GREEN LEASES:
HOW TO DRAFT LEASES TO ACHIEVE LEED EB AND LEED CI CERTIFICATION

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Chair, City Advocacy Committee, U.S. Green Building Council, North Texas Chapter
Author, "Administering Dallas' Green Building Ordinance," Dallas Business Journal, April 3, 2009
Author, "The Cowboys Get on 'Track' - The EPA's Performance Track Program Helps Facilities Achieve Environmental Excellence," Facility Manager, April/May 2009
Author, "Covenants, Conditions and Restrictions in the Age of Green Building," Texas Builder, July/August 2009
Author, "Green Building Issues in Residential Covenants, Conditions and Restrictions," State Bar of Texas Advanced Real Estate Strategies Course, October 2009

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I. INTRODUCTION

A. The Rise of Green Building

The green building movement is one of the most exciting and promising recent trends in the real estate industry. From skyscrapers, to shopping malls, to the humble single-family home, we are finding innovative ways to reduce the environmental impact of real estate development. Contractors, design professionals and product manufactures have been at the forefront of the movement, but lawyers also have a role to play. Complicated green building projects typically require cooperation among various parties, and lawyers are needed to document and structure these relationships. This paper will focus on the landlord-tenant relationship, and discuss concepts that should be included in lease agreements in order to achieve certification under two popular green building rating systems.

B. LEED Rating Systems

Because the term "green" is used so frequently and loosely in the marketing of so many products, it is hard to quantify what constitutes a "green" building. Several organizations, such as the U.S. Green Building Council (the "USGBC"), have attempted to bring clarity to the subject, by developing building rating systems. The USGBC developed its initial rating system, the Leadership in Energy and Environmental Design ("LEED") Pilot Project Program in 1998. Over the years, the LEED program has evolved and matured, and now the USGBC offers a variety of LEED rating systems tailored to fit different types of real estate projects.

The first rating system was LEED for New Construction. The ideal application for this system is when a single owner, desires to build a single building, for its sole use. Because commercial real estate projects are rarely this simple, the USGBC created several new rating systems including LEED for Core & Shell, which applies to a landlord's construction of a building shell, and LEED for Commercial Interiors, which applies to a tenant's finish-out of its leased space. Realizing that the environmental impact associated with the ongoing operations and maintenance of existing buildings is as significant as the impact of new construction, the USGBC developed the LEED for Existing Buildings: Operations & Maintenance rating system.

In the context of a multi-tenant office building, the most important rating systems will likely be (i) LEED for Core & Shell, which applies to the landlord's construction of the building shell, (ii) LEED for Commercial Interiors, which applies to the tenant's finish-out, and (iii) LEED for Existing Buildings: Operations & Maintenance, which applies to the ongoing operation of the entire project, including the leased premises. Because, in the typical multi-tenant scenario, the design and construction of the building shell is likely to be within the sole control of the landlord, and not necessitate prior agreements or ongoing cooperation between the landlord and tenants, this paper will address only lease issues that arise under the LEED for Commercial Interiors and LEED for Existing Buildings: Operations & Maintenance rating systems.

1. Existing Buildings: Operations & Maintenance Rating System

Attached as Appendix 1 is a summary of the credits available under the LEED 2009 Green Building Rating System for Existing Buildings: Operations & Maintenance ("LEED EB"). As shown in the appendix, as more "green" features and practices are included in the building, more points are awarded, and a higher level of certification will be earned.

Certification under LEED EB can be awarded to a single-occupant building (as was recently achieved by the Frito-Lay headquarters in Plano, Texas) or a multi-tenant building (as was recently achieved by the 75-story JP Morgan Chase Tower in downtown Houston, Texas). The certification applies to the entire building, not just a single tenant. Because the rating system measures ongoing operations and maintenance practices, a building must file for recertification at least once every 5 years in order to maintain its status.

2. Commercial Interiors Rating System

Attached as Appendix 2 is a summary of the credits available under the LEED 2009

Green Building Rating System for Commercial Interiors ("LEED CI"). Like LEED EB, as more "green" features and practices are included in the building, more points are awarded, and a higher level of certification will be earned. Unlike LEED EB, certification can be earned by a small leased space within a building, and not the entire building.

C. Green Leases

For a landlord to achieve certification under LEED EB, it will be essential to receive the tenant's cooperation, as much of the LEED EB criteria is based on the daily practices of the building's occupants (not just the practices of the building's management office). Likewise, for a tenant to achieve certification under LEED CI, it will be essential to receive the landlord's cooperation, as much of the LEED CI criteria is based on building-wide systems that are outside the tenant's control. If LEED EB or LEED CI certification is important to the landlord or the tenant, it makes sense for the parties to express their objectives early in the lease negotiation process, agree upon the steps necessary to achieve certification, and document that agreement in the lease.

