

#2024-160

RESOLUTION NO. -65 2024

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. 161 -2024 entitled "A LOCAL LAW authorizing the County of Westchester to amend the lease agreement with Port Chester Gateway LLC, in order to extend the term of the lease for an additional five (5) years commencing on June 1, 2024, with a County option to further extend the term of the lease for an additional five (5) years commencing on June 1, 2029." The public hearing shall be held at 7:30 pm on the 20th day of May, 2024, 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.

Dated: _____, 2024
White Plains, New York

**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 by your Honorable Board, would authorize the County of Westchester (the "County") acting by and through its Department of Public Works and Transportation, to amend the lease agreement (the "Lease") with Port Chester Gateway LLC (the "Landlord"), for the leasing by the County of 1,680 square feet of space on the first floor of the building located at 55 S. Main Street, Port Chester, New York 10573, commonly known as the "One Gateway Plaza" (the "Leased Premises"), for a term of five (5) years, which commenced on June 1, 2019 and expires on May 31, 2024, in order to, among other things, extend the initial term of the Agreement for an additional term of five (5) years, commencing on June 1, 2024 and expiring on May 31, 2029, with the County having the option, at its sole discretion, to further extend the term of the Lease for an additional term of five (5) years, commencing on June 1, 2029 and expiring on May 31, 2034, for a term under the Lease of fifteen (15) years total (the "First Amendment").

Your Committee is advised that on August 1, 2019, the Board of Acquisition and Contract authorized the County to enter into the Lease for a term of five (5) years, commencing on June 1, 2019 and expiring on May 31, 2024 (the "Initial Term"). The Lease was duly executed on or about November 5, 2019. Pursuant to Section 104.11(5)(e) of the Laws of Westchester County, however, leases of the property of others for County purposes for terms exceeding ten years may be made only by local law. As the proposed First Amendment may extend the term of the Lease beyond the authority of the Board of Acquisition and Contract, it is necessary for your Honorable Board to authorize the proposed First Amendment.

Your Committee is also advised that under the proposed First Amendment, the County will, among other things, extend the Initial Term of the Lease for a term of five (5) years, commencing on June 1, 2024 and expiring on May 31, 2029 ("First Renewal Term"), with the County having the option, at its sole discretion, to further extend the term of the Lease for an

additional term of five (5) years, commencing on June 1, 2029 and expiring on May 31, 2034 (“Second Renewal Term”), for a term under the Lease of fifteen (15) years total.

Pursuant to the First Amendment, the Base Rent for the first year of the First Renewal Term will remain the same as the Base Rent for the last year of the Initial Term. Thereafter, the Base Rent will increase annually by three percent (3%) each year during the term of the proposed First Amendment, as set forth below:

During the First Renewal Term, the Annual Base Rent and Monthly Base Rent for the Leased Premises shall be as follows:

<u>Period</u>	<u>Annual Base Rent</u>	<u>Monthly Base Rent</u>
6/1/24 to 5/31/25	\$45,360.00	\$3,780.00
6/1/25 to 5/31/26	\$46,720.80	\$3,893.40
6/1/26 to 5/31/27	\$48,122.42	\$4,010.20
6/1/27 to 5/31/28	\$49,566.10	\$4,130.51
6/1/28 to 5/31/29	\$51,053.08	\$4,254.42

If the County exercises its option to further extend the term of the Lease, the Annual Base Rent and Monthly Base Rent for the Leased Premises during the Second Renewal Term shall be as follows:

<u>Period</u>	<u>Annual Base Rent</u>	<u>Monthly Base Rent</u>
6/1/29 to 5/31/30	\$52,584.67	\$4,382.06
6/1/30 to 5/31/31	\$54,162.21	\$4,513.52
6/1/31 to 5/31/32	\$55,787.08	\$4,648.92
6/1/32 to 5/31/33	\$57,460.69	\$4,788.39
6/1/33 to 5/31/34	\$59,184.51	\$4,932.04

Your Committee is further advised that, under the proposed First Amendment, the County will continue to pay annually, during the term of the First Amendment, its proportionate share of Landlord’s operating costs, which covers operating and service expenses associated with the County’s use of the Leased Premises during the term of the proposed First Amendment.

Your Committed is advised that in consideration for the extension of the term under the First Amendment, the Landlord will complete the following work, during non-business hours, on a

mutually agreeable work schedule, no later than six (6) months after the commencement of the First Renewal Term, at no cost to the County

- (i) repaint all offices, including the server and storage rooms;
- (ii) replace the water fountain with a small hand-washing sink; and
- (iii) use its best efforts to install soundproofing between the Leased Premises and the adjacent space being used by a dental office.

