

48186

Date: August 24, 2015

To: The Honorable Board of Acquisition and Contract

From: Robert F. Meehan
County Attorney

Re: Authority to amend a “short-form” contract with the TASA Group, Inc. (“TASA”) pursuant to which TASA referred Dr. Avram H. Mack, M.D. to the County to serve as an expert witness in connection with the lawsuit entitled In The Matter of DJ, a minor child, and Latonia Jones, Individually and on behalf of minor child DJ v. County of Westchester, Rosa Hazory, Elke Knudsen and Lisa Colin, Esq. 14 CIV 7635, for a term commencing on June 17, 2015 and continuing through June 16, 2016 in an amount not-to-exceed \$20,000, in order to increase the total amount not-to-exceed thereunder by an additional \$20,000, from an amount not-to-exceed \$20,000 to an amount not-to-exceed \$40,000, in order to compensate TASA for additional services to be rendered and expenses incurred by the expert.

On or about July 17, 2015, the County entered into a “short-form” contract with TASA, an expert witness referral firm, pursuant to which TASA referred Dr. Avram H. Mack, M.D., an expert in the field of child and adolescent psychiatry (the “Dr. Mack”), to the County to serve as an expert witness to the County Attorney in connection with the lawsuit entitled In The Matter of DJ, a minor child, and Latonia Jones, Individually and on behalf of minor child DJ v. County of Westchester, Rosa Hazory, Elke Knudsen and Lisa Colin, Esq. 14 CIV 7635, for a term commencing on June 17, 2015 and continuing through June 16, 2016 for an amount not-to-exceed \$20,000, payable at the rate of \$515 per hour for consultant activities and \$4,820 per day for court/deposition testimony, plus expenses (the “Agreement”). The Agreement was subsequently executed.

This matter is currently pending in Federal Court before Judge Roman and Magistrate Judge McCarthy. The plaintiff DJ has been in the care and custody of the Department of Social Services since May, 2005 when she was removed from her mother’s care. She has spent the majority of that time in psychiatric hospitals and is seriously emotionally disturbed with a host of diagnosis over the years including Oppositional Defiance Disorder, Intermittent Explosive Disorder and Reactive Attachment Disorder. She and her mother have brought this action against the County, the individual caseworkers and the law guardian, alleging that the County was deliberately indifferent to her physical, educational, social, familial and mental health needs

and that the caseworkers were otherwise negligent in their case management. The case is now in the discovery phase and is being monitored by Judge McCarthy. The parties have exchanged nearly 10 years of psychiatric records and case work records and have conducted numerous depositions. Expert disclosures are due for the plaintiff on August 30th and for the County on September 30th.

To date, Dr. Mack has invoiced the County approximately \$15,000 for his services. However, there are additional psychiatric records he will need to review, including the plaintiff's expert's reports. He will also have to draft a report of his own and submit to a deposition, as well as assist the County in preparing for the deposition of plaintiff's experts. Finally, if the County's motion for summary judgment is denied, there is the possibility of a trial for which we would need his testimony. In light of the foregoing, it will be necessary to increase the not-to-exceed amount under the Agreement by an additional \$20,000 in order to have sufficient funds available to compensate TASA for Dr. Mack's services.

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 the proposed increase in the not-to-exceed amount will bring the total contract amount over the \$20,000 threshold, the approval of your Honorable Board is now required. Accordingly, authority is respectfully requested to amend the Agreement with TASA for the services of Dr. Mack in connection with the lawsuit entitled In The Matter of DJ , a minor child, and Latonia Jones, Individually and on behalf of minor child DJ v. County of Westchester, Rosa Hazory, Elke Knudsen and Lisa Colin, Esq. 14 CIV 7635, for a term commencing on June 17, 2015 and continuing through June 16, 2016 for an amount not-to-exceed \$20,000, in order to increase the total amount not-to-exceed thereunder by an additional \$20,000, from an amount not-to-exceed \$20,000 to an amount not-to-exceed \$40,000.

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

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."

The goals and objectives of this Agreement are to retain an expert who is knowledgeable in the area of child and adolescent psychiatry to assist the County in defending itself in connection with the instant litigation. The goals and objectives are in the best interests of the County in terms of fiscal responsibility because without Dr. Mack's expertise, the County would not be able to effectively contest the plaintiff's allegations. The performance of this agreement will be tracked and monitored by the in-house attorney assigned to monitor this matter.

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

RFM/JPG/nm

RESOLUTION

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

RESOLVED, that the County of Westchester is hereby authorized to amend a “short form” agreement with the TASA Group, Inc. (“TASA”), pursuant to which TASA referred Dr. Avram H. Mack, M.D., an expert in the field of child and adolescent psychiatry, to the County to serve as an expert witness in connection with the lawsuit entitled In The Matter of DJ , a minor child, and Latonia Jones, Individually and on behalf of minor child DJ v. County of Westchester, Rosa Hazory, Elke Knudsen and Lisa Colin, Esq. 14 CIV 7635, for a term commencing on June 17, 2015 and continuing through June 16, 2016 for an amount not-to-exceed \$20,000 (the “Agreement”), in order to increase the total amount not-to-exceed thereunder by an additional \$20,000, from an amount not-to-exceed \$20,000 to an amount not-to-exceed \$40,000, in order to have sufficient funds available to compensate TASA for additional services to be rendered and expenses incurred by Dr. Mack; 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: \$20,000
 This Amendment: \$20,000
 Total: **\$40,000**

Account to be
 Charged/Credited

Fund	Dept	Major Program, Program & Phase Or Unit	Object/ Sub-Object	Trust Account	Dollars
615	59	0692/3650	4420/01		\$20,000

Budget Funding Year(s) 2015-16 Start Date June 17, 2015 End Date June 16, 2016
 (must match resolution)

Funding Source Tax Dollars \$20,000

State Aid _____

\$ _____ Federal Aid _____

(must match resolution)

Other _____