



Interoffice Memorandum

APPROVED
BY ORANGE COUNTY BOARD
OF COUNTY COMMISSIONERS
AUG 19 2014 *NP/KH*

REAL ESTATE MANAGEMENT ITEM 11

DATE: August 4, 2014

TO: Mayor Teresa Jacobs
and the
Board of County Commissioners

THROUGH: Ann Caswell, Acting Manager *AC*
Administrative Services Division

FROM: Gary Roberts, Program Manager *GR*
Real Estate Management Division

CONTACT PERSON: Ann Caswell, Acting Manager

DIVISION: Real Estate Management
Phone: 836-7082

ACTION REQUESTED: APPROVAL AND EXECUTION OF SEVENTH AMENDMENT TO LEASE AGREEMENT BETWEEN F6OSTC, LLC AND ORANGE COUNTY, FOR OFFICE SPACE

PROJECT: SunTrust Center
200 South Orange Avenue, Suites 1500, 1520, 1540, 1600, and 1700
Orlando, Florida

District 5

PURPOSE: To continue to provide office space for the Property Appraiser and Tax Collector.

ITEM: Seventh Amendment to Lease Agreement
Cost: Year 1 - \$102,722.92 per month
Year 2 - \$105,558.07 per month
Year 3 - \$108,475.40 per month
Year 4 - \$111,474.91 per month
Year 5 - \$114,556.60 per month
Size: 49,307 square feet
Term: Five years
Options: One renewal of 3 or 5 years

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

APPROVALS: Real Estate Management Division
Property Appraiser's Office
Tax Collector's Office
County Attorney's Office
Risk Management Division

REMARKS: Orange County currently leases 49,307 square feet of office space for the Property Appraiser and Tax Collector at 200 South Orange Avenue, under a lease approved by the Board of County Commissioners June 27, 1995 as amended and approved August 4, 1998, January 4, 2000, June 13, 2000, December 19, 2000, August 23, 2005 and November 3, 2009.

This action will extend the lease term from its current expiration date of December 31, 2014, to December 31, 2019. The lease term is being extended in order to continue to provide office space for the Tax Collector and Property Appraiser.

The Landlord has agreed to provide five (5) months free rent for year one (1); and to reset the base year for calculation of additional rent to 2015. The County will have an option to renew all or part of the leased space upon expiration for one additional term of three (3) or five (5) additional years at the market rate in effect at the time.

The County will continue to receive the same parking rights in the attached garage at the same rate, as per the Third Amendment to Lease. Landlord will provide County a parking voucher credit of Two Hundred Dollars (\$200) per month for tenant's visitors. Additionally, subject to availability, if County requests additional parking spaces, Landlord will use commercially reasonable efforts to provide County additional parking spaces for County's use on a month-to-month basis in the City of Orlando garage located at 55 West. These parking spaces shall be unassigned, non-exclusive and leased by the County at the prevailing market rate, which as of the date of this Amendment is \$110.00 per parking space per month.

Landlord will provide a tenant improvement allowance up to Fifteen Dollars (\$15.00) per square foot of rentable area for improvements in and to the premises, up to Seven Hundred Thirty Nine Thousand Six Hundred and Five Dollars (\$739,605.00).

The Landlord and County agree to amend Section 19 of the Lease to include "in accordance with provisions of Section 768.28 of the Florida Statutes" and Section 20 to add "Nothing contained herein shall constitute a waiver of the Tenant's sovereign immunity or the provision of Section 768.28, Florida Statutes".

All other terms and conditions of the Lease remain in full force and effect.

A file labeled "BCC Agenda Backup" containing a copy of this agenda item and all supporting documentation is in the top drawer of the BCC file cabinet in the supply room adjacent to Commissioner Thompson's office.

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SEVENTH AMENDMENT TO LEASE AGREEMENT

THIS SEVENTH AMENDMENT TO LEASE AGREEMENT (this "**Amendment**") is made and entered into as of the 13 day of August, 2014 (the "**Effective Date**"), by and between **F6OSTC, LLC**, a Delaware limited liability company ("**Landlord**"), and **ORANGE COUNTY**, a charter county and political subdivision of the State of Florida ("**Tenant**").

