

17489

Date: February 25, 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 Bleakley Platt & Schmidt LLP to provide legal representation to Dr. Louis Roh in the matters of Jeffrey Deskovic v. City of Peekskill, Putnam County, Westchester County, David Levine, Thomas McIntyre, Walter Brovarksi, Eugene Tumolo, John and Jane Doe Supervisors, Daniel Stephens, Louis Roh, Millard Hyland, George Bolen, Peter Inero, the Legal Aid Society of Westchester County and Alan Tweed and Linda McGarr v. City of Peekskill, Putnam County, Westchester County, David Levine, Thomas McIntyre, Walter Brovarksi, Eugene Tumolo, John and Jane Doe Supervisors, Daniel Stephens, Louis Roh, Millard Hyland, George Bolen, Peter Inero, the Legal Aid Society of Westchester County (hereinafter the “Deskovic Matters”), for a term commencing on February 1, 2010 and continuing through January 31, 2011, by 1) increasing the not-to-exceed amount by an additional \$150,000.00; and 2) extending the term of the Agreement through December 31, 2011

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By resolution approved on March 25, 2010, your Honorable Board authorized the County of Westchester to enter into an outside counsel retainer agreement (the “Agreement”) with the law firm of Bleakley Platt & Schmidt LLP, One North Lexington Avenue, White Plains, New York (“Bleakley Platt”), to serve as conflict counsel to represent Dr. Louis Roh in connection with the Deskovic Matters for a term commencing on February 1, 2010 and continuing through January 31, 2011 in an amount not-to-exceed \$200,000.00, payable at the rate of \$195.00 per hour. The Agreement was subsequently executed.

As your Honorable Board may recall, the Deskovic Matters involve a federal lawsuit commenced under 42 U.S.C. §1983 for alleged deprivations of rights secured under the Fourth and Fourteenth Amendments of the United States Constitution. There are also state law claims for malicious prosecution, as well as intentional and reckless

infliction of emotional distress. In addition to the federal action commenced by Jeffrey Deskovic, his mother, Linda McGarr, commenced an action based upon a claim of loss of familial association, allegedly resulting from the same constitutional violations.

By Act No. 2010-140, approved on October 18, 2010, the Westchester County Board of Legislators authorized the County to increase the not to exceed amount payable to Bleakley Platt from \$200,000.00 to \$350,000.00 in connection with its representation of Dr. Louis Roh in the Deskovic Matters. The request for additional funding is due to the extensive and on-going discover in these matters. Under section 161.11(1) of the Laws of Westchester County, the authority of your Honorable Board is also required.

Accordingly, authority is now respectfully requested to amend the outside counsel retainer agreement with Bleakley Platt for the provision of legal representation to Dr. Louis Roh in connection with the Deskovic Matters for a term commencing on February 1, 2010 and continuing through January 31, 2011 in an amount not-to-exceed \$200,000.00, payable at the rate of \$195.00 per hour, by 1) increasing the not to exceed amount by an additional \$150,000.00, from \$200,000.00 to \$350,000.00, and 2) extending the term of the Agreement through December 31, 2011, so that the firm may continue to represent the interests of Dr. Roh in these matters.

Except as specifically amended hereby, all remaining terms and conditions set forth in the Agreement shall remain in full force and effect.

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

RFM/JPG/lis

APPROVED BOARD OF ACQUISITION & CONTRACTS 5-18-2011 - COUNTY CLERK SECRETARY

## RESOLUTION

Upon a communication from the County Attorney, be it hereby

**RESOLVED**, that the County of Westchester is authorized to amend an outside counsel retainer agreement (the "Agreement") with the law firm of Bleakley Platt & Schmidt LLP, One North Lexington Avenue, White Plains, New York (the "Firm"), to serve as conflict counsel to represent Dr. Louis Roh in the matters of Jeffrey Deskovic v. City of Peekskill, Putnam County, Westchester County, David Levine, Thomas McIntyre, Walter Brovarksi, Eugene Tumolo, John and Jane Doe Supervisors, Daniel Stephens, Louis Roh, Millard Hyland, George Bolen, Peter Insero, the Legal Aid Society of Westchester County and Alan Tweed and Linda McGarr v. City of Peekskill, Putnam County, Westchester County, David Levine, Thomas McIntyre, Walter Brovarksi, Eugene Tumolo, John and Jane Doe Supervisors, Daniel Stephens, Louis Roh, Millard Hyland, George Bolen, Peter Insero, the Legal Aid Society of Westchester County, for a term commencing on February 1, 2010 and continuing through January 31, 2011, by 1) increasing the not to exceed amount under the Agreement by an additional One Hundred Fifty Thousand (\$150,000.00) Dollars, from an amount not to exceed Two Hundred Thousand (\$200,000.00) Dollars, to an amount not to exceed Three Hundred Fifty Thousand (\$350,000.00) Dollars, and 2) extending the term of the Agreement through December 31, 2011, so that the Firm may continue to represent the interests of Dr. Roh in these matters; and be it further

**RESOLVED**, that except as specifically amended hereby, all remaining terms and conditions set forth in the Agreement 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.

Original Agreement \$200,000.00  
 This Amendment \$150,000.00  
 Total \$350,000.00  
 Account to be  
 Charged/Credited

Fund	Dept	Major Program, Program & Phase Or Unit	Object/ Sub-Object	Trust Account	Dollars
615	59	0560	4923		\$150,000

Budget Funding Year(s) Current Start Date 2/01/10 End Date 12/31/11  
(must match resolution)

Funding Source	Tax Dollars _____
	State Aid _____
<u>\$150,000</u>	Federal Aid _____
(must match resolution)	Other <u>6N</u> _____

APPROVED BOARD OF ACQUISITION & CONTRACT - 3-18-2011 - JOMARY VIEIRA, SECRETARY