

**PROPOSED RESOLUTION NO. 3 - 2023**

A RESOLUTION AUTHORIZING THE COUNTY ATTORNEY TO MAKE AN OFFER OF JUDGMENT FOR THE COMPROMISE AND SETTLEMENT OF THE CLAIMS OF PLAINTIFF, AS SET FORTH IN THE ACTION ENTITLED *MICHAEL THURMOND AND DESTIN HARVEY INDIVIDUALLY AND AS ADMINISTRATORS OF THE ESTATE OF MICHAEL CULLUM, DECEASED V. COUNTY OF NASSAU, ET AL.*, DOCKET NO. CV-17-07053 (GRB)(AYS), PURSUANT TO THE COUNTY LAW, THE COUNTY GOVERNMENT LAW OF NASSAU COUNTY AND THE NASSAU COUNTY ADMINISTRATIVE CODE.

WHEREAS, Michael Thurmond and Destin Harvey (the “Plaintiffs”) commenced an action against the County of Nassau (the “County”), entitled *Michael Thurmond and Destin Harvey Individually and as Administrators of the Estate of Michael Cullum, Deceased v. County of Nassau, et al.*, Docket No. CV-17-07053 (GRB)(AYS), alleging certain violations of 42 USC §1983; and

WHEREAS, the County Attorney has caused an investigation and analysis to be made of the said action and as a result thereof recommends that an offer of judgment pursuant to Rule 68 of the Federal Rules of Civil Procedure be made in the amount of \$1,000,000 in full settlement of all claims for relief and claims for costs and attorneys’ fees that Plaintiffs may have against the County arising from the circumstances upon which the action is based; now therefore, be it

RESOLVED, that the County Attorney, by his Special Counsel, be and is hereby authorized and directed to make an offer of judgment pursuant to Rule 68 of the Federal Rules of Civil Procedure to Plaintiffs in said action on the terms and conditions that the County shall allow judgment to be taken against it on all claims asserted in the action as against the County in the amount of \$1,000,000, which amount shall include all costs and attorneys’ fees, provided that all claims for relief and claims for costs and attorneys’ fees are discontinued against the County; and be it further

RESOLVED, that if the Plaintiff accepts the Rule 68 offer of judgment, the County Treasurer be and is hereby authorized to pay a maximum of \$1,000,000 payable as directed by the County Attorney and thereupon delivered to the attorneys for Plaintiff upon the discontinuance of all claims asserted in the action as set forth above; and be it further

RESOLVED, that if any payment arising from said action is to be made from the proceeds of a borrowing, that a bond ordinance to finance such payment is adopted by this Legislature and

any borrowing pursuant to such bond ordinance is approved by the Nassau County Interim Finance Authority, if such approval is required; and be it further

RESOLVED, that it is hereby determined, pursuant to the provisions of the State Environmental Quality Review Act, 8 N.Y.E.C.L. Section 0101 *et seq.* and its implementing regulations, Part 617 of 6 N.Y.C.R.R., and Section 1611 of the County Government Law of Nassau County, that this settlement is a “Type II” Action within the meaning of Section 617.5(c)(26) of 6 N.Y.C.R.R. and, accordingly, is of a class of actions which do not have a significant effect on the environment; and no further review is required.