W I T N E S S E T H :

WHEREAS, Lincoln-Sun Center, LTD. ("**Original Landlord**") and Tenant entered into that certain Lease Agreement dated August 10, 1995, as amended by that certain First Amendment dated August 4, 1998, as amended by that certain Second Amendment dated December 21, 1999, as amended by that certain Third Amendment dated May 24, 2000, as amended by that certain Fourth Amendment dated November 28, 2000, as amended by that certain Fifth Amendment to Lease dated August 23, 2005, and as further amended by that certain Sixth Amendment to Lease Agreement dated September 22, 2009 (the "**Sixth Amendment**"; collectively, as so amended, the "**Lease**"), for certain premises in the building known as SunTrust Center – Tower Building and located at 200 South Orange Avenue, Orlando, Florida 32801 (the "**Building**"), consisting of approximately 49,307 square feet of Net Rentable Area located on the 15th, 16th and 17th floors of the Building and known as Suites 1500, 1520, 1540, 1600 and 1700, which premises are more particularly described in the Lease (the "**Premises**");

WHEREAS, Landlord acquired the Building and has succeeded to the interest of Original Landlord as the "Landlord" under the Lease;

WHEREAS, the Lease Term is scheduled to expire on December 31, 2014, and the parties desire to extend the Lease Term to December 31, 2019; and

WHEREAS, Landlord and Tenant desire to evidence the terms of such extension and to amend certain other terms and conditions of the Lease by means of this Amendment.

NOW, THEREFORE, in consideration of the mutual covenants contained herein, and other good and valuable consideration, the receipt, adequacy and sufficiency of which are hereby acknowledged, the Lease is hereby amended and the parties hereto do hereby agree as follows:

1. Recitals; Capitalized Terms. The recitals set forth herein above are incorporated herein as if restated in their entireties. All capitalized terms used herein and not otherwise defined herein shall have the meanings ascribed to them in the Lease.
2. Extension of Lease Term. The Lease Term is hereby extended for a period of sixty (60) months (the "**Fifth Extension Term**") commencing on January 1, 2015 (the "**Fifth Extension Term Commencement Date**") and expiring on December 31, 2019, unless sooner terminated or extended pursuant to the terms of the Lease, as amended herein. All references in

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the Lease to the “Expiration Date” or “Extended Termination Date” shall hereafter be deemed to mean December 31, 2019 and all references in the Lease to the “Lease Term” shall hereafter be deemed to include the Fifth Extension Term. Tenant shall remain subject to all the terms and conditions of the Lease, as amended herein, during the Fifth Extension Term.

3. Base Rent. During the Fifth Extension Term, Base Rent for the Premises shall be as follows:

<u>Period</u>	<u>Annual Base Rent Per/SF*</u>	<u>Period Annual Base Rent*</u>	<u>Monthly Base Rent*</u>
1/1/2015 – 12/31/2015	\$25.00	\$1,232,675.04	\$102,722.92
1/1/2016 – 12/31/2016	\$25.69	\$1,266,696.84	\$105,558.07
1/1/2017 – 12/31/2017	\$26.40	\$1,301,704.80	\$108,475.40
1/1/2018 – 12/31/2018	\$27.13	\$1,337,698.92	\$111,474.91
1/1/2019 – 12/31/2019	\$27.88	\$1,374,679.20	\$114,556.60

* plus applicable State of Florida sales tax

Tenant shall be entitled to a rent concession which is equal to the Base Rent payable for the first five (5) months of the Fifth Extension Term (the “Rent Concession”). Landlord shall provide such Rent Concession by waiving Base Rent and the applicable sales tax thereon for the first five (5) months of the Fifth Extension Term (the “Rent Concession Period”). In the event of an Event of Default by Tenant under the Lease, as herein amended, during the Fifth Extension Term, the Rent Concession referenced above shall be amortized on a straight-line basis and any unamortized amounts of the Rent Concession at the time of the Event of Default shall become immediately due and payable. Further, should Tenant be in an Event of Default under the Lease, as herein amended, at the time any installment of the Rent Concession is otherwise due to be applied, such installment of the Rent Concession will not be provided until the Event of Default has been cured by Tenant. During the Rent Concession Period, Tenant shall be responsible for the payment of any other Rent due under the Lease, as herein amended.

