GSA

GSA Public Buildings Service

Supplemental Lease Agreement

Number 001

Lease Number:	GS-09B-02741	**Date:**	~~12/28/2011~~ January 5, 2012

ADDRESS OF PREMISES 901 Market Street
San Francisco, CA 94103-1729

THIS AGREEMENT, made and entered into this date by and between: **CFRI/Urban 901 Market, L.L.C., A Delaware Limited Liability Company,**
whose address is: CFRI/Urban 901 Market, LLC
c/o Commonfund Realty, Inc.
15 Old Danbury Road
Wilton, Connecticut 06897-0812

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 expand the "Premises".

NOW THEREFORE, these parties for the considerations hereinafter mentioned covenant and agree that the said Lease is amended to expand the premises by 5,906 rentable square feet, yielding approximately 4,609 ANSI/BOMA Office Area square feet, together with 5 structured parking spaces for a total of 48,717 rentable square feet, yielding approximately 38,267 ANSI/BOMA Office Area square feet, together with 9 structured parking spaces, effective upon execution by the Government, as follows:

Paragraphs 1, 3, 4, 9, and 11 are hereby deleted in their entirety and the following substituted therefore. Paragraph 25 is hereby added.

"1. The Lessor hereby leases to the Government the following described premises for a total of 48,717 rentable square feet (r.s.f.), yielding approximately 38,267 ANSI/BOMA Office Area square feet and related space together with 9 structured parking spaces:

"Block A" for a total of 42,811 r.s.f., yielding approximately 33,658 ANSI/BOMA Office Area square feet and related space located on the 2nd, 3rd, 4th, and 5th Floors (Suites 220, 300, 400, 405, 410, 560, and 570) as shown on attached Exhibit A at 901 Market, San Francisco, CA, 94103, together with 4 structured parking spaces to be used for SUCH PURPOSES AS REASONABLY DETERMINED BY THE GENERAL SERVICES ADMINISTRATION.

"Block B" for a total of 5,906 r.s.f., yielding approximately 4,609 ANSI/BOMA Office Area square feet and related space located on the 3rd Floor (Suites 380 and 390) as shown on attached Exhibit B at 901 Market, San Francisco, CA, 94103, together with 5 structured parking spaces to be used for SUCH PURPOSES AS REASONABLY DETERMINED BY THE GENERAL SERVICES ADMINISTRATION."

Continued on Sheet 1

IN WITNESS WHEREOF, the parties subscribed their names as of the above date.

Lessor, CFRI/Urban 901 Market, L.L.C., A Delaware Limited Liability Company,

By: Douglas P. Wilson, Receiver in Case No. BC457413

By _____ (Signature) Receiver (Title)

In Presence of

_____ (Signature) 450 B St Suite 1900, San Diego, CA 92101 USA (Address)

United States Of America, General Services Administration, Public Buildings Service.

_____ (Signature)

Peter Shteyn
Contracting Officer

SHEET NUMBER 1 ATTACHED TO AND FORMING A PART OF SUPPLEMENTAL LEASE AGREEMENT NUMBER 1

"3. Upon beneficial occupancy of "Block "B" the Government shall pay the Lessor an annual rent $1,121,386.00 at the rate of $93,448.83 per month for years 1-5 of the lease term and an annual rent of $1,217,908.00 at a rate of $101,492.33 per month in arrears for years 6-10 of the lease term. The annual payments for "Block A" and "Block B" are as follows:

For "Block A" an annual rent of $958,642.00 at the rate of $79,886.83 per month in arrears for years 1-5 of the lease term and an annual rent of $1,217,908.00 at a rate of $101,492.33 per month in arrears for years 6-10 of the lease term. The rent shall consist of shell rental rate ($9.68/RSF for years 1-5 of the lease term and $15.68/RSF for years 6-10 of the lease term), the operating costs (the base year operating cost is $12.32/RSF), and parking (annual rate of $4,200 per space for years 1-5 of the lease term and an annual rate of $4,800 per space for years 6-10 of the lease term). The actual tenant improvement amount to be amortized into the rent will be memorialized in a subsequent Supplemental Lease Agreement. Rent for a lesser period shall be prorated.

