

THIS AGREEMENT (“Agreement”), made the ____ day of _____, 20____, by and between

THE COUNTY OF WESTCHESTER, a municipal corporation of the State of New York, having its principal place of business in the Michaelian Office Building, 148 Martine Avenue, White Plains, New York 10601 (hereinafter referred to as the “County”),

and

VILLAGE OF PLEASANTVILLE, a municipal corporation of the State of New York, having an office and place of business at 80 Wheeler Avenue, Pleasantville, New York 10570 (hereinafter referred to as the “Agency”)

WITNESSETH:

WHEREAS, the County, acting by and through its Department of Community Mental Health (“Department”), and the Agency desire to enter into the Agreement to provide preventive, rehabilitative and treatment services under Article 25 (Funding For Substances Abuse Services) and Article 41 (Local and Unified Services) of the New York State Mental Hygiene Law (“Mental Hygiene Law”); and

WHEREAS, pursuant to the provisions of Articles 25 and 41 of the Mental Hygiene Law, the County receives funding from the State of New York (“State”) and local municipalities, among others, for preventive, rehabilitative and treatment service programs for the mentally ill, the mentally retarded, the developmentally disabled and those suffering from alcohol and substance abuse. Pursuant to Article 41, the County also operates an Employee Assistance Program, which provides such services to various municipalities and school districts within Westchester and Putnam counties; and

WHEREAS, the Agency has indicated it would like to receive these services.

NOW, THEREFORE, the parties hereto in consideration of the premises and of the covenants, agreements, terms and conditions herein contained do agree as follows:

Section 1. The Department shall provide services under Article 25 (Funding For Substances Abuse Services) and Article 41 (Local and Unified Services) of the Mental Hygiene Law to the Agency and render Employee Assistance Program services (hereinafter collectively the “Services”) to the Agency as more particularly described in Schedule “A” which is attached hereto and made a part hereof.

Section 2. In consideration of the Services to be provided to the Agency by the Department pursuant to Paragraph “1” above, the Agency shall pay to the County a certain fee per employee per year, for a total aggregate yearly amount, as more fully set forth in the Budget set forth in Schedule “B” which is attached hereto and made a part hereof.

Any and all payments to be made to the County, including any partial payment made in proportion to the provision of Services, shall be made on an annual basis, as set forth in Schedule “B.”

Section 3. All records compiled by the Department in completing the work described in this Agreement, including but not limited to evaluation, progress notes, written reports, studies, drawings, computer printouts, graphs, charts, and all other similar recorded data, shall become and remain the property of the Department.

Section 4. The term of the Agreement shall commence on January 1, 2020 and shall expire on December 31, 2024. Notwithstanding anything to the contrary herein, either party may, at any time, upon ten (10) business days' prior notice to the other party, terminate the Agreement, when it deems that doing so would be in its best interest.

Section 5. The Agency agrees to procure and maintain insurance naming the County as additional insured, as provided and described in Schedule "C," entitled "Standard Insurance Provisions", which is attached hereto and made a part hereof. In addition to, and not in limitation of the insurance provisions contained in Schedule "C," the Agency agrees:

(a) that except for the amount, if any, of damage contributed to, caused by, or resulting from the sole negligence of the County, the Agency shall indemnify and hold harmless the County, its officers, employees, agents, and elected officials from and against any and all liability, damage, claims, demands, costs, judgments, fees, attorney's fees or loss arising directly or indirectly out of the performance or failure to perform hereunder by the Agency or third parties under the direction or control of the Agency; and

(b) to provide defense for and defend, at its sole expense, any and all claims, demands or causes of action directly or indirectly arising out of this Agreement and to bear all other costs and expenses related thereto; and

(c) In the event the Agency does not provide the above defense and indemnification to the County, and such refusal or denial to provide the above defense and indemnification is found to be in breach of this provision, then the Agency shall reimburse the County's reasonable attorney's fees incurred in connection with the defense of any action, and in connection with enforcing this provision of the Agreement.