4. Base Year. During the Fifth Extension Term, the Base Year for purposes of calculating Adjustment Rent is calendar year 2015.

5. Acceptance of Premises; Allowance.

(a) Tenant hereby accepts the Premises in its “AS IS,” “WHERE IS” condition and without any representations or warranties (express or implied) whatsoever, during the Fifth Extension Term and hereby acknowledges and agrees Landlord shall have no obligation to construct any tenant improvements to the Premises, and Landlord shall have no obligation to provide any tenant improvement allowance, credit, set-off, or other concession to Tenant, except as expressly set forth in **Paragraphs 5(b) and 5(c)** below.

(b) Landlord shall provide to Tenant as a tenant improvements allowance up to Fifteen and No/100 Dollars (\$15.00) per square foot of Net Rentable Area of the Premises (i.e., up to \$739,605.00) (the “Allowance”), which may be applied to all construction/alteration

costs as follows (collectively, the "**Construction Costs**") and construction management fees: (i) for certain improvements in and to the Premises based upon a mutually agreeable space plan (the "**Improvements**"), (ii) design/architecture costs, (iii) construction, (iv) engineering, (v) professional fees, (vi) permitting, if any, and (vii) soft costs for the construction of or alterations to the Premises. Any unused portion of the Allowance, at Tenant's option, shall be credited to Tenant in the form of an abatement against Base Rent. Tenant shall be responsible for all Construction Costs in excess of the Allowance, if any, and shall reimburse Landlord for such difference promptly upon receipt of invoices for the same. JLL Property Management shall serve as construction manager ("**Construction Manager**"). The Construction Manager, on behalf of Landlord and Tenant, shall (1) coordinate architectural and engineering planning; (2) solicit bids from at least three (3) qualified contractors and conduct any permitting processes; (3) award the bid to the lowest qualified general contractor(s)/subcontractor(s); (4) supervise the construction of the Improvements in the Premises, and (5) pay the Allowance to all contractors and subcontractors directly. The Construction Manager will receive a construction management fee based on the following schedule, which will be paid from the Allowance by Landlord:

Fee Schedule: 5.0% for projects \$0 - \$250,000 in total project costs

3.0% for projects \$250,001 to \$500,000 in total project costs

1.0% for projects \$500,001 or more in total project costs

(c) Any unused portion of the Allowance must be utilized by Tenant for the purposes set forth herein within six (6) months from the Fifth Extension Term Commencement Date. Tenant acknowledges that the Improvements in the Premises shall be performed while Tenant is in occupancy of the Premises and that Landlord shall use reasonable efforts not to interfere with Tenant's use of the Premises during the performance of the construction of or any alterations to the Premises, but that some such interference may occur and shall not be a default by Landlord under the Lease, as herein amended. Prior to commencement of the Improvements, the Construction Manager will coordinate the schedule for the completion of the Improvements with Tenant (or Tenant's designee). Landlord shall not be required to incur overtime costs and expenses in performing the Improvements in the Premises.

6. Holding Over. As of the date of this Amendment, Section 27.1 of the Lease (Holding Over) is hereby amended by deleting in the 7th line of such Section the words "equal to twice" and replacing them with the words "equal to 150% of".

7. Renewal Option. Parties acknowledge and agree that Paragraph 6, Renewal Option, and Exhibit A to the Sixth Amendment are restated and reaffirmed in their entirety, except the term "Fourth Extension Term" shall be replaced by the term "Fifth Extension Term".

8. Parking. Tenant's monthly parking shall continue pursuant to the terms of the Lease. Notwithstanding the foregoing, Landlord will provide Tenant a parking voucher credit of \$200 per month for Tenant's visitors. Additionally, subject to availability, if Tenant requests additional parking spaces, Landlord will use commercially reasonable efforts to provide Tenant additional parking spaces for Tenant's use on a month-to-month basis in the City of Orlando

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garage located at 55 West directly across the street from the Tower Building, to the extent spaces are then available. These parking spaces shall be unassigned, non-exclusive and leased by Tenant at the then prevailing market rate (which as of the date of this Amendment is \$110.00 per parking space per month), plus applicable taxes thereon. In addition, to the extent Tenant requests, Landlord shall assist Tenant when necessary in obtaining additional parking spaces that may be available for lease by Tenant in other nearby parking structures on a month-to-month basis.

