

Law & Major Contracts Meeting Agenda



Committee Chair: Damon Maher

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

Monday, April 25, 2022

10:00 AM

Committee Room

CALL TO ORDER

Joint with Budget & Appropriations and Public Works & Transportation committees

MINUTES APPROVAL

Monday, March 28, 2022 at 1:00 p.m.

Monday, April 11, 2022 at 10:00 a.m.

I. ITEMS FOR DISCUSSION

1. [2022-156](#) ACT - Litigation, 98 Washington Ave., Pleasantville

AN ACT to authorize litigation relating to affordable housing to be located at 98 Washington Avenue in the Village of Pleasantville.

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

Joint with Budget & Appropriations committee

Guests: LAW: County Attorney John Nonna and Deputy County Attorney Justin Adin

2. [2022-191](#) CBA-A0102-Snow Equipment Storage Building

AN ACT amending the 2022 County Capital Budget Appropriations for Capital Project A0102 - Snow Equipment Storage Building.

COMMITTEE REFERRAL: COMMITTEES ON BUDGET & APPROPRIATIONS, PUBLIC WORKS & TRANSPORTATION AND LAW & MAJOR CONTRACTS

Joint with Budget & Appropriations and Public Works & Transportation committees

Guests: DPW: Commissioner Hugh Greechan and Jim Antonaccio

3. [2022-192](#) ACT-Enter into Grant Agreement with FAA-A0102

AN ACT to authorize the County of Westchester to apply for and enter into a grant agreement with the United States of America, acting through the Federal Aviation Administration for capital project A0102 - Snow Equipment Storage Building.

COMMITTEE REFERRAL: COMMITTEES ON BUDGET & APPROPRIATIONS, PUBLIC

WORKS & TRANSPORTATION AND LAW & MAJOR CONTRACTS

Joint with Budget & Appropriations and Public Works & Transportation committees

Guests: DPW: Commissioner Hugh Greechan and Jim Antonaccio

4. [2022-193](#) ACT-Agreement with New York State Nurses Association

AN ACT approving certain financial terms and conditions of employment requiring legislative approval by law in a Collective Bargaining Agreement for those employees of Westchester County represented by the New York State Nurses Association for the five (5) year period commencing January 1, 2022 and ending December 31, 2026.

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

Joint with Budget & Appropriations committee

Guests: Vincent Toomey, Esq. and Kevin Smith, RN, President, Westchester chapter of NYSNA

5. [2022-201](#) ACT - Settlement of Workers Comp Lien - M.D.

AN ACT authorizing the County of Westchester to compromise its right to be reimbursed for health care and wage benefits paid to or on behalf of a County employee from a settlement of her legal action against a defendant tortfeasor.

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

Joint with Budget & Appropriations committee

Guest: LAW: Senior Assistant County Attorney Sean Carey

II. OTHER BUSINESS**III. RECEIVE & FILE****ADJOURNMENT**

George Latimer
County Executive

Office of the County Attorney

John M. Nonna
County Attorney

March 23, 2022

Westchester County Board of Legislators
800 Michaelian Office Building
148 Martine Avenue, 8th Floor
White Plains, New York 10601

Dear Honorable Members of the Board:

I respectfully request that your Honorable Board adopt the attached Act entitled "AN ACT to Authorize Litigation Relating to Affordable Housing to be Located at 98 Washington Ave in the Village of Pleasantville."

In 2016, the County entered into contracts with MIGI Asset Acquisition, LLC ("the Developer") to develop fourteen units of affordable housing located at 98 Washington Avenue, in the Village of Pleasantville. Through those contracts, the County subsidized the price of the development by: (1) purchasing the property for \$1.8 million and reselling it to the Developer for \$1; and (2) making available \$993,000 in construction funds, to be paid out on a reimbursement basis. The Developer agreed to complete the construction of the units by December 1, 2018. At the Developer's request, the County extended the time to complete the construction from December 1, 2018 until June 30, 2020. No other extensions were requested or granted.

To date, construction of the units is not complete. Further, the Developer has breached its contract in multiple additional ways, including failing to pay property taxes and utility bills, and allowing the building permit to expire without having completed construction. During the past year, the County, through the Planning Department and this Office, has made repeated efforts to work with the Developer and the Village to get work restarted on the development; these efforts have not come to fruition.

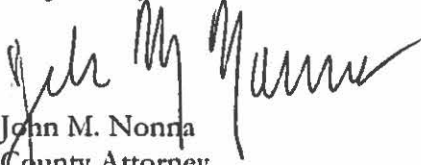
At this juncture, the Developer has essentially abandoned the project, and has made no efforts over the last year to complete its obligations. The condition of the building has deteriorated which only serves to increase the costs of completion. The County has also now paid out \$788,533.12 of the construction funds, and yet the development may now need work well in excess of the funds available as a result of the Developer's malfeasance.

As such, I now respectfully request authorization to commence litigation against the Developer in order to recoup the subsidy payment, to obtain completion of the development through an order of specific performance, and to seek other legal remedies that may be available to

the County, including an order requiring the Developer to return the property to the County free of liens and encumbrances.

Thank you for your consideration of this Act.

Respectfully submitted,



John M. Nonna
County Attorney

Enclos.

BOARD OF LEGISLATORS
COUNTY OF WESTCHESTER

Your Committee is in receipt of “AN ACT to Authorize Litigation Relating to Affordable Housing to be Located at 98 Washington Ave in the Village of Pleasantville.”

Your Committee is informed that, in 2016, the County entered into contracts with MIGI Asset Acquisition, LLC (“the Developer”) to develop fourteen units of affordable housing located at 98 Washington Avenue, in the Village of Pleasantville. Through those contracts, the County subsidized the price of the development by: (1) purchasing the property for \$1.8 million and reselling it to the Developer for \$1; and (2) making available \$993,000 in construction funds, to be paid out on a reimbursement basis. The Developer agreed to complete the construction of the units by December 1, 2018.

Your Committee is further informed that, at the Developer’s request, the County extended the time to complete the construction from December 1, 2018 until June 30, 2020. No other extensions were requested or granted.

Your Committee is informed that, to date, construction of the units is not complete. Further, the Developer has breached its contract in multiple additional ways, including failing to pay property taxes and utility bills, and allowing the building permit to expire without having completed construction.

