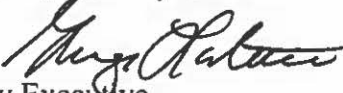


November 9, 2020

TO: Hon. Benjamin Boykin, Chair
Hon. Alfreda Williams, Vice Chair
Hon. MaryJane Shimsky, Majority Leader
Hon. Margaret Cunzio, Minority Leader

FROM: George Latimer 
Westchester County Executive

RE: **Message Requesting Immediate Consideration: IMA – Prisoner
Transportation Reimbursement, City of Yonkers.**

This will confirm my request that the Board of Legislators allow submission of the referenced communication to be submitted to the Board of Legislators November 9, 2020 Agenda.

Transmitted herewith for your review and approval is an Act authorizing the County to enter into an IMA with the City of Yonkers to provide reimbursement for prisoner transportation and meals.

Therefore, since this communication is of the utmost importance, it is respectfully submitted that the County Board of Legislators accepts this submission for November 9, 2020 “blue sheet” calendar.

Thank you for your prompt attention to this matter.



George Latimer
County Executive

November 4, 2020

Westchester County Board of Legislators
800 Michaelian Office Building
White Plains, New York 10601

Dear Honorable Members of the Board:

Pursuant to New York State Correction Law sections 500-c and 500-d, the County of Westchester ("County") is required to transport at its own expense prisoners between local municipalities and the Westchester County Jail located at Valhalla, New York. In addition, the County is required to provide meals to such prisoners. The County relies on assistance from local municipalities to carry out these functions and by so doing saves taxpayer funds.

Transmitted herewith for your review and approval is legislation which would authorize the County to enter into an intermunicipal agreement ("IMA") with the City of Yonkers ("Yonkers") in order to reimburse an amount not to exceed \$552,117 to Yonkers for the term commencing January 1, 2020 and terminating December 31, 2021. This IMA will allow the County to reimburse Yonkers for the costs it incurs in transporting prisoners who have been arraigned to and from Yonkers and the Westchester County Jail located at Valhalla, New York.

Reimbursement to Yonkers will be at the monthly flat rate of: \$34,791.50 for the months of January and February 2020 and at the sixty (60%) percent reduced rate of \$20,874.90 for the months March through July 2020, for a total for the period January 1, 2020 through July 31, 2020 of \$173,957.50. These flat rates will include all expenses related to the transportation of prisoners, including, but not limited to, labor costs, mileage and prisoner meals. For the period August 1, 2020 through December 31, 2021, reimbursement to Yonkers will be for round trip transportation and will be based on the per hour labor costs of Detention Officers which will be reimbursed at the rate of \$50 per hour per Detention Officer with a maximum of two hours per round trip. Yonkers will also be reimbursed for vehicle usage at the rate of fifty-eight

Office of the County Executive

Michaelian Office Building
148 Martine Avenue
White Plains, New York 10601

Email: CE@westchestergov.com
Telephone: (914)995-2900

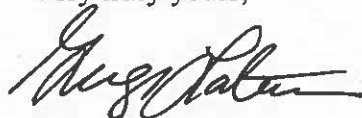
westchestergov.com

cents (\$.58) per mile, or at the then current Internal Revenue Service mileage reimbursement rate multiplied by the mileage to and from the Westchester County Jail which is agreed to be 16 miles each way. The County will also reimburse Yonkers for the actual and reasonable cost of meals provided to post-arraignment prisoners.

The Department of Planning has advised that pursuant to 6 NYCRR 617.2(b) of the New York State Environmental Quality Review Act ("SEQRA") Regulations, the proposed prisoner transportation does not meet the definition of an "action" and therefore, no further environmental review is required.

I believe that this agreement with the City of Yonkers is in the best interests of the County of Westchester, and I therefore, recommend that your Honorable Board approve the annexed legislation.

Very truly yours,



George Latimer
County Executive

GL/DI
Att.

**TO THE COUNTY BOARD OF LEGISLATORS
COUNTY OF WESTCHESTER**

Upon a communication from the County Executive, your Committee has been advised that pursuant to sections 500-c and 500-d of the New York State Correction Law, the County of Westchester ("County") is required at its own expense to transport prisoners between local municipalities and the Westchester County Jail located at Valhalla, New York. In addition, the County must provide meals to such prisoners.

The County Executive has forwarded legislation, which would authorize the County to enter into an intermunicipal agreement ("IMA") with the City of Yonkers ("Yonkers") in order to reimburse an amount not to exceed \$552,117 to Yonkers for the term commencing January 1, 2020 and terminating December 31, 2021. This IMA will allow the County to reimburse Yonkers for the costs it incurs in transporting prisoners who have been arraigned to and from Yonkers and the Westchester County Jail located at Valhalla, New York.

