
**AMENDMENT NUMBER 2
TO
Lease Number GS-09B-02828
[REDACTED]
San Diego, CA**

Section 4.0 of GSA Lease Document L201C (05/11 – Exhibit A) "DESIGN, CONSTRUCTION AND POST AWARD ACTIVITIES", is hereby deleted in its entirety and replaced as follows:

"4.01 SCHEDULE FOR COMPLETION OF SPACE (August 2011)

Design and construction activities for the Space shall commence upon Lease award. The Lessor shall schedule the following activities to achieve timely completion of the work required by this Lease:

A. Government Provided SLDs: The Government shall prepare and provide to the Lessor the Government's approved Single Line Drawings (SLDs) based upon the base building documents provided by the Lessor as required in the paragraph titled "DOCUMENTS INCORPORATED BY REFERENCE" paragraph of this lease. These single line drawings will detail the Tenant Improvements to be made by the Lessor within the Government-demised area. Single line drawings shall be due to the Lessor within **30** working days from award.

B. "Single Line Drawings." For the purposes of this Lease, SLDs are defined as a partition layout based on AUTOCAD drawings of the space provided by the Lessor. The Government is responsible for providing critical hold-to dimensions subject to field verification by the Lessor's architect. This verification will also include existing conditions of the space. The SLDs do not provide specifications for reflected ceilings and MEPs. The SLDs reflect Lease and tenant agency interior build out requirements provided by the Government sufficient for the preparation of CDs, including:

1. Furniture, wall, door, and built-in millwork locations;
2. Telephone, electrical, and data outlet types and locations;
3. Specifications necessary for calculation of electrical and HVAC loads (BTUs will be provided by the Government showing the proper Supplemental HVAC sizing for the CER/LAN rooms); and
4. All finish and signage selections (The Government will provide the wording for the building standard suite entry signage and the appropriate lobby signage and directional elevator lobby signage).

C. The Lessor's preparation and submission of 65% Construction Documents ("CDs"): The Lessor must complete 65% of the CDs conforming to the approved SLDs not later than **15** working days following the approval of SLDs. If during the preparation of CDs the Lessor becomes aware that any material requirement indicated in the approved SLDs cannot be reasonably achieved, the Lessor shall promptly notify GSA, and shall not proceed with completion of CDs until direction is received from the LCO. The LCO shall provide direction within **5** working days of such notice, but the Government shall not be responsible for delays to completion of CDs occasioned by such circumstances. For the purpose of this clause, a "material requirement" shall mean any requirement necessary for the Government's intended use of the Space as provided for in, or reasonably inferable from, the Lease and the approved SLDs (e.g., special wall types).

D. Government review of 65% CDs: The Government shall have **5** working days to review the 65% CDs before Lessor proceeds to complete the remainder of the CDs. At any time during this period of review, the Government shall have the right to require the Lessor to modify the CDs to enforce conformance to Lease requirements and the approved SLDs.

E. The Lessor's preparation and submission of 99% Construction Documents ("CDs"): The Lessor must complete 99% of the CDs conforming to the approved SLDs not later than **45** working days following the approval of SLDs. If during the preparation of CDs the Lessor becomes aware that any material requirement indicated in the approved SLDs cannot be reasonably achieved, the Lessor shall promptly notify GSA, and shall not proceed with completion of CDs until direction is received from the LCO. The LCO shall provide direction within **5** working days of such notice, but the Government shall not be responsible for delays to completion of CDs occasioned by such circumstances. For the purpose of this clause, a "material requirement" shall mean any requirement necessary for the Government's intended use of the Space as provided for in, or reasonably inferable from, the Lease and the approved SLDs (e.g., number of workstations and required adjacencies).

F. Government review of 99% CDs: The Government shall have **5** working days to review the 99% CDs before Lessor proceeds to prepare a TI Price Proposal for the work described in the CDs. At any time during this period of review, the Government shall have the right to require the Lessor to modify the CDs to enforce conformance to Lease requirements and the approved SLDs.

G. The Lessor's preparation and submission of the TI Price Proposal: The Lessor shall prepare and submit a complete TI Price Proposal in accordance with this Lease within **15** working days following the end of the Government CD review period.

H. Negotiation of TI Price Proposal and issuance of Notice to Proceed ("NTP"): The Government shall issue NTP within **10** working days following the submission of the TI Price Proposal, provided that the TI Price Proposal conforms to the requirements of the clause titled Tenant Improvements Price Proposal and the parties negotiate a fair and reasonable price for TIs.

I. Construction of TIs and completion of other required construction work: The Lessor shall complete all work required to prepare the Premises as required in this Lease ready for use not later than **120** working days following issuance of NTP.

