

60202

Date: December 12, 2017

To: The Honorable Board of Acquisition and Contract

From: Robert F. Meehan  
County Attorney

Re: Authority to amend a “short-form” contract with Peter Sarich pursuant to which Mr. Sarich agreed to serve as an expert witness in connection with the lawsuit entitled Cortes v. County of Westchester, for a term commencing on February 2, 2017 and continuing through February 1, 2018 for an amount not-to-exceed \$20,000, in order to extend the term of the Agreement through February 1, 2019.

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On or about July 19, 2017, the County entered into a “short-form” contract with Peter Sarich, an expert in the field of amusement and recreational equipment safety, pursuant to which Mr. Sarich agreed to serve as an expert witness on behalf of the County in connection with the lawsuit entitled Cortes v. County of Westchester, for a one (1) year term commencing on February 2, 2017 and continuing through February 1, 2018 for an amount not-to-exceed \$20,000.00, payable at the rate of \$225.00 per hour (the “Agreement”). The Agreement was subsequently executed.

This case involves an accident that occurred on the derby ride at Rye Playland wherein the Plaintiff, a 19 year old man, allegedly sustained various injuries after he fell off of the ride, slid across the floor, and hit a pole. Plaintiff filed a lawsuit against the County alleging negligence. Mr. Sarich was retained by the County as an expert witness to inspect the accident scene, review the records and prepare a written report of his findings. There is currently a summary judgment motion pending. In the event the motion is denied and the case proceeds to trial, which would not occur until after February 1, 2018, my office will need Mr. Sarich to be available to prepare for and provide expert testimony at trial should he be needed to do so.

Of the \$20,000 authorized under the Agreement, only \$4,725 has thus far been expended. Thus, there remain sufficient funds available to compensate Mr. Sarich for his trial preparation and testimony. However, since the term of the Agreement will expire on February 1, 2018, it will now be necessary to amend the Agreement to extend the term thereof for an additional year, from February 2, 2018 through February 1, 2019.

As your Honorable Board is aware, amendments to short-form contracts which result in increases which exceed the \$20,000 threshold for short-form contracts and/or term extensions beyond the one (1) year threshold, must first be approved by your Honorable Board. Since the term of the Agreement will now exceed the one-year threshold, the authority of your Honorable Board is required. Accordingly, authority is respectfully requested to amend the Agreement with Peter Sarich pursuant to which Mr. Sarich agreed to serve as an expert witness in connection with the lawsuit entitled, Cortes v. County of Westchester, for a term commencing on February 2, 2017 and continuing through February 1, 2018 for an amount not-to-exceed \$20,000.00, payable at the rate of \$225 per hour, in order to extend the term thereof for an additional year, from February 2, 2018 through February 1, 2019.

Except as otherwise specifically amended hereby, all other terms and conditions of the Agreement will remain in full force and effect.

This Agreement 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.”

The goals and objectives of this Agreement are to retain an expert who is knowledgeable in the area of amusement ride and recreational equipment safety, to assist the County in defending itself in connection with the instant litigation. The goals and objectives are in the best interests of the County in terms of fiscal responsibility because without Mr. Sarich’s expertise, the County would not be able to effectively contest plaintiff’s allegations. The performance of this agreement will be tracked and monitored by the in-house attorney assigned to monitor this matter.

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

REM/JPG/nn

**RESOLUTION**

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

**RESOLVED**, that the County of Westchester is hereby authorized to amend a “short form” agreement with Peter Sarich, an expert in the field of amusement and recreational equipment safety, pursuant to which Mr. Sarich agreed to serve as an expert witness on behalf of the County in connection with the lawsuit entitled Cortes v. County of Westchester, for a one (1) year term commencing on February 2, 2017 and continuing through February 1, 2018 for an amount not-to-exceed \$20,000.00, payable at the rate of \$225.00 per hour (the “Agreement”), by extending the term thereof for an additional year, from February 2, 2018 through February 1, 2019, so that Mr. Sarich may be available to prepare for and provide expert testimony at trial should he be needed to do so; and be it further

**RESOLVED**, that except as specifically amended hereby, all other terms and conditions of the Agreement shall remain in full force and effect; and be it further

**RESOLVED**, that the County Attorney or his duly appointed designee be, and hereby is, 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
615	59	0694	3810/4420		

Budget Funding Year(s) 2017-2019 Start Date February 2, 2017 End Date February 1, 2019  
 (must match resolution)

Funding Source      Tax Dollars \_\_\_\_\_  
                                  State Aid \_\_\_\_\_  
 \$ \_\_\_\_\_      Federal Aid \_\_\_\_\_  
 (must match resolution)      Other \_\_\_\_\_