

GENERAL SERVICES ADMINISTRATION
PUBLIC BUILDINGS SERVICE

SUPPLEMENTAL AGREEMENT

DATE

NO. 6

2/1/93

SUPPLEMENTAL LEASE AGREEMENT

TO LEASE NO.

GS- 03B-09074

ADDRESS OF PREMISES City Crescent Office Building
10 South Howard Street
Baltimore, Maryland 21201

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

whose address is City Crescent Limited Partnership
c/o Otis Warren Real Estate Services
7034 Liberty Road
Baltimore, Maryland 21207

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

WHEREAS, the parties hereto desire to amend the above Lease.

NOW THEREFORE, these parties for the considerations hereinafter mentioned covenant and agree that the said Lease is amended, effective January 11, 1993, as follows:

A. RESOLUTION OF OPEN ISSUES:

1. The City Crescent Limited Partnership (CCLP) has agreed to waive its right to claim for an equitable adjustment to the lease for government delays incurred prior to November 20, 1992. This waiver of claims is expressly contingent upon the following conditions which have been agreed to by the General Services Administration (GSA) and the CCLP: * as amended (copy attached) *Q/JR*

a.) The GSA has agreed to accept delivery of the space in the City Crescent Building (CCB) in phases in accordance with the Government's schedule dated November 2, 1992, *(Schedule) and agreed further that the cafeteria, health unit and fitness center would be delivered with the last phase of the Schedule (except for long lead items which require additional time and can not be delivered in time to meet the schedule). The CCLP has agreed to deliver the space according to this Schedule. This agreement supersedes and replaces the requirement in the lease that the space be delivered by March 31, 1993.

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

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

LESSOR City Crescent Limited Partnership

By Otis Warren of Maryland City
Crescent, Inc
resident

(Title)

7034 Liberty Road Balto., 21207

(Address)

ate Division, Shenandoah Branch

BY

2/1/93

Contracting Officer

(Official Title)

SUPPLEMENTAL LEASE AGREEMENT
NUMBER 6 TO LEASE NUMBER
GS-03B-09074.....PAGE 2

b.) The GSA has agreed that if the CCLP delivers the space on the dates specified in the Government's schedule as the "Landlord Turnover Date" the composite lease commencement date for the whole space will be March 31, 1993, and there will be no liquidated damages assessed against the CCLP. This composite lease commencement date, i.e. March 31, 1993, is based on the agreement of the parties, and is not a mathematical derivative of the Government's schedule.

c.) The GSA has acknowledged and agreed that the CCLP's obligation to deliver the space on the dates specified shall be met if the space is in a substantially complete condition, except for punch list items, including the base building items described below. Instead of actual occupancy, the GSA has agreed to consider the requirements for installation of systems furniture, the completion of the lease-required heating, ventilation and air-conditioning (HVAC) and the actual move-in dates which are specified on the Schedule, as the measure of substantial completion. The GSA has also agreed to accept the phases turned over prior to March 31, 1993, with base building work such as start-up and balancing of HVAC systems, testing of life-safety systems, and testing and inspection of elevators still in progress, which base building work is scheduled to be completed by March 31, 1993.

d.) Both parties have agreed that if the space is not delivered in accordance with the agreed-to schedule because of possible future delays caused by the Government, the resultant delay in delivery due solely to Government, i.e. Government requested changes to the 100% design intent drawings, would not cause the lease commencement date to be later than March 31, 1993. Both parties, the CCLP and GSA, also agree that the CCLP's obligation to deliver the [redacted] space on schedule will require a complete Notice to proceed for all above-Solicitation For offers items not later than December 11, 1992.

e.) The GSA has agreed to provide final resolution of the design issues identified off the design intent drawings of the [redacted] [redacted] by the Weihe Partnership (lessor's architect), together with notices to proceed, on the dates as follows. The following deadlines pertain only to the [redacted] design intent drawings:

- i) Locks & Hardware by 11/20/92.
- ii) Electrical & Wiring for Systems Furniture by 11/23/92.
- iii) above-standard HVAC, Plumbing and Electrical Modifications by 11/30/92.
- iv) All other design issues by 12/11/92

