

**HONORABLE BOARD OF LEGISLATORS
THE COUNTY OF WESTCHESTER**

Your Committee is in receipt of a communication from the County Executive wherein he requests that your Honorable Board adopt a Local Law which, if adopted, would authorize the County of Westchester (the "County"), acting by and through the Westchester Community College ("WCC") to amend the lease agreement (the "Lease"), with Brooks Shopping Centers, LLC (the "Landlord") for 12,165 square feet of space located at the Cross County Shopping Center ("CCSC"), Yonkers (the "Original Premises") for use by WCC's Yonkers Extension Center (the "Extension Center"), in order to provide terms for relocation of the Extension Center to a new, 39,093 square foot premises (the "New Premises") located at CCSC Space 1120, which was formerly occupied by the Sears department store, once the work necessary for WCC's occupancy (the "Landlord's Work") 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.

Your Committee is advised that the original term of the Lease commenced on May 1, 2010 and expired on April 30, 2020 (the "Original Term") and, pursuant to your Honorable Board's Local Law enacted on May 4, 2020, the Lease was extended by eight months from May 1, 2020 to December 31, 2020. Pursuant to your Honorable Board's Local Law enacted on December 8, 2020, the Lease was further extended for one year from January 1, 2021 to December 31, 2021 (the "2021 Extension Term"). The purpose of the 2021 Extension Term was to allow WCC to continue to occupy the Original Premises while negotiating the terms with the Landlord for the lease of the New Premises.

Your Committee is advised that, under this proposed amendment (the "Third Amendment"), the County shall continue to pay the Landlord annual fixed minimum rent ("Rent") at the same rate as that of 2021 Extension Term, \$50.00 per square foot or \$50,687.50 per month, until the Adjustment Date, which shall occur during the first intersession break after the work is complete. Then the monthly rent, while remaining at \$50.00 per square foot, will increase to \$162,887.50 per month based on the larger square footage and will remain at that rate

and amount until December 31, 2022. Thereafter, the Rent will increase by 2% per year for ten (10) years from the Adjustment Date. In addition to the fixed minimum rent, WCC will pay \$6.00 per square foot per annum beginning on the Adjustment Date for "Tenant's Share of Fixed Costs" which is defined as "all costs and expenses arising in connection with the use, ownership, operation, and maintenance of the Center". The Tenant's Share of Fixed Costs will increase by 2% annually beginning on January 1, 2023.

Your Committee is advised that the Landlord, using the Landlord's architect and contractors, shall 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. WCC will be responsible for any additional cost of said work or of any change orders requested by WCC.

Your Committee is advised that the Landlord shall manufacture, purchase install and maintain signage for WCC at WCC's expense. Landlord shall also provide cleaning services through a contract, approved by WCC, with Landlord's cleaning contractor for which services WCC shall reimburse the Landlord.

Your Committee is advised that the Extension Center, located in the Cross County Shopping Center, opened in fall 2001. In 2010, WCC moved the center to its current 2nd floor location at 1 Mall Walk. Since 2010, enrollments at the Yonkers Extension 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 Section 104.11(5)(e) of the County Charter, leases of the property of others for County purposes for terms exceeding ten years may be made only by local law. Prior to taking any action on the proposed Local Law, your Honorable Board must hold a public hearing pursuant to 209.141 (4) of the Laws of Westchester County, and a resolution providing for the hearing is submitted herewith.

The Planning Department has advised that entering into the proposed lease constitutes a Type II action under the State Environmental Quality Review Act ("SEQRA"), and its implementing regulations, 6 NYCRR, Part 617 and no further environmental review is required. As you know, your Honorable Board may use such expert advice to make its own conclusion.

Upon careful consideration, your Committee finds the proposed Second Amendment to be in the County's best interests as it provides for the continued use of the Yonkers Extension Center and therefore your Committee recommends approval of the proposed Local Law.