Section 6. Confidentiality of Records:

(a) The Department and the Agency shall observe and require the observance of applicable Federal and State requirements relating to confidentiality of records and information. The Department and the Agency agree not to allow examination of records or the disclosure of information except as herein set forth or as may be required by applicable Law.

(b) The Department and the Agency shall fully inform their own staff members to observe and require the observance of applicable Federal and State requirements relating to confidentiality of records and information.

(c) The Department and the Agency shall implement the following procedures for the purpose of safeguarding information and ensuring the protection and confidentiality of said information.

- (1) Records containing individually identifiable information shall be marked “confidential” and kept in locked files or in rooms that are locked when the records are not in use.
- (2) When in use, records shall be maintained in such a manner as to prevent exposure of individual identifiable information to anyone other than the authorized party directly utilizing the case record.
- (3) Records shall be transmitted from one location to another in a sealed envelope stamped “confidential” and a receipt shall be obtained documenting delivery of said records. Records may be removed from Department’s work locations only with the prior written permission of the Department’s Commissioner.
- (4) Interviews with clients shall be conducted at a location and in a manner which maximizes privacy.
- (5) The Agency consistent with applicable statute and regulation shall have access to the following:
 - All identifiable information released with client’s consent.
 - Information released is usually within the context of a supervisor’s referral.

- Released information normally includes information regarding compliance with Employee Assistance Program services and treatment and client's medical clearance to return to work

Section 7. The Agency expressly agrees that neither it nor any contractor, subcontractor, employee, or any other person acting on its behalf shall discriminate against or intimidate any employee or other individual on the basis of race, creed, religion, color, gender, age, national origin, ethnicity, alienage or citizenship status, disability, marital status, sexual orientation, familial status, genetic predisposition or carrier status during the term of or in connection with this Agreement, as those terms may be defined in Chapter 700 of the Laws of Westchester County. The Agency acknowledges and understands that the County maintains a zero tolerance policy prohibiting all forms of harassment or discrimination against its employees by co-workers, supervisors, vendors, contractors, or others.

Section 8. Either party may cancel this Agreement upon ten (10) days prior written notice to the other by certified mail.

Section 9. All notices, requests, demands or other communications required or permitted to be given hereunder shall be in writing and shall be deemed given when delivered by hand or mailed postage prepaid, certified mail, return receipt requested, addressed as follows:

To the County: Commissioner
 Westchester County Department of Community Mental Health
 112 East Post Road - Second Floor
 White Plains, New York 10601

with copy to: County Attorney
 Michaelian Office Building, Room 600
 148 Martine Avenue
 White Plains, New York 10601

To the Agency: Village of Pleasantville
 80 Wheeler Avenue
 Pleasantville, New York 10570

Section 10. This Agreement may not be assigned by the Agency without the prior written consent of the County.

Section 11. This Agreement shall not be enforceable until signed by all parties and approved by the Westchester County Board of Legislators, the Westchester County Board of Acquisition and Contract and the Office of the County Attorney.

Section 12. This Agreement shall be construed and enforced in accordance with the Laws of the State of New York. In addition, the parties hereby agree that for any cause of action arising out of this Agreement shall be brought in the County of Westchester.

[REMAINDER OF PAGE LEFT INTENTIONALLY BLANK]

IN WITNESS WHEREOF, the County and the Agency have caused this Agreement to be executed.

THE COUNTY OF WESTCHESTER

By: _____
Michael Orth, M.S.W., Commissioner
Department of Community Mental Health

VILLAGE OF PLEASANTVILLE

By: _____
Name: _____
Title: _____

Authorized by the Board of Legislators of the County of Westchester on the 21st day of October, 2019, by Act No. 2019-223.

