



OnBase: 103025

Date: August 24, 2023

To: Board of Acquisition and Contract

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

Re: Authority for the County of Westchester to exercise its first option under a lease agreement with Enclave On 5th Commercial, LLC, pursuant to which the lessor leased to the County approximately twenty-two thousand (22,000) square feet of space in the building located at 15 South 5th Avenue in Mount Vernon, as well as approximately 31 parking spaces, to be used and occupied by Westchester Community College, for the purpose of operating a satellite campus.

---

By Local Law 12-2012 (the "Local Law"), which was adopted by the Board of Legislators (the "BOL") of the County of Westchester (the "County") on November 13, 2012 and approved by the County Executive on November 21, 2012, the BOL authorized the County to enter into a lease agreement with 15 South 5th Ave LLC ("15 South"), pursuant to which 15 South leased to the County approximately twenty-two thousand (22,000) square feet of space in the building located at 15 South 5th Avenue in Mount Vernon, as well as approximately 31 parking spaces, (the "Leased Premises") to be used and occupied by Westchester Community College ("WCC") for the purpose of operating a satellite campus (the "Lease Agreement").

By a resolution approved on December 13, 2012, your Honorable Board authorized the County to enter into the Lease Agreement. The Lease Agreement was subsequently executed.

Shortly thereafter, 15 South, pursuant to its rights under the Lease Agreement, assigned the Lease Agreement to Enclave On 5th Commercial, LLC (the "Landlord") upon 15 South's sale of the Leased Premises to the Landlord.

Based upon the Local Law, the Lease Agreement had an initial term of ten (10) years, which was to commence upon the completion of certain renovations agreed upon by the County and the Landlord. Accordingly, the initial term ultimately commenced on January 1, 2014, and will, therefore, expire on December 31, 2023.

Based upon the Local Law, the Lease Agreement specifies that the County has two (2) options, each of which would extend the term of the Lease Agreement by an additional five (5) years, on specified cost terms, which are different for the first option (the "First Option") and the second option.

Based upon the Local Law, the Lease Agreement provides that the 'fixed rent' would be \$20.29 per rentable square foot per annum for the term of the First Option. Based upon the Local Law, the Lease Agreement provides that the rentable square footage of the Leased Premises is 22,000 feet. Accordingly, for each year of the term of the First Option, the 'fixed rent' would be \$446,380.00, with said rent being a total of \$2,231,900.00 for the full five (5) year period of the First Option.

Under the Lease Agreement, during the term of the First Option, the County will also: (a.) be responsible for all costs, expenses, and fees relating to the maintenance, repair, and replacement of the non-structural elements (e.g., painting, carpeting, etc.) of the Leased Premises, with respect to which the Landlord will perform the work and bill the costs, expenses, and fees thereof to the County as additional rent; (b.) since the premises are now subject to a condominium regime in which the Leased Premises are one (1) condominium unit, the County shall be responsible for payment of one hundred percent (100%) of the taxes levied on the condominium unit comprising the Leased Premises, but which obligation of the County was capped at \$100,000.00 in the first year of the initial term, and which cap has, for each subsequent year of the lease term, increased by the same percentage as the aggregate real estate taxes for the one (1) condominium unit; and (c.) pay for all water, electrical current, and gas for heating used in connection with the Leased Premises.

WCC now desires that the County exercise the First Option and thereby extend the term of the Lease Agreement by five (5) years, to a new expiration date of December 31, 2028.

Accordingly, the County respectfully requests authority from your Honorable Board to exercise the First Option.

Authority to exercise the First Option is also currently being sought from the BOL. Accordingly, use of any authority granted by your Honorable Board regarding the proposed exercise of the First Option will be contingent upon the requisite legislation being adopted by the BOL and approved by the County Executive.

The exercise of the First Option will serve a public purpose by facilitating the continued provision of space at the Leased Premises for a satellite campus that offers WCC's classes and other educational services to the public.

The goal and objective of the exercise of the First Option is to facilitate the continued provision of space at the Leased Premises for a satellite campus that offers WCC's classes and other educational services to the public.

The goal and objective of the exercise of the First Option is in the best interests of the County in terms of public welfare, as facilitating the continued provision of space at the Leased Premises for a satellite campus that offers WCC's classes and other educational services to the public is intended to ultimately improve the welfare of the public.

The goal and objective of the exercise of the First Option will be tracked and monitored by the staff of WCC.

I respectfully recommend the adoption of the attached resolution.

BSM/SG/bdm/nn

APPROVED BOARD OF ACQUISITION & CONTRACT - 09/14/2023 - RAYMOND SCUKY, SECRETARY

## **RESOLUTION**

Upon a communication from the President of Westchester Community College, be it hereby:

**RESOLVED**, that the County of Westchester (the "County") is hereby authorized to exercise its first option (the "First Option") under a lease agreement with Enclave On 5th Commercial, LLC, as the assignee of 15 South 5th Ave LLC, (the "Landlord"), pursuant to which the Landlord leased to the County approximately twenty-two thousand (22,000) square feet of space in the building located at 15 South 5th Avenue in Mount Vernon, as well as approximately 31 parking spaces, (the "Leased Premises") to be used and occupied by Westchester Community College ("WCC"), for the purpose of operating a satellite campus, (the "Lease Agreement") and thereby extend the term of the Lease Agreement by five (5) years, to a new expiration date of December 31, 2028; and be it further

**RESOLVED**, that, as the Lease Agreement provides that the 'fixed rent' would be \$20.29 per rentable square foot per annum for the term of the First Option and that the rentable square footage of the Leased Premises is 22,000 feet, therefore, for each year of the term of the First Option, the 'fixed rent' will be \$446,380.00, with said rent being a total of \$2,231,900.00 for the full five (5) year period of the First Option; and be it further

**RESOLVED**, that, under the Lease Agreement, during the term of the First Option, the County will also: (a.) be responsible for all costs, expenses, and fees relating to the maintenance, repair, and replacement of the non-structural elements (e.g., painting, carpeting, etc.) of the Leased Premises, with respect to which the Landlord will perform the work and bill the costs, expenses, and fees thereof to the County as additional rent; (b.) since the premises are now subject to a condominium regime in which the Leased Premises are one (1) condominium unit, the County shall be responsible for payment of one hundred percent (100%) of the taxes levied on the condominium unit comprising the Leased Premises, but which obligation of the County was capped at \$100,000.00 in the first year of the initial term, and which cap has, for each subsequent year of the lease term, increased by the same percentage as the aggregate real estate taxes for the one (1) condominium unit; and (c.) pay for all water, electrical current, and gas for heating used in connection with the Leased Premises; and be it further

**RESOLVED**, that the authority provided to the County to exercise the First Option is contingent upon the requisite legislation being adopted by the Board of Legislators and approved by the County Executive; and be it further

**RESOLVED**, that the County Executive or his duly authorized designee is empowered to execute all documents and take all actions necessary to effect the purpose of this resolution.

---

Account to be  
Charged/credited

FY	Fund	Dept	Major Program, Program & Phase Or Unit	Sub Unit	Object/ Sub Object	Trust Account	Dollars
23-24	701	8221			4320-01		\$297,586.67
24-25	701	8221			4320-01		\$446,380.00
25-26	701	8221			4320-01		\$446,380.00
26-27	701	8221			4320-01		\$446,380.00
27-28	701	8221			4320-01		\$446,380.00
28-29	701	8221			4320-01		\$148,793.33
Total							\$2,231,900.00

Budget Funding Year(s) 2024-2028 Start Date 06/01/2023 End Date 12/31/2028  
(must match resolution)

Funding Source Tax Dollars: \$ 814,789.00  
State Aid: \_\_\_\_\_  
Federal Aid: \_\_\_\_\_  
Other: \$1,417,111.00 Tuition

\$ \$2,231,900.00

(must match resolution)

APPROVED BOARD OF ACQUISITION & CONTRACT - 06/14/2023 - RAYMOND SCULPES, SECRETARY