

Controlling the Construction of Tenant Improvements in Office Leases: A Tenant's Perspective

By Richard C. Mallory*
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I. BACKGROUND

The tenant work letter is an agreement that is entered into concurrently with the execution of a lease and sets forth the terms upon which the initial tenant improvements are to be built. The work letter is unique in that it is the only portion of a real property office lease that is consistently studied in detail by several service professionals following the full execution and delivery of the lease. Following the completion of negotiations between the representatives of the landlord and tenant, the work letter will be reviewed by the construction manager, the architect/design team, the contractors, and the lenders.

Because it is reviewed by so many professionals and has such an important impact on both the amount of money that will be expended by the respective parties on the tenant improvements, as well as the timing of the cash flow to the landlord following the commencement date of the lease, this part of the office lease merits a large proportion of the legal time and attention devoted to the lease negotiation process. Despite its importance, this part of the lease is often largely overlooked by both the tenant and its counsel in favor of what may appear to be more pressing legal and economic issues in the body of the lease. This is unfortunate because the work letter itself presents several very important issues.

What drives the decision as to which party is to be responsible for the construction of the tenant improvements? Who will control the schedule, the cost, the quality of design, and the quality of construction? It all comes down to time and money, since the cost of the tenant improvements is paid for by the tenant, either directly, during the course of construction and immediately following completion, or indirectly, throughout the lease term, as a portion of the rent.

This article will analyze the factors and strategies that should be weighed by the tenant and its representatives when negotiating whether the landlord or the tenant is to control the construction of the tenant improvements.

II. EVOLUTION OF WORK LETTER ALTERNATIVES

A. Expansion

The level of detail and number of issues addressed by the work letter agreement has evolved over the last approximately thirty years as tenant improvement allowance dollars and rental dollars have steadily increased. In the 1960s, a one-page outline, which simply listed the landlord's construction obligations, would constitute the entire work letter agreement. Today's work letter may be upwards of twenty pages, treating in great depth the basics, such as the commencement date, and the incidentals, such as the responsibility for clean-up expenses. Over the last several years, sophisticated tenants have weighed the relative benefits of selecting a "tenant build with a tenant allowance" work letter option, pursuant to which the tenant constructs the initial tenant improvements, over the traditional landlord build, such as a "turn-key" or "landlord build with a tenant allowance" work agreement, all of which are discussed below.

B. Distinctions

1. Tenant Build (With or Without Allowance)

In a tenant build work letter, the tenant selects the general contractor and enters into a construction contract, typically requiring the landlord to deliver the base, shell, and core of the premises in a condition that reflects the market for "base building delivery," for example, with demolition of any previous tenant improvements completed, drywall installed around the columns and under the windows and bathroom sprinklers, and main loop air conditioning ductwork in place. The tenant manages the construction of the improvements to the premises after the landlord delivers the space in the agreed-upon delivery condition. The landlord provides a tenant improvement allowance toward the cost of the improvements, and the tenant bears all costs in excess of that allowance. The commencement date of the lease term is typically fixed but is subject to extension for delays caused by the landlord or events outside of the reasonable control of the tenant. A tenant build work letter permits the tenant to tightly control the costs, quality, and pace of construction. This may come, however, at an unacceptable price if the tenant cannot act with the speed necessary to meet the tenant's business goals. If, for example, the tenant faces an expensive holdover situation in its current space or if the tenant has potentially profitable contractual obligations that will require total focus or necessitate the tenant's immediate occupancy of its new space, a landlord-build arrangement, though perhaps more expensive, may be the best economic decision for the tenant.

2. Turn-key

In a turn-key version of the landlord build work letter, the parties approve the plans for the tenant improvements prior to lease execution, and the landlord agrees to pay for the completion of the work in accordance with those plans, regardless of the cost. The term "turn-key" derives from the idea that after the landlord completes the improvements, the tenant need only "turn the key" and begin business. Before signing this agreement, the landlord usually has already determined the cost of completing the work in accordance with the plans. The landlord enters into a construction contract with the general contractor and the architect, and the term commences upon substantial completion of the work described in the

approved plans. If the tenant requests change orders that increase the cost of the work, then the tenant pays such additional costs. Delays in completion caused by the tenant will typically accelerate the commencement date, and thus the payment of rent, on a day-for-day basis. Because early completion is all-important to the landlord, many tenants fear quality will suffer in a turn-key arrangement.

