

# US GOVERNMENT LEASE FOR REAL PROPERTY

DATE OF LEASE July 15, 2010

LEASE NO. GS-07B-16739

THIS LEASE, made and entered into this date by and between BPI, Inc.  
Whose address is **3310 S BROADWAY STE 200 TYLER TX 75701-7851**  
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 8,652 rentable square feet (RSF) of office and related space, which yields 8,006 ANSI/BOMA Office Area square feet (ABOA) of space in a building known as Southeast Center located at 3301 Golden Road - 3<sup>rd</sup> floor, Tyler, TX 75701-8339 to be used for such purposes as determined by the General Services Administration. Included in the rent at no additional cost to the Government are 13 parking spaces of which 2 shall be reserved and 11 shall be un-reserved surface parking spaces for the use of Government employees and patrons.

The property of which the premises are a part of is hereby described as 2.4348 acres of land in the William Keys Survey, Abstract 526, Smith County, Texas, being a part of Lot 27 of New City Block 976 to the City of Tyler, and being a part of the Southpark Shopping Center as shown on the plat of same recorded in Cabinet B, Slide 235-B of the Plat Records of Smith County, Texas.

2. TO HAVE AND TO HOLD the said premises with their appurtenances for the term that will be determined by supplemental lease agreement upon completion and acceptance of the work required by this lease and continuing for a period of fifteen (15) years, with a firm term of ten (10) years subject to termination and renewal rights as may be hereinafter set forth. The actual Lease commencement will be established in a Supplemental Lease Agreement at a later date.
3. The Government shall pay the Lessor annual rent of \$196,227.06 at the approximate rate of \$16,352.26 per month in arrears for years 1 - 5, which consists of annual shell rent of \$94,976.04, annual operating costs of \$60,474.00 and annual amortized tenant improvements cost of approximately \$40,777.02.

For years 6 - 10 the Government shall pay the Lessor annual rent of \$209,837.26 at the rate of \$17,486.44 per month in arrears, which consists of annual shell rent of \$108,586.24, annual operating costs of \$60,474.00 and annual amortized tenant improvements cost of approximately \$40,777.02.

For years 11 - 15 the Government shall pay the Lessor annual rent of \$195,375.10 at the approximate rate of \$16,281.26 per month in arrears, which consists of annual approximate shell rent of \$134,901.10 and annual operating costs of \$60,474.00.

Rent for a lesser period shall be prorated. Rent shall be made payable to:

BPI, INC.  
3310 S BROADWAY STE 200  
TYLER TX 75701-7851

4. The Government may terminate this lease in whole or in part at any time on or after the tenth (10th) year by giving at least 60 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 rentals: Provided notice is 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 computer commencing with the first day after the date of mailing.~~

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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 5TX0161 dated April 8, 2009, as amended April 21, 2009 and amended September 28, 2009.
  - B. Build out in accordance with standards set forth in SFO 5TX0161 dated April 8, 2009, as amended April 21 2009 and amended September 28, 2009, and the Government's design intent drawings. Government space plans shall be developed 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, if different from the date identified in Paragraph 2 and shall be established by a Supplemental Lease Agreement (SLA). 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 5TX0161 dated April 8, 2009, and Amendment #1 April 21, 2009 and Amendment #2 September 28, 2009.
  - B. GSA Form 3517 entitled GENERAL CLAUSES (Rev. [11/05]).
  - C. GSA Form 3518 entitled REPRESENTATIONS AND CERTIFICATIONS (Rev. [1/07])
  - D. Legal Description labeled as Attachment "A".
  - E. Fire Protection Occupational Safety Health and Environmental Management Audit of 3301 Golden Road dated December 13, 2005; P.E GSA Fire Protection Review of Occupational Safety Audit dated 3/3/2009; Attachment "B"
  - F. Floor Plan of demised space as Attachment "C".
8. The following changes were made in this lease prior to its execution: Paragraph 5 is deleted. Paragraphs nine (9) through nineteen (19) are added.
9. The lease is subject to Real Estate Tax reimbursement. For tax adjustments, the percentage of occupancy is 24.07%. The base tax year statement will be submitted within 60 calendar days after Lessor's payment of taxes to establish the base tax year. In accordance with the SFO paragraph entitled *Percentage of Occupancy*, the Government shall occupy 24.07 % of the building. This is based on a rentable area of the demised premises of 8,652 SF divided by an entire building size of 35,944 SF.
10. In accordance with the SFO paragraph entitled Operating Costs Base, the escalation base is established as \$6.99/RSF \$60,474.00/annum.
11. In accordance with the SFO paragraph entitled Common Area Factor, the common area factor is established as 1.080689 (8,652 RSF/8,006 USF).
12. Should the Government fail to utilize or occupy the facility within the firm term of the lease, the Government shall remain responsible for the payment of the rental, subject to an Adjustment for Vacant Space. In accordance with paragraph 4.4 of the Solicitation, the Adjustment for Vacant Space is established at \$1.30 per ANSI/BOMA Office Area square feet (ABOA).
13. In accordance with the SFO Paragraph 4.5 entitled *Normal Hours; Services, utilities, and maintenance shall be provided daily, extending 7:00 a.m. to 5:00 p.m. except Saturdays, Sundays, and Federal holidays*. The Lessor will not charge overtime on those days and during normal building hours extended from 7:00 a.m. to 6:00 p.m. In accordance with the SFO Paragraph 4.6 entitled *Overtime Usage*, the rate for overtime usage is established as \$30.00 per hour for the entire premises. The Lessor will not charge overtime rate for the 24/7 spaces HVAC (LAN) etc.
14. Per Debt Collection Improvement ACT, effective July 27, 1996 Electronic Funds Transfer (EFT) shall be required on all existing and new leases/contract not later than January 1, 1998. An enrollment form is attached to be completed and returned with this contract.
15. The Lessor and JSC Realty and Investment Services, Inc. as co-broker with The Crown Partnership, Inc. have agreed to a cooperating lease commission of [REDACTED] of the firm term value of this lease. The total amount of the commission is [REDACTED] in accordance with the "Broker Commission and Commission Credit" paragraph, the Broker has agreed to forego [REDACTED] of the commission that it is entitled to receive in connection with this lease transaction (Commission Credit).

