

6B-1

Agenda Item #:

PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS
AGENDA ITEM SUMMARY

Meeting Date: July 14, 2020 [] Consent [X] Regular
[] Ordinance [] Public Hearing

Department: Facilities Development & Operations
For: Supervisor of Elections

I. EXECUTIVE BRIEF

Motion and Title: Staff recommends motion to approve: A First Amendment to Lease with RREEF America REIT II Corp. S (RREEF) for the continued use of 76,603 square feet of warehouse and office space located at 7835 Byron Drive Unit 1, Riviera Beach, for the Supervisor of Elections (SOE) support, operations and election day vote tabulation use, for an extended term of thirty months, commencing on June 22, 2021 and extending until December 31, 2023 at an annual rent rate of \$593,673.25 (\$7.75/sf).

Summary: The County has leased 76,603 sf of warehouse and office space for the SOE from RREEF since 2009 (R2009-1211 and R2015-1342). The current Lease will expire on June 21, 2021 and there is one option to extend for two (2) years until June 21, 2023. It is necessary to make arrangements for extension of this Lease at this time in order to provide sufficient time to complete construction of a permanent facility at the County's Cherry Road complex. This First Amendment to Lease will continue SOE's occupancy for an additional 30 months until December 31, 2023. The annual rent for this extended term will increase by 5.87% from \$560,733.96 to \$593,673.25, subject to 3% annual increases. SOE will continue to be responsible for its share of taxes and expenses for the leased premises. (PREM) Countywide (HJF)

Background & Policy Issues: The Supervisor of Elections (SOE) operates out of two facilities, the main office which is a county-owned building located on Gun Club Road, and a production facility out of leased space in Riviera Beach. The County entered into a sublease with Huttig Building Products which was approved by the BCC on July 21, 2009 (R2009-1211). On September 22, 2015, the Board approved a 5-year extension, with one (1) option to renew for two years (R2015-1342, which if fully exercised would extend the Lease to June 21, 2023, and recommended that the County and SOE explore options to construct a County owned facility for the SOE with a targeted completion date prior to the expiration of the Lease. In September 2018, the BCC approved \$1,500,000 to commence the design of a County-owned SOE Production Facility at its Cherry Road site. Given that the Main Office and the new Production Facility at Cherry Road would be approximately 2 miles apart, early coordination between Staff and Supervisor Link pointed towards possible programming improvements and efficiencies resulting from collocating the two facilities. On April 16, 2019, the BCC instructed staff to proceed with a pre-design of a County-owned Supervisor of Elections (SOE) Production Facility.

(Continued page 3)

Attachments:

- 1. Location Map
- 2. First Amendment to Lease (2)
- 3. Disclosure of Beneficial Interests

Recommended By: [Signature] Department Director Date: 6/26/2020
Approved By: [Signature] County Administrator Date: 7/7/2020

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

Fiscal Years	2020	2021	2022	2023	2024
Capital Expenditures	_____	_____	_____	_____	_____
Operating Costs	\$-0-	\$-0-	\$-0-	\$-0-	\$-0-
External 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 X N

Does this item include the use of Federal Funds? Yes ___ N X ___

Budget Account No: Fund _____ Dept _____ Unit _____ Object _____
 Program _____

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

The Supervisor of Elections (SOE) will continue to absorb the rental costs within their current and future budgets. The current Lease term will expire on June 21, 2021; on 07/01/20 rent increases to \$560,733.96 annually. The current pro rata share of taxes and expenses is \$234,456.00 annually, and is estimated to increase to \$248,523.36 annually effective 02/01/21. The rent and pro rata share of taxes and expenses for 7/1/20 thru 9/30/20 has already been budgeted. Commencing on June 22, 2021 (with an assumed 6% increase in the pro rata share of CAM and R.E. Taxes) total rent and expenses are projected to be: **FY 2021** - \$813,626, **FY 2022** - \$856,590, **FY 2023** \$890,004, and **FY 2024** - \$227,229.

