

THIS SETTLEMENT AGREEMENT made this 1st day of October, 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, White Plains, New York 10601 (hereinafter referred to as the “County”)

and

DISABILITY RIGHTS ADVOCATES, A NATIONAL AND INTERNATIONAL CENTER FOR THE ADVANCEMENT OF PEOPLE WITH DISABILITIES, A/K/A DISABILITY RIGHTS ADVOCATES, A CALIFORNIA NON-PROFIT BENEFIT CORPORATION of the State of California having a place of business at 655 Third Avenue, 14th Floor, New York, NY 10017 (hereinafter referred to as “Counsel”)

and

WESTCHESTER DISABLED ON THE MOVE, INC. having a place of business at 984 North Broadway, Suite LL-10, Yonkers, NY 10701 (hereinafter referred to as “WDOM”).

WHEREAS, by letter dated July 10, 2015, Counsel notified the County that based on Counsel’s review of the County’s emergency plans and associated annexes, Counsel had concluded that the County was not in compliance with the Americans with Disabilities Act; and

WHEREAS, the County disputes the assertions in Counsel’s letter of July 10, 2015; and

WHEREAS, in the spirit of moving forward cooperatively the Parties entered into the Structured Negotiations Agreement (“the SNA”) dated December 7, 2016; and

WHEREAS, under the SNA, the County agreed to undertake certain actions; and

WHEREAS, under the SNA, the Parties agreed that following the completion of those certain actions by the County, the Parties would enter into a settlement agreement; and

WHEREAS, the County has completed the actions required under the SNA that were predicates to entering into a settlement agreement.

NOW THEREFORE, in consideration of the mutual covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

SECTION I. PARTIES

The Parties to this Settlement Agreement (“Settlement”) are (i) the County, (ii) Counsel, who represent WDOM, and (iii) WDOM.

SECTION II. PURPOSE

The purposes of this Settlement are:

- A. To strengthen the County’s emergency preparedness programs and services and ensure compliance with the Americans with Disabilities Act, 42 U.S.C. § 12131 *et seq.*, and Section 504 of the Rehabilitation Act, 29 U.S.C. § 794;
- B. To fully resolve the allegations regarding the County’s alleged failure to sufficiently address the needs of persons with disabilities in its emergency preparedness programs and services made by Complainants without the need for litigation; and
- C. Neither the execution of this Settlement, nor anything contained herein, shall be construed as an admission of any liability whatsoever by the County, or an acknowledgment of the validity of any claim by Complainants.

SECTION III. ACTIONS TO BE TAKEN PURSUANT TO THIS SETTLEMENT

The Parties agree that, in resolving this matter, the following actions will be undertaken pursuant to this Settlement:

- A. The Parties acknowledge that all of the items identified in Section IV(A) –Section IV(D) of the SNA have been satisfactorily developed.
- B. In accordance with Section IV(E) of the SNA, the County agrees to (i) implement the substantive revisions detailed in Section IV(A) of the SNA; and (ii) implement the long-term remedial work plan detailed in Section IV(B) of the SNA (the “Work Plan”).
- C. The County will complete all actions contained in the Work Plan, which is attached hereto and made a part hereof as Schedule “A”, by the dates listed in the Work Plan. Said actions will be incorporated into the County’s Comprehensive Emergency Management Plan (“CEMP”) as appropriate.

SECTION IV. MONITORING AND REPORTING

- A. The County shall provide quarterly reports to Counsel in accordance with the Notice Provisions contained in Section IX of this Settlement. Quarterly reports shall be sent no later than thirty (30) days after the end of each quarter, When the County has completed all the

actions identified in Section III(C) of this Settlement, it shall indicate that the quarterly report it is providing is the final report ("Final Report") and certify that it has completed its obligations under this Settlement, by including a certification, signed by the Commissioner of the Department of Emergency Services that "the County hereby certifies that it has completed all actions required to be taken under the Settlement" ("Certification").

