



AGREEMENT PURSUANT TO
TOWN LAW §§ 64, 122
– BETWEEN –
THE TOWN OF GREENBURGH
– AND –

WESTCHESTER COMMUNITY OPPORTUNITY PROGRAM, INC.
TO PROVIDE CERTAIN SOCIAL SERVICES

THIS AGREEMENT is made this _____ day of _____, 2018, by and between the **Town of Greenburgh**, hereinafter referred to as the Town, a municipal corporation organized and existing under the laws of the State of New York, located at 177 Hillside Avenue, Greenburgh, NY 10607 and **Westchester Community Opportunity Program, Inc.**, located at 2 Westchester Plaza, Suite 137, Elmsford, New York 10523-3833, hereinafter referred to as the Contractor and/or WestCOP:

WITNESSETH

WHEREAS, the Town recognizes the need and value of certain social services, set forth in Schedule A, attached, and provided to town residents by WestCOP; and

WHEREAS, Contractor has requested the Town's financial assistance to support the cost of operating a Community Action Program, and other social services in the Town; and

WHEREAS, Contractor represents that it is a competent provider of the services listed on Schedule A, attached, and has successfully provided Town residents these same services for many years; and

WHEREAS, on April 25, 2018, the Town Board passed a resolution, a copy of which is attached and incorporated herein as Schedule B, authorizing the Town Supervisor to enter into an agreement with WestCOP to provide up to \$16,837 in funding to support Contractor's continued operation, plus up to \$400 reimbursement for meal-delivery mileage expenses documented to the satisfaction of the Town Comptroller;

NOW, THEREFORE, BE IT AGREED, by and between the Town, its successors and assigns, and the Contractor, its successors and assigns, for the consideration named herein as follows:

1 SCOPE of WORK to be PERFORMED

1.1 Contractor agrees to perform the services outlined in Schedule A, attached.

2 TERM and TERMINATION

2.1 The term of this contract between the Town and Contractor shall commence on January 1, 2018 and terminate on December 31, 2018, or upon delivery of all goods and services if so agreed. The parties acknowledge and agree that time is of the essence and the Town's right to timely performance shall not be waived except by written amendment.

- 2.2 Either party may terminate this Agreement by giving written notice expressing such intent and stating a definite termination date. The party electing to terminate shall give the other party at least thirty days' notice to the address herein. If the Town elects to terminate this agreement, Contractor shall be paid for all services actually rendered to date, upon proof of delivery or completion, by submitting an itemized voucher in a form suitable to the Town Comptroller. If Contractor elects to terminate this agreement, the Town shall have the option of either keeping goods or services actually rendered or delivered provided Contractor's actual costs are reimbursed, or canceling and returning goods or materials provided to date of termination where possible.

3 CONSIDERATION

- 3.1 In exchange for the services referred to in ¶ 1, above, and Schedule A, the Town agrees to pay Contractor a fee not to exceed SIXTEEN THOUSAND EIGHT HUNDRED THIRTY SEVEN DOLLARS (\$16,837) to be used by the Greenburgh/Elmsford Community Action Partnership for expenses actually incurred and paid by the Contractor, upon receipt of vouchers in the form prescribed by the Town, after audit and approval by the Comptroller and on the terms and conditions set forth herein in exchange for Contractor performing the tasks outlined above, and set forth in Schedule A, as follows:
- 3.1.1 Contractor agrees to submit vouchers, in a form suitable to the Town Comptroller, itemizing and detailing the scope of services provided and expenses incurred.
 - 3.1.2 Contractor and the Town expressly acknowledge and agree that the Town shall not be responsible to any vendor or subcontractor that the Contractor retains, or who acts on behalf of the Contractor, for the purpose of fulfilling the terms of this Agreement unless such obligation or commitment is specifically set forth on Schedule A.
 - 3.1.3 Contractor acknowledges and agrees to hold the Town harmless for any amount over, above and beyond that specified by this Agreement.
- 3.2 The Town and the Contractor acknowledge and agree that the Town's obligation to make payments as outlined herein is conditioned upon compliance by the Contractor with all of the terms and conditions contained in this Agreement.
- 3.3 The Town and the Contractor acknowledge and agree that, notwithstanding the provisions of General Municipal Law § 106-b, no interest shall be paid on any claim or voucher.
- 3.4 The Town and the Contractor acknowledge and agree that expenditures will only be made for authorized items of expense actually budgeted as set forth in Schedule A, attached hereto and made a part hereof.
- 3.5 If and when expenditures for any items other than those specifically authorized herein (e.g., equipment, personnel or subcontractor items not previously budgeted) become necessary, the Contractor may request, in writing, approval for such purchases and/or expenditures from the Town. The Contractor agrees to wait until receiving written authorization by Town Board resolution before incurring any such expenditure.
- 3.6 The Contractor agrees to file claims for all payments on a timely basis in accordance with procedures promulgated by the Town. The Contractor agrees to be solely responsible for any expenditure over or beyond that specifically agreed herein, or any improper expenditure, and the Town will not be responsible for any such expenditure. Any funds forwarded or advanced

by the Town and not expended, or committed to be spent, by the Contractor will, at the expiration of this Agreement, be returned to the Town. Any equipment purchased with funds provided under this Agreement shall be Town property.