Fixed Assets Number N/A

C. Departmental Fiscal Review: _____

III. REVIEW COMMENTS

A. OFMB Fiscal and/or Contract Development Comments:

Rabyn Pawle 6/26/2020
 OFMB 6/26/2020

Araceli Sanchez 6/30/2020
 Contract Development and Control
 6/30/20 TW

B. Legal Sufficiency:

Ruby Bunn 7/6/2020
 for H Falcon
 Assistant County Attorney

C. Other Department Review:

 Department Director

This summary is not to be used as a basis for payment.

Background and Policy Issues Continued: On May 19, 2020, the Board authorized Staff to proceed with the design and construction of a new collocated SOE administrative and production facility to be located at the County's Cherry Road site; and requested that the new facility be ready for occupancy in 2023. Concurrently, the Board authorized Staff to pursue the required lease extensions to ensure continued operation of the SOE production facility while construction of the collocated facility is underway. The First Amendment extends the term of the Lease until December 31, 2023 which will provide sufficient time to complete construction of the permanent facility at the County's Cherry Road complex as authorized by the Board on May 19, 2020.

Currently, annual rent is \$560,733.96. At the commencement of the extension on June 22, 2021, annual rent will increase to \$593,673.25, and will increase by 3% each year thereafter. The lease is triple net and the SOE will be responsible for all maintenance and repair of the premises and building improvements within its exclusive control, other than the structural portions of the roof, foundation and walls. In addition, the County is responsible for its proportionate share of taxes and common area maintenance expenses. Currently, CAM is \$243,456.00.

Florida Statutes Section 286.23 requires that a Disclosure of Beneficial Interests be obtained when a property held in a representative capacity is leased to the County. RREEF has provided the attached Disclosure which indicates that RREEF is 100% owned by RREEF America REIT II, Inc., and that there is no individual owning a 5% or greater interest in RREEF America REIT II, Inc.

RREEF has affirmed that its non-discrimination policy is consistent with the County's policy.

