GENERAL SERVICES ADMINISTRATION PUBLIC BUILDINGS SERVICE	LEASE AMENDMENT No. 2
LEASE AMENDMENT	TO LEASE NO. GS-08P-14744
ADDRESS OF PREMISES 2200 NORTH MAPLE AVENUE SUITE 301 RAPID CITY, SD 57701-7854	PDN Number – PS0031532

THIS AMENDMENT is made and entered into between SM RUSHMORE MALL, LLC

whose address is:

#### 2200 NORTH MAPLE AVENUE RAPID CITY, SOUTH DAKOTA 57701-7854

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 establish and reflect Beneficial Occupancy in the Rent Table, to revise the Broker Commission and Commission Credit, to clarify the Tenant Improvement Allowance (TIA), and to memorialize Change Orders 1-7.

NOW THEREFORE, these parties for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, covenant and agree that the said Lease is amended, effective September 11, 2015 as follows:

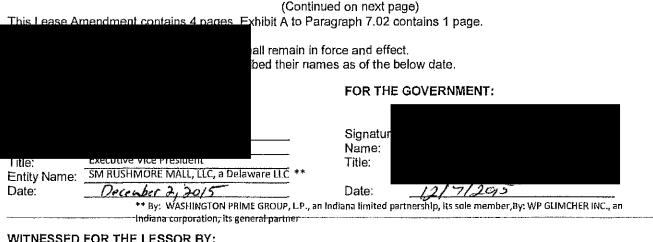
The Lease Term and Lease Paragraphs 1.03, 1.04, 1.05, 1.08, 1.11, 1.12 and 7.02 are hereby deleted in their entirety and replaced below. Lease Paragraph 7.03 is hereby added to the Lease.

# LEASE TERM

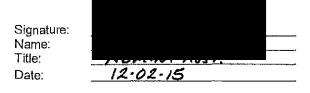
To Have and To Hold the said Premises with its appurtenances for the term beginning September 11, 2016 and continuing for a period of

15 Years, 10 years Firm,

subject to termination rights as are hereinafter set forth.



### WITNESSED FOR THE LESSOR BY:



In Witness Whereof, the parties to this Lease evidence their agreement to all terms and conditions set forth herein by their signatures below, to be effective as of the date of delivery of the fully executed Lease to the Lessor.

### 1.03 RENT AND OTHER CONSIDERATION (JUN 2012)

A. The Government shall pay the Lessor annual rent, payable in monthly installments in arrears, at the following rates:

	09/11/2015 - 09/10/2018	09/11/20	)18 - 09/10/2021	09/11/2021 - 09/10/2025	09/11/2025	i - 09/10/2030
	ANNUAL RENT	AN	IUAL RENT	ANNUAL RENT	ANNU	AL RENT
Shell Rent <sup>1</sup>	\$ 139,897.20	\$	152,909.57	\$ 166,785.32	\$	188,493.16
Real EstateTax <sup>2</sup>	\$ 17,361.30	\$	17,361.30	\$ 17,361.30	\$	17,361.30
Operating Costs <sup>3</sup>	\$ 26,518.10	\$	26,518.10	\$ 26,518.10	\$	26,518.10
Tenant Improvements Rent <sup>4</sup>	\$ 27,203.28	\$	27,203.28	\$ 27,203.28		\$0
Bullding Specific Amortized Capital <sup>5</sup>	\$ 1,965,87	\$	1,965.87	\$ 1,965.87		\$0
TOTAL ANNUAL RENT	\$ 212,945.75	\$	225,958.12	\$ 239,833.87	\$	232,372.56

<sup>1</sup>Shell rent and <sup>2</sup>Real Estate Tax: \$25.50 per RSF multiplied by 6,167 RSF years 1-3

\$27.61 per RSF multiplied by 6,167 RSF years 4-6

\$29.86 per RSF multiplied by 6,167 RSF years 7-10

\$33.38 per RSF multiplied by 6,167 RSF years 11-15

<sup>3</sup>Operating Costs rent calculation: \$4.30/RSF multiplied by 6,167 RSF

<sup>4</sup>The Tenant Improvement Allowance of \$240,473.38 is amortized at a rate of 2.5 percent per annum over 10 years.

<sup>5</sup>Building Specific Amortized Capital of \$17,378.00 is amortized at a rate of 2.5 percent over 10 years.

In instances where the Lessor amortizes either the TI or Building Specific Security for a period exceeding the Firm Term of the Lease, should the Government terminate the Lease after the Firm Term or does not otherwise renew or extend the term beyond the Firm Term, the Government shall not be liable for any unamortized cost beyond the Firm Term.

- B. Rent is subject to adjustment based upon a mutual on-site measurement of the Space upon acceptance, not to exceed 5,782 ABOA SF based on the methodology outlined under the "Payment" clause of GSA Form 3517
- C. Rent is subject to adjustment based upon the final Tenant Improvement (TI) cost to be amortized in the rental rate, as agreed upon by the parties subsequent to the Lease Award Date.
- D. If the Government occupies the Premises for less than a full calendar month, then rent shall be prorated based on the actual number of day of occupancy for that month.
- E. Rent shall be paid to the Lessor by electronic funds transfer in accordance with the provisions of the General Clauses. Rent shall be payable to the Payee designated in the Lessor's (SAM)/System for Award Management. If the payee is different from the Lessor, both payee and Lessor must be registered in SAM.
- F. Lessor shall provide to the Government, in exchange for the payment of rental and other specified consideration, the following:
  - a. The leasehold interest in the Property described in the paragraph entitled "The Premises."
  - All costs, expenses and fees to perform the work required for acceptance of the Premises in accordance with this Lease, including all labor, material, and equipment, professional fees, contractor fees, attorney fees, permit fees, inspection fees, and similar such fees, and all related expenses;
  - c. Performance or satisfaction of all other obligations set forth in this Lease; and all services, utilities, and maintenance required for the proper operation of the Property, the Building and the Premises in accordance with the terms of the Lease, including, but not limited to, all inspections, modifications, repairs, replacements, and improvements required to be made thereto meet the requirements of this Lease.
- G. SUB-PARAGRAPH INTENTIONALLY DELETED

### 1.04 BROKER COMMISSION AND COMMISSION CREDIT (JUNE 2012)

A. DTZ AMERICAS, INC. d/b/a Cushman & Wakefield (formerly UGL Services Equis Operations Co.) (Broker) is the authorized real estate Broker representing GSA in connection with this Lease transaction. The total amount of the Commission is and is earned upon Lese execution, payable according to the Commission Agreement signed.

