

U.S. GOVERNMENT  
LEASE FOR REAL PROPERTY

DATE OF LEASE

APR - 8 2009

LEASE NO. GS-05B-17909 BLDG NO. OH2365

THIS LEASE, made and entered into this date by and between

whose address is **BARRY REAL ESTATE COMPANIES, INC.**  
30 Ivan Allen Jr. Blvd., Suite 900  
Atlanta, GA 30308 -3035

and whose interest in the property hereinafter described is that of owner

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

WITNESSETH: The parties hereto for the consideration hereinafter mentioned, covenant and agree as follows:

1. The Lessor hereby Leases to the Government the following described premises to be used for such purposes as determined by the General Services Administration:

A dedicated campus facility consisting of 108,874 rentable square feet of office and related space which yields 98,161 ANSI/BOMA Office Area (ABOA) square feet with a total of 200 parking spaces. One hundred and forty five of the total parking spaces are to be provided in a secured parking garage to be constructed on site for the exclusive use of Government employees and patrons. The facility will be constructed on that certain 6.260 acres of real property commonly known as 8020 Montgomery Road in the Township of Sycamore, County of Hamilton, State of Ohio legally described and illustrated on the ALTA/ASCM Land Title Survey dated 04/01/08 (Exhibit A). Such facility described herein, together with the real property shall be hereinafter collectively referred to as the "Leased Premises". The Leased Premises are to be constructed in accordance with the concept plans and concept drawings dated 08-October-2008, 25-November-2008, and 22-January-2009 and in accordance with the provisions of Solicitation for Offers GS-05B-17909 in its entirety.

2. The Lessor hereby leases to the Government to have and to hold the Leased Premises with their appurtenances for the term beginning on the day the space is accepted by the Government as complete and ready for occupancy through a twenty (20) year term. In accordance with Amendment No. 5 dated February 25, 2009, the occupancy date is February 1, 2011.
3. The Government shall pay the Lessor annual rent of \$3,972,315.00 at the rate of \$331,026.25 per month in arrears. Rent for a lesser period shall be prorated. Rent checks shall be made payable to:

**BARRY REAL ESTATE COMPANIES, INC.**  
30 Ivan Allen Jr. Blvd., Suite 900  
Atlanta, GA 30308 -3035

- ~~4. The Government may terminate this Lease at any time on or after \_\_\_\_\_, by giving at least \_\_\_\_\_ days notice in writing to the Lessor and no rental shall accrue after the effective date of termination. Said notice shall be computed commencing with the day after the date of mailing.~~
- ~~5. This Lease may be renewed at the option of the Government, for the following terms and at the following rentals:  
provided notice be given in writing to the Lessor at least \_\_\_\_\_ days before the end of the original Lease term or any renewal term; all other terms and conditions of this Lease shall remain the same during any renewal term. Said notice shall be computed commencing with the day after the date of mailing~~

