



## Legislation Text

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**File #:** 08-0610, **Version:** 1

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Recommendation to authorize City Manager to execute any and all documents necessary for the Second Amendment to Amended and Restated Lease with Kilroy Realty, L.P., a Delaware Limited Partnership, for property owned by the City of Long Beach and the Water Department at the Kilroy Airport Center. (District 5)

On May 21, 2002, pursuant to Ordinance No. C-7808, the City Council authorized the General Manager of the Water Department to execute an Amended and Restated Lease with Kilroy Realty, L.P., a Delaware Limited Partnership (KRC), for property owned by the City of Long Beach (City) and the Water Department at the Long Beach Airport. On September 3, 2002, the City Council authorized the execution of a Memorandum of Understanding between the Water Department and the City of Long Beach authorizing the City to act as the administrator of the Lease. Effective as of April 1, 2003 and expiring on July 16, 2084, the Lease sets forth terms and conditions for the development of approximately 9.16 acres of land located adjacent to and westerly of Phase I through III of Kilroy Airport Center. The 9.16-acre Site is comprised of a 5.1-acre City-owned parcel formerly Leased to the California National Guard (Parcel 7) and a 4.06-acre Water Department-owned parcel (Parcel 9), which together with an adjoining 2.92-acre Water Department-owned parcel (Parcel 10), are considered Phase IV of development of the Kilroy Airport Center and the subject of this Lease amendment. Please see the attached Exhibit "A."

As set forth in the Lease, KRC has paid Holding Rent in the amount of \$12,500 per month since the date that Parcel 7 was delivered to KRC (on or about April 15, 2003). The Lease stipulates that the City and KRC would determine the Initial Ground Rent for the Site through negotiations over a six-month period commencing on or about April 14, 2007, and ending on or about October 14, 2007 (54 months after delivery of Parcel 7).

At the end of this process, KRC would (i) commence the construction of improvements, (ii) commence payment of Initial Ground Rent, or (iii) terminate the current Lease. The City and KRC engaged in negotiations regarding the Initial Ground Rent, however, because of the complexity of the various issues concerning the development of the Site and existing market conditions, the Initial Ground Rent negotiation and appraisal process had not been concluded. Therefore, on October 9, 2007, the City Council authorized the First Amendment to the Lease, which provided for Holding Rent in the amount of \$12,500 per month to continue until completion of the office building(s) on the Site by KRC or sixty-three (63) months after delivery of the CNG Parcel to KRC (July 14, 2008), whichever first occurs. The Board of Water Commissioners approved a similar recommendation at its meeting of October 4, 2007.

The City and KRC continue to negotiate the proposed development of the Phase IV Site. As market conditions will impact the potential use of the property, the City has ordered a new Appraisal Report for Parcels 7, 9 and 10. In order to allow additional time to conclude the Initial Ground Rent negotiation and appraisal process, a Second Amendment to the Lease is recommended to provide for Holding Rent in the amount of \$12,500 per month to continue until completion of the office

building(s) on the Site by KRC, or seventy-two (72) months after delivery of the CNG Parcel to KRC (April 14, 2009), whichever occurs first. The other terms and conditions shall remain unchanged. The Board of Water Commissioners approved a similar recommendation at its meeting of June 12, 2008.

This letter was reviewed by Principal Deputy City Attorney J. Charles Parkin on May 22, 2008, and Budget Management Officer Victoria Bell on June 11, 2008.

City Council action is requested on July 1, 2008 in order to execute the Second Amendment in a timely manner.

Total monthly Holding Rent in the amount of \$12,500 shall continue to accrue to the Airport Enterprise Fund (EF 320) in the Department of Public Works (PW) in the amount of \$6,963 and to the Water Fund (EF 310) in the Water Department (WA) in the amount of \$5,538.  
There is no impact to the General Fund.

Approve recommendation.

Dennis J. Thys  
Director of Community Development

Christine Edwards  
Assistant Airport Manager

NAME  
TITLE

APPROVED:

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PATRICK H. WEST  
CITY MANAGER