



Interoffice Memorandum

APPROVED BY ORANGE
COUNTY BOARD OF COUNTY
COMMISSIONERS

BCC Mtg. Date: September 20, 2016

REAL ESTATE MANAGEMENT ITEM 2

DATE: September 2, 2016

TO: Mayor Teresa Jacobs
and the
Board of County Commissioners

THROUGH: Ann Caswell, Manager *AC*
Real Estate Management Division

FROM: Robin Giove, Lease Program Manager *RJG*
Real Estate Management Division

**CONTACT
PERSON:** Ann Caswell, Manager

DIVISION: Real Estate Management
Phone: (407) 836-7082

**ACTION
REQUESTED:** APPROVAL AND EXECUTION OF FOURTH AMENDMENT TO
LEASE AGREEMENT FOR OFFICE FACILITIES BETWEEN
CHURCH STREET INVESTMENT PROPERTIES, INC. AND
ORANGE COUNTY AND DELEGATION OF AUTHORITY TO THE
REAL ESTATE MANAGEMENT DIVISION TO EXERCISE
RENEWAL OPTIONS AND EXECUTE TENANT ESTOPPEL
CERTIFICATES, IF NEEDED

PROJECT: Magnolia Place
Lease File #2028
109 E. Church Street, Suites 200, 300, 400, and 450
Orlando, Florida

District 3

PURPOSE: To continue to provide office space for the Comptroller's Official
Records, Information Technology, Payroll, Audit, and Property
Accounting Departments, County Risk Management Division and Office
for a Drug Free Community.

ITEM: Fourth Amendment to Lease Agreement for Office Facilities
Cost: Year 1 - \$91,972.50 per month
Year 2 - \$94,711.24 per month
Year 3 - \$97,572.60 per month
Year 4 - \$100,515.72 per month
Year 5 - \$103,540.60 per month
Size: 49,052 square feet
Term: 5-years
Option: One, 5-year renewal

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

APPROVALS: Real Estate Management Division
Comptroller's Office
County Attorney's Office
Health Services Department
Risk Management Division

REMARKS: Orange County entered into a Lease Agreement for Office Facilities with Church Street Investment Properties, Inc. approved by the Board of County Commissioners on November 15, 2005, as amended by First Amendment to Lease Agreement for Office Facilities approved July 31, 2007, as amended by Second Amendment to Lease Agreement for Office Facilities approved August 4, 2009, and as amended by Third Amendment to Lease Agreement for Office Facilities approved June 28, 2011 (collectively, the "Lease").

This action exercises County's first of two existing rights to extend the lease, provides County a tenant improvement allowance of \$318,838.00 for minor interior modifications, reduces the leased space by 15,070 square feet, and reduces the allocated parking by 42 spaces. The new lease term shall commence October 1, 2016. The Fire Marshal's office will be holding over in their existing space until their new lease space on University Boulevard is ready.

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.

SEP 20 2016

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CHURCH STREET INVESTMENT PROPERTIES, INC.

and

ORANGE COUNTY, FLORIDA

FOURTH AMENDMENT TO LEASE AGREEMENT FOR OFFICE FACILITIES

This Fourth Amendment to Lease Agreement for Office Facilities ("Fourth Amendment") is made and entered into by and between **CHURCH STREET INVESTMENT PROPERTIES, INC.**, a Florida corporation (hereinafter called "**Landlord**"), and **ORANGE COUNTY, FLORIDA**, a charter county and political subdivision of the State of Florida (hereinafter called "**Tenant**").

