



George Latimer  
County Executive

Office of the County Attorney

John M. Nonna  
County Attorney

May 30, 2023

Westchester County Board of Legislators  
800 Michaelian Office Building  
White Plains, New York 10601

Dear Honorable Members of the Board of Legislators:

Transmitted herewith is legislation which, if adopted by your Honorable Board, would authorize the County of Westchester (the "County") to further amend an outside counsel agreement (the "Agreement") with the Wicks Group, PLLC (the "Firm") for the provision of legal services relating to the Westchester County Airport (the "Airport"), by extending the term of the Agreement from July 1, 2023 until the litigation involving several charter operators has been concluded, and by increasing the not-to-exceed cap by an additional \$50,000.00.

On February 7, 2022 by Act No. 2022-4, your Honorable Board authorized the County to retain the Firm for the provision of outside counsel services related to the Airport, as needed, concerning matters in which the Firm 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, for a one (1) year term commencing on January 1, 2022 and continuing through December 31, 2022. In consideration for services rendered, Act No. 2022-4 authorized the County to pay the Firm at the blended hourly rate of \$380.00 for all lawyers, not-to-exceed the aggregate sum of One Hundred Thousand (\$100,000.00) Dollars.

Thereafter, on March 6, 2023 by Act No. 2023-52, your Honorable Board authorized the County to retroactively amend the Agreement with the Firm to extend the term thereof for an additional six (6) months, from January 1, 2023 through June 30, 2023, and to increase the not-to-exceed cap by an additional Fifty-Thousand (\$50,000.00) Dollars, from an amount not-to-exceed One Hundred Thousand (\$100,000.00) Dollars, to an amount not-to-exceed One Hundred Fifty Thousand (\$150,000.00) Dollars.

The Firm is currently assisting my office in connection with the Delux Public Charter, LLC et al and White Plains Aviation Partners LLC cases (the "Cases"). As your Honorable Board may know, these lawsuits stem from a dispute between the County and several federally authorized air carriers that fly customers for compensation or hire under the Federal Aviation Administration's operating rules. The main issue concerns whether these carriers may continue to enplane and deplane their passengers at Fixed Base Operator spaces ("FBOs") at the Airport, or whether they must use the main passenger terminal and ramp facilities, as required by the County's Terminal Use Procedures. The carriers do not believe that the County's Terminal Use Procedures apply to them.

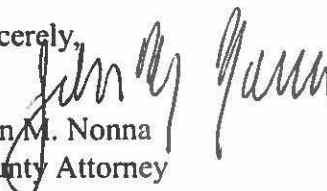
Given the serious consequences of allowing these carriers to flout the County's Terminal Use Procedures, it is essential that my office vigorously defend these lawsuits. In order to do so, my office must continue to avail itself of the special expertise provided by the Firm until these matters have been resolved. Accordingly, the authority of your Honorable Board is respectfully requested to further amend the Agreement with the Firm in order to extend the Firm's contract from July 1, 2023 until a final disposition and/or order of the Cases or until the County determines, in its sole discretion, to terminate the Agreement.

I have been further advised that only \$57,572.50 of the \$150,000.00 currently authorized under the Agreement, remains. In order to be able to compensate the Firm going forward, it will be necessary to further amend the Agreement in order to increase the not-to-exceed amount by an additional \$50,000.00, from and amount not-to-exceed \$150,000.00, to a new total amount not-to-exceed \$200,000.00. Your Committee is advised that for the aforesaid services rendered to the County by the Firm, the Firm will continue to be paid at the blended rate of Three Hundred Eighty (\$380.00) Dollars per hour for all lawyers.

The Planning Department has advised that the proposed outside counsel agreement does not meet the definition of an action under New York State Environmental Quality Review Act and its implementing regulations 6 NYCRR Part 617. As such, no environmental review is required. Please refer to the memorandum from the Department of Planning dated January 12, 2023, which is on file with the Clerk of the Board of Legislators.

Accordingly, I respectfully recommend your Honorable Board's approval of the attached Act.

Sincerely,

  
John M. Nonna  
County Attorney

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**HONORABLE BOARD OF LEGISLATORS  
THE COUNTY OF WESTCHESTER**

Your Committee is in receipt of a communication from the County Attorney recommending the enactment of an Act which, if adopted by this Honorable Board, would authorize the County of Westchester (the “County”) to further amend an outside counsel agreement (the “Agreement”) with the Wicks Group, PLLC (the “Firm”) for the provision of various legal services in connection with the Westchester County Airport (the “Airport”), by extending the term of the Agreement from July 1, 2023 until the litigation involving several charter operators has been resolved, and by increasing the not-to-exceed cap by an additional \$50,000.00.

On February 7, 2022 by Act No. 2022-4, your Honorable Board authorized the County to retain the Firm to provide outside counsel services related to the Airport, as needed, concerning matters in which the Firm 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, for a one (1) year term commencing on January 1, 2022 and continuing through December 31, 2022. In consideration for services rendered, Act No. 2022-4 authorized the County to pay the Firm at the blended hourly rate of \$380.00 for all lawyers, not-to-exceed the aggregate sum of One Hundred Thousand (\$100,000.00) Dollars.

Thereafter, on March 6, 2023 by Act No. 2023-52, your Honorable Board authorized the County to retroactively amend the Agreement with the Firm to extend the term thereof for an additional six (6) months, from January 1, 2023 through June 30, 2023, and to increase the not-to-exceed cap by an additional Fifty-Thousand (\$50,000.00) Dollars, from an amount not-to-exceed One Hundred Thousand (\$100,000.00) Dollars, to an amount not-to-exceed One Hundred Fifty Thousand (\$150,000.00) Dollars.