Approved as to form and
manner of execution:

Assistant County Attorney
The County of Westchester

ACKNOWLEDGMENT

STATE OF NEW YORK)
) ss.:
COUNTY OF WESTCHESTER)

On the _____ day of _____ in the year 2020 before me, the undersigned, personally appeared _____, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

Date: _____

Notary Public

RPL § 309-a; NY CPLR § 4538

CERTIFICATE OF AUTHORITY
(CORPORATION)

I, _____,
(Officer other than officer signing contract)

certify that I am the _____ of
(Title)
the _____
(Name of Corporation)

a corporation duly organized and in good standing under the
_____ (Law under which organized, e.g., the New York
Business Corporation Law) named in the foregoing agreement; that

(Person executing agreement)

who signed said agreement on behalf of the

(Name of Corporation)

was, at the time of execution

(Title of such person)

of the Corporation and that said agreement was duly signed for and on behalf of said Corporation by authority of its Board of Directors, thereunto duly authorized and that such authority is in full force and effect at the date hereof.

(Signature)

STATE OF NEW YORK)
) ss.:
COUNTY OF WESTCHESTER)

On the _____ day of _____ in the year 2020 before me, the undersigned, a Notary Public in and for said State, _____ personally appeared, personally known to me or proved to me on the basis of satisfactory evidence to be the officer described in and who executed the above certificate, who being by me duly sworn did depose and say that he/she resides at _____, and he/she is an officer of said corporation; that he/she is duly authorized to execute said certificate on behalf of said corporation, and that he/she signed his/her name thereto pursuant to such authority.

Notary Public
Date

SCHEDULE “A”
Scope of Services

The Agency will receive the following services from the Department of Community Mental Health (DCMH) Employee Assistance Program:

1. Program consultation and design including technical assistance for development of policies and procedures.
2. Staff development services:
 - a. Program facilitator (s) training for appropriate jurisdictions;
 - b. Labor/Management orientation and training;
 - c. Supervisory training
 - d. Employee Orientations
3. Program Administration
 - a) Data collection;
 - b) Statistical analysis;
 - c) Reporting services for labor and management, as required.
4. Program Maintenance:
 - a) On-going training and education;
 - b) Collection and dissemination of appropriate program data and material;
 - c) On-going training and support for program facilitators;
 - d) Appropriate corrective action for local programs, as required.

SCHEDULE “A” (continued)
Scope of Services

5. Client Evaluation and Referral:

Upon contact from a supervisor or a self-referred employee, the local Employee Assistance Program coordinator will contact the County Employee Assistance Program;

- a) County Employee Assistance Program staff will make an appointment for the employee and assign a counselor for the contact;
- b) The Counselor will interview the employee and complete appropriate assessment and referral services;
- c) County Employee Assistance Program staff will monitor the employee’s progress in treatment;
- d) The counselor will provide appropriate follow-up to the local Employee Assistance Program coordinator or other designated supervisory staff.

SCHEDULE “B”
BUDGET
(Village of Pleasantville)

The Agency shall pay to the County a fee of \$45 per employee per year for all five years.

For the purpose of this Agreement, the Agency represents that as of the date hereof, the Agency has 68 employees and the total amount for 2020 is \$3,060.00. The fee for 2020 shall be due and payable upon execution of this Agreement by both parties. The total amount billed by Westchester County Department of Community Mental Health for years 2021 through 2024 shall be based on the head count supplied by the Agency in December of the preceding year and shall be paid within fifteen (15) days of submission of an invoice by the Department.

SCHEDULE "C"
STANDARD INSURANCE PROVISIONS

1. Prior to commencing work, and through the term of the Agreement, the Agency shall obtain at its own cost and expense the required insurance as delineated below from insurance companies licensed in the State of New York, carrying a Best's financial rating of A or better. Agency shall provide evidence of such insurance to the County of Westchester ("County"), either by providing a copy of policies and/or certificates as may be required and approved by the Director of Risk Management of the County ("Director"). The policies or certificates thereof shall provide that ten (10) days prior to cancellation or material change in the policy, notices of same shall be given to the Director by overnight mail or personal delivery for all of the following stated insurance policies. All notices shall name the Agency and identify the Agreement.

If at any time any of the policies required herein shall be or become unsatisfactory to the County, as to form or substance, or if a company issuing any such policy shall be or become unsatisfactory to the Director, the Agency shall upon notice to that effect from the County, promptly obtain a new policy, and submit the policy or the certificate as requested by the Director to the Office of Risk Management of the County of Westchester for approval by the Director. Upon failure of the Agency to furnish, deliver and maintain such insurance, the Agreement, at the election of the County, may be declared suspended, discontinued or terminated.

