



Legislation Text

File #: 24-1446, **Version:** 1

Interoffice Memorandum

DATE: September 18, 2024

TO: Mayor Jerry L. Demings and County Commissioners

THROUGH: Mindy T. Cummings, Manager

FROM: David Murphy, Senior Acquisition Agent

CONTACT: Mindy T. Cummings, Manager

PHONE: 407-836-7090

DIVISION: Real Estate Management Division

ACTION REQUESTED:

Approval and execution of Second Amendment to Commercial Lease Agreement by and between BREIT SE Industrial ORL/JAX Portfolio, LLC and Orange County, Florida and authorization for the Real Estate Management Division Manager to exercise all delegations of authority expressly, required or allowed by the Lease Agreement, as needed for Vineland Warehouse Storage Expansion, 3600 Vineland Road, Orlando, Florida 32811. Lease file 10001B. District 6. **(Real Estate Management Division)**

PROJECT:

Vineland Warehouse Storage Expansion
3600 Vineland Road, Orlando, Florida 32811
Lease File 10001B

PURPOSE: To provide additional space for the Orange County operations.

ITEM:

Second Amendment to Commercial Lease Agreement

Term: Five years

Cost:

Commencement Date to October 31, 2024 - \$7,915.50 per month

Year One - \$8,192.54 per month

Year Two - \$8,479.26 per month

Year Three - \$8,776.06 per month

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Year Four - \$9,083.24

Year Five - \$9,401.15

Option: N/A

Size: 7,036 square feet

BUDGET: Account No.: 0001-043-0201-3620

REVENUE: None

FUNDS: NA

APPROVALS:

Real Estate Management Division

County Attorney's Office

Risk Management Division

Facilities Management Division

REMARKS: Orange County currently leases approximately 7,200 square feet of office and warehouse space located at 3600 Vineland Road, Suite 103, Orlando, Florida 32811 under a triple net lease approved by the Board of County Commissioners on August 21, 2018.

Due to the need for additional space for County operations, this action will add Suites 105 and 106, at an additional 7,036 square feet for a combined total area of 17,236 square feet within the same facility.

OCT 08 2024

SECOND AMENDMENT TO COMMERCIAL LEASE AGREEMENT

THIS SECOND AMENDMENT TO COMMERCIAL LEASE AGREEMENT (this “**Amendment**”) is made effective as of the latest date set forth beneath the parties’ signatures below (the “**Amendment Date**”) by and between **BREIT SE INDUSTRIAL ORL/JAX PORTFOLIO, LLC**, a Delaware limited liability company (“**Landlord**”), and **ORANGE COUNTY, FLORIDA**, a charter county and political subdivision of the State of Florida (“**Tenant**”).

WITNESSETH:

A. Landlord (successor in interest in to MDH ORL/JAX Portfolio, LLC) and Tenant are parties to the Commercial Lease Agreement dated August 21, 2018 (the “**Original Lease**”), as amended by the First Amendment to Commercial Lease Agreement dated October 25, 2023 (the “**First Amendment**”) (the Original Lease, as amended by the First Amendment, are collectively referred to herein as the “**Lease**”).

B. The Lease provides for the lease of Suite 103, consisting of approximately 7,200 rentable square feet (the “**Existing Space**”), in the building located at 3600 Vineland Road, Orlando, Florida 32811 (the “**Building**”).

C. Landlord and Tenant wish to enter into this Amendment to (i) modify the Lease to expand the Premises to include the 7,036 rentable square foot space within the Building as shown on **Exhibit A** attached hereto (the “**Expansion Space**”); (ii) extend the Lease Term; and (iii) make such other changes as set forth below.

NOW, THEREFORE, for and in consideration of the agreements set forth herein, the receipt and sufficiency of which consideration is hereby acknowledged, Landlord and Tenant amend the Lease as follows:

1. **Incorporation of Recitals.** The above recitals are true and correct and are incorporated herein as if set forth in full.

2. **General Provisions.** All defined terms in this Amendment shall have the same meanings as set forth in the Lease, except if otherwise noted herein. As amended by this Amendment, all of the terms, covenants, conditions, and agreements of the Lease shall remain in full force and effect. In the event of any conflict between the provisions of the Lease and the provisions of this Amendment, this Amendment shall control.