The County Attorney has noted that, despite repeated efforts by the County to advance the completion of these units, the Developer has essentially abandoned the project, and has made no

efforts over the last year to complete its obligations. The condition of the building has deteriorated which only serves to increase the costs of completion.

Your Committee is further informed that the County has paid out \$788,533.12 of the subsidy funds, and yet the development may now need work well in excess of the funds available as a result of the Developer's malfeasance. The County Attorney now seeks authorization to commence litigation against the Developer in order to recoup the subsidy payment and to obtain completion of the development through an order of specific performance.

In light of the aforementioned, your Committee recommends the adoption of the proposed Act.

Dated: _____, 2022
White Plains, New York

COMMITTEE ON

ACT NO. – 2022

AN ACT to Authorize Litigation
Relating to Affordable Housing to be
Located at 98 Washington Ave in the
Village of Pleasantville.

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

Section 1. The County Attorney is hereby authorized, on behalf of the County of Westchester, to commence legal action, including litigation, against MIGI Asset Acquisition, LLC (“MIGI”), and any other party or entity that may have legal liability, and any other necessary or appropriate parties, relating to the agreements between the County and MIGI to develop affordable housing located at 98 Washington Avenue, in the Village of Pleasantville, County of Westchester, State of New York. The County Attorney is authorized to pursue any theories and relief he believes proper and available.

Section 2. The County Attorney is hereby authorized and empowered to undertake such legal proceedings and prepare all documents necessary or desirable to accomplish the purpose of this Act.

Section 3. This Act shall take effect immediately.

George Latimer
County Executive

March 29, 2022

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

Dear Honorable Members of the Board of Legislators:

Transmitted herewith for your review and approval is a proposed act ("Act") which, if adopted, would authorize the County of Westchester ("County"), to apply for and enter into a grant agreement with the Federal Aviation Administration ("FAA") for capital project A0102 – Snow Equipment Storage Building ("A0102"). Also transmitted is an act which, if adopted, would authorize the County to amend its current-year capital budget for A0102 (the "Capital Budget Amendment").

The Act would authorize the County to apply for and enter into a grant agreement with the FAA for the design of an ancillary snow equipment storage facility at the north end of the Westchester County Airport (the "Airport"). The FAA has indicated it will fund up to 75% of the estimated design cost of \$540,000 for A0102, resulting in a FAA grant in the amount of approximately \$405,000. Additionally, the New York State Department of Transportation ("NYSDOT") has indicated that it will fund up to 4% of the estimated design cost of A0102, resulting in a NYSDOT grant amount of approximately \$22,000.

The proposed Capital Budget Amendment will amend the County's current-year capital budget to increase the cash appropriation for A0102 by \$90,000, to be funded by a transfer from the Airport Operating Fund. This will increase the total cash appropriation for this project from \$23,000 to \$113,000.

The Department of Public Works & Transportation has advised that the existing snow equipment storage facility is inadequate to store all of the snow removal equipment required by the Airport and an ancillary facility is required.

Design is expected to take approximately six (6) months and will be completed by consultants. It is estimated that construction will take sixteen (16) months to complete and will begin after award and execution of construction contracts, subject to approval of construction financing by your Honorable Board.


The Planning Department has advised that based on its review, the above-referenced capital project has been classified as a "Type II" action pursuant to the State Environmental Quality Review Act ("SEQR") and its implementing regulations, 6 NYCRR Part 617. Therefore, no

further environmental review is required. As you know, your Honorable Board may use such expert advice to reach its own conclusion.

Section 167.131 of the County Charter mandates that a capital budget amendment that introduces a new capital project or changes the location, size or character of an existing capital project be accompanied to the Board of Legislators by a report of the Westchester County Planning Board (the "Planning Board") with respect to the physical planning aspects of the project. The Planning Department has advised that the Planning Board has previously reviewed this Project and issued a report, and that since there is no change in the scope of the work and this is simply a change in the financing plan, no further action by the Planning Board is necessary at this time.

Based on the importance of this capital project to the County, favorable action on the annexed proposed Act is respectfully requested.

Sincerely,



George Latimer
County Executive

GL/HJG/GS/jpg
Attachments

**HONORABLE BOARD OF LEGISLATORS
THE COUNTY OF WESTCHESTER, NEW YORK**

Your Committee is in receipt of a communication from the County Executive recommending approval of an act (“Act”) which, if adopted, would authorize the County of Westchester (“County”), to apply for and enter into a grant agreement for funding from the Federal Aviation Administration (“FAA”) for capital project A0102 – Snow Equipment Storage Building (“A0102”). Also transmitted is an act which, if adopted, would authorize the County to amend its current-year capital budget for A0102 (the “Capital Budget Amendment”).

The Act would authorize the County to apply for and enter into a grant agreement with the FAA for the design of an ancillary snow equipment storage facility at the north end of the Westchester County Airport (the “Airport”). The FAA has indicated it will fund up to 75% of the estimated design cost of \$540,000 for A0102, resulting in a FAA grant in the amount of approximately \$405,000. Additionally, the New York State Department of Transportation (“NYSDOT”) has indicated that it will fund up to 4% of the estimated design cost of A0102, resulting in a NYSDOT grant amount of approximately \$22,000.

The proposed Capital Budget Amendment will amend the County’s current-year capital budget to increase the cash appropriation for A0102 by \$90,000, to be funded by a transfer from the Airport Operating Fund. This will increase the total cash appropriation for this project from \$23,000 to \$113,000.

The Department of Public Works & Transportation has advised that that the existing snow equipment storage facility is inadequate to store all of the snow removal equipment required by the Airport and an ancillary facility is required.

Design is expected to take approximately six (6) months and will be completed by consultants. It is estimated that construction will take sixteen (16) months to complete and will begin after award and execution of construction contracts, subject to approval of construction financing by your Honorable Board.

The Planning Department has advised your Committee that based on its review, the above-referenced capital project has been classified as a Type “II” action pursuant to the State

Environmental Quality Review Act (“SEQR”) and its implementing regulations, 6 NYCRR Part 617. Therefore, no further environmental review is required. Your Committee has reviewed the annexed SEQR document and concurs with this conclusion.

