

OnBase ID # 63317

May 16, 2018

To: Honorable Members of the
Board of Acquisition and Contract

From: John M. Nonna
County Attorney

Re: Request for authorization to settle the lawsuit of Maidstone Insurance Company a/s/o Soon Yu v. The County of Westchester, by payment from the County of Westchester, in an amount not to exceed \$26,500.00.

Attached for your consideration is a proposed resolution which, if approved by your Board, would authorize settlement of the lawsuit entitled Maidstone Insurance Company a/s/o Soon Yu v. The County of Westchester, by payment from the County of Westchester, in an amount not to exceed \$26,500.00.

This action was commenced by plaintiff in the Supreme Court of the State of New York, County of Westchester. Plaintiff Maidstone Insurance Company (“Maidstone”) alleges that on October 25, 2016, at approximately 5:22 p.m., its insured, Ms. Yu, was driving her vehicle in the left lane of the Hutchinson River Parkway (“Hutch”) near Webster Avenue in New Rochelle. Plaintiff further alleges that as its insured vehicle proceeded on the roadway, a County vehicle that was in the median suddenly rolled out into the roadway and struck plaintiff’s insured vehicle. Plaintiff alleged that the accident between the two vehicles was caused by the County’s driver’s negligence in failing to keep his foot on the brake while he was in the median. Maidstone’s insured was driving an almost new 2015 Kia Sedonia that had approximately 27,000 miles on it. (A proposed settlement of a related personal injury action by plaintiff’s insured, Ms. Yu, is also being submitted for your consideration and pertains to the same accident.)

As a result of the accident, plaintiff’s insured vehicle was deemed a total loss and Maidstone paid to its insured the sum of \$30,945.59. Maidstone arrived at this figure by looking at the average value of the car by Red Book and NADA’s valuation, which was \$37,947.51, then added the rental fee of \$390.00 and subtracted the salvage value of \$7,391.92.

Plaintiff is represented in this action by Ross & Suchoff, L.L.C., 60 East 42nd Street, Suite 4600, New York, New York 10165.

At trial plaintiff will argue that the accident was the result of the County's vehicles improperly rolling into the northbound lane directly into plaintiff's insured's vehicle, causing the plaintiff's insured vehicle to sustain property damage. Plaintiff will further argue that the accident was caused solely by the negligence of the County without any fault or negligence on the part of the plaintiff's insured driver.

In light of the nature of this accident and the possibility that a jury may believe that the damage to plaintiff's insured's vehicle was caused by the negligent operation of the County vehicle, a settlement of \$26,500.00, inclusive of attorney fees, is proposed and plaintiff's counsel has indicated that such an amount is acceptable to plaintiff.

JMN/sbf

APPROVED BOARD OF ACQUISITION & CONTRACT - 06/14/2018 - LISA M. VAJ, SECRETARY

RESOLUTION

Upon the communication of the County Attorney, it is hereby
 RESOLVED, that the County Attorney is hereby authorized to settle the lawsuit of Maidstone Insurance Company a/s/o Soon Yu v. The County of Westchester, by payment from the County of Westchester, in an amount not to exceed \$26,500.00.

RESOLVED, that the County Attorney or his designee is authorized to execute any documents necessary to implement this resolution.

Original Agreement	\$
First Amendment	\$
This Amendment	\$
TOTAL	\$ <u> </u>

Account to be Charged/credited	Fund	Dept	Major Program, Program & Phase Or Unit	Object/ Sub Object	Trust Account	Dollars
			Unit/subunit	Object/sub		
	615	59	0696/4020	4280/05		\$26,500.00

Budget Funding Year(s) 2018 **Start Date** 1/1/2018 **End Date** 12/31/2018
 (must match resolution)

Funding Source

Tax Dollars	
State Aid	
Federal Aid	
Other	6N Fund

\$26,500.00