

PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS

AGENDA ITEM SUMMARY

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Meeting Date: June 11, 2024 Consent Regular
 Workshop Public Hearing

Submitted By: Department of Airports

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I. EXECUTIVE BRIEF

Motion and Title: Staff recommends motion to receive and file: Ground Lessor’s Estoppel Certificate (Estoppel) to Connectone Bank, dated as of March 7, 2024, in connection with the Development Site Lease Agreement (Lease) between Palm Beach County and PBI Post Distr. LLC (Post) dated December 19, 2017 (R-2017-1892, as amended).

Summary: The Lease provides for the construction, operation and maintenance of a warehouse facility on approximately 7.5 acres on the south side of Wallis Road, between Military Trail and Haverhill Road, west of the Palm Beach International Airport. On June 11, 2020 (R-2020-1012), the County consented to Post’s sublease of the leasehold premises to PBI Wallis Distr. LLC (Wallis). Wallis has obtained a leasehold mortgage and the lender requested the Estoppel to confirm key details of the Lease, including rental, dates and other provisions. Delegation of authority for execution of the Estoppel was approved by the Board of County Commissioners in R-2017-1892. Countywide (HJF)

Background and Justification: The Estoppel confirms key details of the Lease for the leasehold mortgagee, including rental, dates and other provisions and provides that the County will provide applicable notice to the leasehold mortgagee. On March 13, 2024, the Leasehold Mortgage, Security Agreement and Assignment of Leases and Rents from Wallis to Connectone Bank was recorded in the Official Records at Book 34882, page 454.

Attachments:
1. One (1) Estoppel

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Recommended By: Deanna Berta 5/9/24
 Department Director Date

Approved By: David C. Collier / ACA 5/9/24
 County Administrator Date

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

Fiscal Years	<u>2024</u>	<u>2025</u>	<u>2026</u>	<u>2027</u>	<u>2028</u>
Capital Expenditures	_____	_____	_____	_____	_____
Operating Costs	_____	_____	_____	_____	_____
Operating Revenues	_____	_____	_____	_____	_____
Program Income (County)	_____	_____	_____	_____	_____
In-Kind Match (County)	_____	_____	_____	_____	_____
NET FISCAL IMPACT	<u><u>\$-0-</u></u>	<u><u>\$-0-</u></u>	<u><u>\$-0-</u></u>	<u><u>\$-0-</u></u>	<u><u>\$-0-</u></u>
# ADDITIONAL FTE POSITIONS (Cumulative)	_____	_____	_____	_____	_____

Is Item Included in Current Budget? Yes _____ No X
 Does this item include the use of federal funds? Yes _____ No X
 Does this item include the use of state funds? Yes _____ No X

Budget Account No: Fund 4100 Department 120 Unit 8452 RSource 4416
 Reporting Category _____


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

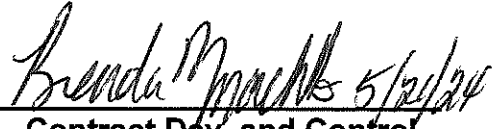
No Fiscal Impact.

C. Departmental Fiscal Review: 

III. REVIEW COMMENTS

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

 5/16/24
 KY 5/15 OFMB 9A513

 5/24/24
 Contract Dev. and Control
 Feb 5/20/24

B. Legal Sufficiency:

 5/22/24
 Assistant County Attorney

C. Other Department Review:

 Department Director

REVISED 11/17

(THIS SUMMARY IS NOT TO BE USED AS A BASIS FOR PAYMENT)

GROUND LESSOR'S ESTOPPEL CERTIFICATE

Dated: as of March 7, 2024

From

PALM BEACH COUNTY

to

CONNECTONE BANK

LOCATION OF PREMISES:

Street Address : SEE LEGAL DESCRIPTION ATTACHED HERETO AS EXHIBIT A
County of : Palm Beach
State of : Florida

AFTER RECORDING, PLEASE RETURN TO:

Michael L. Dornbaum, Esq.
Cullen and Dykman LLP
333 Earle Ovington Blvd.
Uniondale, New York 11553
File No. 56437-10302

GROUND LESSOR'S ESTOPPEL CERTIFICATE

March 7, 2024

ConnectOne Bank
301 Sylvan Avenue
Englewood Cliffs, New Jersey 07632

Re: Development Site Lease Agreement dated as of December 19, 2017 (R-2017-1892), as amended that certain First Amendment to Development Site Lease Agreement, dated December 2, 2018 (R-2018-1853) (collectively, the "Ground Lease") Between Palm Beach County (the "Lessor") and PBI Post Distr. LLC (the "Tenant")

Gentlemen:

ConnectOne Bank (the "Bank") has indicated it is prepared to place a mortgage in the principal amount of \$5,000,000.00 (the "Mortgage") with an effective date on or about February 23, 2024, upon the real property described in Exhibit "A" attached hereto (the "Premises") demised under the Ground Lease dated December 19, 2017, as amended, between Palm Beach County ("Lessor") and PBI Post Distr. LLC (the "Tenant"), and subleased by Tenant to PBI Wallis Distr. LLC ("Subtenant") pursuant to that certain Sublease Agreement dated as of June 25, 2020, between Tenant and Subtenant, which was consented to by Lessor on June 11, 2020 (R2020-1012). In connection with the mortgage, the Bank has required this certification by the undersigned.

