



## Legislation Text

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File #: 23-1028, Version: 1

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Recommendation to authorize City Manager, or designee, to execute all documents necessary for the Second Amendment to Amended and Restated Lease No. 24800 with Gateway Enterprises, LLC, a California limited liability company, and ABA Shoreline Village, LLC, a Delaware limited liability company, as tenants-in-common for City of Long Beach-owned property located at 429 Shoreline Village Drive, commonly known as Shoreline Village. (District 1)

### **Levine Act: Yes**

On February 27, 1996, the City Council authorized the execution of Amended and Restated Lease No. 24800 (Lease) with Northwestern Mutual Life Insurance Company (Original Lessee) for the master tenancy and operation of City-owned property located at 429 Shoreline Village Drive, commonly known as Shoreline Village (Leased Premises) (Attachment). On September 3, 1996, the City Council authorized the execution of the First Amendment to Lease, which confirmed the Leased Premises to be a total of 7.09 acres. On April 14, 2000, the Original Lessee assigned its interest in the Leased Premises to Gateway Enterprises, LLC, a California limited liability company, and ABA Shoreline Village, LLC, a Delaware limited liability company, as tenants-in-common, (collectively, "Lessee"). The current term of the Lease is scheduled to terminate on November 14, 2047.

The Leased Premises currently operates as a multi-tenant retail center with public waterfront access that includes approximately 56,000 square feet of improvements owned by the Lessee. The Leased Premises are located within the state tidelands which are administered by the City of Long Beach (City) under the Tidelands Trust Doctrine with the State of California. Allowable uses of tidelands properties include coastal dependent and visitor-serving amenities that increase public access to the waterfront such as the restaurants, speciality shops, and waterfront uses that currently operate at the Leased Premises.

Despite being a successful asset for the City and Lessee through the years, the Leased Premises have remained essentially unchanged from its redevelopment in the late 1990s. At the same time, the downtown area has undergone significant investment and redevelopment, creating a need to renovate and modernize the Leased Premises. To this end, the Lessee has proposed to make a series of capital improvements to the Leased Premises at a minimum investment of \$8 million in exchange for an extension of the term and other modifications to the Lease. The proposed scope of the improvements include a "like-new" refresh of the Leased Premises, including a complete renovation of the boardwalk, façade updates, building enhancements, and common area/access enhancements. In addition, the Lessee proposes constructing a 227-stall parking structure over a portion of the existing

surface parking lot, which will result in a net increase of approximately 80 parking stalls to better meet peak parking demand and expand access and use of the Leased Premises.

To allow for the amortization of its investment, the Lessee has requested a 25-year extension of the term of the Lease through November 13, 2072. As additional consideration for the extended term, the Lessee has agreed to pay the City an extension fee of \$1.5 million. The requested term extension, capital investment, extension fee and other financial components have been reviewed and substantiated by the City's financial consultant, Keyser Marston Associates.

The proposed project was approved by the City's Planning Commission on June 15, 2023, and is awaiting application by the Lessee to the California Coastal Commission (Coastal Commission). Given the uncertainty of the Coastal Commission's final consideration of the project, a mutual termination option with respect to the proposed Second Amendment will be added to the Lease to protect the parties. A proposed Second Amendment to Lease has been negotiated containing the following major terms and provisions:

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| <b><u>Lessor:</u></b>                    | City of Long Beach, a municipal corporation.   |
| <b><u>Lessee:</u></b>                    | Gateway Enterprises, LLC, a California limited liability company and ABA Shoreline Village, LLC, a Delaware limited liability company, as tenants-in-common.   |
| <b><u>Leased Premises:</u></b>           | Approximately 7.09 acres located at 429 Shoreline Village Drive, commonly known as Shoreline Village.  |
| <b><u>Use: Rent:</u></b>                 | Operation of multi-tenant retail center and ancillary uses consistent with the Tidelands Trust Doctrine. Each calendar year, Lessee will continue to pay Lessor monthly percentage rent based on twenty percent (20%) of the adjusted net income paid in the prior calendar year from the Leased Premises.   |
| <b><u>Extension Term:</u></b>            | The Lease will be extended approximately twenty-five (25) years through November 13, 2072. This provides for a cumulative term of forty-nine (49) years for the amortization of the investment for the redevelopment and operation of the Leased Premises.   |
| <b><u>Mutual Termination Option:</u></b> | Either party may terminate the changes evidenced by the Second Amendment and any obligations therein should the Coastal Commission not approve or substantially alter the proposed project from what the Planning Commission approved on June 15, 2023. If this occurs, the parties shall meet to negotiate a new amendment, which shall be subject to the further approval of the City Council. |