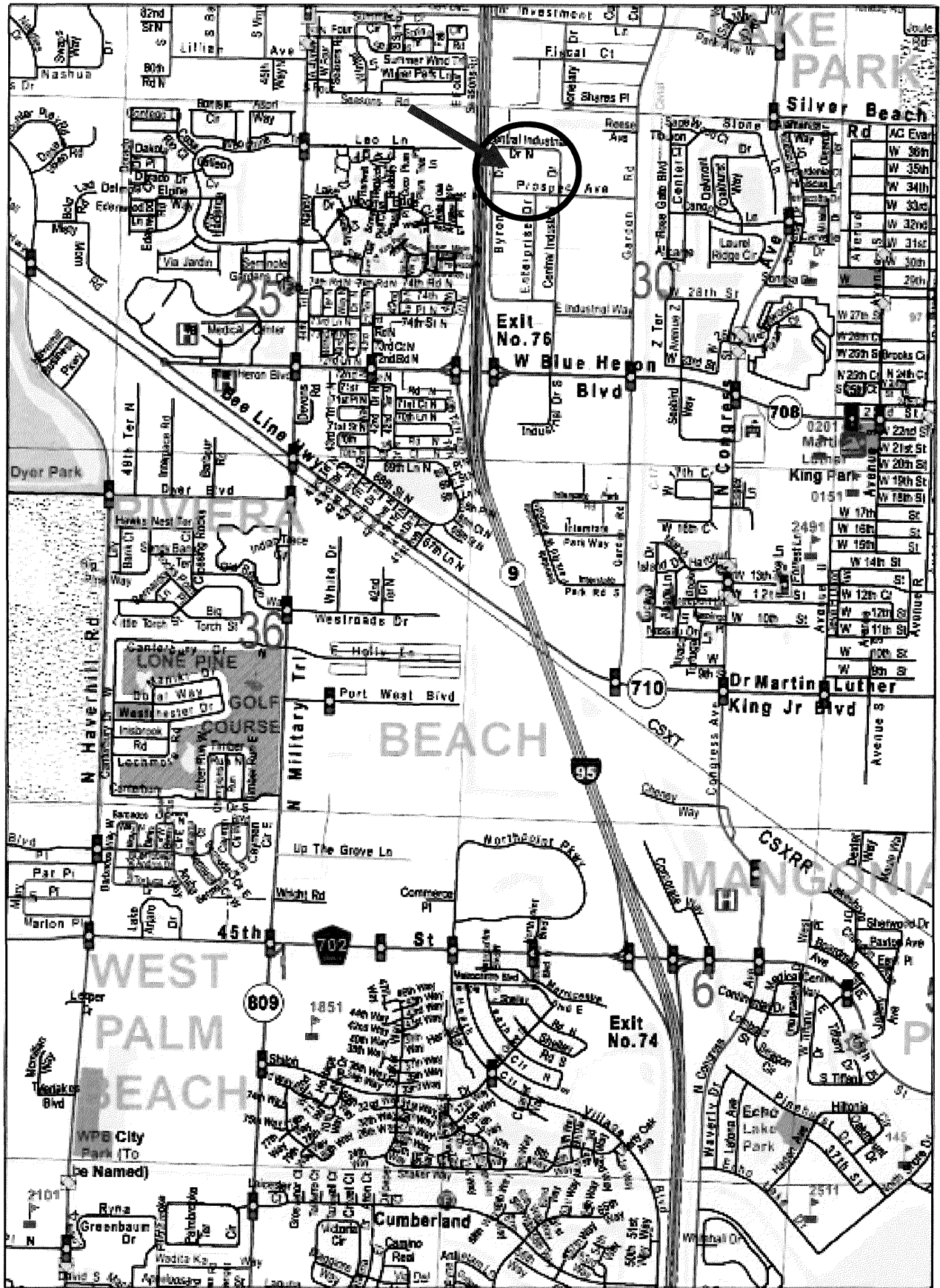
TWP 42

13

14

15

TWP 43



RNG 42

See pg 58

RNG 43

Page 46

LOCATION MAP



Attachment #2
First Amendment to Lease Agreement (2 @ 5 pages each)

FIRST AMENDMENT TO LEASE

This First Amendment to Lease (“Amendment”) is entered into as of the 14 day of July, 2020, between RREEF AMERICA REIT II CORP. S, a Maryland corporation ("Landlord") and PALM BEACH COUNTY, a political subdivision of the State of Florida.

WITNESSETH:

WHEREAS, on or about May 1, 2015, Landlord and Tenant entered into that certain Multi-Tenant Industrial Net Lease (the "Lease") for rental of approximately 76,603 square feet of space located in Britannia Business Center, Palm Beach County, Florida and more specifically known as 7835 Byron Drive, Unit #1, Riviera Beach, Florida 33407, as more particularly described in the Lease (the "Premises"); and

WHEREAS, the Term of the Lease is scheduled to expire on June 21, 2021; and

WHEREAS, Landlord and Tenant desire to enter into an extension of the Term of the Lease for an additional approximately thirty (30) months (the “Renewal Term”), commencing on June 22, 2021 (the "Commencement Date of the Renewal Term"), and otherwise amend the Lease as more fully set forth below.

NOW, THEREFORE, in consideration of the mutual covenants and conditions contained herein and other good and valuable considerations, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. **Recitals.** The foregoing recitals are true and correct and are incorporated herein by reference.
2. **Definitions.** Unless otherwise specifically set forth herein, each capitalized term herein shall have the same meaning as set forth in the Lease.
3. **Term.** Landlord and Tenant hereby agree to extend the Term of the Lease for the Renewal Term of approximately thirty (30) additional months commencing on the Commencement Date of the Renewal Term of June 22, 2021. The Lease is hereby revised to establish that the Term of the Lease shall extend through and expire upon December 31, 2023, which shall be the Expiration Date of the Term of the Lease. Tenant shall have no other renewal or extension rights; Paragraph 39 of the Lease is hereby deleted.
4. **Base Rent.** Landlord and Tenant hereby agree that the amount of Base Rent that Tenant shall pay from and after the Commencement Date of the Renewal Term is as set forth in the following schedule:

Period		Rentable Square Footage	Annual Rent Per Square Foot	Annual Rent	Monthly Installment of Base Rent
from	through				
6/22/2021	6/30/2022	76,603	\$7.75	\$593,673.25	\$49,472.77*
7/1/2022	6/30/2023	76,603	\$7.98	\$611,483.44	\$50,956.95
7/1/2023	12/31/2023	76,603	\$8.22	\$629,676.66	\$52,473.06

* - to be prorated for the period of June 22, 2020 through June 30, 2020.