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ND** and payment for any liquidated damages owed by the Lessor, if any,

SUPPLEMENTAL LEASE AGREEMENT
NUMBER 6 TO LEASE NUMBER
GS-03B-09074.....PAGE 3

f.) If a delay occurs and the Schedule cannot be met, regardless of the cause of the delay (lessor, GSA or force majeure), GSA has acknowledged and agreed to pay rent for at least 256,000 net usable square feet (nurf), this represents the Lender's Minimum Square Footage, beginning on July 31, 1993, (the "Rent Commencement Date" herein defined as the date for the Government's obligation to pay rent). Therefore, notwithstanding any delay in meeting the schedule, the rent for 256,000 nurf will start accruing on July 31, 1993. This agreement supersedes the agreement in the lease that the Government's Obligation to pay rent would begin upon expiration of the rent abatement period (which was intended to be computed from the date the space was accepted by the Government).

The parties have agreed, however, that if there is a net delay in delivery of the space (as defined below), the Government will pay the minimum required rent for 256,000 nurf beginning on July 31, 1993, and credit the rent due for the balance of the space as necessary to equal the excess rent paid for the Lender's Minimum Square Footage in advance of the Government's obligation to begin paying such rent. The adjustment to the rent for a net delay** (see above) shall be in the form of additional free rent and shall apply only to the rent otherwise due and owing for the net usable square footage that is the difference between the total nurf in the building and 256,000 nurf. For example, if a lessor delay equates to \$17,812.50 of free rent and if the final measurement of the building is 265,000 nurf, then GSA would be entitled to one month's free rent on the extra 9,000 nurf. (9,000 nurf x \$23.75 divided by 12 months = \$17,812.50) If there is no net delay, the Government shall begin paying full rent on July 31, 1993 for the total net usable square footage in the building.

Net delay (ND) shall be equal to the number of days by which delivery of the whole space by the CCLP is late less the number of days that delivery by the CCLP is early. To determine the ND for the whole space, the number of days of delay for each phase of delivery shall be weighted by multiplying the number of days of delay by the ratio of the net usable square footage included in the phase and the total net usable square footage in the building. Notwithstanding the foregoing, the computation of net delay can not result in rent being owed prior to Rent Commencement Date defined above. For example, if the CCLP is cumulatively 12 days late with 53,000 nurf and is 6 days early with 26,500 nurf, but on schedule with the balance of the nurf, the ND would be 1.8 days : $12 \times 53,000$ divided by 256,000 minus $6 \times 26,500$ divided by *265,000.) *This number may vary depending on final measurement at Government acceptance.

Initials:
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SUPPLEMENTAL LEASE AGREEMENT
NUMBER 6 TO LEASE NUMBER
GS-03B-09074.....PAGE 4

2. The CCLP has agreed to build-out the Health Unit, Cafeteria (including the agreed-to exhaust duct), Fitness Center, Telephone/LAN rooms on floors 2 thru 11 (@ 2 per floor), electrical strike panic hardware on all fire stair doors, and slab to slab corridor construction on floors 1, 2, 3, 4, and 6 only. This agreement is expressly contingent upon the following conditions which have been agreed to by the GSA and CCLP:

a.) The Health Unit (HU) will be constructed in accordance with the Revised 100% Design Intent Drawings dated May 22, 1992, and received by the CCLP on July 18, 1992, which were amended as noted on the redlined drawings dated December 1, 1992. CCLP will pay the cost of installation of all work specified on the drawings, except for items identified as "Government Furnished Equipment (GFE)". Any additional utility costs and operating costs associated with the operation of this facility will be addressed and negotiated at a future date through a subsequent SLA, in accordance with the Changes clause, Paragraph 17, of the Form 3517 which is incorporated in this lease. The HU will be delivered with the last phase of tenant space, i.e. May 3, 1993.