II. GENERAL LEASE STRATEGIES

A. Pick the Right Landlord

For a tenant interest in earning LEED CI certification, the first step is to select the right landlord and the right building. So much of the criteria for LEED CI certification is based upon either (i) the existing features of the building, or (ii) the ongoing practices of the landlord, that no amount of clever lease drafting can overcome a stubborn landlord or a poorly designed building.

B. Cooperate

A cooperative approach is best. Ideally the landlord and tenant will both have "green" objectives and will be pleased that the other party shares their environmental goals. Instead of the lease simply including covenants, representations and remedies, a better approach is for the parties to agree on objectives, and establish a cooperative scheme to meet the objectives. Some amount of trial and error may be necessary to achieve certification, particularly when it comes to electrical and HVAC systems that may need to be continuously monitored and refined to meet desired performance goals.

C. Agree on LEED Points

An upfront agreement on what LEED EB or LEED CI credits each party wants to earn will help avoid surprises down the road, when one party seeks permission to take a LEED-related action, but is denied. Attaching a LEED checklist as an exhibit to the lease, with the desired credits marked, is an efficient way to incorporate the LEED requirements into the lease, without having to draft or reproduce lengthy language.

D. Agree on Cost Allocation

Under the LEED CI system, the tenant may ask the landlord for permission to conduct certain activities, or use certain finish-out materials, that have no financial impact on the landlord. At the same time, however, the tenant may ask the landlord to make physical changes to building systems or perform new maintenance procedures that have a measurable cost.

Similarly, under the LEED EB rating system, a landlord may ask a tenant to spend time and money to implement new procedures within its leased premises. Furthermore, although one of the goals of the LEED programs is to reduce resource consumption (and thereby reduce costs), many of the steps that a landlord takes to earn LEED certification may increase costs, and the landlord may seek to pass those costs on to the tenants as operating expenses. Consider whether the administrative costs of completing the LEED paperwork is a cost that can be passed on to the tenants.

E. Agree on Remedies

It is expected that if a tenant does not pay the rent, it will be evicted. Likewise, if a landlord does not provide a building that is suitable for occupancy, the tenant may terminate the lease. Consider whether a breach of a LEED-related covenant or representation should merit a drastic remedy. If a party's only remedy is too severe, that may be the equivalent of having no remedy at all. Consider including lesser remedies in the lease, like self-help rights, smaller monetary penalties, and off-set rights.

III. ITEMS TO BE ADDRESSED IN LEASE FOR LEED EB CERTIFICATION

A. LEED EB Overview

Many of the conditions needed to achieve LEED EB certification can be satisfied by the landlord independently, without cooperation from the tenants. For example, the landlord of a multi-tenant building typically has exclusive authority to maintain and improve the exterior landscaping, the building's facade, interior common areas and common mechanical systems.

Over half of the LEED EB credits, however, will require some measure of cooperation from the tenants, whether the tenants will be asked to pay for the cost of some LEED process as a building operating expense, or the tenant will be asked to adjust some element of, or procedure used in, its leased premises. A recurring theme of LEED EB is that the landlord will regularly measure, verify and adjust the performance of various building systems like HVAC, electrical, lighting and water. The tenant will likely approve of these measure as they are intended to reduce expenses and improve occupant comfort. From the tenant's perspective, the more controversial elements of the LEED EB program are those that require the tenant to adjust their finish-out, ongoing purchasing programs, ongoing waste management programs, and even their commuting habits, to accommodate the landlord's goals.

B. Specific LEED EB Credits

Below is a list and brief description of the LEED EB credits that a landlord can only achieve with cooperation from a tenant. When drafting a lease for a building that seeks LEED EB certification, consider which of the credits below the landlord intends to earn, and how the landlord will document the tenant's agreement to cooperate.

