



Kenneth W. Jenkins  
County Executive

May 13, 2025

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

Dear Honorable Members of the Board of Legislators:

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 ("Westchester County Jail"). 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 intermunicipal agreements ("IMAs") with twenty-one (21) municipalities in order to reimburse each municipality for costs incurred to transport prisoners who have been arraigned in local courts, between each municipality and the Westchester County Jail. The term of the IMAs will commence retroactively on January 1, 2025 and terminate December 31, 2026. The total annual reimbursement to all of the municipalities will not exceed \$745,000, for a total aggregate amount not to exceed \$1,490,000 for the two-year term. Each municipality shall be reimbursed by the County for prisoner transportation services at the agreed upon rates, plus mileage per round trip, as indicated in the Zone Rate Plan attached to the Act as Appendix "A". The proposed IMAs will allow the County to reimburse the municipalities for the costs they incur in transporting prisoners, who have been arraigned in local courts, between each municipality and the Westchester County Jail.

Reimbursement to the municipalities will be pursuant to four zone rates which are fixed fees plus the mileage to and from the Westchester County Jail multiplied by the then current Internal Revenue Service mileage rate. The zone rates represent an increase of 3.00% each year. The County will also reimburse the municipalities for the actual and reasonable cost of meals provided to post-arraignment prisoners.

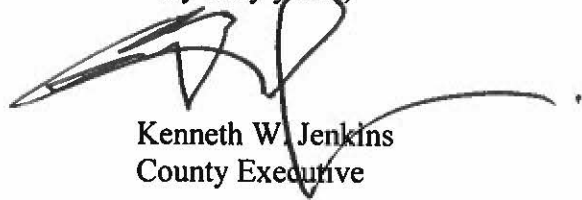
Office of the County Executive

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

Telephone: (914)995-2900 E-mail: [ceo@westchestergov.com](mailto:ceo@westchestergov.com)

I believe that these agreements are in the best interests of the County and I therefore, recommend that your Honorable Board approve the annexed legislation.

Very truly yours,

A handwritten signature in black ink, appearing to read 'KWJ', with a long horizontal flourish extending to the right.

Kenneth W. Jenkins  
County Executive

KWJ/mb  
Attachments

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

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 (“Westchester County Jail”). 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.

Your Committee is in receipt of a communication from the County Executive recommending approval of an Act, which, if adopted, would authorize the County to enter into intermunicipal agreements (“IMAs”) with twenty-one (21) municipalities in order to reimburse each municipality for costs incurred to transport prisoners who have been arraigned in local courts, between each municipality and the Westchester County Jail. The term of the IMAs will commence retroactively on January 1, 2025 and terminate December 31, 2026. The total annual reimbursement to all of the municipalities will not exceed \$745,000, for a total aggregate amount not to exceed \$1,490,000 for the two-year term. Each municipality shall be reimbursed by the County for prisoner transportation services at the agreed upon rates, plus mileage per round trip, as indicated in the Zone Rate Plan attached to the Act as Appendix “A”. The proposed IMAs will allow the County to reimburse the municipalities for the

costs they incur in transporting prisoners, who have been arraigned in local courts, between each municipality and the Westchester County Jail.

Reimbursement to the municipalities will be pursuant to four zone rates which are fixed fees plus the mileage to and from the Westchester County Jail multiplied by the then current Internal Revenue Service mileage rate. The zone rates represent an increase of 3.00% each year. The County will also reimburse the municipalities for the actual and reasonable cost of meals provided to post-arraignment prisoners.

The Department of Planning has advised that the proposed IMAs do not meet the definition of an “action” under the State Environmental Quality Review Act (“SEQRA”), and its implementing regulations, 6 NYCRR, Part 617. Please refer to the Memorandum from the Department of Planning dated January 14, 2025, which is on file with the Clerk of the Board of Legislators. Therefore, no environmental review is required. Your Committee concurs with this recommendation.

