

50294

Date: February 3, 2016

To: The Honorable Board of Acquisition and Contract

From: Robert F. Meehan
County Attorney

Re: Authority to amend a contract with the TASA Group, Inc. ("TASA"), as previously amended, 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 for an amount not to exceed \$40,000, by increasing the not-to-exceed amount by an additional \$10,000, from an amount not-to-exceed \$40,000 to an amount not-to-exceed \$50,000, 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.

Thereafter, by resolution approved on September 17, 2015, your Honorable Board authorized the County to amend the Agreement in order to increase the not-to-exceed amount thereunder by an additional \$20,000, from an amount not-to-exceed \$20,000 to a new total aggregate not-to-exceed amount of \$40,000 (the "First Amendment"). The First Amendment was subsequently executed.

This matter is currently pending in Federal Court before Judge Roman and Magistrate Judge McCarthy. The expert reports have been exchanged and depositions have been completed.

On motion of the County, Judge Roman issued a decision staying the Federal Court matter until the Family Court matter has concluded. When the matter is restored to the calendar the Court will rule on the remainder of the County's motion to dismiss the case and, if necessary, the County will move for summary judgment.

It will now be necessary to increase the not-to-exceed amount under the Agreement by an additional \$10,000, from an amount not-to-exceed \$40,000 to a new, total aggregate amount not to exceed \$50,000, in order to have sufficient funds available to compensate TASA for additional services to be rendered and expenses incurred by Dr. Mack.

Except as otherwise specifically amended hereby, all other terms and conditions of the Agreement, as previously amended, 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/MLG/nn

RESOLUTION

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

RESOLVED, that the County of Westchester is hereby authorized to amend an agreement with the TASA Group, Inc. ("TASA"), as previously amended, 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 \$40,000 (the "Agreement"), by increasing the total amount not to exceed thereunder by an additional \$10,000, from an amount not to exceed \$40,000 to a new total aggregate amount not to exceed \$50,000, 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, as previously amended, 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
 First Amendment: \$20,000
 This Amendment: \$10,000
 Total: **\$50,000**

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		\$10,000

Budget Funding Year(s) 2015-2016 Start Date 6-17-2015 End Date 6-16-2016
 (must match resolution)

Funding Source Tax Dollars \$ _____

State Aid _____

\$ 10,000 Federal Aid _____

(must match resolution)

Other 6N Fund