1. Comply with Environmental Laws (LEED 2009 Minimum Program Requirement 1)

The latest LEED EB program includes several updates that are unique to the 2009 version. In addition to adjusting the prerequisites and credits, the latest LEED EB program establishes minimum characteristics that a project must possess in order to be eligible for certification. The characteristics are known as Minimum Program Requirements ("MPRs"). The intent of the MPRs is to protect the integrity of the LEED program, by ensuring that only permanent, occupied and legal buildings achieve certification, not temporary, vacant or illegal structures. What makes the MPRs much more important than the basic prerequisites and credits is that, after a building has been certified, the certification may be revoked if an MPR is not satisfied. It would be disappointing to fail to achieve LEED certification, but it would be humiliating to achieve certification and publicize your success, only to have the certification revoked one year later. The first MPR is that the building, and the operations occurring within the building, "must comply with all applicable federal, state, and local building-related environmental laws and regulations in place where the project is located." Confirm that the lease contains sufficient consequences and remedies if a tenant's actions violate an environmental law that could result in revocation of LEED certification.

2. Share Whole-Building Energy and Water Usage Data (LEED 2009 Minimum Program Requirement 6)

The sixth MPR is that certified projects must commit to sharing with the USGBC, "all available actual whole-project energy and water usage data for a period of at least 5 years." Confirm that the lease permits the landlord to collect and share this information, particularly if any tenant space is separately metered.

3. Alternative Commuting Transportation (Sustainable Sites Credit 4)

LEED EB awards points for projects that reduce the number of commuting round trips made by regular building occupants using conventionally fueled vehicles. Strategies to earn these points include carpools, mass-transit, telecommuting or driving alternative-fuel

vehicles. Confirm that the lease requires tenants to adopt some of these measures.

4. Light Pollution Reduction (Sustainable Sites Credit 8)

LEED EB awards points for projects that reduce light pollution generated by both exterior lights, and interior lights. Confirm that the lease requires the tenant to either direct interior lights away from windows, or turn off lights after business hours.

5. Minimum Indoor Plumbing Fixture and Fitting Efficiency (Water Efficiency Prerequisite 1)

LEED EB requires that indoor plumbing fixtures meet minimum efficiency standards. Confirm that tenant finish-out standards mandate compliance.

6 Water Performance Measurement (Water Efficiency Credit 1)

Points are available for installing meters for irrigation systems, indoor plumbing fixtures, cooling towers, domestic hot water, and other process water. Confirm that the lease allows the landlord to install and monitor meters within the tenant's demised premises.

7. Additional Indoor Plumbing Fixture and Fitting Efficiency (Water Efficiency Credit 2)

Points are available for reducing water consumption beyond the levels specified in Water Efficiency Prerequisite 1. Confirm that the tenant finish-out standards require fixtures and fittings necessary to achieve this goal.

8. Energy Efficiency Best Management Practices (Energy and Atmosphere Prerequisite 1)

LEED EB requires that owners develop a building operating plan that includes an occupancy schedule, equipment run-time schedule, and design set-points for HVAC equipment and lighting equipment. Owners must also validate that the operating plan has been met. Confirm that the lease gives the landlord the ability to devise and enforce the plan.

9. Minimum Energy Performance (Energy and Atmosphere Prerequisite 2)

LEED EB requires certified buildings to meet minimum energy efficiency requirements relative to typical buildings of similar type. Confirm that tenant finish-out and operations will not undermine the landlord's plan.

10. Optimize Energy Efficiency Performance (Energy and Atmosphere Credit 1)

Points are available for buildings that achieve increasing levels of energy efficiency. Like Energy and Atmosphere Prerequisite 2, confirm that tenant finish-out and operations will not undermine the landlord's plan.

11. Performance Measurement – System Level Metering (Energy and Atmosphere Credit 3.2)

Points are available if a landlord employs spot metering or other metering to determine the energy consumption of major mechanical systems or other end use applications. Confirm that the lease permits the landlord to collect this information from meters that are unique to a single tenant.

12. On-site and Off-site Renewable Energy (Energy and Atmosphere Credit 4)

The more that a landlord can reduce fossil fuel consumption by using on-site or off-site renewable energy, the more points will be awarded. Confirm that the lease allows the landlord to buy "green" power or renewable energy certificates, and pass the cost to the tenants. If the tenant's premises are separately metered, confirm that the tenant is required to independently buy either "green" power or renewable energy certificates.

13. Sustainable Purchasing Policy (Materials and Resources Prerequisite 1)

LEED EB requires owners to establish an environmentally preferable purchasing policy for ongoing consumables. Although this prerequisite requires only policies, not actual measured performance, the policy would have little credibility unless tenants were aware of, and required to abide by, the policy.

14. Solid Waste Management Policy (Materials and Resources Prerequisite 2)

In addition to a purchasing plan, owners must also establish a waste management plan for ongoing consumables, durable goods and facility alterations. Like the purchasing policy discussed above, the waste management policy would have little credibility unless tenants were aware of, and required to abide by, the policy.

