

US GOVERNMENT LEASE FOR REAL PROPERTY

DATE OF LEASE

LEASE NO.

LMT14406

THIS LEASE, made and entered into this date by and between Boyer Project Company, L.C.

Whose address is 90 SOUTH 400 WEST
SUITE 200
SALT LAKE CITY, UT 84101-1365

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 considerations hereinafter mentioned, covenant and agree as follows:

1. The Lessor hereby leases to the Government the following described premises:

A total of 149,966 rentable square feet (RSF) of office, warehouse and related space, which yields 140,682 ANS/BOMA Office Area square feet (USF) of space. The office space shall be located in a to-be-built facility on the 2.4 acre site located at the NW corner of the intersection of 4th Avenue North and North 20th Street, Billings, Montana and shall consist of approximately 119,510 rentable square feet (RSF) of office and related space and shall yield 110,658 ANS/BOMA Office Area square feet (USF) together with 59 secured, on-site employee parking spaces and 121 on-site employee, visitor and handicapped parking spaces at no additional cost to the Government. Warehouse and wareyard space shall be located in a to-be-built facility on a 2.2 acre parcel subdivided from a larger site of 6.48 acres located along Nail Avenue near 27th Street, Billings, Montana. The to-be-built facility shall consist of approximately 30,456 rentable square feet and will yield 30,024 ANS/BOMA square feet of warehouse space together with an adjacent secured wareyard of 35,000 square feet and 11 on-site surface parking spaces. The wareyard and the 11 on-site surface parking spaces shall be at no additional cost to the Government. Both the office space and the warehouse / wareyard space shall be used for such purposes as determined by the General Services Administration.

2. TO HAVE AND TO HOLD the said premises with their appurtenances for the term beginning January 1, 2013 and continuing through twenty (20) years, subject to termination and renewal rights as may be hereinafter set forth.

3. The Government shall pay the Lessor monthly in arrears in accordance with the following table:

Months	Annualized Shell	Annualized Cost of Services	Annualized Tenant Improvement Allowance	Annualized Building Specific Security	Total Annual Rent	Total Monthly Rent
1 - 180	\$2,273,254.17	\$1,004,731.00	\$298,622.33	\$3,076.50	\$3,579,684.00	\$298,307.00
181 - 240	\$2,571,876.50	\$1,004,731.00	\$0.00	\$3,076.50	\$3,579,684.00	\$298,307.00

(Continued on Page 2)

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

LESSOR
BOYER PROJECT COMPANY, L.C.

Manager
(Title)
90 South 400 West #200
Salt Lake City, UT 84101
(Address)

UNITED STATES OF AMERICA

BY

Contracting Officer, General Services Administration
(Official Title)

Rent shall be adjusted in accordance with the provisions of the Solicitation For Offers and General Clauses. Rent for a lesser period shall be prorated. Rent shall be made payable to:

BOYER PROJECT COMPANY, L.C.
90 SOUTH 400 WEST, SUITE 200
SALT LAKE CITY, UT 84101-1365

4. ~~The Government may terminate this lease at any time after the 10th year by giving at least 90 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 furnish to the Government, as part to the rental consideration, the following:

A. Those facilities, services, supplies, utilities, and maintenance in accordance with SFO 5MT0036 dated November 23, 2010, as amended.

B. Build out in accordance with standards set forth in SFO 5MT0036 dated November 23, 2010, as amended, and the Government's design intent drawings. Government space plans shall be developed by Lessor subsequent to award. All tenant alterations to be completed by the lease effective date identified under Paragraph 2 above. Lease term to be effective on date of occupancy and shall be confirmed in a subsequent Supplemental Lease Agreement. The Lessor hereby waives restoration.

C. Deviations to the approved design intent drawings will not be permitted unless prior written authorization is obtained from the GSA Contracting Officer.

7. The following are attached and made a part hereof:

A. Solicitation for Offers 5MT0036 dated November 23, 2010 (65 pages)

B. Special Requirement 1: Detailed Special Requirements and Program of Requirements (POR) for each agency provided on CD ROM.

