

LOCAL LAW INTRO. NO. 20-2007

A LOCAL LAW authorizing the County of Westchester to enter into a Fifth Amendment to the Transition Agreement with the Westchester County Health Care Corporation to extend the term of the agreement for a period of one year and establish the amount of County credit support in 2008 at \$70,000,000, plus any unpaid interest.

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

Section 1. The County of Westchester (“County”) is hereby authorized to enter into a Fifth Amendment to the Transition Agreement with the Westchester County Health Care Corporation, in a form substantially similar to the one annexed hereto, whereby the County shall extend the term of the Transition Agreement for a period of one year through December 31, 2008. The Fifth Amendment to the Transition Agreement shall also establish the amount of County credit support in 2008 at \$70,000,000, plus any unpaid interest. All other terms and conditions of the Transition Agreement as amended shall remain in full force and effect.

§2. The County Executive or his duly authorized designee is authorized to execute any and all documents necessary to carry out the purpose of this Local Law.

§3. This Local Law shall take effect immediately.

Fifth Amendment to the Transition Agreement

This **FIFTH AMENDMENT TO THE TRANSITION AGREEMENT** (hereinafter referred to as the “Fifth Amendment”) is made this ____ day of _____, 2007 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

WESTCHESTER COUNTY HEALTH CARE CORPORATION, a public benefit corporation existing under the laws of the State of New York, having an office and principal place of business at Grasslands Reservation, Valhalla, New York 10595

(hereinafter referred to as the “Corporation”).

WHEREAS, the County and the Corporation are parties to that certain Transition Agreement, dated December 30, 1998, which amends and restates the 1997 Operating Agreement, and which was amended by a First Amendment to the Transition Agreement dated December 21, 1999; a Second Amendment dated December 1, 2003; a Third Amendment dated December 16, 2004, and a Fourth Amendment dated December 21, 2006 (collectively the “Transition Agreement”);

WHEREAS, the Transition Agreement is expiring on December 31, 2007 and the parties desire to extend the term of the agreement for a maximum of one year in order to provide the County and the Corporation additional time to finalize the terms of a new agreement to be called the Cooperation Agreement; and

WHEREAS, additionally under the terms of Article Nine of the Transition Agreement, the County for 2007 provided \$80,000,000 in credit support for the Corporation’s credit line with

Landesbank Hessen-Thuringen Girozentrale, New York Branch, (“Bank”) in the form of an appropriation in the County’s Operating Budget specifically linked to the Corporation’s credit line which credit support will expire at the end of this year unless the Transition Agreement is extended; and

WHEREAS, during 2007 the Corporation has paid down \$10,000,000 on its credit line with the Bank; and

WHEREAS, pursuant to Local Law Intro. No. __-2007, the County is authorized to enter into this Fifth Amendment; and

WHEREAS, the parties desire to enter into this Fifth Amendment to the Transition Agreement to accomplish these purposes.

NOW THEREFORE, for the mutual promises herein contained and other good and valuable consideration the receipt and sufficiency of which is hereby acknowledged, the County and the Corporation agree as follows:

Section 1. Recitals. The County and the Corporation acknowledge and agree that the recitals set forth above are true and correct and are incorporated into this Fifth Amendment by this reference.

Section 2. Purpose of this Fifth Amendment. The intent of this Fifth Amendment is to extend the term of the Transition Agreement through December 31, 2008, or until such time that the Cooperation Agreement is executed by the parties, which when so executed will supersede this Fifth Amendment, and establish the amount of the County’s Credit Support in 2008 at \$70,000,000, plus any unpaid interest.

Section 3. Remaining Terms. All terms of the Transition Agreement not modified by this Fifth Amendment will remain in full force and effect.

Section 4. Miscellaneous.

a. Interpretation. Capitalized terms not otherwise defined in this Fifth Amendment will have the same meaning attributed thereto in the Transition Agreement.

b. Governing Law. This Fifth Amendment will be governed by and construed in accordance with the laws of the State of New York.

c. Counterparts. This Fifth Amendment may be executed in one or more counterparts, each of which shall be considered an original and all of which shall constitute one and the same agreement. This Fifth Amendment shall not be enforceable until signed by both parties and approved by the Office of the County Attorney and the Corporation's Office of General Counsel.

IN WITNESS WHEREOF, the parties have executed this Fifth Amendment on the day and year first above written.

THE COUNTY OF WESTCHESTER

By: _____
Andrew J. Spano
County Executive

WESTCHESTER COUNTY HEALTH CARE CORPORATION

By: _____
Michael Israel
President and Chief Executive Officer

Approved by the County of Westchester Board of Legislators at a meeting duly held on the ____ day of December, 2007.

Approved by the County of Westchester Board of Acquisition and Contract at a meeting duly held on the ____ day of December, 2007.

Approved by the Westchester County Health Care Corporation at a meeting duly held on the ____ day of _____, 2007.

Approved as to form and
manner of execution:

Sr. Assistant County Attorney
County of Westchester

K/A/PBC/Transition Agr 5th Amend/Fifth Amendment Agr.doc

UNIFORM ACKNOWLEDGMENT

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

On the _____ day of December in the year 2007 before me, the undersigned, personally appeared Andrew J. Spano, 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.

Date: _____

Notary Public

UNIFORM ACKNOWLEDGMENT

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

On the _____ day of _____ in the year 2007 before me, the undersigned, personally appeared _____, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

Date: _____

Notary Public

RPL § 309-a; NY CPLR § 4538