15. Sustainable Purchasing – Ongoing Consumables (Materials and Resources Credit 1)

A point is available for documented purchases of ongoing consumables (like paper, toner cartridges and batteries) that have a minimum level of recycled content, or other environmentally-friendly properties. The credit can only be achieved by participation from the building's tenants, not just by the building's management staff.

16. Sustainable Purchasing–Durable Goods (Materials and Resources Credit 2)

Like ongoing consumables, points are available for purchasing durable goods (like computers and monitors) with minimum levels of recycled content, or other environmentally-friendly properties. The credit can only be achieved with tenant participation.

17. Sustainable Purchasing – Facility Alterations and Additions (Materials and Resources Credit 3)

A point is also available for purchasing certain types of carpet, other flooring materials, drywall, adhesives, sealants, paint and other materials used in renovations. Tenant finish-outs should be conducted in accordance with this standard.

18. Sustainable Purchasing – Reduced Mercury in Lamps (Materials and Resources Credit 4)

A point is available if the owner establishes a plan that specifies the maximum levels of mercury permitted for indoor and outdoor lighting fixtures. Indoor fixtures include both hard-wired and portable lamps. Ceiling lights installed as part of the tenant's finish-out, and desk lamps, should comply with the landlord's plan.

19. Sustainable Purchasing – Food (Materials and Resources Credit 5)

Mandating the types of food and beverages that a tenant may buy for on-premises consumption may seem overreaching, but a point is available if at least 25% of the building's total food and beverage purchases (measured by cost) meet certain sustainability guidelines.

20. Solid Waste Management – Waste Stream Audit (Materials and Resources Credit 6)

A point is available for owners that conduct an audit to assess waste production patterns in the building. This information can serve as a baseline to help owners reduce future waste generation. Confirm that tenants are required to cooperate in the audit.

21. Solid Waste Management – Ongoing Consumables (Materials and Resources Credit 7)

Buildings that reuse, recycle or compost 50% of the ongoing consumables waste stream can earn a point toward certification. The tenants' participation is needed to achieve this goal.

22. Solid Waste Management – Durable Goods (Materials and Resources Credit 8)

Buildings that reuse or recycle 75% of the durable goods waste stream can earn a point toward certification. Again, the tenants' participation is needed to achieve this goal.

23. Solid Waste Management – Facility Alterations and Additions (Materials and Resources Credit 9)

Buildings that divert at least 70% of waste generated by facility alterations and additions from disposal in landfills or incinerators can earn a point toward certification. Confirm that tenants adhere to these guidelines when finishing-out their leased space.

24. Environmental Tobacco Smoke Control (Indoor Environmental Quality Prerequisite 2)

In order to earn certification, buildings are required to (a) prohibit smoking within 25 feet of entryways and outdoor air intakes, and (b) either (i) prohibit smoking inside the building, or (ii) restrict inside smoking to rooms with negative pressure and separate exhaust systems. Tenants must abide by these rules.

25. Green Cleaning Policy (Indoor Environmental Quality Prerequisite 3)

In order to earn certification, buildings are required to establish a cleaning policy that reduces occupants' exposure to hazardous chemicals and other contaminants. Make sure that tenants are aware of the policy, agree to abide by the policy, and understand that the building will be cleaned in accordance with a "green" policy, and not some other industry standard.

26. Indoor Air Quality Management Program (Indoor Environmental Quality Credit 1.1)

To enhance indoor air quality, a point is available for developing and implementing a program based on the EPA Indoor Air Quality Building Education and Assessment Model. The program should include a plan form preventing moisture accumulation and mold in the building. Tenants should be aware of, and required to comply with, the program.

27. Outdoor Air Delivery Monitoring (Indoor Environmental Quality Credit 1.2)

A point is available for buildings that install permanent, continuous monitoring devices for ventilation system performance. Densely occupied areas must have CO2 sensors. Tenants should permit landlords to install and monitor the CO2 sensors. Furthermore, the cost of the installation and monitoring should be a common expense, shared by the tenants.

28. Indoor Air Quality Management for Facility Alterations and Additions (Indoor Environmental Quality Credit 1.5)

A point will be awarded if the building implements a plan to prevent indoor air quality problems during construction or renovation projects. Air handlers should use appropriate filtration media, absorptive materials should be protected from moisture damage, and the air in the building should be sufficiently flushed-out prior to occupancy. Confirm that tenants are required to comply with these procedures during finish-out.