5. Additional Rent. Tenant shall continue to be liable for payment of all other sums payable pursuant to the Lease, including but not limited to CAM/Operating Expenses, Insurance, Taxes, and all other additional rent and other sums payable under the Lease.
6. As Is. Landlord shall have no obligation to perform any construction or make any improvements or alterations to the Premises in connection with this Amendment, nor provide any allowances or offsets. Tenant accepts the Premises in "AS IS, WHERE IS" condition.
7. Landlord's Notice Address. Landlord's notice address is hereby updated to add the following:

And with copy to:
Christopher C. Brockman, Esq.
Holland & Knight LLP
200 South Orange Avenue, Suite 2600
Orlando, Florida 32801

8. Brokerage Commissions. Each of the parties represents and warrants to the other that it has not dealt with any broker or finder in connection with this Amendment other than CBRE (the "Broker"). Landlord shall pay the fees and commissions of Broker pursuant to a separate agreement.
9. Prohibited Use. Tenant shall not bring on the Premises or any portion of the Building or use the Premises or permit the Premises or any portion thereof to be used for the growing, manufacturing, administration, distribution (including without limitation, any retail sales), possession, use or consumption of any cannabis, marijuana or cannabinoid product or compound, regardless of the legality or illegality of the same.
10. Incorporation. Except as modified herein, all other terms and conditions of the Lease between the parties above described are hereby ratified and shall continue in full force and effect. Landlord and Tenant shall comply with all terms of the Lease, as modified by this Amendment. This Amendment shall not be deemed to limit or restrict any of Tenant's covenants and payment obligations existing pursuant to the Lease before modification by this Amendment. In the event of a conflict between the terms of this Amendment and the terms of the Lease, the terms of this Amendment will control.
11. Counterparts. This Amendment may be executed in any number of counterparts, each of which shall be an original and all of which together shall be deemed to be one and the same instrument. Signature and acknowledgment pages, if any, may be detached from the counterparts and attached to a single copy of this document to physically form one document. Each of the parties also agree that the delivery of an executed copy of this Amendment by facsimile or email shall be legal and

binding and shall have the same full force and effect as if an original executed copy of this Lease had been delivered, and neither party will have the right to object to the manner (i.e., electronic signatures, via DocuSign, via .pdf, via fax, or scanned images of signature pages) in which the Amendment was executed as a defense to the enforcement of this Amendment or the Lease.

12. Limitation of Landlord's Liability. Redress for any claim against Landlord under the Lease or this Amendment shall be limited to and enforceable only against and to the extent of Landlord's interest in the Building. The obligations of Landlord under the Lease and this Amendment are not intended to be and shall not be personally binding on, nor shall any resort be had to the private properties of, any of its or its investment manager's trustees, directors, officers, partners, beneficiaries, members, stockholders, employees, or agents, and in no case shall Landlord be liable to Tenant hereunder for any lost profits, damage to business, or any form of special, indirect or consequential damages.

[THE REMAINDER OF THIS PAGE IS BLANK]

[THE SIGNATURE PAGES FOLLOW]

IN WITNESS WHEREOF, Landlord and Tenant have executed the Amendment effective as of the day and year first written above.