4.02 CONSTRUCTION DOCUMENTS (APR 2011)

The Lessor's Construction Documents ("CDs") shall include all mechanical, electrical, plumbing, fire protection, life safety, lighting, structural, and architectural improvements scheduled for inclusion into the Government-demised area. CDs shall also be annotated with all applicable specifications. CDs shall also clearly identify Tenant Improvements already in place and the work to be done by the Lessor or others. Notwithstanding the Government's review of the CDs, the Lessor is solely responsible and liable for their technical accuracy and compliance with all applicable Lease requirements.

4.03 TENANT IMPROVEMENTS PRICE PROPOSAL (APR 2011)

The Lessor's TI Price Proposal shall be supported by sufficient cost and pricing data to enable the Government to evaluate the reasonableness of the proposal, or documentation that the Proposal is based upon competitive proposals (as described in the "Tenant Improvements Pricing Requirements" paragraph in this section) obtained from entities not affiliated with the Lessor. Any work shown on the CDs that is required to be included in the building shell rent or already priced as Building Specific Security shall be clearly identified and excluded from the TI Price Proposal. After negotiation and acceptance of the TI price, GSA shall issue a Notice to Proceed to the Lessor.

4.04 TENANT IMPROVEMENTS PRICING REQUIREMENTS (MAY 2011)

A. The Lessor shall submit a Tenant Improvement (TI) Price Proposal with information that is adequate for the Government to evaluate the reasonableness of the price or determining cost realism for the Tenant Improvements within the time frame specified in the "SCHEDULE FOR COMPLETION OF SPACE" paragraph in this Section. The TI Price Proposal shall use the fee rates specified in the "TENANT IMPROVEMENT FEE SCHEDULE" paragraph in Section 1 of this lease. The Lessor shall exclude from the TI Price Proposal all costs for fixtures and/or other Tenant Improvements already in place. However, the Lessor will be reimbursed for costs to repair or improve the fixture(s) and/or any other improvements already in place.

B. The Tenant Improvements scope of work includes the lease, the single line drawings, the construction drawings/documents, and written specifications. In cases of discrepancies, the Lessor shall immediately notify the Contracting Officer for resolution. All differences will be resolved by the Contracting Officer in accordance with the terms and conditions of the lease.

C. A minimum of two qualified General Contractors (GCs) shall be invited by the Lessor to participate in the competitive proposal process. Each participant shall compete independently in the process. In the absence of sufficient competition from the GCs, a minimum of two qualified subcontractors from each trade of the TICS Table (described below) shall be invited to participate in the competitive proposal process. At its sole discretion, the Government may be willing to consider a price proposal that is not based on a competitive bidding process if competition is not available or if otherwise warranted; however, in this case the Government reserves the right to use other analytical means to determine the reasonableness of the price or determining cost realism.

D. Each TI proposal shall be 1) submitted by the proposed General Contractors (or subcontractors) using the Tenant Improvement Cost Summary (TICS) Table in CSI Masterformat; 2) reviewed by the Lessor prior to submission to the Government to insure compliance with the scope of work (specified above) and the proper allocation of shell and TI costs; and 3) reviewed by the Government. The GCs shall submit supporting bids from major subcontractors along with additional backup to the TICS Table in a format acceptable to the Government, consistent with the TICS Table Masterformat cost elements.

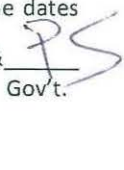

E. Unless specifically designated in this Lease as a Tenant Improvement cost, all construction costs shall be deemed to be included in the Shell Rent (or Building Specific Security Cost, if applicable). Any costs in the GC's proposal for building shell and building specific security items shall be clearly identified on the TICS Table separately from the Tenant Improvement costs.

F. The Government reserves the right to determine if bids meet the scope of work, that the price is reasonable, and that the Lessor's proposed contractors are qualified to perform the work. The Government reserves the right to reject all bids at its sole discretion. The Government reserves the right to attend or be represented at all negotiation sessions between the Lessor and potential contractors.

G. The Lessor shall demonstrate to the Government that best efforts have been made to obtain the most competitive prices possible, and the Lessor shall accept responsibility for all prices through direct contracts with all contractors. The Contracting Officer shall issue to the Lessor a notice to proceed with the Tenant Improvements upon the Government's sole determination that the Lessor's proposal is acceptable. The Lessor shall complete the work within the time frame requirements specified in the "SCHEDULE FOR COMPLETION OF SPACE" paragraph in this Section and other paragraphs of this lease.

4.05 CONSTRUCTION SCHEDULE AND INITIAL CONSTRUCTION MEETING (APR 2011)

The Lessor shall furnish a detailed construction schedule (such as Critical Path Method) to the Government within 5 working days of issuance of the NTP. Such schedule shall also indicate the dates



available for Government contractors to install telephone/data lines or equipment, if needed. Within 5 working days of NTP, the Lessor shall initiate a Construction Meeting. The Lessor will have contractor representatives including its Architects, Engineers, General Contractor and sub-contractor representatives in attendance. The Lessor shall keep meeting minutes of discussion topics and attendance.

