

Office of the County Attorney

Date: January 04, 2010

To: Honorable Board of Acquisition and Contract

From: Robert F. Meehan
County Attorney

Re: Authority to amend an agreement with the law firm of Martin & Colin, P.C. for legal representation of a former employee of the Westchester County Department of Corrections in a federal lawsuit entitled Kyle Dennis v. Westchester County Jail Correctional Department, Correctional Officer – C. Hopkins, Officer Stukes, Officer Jenkins, Officer John Doe, EMSA Correctional Care, Nurse Jane Doe, in their official and individual capacities, by extending the term of the Agreement for one (1) additional year, from January 1, 2010 through December 31, 2010.

By Resolution approved on April 17, 2008, your Honorable Board authorized the County of Westchester to enter into an agreement (the "Agreement") with the law firm of Martin & Colin, P.C. (the "Firm") to provide legal representation to Christopher Hopkins, a former employee of the Westchester County Department of Corrections, in connection with a federal lawsuit entitled, Correctional Officer – C. Hopkins, Officer Stukes, Officer Jenkins, Officer John Doe, EMSA Correctional Care, Nurse Jane Doe, in their official and individual capacities, for a term commencing on March 25, 2008 and terminating on December 31, 2008 in an amount not-to-exceed \$30,000, payable at the rate of \$165.00 per hour. The Agreement was subsequently executed.

Thereafter, by Resolution approved on September 24, 2009, your Honorable Board authorized the County to retroactively amend the Agreement for the limited purpose of extending the term thereof for one (1) additional year, from January 1, 2009 through December 31, 2009, to enable the Firm to continue its representation of Mr. Hopkins. The Amendment was subsequently executed.

Since the federal case for which the Firm has provided legal representation to Mr. Hopkins is still ongoing, the County now seeks authority from your Honorable Board to further amend the Agreement to extend the term thereof for one additional year, from January 1, 2010 through December 31, 2010, with all other terms and conditions of the Agreement, as previously amended, to remain the same.

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

The goal and objective of this Agreement is to avoid any ethical conflict from occurring during the representation of multiple parties in this case whose interests may or may not coincide with those of the County, but whom the County is obliged by law to defend under Section 297.31 of the Laws of Westchester County. The goal and objective is in the best interest of the County in terms of fiscal responsibility because Mr. Martin, during his tenure in the County Attorney's Office, handled many federal civil rights cases for the County as well as several cases involving the Department of Corrections. His knowledge and experience of the Department of Corrections and the County make him exceptionally qualified to handle this matter on behalf of the County. The Firm's performance will be tracked and monitored by the in-house attorney assigned to monitor this matter. If this Resolution were not approved, the County Attorney's office might encounter an ethical conflict due to the representation of multiple parties whose interests may or may not coincide with those of the County.

On March 25, 2008 by Act No. 30-2008, the Westchester County Board of Legislators authorized the County to retain outside counsel for the legal representation of Christopher Hopkins in connection with the federal lawsuit.

This Agreement is exempt from the Westchester County Procurement Policy under Section 3(a)(xv) which exempts contracts "for the engagement of attorneys for representation in Civil litigation which are approved by an Act of the County Board in accordance with § 297.31 of the Laws of Westchester County."

Accordingly, I most respectfully recommend the adoption of the annexed proposed Resolution.

RFM/JPG/nn

Attachment

APPROVED BOARD OF ACQUISITION & CONTRACTS
JANUARY 21, 2010
SECRET

RESOLUTION

Upon a communication from Robert F. Meehan, County Attorney, be it hereby

RESOLVED, that the County of Westchester is authorized to amend an agreement (the "Agreement") with the law firm of Martin & Colin, P.C. (the "Firm") for the legal representation of Christopher Hopkins, a former employee of the Westchester County Department of Correction, in connection with a federal lawsuit entitled Kyle Dennis v. Westchester County Jail Correctional Department, Correctional Officer – C. Hopkins, Officer Stukes, Officer Jenkins, Officer John Doe, EMSA Correctional Care, Nurse Jane Doe, in their official and individual capacities, for a term commencing on March 25, 2008 and terminating on December 31, 2009 in an amount not-to-exceed \$30,000, by extending the term of the Agreement for one (1) additional year, from January 1, 2010 through December 31, 2010; and be it further

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

RESOLVED, that the County Executive or his authorized designee is authorized and empowered to execute and deliver all instruments and take all actions necessary or appropriate to effectuate 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 January 01, 2010 End Date December 31, 2010

(must match resolution)

Funding Source

Tax Dollars _____

State Aid _____

Federal Aid _____

Other _____

\$ _____

(must match resolution)