WHEREAS, Landlord and Tenant are parties to that certain Lease Agreement for Office Facilities dated November 15, 2005, as modified by that certain First Amendment to Lease Agreement for Office Facilities dated July 31, 2007, as modified by that certain Second Amendment to Lease Agreement for Office Facilities dated August 4, 2009, and as modified by that certain Third Amendment to Lease Agreement for Office Facilities dated June 28, 2011 (collectively, the "**Lease Agreement**"); and

WHEREAS, Tenant has notified Landlord that Tenant desires to exercise its first of two (2) rights to extend the Lease for a renewal term of sixty (60) months; and

WHEREAS, per Landlord's letter dated June, 20, 2016, attached hereto as Exhibit "A," Landlord has allowed Tenant to holdover while the Parties agree to the terms of the renewal; and

WHEREAS, Landlord and Tenant desire to further modify and amend the Lease Agreement as specified herein; and

WHEREAS, Landlord and Tenant hereby confirm and ratify, except as modified herein, all of the terms, conditions and covenants of the Lease Agreement.

NOW, THEREFORE, in consideration of the premises and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Landlord and Tenant agree as follows:

1. Section I of the Lease Agreement entitled "Leased Premises" is hereby amended to read as follows:

1. **LEASED PREMISES.**

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Subject to and upon the terms, provisions and conditions hereinafter set forth, and each in consideration of the duties, covenants and obligations of the other hereunder, Landlord does hereby lease, demise and let to Tenant and Tenant does hereby lease from Landlord those certain premises (collectively the “**Leased Premises**”) in the building known as **MAGNOLIA PLACE** (the “**Building**”) located at 109 E. Church Street, City of Orlando, County of Orange, State of Florida, such Leased Premises being more particularly described as follows: **Suite 200, Suite 300, Suite 400 and Suite 450 (formerly referred to as Suite 400 Expansion)**, collectively containing approximately 49,052 square feet of Net Rentable office space.

The term “**Net Rentable Area**”, as used herein, shall refer to the area or areas of space within the Building having been measured pursuant to the Building Owners and Managers Association (BOMA) 1996 Standards of Measurement. Landlord and Tenant agree that the Net Rentable Area of the Leased Premises is hereby estimated collectively to be **49,052** square feet, allocated as follows:

Suite 200	–	16,759 sf
Suite 300	–	17,637 sf
Suites 400 and 450	–	<u>14,656 sf</u>
		49,052 sf

2. Section 2.1 of the Lease Agreement entitled “Term” is hereby amended to read as follows:

2.1 **Term.** Subject to and upon the terms and conditions set forth herein, or in any exhibit or addendum hereto, this Lease Term shall commence upon October 1, 2016 and shall terminate on September 30, 2021 (“**First Renewal Term**”) as to all portions of the Leased Premises as defined herein.

3. Section 2.2 of the Lease Agreement entitled “Renewal Option” is hereby amended to read as follows:

2.2 **Renewal Option.** Tenant is hereby granted the option to renew this Lease Agreement for the Leased Premises in its entirety (as defined above) for one (1) additional term of sixty (60) months (the “**Second Renewal Term**”) on the following basis:

a. **Second Renewal Term.** Provided the Lease Agreement is in full force and effect and Tenant is not then in material default which is continuing, and no circumstances exist which but for the passage of time would constitute a material default, Tenant shall have the right to extend the term of the Lease Agreement for a Second Renewal Term of sixty (60) months provided Tenant shall notify Landlord in writing not less than one hundred twenty (120) days prior to the expiration of the First Renewal Term that Tenant desires such extension (“**Renewal Notice**”), and provided further that such extension shall be upon the same terms, provisions, covenants and conditions as are contained in the Lease Agreement, except as to the Base Rental Rate as provided in Section 2.2(b) hereof.