- 3.7 The Town agrees to reimburse Contractor up to \$400 for meal-delivery mileage expenses documented to the satisfaction of the Town Comptroller.

4 INSURANCE

- 4.1 The Contractor agrees not to commence work under this contract until all insurance required under this paragraph has been secured and such insurance has been approved by the Town.

- 4.2 Workers' Compensation and Disability Insurance. The Contractor agrees to secure and maintain throughout the term of this contract Workers' Compensation and Disability Benefits coverage for all employees assigned to work or perform services hereunder.

- 4.3 General Liability and Property Damage Insurance. The Contractor agrees to secure and maintain throughout the term of this contract general liability and property damage insurance sufficient to protect Contractor from claims for personal injury, including accidental death, as well as from claims for property damage which may arise from operations, services or activities performed by Contractor under this contract. The amounts of such insurance shall be not less than:

4.3.1 General Liability Insurance in an amount not less than \$1,000,000 for injuries, including wrongful death, to any one person and, subject to the same limit for each person, in an amount not less than \$3,000,000 for any occurrence.

4.3.2 Property Damage Insurance in an amount not less than \$1,000,000 for damage due to all occurrences.

- 4.4 The Contractor agrees to name the Town as an additionally named insured party in all policies.

- 4.5 The Contractor agrees to furnish proof of compliance with the above insurance requirements to the office of the Town Attorney prior to commencing work or performing under this agreement.

- 4.6 The Contractor agrees to report any accident or claim to the offices of the Town Attorney and Comptroller as soon as possible and not later than twenty-four hours from the time of such accident or claim. A detailed written report must be submitted to the Town as soon thereafter as possible and not later than three (3) days after the date of such accidents.

5 INDEMNIFICATION and SAVE HARMLESS

- 5.1 The Contractor hereby agrees to indemnify and hold harmless the Town, its officials, officers, agents, employees, and volunteers performing authorized tasks on behalf of the Town, from and against any and all liability, damage, claims, demands, costs, judgments, fees, including all expenses, reasonable attorneys' fees, of any nature and description whatsoever resulting, directly or indirectly, or arising out of the award of this contract, or the procedures leading thereto, for any act or omission of the Town or the Contractor, or their respective agents, employees, representatives, or subcontractors.

- 5.2 In the event of any action commenced against the Town, or its officials, officers, agents, employees or volunteers performing authorized tasks, which is within the scope of this section, the Town will promptly give notice thereof to the Contractor, and the Contractor will have the right to select and furnish counsel for the defense of any such action, provided such counsel is acceptable to the Town, which acceptance shall not be unreasonably withheld, at no cost or expense to the Town. The Town agrees to cooperate with the Contractor as reasonably required for the defense of any such action.
- 5.3 The parties acknowledge and agree that the provisions of this section are intended to survive termination of this agreement.

6 NO ASSIGNMENT

- 6.1 In accordance with the provisions of Section 109 of the General Municipal Law, the Contractor is hereby prohibited from assigning, transferring, conveying, subletting or otherwise disposing of this Agreement, or of any right, title or interest in this Agreement, or any power to execute this Agreement, to any other person or corporation without the prior written consent of the Town. The parties acknowledge and agree that this absolute prohibition against assignment will survive any bankruptcy proceeding and no creditor, receiver or trustee shall have any right to any interest granted by this licensee agreement.

7 REPRESENTATIONS by CONTRACTOR

- 7.1 Contractor represents and warrants as follows:
- 7.1.1 Contractor is a New York corporation or partnership or has filed with the New York State Secretary of State and has been authorized to do business in New York State.
- 7.1.2 Contractor is authorized to do business under the name WestCOP.
- 7.1.3 Contractor is financially solvent, qualified, competent and fully licensed to perform the services referred to in ¶ 1, above, and outlined in Schedule A, attached.
- 7.1.4 Contractor does not owe the Town any taxes, fees or penalties and all accounts with the Town are current and in good standing.
- 7.1.5 Contractor is familiar with all federal, state, and local laws, ordinances and regulations which may in any way affect the work or goods and services to be provided and agrees to abide by all applicable local, state and federal rules, regulation and laws.
- 7.1.6 Contractor guarantees the honest and faithful performance of this contract by any subcontractor or vendor.
- 7.1.7 Contractor acknowledges and agrees that this contract does not include any medical, workers' compensation, leave or retirement benefits or confer any rights or interests in such benefits.
- 7.1.8 Contractor is fully licensed by all governing regulatory agencies.

