

ORDINANCE NO. 2024- 24

**CITY OF POMPANO BEACH**  
**Broward County, Florida**

**AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF POMPANO BEACH, FLORIDA, APPROVING AND AUTHORIZING THE PROPER CITY OFFICIALS TO EXECUTE A FIRST AMENDMENT TO LEASE AGREEMENT BETWEEN THE CITY OF POMPANO BEACH AND COLT SOUTH FLORIDA OWNER LP FOR THE FIRE LOGISTICS FACILITY, EXERCISING A ONE YEAR LEASE EXTENSION; PROVIDING FOR SEVERABILITY; PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, pursuant to law, ten (10) days' notice has been given by publication in a paper of general circulation in the City, notifying the public of this proposed ordinance and of a public hearing in the City Commission Chambers of the City of Pompano Beach; and

**WHEREAS**, a public hearing before the City Commission was held pursuant to the published notice described above, at which hearing the parties in interest and all other citizens so desiring had an opportunity to be and were, in fact, heard; now, therefore,

**BE IT ENACTED BY THE CITY OF POMPANO BEACH, FLORIDA:**

**SECTION 1.** That a First Amendment to Lease Agreement between the City of Pompano Beach and Colt South Florida Owner LP is approved, and a copy of that Agreement is attached and incorporated in this Ordinance by reference as if set forth in full.

**SECTION 2.** That the proper City officials are authorized to execute the First Amendment.

**SECTION 3.** If any provision of this Ordinance or its application to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this

Ordinance that can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are declared to be severable.

**SECTION 4.** This Ordinance shall become effective upon passage.

**PASSED FIRST READING** this 27th day of February, 2024.

**PASSED SECOND READING** this 12th day of March, 2024.

DocuSigned by:

*Rex Hardin*

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**REX HARDIN, MAYOR**

**ATTEST:**

DocuSigned by:

*Kerwin Alfred*

900260F4DD24403...

**KERVIN ALFRED, CITY CLERK**

JES:jrm

1/25/24

L:ord/2024-79

DS



**FIRST AMENDMENT TO LEASE AGREEMENT**

**THIS FIRST AMENDMENT TO LEASE AGREEMENT** (this “**First Amendment**”), is made as of the 1<sup>st</sup> day of March, 2024, by and between **COLT SOUTH FLORIDA OWNER LP**, a Delaware limited partnership (“**Landlord**”), and **CITY OF POMPANO BEACH**, a municipal corporation organized under the laws of Florida (“**Tenant**”).

**BACKGROUND:**

A. Liberty Property Limited Partnership, a Pennsylvania limited partnership (“**Original Landlord**”) and Tenant executed a Lease Agreement dated February 24, 2021 (the “**Lease**”), covering that certain premises (the “**Premises**”) containing approximately 7,500 rentable square feet, known as Suite 1641, located in Landlord’s building (the “**Building**”) at 1651 SW 5<sup>th</sup> Court, Pompano Beach, Florida 33069, as more fully described in the Lease.

B. Subsequently, Landlord acquired the Building and in connection with such acquisition, Original Landlord transferred and assigned its right, title, and interest in the Lease to Landlord.

C. Tenant desires to extend the Term of the Lease and Landlord has agreed to such extension, subject to the provisions of this First Amendment. Accordingly, Landlord and Tenant desire to amend the Lease.

**NOW, THEREFORE**, the parties hereto, in consideration of the mutual promises and covenants contained herein and in the Lease, and intending to be legally bound, hereby agree that the Lease is amended as follows:

1. All capitalized terms used herein and not otherwise defined herein shall have the meanings ascribed to them in the Lease.

2. (a) The Lease Term is hereby extended for one (1) additional term of twelve (12) months (the “**Extended Term**”) commencing on March 1, 2024 and expiring at 11:59 P.M. local time on February 28, 2025.

(b) Section 1(k) of the Lease, defining “**Expiration Date**”, is hereby amended to extend the Expiration Date until February 28, 2025.

(c) Landlord and Tenant hereby acknowledge and agree that the extension of the Lease Term evidenced by this First Amendment constitutes the exercise by Tenant of one of its two options to extend the Lease Term (i.e., the first option) pursuant to Exhibit E of the Lease, entitled “**Two Renewal Options**”, and, accordingly, that there is only one (1) remaining option to extend the Lease Term pursuant to Exhibit E of the Lease.

3. (a) Tenant’s “**Base Rent**” obligation for the Extended Term shall be as follows:

<u>Period</u>	<u>Annual</u>	<u>Monthly</u>
3/1/24 – 2/28/25	\$71,710.20	\$5,975.85

(b) The foregoing Base Rent does not include Operating Expenses or applicable Florida sales tax payable by Tenant, which Operating Expenses and applicable Florida sales tax shall be paid by Tenant in addition to the above noted Base Rent, together with each installment of monthly Base Rent.

4. Tenant shall continue to accept the Premises in its "as is" "where is" condition and Landlord shall have no obligations whatsoever to improve or pay for improvements to the Premises for Tenant's use and occupancy.