B. Monitoring by Counsel of the County's actions under Section III(C) of this Settlement shall commence upon the execution of this Settlement and shall terminate no later than sixty (60) days following the County's submission of the Final Report and the Certification ("the Monitoring Period"). Counsel, no later than twenty-one (21) days after submission of the Final Report and Certification, and in accordance with the dispute resolution procedures contained in Section V, may contest the County's Certification. If no contest is filed within such twenty-one (21) day period, then the Certification shall be deemed approved.

SECTION V. DISPUTES

During the Monitoring Period, if Counsel or WDOM disputes the County's actions in compliance with Section III(C) of this Settlement, the Parties agree to the following dispute resolution procedure:

1. **Timeliness:** disputes must be raised by Counsel or WDOM within 30 days following the submission of a quarterly report by the County.
2. **Notice:** disputes must be served on the County in accordance with the Notice Provisions contained in Section IX of this Settlement. Disputes must be in writing, with a detailed description of the action item in dispute, the basis for the dispute, Counsel's and/or WDOM's position regarding the dispute, and a proposed resolution.
3. The Parties shall meet and confer, either in person or telephonically, within ten (10) business days of the County's receipt of notice of the dispute. The Parties may agree to extend this timeframe. The Parties shall act in good faith to determine if the dispute can be resolved without further action under this procedure.
4. In the event that the Parties are unable to come to a resolution, they agree to have the dispute determined through expedited arbitration by an arbitrator selected through JAMS ("the Arbitrator").
5. Counsel and/or WDOM shall provide the Arbitrator with a written position statement regarding the dispute. The County shall have the right to serve a response within fifteen (15) business days. No further written submissions shall be made, except upon request of the Arbitrator. The Arbitrator shall, in his or her sole discretion, accept testimony or argument in person or by telephonic conference before rendering a decision.
6. The Parties agree that the determination of the Arbitrator shall be binding.
7. The Parties agree that the costs and expenses of the Arbitrator shall be paid half by the County and half by Counsel.

Nothing in this section shall be construed to limit the rights of the Parties to seek redress for any other alleged breach of this Settlement.

SECTION VI. DURATION OF SETTLEMENT

This Settlement will commence upon the Effective Date and will terminate sixty (60) days from the date the County has submitted its Final Report and Certification, unless Counsel and/or WDOM have disputed the County's Certification. If Counsel or WDOM have raised a dispute regarding the County's Certification in accordance with Section V of this Settlement, the Settlement shall remain in effect until the resolution of the dispute as provided in that Section.

SECTION VII. FORCE MAJEURE

No Party shall be deemed in breach hereof if it is prevented from or materially delayed in performing any of the obligations hereunder by reason of acts of God, acts of the public enemy, strikes or labor disputes, floods, riots, rebellion, sabotage, or any other similar circumstances not within its reasonable control.

SECTION VIII. RELEASE

Upon execution of this Settlement, Counsel and WDOM shall execute the general release attached hereto as Schedule "B".

SECTION IX. RULES OF CONSTRUCTION

Each Party has reviewed and participated in the drafting of this Settlement, and any rule of construction to the effect that ambiguities are construed against the drafting Party shall not apply in the interpretation or construction of this Settlement. Section titles used herein are intended for reference purposes only and are not to be construed as part of the Settlement.

This Settlement may be executed simultaneously in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

SECTION X. NOTICES

All notices of any nature referred to in this Settlement shall be in writing and either sent by registered or certified mail postage pre-paid, or delivered by hand or overnight delivery, as set forth below or to such other addresses as the respective parties hereto may designate in writing. Notice shall be effective on the date of receipt. Notices shall be sent to the following:

To the County:

Commissioner
Westchester County Department of Emergency Services
4 Dana Road
Valhalla, NY 10595

with a copy to:

Westchester County Attorney
Michaelian Office Building, Room 600
148 Martine Avenue
White Plains, New York 10601

To Counsel and Counsel on behalf of WDOM:

DISABILITY RIGHTS ADVOCATES
655 Third Avenue, 14th Floor
New York, NY 10017
212 644 8636 (fax)

SECTION XI. EFFECTIVE DATE

The effective date of this Agreement is the date of the last signature below.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed on the day and year first above written.