3. Landlord Build with Allowance

In a landlord build with a tenant allowance version of a work letter, the lease is executed prior to the completion of the plans for the tenant improvements, and the landlord's cost for the work is limited to a set dollar amount per rentable or usable square foot of the premises. The landlord enters into the construction contract with the general contractor, and the commencement date is determined in the same manner as with a turn-key work letter. The tenant's concern with compromise of quality for the sake of early completion remains, and to it is added another concern regarding cost control, since the tenant pays all excess costs, yet doesn't control the construction. The tenant's concerns in this situation are addressed to a great extent in Section VI below and can also be addressed by insisting that the tenant have the right to approve any change orders to the approved plans and specifications. If quality of the construction is a primary concern, then, in addition to the items described in Section VI below, the tenant should insist upon a set of specifications for all materials and items to be used or installed and, if possible, should require the landlord to commit that the construction will match the quality level of a specific suite within the building that the tenant has inspected and approved.

III. FUNDAMENTAL CONSIDERATIONS

A. Landlord's Motives

Typically, both the tenant and the landlord will seek to control the expenditure of the tenant improvement dollars. The landlord's primary concerns are economic, including receiving rent at the earliest possible date and maximizing the return on the landlord's leasehold improvement investment. The landlord also argues that as the owner of the building, it has a superior interest in controlling the construction of improvements, such as the construction of financeable and reusable improvements (*i.e.*, improvements usable by a wide variety of office users as opposed to those specially designed for a tenant's business, such as exotic computer connections or specialty signage). The landlord also has an interest in minimizing the landlord's leasehold improvement expenditures, mitigating the landlord's liability for design and construction defects, achieving uniformity in construction, taking advantage of the economies of scale that result from multiple construction projects within the building, controlling scheduling to avoid conflicts with other construction in the building, and protecting other tenants from interference with quiet enjoyment.ⁱ

B. Tenant's Motives

The tenant's basic objectives are conforming the leasehold improvements to the tenant's specifications and particular business needs, completing the leasehold improvements by the date necessary to meet the tenant's business objectives, minimizing disruption of the tenant's operations, minimizing the tenant's cost for leasehold improvements, and avoiding responsibility

for base building improvements. From a project management point of view, the issue revolves around control, summarized as follows:

At issue is control—control of the costs, schedule, and qualitative elements of a design and construction project. Based upon a clear understanding that tenant improvement funds are ultimately paid by the tenant, its objective is to take control of the expenditure of those funds, to gain every advantage that buying power provides, and to ensure that value judgments, compromises, and related decisions impacting time, money, aesthetics, or function are made by or in the interests of the tenant. Fundamental to this understanding is the recognition that the money will be spent, and charged to the tenant, whether work is completed as a "turn-key" or under tenant control. By acceding control to the landlord, the tenant may perceive that it has reduced its "liability," but in fact it has yielded control of a major financial investment in the operations of its own organization.ⁱⁱ

C. Factors Influencing Success

Before deciding whether to seek control of the dollars through a tenant build work letter, a smart tenant will objectively consider the factors that influence whether the tenant will be successful.

1. The Tenant's Leverage in the Lease Negotiations

The first consideration is the tenant's leverage in the lease negotiations. How badly does the landlord want or need this tenant? Does this tenant add cachet to the building? Is it taking a large space? Is the market soft? If the premises will be located in a multi-tenant office building and the tenant is a non-national, multi-locational tenant leasing an insignificant number of square feet in an up market, it is a virtual certainty that the landlord will control the construction, no matter how strongly the tenant desires a tenant build work letter. As the tenant's square footage requirement increases or the market softens, the tenant will have a higher probability of successfully negotiating to control construction.

2. The Sophistication of the Tenant Construction Manager

Another factor is the tenant's level of construction expertise. Does the tenant have an internal department specializing in design and construction of tenant improvements? Has the tenant retained a project manager with an outstanding reputation for managing build-outs efficiently and with a minimal disruption of the landlord's business affairs? An affirmative response to these questions significantly increases the tenant's likelihood of successfully negotiating the control of the improvement process.

3. External Pressures

If the tenant is under significant pressures due to an expiring lease, or must timely deliver on a contract for its goods or services, or is otherwise reacting to extreme pressure to bring the tenant improvement project in on time or under budget, the tenant may have to use all of its influence or give in on other lease points to attain control of construction.

4. Landlord's Inability to Timely Cause or Pay for the Completion of Construction

The landlord's inability to complete construction in a timely manner is another factor to consider. If the landlord is unable to obtain construction financing or to timely complete construction due, for example, to a downturn in rents or a reversal in its credit rating, the tenant may be in a better position to insist on a tenant build work letter or the right to convert to a tenant-controlled build if the landlord fails to meet certain threshold tests.

5. The Existence of Hazardous Materials or Failure to Comply with the Americans with Disabilities Act

If the building contains asbestos-containing materials or other hazardous substances that may be disturbed during construction, or if the building common areas are not in compliance with the requirements of the Americans with Disabilities Act ("ADA"),ⁱⁱⁱ the tenant may choose to place the entire construction obligation on the landlord. Indeed, in most markets, the landlord would be required to take care of remediation of the hazardous materials and, as to the base building and the common areas (other than restrooms in a full-floor lease), compliance with the ADA, at its own cost. Landlords typically want to control this work to ensure that it is done correctly, as the landlord has an interest in the building that will outlive the tenant's occupancy.

6. The Amount of Money to Be Contributed by Each Party

What portion of the entire build-out cost does the tenant improvement allowance represent? If the tenant bears the greater cost burden up front, it will have more interest in—and more likelihood of controlling—construction costs. If the landlord is paying for most or all of the construction costs through the allowance, then the landlord will be more adamant about its right to control the expenditure of its money.

7. Relationships with Construction Industry Professionals

Construction experience nearly always favors the landlord, who should, therefore, be in a better position to obtain the most reliable contractors and architects and better economic terms, particularly when future business opportunities are likely for that group of service providers. This landlord advantage can be neutralized by the tenant's retention of a reliable and experienced project manager, or by the tenant's retention of the landlord's architect and contractor.

It all comes down to time and money: If the tenant believes it can save money by controlling the construction process and has sufficient leverage in that particular submarket and economy to insist on controlling construction, and if the tenant is not pressed for time in a manner that will weigh in favor of a landlord build, the construction of the leasehold improvements should be accomplished through a tenant build work letter.

IV. ESSENTIAL NEGOTIATION CONSIDERATIONS IN A TENANT BUILD WORK LETTER

Assuming that it is in the best interest of the tenant to control construction, and that the landlord has agreed to a tenant build, the tenant now has several key concerns in negotiating the actual terms of the work letter. These include accurately estimating the time to design and build the tenant improvements and preserving the negotiated construction period by providing for *force majeure* and landlord delays.

A. Adequacy of Time to Design and Build the Tenant Improvements

The classic battle in a tenant build work letter is over the fixed commencement date, which generally may only be extended for *force majeure* or landlord delays. From a tenant's perspective, the fixed commencement date should be determined by adding the number of days necessary for design, permitting, and construction to the date of full execution and delivery of the lease. This number should be approved by the project manager, designer, and contractor to the extent this professional team is in place by the time the parties must commit to this date. The input of the tenant's project manager in this regard is critical, as there is no date in the lease that is more critical than the rent commencement date. A tenant needs a project manager with depth of experience in order to convince the landlord that the date proposed by the tenant is appropriate. Regardless of the care taken by the tenant to propose a fair and comfortable fixed commencement date, the landlord will typically find it too long, too comfortable, and, therefore, too expensive. Once again, the respective leverage of each party, including such factors as the size of the premises, the financial health of the tenant, the percentage of the building leased by the tenant, and the state of the market, will determine the outcome of this negotiation. Because down-time is of primary concern to landlords, a signed deal may well be more important to the landlord than the two-to-six-week difference between each party's perception of the proper time frame for design, permitting, and construction. Of course, the tighter the market, the less this consideration will help a tenant.

B. *Force Majeure* and Landlord Delay Provisions

The next major negotiation issue involves *force majeure* and landlord-caused delays. These provisions need to be carefully negotiated in order to protect the benefit of the tenant's bargain as to the fixed commencement date.

1. *Force Majeure* Delay

A *force majeure* delay is a delay in the substantial completion of the leasehold improvements that is beyond the reasonable control of either the landlord or the tenant. The work letter should provide that the fixed commencement date be extended by the number of days of *force majeure* delays, as reasonably defined. To weigh fairly the parties' respective interests, three critical components need to be included in the definition of *force majeure* delays:

(a) *Industry-Wide.* The *force majeure* delay should be restricted to "industry-wide" *force majeure* delays such as strikes, acts of God (*e.g.*, earthquakes, fire, and floods) and other events that could not reasonably be foreseen by the parties, such as riot,

insurrection, unusually inclement weather, and the inability of the parties to obtain necessary materials. *Force majeure* delays should not include delays that are attributable to mistakes or miscalculations of the tenant or its representatives during the course of design or construction of the tenant improvements. One gray area is where the tenant is delayed in obtaining permits that would preclude construction of tenant improvements by any person. For example, if the tenant's plans would require parking in excess of that provided in the building, or movable partitions that are against then current code, the tenant may claim a *force majeure* delay, because construction cannot commence due to the failure of the city to issue the necessary permits. The landlord would argue, however, that such conditions are functions of the tenant plans rather than *force majeure* delays caused by governmental inaction, and the necessity of waivers should have been anticipated by the tenant's design team and is completely within the control of the tenant. The test is generally whether the *force majeure* delay would have arisen (or would have been as long in duration as claimed by the tenant), regardless of whether the design and construction of the tenant improvements had been under the landlord's control or the tenant's control. If the answer is "yes," then the *force majeure* delay is appropriate.

(b) *Notice.* The landlord needs to receive notice of the claimed *force majeure* delay from the tenant prior to the delay becoming effective. It may appear to be an onerous burden for the tenant to have to identify, document, and notify the landlord of a *force majeure* delay. The fact is, however, that the landlord is often able to abbreviate the number of days of the *force majeure* delay if it has notice of the claimed delay and can apply its resources to mitigate it. For example, if supplies are held up due to weather or strikes, the landlord may have access to alternative sources. If certain trades are on strike, the landlord may have suggestions about where the tenant might find a supply of labor to continue with the work.

(c) *Outside Date.* If *force majeure* delays stall the completion of the tenant improvements for an extended period of time, the tenant may need either to redesign the tenant improvements to eliminate the elements causing the delay or have the ability to cut its losses and relocate to alternative space. Because of this possibility, an outside date for *force majeure* delays is appropriate to allow the tenant to move forward with its business and to protect the landlord from having to adhere to a completion date that may never occur. The outside date would naturally vary with the parties' respective leverage, but it typically is a date between three and twelve months from the original fixed rent commencement date.

2. Landlord Delay

Many landlords have difficulty envisioning a landlord delay, primarily because the lease commencement date is so critically important to the landlord. Nonetheless, there are circumstances in which a landlord might take actions that delay the construction of the tenant improvements. For example, the landlord might elect to block a tenant's access to the building's loading dock in order to accommodate a major multi-floor move-in by a major tenant for the building. The landlord might also be unable to approve plans and specifications submitted by the tenant, due to illness or excessive workload. These delays are not within the tenant's control but are reasonably within the landlord's control. Landlord delay provisions should contain "cut-off" or "outside date" features similar to those suggested above with respect to *force majeure* delays to ensure that at some point the parties can move on with their business. As with *force majeure* delays, no landlord delays should be deemed to have occurred without the landlord having

received written notice of the tenant's claim for such delay. This will protect the landlord from being "blind-sided" with a claim for a large number of landlord delay days. Accordingly, the lease should provide that no landlord delay will occur without the landlord having received a written notice of the claimed delay and having had a one-business-day period to attempt to cure it. The one-business-day grace period can be limited to a total, for example, of six days, so that the one-day notice and reaction process will not be abused.

V. OTHER CONSIDERATIONS IN A TENANT BUILD WORK LETTER

In a tenant-controlled construction project, it is critical that the cash flow to the tenant's contractors not be impeded by the process in the work letter relating to the funding of invoices. In addition, the timing of the tenant's contribution and the permitted uses for the allowance may have a significant impact on the tenant's finances. The negotiation of the work letter should also focus on these concerns, as well as insurance and casualty issues.

A. Payment Schedule

The payment schedule for the contractor's invoices, from a tenant build perspective, should mirror the contractor's expectations generally in the marketplace. Payment is typically expected thirty days from submission of invoices. As with most service providers, the landlord may attempt to insert a requirement for third-party invoice approval by the landlord's lender or architect, which may result in late payments to the contractor. The landlord may insist on language for the benefit of its lender, but this may fail to take into account the fact that the tenant's credit has already been approved by the landlord and, indirectly, by the lender. Presumably, the tenant was accepted by the landlord and lender because it is financially capable of paying the rent, and the rent already includes the amortized cost of the tenant improvements. Delayed payment procedures will be inconsistent with the tenant's goals of fostering a positive relationship with those responsible for constructing the tenant improvements. Nonetheless, a landlord may be unable to change onerous payment procedures if its loan documents contain such requirements.

B. Timing of Tenant's Contribution

The tenant improvement allowance is a source of funds that should be exhausted before the tenant is forced to draw on working capital, bank financing, or other sources of funds to pay for the balance of the cost of the tenant improvements. The tenant's funds can be put to much better use in the tenant's own business, rather than prepaying for construction at a time when the landlord's allowance has not yet been spent, or even invoiced. The landlord may argue that the tenant should pay for costs estimated to be in excess of the tenant improvement allowance prior to or on a proportionate basis with the use of the allowance to assure the landlord that the tenant has the funds to complete the project. A tenant should resist this approach on the grounds that the landlord has already made a decision to rely on the tenant's financial integrity for the payment of the rental obligations under the lease, and that the landlord's requirement of such an "impound" is inconsistent with that assumption of business risk.

The tenant should also ensure early in the negotiation process that the allowance is sufficient for the tenant's needs. This is another reason to hire an experienced and reputable

project manager early in the work letter negotiation process. The project manager can help the tenant negotiate for a tenant improvement allowance that will realistically cover those costs that the tenant reasonably anticipates will be required. If a greater allowance is necessary to meet the tenant's objectives, the time for this discussion and negotiation is at the letter of intent stage.

C. Exhaustion of Tenant Improvement Allowance

Landlords typically recover the cost of the allowance over time through increased rental payments. Because the tenant will be amortizing 100 percent of the tenant improvement allowance through the scheduled rental payments, it is critical that the tenant know that it will be able to utilize all of the tenant improvement allowance. On the other hand, landlords tend to view tenant improvement allowances as a concession to the tenant and may insist on negotiating limits on the use of the tenant improvement allowance. For example, the landlord may attempt to limit the use of the allowance to the payment of improvements that will remain in the premises or have some residual asset value at the end of the term. If the landlord takes this position, the tenant should then request a rental reduction formula based on the amount of the unused allowance or should request application of the allowance to the moving costs and the cost of furniture and telecommunications installations. Such a concession generally assures the tenant that it will utilize all of its allowance, because the tenant improvement allowance is typically less than half of the total cost of the move to the premises, after taking into account moving costs and costs of installation of furniture and equipment.

D. Insurance

A tenant-controlled work letter may require specific insurance coverage during the course of construction or may reference the general insurance obligations of the tenant contained in the lease. An insurance requirement in the work letter may be unnecessary in the case of a landlord build, simply because the landlord has already assured itself of compliance with its internal insurance requirements or its lender's or partners' insurance requirements through its own coverage combined with its contractor's insurance. Any special insurance requirements related to the construction of the leasehold improvements will need to be specifically addressed in the work letter agreement. Fundamental insurance issues include the acquisition, by the general contractor, of workers' compensation insurance as required by law and builder's risk insurance covering the existing tenant improvements and the improvements to be constructed, all pursuant to standard industry custom and practice. Since the lease should always address indemnity issues, the work letter should incorporate them by reference. The representatives of both the landlord and the tenant should also ensure that the language of the work letter includes liability insurance coverage, either by specific provision for it or by incorporating by reference the insurance provisions in the lease.

E. Casualty During Course of Construction

The allocation of risk of loss during the course of construction should be designed to address the same issues that are addressed in the damage and destruction provisions of the lease, including the following: (1) extending the scheduled completion date and adjusting the allowance as a consequence of the casualty; (2) placing insurance proceeds in a trust account for disbursement as restoration work proceeds; and (3) specifying the parties' respective

responsibilities for deductibles and other uninsured costs.^{iv} The tenant should be entitled to terminate the lease after a casualty if the contractor in charge of construction is unable to certify to the parties that the leasehold improvements will be able to be substantially completed within an agreed-upon time period. The time period should reflect the time it would take for the tenant to initiate a search for new space, negotiate a new lease, design and obtain permits for the construction of tenant improvements, and complete the construction. This time period is appropriate because the landlord, given its investment in the lease as of the date of the casualty, should be at least on an equal footing with third-party landlords in attracting the tenant to build out improvements and lease space in its building. This could only be accomplished by allowing an adequate time period for the landlord to demolish the existing damaged improvements and complete construction of the leasehold improvements pursuant to the approved plans and specifications. Because the lease has already been negotiated and the plans and specifications have already been completed, the landlord suffering the casualty should be at a competitive advantage in retaining the tenant based on this timeline.