For "Block B" an annual rent of $162,744.00 at the rate of $13,562.00 per month in arrears for years 1-5 of the lease term. The rent shall consist of shell rental rate ($11.68/RSF), the operating costs (the base year operating cost is $12.32/RSF), and parking (annual rate of $4,200 per space). "Block B" shall be accepted in "as is condition" and therefore will not be part of the Tenant Improvement Allowance that is specified in Paragraph 15 of the lease.

Rent checks shall be payable to:

CFRI/Urban 901 Market, L.L.C.
c/o Commonfund Realty Inc.
15 Old Danbury Road
Wilton, Connecticut 06897-0812"

"4 For "Block A" the Government may terminate this lease in whole or in part effective any time after the fifth (5th) year of the lease term by giving at least 120 days' prior notice in writing to the Lessor.

For "Block B" the Government may terminate this lease in whole or in part effective any time after the second (2nd) year of the lease term by giving at least 120 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."

"9. **TO HAVE AND TO HOLD** the Premises with their appurtenances:

For "Block A" the term beginning on August 1, 2011 through July 31, 2021, subject to termination rights as may be hereinafter set forth.

For "Block B" the term beginning on the day the space is accepted by the government as complete and ready for occupancy through the following five (5) years term, two (2) years firm, in accordance with the Paragraph entitled "Inspection of Premises" herein, subject to termination rights as my be hereinafter set forth.

"11. **TAX ADJUSTMENT**: Upon Beneficial Occupancy of "Block B", Pursuant to Paragraph 4.2, "Tax Adjustment," for purposes of tax escalation, the Government occupies 48,717 rentable square feet out of a total of 210,886 rentable square feet in the building (i.e., 23.10%)."

"25. **Construction Schedule and Acceptance of Tenant Improvements for Block B**

A. The construction schedule shall commence upon lease award, unless otherwise expressly agreed by the Lessor and Government as stated in the lease. The schedule shall be divided into seven tasks for each phase. These are: 1) the generation of the design intent drawings; 2) the Government's approval of the design intent drawings; 3) the Lessor's generation of the Government's construction documents; 4) the Government's review of the construction documents; 5) the TI submittal, review and Notice to Proceed (NTP) process; 6) the Lessor's construction of the subject leased area; and 7) the Government's acceptance of the Lessor's construction. Each of these tasks is detailed below. References to "approval" shall mean such approval granted by the GSA Contracting Officer. During the construction schedule, the Government may request regularly scheduled progress meetings and request that the Lessor keep meeting minutes of discussion topics and attendance. During design and construction, the Lessor may discover instances where the Government's directives conflict. In such cases, the Lessor shall immediately notify the GSA Contracting Officer so that the Government may issue a determination as to how to proceed beyond the building shell.

B. DESIGN INTENT DRAWINGS:

1. The Lessor shall prepare, as part of the Tenant Improvement Allowance, and provide to the Government, for the Government's approval, design intent drawings detailing the Tenant Improvements to be made by the Lessor within

the Government-demised area. The Government shall use best efforts to coordinate the provision of such information and details as required by the Lessor's architect to complete such drawings in a timely manner. Design intent drawings, for the purposes of this lease, are defined as fully-dimensioned drawings of the leased space which consist of enough information to prepare construction drawings including: 1) furniture, wall, door, and built-in millwork locations; telephone, electrical, and data outlet types and locations; and repositioned sprinklers, ceilings, and lighting, where impacted; 2) specifications necessary for calculation of electrical and HVAC loads; and 3) all finish and signage selections. Design intent drawings shall be due from the Lessor within ten (10) working days from award.