Your Committee is further advised that as additional consideration, the Landlord will also provide the following additional services during the term of the proposed First Amendment, at no cost to the County:

- (i) service the dehumidifiers at the Leased Premises on a monthly basis; and
- (ii) make warm/hot water available to the Leased Premises.

Your Committee is further advised that, pursuant to the proposed First Amendment, the Landlord will now be responsible for any extermination services needed at the Leased Premises. Furthermore, the Landlord will use its best efforts to provide the County with the right to park an additional compact car in a third Assigned On-Site Space ("Third Assigned On-Site Space"). If the Landlord fails to provide the County with the Third Assigned On-Site Space, the number of unassigned parking spaces in the MTA parking garage ("Off-Site Spaces") will be increased by one (1), for a total of four (4) Off-Site Spaces under the Lease.

Your Committee is also advised that the Leased Premises are occupied by the Westchester County's Department of Health, for the Women, Infant and Children Nutrition Services ("WIC") Program. The public purpose of the Lease and the proposed First Amendment is to continue to provide for the continuance of the operation of the essential WIC Program.

The Department of Planning has advised your Committee that based on its review, the authorization of the proposed First Amendment may be classified as a Type "II" action pursuant to the State Environmental Quality Review Act and its implementing regulations, 6 NYCRR Part 617.5(c)(1) ("SEQR"). Therefore, no environmental review is required. Your Committee has reviewed the annexed SEQR documentation and concurs with this recommendation.

Prior to taking any action on the proposed Local Law, this Honorable Board must hold a public hearing pursuant to Section 209.141(4) of the Laws of Westchester County, and a resolution providing for the hearing is annexed hereto.

Upon careful consideration, your Committee finds the proposed First Amendment to be in the County's best interests and therefore your Committee recommends approval of the proposed Local Law.

Dated: April 15, 2024
White Plains, New York

Margaret A. Cjoo

Colin [Signature]
New [Signature]
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James [Signature]
Colin [Signature]
J [Signature]

Legislation

COMMITTEE ON

Budget & Appropriations

FISCAL IMPACT STATEMENT

SUBJECT: 1 Gateway Plaza Lease Renewal 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 \$ 26,460

Total Current Year Revenue \$ -

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

Additional Appropriations Other (explain)

Identify Accounts: 101-46-3300-3343-4320-GGDS

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: _____

Next Four Years: The Operating expenses for this lease extension are: \$46,153.80 (2025), \$47,538.41 (2026), \$48,964.57 (2027), \$50,433.50 (2028) and \$21,272.12 (2029).

Prepared by: Anthony Finateri

Title: Director of Administrative Services

Department: Public Works & Transportation

Date: February 20, 2024

Reviewed By: 

Budget Director

Date: 3/12/24

TO: Carla Chaves, Senior Assistant County Attorney
Department of Law

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

DATE: March 6, 2024

SUBJECT: **STATE ENVIRONMENTAL QUALITY REVIEW FOR LEASE OF
ONE GATEWAY PLAZA, PORT CHESTER**

PROJECT/ACTION: Lease of approximately 1,680 square feet of office space at One Gateway Plaza, located at 55 South Main Street in Port Chester, for use by the County's Department of Health in connection with its Women, Infant and Children Nutrition Services (WIC) Program. The County has been leasing this space for this purpose since 2019. A local law is needed to allow the County to continue leasing this site beyond 5 years. The current authorization will allow the County to lease the space for 5 more years with an option to renew for an additional 5 years. The lease includes the use of several parking spaces as well as a short list of interior improvements to be undertaken by the landlord.

With respect to the State Environmental Quality Review Act and its implementing regulations 6 NYCRR Part 617, the Planning Department recommends that no environmental review is required because the project/action may be classified as a TYPE II action pursuant to section(s):

- **617.5(c)(1):** maintenance or repair involving no substantial changes in an existing structure or facility; and
 - **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
Claudia Maxwell, Principal Environmental Planner

A LOCAL LAW authorizing the County of Westchester to amend the lease agreement with Port Chester Gateway LLC, in order to extend the term of the lease for an additional five (5) years commencing on June 1, 2024, with a County option to further extend the term of the lease for an additional five (5) years commencing on June 1, 2029.