The commission credit is [REDACTED]. The first 50% of the entire commission shall be due upon Lease award and the remaining 50% less the commission credit shall be due upon acceptance of the space by the Government. The Lessor agrees to pay the Commission less the Commission Credit to the Broker in accordance with the "Broker Commission and Commission Credit" paragraph in the SFO attached to and forming a part of this lease.

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Notwithstanding Paragraph 3 of this Standard Form 2, the shell rental payments due and owing under this lease shall be reduced to fully recapture this Commission Credit. The reduction in rent shall commence with the first month of the rental payments and continue as indicated in this schedule for adjusted monthly rent:

- a) First month's rental payment \$16,352.26 minus prorated Commission Credit of [REDACTED] equals [REDACTED] adjusted first month's rent.
- b) Second month's rental payment \$16,352.26 minus prorated Commission Credit of [REDACTED] equals [REDACTED] adjusted second month's rent.
- c) Third month's rental payment \$16,352.26 minus prorated Commission Credit of [REDACTED] equals [REDACTED] adjusted third month's rent.
- d) Fourth month's rental payment \$16,352.26 minus prorated Commission Credit of [REDACTED] equals [REDACTED] adjusted fourth month's rent.
- e) Fifth month's rental payment \$16,352.26 minus prorated Commission Credit of [REDACTED] equals [REDACTED] adjusted fifth month's rent

16. It is mutually agreed to between the parties that the Lessor shall build out the space in accordance with the Solicitation for Offers and the Government approved Design Document. All questions pertaining to this lease shall be referred to the Contracting Officer of the General Service Administration (GSA) or his or her designees. The Government occupant is not authorized to administer this lease and GSA assumes no responsibility for any cost incurred by the Lessor except as provided by the terms of this Lease or any other cost authorized in writing by the GSA Contracting Officer. The Lessor will not be reimbursed for any services not provided for in this Lease, including but not limited to: repairs, changes in scope of work, alterations and overtime services with out the written authorization of a Contracting Officer. Additionally, rental will not be paid for occupancy in whole or in part except for the term specified herein.

17. In accordance with the SFO paragraph 3.2 A The tenant improvement allowance is \$37.38 per ANSI/BOMA Office Area square feet. Tenant Improvements in the total amount of \$299,264.28 (8,006/USF x \$37.38) shall be amortized through the rent for 10 years at the rate of 6.5%. The total annual cost of Tenant Improvements for the amortization period shall be \$40,777.02. Annual tenant improvements amortized payments will begin upon completion of all tenant improvements to 8,652 RSF.

18. The Government reserves the right to install and maintain its own security system. The system shall remain the property of the Government and the Lessor shall waive all rights of restoration as it pertains to the system.

19. At no Additional cost to the Government, Lessor agrees that all deficiencies listed in 1) Fire Protection Occupational Safety Health and Environmental Management Audit of 3301 Golden Road dated December 13, 2005, 2) Barney McCollum, P.E GSA Fire Protection Engineer created March 3, 2009; will be corrected prior to the commencement of the Lease. See "Attachment B" for full reports and supporting documentation which is hereby made a part of this Lease. The stairwell located on the East side discharges through separated passageway, this space must be separated from the first floor by minimum one-hour fire-resistance rated construction (w/ 60 minute door). NFPA 101 (2009 - 7.7.2 50% requirement; 7.1.3.2 one-hour requirement).

LESSOR: FBI, Inc.

BY

Steven C. Koostk  
(Signature)

President  
(Title)

UNITED STATES OF AMERICA

BY

Contracting Officer, General Services Administration  
(Official Title)