

Nevada Small Business Development Center

Business Environmental Program

ADDENDUM NO. _____

To the Agreement dated _____ by and between _____, as Lessor (Landlord), and _____, as Lessee (Tenant), concerning the real property located at _____, the parties herewith agree as follows:

Whereas landlord and tenant recognize the existence of the “disconnect” for energy conservation that may exist in regard to leased premises where the tenant is responsible for paying for energy costs and the landlord therefore has little incentive to invest in energy-efficient leasehold improvements without a means for recovering said investment; and

Whereas landlord and tenant recognize there is a natural reluctance by tenants to invest in energy efficient leasehold improvements under circumstances where the remaining term of the lease may be insufficient for recovery of the investment by the tenant and/or the tenant cannot get appropriate financing for these improvements because the tenant won't own the improvements; and

Whereas landlord and tenant desire to cooperate in implementing those energy efficiency measures in a manner that benefits both parties; and

Whereas the landlord and tenant recognize the need for standards for estimating the savings from energy efficient improvements and for the mitigation of the risks associated with the actual performance of said improvements relative to projected performance.

Now, therefore, landlord and tenant agree as follows:

A. Determination of potential for energy savings and associated costs:

Landlord will select a contractor or consultant to complete an analysis of the potential for energy savings and the costs associated with implementing the leasehold improvements required to achieve these savings. Generally these potential improvements will be in the areas of lighting, heating ventilation and air conditioning (HVAC), water heating, controls, motors, and those compressors and refrigeration units that are leasehold improvements rather than personal property. Personal property (equipment), which might also produce substantial energy savings, will not be included in the analysis because implementation of energy efficiency in equipment should be accomplished by the tenant without landlord cooperation.

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The contractor/consultant will be directed to do the analysis of potential improvements based on all upgrades meeting or exceeding the standards for lighting, envelope, HVAC and service water heater specifications listed in Chapter 8 of the 2003 International Energy Conservation Code (IECC), unless specifically documented otherwise (a reason for the non-compliance with the IECC code). Included in the cost analysis will be the identification of existing meters or the installation of sub-meters on impacted energy systems that will measure and record amount and time of energy consumption. Tenant will provide Contractor with information pertaining to Tenants use of the premises (i.e. hours of operation) and operating levels (i.e. volume of business) as needed to predict potential energy savings from energy efficiency improvements. Tenant will also provide authorization to Contractor to obtain energy consumption history from the local utility company and will provide Contractor with access to the premises in order to develop a current inventory of equipment and energy systems. Contractor will consult with the tenant in regard to scheduling in order to minimize the impact on the tenants business, and the work plan, agreed upon by the tenant, will be a portion of the contractor's proposal, to be incorporated into the contract.

B. Standardized methods for estimating savings from energy efficiency improvements:

In order to minimize the risk associated with estimating savings, contractors and/or consultants shall use the following estimating models:

Lighting: eeBuildings Tools and Resources for Lighting Retrofit Projects. This modeling tool is provided by the Environmental protection Agency and is available online through <http://www.epa.gov/eebuildings/lighting/detail/index.html>.

HVAC and Controls: eQuest. This modeling tool is provided by the Department of Energy and is available online through <http://www.doe2.com/equest/>

Motors: MotorMaster+. This modeling tool is also provided by the Department of Energy through its Office of Industrial Technologies Energy Efficiency and Renewable energy, and is available online through <http://www.oit.doe.gov/bestpractices>.

Air Compressors: AIRMaster+. This modeling tool is also provided by the Department of Energy through its Office of Industrial Technologies Energy Efficiency and Renewable energy, and is available online through <http://www.oit.doe.gov/bestpractices>.

Water Heating: Energy Cost Calculator for Water Heaters. This modeling tool can be used for gas or electric water heaters, and is provided through the Department of Energy Federal Energy Management Program (FEMP), and is available online at: http://www.eere.energy.gov/femp/technologies/eep_waterheaters_calc.cfm

Refrigeration: No standard calculator for refrigeration savings of walk-in coolers or freezers has been identified. It is recommended that an independent review of estimated energy savings be conducted for this area.

- C. Implementation of energy efficiency improvements: Only those improvements projected to provide a payback in four years or less will be included in this arrangement between landlord and tenant as set forth below. Landlord will be responsible for the implementation of the improvements, including contractor selection and payment of the costs associated with the improvements.
- D. Energy Savings and Risks: In order to minimize the risk of overly optimistic projections of energy savings, the parties agree that certain standard estimating procedures be used, and only for proven technologies. Further, independent review of the methods used to project savings is also recommended. The power company and/or their energy consultant will be asked to provide this independent review, with the understanding that a hold-harmless agreement will probably be required by the power company. Additionally, the power company will be asked to do a commissioning inspection following completion of the improvements to verify that all the improvements have been completed in accordance with the contractor's proposal and energy savings estimates.

The parties shall identify and document whether the estimated savings calculated for the energy improvements will be accepted and agreed upon as the basis of performance under this addendum, or measurement and verification will be required. Measurement and verification may increase the cost of the project implementation. Parties are encouraged to consider acceptance of estimated savings for lighting, motor, HVAC/Controls, air compressors, and water heating determined using the standardized methods identified in Section B in order to control project costs. (Additional cost saving calculators for other equipment may be found at www.energystar.gov.)

Measurement and verification: If selected, measurement of the performance of the energy systems shall be for the following time periods:

- i. Lighting – 90 days
- ii. Motors – 90 days
- iii. Compressors – 90 days
- iv. Refrigeration – 1 year
- v. HVAC – 1 year
- vi. Controls – 1 year

Measurement and verification (M&V) shall be done by the contractor and shall be subject to verification by the landlord and/or the utility company.

- E. Financial arrangement between landlord and tenant: The landlord and tenant shall share in the costs of implementation and the savings as follows: Landlord shall fund the initial cost of the improvements. Tenant shall share in those costs by hereby agreeing to a rent increase in the amount of 80% of the projected annual savings, divided by 12 and included in the monthly rent to be paid by tenant to landlord. This equates to the tenant receiving the benefit of 20% of the energy savings without making any initial investment in the cost of the improvements. If the remaining term of the lease is less than 5 years, the terms shall be extended by an amount of time to provide for at least 5 years remaining on the term of the lease.

Should the actual savings, as determined through measurement and verification, if selected, as indicated above, and adjusted for changes in the operations of the business and by outside factors (i.e. weather), not equal at least 90 percent of the estimated savings, then the rent adjustment agreed to by the Tenant shall be proportionately reduced to reflect the relationship between actual savings as determined through measurement and verification in relation to the estimated savings. However, before such an adjustment shall be made, the contractor and/or consultant shall perform a survey of the energy system in accordance with best practice engineering procedures to determine if equipment is installed to manufacturer and contract installation standards. If the problem is unresolved the power company or their consultant will be asked to do the same sort of review.

- F. Disputes and arbitration: Should there be any disputes between landlord, tenant, and/or contractor, said disputes shall be submitted to mediation, and if this does not resolve the problem, then the matter shall be submitted to binding arbitration.

This Addendum, upon its execution by both parties, is made a part of the above described Agreement.

The undersigned represent that they have the authority of their respective party to execute this Addendum.

Signed:

Lessor _____ Date

Printed Name/Title

Lessee _____ Date

Printed Name/Title

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