3. **Expansion of Premises.** Subject to the terms of this Amendment, the Premises under the Lease is hereby expanded to include the Expansion Space, such that the Premises under the Lease now includes the Existing Space and the Expansion Space, which the parties agree contains an aggregate of 14,236 rentable square feet (the Existing Space and the Expansion Space are collectively referred to herein as the “**Premises**”) and all references in the Lease to the Premises shall refer to the Premises as so expanded. Notwithstanding that the Expansion Space is added to the Premises as of the Amendment Date, as provided in Section 6 below, Tenant’s obligation to

pay Base Rent as to the Expansion Space shall not commence until the Expansion Space Commencement Date. As used herein, the “**Expansion Space Commencement Date**” shall be the earlier of (i) the date that Tenant takes possession of the Expansion Space for the purpose of conducting business therein; or (ii) the date of Substantial Completion of the Landlord Work.

4. **Term.** The Lease Term is hereby extended to expire at 6:00 p.m. Orlando, Florida time on the date that is 60 full calendar months after the Expansion Space Commencement Date (the “**Revised Expiration Date**”).

5. **Condition of the Premises.** Except for Landlord’s obligations under the Work Agreement attached hereto as **Exhibit B**, Tenant accepts the Premises (as expanded by this Amendment) and the Building in their “as is” “where is” “with all faults” condition, and Landlord shall not be required to make any improvements to the Premises or the Building or provide or pay any improvement allowances or payments to Tenant under the Lease for Tenant’s occupancy of the Premises, and Tenant acknowledges that all construction obligations and allowances and other amounts required to be paid from Landlord to Tenant under the Lease have been performed and paid in full.

6. **Base Rent.**

(a) **Existing Space (7,200 rentable square feet).** From the Amendment Date until October 31, 2028, Tenant shall continue paying Base Rent, plus applicable taxes thereon, to Landlord as to the Existing Space (which shall be in addition to the Base Rent as to the Expansion Space) in accordance with Section 5 of the Lease. Effective as of November 1, 2028, Tenant shall pay Base Rent to Landlord as to the Existing Space (which shall be in addition to the Base Rent as to the Expansion Space) in the amount of \$9,618.00 per month, plus applicable taxes, as and when due under the Lease.

(b) **Expansion Space (7,036 rentable square feet).** Effective as of the Expansion Space Commencement Date, Tenant shall pay Base Rent as to the Expansion Space (which shall be in addition to the Base Rent as to the Existing Space) pursuant to the rent chart set forth below, plus applicable taxes, as and when due under the Lease. As used in the rent chart below, “**ESCD**” means the Expansion Space Commencement Date.

<u>PERIOD</u>	<u>ANNUAL RATE/RSF</u>	<u>MONTHLY BASE RENT</u>
ESCD – October 31, 2024	\$13.50	\$7,915.50
November 1, 2024 – October 31, 2025	\$13.97	\$8,192.54
November 1, 2025 – October 31, 2026	\$14.46	\$8,479.26
November 1, 2026 – October 31, 2027	\$14.97	\$8,776.06

<u>PERIOD</u>	<u>ANNUAL RATE/RSF</u>	<u>MONTHLY BASE RENT</u>
November 1, 2027 – October 31, 2028	\$15.49	\$9,083.24
November 1, 2028 – Revised Expiration Date	\$16.03	\$9,401.15

7. Additional Rent. Except as modified by this Section, Tenant shall continue paying to Landlord Tenant's Proportionate Share of Taxes and Operating Expenses in accordance with Sections 7 and 13 of the Lease, plus all other amounts due under the Lease. Effective as of the Expansion Space Commencement, Tenant's Proportionate Share is changed to 12.23%.

8. Broker. Landlord and Tenant represent and warrant that they have neither consulted nor negotiated with any broker or finder as to this Amendment, except Avison Young – Florida, LLC ("**Landlord's Broker**"). Landlord's Broker shall be paid any commissions by Landlord pursuant to the terms of separate written commission agreement between Landlord and Landlord's Broker. Landlord and Tenant shall indemnify, defend, and save the other harmless from and against any claims for fees or commissions from anyone, other than Landlord's Broker, with whom they have dealt concerning the Premises or this Amendment including attorneys' fees incurred in the defense of any such claim. Notwithstanding anything in this Section 8 to the contrary, Tenant has not and will not waive its right to sovereign immunity as provided in Section 768.28, Florida Statutes.

9. Other Tenant Rights. Landlord and Tenant acknowledge and agree that, as of the Amendment Date, except as expressly provided herein, any termination or cancellation right or option, space reduction right or option, renewal or extension right or option, expansion option, right of first offer or right of first refusal to lease any space, or other similar rights heretofore granted to Tenant pursuant to the Lease shall be terminated, expired and deemed null and void.