In addition, Section 167.131 of the County Charter mandates that a capital budget amendment that introduces a new capital project or changes the location, size or character of an existing capital project be accompanied to the Board of Legislators by a report of the Westchester County Planning Board (the “Planning Board”) with respect to the physical planning aspects of the project. The Planning Department has advised that the Planning Board has previously reviewed this Project and issued a report, and that since there is no change in the scope of the work and this is simply a change in the financing plan, no further action by the Planning Board is necessary at this time.

Your Committee has carefully considered this matter and has concluded that it is in the best interest of the County to adopt the Act to authorize the County to apply for and enter into a grant agreement with the FAA as well as adopt the act to amend the County’s current-year capital budget. Your Committee is advised that an affirmative vote of a majority of your Honorable Board is required to adopt the Act, while an affirmative vote of two-thirds of the members of this Honorable Board is required in order to amend the County’s Capital Budget.

Dated: _____, 2022
White Plains, New York

COMMITTEE ON

s: JG/3-11-22

FISCAL IMPACT STATEMENT

CAPITAL PROJECT #: A0102

NO FISCAL IMPACT PROJECTED

SECTION A - CAPITAL BUDGET IMPACT

To Be Completed by Budget

GENERAL FUND

AIRPORT FUND

SPECIAL DISTRICTS FUND

Source of County Funds (check one):

Current Appropriations

Capital Budget Amendment

SECTION B - BONDING AUTHORIZATIONS

To Be Completed by Finance

Total Principal \$ - PPU Anticipated Interest Rate

Anticipated Annual Cost (Principal and Interest):

Total Debt Service (Annual Cost x Term): \$ -

Finance Department:

SECTION C - IMPACT ON OPERATING BUDGET (exclusive of debt service)

To Be Completed by Submitting Department and Reviewed by Budget

Potential Related Expenses (Annual): N/A

Potential Related Revenues (Annual): N/A

Anticipated savings to County and/or impact of department operations
(describe in detail for current and next four years):

SECTION D - EMPLOYMENT

As per federal guidelines, each \$92,000 of appropriation funds one FTE Job

Number of Full Time Equivalent (FTE) Jobs Funded: 6

SECTION E - EXPECTED DESIGN WORK PROVIDER

County Staff

Consultant

Not Applicable

Prepared by: James Antonaccio

Title: Principal Architect

Department: Public Works & Transportation


Date: 3/28/22

Reviewed By: 

Budget Director

Date: 3/28/22

TO: Michelle Greenbaum, Senior Assistant County Attorney
Jeffrey Goldman, Senior Assistant County Attorney

FROM: David S. Kvinge, AICP, RLA, CFM 
Assistant Commissioner

DATE: March 22, 2022

SUBJECT: **STATE ENVIRONMENTAL QUALITY REVIEW FOR CAPITAL PROJECT:
A0102 SNOW EQUIPMENT STORAGE BUILDING**

PROJECT/ACTION: Per Capital Project Fact Sheet as approved by the Planning Department on 03-08-2022 (Unique ID: 1900)

With respect to the State Environmental Quality Review Act and its implementing regulations 6 NYCRR Part 617, the Planning Department recommends that no further environmental review is required for the proposed action, because the project or component of the project for which funding is requested may be classified as a **TYPE II action** pursuant to section(s):

- **617.5(c)(27):** conducting concurrent environmental, engineering, economic, feasibility and other studies and preliminary planning and budgetary processes necessary to the formulation of a proposal for action, provided those activities do not commit the agency to commence, engage in or approve such action.
-

COMMENTS: The current request is for design only.

DSK/cnm

cc: Andrew Ferris, Chief of Staff
Paula Friedman, Assistant to the County Executive
Tami Altschiller, Assistant Chief Deputy County Attorney
Gideon Grande, Deputy Budget Director
Lorraine Yazzetta, Associate Budget Director
Robert Abbamont, Director of Operations, Dept. of Public Works & Transportation
Kelly Sheehan, Assistant Commissioner
William Brady, Chief Planner
Michael Lipkin, Associate Planner
Claudia Maxwell, Associate Environmental Planner

To: Honorable George Latimer, County Executive
Lawrence Soule, Budget Director

From: Norma Drummond, Commissioner



Re: **Capital Budget Amendment:
A0102 Snow Equipment Storage Building**

Date: March 25, 2022

Attached is a memo from the Planning Department to the County Planning Board advising the Board of the proposed Capital Budget Amendments (CBA) to modify funding of the above project.

These are financing changes only and there are no changes to the physical planning aspects of this project as reviewed by the Board; therefore, as stated in the memo, no further action by the Planning Board is required.

NVD/wcb
Attachment

cc: Ken Jenkins, Deputy County Executive
Joan McDonald, Director of Operations
Emily Saltzman, Deputy Director of Operations
Paula Friedman, County Executive's Office
Blanca Lopez, Deputy Commissioner of Planning
Tami Altschiller, Assistant Chief Deputy County Attorney
Jeffrey Goldman, Assistant County Attorney
Michelle Greenbaum, Assistant County Attorney
Lorraine Marzola, Associate Budget Director
Kelly Sheehan, Assistant Commissioner
David S. Kvinge, Assistant Commissioner
William Brady, Chief Planner
Michael Lipkin, Associate Planner
Claudia Maxwell, Associate Environmental Planner

Department of Planning

432 Michaelian Office Building
White Plains, NY 10601

To: The Westchester County Planning Board

From: Kelly Sheehan, Assistant Commissioner *KS*

Date: March 25, 2022

RE: **Capital Budget Amendment –
A0102 Snow Equipment Storage Building**

The County Executive is requesting an amendment to the 2022 Capital Budget to modify the funding of the above project. Capital project A0102 Snow Equipment Storage Building provides an ancillary snow equipment storage facility at the north end of the Airport.

A Capital Budget Amendment is requested to authorize the County to apply for and enter into a grant agreement with the Federal Aviation Administration to fund up to 75% of the estimated design cost of \$540,000. Additionally, the New York State Department of Transportation has indicated that it will fund up to 4% of the estimated design cost. The proposed Capital Budget Amendment will amend the County's current-year capital budget to increase the cash appropriation for A0102 by \$90,000, to be funded by a transfer from the Airport Operating Fund.

The Planning Board adopted a report on this project (rated PL2) at its meeting on July 7, 2020.

