

57450

Date: June 6, 2017

To: Board of Acquisition and Contract

From: Robert F. Meehan
County Attorney

Re: Authority to enter into a retainer agreement with the law firm of Squire Patton Boggs (US) LLP, for a one-year term commencing on June 1, 2017, in an amount not-to-exceed \$300,000.00 to provide outside counsel services in connection with various legal issues relating to the Request for Proposals to lease Westchester County Airport in accordance with the Federal Aviation Administration's Airport Privatization Pilot Program.

By an Act No.110-2017 approved on June 5, 2017, the Westchester County Board of Legislators authorized the County to retain, at County expense, the law firm of Squire Patton Boggs (US) LLP ("Squire") for the provision of outside counsel services in connection with various legal issues relating to the Request for Proposals ("RFP") to lease Westchester County Airport (the "Airport") in accordance with the Federal Aviation Administration's Airport Privatization Pilot Program. Under section 161.11(1) of the Laws of Westchester County, the authority of your Honorable Board is also required.

This request is based upon the recommendation made by the County's expert consultant Frasca & Associates, LLC to the members of the Administration and the Board of Legislators constituting the Task Force conducting the RFP process (the "Task Force"). Specifically, it is the recommendation of the Task Force to hire a larger law firm with experience in public private partnership ("P3") lease transactions to put the County on an equal footing with the type of law firms that the County would be negotiating with during this process. The Wicks Group will continue to provide legal services to the County in this transaction as specialized aviation counsel to deal with all related legal and regulatory matters, act as the County's representative to the FAA during this process and provide necessary background and history to the special lease counsel to bring them up to speed on the status of this process and related matters.

Pursuant to Section 7 of the County's Procurement Policy, four law firms were solicited by the Task Force for this procurement. Three of the firms were recommended by Frasca and one requested during a discussion with the Litigation Committee of the Board.

Those firms were Hawkins, Delafield & Wood; Orrick Herrington & Sutcliffe, LLP; Squire Patton Boggs (US) LLP; and Fried, Frank, Harris, Shriver & Jacobson, LLP.

The Task Force requested background information from each firm on its experience and the experience of the team that would provide services to the County. That information was thereafter evaluated by the Task Force and its staff, and interviews were conducted with representatives of each firm. The following rates were offered: Squire - \$395/hour blended rate for lease services and \$295/hour blended rate for legal due diligence; Orrick Herrington & Sutcliffe, LLP - \$680/hour blended rate for lease negotiations, but excluding any post-bid selection services which would be charged at normal hourly rates with a 10% discount; Hawkins Delafield & Wood - \$690/hour for all partners, regardless of hourly rate, \$500/hour for associates, and \$180/hour for paralegals; Fried, Frank Harris, Shriver & Jacobson, LLP - no price proposal received.

Squire was recommended unanimously by the members of the Task Force for approval.

Under the proposed agreement, Squire would provide various legal services, as needed, concerning matters in which it has specific expertise not otherwise available in-house, including, but not limited to, complex P3 lease negotiations. The proposed retainer agreement will be for a term of one (1) year commencing June 1, 2017, subject to all necessary legal approvals.

For the aforesaid services rendered to the County, Squire will be paid at the above-referenced rates (plus normally reimbursable expenses such as travel, long distance telephone calls, copying, etc.), for a total aggregate amount not to exceed \$300,000.00. Squire has also offered that if the volume of documents subject to due diligence warrants it, they are willing to engage one of their outsourcing firms that specialize in this task to help control costs. Such \$300,000.00 amount is expected to be expended during the initial four months of the engagement. Based on the current RFP schedule, such four month period will encompass final bidding, finalization of the Lease Agreement with the selected proposer and submission of the form Lease Agreement to the Board of Legislators for its approval.

It should be noted that this contract will be funded through the Airport Special Revenue Fund, and no tax levy funds will be involved.

Accordingly, authority is now respectfully requested to enter into an outside counsel retainer agreement with Squire to provide outside counsel services in connection with various legal issues relating to the RFP to lease the Airport in accordance with the Federal Aviation Administration's Airport Privatization Pilot Program, for a one-year term commencing on June 1, 2017. In consideration for services to be rendered, Squire will be paid at the rate of \$395/hour blended rate for lease services and \$295/hour blended rate for legal due diligence, for a total aggregate amount not-to-exceed \$300,000.00, inclusive of all expenses.

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

RFM/DLV/dv

APPROVED BOARD OF ACQUISITION & CONTRACT - 06/08/2017 - LISA MRIJAJ, SECRETARY

RESOLUTION

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

RESOLVED, that the County of Westchester is authorized to enter into an outside counsel retainer agreement with Squire Patton Boggs (US) LLP (“Squire”) for the provision of outside counsel services in connection with various legal issues relating to the Request for Proposals to lease Westchester County Airport in accordance with the Federal Aviation Administration’s Airport Privatization Pilot Program for a one (1) year term commencing June 1, 2017, subject to all necessary legal approvals, execution of the retainer agreement by both parties and approval of same by the County Attorney ; and be it further

RESOLVED, that in consideration for services to be rendered, Squire shall be paid at the blended rate of \$395/hour for lease services and \$295/hour for legal due diligence (plus normally reimbursable expenses such as travel, long distance telephone calls, copying, etc.), for a total aggregate amount not to exceed Three Hundred Thousand (\$300,000.00) Dollars; 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 Firm, then the Firm shall have the right to terminate this Agreement upon reasonable prior written notice; and be it further

RESOLVED, that the County Attorney 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		\$300,000

Budget Funding Year(s) 2017 Start Date 6-01-17 End Date 5-31-18
(must match resolution)

Funding Source Tax Dollars _____
State Aid _____
\$300,000 Federal Aid _____
(must match resolution) Other Airport Special Revenue Fund

APPROVED BOARD OF ACQUISITION & CONTRACTS 06/08/2017 LISA MARIJAL SECRETARY