INITIALS;

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between the two parties. Only **Sectors** of the Commission will be payable to **DTZ AMERICAS**, **INC**, with the remaining **Sectors**, which is the Commission Credit, to 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 month of the rental payments and continue until the credit has been fully recaptured in equal monthly installments over the shortest time practicable.

B. Notwithstanding the "Rent and Other Consideration" paragraph of this Lease, the shell rental payments due and owing under this Lease shall be reduced to recapture fully this Commission Credit. The reduction in shell rent shall commence with the first month of the rental payments and continue as indicated in this schedule for adjusted Monthly Shell Rent:

October 2015 Shell Rental Payment \$13,104.88 minus prorated Commission Credit of equals equals adjusted October 2015 Shell Rent.\*

November 2015 Shell Rental Payment \$13,104.88 minus prorated Commission Credit of equals adjusted November 2015 Shell Rent.\*

\* Subject to change based on adjustments outlined under the paragraph "Rent and Other Consideration.

# 1.05 TERMINATION RIGHTS (AUG 2011)

The Government may terminate this Lease, in whole or in part, at any time effective after September 10, 2025, by providing not less than 90 days' prior written notice to the Lessor. No rental shall accrue after the effective date of termination.

### 1.08 TENANT IMPROVEMENT ALLOWANCE (AUG 2011)

The Tenant Improvement Allowance (TIA) for purposes of this Lease is \$240,473.38. This amount is amortized in the rent over the first ten years of this Lease at an annual interest rate of 2.5%.

## 1.11 PERCENTAGE OF OCCUPANCY FOR TAX ADJUSTMENT (JUN 2012)

As of the Lease Award Date, the Government's Percentage of Occupancy, as defined in the "Real Estate Tax Adjustment" paragraph of this Lease is 2.09 percent.

#### 1.12 REAL ESTATE TAX BASE (JUN 2012)

The negotiated and fully assessed Real Estate Tax Base, as defined in the "Real Estate Tax Adjustment" paragraph of the Lease is \$17,361.30, which equates to 2.09% of \$830,684.00.

#### 7.02 NOTICE TO PROCEED WITH TENANT IMPROVEMENTS/CHANGE ORDERS:

A. The Government hereby orders Tenant Improvements in excess of the Tenant Improvement Allowance, the TI Overage, and changes per the table in subparagraph B. The approved prices for the TI Overage, Change Orders 1-5, and other changes include all costs for labor, all materials, overhead, profit, applicable sales tax, permitting and A/E fees, and interest to complete the work. The total costs for change orders exceeds the TIA included in the Lease and will be paid via lump sum upon completion of the work by the Lessor and inspection and acceptance of the space by the Government per the invoicing instructions detailed in Paragraph 7.03.

В.

TI Pricing/ CO#	Description	Amount	Status		
TI Overage	TI & BSAC Costs Exceeding TIA and BSAC Based on Approved TICS		Approved		
CO #1	Revision to 75% CDs (included in TICS proposal)	\$0.00	Approved 2//		
			INITIALS: J/V LESSOR	&	Reov

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CO #2	Exterior Concrete Work		Approved
CO #3	Concrete, Electrical, &		Approved.
CO #4	Power & Data Relocations		Approved
CO #5	Security Modifications		Approved
	Sign		Approved
	Interior Concrete		Approved
	Floor Prep		Approved
	Wainscoting		Approved
Total Lump Sum		\$330,139.84	
Payment:			

- C. The Government confirms that the work included in the TI Overage, Change Orders 1-5, and other changes as shown in Sub-Paragraph A above in the amount of the analysis of the best of the lessor once work is accepted by the Government. The Lessor may now submit an invoice in the amount of the amount of the amount of the lessor once work is accepted by the Government. The Lessor may now submit an invoice in the amount of the amount of the amount of the lessor once work is accepted by the Government.
- D. Exhibit A (attached below) Tenant Improvements Cost Summary (TICS), dated May 7, 2015.

### 7.03 INVOICING INSTRUCTIONS

**Reimbursable Items:** The Lessor hereby agrees to provide, install and maintain the items described in the attachments of this Notice to Proceed. The Government agrees to reimburse the Lessor in the amount of **Sector 1** to be paid on a lump sum basis upon completion of the work, inspection and acceptance by the Government and upon receipt of an itemized invoice from the Lessor. In no event shall the Government make payment prior to the completion, inspection and acceptance. Payment shall be forwarded to: SM Rushmore Mall, LLC, 2200 North Maple Avenue, Rapid City, South Dakota 57701-7854.

The Vendor receiving payment shall issue an invoice. The invoice shall include a unique invoice number and cite the following PDN Number PS0031532. Invoice(s) submitted without the PDN number are immediately returned to the Vendor. Invoice shall be submitted to the Greater Southwest Finance Center (with a copy to the Contracting Officer) electronically on the Finance website at <u>www.finance.gsa.gov.</u>

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