There are no changes to the physical planning aspects of this project as reviewed by the Board; therefore, no further action by your Board is necessary.

cc: Norma V. Drummond, Commissioner
David S. Kvinge, Assistant Commissioner
William Brady, Chief Planner
Michael Lipkin, Associate Planner

An Act amending the 2022 County
 Capital Budget Appropriations for
 Capital Project A0102 - Snow
 Equipment Storage Building

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

Section 1. The Capital section of the 2022 County Budget is hereby amended as follows:

	Previous 2022 Appropriation	Change	Revised 2022 Appropriation
I. Appropriation	\$450,000	\$90,000	\$540,000

Section 2. The estimated method of financing in the Capital Section of the 2022 Westchester County Capital Budget is amended as follows:

II. METHOD OF FINANCING

Bonds and/or Notes	\$0		\$0
Non County Shares	\$427,000		\$427,000
Cash	<u>\$23,000</u>	<u>\$90,000</u>	<u>\$113,000</u>
Total	\$450,000	\$90,000	\$540,000

Section 3. The ACT shall take effect immediately.



CAPITAL PROJECT FACT SHEET

Project ID:* A0102	<input checked="" type="checkbox"/> CBA	Fact Sheet Date:* 02-22-2022
Fact Sheet Year:* 2022	Project Title:* SNOW EQUIPMENT STORAGE BUILDING	Legislative District ID: 6,
Category* AIRPORT	Department:* AIRPORT/DOT	CP Unique ID: 1900

Overall Project Description

This project funds for an ancillary snow equipment storage facility at the north end of the Airport.

- | | | |
|---|---|--|
| <input checked="" type="checkbox"/> Best Management Practices | <input checked="" type="checkbox"/> Energy Efficiencies | <input checked="" type="checkbox"/> Infrastructure |
| <input type="checkbox"/> Life Safety | <input type="checkbox"/> Project Labor Agreement | <input type="checkbox"/> Revenue |
| <input type="checkbox"/> Security | <input type="checkbox"/> Other | |

FIVE-YEAR CAPITAL PROGRAM (in thousands)

	Estimated Ultimate Total Cost	Appropriated	2022	2023	2024	2025	2026	Under Review
Gross	3,840	450	0	3,300	0	0	0	90
Less Non-County Shares	3,562	427	0	3,135	0	0	0	0
Net	278	23	0	165	0	0	0	90

Expended/Obligated Amount (in thousands) as of: 0

Current Bond Description: This request is for authority to apply for and enter into a design grant agreement with the FAA to accept funds for A0102 in the amount of approximately \$405,000, which is equivalent to 75% of the estimated design cost of \$540,000. Additionally, New York State Department of Transportation has indicated that it will fund up to 4% of this estimated design cost, resulting in a grant amount of approximately \$22,000.

Financing Plan for Current Request:

Non-County Shares:	\$ 427,000
Bonds/Notes:	0
Cash:	<u>113,000</u>
Total:	\$ 540,000

SEQR Classification:

TYPE II

Amount Requested:

0

Comments:

This request includes a capital budget amendment of \$90,000 (shown under review) to be funded by a transfer from the airport operating fund.

Energy Efficiencies:

THE NEW FACILITY IS PROPOSED WITH BOTH SOLAR WALL AND SOLAR PHOTOVOLTAIC ROOF PANELS.

Appropriation History:

Year	Amount	Description
2016	210,000	DESIGN
2021	240,000	ADDITIONAL DESIGN COSTS

Total Appropriation History:

450,000

Cash History (in thousands):

Year	Amount	Description
2016	11,000	DESIGN
2021	12,000	DESIGN

Total Financing History:

23,000

Recommended By:

Department of Planning

WBB4

Date

03-08-2022

Department of Public Works

RJB4

Date

03-09-2022

Budget Department

LMY1

Date

03-09-2022

Requesting Department

GAM4

Date

03-10-2022

SNOW EQUIPMENT STORAGE BUILDING (A0102)

User Department : Airport/DOT
Managing Department(s) : Airport/DOT ; Public Works ;
Estimated Completion Date: TBD
Planning Board Recommendation: Project approved in concept but subject to subsequent staff review.

FIVE YEAR CAPITAL PROGRAM (in thousands)

	Est Ult Cost	Appropriated	Exp / Obl	2022	2023	2024	2025	2026	Under Review
Gross	3,750	450			3,300				
Non County Share	(3,562)	(427)			(3,135)				
Total	188	23			165				

Project Description

This project funds for an ancillary snow equipment storage facility at the north end of the Airport.

Current Year Description

There is no current year request.

Impact on Operating Budget

The impact on the Airport Special Revenue Fund is the debt service associated with the issuance of bonds and the cash to capital.

Appropriation History

Year	Amount	Description	Status
2016	210,000	Design	DESIGN
2021	240,000	Additional design costs	AWAITING BOND AUTHORIZATION
Total	450,000		

Prior Appropriations

	Appropriated	Collected	Uncollected
Federal Funds	216,000		216,000
Funds Revenue	23,000	23,000	
State Funds	211,000		211,000
Total	450,000	23,000	427,000

ACT NO. 2022 -

AN ACT to authorize the County of Westchester to apply for and enter into a grant agreement with the United States of America, acting through the Federal Aviation Administration for capital project A0102 – Snow Equipment Storage Building (“A0102”)

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 apply for and enter into a grant agreement with the Federal Aviation Administration in the amount of approximately \$405,000.00 for capital project A0102, equivalent to approximately 75% of the total estimated design cost of \$540,000.00. The New York State Department of Transportation (“NYSDOT”) has indicated that it will fund up to 4% of the total estimated design costs for A0102, resulting in a NYSDOT grant amount of approximately \$22,000. A local share of the cost of A0102 will also be required which will be provided in the amount of approximately \$113,000.

§ 2. The County Executive, or his duly authorized designee, is hereby authorized and empowered to take such actions and to execute and deliver such instruments as may be necessary and appropriate to accomplish the purposes hereof.

§ 3. This Act shall take effect immediately.