6. The Lessor shall, as part of the rental consideration:
- (i) design, develop, construct, finance and manage the Leased Premises in accordance with the provisions of this Lease;
  - (ii) furnish to the Government, services, utilities, maintenance and other operations as set forth elsewhere in this Lease; and
  - (iii) perform all the responsibilities and obligations as defined in the Solicitation for Offers No. GS-05B-17909, as amended, and other attachments to the Lease referenced in Paragraph 7 of this SF-2 form.
7. The following are attached and made a part hereof, Lease GS-05B-17909:
- A. Attachment to SF-2, paragraphs 10 -36;
  - B. Solicitation for Offers No. GS-05B-17909 Phase II SFO dated July 2008, 68 pages;
  - C. Amendment Number 3 dated August 26, 2008, 1 page;
  - D. Amendment Number 4 dated December 22, 2008, 13 pages;
  - E. Amendment Number 5 dated Febraury 25, 2009, 4 pages;
  - F. Nationwide Program of Requirements May 28, 2008, 198 pages;
  - G. Exhibit A – ALTA/ACSM Land Title Survey dated 4/01/08, 1 page;
  - H. Attachment A –Real Estate Option Agreement, 37 pages;
  - I. Attachment A1- First and Second Amendments To The Real Estate Option, 6 pages;
  - J. Attachment B –1967 Agreement for Re-zoning, 29 pages;
  - K. Attachment C – Seismic Compliance, 1 page;
  - L. General Clauses -GSA Form 3517B, 33 pages;
  - M. Representations and Certifications-GSA Form 3518 (including CCR Registration), 10 pages;
  - N. Appendix A - Final Revised Proposal Schematic Design Plans & Narratives, dated 08-October-2008, 25-November-2008, and 22-January-2009, 173 pages;
  - O. Appendix B – Unit Price List, 5 pages;
  - P. Appendix C – Security Unit Price List, 2 pages;
  - Q. Appendix D – CSI Summary Report dated 01/22/09, 1 page;
  - R. Appendix E– LEED-NC Project Checklist, 2 pages; and
  - S. Appendix F – Davis-Bacon Wage Determination Information, 4 pages.
8. The following changes were made in this Lease prior to its execution:
- (i) Paragraphs 4 and 5 have been deleted in their entirety from the SF-2 of this Lease;
  - (ii) Changes made to the Solicitation For Offers (SFO) are described in paragraph 36 of the Attachment to the SF-2.
9. Notification of award will occur before or on April 10, 2009. The award of the lease by the Government occurs upon execution of the lease by the Contracting Officer, which will constitute the Government's acceptance of the Lessor's Final Revised Proposal dated March 6, 2009, under SFO GS 05B-17909 and all attachments. This Lease reflects the terms and conditions of the accepted Final Revised Proposal.

IN WITNESS WHEREOF, the parties hereto have hereunto subscribed their names as of the date first above written.

LESSOR **BARRY REAL ESTATE COMPANIES, INC.**

BY \_\_\_\_\_  
 \_\_\_\_\_  
 (Signature)

IN PRESENCE OF \_\_\_\_\_  
 \_\_\_\_\_  
30 IVAN ALLEN JR. BLVD., STE. 900, ATLANTA, GA 30308  
 (Address)

UNITED STATES GENERAL SERVICES ADMINISTRATION  
 BY \_\_\_\_\_  
 \_\_\_\_\_  
 Contracting Officer  
 (Official title)

10. **RENTAL RATE:** It is mutually agreed the following rates apply in payment of this lease for year 1.

YEAR 1	\$ PER RENTABLE (108,874 sq. ft.)	\$ PER ABOA ( 98,161 sq.ft.)	ANNUAL DOLLAR AMT
Shell	\$28.35	\$31.44	\$3,086,383.67
Real Estate Taxes*	\$1.70	\$1.89	\$185,086.00
Operating Costs*	\$4.69	\$5.20	\$510,837.00
Tenant Improvements	\$1.75	\$1.94	\$190,008.33
<b>TOTAL</b>	<b>\$36.49</b>	<b>\$40.47</b>	<b>\$3,972,315.00</b>

\*Refer to Paragraphs 17 and 18 of this SF-2 for future escalation clauses.

11. **LESSOR'S TEAM COMPOSITION AND GENERAL OBLIGATIONS:** The Lessor's team members assembled to meet the overall responsibilities and obligations under this contract are:

- A. Developer – Barry Real Estate Companies, Inc.
- B. Architectural/Engineering Firm – Hammel Green and Abrahamson (HGA)
- C. General Contractor – Skansa USA

It is mutually agreed the following represents the team members:

- A. Chris Schoen, Principal-in-Charge
- B. Chuck Moody, Development Firm's Point of Contact
- C. Matt Connolly, Project Manager
- D. Bill Blanski, Lead Design Architect
- E. Brian Murray, Construction Project Manager

It is acknowledged that the composition of the team submitted on January 22, 2008, was a material factor in the selection of the Lessor for award of this Lease. Other individuals selected to the Lessor's team must have an [redacted] security clearance prior to having access to any procurement information. The following information must be supplied to the Contracting Officer for any new team member to have their security clearances processed:

- A. Full legal name
- B. Birth date (including year)
- C. Social Security Number

12. **SECURITY CLEARANCES:** It is mutually agreed that personnel providing any services including cleaning and construction personnel, will receive additional security clearances by GSA and [redacted] (b)(6)

13. **LESSOR INFORMATION:** The Government acknowledges the following information for BARRY REAL ESTATE COMPANIES, INC:

- A. The DUNS Number is 958099756;
- B. The Employer Identification Number (EIN) / Taxpayer Identification Number (TIN) is [redacted]

14. **ANSI/BOMA (ABOA) SF:** The total ANSI/BOMA square foot area referred to in Paragraph 1 of the SF-2 form herein above, is subject to adjustment to the actual number of ANSI/BOMA square feet delivered, to be determined by mutual field measurements in accordance with the provision of Paragraphs 4.8, 4.9 and 4.10 in the SFO.

