

45846

Memorandum
Office of the County Attorney

Date: April 2, 2015

To: The Honorable Board of Acquisition and Contract

From: Robert F. Meehan
County Attorney

Re: Authority to retroactively amend a “short-form” contract with the TASA Group, Inc. (“TASA”) pursuant to which TASA agreed to refer Peter J. Sarich, an expert in the field of amusement ride safety, to the County to serve as an expert witness in connection with the lawsuit entitled Leanne Levin and Allan Levin v. County of Westchester, for a term commencing September 23, 2013 and continuing through September 22, 2014, in order to 1) extend the term thereof through December 31, 2016; and 2) increase the total amount not-to-exceed thereunder by an additional \$5,000, from an amount not-to-exceed \$10,000 to an amount not-to-exceed \$15,000.

On or about October 21, 2013, the County entered into a “short-form” contract with TASA, an expert witness referral firm, pursuant to which TASA agreed to refer one of its experts, Peter Sarich, an expert in the field of amusement ride safety (the “Expert”), to serve as an expert witness to the County Attorney in connection with the lawsuit entitled Leanne Levin and Allan Levin v. County of Westchester, for a term commencing September 23, 2013 and continuing through September 22, 2014 for an amount not-to-exceed \$10,000.00, payable pursuant to an agreed upon rate schedule (the “Agreement”). The Agreement was subsequently executed.

My office continues to require the services of Mr. Sarich to assist in the defense of this lawsuit, including the continued investigation and inspection necessary in order to prepare a Report of his findings which will be exchanged with Plaintiff’s counsel, and to testify at the time of trial. As such, it is necessary to extend the term of the Agreement through December 31, 2016 and increase the amount not-to-exceed thereunder by an additional \$5,000, from an amount not-to-exceed \$10,000 to an amount not-to-exceed \$15,000, in order to compensate TASA for additional services to be rendered and expenses incurred by the Expert.

As your Honorable Board is aware, amendments to short-form contracts which result in increases which exceed the \$20,000 threshold for short-form contracts and/or term extensions beyond the one (1) year threshold, must first be approved by your Honorable Board. Since the term of the Agreement will now exceed one (1) year in duration, authority is respectfully requested to retroactively amend the Agreement with TASA for the services of Peter Sarich in connection with

the lawsuit entitled Leanne Levin and Allan Levin v. County of Westchester, for a term commencing on September 23, 2013 and continuing through September 22, 2014 for an amount not-to-exceed \$10,000.00, payable pursuant to an agreed upon rate schedule, in order to 1) extend the term of the Agreement through December 31, 2016; and 2) increase the amount not-to-exceed thereunder by an additional \$5,000, from an amount not-to-exceed \$10,000, to an amount not-to-exceed \$15,000.

Except as otherwise specifically amended hereby, all other terms and conditions of the Agreement will remain in full force and effect.

This Agreement is exempt from the requirements of the Westchester County Procurement Policy pursuant to section 3(a) vii thereof, which exempts "contracts for the services of expert witnesses for use in, or in anticipation of, an adjudicatory proceeding or litigation."

The goals and objectives of this Agreement are to retain an expert who is knowledgeable in the area of amusement ride safety, 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 Mr. Sarich's expertise, the County would not be able to effectively contest Plaintiff's allegations. The performance of this agreement will be tracked and monitored by the in-house attorney assigned to monitor this matter.

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

RFM/JPG/nm

RESOLUTION

Upon a communication from Robert F. Meehan, County Attorney, be it hereby

RESOLVED, that the County of Westchester is hereby authorized to retroactively amend a “short form” agreement with the TASA Group, Inc. (“TASA”), pursuant to which TASA referred Peter Sarich, an expert in the field of amusement ride safety (the “Expert”), to the County to serve as an expert witness in connection with the lawsuit entitled Leanne Levin and Allan Levin v. County of Westchester, for a term commencing September 23, 2013 and continuing through September 22, 2014 for an amount not-to-exceed \$10,000, payable pursuant to an agreed upon rate schedule (the “Agreement”), in order to 1) extend the term of the Agreement through December 31, 2016; and 2) increase the amount not-to-exceed thereunder by an additional \$5,000, from an amount not-to-exceed \$10,000, to an amount not-to-exceed \$15,000, in order to compensate TASA for additional services to be rendered and expenses incurred by the Expert; and be it further

RESOLVED, that except as specifically amended hereby, all other terms and conditions of the Agreement shall remain in full force and effect; and be it further

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

Original Agreement: \$10,000
 This Amendment: \$ 5,000
 Total: **\$15,000**

Account to be
 Charged/Credited

Fund	Dept	Major Program, Program & Phase Or Unit	Object/ Sub-Object	Trust Account	Dollars
615	59	0689	4420		\$5,000

Budget Funding Year(s) 2013 - 2016 Start Date September 23, 2013 End Date December 31, 2016
 (must match resolution)

Funding Source Tax Dollars \$ \$5,000

State Aid _____

\$ 5,000 Federal Aid _____

(must match resolution)

Other _____