George Latimer
County Executive

April 6, 2022

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

Re: Approval of Agreement between the County of Westchester and
the New York State Nurses Association

Dear Members of the Honorable Board of Legislators:

This is to advise you that the Administration and the New York State Nurses Association ("NYSNA") have, subject to the approval of your Honorable Board, reached an Agreement on a five (5) year contract commencing on January 1, 2022 and ending on December 31, 2026 ("Memorandum of Agreement" or "Agreement"). The provisions of the Agreement that require your consideration and approval in compliance with the Public Employees' Fair Employment Act ("Taylor Law"), are outlined below:

Provisions of Existing Agreement:

All terms and conditions of employment of the January 1, 2016 - December 31, 2021 agreement not specifically addressed by this Agreement shall remain unchanged.

Wages:

The following wage and salary increases shall apply:

Retroactive to 1/1/22 Increase all rates on all salary schedules (including per diem hourly rates) by 2%.

Effective 1/1/23 Increase all rates on all salary schedules (including per diem hourly rates) by 2.5%.

Effective 1/1/24 Increase all rates on all salary schedules (including per diem hourly rates) by 2.5%.

Office of the County Executive

Michaelian Office Building
148 Martine Avenue
White Plains, New York 10601

Email: GLatimer@westchestergov.com
Telephone: (914)995-2900

westchestergov.com

Effective 1/1/25 Increase all rates on all salary schedules (including per diem hourly rates) by 2%.

Effective 1/1/26 Increase all rates on all salary schedules (including per diem hourly rates) by 2.5%.

Differentials:

Certification Differentials

Employees who hold a certification that is recognized by the county and the Association will receive a differential of one thousand seven hundred and fifty dollars (\$ 1, 750) per year.

Employees hired after June 30, 2009 will receive the certification differential for the following certifications:

1. Adult Nurse Practitioner
2. Family Nurse Practitioner
3. Adult Health Clinical Nurse Specialist
4. Home Health Clinical Nurse Specialist
5. Pediatric Clinical Health Nurse Specialist
6. Public Health Nursing Advanced
7. Ambulatory Care Nurse
8. Community Health Nurse
9. Home Health Nurse
10. Maternal-Child Nurse
11. Medical-Surgical Nurse
12. Pediatric Nurse
13. Infection Control¹
14. Gerontology Nurse
15. Breastfeeding Certification
16. Asthma Certification
17. Diabetic Nurse Educator
18. Comprehensive or Certified Nurse Case Manager

Infection Control:

Effective as soon as practicable after full ratification of the memorandum of agreement the County of Westchester will contract with NYSNA to co-develop a program on Infection Control specifically tailored for NYSNA bargaining unit members. The County shall have final approval of the program. The County of Westchester will reimburse NYSNA five thousand dollars (\$5,000) to

¹. The infection control differential shall be payable on an annual basis, effective upon development of the program or January 1, 2023 at the latest, to any bargaining unit member who completes an initial training program developed jointly by NYSNA and the County and remains current in annual training requirements. This differential shall be in addition to one other differential for bargaining unit members certified in any of the above listed certifications.

co-develop the program and will pay an additional one thousand dollars (\$1,000) per year to offer the program four times per year to NYSNA bargaining unit members. The program will be in an asynchronous web-based format and credentialed to award seven (7) ANCC CHand .7 IACET CEUs. Upon notice by the County to NYSNA of changes in infection control protocols, NYSNA will update the program with those detailed changes enumerated by the County at no additional charge to County. Effective upon development of the program or January 1, 2023 at the latest, full time Employees who complete the NYSNA/COUNTY Infection Control program and complete a minimum of 3.5 hours of continuing education each year thereafter in a County approved nursing professional development training related to infection control or through completion of all or part of this program to equal 3.5 hours of continuing education will receive a differential of one thousand seven hundred fifty dollars (\$1,750) per year. Employees may utilize continuing education time per 4.04 D. Staff Development to participate in this training or may complete the training on their own time without additional compensation for time expended.

Holidays and Holiday Pay

Effective January 1, 2022, Juneteenth (June 19th) shall be considered a holiday with pay for all employees regularly scheduled to work on that date. All employees required to work will be paid at their regular rate of straight time and will accrue holiday time equal to the number of hours worked on that date. Requests for additional time off will be given with department approval unless operation requirements deem otherwise.


Health Insurance:

Section 10 B & D of the CBA shall be amended as follows:

Replace old rates with rates set by the benefits fund for each year of the agreement.

Therefore, I recommend approval of the Agreement reached between the Administration and the New York State Nurses Association on a five (5) year contract commencing on January 1, 2022 and ending on December 31, 2026.

Respectfully submitted,



George Latimer
County Executive

GL/fs

HONORABLE BOARD OF LEGISLATORS

WESTCHESTER COUNTY

Your Committee is in receipt of a communication from the County Executive pertaining to approval of the Agreement between the County of Westchester and New York State Nurses Association (“NYSNA”) on a five (5) year contract commencing on January 1, 2022 and ending on December 31, 2026 (“Memorandum of Agreement” or “Agreement”). Those provisions of the Agreement that require this Honorable Board’s consideration and approval in compliance with the Public Employees’ Fair Employment Act (“Taylor Law”), are outlined below:

Provisions of Existing Agreement:

All terms and conditions of employment of the January 1, 2016 - December 31, 2021 agreement not specifically addressed by this Agreement shall remain unchanged.

Wages:

The following wage and salary increases shall apply:

Retroactive to 1/1/22 Increase all rates on all salary schedules (including per diem hourly rates) by 2%.

Effective 1/1/23 Increase all rates on all salary schedules (including per diem hourly rates) by 2.5%.

Effective 1/1/24 Increase all rates on all salary schedules (including per diem hourly rates) by 2.5%.

Effective 1/1/25 Increase all rates on all salary schedules (including per diem hourly rates) by 2%.

Effective 1/1/26 Increase all rates on all salary schedules (including per diem hourly rates) by 2.5%.

Differentials:

Certification Differentials

Employees who hold a certification that is recognized by the county and the Association will receive a differential of one thousand seven hundred and fifty dollars (\$ 1, 750) per year.

