

Office of the County Attorney

Date: February 2, 2010

To: Board of Acquisition and Contract

From: Robert F. Meehan
County Attorney

Re: Authority to retroactively enter into an agreement with the Mattis & Luck Center For Neuropsychological Services LLP for the provision of expert services to the County Attorney in connection with the lawsuit entitled Anthony Costabile v. County of Westchester, et al, for the period from November 25, 2008 through September 30, 2010 for an amount not-to-exceed \$20,000.

Authority is respectfully requested to retroactively enter into an agreement with the Mattis & Luck Center For Neuropsychological Services LLP (the "Consultant") for the provision of expert services to the County Attorney in connection with the lawsuit entitled Anthony Costabile v. County of Westchester, et al, for the period from November 25, 2008 through September 30, 2010 (the "Agreement").

Services provided by the Consultant, through its principal Dr. Steven Mattis, include, without limitation, review of Plaintiffs' expert report, review of discovery, physical examination of Plaintiff, assisting the County Attorney's office in preparing for the deposition of Plaintiffs' expert, preparation of an expert report, deposition testimony, and possibly trial testimony. In consideration for services rendered, the County will pay the Consultant at the rate of Three Hundred Fifty (\$350.00) dollars per hour, not to exceed Twenty Thousand (\$20,000.00) dollars, inclusive of all expenses.

It should be noted that this Agreement was originally slated to be a "short-form" contract for a term commencing on November 25, 2008 and continuing through November 24, 2009. As your Honorable Board is aware, the "short form" delegation to the County Attorney is for contracts not exceeding \$20,000 and for terms of up to one year. Short-form approval was obtained and the contract was forwarded to the Consultant for execution on December 24, 2008. Although the Consultant claims that he signed the contract and sent it back to the County, this office has no record of ever receiving the signed contract. Consequently, there is no short-form contract on file with the County and the Consultant has not yet been paid

for the services he has been rendering since November 25, 2008. In the interim, we have determined that it will be necessary to continue to utilize Consultant's services through September 30, 2010. Since the proposed contract term will now exceed one (1) year in duration, it no longer qualifies as a short-form contract and the approval of your Honorable Board is now required.

This Agreement is exempt from the procedural requirements of the Westchester County Procurement Policy pursuant to Section 3(a)vii thereof as this contract is required for the services of expert witnesses for use in, or in anticipation of, an adjudicatory proceeding or litigation.

This Agreement will serve a public purpose by assisting the County in defending itself in this lawsuit.

The goals and objectives of this agreement are to retain an expert who is knowledgeable in the area of forensic 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 the Consultant's expertise, the County may not be able to defend itself in this matter which could result in a large monetary judgment against the County. The performance of this agreement will be tracked and monitored by the in-house attorney assigned to monitor this matter. If this resolution were not approved, the County would not have the expertise necessary to properly defend itself in this matter.

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

RFM/jpg

APPROVED BOARD OF ACQUISITION & CONTRACT ADMINISTRATION - DOMINIC WEIRA, SECRETARY

RESOLUTION

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

RESOLVED, that the County of Westchester is hereby authorized to retroactively enter into an agreement with the Mattis & Luck Center For Neuropsychological Services LLP (the "Consultant") for the provision of expert services to the County Attorney in connection with the lawsuit entitled Anthony Costabile v. County of Westchester, et al, for the period from November 25, 2008 through September 30, 2010; and be it further

RESOLVED, that in consideration for services rendered, the County shall pay the Consultant at the rate of Three Hundred Fifty (\$350.00) dollars per hour, not to exceed Twenty Thousand (\$20,000.00) dollars, inclusive of all expenses; and it is 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 proper to effect the purposes hereof.

APPROVED BOARD OF ACQUISITION & CONTRACT - 2-18-2010 - JOMARY WEIRA, SECRETARY

TOTAL \$20,000

Agreement # LAW 784

Account to be
Charged/Credited

Fund	Dept	Major Program, Program & Phase Or Unit	Object/ Sub- Object	Trust Account	Dollars
615	59	0680/2750	4220		\$20,000

Budget Funding Year(s) 2008-10 Start Date November 25, 2008 End Date September 30, 2010
(must match resolution)

Funding Source Tax Dollars _____
State Aid _____
\$ 20,000 Federal Aid _____
(must match resolution) Other 6N _____

APPROVED BOARD OF ACQUISITION & CONTRACT - 2-18-2010 - JOMARY VIEIRA SECRETARY