9. Insurance and Indemnification. The parties agree that Sections 19 and 20 of the Lease are hereby restated and amended as follows:

“19. **LIABILITY INSURANCE.**

19.1 Tenant and Landlord shall each maintain commercial general liability insurance with respect to their respective activities in the Building, and on the Real Property, with the premiums thereon fully paid for on or before the due date, such insurance to afford minimum protection of not less than \$3,000,000 combined single limit coverage for bodily injury, property damage or combination thereof. Tenant’s liability insurance shall name Landlord as an additional insured. Tenant shall have the option to “self-insure” in accordance with the provisions of Section 768.28, Florida Statutes, with respect to any such commercial general liability insurance.

19.2 Landlord shall not be required to maintain insurance against thefts within the Premises, the Building or any project within which the Building is located.

20. **ASSUMPTION OF RISK.**

20.1 To the fullest extent permitted by law, Tenant shall indemnify Landlord and save it harmless from all claims, suits, actions, damages, liabilities and expenses in connection with bodily or personal injury or property damage occurring on or arising from or out of Tenant’s use or occupancy of the Premises, except for the negligent acts or omissions of Landlord, its agents, contractors, employees, guests, invitees or other tenants, or their agents, contractors, employees, guests or invitees. Nothing contained herein shall constitute a waiver of the Tenant’s sovereign immunity or the provisions of Section 768.28, Florida Statutes.”

10. Personal Liability. The parties agree that Section 32 of the Lease (Personal Liability) is hereby restated in its entirety as follows:

“32. **PERSONAL LIABILITY.** NOTWITHSTANDING ANYTHING TO THE CONTRARY IN THIS LEASE, AS AMENDED, OR OTHERWISE, THE LIABILITY OF LANDLORD TO TENANT FOR ANY DEFAULT BY LANDLORD UNDER THIS LEASE, AS AMENDED, SHALL BE LIMITED TO THE INTEREST OF LANDLORD IN THE BUILDING FOR THE RECOVERY OF ANY JUDGMENT FROM THE LANDLORD, IT BEING INTENDED THAT

LANDLORD SHALL NOT BE PERSONALLY LIABLE FOR ANY JUDGMENT OR DEFICIENCY.”

11. Amendment Execution. Landlord agrees to execute and deliver this Amendment to Tenant prior to Tenant’s execution and delivery of this Amendment to Landlord. Tenant acknowledges that it will submit the document for approval by the Orange County Board of County Commissioners (BCC) at a Meeting to be held on August 19, 2014 (the “**BCC Meeting Date**”), or at the first available meeting thereafter, at which time Tenant intends to execute this Amendment. Notwithstanding the foregoing, if this Amendment is not executed by Tenant and delivered to Landlord on or before September 11, 2014 then, at Landlord’s option, this Amendment shall be deemed null and void and of no force or effect.

12. Landlord’s Notice Address. From and after the date hereof and notwithstanding anything to the contrary in the Lease, Landlord acknowledges that its current addresses for notices under the Lease are as follows:

F6OSTC, LLC
c/o The Brookdale Group, LLC
3455 Peachtree Road, NE
Suite 700
Atlanta Georgia 30326
Attention: Fred H. Henritze,
President and Chief Operating Officer

with a copy to:

JLL
250 S. Orange Avenue, Suite 120
Orlando, Florida 32801
Attention: Property Manager

with a copy to:

c/o The Brookdale Group, LLC
3455 Peachtree Road, NE
Suite 700
Atlanta Georgia 30326
Attention: David Hendrickson
Senior Vice President

with a copy to:

c/o The Brookdale Group, LLC
3455 Peachtree Road, NE
Suite 700
Atlanta, Georgia 30326
Attention: Dan Ethridge
Senior Vice President

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with a copy to: Sheley, Hall & Williams, P.C.
303 Peachtree Street, N.E.
Suite 4440
Atlanta, Georgia 30308
Attention: Laura C. Hall, Esq.

