

GENERAL SERVICES ADMINISTRATION  
PUBLIC BUILDINGS SERVICE  
**SUPPLEMENTAL LEASE AGREEMENT**

SUPPLEMENTAL  
AGREEMENT

DATE

6/12/97

3

TO LEASE NO. GS-09B-94150

ADDRESS OF PREMISES      75/95 Hawthorne Street  
   San Francisco, CA 94105

THIS AGREEMENT, made and entered into this date by and between:  
   HAWTHORNE PLAZA, LTD.

whose address is  
   75 Hawthorne Street  
   San Francisco, CA 94105

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

WHEREAS, the parties hereto entered into a lease dated April 19, 1995 and known as Lease No. GS-09B-94150 (the "Lease") for certain premises located at 75 Hawthorne Street and certain premises located at 95 Hawthorne Street in San Francisco, CA; and

WHEREAS, the parties desire to amend that Lease to provide for the renovation of the Child Care Center (the "CCC"), which center is part of the leased premises at 95 Hawthorne Street,

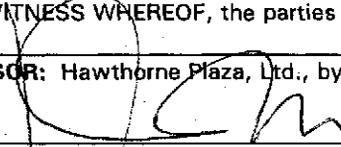
NOW THEREFORE, in the consideration of the mutual covenants hereinafter mentioned and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereby covenant and agree that the Lease is hereby supplemented to include in its entirety Paragraph 16, Child Care Center Renovation Project, set forth on the Continuation Sheet attached hereto.

*Continued on the attached Continuation Sheets.*

Except as modified herein, all terms and conditions of the Lease shall remain in full force and effect.

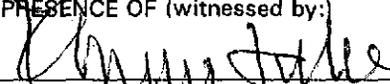
IN WITNESS WHEREOF, the parties subscribed their names as of the above date.

LESSOR: Hawthorne Plaza, Ltd., by ARCON, Inc., its General Partner

BY   
(Signature)

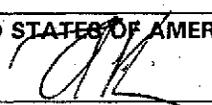
Pres.  
(Title)

IN THE PRESENCE OF (witnessed by):

  
(Signature)

-same-  
(Address)

UNITED STATES OF AMERICA

BY   
Thomas L. Andrews, III

Contracting Officer  
GSA, PBS, RED

CONTINUATION SHEET NO. 1 TO SUPPLEMENTAL LEASE AGREEMENT NO. 3  
TO LEASE NO. GS-09B-94150

**"16. CHILD CARE CENTER RENOVATION PROJECT"**

(a) *The Work.* Lessor agrees to perform the alterations to the CCC described on the blueprint drawings attached to this Supplemental Lease Agreement ("SLA") No. 3 as Exhibits G and G1 and the Schematic Drawings 1a, 1b, 2-6, 7a-7c, 8-10, 11a-11e, 12a-12c, 13, and 14 attached hereto as Exhibits H1 through H26, and as specified in the Revised Statement of Work (the "Revised SOW") attached hereto as Exhibit I. The aforesaid blueprint drawings and Schematic Drawings shall be referred to collectively herein as the "Drawings". The Drawings shall replace the drawings attached to SLA No. 2 as Exhibits B, B1 through B14. The Revised SOW shall replace the Statement of Work attached to SLA No. 2 as Exhibit A. In addition to the alterations specified in the Revised SOW, Lessor is to remove the existing carpet in the CCC and install new carpet in all areas where there currently is carpet, with the exception of those areas to receive new vinyl tile as noted on the Drawings. All of the above-described alterations shall hereinafter be referred to as the "Work". In the event of a conflict between the terms of the Revised SOW and the specifications described in the Drawings, Lessor shall advise the Contracting Officer prior to performing the Work in question. The Contracting Officer shall determine in that specific instance which should control. Lessor shall perform the Work in accordance with the terms of the Lease, including without limitation: the General Conditions for Lease Alterations previously incorporated into the Lease as Exhibit C to SLA No. 1, the Solicitation for Offers, and the General Clauses, GSA Form 3517. In the performance of the Work, should a conflict arise between the terms of this SLA and the terms of the Lease, the terms of this SLA shall take precedence.

