



George Latimer
County Executive

Office of the County Attorney

John M. Nonna
County Attorney

November 7, 2024

Westchester County Board of Legislators
County of Westchester
800 Michaelian Office Building
148 Martine Avenue
White Plains, New York 10601

Re: An Act to Accept a Settlement Offer in the Amount of \$325,000.00 from the Accredited Surety and Casualty Company for a Mediation Conducted to Recover Insurance Proceeds

Dear Honorable Members of the Board:

Attached for your consideration is an Act which would authorize a settlement in the amount of \$325,000.00 in satisfaction of the County's claims against Accredited Surety and Casualty Company, ("Accredited"), the surety for Sony Management, ("Sony"), a construction contractor under DPW Contract No. 15-518.

The County's claim arises out of a 2022 personal injury case that resulted from construction work performed for the County by Sony. The plaintiff in that case, Jacek Krassowsky, was employed by a subcontractor of Sony and suffered severe injuries when injured on the job. In October 2022, the personal injury claim was settled for \$750,000, with your Honorable Board's approval. Sony's commercial liability insurance policy covering this contract had lapsed, so the County paid the settlement itself without any insurance coverage.

On June 5th of this year, the Law Department filed a claim with Accredited, the insurance company that issued the bond covering the construction project. The County sought to recoup the settlement payment pursuant to the County's surety bond. A dispute arose over whether Accredited was obligated to indemnify the County for the settlement of the Krassowski case. Consequently, a mediation was held on November 6th to attempt to settle the dispute. The mediation resulted in a \$325,000 settlement offer from Accredited.

The proposed settlement offer takes into consideration the uncertainty of the outcome of litigation that could be filed against Accredited and the considerable expense that would be incurred in

commencing and continuing such litigation. The mediation was conducted with the assistance of Ira Schulman, who is outside counsel with expertise in construction litigation. Both he and I recommend this settlement.

The accompanying Act will authorize acceptance of a settlement in the amount of \$325,000. I respectfully request this Honorable Board adopt this Act.

Very truly yours,



John M. Nonna
County Attorney

JMN/mg

FISCAL IMPACT STATEMENT

SUBJECT: Lawsuit Settlement: Jacek Krassowski 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 \$ 325,000

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

Additional Appropriations

Other (explain)

Identify Accounts: 6N: 615/ 59/ 0700/ 4410/ 4280/ 04

Potential Related Operating Budget Expenses: Annual Amount _____

Describe: _____

Potential Related Operating Budget Revenues: Annual Amount \$325,000

Describe: An Act authorizing the County Attorney to Accept the Settlement offer from Accredited Surety Ins Co to recover in the claim of Krassowski, Jacek G200022.

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

Current Year: _____

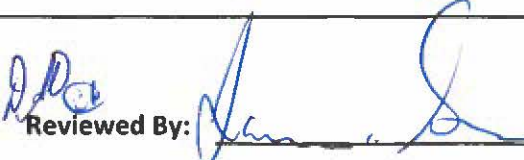
Next Four Years: _____

Prepared by: Debra Ogden

Title: Sr. Budget Analyst

Department: Budget

Date: November 7, 2024


Reviewed By: _____

Budget Director

Date: 11/7/24

BOARD OF LEGISLATORS
COUNTY OF WESTCHESTER

Your Committee is in receipt of a proposed “Act to Accept a Settlement Offer in the Amount of \$325,000.00 from the Accredited Surety and Casualty Company for a Mediation Conducted to Recover Insurance Proceeds.”

Your Committee is informed that, on June 5th of this year, the Law Department filed a claim with Accredited Surety and Casualty Company, the insurance company that issued the bond covering Contract 15-518. A dispute arose over whether Accredited Surety and Casualty Company was obligated to indemnify the County for the settlement of personal injury case involving Jacek Krassowsky, where the County paid a settlement of \$750,000. Your Committee is informed that the County sought coverage under the surety bond, as the contractor (Sony Management) had let liability insurance lapse at the time Krassowsky’s injury occurred. Sony defaulted in the personal injury case and is no longer in business. Consequently, a mediation was held on November 6th to attempt to settle the dispute. The mediation resulted in a \$325,000 settlement offer from Accredited Surety and Casualty Company.

Your Committee is informed that the County Attorney recommends acceptance of the settlement given the uncertainty of the outcome of any litigation against Accredited, and the costs and expenses of commencing and pursuing such litigation.

Additionally, and as you know, your Honorable Board must comply with the requirements of the State Environmental Quality Review Act (“SEQRA”). Your Committee is informed that the proposed Act does not meet the definition of an action under New York State Environmental Quality Review Act (“SEQRA”) and its implementing regulations 6 NYCRR Part 617. Please refer to the

memorandum from the Department of Planning, dated January 8, 2024, which is on file with the Clerk of the Board of Legislators. Your Committee concurs in this conclusion.

Your Committee has carefully considered the subject matter and the attached Act and recommends authorizing the County Attorney or his designee to accept this settlement offer in the amount of \$325,000.00.

Dated: White Plains, New York

, 2024

COMMITTEE ON:

ACT NO. -2024

An Act to Accept a Settlement Offer in the Amount of \$325,000.00 from the Accredited Surety and Casualty Company for a Mediation Conducted to Recover Insurance Proceeds

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

Section 1. The County Attorney is authorized to settle the County's claims against Accredited Surety and Casualty Company, under the surety bond issued for Contract No. 15-518, in the amount of \$325,000.00.

Section 2. The County Attorney or his designee is hereby authorized and empowered to execute and deliver all documents and take such actions as the County Attorney deems necessary or desirable to accomplish the purpose of this Act.

Section 3. This Act shall take effect immediately.