

PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS

AGENDA ITEM SUMMARY

Meeting Date: July 11, 2017

☒ Consent ☐ Regular
☐ Workshop ☐ Public Hearing

Department:

Submitted By: Department of Airports
Submitted For:

I. EXECUTIVE BRIEF

Motion and Title: Staff recommends motion to approve: First Amendment to Hotel Development Site Lease Agreement (Lease) (R-2017-0356) with CVH PBIA, LLC, a Florida Limited Liability Company, extending the inspection period to September 1, 2017.

Summary: The Lease provided for a 90-day inspection period, which expired on June 12, 2017. CVH PBIA has requested an extension of the inspection period through September 1, 2017, in order to complete inspections required by its lender for financing of the improvements. In order to preserve its termination rights under the Lease based on inspections, CVH PBIA provided a conditional termination of the Lease, which will be automatically withdrawn upon approval of this Amendment. Countywide (HF)

Background and Justification: The Lease was approved by the Board on March 14, 2017. Failure to approve the extension of the inspection period will result in the termination of the Lease.

Attachments:

1. First Amendment (3)

LB
Recommended By: Don Kelly 6/19/17
Department Director Date

Approved By: CB W. Baker 7/5/17
County Administrator Date

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

Fiscal Years	<u>2017</u>	<u>2018</u>	<u>2019</u>	<u>2020</u>	<u>2021</u>
Capital Expenditures	_____	_____	_____	_____	_____
Operating Costs	_____	_____	_____	_____	_____
Operating Revenues	_____	_____	_____	_____	_____
Program Income (County)	_____	_____	_____	_____	_____
In-Kind Match (County)	_____	_____	_____	_____	_____
NET FISCAL IMPACT *	<u>\$-0-</u>	<u>\$-0-</u>	<u>\$-0-</u>	<u>\$-0-</u>	<u>\$-0-</u>
# ADDITIONAL FTE	_____	_____	_____	_____	_____
POSITIONS (Cumulative)	_____	_____	_____	_____	_____

Is Item Included in Current Budget? Yes ☐ No ☐
Budget Account No: Fund _____ Department _____ Unit _____ RSource _____

B. Recommended Sources of Funds/Summary of Fiscal Impact:

*No fiscal impact.

C. Departmental Fiscal Review:

CM Summer

III. REVIEW COMMENTS

A. OFMB Fiscal and/or Contract Development and Control Comments:

[Signature] 6/21/17
OFMB 6/21

[Signature] 6/29/17
Contract Dev. and Control

B. Legal Sufficiency:

[Signature] 6/30/17
Assistant County Attorney

C. Other Department Review:

Department Director

REVISED 9/03
ADM FORM 01
(THIS SUMMARY IS NOT TO BE USED AS A BASIS FOR PAYMENT)

Summary of Certificates

This report displays detailed Certificate of Insurance information for a selected Insured. Any items shown in red are deficient.

Thursday, June 15, 2017

Simple View

Certificate Images

Documents

Insured: CVH PBIA, LLC

Insured ID: PBI-CVHPBIA-17-01

Status: Compliant

ITS Account Number: PLC2426

Project(s): Palm Beach County - Airport Properties

Insurance Policy	Required	Provided	Override
<u>General Liability</u>			
Expiration: 11/14/2017			
General Aggregate:	\$1,000,000	\$2,000,000	
Products - Completed Operations Aggregate:	\$1,000,000	\$2,000,000	
Personal And Advertising Injury:	\$1,000,000	\$1,000,000	
Each Occurrence:	\$1,000,000	\$1,000,000	
Fire Damage:	\$0	\$0	
Medical Expense:	\$0	\$0	

Notifications

There were no deficiency letters issued.

Do you have an updated Certificate? Click the button below to submit a Certificate.

Certificate Submittal

AFFIDAVIT OF LIMITED LIABILITY COMPANY

STATE OF TENNESSEE

COUNTY OF Shelby

BEFORE ME, the undersigned authority, personally appeared, the undersigned who by me being first duly sworn, depose(s) and say(s) that:

1. The undersigned is the Trustee of the Bonnie S. Cohen 2012 Trust, Manager of CVH PBIA, LLC, a limited liability company organized and existing under the laws of the State of Florida ("Company").

2. Articles of Organization of the Company have been filed, and are on-file with, the Florida Department of State and such articles are incorporated herein by reference.

3. The Company is in good standing and is authorized to transact business in the State of Florida as of the date hereof.

4. The company is a manager managed limited liability company.

5. The undersigned is the Trustee of the sole manager of the Company or has been authorized by majority vote of the managing members to act on behalf of the Company and legally bind the Company and execute contracts and other instruments relating to the transaction of business of the Company.

6. The undersigned has the right and authority to enter into that certain First Amendment to Hotel Development Site Lease Agreement between Palm Beach County, a political subdivision of the State of Florida and the Company (the "Agreement"), which is incorporated herein by reference and made a part hereof, and such other instruments as may be necessary and appropriate for the Company to fulfill its obligations under such Agreement.

7. Upon execution and delivery of such Agreement and documents by the undersigned, all of the aforesaid shall be valid agreements of and be binding upon the Company.

