

51682

Date: April 5, 2016

To: Board of Acquisition and Contract

From: Robert F. Meehan
County Attorney

Re: Authority to enter into an agreement with Keane & Beane, P.C., pursuant to which it will represent the Westchester Community College in the matter of the charge of the Civil Service Employees Association, Inc., Local 1000, AFSCME, AFL-CIO against Westchester County and Westchester Community College for alleged violation of the Public Employees' Fair Employment Act (Public Employment Relations Board Case No. U-34778) and legal proceedings related thereto.

I determined, based upon a review of the facts and circumstances of the matter of the charge of the Civil Service Employees Association, Inc., Local 1000, AFSCME, AFL-CIO against Westchester County (the "County") and Westchester Community College (the "College") for alleged violation of the Public Employees' Fair Employment Act (Public Employment Relations Board Case No. U-34778) and legal proceedings related thereto (the "Case"), that representation of the College by the Office of the County Attorney would not be appropriate and, accordingly, certified to the Westchester County Board of Legislators (the "BOL") that the College is entitled to representation by private counsel in accordance with Section 297.31(2)(b) of the Laws of Westchester County

Subsequently, on April 4, 2016, the BOL approved Act 2016-36, which, a.) authorized the designation and retention of Keane & Beane, P.C. (the "Attorney") as private counsel, to represent the College in the Case, at a blended hourly rate not to exceed \$240.00 for legal counsel plus costs and disbursements, and with an aggregate amount not to exceed \$50,000.00; b.) authorized and empowered the Attorney to undertake such legal action and prepare all documents necessary or desirable in the defense of the College in the Case; and c.) specified that, pursuant to Section 297.31(2)(b) of the Laws of Westchester County, reasonable attorneys' fees shall be paid by the County to the Attorney from time to time during the pendency of the Case, subject to approval by act of the BOL.

In order to enter into an agreement to retain the Attorney for the Case, authority from your Honorable Board is required, pursuant to Chapter 161 of the Laws of Westchester County. Accordingly, the County respectfully requests authority from your Honorable Board to enter into an agreement with the Attorney, pursuant to which it will provide the services described above, on the terms described above, as specified by the BOL in Act 2016-36.

I respectfully recommend the adoption of the attached resolution.

RFM/JMR/bdm/mn

APPROVED BOARD OF ACQUISITION & CONTRACT - 04/28/2016 - LISA MRIJAJ, SECRETARY

RESOLUTION

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

RESOLVED, that the County of Westchester (the "County") is hereby authorized to enter into an agreement (the "Agreement") with Keane & Beane, P.C. (the "Attorney") as private counsel, to represent Westchester Community College (the "College") in the matter of the charge of the Civil Service Employees Association, Inc., Local 1000, AFSCME, AFL-CIO against the County and the College for alleged violation of the Public Employees' Fair Employment Act (Public Employment Relations Board Case No. U-34778) and legal proceedings related thereto (the "Case"), at a blended hourly rate not to exceed \$240.00 for legal counsel plus costs and disbursements, and with an aggregate amount not to exceed \$50,000.00, and be it further

RESOLVED, that under the Agreement, the Attorney will be authorized and empowered to undertake such legal action and prepare all documents necessary or desirable in the defense of the College in the Case; and be it further

RESOLVED, that under the Agreement, the Attorney's reasonable attorneys' fees shall be paid by the County from time to time during the pendency of the Case, subject to approval by act of the Westchester County Board of Legislators; and be it further

RESOLVED, that this Agreement is subject to County appropriations; and be it further

RESOLVED, that this Agreement is also subject to further financial analysis of the impact of any New York State Budget (the "State Budget") proposed and adopted during the term of this Agreement. The County shall retain the right, upon the occurrence of any release by the Governor of a proposed State Budget and/or the adoption of a State Budget or any amendments thereto, and for a reasonable period of time after such release(s) or adoption(s), to conduct an analysis of the impacts of any such State Budget on County finances. After such analysis, the County shall retain the right to either terminate this Agreement or to renegotiate the amounts and rates approved herein. If the County subsequently offers to pay a reduced amount to Mr. Poppick, then Mr. Poppick shall have the right to terminate this Agreement upon reasonable prior written notice; and be it further

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

Account to be Charged/Credited

Fund	Dept	Major Program, Program & Phase Or Unit	Object/ Sub- Object	Trust Account	Dollars
010	34	0130	4425		\$50,000.00

Budget Funding Year(s): _____ Start Date: _____ End Date: _____
 (must match resolution)

Funding Source	Tax Dollars	<u>\$11,500.00</u>
	State Aid	<u>\$14,000.00</u>
<u>\$50,000.00</u>	Federal Aid	_____
(must match resolution)	Other	<u>\$24,500.00 (Tuition)</u>

APPROVED BOARD OF ACQUISITION & CONTRACT - 04/28/2016 LISA MRUJA, SECRETARY