

BOARD OF LEGISLATORS
COUNTY OF WESTCHESTER

Your Committee is in receipt of a proposed Act which, if enacted by your Board, would authorize the County of Westchester to enter a settlement and general release agreement fully resolving the adversary proceeding titled *ACME Bus Corp. v. Westchester County Department of Health*, Adv. Pro. No. 20-ap-8208 (REG) (E.D.N.Y.) (the “Instant Proceeding”).

Your Committee is informed that Plaintiff ACME Bus Corp. (“ACME”), a business corporation that primarily provided bus transportation services to school districts in Westchester County and Long Island, commenced an adversary proceeding in the United States Bankruptcy Court, Eastern District of New York, against the Westchester County Department of Health on December 30, 2020. In their complaint, ACME alleges that the Department of Health breached a Contract for the performance of transportation services for children with special needs in northern Westchester by failing to approve and reimburse ACME for transportation services during the statewide school closure that occurred between March 2020 and August 2020.

As a result of negotiations with ACME’s counsel, the terms of a proposed settlement were negotiated which would, among other things, require the County to pay ACME fifteen thousand and 00/100 dollars (\$15,000.00), withdraw a proof of claim filed against ACME in its related bankruptcy proceeding, and waive any right of payment on such claim.

Your Committee recognizes that entering into the proposed settlement will allow the County to settle this matter without further litigation or trial. Moreover, should the County fail to enter into the proposed settlement, it could result in a judgment against the County in the full amount sought by ACME in the Instant Proceeding, one hundred ninety-one thousand one hundred fifteen and 00/100 dollars (\$191,115.00).

Your Committee has carefully considered the matter and recommends approval of the annexed Act. The Act, which would authorize the County to enter into the proposed settlement to effectuate the resolution of the lawsuit, is in the best interests of the County.

Your Committee therefore recommends this Honorable Board approve the annexed Act authorizing the County to enter into the proposed settlement of the above-referenced lawsuit. An affirmative vote by a majority of the Board is required to pass this Act.

Dated: White Plains, New York
July 14, 2021

May Jane Smith
Nancy E. Pan
K. D. Smith
Vedat J. Ali
Sore al
Benjamin Boyfina

Law & Major Contracts

Catherine Borgna @
Rep. Walter
Colleen Park
Nancy E. Pan
Vedat J. Ali
J. V. C.
W. M. M.
Benjamin Boyfina

Budget & Appropriations

FISCAL IMPACT STATEMENT

SUBJECT: Settlement of ACME Bus Corp. Adversary Proceeding

☐ NO FISCAL IMPACT PROJECTED

OPERATING BUDGET IMPACT

(To be completed by operating department and reviewed by Budget Department)

A) ☒ GENERAL FUND ☐ AIRPORT ☐ SPECIAL REVENUE FUND (Districts)

B) EXPENSES AND REVENUES

Total Current Year Cost \$ 15,000.00

Total Current Year Revenue \$ 0

Source of Funds (check one): ☐ Current Appropriations

☐ Transfer of Existing Appropriations

☐ Additional Appropriations

☒ Other (explain)

Identify Accounts: Reserve account

27-101-2700-2700-4539-01-SCSN

Potential Related Operating Budget Expenses: Annual Amount \$ _____

Describe: _____

Potential Related Revenues: Annual Amount \$ _____

Describe: _____

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

Current Year: _____

Next Four years: _____

Prepared by: Sean T. Carey

Title: Sr. Assistant County Attorney

Department: Law

Reviewed By: [Signature]

Budget Department

If you need more space, please attach additional sheets.

ACT NO. 137 -2021

AN ACT authorizing the County of Westchester to settle the adversary proceeding pending in the United States Bankruptcy Court, Eastern District of New York, titled *ACME Bus Corp. v. Westchester County Department of Health*, Adv. Pro. No. 20-ap-8208 (REG) (E.D.N.Y.).

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

1. The County of Westchester is hereby authorized to settle the adversary proceeding pending in the United States Bankruptcy Court, Eastern District of New York, titled *ACME Bus Corp. v. Westchester County Department of Health*, Adv. Pro. No. 20-ap-8208 (REG) (E.D.N.Y.), by disbursing to Plaintiff an amount not to exceed fifteen thousand and 00/100 dollars (\$15,000.00), withdrawing a proof of claim filed against Plaintiff in its related bankruptcy proceeding, and waving any right of payment on such claim.
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 purpose hereof.
3. This Act shall take effect immediately.

STATE OF NEW YORK)
) ss.
WESTCHESTER COUNTY)

I HEREBY CERTIFY that I have compared the foregoing Act, Act No. 137 - 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

Malika Vanderberg

The Clerk of the Westchester County
Board of Legislators

County of Westchester, New York