- b. **Base Rental Rate for Second Renewal Term; Determination.** The initial Base Rental Rate during the Second Renewal Term shall be an amount equal to the prevailing fair market rental value as determined by reference to comparable space in the Building, and in comparable buildings, for comparable terms, for comparable tenants in the office market in the City of Orlando, Florida, at the time of commencement of the Second Renewal Term, as determined by the provisions of this Section 2.2(b). In the event Tenant exercises its option contained herein, Landlord shall, within thirty (30) days after receipt of the Tenant's Renewal Notice, send to Tenant Landlord's written evaluation for the prevailing fair market rental value for comparable space in the Building, and in comparable buildings, for comparable terms, for comparable tenants ("**Landlord's Rent**") for the Second Renewal Term. Within thirty (30) days thereafter, Tenant shall send to Landlord a notice stating either (i) Tenant's agreement with Landlord's Rent, in which event said amount shall be the initial Base Rental Rate payable by Tenant for the Second Renewal Term; or (ii) Tenant's evaluation of said prevailing fair market rental value ("**Tenant's Rent**"). If Landlord and Tenant are unable to agree upon said prevailing fair market rental value within sixty (60) days from the date the notice described in (ii) is sent above, then this option shall terminate and this Lease Agreement shall not be renewed. The Basic Operating Cost during the Second Renewal Term(s) shall be subject to adjustment as set forth in the Lease Agreement. The fees of respective counsel engaged by the parties and the fees of experts consulted by the parties to prepare their respective evaluation packages (referred to in this paragraph as Landlord's Rent and Tenant's Rent) shall be paid by the respective party engaging such counsel or consulting such experts.
- c. **Adjustments to Base Rental Rate and Additional Rental.** If, for any reason, the Second Renewal Term shall commence prior to the determination of the initial Base Rental Rate for the Second Renewal Term, Tenant, in the meantime, shall pay the monthly installments of Base Rental in effect under the Lease Agreement on the last day of the then-expiring First Renewal Term ("**Prior Rent**"). If the initial Base Rental Rate for the Second Renewal Term thereafter shall be determined to be greater than the Prior Rent, Tenant, immediately following such determination, shall pay to Landlord the difference between the Prior Rent actually paid and that which should have been paid on the basis of such determination. If the initial Base Rental Rate for the Second Renewal Term thereafter shall be determined to be less than the Prior Rent, Landlord shall credit Tenant's rent payments which next become due with the amount of any such excess rent which Tenant may have paid until such overpayment(s) have been credited to Tenant in full.

4. Table 4 of the Lease Agreement located within Section 4 entitled "Base Rental" is hereby amended to read as follows:

TABLE 4

<u>Area Leased</u>	<u>Base Rental</u>
Suite 200	\$22.50
Suite 300	\$22.50
Suites 400 and 450	\$22.50

5. Section 5 of the Lease Agreement entitled "Net Rental Rate Adjustment" is hereby amended to read as follows:

5. RENTAL RATE ADJUSTMENT.

The Rental Rate for all portions of the Leased Premises as set forth on Table 4 shall be adjusted and increased as to the various portions thereof on the dates set forth below by the "Rental Rate Adjustment," which shall be an amount specified as follows:

<u>Adjustment Date</u>	<u>Rental Rate Adjustment</u>	<u>Base Rental*</u>
Year 2	\$.67	\$23.17
Year 3	\$.70	\$23.87
Year 4	\$.72	\$24.59
Year 5	\$.74	\$25.33

* Base Rental for each year is a floor. However, the Base Rental for each year may increase due to increases in Basic Operating Cost, as per Sections 6 and 7 of the Lease Agreement.

6. The first paragraph of Section 7 of the Lease Agreement entitled "Basic Operating Cost Adjustment" is hereby amended to read as follows:

7. BASIC OPERATING COST ADJUSTMENT.

The "Estimated Basic Operating Cost" for any particular calendar year shall be the Basic Operating Cost for such calendar year as estimated by Landlord prior to commencement of such calendar year. Tenant shall pay in monthly installments during such calendar year as additional rent one twelfth of an amount equal to the excess of the Estimated Basic Operating Cost apportioned to the Leased Premises over the Basic Operating Cost apportioned to the various portions of the Leased Premises for the Base Year (such amount being referred to herein as the "Basic Operating Cost Adjustment"). For purposes of this Lease Agreement, the term "Base Year" shall be calendar year 2016. Provided, however, Landlord has agreed to waive Tenant's monthly installments of one twelfth of the Basic Operating Cost Adjustment during the first twelve (12) months of the First Renewal Term.