10. Counterparts. This Amendment may be executed in counterparts with the same effect as if both parties hereto had executed the same document. Both counterparts shall be construed together and shall constitute a single Amendment. The parties hereto consent and agree that this Amendment may be signed and/or transmitted by facsimile, e-mail of a .pdf document or using electronic signature technology (e.g., via DocuSign or similar electronic signature technology), and that such signed electronic record shall be valid and as effective to bind the party so signing as a paper copy bearing such party's handwritten signature, if done in compliance with and subject to Section 2.24 of the Orange County Administrative Regulations.

11. Delegation of Authority. By execution of this Agreement the Orange County Board of County Commissioners hereby delegates to the Real Estate Management Division Manager, the authority to execute any permitted renewals, notices, Confirmation of Lease Term Certificate, instruments of attornment, SNDA and estoppel documents that are part of this Agreement.

12. Miscellaneous. In the event of any conflict between the provisions of the Lease and the provisions of this Amendment, this Amendment shall control. This Amendment shall be

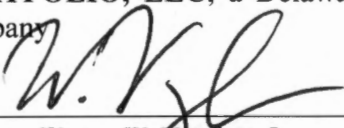
binding upon and inure to the benefit of the parties to this Amendment, their legal representatives, successors, and permitted assigns. Tenant hereby acknowledges and affirms that, as of the date hereof, the Lease is in full force and effect and, to the best of Tenant's knowledge, there are no claims, offsets, or breaches of the Lease, or any action or causes of action by Tenant against Landlord directly or indirectly relating to the Lease. The parties agree that the normal rule of construction to the effect that any ambiguities are to be resolved against the drafting party shall not be employed in the interpretation of this Amendment. The parties agree that the Lease is in full force and effect and the parties ratify and confirm the terms of the Lease as modified by this Amendment and the Lease is incorporated herein by reference as if fully set forth herein. The Lease, as amended, contains the entire agreement between Landlord and Tenant as to the Premises, and there are no other agreements, oral or written, between Landlord and Tenant relating to the Premises. All prior understandings and agreements between the parties concerning these matters are merged into this Amendment, which alone fully and completely expresses their understanding.

[This Space Intentionally Left Blank]

IN WITNESS WHEREOF, the Landlord and Tenant hereto have signed and executed this Second Amendment to Commercial Lease Agreement on the dates indicated below.

LANDLORD:

**BREIT SE INDUSTRIAL ORL/JAX
PORTFOLIO, LLC**, a Delaware limited liability
company

By: 
Name: Warren W. Vaughan, Jr.

Title: Authorized Signatory

Date: 08/16/2024

TENANT:

ORANGE COUNTY, FLORIDA

By: Board of County Commissioners



By: Bryson Brooks

for Jerry L. Demings
Orange County Mayor

Date: 8 October 2024

ATTEST: Phil Diamond, CPA, County Comptroller
As Clerk to the Board of County Commissioners

