

Law & Major Contracts Meeting Agenda



Committee Chair: Damon Maher

800 Michaelian Office Bldg.
148 Martine Avenue, 8th Floor
White Plains, NY 10601
www.westchesterlegislators.com

Monday, March 13, 2023

10:00 AM

Committee Room

CALL TO ORDER

Joint with Budget & Appropriations committee.

Please note: Meetings of the Board of Legislators and its committees are held at the Michaelian Office Building, 148 Martine Avenue, White Plains, New York, 10601, and remotely via the WebEx video conferencing system. Legislators may participate in person or via Webex. Members of the public may attend meetings in person at any of its locations, or view it online on the Westchester County Legislature's website: <https://westchestercountyny.legistar.com/> This website also provides links to materials for all matters to be discussed at a given meeting.

Chairwoman Catherine Borgia will be participating remotely from Clear View School and Day Treatment Center, 480 Albany Post Road, Briarcliff, NY, 10510

MINUTES APPROVAL

Monday, February 6, 2023 at 10:00 a.m.

I. ITEMS FOR DISCUSSION

[2023-76](#) ACT - Amend Outside Counsel Agreement with the Wicks Group

AN ACT authorizing the County to retroactively amend an outside counsel agreement with the Wicks Group, PLLC for the provision of various legal services related to the Westchester County Airport, by extending the term of the agreement for an additional six (6) months commencing on January 1, 2023, and by increasing the not-to-exceed cap by an additional FIFTY THOUSAND (\$50,000) DOLLARS.

COMMITTEE REFERRAL: COMMITTEES ON BUDGET & APPROPRIATIONS AND LAW & MAJOR CONTRACTS

Guest: Law Dept.: County Attorney John Nonna

[2023-80](#) ACT - Enter into Agreement re: Migi Asset Acquisitions

AN ACT authorizing the County to retain at County expense the law firm Tulis & Geiger LLP to serve in an "of counsel" capacity to the County Attorney as needed in connection with the matter of Migi Asset Acquisitions, LLC.

COMMITTEE REFERRAL: COMMITTEES ON BUDGET & APPROPRIATIONS AND LAW & MAJOR CONTRACTS

Guest: Law Dept.: Deputy County Attorney Justin Adin

II. OTHER BUSINESS

III. RECEIVE & FILE

ADJOURNMENT

George Latimer
County Executive

Office of the County Attorney

John M. Nonna
County Attorney

February 16, 2023

Westchester County Board of Legislators
800 Michaelian Office Building
White Plains, New York 10601

Dear Honorable Members of the Board of Legislators:

Transmitted herewith is legislation which, if adopted by your Honorable Board, would authorize the County of Westchester (the "County") to retroactively amend an outside counsel agreement (the "Agreement") with the Wicks Group, PLLC (the "Firm") for the provision of legal services relating to the Westchester County Airport (the "Airport"), by extending the term of the Agreement for an additional six (6) months, from January 1, 2023 through June 30, 2023, and by increasing the not-to-exceed cap by an additional \$50,000.00.

On February 7, 2022 by Act No. 2022-4, your Honorable Board authorized the County to retain the Firm for the provision of outside counsel services related to the Airport, as needed, concerning matters in which the Firm had specific expertise not otherwise available in-house, including, but not limited to, compliance with federal law and FAA regulations, application and enforcement of the terminal use procedures, the terminal use agreement and airport tenant agreements within the regulatory environment, as well as developments in airport law, for a one (1) year term commencing on January 1, 2022 and continuing through December 31, 2022. In consideration for services rendered, Act No. 2022-4 authorized the County to pay the Firm at the blended hourly rate of \$380.00 for all lawyers, not-to-exceed the aggregate sum of One Hundred Thousand (\$100,000.00) Dollars.

Over the course of the coming months, my office intends to issue a Request for Proposals to survey the market with respect to the availability of qualified and cost-effective airport counsel. In the interim, the County continues to require the services of the Firm to provide on-going legal counsel concerning various legal issues affecting the Airport. Accordingly, the authority of your Honorable Board is respectfully requested to retroactively amend the Agreement with the Firm to extend the term thereof for an additional six (6) months, from January 1, 2023 through June 30, 2023, and to increase the not-to-exceed cap by an additional Fifty-Thousand (\$50,000.00) Dollars, from an amount not-to-exceed One Hundred Thousand (\$100,000.00) Dollars, to an amount not-to-exceed One Hundred Fifty Thousand (\$150,000.00) Dollars. It should be noted that in 2022, the Firm was paid approximately \$78,000.00 for its services.