2. *Review*. The Government retains the right to review, approve, and request modifications (if necessary) to the Lessor's design intent drawings prior to the Lessor's commencement of working/construction drawings. The Government's review and approval of the drawings is limited as to the drawings' conformance to the specific requirements of the SFO and the agency's needs as they apply to the specific leased space. The Government shall perform all reviews of design intent drawings within ten (10) working days of receipt of such from Lessor. Should the Government require that modifications be made to the Lessor's design intent drawings before approval can be granted, the Government shall state as such in writing to the Lessor, and the Lessor shall have five (5) working days to cure all noted defects before returning the design intent drawings to the Government for a subsequent review. Upon approval of the design intent drawings, a notice to proceed shall be transmitted to the Lessor, and the Lessor shall commence working/construction drawings for the space. At the sole discretion of the Government, the Lessor may be required to submit a budget proposal, based on the Tenant Improvements and associated work as shown on the design intent drawings. This budget proposal shall be completed within ten (10) working days of the Government's request. Delay of receipt of such proposal shall result in a Lessor delay.

C. WORKING/CONSTRUCTION DRAWINGS:
The Lessor shall prepare, as part of the Tenant Improvement Allowance, final working/construction drawings for the improvements illustrated on the Government-approved design intent drawings. The working/construction drawings shall include all mechanical, electrical, plumbing, fire safety, lighting, structural, and architectural improvements scheduled for inclusion into the Government-demised area. Working/construction drawings shall also be annotated with all applicable specifications. The resulting product shall reflect requirements which are substantially the same as that specified by the Government-approved design intent drawings and shall incorporate neither extraneous additions nor deletions of requirements. The Lessor's working/construction drawings shall be due to the Government within fifteen (15) working days of the Government's approval of the design intent drawings. Working/construction drawings shall clearly identify 1) Tenant Improvements already in place and 2) the work to be done by the Lessor or others.

D. REVIEW OF WORKING/CONSTRUCTION DRAWINGS:
The Government retains the right to review, and request modifications (if necessary) to, the Lessor's construction documents prior to the Lessor's commencement of interior construction. The Government's review of the construction documents is limited to the construction documents' conformance to the specific requirements of the SFO and to the approved design intent drawings. The Government shall perform all reviews of construction documents within ten (10) working days of receipt of such from the Lessor. Should the Government require that modifications be made to the Lessor's construction documents, the Government shall state such in writing to the Lessor, and the Lessor shall have five (5) working days to cure all noted defects before returning the construction documents to the Government for a subsequent review. Upon complete Government review for conformance of the construction documents to the design intent drawings, the Lessor shall obtain the necessary permits. Notwithstanding the Government's review of the construction documents, the Lessor is solely responsible and liable for the technical accuracy of the construction documents in meeting all requirements and provisions of the lease and the Government-approved design intent drawings. The Lessor shall obtain the necessary permits and may commence construction of the shell space.

E. TENANT IMPROVEMENTS PRICE PROPOSAL
Within fifteen (15) working days of Government review for conformance of the construction drawings, the Lessor must submit the written price proposal along with adequate cost and pricing data or the documentation of the competitive proposals (as described in the "Tenant Improvements Pricing Requirements" paragraph in this section) and for any costs or credits to the Government that are beyond the scope of the original SFO and its attachments. Any work shown on the construction documents that is building shell shall be clearly identified and priced as such. After negotiation and acceptance of the Tenant Improvements price, **A NOTICE TO PROCEED SHALL BE TRANSMITTED TO THE LESSOR**, and the Lessor shall commence construction of the Tenant Improvements.

F. CONSTRUCTION OF TENANT IMPROVEMENTS:
The Lessor shall construct all Tenant Improvements in accordance with 1) the Government reviewed working/construction drawings and 2) all terms and conditions of the SFO. The Lessor shall complete Tenant Improvements within forty (40) working days of receiving the notice to proceed from the Government. The Lessor shall furnish a detailed construction schedule (such as Critical Path Method) to the Government within five (5) days of issuance of the notice to proceed. Such schedule shall also indicate the dates available for the Government contractors to install telephone/data lines or equipment. The Government reserves the right to access any space within the building during the conduct of interior

construction for the purposes of performing inspections or for installing Government-furnished equipment. The Government shall coordinate with the Lessor the activity of Government contractors in order to minimize conflicts with, and disruption to, other contractors on site. Access shall not be denied to authorized Government officials including, but not limited to, Government contractors, subcontractors, or consultants acting on behalf of the Government with regard to this project.

