

59297

DATE: October 10, 2017

TO: Board of Acquisition and Contract

FROM: Vincent F. Kopicki, P.E.
Commissioner of Public Works and Transportation

Adam Rodriguez
Director of Real Estate

SUBJECT: Authority for the County to enter into an agreement with Tisma, Inc. and Aircraft Hangar Services LLC concerning, and whereby the County will consent to, Tisma, Inc. assigning to Aircraft Hangar Services LLC, effective October 16, 2017, the lease by which Tisma, Inc. leased a portion of the hangar and surrounding premises known as Hangar D at the Westchester County Airport. (Lease Agreement No. WCA 17005)

By a resolution approved on July 6, 2017 (the "Resolution"), your Honorable Board authorized the County of Westchester (the "County") to enter into a lease agreement (the "Lease") with Tisma, Inc. ("Tisma") for the use of a portion of the hangar and surrounding premises known as Hangar D (the "Leased Premises") at the Westchester County Airport (the "Airport"), for a term commencing on July 1, 2017 and continuing through June 30, 2022 (the "Initial Term"), with Tisma having the option to renew the lease for one (1) additional five (5) year period, from July 1, 2022 through June 30, 2027. Under the Lease, pursuant to the Resolution, Tisma was to:

- 1.) Pay the County a monthly base rent of \$56,156.53 during the initial year of the Lease, with said monthly base rent being increased effective January 1 of each succeeding year by the greater of three percent (3%) or one hundred percent (100%) of the increase in the consumer price index for urban consumers NY/NJ in January as calculated for the one year period, but with a market evaluation of the rent to be performed at specified intervals such that, based on the evaluation's findings, the rent might not be increased for a period of time;
- 2.) During the Initial Term, monthly pay the County \$166.67, as reimbursement for the anticipated costs and expenses to be incurred by the County in decommissioning and removing the petroleum tanks at Hangar D that have served the Leased Premises;
- 3.) In concert with the other tenants of Hangar D, perform various improvements to Hangar D, and the County will provide Tisma, over a period of months, a total aggregate abatement of monthly base rent that shall not exceed \$1,012,445.10, which will be based on Tisma's contributions to said various improvements, and which will represent less than half of the cost of the improvements provided by Tisma; and
- 4.) Pay the County additional rent for various other things, if and as applicable, including, without limitation, its proportionate share of any federal, state or locally mandated security measures reasonably related to the use of the Leased Premises.

The Lease was subsequently executed.

Tisma has advised the County that it wishes to assign the Lease to Aircraft Hangar Services LLC ("AHS"), effective October 16, 2017. However, under the Lease, Tisma, Inc. may not make such an assignment without the prior written consent of the County.

Therefore, the County respectfully requests authority from your Honorable Board to enter into an agreement with Tisma and AHS (the "Assignment Agreement"), pursuant to which:

- 1.) Tisma will assign to AHS, effective October 16, 2017, all of Tisma's right, privilege, interest, obligation and duty of performance in, to, and under the Agreement (the "Assignment");
- 2.) AHS will accept the Assignment from Tisma and, accordingly, accept and agree to all of the terms, conditions and provisions of the Lease, and agree to accept and discharge all of the covenants and obligations of Tisma under the Lease, through the remainder of its term, as if AHS were an original party thereto, with all terms and conditions of the Lease remaining in full force and effect, including but not limited to, those terms concerning the payment of all sums due or to become due by the lessee under the terms of the Lease;
- 3.) AHS will pay the County two (2) months rent as security for its faithful performance of the Lease, in compliance with the terms of Section 4.3 of the Lease, as required by Section 12.3 of the Lease; and
- 4.) the County will consent to the Assignment.

The proposed Assignment Agreement will serve a public purpose by ensuring that the Airport continues to receive revenue from, and improvements to, Hangar D from a suitable lessee.

The goal and objective of the proposed Assignment Agreement is to ensure that the Airport continues to receive revenue from, and improvements to, Hangar D from a suitable lessee.