5. The current addresses for notices to each party under the Lease are set forth below:

Landlord: Colt South Florida Owner LP  
c/o Equus Capital Partners, Ltd.  
3843 West Chester Pike  
Newtown Square, PA 19073  
Attn: Joseph F. Felici

Tenant: City of Pompano Beach  
100 W. Atlantic Blvd., 4<sup>th</sup> Floor  
Pompano Beach, FL 33060

With a copy to:

Colt South Florida Owner LP  
c/o Equus Capital Partners, Ltd.  
3843 West Chester Pike  
Newtown Square, PA 19073  
Attn: General Counsel

With a copy to:

City of Pompano Beach Fire Rescue  
Logistics Division  
1651 SW 5<sup>th</sup> Court, Ste. 1641  
Pompano Beach, FL 33069-3534  
Attn: Logistics Manager

6. (a) Landlord and Tenant agree that all rental payable by Tenant to Landlord, which includes all sums, charges, or amounts of whatever nature to be paid by Tenant to Landlord in accordance with the provisions of the Lease, as hereby amended, 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 discretion, determines that there is any risk that all or part of any rental 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 (i) to cooperate with Landlord by entering into such amendment or amendments as Landlord deems necessary to qualify all payments as "rents from real property," (ii) to permit an assignment of the Lease, as hereby amended, and (iii) to allow Landlord to assign any and all obligations that Landlord has under the Lease, as hereby amended, to a third party; provided, however, that any adjustments required pursuant to this paragraph shall be made so as to produce the equivalent rental payments (in economic terms) payable prior to such adjustment.

(b) Landlord shall have the right at any time and from time to time to unilaterally amend the provisions of the Lease, as hereby amended, if Landlord is advised by its counsel that all or any portion of the monies paid by Tenant to Landlord under the Lease, as hereby amended, are, or may be deemed to be, unrelated business income within the meaning of the Code or the Regulations, and Tenant agrees that it will execute all documents or instruments necessary to effect such amendment or amendments, provided that no such amendment shall result in Tenant having to pay in the aggregate more money on account of its occupancy of the Premises under the terms of the Lease, as so amended, and provided further that no such contract shall result in Tenant

having materially greater obligations or receiving less services, or services of a lesser quality than it is presently entitled to receive under the Lease, as hereby amended. Any services which Landlord is required to furnish pursuant to the provisions of the Lease, as hereby amended, may, at Landlord's option, be furnished from time to time, in whole or in part, by employees of Landlord or Landlord's managing agent or its employees or by one or more third parties hired by Landlord or Landlord's managing agent. Tenant agrees that upon Landlord's written request it will enter into direct agreements with Landlord's managing agent or other parties designated by Landlord for the furnishing of any such services required to be furnished by Landlord hereunder, in the form and content approved by Landlord, provided, however, that no such contract shall result in Tenant having to pay in the aggregate more money on account of its occupancy of the Premises under the terms of the Lease, as hereby amended, and provided further that no such contract shall result in Tenant having materially greater obligations or receiving less services, or services of a lesser quality than it is presently entitled to receive under the Lease, as hereby amended.

7. The parties hereto agree that they have dealt with no brokers in connection with this First Amendment, except for Jones Lang LaSalle (the "**Broker**"). Landlord agrees to pay any commission due by Landlord and Tenant to the Broker pursuant to a separate written agreement with Landlord. Each party hereto agrees to indemnify and hold the other harmless from any and all claims for commissions or fees in connection with this First Amendment from any other real estate brokers or agents with whom such indemnifying party may have dealt.

8. Except as expressly modified herein, the Lease shall remain in full force and effect in accordance with its terms.

9. Tenant acknowledges and agrees that the Lease is in full force and effect and Tenant has no claims or offsets against rent due or to become due hereunder.

10. This First Amendment shall be binding upon and inure to the benefit of the parties and their respective successors and permitted assigns.

11. This First Amendment may be executed in counterparts, each of which shall constitute an original, but which, taken together, shall be one original agreement. Any counterpart of this First Amendment may be executed and delivered by electronic transmission (including, without limitation, e-mail) or by portable document format (pdf) and shall have the same force and effect as an original.


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

**LANDLORD:**


**COLT SOUTH FLORIDA OWNER LP**


By: Colt South Florida GP LLC, its sole general partner

By:   
Name: Joseph F Felici  
Title: S.U.P.

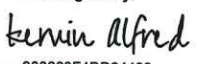
**TENANT:**

**CITY OF POMPANO BEACH**

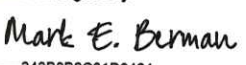
DocuSigned by:  
  
By: 502CB780EB3F480...  
Name: Rex Hardin  
Title: Mayor

DocuSigned by:  
  
By: 7052A67F15A44C8...  
Name: Gregory P. Harrison  
Title: City Manager

Attest:

DocuSigned by:  
  
By: 900260F4DD24403...  
Kervin Alfred, City Clerk

Approved As To Form:

DocuSigned by:  
  
By: 343B0B2C81D9424...  
Mark E. Berman, City Attorney