G. ACCEPTANCE OF SPACE AND CERTIFICATE OF OCCUPANCY:
Foureen (14) days prior to the completion of interior construction, the Lessor shall issue written notice to the Government to inspect the space. The Government shall have fifteen (15) working days to inspect and to either accept or reject the subject space.

1. Substantially completed space will be accepted by the Government subject to the completion of minor punch list items (see the Definitions paragraph of GSA Form 3517, General Clauses). Space which is not substantially complete will not be accepted by the Government. Should the Government reject the Lessor's space as not substantially complete as defined herein, the Lessor shall immediately undertake remedial action and when ready shall issue a subsequent notice to inspect to the Government.

2. The Lessor shall provide a valid Certificate of Occupancy, issued by the local jurisdiction, for the intended use of the Government and shall maintain and operate the building in conformance with current local codes and ordinances. If the local jurisdiction does not issue Certificates of Occupancy, the Lessor shall obtain the services of a licensed fire protection engineer to verify the offered space meets all applicable local codes and ordinances to ensure an acceptable level of safety is provided.

H. Progress Reports:

1. After start of construction, at the Government's discretion, the Lessor shall submit to the GSA Contracting Officer, written progress reports at intervals of seven (7) days. Each report shall include information as to 1) percentage of the work completed by phase and trade; 2) a statement as to expected completion and occupancy date; 3) changes introduced into the work; and 4) general remarks on such items as material shortages, strikes, weather, etc. In addition, at the Government's discretion, the Lessor shall conduct meetings every week to brief Government personnel and/or contractors regarding the progress of design and construction of the Government-demised area. The Lessor shall be responsible for taking and distributing minutes of these meetings, with review and approval by the GSA Contracting Officer. Such meetings shall be held at a location to be designated by the Government."

"26. NOTICE TO PROCEED
Following a Government review of the submitted cost proposal, the Government has determined that the bid submitted for the VA space known as "Block B" is fair and reasonable and a Notice to Proceed is hereby issued for the construction of Tenant Improvements at a total cost not to exceed $294,455.23 inclusive of all management and architectural fees."

"27. The Lessor shall construct all Tenant Improvements in accordance with Paragraph 25 and all terms and conditions of the lease package. Upon completion, inspection, and acceptance of the space, the Government shall reimburse the Lessor in a lump sum payment in the amount of $294,455.23 pursuant to Paragraph 28, herein. The Lessor hereby waives restoration as a result of all improvements."

"28. Upon completion and acceptance of Tenant Improvements identified herein, the Lessor shall submit for Lump Sum payment, an original and one copy of the invoice. The Original Invoice, in the amount **not to exceed $294,455.23** shall be submitted to:

GSA, Greater Southwest Finance Center (7BCP)
PO BOX 17181
Fort Worth, TX 76102

Alternatively the Lessor may submit the Invoice electronically, via the GSA Finance website at www.finance.gsa.gov

A copy of the Invoice shall be simultaneously submitted to the Leasing Specialist at:

GSA, Real Estate Division
Attention: Eric Johnson
450 Golden Gate
3rd Floor East
San Francisco, CA 94102

A proper invoice must include the following:

- Invoice date
- Name of the Lessor as shown on the Lease
- Lease contract number, building address, and a description, price and quantity of the items delivered
- Annotation of GSA PS Number (will be sent after Government executes this Supplemental Lease Agreement)

If the invoice is not submitted on company letterhead, the person(s) with whom the Lease contract is made must sign it."

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