

91500

Date: March 3, 2022

To: Board of Acquisition and Contract

From: John M. Nonna
County Attorney

Re: Authority for the County of Westchester to amend an agreement with Bleakley Platt & Schmidt, LLP, as previously amended, pursuant to which the firm agreed to provide legal services and representation to the County, in an “of counsel” capacity to the County Attorney, as needed, in connection with the civil case of *County of Westchester v. Unity Mechanical Corp., The Netherlands Insurance Company, and Excelsior Insurance Company*, by increasing the not-to-exceed cap by an additional \$75,000.00 from \$300,000.00 to \$375,000.00.

By resolution approved on February 15, 2018, your Honorable Board authorized the County of Westchester (the “County”) to enter into an agreement with Bleakley Platt & Schmidt, LLP (“Bleakley”), pursuant to which Bleakley would provide legal services and representation to the County, in an “of counsel” capacity to the County Attorney, as needed, in connection with the civil case of *County of Westchester v. Unity Mechanical Corp., The Netherlands Insurance Company, and Excelsior Insurance Company*, (the “Services”) Supreme Court, Westchester County Index No. 59897/16 (the “Case”), for a term commencing on February 9, 2018 and continuing until the conclusion of the Case, for an amount not-to-exceed \$100,000.00, payable pursuant to an approved budget that includes specified hourly rates (the “Agreement”). The Agreement was subsequently executed.

Thereafter, by resolution approved on November 21, 2018, your Honorable Board authorized the County to amend the Agreement with Bleakley for the purpose of increasing the not-to-exceed cap thereunder by an additional \$100,000.00, from an amount not-to-exceed \$100,000.00 to an amount not-to-exceed \$200,000.00, in order to have sufficient funding available to compensate Bleakley for Services to be rendered (the “First Amendment”). The First Amendment was subsequently executed.

Thereafter, by resolution approved on September 26, 2019, your Honorable Board authorized the County to further amend the Agreement with Bleakley for the purpose of increasing the not-to-exceed cap thereunder by an additional \$100,000.00, from an amount not-to-exceed \$200,000.00 to an amount not-to-exceed \$300,000.00, in order to have sufficient funding available to compensate Bleakley for Services to be rendered (the “Second Amendment”). The Second Amendment was subsequently executed.

Thus far, Bleakley has invoiced the County \$282,607.64 for legal services rendered in this matter. In order to have sufficient funding available to pay the Firm for legal services to be rendered going forward, it has become necessary to further increase the not-to-exceed cap by an additional \$75,000.00. Accordingly, authority is respectfully requested to amend the Agreement with Bleakley in order to increase the not-to-exceed amount thereunder by an additional \$75,000.00, from an amount not-to-exceed \$300,000.00 to a new amount not-to-exceed \$375,000.00.

Except as specifically amended hereby, all remaining terms and conditions of the Agreement, as previously amended, shall remain in full force and effect upon the parties.

It should be noted that the County has previously complied with the County's Procurement Policy in selecting Bleakley to perform the Services. On February 6, 2018, the County issued a request for qualifications for the Services, in accordance with Section 7 of the County's Procurement Policy, soliciting responses from the following three (3) entities that customarily provide such services (the "RFQ"):

1. Bleakley
2. McCarthy Fingar LLP
3. Smith, Buss, & Jacobs, LLP

The County received a response to the RFQ from each of the above-listed entities. I reviewed and evaluated each of the responses and determined that it is most advantageous to the County to enter into the Agreement with Bleakley.

The Agreement serves a public purpose by providing the County with access to experienced attorneys to serve as additional resources for the Case, under the County's 6-n Program.

I respectfully recommend the adoption of the attached resolution.

JMN/jpg/nn

RESOLUTION

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

RESOLVED, that the County of Westchester (the “County”) is hereby authorized to amend an agreement with Bleakley Platt & Schmidt, LLP (“Bleakley”), as previously amended, pursuant to which Bleakley agreed to provide legal services and representation to the County, in an “of counsel” capacity to the County Attorney, as needed, in connection with the civil case of *County of Westchester v. Unity Mechanical Corp., The Netherlands Insurance Company, and Excelsior Insurance Company*, (the “Services”) Supreme Court, Westchester County Index No. 59897/16 (the “Case”), for a term commencing on February 9, 2018 and continuing until the conclusion of the Case, for an amount not-to-exceed \$300,000.00, payable pursuant to an approved budget that includes specified hourly rates (the “Agreement”), by increasing the not-to-exceed amount thereunder by an additional \$75,000.00, from an amount not-to-exceed \$300,000.00 to a new total amount not-to-exceed \$375,000.00; and be it further

RESOLVED, that except as specifically amended hereby, all remaining terms and conditions set forth in the Agreement, as previously amended, shall remain in full force and effect upon the parties; 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 proper to effect the purposes hereof.

Agreement # LAW 1068

Original Agreement	\$100,000
First Amendment	\$100,000
Second Amendment	\$100,000
This Amendment	<u>\$ 75,000</u>
TOTAL	\$375,000

Account to be Charged/Credited

Fund	Dept	Major Program, Program & Phase Or Unit	Object/ Sub-Object	Trust Account	Dollars
615	59	0693-3710	4923		\$75,000.00

Budget Funding Year(s): 2022 Start Date: 02/09/18 End Date: Conclusion of the case
(must match resolution)

Funding Source Tax Dollars: _____
 State Aid: _____
\$75,000.00 Federal Aid: _____
 (must match resolution) Other: 6-n