7. Section 8.3 of the Lease is hereby amended to read as follows:

8.3 Repairs by Landlord. Landlord shall not be required to make any improvements or repairs or replacements, except such repairs as may be necessary to maintain the Building in a first class manner, and such additional maintenance as may be necessary because of damages by persons other than Tenant, its agents, employees, invitees or visitors. Provided, however, Landlord has agreed to complete the following repairs during the initial twelve (12) months of the First Renewal Term, at its sole cost and expense: (i) replacement of all windows and blinds in the Leased Premises included in floors two (2), three (3) and four (4) of the Building as a capital improvement, utilizing labor and materials selected by Landlord at its sole discretion; (ii) painting the common area bathrooms on floors two (2), three (3) and four (4) of the Building; and (iii) testing and balancing the HVAC associated with the Leased Premises. Landlord shall not be liable for any damage or inconvenience which may arise through repair or alterations of any part of the Building or Leased Premises; provided, that Landlord, to the extent practical, shall endeavor to make any repairs or alterations in such a manner so as to minimize any inconvenience to Tenant.

Landlord and Tenant agree to reasonably cooperate with one another during the process of replacing the windows and blinds described above in Section 8.3(i) by allowing the work to be completed during normal business hours and by facilitating the relocation of employees as needed to temporary space in the basement of the Building while work is being completed. Landlord will provide a week by week schedule of the work, which shall not impact more than one Tenant occupied floor at a time, for Tenant's review and approval. Landlord shall not require Tenant to vacate an entire floor at any time during normal business hours. Landlord shall provide said temporary space at no charge to Tenant.

8. Sub-paragraph A. of Section 9 of the Lease Agreement is hereby amended to read as follows:

A. Landlord shall provide an allowance of \$318,838.00 (\$6.50/SF x 49,052SF) for improvements to the Leased Premises ("Improvement Allowance"). Tenant shall provide Landlord an outline of the improvements ("Tenant Improvements") within ten (10) days of the full execution of this Fourth Amendment. In the event that the cost of completing the Tenant Improvements incurred by Landlord exceeds the Improvement Allowance, Landlord shall give Tenant written notice of the excess costs. Within sixty (60) days of said notice, Tenant shall pay the total excess cost of the Tenant Improvements. Tenant Improvement cost will include reasonable direct or indirect construction costs, permitting/inspection fees, space planning, design and architectural fees (including, without limitation, any reasonable consulting or other fees charged to Landlord by any architect, engineer, professional or consultant related to any request by or on behalf of Tenant with respect to the Tenant Improvements to the Leased Premises), Landlord's construction management fee (not to exceed two percent (2%) of total costs of the Tenant Improvements), applicable insurance premiums, and any other reasonable cost directly attributable to finishing the Tenant Improvements. If the cost of

completing the Tenant Improvements incurred by Landlord is less than the Improvement Allowance or if Landlord receives from Tenant any payment in excess of Tenant's portion of the cost of completing the Tenant Improvements, then Tenant shall receive a rental credit from the Landlord after a final accounting of the total cost of said Tenant Improvements are completed by Landlord and provided to Tenant with copies of Tenant approved proposals and change orders, but in any event, not later than ninety (90) days after completion of the Tenant Improvements. All Tenant Improvements made to the Leased Premises shall be the property of Landlord during the term of this Lease Agreement and shall remain the property of Landlord upon termination of this Lease Agreement. All work to be performed by Landlord hereunder shall be substantially in accordance with plans and specifications to be approved by both Tenant and Landlord. Landlord shall bid the contract for any Tenant Improvements to three qualified contractors and shall have the authority to select all contractors and sub-contractors for the Tenant Improvements, subject to Tenant's approval.

9. Section 25 of the Lease Agreement entitled "Holding Over" is hereby amended to read as follows:

25.1 **Limited Extension of Term.** The Lower Level of the Building, comprised of 15,673 SF, is not part of the Leased Premises for the First Renewal Term; however, Landlord has agreed to allow Tenant to extend its term of occupancy of the Lower Level for up to five (5) months of the First Renewal Term on the same terms and conditions as herein provided, but at the monthly Gross Rental rate of \$29,441.25 ("Lower Level Gross Rental"). If the Tenant holds over in the Lower Level beyond the first five (5) months of the First Renewal Term, Tenant shall pay rent equal to one and a quarter times the Lower Level Gross Rental. The provisions of this Section 25.1 shall only apply to the Lower Level.

