

44580

Date: February 10, 2015

To: Board of Acquisition and Contract

From: Robert F. Meehan
County Attorney

Re: Authority to amend an agreement with The TASA Group, Inc. ("TASA"), pursuant to which TASA referred Al Machlin to the County to serve as an expert witness in connection with the lawsuit entitled U.S. v. County of Westchester, 13-cv-5475, for a term commencing July 1, 2014 and continuing through August 31, 2014, for an amount not-to-exceed \$19,000, in order to 1) extend the term thereof, to a new termination date of December 31, 2015, and 2) increase the not-to-exceed amount thereof by \$30,000, from an amount not-to-exceed \$19,000 to an amount not-to-exceed \$49,000.

On or about July 24, 2014, the County of Westchester (the "County") entered into a "short-form" contract with TASA, an expert witness referral firm, pursuant to which TASA agreed to refer one of its experts, Al Machlin, an environmental engineer, to serve as an expert witness for the County in connection with the lawsuit entitled U.S. v. County of Westchester, 13-cv-5475, for a term commencing July 1, 2014 and continuing through August 31, 2014, for an amount not-to-exceed \$19,000, payable at approved hourly rates, plus expenses (the "Agreement"). The Agreement was subsequently executed.

The County now requires additional services from the expert in terms of both trial preparation and appearances at trial, which is currently scheduled for April 20, 2015 through May 1, 2015. As your Honorable Board is aware, amendments to short-form contracts which result in a not-to-exceed amount above the \$20,000 threshold for short-form contracts and/or a term that is longer than the one (1) year threshold for short-form contracts must first be approved by your Honorable Board. Accordingly, the County respectfully requests authority to amend the Agreement, in order to, 1) extend the term thereof, to a new termination date of December 31, 2015; and 2) increase the not-to-exceed amount thereof by \$30,000, from an amount not-to-exceed \$19,000 to an amount not-to-exceed \$49,000.

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

The public purpose of the proposed amendment is to provide the County with additional time to receive, and additional funds to pay for, the services of an expert who is knowledgeable in the area of environmental engineering, to assist the County in defending itself in connection with the above-mentioned litigation.

The goal and objective of the proposed amendment is to provide the County with additional time to receive, and additional funds to pay for, the services of an expert who is knowledgeable in the area of environmental engineering, to assist the County in defending itself in connection with the above-mentioned litigation.

The goal and objective of the proposed amendment is in the best interests of the County in terms of fiscal responsibility because without Mr. Machlin's expertise, the County would not be able to effectively contest the allegations of the United States in the litigation, which could have fiscal ramifications.

The goal and objective of the proposed amendment will be tracked and monitored by the attorney in the County Attorney's Office who is assigned to monitor this matter.

The proposed amendment is exempt from the requirements of the Westchester County Procurement Policy pursuant to Section 3(a)vii thereof, which exempts "contracts for the services of expert witnesses for use in, or in anticipation of, an adjudicatory proceeding or litigation."

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

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RESOLUTION

Upon a communication from the County Attorney, be it hereby

RESOLVED, that the County of Westchester (the "County") is hereby authorized to amend an agreement with The TASA Group, Inc. ("TASA"), pursuant to which TASA agreed to refer Al Machlin, an environmental engineer, to the County to serve as an expert witness in connection with the lawsuit entitled U.S. v. County of Westchester, 13-cv-5475, for a term commencing July 1, 2014 and continuing through August 31, 2014, for an amount not-to-exceed \$19,000 (the "Agreement"), in order to, 1) extend the term of the Agreement to a new termination date of December 31, 2015; and 2) increase the total amount not-to-exceed authorized under the Agreement by \$30,000, from an amount not-to-exceed \$19,000 to an amount not-to-exceed \$49,000, in order to compensate TASA for additional services rendered and expenses incurred by the expert; and be it further

RESOLVED, that except as specifically amended hereby, all terms and conditions of the Agreement shall remain unchanged and in full force and effect; 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.

Original Agreement: \$19,000
This Amendment: \$30,000
Total: \$49,000

Account to be
Charged/Credited

Fund	Dept	Major Program, Program & Phase Or Unit	Object/ Sub- Object	Trust Account	Dollars
241	60	5110	4420		\$30,000

Budget Funding Year(s): 2014-2015
(must match resolution)

Start Date: 07/01/14

End Date: 12/31/15

Funding Source

\$30,000
(must match resolution)

Tax Dollars: 100%
State Aid: _____
Federal Aid: _____
Other: _____