For the aforesaid services rendered to the County by the Firm, the Firm will continue to be paid at the blended rate of Three Hundred Eighty (\$380.00) Dollars per hour for all lawyers.

It should be noted that this contract will be funded through the Airport Special Revenue Fund, and no tax levy funds will be involved.

The Planning Department has advised that the proposed outside counsel agreement does not meet the definition of an action under New York State Environmental Quality Review Act and its implementing regulations 6 NYCRR Part 617. As such, no environmental review is required. Please refer to the memorandum from the Department of Planning dated January 12, 2023, which is on file with the Clerk of the Board of Legislators.

Accordingly, I respectfully recommend your Honorable Board's approval of the attached Act.

Sincerely,

A handwritten signature in blue ink, appearing to read "John M. Nonna".

John M. Nonna
County Attorney

JMN/jpg

**HONORABLE BOARD OF LEGISLATORS
THE COUNTY OF WESTCHESTER**

Your Committee is in receipt of a communication from the County Attorney recommending the enactment of an Act which, if adopted by this Honorable Board, would authorize the County of Westchester (the “County”) to retroactively amend an outside counsel agreement (the “Agreement”) with the Wicks Group, PLLC (the “Firm”) for the provision of various legal services in connection with the Westchester County Airport (the “Airport”), by extending the term of the Agreement for an additional six (6) months, from January 1, 2023 through June 30, 2023, and by increasing the not-to-exceed cap by an additional \$50,000.00.

On February 7, 2022 by Act No. 2022-4, your Honorable Board authorized the County to retain the Firm to provide outside counsel services related to the Airport, as needed, concerning matters in which the Firm had specific expertise not otherwise available in-house, including, but not limited to, compliance with federal law and FAA regulations, application and enforcement of the terminal use procedures, the terminal use agreement and airport tenant agreements within the regulatory environment, as well as developments in airport law, for a one (1) year term commencing on January 1, 2022 and continuing through December 31, 2022. In consideration for services rendered, Act No. 2022-4 authorized the County to pay the Firm at the blended hourly rate of \$380.00 for all lawyers, not-to-exceed the aggregate sum of One Hundred Thousand (\$100,000.00) Dollars.

The County Attorney has advised your Committee that over the course of the coming months, his office intends to issue a Request for Proposals to survey the market with respect to the availability of qualified and cost-effective airport counsel. In the interim, the County continues to require the services of the Firm to provide on-going legal counsel concerning various legal issues affecting the Airport. Accordingly, the authority of your Honorable Board is respectfully requested to retroactively amend the Agreement with the Firm to extend the term thereof for an additional six (6) months, from January 1, 2023 through June 30, 2023, and to increase the not-to-exceed cap by an additional Fifty-Thousand (\$50,000.00) Dollars, from an amount not-to-exceed One Hundred Thousand (\$100,000.00) Dollars, to an amount not-to-exceed One Hundred Fifty Thousand (\$150,000.00) Dollars. It should be noted that in 2022, the Firm was paid approximately \$78,000.00 for its services.

Your Committee is advised that for the aforesaid services rendered to the County by the Firm, the Firm will continue to be paid at the blended rate of Three Hundred Eighty (\$380.00) Dollars per hour for all lawyers.

Your Committee is informed that this contract will be funded through the Airport Special Revenue Fund. As such, no tax levy funds will be involved.

An affirmative vote of a majority of the voting strength of the Board is required for approval of the attached Act.

Accordingly, your Committee concurs with the County Attorney's recommendation and requests approval of the attached Act.