25.2 **Rental Amount.** If Tenant: (a) holds over without Landlord's written consent after expiration or other termination of this Lease Agreement, or (b) continues to occupy the Leased Premises after termination of Tenant's right of possession pursuant to the provisions of Section 23.2, Tenant shall throughout the entire holdover period pay rent equal to one and a quarter times the Base Rental that would have been applicable had the terms of this Lease Agreement continued through the period of such holding over by Tenant.

25.3 **No Extension of Term.** Except as specifically provided by Section 25.1 above, no possession by Tenant after the expiration of any term of this Lease Agreement shall be construed to extend the term of this Lease Agreement unless Landlord has consented to such prior possession in writing.

10. Section 32.6 of the Lease Agreement entitled "Commissions" is hereby amended to read as follows:

32.6 **Commissions.** Landlord and Tenant agree to hereby indemnify and agree to hold each other harmless from and against any loss, claim, expense or liability with

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respect to any commissions or brokerage fees claimed on account of the execution and/or renewal of this Lease Agreement due to any action of the indemnifying party. Landlord shall be responsible for paying CBRE, Inc a commission at time of execution, pursuant to terms of a separate agreement, in an amount equal to two percent (2%) of the gross rental for the Leased Premises. With the exception of Landlord's obligations as set forth herein and to pay Jones Lang LaSalle a commission on such terms as are set forth in a separate agreement, no other commissions are due or owing related to this Lease.

11. The following paragraph shall be added to Section 32.7 of the Lease Agreement entitled "Parking" as follows:

Once Tenant has ceased to occupy the Lower Level as set forth above in Section 25, Tenant shall immediately return forty two (42) of the permanent access cards to Landlord, and Tenant shall thereafter have the right to use one hundred forty three (143) undesignated parking spaces and four (4) designated parking spaces.

12. All other provisions of this Lease Agreement shall remain unmodified and in full force and effect, except as specifically set forth herein.

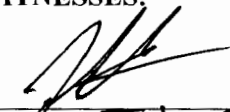
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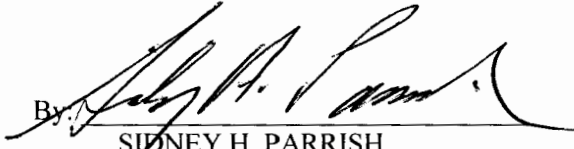
IN WITNESS WHEREOF, Landlord and Tenant have executed this Fourth Amendment in multiple original counterparts effective as of the day and year fully executed below.

LANDLORD:
CHURCH STREET INVESTMENT
PROPERTIES, INC.

WITNESSES:

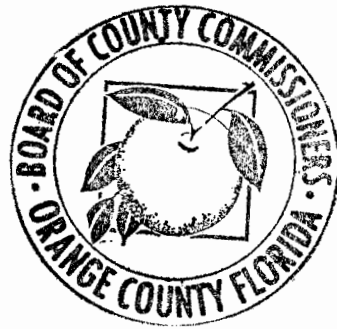

Date: John Gilbert

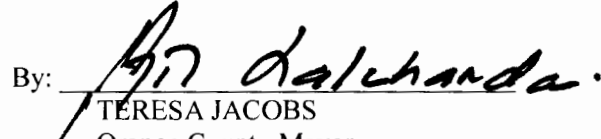

Date: Darryl Hoffmann

By: 
SIDNEY H. PARRISH
Chairman, Board of Directors

Date: August 31, 2016

TENANT:
ORANGE COUNTY, FLORIDA
By: Board of County Commissioners



By: 
TERESA JACOBS
Orange County Mayor

Date: 9.20.16

Attest: Martha O. Haynie, Orange County Controller
As clerk of the Board of County Commissioners

