



George Latimer  
County Executive

June 1, 2022

Westchester County Board of Legislators  
800 Michaelian Office Building  
White Plains, New York 10601

Dear Members of the Board of Legislators:

Transmitted herewith for your review and approval is a proposed Local Law which, if adopted by your Honorable Board, would authorize an agreement ("Termination Agreement") between the County of Westchester ("County"), the County of Westchester Industrial Development Agency ("Agency"), and Westchester Airport Associates L.P. ("WAA") to terminate, effective retroactively to December 31, 2021, a lease agreement dated October 19, 1993 ("Ground Lease") for property located at the Westchester County Airport in connection with WAA's construction and operation of a parking garage thereon.

By way of background, it should be noted that after the County and WAA entered into the Ground Lease for a term of 30 years, WAA assigned its interest therein to the Agency pursuant to the terms of an Assignment dated February 1, 1994 (the "Assignment"). The Agency subsequently entered into a Sublease and Assignment Agreement dated February 1, 1994 (the "Sublease"). The Ground Lease was thereafter amended by a First Amendment dated August 11, 1994 (the "First Amendment"), a Second Amendment dated May 23, 2001 (the "Second Amendment"), and a Third Amendment dated April 8, 2003. The County and WAA entered into a Settlement Agreement dated February 28, 2013, to resolve claims related to WAA withholding rent as well as the County's operation of a cell phone waiting lot. More recently, the parties entered into a Payment Agreement dated September 28, 2018, to resolve claims over the payment of Percentage Rent owed by WAA from 2016-2017 by requiring the payment of \$775,000.00 in three annual installments through September 2020. Your Honorable Board authorized all of these amendments and subsequent agreements. The term of the Ground Lease will expire on July 31, 2024.

Since early 2020, the COVID-19 pandemic has caused a major disruption to air travel and has significantly reduced WAA's revenues from public parking. In recognition of this, the County abated WAA's Base Rent by \$727,083.34 from June 1, 2020 through June 30, 2021. However, this abatement has not completely offset WAA's lost revenue. Therefore, the parties propose to enter into the Termination Agreement to terminate the

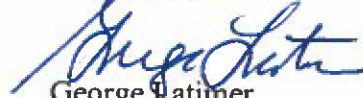
Ground Lease retroactive to December 31, 2021. WAA still owes the County \$326,000 under the Settlement Agreement and \$175,000 under the Payment Agreement for a total of \$501,000.00. The Termination Agreement provides that WAA will pay this amount within 30 days after the Ground Lease is canceled.

The Ground Lease provides for termination in only two instances: default by the tenant, subject to notice and the opportunity to cure; and cancellation by the County on the 7<sup>th</sup>, 14<sup>th</sup> or 21<sup>st</sup> anniversary of the lease commencement for the purpose of buying the garage. As neither of these situations is present in the current circumstances, the Termination Agreement requires the same approval as the Ground Lease and its amendments, namely a Local Law approved by a two-thirds majority of your Honorable Board.

As your Honorable Board is aware, no action may be taken with regard to the proposed legislation until the requirements of the State Environmental Quality Review Act and its implementing regulations, 6 NYCRR Part 617 ("SEQRA") have been met. The Planning Department advises that the proposed settlement agreement is classified as a Type II action. Therefore, no further action is required by your Honorable Board. As you know, your Honorable Board may use such expert advice to make its own conclusion.

For the foregoing reasons, I most respectfully recommend approval of the proposed Termination Agreement.

Very truly yours,



George Latimer  
County Executive

GL/HJG/dlv

BOARD OF LEGISLATORS  
COUNTY OF WESTCHESTER

Your Committee is in receipt of a proposed Local Law which, if adopted by your Honorable Board, would authorize an agreement (“Termination Agreement”) between the County of Westchester (“County”), the County of Westchester Industrial Development Agency (“Agency”), and Westchester Airport Associates L.P. (“WAA”) to terminate, effective retroactively to December 31, 2021, a lease agreement dated October 19, 1993 (“Ground Lease”) for property located at the Westchester County Airport in connection with WAA’s construction and operation of a parking garage thereon.

By way of background, it should be noted that after the County and WAA entered into the Ground Lease for a term of 30 years, WAA assigned its interest therein to the Agency pursuant to the terms of an Assignment dated February 1, 1994 (the “Assignment”). The Agency subsequently entered into a Sublease and Assignment Agreement dated February 1, 1994 (the “Sublease”). The Ground Lease was thereafter amended by a First Amendment dated August 11, 1994 (the “First Amendment”), a Second Amendment dated May 23, 2001 (the “Second Amendment”), and a Third Amendment dated April 8, 2003. The County and WAA entered into a Settlement Agreement dated February 28, 2013, to resolve claims related to WAA withholding rent as well as the County’s operation of a cell phone waiting lot. More recently, the parties entered into a Payment Agreement dated September 28, 2018, to resolve claims over the payment of Percentage Rent owed by WAA from 2016-2017 by requiring the payment of \$775,000.00 in three annual installments through September 2020. Your Honorable Board authorized all of these amendments and subsequent agreements. The term of the Ground Lease will expire on July 31, 2024.

