOLVED, that except as specifically amended hereby, all remaining terms and conditions of the Agreement shall remain in full force and effect; 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.

Original Agreement: \$60,000
 This Amendment: \$20,000
 Total: **\$80,000**

Account to be
 Charged/Credited

Fund	Dept	Major Program, Program & Phase Or Unit	Object/ Sub-Object	Trust Account	Dollars
101	18	1000	4923		\$20,000

Budget Funding Year(s) 2014 Start Date 08/01/14 End Date 12/01/14
 (must match resolution)

Funding Source Tax Dollars \$20,000
 State Aid _____
\$20,000 Federal Aid _____
 (must match resolution) Other _____