



**Office of the County Attorney**

**103138**

TO: Honorable Board of Acquisition and Contract

FROM: John M. Nonna  
County Attorney

DATE: August 30, 2023

RE: Authority for the County of Westchester to enter into a fifth amendment to an agreement with The Legal Aid Society of Westchester County and the Westchester County Bar Association in order to retroactively increase the not to exceed amount pursuant to Paragraph 8(d) of the agreement by an additional amount not to exceed \$581,317.46 from an amount not to exceed \$2,751,377 to an amount not to exceed \$3,332,694.46

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On January 20, 2022, your Honorable Board authorized the County of Westchester ("County") to enter into an agreement with The Legal Aid Society of Westchester County (the "Legal Aid Society") and the Westchester County Bar Association in which the Legal Aid Society agreed, *inter alia*, to administer the County's 18-B assigned counsel plan for a term commencing January 1, 2022 and continuing through April 30, 2022, in an amount not to exceed \$292,000, payable in advance, in monthly installments of \$73,000, pursuant to an approved budget, with the County having the option to extend the termination date upon thirty (30) days' notice ("Agreement"). The Agreement was subsequently executed.

On March 24, 2022, your Honorable Board authorized the County to enter into a first amendment to the Agreement in order to extend the termination date from April 30, 2022 to June 30, 2022 ("First Amendment") for the provision of administering the County's 18-B assigned counsel plan, in an amount not to exceed \$146,000, payable in advance, in monthly installments not to exceed \$73,000, pursuant to an approved budget. The First Amendment was subsequently executed.

On June 30, 2022, your Honorable Board authorized the County to enter into a second amendment to the Agreement in order to extend the termination date from June 30, 2022 to August 31, 2022 ("Second Amendment") for the provision of administering the

County's 18-B assigned counsel plan, in an amount not to exceed \$146,000, payable in advance, in monthly installments not to exceed \$73,000, pursuant to an approved budget. The Second Amendment was subsequently executed.

On August 25, 2022, your Honorable Board authorized the County to enter into a third amendment to the Agreement in order to extend the termination date from August 31, 2022 to September 30, 2022 ("Third Amendment") for the provision of administering the County's 18-B assigned counsel plan, in an amount not to exceed \$73,000, pursuant to an approved budget. The Third Amendment was subsequently executed.

On December 1, 2022, your Honorable Board authorized the County to enter into a fourth amendment ("Fourth Amendment") in order to increase the not to exceed amount pursuant to Paragraph 8(d) of the Agreement for services performed by the Legal Aid Society in connection with the NYS Office of Indigent Legal Services grants and distributions in an amount not to exceed \$700,000, payable in a lump sum upon execution of the Fourth Amendment, for services performed in connection with Distribution No. 6, from a not to exceed amount of \$2,051,377 to a new not to exceed amount of \$2,751,377. The Fourth Amendment was subsequently executed.

Authority is requested herein to enter into a fifth amendment to the Agreement in order to retroactively increase the not to exceed amount pursuant to Paragraph 8(d) in an amount not to exceed \$581,317.46 to a new not to exceed amount of \$3,332,694.46 for services performed in connection with the NYS Office of Indigent Legal Services grants and distributions.

This Fifth Amendment will serve a public purpose in that it will authorize reimbursement to the Legal Aid Society for services provided to improve the quality of legal services provided to indigent persons. The goals and objectives of the Fifth Amendment is to improve the quality of legal services provided to indigent persons.

This Fifth Amendment is exempt from the Westchester County Procurement Policy and Procedures pursuant to Sections 3(a)xi and 3(a)xiv thereto.

All of the terms and conditions of the Agreement shall remain in full force and effect except as modified herein.

Approval of the attached resolution is respectfully requested.

JMN/LAC  
Attachment

## RESOLUTION

Upon a communication from the County Attorney, be it

**RESOLVED**, that the County of Westchester (the "County") is authorized to enter into a fifth amendment ("Fifth Amendment") to an agreement dated January 25, 2022 with The Legal Aid Society of Westchester County ("Legal Aid Society") and the Westchester County Bar Association, (the "Agreement"), in order to retroactively increase the not to exceed amount pursuant to Paragraph 8(d) of the Agreement for services performed by the Legal Aid Society in connection with the NYS Office of Indigent Legal Services grants and distributions, in an amount not to exceed \$581,317.46, payable in a lump sum upon execution of the Fifth Amendment, from an amount not to exceed \$2,751,377 to an amount not to exceed \$3,332,694.46; and be it further

**RESOLVED**, that all of the terms and conditions of the Agreement, as amended, shall remain in full force and effect except as amended herein; and be it further

**RESOLVED**, that the Fourth Amendment is 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 Fifth Amendment. 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 Fifth Amendment 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 Fifth Amendment 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	5100		\$581,317.46

Budget Funding Year(s) 2022 Start Date 1/1/22 End Date 12/31/22

(must match resolution) \$581,317.46

Funding Source Tax Dollars \_\_\_\_\_ State Aid \$581,317.46 Federal Aid \_\_\_\_\_