Employees hired after June 30, 2009 will receive the certification differential for the following certifications:

1. Adult Nurse Practitioner
2. Family Nurse Practitioner
3. Adult Health Clinical Nurse Specialist
4. Home Health Clinical Nurse Specialist
5. Pediatric Clinical Health Nurse Specialist
6. Public Health Nursing Advanced
7. Ambulatory Care Nurse
8. Community Health Nurse
9. Home Health Nurse
10. Maternal-Child Nurse
11. Medical-Surgical Nurse
12. Pediatric Nurse
13. Infection Control¹
14. Gerontology Nurse
15. Breastfeeding Certification
16. Asthma Certification
17. Diabetic Nurse Educator
18. Comprehensive or Certified Nurse Case Manager

Infection Control:

Effective as soon as practicable after full ratification of the memorandum of agreement the County of Westchester will contract with NYSNA to co-develop a program on Infection Control specifically tailored for NYSNA bargaining unit members. The County shall have final approval of the program. The County of Westchester will reimburse NYSNA five thousand dollars (\$5,000) to co-develop the program and will pay an additional one thousand dollars (\$1,000) per year to offer the program four times per year to NYSNA bargaining unit members. The program will be in an asynchronous web-based format and credentialed to award seven (7) ANCC CHand .7 IACET CEUs. Upon notice by the County to NYSNA of changes in infection control protocols, NYSNA will update the program with those detailed changes enumerated by the County at no additional charge to County. Effective upon development of the program or January 1, 2023 at the latest, full time Employees who complete the NYSNA/COUNTY Infection Control program and complete a minimum of 3.5 hours of continuing education each year thereafter in a County approved nursing professional development training related to infection control or through completion of all or part of this program to equal 3.5 hours of continuing education will receive a differential of one thousand seven hundred fifty dollars (\$1,750) per year. Employees may utilize continuing education time per 4.04 D. Staff Development to participate in this training or may complete the training on their own time without additional compensation for time expended.

¹ . The infection control differential shall be payable on an annual basis, effective upon development of the program or January 1, 2023 at the latest, to any bargaining unit member who completes an initial training program developed jointly by NYSNA and the County and remains current in annual training requirements. This differential shall be in addition to one other differential for bargaining unit members certified in any of the above listed certifications.

Holidays and Holiday Pay

Effective January 1, 2022, Juneteenth (June 19th) shall be considered a holiday with pay for all employees regularly scheduled to work on that date. All employees required to work will be paid at their regular rate of straight time and will accrue holiday time equal to the number of hours worked on that date. Requests for additional time off will be given with department approval unless operation requirements deem otherwise.

Health Insurance:

Section 10 B & D of the CBA shall be amended as follows:

Replace old rates with rates set by the benefits fund for each year of the agreement.

Your Committee has carefully considered the subject matter, the Agreement, and the attached act and recommends approval of the Agreement. An affirmative vote of a majority of the Board is required to pass this legislation.

Dated: White Plains, New York
April __, 2022

COMMITTEE ON

AN ACT approving certain financial terms and conditions of employment requiring legislative approval by law in a Collective Bargaining Agreement for those employees of Westchester County represented by the New York State Nurses Association for the five (5) year period commencing January 1, 2022 and ending December 31, 2026.

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

§ 1. Duration: The Collective Bargaining Agreement for those employees of Westchester County represented by the New York State Nurses Association (“NYSNA”) shall commence on January 1, 2022 and end on December 31, 2026

§ 2. Provisions of Existing Agreement: All terms and conditions of employment of the January 1, 2016 - December 31, 2021 agreement not specifically addressed by this Agreement shall remain unchanged.

§ 3. Wages: The following wage and salary increases shall apply:

The following wage and salary increases shall apply:

Retroactive to 1/1/22 Increase all rates on all salary schedules (including per diem hourly rates) by 2%.

Effective 1/1/23 Increase all rates on all salary schedules (including per diem hourly rates) by 2.5%.

Effective 1/1/24 Increase all rates on all salary schedules (including per diem hourly rates) by 2.5%.

Effective 1/1/25 Increase all rates on all salary schedules (including per diem hourly rates) by 2%.

Effective 1/1/26 Increase all rates on all salary schedules (including per diem hourly rates) by 2.5%.

§ 4. Differentials: Section 7.08 of the CBA shall be amended as follows:

Certification Differentials

Employees who hold a certification that is recognized by the county and the Association will receive a differential of one thousand seven hundred and fifty dollars (\$ 1, 750) per year.

Employees hired after June 30, 2009 will receive the certification differential for the following certifications:

1. Adult Nurse Practitioner
2. Family Nurse Practitioner
3. Adult Health Clinical Nurse Specialist
4. Home Health Clinical Nurse Specialist
5. Pediatric Clinical Health Nurse Specialist
6. Public Health Nursing Advanced
7. Ambulatory Care Nurse
8. Community Health Nurse
9. Home Health Nurse
10. Maternal-Child Nurse
11. Medical-Surgical Nurse
12. Pediatric Nurse
13. Infection Control¹
14. Gerontology Nurse
15. Breastfeeding Certification
16. Asthma Certification
17. Diabetic Nurse Educator
18. Comprehensive or Certified Nurse Case Manager

§ 5 Infection Control.

Effective as soon as practicable after full ratification of the memorandum of agreement the County of Westchester will contract with NYSNA to co-develop a program on Infection Control specifically tailored for NYSNA bargaining unit members. The County shall have final approval of the program. The County of Westchester will reimburse NYSNA five thousand dollars (\$5,000) to co-develop the program and will pay an additional one thousand dollars (\$1,000) per year to offer the program four times per year to NYSNA bargaining unit members. The program will be in an asynchronous web-based format and credentialed to award seven (7) ANCC CHand .7 IACET CEUs. Upon notice by the County to NYSNA of changes in infection control protocols, NYSNA will update the program with those detailed changes enumerated by the County at no additional charge to County. Effective upon development of the program or January 1, 2023 at the latest, full

¹ . The infection control differential shall be payable on an annual basis, effective upon development of the program or January 1, 2023 at the latest, to any bargaining unit member who completes an initial training program developed jointly by NYSNA and the County and remains current in annual training requirements. This differential shall be in addition to one other differential for bargaining unit members certified in any of the above listed certifications.

time Employees who complete the NYSNA/COUNTY Infection Control program and complete a minimum of 3.5 hours of continuing education each year thereafter in a County approved nursing professional development training related to infection control or through completion of all or part of this program to equal 3.5 hours of continuing education will receive a differential of one thousand seven hundred fifty dollars (\$1,750) per year. Employees may utilize continuing education time per 4.04 D. Staff Development to participate in this training or may complete the training on their own time without additional compensation for time expended.