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| <b><u>Extension Fee:</u></b>                            | Within 30 days after entitlement of the proposed project by the Coastal Commission. Lessee shall remit an extension fee of \$1.5 million to the Lessor. Lessee shall be required to invest a minimum of \$8 million in capital improvements to the Leased Premises.   |
| <b><u>Minimum Capital Investment:</u></b>               |   |
| <b><u>Construction Cost Amortization by Lessee:</u></b> | Lessee shall be allowed to amortize its investment over twenty (20) years without interest, allowing the amortization as an approved operating expense under the Lease through November 13, 2043.   |
| <b><u>Reserve Account Contribution Reduction:</u></b>   | Lessee shall contribute five percent (5%) of its monthly gross receipts into a reserve account to offset future capital improvement projects to the Leased Premises. However, since the project will result in the Leased Premises being “like-new,” the Lessee’s monthly contribution will be reduced from the current five percent (5%) to three percent (3%) for a period of five years, commencing upon issuance of a certificate of occupancy by the City’s regulatory agency. |
| <b><u>Annual Right to Audit:</u></b>                    | Lessor shall have the right to audit the Lessee’s accounting of percentage rent and reserve account contributions on an annual basis at the Lessor’s sole discretion.   |

On August 9, 2022, the City Council declared the Leased Premises as Exempt Surplus Land in accordance with the State Surplus Land Act as further defined by Government Code Section 54221(f)(1)(A). The State Department of Housing and Community Development (HCD) concurred with this action on August 29, 2023.

On June 15, 2023, the Planning Commission Adopted Mitigated Negative Declaration (MND02-23) (State Clearing House No. 2023040370) and approved Site Plan Review (SPR21-079), including a Master Site Plan, for the renovation and expansion of the existing Shoreline Village Shopping Center in the Downtown Shoreline Planned Development District (PD-6).

This matter was reviewed by Principal City Attorney Richard F. Anthony on August 16, 2023 and by Budget Management Officer Nader Kaamoush on August 24, 2023.

LEVINE ACT

This item is subject to the Levine Act. The Mayor, Councilmembers, and Commissioners who have received a contribution of more than \$250 within 12 months prior from a party, participant, or their representatives involved in this proceeding may do either of the following: (1) disclose the contribution on the record and recuse themselves from this proceeding; OR (2) return the portion of the contribution that exceeds \$250 within 30 days from the time the elected official knew or should have known about the contribution and participate in the proceeding.

All parties, participants, and their representatives must disclose on the record of this proceeding any contribution of more than \$250 made to the Mayor or any Councilmembers within 12 months prior to the date of the proceeding. The Mayor, Councilmembers, and Commissioners are prohibited from accepting, soliciting, or directing a contribution of more than \$250 from a party, participant, or their representatives during a proceeding and for 12 months following the date a final decision is rendered.

City Council action is requested on September 12, 2023, to execute the Second Amendment in a timely manner.

The action will result in a one-time payment of \$1.5 million anticipated to be received in FY 24 to accrue to the Tidelands Operating Fund Group in the Economic Development Department. The Lessee will pay the City a monthly percentage rent based on 20 percent of the adjusted net income paid in the prior calendar year which accrues in the Tidelands Operating Fund Group in the Economic Development Department. In addition, there will be a reduction in the annual percentage rent received by the City over the next 20 years due to the Lessee being allowed to amortize its investment without interest over this time period as an approved operating expense. This recommendation has no staffing impact beyond the normal budgeted scope of duties and is consistent with existing City Council priorities. There will be a temporary increase in construction and trade jobs associated with this recommendation. However, the exact number of new temporary jobs is unknown.

Approve recommendation.

BO MARTINEZ  
DIRECTOR  
ECONOMIC DEVELOPMENT

APPROVED:

THOMAS B. MODICA  
CITY MANAGER