

ACT 2 - 2023

BOARD OF LEGISLATORS COUNTY OF WESTCHESTER

Your Committee is in receipt of a proposed Act which, if enacted by your Board, would authorize the settlement of the lawsuit of *County of Westchester v. Unity Mechanical Corp., The Netherlands Insurance Company, and Excelsior Insurance Company*, through the payment of \$2,100,000.00 to the County.

This Honorable Board authorized the County Attorney's Office to commence this action by Act 140-2016, and sought reimbursement from the defendants for defense and indemnification costs in a related action involving an injury to Joseph Gragnaniello, an employee of Unity Mechanical Corp. ("Unity"). The County settled the Gragnaniello action for \$2,875,000.00, which was approved by Act 40-2017.

Your Committee is informed that the County won summary judgment on liability against both Unity and its primary insurance carrier Netherlands. The trial court found that both Unity and Netherlands had a duty to defend and indemnify the County, and rejected counter-arguments from Unity regarding unsubstantiated negligence by the County. Your Committee is further informed that the only issues remaining for trial were the reasonableness of the County's settlement, and the amount of attorneys' fees the County was entitled to recover.

Your Committee notes that subsequent thereto, the County settled with Netherlands for the full amount the County could legally obtain against Netherlands—the policy limit, statutory interest, and defense costs—and therefore the approval by this Board was not required.

Your Committee is informed that Unity has appealed from the partial grant of summary judgment in favor of the County, which is still pending and the matter has been set for trial.

Your Committee is told that the parties have reached a settlement in the amount of \$2,100,000.00. When combined with the settlement with Netherlands, this more than makes the County whole—it covers the original \$2,875,000 paid, the County's defense costs and attorneys' fees in both the Gragnaniello action and this action, as well as approximately \$200,000 in interest. Alternatively, if the County proceeds to trial, it could risk a finding by the jury that results in a significantly lower recovery by the County.

The County Attorney has 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

January 9th, 2023

Vedat Fashi

Admin. by
Dell-Miller

Celia V. [Signature]
[Signature]
Nancye [Signature]

[Signature]
Doreen [Signature]

Vedat Fashi
Admin. by
Jill N. [Signature]
Celia V. [Signature]
Nancye [Signature]

COMMITTEE ON

Budget & Appropriations

Law & Major Contracts

Dated: January 9, 2023
White Plains, New York

The following members attended the meeting remotely pursuant to Chapter 1 of New York State Laws of 2022, and approved this item out of Committee with an affirmative vote. Their electronic signature was authorized and is below.

COMMITTEES ON

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| <i>Catherine F. Parker</i> | <i>Catherine F. Parker</i> |
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Budget & Appropriations

Law & Major Contracts

ACT NO. 2 - 2023

AN ACT authorizing the County Attorney to settle the lawsuit of *County of Westchester v. Unity Mechanical Corp., et al.*, pending in the Supreme Court of the State of New York, Westchester County Index No. 59897/2016

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 *County of Westchester v. Unity Mechanical Corp., et al.*, by acceptance of a payment to the County in an amount of \$2,100,000.00

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.

FISCAL IMPACT STATEMENT

SUBJECT: Lawsuit Settlement: Unity Mechanical 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 N/A

Total Current Year Revenue \$ 2,100,000

Source of Funds (check one): Current Appropriations Transfer of Existing Appropriations

Additional Appropriations

Other (explain)

Identify Accounts: 6N: 615-59-0693-3710-4280/04

Potential Related Operating Budget Expenses: Annual Amount _____

Describe: _____


Potential Related Operating Budget Revenues: Annual Amount \$2,100,000

Describe: An Act authorizing the County Attorney to settle the lawsuit with Unity
Mechanical Corp.

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

Current Year: _____

Next Four Years: _____

Prepared by:  Debra Ogden

Title: Sr. Budget Analyst

Department: Budget

Date: November 4, 2022

Reviewed By: 
Budget Director

Date: 11/4/22

STATE OF NEW YORK)
) ss.
WESTCHESTER COUNTY)

I HEREBY CERTIFY that I have compared the foregoing Act, Act No. 2 - 2023, 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 January 9, 2023, and approved by the County Executive on January 12, 2023.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Corporate Seal of said County Board of Legislators on this 17th day of January, 2023.



Malika Vanderberg

The Clerk of the Westchester County
Board of Legislators

County of Westchester, New York