The County Attorney has advised your Committee that the Firm is currently assisting his office in connection with the Delux Public Charter, LLC et al and White Plains Aviation Partners LLC cases (the “Cases”). Your Committee is advised these lawsuits stem from a dispute between the County and several federally authorized air carriers that fly customers for compensation or hire under the Federal Aviation Administration’s operating rules. The main issue concerns whether these carriers’ may

continue to enplane and deplane their passengers at Fixed Base Operator spaces (“FBOs”) at the Airport, or whether they must use the main passenger terminal and ramp facilities, as required by the County’s Terminal Use Procedures. The carriers do not believe that the County’s Terminal Use Procedures apply to them.

The County Attorney has advised your Committee that given the serious consequences of allowing these carriers to flout the County’s Terminal Use Procedures, it is essential that the County Attorney’s Office vigorously defend these lawsuits. In order to do so, the County Attorney’s office must continue to avail itself of the special expertise provided by the Firm until these matters have been resolved. Accordingly, the authority of your Honorable Board is requested to further amend the Agreement with the Firm to extend the Firm’s contract from July 1, 2023 until a final disposition and/or order of the Cases or until the County determines, in its sole discretion, to terminate the Agreement.

Your Committee is further advised that only \$57,572.50 of the \$150,000.00 currently authorized under the Agreement, remains. In order to be able to compensate the Firm going forward, it will be necessary to further amend the Agreement in order to increase the not-to-exceed amount by an additional \$50,000.00, from and amount not-to-exceed \$150,000.00, to a new total amount not-to-exceed \$200,000.00. Your Committee is advised that for the aforesaid services rendered to the County by the Firm, the Firm will continue to be paid at the blended rate of Three Hundred Eighty (\$380.00) Dollars per hour for all lawyers.

Your Committee is informed that this contract will be funded through the Airport Special Revenue Fund. As such, no tax levy funds will be involved.

An affirmative vote of a majority of the voting strength of the Board is required for approval of the attached Act.

Accordingly, your Committee concurs with the County Attorney's recommendation and requests approval of the attached Act.

Dated: \_\_\_\_\_, 2023  
White Plains, New York

COMMITTEE ON

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# FISCAL IMPACT STATEMENT

SUBJECT: Wicks Group, PLLC  NO FISCAL IMPACT PROJECTED

## OPERATING BUDGET IMPACT

To Be Completed by Submitting Department and Reviewed by Budget

### SECTION A - FUND

GENERAL FUND  AIRPORT FUND  SPECIAL DISTRICTS FUND

### SECTION B - EXPENSES AND REVENUES

Total Current Year Expense \$ 50,000

Total Current Year Revenue \_\_\_\_\_

Source of Funds (check one):  Current Appropriations  Transfer of Existing Appropriations

Additional Appropriations  Other (explain)

Identify Accounts: 161- 44- 4110- 4420

Potential Related Operating Budget Expenses: Annual Amount \$50,000

Describe: An ACT authorizing the County to amend an outside counsel agreement for the provision of various legal services related to the Airport, extending the term through July 1, 2023 until the litigation is resolved or the County terminates, & increasing the NTE amount by \$50,000.

Potential Related Operating Budget Revenues: Annual Amount \_\_\_\_\_

Describe: n/a

Anticipated Savings to County and/or Impact on Department Operations:

Current Year: n/a

Next Four Years: n/a

Prepared by: Debra Ogden

Title: Sr. Budget Analyst

Department: Budget

Date: June 1, 2023

*DO*  
Reviewed By: 

Budget Director

Date: 6/1/23

**ACT NO. 2023 - \_\_\_\_\_**

AN ACT authorizing the County to further amend an outside counsel agreement with the Wicks Group, PLLC for the provision of various legal services related to the Westchester County Airport, by extending the term of the agreement from July 1, 2023 until the litigation involving several charter operators has been resolved, or until the County determines, in its sole discretion, to terminate the Agreement, and by increasing the not-to-exceed cap by an additional \$50,000.00.

**BE IT ENACTED** by the Board of Legislators of the County of Westchester, as follows:

**Section 1.** The County of Westchester (the “County”) is hereby authorized to further amend an outside counsel agreement (the “Agreement”) with the Wicks Group, PLLC (the “Firm”) pursuant to which the Firm agreed to provide various legal services relating to the Westchester County Airport (the “Airport”) for a term commencing on January 1, 2022 and continuing through June 30, 2023, for a total amount not-to-exceed amount of One Hundred Fifty Thousand (\$150,000) dollars, by extending the term of the Agreement from July 1, 2023 until a final disposition and/or order in the Delux Public Charter, LLC et al and White Plains Aviation Partners LLC cases, or until the County determines, in its sole discretion, to terminate the Agreement.

§2. The County is hereby further authorized to amend the Agreement with the Firm in order to increase the not-to-exceed cap by an additional Fifty-Thousand (\$50,000.00) Dollars, from an amount not-to-exceed One Hundred Fifty Thousand (\$150,000.00) Dollars, to a new total amount not-to-exceed of Two Hundred Thousand (\$200,000.00) Dollars.

§3. For the aforesaid services rendered to the County during the extended term, the Firm shall continue to be paid at the blended rate of Three Hundred Eighty (\$380.00) Dollars per hour for all lawyers.

§4. All other terms and conditions of the Agreement, as amended, shall remain in full force and effect.

**§5.** The County Executive or his authorized designee, be and hereby is authorized to execute all instruments and to take all actions reasonably necessary to carry out the purposes of this Act.

**§6.** This Act shall take effect immediately.