

Office of the County Attorney

86640

Date: July 30, 2021

To: Honorable Board of Acquisition and Contract

From: John M. Nonna
County Attorney

Re: **Resolution authorizing the County of Westchester to amend an Agreement with Vincent Toomey for the provision of consulting services in connection with labor negotiations and related matters for a term commencing March 1, 2020 and terminating February 28, 2022 in an amount of \$204,000, inclusive of all expenses, payable quarterly, by 1) increasing the total not-to-exceed cap by an additional \$204,000, from \$204,000 to \$408,000, and 2) specifying that the annual not-to-exceed amount will be capped at \$204,000, payable in an amount not-to-exceed \$51,000 per quarter.**

By resolution approved on June 11, 2020, your Honorable Board authorized the County of Westchester (the "County") to enter into an agreement with Vincent Toomey (the "Agreement") for the provision of consulting services in connection with labor negotiations and related on-going contractual matters, including, but not limited to, arbitrations, grievances, unfair labor practices, improper practice charges and labor-management committee meetings, for a two (2) year term commencing March 1, 2020 and terminating February 28, 2022 for a total amount of Two Hundred Four Thousand Dollars (\$204,000.00), comprised of a lump sum base fee of \$194,000 for consulting services rendered plus an additional \$10,000 for reasonable and necessary expenses, payable quarterly upon submission of an invoice for completed work for the prior quarter. The Agreement was subsequently executed.

Due to a misunderstanding regarding Mr. Toomey's fees, the Agreement provided for a total not-to-exceed cap of \$204,000 for the full two (2) year term of the Agreement. However, the \$204,000 was meant to be an *annual* fee, not a total fee for the full two (2) year term. In order to correct this misunderstanding, it will now be necessary to amend the Agreement with Mr. Toomey by increasing the not-to-exceed cap by an additional \$204,000. Accordingly, authority is requested to amend the Agreement with Vincent Toomey for the provision of consulting services in connection with labor negotiations and related on-going contractual matters for a two (2) year term commencing March 1, 2020 and terminating February 28, 2022, by 1) increasing the total not-to-exceed amount thereunder by an additional \$204,000, from an amount not-to-exceed \$204,000, to a new total amount not-to-exceed \$408,000; and 2) specifying that the *annual* not-to-exceed amount shall be capped at \$204,000, payable in an amount not-to-exceed \$51,000 per quarter.

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

This Agreement will serve a public purpose by ensuring that the County's interests are adequately represented during contract negotiations with its labor unions. In addition, this Agreement serves the public purpose of fiscal responsibility, because the consultant's experience may enable the County to negotiate more favorable contracts with its labor unions. As your Honorable Board is aware, there are a number of outstanding labor contracts that have expired. In addition, fiscal pressures that the County is facing now and well into the foreseeable future will require having a skilled labor negotiator to address these issues with the various bargaining units that represent most County employees.

The goals and objectives of this Agreement are to achieve the aforementioned public purposes. The goals and objectives will be tracked and monitored through regular consultation with the consultant, as well as through written progress reports and recommendations made by the consultant.

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

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

JMN/JPG
Att.

RESOLUTION

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

RESOLVED, that the County of Westchester is hereby authorized to amend an Agreement with Vincent Toomey for the provision of consulting services in connection with labor negotiations and related on-going contractual matters, including, but not limited to, arbitrations, grievances, unfair labor practices, improper practice charges and labor-management committee meetings, for a term commencing March 1, 2020 and terminating February 28, 2022, for an amount not-to-exceed \$204,000, comprised of a lump sum base fee of \$194,000 for consultant services rendered plus an additional amount not-to-exceed \$10,000 for reasonable and necessary expenses, by 1) increasing the total not-to-exceed amount by \$204,000, from an amount not-to-exceed \$204,000 to a new amount not-to-exceed \$408,000; and 2) specifying that the *annual* not-to-exceed amount shall be capped at \$204,000, payable in an amount not-to-exceed \$51,000 per quarter; and be it further

RESOLVED, that except as otherwise specifically amended hereby, all remaining terms and conditions of the Agreement will remain in full force and effect upon the parties; 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
101	18	1000	4420		\$204,000

Budget Funding Year(s) 2020-2022 Start Date 03/01/20 End Date 2/29/22
(must match resolution)

Funding Source Tax Dollars \$204,000
State Aid _____
\$ 204,000 Federal Aid _____
(must match resolution) Other _____

APPROVED BOARD OF ACQUISITION & CONTRACT - 08/18/2022 - JONAS GUARDI, SECRETARY