

GENERAL SERVICES ADMINISTRATION PUBLIC BUILDINGS SERVICE SUPPLEMENTAL LEASE AGREEMENT	SUPPLEMENTAL AGREEMENT NO. 2	DATE: 2/16/2010
	TO LEASE NO. LND14361	

ADDRESS OF PREMISES 1816 17th Street NE, Grand Forks, ND 58203 -8919

THIS AGREEMENT, made and entered into this date by and between CBP Grand Forks, LLC

whose address is 80 Curtwright Drive, Suite 5
Williamsville, NY 14221

Hereinafter called the Lessor, and the UNITED STATES OF AMERICA, hereinafter called the Government:

WHEREAS, the parties hereto desire to amend the above Lease, to provide for the payment of the Tenant Improvements and alter certain general clauses of the GSA Form 3517B in exchange for additional tenant improvement allowance.

NOW THEREFORE, these parties for the considerations hereinafter mentioned covenant and agree that the said Lease is amended, effective 2/16/2010 as follows:

Paragraphs 2, 3, 4, 10, 11, 14, 34 of the lease is amended by deleting the existing text and substituting, in lieu thereof, the following, Paragraphs 35, 36, 37, 38 and 39 are hereby added to the Lease: :

"2. TO HAVE AND TO HOLD the said Premises with their appurtenances for the term beginning on April 1, 2010 through March 31, 2030, subject to termination and renewal rights as may be hereinafter set forth."

"3. The Government shall pay the Lessor Annual Rent of ~~\$1,370,455.91~~ or \$40.31 per RSF, at the rate of ~~\$114,204.66~~ per month in arrears. Lessor has agreed to a gross rental abatement for months 1 through 6 which does not include the commission credit. Gross rent shall be abated for Months 1 through 6 and the commission credit from Shell Rent shall commence in Month 7 as described in Paragraph 34 herein.




Annual Rent consists of three (3) components:


- a. Shell Rent. Shell Rental Rate is ~~\$1,018,151.65~~ annually or ~~\$29.89~~ per RSF. Shell Rental Rate includes base year share of annual Real Estate Taxes which is \$70,000.00 or \$2.06 per RSF.
- b. Base Operating Costs. Base year services cost is ~~\$272,000.00~~ annually or \$8.00 per RSF.
- c. Amortized Tenant Improvement. Adjusted amortized TI rental is ~~\$82,304.26~~ annually or \$2.42 per RSF.

Rent for a lesser period shall be prorated. Rent shall be payable and deposited through Electronic Fund Transfer (EFT) to:

Grand Forks, LLC
80 Curtwright Drive, Suite 5
Williamsville, NY 14221-7055

All other terms and conditions of the lease shall remain in force and effect. IN WITNESS WHEREOF, the parties subscribed their names as of the above date.

LESSEE
BY  President
(Signature)
IN WITNESS WHEREOF, the undersigned, being duly authorized, has hereunto set his hand and seal this 16th day of February, 2010.
BY  
(Signature) (Address)

UNITED STATES OF AMERICA, GENERAL SERVICES ADMINISTRATION, PUBLIC BUILDINGS SERVICE, REAL ESTATE DIVISION
BY  LEASING CONTRACTING OFFICER
(Official Title)

"4. The Government may terminate this lease in its entirety effective at any time after March 31, 2025 by giving at least ninety (90) days' prior notice in writing to the Lessor. No rental shall accrue after the effective date of termination. Said notice shall be computed commencing with the day after the date of mailing."

"11. **OPERATING COST:** Pursuant to Paragraph 3.6, "Operating Cost", the base rate for purposes of operating cost escalation is established at \$272,000.00 annual (\$8.00 per rentable square foot per annum)."

"14. **TENANT IMPROVEMENT ALLOWANCE:** The rental rate in paragraph 3 of this SLA includes the Tenant Improvement Cost in the amount of \$771,577.34 amortized over the 174 Months (180 month firm term, excluding 6 months free rent term) of the lease agreement at an interest rate (amortization rate) of 6.5% per year.

"34. **COMMISSION AND COMMISSION CREDIT:** The total amount of the commission is [REDACTED]. The Lessor shall pay the Broker no additional commissions associated with this lease transaction. In accordance with the "Broker Commission and Commission Credit" paragraph, the Broker has agreed to forego [REDACTED] of the commission that it is entitled to receive in connection with this lease transaction ("Commission Credit"). The Commission Credit is [REDACTED]. The Lessor agrees to pay the Commission less the Commission Credit which totals [REDACTED] to the Broker inclusive of [REDACTED] already paid with a net balance of [REDACTED] to the Broker in accordance with the "Broker Commission and Commission Credit" paragraph in the SFO attached to and forming a part of this lease.