Reimbursement to Yonkers will be at the monthly flat rate of: \$34,791.50 for the months of January and February 2020 and at the sixty (60%) percent reduced rate of \$20,874.90 for the months March through July 2020, for a total for the period January 1, 2020 through July 31, 2020 of \$173,957.50. These flat rates will include all expenses related to the transportation of prisoners, including, but not limited to, labor costs, mileage and prisoner meals.

For the period August 1, 2020 through December 31, 2021 reimbursement to Yonkers will be for round trip transportation and will be based on the per hour labor costs of Detention Officers which will be reimbursed at the rate of \$50 per hour per Detention Officer with a maximum of two hours per round trip. Yonkers will also be reimbursed for vehicle usage at the rate of fifty-eight cents (\$.58) per mile, or at the then

current Internal Revenue Service mileage reimbursement rate multiplied by the mileage to and from the Westchester County Jail which is agreed to be 16 miles each way. The County will also reimburse Yonkers for the actual and reasonable cost of meals provided to post-arraignment prisoners.

Your Committee is advised by the Department of Planning that pursuant to 6 NYCRR 617.2(b) of the New York State Environmental Quality Review Act (“SEQRA”) Regulations, the proposed prisoner transportation does not meet the definition of an “action” and therefore, no further environmental review is required. Therefore, your Honorable Board need take no further action on this matter pursuant to SEQRA. Your Committee concurs in this conclusion.

Your Committee has been advised that adoption of the annexed Act requires an affirmative vote of a majority of the voting strength of the Board.

After review and careful consideration, your Committee recommends favorable action upon the proposed legislation.

Dated: _____, 2020
White Plains, New York

COMMITTEE ON

C:DI 10/27/20

TO: Daniela Infield
Assistant County Attorney

FROM: David S. Kvinge, AICP, RLA, CFM
Director of Environmental Planning



DATE: March 13, 2020

SUBJECT: **STATE ENVIRONMENTAL QUALITY REVIEW FOR PRISONER
TRANSPORTATION INTERMUNICIPAL AGREEMENTS**

PROJECT/ACTION: Intermunicipal agreements between the County and local municipalities, whereby the County will reimburse the local municipality for costs incurred associated with the transport of prisoners to and from the local courthouse and the Westchester County Jail.

With respect to the State Environmental Quality Review Act and its implementing regulations 6 NYCRR Part 617, the Planning Department recommends that no further environmental review is required because the project/action:

- DOES NOT MEET THE DEFINITION OF AN "ACTION" AS DEFINED UNDER SECTION 617.2(b)**
- MAY BE CLASSIFIED AS TYPE II PURSUANT TO SECTION 617.5(c)():**

COMMENTS: None.

DSK/cnm

cc: Andrew Ferris, Chief of Staff
Paula Friedman, Assistant to the County Executive
Tami Altschiller, Assistant Chief Deputy County Attorney
Norma Drummond, Commissioner
Claudia Maxwell, Associate Environmental Planner

FISCAL IMPACT STATEMENT

SUBJECT: Pris. Trans. Yonkers 2020-2021

NO FISCAL IMPACT PROJECTED

OPERATING BUDGET IMPACT

To Be Completed by Submitting Department and Reviewed by Budget

SECTION A - FUND

GENERAL FUND

AIRPORT FUND

SPECIAL DISTRICTS FUND

SECTION B - EXPENSES AND REVENUES

Total Current Year Expense \$ 276,058

Total Current Year Revenue \$ -

Source of Funds (check one): Current Appropriations Transfer of Existing Appropriations

Additional Appropriations

Other (explain)

Identify Accounts: 35-1000-1000-4445

Potential Related Operating Budget Expenses: Annual Amount _____

Describe: 2020- \$276,058 (to reimburse City of Yonkers for transporting Prisoners)

Potential Related Operating Budget Revenues: Annual Amount _____

Describe: N/A

Anticipated Savings to County and/or Impact on Department Operations:

Current Year: N/A

Next Four Years: 2021-\$276,059

Prepared by: William Fallon *WF*

Title: Director of Administrative Services

Department: Correction

Date: October 29, 2020

ASB
Reviewed By: *[Signature]*
Budget Director

Date: 11/6/20

ACT NO. - 2020

AN ACT authorizing the County to enter into an Intermunicipal Agreement with the City of Yonkers in order to provide reimbursement for prisoner transportation to the Westchester County Jail.

BE IT ENACTED, by the County Board of Legislators of the County of Westchester, State of New York as follows:

Section 1. The County of Westchester (the "County") be and hereby is authorized to enter into an Intermunicipal Agreement ("IMA") with the City of Yonkers ("Yonkers") for the term commencing January 1, 2020 and terminating December 31, 2021 in an amount not to exceed \$552,117, in order to reimburse the municipality for the cost to transport prisoners round trip between Yonkers and the Westchester County Jail located at Valhalla, New York.