4.06 PROGRESS REPORTS (APR 2011)

After start of construction, the Lessor shall submit to the LCO written progress reports at intervals of 10 working days. Each report shall include information as to the percentage of the work completed by phase and trade; a statement as to expected completion and occupancy date; changes introduced into the work; general remarks on such items as material shortages, strikes, weather, etc, that may affect timely completion; and periodic photographs to chart progress. In addition, at the Government's discretion, the Lessor shall conduct meetings every two weeks 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.

4.07 ACCESS BY THE GOVERNMENT PRIOR TO ACCEPTANCE (APR 2011)

The Government shall have the right to access any space within the building during the conduct of interior construction for the purposes of performing inspections or installing Government furnished equipment. The Government shall coordinate with the Lessor the activity of Government contractors to minimize conflicts with and disruption to other contractors on site. Access shall not be unreasonably 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.

4.08 CONSTRUCTION INSPECTIONS (APR 2011)

A. The LCO or the LCO's designated technical representative may periodically inspect construction work to review compliance with Lease requirements and approved DIDs.

B. Periodic reviews, witnessing of tests, and inspections by the Government shall not constitute approval of the Lessor's apparent progress toward meeting the Government's objectives but are intended to discover any information which the LCO may be able to call to the Lessor's attention to prevent costly misdirection of effort. The Lessor shall remain responsible for designing, constructing, operating, and maintaining the building in full accordance with the requirements of the Lease.

4.09 ACCEPTANCE OF SPACE AND CERTIFICATE OF OCCUPANCY (APR 2011)

A. Ten (10) working days prior to the completion of the Space, the Lessor shall issue written notice to the Government to schedule the inspection of the Space for acceptance. The Government shall accept the Space only if the construction of building shell and TIs conforming to this Lease and the approved SLDs is substantially complete, and a Certificate of Occupancy has been issued as set forth below.

B. The Space shall be considered substantially complete only if the Space may be used for its intended purpose, and completion of remaining work will not interfere unreasonably with the Government's enjoyment of the Space. Acceptance shall be final and binding upon the Government with respect to conformance of the completed TIs to the approved SLDs, with the exception of items identified on a punch list generated as a result of the inspection, concealed conditions, latent defects, or fraud, but shall not relieve the Lessor of any other Lease requirements.

C. The Lessor shall provide a valid Certificate of Occupancy, issued by the local jurisdiction, for the intended use of the Government. If the local jurisdiction does not issue Certificates of Occupancy or if the Certificate of Occupancy is not available, the Lessor may obtain satisfaction of this condition by obtaining

the services of a licensed fire protection engineer to verify that the offered space meets all applicable local codes and ordinances to ensure an acceptable level of safety is provided. Under such circumstances, the Government shall only accept the Space without a Certificate of Occupancy if a licensed fire protection engineer determines that the offered space is compliant with all applicable local codes and ordinances.

4.10 LEASE TERM COMMENCEMENT DATE AND ANNUAL RENT RECONCILIATION (APR 2011)

At acceptance, the Space shall be measured in accordance with the standards set forth in this Lease to determine the total ABOA square feet in the Space, which, together with the CAF established in Section 1, will yield the total Rentable Area of the Premises. The rent for the space will be adjusted based upon the measured ABOA square footage for the purpose of adjusting the annual rent. At acceptance, the Lease term shall commence. The Lease Term Commencement Date, final measurement of the Premises, reconciliation of the annual rent, and amount of Commission Credit, if any, shall be memorialized by Lease Amendment.

4.11 AS-BUILT DRAWINGS (APR 2011)

Not later than 60 days after the acceptance of the Space, the Lessor shall furnish to the Government a complete set Computer Aided Design (CAD) files of as-built floor plans showing the space under lease, as well as corridors, stairways, and core areas. The plans shall have been generated by a CAD program which is compatible with the latest release of AutoCAD. The required file extension is ".DWG." Clean and purged files shall be submitted on CD-ROM. They shall be labeled with building name, address, list of drawing(s), date of the drawing(s), and Lessor's architect and architect's phone number. The Lessor's operator shall demonstrate the submission on GSA equipment, if requested by the LCO.

4.12 LIQUIDATED DAMAGES (APR 2011)

In case of failure on the part of the Lessor to complete the work within the time fixed in the Lease contract, the Lessor shall pay the Government as fixed and agreed liquidated damages \$ 400.00 for each and every calendar day that the delivery is delayed beyond the date specified for delivery of all the space ready for occupancy by the Government. This remedy is not exclusive and is in addition to any other remedies which may be available under this Lease or at law. This liquidated sum is not meant as a penalty, but as an approximation of actual damages that would be suffered by the Government because of the Lessor's delay."

This document is now considered part of Request for Lease Proposal Number GS-09B-02828.

U.S. General Services Administration
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