

Office of the County Attorney

60379

TO: Honorable Board of Acquisition and Contract

FROM: Robert F. Meehan
County Attorney

DATE: December 19, 2017

RE: Resolution authorizing the County of Westchester to enter into an agreement with The Legal Aid Society of Westchester County and the Westchester County Bar Association for the period January 1, 2018 to December 31, 2018, for the provision of counsel to indigent persons, subject to a sixty day cancellation and subject to County appropriations.

Article 18-B of the County Law requires each County to establish a plan for providing counsel to certain indigent persons. Such a plan may be established by agreement with a legal aid society and/or bar association. The Legal Aid Society of Westchester County (the "Legal Aid Society") and the Westchester County Bar Association have been providing these services for many years pursuant to agreements with the County. The current agreement among the parties expires on December 31, 2017.

Under the terms of the proposed agreement, the County will pay to the Legal Aid Society an amount up to **\$9,847,966** payable in monthly installments in advance upon receipt of appropriate vouchers for their services for a term commencing January 1, 2018 and ending December 31, 2018. This amount includes funding for both the indigent defense services themselves and for certain related administrative duties.

Further under the terms of the proposed agreement, the County will advance on a monthly basis certain approved yet not received grant funds that are anticipated to be received by the County from the State of New York by and through its Office of Indigent Legal Services ("OILS") during the calendar year 2018, under approved grant agreements, in an amount not to exceed **\$2,887,832** for a total not to exceed agreement amount of **\$12,735,798**. The monthly requests shall require proper documentation and approval by the Departments of Budget and Finance. The reason for these monthly advances is that the grant funds approved and anticipated to be received from OILS are often delayed which then impacts the operations of the Legal Aid Society and its ability to provide the important services that are required under the grant agreements. A list of these grant agreements is attached hereto as Exhibit "A" (the Grant Agreements"). Under the terms of the proposed agreement, any and all grant funds advanced by

the County to the Legal Aid Society that are not received by the County from OILS will be repaid by the Legal Aid Society to the County upon notice.

Accordingly, attached herewith is a resolution which I recommend for adoption authorizing the agreement with the Legal Aid Society and the Westchester County Bar Association for the period January 1, 2018 through December 31, 2018, subject to a sixty day cancellation, to provide legal services to persons entitled to counsel pursuant to Article 18-B of the County Law and to provide the services required under the Grant Agreements. Under the terms of the agreement, the Legal Aid Society will furnish trained qualified personnel and office space to provide persons charged with a felony who are entitled to counsel pursuant to Chapter 878, representation in all courts located in Westchester County, unless such representation involves a conflict of interest, perform investigations, expert and other services necessary for an adequate defense of such persons, oversee a plan for the rotation and coordination of a panel of private assigned counsel (Westchester County Bar Association) to provide representation of clients not services by the Legal Aid Society, and carry out all of the terms and conditions of the Grant Agreements.

This agreement serves a public purpose in that it enables the County to fulfill its lawful obligation of providing counsel to certain indigent persons pursuant to Article 18-B of the County Law and to improve those services pursuant to the Grant Agreements. The goals and objectives are to ensure that effective and improved counsel is provided in a cost efficient manner. The cost effectiveness of the Legal Aid Society's performance under the agreement is reviewed on a recurring basis by the Department of Budget.

The agreement is exempt from the County's procurement policy pursuant to Section 3(a)xi and 3(a)xiv thereto.

Approval of the attached resolution is respectfully requested.

RFM/lac
Attachment

RESOLUTION

Upon a communication from the County Attorney, be it

RESOLVED, that the County of Westchester (the "County") be and is hereby authorized to enter into an agreement for the provision of legal services (including ancillary administrative services) to persons entitled to counsel pursuant to Article 18-B of the County Law with The Legal Aid Society of Westchester (the "Legal Aid Society") and the Westchester County Bar Association for the period of January 1, 2018 through December 31, 2018, in an amount up to \$9,847,966, payable in monthly installments in advance upon receipt of the appropriate vouchers; and an amount up to \$2,887,832 pursuant to approved grant agreements with the State of New York, by and through its Office of Indigent Legal Services in monthly advances upon receipt of the appropriate vouchers and approved by the Departments of Budget and Finance for a total amount not to exceed \$12,735,798 (the "Agreement"); and be it further

RESOLVED, that the Agreement may be cancelled by the County or the Legal Aid Society upon sixty (60) days prior written notice; and be it further

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

RESOLVED, that the 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 the Agreement or to renegotiate the amounts and rates approved herein. If the County subsequently offers to pay a reduced amount to the Contractor, then the Contractor shall have the right to terminate the Agreement upon reasonable prior written notice, and be it further

RESOLVED, that the County Executive, or his duly authorized designee, is empowered to execute all documents necessary to effectuate the purposes hereof.

Account to be Charged/credited	Fund	Dept	Major Program, Program & Phase Or Unit	Object/ Sub Object	Trust Account	Dollars
	101	52	2085	5110		\$12,735,798
	101	52		9734		\$4,561,741

Budget Funding Year(s) 2018 Start Date 1/1/18 End Date 12/31/18
 (must match resolution)

Funding Source Tax Dollars \$8,174,057
 State Aid \$4,561,741
 \$ 12,735,798 Federal Aid _____
 (must match resolution) Other _____

EXHIBIT "A"

List of Grant Agreements

1. Distribution No. 2 Grant
State Contract No. C000255
2. Distribution No. 3 Grant
State Contract No. C000355
3. Counsel at First Appearance Grant
State Contract No. C000455
4. Upstate Quality Improvement and Caseload Reduction Grant
State Contract No. C000655
5. Distribution No. 5 Grant
State Contract No. C000755
6. Regional Immigration Assistance Center Grant
State Contract No. C000855
7. Distribution No. 4
State Contract No. C000555

APPROVED BOARD OF ACQUISITION & CONTRACT - 12/21/2017 - LISA MRIJAJ, SECRETARY