The goal and objective of the proposed Assignment Agreement is in the best interests of the County in terms of fiscal responsibility, as it will ensure that the Airport continues to be provided with revenue for use of an existing Airport asset, as well as continues to be provided with improvements to that asset at only partial cost to the Airport.

The goal and objective of the proposed Assignment Agreement will be tracked and monitored by the staff of the Department of Public Works and Transportation and the Airport.

I respectfully recommend the adoption of the attached resolution.

RESOLUTION

Lease Agreement No. WCA 17005

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

RESOLVED, that the County of Westchester (the "County") is hereby authorized to enter into an agreement (the "Assignment Agreement") with Tisma, Inc. ("Tisma") and Aircraft Hangar Services LLC ("AHS"), pursuant to which:

- 1.) Tisma will assign to AHS, effective October 16, 2017, all of Tisma's right, privilege, interest, obligation and duty of performance in, to, and under Tisma's lease agreement with the County (the "Lease") for the use of a portion of the hangar and surrounding premises known as Hangar D at the Westchester County Airport (the "Leased Premises"), for a term commencing on July 1, 2017 and continuing through June 30, 2022 (the "Initial Term"), with Tisma having the option to renew the lease for one (1) additional five (5) year period, from July 1, 2022 through June 30, 2027, under which Lease Tisma was to:
 - a.) Pay the County a monthly base rent of \$56,156.53 during the initial year of the Lease, with said monthly base rent being increased effective January 1 of each succeeding year by the greater of three percent (3%) or one hundred percent (100%) of the increase in the consumer price index for urban consumers NY/NJ in January as calculated for the one year period, but with a market evaluation of the rent to be performed at specified intervals such that, based on the evaluation's findings, the rent might not be increased for a period of time;
 - b.) During the Initial Term, monthly pay the County \$166.67, as reimbursement for the anticipated costs and expenses to be incurred by the County in decommissioning and removing the petroleum tanks at Hangar D that have served the Leased Premises;
 - c.) In concert with the other tenants of Hangar D, perform various improvements to Hangar D, and the County will provide Tisma, over a period of months, a total aggregate abatement of monthly base rent that shall not exceed \$1,012,445.10, which will be based on Tisma's contributions to said various improvements, and which will represent less than half of the cost of the improvements provided by Tisma; and
 - d.) Pay the County additional rent for various other things, if and as applicable, including, without limitation, its proportionate share of any federal, state or locally mandated security measures reasonably related to the use of the Leased Premises,(the "Assignment");
- 2.) AHS will accept the Assignment from Tisma and, accordingly, accept and agree to all of the terms, conditions and provisions of the Lease, and agree to accept and discharge all of the covenants and obligations of Tisma under the Lease, through the remainder of its term, as if AHS were an original party thereto, with all terms and conditions of the Lease remaining in full force and effect, including but not limited to, those terms concerning the payment of all sums due or to become due by the lessee under the terms of the Lease;
- 3.) AHS will pay the County two (2) months rent as security for its faithful performance of the Lease, in compliance with the terms of Section 4.3 of the Lease, as required by Section 12.3 of the Lease; and
- 4.) the County will consent to the Assignment

; and be it further

RESOLVED, that the County Executive or his duly authorized designee is hereby authorized to take such action and execute such documents as may be necessary and proper to effect the purposes hereof.

Lease Agreement No. WCA 17005

| Account to be Charged/Credited | Fund | Dept. | Major Program, Program & Phase Or Unit | Object/ Sub Object | Trust Account | Dollars |
|--------------------------------|------|-------|--|--------------------|---------------|---------|
| | | | N/A | | | N/A |
| | | | | | | |

Budget Funding Year(s) N/A Start Date N/A End Date N/A
 (must match resolution)

Funding Source: Tax Dollars _____
 State Aid _____
\$N/A Federal Aid _____
 (must match resolution) Other _____

APPROVED BOARD OF ACQUISITION & CONTRACT - 10/12/2017 - LISA MRIJAJ, SECRETARY