DISABILITY RIGHTS ADVOCATES

DocuSigned by:
Michelle A. Caiola
8EFC5A502E1644CA
By: **Michelle A. Caiola**

WESTCHESTER DISABLED ON THE MOVE, INC.

DocuSigned by:
Maria Samuels
C60C83D6152F433...
By: **Maria Samuels**

THE COUNTY OF WESTCHESTER

John M. Nonna
By: **John M. Nonna**
County Attorney

Approved by the Westchester County Board of Legislators at a meeting duly held on the 3rd day of August, 2020 by Act No. 2020-139.

Approved by the Board of Acquisition and Contract of the County of Westchester on the 13th day of August, 2020.

Approved as to form and manner of execution

Jamw Attotech
Assistant Chief Deputy County Attorney
County of Westchester

10/1/20
Date

ACKNOWLEDGMENT
COUNSEL

STATE OF New York)
) ss.:
COUNTY OF New York)

On the 27 day of August in the year 2020 before me, the undersigned, personally appeared Michelle Caiola, 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/she executed the same in his/her capacity(ies) as Director@DPA, and that by his/her signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

Date: 8/27/20

Torie Atkinson
Notary Public



Made pursuant to Exec Order 202.7

ACKNOWLEDGMENT
Westchester Disabled on The Move, Inc.

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

On the 2 day of September in the year 2020 before me, the undersigned, personally appeared Maria Samuels, 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/she executed the same in his/her capacity(ies) as ED of WDM and that by his/her signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

Date: 9/2/20

Torie Atkinson
Notary Public



Made pursuant to N.Y. Exec. Order 202.7

CERTIFICATE OF AUTHORITY
(CORPORATION)

I, bFrederick Quick
(Officer other than officer signing contract)

certify that I am the Board Member / ADA Chair of
(Title)

the Westchester Disabled on the Move
(Name of Corporation)

a corporation duly organized and in good standing under the Not-for-Profit Corp. Law
(Law under which organized, e.g., the New York Business Corporation Law)

named in the foregoing agreement; that Maria Samuels
(Person executing agreement)

who signed said agreement on behalf of the Westchester Disabled on the Move
(Name of Corporation)

was, at the time of execution Executive Director
(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.

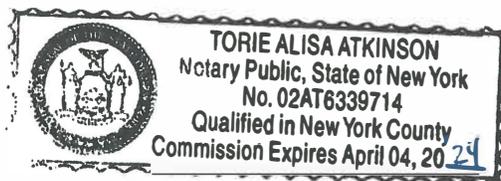
DocuSigned by:
Fred Quick
1B12880EE5B344C

STATE OF New York)
COUNTY OF New York } ss.:

On the 2 day of September in the year 2020 before me, the undersigned, a Notary Public in and for said State, Fred Quick 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~~ signed in Brox County, 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.

Torie Atkinson
Notary Public

9/2/2020
Date



Made pursuant
to N.Y. Exec
Order 202-7

SCHEDULE "A"

Attached starting on next page

SCHEDULE "B"
GENERAL RELEASE

TO ALL TO WHOM THESE PRESENTS SHALL COME OR MAY CONCERN, KNOW THAT:

DISABILITY RIGHTS ADVOCATES, A NATIONAL AND INTERNATIONAL CENTER FOR THE ADVANCEMENT OF PEOPLE WITH DISABILITIES, A/K/A DISABILITY RIGHTS ADVOCATES, A CALIFORNIA NON-PROFIT BENEFIT CORPORATION as RELEASOR

releases and discharges, with prejudice and to the maximum extent permitted by law, the County of Westchester, its officials, agents, employees and counsel (collectively the "RELEASEES"), RELEASEES' heirs, executors, administrators, successors, and assigns from all actions, causes of action, suits, debts, dues, sums of money, accounts, reckonings, bonds, bills, specialties, covenants, contracts, controversies, agreements, promises, variances, trespasses, damages, judgments, extents, executions, claims, and demands whatsoever, in law, admiralty or equity, which against the RELEASEES, the RELEASOR, RELEASOR'S heirs, executors, administrators, successors, and assigns ever had, now have or hereafter can, shall or may, have for, upon, or by reason of any matter, cause or thing whatsoever from the beginning of the world to the date of this RELEASE.

This waiver and release are intended to include, but not be limited to, all possible legal theories which RELEASOR would have against RELEASEES which pertain to, arise out of, or are related to, the County of Westchester's Emergency Management Plan, and shall include any claims relating to the County of Westchester's Emergency Management Plan that might accrue to RELEASOR during the course of the Settlement Agreement being signed concurrently herewith.

The words "RELEASOR" and "RELEASEE" include all releasors and all releasees under this RELEASE. This RELEASE may not be changed orally.

IN WITNESS WHEREOF, the RELEASOR has hereunder set RELEASOR'S hand and seal on this 27 day of August, 2020

DocuSigned by:
Michelle A. Caidla
6EF5A50261644CA...
Westchester county

IN THE PRESENCE OF:
STATE OF NEW YORK, COUNTY OF NEW YORK ~~WESTCHESTER~~, ss.:

On this 27 day of August, 2020, before me personally came to me the individual described herein and who executed the foregoing RELEASE and duly acknowledged to me that he executed the same.

Torie Atkinson
NOTARY PUBLIC:

Made pursuant to
Exec. Order 202.7



SCHEDULE "B"
GENERAL RELEASE

TO ALL TO WHOM THESE PRESENTS SHALL COME OR MAY CONCERN, KNOW THAT

WESTCHESTER DISABLED ON THE MOVE, INC., as RELEASOR

releases and discharges, with prejudice and to the maximum extent permitted by law, the County of Westchester, its officials, agents, employees and counsel (collectively the "RELEASEES"), RELEASEES' heirs, executors, administrators, successors, and assigns from all actions, causes of action, suits, debts, dues, sums of money, accounts, reckonings, bonds, bills, specialties, covenants, contracts, controversies, agreements, promises, variances, trespasses, damages, judgments, extents, executions, claims, and demands whatsoever, in law, admiralty or equity, which against the RELEASEES, the RELEASOR, RELEASOR'S heirs, executors, administrators, successors, and assigns ever had, now have or hereafter can, shall or may, have for, upon, or by reason of any matter, cause or thing whatsoever from the beginning of the world to the date of this RELEASE.

This waiver and release are intended to include, but not be limited to, all possible legal theories which RELEASOR would have against RELEASEES which pertain to, arise out of, or are related to, the County of Westchester's Emergency Management Plan, and shall include any claims relating to the County of Westchester's Emergency Management Plan that might accrue to RELEASOR during the course of the Settlement Agreement being signed concurrently herewith.

The words "RELEASOR" and "RELEASEE" include all releasors and all releasees under this RELEASE. This RELEASE may not be changed orally.

IN WITNESS WHEREOF, the **RELEASOR** has hereunder set **RELEASOR'S** hand and seal on this 2 day of September, 2020

DocuSigned by:
Maria Samuels
C60C83DB152F433
Westchester county

IN THE PRESENCE OF:
STATE OF NEW YORK, COUNTY OF NEW YORK ~~WESTCHESTER~~, ss.:

On this 2 day of September, 2020, before me personally came to me the individual described herein and who executed the foregoing RELEASE and duly acknowledged to me that he executed the same.

Torie Atkinson
NOTARY PUBLIC:

Made pursuant to
N.Y. Etec. Order
202.7