C. Amendment No. 1 dated January 4, 2011 (2 pages)

D. Amendment No. 2 dated March 3, 2011 (5 pages) plus Guiding Principles (4 pages)

E. Amendment No. 3 dated March 15, 2011 (3 pages) plus Attachment: Special Requirements: 3, [REDACTED] Special Requirements (1 page)

F. Amendment No. 4 dated March 25, 2011 (2 pages)

G. Amendment No. 5 dated May 23, 2011 (3 pages)

H. Exhibit A - Legal Descriptions (1 page)

I. Exhibit B - Floor Plans (6 pages)

J. GSA Form 3517B entitled GENERAL CLAUSES (Rev. [11/05]) (33 pages)

K. GSA Form 3518 entitled REPRESENTATIONS AND CERTIFICATIONS (Rev. [1/07]) (7 pages)

8. Paragraph 4 of Standard Form 2 has been deleted in its entirety.

9. Paragraph 5 of Standard Form 2 has been deleted in its entirety.

10. In accordance with the SFO paragraph entitled *Tenant Improvement Rental Adjustment*, Tenant Improvements in the total amount of \$4,479,335.00 (140,682 USF x \$31.84) shall be amortized through the rent for 180 months at the rate of 0.0%. The total annual cost of Tenant Improvements for the amortization period shall be \$298,622.33. All approved overages in the Tenant Improvement Allowance shall be paid by the Government via lump sum payment upon completion and acceptance of the improvements.

11. In accordance with the SFO paragraph entitled *Percentage of Occupancy*, the percentage of Government occupancy is established as 100.00% for both the Office space and the Warehouse space.

12. In accordance with the SFO paragraph entitled *Operating Costs*, the cost of services base is \$1,004,731.00 per annum. This lease is subject to operating cost escalation.

LESSOR

UNITED STATES OF AMERICA

BY _____

(Initial)

BY _____

(Initial)

13. In accordance with the SFO paragraph entitled *Common Area Factor*, the common area factor is established as 1.065 (149,966 RSF/140,682 USF).

14. In accordance with the SFO paragraph entitled *Adjustment for Vacant Premises*, the adjustment for the Office space is established as \$1.50 per ANSI/BOMA Office Area Square Foot rental reduction (for an entire floor only) for vacant space and shall be \$1.00 per ANSI/BOMA Office Area Square Foot rental reduction (for the entire building only) for the Warehouse.

15. In accordance with SFO Paragraph 4.2 entitled *Tax Adjustment*, this lease is subject to real estate tax adjustments. The Real Estate Tax Base amount shall be established after the first full Tax Year following the commencement of the Lease Term. The percentage of occupancy is 100.00%.

16. In accordance with the SFO Paragraph entitled *Overtime Usage*, the rate for overtime usage in the Office space is established as \$45.00 per hour per floor and requires a full floor minimum. The rate for overtime usage in the Warehouse space shall be \$65.00 per hour and must be for the entire building. The Lessor shall not charge the Government for Overtime Heating and Cooling if the Heating and Cooling is operating beyond the Normal Hours stipulated in this agreement unless requested by the Government in advance. The Overtime Heating and Cooling Usage rate shall not apply to any portion of the Premises that is required to have heating and cooling 24 hours per day as specified by the lease agreement. Areas requiring 24 hours per day heating and cooling shall be separately metered and charged to the Government monthly on a direct cost basis. The charges for separately metered areas shall be for those hours other than Normal Hours as stated in the SFO.

17. Security costs in the total amount of \$61,530.00 shall be amortized through the rent for 240 months at the rate of 0.0%.

18. Fees applicable to Tenant Improvements shall not exceed:
General Conditions - 5.0% of Tenant Improvement costs
General Contractor - 4.0% of Tenant Improvement costs
Architectural/Engineering - 6.0% of Tenant Improvement costs
Lessor Project Management Fee - 5.0%

19. In accordance with Paragraph 2.5 (Broker Commission and Commission Credit), Studley, Inc. ("Studley") is the authorized real estate broker representing GSA in connection with this lease transaction. The Lessor and Studley have agreed to a cooperating lease commission of [redacted] of the firm term value of this lease for years 1 - 15 and [redacted] of the firm term value of this lease for years 16 - 20 ("Commission"). The total amount of the Commission is [redacted] and is earned upon lease execution, payable according to the Commission Agreement signed between the two parties. Due to the Commission Credit described in Paragraph 2.B, only [redacted] of [redacted] of the Commission, will be payable to Studley. The remaining [redacted], or [redacted] which is the "Commission Credit", shall be credited to the shell rental portion of the annual rental payments due and owing to fully recapture this Commission Credit. The reduction in shell rent shall commence with the first full month of the rental payments and continue until the credit has been fully recaptured in equal monthly installments over the shortest time period practicable.

Notwithstanding Paragraph 3 of this Lease, 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 first full month of the rental payments and continue as indicated in this schedule for adjusted Monthly Rent:

The reduction in shell rent shall commence with the first full month of the rental payments. The reduction shall occur for seven (7) months and will be in equal payments. Upon completion of the improvements and acceptance of the space, this Lease shall be supplemented and will identify the rental rate schedule for the initial months of the term and the application of the total commission credit.

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LESSOR

UNITED STATES OF AMERICA

BY _____

(initials)

BY _____