

ACT 136 - 2021

BOARD OF LEGISLATORS
COUNTY OF WESTCHESTER

Your Committee is in receipt of a proposed Act which, if approved by your Honorable Board, would authorize the commencement of legal action, including a lawsuit against Essential Manufacturing Corporation (“Essential”) and Jason Brand (“Brand”), individually, to recover \$206,995.00 paid by the County to Essential for 3M brand N95 respirator masks (“3M Masks”).

Pursuant to a September 2, 2020 Purchase Order and December 11, 2020 Revised Purchase Order (the “Purchase Orders”), the County by its Department of Emergency Services (the “WCDES”) purchased from Essential 1,533 boxes of 3M Masks based upon the representations of Essential by way of Brand that Essential would deliver authentic 3M Masks to the County upon its purchase.

Notwithstanding Essential and Brand’s representations to the contrary, communication with the “3M Covid Fraud Hotline” confirms that the 3M Masks purchased from and delivered by Essential are counterfeit. By letter dated April 1, 2021, the WCDES, by way of the County Attorney’s Office, demanded the full return of the \$206,995.00 paid by the County to Essential no later than April 12, 2021. As of the date hereof, Essential fails and/or refuses to comply.

The County Attorney seeks authorization to commence a lawsuit against Essential and Brand to recover the \$206,995.00 paid by the County to Essential, plus interest, costs, and disbursements.

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Your Committee concurs with the Westchester County Attorney, and therefore recommends that your Board approve the annexed Act to commence legal action, including a lawsuit against Essential and Brand, individually, to recover moneys paid by the County to Essential, plus interest, costs, and disbursements.

Dated: White Plains, New York

July 19, 2021

J. H. C.
R. W. W.

Q. P. M.
C. P. P.

V. S. S.
M. P. P.

C. P. P.

D. P. P.

B. P. P.

J. H. C.
R. W. W.

C. P. P.

V. S. S.
M. P. P.

M. P. P.
L. P. P.

B. P. P.

COMMITTEE ON

Budget & Appropriations

Law & Major Contracts

FISCAL IMPACT STATEMENT

SUBJECT: Initiate legal action-Essential/Brand 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 \$ _____ -

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 _____

Describe: _____

Potential Related Operating Budget Revenues: Annual Amount \$206,995

Describe: _____

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

Current Year: _____

Next Four Years: _____

Prepared by: Mark Medwid

Title: Associate Budget Director

Department: Budget

Date: June 23, 2021

Reviewed By: 
Budget Director

Date: 6/23/21

AN ACT authorizing the County Attorney commence legal action, including a lawsuit, against Essential Manufacturing Corporation and Jason Brand, individually, to recover moneys paid by the County of Westchester to Essential Manufacturing Corporation for 3M brand N95 respirator masks.

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

Section 1. The County Attorney is hereby authorized on behalf of the County of Westchester to commence legal action, including a lawsuit, against Essential Manufacturing Corporation (“Essential”) and Jason Brand (“Brand”), individually, and any other necessary parties, to recover moneys paid by the County of Westchester to Essential for 3M brand N95 respirator masks (“3M Masks”), plus interest, costs, and disbursements, pursuant to a September 2, 2020 Purchase Order and December 11, 2020 Revised Purchase Order (collectively, the “Purchase Orders”). Pursuant to the Purchase Orders, the County of Westchester paid to Essential \$206,955.00 based upon the representations of Brand—a representative of Essential—that Essential would deliver to the County of Westchester 1,533 boxes of 3M Masks, considered the gold standard in personal protection equipment respirator masks. Notwithstanding Brand’s representations, and the County’s explicit request and purchase of 3M Masks, Essential delivered to the County 1,533 boxes of personal protection equipment respirator masks.

Section 2. The County Attorney or her duly designated representative is hereby authorized and empowered to undertake such legal proceedings and prepare all documents necessary or desirable to accomplish the purpose of this Act.

Section 3. This Act shall take effect immediately.

STATE OF NEW YORK)
)
WESTCHESTER COUNTY) ss.

I HEREBY CERTIFY that I have compared the foregoing Act, Act No. 136 - 2021, with the original on file in my office, and that the same is a correct transcript therefrom, and of the whole, of the said original Act, which was duly adopted by the County Board of Legislators, of the County of Westchester on August 2, 2021, and approved by the County Executive on August 3, 2021.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Corporate Seal of said County Board of Legislators on this 5th day of August, 2021.



Malika Vanderberg

The Clerk of the Westchester County
Board of Legislators

County of Westchester, New York

