

48131

Date: August 18, 2015

To: The Honorable Board of Acquisition and Contract

From: Robert F. Meehan  
County Attorney

Re: Authority to amend a short-form contract with Gary E. Christensen, Ph.D. ("Gary Christensen") for the provision of expert witness services to the County Attorney in connection with the lawsuit entitled Manuel Moses v. County of Westchester, for a term commencing on October 1, 2014 and continuing through September 30, 2015 for an amount not-to-exceed \$15,000, by 1) extending the term of the agreement from October 1, 2015 through September 30, 2017; and 2) increasing the total amount not-to-exceed thereunder by an additional \$25,000, from an amount not-to-exceed \$15,000 to an amount not-to-exceed \$40,000, to compensate Gary Christensen for additional services to be rendered.

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On or about September 30, 2014, the County entered into a "short-form" contract with Gary Christensen pursuant to which Dr. Christensen agreed to provide expert witness services to the County Attorney in connection with the lawsuit entitled Manuel Moses v. County of Westchester, Index No. 10-cv-09468 for a term commencing on October 1, 2014 and continuing through September 30, 2015 for an amount not-to-exceed \$15,000, payable at the rate of \$200.00/hour (the "Agreement"). The Agreement was subsequently executed.

Plaintiff, Manuel Moses, as executor of the estate of Zoran Teodorovic, initiated this lawsuit against the County of Westchester in December of 2010, alleging that a County corrections officer severely beat Teodorovic in October 2000 while Teodorovic was incarcerated in the County Jail, inflicting injuries which led to his death in December 2001.

The County's motion to dismiss the lawsuit was denied and the County must now conduct discovery. As such, it will be necessary to retain the services of Dr. Christensen for an additional two (2) year period and to increase the not-to-exceed amount under his contract by an additional \$25,000.

Gary Christensen has been retained to serve as an expert witness on the County's behalf. Dr. Christensen is an expert on correction policy and procedure, whose services are necessary to seek a favorable resolution. The increase in the not-to-exceed amount and extension of the contract term are necessary to cover Dr. Christensen's review of all the relevant discovery

documentation and deposition transcripts, as well as the preparation of an expert report, deposition testimony, and assistance in preparation for depositions of Plaintiff's expert(s).

As your Honorable Board is aware, amendments to short-form contracts which result in increases which exceed the \$20,000 threshold for short-form contracts and/or term extensions beyond the one (1) year threshold, must first be approved by your Honorable Board. Since it will now be necessary to increase the not-to-exceed amount under Dr. Christensen's contract from \$15,000 to \$40,000 and to extend the contract term by two (2) additional years, the authorization of your Honorable Board is required. Accordingly, authority is respectfully requested to amend the Agreement with Gary Christensen for the provision of expert witness services to the County Attorney in connection with the lawsuit entitled Manuel Moses v. County of Westchester, for a term commencing on October 1, 2014 and continuing through September 30, 2015 for an amount not-to-exceed \$15,000, by 1) extending the term of the Agreement from October 1, 2015 through September 30, 2017; and 2) increasing the total amount not-to-exceed thereunder by an additional \$25,000, from an amount not-to-exceed \$15,000 to an amount not-to-exceed \$40,000, to compensate Dr. Christensen for additional services to be rendered.

This Agreement is exempt from the requirements of the Westchester County Procurement Policy pursuant to section 3(a)vii thereof, which exempts "contracts for the services of expert witnesses for use in, or in anticipation of, an adjudicatory proceeding or litigation."

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

The goals and objectives of this Agreement are to retain the services of an expert in the field of corrections policy and procedure to assist the County in defending itself in the instant lawsuit.

The goals and objectives are in the best interests of the County in terms of fiscal responsibility because without the assistance of the expert witness, it will be more difficult for the County to defend itself in the lawsuit which could result in a significant monetary judgment against the County.

The Agreement will be tracked and monitored by the County Attorney's Office.

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

RFM/JPG/nn

**RESOLUTION**

Upon a communication from the County Attorney, be it hereby

**RESOLVED**, that the County of Westchester is hereby authorized to amend a “short form” agreement with Gary Christensen, Ph.D. (the “Agreement”) for the provision of expert witness services to the County Attorney in connection with the lawsuit entitled Manuel Moses v. County of Westchester, for a term commencing on October 1, 2014 and continuing through September 30, 2015 for an amount not-to-exceed \$15,000, by 1) extending the term of the Agreement from October 1, 2015 through September 30, 2017; and 2) increasing the total amount not-to-exceed thereunder by an additional \$25,000, from an amount not-to-exceed \$15,000 to an amount not-to-exceed \$40,000, in order to compensate Dr. Christensen for additional services to be rendered; and be it further

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

**RESOLVED**, that the County Attorney or his duly appointed designee be, and hereby is, authorized to take such action and execute such documents as may be necessary and proper to effect the purposes hereof.

Original Agreement \$15,000  
**This Amendment \$25,000**  
 Total \$40,000

Account to be  
 Charged/Credited

Fund	Dept	Major Program, Program & Phase Or Unit	Object/ Sub-Object	Trust Account	Dollars
615	59	0650/2450	4420/01		\$25,000

Budget Funding Year(s) 2014-2017 Start Date October 1, 2014 End Date September 30, 2017  
 (must match resolution)

Funding Source Tax Dollars \$25,000

State Aid \_\_\_\_\_

**\$25,000** Federal Aid \_\_\_\_\_

(must match resolution)

Other \_\_\_\_\_