If the actual number of ANSI/BOMA square feet differs from Paragraph 1 of the SF-2, the Lease shall be amended by Supplemental Lease Agreement after field measurement to establish the square footage in compliance with the terms of this Paragraph.

Should there be any adjustment in the actual amount of ANSI/BOMA area delivered, the annual rent referred to in Paragraph 3 herein shall be adjusted according to the rates set forth in Paragraph 10 herein above..

15. **COMMON AREA FACTOR:** It is mutually agreed the common area factor for the Leased Premises shall be 1.109 based upon 98,161 ANSI/BOMA square feet.

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16. **OCCUPANCY DATE :** The effective date of February 1, 2011, stated in Paragraph 2 of this Lease, is the estimated Lease Commencement Date. The Government reserves the right to adjust the occupancy date of the Lease to be commensurate with substantial completion of tenant improvements and hence, the ability of the Government to occupy the space. Any adjustments to the rent commencement date shall be documented by Supplemental Lease Agreement. The Lease term will be twenty years firm, computed from the actual effective date. The anniversary date for operating cost escalations under Paragraph 4.6 of SFO Amendment No. 4 will coincide with the actual effective date of the Lease. All building systems, including the security systems, must be tested, approved and operational thirty (30) days prior to delivery of the Leased Premises as ready for occupancy by the Government. This testing and certification of the systems shall be performed by an independent contractor hired by the Lessor and approved by the Contracting Officer.
17. **OPERATING COSTS:** For the purposes of operating cost escalation, in accordance with SFO Amendment No. 4, Paragraph 4.6, the base rate will be \$5.20 per ANSI/BOMA square foot, \$4.69 per rentable square foot, \$510,837 annual amount.
18. **REAL ESTATE TAX BASE:**  
 For the purposes of real estate tax reimbursements, pursuant to SFO Amendment No. 4, Paragraph 4.4, the negotiated base year taxes will be \$1.70 per rentable square foot, \$185,086.00 annual amount.
19. **PERCENTAGE OF OCCUPANCY:** It is mutually agreed the percentage of occupancy for the lease is 100%.
20. **ADJUSTMENT FOR VACANT PREMISES:** If there is a need to make an adjustment for vacated premises in accordance with Paragraph 4.14 of the Lease, the rental rate reduction shall be \$2.50 per ANSI/BOMA square foot.
21. **OVERTIME HVAC:** It is mutually agreed there will be a charge of \$2.50 per hour per ABOA SF for HVAC beyond normal working hours of 7:00 AM to 6:00 PM, except Saturdays, Sundays, and Federal holidays, except where 24 hour HVAC is to be provided. Annual 2.5% escalations apply to this HVAC Overtime Rate starting in Year 2 of the Lease and continue for the term of the Lease.
22. **24/7 HVAC SYSTEM:** The Government will pay on an annual basis in arrears for usage of the 24/7 HVAC in areas as stated in SFO Paragraph 8.2. An invoice shall be submitted to the Government for payment. The two clauses from GSA Form 3517, General Clauses, 552.232-75 Prompt Payment, and 552.232-70, invoice Requirements (Variation), apply to all overtime services. Based upon this, the Government will pay in accordance with the following chart based on 6,250 hours for 5,770 ANSI/BOMA Office Area square feet

Annual 24-hour HVAC Cost		
Year	Escalation Rate	Lump Sum
1		\$ 36,063
2	2.50%	\$ 36,964
3	2.50%	\$ 37,888
4	2.50%	\$ 38,835
5	2.50%	\$ 39,806
6	2.50%	\$ 40,801
7	2.50%	\$ 41,821
8	2.50%	\$ 42,867
9	2.50%	\$ 43,939
10	2.50%	\$ 45,037
11	2.50%	\$ 46,163
12	2.50%	\$ 47,317
13	2.50%	\$ 48,500
14	2.50%	\$ 49,713
15	2.50%	\$ 50,955
16	2.50%	\$ 52,229
17	2.50%	\$ 53,535
18	2.50%	\$ 54,873
19	2.50%	\$ 56,245
20	2.50%	\$ 57,651
<b>Total</b>		<b>\$ 921,204</b>