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

Section 1. The County of Westchester (“County”) is hereby authorized to amend its lease agreement (the “Lease”) with Port Chester Gateway LLC (the “Landlord”), the term of which commenced on June 1, 2019 and expires on May 31, 2024, for 1,680 square feet of space on the first floor of the building located at 55 S. Main Street, Port Chester, New York 10573, commonly known as the “One Gateway Plaza” (the “Leased Premises”), in order to extend the term of the Lease for an additional five (5) years commencing on June 1, 2024 (the “First Renewal Term”), and grant the County an option to further extend the term of the Lease for an additional term of five (5) years commencing on June 1, 2029 (“Second Renewal Term”), similar to the form annexed hereto and made a part hereof as Schedule “A” (the “First Amendment”).

§2. The Base Rent for the first year of the First Renewal Term will remain the same as the Base Rent for the last year of the initial term, expiring on May 31, 2024. Thereafter, the Base Rent will increase annually by three percent (3%) during the term of the First Amendment, as set forth below.

During the First Renewal Term, the Annual Base Rent and Monthly Base Rent for the Leased Premises shall be as follows:

<u>Period</u>	<u>Annual Base Rent</u>	<u>Monthly Base Rent</u>
6/1/24 to 5/31/25	\$45,360.00	\$3,780.00
6/1/25 to 5/31/26	\$46,720.80	\$3,893.40
6/1/26 to 5/31/27	\$48,122.42	\$4,010.20
6/1/27 to 5/31/28	\$49,566.10	\$4,130.51
6/1/28 to 5/31/29	\$51,053.08	\$4,254.42

During the Second Renewal Term, the Annual Base Rent and Monthly Base Rent for the Leased Premises shall be as follows:

<u>Period</u>	<u>Annual Base Rent</u>	<u>Monthly Base Rent</u>
6/1/29 to 5/31/30	\$52,584.67	\$4,382.06
6/1/30 to 5/31/31	\$54,162.21	\$4,513.52
6/1/31 to 5/31/32	\$55,787.08	\$4,648.92
6/1/32 to 5/31/33	\$57,460.69	\$4,788.39
6/1/33 to 5/31/34	\$59,184.51	\$4,932.04

§3. As consideration for the extension of the term under the First Amendment, the Landlord shall complete the following work, during non-business hours, on a mutually agreeable work schedule, no later than six (6) months after the commencement of the First Renewal Term, at no cost to the County:

- (i) repaint all offices, including the server and storage rooms;
- (ii) replace the water fountain with a small hand-washing sink; and
- (iii) use its best efforts to install soundproofing between the Leased Premises and the adjacent space being used by a dental office.

§4. As additional consideration under the First Amendment, the Landlord shall also provide the following additional services during the term of the First Amendment, at no cost to the County:

- (i) service the dehumidifiers at the Leased Premises on a monthly basis; and
- (ii) make warm/hot water available to the Leased Premises.

§5. The Landlord shall also be responsible for any extermination services needed at the Leased Premises and use its best efforts to provide the County with the right to park an additional compact car in one additional Assigned On-Site Space ("Third Assigned On-Site Space"). If the Landlord fails to provide the County with the Third Assigned On-Site Space, the number of unassigned parking spaces in the MTA parking garage ("Off-Site Spaces") will be increased by one (1), for a total of four (4) Off-Site Spaces under the Lease.

§6. All other terms and conditions of the Lease, shall remain unchanged and in full force and effect.

§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.

FIRST AMENDMENT TO LEASE

THIS First Amendment to Lease ("First Amendment"), dated as of the ___ day of December, 2023 (the "Effective Date") by and between **PORT CHESTER GATEWAY LLC** ("Landlord"), a New York limited liability company having an address at c/o DeLaurentis Management Corp., 384 Mamaroneck Avenue, White Plains, NY 10605, and **THE COUNTY OF WESTCHESTER** ("Tenant"), having an address at c/o Office of the County Executive, 148 Martine Avenue, Room 901, White Plains, New York 10601

WITNESSETH:

WHEREAS, Landlord and Tenant are parties to that certain Lease, dated as of June 1, 2019 (the "Lease"), covering certain premises (the "Premises") consisting of approximately 1,680 rentable square feet located on the first floor in the building (the "Building") known as and having an address at One Gateway Plaza, 55 S. Main Street, Port Chester, NY 10573 (said Building and the land upon which the Building is located, together with any other improvements on said land, are hereinafter, collectively, referred to as the "Real Property");

WHEREAS, the Term of the Lease is scheduled to expire on May 31, 2024; and

WHEREAS, Landlord and Tenant desire to extend the Term of the Lease for five (5) years from the June 1, 2024 until May 31, 2029 and to otherwise amend the Lease, as more specifically set forth herein below;

NOW, THEREFORE, in consideration of the mutual covenants and agreements herein contained and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Landlord and Tenant hereby agree as follows:

1. AMENDED LEASE TERMS:

(a) Option to Extend: Tenant shall have two (2) options to extend (the first option to extend shall be hereinafter referred to as the "First Option to Extend", the second option to extend shall be hereinafter referred to as the "Second Option to Extend", and both options to extend shall be hereinafter, collectively, referred to as the "Options to Extend") the Term of the Lease, each for an additional period of five (5) years (the first option term shall be hereinafter referred to as the "First Option term", the second option term shall be hereinafter referred to as the "Second Option Term", and both option terms shall be hereinafter, collectively, referred to as the "Option Terms"). Each Option Term shall be on all of the terms and conditions of the Lease, except that the Base Rent for each Option Term shall be as set forth in subparagraph 1(c) below and the Expiration Date (as such term is used in the Lease) during the First Option Term shall be "May 31, 2029" and the Expiration Date during the Second Option Term shall be "May 31, 2034". Each Option to Extend may be exercised only by written notice of exercise given by Tenant in accordance with Section 14 of the Lease at least thirty (30) days prior to the then applicable Expiration Date with time of the essence as to said time period. Failure to so exercise within such period shall render any subsequent attempted exercise void and of no effect, any principles of law to the contrary notwithstanding. Each Option to Extend may not be exercised if (i) Tenant has assigned this Lease or has at any times subleased any

portion of the Premises, (ii) Tenant shall have committed a default hereunder which has not been cured either at the time of the attempted exercise or at the time of the proposed commencement of the applicable Option Term, or (iii) Tenant has defaulted in payment of Base Rent more than two (2) times in any lease year prior to said attempted exercise of the applicable Option to Extend.

(b) Exercise of First Option to Extend: Notwithstanding anything contained in the Lease or this First Amendment to the contrary, (i) it is acknowledged by the parties that Tenant hereby exercises the First Option to Extend and (ii) the First Option Term shall commence June 1, 2024 and the Expiration Date shall be May 31, 2029.

(c) Rent: During the First Option Term, the Annual Base Rent and Monthly Base Rent for the Premises shall be as follows:

<u>Period</u>	<u>Annual Base Rent</u>	<u>Monthly Base Rent</u>
6/1/24 to 5/31/25	\$45,360.00	\$3,780.00
6/1/25 to 5/31/26	\$46,720.80	\$3,893.40
6/1/26 to 5/31/27	\$48,122.42	\$4,010.20
6/1/27 to 5/31/28	\$49,566.10	\$4,130.51
6/1/28 to 5/31/29	\$51,053.08	\$4,254.42

During the Second Option Term, the Annual Base Rent and Monthly Base Rent for the Premises shall be as follows:

<u>Period</u>	<u>Annual Base Rent</u>	<u>Monthly Base Rent</u>
6/1/29 to 5/31/30	\$52,584.67	\$4,382.06
6/1/30 to 5/31/31	\$54,162.21	\$4,513.52
6/1/31 to 5/31/32	\$55,787.08	\$4,648.92
6/1/32 to 5/31/33	\$57,460.69	\$4,788.39
6/1/33 to 5/31/34	\$59,184.51	\$4,932.04

(d) Landlord's Work: In consideration of the extension of the Term of the Lease as set forth above, Landlord hereby agrees to do the following work, during non-business hours, on a mutually agreeable work schedule, and shall complete said work no later than six (6) months after the commencement of the First Option Term:

- (i) repaint all offices, including the server and storage rooms;
- (ii) replace the water fountain with a small hand-washing sink; and
- (iii) Landlord shall use its best efforts to install soundproofing between the

Premises and the adjacent space being used by a dental office.

Notwithstanding the foregoing to the contrary, in the event the soundproofing work completed by the Landlord is insufficient to eliminate or reduce the sound noise derived from the

dental office to reasonable levels, the County, may require the Landlord to conduct additional soundproofing work, or, in the alternative, may, but shall not be obligated, to undertake, further soundproofing and offset costs against future rent owed under this Lease.

(e) Additional Obligations: Landlord hereby agrees to provide the following services during the Term:

- (i) service the dehumidifiers at the Premises on a monthly basis; and
- (ii) make warm/hot water available to the Premises.

(f) Real Estate Tax Escalations: Section 6.1(e) of the Lease is hereby amended by inserting the following at the end of the third sentence of said Section 6.1(e), as follows:

"For the purpose of determining this amount during the term of the First Amendment, the base value of Taxes applicable to the Real Property shall be, collectively, all of the real estate taxes, special and other assessments levied, assessed or imposed upon or against the Real Property and all water and sewer charges for the Real Property (collectively, the "Taxes") for the tax year 2023/2024, (i.e. for (i) town and county taxes the tax year January 1, 2024 thru December 31, 2024, (ii) school taxes the tax year July 1, 2023 thru June 30, 2024, and (iii) village taxes the tax year June 1, 2023 thru May 31, 2024 (collectively, the "**Base Tax Year**"))."