13. Landlord's Rent Payment Address. From and after the date hereof, payments of rent only shall be made payable to the order of **F6OSTC, LLC**, at the following address, or such other parties and addresses as to which Landlord shall provide advance notice:

If by regular mail: F6OSTC, LLC
P.O. Box 532900
Atlanta, GA 30353-2900

Or if by overnight mail: Attention: F6OSTC, LLC
Lockbox #532900
1669 Phoenix Parkway, Suite 210
College Park, GA 30349

14. Brokers. Tenant represents and warrants to Landlord that neither it nor its officers or agents nor anyone acting on its behalf has dealt with any real estate broker other than Jones Lang LaSalle Americas, Inc., which represented Landlord ("Landlord's Broker"), and CBRE, Inc., which represented Tenant ("Tenant's Broker"), in the negotiating and making of this Amendment, and Tenant agrees to indemnify and hold Landlord, its agents, employees, partners, directors, shareholders and independent contractors harmless from all liabilities, costs, demands, judgments, settlements, claims, and losses, including reasonable attorneys' fees and costs, incurred by Landlord in conjunction with any such claim or claims of any other broker or brokers claiming to have interested Tenant in the Building or Premises or claiming to have caused Tenant to enter into this Amendment. Landlord shall pay any commissions due Landlord's Broker and Tenant's Broker for the negotiation and execution of this Amendment pursuant to separate agreements with Landlord's Broker and Tenant's Broker, respectively.

15. Ratification of Lease. Tenant hereby affirms that as of the date hereof the Lease is in full force and effect, that the Lease has not been modified or amended (except as provided in this Amendment) and that all of Landlord's obligations accrued to date have been performed. Tenant hereby ratifies the provisions of the Lease on behalf of itself and its successors and assigns and agrees to attorn and be bound to Landlord and its successors and assigns as to all of the terms, covenants and conditions of the Lease, as amended herein. Tenant further agrees to fulfill all of its obligations under the Lease, as amended herein, to Landlord throughout the remainder of the Lease Term, as further extended herein.

16. No Defaults. Tenant hereby agrees that there are, as of the date hereof, regardless of the giving of notice or the passage of time, or both, no defaults or breaches on the part of Landlord or Tenant under the Lease.

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17. Headings. The headings used herein are provided for convenience only and are not to be considered in construing this Amendment.

18. Entire Agreement. This Amendment represents the entire agreement between the parties with respect to the subject matter hereof. Landlord and Tenant agree that there are no collateral or oral agreements or understandings between them with respect to the Premises or the Building other than the Lease and this Amendment. This Amendment supersedes all prior negotiations, agreements, letters or other statements with respect to the matters addressed herein.

19. Binding Effect. This Amendment shall not be valid and binding on Landlord and Tenant unless and until it has been completely executed by and delivered to both parties.

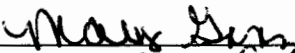
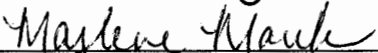
20. Confirmation of Lease. Except as expressly amended and modified by this Amendment, the Lease shall otherwise remain unmodified and in full force and effect, and the parties hereto hereby ratify and confirm the same. To the extent of any inconsistency between the Lease and this Amendment, the terms of this Amendment shall control.

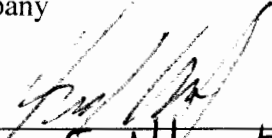
IN WITNESS WHEREOF, the undersigned parties have duly executed this Amendment under seal as of the day and year first above written.

LANDLORD:

Signed, sealed and delivered
in the presence of:

F6OSTC, LLC, a Delaware limited liability
company


Print Name: Mary Gant

Print Name: Martine Mauk

By: 
Name: Fred Henrize
Title: Manager

[SIGNATURES CONTINUE ON THE FOLLOWING PAGE]

[SIGNATURES CONTINUED FROM PREVIOUS PAGE]



TENANT:

Orange County, Florida
By: Board of County Commissioners

By: *Teresa Jacobs*
Teresa Jacobs
Orange County Mayor

Date: 8.19.14

ATTEST:

Martha O. Haynie, Orange County Comptroller
As Clerk of the Board of County Commissioners

By: *Kathie Smith*
Deputy Clerk

Date: AUG 19 2014