



OnBase: 95155

TO: Honorable Board of Acquisition and Contract

FROM: Dr. Belinda S. Miles
President, Westchester Community College

Christopher D. Steers
Director of Real Estate

DATE: August 2, 2022

SUBJECT: Authority to amend the lease agreement with Brooks Shopping Centers, LLC for space located at the Cross County Center, Yonkers for use by Westchester Community College's Yonkers Extension Center, in order to authorize an increase of the total amount payable under the Lease by an amount not to exceed \$900,000.00 for work required by the College to be able to operate as a 21st century facility.

By Resolution of your Honorable Board on December 17, 2009, the County of Westchester ("County"), acting through the Westchester Community College ("WCC") was authorized to enter into a lease agreement ("Lease") with Brooks Shopping Centers LLC ("Landlord") for 12,165 square feet of space located at the Cross County Center ("CCC"), Yonkers (the "Original Premises") for use by Westchester Community College's Yonkers Extension Center (the "Extension Center"), for a ten-year term from May 1, 2010 through April 30, 2020 (the "Original Term").

By Resolution of your Honorable Board on June 4, 2020, the County was authorized to amend the Lease in order to extend the term by eight months from May 1, 2020 to December 31, 2020 (the "First Amendment Term"). The purpose of this short extension was to allow for additional time for the County to continue to occupy the Original Premises while negotiating terms with the Landlord for a longer extension during which the Extension Center would occupy a larger space in the same complex as the Original Premises (the "New Premises"). During the First Amendment Term, the Landlord informed WCC that the New Premises were to be vacated by Sears Department Store and would be available as a better alternative to the Original Premises.

By Resolution of your Honorable Board on December 23, 2020, the County was authorized to amend the Lease in order to extend the term by one year from January 1, 2021 to December 31, 2021 (the "Second Amendment Term") to allow additional time to negotiate terms for relocation of the Extension Center to a new 39,093 square foot premises (the "New Premises") once the work necessary for WCC's occupancy is complete (the "Landlord's Work").

By Resolution of your Honorable Board on November 10, 2021, the County was authorized to amend the Lease in order to provide terms for relocation of the Extension Center to the New Premises designated as Space 1120 at CCC which was formerly occupied by the Sears department store, once the work necessary for WCC's occupancy is complete and WCC is able to relocate the Extension Center to the New Premises (the "Adjustment Date"), and to extend the term of the Lease for ten (10) years from the Adjustment Date (the "Third Amendment Term").

The Extension Center, located in the CCC, opened in fall 2001. In 2010, WCC moved the Center to the Original Premises. Since 2010, enrollments at the Extension Center have grown from just under 2000 enrollments to an average of 3000 per semester, making this location the highest enrolled of all extension centers. Instructional space is used 12 – 14 hours/ 6 days weekly, bringing usage to full capacity.

Pursuant to the Lease and its amendments, the Landlord, using its architect and contractors, will perform the Landlord's Work, in accordance with plans that have been reviewed and approved by WCC, at a cost to the Landlord not to exceed \$5,918,768.53 (the "Landlord's Work Allowance"), and WCC will be responsible for any additional cost of said work or of any change orders requested by WCC. Local Law 11-2021 that authorized the Third Amendment further provided that change orders that result in an increase to the total amount payable under the Lease in excess of ten percent (10%) of the total principal amount of the Landlord's Work Allowance will require an amendment to the Lease and will be subject to approval of the Board of Legislators and your Honorable Board.

WCC has requested the Landlord to undertake the following additional work, which includes, but is not limited to, High-Flex classrooms that enable students to be taught in person and remotely at the same time. This capability was installed at the main campus during the COVID-19 pandemic and is needed at this state-of-the-art facility as the methodologies used to provide advanced education continue to evolve. Additional wiring and related infrastructure work are also required to enhance security and wireless internet access, and to increase audio and visual capability in order to maintain the College's ability to stay competitive with other institutions of higher learning.

These change orders requested by WCC are estimated to cost up to \$900,000.00, which exceeds the authority the Board of Legislators granted to your Honorable Board in

this matter. Therefore, pursuant to Local Law 11-2021, approval of your Honorable Board for an amendment (“Fourth Amendment”) to the Lease is necessary.

The Board of Legislators, on August 1, 2022, adopted Local Law Intro 356-2022 to further amend the Lease in order to authorize an increase of the total amount payable under the Lease by an amount not to exceed \$900,000.00 for work required by the College to be able to operate as a 21st century facility. Authority is respectfully requested from your Honorable Board for the County, acting by and through WCC, to similarly amend the Lease.

Pursuant to the proposed amendment (the “Fourth Amendment”) the County shall be authorized to increase the total amount payable under the Lease by an amount not to exceed \$900,000.00 for work required by WCC to be able to operate as a 21st century facility. The work that WCC has requested the Landlord to undertake includes, but is not limited to: High-Flex classrooms that enable students to be taught in person and remotely at the same time; and additional wiring and related infrastructure work required to enhance security and wireless internet access, and to increase audio and visual capability in order to maintain the College’s ability to stay competitive with other institutions of higher learning. All other terms and conditions of the Lease, as previously amended, will remain in full force and effect.

The goal and objective of this proposed Fourth Amendment is to continue to provide a larger space for WCC to expand its Yonkers Extension Center. It is in the best interests of the County to enter into this Fourth Amendment as it serves a public purpose by benefiting the welfare of the residents of Westchester County utilizing this satellite location which is centrally located for mass transit use. The Fourth Amendment will be monitored by the staff at WCC to ensure that there is compliance with all of the lease terms.

It should be noted that this lease agreement is exempt from the County’s Procurement Policy pursuant to Section 3(b) therein.

Accordingly, attached for your consideration is a resolution which, if approved, would authorize the County to enter into this Fourth Amendment. Approval of the attached resolution is recommended.

BSM/CDS/dlv

RESOLUTION

Upon a communication from the President of Westchester Community College and the Director of Real Estate, be it hereby

RESOLVED, that the County of Westchester, acting by and through the Westchester Community College ("WCC"), is authorized to amend the lease agreement ("Lease") with Brooks Shopping Centers, LLC ("Landlord") for space located at the Cross County Shopping Center ("CCSC"), Yonkers, in order to authorize an increase of the total amount payable under the Lease by an amount not to exceed \$900,000.00 for work required by WCC to be able to operate as a 21st century facility. The work that WCC has requested the Landlord to undertake includes, but is not limited to: High-Flex classrooms that enable students to be taught in person and remotely at the same time; and additional wiring and related infrastructure work required to enhance security and wireless internet access, and to increase audio and visual capability in order to maintain the College's ability to stay competitive with other institutions of higher learning; and be it further

RESOLVED, that all other terms and conditions of the Lease, as previously amended, shall remain in full force and effect; and be it further

RESOLVED, that the Lease, as amended, is subject to appropriations; and be it further

RESOLVED, that the County Executive or his duly authorized designee, is hereby authorized and empowered to execute any and all documents necessary and appropriate to effectuate the purposes hereof.

Account to be Charged/credited	Fund	Dept	Major Program, Program & Phase Or Unit	Object/ Sub Object	Trust Account	Dollars
	701	34	8216	4437		\$900,000

Budget Funding Year(s) _____ Start Date 1/1/2022 End Date 12/31/2032
 (must match resolution)

Funding Source Tax Dollars _____

State Aid \$328,559

\$ \$900,000.00 Federal Aid _____
 (must match resolution)

Other \$571,441