The undersigned, as Lessor under the Ground Lease, hereby certifies that:

1. The Effective Date of the Ground Lease is December 19, 2017.
2. Payment of rental by Tenant to Lessor commenced on February 1, 2021 (the "Date of Beneficial Occupancy" as defined in the Lease). Current annual rental amount under the Ground Lease is Two Hundred Twenty-Five Thousand, Four Hundred Twenty Dollars and Ninety-Three Cents (\$225,420.93). Rental is subject to adjustment effective October 1, 2025, and triennially thereafter. No payment of rent has been made in respect of subsequent periods, and, except the security deposit required by Section 5.05 of the Ground Lease, no prepayment or deposit has been made to cover or apply to future rent or for security purposes, and the Tenant is not entitled to possession of the Premises for any period on a "rent free" or "reduced rent" basis or to any similar credits or concessions.
3. The term of the Ground Lease commenced on the "February 1, 2021, "Date of Beneficial Occupancy") and shall expire thirty (30) years thereafter, unless sooner terminated pursuant to the terms of the Ground Lease ("Initial Term"). Provided that Tenant is not in material

default of the Ground Lease (or an event has not occurred, which with the passage of time or giving of notice would constitute a material default), the Ground Lease shall be automatically renewed for two (2) additional periods often (10) years each (each a "Renewal Term"), unless Tenant notifies Lessor in writing of Tenant's intent to not exercise its option to renew not later than one hundred twenty (120) days prior to the expiration of the then current term, with time being of the essence. Such renewal(s) shall be upon the same terms and conditions.

4. The Ground Lease (i) represents the entire agreement between the parties as to the leasing described therein and (ii) is in full force and effect and has not been assigned, modified, supplemented, or amended by the parties thereto in any way, except as set forth above. Tenant and Subtenant represent that except as set forth in Exhibit B, neither the Tenant nor Subtenant has mortgaged its interest under the Ground Lease. Pursuant to Section 26.02 of the Ground Lease, the Ground Lease is expressly subordinated and subject to the Bond Resolution and to certain state and federal agreements.

5. To the best knowledge of the undersigned (i) all improvements to the Premises required by the Ground Lease to be completed by the Tenant have been completed, (ii) all conditions under the Lease to be performed by Lessor have been performed, (iii) as of the date hereof, neither the Lessor nor the Tenant has any claims, offsets or defenses to the enforcement of the Ground Lease by the other party thereto, (iv) the Tenant is in compliance with its obligations under the Ground Lease and is not in breach or default thereunder, (v) except as may be listed below, there has been no previous assignment of, or mortgage on, the Tenant's interest in the Ground Lease or any previous assignment of the rents accruing thereunder, (vi) no material disputes between the Lessor and the Tenant with respect to the Ground Lease or the Premises are presently pending and (vii) no bankruptcy, insolvency or similar proceedings of any nature are presently pending against the Lessor.

6. The undersigned hereby acknowledges and agrees that the Bank, as leasehold mortgagee under the Mortgage, shall be entitled to all of the benefits accorded to a leasehold mortgagee pursuant to the terms of the Ground Lease. In the event of a fire or other damage to the Premises, the proceeds of any insurance policy or policies shall be administered in accordance with Section 11.04 of the Ground Lease, and any proceeds payable to, or on behalf of, Tenant may be held by Bank, which shall disburse such proceeds in accordance with the terms of the Mortgage.

7. The Lessor agrees to provide copies of all notices to the Tenant under the Ground lease to the Bank. All notices or other communications required or otherwise given pursuant to the Ground Lease shall be in writing and shall be delivered and deemed effective as provided in the Ground Lease, provided that such notices are addressed as follows:

If to the Lessor:

Attn: Airport Director
Palm Beach County Department of Airports
846 Palm Beach International Airport
West Palm Beach, Florida 33406-1470
Fax: 561-471-7427

With a copy to:

Attn: Airport Real Estate Attorney

Palm Beach County Attorney's Office
301 North Olive Ave, Suite 601
West Palm Beach, FL 33401
Fax: 561-355-4398

If to the Bank:

ConnectOne Bank
301 Sylvan Avenue
Englewood Cliffs, New Jersey 07632
Attention: Legal Department

Any party may change the person or address to whom or which notices are to be given hereunder, by notice duly given hereunder; provided, however, that any such notice shall be deemed to have been given hereunder only when actually received by the party to which it is addressed.

