

BOARD OF LEGISLATORS
COUNTY OF WESTCHESTER

Your Committee is in receipt of “AN ACT authorizing the County Attorney to Settle the Lawsuit of *Yonkers Contracting v. County of Westchester, et al.*, pending in the Appellate Division of the Supreme Court of the State of New York Docket No. 2023-04276.”

Your Committee is informed that Yonkers Contracting Corporation (“YCC”) was engaged by the County to perform general construction in connection with the development and construction of a Composite Performance Implementation and Plant Expansion at the New Rochelle Waste Water Treatment Plant (Contract No. 08-540) and the construction of a new building known as the Biological Nutrient Removal Facility at the New Rochelle Waste Water Treatment Plant (Contract No. 09-514) (collectively, the “Projects”). During the course of construction, various disputes arose between YCC and the County regarding the Projects. Ultimately, in 2015, YCC commenced litigation against the County and others, seeking in excess of \$37,000,000 from the County.

Your Committee is further informed that during the course of litigation, various settlement discussions were held. On May 26, 2020, a settlement proposal was submitted to your Board, and then referred to committee, proposing to settle the matter for \$7,000,000. At that time, motions for summary judgment were outstanding. Subsequent to the submission of that legislation, and before the item was moved out of committee, summary judgment was granted in favor of the County.

Your Committee is aware that YCC moved to renew and reargue before the Supreme Court, arguing both that the summary judgment decision was wrong, and that there was an intervening

settlement with the County. Following additional motion practice, discovery, and briefing on those issues, the Supreme Court issued a decision on April 13, 2023 which adhered to its prior decision on summary judgment, and found that there was no enforceable settlement. YCC has filed a notice of appeal from that decision.

Your Committee is informed that YCC and the County have negotiated a proposed settlement in the amount of \$250,000.00, which would resolve all outstanding issues from this litigation, and would result in withdrawing the notice of appeal. The County Attorney, and the County's outside counsel Ira Schulman, have recommended that the County accept this settlement as a fair and equitable resolution of this action. Your Committee concurs with this recommendation and recommends that this Honorable Board adopt the proposed Act.

Dated: White Plains, New York
November 27th, 2023

Jessie Zelle Johns
W. M.
David Amun
Cathy Park
RA
Marcy Barr
Sydney Brand

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W. M.
David Amun
Cathy Park
Marcy Barr

COMMITTEE ON

Budget & Appropriations

Law & Major Contracts

Dated: November 27, 2023
White Plains, New York

The following members attended the meeting remotely and approved this item out of Committee with an affirmative vote. Their electronic signature was authorized and is below.

Colin J. [Signature]

Colin J. [Signature]

COMMITTEES ON

Budget & Appropriations

Law & Major Contracts

FISCAL IMPACT STATEMENT

CAPITAL PROJECT #: SLI01

NO FISCAL IMPACT PROJECTED

SECTION A - CAPITAL BUDGET IMPACT

To Be Completed by Budget

GENERAL FUND

AIRPORT FUND

SPECIAL DISTRICTS FUND

Source of County Funds (check one):

Current Appropriations

Capital Budget Amendment

Settlement Yonkers Contracting v. County of Westchester et al., Bond Act 195-14

SECTION B - BONDING AUTHORIZATIONS

To Be Completed by Finance

Total Principal \$ 250,000 PPU 15 Anticipated Interest Rate 3.48%

Anticipated Annual Cost (Principal and Interest): \$ 21,597

Total Debt Service (Annual Cost x Term): \$ 323,955

Finance Department: maab 11-13 rates

SECTION C - IMPACT ON OPERATING BUDGET (exclusive of debt service)

To Be Completed by Submitting Department and Reviewed by Budget

Potential Related Expenses (Annual): \$ -

Potential Related Revenues (Annual): \$ -

Anticipated savings to County and/or impact of department operations

(describe in detail for current and next four years):

SECTION D - EMPLOYMENT

As per federal guidelines, each \$92,000 of appropriation funds one FTE Job

Number of Full Time Equivalent (FTE) Jobs Funded: N/A

SECTION E - EXPECTED DESIGN WORK PROVIDER

County Staff

Consultant

Not Applicable

Prepared by: Dianne Vanadia

Title: Associate Budget Director

Department: Budget

Date: 11/21/23

Reviewed By: 

Budget Director

Date: 11/22/23

DU 11/22/23

ACT NO.

2023

AN ACT authorizing the County Attorney to Settle the Lawsuit of *Yonkers Contracting v. County of Westchester, et al.*, pending in the Appellate Division of the Supreme Court of the State of New York Docket No. 2023-04276

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

Section 1. The County Attorney is hereby authorized to settle the lawsuit of *Yonkers Contracting Corp. v. County of Westchester, et al.*, by payment from the County in an amount of \$250,000.00.

Section 2. The County Attorney or his designee is hereby authorized to execute and deliver all documents and take such actions as the County Attorney deems necessary or desirable to accomplish the purposes hereof.

Section 3. This Act shall take effect immediately.