(b) *Compensation.* As compensation for the full and timely performance of the Work, the Government agrees to pay to Lessor the sum of \$253,500.00 (the "Contract Sum"), to be paid to Lessor periodically in accordance with the provisions of 48 CFR 52.232-5, Payments Under Fixed-Price Construction Contracts, which clause is attached to SLA No. 1 as Exhibit D. Notwithstanding anything to the contrary set forth therein, in no event shall progress payments exceed eighty percent (80%) of the sum agreed to be paid to Lessor for the Work. Upon satisfactory completion of the Work (including all punch list items) and acceptance thereof by the Contracting Officer, Lessor shall be entitled the balance due under this SLA. Said payment shall be due and payable to Lessor thirty (30) days after the latter of acceptance of the Work by the Contracting Officer or receipt of an invoice from Lessor in the accordance with the terms of the Prompt Payment Act as set forth in Clause 22 to the General Clauses.

(c) *Costs and Expenses.* The Contract Sum includes the total cost to the Government for the Work including, without limitation, the cost of all materials, labor, equipment, fees, and utilities as required to complete the Work. It is understood and agreed by Lessor that the total cost to the Government for the Work shall in no event exceed the Contract Sum unless change orders are approved in writing by the Contracting Officer.



CONTINUATION SHEET NO. 2 TO SUPPLEMENTAL LEASE AGREEMENT NO. 3  
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(d) *Performance.* Lessor shall perform the Work in a good and workmanlike manner and in accordance with the construction schedule to be agreed upon by Lessor and the Government. Lessor shall submit a proposed construction schedule to the Government within 5 calendar days of the date of this SLA, which schedule shall detail the work to be performed by trade in each phase of the project. The Government shall diligently review the proposed schedule and deliver any comments to the Lessor within 2 business days of its receipt thereof. The parties shall then agree on a final construction schedule to be incorporated into the Lease by SLA. Lessor understands that the CCC must and will remain open during the construction period and further understands that time is of the essence. The Work shall be performed on weekdays between the hours of 6:00 PM to 5:30 AM, on weekends, and on federal holidays.

(e) *Clean-Up and Repair.* Prior to the reopening of the CCC each weekday, which opening is at 6:00 A.M., and with the exception of federal holidays, Lessor shall remove all construction debris and garbage and shall return the CCC to a broom clean, neat, and safe condition. Notwithstanding the foregoing, for the Work performed in a particular area or in private classrooms where the Work is ongoing, Lessor shall not be required to restore the area or classroom that is under construction at the time to broom clean condition at the close of each weekday, provided however that Lessor shall secure the room or area so as to prevent entry by unauthorized persons, including the occupants of the CCC. Upon completion of the Work in a classroom or area, Lessor shall be required to comply with the requirements set forth in the first sentence of this paragraph.

(f) *Hazardous Materials.* Lessor shall ensure that by 6:00 A.M. on each weekday, except for federal holidays, the CCC is free of all hazardous substances, including toxic, hazardous, and noxious fumes. Any work which may result in the emission of toxic, hazardous, or noxious fumes must be completed 48 hours prior to the reopening of the CCC and the CCC must be completely ventilated during the 24-hour period after completion. Lessor shall be responsible to repair, at its sole cost and expense, any and all damage or loss caused by Lessor, or any of its contractors, their subcontractors, and their employees or agents, or anyone directly or indirectly employed by any of them. Said repair shall be completed prior to the reopening of the CCC on the next day thereafter that the CCC is to be open for business. If, due to the extent of the damage, the repairs, despite diligent efforts, cannot be completed by then, Lessor shall complete the repairs as soon thereafter as possible, provided the area damaged is cordoned off so as to prevent injury to persons in the CCC.

(g) *Storage of Materials.* The Government shall provide a reasonable amount of space within the CCC, if requested, for the storage of Lessor's materials and tools, the precise location of such space to be determined by the Contracting Officer. In no event shall Lessor be permitted to store or accumulate hazardous or flammable materials in the CCC except during the period of actual use, and then only if appropriate or required safeguards



CONTINUATION SHEET NO. 3 TO SUPPLEMENTAL LEASE AGREEMENT NO. 3  
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are employed and upon prior written notice to the Contracting Officer. Lessor shall be responsible to ensure that sufficient barriers are placed around the storage area so as to prohibit access and prevent harm to the persons in the CCC, including the children, employees, and invitees. The Government shall have no responsibility for theft, damage, or loss to items so stored. No rubbish accumulation shall be permitted in the CCC.

