

**AMENDMENT NO. 2
TO THE
LEASE IN FURTHERANCE OF CONVEYANCE
BETWEEN
THE UNITED STATES OF AMERICA
AND THE
ALAMEDA REUSE AND REDEVELOPMENT AUTHORITY
FOR THE
FORMER NAVAL AIR STATION ALAMEDA**

THIS AMENDMENT NO. 2 to the *Lease in Furtherance of Conveyance* is entered into this 30th day of March, 2009 by and between **THE UNITED STATES OF AMERICA** acting by and through the Secretary of Navy (Government) and **THE ALAMEDA REUSE AND REDEVELOPMENT AUTHORITY (LESSEE)** recognized as the local redevelopment authority by the Office of Economic Adjustment on behalf of the Secretary of Defense. Government and Authority may also be referred to collectively as the Parties. This Amendment No. 2 supersedes and replaces all changes made to the Lease through Amendment No. 1, executed on 28 November 2000.

RECITALS

WHEREAS, the Government is the owner of certain real and personal property commonly referred to as the former Naval Air Station Alameda (NAS Alameda) which was closed as a military installation and is subject to disposal pursuant to, and in accordance with, the Defense Base Closure and Realignment Act of 1991, as amended (Public Law no. 101-510); and

WHEREAS, prior to the conditions for a deed transfer being met, the Parties entered into a Lease in Furtherance of Conveyance granting the Authority immediate possession of portions of the NAS Alameda; and

WHEREAS, the Parties desire to amend Paragraphs 1, 17, and 19 of the Lease, all as set forth below.

NOW THEREFORE, in consideration of the forgoing premises and the respective representations, agreements, covenants and conditions herein set forth, and other good and valuable consideration, the receipt of which is hereby acknowledged, the Parties agree as follows:

AGREEMENTS

Paragraph 1 Leased Premises:

Delete Paragraph 1.1 in its entirety and replace it with the following:

Government does hereby lease, rent, and demise to Lessee, and Lessee does hereby hire and rent from Government, those parcels of real property as identified on the Revised Exhibit "A", dated 2008-06-03, attached hereto and made a part of this lease, together with all personal property thereon, all of which remains as originally identified in Exhibit "F" to the EDC MOA, along with improvements thereon including elements of Government owned utility systems within the Premises and serving the Premises, all hereinafter called the "Leased Premises", and with the right of ingress and egress to said Leased Premises.

Delete Paragraph 1.3 in its entirety and replace it with the following:

The Government reserves the right to continued use of those portions of the Leased Premises identified as follows: (a) approximately 4,600 sf of space, on the second floor Northwest corner; within Building 114, including the adjacent restrooms and the associated courtyard for the non-exclusive use by Government. (ROICC) (b) the first floor of building 112, and approximately 6000 sf of fenced area on the North side of said building 112; (c) Building 338 C; Building 338B; Building 309; Building 400 the second and third floors; and Building 5.

Insert as new paragraph 1.4, the following:

The following buildings are scheduled for environmental investigation and each is currently occupied by a tenant pursuant to a sub-lease with Lessee with current sub-lease expiration dates as shown. For buildings 44, 66, and 113, the Lessee may extend each such sub-lease on a month to month basis with each to expire not later than May 31, 2009 with all premises to be vacant on that date. Upon May 31, 2009, for buildings 44, 66, and 113, and September 30, 2010 for building 163, or upon the earlier termination of any such sub-lease, each building shall then be reserved exclusively for use by the Government until the environmental investigation relating to that building is complete. At that time should the building be deemed safe for tenant occupancy and use, this Lease in Furtherance of Conveyance will be modified to place the building in the possession of Lessee, otherwise each such building shall remain reserved exclusively for Government use. These buildings, the current tenants and their current sub-lease expiration dates are as follows:

<u>Building and Tenant</u>	<u>Current Sub-Lease Expiration</u>
Building 44 - Mariuz Lewandoski-dba-Woodmasters	12-31-08
Building 66 - Nelson's Marine, Inc.	02-28-09
Building 113 - HESCO	04-30-09

The use of all buildings reserved for Government use shall be provided to the Government without payment of rent for the term of this Lease. The Government will relinquish possession of the above identified space to Lessee at such time as Government no longer requires use of such space.

In addition, That area shown on Revised Exhibit "A", denominated as Seaplane Lagoon, including water, land and piers, shall be removed from the LIFO and no longer available for Sub-Lease by the Lessee, subject however to a temporary "right of access" for boat launching and recovery hereby granted to Nelson Marine in connection with, and for the duration of, their current lease with Lessee said "Right of Access" shall consist of an area of water 100 feet wide as measured from the North edge of Pier # 1, as depicted on revised Exhibit "A". Nelson Marine shall be responsible for marking the designated area in a manner acceptable to the Government.

Paragraph 17 Insurance:

Delete Paragraph 17.4.1 in its entirety and replace it with the following:

Comprehensive commercial general liability insurance, in the amount of \$2,000,000 per occurrence with respect to personal injury or death, and \$1,000,000 per occurrence with respect to property damage.

Paragraph 19 Submission of Notices:

Delete Paragraph 1.9 in its entirety and replace it with the following:

Notices shall be sufficient under this Lease if made in writing and to the following addressees:

If to Authority Executive Director
 Alameda Reuse and Redevelopment Authority
 Alameda City Hall
 2263 Santa Clara Avenue
 Alameda, CA 94501-4456
 (Facsimile: 510-748-4504)

with a copy to: General Counsel
 Alameda Reuse and Redevelopment Authority
 Alameda City Hall
 2263 Santa Clara Avenue
 Alameda, CA 94501-4456
 (Facsimile: 510-748-4691)

and to: George R. Schlossberg, Esq.
 Kutak Rock

1101 Connecticut Avenue, N.W.
10th Floor
Washington D.C.
(Facsimile: 202 828-2488)

If to Government: Director
Base Realignment and Closure
Program Management Office
1455 Frazee Road, Suite 900
San Diego, CA 92108-4310
(Facsimile: 619 532-0940)

Except as set forth herein, and unless specifically modified by this Amendment No.2, all terms and conditions contained in the Lease shall remain binding upon the Parties and their respective successors and assigns as set forth in the Lease.

IN WITNESS WHEREOF, the Parties hereto have duly executed this Amendment No.2 to the Lease in Furtherance of Conveyance as of the day and year first above written.

UNITED STATES OF AMERICA,
acting by and through the Department of Navy.

By: 
WILLIAM R. CARSILLO
Real Estate Contracting Officer

ALAMEDA REUSE AND REDEVELOPMENT AUTHORITY,

By: 
DAVID BRANDT
Acting Executive Director

APPROVED AS TO FORM:

By: 
TERESA HIGHSMITH
City Attorney

