

GENERAL SERVICES ADMINISTRATION PUBLIC BUILDINGS SERVICE	LEASE AMENDMENT No. 2
LEASE AMENDMENT	TO LEASE NO. GS-07P-LTX17204 <i>LNM</i>
ADDRESS OF PREMISES 1551 Mercantile Avenue Northeast Albuquerque, New Mexico 87107 - 7017	PDN Number: PS0038884

THIS AMENDMENT is made and entered into between Mercantile Flex Building LLC.

whose address is: 122 Tulane Drive Southeast, Albuquerque, New Mexico 87106 - 1440
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 provide a Notice to Proceed on the construction of the Tenant Improvements (TI) and Building Specific Amortized Capital (BSAC).

NOW THEREFORE, these parties for consideration hereinafter mentioned covenant and agree that the said Lease is amended, effective upon the full execution of this amendment as follows:

- 1) To provide a Notice to Proceed on the TI and BSAC, and add Exhibit-C-for Seismic Compliance Certification; and
- 2) To establish the total TI and BSAC costs; and
- 3) To establish the amortization allowances, rate and term; and
- 4) To provide the instructions for lump-sum payment; and
- 5) To provide for the maintenance of the flagpole and monument sign by the Government; and
- 6) To provide for changes, as a result of Value Engineering process the STC Rating and Slab to Deck walls thus amending Section 5:08 (A) Partitions of Lease and removing the following language "Partitioning shall extend from the finished floor to the finished ceiling and shall be designed to provide a minimum sound transmission class (STC) 44. And removing Section 3.46 (D) and thereby eliminating the need for testing of acoustical requirements; and
- 7) The lessor reserves the right to file a claim for losses; and
- 8) All other terms and conditions of the lease shall remain in full force and effect.

This Lease Amendment contains 13 pages inclusive of Exhibits "A, B and C".

IN WITNESS WHEREOF, the parties subscribe their names as of the below date.

FOR THE LESSOR:

Signature: _____

Name: _____

Title: _____

Entity Name: Mercantile Flex Building LLC.

Date: _____

FOR THE GOVERNMENT:

Signature: _____

Name: _____

Title: _____

Don W. Day
Lease Contracting Officer
819 Taylor St., Room 11B,
Ft. Worth, Texas 76102-6124
GSA, Public Buildings Service, Leasing Division

Date: _____

WITNESSED FOR THE LESSOR BY:

Signature: _____

Name: _____

Title: _____

Date: _____

- 1) Upon this Lease Amendment (LA) being fully executed and delivered, the Lessor shall consider this a Notice to Proceed on all the TI and BSAC to be constructed per the Construction Drawings (CDs) that were created by SMPC Architecture, PA. of Albuquerque, New Mexico, and last revised on March 1, 2017. The referenced CDs are 100% completed with Project Manual with associated drawings and consist of 611 pages. The cost of the TI and BSAC pricing is described in the attached Exhibit-"A" (TICS –Summary Page – 1 page, Exhibit-B – Plan for STC Rated Walls 1- page, and Exhibit- C for Seismic Compliance Certification – 8 pages. The date of completion of all the construction is November 24, 2017. This Lease Amendment (LA) does not release the Lessor for the liability for accuracy of the CDs when compared to the GSA accepted DIDs dated December 8, 2015.

Any changes to the CDs which result in any financial, conditional, or term change to the lease agreement, of any type, must be approved, in writing, and in advance of any resulting work performed, by the GSA Contracting Officer.

- 2) **The Lessor and the Government agree that the total cost of the improvements paid for by the Government is \$2,520,992.44. The total cost consists of \$2,139,907.26 of TI and \$ 381,085.18 of BSAC.** The total cost includes all fees including but not limited to general and administrative costs, project management fees, profit, overhead, and any and all other fees associated with the completion of the construction on or before the anticipated date of completion.
- 3) The TI Allowance per the Lease Agreement is \$511,372.37 and the BSAC Allowance is \$45,838.80. The costs shall be amortized into the rent over the first ten (10) years of the term at the rate of 7.0 %. The Government retains the right to buy-down all or a portion of these amounts.
- 4) The Government shall pay for the total TI and BSAC cost of \$2,520,992.44 by amortizing an amount of \$557,211.17 [$\$511,372.37 + \$45,838.80$ (the amortized costs)] in the rent. The remaining balance of **\$1,963,781.27** [$\$2,520,992.44$ (total cost of TI and BSAC) - $\$557,211.17$ (TI amortized allowances) = **\$1,963,781.27**] shall be paid by a lump-sum payment.

Upon the completion of the construction and the acceptance of the space by the Government, a subsequent space Acceptance Lease Amendment, with the exact amount of the lump-sum payment, will be delivered for signature to the Lessor. The Lessor shall be paid for the total amount of the TIs and BSAC totaling **\$2,520,992.44**. Using a combination of amortized allowance amounts and a lump-sum payment. The subsequent space Acceptance Lease Amendment shall include the terms and amounts of the scheduled total rent, including the breakdown of the annual Shell Rent amount, the annual Operating Cost amount (plus CPI adjustments), and the annual amortized TI costs, BSAC cost, and the amount of the total lump-sum payment to the Lessor. Upon receiving a fully executed LA, Lessor may then submit for the lump-sum payment.

The Lessor agrees that the invoice submitted shall be printed on the same letterhead as the named on this lease, shall include the Lease number, building address, and a price and quantity of the items delivered. The invoice shall reference the number **PS0038884** and shall be sent electronically to the GSA Finance Website at <http://www.finance.gsa.gov/defaultexternal.asp>. Instructions for invoice submission are included on the website. Additional assistance is available from the Finance Customer Service line at 800-676-3690.

If the Lessor is unable to process the invoice electronically, then the invoice may be mailed to:

General Services Administration
FTS and PBS Payment Division (7BCP)
P.O. Box 17181
Fort Worth, TX 76102-0181

Lessor also agrees that a copy of the invoice shall be sent simultaneously to the GSA Contracting Officer at the following address:

General Services Administration

INITIALS:


LESSOR

&


GSAVT

ATTN: Don W. Day
819 Taylor Street, Room 11B
Fort Worth, TX 76102-6124

- 5) The Government shall repair and maintain the flagpole and monument signage per separate contract at [REDACTED] agency's sole expense. [REDACTED] shall be exclusively responsible for the task of raising, lowering and removal of flags as required.
- 6) Through the processes of Value Engineering the STC Rated Wall(s) were eliminated from the 100% CDs and Slab to Deck walls were (reduced in scope) per Exhibit-B drawing which is a part of 100% CDs. And the TICS Table shall reflect the Value Engineering process and the removal of these costs from construction drawings.
- 7) The lessor reserves the right to file a claim for losses that the lessor believes, are valid and that can be substantiated due to the design delays per [REDACTED]
- 8) All other terms and conditions of the lease shall remain in full force and effect.

INITIALS:


LESSOR

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GOVT