

Office of the County Attorney

74867

Date: February 28, 2020

To: Board of Acquisition and Contract

From: John M. Nonna
County Attorney

Re: Authority to enter into 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 affecting the Westchester County Airport, for a term commencing retroactive to November 22, 2019 for an amount not-to-exceed \$150,000.00, payable at the hourly rate of \$380.00 for all attorneys.

Authority is requested for the County of Westchester (“County”) to enter into an agreement with the Wicks Group, PLLC (the “Firm”) for the provision of outside counsel services in connection with various legal issues relating to the Westchester County Airport (the “Airport”), for a one (1) year term commencing retroactive to November 22, 2019 and continuing through November 21, 2020 for an amount not-to-exceed One Hundred Fifty Thousand (\$150,000.00) Dollars.

Your Honorable Board initially authorized the County to enter into an agreement with the Firm back in 2011 after a nationwide competitive proposal process to identify a source of counsel in the specialized fields of airport law and administrative practice before the Federal Aviation Administration (“FAA”). The Firm 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. Since that time, your Honorable Board has authorized a series of annual renewals to the Firm’s original contract. The most recent renewal expired on November 21, 2019.

The County continues to require the services of the Firm to provide various legal services, as needed, concerning matters in which it has specific expertise not otherwise available in-house, including, but not limited to, compliance with federal law and FAA regulations, application and enforcement of the Terminal Use Procedures, the Terminal Use Agreement and Airport Tenant Agreements within the regulatory environment, as well as developments in Airport Law. Accordingly, authority is requested to enter into a new Agreement with the Firm to provide legal services to the County in connection with the Airport for a one (1) year term commencing retroactive to November 22, 2019 and continuing through November 21, 2020.

For the aforesaid services rendered to the County by the Firm, the Firm will be paid at the blended rate of Three Hundred Eighty (\$380.00) Dollars per hour for all lawyers, not-to-exceed the aggregate sum of One Hundred Fifty Thousand (\$150,000.00) Dollars.

On February 24, 2020, the Westchester County Board of Legislators authorized the County to retain the Firm, at County expense, for a one (1) year term commencing retroactive to November 22, 2019 and continuing through November 21, 2020 for an amount not-to-exceed \$150,000.00, payable at the hourly rate of \$380.00 for all lawyers.

Authority to exempt this Agreement from the requirements of the Westchester County Procurement Policy and Procedures pursuant to Section 3(a) xxi thereof, has been granted by your Honorable Board in accordance with a separate resolution of even date herewith.

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.

JMN/JPG/ml
Attachment

RESOLUTION

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

RESOLVED, that the County of Westchester is authorized to enter into 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"), for a one (1) year term commencing retroactive to November 22, 2019 and continuing through November 21, 2020; and it is further

RESOLVED, that in consideration for the aforesaid services rendered to the County by the Firm, the Firm shall be paid at the blended rate of Three Hundred Eighty (\$380.00) Dollars per hour for all lawyers, not-to-exceed the aggregate sum of One Hundred Fifty Thousand (\$150,000.00) 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 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 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		\$150,000

Budget Funding Year(s) 2019-2020 Start Date 11-22-19 End Date 11-21-20
(must match resolution)

Funding Source Tax Dollars _____
 State Aid _____
\$150,000 Federal Aid _____
 (must match resolution) Other _____