

ACT 53 - 2023

**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: March 13th, 2023
White Plains, New York

COMMITTEE ON

C:JPG-021523

Vedat Fathi
M. J. J.
M. J. J.
M. J. J. J. J. J.

Dorothy L. Tubiolo

M. J. J.
Catherine P. J.

Colin J. J.

Budget & Appropriations

Vedat Fathi
M. J. J.
M. J. J.
Catherine P. J.
Colin J. J.

Law & Major Contracts

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: *[Signature]*
PH

Budget Director

Date: 2/27/23

ACT NO. 2023 - 53

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.

STATE OF NEW YORK)
)
WESTCHESTER COUNTY) ss.

I HEREBY CERTIFY that I have compared the foregoing Act, Act No. 53 - 2023, with the original on file in my office, and that the same is a correct transcript therefrom, and of the whole, of the said original Act, which was duly adopted by the County Board of Legislators, of the County of Westchester on March 20, 2023, and approved by the County Executive on March 21, 2023.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Corporate Seal of said County Board of Legislators on this 22nd day of March, 2023.



Malika Vanderberg

The Clerk of the Westchester County
Board of Legislators

County of Westchester, New York