(g) Operating Expenses: Section 6.1(f) of the Lease is hereby amended by inserting the following at the end of the first sentence of said Section 6.1(f), as follows:

"Commencing for calendar year 2025 (i.e. January 1, 2025 thru December 31, 2025) and for each calendar year thereafter during the Term, Tenant shall pay, as Additional Rent, Tenant's Proportionate Share of any increase in Operating Costs (as hereinafter defined) for the Real Property over the Operating Costs for the calendar year 2024 (i.e. January 1, 2024 thru December 31, 2024) (the "**Base Operating Cost Year**")."

(h) Pest Control: Section 11.7 of the Lease is hereby amended by deleting the last sentence of said Section 11.7 and replacing it with the following:

"Landlord, at its sole cost and expense, shall be responsible for any extermination services needed at the Premises."

(i) Parking: Section 2.4 of the Lease is hereby amended by inserting the following at the end of said Section 2.4:

"Landlord shall use its best efforts to provide Tenant with the right to park a compact car in one (1) more Assigned On-Site Space ("Third Assigned On-Site Space"). In the case that the Landlord's best efforts fail to provide Tenant with the Third Assigned On-Site Space the Off-Site Spaces shall be increased one (1) for a total of four (4) Off-Site Spaces and all terms and conditions set forth in this Section 2.4 shall apply to said fourth (4th) Off-Site Space."

(j) Estoppels: Landlord and Tenant shall each, within thirty (30) days after receipt of a written request from the other, execute and deliver an estoppel certificate to those parties as are reasonably requested by the other (including a mortgagee or prospective purchaser).

2. NO OTHER MODIFICATIONS:

Except as herein modified, all the terms, covenants and conditions of the Lease are hereby reaffirmed and shall remain in full force and effect.

3. BENEFIT OF PARTIES:

This First Amendment shall be binding upon, and inure to the benefit of, the parties to it and their respective successors and assigns.

4. AUTHORITY:

Each signatory of this First Amendment represents hereby that he or she has the authority to execute and deliver the same on behalf of the party hereto for which such signatory is acting.

5. ENTIRE AGREEMENT:

This First Amendment sets forth the entire agreement between the parties with respect to the matters set forth herein. There have been no additional oral or written representations or agreements.

6. INCONSISTENCIES:

In the case of any inconsistency between the provisions of the Lease and this First Amendment, the provisions of this First Amendment shall govern and control.

7. DEFINED TERMS:

The capitalized terms used in this First Amendment shall have the same definitions as set forth in the Lease to the extent that such capitalized terms are defined therein and not redefined in this First Amendment.

8. COUNTERPARTS / ELECTRONIC OR FACSIMILE TRANSMITTAL:

This First Amendment may be executed in counterparts and shall constitute an agreement binding on all parties notwithstanding that all parties are not signatories to the original or

the same counterpart provided that all parties are furnished a copy or copies thereof reflecting the signature of all parties. The execution and delivery of any counterpart by any authorized person shall have the same force and effect as if that person had executed and delivered all other counterparts.

9. ENFORCEABILITY

This First Amendment shall not be enforceable until signed by both parties and approved by the Office of the County Attorney.

IN WITNESS WHEREOF, the parties hereto have caused this instrument to be executed on their behalf the day and year first above written.

LANDLORD:

PORT CHESTER GATEWAY LLC

By: _____
Edmond DeLaurentis Jr., as a duly authorized
Managing Member and not individually

TENANT:

THE COUNTY OF WESTCHESTER

By: _____
Name: Hugh J. Greechan, Jr., P.E.
Title: Commissioner, Department of Public
Works and Transportation

Authorized by the Board of Legislators of the County of Westchester on the ____ day of _____, 2024, by Act No. 2024 - _____.

Approved:

Senior Assistant County Attorney
The County of Westchester
First Amendment to Lease - County of Westchester
121523.cmc.03.06.2024

ACKNOWLEDGEMENT

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

On this _____ day of _____, 2024, before me personally came _____, to me known, and known to me to be the _____ of _____, the limited liability company described in and which executed the within instrument, who being by me duly sworn did depose and say that he, the said _____ resides at _____ and that he is _____ of said limited liability company.

Notary Public County