8 STATEMENT of NONDISCRIMINATION

- 8.1 Contractor agrees to comply with all applicable, federal, state, and local laws, rules, regulations, ordinances and any amendments thereto, and program standards applicable to the project and to the Contractor's performance hereunder, including but not limited to: (1) Older Americans Act of 1965, 42 U.S.C. §§ 3001 *et seq.*, as amended; (2) the Civil Rights Act of 1964, 42 U.S.C. §§ 1971 *et seq.*, and the Civil Rights Act of 1991, 42 U.S.C. § 1981; (3) the Americans with Disabilities Act of 1990, 42 U.S.C. §§ 1211 *et seq.*; (4) the rules and regulations of the New York State Office for the Aging, 9 NYCRR 6650 *et seq.*; (5) New York State Executive Law, Article 15; (6) the Governor's 1960 Code of Fair Practice, 9 NYCRR 1.4; (7) Administration on Aging Rules and Regulations for Title III, 42 U.S.C. § 3011 *et seq.* and 41 CFR Parts 29 - 70; (8) 45 CFR Part 74 (Grant Administration); (9) the Rehabilitation Act of 1973, 42 U.S.C. §§ 6000 *et seq.*; (10) Single Audit Act of 1984, 31 U.S.C. §§ 7501 *et seq.*; (11) Equal Pay Act of 1963, 29 U.S.C. § 206; (12) Age Discrimination Act of 1975, 42 U.S.C. § 6101 *et seq.*; (13) 45 CFR Part 84.11(a) (nondiscrimination based on disability); (14) Equal Employment Opportunity Act of 1972 (amending title VII of the Civil Rights Act of 1964), 42 U.S.C. §§ 2000e *et seq.*; (15) Exec. Order No. 11375, 32 Fed. Reg. 14303 (1967), amending Exec. Order No. 11246, 30 Fed. Reg. 12319 (1965); (16) N.Y.S. Exec. Order No. 6, 9 NYCRR § 4.6 (1983); (17) N.Y.S. Exec. Order No. 19, 9 NYCRR § 4.19 (1983); (18) N.Y.S. Exec. Order No. 21, 9 NYCRR § 4.21; and (19) Drug-free Workplace Act of 1988, 41 U.S.C. §§ 701 *et seq.*
- 8.2 The Contractor agrees to prominently post on the site where services hereunder are to be provided, a statement regarding nondiscrimination the same or similar to the following:
- In accordance with Section 504 of the Rehabilitation Act of 1975, title VI of the 1964 Civil Rights Act and New York State Executive Orders, no persons will be denied service or access to service based upon race, gender, national origin, marital status, sexual orientation or physical condition.
- 8.3 This Agreement may be canceled or terminated by the Town, and all monies due or to become due hereunder may be forfeited, for a second or any subsequent violation of this section of the Agreement.
- 8.4 No service rendered pursuant to or in connection with this Agreement may be refused to any person because of such person's race, color, creed, marital status, country of origin, disability, gender, sexual orientation or religion. The Contractor agrees to (1) ensure equal access to participation, services, activities, and informational sessions without regard to race, color, religion, gender, national origin or partisan affiliation; (2) ensure that any service provided under this Agreement shall be secular in nature and in no event will there be any sectarian, partisan, or religious services, counseling, proselytizing, instruction or other sectarian, partisan, or religious influence undertaken in connection with the provision of any services rendered or delivered and, refrain from using funds to advance any sectarian effort; and (3) refrain from using funds to advance any partisan candidate or effort. The Contractor will, however, ensure that all candidates for elective office have equal access to information and activities regardless of policy views or party affiliation, prevent any influence or coercion designed to interfere with or affect elections or nominations for political office, and ensure that no employees or persons served under this Agreement are, directly or indirectly, coerced, advised or solicited to contribute anything of value to any political party, committee, organization, agency or person for any political purpose, or engage in any other partisan activities.

