

State of Texas
Collin County
Commissioners Court

§
§
§

Court Order
2020-532-06-22

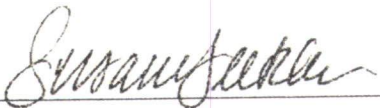
An order of the Collin County Commissioners Court approving an amendment to an agreement.

The Collin County Commissioners Court hereby approves Amendment No. 4 to lease agreement for elections office and warehouse (*Agreement No. 01322-09*) with DG Industrial Portfolio I Property Owner, L.P. to provide various changes to the contract, as detailed in the attached documentation.

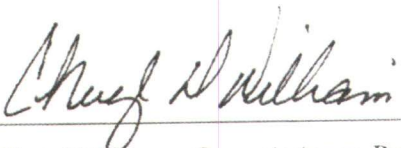
A motion was made, seconded, and carried by a majority of the court members in attendance during a regular session on Monday, June 22, 2020.

Not Present

Chris Hill, County Judge



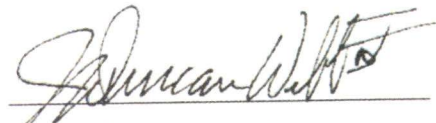
Susan Fletcher, Commissioner, Pct 1



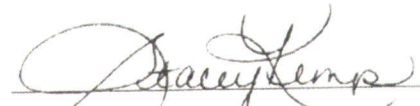
Cheryl Williams, Commissioner, Pct 2



Darrell Hale, Commissioner, Pct 3



Duncan Webb, Commissioner, Pct 4



ATTEST: Stacey Kemp, County Clerk

RECEIVED

JUL 08 2020

CONSTRUCTION
PROJECTS

from Tom
Dudney

FOURTH AMENDMENT TO LEASE

This FOURTH AMENDMENT TO LEASE ("Fourth Amendment") is made and entered into as of ~~April~~^{July 8th}, 2020 (the "Effective Date"), by and between **DG Industrial Portfolio I Property Owner, L.P.**, a Delaware limited partnership ("Landlord"), as successor-in-interest to Megillah Realty (Redbud McKinney) ADA Compliant Limited Partnership, a Texas limited partnership, as successor-in-interest to Paella Industrial Partners, L.P., as successor-in-interest to McKinney North Central Business Park, L.P., and **Collin County, Texas**, a political subdivision of the State of Texas ("Tenant").

RECITALS

WHEREAS, Landlord's predecessor-in-interest and Tenant entered into that certain Standard Lease Agreement dated July 7, 2003 (the "**Original Lease**"), as amended by that certain First Amendment to Lease dated July 25, 2008 (the "**First Amendment**"), as further amended by that certain Second Amendment to Lease dated July 8, 2013 (the "**Second Amendment**"), and as further amended by that certain Third Amendment to Lease dated December 4, 2014 (the "**Third Amendment**"), and together with the Original Lease, the First Amendment, and the Second Amendment, collectively, the "**Lease**"), whereby Tenant leases from Landlord certain premises consisting of approximately 24,712 rentable square feet known as Suite 102 (the "**Premises**") in the building located at 2010 Redbud Blvd., McKinney, Texas (the "**Building**"); and

WHEREAS, Landlord and Tenant desire to extend the term of the Lease and to otherwise modify the Lease on the terms and conditions set forth below.

AGREEMENT

NOW, THEREFORE, for and in consideration of the mutual covenants and agreements set forth herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Landlord and Tenant hereby covenant and agree as follows:

1. Defined Terms; Recitals. Unless otherwise expressly defined herein, all capitalized terms used herein shall have the meanings set forth for such terms in the Lease. The recitals set forth above are hereby incorporated into the body of this Fourth Amendment as if fully restated herein.
2. Assignment of Lease. Landlord and Tenant hereby acknowledge and agree that, as of February 29, 2020, Megillah Realty (Redbud McKinney) ADA Compliant Limited Partnership, a Texas limited partnership, as the prior landlord in and under the Lease, agreed to assign to Landlord, and Landlord agreed to assume from Megillah Realty (Redbud McKinney) ADA Compliant Limited Partnership, a Texas limited partnership, all of the rights, interests, duties, obligations and liabilities of the "Landlord" under the Lease arising from and after the effective date of such assignment.
3. Landlord's Name. Landlord and Tenant hereby acknowledge and agree that, from and after the Effective Date hereof, all references in the Lease to "Landlord" shall refer to DG Industrial Portfolio I Property Owner, L.P., a Delaware limited partnership.
4. Extension Term. As of December 1, 2020 (the "**Extension Term Commencement Date**"), the term of the Lease, as heretofore extended, shall be further extended

for an additional period of sixty (60) full calendar months (the "**Extension Term**"), so that the expiration date of the Lease shall thereby be November 30, 2025 (the "**Expiration Date**").

5. **Base Rent.** From and after the Extension Term Commencement Date, Base Rent in the amounts set forth below shall be payable by Tenant to Landlord in accordance with the provisions of the Lease.

<u>Period</u>	<u>Monthly Base Rent</u>
December 1, 2020 - November 30, 2021	\$17,916.20
December 1, 2021 - November 30, 2022	\$18,453.69
December 1, 2022 - November 30, 2023	\$19,007.30
December 1, 2023 - November 30, 2024	\$19,577.52
December 1, 2024 - November 30, 2025	\$20,164.84

6. **Additional Rent.** In addition to the Base Rent and other provisions as set forth above, Tenant shall be and remain obligated for the payment (to Landlord or such other party as may expressly and specifically be required under the Lease) of Additional Rent, including, without limitation, Tenant's Proportionate Share of Taxes and Operating Expenses, together with any and all other charges and amounts due and payable by Tenant under the Lease, all in accordance with the provisions of the Lease.

7. **Tenant Improvements.** Provided that no Event of Default by Tenant exists or would exist but for the passage of time or the giving of notice or both, Landlord shall contribute up to a maximum amount of Ten Thousand and No/100 Dollars (\$10,000.00) (the "**TI Allowance**") to be applied towards the costs of certain alterations to the Premises to be constructed by Tenant ("**Tenant Improvements**"). The TI Allowance shall be disbursed by Landlord to Tenant within thirty (30) days following (a) Tenant's completion of such Tenant Improvements; (b) Landlord's receipt of Tenant's invoice substantiating all costs related thereto; (c) Landlord's receipt of final, executed, and complete lien waivers from all contractors and subcontractors who did work on, or provided materials for, such Tenant Improvements; and (d) Landlord's receipt of a copy of the final permit approved by the applicable governing authority to the extent required for such Tenant Improvements. Landlord shall be under no obligation to pay for any alterations or Tenant Improvements to the Premises in excess of the TI Allowance (and Tenant shall be and remain solely responsible for the prompt payment of any and all such excess costs). Further, such TI Allowance shall only be available for Tenant's use through November 30, 2021, and Tenant hereby waives any and all rights to any unused portion of the TI Allowance remaining as of December 1, 2021. Such Tenant Improvements hereunder shall be deemed alterations for purposes of the Lease, and, therefore, shall be governed by the applicable terms and provisions of the Lease, including, without limitation, Section 6 (Alterations) of the Original Lease, and, further, shall be subject to Landlord's approval of the plans and specifications related thereto.

8. **Termination Option.**

a. Tenant's obligation under the Lease, as amended by this Fourth Amendment, shall be expressly subject to appropriations being budgeted annually, and made available by Tenant's governing board in amounts sufficient to pay the Base Rent and other fees due hereunder. In the event of non-appropriation, Tenant may exercise its right to terminate the Lease, as amended by this Fourth Amendment, as outlined below.

b. Tenant may terminate the Lease, as amended by this Fourth Amendment, under the conditions stated above, by providing Landlord with a 180-day written notice of its intent to do so ("**Notification Period**").

c. If Tenant elects to terminate the Lease, as amended by this Fourth Amendment, in accordance with this Paragraph 8, Tenant will be responsible for the reimbursement to Landlord for any unamortized leasing commissions or cost associated with this Fourth Amendment.

9. Notices. Effective as of the Effective Date hereof, (a) Landlord's addresses for purposes of notices under Section 23 (Deliveries and Notices) of the Original Lease are hereby changed to the following:

DG Industrial Portfolio I Property Owner, L.P.
c/o Dalfen Industrial LLC
10182 International Blvd.
Cincinnati, OH 45246
Attn: Property Management

With a copy to:

DG Industrial Portfolio I Property Owner, L.P.
c/o Dalfen Industrial LLC
5575 Semoran Blvd., Suite 5010
Orlando, FL 32822
Attn: EVP Asset Manager

With a copy to:

DG Industrial Portfolio I Property Owner, L.P.
c/o Goldman Sachs & Co.
Attn: Patrick O'Brien
Trammell Crow Center
2001 Ross Avenue
26th Floor
Dallas, TX 75201

With a copy to:

DG Industrial Portfolio I Property Owner, L.P.
c/o Goldman Sachs & Co.
Attn: Jordan Bailey
Trammell Crow Center
2001 Ross Avenue
26th Floor
Dallas, TX 75201

and (b) Tenant's addresses for purposes of notices under Section 23 (Deliveries and Notices) of the Original Lease are hereby changed to the following:

Collin County Construction and Projects
Attn: Bill Burke
4600 Community Ave
McKinney, TX 75071

and

Collin County Administrative Services
Attn: Bill Bilyeu
2300 Bloomdale Rd., Suite 4192
McKinney, TX 75071

10. Additional Lease Modifications. Effective as of the Effective Date hereof, Section 26 (Renewal Option) of the Original Lease shall be and is hereby amended by deleting it in its entirety. It is further acknowledged and agreed that Landlord has heretofore satisfactorily completed all of its obligations with respect to the expansion, construction, and demising of the Premises under the Third Amendment.