Your Committee has been advised that since early 2020, the COVID-19 pandemic has caused a major disruption to air travel and has significantly reduced WAA’s

revenues from public parking. In recognition of this, the County abated WAA's Base Rent by \$727,083.34 from June 1, 2020 through June 30, 2021. However, this abatement has not completely offset WAA's lost revenue. Therefore, the parties propose to enter into the Termination Agreement to terminate the Ground Lease retroactive to December 31, 2021. WAA still owes the County \$326,000 under the Settlement Agreement and \$175,000 under the Payment Agreement for a total of \$501,000.00. The Termination Agreement provides that WAA will pay this amount within 30 days after the Ground Lease is canceled.

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As your Honorable Board is aware, no action may be taken with regard to the proposed legislation until the requirements of the State Environmental Quality Review Act and its implementing regulations, 6 NYCRR Part 617 ("SEQRA") have been met. The Planning Department advises that the proposed Settlement Agreement is classified as a Type II action. Therefore, no further action is required by your Honorable Board. Your Committee has reviewed the annexed SEQRA memo and concurs with that conclusion.

Your Committee has carefully considered this matter and has concluded that it is in the best interest of the County to enter into the Termination Agreement. Accordingly, your Committee recommends the adoption of the proposed Local Law.

Date: \_\_\_\_\_, 2022  
White Plains, New York

COMMITTEE ON

DLV/2-4-2022

# FISCAL IMPACT STATEMENT

SUBJECT: Airport Parking 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 \$ (1,517,000)

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

Additional Appropriations

Other (explain)

Identify Accounts: 161-44-4110-9096

Potential Related Operating Budget Expenses: Annual Amount \_\_\_\_\_

Describe: \_\_\_\_\_

\_\_\_\_\_

Potential Related Operating Budget Revenues: Annual Amount \_\_\_\_\_

Describe: \_\_\_\_\_

\_\_\_\_\_

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

Current Year: Estimated Net Revenue Loss of \$1,517,000

Next Four Years: Assuming that the successor agreement is terminated by mutual consent on August 1, 2024, there is no projected net revenue loss for CFY 2023 and \$1.1 million projected net revenue loss for CFY 2024.

Prepared by: Lawrence Soule

Title: Director


Department: Department of Budget

Date: May 5, 2022

Reviewed By:   
Budget Director

Date: 5/5/22

TO: David Vutera, Associate County Attorney  
Department of Law

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

DATE: February 18, 2022

SUBJECT: **STATE ENVIRONMENTAL QUALITY REVIEW FOR AIRPORT PARKING  
GARAGE LEASE TERMINATION**

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**PROJECT/ACTION:** Termination of a lease agreement with the County of Westchester Industrial Development Agency (IDA) and Westchester Airport Associates, L.P. in connection with the construction and operation of a parking garage at the Westchester County Airport. Initiated in 1993 and amended from time to time, the lease agreement is currently due to expire on July 31, 2024. Early termination is being sought to allow for the same parties to enter into a new 5-year lease agreement that would better adjust for lost revenues associated with the pandemic. The termination will be retroactive to December 31, 2021.

**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(S):**
- **617.5(c)(26):** routine or continuing agency administration and management, not including new programs or major reordering of priorities that may affect the environment
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**COMMENTS:** The anticipated new lease agreement will be retroactive to January 1, 2022 and will provide for continued maintenance and operations of the parking garage by Westchester Airport Associates L.P. for 5 additional years. This action may also be classified as Type II pursuant to section 617.5(c)(32).

DSK/cnm

cc: Andrew Ferris, Chief of Staff  
Paula Friedman, Assistant to the County Executive  
Hugh Greechan, Jr., Commissioner of Public Works & Transportation  
Norma Drummond, Commissioner  
Tami Altschiller, Assistant Chief Deputy County Attorney  
Claudia Maxwell, Associate Environmental Planner

**RESOLUTION NO. - 2022**

**RESOLVED**, that this Board hold a public hearing pursuant to Section 209.141(4) of the Laws of Westchester County on Local Law Intro. No. -2022 entitled "A LOCAL LAW authorizing the County of Westchester to enter into an agreement with the County of Westchester Industrial Development Agency and Westchester Airport Associates L.P. ("WAA) to terminate, effective retroactively to December 31, 2021, a lease agreement dated October 19, 1993, for property located at the Westchester County Airport in connection with WAA's construction and operation of a parking garage thereon". The public hearing will be held at \_\_\_ m. on the \_\_\_ day of \_\_\_\_\_, 2022 in the Chambers of the Board of Legislators, 8th Floor, Michaelian Office Building, White Plains, New York. The Clerk of the Board shall cause notice of the time and date of such hearing to be published at least once in one or more newspapers published in the County of Westchester and selected by the Clerk of the Board for that purpose in the manner and time required by law.