

OFF-SITE IMPROVEMENTS

The cost of off-site improvements will be borne by the Lessor. The Lessor is responsible for determining the cost of off-site improvements prior to lease award, and including the costs of off-site improvements in the proposed rent.

The LESSOR, at its own cost, shall perform and complete all off-site work and improvements which may consist of, but are not limited to, streets, street name signs, traffic signs, sewers, water systems, fire hydrants, curbs, gutters, sidewalks, street lighting, driveways, drainage facilities, accesses, survey monuments, etc., hereinafter referred to as off-site improvements, and said off-site improvements shall be constructed in accordance with applicable Federal, State, and local laws, regulations, standards, and specifications. Lessor is responsible for obtaining all permits and required approvals, including VA approval, of the off-site improvement plan. Lessor is required to obtain all permits and approvals, prior to commencing work. Lessor is solely responsible for initiating and completing any related hazardous material abatement, remediation, removal, or other environmental cleanup actions related to the off-site work and improvements that may be necessary or required pursuant to Federal, State and local laws, regulations, ordinances, codes or other requirements.

“Hazardous materials” shall mean any substance which is or contains: (i) any “hazardous substance” as now or hereafter defined in Section 101(14) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended (42 U.S.C. Section 9601 et seq.) (“CERCLA”) or any regulations promulgated under CERCLA; (ii) any “hazardous waste” as now or hereafter defined the Resource Conservation and Recovery Act (42 U.S.C. Section 6901 et seq.) (“RCRA”) or regulations promulgated under RCRA; (iii) any substance regulated by the Toxic Substances Control Act (15 U.S.C. Section 2601 et. seq.); (iv) gasoline, diesel fuel or other petroleum hydrocarbons; (v) asbestos and asbestos containing materials, in any form, whether friable or non-friable; (vi) polychlorinated biphenyls; and (vii) any additional substances or materials which are now or hereafter classified or considered to be hazardous or toxic under any laws, ordinances, statutes, codes, rules, regulations, agreements, judgments, orders and decrees now or hereafter enacted, promulgated, or amended, of the United States, the state, the county, the city or any other political subdivision in which the Property is located and any other political subdivision, agency or instrumentality exercising jurisdiction over Lessor.

The Lessor is responsible for proper construction, maintenance, and compliance with all federal, state, and local laws and regulations of all required off-site improvements through the duration of the lease. At completion or termination of the lease, the Lessor, and not the Government, is responsible for any restoration or removal of the off-site improvements, including, but not limited to, the removal of any environmental, safety, and hazardous materials.

Exhibit E – Off site Improvements and Due Diligence Investigation Clauses
SFO NO. VA-101-12-I-0083

DUE DILIGENCE

The LESSOR acknowledges its duty to conduct reasonable site inspections for the proposed site. The LESSOR warrants that it has considered all factors which a prudent, experienced bidder customarily uses in making judgments about site conditions, quantity, quality and methods of performing the particular work. The LESSOR acknowledges that it has taken steps reasonably necessary to ascertain the nature and location of the work, and that it has investigated and satisfied itself as to the general and local conditions which can affect the work or its cost, including but not limited to the conformation and conditions of the ground. The LESSOR also acknowledges that it has satisfied itself as to the character, quality and quantity of surface and subsurface materials or obstacles to be encountered insofar as this information is reasonably ascertainable from inspection of the site.

APPLICABLE LAW

Any provision in this Lease that purports to assign liability or require expenditure of funds to the Lessor shall be governed by the provisions of the Contract Disputes Act of 1978, 41 USC 601-613, Anti-Deficiency Act, 31 USC 1341, and the Federal Tort Claims Act, 28 USC 2671 et seq.