§ 6. Health Insurance:

Section 10 B & D of the CBA shall be amended as follows:

Replace old rates with rates set by the benefits fund for each year of the agreement.

§ 7. Holidays and Holiday Pay

Effective January 1, 2022, Juneteenth (June 19th) shall be considered a holiday with pay for all employees regularly scheduled to work on that date. All employees required to work will be paid at their regular rate of straight time and will accrue holiday time equal to the number of hours worked on that date. Requests for additional time off will be given with department approval unless operation requirements deem otherwise.

§ 8. This Act shall take effect immediately.

George Latimer
County Executive

Department of Law

John M. Nonna
County Attorney

April 1, 2022

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

Re: Legislation authorizing the County of Westchester (the “County”) to compromise its claim to be reimbursed for health care expenditures and wage benefits paid to or on behalf of a County employee from a settlement of her legal action.

Dear Honorable Members of the Board:

Attached for your consideration is an Act which, if approved, would authorize the County of Westchester (the “County”) to compromise its claim to be reimbursed for health care expenditures and wage benefits paid to or on behalf of a County employee, identified as “M.D.,” from the settlement of her legal action against defendant tortfeasors; Wesley Harrison Lindsay and Maverick Transportation (collectively, “Defendant Tortfeasor”). Consistent with prior practice in similar cases, I have deleted the name of the employee to protect the individual’s privacy. The name, of course, will be disclosed to the Board of Legislators if that is desired.

When an individual is injured in the course of his or her employment, the County’s self-insured Workers’ Compensation program, administered by Triad Group, LLC, provides medical and lost wage benefits in accordance with NYS Workers’ Compensation Law. If the individual is injured as a result of some alleged tortious act or omission of a third party, the County pays for the immediate health care for the insured, subject to the right to be reimbursed if the insured recovers in a settlement with or legal action against a third party. The employee is entitled to compensation and medical benefits under the NYS Workers’ Compensation Law. Section 29 of the NYS Workers’ Compensation Law entitles the County to a lien against the proceeds of any recovery from the third party liable for the injury, after the deduction of the reasonable and necessary expenditures—including attorney’s fees incurred in effecting such recovery—to the extent of the amount of compensation and medical benefits awarded or provided under NYS Workers’ Compensation Law.

Accordingly, I seek authorization to compromise the following claim:

On May 13, 2016, M.D., an employee in the Westchester County Department of Public Safety (the “Department”) was involved in a motor vehicle accident at a location identified as Nannyhagen Road, Thornwood, NY – approximately one half mile east of Davidson Drive. On said date, a tractor trailer owned and operated by defendant tortfeasors crossed a double yellow line and collided with the vehicle driven by M.D. As a result of the accident, M.D. sustained injuries to her head, neck, shoulders, back and both wrists and missed 129 weeks of work. She returned to full-time regular duty on April 11, 2019, and is currently back at work in full capacity without restrictions.

M.D. filed a claim for her injury with the NYS Workers’ Compensation Board, which was uncontroverted. On a parallel track to her Workers’ Compensation claim, M.D. retained counsel in advance of commencing a personal injury action against the operator of the tractor trailer, individually, and against their employer Maverick Transportation, LLC, headquartered in North Little Rock, Arkansas.¹ M.D.’s counsel is Gary A. Cusano, Esq. of CUSANO SMITH PLLC, 483 Cherry Street, Bedford Hills, New York 10507.

On or about March 8, 2022, M.D. agreed in principle to settle her personal injury claim after issue was joined in federal court, for three hundred eighty-five thousand and 00/100 dollars (\$385,000.00), pending the consent of the County. In connection with the proposed settlement, M.D.’s counsel notified this Office that his legal fee totaled one hundred twenty thousand four hundred eighty-six and 74/100 dollars (\$120,486.74) and that his costs and disbursements totaled twenty-three thousand five hundred thirty-nine and 76/100 dollars (\$23,539.76).

Between the date of the accident and the date of the proposed settlement, the County expended medical benefits pursuant to the NYS Workers’ Compensation Law (“WCL”) to or on M.D.’s behalf in the amount of thirty-one thousand six hundred forty-four and 55/100 dollars (\$31,644.55), paid indemnity (lost wage) benefits in the amount of twenty-six thousand eight hundred forty-eight and 42/100 dollars (\$26,848.42)—bringing the County’s total expenditures in this matter to fifty-eight thousand four hundred ninety-two and 97/100 dollars (\$58,492.97). As this is a motor vehicle accident within which M.D. sustained a physical injury, the first fifty thousand and 00/100 dollars (\$50,000.00) in Worker’s Compensation benefits paid for injuries arising from the accident are exempt from liens under New York’s No-Fault rules. As such, the total worker’s compensation value of the County’s lien, reduced by No-Fault, is eight thousand four hundred ninety-two and 97/100 dollars (\$8,492.97).

Based upon a review of the facts and circumstances of this matter, this Office seeks the authority to compromise the County’s claim for reimbursement by reducing its lien by 37.41%, equaling a dollar reduction of three thousand one hundred seventy-seven and 22/100 dollars (\$3,177.22). The County would thereafter accept in satisfaction of its present lien a total of five thousand three hundred fifteen and 75/100 dollars (\$5,315.75). After the County is reimbursed and counsel fees are paid, M.D. would receive two hundred thirty-five thousand six hundred fifty-seven and 75/100 dollars (\$235,657.75).

[Remainder of Page Intentionally Left Blank]

¹ Maverick Transportation, LLC, is a transportation company that provides flatbed and open-air equipment services to the steel, glass, and building material industries in North America. The company also provides truck maintenance services with equipment and diagnostics, with a regional officer and/or terminal in Gary, Indiana.