Your Committee has been advised that a majority of the voting strength of the Board of Legislators is required in order to adopt the annexed Act. After review

and careful consideration, your Committee recommends favorable action upon the proposed annex Act.

Dated: \_\_\_\_\_, 2025  
White Plains, New York

**COMMITTEE ON:**

C/mb 4/23/25

# FISCAL IMPACT STATEMENT

SUBJECT: Pris. Transport Zones 2025-2026

☐ NO FISCAL IMPACT PROJECTED

## OPERATING BUDGET IMPACT

(To be completed by operating department and reviewed by Budget Department)

A) ☒ GENERAL FUND ☐ AIRPORT ☐ SPECIAL REVENUE FUND (Districts)

### B) EXPENSES AND REVENUES

Total Current Year Cost \$ 745,000

Total Current Year Revenue \$ \_\_\_\_\_

Source of Funds (check one): ☒ Current Appropriations

☐ Transfer of Existing Appropriations ☐ Additional Appropriations ☐ Other (explain)

Identify Accounts: \_\_\_\_\_

Potential Related Operating Budget Expenses: Annual Amount \$ 745,000

Describe: 2025- \$ 745,000 (to reimburse the municipalities for transporting prisoners based on zone rates.

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Potential Related Revenues: Annual Amount \$ \_\_\_\_\_

Describe: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

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

Current Year: 2025 - \$745,000

\_\_\_\_\_

\_\_\_\_\_

Next Four years: 2026 - \$745,000

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Prepared by: William Fallon

Title: Director Of Administrative Services

Department: Correction

Reviewed By: \_\_\_\_\_

Budget Director

5/7/25

If you need more space, please attach additional sheets.

**ACT NO.            – 2025**

**AN ACT** authorizing the County of Westchester to enter into Intermunicipal Agreements with twenty-one (21) municipalities in order to provide reimbursement for prisoner transportation to the Westchester County Jail.

**BE IT ENACTED**, by the County Board of the County of Westchester, as follows:

**Section 1.** The County of Westchester (the “County”) is hereby authorized to enter into Intermunicipal Agreements (“IMAs”) with the twenty-one (21) municipalities indicated in Appendix “A”, which is attached hereto and made a part hereof, in order to reimburse each of the municipalities for the cost to transport prisoners round trip between each municipality and the Westchester County Jail located at Valhalla, New York.

**§2.** The term of each IMA shall commence retroactively on January 1, 2025 and continue through December 31, 2026.

**§3.** The County will reimburse each municipality for the costs for round trip prisoner transportation at the rates indicated in Appendix “A”. Reimbursement will also be made for the actual and reasonable costs of meals provided to post-arraignment prisoners. The total annual reimbursement to all of the municipalities pursuant to the IMAs will not exceed \$745,000, for a total aggregate amount not to exceed \$1,490,000 for the two-year term.

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

**§5.** This Act shall take effect immediately.

## APPENDIX "A"

### ZONE PLAN REIMBURSEMENT RATES WITH DISTANCE TRAVELED TO AND FROM

#### WESTCHESTER COUNTY DEPARTMENT OF CORRECTION

(Effective Term: January 1, 2025 through December 31, 2026)

### 2025 / 2026 ZONES RATES

ZONE #1	ROUND TRIP REIMBURSEMENT
1/1/25 - 12/31/25	\$238.56
1/1/26 - 12/31/26	\$245.72
Elmsford, Village	
Pleasantville, Village	
Sleepy Hollow, Village	
Tarrytown, Village	

ZONE #3	ROUND TRIP REIMBURSEMENT
1/1/25 - 12/31/25	\$262.50
1/1/26 - 12/31/26	\$270.48
Port Chester, Village	
Mamaroneck, Village	
Pelham Town	
Rye Brook, Village	
Tuckahoe, Village	
Eastchester, Town	

