

23559

January 9, 2012

TO: Honorable Board of Acquisition and Contract

FROM: Thomas J. Lauro, P.E.
Acting Commissioner of Public Works and Transportation
Mary J. Mahon
Director of Real Estate

SUBJECT: Authority to amend a license agreement with Airport Mart, Inc. for space in the Main Terminal Building at the Westchester County Airport in order to provide additional space

Pursuant to a Resolution approved by your Honorable Board on November 19, 2009, the County of Westchester (the "County") entered into a license agreement with Airport Mart, Inc. (the "Licensee") for the use of approximately 254 square feet of space in the Terminal Building at the Westchester County Airport as a news, gift and sundries shop for a term from January 1, 2010 through December 31, 2014 with the County's option to renew the agreement for five (5) additional years. Terms of that agreement call for the Licensee to pay the County an initial annual rent of \$16,109.00 with 3% annual increases and 3.5% of gross receipts of up to \$250,000.00 and 4.5% of gross receipts over \$250,000.00, excluding sales tax.

Pursuant to a Resolution approved by your Honorable Board on October 21, 2010, the agreement was later amended (the "First Amendment") to allow the Licensee to add approximately 150 square feet of space, increasing its total to 404 square feet, for commencement of a self-serve Dunkin Donuts franchise from that location for an additional annual rent of \$9,450.00. In consideration of the investment of \$75,000.00 by the Licensee, the annual rent was abated by \$385.00 per month for the period of four (4) years.

Authority is now requested to enter into a second amendment to this agreement to permit the Licensee to operate as a full service Dunkin Donuts franchise. Under the terms of this amendment, 300 square feet of space would be added with the Licensee investing approximately \$200,000.00 for renovation of the space to include windows, walls, flooring, plumbing, electrical and sanitary sewer hook-ups. An additional license fee of \$18,900.00 annually will be charged to the Licensee with 3% annual increases commencing upon occupancy of the space. In consideration of the Licensee's planned improvements totaling approximately \$200,000.00, the County will provide a license fee abatement of \$1,350.00 per month for three (3) years. All other terms and conditions of the agreement, including gross receipts due to the County, will remain unchanged.

This agreement will benefit the public by making additional travel items and necessities conveniently available to passengers at the Airport. The goals and objectives will be to provide additional food and beverage services to the public. Airport Administration will oversee the license agreement and invoice the Licensee for both the license fee and gross receipts percentage, with the Licensee required to provide monthly sales statements and an annual report from a licensed CPA.

This license agreement is exempt from the Westchester County Procurement Policy pursuant to Section 3(b) therein. An appropriate Resolution is attached for your consideration.

RESOLUTION

Upon a communication from the Acting Commissioner of Public Works and Transportation and the Director of Real Estate, be it hereby

RESOLVED, that the County of Westchester (the "County") is authorized to execute a second amendment of the license agreement with Airport Mart, Inc. (the "Licensee"), for the use of approximately 404 square feet of space in the Terminal Building at the Westchester County Airport as a news, gift and sundries shop, to permit the Licensee to occupy an additional 300 square feet of space for an additional license fee of \$18,900.00 annually with 3% annual increases commencing upon occupancy, to operate a full service Dunkin Donuts franchise from the Terminal Building; and be it further

RESOLVED, that in consideration of the Licensee's planned improvements totaling approximately \$200,000.00, including windows, walls, flooring, plumbing, electrical and sanitary sewer hook-ups, the County shall provide a license fee abatement of \$1,350.00 per month for three (3) years; and be it further

RESOLVED, that all other terms and conditions of the agreement, as amended, shall remain unchanged; and be it further

RESOLVED, that the County Executive or his authorized designee is hereby authorized to execute all instruments and take all actions reasonably necessary to implement this Resolution.

Original Agreement	\$ 84,718.00
First Amendment	\$ 21,055.00
This Amendment	<u>\$ 9,818.00</u>
Total	\$115,591.00

Account to be Charged/Credited	Fund	Dept	Major Program, Program & Phase Or Unit	Object/ Sub Object	Trust Account	Dollars
	161	44	4110	9096-01		\$2,700.00 year 2012
	161	44	4110	9096-01		\$3,267.00 year 2013
	161	44	4110	9096-01		\$3,851.00 year 2014

Budget Funding Year(s) 2012-2014 Start Date 01/01/2012 End Date 12/31/2014
 (must match resolution)

Funding Source	Tax Dollars	_____
	State Aid	_____
	Federal Aid	_____
<u>\$9,818.00</u> (must match resolution)	Other	<u>Revenue - Airport Special Revenue Fund</u>