\* Year 1 based on \$6.25 / ABOA sf / year x 5,770 ABOA sf

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23. **PROVISION OF LEASE REQUIREMENTS:** It is mutually agreed the Lessor will provide all Lease requirements in addition to the special requirements as stated in the SFO, which will be further identified on the design intent drawings. These special requirements are included in the amortized cost per square foot in the proposal and lumpsum described in Paragraph 28 below.
24. **UNIT COSTS FOR ADJUSTMENT:** The unit costs for adjustments are listed in Appendix B - Unit Price List of the Lease. These unit costs will remain valid and in effect through the construction period and one full year after occupancy of the Leased Premises.
25. **SECURITY UNIT PRICES:** The security unit prices are listed in Appendix C - Security Unit Price List of the Lease. These costs will remain valid and in effect through the construction period and one full year after occupancy of the Leased Premises.
26. **CHANGE ORDER PROCEDURES:** In the event of change orders, the Lessor agrees to the following procedures:

- A. The General Conditions will be 8.8% of the total subcontractor's costs.
- B. The General Contractor's fee will be 3.5% of the total subcontractor's costs and general conditions.
- C. Architectural/Engineering fee will be 5% of general contractor's total cost of change order.
- D. The Lessor's Project Management fee will be 5% of total of general contractor's total cost and associated costs.
- E. All requests for change orders shall be in writing from the General Services Administration's (GSA) Contracting Officer.
- F. Price quotations shall be supplied to the requestor within one week of the written request.
- G. Notification of change orders status shall be given within three weeks of the date the price quotation was received.
- H. Without written approval from the GSA Contracting Officer, no change order shall be processed. If a change order is processed without written consent of the GSA Contracting Officer, the Lessor shall bear full financial responsibility for the change order and compliance to the terms of Lease GS-05B-17909.

27. **CONSTRUCTION COST:** The Government and the Lessor acknowledge that the total construction cost for the project is \$47,331,376.00 (CSI Summary dated 01/22/09 and attached hereto as part of Appendix D-CSI Summary Report). It is mutually agreed the Lessor will allow the Government flexibility in the final design of all interior space, including placement of the janitor closets, mechanical rooms, and public restrooms. Post-award, the Government will work with Lessor to further develop and finalize the design, interior and exterior. Approximately \$36,262,730.00 of the proposed construction budget remains fungible. During the conceptual design/design intent phase (only), the Government has the right to reallocate fungible funding within this construction budget to accommodate the final design.
28. **LUMP SUM:** The Government accepts the Lessor's request for a lumpsum payment of \$7,984,200.00. The lumpsum represents that amount of the total project costs not amortized into the proposed rental and are considered tenant agency security requirements pursuant to the Office of Management and Budget (OMB) Pricing Policy-Circular A-11. The Government will use the list below to allocate the lumpsum.

- A. The Lessor shall provide all labor, materials and equipment to install all that is required below and to maintain the materials and equipment in accordance with this Lease Agreement and OMB Circular A-11 pursuant to OMB Pricing Policy:

Building Specific Security Items indicated in Appendix C	\$2,669,167
Tenant Improvement Security Items indicated in Appendix C	\$2,532,812
Above Standard Tenant Improvements	\$2,782,221

- B. The Government shall make a "LUMP SUM" payment within 30 days upon receipt of an invoice after completion and acceptance of the work and the space by the Government.

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- C. **Invoices:** The invoice shall annotate the name and address of the submittee (the submittee must match the name and address in the Governments' vendor file), an invoice number, and PDN which will be given upon completion and acceptance of the work and the space by the Government. The Lessor shall submit an original and one copy of the invoice. The Original Invoice shall be submitted either electronically to the Finance Website at <http://www.finance.gsa.gov> or mailed to: GSA, Greater Southwest Finance Center (7BCP), P.O. Box 17181, Fort Worth, TX 76102.