By: [Signature]
Deputy Clerk

Printed Name: DAVID ROONEY

EXHIBIT A
EXPANSION SPACE

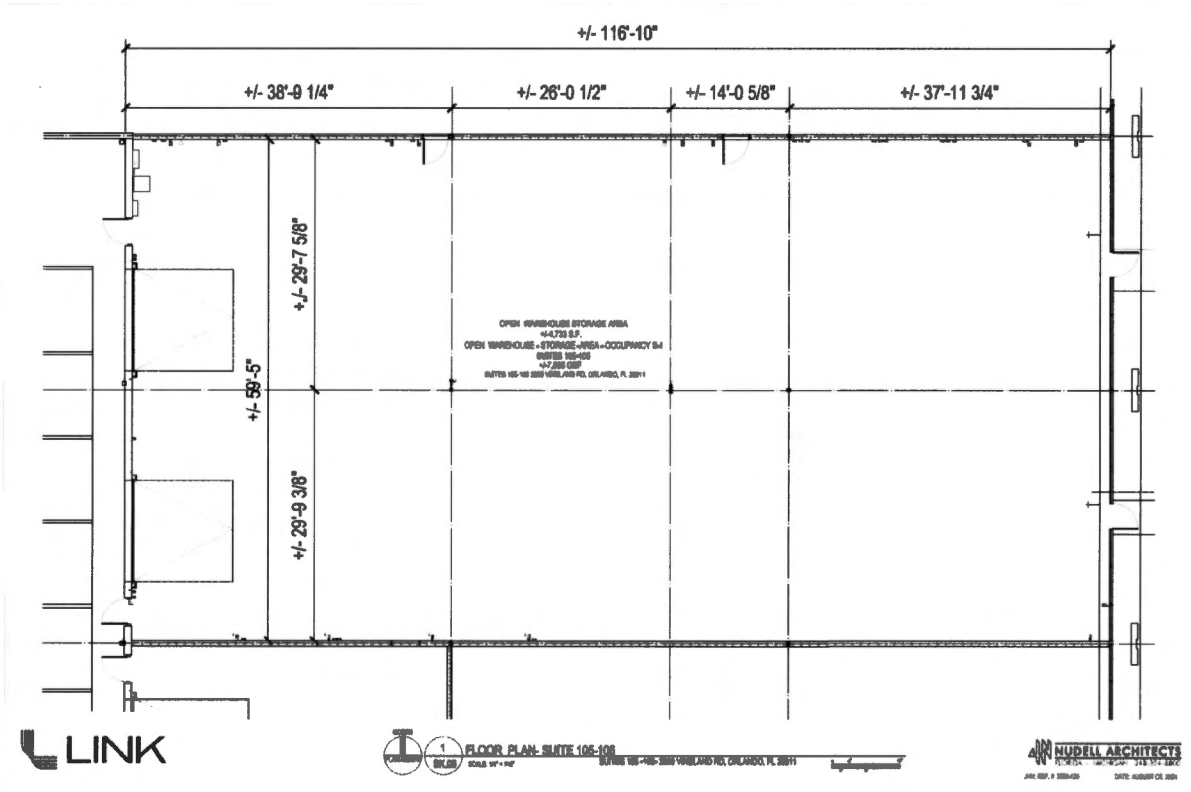


EXHIBIT B

LANDLORD WORK

1. Landlord Work; Completion by Landlord; Landlord's Cost.

(a) Landlord shall complete work (the "**Landlord Work**") on the Expansion Space in accordance with the plan or description of improvements and the specifications attached hereto as Schedule 1 (the "**Plans & Specs**"). Tenant acknowledges and agrees that, except as expressly set forth in Schedule 1, the Landlord Work shall be constructed using methods, materials and finishes designated by Landlord for the Building. Unless specifically set forth in Schedule 1, the Landlord Work shall not include (i) any costs of procuring or installing Tenant's equipment, furniture and other personal property or (ii) any costs or expenses of any consultants retained by Tenant with respect to design, procurement, installation or construction of improvements or installations, whether real or personal property, for the Premises. Any approval by Landlord of the Landlord Work or the documents set forth in Schedule 1 attached hereto shall not be a representation or warranty of Landlord that the Landlord Work or such documents are adequate for any use or comply with applicable insurance requirements but shall merely be the consent of Landlord thereto. Tenant shall be responsible for all elements of the design of the Landlord Work with respect to functionality of design, the configuration of the Premises and the placement of Tenant's Property. All construction shall be done in a good and workmanlike manner and shall comply at the time of completion with all Applicable Laws.

(b) Landlord shall pay for the cost of the Landlord Work, except that Tenant shall pay to Landlord, within 10 days after being billed therefor: (i) the cost of any changes in the Landlord Work initiated by Tenant or Tenant's employees, agents or contractors and approved by Landlord, which serve to change or upgrade the improvements, materials and/or finishes in the Landlord Work above the improvements, materials and/or finishes delineated in the Schedule 1 attached hereto; and (ii) all costs and any expenses occasioned by a delay caused by Tenant or any Tenant Party, including any costs and expenses attributable to increases in labor or materials.