Notwithstanding Paragraph 3 of this Standard Form 2, the shell rental payments due and owing under this lease shall be reduced to fully recapture this Commission Credit. The reduction in shell rent shall commence with the seventh month of the rental payments and continue as indicated in this schedule for adjusted Monthly Rent:

Seventh Month's Rental Payment \$114,067.24 minus prorated Commission Credit of [REDACTED] equals [REDACTED] adjusted Seventh Month's Rent.

Eighth Month's Rental Payment \$114,067.24 minus prorated Commission Credit of [REDACTED] equals [REDACTED] adjusted Eighth Month's Rent.

Ninth Month's Rental Payment \$114,067.24 minus prorated Commission Credit of [REDACTED] equals [REDACTED] adjusted Ninth Month's Rent.

Tenth Month's Rental Payment \$114,067.24 minus prorated Commission Credit of [REDACTED] equals [REDACTED] adjusted Tenth Month's Rent.

Eleventh Month's Rental Payment \$114,067.24 minus prorated Commission Credit of [REDACTED] equals [REDACTED] adjusted Eleventh Month's Rent.

"35. **TENANT IMPROVEMENT PAYMENT:** In conjunction with paragraph 20 of the SF-2, and based upon finalized quotes and approvals provided by the government, the Government agrees to reimburse the Lessor in an amount of **1,741,919.08** upon **completion of the work, inspection, and acceptance** of the following described work items by the Government, Supplemental Lease Agreement Number 2 signed by both parties, and upon receipt of an **acceptable itemized invoice** by the Lessor. In no event shall payment be made prior to the delivery date for the work. Payment will be made for those items that are newly installed, based on the referenced plans, negotiated and agreed upon costs between GSA and Acquest Development, LLC. Any other changes to the scope of work, or any increases in the price, shall be approved in writing by the GSA Contracting Officer.

Payment will be made for those items that are newly installed, based on the above negotiated and agreed upon cost. Payment shall be forwarded to the above named Vendor. The Vendor receiving payment shall issue the invoice. The invoice shall include a unique invoice number and cite the following [REDACTED] (Invoices submitted without the PDN Number are immediately returned to the Vendor). Invoices shall be submitted to the Greater Southwestern Finance Center (with a copy to the Contracting Officer) electronically on the GSA Finance Website at www.finance.gsa.gov. Vendors who are unable to process the invoices electronically may mail the invoices to the following address: GSA, Greater Southwestern Finance Center (7BCP), P.O. Box 17181, Fort Worth, TX 76102.

The Lessor shall remain responsible for maintenance and repair of items provided as a result of approved Requests for Proposals during construction of the Tenant Improvements throughout the term of the lease. The Lessor waives any restoration in connection with these items."

"36 **Changes to the General Clauses:** The following changes have been made to the General Clauses number 2 and Number 17 of this lease contained in document GSA Form 3517B which are hereby deleted and replaced with the following:

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2. Subletting and Assignment: The Government may sublet any part of the premises but shall neither relinquish any rights under this Lease nor be relieved from any obligations under this Lease by reason of such subletting. The Government may at any time assign this Lease, but shall neither relinquish any protections under this Lease nor be relieved from any obligations under this Lease by reason of any such assignment; provided, however, that (1) upon the Government's request, the Lessor and the Government shall diligently, reasonably, and in good faith negotiate and agree on the form and substance of any documents relating to the assignment of the Lease by the Government; and (2) simultaneously with giving notice in writing of any default under or related to this Lease to the assignee, the Lessor shall deliver such notice in writing, to the Government and the Government shall have the same cure periods as that given to the assignee or as provided in the Lease, whichever is longer, to cure such default under the Lease.