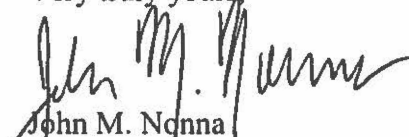
For the convenience of the reader, a chart of the aforementioned figures appears below:

Worker's Compensation Amounts	
Medical Expenses	\$31,644.55
Indemnity (Lost Wage) Payments	\$26,848.42
No-Fault Equivalency for MVA Cases	(\$50,000.00)
Worker's Comp, TOTAL	\$8,492.97

Litigation Amounts	
Third-Party Settlement (Gross Amt)	\$385,000.00
Disbursements	\$23,539.76
Attorney's Fees	\$120,486.74
Cost of Litigation (COL)	\$144,026.50
Net Proceeds of Third-Party Settlement	\$240,973.50
Percentage COL	37.41%
County's COL	\$3,177.22
County's Net Lien	\$5,315.75
Claimant's Net Recovery	\$235,657.75

I respectfully request authority from this Board pursuant to Section 158.11 of the Westchester County Charter to compromise the County's right to be reimbursed for health care and wage benefits paid to or on behalf of M.D. from her recovery against a third-party tortfeasor. I therefore recommend passage of the accompanying Act.

Very truly yours,



John M. Nonna
County Attorney

JMN/GA

BOARD OF LEGISLATORS
COUNTY OF WESTCHESTER

Your Committee is in receipt of a proposed Act which, if enacted by your Board, would authorize the County of Westchester (the "County") to compromise its claim to be reimbursed for healthcare and wage benefits paid to or on behalf of a County employee, identified as "M.D." Consistent with prior practice in similar cases, the County Attorney has deleted the name of the employee to protect the individual's privacy. The name, of course, will be disclosed to the Board of Legislators if that is desired.

On May 13, 2016, M.D., an employee in the Westchester County Department of Public Safety (the "Department") was involved in a motor vehicle accident at a location identified as Nannyhagen Road, Thornwood, NY – approximately one half mile east of Davidson Drive. On said date, a tractor trailer owned and operated by defendant tortfeasors crossed a double yellow line and collided with the vehicle driven by M.D. As a result of the accident, M.D. sustained injuries to her head, neck, shoulders, back and both wrists and missed 129 weeks of work. She returned to full-time regular duty on April 11, 2019, and is currently back at work in full capacity without restrictions.

M.D. filed a claim for her injury with the NYS Workers' Compensation Board, which was uncontroverted. On a parallel track to her Workers' Compensation claim, M.D. retained counsel in advance of commencing a personal injury action against the operator of the tractor trailer, individually, and against their employer Maverick Transportation, LLC, headquartered in North Little Rock, Arkansas.

On or about March 8, 2022, M.D. agreed in principle to settle her personal injury claim after issue was joined in federal court, for three hundred eighty-five thousand and 00/100 dollars (\$385,000.00), pending the consent of the County. In connection with the proposed settlement,

M.D.'s counsel notified this Office that his legal fee totaled one hundred twenty thousand four hundred eighty-six and 74/100 dollars (\$120,486.74) and his costs and disbursements totaled twenty-three thousand five hundred thirty-nine and 76/100 dollars (\$23,539.76).

Between the date of the accident and the date of the proposed settlement, the County expended medical benefits pursuant to the NYS Workers' Compensation Law ("WCL") to or on M.D.'s behalf in the amount of thirty-one thousand six hundred forty-four and 55/100 dollars (\$31,644.55), paid indemnity (lost wage) benefits in the amount of twenty-six thousand eight hundred forty-eight and 42/100 dollars (\$26,848.42)—bringing the County's total expenditures in this matter to fifty-eight thousand four hundred ninety-two and 97/100 dollars (\$58,492.97). Furthermore, because the matter involved a motor vehicle accident, that figure is reduced by fifty thousand and 00/100 dollars (\$50,000.00) to eight thousand four hundred ninety-two and 97/100 dollars (\$8,492.97).

Based upon a review of the facts and circumstances of this matter, this Office seeks the authority to compromise the County's claim for reimbursement by reducing its lien by 37.41%, equaling a dollar reduction of three thousand one hundred seventy-seven and 22/100 dollars (\$3,177.22). The County would thereafter accept in satisfaction of its present lien a total of five thousand three hundred fifteen and 75/100 dollars (\$5,315.75). After the County is reimbursed and counsel fees are paid, M.D. would receive two hundred thirty-five thousand six hundred fifty-seven and 75/100 dollars (\$235,657.75).

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Your Committee has carefully considered the matter and recommends authorizing the County Attorney, pursuant to Section 158.11 of the Westchester County Charter, to compromise the County's right to be reimbursed for health care and wage benefits paid to or on behalf of M.D. from the settlement of her legal action against defendant tortfeasor. An affirmative vote of a majority of the Board is required to pass this legislation.

Dated: White Plains, New York
April __, 2022

COMMITTEE ON

ACT NO. 2022

AN ACT authorizing the County of Westchester to compromise its right to be reimbursed for health care and wage benefits paid to or on behalf of a County employee from a settlement of her legal action against a defendant tortfeasor.

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

1. The County of Westchester is hereby authorized to compromise its right to be reimbursed for health care and wage benefits paid or owing to or on behalf of a County employee, identified as "M.D.", from a settlement of her legal action against a third party. The County's reimbursement is \$5,315.22, representing a 37.41% reduction of its lien, with full reservation of the County's right to set off M.D.'s net recovery against any future compensation in accordance with the provisions of New York State Workers' Compensation Law.
2. The County Attorney or his designee is hereby authorized to execute and deliver all documents and take such actions as the County Attorney deems necessary or desirable to accomplish the purpose hereof.
3. This Act shall take effect immediately.

FISCAL IMPACT STATEMENT

SUBJECT: Settlement of Workers Comp Lien (M.D.)

NO FISCAL IMPACT PROJECTED

OPERATING BUDGET IMPACT

(To be completed by operating department and reviewed by Budget Department)

A) GENERAL FUND AIRPORT SPECIAL REVENUE FUND (Districts)

B) EXPENSES AND REVENUES

Total Current Year Cost \$ 0

Total Current Year Revenue \$ 5,315.75

Source of Funds (check one): Current Appropriations

Transfer of Existing Appropriations Additional Appropriations Other (explain)

Identify Accounts: 613-57-0016-4280

Potential Related Operating Budget Expenses: Annual Amount \$ _____

Describe: _____

Potential Related Revenues: Annual Amount \$ _____

Describe: _____

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

Current Year: _____

Next Four years: _____

Prepared by: Gianfranco Arlia

Title: Assistant County Attorney

Department: Law

Reviewed By: _____

Budget Department

4/1/22

If you need more space, please attach additional sheets.