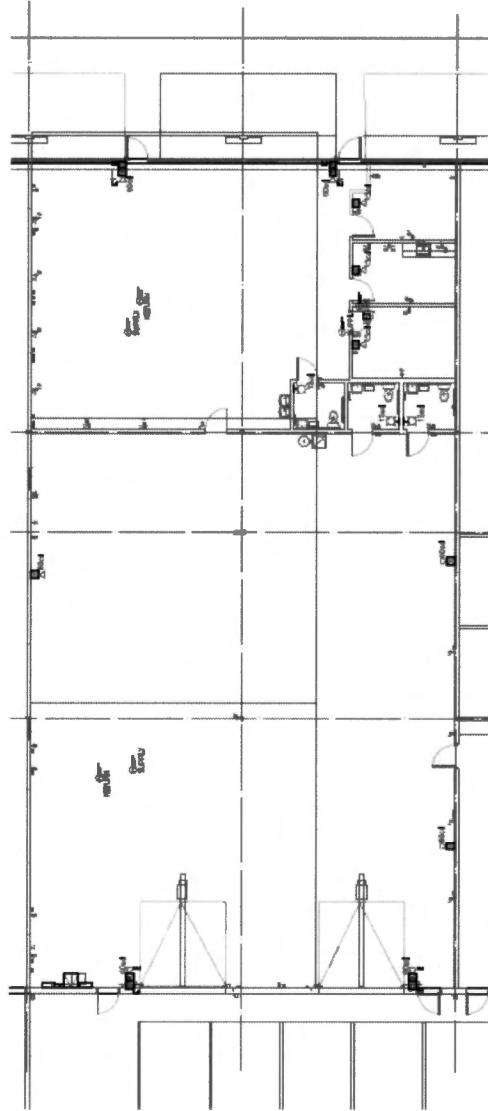
(c) As used in the Lease, "**Substantial Completion**" or "**Substantially Complete**" or "**Substantially Completed**" shall mean the date that: (i) Landlord has delivered to Tenant physical possession of, and access to, the Premises and (ii) Landlord has completed all of the Landlord Work in accordance with the Plans & Specs, subject only to incomplete items which do not adversely affect in a material way or materially interfere with Tenant's use and occupancy of the Premises, which incomplete items shall be set forth on the Punch List (as defined below). At the time of Substantial Completion of the Landlord Work, Landlord, in consultation with Tenant, shall generate a punch list of all asserted incomplete work items in the Landlord Work (the "**Punch List**"). Landlord shall use commercially reasonable efforts to complete all items on the Punch List within a commercially reasonable time following the date of the generation of the Punch List, unless the nature of the incomplete work item listed therein is such that a longer period of time is required to repair or correct the same or unless due to delays caused by Tenant or any Tenant Party or delays beyond the reasonable control of Landlord or its agents, employees, contractors or representatives. Tenant's occupancy of the Premises shall constitute Tenant's acceptance of the Landlord Work, subject to Landlord's completion of all items on the Punch List. Following

Substantial Completion, Landlord shall endeavor to confirm the Lease Commencement Date and the Lease Expiration Date by sending a "Confirmation of Lease Terms Certificate" in the form attached hereto as Schedule 2, provided, however, that (i) the enforceability of this Lease, and (ii) the determination of the Lease Commencement Date, in each case, shall not be affected should either party fail or refuse to execute such certificate.

(d) If the date of Substantial Completion of the Landlord Work is delayed by Tenant or any Tenant Party, then the Landlord Work shall be deemed to be Substantially Complete on such earlier date that the Landlord Work would have been Substantially Completed but for such delays.

SCHEDULE 1

PLANS & SPECS



SCHEDULE 2

CONFIRMATION OF LEASE TERMS CERTIFICATE

[Date]

Orange County, Florida

Re: Confirmation of Lease Terms Certificate (“Certificate”) for the Second Amendment to Commercial Lease Agreement dated _____, 2024 (the “Second Amendment”), by and between **BREIT SE INDUSTRIAL ORL/JAX PORTFOLIO, LLC**, a Delaware limited liability company (“Landlord”) and **ORANGE COUNTY, FLORIDA**, a charter county and political subdivision of the State of Florida (“Tenant”).

Link Property ID #: _____.

Dear Tenant:

This Certificate serves to confirm the following with respect to the Lease:

Expansion Space Commencement Date: _____, 20__

Revised Expiration Date: _____, 20__

Please indicate Tenant’s agreement with this Certificate by signing where indicated below and returning same to Landlord. Failure by Tenant to (i) return a fully executed copy of this Certificate to Landlord within 5 days after receipt thereof, or (ii) advise Landlord in writing within such 5-day period of any disagreement with this Certificate, will result in the terms of this Certificate deemed approved by Tenant.

Sincerely,

BREIT SE INDUSTRIAL ORL/JAX PORTFOLIO, LLC, a Delaware limited liability company

By: Link Logistics Real Estate Management LLC, as agent for Landlord

By: _____
Name:
Title:

Acknowledged and Accepted:

ORANGE COUNTY, FLORIDA,
a charter county and political subdivision of the State of Florida

By: _____

Name:

Title:

Dated: _____.