Dated: _____, 2023
White Plains, New York

COMMITTEE ON

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FISCAL IMPACT STATEMENT

SUBJECT: Wicks Group, PLLC

NO FISCAL IMPACT PROJECTED

OPERATING BUDGET IMPACT

To Be Completed by Submitting Department and Reviewed by Budget

SECTION A - FUND

GENERAL FUND

AIRPORT FUND

SPECIAL DISTRICTS FUND

SECTION B - EXPENSES AND REVENUES

Total Current Year Expense \$ 50,000

Total Current Year Revenue _____

Source of Funds (check one): Current Appropriations Transfer of Existing Appropriations

Additional Appropriations

Other (explain)

Identify Accounts: 161- 44- 4110- 4420

Potential Related Operating Budget Expenses: Annual Amount \$50,000

Describe: An ACT authorizing the County to retroactively amend an outside counsel agreement for the provision of various legal services related to the Airport, extending the term through June 30, 2023 and increasing the not-to-exceed amount by \$50,000

Potential Related Operating Budget Revenues: Annual Amount _____

Describe: n/a

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

Current Year: n/a

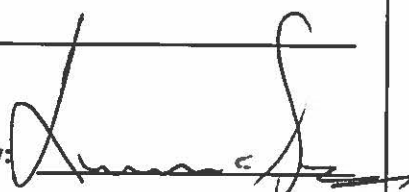
Next Four Years: n/a

Prepared by: Debra Ogden

Title: Sr. Budget Analyst

Department: Budget

Date: February 17, 2023

Reviewed By: 

Budget Director

Date: 2/17/23

AN ACT authorizing the County to retroactively amend an outside counsel agreement with the Wicks Group, PLLC for the provision of various legal services related to the Westchester County Airport, by extending the term of the agreement for an additional six (6) months commencing on January 1, 2023, and by increasing the not-to-exceed cap by an additional \$50,000.00.

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

Section 1. The County of Westchester is hereby authorized to retroactively amend an outside counsel agreement (the “Agreement”) with the Wicks Group, PLLC (the “Firm”) for the provision of various legal services relating to the Westchester County Airport (the “Airport”), by extending the term of the Agreement for an additional six (6) months, from January 1, 2023 through June 30, 2023, and by increasing the not-to-exceed cap by an additional Fifty-Thousand (\$50,000.00) Dollars, from an amount not-to-exceed One Hundred Thousand (\$100,000.00) Dollars, to an amount not-to-exceed One Hundred Fifty Thousand (\$150,000.00) Dollars.

§2. For the aforesaid services rendered to the County during the extended term, the Firm shall continue to be paid at the blended rate of Three Hundred Eighty (\$380.00) Dollars per hour for all lawyers.

§3. The County Executive or his authorized designee, be and hereby is authorized to execute all instruments and to take all actions reasonably necessary to carry out the purposes of this Act.

§4. This Act shall take effect immediately.



George Latimer
County Executive

Office of the County Attorney

John M. Nonna
County Attorney

February 16, 2023

Westchester County Board of Legislators
800 Michaelian Office Building
148 Martine Avenue
White Plains, New York 10601

Dear Honorable Members of the Board of Legislators:

Transmitted herewith is an Act which, if adopted by your Honorable Board, would authorize the County of Westchester (the "County") to enter into an agreement (the "Agreement") to retain, at County expense, the law firm of Tulis & Geiger LLP ("T&G") to serve in an "of counsel" capacity to the County Attorney, as needed (the "Services"), in connection with the matter In re: Migi Asset Acquisitions LLC Case No. 23-22110(SHL) (the "Case"). The term of the proposed Agreement will commence retroactive to February 10, 2023 and continue until the County no longer has an interest in the Case, as the County may determine in its sole discretion, or the County otherwise terminates the Agreement.

By way of background, the County entered into contracts with Migi Asset Acquisition LLC ("Migi") to develop 14 units of affordable housing at 98 Washington Avenue in Pleasantville. Migi failed to complete the development. The County sued, seeking to recover monies paid, to require completion of the development, and/or to obtain title to the property. During the course of that litigation, Migi filed for bankruptcy.

Due to the complex and specialty nature of bankruptcy law litigation, it is in the best interests of the County to retain counsel qualified to handle such matters. Mark S. Tulis, Esq., T&G's partner, specializes in this type of litigation. Moreover, Mr. Tulis has competently assisted my office on a previous bankruptcy matter.