Failure of the Agency to take out, maintain, or the taking out or maintenance of any required insurance, shall not relieve the Agency from any liability under the Agreement, nor shall the insurance requirements be construed to conflict with or otherwise limit the contractual obligations of the Agency concerning indemnification.

All property losses shall be made payable to the "County of Westchester" and adjusted with the appropriate County personnel.

In the event that claims, for which the County may be liable, in excess of the insured amounts provided herein are filed by reason of the Agency's negligent acts or omissions under the Agreement or by virtue of the provisions of the labor law or other statute or any other reason, the amount of excess of such claims or any portion thereof, may be withheld from payment due or to become due the Agency until such time as the Agency shall furnish such additional security covering such claims in form satisfactory to the Director.

In the event of any loss, if the Agency maintains broader coverage and/or higher limits than the minimums identified herein, the County shall be entitled to the broader coverage and/or higher limits maintained by the Agency. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the County.

2. The Agency shall provide proof of the following coverage (if additional coverage is required for a specific agreement, those requirements will be described in the Agreement):

- (a) Workers' Compensation and Employer's Liability. Certificate form C-105.2 or State Fund Insurance Company form U-26.3 is required for proof of compliance with the New York State Workers' Compensation Law. State Workers' Compensation Board form

DB-120.1 is required for proof of compliance with the New York State Disability Benefits Law. Location of operation shall be “All locations in Westchester County, New York.”

Where an applicant claims to not be required to carry either a Workers' Compensation Policy or Disability Benefits Policy, or both, the employer must complete NYS form CE-200, available to download at: <http://www.wcb.ny.gov/>

If the employer is self-insured for Worker's Compensation, he/she should present a certificate from the New York State Worker's Compensation Board evidencing that fact (Either SI-12, Certificate of Workers' Compensation Self-Insurance, or GSI-105.2, Certificate of Participation in Workers' Compensation Group Self-Insurance).

- (b) Commercial General Liability Insurance with a combined single limit of \$1,000,000 (c.s.1) per occurrence and a \$2,000,000 aggregate limit naming the “County of Westchester” as an additional insured on a primary and non-contributory basis. This insurance shall include the following coverages:

- (i) Premises - Operations.
- (ii) Broad Form Contractual.
- (iii) Independent Contractor and Sub-Contractor
- (iv) Products and Completed Operations.

- (c) Commercial Umbrella/Excess Insurance: \$2,000,000 each Occurrence and Aggregate naming the “County of Westchester” as additional insured, written on a “follow the form” basis.

NOTE: Additional insured status shall be provided by standard or other endorsement that extends coverage to the County for both on-going and completed operations.

All Contracts involving the use of explosives, demolition and/or underground work shall provide proof that XCU is covered.

- (d) Automobile Liability Insurance with a minimum limit of liability per occurrence of \$1,000,000 for bodily injury and a minimum limit of \$100,000 per occurrence for property damage or a combined single limit of \$1,000,000 unless otherwise indicated in the contract specifications. This insurance shall include for bodily injury and property damage the following coverages and name the “County of Westchester” as additional insured:

- (i) Owned automobiles.
- (ii) Hired automobiles.
- (iii) Non-owned automobiles.

3. All policies of the Agency shall be endorsed to contain the following clauses:

- (a) Insurers shall have no right to recovery or subrogation against the County (including its employees and other agents and agencies), it being the intention of the parties that the insurance policies so effected shall protect both parties and be primary coverage for any and all losses covered by the above-described insurance.

(b) The clause “other insurance provisions” in a policy in which the County is named as an insured, shall not apply to the County.

(c) The insurance companies issuing the policy or policies shall have no recourse against the County (including its agents and agencies as aforesaid) for payment of any premiums or for assessments under any form of policy.

(d) Any and all deductibles in the above described insurance policies shall be assumed by and be for the account of, and at the sole risk of, the Agency.