

16717

Date: January 10, 2011

To: Board of Acquisition and Contract

From: Robert F. Meehan
County Attorney

Re: Authority to amend a retainer agreement with the law firm of Epstein Becker & Green, P.C. for the provision of legal representation to the County of Westchester in an "of counsel" capacity to the County Attorney in connection with the lawsuit entitled United States of America, ex rel. Anti Discrimination Center of Metro New York, Inc. v. Westchester County, New York for a term commencing on March 13, 2007 and continuing through December 31, 2009 by retroactively extending the term thereof through August 31, 2010, to enable the County to remit payment to the Firm for additional services rendered

By resolution approved on March 29, 2007, your Honorable Board authorized the County to enter into an agreement with the law firm of Epstein Becker & Green, P.C. (the "Firm") to provide legal representation to the County of Westchester in an "of counsel" capacity to the County Attorney in connection with the lawsuit entitled United States of America, ex rel. Anti Discrimination Center of Metro New York, Inc. v. Westchester County, New York for a term commencing on March 13, 2007 and continuing through March 12, 2008 at the flat rate of Three Hundred (\$300.00) dollars per hour, for a total amount not-to-exceed Sixty Thousand (\$60,000.00) dollars. The Agreement was subsequently executed.

Thereafter, by resolutions approved on June 28, 2007, August 9, 2007, December 13, 2007, May 15, 2008, and April 9, 2009, your Honorable Board authorized the County to amend the Agreement in order to, *inter alia*, 1) increase the total not-to-exceed amount authorized thereunder by an additional aggregate amount not-to-exceed Two Million Nine Hundred Forty Thousand (\$2,940,000.00) Dollars, from an amount not-to-exceed Sixty Thousand (\$60,000.00) Dollars, to an amount not to exceed Three Million (\$3,000,000.00) Dollars, for additional services rendered; and 2) extend the term thereof through December 31, 2009 to give the Firm additional time to complete all services. All contract amendments authorized by these resolutions were subsequently executed.

While the Firm is no longer attorney of record in this matter, it did perform additional services for the County during July and August 2010 while still acting as attorney of record. My office is in

receipt of several outstanding invoices from the Firm totaling \$1,980.00 for said services, which represent the Firm's final billing in this matter. In order to be able to remit payment under these invoices, it will be necessary to further amend the Agreement to retroactively extend the term thereof through August 31, 2010. Accordingly, authority is respectfully requested to amend the Agreement with the Firm for the provision of legal representation to the County of Westchester in an "of counsel" capacity to the County Attorney in connection with the lawsuit entitled United States of America, ex rel, Anti Discrimination Center of Metro New York, Inc. v. Westchester County, New York, for a term commencing on March 13, 2007 and continuing through December 31, 2009 in an amount not-to-exceed \$3,000,000.00, by retroactively extending the term thereof through August 31, 2010.

The goals and objectives of this Agreement are to have expert outside counsel to vigorously defend the County's interests in this very complex and time consuming lawsuit. The goals and objectives are in the best interests of the County because the County does not have the expertise in-house to defend this highly complex lawsuit. The goals and objectives will be tracked and monitored through regular consultation with the Firm and review of all documents generated.

By Act No. 2009-44 approved on March 23, 2009, the Westchester County Board of Legislators authorized the County to pay to the Firm a total aggregate amount not-to-exceed \$3,000,000.00.

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

An appropriate resolution is herewith attached for your Honorable Board's consideration.

RFM/JPG/lis

APPROVED BOARD OF ACQUISITION & CONTRACT - 2-5-2011 - JOMARR VIERA, SECRETARY

RESOLUTION

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

RESOLVED, that the County of Westchester (the "County") is authorized to amend an outside counsel retainer agreement (the "Agreement") with the law firm of Epstein Becker & Green, P.C. (the "Firm"), as previously amended, for the provision of legal representation to the County of Westchester in an "of counsel" capacity to the County Attorney in connection with the lawsuit entitled United States of America, ex rel, Anti Discrimination Center of Metro New York, Inc. v. Westchester County, New York for a term commencing on March 13, 2007 and continuing through December 31, 2009 in an amount not-to-exceed \$3,000,000.00, by retroactively extending the term thereof through August 31, 2010, to enable the County to remit payment to the Firm for additional services rendered; and be it further

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

RESOLVED, that the County Attorney 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
						N/A

Budget Funding Year(s) Start Date 3/13/07 End Date 8/31/10

(must match resolution)

Funding Source Tax Dollars _____

State Aid _____

\$ N/A Federal Aid _____

(must match resolution) Other _____