Under the proposed Agreement, T&G will be paid a total amount not-to-exceed Fifty Thousand Dollars (\$50,000.00), payable at a rate of Three Hundred and Fifty Dollars (\$350.00) per hour for the services of Mark S. Tulis, Esq., plus reimbursement, at cost, for *reasonable and necessary* out of pocket expenses and disbursements.

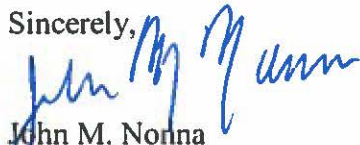
Procurement of the Services would, normally, be conducted in accordance with Section 7 of the Westchester County Procurement Policy and Procedures (“Section 7”). Under Section 7, the County is required to “solicit quotations, statements or other information regarding [the] experience, qualifications and capability to perform the proposed services” of “no fewer than three persons customarily performing such services.” However, due to the time-sensitive nature of the Case, and the need to take immediate steps to ensure that the County’s interests are protected, there was insufficient time to follow the normal solicitation procedure.

In lieu of that longer process, my office determined that T&G, as a firm expert in bankruptcy law, can competently and readily provide the Services, and that the hourly rate proposed is reasonable in light of my office’s knowledge of the overall marketplace for legal services. Since this means that the County will not be able to rely upon Section 7 as the procurement basis for the proposed Agreement, my office will seek authority from the Board of Acquisition and Contract to exempt this procurement from compliance with the Westchester County Procurement Policy and Procedures, pursuant to Section 3(a)(xxi) thereof.

The Planning Department has advised that the proposed Agreement does not meet the definition of an “action” under the State Environmental Quality Review Act, 6 NYCRR part 617. As such, no environmental review is required. Please refer to the memorandum from the Department of Planning dated January 12, 2023, which is on file with the Clerk of the Board of Legislators.

I respectfully recommend your Honorable Board’s approval of the attached Act.

Sincerely,



John M. Norra
County Attorney

JMN/jpg/nn

**HONORABLE BOARD OF LEGISLATORS
THE COUNTY OF WESTCHESTER**

Your Committee is in receipt of a communication from the County Attorney recommending the approval of an Act which, if adopted by your Honorable Board, would authorize the County of Westchester (the “County”) to enter into an agreement (the “Agreement”) to retain, at County expense, the law firm of Tulis & Geiger LLP (“T&G”) to serve in an “of counsel” capacity to the County Attorney, as needed, (the “Services”) in connection with the matter In re: Migi Asset Acquisitions LLC Case No. 23-22110(SHL) (the “Case”). Your Committee is advised that the term of the proposed Agreement will commence retroactive to February 10, 2023 and continue until the County no longer has an interest in the Case, as the County may determine in its sole discretion, or the County otherwise terminates the Agreement.

By way of background, your Committee is advised that the County entered into contracts with Migi Asset Acquisition LLC (“Migi”) to develop 14 units of affordable housing at 98 Washington Avenue in Pleasantville. Migi failed to complete the development. The County sued, seeking to recover monies paid, to require completion of the development, and/or to obtain title to the property. During the course of that litigation, Migi filed for bankruptcy.

The County Attorney has advised your Committee that due to the complex and specialty nature of bankruptcy law litigation, it is in the best interests of the County to retain counsel qualified to handle such matters. Mark S. Tulis, Esq., T&G’s partner, specializes in this type of litigation. Moreover, Mr. Tulis has competently assisted the County with a previous bankruptcy matter.

The County Attorney has advised your Committee that, under the proposed Agreement, T&G will be paid a total amount not-to-exceed Fifty Thousand Dollars (\$50,000.00), payable at a rate of Three Hundred and Fifty Dollars (\$350.00) per hour for the services of Mark S. Tulis, Esq., plus reimbursement, at cost, for *reasonable and necessary* out of pocket expenses and disbursements.

The County Attorney has advised your Committee that procurement of the Services would, normally, be conducted in accordance with Section 7 of the Westchester County Procurement Policy and Procedures (“Section 7”). The County Attorney has advised your Committee that, under Section 7, the County is required to “solicit quotations, statements or other information regarding [the] experience, qualifications and capability to perform the proposed services” of “no fewer than three persons customarily performing such services.” The County Attorney has advised your Committee that, however, due to the time-sensitive nature of the Case, and the need to take immediate steps to ensure that the County’s interests are protected, there was insufficient time to follow the normal solicitation procedure.