§2. For the period January 1, 2020 through February 28, 2020, the County will reimburse Yonkers at the monthly flat rate of \$34,791.50 and for the period March 1, 2020 through July 31, 2020 at the monthly flat rate of \$20,874.90 for a total of \$173,957.50. These flat rates shall include all expenses related to the transportation of prisoners including, but not limited to, labor costs, mileage and prisoner meals.

§3. For the period August 1, 2020 through December 31, 2021, the County will reimburse Yonkers for the actual and reasonable costs for round trip prisoner transportation as follows:

Personnel: Reimbursement for personnel costs shall be calculated by multiplying the hourly wage and fringe benefit costs to Yonkers for detention officers in the amount of \$50 per hour with a maximum of two hours per round trip.

Mileage: Reimbursement for vehicle usage between the City Court of Yonkers and the Westchester County Jail, which is agreed to be sixteen (16) miles each way, shall be at the rate of fifty-eight cents (\$.58) per mile, or at the then current Internal Revenue Service mileage reimbursement rate for the term of the IMA.

Meals: Reimbursement for the actual and reasonable costs of meals provided to post-arraignment prisoners.

§4. The County Executive or his authorized designee be and hereby is authorized and empowered to execute instruments and take any and all action necessary and appropriate to accomplish the purposes hereof.

§5. This Act shall take effect immediately.

PRISONER TRANSPORTATION—YONKERS

THIS AGREEMENT, made this _____ day of _____, 2020

by and between:

THE COUNTY OF WESTCHESTER, a municipal corporation of the State of New York having an office and place of business in the Michaelian Office Building, 148 Martine Avenue, Yonkers, New York 10601

(hereinafter referred to as the “County”)

and

THE CITY OF YONKERS, a municipal corporation of the State of New York, having its office and place of business at City Hall, Yonkers, New York 10701

(hereinafter referred to as the “Municipality”)

WHEREAS, pursuant to Sections 500-c and 500-d of the Corrections law, prisoners are required to be transported from local municipalities to the Westchester County Jail in Valhalla, New York; and

WHEREAS, the County and the Municipality agree to cooperate in providing such prisoner transportation.

NOW, THEREFORE, in consideration of the terms and conditions herein contained, the County and the Municipality agree as follows:

1. PRISONER TRANSPORTATION: Except for prisoners arrested by Westchester County Department of Public Safety, the Municipality shall provide round trip prisoner transportation using its own police department personnel and vehicles between the Municipality and the Westchester County Department of Correction for all prisoners remanded to the Westchester County Jail by court order or required to appear before the local court within the Municipality. The Municipality shall provide required meals to prisoners transported pursuant to this Agreement. The Municipality, where possible, shall hold prisoners for one daily trip to the Department of Correction.

2. REIMBURSEMENT: The Municipality shall be reimbursed by the County for prisoner transportation services for the term January 1, 2020 through July 31, 2020 at the following rates:

- \$34,791.50 per month flat rate for the months of January and February 2020;
and

- \$20,874.90 per month, sixty (60%) percent reduced flat rate for the months March through July 2020,

for a total of \$173,957.50 for the period January 1, 2020 through July 31, 2020. These flat rates will include all expenses related to the transportation of prisoners, including, but not limited to, labor costs, mileage and prisoner meals.

For the term August 1, 2020 through December 31, 2021 reimbursement to Yonkers will be for round trip transportation and will be based on the per hour labor costs of Detention Officers which will be reimbursed at the rate of \$50 per hour per Detention Officer with a maximum of two hours per round trip. Yonkers will also be reimbursed for vehicle usage at the rate of fifty-eight cents (\$.58) per mile, or at the then current Internal Revenue Service mileage reimbursement rate multiplied by the mileage to and from the Westchester County Jail which is agreed to be 16 miles each way. The County will also reimburse Yonkers for the actual and reasonable cost of meals provided to post-arraignment prisoners.

3. **TERM**: This Agreement shall commence on January 1, 2020 and shall terminate on December 31, 2021. The County may, upon thirty (30) days written notice to the Municipality, terminate this Agreement in whole or in part when it deems it to be in its best interest. In such event, the Municipality shall be compensated and the County shall be liable only for payment for services rendered prior to the effective date of termination.

4. **PAYMENT**: Requests for reimbursement shall be submitted by the Municipality on a monthly basis on properly executed County claim forms and paid after approval by the Commissioner of Correction. Reimbursement request shall be subject to audit by the County, and the Municipality shall keep and make available to the County such detailed books and records as are reasonably necessary to substantiate the basis for reimbursement. The Municipality shall not be entitled to reimbursement for any prisoner transportation expense not specifically provided for herein.

The total aggregate cost to the County under this Agreement pursuant to Act No. 2020 – approved by the Westchester County Board of Legislators on _____, 2020, shall not exceed \$552,117. This Agreement shall be deemed executory only to the extent of the monies appropriated and available for the purpose of this Agreement and no liability on account hereof shall be incurred by the County beyond the amount of such monies.

5. **INSURANCE AND INDEMNIFICATION**: All personnel and vehicles engaged in prisoner transportation duties shall at all times remain and be deemed the employees and property of the Municipality. In addition to, and not in limitation of the insurance provisions contained in Schedule "A" of this Agreement, the Municipality agrees to indemnify, defend and hold the County, its officers, employees and agents harmless from and against any and all liability, loss, damage or expense the County may suffer as a result of any and all claims, demands, causes of action or judgments arising directly or indirectly out of the transportation of prisoners for which reimbursement is sought hereunder and for losses arising out of the negligent acts or omissions of the Municipality, its agents or employees.

6. ENTIRE AGREEMENT: This Agreement constitutes the entire and integrated agreement between and among the parties hereto and supersedes any and all prior negotiations, agreements and conditions, whether written or oral. Any modification or amendment to this Agreement shall be void unless it is in writing and subscribed by the party to be charged.

7. APPLICABLE LAW: This Agreement shall be construed and enforced in accordance with the laws of the State of New York.

8. APPROVALS: This Agreement is subject to the approval of the Westchester County Board of Legislators and the governing legislative body of the Municipality.

IN WITNESS WHEREOF, the County and the Municipality have executed this Agreement on the _____ day of _____, 2020.

THE COUNTY OF WESTCHESTER

THE CITY OF YONKERS

By: _____
Joseph Spano
Commissioner of Correction

By: _____
(Name)
(Title)

Approved by the Westchester County Board of Legislators by Act No. 2020 -
on the _____ day of _____, 2020.

Approved by the City Council of the City of Yonkers on the _____ day of _____, 2020.

Approved as to form and
manner of execution:

Approved as to form and
manner of execution:

Assistant County Attorney
The County of Westchester
K/1/DCR/119107/YONKERS Pris. IMA-2020

Corporation Counsel
City of Yonkers

MUNICIPALITY'S ACKNOWLEDGEMENT

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

On this _____ day of _____, 2020, before me personally came
_____, to me known, and known to me to be the
_____ of _____,
the municipal corporation described in and which executed the within instrument, who being by me
duly sworn did depose and say that he, the said _____ resides at

and that he is _____ of said municipal corporation.

Notary Public County

CERTIFICATE OF AUTHORITY
(Municipality)

I, _____,
(Officer other than officer signing contract)
certify that I am the _____ of the _____
(Title)

(Name of Municipality)

(the "Municipality") a corporation duly organized in good standing under the _____
(Law under which organized, e.g., the New York Village
Law, Town Law, General Municipal Law)

named in the foregoing agreement that _____
(Person executing agreement)

who signed said agreement on behalf of the Municipality was, at the time of execution
_____ of the Municipality,
(Title of such person),

that said agreement was duly signed for on behalf of said Municipality by authority of its

(Town Board, Village Board, City Council)

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 this _____ day of _____, 2020, before me personally came _____
_____ whose signature appears above, to me known, and know to be the
_____ of _____,
(title)

the municipal corporation described in and which executed the above certificate, who being by
me duly sworn did depose and say that he, the said _____
resides at _____, and that he is
the _____ of said municipal corporation.
(title)

Notary Public County

SCHEDULE "A"

STANDARD INSURANCE PROVISIONS
(MUNICIPALITY)

1. Prior to commencing work, and throughout the term of the Agreement, the Municipality 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. Municipality 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 either by overnight mail or personal delivery for all of the following stated insurance policies. All notices shall name the Municipality and identify the Agreement.

If at any time any of the policies required herein shall be or become unsatisfactory to the Director, as to form or substance, or if a company issuing any such policy shall be or become unsatisfactory to the Director, the Municipality 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 for approval by the Director. Upon failure of the Municipality 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 Municipality to take out, maintain, or the taking out or maintenance of any required insurance, shall not relieve the Municipality from any liability under the Agreement, nor shall the insurance requirements be construed to conflict with or otherwise limit the contractual obligations of the Municipality 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 Municipality'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 Municipality until such time as the Municipality shall furnish such additional security covering such claims in form satisfactory to the Director.

In the event of any loss, if the Municipality 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 Municipality. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the County.

2 The Municipality 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 Workers' 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 of Westchester for both on-going and completed operations.

- 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 Municipality 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 Municipality.