LANDLORD:

RREEF AMERICA REIT II CORP. S,
a Maryland corporation

By:  Scott Bodin

Name: Scott Bodin

Title: VP


Dated: 29 June 2020 | 10:15:22 PDT

Witness:  B. Carol Knaggs

Print Name: B. Carol Knaggs

Witness:  maria inman

Print Name: maria inman

By:  Dave Crane

Name: Dave Crane

Title: Director

Dated: 29 June 2020 | 11:02:25 PDT

Witness:  Beverly Greene

Print Name: Beverly Greene

Witness:  Gerry Ianetta

Print Name: Gerry Ianetta

ATTEST:

**SHARON R. BOCK
CLERK AND COMPTROLLER**

By: _____
Deputy Clerk

TENANT:

**PALM BEACH COUNTY, a political
subdivision of the State of Florida**

By: _____
Dave Kerner, Mayor

**APPROVED AS TO FORM AND
LEGAL SUFFICIENCY**

By: *Dan Bunn* ^{for} _{#Falcon}
Assistant County Attorney

**APPROVED AS TO TERMS AND
CONDITIONS**

By: *Rich Anthony Wolf*
Department Director

Attachment # 3
Disclosure of Beneficial Interests (3 pages)

LANDLORD'S DISCLOSURE OF BENEFICIAL INTERESTS
(REQUIRED BY FLORIDA STATUTES 286.23)

TO: PALM BEACH COUNTY CHIEF OFFICER, OR HIS OR HER OFFICIALLY
DESIGNATED REPRESENTATIVE

STATE OF ~~FLORIDA~~ *Georgia*
COUNTY OF ~~PALM BEACH~~ *Cherokee*

BEFORE ME, the undersigned authority, this day personally appeared, **B. Scott Bodin**, hereinafter referred to as "Affiant", who being by me first duly sworn, under oath, deposes and states as follows:

1. Affiant is the **Regional Director of RREEF Management L.L.C, A Delaware limited liability company**, which is the authorized agent of **RREEF AMERICA REIT II CORP. S, a Maryland corporation**, (the "Owner") which entity is the owner of the real property legally described on the attached Exhibit "A" (the "Property").

2. Affiant's address is: **3414 Peachtree Road NE, Suite 950, Atlanta, GA 30326**

3. Attached hereto, and made a part hereof, as Exhibit "B" is a complete listing of the names and addresses of every person or entity having a five percent (5%) or greater beneficial interest in the Landlord and the percentage interest of each such person or entity.

4. Affiant acknowledges that this Affidavit is given to comply with Florida Statutes 286.23, and will be relied upon by Palm Beach County in its lease of the Property.

5. Affiant further states that Affiant is familiar with the nature of an oath and with the penalties provided by the laws of the State of Florida for falsely swearing to statements under oath.

6. Under penalty of perjury, Affiant declares that Affiant has examined this Affidavit and to the best of Affiant's knowledge and belief it is true, correct, and complete.

FURTHER AFFIANT SAYETH NAUGHT.

B. Scott Bodin
B. Scott Bodin, Affiant

The foregoing instrument was sworn to, subscribed and acknowledged before me by means of physical presence or online notarization this _____ day of _____, 2020, by B. Scott Bodin who is personally known to me or who has produced _____ as identification and who did take an oath.

B. Carol Knaggs
Notary Public

B. Carol Knaggs
(Print Notary Name)

NOTARY PUBLIC Georgia
State of ~~Florida~~ at Large
My Commission Expires: January 24, 2021

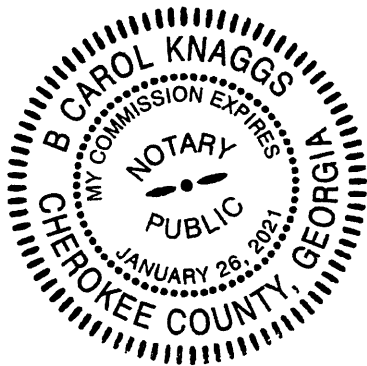


EXHIBIT "A"

PROPERTY

Tract D, of CENTRAL INDUSTRIAL PARK, according to the plat thereof, recorded in Plat Book 51, page 102, Public Records of Palm Beach County, Florida.

Together with that certain Drainage Easement contained in that certain Declaration of Covenants and Restrictions recorded in Official Records Book 4596, Page 400, as amended in Official Records Book 5567, Page 1813 and Official Records Book 5567, Page 1814, and together with the Assignment and Assumption Agreement recorded in Official Records Book 4596, Page 484, Public Records of of Palm Beach County, Florida.

