

Office of the County Attorney

51186

Date: February 23, 2016

To: Board of Acquisition and Contract

From: Robert F. Meehan
County Attorney

Re: Authority to amend a retainer agreement with the Wicks Group, PLLC for the provision of “of counsel” legal services to the County Attorney in connection with various legal issues relating to the Westchester County Airport, by extending the term of the agreement for an additional year, by increasing the amount not-to-exceed by an additional \$100,000, and by increasing the hourly rate from \$300 to \$350.

By resolution approved on November 3, 2011 (the “November 3rd Resolution”), your Honorable Board authorized the County to enter into a retainer agreement with the Wicks Group, PLLC (the “Wicks Group”) for the provision of outside counsel services in connection with various legal issues relating to the Westchester County Airport for a one (1) year term commencing upon execution of the retainer agreement by both parties and approval of same by the Office of the County Attorney (the “Agreement”). The November 3rd Resolution further provided that in consideration for services to be rendered, the Wicks Group would be paid at the blended rate of Three Hundred (\$300.00) Dollars per hour or Two Thousand (\$2,000.00) Dollars per day per attorney (plus normally reimbursable expenses such as travel, long distance telephone calls, copying, etc.), for a total aggregate amount not to exceed One Hundred Thousand (\$100,000.00) Dollars, inclusive of all expenses. The Agreement was fully executed and approved as of November 22, 2011.

Thereafter, by resolution approved on February 21, 2013, your Honorable Board authorized the County to amend the Agreement with the Wicks Group in order to 1) extend the term thereof for one (1) additional year commencing retroactive to November 22, 2012 and continuing through November 21, 2013; and 2) increase the not-to-exceed amount authorized thereunder by an additional One Hundred Thousand (\$100,000.00) Dollars, from an amount not-to-exceed One Hundred Thousand (\$100,000.00) Dollars to an amount not-to-exceed Two Hundred Thousand (\$200,000.00) Dollars (the “First Amendment”). The First Amendment was subsequently executed.

Thereafter, by resolution approved on October 31, 2013, your Honorable Board authorized the County to further amend the Agreement with the Wicks Group for the limited purpose of extending the term thereof for one (1) additional year commencing on November 22, 2013 and continuing through November 21, 2014, with no increase in the not-to-exceed amount requested (the "Second Amendment"). The Second Amendment was subsequently executed.

Thereafter, by resolution approved on October 30, 2014, your Honorable Board authorized the County to again amend the Agreement with the Wicks Group in order to 1) extend the term thereof for one (1) additional year commencing on November 22, 2014 and continuing through November 21, 2015; and 2) increase the not-to-exceed amount authorized thereunder by an additional One Hundred Thousand (\$100,000.00) Dollars, from an amount not-to-exceed Two Hundred Thousand (\$200,000.00) Dollars to an amount not-to-exceed Three Hundred Thousand (\$300,000.00) Dollars (the "Third Amendment"). The Third Amendment was subsequently executed.

The County continues to require the services of the firm to provide on-going legal counsel concerning various legal issues affecting the Airport. It should be noted that the Wicks Group has increased its blended hourly rate from \$300.00 to \$350.00. Accordingly, the authority of your Honorable Board is respectfully requested to amend the Agreement with the Wicks Group in order to 1) extend the term thereof for one (1) additional year commencing on November 22, 2015 and continuing through November 21, 2016; 2) increase the not-to-exceed amount authorized thereunder by an additional One Hundred Thousand (\$100,000.00) Dollars, from an amount not-to-exceed Three Hundred Thousand (\$300,000.00) Dollars to an amount not-to-exceed Four Hundred Thousand (\$400,000.00) Dollars; and 3) increase the blended hourly rate from \$300.00 to \$350.00 or \$2,000.00 per day per attorney (plus normally reimbursable expenses such as travel, long distance telephone calls, copying, etc.).

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

By Act approved on February 22, 2016, the Westchester County Board of Legislators authorized the County to continue to retain, at County expense, the Wicks Group for an additional one (1) year term commencing on November 22, 2015 and continuing through November 21, 2016 for an additional amount not-to-exceed \$100,000, payable at the new blended hourly rate of \$350.00.

It should be noted that your Honorable Board initially authorized the retention of the Wicks Group after a nationwide competitive proposal process in 2011 to identify a source of counsel in the specialized fields of airport law and administrative practice before the Federal Aviation Administration ("FAA"). The Wicks Group was chosen both on the basis of their outstanding qualifications and their fee structure, which was substantially below those of other firms practicing in the same field.

This contract will be funded through the Airport Special Revenue Fund, and no tax levy funds will be involved.

The goals and objectives of this Agreement will be to ensure that the Airport is in compliance with all FAA regulations. The goals and objectives are in the best interest of the County by insuring the safety of the traveling public. The goals and objectives will be tracked and monitored through monthly reports to be supplied by the firm detailing the services rendered.

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

RFM/JPG/ml

APPROVED BOARD OF ACQUISITION & CONTRACT - 03/03/2016 - USA MRIS SECRETARY

RESOLUTION

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

RESOLVED, that the County of Westchester is authorized to amend a retainer agreement with the Wicks Group, PLLC for the provision of outside counsel services in connection with various legal issues relating to the Westchester County Airport (the "Agreement") by 1) extending the term of the Agreement for one (1) additional year commencing on November 22, 2015 and continuing through November 21, 2016; 2) increasing the not-to-exceed amount authorized thereunder by an additional One Hundred Thousand (\$100,000.00) Dollars, from an amount not-to-exceed Three Hundred Thousand (\$300,000.00) Dollars, to an amount not-to-exceed Four Hundred Thousand (\$400,000.00) Dollars; and 3) increase the blended hourly rate from \$300.00 to \$350.00 or \$2,000.00 per day per attorney (plus normally reimbursable expenses such as travel, long distance telephone calls, copying, etc.); and it is further

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

RESOLVED, that all funding for this retainer agreement will come from the Airport Special Revenue Fund and no County tax levy funds would be appropriated for this purpose; and it is 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
161	44	4110	4420		\$100,000

Budget Funding Year(s) 2013 Start Date 11-22-15 End Date 11-21-16
(must match resolution)

Funding Source Tax Dollars _____
 State Aid _____
\$100,000 Federal Aid _____

(must match resolution) Other Airport Special Revenue Fund