

OnBase ID # 64848

August 23, 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 Amy Sass v. The County of Westchester, Village of Scarsdale, Town of Greenburgh and E.E. Cruz & Company, Inc., by payment from the County of Westchester in an amount not to exceed \$22,500.00.

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Attached for your consideration is a proposed resolution which, if approved by your Board, would authorize settlement of the lawsuit entitled Amy Sass v. The County of Westchester, Village of Scarsdale, Town of Greenburgh and E.E. Cruz & Company, Inc., by payment from the County of Westchester ("County") in an amount not to exceed \$22,500.00.

This action was commenced by plaintiff Amy Sass ("Sass") in the Supreme Court of the State of New York, County of Westchester. Plaintiff alleges that on March 18, 2016, at approximately 8:15 a.m., while she was walking on the Bronx River Parkway's ("BRP") pathway, she tripped and fell, causing her to sustain injuries. Sass further alleges that her accident was the result of a one inch height differential between the old pathway and the new pathway as she approached the Ardsley Road Bridge while walking in the southbound direction. As a result thereof, Sass claims that she sustained a fractured right elbow, among other things

Plaintiff is represented in this action by the law firm of Molod Spitz & DeSantis, P.C., 1430 Broadway, 21<sup>st</sup> Floor, New York, New York 10018.

At trial, plaintiff will argue that the area of the BRP's pathway where the old pavement meets the new pavement by the Ardsley Road Bridge was not properly maintained by the County because of a height differential that existed in the joint between the old and the new pavement, that this condition was open and obvious and should have been discovered and repaired by the County prior to plaintiff's accident. Plaintiff will further maintain that this condition was created

by the County when the new pavement was installed and then settled over time, creating a gap of between one inch to one and a half inches in the joint between the old and new pavement. Plaintiff claims that the failure to properly maintain the BRP's pathway at the accident location was the proximate cause of her fall and subsequent injuries.

In light of the nature of plaintiff's injuries and the possibility that a jury may believe that the BRP's pathway in the area of plaintiff's accident was not properly maintained and that, as a result thereof, plaintiff sustained serious injuries, including a fractured right elbow; a settlement of \$22,500.00, inclusive of all liens and 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 - 10/11/2018 - USM/BJAJ, 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 Amy Sass v. The County of Westchester, Village of Scarsdale, Town of Greenburgh and E.E. Cruz & Company, Inc. by payment from the County of Westchester in an amount not to exceed \$22,500.00.

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

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

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	0696/4010	4280/04		\$22,500.00

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

**Funding Source**

<b>Tax Dollars</b>	
<b>State Aid</b>	
<b>Federal Aid</b>	
<b>Other</b>	<b>6N Fund</b>

\$22,500.00