9 NOTICES

- 9.1 Any and all notices, communications, payments and demands required under this Agreement shall be in writing, addressed as follows, or to such other address as may hereafter be designated, in writing, by either party hereto:
- 9.2 To the Town: Town of Greenburgh 177 Hillside Avenue, Greenburgh, NY 10607
ATTN: Roberta Romano, Interim Comptroller
- 9.3 To Contractor: WestCOP 2 Westchester Plaza, Suite 137, Elmsford, NY 10523-3833
ATTN: John S. Savage, CEO
- 9.4 All notices, communications, payments and demands given or made under this Agreement will be deemed effective and complete upon receipt. Where notice is given by personal service, notice shall be deemed effective and complete upon receipt of delivery. Where notice is given by U.S. Mail, notice will be deemed effective and complete upon either actual receipt or five clays after mailing, whichever occurs first.

10 WAIVER

- 10.1 No waiver of any breach or of any condition of this Agreement shall be binding unless executed in writing and signed by the party waiving such breach. No waiver will affect any other term or condition of this Agreement or constitute a cause or excuse for a repetition of the same, or excuse or justify any other breach unless the waiver so states.

11 MODIFICATION

- 11.1 This Agreement constitutes the complete understanding of the parties. No prior, contemporaneous or subsequent understandings or agreements, oral or written, are valid and no modification of any provisions of the Agreement will be valid unless in writing and signed by both parties. Both parties hereby acknowledge and agree that any conflict or ambiguity between the offer to provide services and this Agreement is to be resolved by reference to the language and terms of this Agreement and, if necessary, arbitration as herein provided.

12 FORCE MAJEURE

- 12.1 The parties acknowledge and agree that the Town will not be responsible for unforeseeable delays attributable to acts of God, acts of third parties, weather, intervention of public authorities, work stoppages or strikes, changes in governing laws or regulations made after the date of commencement of this Agreement, or any other actions or events that are beyond the control of the Town. Costs and schedule commitments shall be subject to renegotiation for unreasonable delays caused by Contractor's failure to provide assistance, facilities or information reasonably expected under the circumstances.

13 ETHICAL DISCLOSURE

- 13.1 The Contractor acknowledges the necessity for the highest ethical standards in all public contracts and agrees to abide by the provisions of New York General Municipal Law Article 18 and Chapter 570 of the Code of the Town Greenburgh, the Code of Ethics.

14 AUDIT and INSPECTION

- 14.1 The Contractor agrees to permit the Town, or any of its authorized representatives, to visit and inspect the program, projects or services operated pursuant to this Agreement and permit an audit and/or inspection of all books, records, and accounts of the Contractor relating to the services or goods provided.

15 SEVERABILITY

- 15.1 If any provision of this agreement, or the application of any provision to any person or circumstance, is held or declared to be invalid, unenforceable or illegal, the remainder of this agreement, and the remainder of such provision other than to the extent it is held invalid, unenforceable or illegal, will survive and not be invalidated by such holding or declaration.

16 DISPUTES

- 16.1 It is mutually agreed by and between the parties hereto, that in any dispute between the Town and the Contractor including, but not limited to, the manner or sufficiency of the work or the performance of the work, the disputed matter shall be settled in either the Town of Greenburgh Justice Court or the Supreme Court of the State of New York, Westchester County.
- 16.2 It is acknowledged and agreed that the work will not be interrupted or delayed pending such decision.

IN WITNESS WHEREOF, the Town of Greenburgh, by Paul J. Feiner, its Supervisor, and the Contractor, by John S. Savage, have each agreed to the terms and conditions set forth herein.

TOWN OF GREENBURGH

BY: PAUL J. FEINER, Supervisor

WESTCHESTER COMMUNITY
OPPORTUNITY PROGRAM, INC. (WestCOP)

BY: JOHN S. SAVAGE, CEO

ACKNOWLEDGMENT

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

On the _____ day of _____, in the year 2018, before me, the undersigned, a Notary Public in and for said State, personally appeared JOHN S. SAVAGE, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual or the person upon behalf of which the individual acted, executed the instrument.

Notary Public, Westchester County

CONSULTANT/CONTRACTOR CERTIFICATE OF AUTHORITY

I, Rodney Olden, certify that I am the Board President of WestCOP, a Not-for-Profit Corporation registered to do business in the State of New York, and named in the foregoing agreement; that John S. Savage, who signed the foregoing agreement on behalf of WestCOP, was, at the time of such execution, the CEO of that company, I further certify that the foregoing agreement was duly signed for and on behalf of such company by consent and with the approval of its Board of Directors, and that such consent and approval is in full force and effect at the date hereof.

Rodney Olden, Board President

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

On the _____ day of _____, in the year 2018, before me, the undersigned, a Notary Public in and for said State, personally appeared Rodney Olden, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual or the person upon behalf of which the individual acted, executed the instrument.

Notary Public, Westchester County