17. Fire and Casualty Damage:

- (a) If the said premises be totally destroyed by fire or other casualty, the Government shall have the right to terminate this Lease by written notice to Lessor in writing as soon as practicable within sixty (60) days after the occurrence of such event, provided, however, if the Lessor certifies to the Government within thirty (30) days of such fire or other casualty that the premises can and will be repaired and restored within one (1) year of such fire or other casualty, than the provisions of subparagraph (b) shall apply. In the event the Government fails to provide written notice of termination as aforesaid or elects not to terminate this Lease or the Lessor has provided the certification set forth above, then the Lessor shall commence repair and restoration in accordance with subparagraph (b) below it being understood in such case that subparagraph (b) below shall apply and that all references to partial destruction in subparagraph (b) below shall be deemed to mean total destruction for purposes of this subparagraph (a).
- (b) In the event of partial destruction or damage that renders the entire premises untenable, as reasonably determined by the Government, then (1) the Lessor shall, as soon as practicable within one (1) year of such partial destruction or damage, diligently commence the repair or restoration of the entire premises to a tenable condition and shall complete such repair or restoration as soon as practicable within such one (1) year period by diligent commencement and continuous pursuit of such repair or restoration, (2) the rent during the period of partial destruction or damage shall be wholly abated during the period that such partial destruction or damage to any portion renders the entire premises untenable effective from the date of such partial destruction or damage, (3) the Government shall reoccupy the premises only upon completion, as reasonably determined by the Government, of such repairs or restoration within the one-year period identified in (a) and (b)(1) immediately above, and (4) the Government shall not be permitted to terminate this Lease during such one (1) year period as a result of such destruction or damage so long as the Lessor completes, as reasonably determined by the Government, such repair or restoration within such one (1) year period.
- (c) In the event of partial destruction or damage that renders a part of the premises untenable as reasonably determined by the Government then (1) the Lessor shall as soon as practicable within one hundred eighty (180) days of such partial destruction or damage, diligently commence the repair or restoration of such portion of the premises to the condition in which such part of the premises existed before destruction or damages and complete such repair or restoration within such one hundred eighty (180) day period by diligent commencement and continuous pursuit of such repair or restoration, (2) the rent during the period of partial destruction or damage shall be proportionately abated during the period that such part of the premises is untenable effective from the date of such partial destruction or damage, (3) the Government shall reoccupy such part of the premises upon completion of such repairs or restoration as reasonably determined by the Government, and (4) the Government shall not be permitted to terminate this Lease during such 180 day period as a result of such destruction or damage so long as the Lessor completes, as reasonably determined by the Government, such repair or restoration within such 180 day period. Solely for purposes of determining the proportion of the rent that shall be abated during such period of untenability, any part of the premises that have not been rendered untenable by such partial destruction or damage but the use of which by the Government is substantially related to and dependant upon the availability of such part of the premises that have been rendered untenable by such partial destruction or damage shall be, as reasonably determined by the Government, rendered untenable for such period of untenability.

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- (d) As soon as practicable after a partial destruction or damage to the premises, but in no event more than thirty (30) days thereafter the Lessor shall provide to the Government a schedule and plan for accomplishing the repair or restoration. The Government shall have the right to review and approve such schedule and plan for repair or restoration of the premises with the Government's approval not to be unreasonably withheld, conditioned, or delayed.
- (e) Nothing in this Lease shall be construed as relieving Lessor from liability for damage to or the destruction of property of the United States of America caused by the Government or its employees.
- (f) In the event of a fire or other casualty not caused by the Government or its employees which renders all or a portion of the premises untenable, but with respect to which the Lease is not terminated and the premises will be repaired and restored and the Government will reoccupy the damaged portion of the premises as provided in subparagraphs (b) or (c) above, Lessor, to the extent of insurance proceeds available therefore, will reimburse the Government for reasonable moving and temporary relocation costs and expenses (which shall not include any rental expense to provide temporary premises other than rental costs in excess of rent abated as a result of the fire or other casualty, and costs to replace personal property damaged or destroyed as a result of the casualty or any costs to repair or restore the premises to the condition such premises was in prior to the casualty, but shall include all third party costs incurred by the Government to provide temporary replacement premises for the tenant agency occupying the premises until such premises has been repaired or restored to the condition such premises were in prior to the casualty and is again ready for Government occupancy) the Government may incur in connection with the casualty effecting the premises. To the extent such moving and temporary relocation costs exceed available insurance proceeds the Government shall have the option (to be exercised no later than six months following the acceptance of the premises following the casualty) to extend the term of the Lease for a number of days equal to the rental value of the amount of such excess costs. During such Lease extension the total annual rent payable to the Government shall be equal to the base operating expenses as escalated to the date of such extension period. The Lessor agrees to procure a policy in an amount of \$3,700,000.00, which will name the Government as an also insured and will be available to reimburse Lessor for various costs and expenses associated with a casualty including reasonable moving and temporary relocation costs and expenses of the Government which it may incur in connection with a casualty effecting the premises. Such reimbursement shall not be the Government's exclusive remedy for any damage to or destruction of property of the United States of America. Except as expressly provided in the preceding sentences, the Government shall have no rights to the proceeds of the Lessor's insurance for the payment of said moving/relocation costs."

"37. MONETARY CONSIDERATION FOR CHANGES TO THE GENERAL CLAUSES: In exchange for the changes listed in Paragraph 36 of SLA#2 LMT14361, the Lessor shall provide to the Government an offset in the amount of \$20,000 to the total tenant improvement costs under this Lease incurred by the Government, This offset has been included in the Tenant Improvement Cost described in Paragraph 14 of this SLA.

"38 The attached Novation is attached and hereby made a part of the lease

"39 The Notice of Assignment for Lease Number LND14361 is attached, and hereby made a part of the lease.

All other terms and conditions of the Lease shall remain in force and effect.