8. The transactions contemplated herein will not violate any of the terms and conditions of the Company's member agreement, operating agreement certificate of organization or of any other agreement and amendments thereto of whatever kind between the Company and any third person.

9. The undersigned acknowledges that affiant is familiar with the nature of an oath and the penalties provided by the laws of the State of Florida and that this Affidavit is being given to induce Palm Beach County to enter into the Agreement.

FURTHER AFFIANT SAYETH NAUGHT,



Eliot D. Cohen, Individually and as
Trustee of the Bonnie S. Cohen 2012 Trust,
Manager

SWORN TO AND SUBSCRIBED before me on this 14th day of JUNE, 2017 by
Eliot D. Cohen, Individually and as Trustee of the Bonnie S. Cohen 2012 Trust, Manager
of CVH PBIA, LLC, on behalf of the Company who is personally known to me OR who
produced _____, as identification and who did take an oath.



Notary Signature



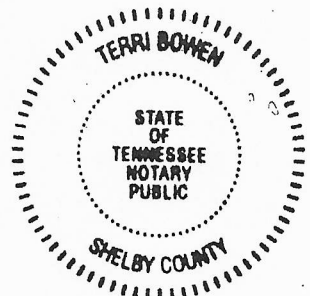
Print Notary Name

NOTARY PUBLIC

State of Tennessee at large

My Commission Expires:

4.26.20



**FIRST AMENDMENT TO
HOTEL DEVELOPMENT SITE LEASE AGREEMENT**

THIS FIRST AMENDMENT TO HOTEL DEVELOPMENT SITE LEASE AGREEMENT (this "Amendment") is made and entered into this _____ day of _____, 20____, by and between Palm Beach County, a political subdivision of the State of Florida ("County"), and CVH PBIA, LLC, a Florida Limited Liability Company, having its office and principal place of business at 6750 Poplar Avenue, Suite 107, Memphis, TN 38138 ("Tenant").

W I T N E S S E T H:

WHEREAS, County, by and through its Department of Airports, owns and operates the Palm Beach International Airport, which is located in Palm Beach County, Florida; and

WHEREAS, the parties entered into that certain Hotel Development Site Lease Agreement dated March 14, 2017 (R-2017-0356) (the "Lease"); and

WHEREAS, Tenant requires additional time to complete its Inspections (as hereinafter defined) and has provided County with a conditional termination letter dated June 12, 2017 ("Conditional Termination"), pending approval of this Amendment to preserve its right to terminate the Lease pursuant to Section 3.05(B) of the Lease; and

WHEREAS, the parties desire to amend the Lease as provided for herein.

NOW, THEREFORE, in consideration of the premises and of the mutual covenants herein contained, and other good and valuable consideration, the receipt of which the parties hereby expressly acknowledge, the parties hereto covenant and agree to the following terms and conditions:

1. The foregoing recitals are true and correct and are hereby incorporated herein by reference. Terms not defined herein shall have the meanings set forth in the Lease.

2. Section 3.05, Inspections, of the Lease is hereby amended to delete the first sentence of Section 3.05(B) in its entirety and replace it with the following:

(B) Commencing on the Effective Date and expiring at 5:00 p.m. on September 1, 2017 (the "Inspection Period"), Tenant may conduct any inspections and tests that Tenant deems appropriate with respect to the Property, including, but not limited to, the following: (a) physical inspection of the Property; (b) soil investigation; (c) environmental assessment; (d) topographic studies; and (e) engineering, utilities and site planning studies ("Inspections").

3. The parties acknowledge and agree that the Conditional Termination shall automatically be deemed withdrawn by Tenant if this Amendment is approved by County no

later than 3:00 p.m. on July 14, 2017, and the Lease, as amended hereby, shall continue in full force and effect as if the Conditional Termination was never issued by Tenant.

4. Except as modified herein, all terms and conditions of the Lease shall remain in full force and effect.

5. This Amendment shall become effective when signed by both parties and approved by the Palm Beach County Board of County Commissioners.

{Remainder of Page Intentionally Left Blank.}

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

ATTEST:

PALM BEACH COUNTY,
A POLITICAL SUBDIVISION OF THE
STATE OF FLORIDA, BY ITS BOARD
OF COUNTY COMMISSIONERS

SHARON R. BOCK,
CLERK AND COMPTROLLER

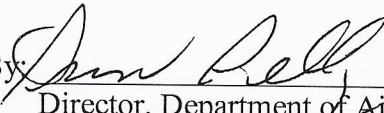
By: _____
Deputy Clerk

By: _____
Paulette Burdick, Mayor

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY

APPROVED AS TO TERMS
AND CONDITIONS

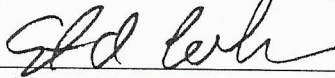
By: _____
County Attorney

By: 
Director, Department of Airports

Signed, sealed and delivered in the
presence of two witnesses for TENANT:

TENANT:
CVH PBIA, LLC,
A Florida Limited Liability Company

Terri Bowen
Signature
Terri Bowen
Print Name
Nicki Reed
Signature
Nicki Reed
Print Name

By: 
Signature
Elliot D. Cohen
Print Name
MEMBER
Title

(Seal)