Dated: September 27, 2021
White Plains, New York

Arthur R

Rep Walter

Benjamin Boylan II

Dist Me (w/ps president)

Rep Walter
Benjamin Boylan II

COMMITTEE ON:
s con carp wcc cross county lease Third Amendt

Budget & Appropriations

*Public works
& Transportation*

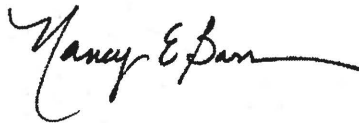
Dated: September 27, 2021

White Plains, New York

The following members attended the meeting remotely, pursuant to Chapter 417 of New York State Laws of 2021, and approved this item out of Committee with an affirmative vote. Their electronic signature was authorized and is below.

Committee(s) on:

Budget & Appropriations



Catherine F. Parker



Public Works & Transportation



Catherine F. Parker



FISCAL IMPACT STATEMENT

SUBJECT: Brooks Shopping Center 3A 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 WCC21/22: \$690,745

Total Current Year Revenue _____

Source of Funds (check one): Current Appropriations Transfer of Existing Appropriations

Additional Appropriations Other (Revenue)

Identify Accounts: 701-8216-4320

Potential Related Operating Budget Expenses: Annual Amount \$ 690,745

Describe: A local law authorizing the COW to amend its lease agreement with the Brooks Shopping Center, LLC for the lease of space located at the Cross County Shopping Center to provide terms for relocation to a new space and to increase the term thereof for an additional ten years.

Potential Related Operating Budget Revenues: Annual Amount _____

Describe: _____

Anticipated Savings to County and/or Impact on Department Operations:

Current Year: WCC 21/22 : \$690,745 (expenses)

Next Four Years: WCC 22/23: \$2,223,219 ; WCC 23/24: \$2,267,683; WCC 24/25: \$2,313,037 ;
WCC 25/26: \$2,359,298 ; WCC26/27 - WCC31/32: \$12,523,438 (expenses)

Prepared by: Michael Dunn

Title: Assistant Budget Analyst

Department: Budget

Date: September 10, 2021

Reviewed By: 

Budget Director

Date: 9/10/21

TO: James Carpiniello, Senior Assistant County Attorney
Department of Law

FROM: David S. Kvinge, AICP, RLA, CFM
Director of Environmental Planning



DATE: September 9, 2021

SUBJECT: **STATE ENVIRONMENTAL QUALITY REVIEW FOR AMENDMENT TO
CROSS COUNTY SHOPPING CENTER LEASE AGREEMENT FOR
WESTCHESTER COMMUNITY COLLEGE**

PROJECT/ACTION: A local law authorizing the County of Westchester, acting by and through the Westchester Community College (WCC), to amend a lease agreement with Brooks Shopping Centers, LLC for space at the Cross County Shopping Center, located in the City of Yonkers, for use by WCC's Yonkers Extension Center. The amendment will provide terms for the relocation of the Extension Center from its existing 12,165 square-foot premises to a 39,093 square-foot premises, which was formerly occupied by the Sears department store, at this shopping center. The relocation will occur once the renovations necessary for WCC's occupancy is complete and the term will be extended for an additional ten years.

With respect to the State Environmental Quality Review Act and its implementing regulations 6 NYCRR Part 617, the Planning Department recommends that no further environmental review is required because the project/action:

- DOES NOT MEET THE DEFINITION OF AN "ACTION" AS DEFINED UNDER SECTION 617.2(b)**
- MAY BE CLASSIFIED AS TYPE II PURSUANT TO SECTIONS:**
- **617.5(c)(18):** reuse of a residential or commercial structure, or of a structure containing mixed residential and commercial uses, where the residential or commercial use is a permitted use under the applicable zoning law or ordinance, including permitted by special use permit, and the action does not meet or exceeds any of the thresholds in section 617.4 of this Part;
 - **617.5(c)(32):** license, lease and permit renewals, or transfers of ownership thereof, where there will be no material change in permit conditions or the scope of permitted activities.

