

ACT 188 - 2023

**HONORABLE BOARD OF LEGISLATORS
THE COUNTY OF WESTCHESTER, NEW YORK**

Your Committee is in receipt of a communication from the County Executive requesting that your Honorable Board authorize the County of Westchester (the "County"), acting on behalf of Westchester Community College ("WCC"), to exercise its first option under a lease agreement with Enclave On 5th Commercial, 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 WCC for the purpose of operating a satellite campus (the "Lease Agreement").

Your Committee has been advised that your Honorable Board authorized the County to enter into the Lease Agreement by Local Law 12-2012 (the "Local Law"), which was adopted by your Honorable Board on November 13, 2012 and approved by the County Executive on November 21, 2012. Your Committee has been advised that the Lease Agreement was subsequently executed. Your Committee has been advised that, under the Lease Agreement, the original lessor was 15 South 5th Ave LLC ("15 South"). However, your Committee has been advised that 15 South, pursuant to its rights under the Lease Agreement, assigned the Lease Agreement to the Landlord upon 15 South's sale of the Leased Premises to the Landlord.

Your Committee has been advised that, 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. Your Committee has been advised

that, accordingly, the initial term ultimately commenced on January 1, 2014, and will, therefore, expire on December 31, 2023.

Your Committee has been advised that, 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.

Your Committee has been advised that WCC now desires that the County exercise the first option under the Lease Agreement (the "First Option") and thereby extend its term by five (5) years, to a new expiration date of December 31, 2028.

Your Committee has been advised that, 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. Your Committee has been advised that, based upon the Local Law, the Lease Agreement provides that the rentable square footage of the Leased Premises is 22,000 feet. Your Committee has been advised that, 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.

Your Committee has been advised 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.

The Planning Department has advised that, based on its review, authorizing the County to exercise its First Option under the Lease Agreement may be classified as a "Type II" action pursuant to the State Environmental Quality Review Act and its implementing regulations, 6 NYCRR Part 617 ("SEQRA"). Therefore, no environmental review is required. Your Committee has reviewed the attached SEQRA documentation prepared by the Planning Department and concurs with this recommendation.

Your Committee has been advised that, due to the First Option having been provided for by the Local Law authorizing the Lease Agreement, your Honorable Board may now, by act, authorize the County to exercise that option. Your Committee has been advised that an affirmative vote of a majority of the members of your Honorable Board is required in order to adopt the attached proposed Act.

After due consideration, your Committee recommends the adoption of the proposed Act.

Date: September 27th, 2023

White Plains, New York

James Zulli John
Styl
Redat Padi
Nancy Padi
Carl Padi

Styl
Redat Padi
Nancy Padi
Carl Padi

COMMITTEE ON

C-BDM-073123

Budget & Appropriations

Public Works &
Transportation

Dated: September 27, 2023
White Plains, New York

The following members attended the meeting remotely and approved this item out of Committee with an affirmative vote. Their electronic signature was authorized and is below.

Klauson R. Maher

Colin J. [Signature]

David [Signature]

Colin J. [Signature]

COMMITTEES ON

Budget & Appropriations

Public Works & Transportation

FISCAL IMPACT STATEMENT

SUBJECT: WCC Mt. Vernon Lease 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 \$ -

Total Current Year Revenue \$ -

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

Additional Appropriations Other (explain)

Identify Accounts: 701-8221-5432000 (Rental & Taxes)

For rent plus Additional Rent consisting primarily of pro rata share of taxes

Potential Related Operating Budget Expenses: Annual Amount \$446,380

Describe: 1/1/24-8/31/24 FY23-24 \$297,586.67 ; 9/1/24-8/31/25 FY24-25 \$446,380.00 ;

9/1/25-8/31/26 FY25-26 \$446,380.00 ; 9/1/26-8/31/27 FY26-27 \$446,380.00 ;

9/1/27-8/31/28 FY27-28 \$446,380.00 ; 9/1/28-12/31/28 FY28-29 \$148,793.33

Potential Related Operating Budget Revenues: Annual Amount _____

Describe: Rental Reimbursement from SUNY approximately 40% of rent ; Tuition from credit courses ; Tuition from non-credit courses

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

Current Year: _____

Next Four Years: _____

Prepared by: Stewart Glass

Title: Director of Contracting & Procurement

Department: Westchester Community College


Date: July 11, 2023

Reviewed By: 

Budget Director

Date: 7/31/23

TO: Brian Miller, Senior Assistant County Attorney
Department of Law

FROM: David S. Kvinge, AICP, RLA, CFM 
Assistant Commissioner

DATE: July 27, 2023

SUBJECT: STATE ENVIRONMENTAL QUALITY REVIEW FOR WESTCHESTER
COMMUNITY COLLEGE LEASE - 15 SOUTH 5TH AVE, MOUNT VERNON

PROJECT/ACTION: Exercise a first option under a lease agreement with Enclave On 5th Commercial, LLC to continue leasing approximately 22,000 square feet of space in the building located at 15 South 5th Avenue in Mount Vernon, along with approximately 31 parking spaces, for the operation of a satellite campus by the Westchester Community College. The option will extend the lease by 5 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 SECTION 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: None

DSK/cnm

cc: Andrew Ferris, Chief of Staff
Paula Friedman, Assistant to the County Executive
Tami Altschiller, Assistant Chief Deputy County Attorney
Blanca Lopez, Acting Commissioner
Claudia Maxwell, Associate Environmental Planner

ACT NO. 2023 - 188

An Act authorizing 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.

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

Section 1. 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 (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 WCC for the purpose of operating a satellite campus, for an initial term of ten (10) years, which commenced on January 1, 2014, and will, therefore, expire on December 31, 2023, with the County having two (2) options, each of which would extend the term of the agreement by an additional five (5) years, on specified cost terms, (the "Lease Agreement") and thereby extend its term by five (5) years, to a new expiration date of December 31, 2028.

§2. Pursuant to the terms of the Lease Agreement, the 'fixed rent' shall be \$20.29 per rentable square foot per annum for the term of the First Option, with the rentable square footage of the Leased Premises being 22,000 feet. Accordingly, for each year of the term of the First Option, the 'fixed rent' shall 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.

§3. Pursuant to the terms of the Lease Agreement, during the term of the First Option, the County shall 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.

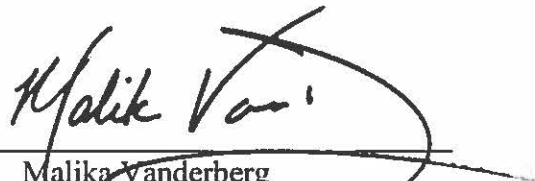
§4. The County Executive or his authorized designee is hereby authorized to execute all instruments and take all actions reasonably necessary to carry out the purposes of this Act.

§5. This Act shall take effect immediately.

STATE OF NEW YORK)
) ss.
WESTCHESTER COUNTY)

I HEREBY CERTIFY that I have compared the foregoing Act, Act No. 188 - 2023, 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 Act, which was duly adopted by the County Board of Legislators, of the County of Westchester on October 2, 2023, and approved by the County Executive on October 4, 2023.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Corporate Seal of said County Board of Legislators on this 5th day of October, 2023.



Malika Vanderberg

The Clerk of the Westchester County
Board of Legislators

County of Westchester, New York

