



Meeting Date: 7/19/2017 - 6:30 PM

Category: BOARD MEMBER REPORTS

Type: Action

Subject: 10.3 Settlement Resolution of Yonkers Board of Education v. Dimitri Enterprises, Inc., et al;

District Goals:

Enclosure:

File Attachment:

Rationale: Resolve lawsuit without incurrence of additional expenses and legal fees and to obviate risk of an unfavorable decision and/or jury verdict and imposition of interest, costs, and disbursements.

Funding:

Sponsored By:

Resolution WHEREAS, the Board of Education of Yonkers Public Schools (the "Board") entered into a construction contract (the "Contract") with Dimitri Enterprises, Inc. ("Dimitri") wherein Dimitri agreed to perform the general construction work necessary to complete the project commonly known as the Montessori School 31-Upgrade Emergency Utilities and Replace Doors and Windows and
 WHEREAS, the Board of Education (the "Board") of the Yonkers Public Schools authorized initiation of litigation against Dimitri Enterprises, Inc. and Seneca Insurance Company, Inc. on December 16, 2015 via resolution 10.2; and
 WHEREAS the Board authorized the City of Yonkers Corporation Counsel to take all necessary and appropriate actions in furtherance of litigation; and
 WHEREAS neither the Board nor Dimitri admits liability in the above-referenced litigation;
 NOW THEREFORE IT BE RESOLVED: That upon the recommendation of the Corporation Counsel and Special Counsel, the Trustees of the Board of Education hereby voids the Board's termination of Contract dated July 20, 2015 and approve the settlement of this matter in the amount of Eighty Thousand Dollars (\$80,000.00) payable to the Yonkers Board of Education/City of Yonkers, plus Dimitri's forfeiture of Sixty-three Thousand and one hundred three dollars and thirty cents (\$63,103.30) retainage held in full resolution of this matter, and upon all other terms and conditions approved by the Corporation Counsel and Special Counsel, including but not limited to obtaining all necessary releases.

Recommended By:

Signed By:

Approvals:

Michael Curti - Corporation Counsel

Signed By:

Dr. Edwin M. Quezada - Superintendent of Schools

Vote Results:

Original Motion

Member **Kevin Cacace** Moved, Member **John Jacono** seconded to approve the **Original** motion 'WHEREAS, the Board of Education of Yonkers Public Schools (the "Board") entered into a construction contract (the "Contract") with Dimitri Enterprises, Inc. ("Dimitri") wherein Dimitri agreed to perform the general construction work necessary to complete the project commonly known as the Montessori School 31-Upgrade Emergency Utilities and Replace Doors and Windows and

WHEREAS, the Board of Education (the "Board") of the Yonkers Public Schools authorized initiation of litigation against Dimitri Enterprises, Inc. and Seneca Insurance Company, Inc. on December 16, 2015 via resolution 10.2; and

WHEREAS the Board authorized the City of Yonkers Corporation Counsel to take all necessary and appropriate actions in furtherance of litigation; and

WHEREAS neither the Board nor Dimitri admits liability in the above-referenced litigation;

NOW THEREFORE IT BE RESOLVED: That upon the recommendation of the Corporation Counsel and Special Counsel, the Trustees of the Board of Education hereby voids the Board's termination of Contract dated July 20, 2015 and approve the settlement of this matter in the amount of Eighty Thousand Dollars (\$80,000.00) payable to the Yonkers Board of Education/City of Yonkers, plus Dimitri's forfeiture of Sixty-three Thousand and one hundred three dollars and thirty cents (\$63,103.30) retainage held in full resolution of this matter, and upon all other terms and conditions approved by the Corporation Counsel and Special Counsel, including but not limited to obtaining all necessary releases.'. Upon a Roll-Call Vote being taken, the vote was:

Aye: **8** Nay: **0**.

The motion **CARRIED 8 - 0**

Dr. Nader J. Sayegh	Yes
Steve Lopez	Yes
Andrea Brown	Yes
Pasquale Mondesando	Yes
Kevin Cacace	Yes
John Jacono	Yes
James Cavanaugh	Yes
Judith Ramos Meier	Yes