29. Occupant Comfort – Occupant Survey (Indoor Environmental Quality Credit 2.1)

This credit can be earned by conducting regular surveys of occupants' comfort as it relates to thermal comfort, acoustics, indoor air quality, lighting and building cleanliness. Confirm that tenants are required to participate in the surveys.

30. Controllability of Systems – Lighting (Indoor Environmental Quality Credit 2.2)

This credit can be earned by installing lighting controls that enable adjustments to suit the task needs and preferences of individuals for at least 50% of workstations. Confirm that tenant finish-out standards comply with this credit.

31. Occupant Comfort – Thermal Comfort Monitoring (Indoor Environmental Quality Credit 2.3)

A point is available for buildings that install systems to track and optimize air temperature, humidity, air speed and radiant temperature. Tenants should permit landlords to install and adjust these systems. Furthermore, the cost of the installation and monitoring should be a common expense, shared by the tenants.

32. Daylight and Views (Indoor Environmental Quality Credit 2.4)

This credit can be earned if 50% of all regularly occupied spaces achieve sufficient daylight illuminance, or if there is a direct line of sight to the outdoor environment in at least 45% of regularly occupied areas. Tenant finish-out standards should adhere to this credit.

33. Green Cleaning (Indoor Environmental Quality Credits 3.1-3.6)

Several points are available for implementing various "green" cleaning techniques, such as purchasing certain types of janitorial supplies and equipment, employing a pest management plan that minimizes the use of pesticides, and regularly auditing the cleaning procedures. Confirm that tenants will cooperate as needed, or at least understand that cleaning will be done using "green" techniques, instead of some other standard.

IV. ITEMS TO BE ADDRESSED IN LEASE FOR LEED CI CERTIFICATION

A. LEED CI Overview

Many of the conditions needed to achieve LEED CI certification can be satisfied by the tenant independently, without cooperation from the landlord. For example, the tenant can buy furniture that meets the LEED standards, and can independently recycle paper, cardboard, glass and plastic waste.

Most of the LEED CI credits, however, will require some measure of cooperation from the landlord. There is a heavy focus on the finish-out of the leased premises, and whether the landlord will manage the finish-out process, or merely approve the tenant's design, the landlord should understand and pre-approve the design elements that are intended to support LEED certification.

B. Specific LEED CI Credits

Below is a list and brief description of the LEED CI credits that a tenant can only achieve with cooperation from a landlord. When drafting a lease for a tenant that seeks LEED CI certification, consider which of the credits below the tenant intends to earn, and how the tenant will document the landlord's agreement to cooperate.

1. Share Whole-Building Energy and Water Usage Data (LEED 2009 Minimum Program Requirement)

One of the Minimum Program Requirements that a project must satisfy in order to be eligible for LEED CI certification is that certified projects must commit to sharing with the USGBC, "all available actual whole-project energy and water usage data for a period of at least 5 years." Confirm that the lease requires the landlord to cooperate in this effort, particularly if the leased premises is not separately metered.

2. Site Selection (Sustainable Sites Credit 1)

A tenant can earn 5 points toward LEED CI certification simply by moving into a building that is already certified under LEED CS or LEED NC. If the building is under construction, have the landlord covenant that it will obtain certification. If the building has already been built, have the landlord represent and provide evidence that the certification has already been awarded.

3. Bicycle Storage and Changing Rooms (Sustainable Sites Credit 3.2)

Two points are available if the building provides secure bicycle storage areas and shower and changing facilities. Confirm that the building will provide these amenities, or allow them to be part of the tenant finish-out.

4. Parking Availability (Sustainable Sites Credit 3.3)

Abundant parking is a good thing in the eyes of most tenants, but LEED CI awards two points if either (a) the number of parking spaces does not exceed the minimum required by local zoning laws and preferred parking is provided for carpools or vanpools, or (b) no parking is provided or subsidized for tenants. If option (a) is the route to certification, confirm that the lease obligates the landlords to provide appropriate parking for carpools or vanpools.

5. Water Use Reduction (Water Efficiency Prerequisite 1 and Credit 1)

It is a minimum requirement that the tenant space use 20% less water than the water use baseline established by the Energy Policy Act of 1992. Reductions of 30% to 45% can earn between 6 and 11 points. Whether the landlord manages the finish-out, or is merely authorized to approve the tenant's design,

confirm that appropriate plumbing fixtures and fittings can be used.

6. Fundamental Commissioning of Building Energy Systems (Energy and Atmosphere Prerequisite 1)

It is a minimum requirement that the tenant verify that the energy-related systems are installed and calibrated to perform according to the plans. These systems include, HVAC, lighting, hot water and renewable energy (if any). