



W2451056

THIS DOCUMENT PREPARED BY AND
RECORDING REQUESTED BY AND WHEN
RECORDED MAIL TO:
Duane Morris LLP
1540 Broadway
New York, New York 10036
Attention: Jonathan A. Olick, Esq.

E# 2451056 PG 1 OF 10
ERNEST D ROWLEY, WEBER COUNTY RECORDER
23-DEC-09 904 AM FEE \$29.00 DEP SC
REC FOR: LANDMARK TITLE COMPANY
ELECTRONICALLY RECORDED

ASSIGNMENT OF LEASES AND RENTS

Dated and effective as of December 22, 2009

by

BOYER GSA WAREHOUSE, L.C.
(Assignor)

in favor of

GSA IRS OGDEN LEASE FINANCE TRUST
as Assignee

Property Location:

LT 48209

THIS ASSIGNMENT OF LEASES AND RENTS (this "**Assignment**") dated and effective as of the 22 day of December, 2009 by **BOYER GSA WAREHOUSE, L.C.**, a Utah limited liability company ("**Assignor**"), having an office at 90 South 400 West, Suite 200, Salt Lake City, Utah 84101 in favor of **GSA IRS OGDEN LEASE FINANCE TRUST**, successor lender to Federal Funding Group, LLC (together with its successors and assigns, hereinafter referred to as "**Assignee**"), having an address c/o The Bank of New York Mellon, 101 Barclay Street, Floor 7W, New York, New York 10286.

WHEREAS, Assignor and Assignee have entered into a Loan Agreement dated as of October 14, 2009 (as amended, modified, restated, consolidated or supplemented from time to time, the "**Loan Agreement**") pursuant to which Assignee is making a secured loan to Assignor in the aggregate original principal amount of \$14,500,000 (the "**Loan**"). Capitalized terms used herein without definition are used as defined in the Loan Agreement. The Loan is evidenced by a Note in the original principal amount of \$14,500,000 (the "**Note**"), dated October 14, 2009 made by Assignor to Assignee (as the same may be amended, modified, restated, severed, consolidated, renewed, replaced, or supplemented from time to time, the "**Note**");

WHEREAS, Assignor is the owner of that certain parcel of real property (the "**Premises**") described in Exhibit A attached hereto, together with the buildings, structures, fixtures, additions, enlargements, extensions, modifications, repairs, replacements and other improvements now or hereafter located thereon (collectively, the "**Property**");

WHEREAS, the Note and the Loan are secured by, *inter alia*, that certain mortgage, assignment of leases and rents and security agreement (as amended from time to time, the "**Mortgage**") on the Property.

WHEREAS, it is a condition to the obligation of Assignee to disburse the proceeds of the Loan on the Construction Loan Release Date in accordance with the Loan Agreement that Assignor execute and deliver this Assignment;

WHEREAS, this Assignment is being given as additional security for the Loan; and

WHEREAS, capitalized terms used in this Assignment without definition have the respective meanings assigned to such terms in the Loan Agreement or the Mortgage, as the case may be, the terms of each of which are specifically incorporated by reference herein.

NOW, THEREFORE, for good and valuable consideration, receipt of which by the parties hereto is hereby acknowledged, and additionally for the purpose of additionally securing the Debt, Assignor hereby assigns, transfers, conveys and sets over unto Assignee, all right, title and interest of Assignor in and to all Leases and all Rents;

TO HAVE AND TO HOLD the same unto Assignee, and its successors and assigns forever, upon the terms and conditions and for the uses hereinafter set forth.

And Assignor hereby further agrees as follows:

1. Certain Representations, Warranties and Covenants. Assignor represents, warrants and covenants to Assignee that:

(a) Assignor will punctually observe and perform all the obligations and agreements imposed upon Assignor as the landlord under the Lease and will not do, authorize or permit to be done anything to impair the value of the Lease as security for the Loan;

(b) Assignor will promptly send copies to Assignee of all notices of default which Assignor shall send or receive thereunder; provided, however, that Assignor will not send any notice of default to any Government without Assignee's prior written consent;

(c) Assignor will diligently enforce in a commercially reasonable manner all of the terms, conditions and agreements contained in the Lease upon Government's part thereunder to observe or perform, short of termination thereof; provided, however, that Assignor will not (1) accelerate payment of Base Rent; or (2) give any notice, sue, pursue any remedy or take any action under the Lease that might have the effect of (A) terminating the Lease, (B) dispossessing the Government, (C) declaring the Lease forfeited or terminated, (D) reducing any of Government's obligations under the Lease, or (E) adversely affecting the rights of Assignor as landlord under the Lease, the value of the Property, or the rights or interests of Assignee under the Loan Documents, without in each instance Assignee's prior written consent which Assignee may grant or withhold in its sole discretion;

(d) Assignor will not execute any other assignment of landlord's interest in the Lease;

(e) Assignor will not alter, modify or change the terms of or take any action under the Lease without Assignee's prior written consent (except as otherwise permitted by the Loan Agreement), or subordinate, or cancel or terminate the Lease, or accept a surrender thereof or convey or transfer or suffer or permit a conveyance or transfer of the Property so as to effect a merger of the estates and rights of Government thereunder or enter into any agreement terminating, subordinating, amending, waiving or modifying the Lease without Assignee's prior written consent thereto and any such attempted subordination, amendment, waiver, modification or termination without such consent shall be void;

(f) Assignor will not consent to, reject, approve or disapprove any action or inaction requested by Government including, any assignment of or subletting under the Lease, without Assignee's prior written consent, which consent, rejection, approval or disapproval may be withheld by Assignee in its sole and absolute discretion (provided, however, that Assignee's consent to a subletting or assignment shall not be required if such subletting or assignment is in accordance with the Lease terms);

(g) Assignor will not declare a default under or pursue any claims, rights or remedies under the Lease which would affect any payment due from Government (including Rents) without Assignee's prior written consent, which Assignee may withhold in its sole discretion;

(h) Upon request of Assignee, Assignor will request and use reasonable efforts to obtain an estoppel certificate from the Government in substantially the form required by the Lease or if not so required, in form and substance reasonably satisfactory to Assignee;

(i) Assignor will promptly execute and deliver at Assignee's request all such further assurances, confirmations and assignments in connection with the Property as Assignee may from time to time reasonably require;

(j) Assignor will not receive or collect, or permit the receipt or collection of, any payment of Rents, purchase proceeds or avails, Proceeds or Awards, before the date for the payment thereof provided for by the Lease, or assign, transfer or hypothecate (other than to Assignee) any payment of Rents, purchase proceeds or avails, insurance proceeds or Condemnation awards, then due or to accrue in the future under the Lease;

(k) The payment of the Rents to accrue under any Lease will not be waived, released, reduced, discounted or otherwise discharged or compromised by Assignor;

(l) Assignor has not performed, and will not perform, any acts, and has not executed, and will not execute, any instrument that would prevent Assignee from exercising its rights under this Assignment; and

(m) Assignor hereby authorizes and directs any Government under any of the Leases and any successor to all or any part of the interests of any such Government to pay directly to the Escrow Fund, in accordance with the terms of the Loan Agreement, the Rents due and to become due under such Government's Lease, and such authorization and direction shall be sufficient warrant to the Government to make future payments of Rents directly to the Escrow Fund in accordance with the terms of the Loan Agreement without the necessity for further consent by Assignor.

2. Assignment; Deferred Exercise of Rights.

(a) As part of the consideration for the Debt, Assignor does hereby absolutely and unconditionally assign to Assignee all right, title and interest of Assignor in and to all present and future Leases and Rents, and this Assignment constitutes a present and absolute assignment and is intended to be unconditional and not as an assignment for additional security only. The execution and delivery of this Assignment shall not in any way impair or diminish Assignor's obligations under the Lease, nor shall any of Assignor's obligations contained in the Lease be imposed upon Assignee. It is further intended that it not be necessary for Assignee to institute legal proceedings, absent any requirements of law or regulation to the contrary, to enforce the provisions hereof. Assignor hereby authorizes Assignee or its agents to collect the Rents. Upon the payment of the Loan in full, and the performance and observance of the provisions of the Loan Documents, Assignee will, at the request and at the sole expense of Assignor, deliver to Assignor, an instrument in recordable form canceling this Assignment and reassigning the Lease without recourse, representation or warranty, to Assignor.

(b) Upon the occurrence and during the continuance of an Event of Default, and if and to the extent that Assignor has any interest or rights in any subleases(s) of the premises demised under the Lease, Assignor designates Assignee to receive, and directs Government to pay to Assignee or its designated servicer, all payments payable or receivable under any such subleases(s).

(c) Assignor hereby designates Assignee to receive duplicate original copies of all notices, undertakings, demands, statements, offers, documents and other instruments and communications which Government is or may be required or permitted to give, make, deliver to or serve upon Assignor under the Lease. Any consent, rejection, approval or disapproval given by Assignor to Government pursuant to the Lease shall be of no force and effect unless Assignee has consented thereto in writing.

(d) Assignor will not take any action as the landlord under the Lease or otherwise which is inconsistent with this Assignment, or make any other assignment, designation or direction inconsistent therewith, and any assignment, designation or direction inconsistent therewith shall be void.

3. Rents Held in Trust by Assignor. Rents held or received by Assignor shall be held or received by Assignor as trustee for the benefit of Assignee only and shall immediately be deposited directly to the applicable Escrow Fund in accordance with the terms of the Loan Agreement.

4. Effect on Rights Under Other Documents. Nothing contained in this Assignment and no act done or omitted by Assignee pursuant to the powers and rights granted it hereunder shall be deemed to be a waiver by Assignee of its rights and remedies under any of the other Loan Documents, and this Assignment is made and accepted without prejudice to any of the rights and remedies possessed by Assignee under the terms of the other Loan Documents. The rights of Assignee under the other Loan Documents may be exercised by Assignee either prior to, simultaneously with, or subsequent to any

action taken by it hereunder. This Assignment is intended to be supplementary to and not in substitution for or in derogation of any assignment of rents or grant of a security interest contained in any of the other Loan Documents.

5. Event of Default. Upon or at any time after the occurrence and during the continuance of an Event of Default, then in addition to and without limiting any of Assignee's rights and remedies hereunder and under the other Loan Documents and as otherwise available at law or in equity:

(a) Assignee may, at its option, without waiving such Event of Default and without notice and without regard to the adequacy of the security for the Debt, either in person or by agent or servicer, with or without bringing any action or proceeding, or by a receiver appointed by a court, enforce its interest in the Lease and the Rents and take possession of the Property and have, hold, manage, lease and operate the Property on such terms and for such period of time as Assignee may deem proper and either with or without taking possession of the Property in its own name, demand, sue for or otherwise collect and receive all Rents, including those past-due and unpaid with full power to make from time to time all alterations, renovations, repairs or replacements thereto or thereof as may seem proper to Assignor and may apply the Rents to pay the Debt in accordance with the terms of the Loan Documents, and Assignee may enter into, and to the extent that Assignor would have the right to do so, cancel, enforce or modify any Lease. The exercise by Assignee of the option granted it in this Section and the collection of the Rents and the application thereof as herein provided shall not be considered a waiver of any Event of Default.

(b) Assignor hereby acknowledges and agrees that payment of any item of Rent by a Person to Assignee as hereinabove provided shall constitute payment in full of such item of Rent by such Person, as fully and with the same effect as if it had been paid to Assignor.

(c) Assignee may take any action and exercise any remedy under the Loan Documents with respect to the Lease, or the Property, without Assignor's prior approval or consent.

(d) Assignee in respect of the Leases and Rents shall have all of the rights and remedies of a secured party under the Uniform Commercial Code as in effect in the State in which such rights and remedies are asserted as described in Section 12(b) to the extent of such rights thereunder and additional rights and remedies to which a secured party is entitled under the laws in effect in any jurisdiction where any rights and remedies hereunder may be asserted.

6. Application of Rents and Proceeds. After the occurrence and during the continuance of an Event of Default, Rents received or held by Assignor or Assignee shall be applied in accordance with the terms of the Loan Documents.

7. Attorney-in-Fact. Upon the occurrence and during the continuance of any Event of Default, Assignor hereby appoints Assignee the attorney-in-fact of Assignor to take any action and execute any instruments that Assignor is obligated, or has covenanted and agreed under the Loan Agreement or the other Loan Documents to take or execute, which appointment as attorney-in-fact is irrevocable and coupled with an interest. Without limiting the generality of the foregoing provisions of this Section 7, upon the occurrence and during the continuance of an Event of Default, Assignor does hereby irrevocably appoint Assignee and any designee of Assignee as its attorney-in-fact with full power, in the name and stead of Assignor to demand, collect, receive and give complete acquittance for any and all of the Rents now due or that may hereafter become due, and at Assignee's discretion, to file any claim, to take any other action, to institute any proceeding or to make any settlement of any claim, either in its own name or in the name of Assignor or otherwise, which Assignee may deem necessary or desirable in order to collect and enforce the payment of Rents.

8. Termination. Assignee, by the acceptance of this Assignment, agrees that when all of the Debt shall have been paid in full, this Assignment shall terminate, and Assignee shall execute and deliver to Assignor, upon such termination such instruments of termination or re-assignment and Uniform Commercial Code termination statements, all without recourse and without any representation or warranty whatsoever, as shall be reasonably requested by Assignor.

9. Expenses. Assignor agrees to pay to Assignee all out-of-pocket expenses (including expenses for attorneys' fees and costs of every kind) of, or incident to, the enforcement of any of the provisions of this Assignment or performance by Assignee of any obligation of Assignor hereunder which Assignor has failed or refused to perform.

10. Further Assurances. Assignor agrees that, from time to time upon the written request of Assignee, it will give, execute, deliver, file and/or record any financing statements, notice, instrument, document, agreement or other papers and do such other acts and things that may be necessary and desirable to create, preserve, perfect or validate this Assignment, to enable Assignee to exercise and enforce its rights hereunder with respect to this Assignment or to otherwise carry out the purposes and intent of this Assignment.

11. No Obligation by Assignee. By virtue of this Assignment, Assignee shall not be obligated to perform or discharge, nor does it hereby undertake to perform or discharge, any obligation, duty or liability under any of the Leases. This Assignment shall not operate to constitute Assignee as a lender in possession of the Property or to place responsibility for the control, care, management or repair of the Property upon Assignee, nor shall it operate to make Assignee responsible or liable for any waste committed on the Property by any Government or other party in possession or for any dangerous or defective condition of the Property or for any negligence in the management, upkeep, repair or control thereof.

12. Miscellaneous.

(a) No failure on the part of Assignee or any of its agents to exercise, and no course of dealing with respect to, and no delay in exercising, any right, power or remedy hereunder shall operate as a waiver thereof; nor shall any single or partial exercise by Assignee or any of its agents of any right, power or remedy hereunder preclude any other or further exercise thereof or the exercise of any other right, power or remedy. Subject to Section 16 hereof, the remedies herein are cumulative and are not exclusive of any remedies provided by law.

(b) **WITH RESPECT TO MATTERS RELATING TO THE CREATION, PERFECTION AND PROCEDURES RELATING TO THE ENFORCEMENT OF THIS ASSIGNMENT, THIS ASSIGNMENT SHALL BE GOVERNED BY, AND BE CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE IN WHICH THE PROPERTY IS LOCATED, IT BEING UNDERSTOOD THAT, EXCEPT AS EXPRESSLY SET FORTH ABOVE IN THIS PARAGRAPH AND TO THE FULLEST EXTENT PERMITTED BY THE LAW OF SUCH STATE, THE LAW OF THE STATE OF NEW YORK SHALL GOVERN ALL MATTERS RELATING TO THIS ASSIGNMENT AND THE OTHER LOAN DOCUMENTS AND ALL OF THE INDEBTEDNESS OR OBLIGATIONS ARISING HEREUNDER OR THEREUNDER. ALL PROVISIONS OF THE LOAN AGREEMENT INCORPORATED HEREIN BY REFERENCE SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK, AS SET FORTH IN THE GOVERNING LAW PROVISION OF THE LOAN AGREEMENT.**

(c) Subject to Section 16 hereof, all rights and remedies set forth in this Assignment are cumulative, and Assignee may recover judgment thereon, issue execution therefor, and resort to every other right or remedy available at law or in equity, without first exhausting and without affecting or impairing the security of any right or remedy afforded hereby; and no such right or remedy set forth in this Assignment shall be deemed exclusive of any of the remedies or rights granted to Assignee in any of the Loan Documents. Nothing contained in this Assignment shall be deemed to limit or restrict the rights and remedies of Assignee under the Loan Agreement or any of the other Loan Documents.

(d) Until the indebtedness and all other obligations secured by the Loan Documents is paid in full, Assignor will, upon request, deliver from time to time to Assignee executed originals to the extent available, otherwise photocopies certified by Assignor as true, correct and complete, of executed originals, of any and all existing Leases to which Assignor is a party, and executed originals, or photocopies of executed originals, so certified by Assignor, if an executed original is not available, of all other and future Leases to which Assignor is a party, and upon request of Assignee, will specifically transfer and assign to Assignee such other and future Leases upon the same terms and conditions as herein contained.

(e) Assignor represents that it: (i) has been advised that Assignee engages in the business of real estate financings and other real estate transactions and investments which may be viewed as adverse to or competitive with the business of Assignor or its affiliates; (ii) is represented by competent counsel and has consulted counsel before executing this Assignment; and (iii) has relied solely on its own judgment and on its counsel and advisors in entering into the transaction(s) contemplated hereby without relying in any manner on any statements, representations or recommendations of Assignee or any parent, subsidiary or affiliate of Assignee.

13. No Oral Change. This Assignment may not be amended except by an instrument in writing signed by Assignor and Assignee.

14. Successors and Assigns. Assignor may not assign its rights under this Assignment except as permitted under the Loan Agreement. Subject to the foregoing, this Assignment shall be binding upon, and shall inure to the benefit of, Assignor and Assignee and their respective successors and assigns.

15. Notices. All notices, requests and other communications provided for herein shall be given or made in writing in the manner specified in the Loan Agreement.

16. Exculpation. It is expressly agreed that recourse against Assignor for failure to perform and observe its obligations contained in this Assignment shall be limited as and to the extent provided in Section 10.1 of the Loan Agreement.

IN WITNESS WHEREOF, this Amended and Restated Assignment has been duly executed by Assignor and Assignee as of the day and year first above written.

Assignor:

Witness:



Name:

BOYER GSA WAREHOUSE, L.C., a Utah limited liability company, as Borrower

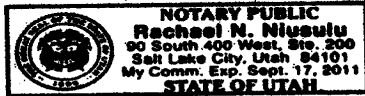
By: Boyer Project Company, L.C., a Utah limited liability company, its Manager

By: The Boyer Company, L.C., a Utah limited liability company, its Manager

By: 
Name: Steven B. Ostler
Title: Manager

STATE OF UTAH)
)
COUNTY OF Salt Lake) ss

On this 10th day of December, 2009, personally appeared before me Steven B. Oster, whose identity is personally known to me (or proven on the basis of satisfactory evidence) and who by me duly sworn/affirmed, did say that he/she is the Manager of The Boyer Company, L.C., the Manager of Boyer Project Company, L.C., the Manager of Boyer GSA Warehouse, L.C. and that said document was signed by him/her in behalf of said limited liability company by Authority of resolutions of its Manager, and said Steven B. Oster acknowledged to me that said limited liability company executed the same.



Rachel N. Niusulu
Notary Public

EXHIBIT A**Legal Description****PARCEL 1:**

Lot 3, **BOYER TWELFTH STREET SUBDIVISION**, according to the official plat thereof, filed July 30, 2009 as Entry No. 2427157, in Book 70 of Plats, at Page 28 in the office of the Weber County Recorder, Weber County, Utah.

PARCEL 2:

The nonexclusive easement, appurtenant to PARCEL 1 described above, for ingress and egress by vehicular and pedestrian traffic upon, over and across the ingress and egress access lanes and drive aisles as they may be changed from time to time within the following described tract, as created by and provided for in that certain Cross Access And Easement Agreement recorded April 21, 2009 as Entry No. 2406042 in the office of the Weber County Recorder:

12-233-0001-0007 ✓

A part of the West half of Section 19, Township 6 North, Range 1 West, and the East half of Section 24, Township 6 North, Range 2 West, Salt Lake Base and Meridian, U.S. Survey: Beginning at a point on the South right-of-way line of 12th Street, said point being 1057.75 feet North from the Weber County brass cap monument of the West Quarter corner of said Section 19 (Basis of Bearings established using a line bearing South 65°43'26" East between the existing monument and the tower on Mount Ogden Peak) as established in November of 1995, previously monumented at a location South 6°51'27" West 57.82 feet; and running thence South 88°44'13" East 404.62 feet to a line as called for in Boundary Line Agreement recorded September 9, 1989 as Entry No. 1089984, in Book 1568, at Page 1232 in the office of the Weber County Recorder; thence two (2) courses along an old existing fence as called for in said Agreement as follows: South 0°59'24" West 683.98 feet and South 0°36'17" West 478.01 feet to the Northerly right-of-way line of the Central Pacific Railroad Company; thence North 78°14'54" West 509.33 feet along said right-of-way to a point 111.00 feet West of said West Quarter corner of Section 19; thence North 1069.49 feet to the South right-of-way line of 12th Street; thence South 88°44'13" East 111.03 feet along said right-of-way to the point of beginning.

PARCEL 3:

The non-exclusive easements, appurtenant to PARCEL 1 described above, for ingress and egress of vehicles and pedestrians and for vehicular parking, upon, over and across the "Easement Area", as defined, described and created pursuant to that certain Declaration Of Easements, Covenants And Restrictions recorded December 17, 2009 as Entry No. 2450189 in the office of the Weber County Recorder.

[FOR REFERENCE ONLY: Tax Parcel No. 15-495-0003] *JA*