11. UBTI and REIT Qualification. Landlord and Tenant agree that all Rent payable by Tenant to Landlord under the Lease shall qualify as "rents from real property" within the meaning of both Sections 512(b)(3) and 856(d) of the Internal Revenue Code of 1986, as amended (the "**Code**") and the U.S. Department of Treasury Regulations promulgated thereunder (the "**Regulations**"). In the event that Landlord, in its sole and absolute discretion, determines that there is any risk that all or part of any Rent shall not qualify as "rents from real property" for the purposes of Sections 512(b)(3) or 856(d) of the Code and the Regulations promulgated thereunder, Tenant agrees (1) to cooperate with Landlord by entering into such amendment or amendments as Landlord deems necessary to qualify all Rents as "rents from real property," and (2) to permit an assignment of this Lease; provided, however, that any adjustments required pursuant to this Paragraph 11 shall be made so as to produce the equivalent Rent (in economic terms) payable prior to such adjustment.

12. Broker. Tenant hereby represents and warrants to Landlord that Tenant has not engaged or dealt with any broker, finder, or agent in connection with the negotiation and/or execution of this Fourth Amendment, and Tenant agrees to indemnify and save Landlord harmless from any claim, demand, lien, damage, liability, cost, or expense (including, without limitation, attorneys' fees) paid or incurred by Landlord as a result of any claim for brokerage or other commissions or fees made by any broker, finder, or agent, whether or not meritorious, employed or engaged or claiming employment or engagement by, through, or under Tenant.

13. Effect of Amendment. Except as expressly amended hereby, the Lease shall continue in full force and effect and unamended. In the event of any conflict or inconsistency between the provisions of the Lease (other than this Fourth Amendment) and this Fourth Amendment, the provisions of this Fourth Amendment shall control. From and after the Effective Date hereof, references to the "Lease" (including, without limitation, any and all references contained in this Fourth Amendment) shall mean the Lease as amended by this Fourth Amendment.

14. Binding Effect. This Fourth Amendment will be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.

15. Headings. The paragraph headings that appear in this Fourth Amendment are for purposes of convenience of reference only and are not in any sense to be construed as modifying the substance of the paragraphs in which they appear.

16. Counterparts. This Fourth Amendment may be executed in one or more counterparts, each of which will constitute an original, and all of which together shall constitute one and the same agreement. Executed copies hereof may be signed by electronic means, as well as delivered by e-mail or facsimile and, upon receipt, shall be deemed originals and binding upon the parties hereto. Without limiting or otherwise affecting the validity of executed copies hereof that have been delivered by e-mail or facsimile, the parties will use best efforts to deliver originals as promptly as possible after execution.

17. Governing Law. This Fourth Amendment shall be governed by and construed in accordance with the laws of the state in which the Premises are located.

18. Authority. The parties represent and warrant to each other that it has full power, right, and authority to execute and perform this Fourth Amendment and all corporate or organizational action necessary to do so have been duly taken.

19. Binding Agreement. Submission of this Fourth Amendment shall not be deemed to be an offer or an acceptance of the terms herein, and neither Landlord nor Tenant shall be bound by the terms herein until Landlord has delivered to Tenant, or to Tenant's agent, or designated representative, a fully executed copy of this Fourth Amendment (which may be delivered in counterparts as described above), signed by both of the parties in the spaces herein provided.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the parties hereto have executed this Fourth Amendment on the dates set forth below, to be effective for all purposes as of the Effective Date first set forth above.

LANDLORD:

DG Industrial Portfolio I Property Owner, L.P.,
a Delaware limited partnership

By: DG Industrial Portfolio I Property Owner GP,
LLC, a Delaware limited liability company,
its general partner

By: Dalfen-G GP LP,
a Delaware limited partnership,
its operating general partner

By: _____
Name: Shelly Drake
Title: GP
Date: July 8, 2020

TENANT:

Collin County, Texas,
a political subdivision of the State of Texas

By: _____
Name: CHRIS HILL
Title: COUNTY JUDGE
Date: 27 JUN 2020