By: 
fol DEPUTY CLERK

Date: SEP 20 2016

Exhibit "A"

June 20, 2016

Orange County, Florida
P.O. Box 562001
Orlando, FL 32856

RE: Lease Agreement for Office Facilities between CHURCH STREET INVESTMENT PROPERTIES, INC., a Florida corporation (hereinafter called "Landlord"), and ORANGE COUNTY, FLORIDA, a charter county and political subdivision of the State of Florida (hereinafter called "Tenant") dated November 15, 2005, as modified by the First, Second and Third Amendment(s) to Lease Agreement for Office Facilities dated July 31, 2007, August 4, 2009, and June 28, 2011, respectively, relating to the lease of space within the Building known as Magnolia Place located at 109 E. Church Street, Orlando, Florida (collectively, the "Lease Agreement")

Dear Sir / Madam:

This letter serves to confirm receipt by Landlord of Tenant's notification that Tenant desires to exercise its first of two (2) rights to extend the Lease Agreement for a renewal term of sixty (60) months (the "First Renewal Term"). As such, Landlord has drafted and provided to the Tenant that certain Fourth Amendment for Office Facilities setting out terms for the Tenant to lease space within the Building for the First Renewal Term.

Tenant has requested, and Landlord has consented, to provide written confirmation and clarification to the Tenant of the terms upon which Tenant may remain in possession of those areas in the Building described in the Lease Agreement as the Lower Level, Suite 200, Suite 300, Suite 400 and Suite 400 Expansion (collectively, the "Leased Premises") should the Fourth Amendment for Office Facilities not be executed by the expiration of the Lease Term on June 30, 2016.

By notification herein, Landlord permits that, notwithstanding any provision in the Lease Agreement to the contrary, Tenant's continued occupancy of the Leased Premises after June 30, 2016 will not be as a holdover tenant. Rather, Tenant's continued occupancy of the Leased Premises after June 30, 2016 will be in accordance with the terms and conditions of the Lease Agreement until such earlier date of: (i) execution by Landlord and Tenant of the Fourth Amendment to Lease Agreement for Office Facilities, or (ii) September 30, 2016. By remaining in the Leased Premises after June 30, 2016, Tenant is agreeing to pay to the Landlord monthly installments on the terms and conditions set forth in the Lease Agreement in the amounts of: (A) \$117,610.43 for the Base Rental; and (B) \$1,399.00 for Operating Costs (collectively, the "Interim Rent") ("Base Rental" and "Operating Costs" are as defined in the Lease Agreement).

If the terms and conditions governing payment of rent for the First Renewal Term set forth in the Fourth Amendment for Office Facilities shall be determined to be greater than the Interim Rent, Tenant, by remaining in the Leased Premises beyond June 30, 2016, shall be obligated, immediately following such determination, to pay to Landlord the difference between the Interim Rent actually paid and that which should have been paid on the basis of such determination.

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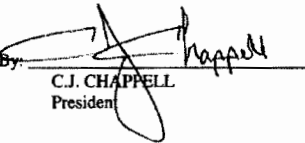
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Exhibit "A" continued...

However, if the terms and conditions governing payment of rent for the First Renewal Term shall be determined to be less than the Interim Rent, Landlord will credit Tenant's rent payments which next become due with the amount of any excess rent which Tenant may have paid until such overpayment(s) have been credited to Tenant in full.

Landlord has consented to the foregoing circumstances for Tenant's occupancy of the Leased Premises beyond June 30, 2016 based on the understanding that Tenant reasonably cooperate with the Landlord for the purpose of timely executing the Fourth Amendment to Lease Agreement for Office Facilities governing the Leased Premises.

**CHURCH STREET INVESTMENT
PROPERTIES, INC.**

By: 
C.J. CHAPPELL
President

Copies to: Orange County Real Estate Management;
400 E. South Street;
Orlando, FL 32801 and
Orange County Attorney's Office c/o Orange County Administration
P.O. Box 1393
Orlando, FL 32801-1393