8. The Lessor shall not modify, amend or alter the Ground Lease or accept a surrender of the Ground Lease (or any interest therein) without the Bank's prior written consent.

9. This Ground Lessor's Estoppel Certificate, including the exhibits referenced herein, may be executed in one or more counterparts, all of which shall constitute collectively but one and the same document. Any party may execute this Ground Lessor's Estoppel Certificate through electronic or manual means.

(remainder of page intentionally left blank)

IN WITNESS WHEREOF, Lessor, Tenant and Subtenant have executed this Ground Lessor's Estoppel Certificate as of the day and year first above written.

APPROVED AS TO FORM AND AND LEGAL SUFFICIENCY

By: [Signature]
County Attorney

Form approved under Agenda Item 3F6 (Motion "B"), December 19, 2017

LESSOR:

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

By: [Signature] *Pw*
Name: Laura Beebe
Title: Director of Airports

WITNESSES:

[Signature] Megan Davis
Print Name: MEGAN DAVIS

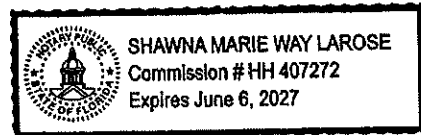
[Signature]
Print Name: RAY WACSON

STATE OF FLORIDA)
COUNTY OF PALM BEACH)

Sworn to (or affirmed) and subscribed before me by means of physical presence online notarization, this 7 day of March, 2024 by Laura Beebe, the Director of Airports, on behalf of Palm Beach County, who is personally known to me or has produced _____ as identification.


[Signature]
Notary Public

(Ground Lessor's Estoppel)

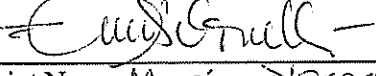



Acknowledged and
agreed:

CONNECTONE BANK

By: 
Kirk Lloyd
Senior Vice President

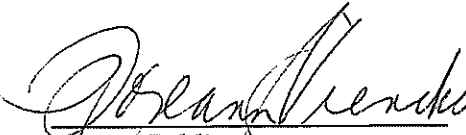
WITNESSES:


Print Name: Maria D'Ornellas


Print Name: Manuel Lorenzo

STATE OF New York
COUNTY OF Suffolk

The foregoing instrument was acknowledged before me this 25th day of March, 2024 by Kirk Lloyd, a Senior Vice President of ConnectOne Bank on behalf of the company. He/she is personally known to me ~~or has produced~~ _____ (type of identification) as identification


Notary Public

(Ground Lessor's Estoppel)

ROSEANN WIENCKO
Notary Public, State of New York
No. 41-4886905
Qualified in Nassau County
Commission Expires March 9, 2027

TENANT:

PBI POST DISTR. LLC

By: *Gary P. Krupnick*
Gary P. Krupnick
Manager

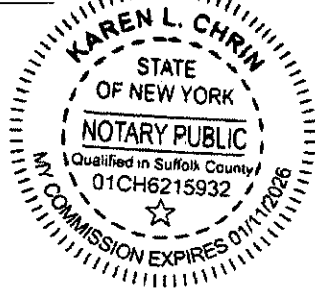
WITNESSES:

SLDL
Print Name: STEVIANNE DEBIBENTE

Donna M. Cupaiolo
Print Name: Donna M. Cupaiolo

STATE OF New York)
COUNTY OF Suffolk)