b.) The Cafeteria will be constructed in accordance with the Revised 100% Design Intent Drawings dated November 6, 1992, and the book of specifications dated August 21, 1992, which were amended as noted on the redlined drawings dated December 1, 1992. The work will include the exhaust duct in the location shown on the December 1, 1992, drawings, but exclude items identified as GFE. Any additional utility and operating costs associated with the operation of this facility will be addressed and negotiated at a future date through a subsequent SLA, in accordance with the Changes clause, Paragraph 17, of the Form 3517 which is incorporated in this lease. The cafeteria will be delivered with the last phase of tenant space, i.e. May 3, 1993.

c.) The Fitness Center (FC) will be constructed in accordance with the 100% Design Intent Drawings (DID's) received on October 23, 1992, which were amended as noted on the redlined drawings dated December 1, 1992. The work will exclude any items identified by the DID's as GFE. Any additional utility and operating costs associated with the operation of this facility will be addressed and negotiated at a future date through a subsequent SLA, in accordance with the Changes clause, Paragraph 17, of the Form 3517 which is incorporated in this lease. The FC will be delivered with the last phase of tenant space, i.e. May 3, 1993.

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(W) in accordance with the Changes Clause, Paragraph 17 of the GSA Form 3517 which is incorporated in this Lease.

SUPPLEMENTAL LEASE AGREEMENT
NUMBER 6 TO LEASE NUMBER
GS-03B-09074.....PAGE 5

d.) The Telephone/LANS rooms will be constructed in accordance with the letter dated July 14, 1992, and the subsequent clarification received on October 22, 1992. The CCLP will pay the cost of installing equipment to provide 24 hour a day HVAC for these rooms. The Government will pay for the additional utility costs associated with these rooms. The precise additional utility costs associated with the operation of these Telephone rooms will be addressed and negotiated at a future date through a subsequent SLA, * The Telephone/LANS rooms will be delivered with the finished space on each floor.

e.) The CCLP will provide and install electric strike hardware on each stair tower door in the CCB. This hardware will be locked at all times, except when it is opened in case of fire or when open by an above-standard card/key access system. The hardware will be tied into the building's fire alarm system. Card readers are not included, and will only be added at the Government's expense.

(W)
* the walls

f. The CCLP will install, at its expense, the slab to slab construction specified in the Design Intent Drawings (DID's) for the portion of the corridors extending from stairtower to stairtower and *surrounding every firetower on the 1st, 2nd, 3rd, 4th and 6th floors. The Government will pay the cost of all other slab to slab corridors, excluding building-support-space. The government's responsibility includes the outside loop corridor walls around the southern core of the building (the inside loop corridor walls are a part of the fire tower construction, i.e. building-support-space) and any upgrades to the doors and hardware not required by the lease. However, the lessor will provide and install at its expense slab to slab corridor walls where such corridor walls are part of a special use area for which slab to slab construction is required by the lease.

g.) The CCLP has agreed to provide and install at its expense the previously agreed to "Non-Corps" finishes in the corridors on the multi-agency floors, heretofore agreed to be the 3rd, 4th, 5th, and 6th floors. On the remaining floors, the CCLP will be required to provide only the building standard finishes in all areas, including the corridors. However, the Government may choose upgraded finishes at its expense.

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(Signature)
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SUPPLEMENTAL LEASE AGREEMENT
NUMBER 6 TO LEASE NUMBER
GS-03B-09074.....PAGE 6

h.) The GSA has agreed to waive its right under Sections 3.1 and 3.2 of the lease to receive a credit for unit cost adjustments for all unit cost items not used in accordance with the DIDs received by the CCLP prior to the date of this agreement, and further agreed to waive its right to receive a credit for the special space requirements of the Secret Service. Both the GSA and CCLP agree that there will be no credit owed to the Government by the CCLP, and any credit otherwise owed will be applied by the CCLP to the cost of building out the space requirements set forth in paragraph 2 (a-g) above.

i.) GSA has agreed to change the requirement in the DIDs for slab to slab corridor construction on the 5th, 7th thru 11th floors so that the CCLP will provide and install building standard ceiling high partitions in these corridors with building standard finishes in the corridors of floors 7th thru 11th with building standard finishes as agreed-to by the GSA and CCLP. The Government will pay the cost, if any, of any upgrades to the corridor walls not required by the lease, except where CCLP will provided, at its expense such upgrades where the corridor wall is part of a special use area for which slab to slab construction or other upgrade is required by the lease.

j.) The GSA has approved the CCLP selected 2' x 2', non-regular edged ceiling tile for use throughout the building, except where the lease has otherwise set forth specific alternatives.