A copy of the invoice shall be simultaneously submitted to the Contracting Officer at: General Services Administration, Valerie L. Grant, 230 South Dearborn Street, Chicago, IL 60604

- D. Title to items for which the Government makes a "LUMP SUM" payment shall vest in the Government subject to 3517B General Clause 4 entitled "Subordination, Nondisturbance and Attornment". No removal of any such property shall relieve Government of its obligations under the Lease. These items can be removed in a commercially reasonable fashion by the Government at any time. The Lessor waives any restoration in connection with these items subject to the building remaining fully functional and the Government committing no waste through its removal of any property. Unless the Government has removed the items from the Premises, the Lessor shall remain responsible for maintenance and repair of all items provided by the Lessor under this lease. If, after the lease term or any extensions, or succeeding lease term, the Government elects to abandon any items in place, title shall pass to the Lessor. This paragraph shall also apply throughout the term of the lease to any work requested by the Government after occupancy.
29. **AMORTIZATION OF TENANT IMPROVEMENTS:** It is mutually agreed that the rate of interest amortized in the rent for the initial tenant improvements is 6.5%. It is mutually agreed the Government is not responsible for any remaining residual balance of the tenant improvements upon expiration of the twenty (20) year lease firm term.
30. **LEED-NC:** It is mutually agreed the Lessor will obtain, at a minimum, a LEED-NC Certified rating. The proposed LEED-NC Version 2.1 Registered Project Checklist, submitted with the offer dated 8 October 2008, is Appendix E – LEED-NC Project Checklist of the Lease.
31. **CONSTRUCTION REQUIREMENTS:** The Lessor will comply with all construction and development requirements of Sycamore Township, Ohio. Furthermore, the Lessor will meet all Fire and Life Safety requirements as stated in the Lease contract, along with meeting all local codes specified in local standards.
32. **SPACE ACCEPTANCE DOCUMENTATION:** Upon space acceptance, the Lessor shall provide the GSA Contracting Officer with copies (hard and electronic, PDF (PDF preferred)) of all instruction manuals, warranties, and maintenance schedules for all building systems, including but not limited to roof, elevators, furnace, HVAC units, etc.
33. **DEVIATIONS:** It is mutually agreed that there will be NO exception taken to any of the General Clauses, Requirements, Program of Requirements or Solicitation Package under this procurement, except as noted in Amendment 5 of the SFO.
34. **UNAUTHORIZED IMPROVEMENTS:** All questions pertaining to this lease agreement shall be referred in writing to the General Service Administration Contracting Officer. This contract is between GSA and LESSOR. GSA assumes no financial responsibility for any cost incurred by the Lessor except as provided by the term of the lease agreement or authorized in writing by the GSA Contracting Officer. If Lessor delivers space with improvements not authorized or requested in writing by the GSA Contracting Officer, then Lessor shall not be entitled to compensation if the improvements remain in place after the Government's acceptance of the space.
35. **CONTRACTING OFFICER REPRESENTATION:** The Contracting Officer represents the General Services Administration as an agent with authority to enter into the Lease on behalf of the Government and execute this document in his/her official capacity only and not as an individual.

The Government assumes no responsibility for any conclusions or interpretations made by the Lessor based on information made available by the Government and/or its contractors. Nor does the Government assume responsibility for any understanding reached or representation made concerning conditions which can affect

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the work by any of its officers or agents before execution of this contract unless that understanding or representation is expressly stated in the Lease.

It is agreed to by the parties hereto that all the terms and conditions of this Lease as expressly contained herein represent the total obligations of the Lessor and the Government. Any agreements, written or oral, between the Lessor and the Government prior to execution of this Lease are not applicable nor binding. This agreement may be amended only by written instrument executed by the Lessor and the Government.

36. The following additional changes have been made to the Solicitation For Offers upon its incorporation into Lease No. GS-05B-17909:
- a. Sections 2.1 through 2.11 deleted in their entirety;
  - b. Sections 3.1 through 3.6 deleted in their entirety;
  - c. Amendment No. 1 deleted in its entirety; and
  - d. Amendments No. 3, No. 4, and No. 5 are hereby incorporated in their entirety.

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