The County Attorney has further advised your Committee that, in lieu of that longer process, his office determined that T&G, as a firm expert in bankruptcy law, can competently and readily provide the Services, and that the hourly rates proposed are reasonable in light of his office’s knowledge of the overall marketplace for legal services. The County Attorney has advised your Committee that, since this means that the County will not be able to rely upon Section 7 as the procurement basis for the proposed Agreement, his office will seek authority from the Board of Acquisition and Contract to exempt this procurement from compliance with the Westchester County Procurement Policy and Procedures, pursuant to Section 3(a)(xxi) thereof.

The Planning Department has advised that the proposed Agreement does not meet the definition of an “action” under the State Environmental Quality Review Act, 6 NYCRR part 617. As such, no environmental review is required. Please refer to the memorandum from the Department of Planning dated January 12, 2023, which is on file with the Clerk of the Board of Legislators.

Your Committee has been advised that the adoption of the proposed Act requires an affirmative vote of a majority of the members of your Honorable Board.

After due consideration, your Committee recommends adoption of the proposed Act.

Dated: _____, 2023
White Plains, New York

COMMITTEE ON

CJPG-021523

FISCAL IMPACT STATEMENT

SUBJECT: Tulis & Geiger LLP -Migi Asset

NO FISCAL IMPACT PROJECTED

OPERATING BUDGET IMPACT

To Be Completed by Submitting Department and Reviewed by Budget

SECTION A - FUND

GENERAL FUND

AIRPORT FUND

SPECIAL DISTRICTS FUND

SECTION B - EXPENSES AND REVENUES

Total Current Year Expense \$ 50,000

Total Current Year Revenue \$ -

Source of Funds (check one): Current Appropriations Transfer of Existing Appropriations

Additional Appropriations

Other (explain)

Identify Accounts: 101_18_1000_4923- The agreement will commence retroactively to February 10, 2023 and will continue until the County no longer has any interest in the case.

Potential Related Operating Budget Expenses: Annual Amount N/A

Describe: An Act authorizing the County to retain, at county expense , the law firm of Tulis & Geiger LLP to serve in an "of Counsel" capacity to the County Attorney, as needed in connection with In re: Migi Asset Acquisitions LLC Case No. 23-22110 (SHL) for a NTE amount of \$50,000.

Potential Related Operating Budget Revenues: Annual Amount N/A

Describe: _____

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

Current Year: N/A

Next Four Years: N/A

Prepared by: Patricia Haggerty

Title: Sr. Budget Analyst

Department: Budget

Date: February 27, 2023

Reviewed By: 

Budget Director

Date: 2/27/23

ACT NO. 2023 - _____

AN ACT authorizing the County to retain, at County expense, the law firm of Tulis & Geiger LLP to serve in an “of counsel” capacity to the County Attorney, as needed, in connection with In re: Migi Asset Acquisitions LLC Case No. 23-22110(SHL).

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

Section 1. The County of Westchester (the “County”) is hereby authorized to enter into an agreement (the “Agreement”) to retain, at County expense, the law firm of Tulis & Geiger LLP (“T&G”) to serve in an “of counsel” capacity to the County Attorney, as needed, (the “Services”) in connection with In re: Migi Asset Acquisitions LLC Case No. 23-22110(SHL) (the “Case”).

§2. The Agreement shall be for a term that will commence retroactive to February 10, 2023 and continue until the County no longer has an interest in the Case, as the County may determine in its sole discretion, or the County otherwise terminates the Agreement. For the Services, T&G shall be paid a total amount not-to-exceed Fifty Thousand Dollars (\$50,000.00), payable at a rate of Three Hundred and Fifty Dollars (\$350.00) per hour for the services of Mark S. Tulis, Esq., plus reimbursement, at cost, for *reasonable and necessary* out of pocket expenses and disbursements.

§3. T&G is hereby authorized to take any and all steps that are reasonably necessary to represent the County in matters concerning the Case and the Services, in accordance with the terms to be specified in the Agreement.

§4. The County Executive or his authorized designee is hereby authorized to execute all instruments and take all actions reasonably necessary to carry out the purposes of this Act.

§5. This Act shall take effect immediately.