3.) The GSA has agreed that in making its final measurement of the space for establishing the payment of rent, it will not exclude from its net usable measurement any space included in the corridors constructed by CCLP in the tenant space as per the Government's design intent drawings, the GSA designed telephone rooms, or the area of the loading dock identified in the Weihe Partnership issued drawings dated October 26, 1992 as GSA net usable space.

4.) Notwithstanding the actual measurement, both GSA and the CCLP have agreed that 265,000 nuf shall be the maximum amount of nuf for which the Government will pay rent. The CCLP has agreed to the 265,000 nuf maximum, even though the measurement taken from the drawings prepared by the Weihe Partnership indicate that there are approximately 266,100 nuf in the building. Both parties intend that this agreement on measurement of the space shall supersede any reference in the lease to 256,000 nuf as the approximate total net usable square feet in the building. If actual measurement determines that the net usable square footage is less than 265,000 then the lesser square footage shall be what the Government accepts.

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B. PAYMENT FOR CHANGE ORDERS - ABOVE SFO COSTS:

The GSA and the CCLP agree to negotiate and agree to the above-SFO costs for the tenant agency spaces as if time is of the essence. The above SFO costs for each agency will include the total cost of above-SFO work less any special requirement credits, plus appropriate markups for general contractor overhead and profit, taxes, and a lessor coordination fee of 16%. Within fifteen (15) working days of final agreement between the parties, the GSA will issue Supplemental Lease Agreements incorporating the agreed-to costs in the lease, and make lump sum payments therefore, except as agreed below.


a.) The GSA has agreed to make lump sum payments for all [redacted] above-standard alterations within thirty (30) days of acceptance of the space by the Government. Payment for these alterations will be governed by the Prompt Payment provisions in the lease.

b.) The CCLP has agreed to provide the GSA with an allowance of \$1,350,000 of above-standard alterations for the [redacted] which may be amortized in the rental rate over the term of the lease. This agreement is conditioned on the following express requirements:

1. The GSA shall waive the four (4) months free rental abatement period set forth in the lease, and shall begin full payment of the rent as of the Lease Commencement Date, i.e. March 31, 1993, subject only to the provisions for net delay as described above in Paragraph A (1)(f). Further, notwithstanding the provisions of Paragraph A (1)(f) above, or any other provision in the lease, the rent shall accrue as of March 31, 1993.

2. The GSA will negotiate and agree to a SLA for the above-standard alterations prior to January 15, 1993, or issue a notice to proceed with a fixed dollar amount not to exceed, \$1,350,000, including general contractor's (OMNI) overhead, profits, and taxes.


3. The \$1,350,000 allowance shall include all negotiated and agreed-to above-SFO costs, including general contractor's (Omni's) overhead, profit and taxes, but exclude the lessor's coordination fee of 16%, and any administrative financing charges incurred by the CCLP in obtaining the funds which are to be amortized in the rent.

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C.) BUILDING ACCESS

The CCLP will provide the proper customary and reasonable level of protection to the main lobby, the passenger elevators and all other exposed public areas of the City Crescent Building (CCB) in order to avoid damage as a result of the Government's expedited move-in. Further, the CCLP will ensure that all elevators are protected during the move-in period, and will coordinate access to the loading/unloading areas with others working in the space to facilitate the Government's move. The CCLP acknowledges that moving will be nonstop (24 hours a day) during this period, and will be responsible for ensuring that the entrance to the loading dock is kept unobstructed. The CCLP will also provide and install, if necessary, any temporary ramps needed to accommodate the Government's movement of personal property in the CCB. Notwithstanding the foregoing, however, the Government will be responsible for damage resulting directly from the negligence, act or omission of federal employees acting within the scope of their employment as otherwise provided in the Federal Tort Claims Act.

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