VI. NEGOTIATION CONSIDERATIONS IN A LANDLORD BUILD WORK LETTER

If a tenant is unable to negotiate a tenant-controlled work letter, the tenant's attorney must protect his or her client from the pitfalls of the landlord build work letter. The tenant's primary concerns are discussed in this section.

A. A Broadly Defined Definition of Substantial Completion

In a landlord build work letter, the tenant's rent obligations will begin on a date that is tied to the definition of substantial completion. Substantial completion of the tenant improvements should be defined to mean the date as of which (i) the general contractor in charge of construction certifies to both parties that the work of improvement has been completed pursuant to the approved plans, subject to a reasonable punch list and to any fixtures or equipment to be installed by the tenant and (ii) the tenant can legally occupy and commence to operate its business within the premises. The second element requires that there be no impediments to the use of the critical common area facilities such as parking, lobby, and elevator and that a temporary certificate of occupancy has been issued. If the tenant will be taking possession of the new premises while continuing to occupy its existing premises, the tenant should negotiate for the right to "phase-in" the rent based on the proportion of the space being utilized for the tenant's business, with a fair outside date for full term commencement.

B. The Definition of Tenant Delay

A tenant delay can be any event that is reasonably within the control of only the tenant. The tenant delay feature of a landlord build work letter should be fine tuned to require notice to the tenant and a one-business-day cure period, with a total of up to six to ten "free days" of tenant delay without penalty over the course of the build-out. The basis of the notice requirement is to give the tenant the opportunity to limit the accumulation of tenant delay days, because proactive and creative cooperation with the landlord can mitigate or eliminate most of these delays. Some long lead time items can be readily available if the parties focus in advance upon solutions. To the extent that long lead time items are fundamental to the tenant's business

and the landlord has been made aware that the tenant will require them the commencement date should be designed to accommodate the time for such items and they should not be treated as causing a tenant delay. All tenant delays should be calculated on a net critical path basis, meaning that they are days of actual delays in the substantial completion of the tenant improvements, after adjusting for all delays caused by or contributed to by the landlord.

C. The Condition of the Premises Prior to Application of the Tenant Improvement Allowance

One of the most important features of a fairly and fully negotiated work letter agreement is a detailed description of what the landlord will be providing toward the improvement of the premises prior to the application of the tenant improvement allowance. This should include full treatment of the issue of demolition of existing improvements, so that the tenant can make an accurate comparison of alternative locations. If, for example, a landlord is requiring that a tenant install the entire main duct and branch distribution for the heating, ventilating, and air conditioning system, and the landlord's competitors have preinstalled the main ducts and are only charging the tenant for the cost of the branch distribution, the respective rents and other factors affecting rent can be adjusted and weighed to assure that the correct net rents have been assigned to the competing locations.

VII. CONCLUSION

With a coordinated team of expert consultants on board, and with a little leverage, a tenant should be able to convince a landlord to agree to a tenant build work letter. This should allow the tenant to maximize its potential savings in the construction of the improvements. If the tenant must accept a landlord build, it should negotiate carefully the terms of the work letter to ensure timely completion of the expected quality of tenant improvements. At issue is control, and it all comes down to time and money.

**Richard C. Mallory received his B.S. from the University of Southern California and his J.D. from Stanford University. Mr. Mallory is a partner in the San Francisco office of the law firm Allen, Matkins, Leck, Gamble & Mallory LLP.*

ⁱ See D. Summers, D. Morrow & J. Tipton, *Leasehold Improvement Agreement Exhibit* in CEB Office Leasing: Drafting and Negotiating the Lease, § 40.3, at 838 (1996) [hereinafter *Leasehold Improvement*].

ⁱⁱ Jeffrey R. Gingold, *Coordinating a Team of Experts*, CLE International Tenant Improvement Agreement Conference, Los Angeles, California, § I, at 1 (1997).

ⁱⁱⁱ 42 U.S.C. § 1201 *et seq.*

^{iv} *Leasehold Improvement*, *supra* note 1, at 877.