ZONE #2	ROUND TRIP REIMBURSEMENT
1/1/25 - 12/31/25	\$251.11
1/1/26 - 12/31/26	\$259.28
Ardsley, Village	
Briarcliff Manor, Village	
Dobbs Ferry, Village	
Hastings-on-Hudson, Village	
Irvington, Village	
New Castle, Town	
North Castle	
Ossining, Village	
Scarsdale, Village	

ZONE #4	ROUND TRIP REIMBURSEMENT
1/1/25 - 12/31/25	\$267.03
1/1/26 - 12/31/26	\$275.04
Pelham Manor (Village)	

The above Zone Rates will be reimbursed plus mileage to be reimbursed at \$.70 (or the then current IRS mileage rate) times distance.



**PRISONER TRANSPORTATION--ZONE RATE**

**THIS AGREEMENT**, made this \_\_\_\_\_ day of \_\_\_\_\_, 2025

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, White Plains, New York 10601

(hereinafter referred to as the "County")

and

**[MUNICIPALITY NAME]** \_\_\_\_\_  
a municipality of the State of New York having its office and place of  
business at \_\_\_\_\_  
\_\_\_\_\_

(hereinafter referred to as the "Municipality")

(each of the County and the Municipality may be referred to individually as a "Party" and together as the "Parties")

**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 the Westchester County Department of Public Safety Services (the "Department"), 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 (“Department”) for all prisoners remanded to the Westchester County Jail by court order or required to appear before the local court within the Municipality. The County will reimburse the Municipality for the actual number of round trips. All municipalities, where possible, shall hold prisoners for one daily trip to the Westchester County Jail.

2. **PAYMENT**: The Municipality shall be reimbursed by the County for prisoner transportation services at the agreed upon rates, plus mileage per round trip, indicated in the Zone Rate Plan attached hereto as Appendix “A” and made a part hereof. The rate will be paid as follows:

For transportation to County Jail subsequent to arrest - 1 round trip plus mileage;

For Transportation from County Jail to local court; no return - 1 round trip plus mileage;

For Transportation from County Jail to local court; remand to County Jail, where the time expended does not exceed three (3) hours - 2 round trips plus mileage. Time expended does not include time prisoner spends in local court;

Only in the following circumstances will an hourly rate and mileage fee be paid, as an alternative to the zone rate set forth above:

- a. Transportation of female prisoners (1 officer and 1 matron). A minimum of four (4) hours will be reimbursed for a matron; or
- b. Transportation of seven (7) or more prisoners (requiring an additional officer); or
- c. Transportation of prisoners charged with Class A felonies OR classified by Department of Correction as an “A” or “AA” prisoner considered to present danger may warrant (requiring an additional officer); or
- d. Transportation from County Jail to local court and remand to County Jail where time expended exceeds three (3) hours, only if time expended is result of delays at the County Jail. Time expended does not include time prisoner spends in local court.

In the event that any one of conditions “a” through “d” above are met, then the actual per hour personnel costs incurred by the Municipality will be paid at the hourly wage as determined in the applicable collective bargaining agreement between the Municipality and the Municipal Police Association for police officers and/or matrons plus a mileage.

Reimbursement for mileage shall be at the rate of Seventy cents (\$.70) per mile, or at the then current Internal Revenue Service mileage rate, multiplied by the mileage indicated in Appendix “A”.

The total aggregate cost to the County annually under this Agreement and the agreements with the other municipalities for zone rate prisoner transportation pursuant to the Act No. of the Westchester County Board of Legislators approved on , 2025, will be in an amount not to exceed \$745,000. The total aggregate cost to the County under this Agreement and the agreements with the other municipalities for the two-year term will be in an amount not to exceed \$1,490,000.

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 Department. The number of round trips made, prisoners transported and dates should be listed on the claim forms submitted to the Department. 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.

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.

3. **MEALS**: The County shall reimburse the Municipality for meals provided to post-arraignment prisoners for the actual and reasonable costs incurred and receipts submitted as part of the Municipality's monthly voucher submitted to the Department.

