

67315

Date: January 22, 2019

To: Board of Acquisition and Contract

From: John M. Nonna  
County Attorney

Re: Authority for the County of Westchester to enter into an agreement to retain, at County expense, the law firm of McCarthy Fingar LLP to serve in an "of counsel" capacity to the County Attorney, as needed, in connection with a matter concerning a will and an indenture that is anticipated to require practice in the Westchester County Surrogate's Court and/or in the New York State Supreme Court.

Authority is respectfully requested for the County of Westchester (the "County") to enter into an agreement (the "Agreement") to retain, at County expense, the law firm of McCarthy Fingar LLP ("McCarthy Fingar") to serve in an "of counsel" capacity to the County Attorney, as needed, in connection with a matter (the "Present Matter") concerning a will and an indenture that is anticipated to require practice in the Westchester County Surrogate's Court and/or in the New York State Supreme Court (the "Services").

The Agreement will be for a term that will commence on October 30, 2018 and continue until the Present Matter is concluded, as the County may determine in its sole discretion; the County determines, in its sole discretion, to cease pursuing the Present Matter; or the County otherwise terminates the Agreement. Under the Agreement, McCarthy Fingar will be paid a total amount not-to-exceed One Hundred Thousand Dollars (\$100,000.00), payable at the various hourly rates specified in Exhibit 1, which is attached hereto.

Pursuant to Section 7 of the County's Procurement Policy and Procedures, on October 12, 2018, the County issued a request for proposals ("RFP") for the Services. The RFP was posted to the County's website for RFPs and sent to a number of firms the County believed to have the necessary expertise.

In response, the County received two (2) proposals, which were from the following proposers: 1.) Rafferty & Redlisky, LLP, and 2.) McCarthy Fingar. Using the evaluation criteria specified in the RFP to review the proposals, the proposal from McCarthy Fingar was determined to be the most advantageous to the County.

The Agreement will serve a public purpose by providing the County with the specialized

knowledge and expertise necessary to ensure the County's proper handling of the Present Matter.

The goal and objective of the Agreement is to provide the County with the specialized knowledge and expertise necessary to ensure the County's proper handling of the Present Matter.

The goal and objective of the Agreement is in the best interests of the County in terms of fiscal responsibility, as ensuring the County's proper handling of the Present Matter is expected to ultimately lead to positive financial results for the County.

The goal and objective of the Agreement will be tracked and monitored by the Office of the County Attorney.

Act No. 2019-18, which authorized the County to enter into the Agreement with McCarthy Fingar, was adopted by the County's Board of Legislators on January 14, 2019 and approved by the County Executive on January 16, 2019.

I respectfully recommend the adoption of the attached resolution.

JMN/bdm/nn

APPROVED BOARD OF ACQUISITION & CONTRACT - 02/14/2019 JIM RYAN, SECRETARY

**RESOLUTION**

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

**RESOLVED**, that the County of Westchester (the "County") is hereby authorized to enter into an agreement (the "Agreement") to retain, at County expense, the law firm of McCarthy Fingar LLP ("McCarthy Fingar") to serve in an "of counsel" capacity to the County Attorney, as needed, in connection with a matter (the "Present Matter") concerning a will and an indenture that is anticipated to require practice in the Westchester County Surrogate's Court and/or in the New York State Supreme Court (the "Services"); and be it further

**RESOLVED**, that the Agreement will be for a term that will commence on October 30, 2018 and continue until: the Present Matter is concluded, as the County may determine in its sole discretion; the County determines, in its sole discretion, to cease pursuing the Present Matter; or the County otherwise terminates the Agreement; and be it further

**RESOLVED**, that under the Agreement, McCarthy Fingar will be paid a total amount not-to-exceed One Hundred Thousand Dollars (\$100,000.00), payable at the various hourly rates specified in Exhibit 1, which is attached hereto; 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 Contractor, then the Contractor 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 execute and deliver any and all documents and to take all action necessary and appropriate to effectuate 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	4923		\$100,000.00

Budget Funding Year(s): 2018-19 Start Date: 10/30/18 End Date: Matter concluded, matter  
ceased by County, or  
Agreement terminated by  
County.  
(must match resolution)

Funding Source Tax Dollars: 100%  
State Aid: \_\_\_\_\_  
Federal Aid: \_\_\_\_\_  
(must match resolution) Other: \_\_\_\_\_

APPROVED BOARD OF ACQUISITION & CONTRACT - 01/14/2019 - USA MRIJAJ, SECRETARY

Exhibit 1

Partners: From \$292.50/hour to \$375.00/hour, for various personnel.  
Of Counsel/Special Partners: From \$243.75/hour to \$375.00/hour, for various personnel.  
Associates: From \$206.25/hour to \$262.50/hour, for various personnel.  
Paralegals: \$187.50/hour

[NO FURTHER TEXT ON THIS PAGE]

APPROVED BOARD OF ACQUISITION & CONTRACTS - 02/14/2019 - LISA MARIJAJ, SECRETARY