



Office of the County Attorney

69401

Date: April 24, 2019

To: Honorable Board of Acquisition and Contract

From: John M. Nonna
County Attorney

Re: Authority to enter into a retainer agreement with the West Group Law PLLC for the provision of outside counsel services in connection with an amendment to the solid waste disposal agreement between the County of Westchester, on behalf of Refuse Disposal District No. 1, and Wheelabrator Westchester, L.P.

On April 8, 2019, by Act No. 2019- 61, the Westchester County Board of Legislators authorized the County of Westchester (the “County”) to retain the West Group Law PLLC (the “West Group”) for the provision of outside counsel services in connection with an amendment to the solid waste disposal agreement (“SWDA”) between the County, on behalf of Refuse Disposal District No 1 (the “District”), and Wheelabrator Westchester, L.P., (“RESCO”). 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 retain the West Group for the provision of outside counsel services in connection with an amendment to SWDA between the County, on behalf of the District, and RESCO.

As your Honorable Board may recall, the initial term of the SWDA is due to expire on October 21, 2019. On February 21, 2019, your Honorable Board approved a Resolution authorizing the County to amend the SWDA with RESCO in order exercise two (2) five (5) year renewal options for a ten (10) year term commencing on October 22, 2019. In consideration of the County exercising these options, RESCO has agreed to make several amendments to the SWDA which will save the County an estimated \$17,205,972.00.

Under the proposed agreement, West Group would provide various legal services, as needed, concerning matters in which it has specific expertise not otherwise available in-house, including drafting an amendment to the SWDA. The proposed retainer agreement will be for a term commencing upon execution and expiring on October 21, 2019.

For the aforesaid services rendered to the County, the West Group will be paid at the rate of Three Hundred Fifty (\$350.00) Dollars per hour for a Partner, Three Hundred (\$300.00) Dollars per hour for a Senior Counsel, and Two Hundred Fifty (\$250.00) Dollars per hour for an Associate (plus normally reimbursable expenses such as travel, long distance telephone calls, copying, etc.), for a total aggregate amount not to exceed Seventy Five Thousand (\$75,000.00) Dollars.

Headquartered in White Plains, the West Group is a municipal law firm with nationwide experience in advising local and state government agencies on a variety of solid waste matters. It also has experience negotiating with RESCO.

Pursuant to Section 7 of the County's Procurement Policy, the Law Department, in consultation with the Department of Environmental Facilities, issued a Request for Quotations ("RFQ") seeking qualified law firms to draft an amendment to the SWDA. The RFQ was distributed to three law firms known to have experience in the solid waste field. Two firms submitted proposals, Hawkins Delafield & Wood LLP and the West Group. After evaluating the proposals using the criteria in the RFQ, the West Group's proposal was considered the most favorable to the County as it offered lower hourly rates.

The goals and objectives of this Agreement will be to ensure that in drafting the SWDA amendment, the County is represented by a firm with expertise in an area that is not otherwise available in-house. The goals and objectives will be tracked and monitored through monthly reports from the firm detailing the services rendered.

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

JMN/DLV/dv

RESOLUTION

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

RESOLVED, that the County of Westchester (“County”) is authorized to enter into a retainer agreement with the West Group Law PLLC (the “West Group”) for the provision of outside counsel services in connection with an amendment to the solid waste disposal agreement (“SWDA”) between the County, on behalf of Refuse Disposal District No. 1 (the “District”), and Wheelabrator Westchester, L.P., (“RESCO”) for a term commencing upon execution of the retainer agreement and expiring on October 21, 2019; and it is further

RESOLVED, that in consideration for services rendered to the County, the West Group shall be paid at the rate of Three Hundred Fifty (\$350.00) Dollars per hour for a Partner, Three Hundred (\$300.00) Dollars per hour for a Senior Counsel, and Two Hundred Fifty (\$250.00) Dollars per hour for an Associate (plus normally reimbursable expenses such as travel, long distance telephone calls, copying, etc.) for a total aggregate amount not to exceed Seventy Five Thousand (\$75,000.00) Dollars; 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
	251	60	7100	4420		NTE \$75,000

Budget Funding Year(s) 2019 Start Date upon execution End Date 10/21/19
 (must match resolution)

Funding Source Tax Dollars 100%
 State Aid _____
\$75,000 Federal Aid _____
 (must match resolution) Other _____