



Office of the County Attorney

22044

Date: October 4, 2011

To: Board of Acquisition and Contract

From: Robert F. Meehan  
County Attorney

Re: Authority to enter into a retainer agreement with the Wicks Group, PLLC to provide “of counsel” legal services to the County Attorney in connection with various legal issues relating to the Westchester County Airport, in the total not to exceed amount of One Hundred Thousand (\$100,000) Dollars, for a one (1) year term commencing upon execution thereof by both parties and approval of same by the office of the County Attorney.

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On October 3, 2011, by Act No. 2011- 152, the Westchester County Board of Legislators authorized the County to retain, at County expense, 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 (the “Airport”). Under section 161.11(1) of the Laws of Westchester County, the authority of your Honorable Board is also required in order for the County to enter into the retainer agreement.

Accordingly, attached for your consideration is a Resolution which, if approved by your Honorable Board, would authorize the County to enter into a retainer agreement with the Wicks Group for the provision of 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. The proposed retainer Agreement will be for a one (1) year term commencing upon execution thereof by both parties and approval of same by the office of the County Attorney.

For the aforesaid services rendered to the County, the Wicks Group will 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.

Founded in 1999 and headquartered in Washington, D.C., the Wicks Group has extensive experience in advising local and state government agencies and airport management firms on compliance with Federal and State regulations that affect airport and airport users.

Pursuant to Section 7 of the County's Procurement Policy, the Law Department, in consultation with the Department of Public Works and Transportation ("DPWT"), issued a Request for Proposals ("RFP") seeking qualified law firms to provide legal services for the Airport. The RFP notice and the RFP itself were placed on the County's website. Additionally, in order to obtain responses from law firms that specialize in airport matters, the Law Department advertised the RFP notice in recognized airline industry online publications from the American Association of Airport Executives, which were recommended by the management firm that runs the Airport. Specifically, the RFP notice was published as a classified ad that appeared in the searchable classifieds database at [www.aviationnews.net](http://www.aviationnews.net) and [www.aaae.org](http://www.aaae.org). It also ran in an edition of the Aviation News Today e-mail on April 18, 2011. Finally, the ad also ran in two issues of Airport Report Today on April 20 and 25, 2011.

In the RFP, the County requested blended hourly rate price proposals. Five firms that specialize in airport law responded and offered blended hourly rate price quotes as follows: McBreen & Kopko - \$285/hr; Spiegel McDiarmid - \$295/hr; Schnader Harrison Segal & Lewis - \$300/hr; Kaplan Kirsch & Rockwell - \$435/hr; and the Wicks Group - \$300/hr. It should be noted that a sixth firm, Lyons McGovern, also submitted a proposal and price quote. However, since this firm did not offer a "blended rate" as was required by the RFP, their proposal was deemed non-responsive and as such was dropped from further consideration. In addition, since the price quote offered by Kaplan Kirsch was \$135/hour more than the next lowest price quote, it too was dropped from further consideration.

Each of the remaining four proposals was thereafter evaluated by a review committee consisting of the Assistant Chief Deputy County Attorney Contracts & Real Estate Bureau, the Deputy Commissioner of DPWT, and the Airport Property Manager and interviews were conducted with representatives of each firm. The following criteria were used by the review committee in evaluating each proposal: experience with a municipally-owned airport; experience with grant certifications and assurances; experience with ACDBE issues; experience with fuel farm development; experience with master planning; experience with the Westchester County Airport; price; and overall impression. Each of the criteria was assigned a number from 0 to 5, with 5 being the highest. Following the evaluation of each proposal with reference to the evaluation criteria indicated above, the firm's were ranked based on their overall score. During the interviews, the panel also asked each firm for a daily rate in the event that they would need to come to the County for an entire day on a particular matter. The daily rates offered were as follows: McBreen & Kopko - \$1,750/per attorney; Spiegel McDiarmid - \$2,360/per attorney; Schnader Harrison Segal & Lewis - \$2,100/per attorney; and the Wicks Group - \$2,000/per attorney.

The Wicks Group scored the highest among all of the firms evaluated, and was recommended to me unanimously by the members of the review committee for approval. Among the reasons given by the review committee for selection of the Wicks Group were: the firm's

great depth of knowledge of regulatory/industry issues, experience with fuel farm agreements and airport master plans, and the firm's prior experience with the Airport.

It should be noted that 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/ls

APPROVED BOARD OF ACQUISITION & CONTRACT - 11/03/2011  
COUNTY CLERK  
COUNTY SECRETARY

## 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 (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 and approval of same by the office of the County Attorney; and it is further

**RESOLVED**, that in consideration for services rendered to the County, the Wicks Group will 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; and be it 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) 2010/2011 Start Date 12-01-11 End Date 11-31-12  
(must match resolution)

Funding Source      Tax Dollars \_\_\_\_\_  
                                  State Aid \_\_\_\_\_  
**\$100,000**                Federal Aid \_\_\_\_\_  
 (must match resolution) Other Airport Special Revenue Fund