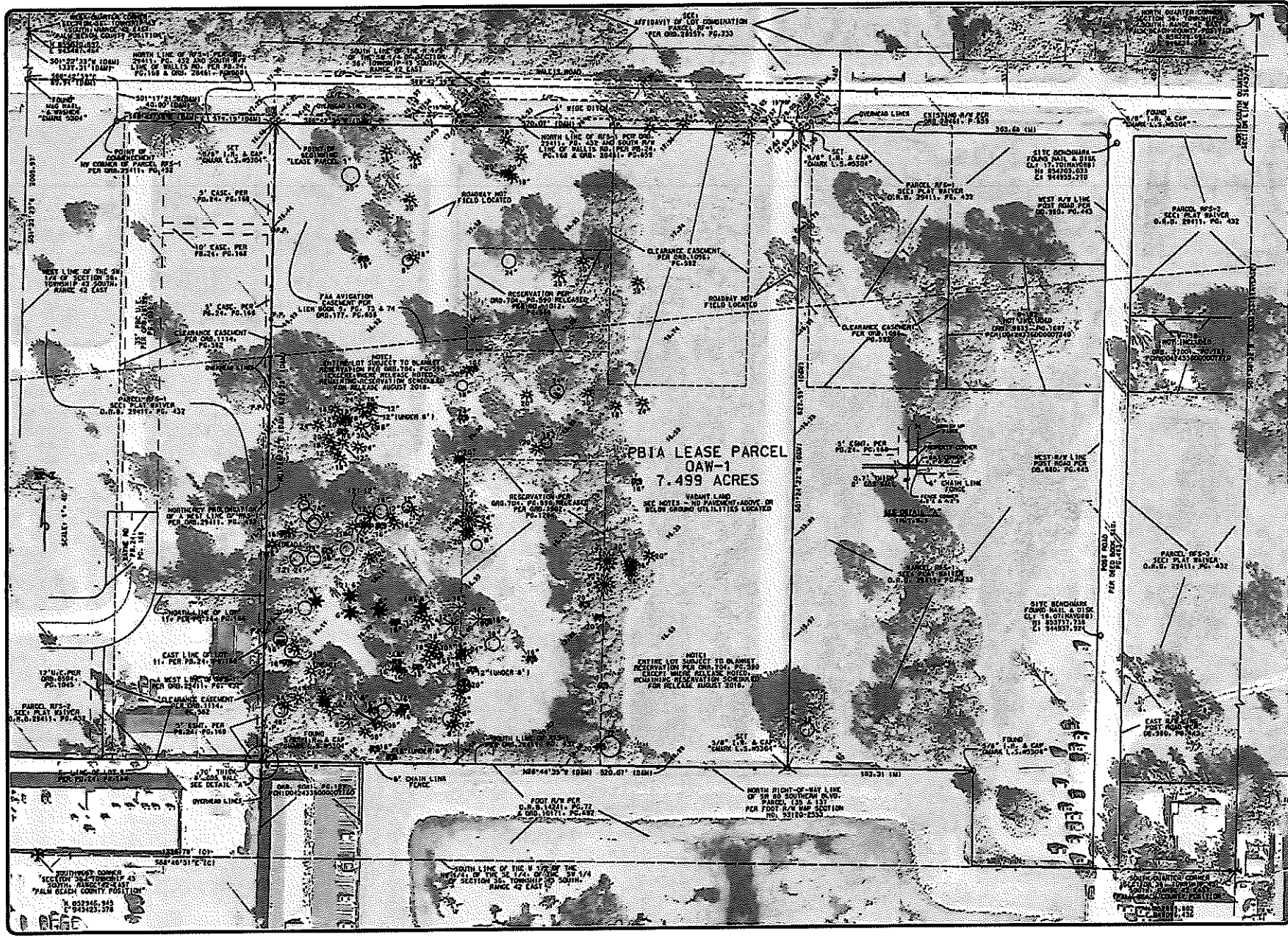
Sworn to (or affirmed) and subscribed before me by means of physical presence online notarization, this 27th day of February, 2024 by Gary P. Krupnick, Manager of PBI Post Distr. LLC, a Florida limited liability company, as Tenant, who is personally known to me or has produced _____ as identification.



Karen L. Chrin
Notary Public

(Ground Lessor's Estoppel)

EXHIBIT "A"
TO
GROUND LESSOR'S ESTOPPEL CERTIFICATE
The Ground Lease Premises
(see boundary survey of PBIA Lease Parcel OAW-1 consisting of two pages, attached)



**PBIA LEASE PARCEL
OAW-1
7.499 ACRES**

PALM BEACH COUNTY
ENGINEERING AND PUBLIC WORKS
ROADWAY PRODUCTION

DATE	BY
REVISION	FOR
TYPED TITLE	
SCALE: 1" = 40'	
APPROVED: G.V.M.	
DRAWN: W.D.S.	
CHECKED: G.V.M.	
DATE: 10/13/17	
FIELD BOOK NO. 112088	

PROJECT

**PBIA LEASE PARCEL OAW-1
BOUNDARY SURVEY**

DISTRICT FILE NO. 5-3-17-3873.DGR
DRAWING NO. 5-3-17-3873

SHEET	2
OF	2
PROJECT NO.	2018013-01

EXHIBIT B

Senior Mortgage

Leasehold Mortgage, Security Agreement and Assignment of Leases and Rents dated as of July 2, 2020 made by PBI Wallis Distr. LLC to BNB Bank in the original principal amount of \$9,900,000.00, which mortgage was recorded in the office of the Clerk of Palm Beach County on August 3, 2020 as CFN 20200274544 (Book 31618, Page 1660).