COMMENTS: The expanded space will serve existing demand, which has grown over the years and is presently operating at full capacity.

DSK/cnm

cc: Chris Steers, Director of Countywide Administrative Services
Tami Altschiller, Assistant Chief Deputy County Attorney
Norma Drummond, Commissioner
Claudia Maxwell, Associate Environmental Planner

A **LOCAL LAW** authorizing the County of Westchester to amend its lease agreement with Brooks Shopping Centers, LLC for the lease of space located at the Cross County Shopping Center to provide terms for relocation to a new space and to increase the term thereof for an additional ten years.

NOW, THEREFORE, BE IT ENACTED by the Board of Legislators of the County of Westchester as follows:

Section 1. The County of Westchester, acting by and through Westchester Community College (“WCC”), is hereby authorized to amend the lease agreement (the “Lease”), with Brooks Shopping Centers, LLC (the “Landlord”) for 12,165 square feet of space located at the Cross County Shopping Center, Yonkers (the “Leased Premises”) for use by WCC’s Yonkers Extension Center (the “Extension Center”), in order to provide terms for relocation of the Extension Center to a new, 39,093 square foot premises (the “New Premises”) located at CCSC Space 1120, 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;

§2. The annual fixed rent shall be at a monthly rate of \$50.00 per square foot or \$50,687.50 per month, until the Adjustment Date, which shall occur during the first intersession break after the work is complete. Then the monthly rent, while remaining at \$50.00 per square foot, will increase to \$162,887.50 per month based on the larger square footage and will remain at that rate and amount until December 31, 2022. Thereafter, the Rent will increase by 2% per year for ten (10) years from the Adjustment Date;

§3. The Landlord, using the Landlord’s architect and contractors, shall perform the work necessary to prepare the New Premises for WCC’s occupancy (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. WCC will be responsible for any additional cost of said work or of any change orders requested by WCC;

§4. WCC will pay \$6.00 per square foot per annum beginning on the Adjustment Date for “Tenant’s Share of Fixed Costs” which is defined as “all costs and expenses arising in connection with the use, ownership, operation, and maintenance of the Center”. The Tenant’s Share of Fixed Costs will increase by 2% annually beginning on January 1, 2023;

§5. The Landlord shall manufacture, purchase install and maintain signage for WCC at WCC’s expense. Landlord shall also provide cleaning services through a contract, approved by WCC, with Landlord’s cleaning contractor for which services WCC shall reimburse the Landlord;

§6. Change order requests that do not seek to increase the total amount payable under the Lease, or extend the Lease Term, shall only require the approval of the County Board of Acquisition and Contract, upon recommendation of the President of WCC. Change orders that result in an increase to the total amount payable under the Lease, or which extend the Lease Term, shall require an amendment to the Lease and shall be subject to approval of the Board of Legislators and the Board of Acquisition and Contract. Notwithstanding the immediately preceding sentence the Board of Acquisition and Contract, upon recommendation of the President of WCC, is authorized to approve change orders that in the aggregate do not exceed ten (10%) percent of the total principal amount for the (the “Landlord’s Work”), without additional Board of Legislator approval for same;

§7. The County Executive or his duly authorized designee, is hereby authorized to execute and deliver all instruments approved as to form and substance by the County Attorney as are necessary and appropriate to effectuate the purposes of this Local Law.

§8. This Local Law shall take effect immediately.

STATE OF NEW YORK)
) ss.
COUNTY OF WESTCHESTER)

I **HEREBY CERTIFY** that I have compared the foregoing Local Law, Local Law Intro No. 516 - 2021, 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 Local Law, which was duly adopted by the County Board of Legislators, of the County of Westchester on October 18, 2021, and approved by the County Executive on October 20, 2021.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Corporate Seal of said County Board of Legislators on this 21st day of October, 2021.

Malika Vanderberg

Malika Vanderberg

The Clerk of the Westchester County
Board of Legislators

County of Westchester, New York