4. **TERM**: This Agreement shall commence retroactively on January 1, 2025 and shall terminate on December 31, 2026. 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.

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 "B" 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 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, commitments and writings. It shall not be released, discharged, changed or modified except by an instrument in writing signed by a duly authorized representative of each of the parties. Any modification or amendment to this Agreement shall be void unless it is in writing and subscribed by the party to be charged.

In the event of any conflict between the terms of this Agreement and the terms of any schedule or attachment hereto, it is understood that the terms of this Agreement shall be controlling with respect to any interpretation of the meaning and intent of the Parties.

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 bodies of the Municipality.

[REMAINDER OF PAGE LEFT INTENTIONALLY BLANK]

**IN WITNESS WHEREOF**, the County and the Municipality have executed this Agreement on the \_\_\_\_\_ day of \_\_\_\_\_, 2025.

**THE COUNTY OF WESTCHESTER**

By: \_\_\_\_\_  
Joseph K. Spano  
Commissioner of Correction

By: \_\_\_\_\_  
(Name)  
(Title)

Approved by the Westchester County Board of Legislators by Act No. 2025 - \_\_\_\_\_ on the  
day of \_\_\_\_\_, 2025.

Approved:

Approved as to form and  
manner of execution:

\_\_\_\_\_  
Assistant County Attorney  
The County of Westchester  
K/MB/DCR/137712/Zone Rate Agmt. 2025-26

**MUNICIPALITY'S ACKNOWLEDGEMENT**

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

On this \_\_\_\_\_ day of \_\_\_\_\_, 2025, 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 \_\_\_\_\_, 2025, 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



## APPENDIX "A"

### ZONE PLAN REIMBURSEMENT RATES WITH DISTANCE TRAVELED TO AND FROM

#### WESTCHESTER COUNTY DEPARTMENT OF CORRECTION

(Effective Term: January 1, 2025 through December 31, 2026)

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New Castle, Town	
North Castle	
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Scarsdale, Village	

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1/1/26 - 12/31/26	\$275.04
Pelham Manor (Village)	

The above Zone Rates will be reimbursed plus mileage to be reimbursed at \$.70 (or the then current IRS mileage rate) times distance.

## **SCHEDULE "B"**

### **STANDARD INSURANCE PROVISIONS** **(Municipality - LEO)**

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 \$5,000,000 (c.s.1) per occurrence 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: This policy can be utilized to supplement the General Liability policy so as to yield a minimum total combined single limit of \$5,000,000 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 \$5,000,000 for bodily injury and property damage unless otherwise indicated in the contract specifications. This insurance shall include for bodily injury and property damage (and can be provided within a Law Enforcement Liability or offered as a stand-alone policy) the following coverages and name the "County of Westchester" as additional insured:
  - (i) Owned automobiles.
  - (ii) Hired automobiles.
  - (iii) Non-owned automobiles.

- e) Law Enforcement Liability/Police Liability insurance - The Municipality shall provide proof of such insurance naming the County as additionally insured. (Limits of \$5,000,000 per occurrence). This policy shall include but not be limited to: coverage for moon lighting, assault and battery, excessive force, failure to render medical attention, failed CPR, false arrest, deliberate indifference, misuse of fire arms, Abuse and Molestation, sexual, racial and other forms of harassment and discrimination, auto liability, mistakes resulting in harm.
- f) Professional Liability. The Municipality shall provide proof of such insurance. (Limits of \$5,000,000 per occurrence). This policy can be provided as a stand-alone policy or can be provided within a Law Enforcement Liability policy.
- g) Abuse and Molestation Liability, either by separate policy of insurance or through endorsement to the General Liability Policy or Professional Liability Policy, or can be provided within a Law Enforcement Liability policy. (Limits of \$5,000,000.00 per occurrence). This insurance shall include coverage for the following, including coverage for client on client, counselor client, and third parties:
  - (i) Misconduct
  - (ii) Abuse (including both physical and sexual)
  - (iii) Molestation

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.