(h) *Protection.* Lessor shall take all steps necessary to protect workers, the public and the occupants of the CCC from personal injury, including without limitation, erecting caution signs and fully securing and partitioning off areas under construction. Lessor shall not partition off areas in such a manner as to materially affect the day-to-day functioning of the CCC.

(i) *Safety Precautions.* Lessor shall be responsible and liable for the safety of its employees, agents, subcontractors and their employees and agents, at all times during or in connection with the performance of the Work. Any safety related requirements, suggestions, or comments made by or on behalf of the Government, its agents or employees, shall not constitute or be construed to constitute assumption of responsibility or liability for such safety by the Government, its agents or employees.

(j) *Security Measures.* Lessor shall require all of its employees performing work on this project, and those of all of its subcontractors and their subcontractors to sign in and out each day that they are working on the CCC at the security guard at the front entrance of the building. Lessor shall provide the Contracting Officer with the names of all subcontractors performing work on the CCC. Lessor agrees to take additional security measures as are reasonably requested by the Contracting Officer.

(k) *Liability.* Lessor shall be fully responsible to the Government for the acts and omissions of Lessor's employees and agents, and those of its contractors and their subcontractors, and any and all other persons performing any portion of the Work.

(l) *Insurance.* Lessor shall, prior to and at all times while providing, performing, or completing the Work, including without limitation, at all times while repairing, correcting, or replacing all or any part of the Work, procure and maintain at Lessor's expense Commercial General Liability Insurance, with Completed Operations/Products Liability Endorsement with coverage written on an "occurrence" basis and in sufficient amounts so as to protect and save harmless the Government, with limits of no less than \$6,000,000 General Aggregate; \$3,000,000 per occurrence and Workers' Compensation Insurance in the statutory limits. Lessor shall name the Government as an additional insured under such policy. Lessor shall furnish to the Contracting Officer a certificate(s) of insurance evidencing the above-stated coverages. The certificate(s) shall provide that no change, modification to, or cancellation of the insurance shall be effective until the expiration of 30 days after written notice thereof shall have been given by the insurance company to the



CONTINUATION SHEET NO. 4 TO SUPPLEMENTAL LEASE AGREEMENT NO. 3  
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Government. All required insurance shall be provided by insurance companies having a Best rating of A or better and authorized to do business in the State of California. Lessor shall deliver the certificate of insurance to the Government at the address listed in paragraph (q) of this SLA prior to the commencement of the Work.

(m) *Warranty.* All materials and equipment shall be new and of acceptable quality and condition. Lessor guarantees all workmanship and materials to be merchantable and free from latent defects for one year from the date of acceptance of the Work by the Government. If any of the Work or materials are defective in any respect, Lessor warrants that it shall, at its expense, repair or replace any and all of the Work or materials promptly upon notification by the Government, but in no event longer than thirty (30) days from the date of such notice.

(n) *Title to Property.* Title to any personal property installed or affixed as part of the Work shall be vested with the Government and may be removed at any time during the term of the Lease, or any renewal/extension thereof; and Lessor waives any restoration requirements of the Government in connection herewith.

(o) *Written Modifications.* No modification, addition, deletion, or change in the Work shall be deemed authorized unless a written change order has been prepared by Lessor and signed by the Contracting Officer.

(p) *Exhibits.* The exhibits to this SLA No. 3 are hereby incorporated herein as fully as if set forth in this document in their entirety.

(q) *Notices.* All notices required to be given in connection with the Work shall be sent via facsimile, with the original sent via the U.S. Postal Service or via overnight mail to the following address:

Lessor:  
Arcon, Inc.  
95 Hawthorne Street  
Suite 401-S  
San Francisco, CA 94105  
fax: 415/391-5378

The Government:  
General Services Administration  
450 Golden Gate Avenue  
Third Floor East-9PEL-S  
San Francisco, CA 94102  
fax: 415/522-3116

