

**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 (4<sup>th</sup>) 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

**CERTIFICATE OF AUTHORITY  
(LIMITED LIABILITY COMPANY)**

I, \_\_\_\_\_,  
(member or manager other than person executing the agreement)  
certify that I am a \_\_\_\_\_ of \_\_\_\_\_  
(member/manager) (Name of Limited Liability Company)  
(the "LLC") duly organized under the Laws of the State of \_\_\_\_\_;  
(Name of State)  
that \_\_\_\_\_ who signed said Agreement on behalf of  
(Person Executing Agreement)  
the LLC was, at the time of execution, a manager of the LLC; that said Agreement was duly  
signed for and on behalf of said LLC and as the act of said LLC for the purposes therein  
mentioned.

\_\_\_\_\_  
(Signature)

STATE OF \_\_\_\_\_ )  
COUNTY OF \_\_\_\_\_ ) ss.:

On the \_\_\_\_\_ day of \_\_\_\_\_ in the year 20\_\_ before me, the undersigned, a Notary  
Public in and for said State, \_\_\_\_\_ personally appeared, personally  
known to me or proved to me on the basis of satisfactory evidence to be the member/manager  
described in and who executed the above certificate, who being by me duly sworn did depose and say  
that he/she resides at \_\_\_\_\_, and he/she is a  
member/manager of said LLC; that he/she is duly authorized to execute said certificate on behalf of  
said LLC, and that he/she signed his/her name thereto pursuant to such authority.

Date: \_\_\_\_\_

\_\_\_\_\_  
Notary Public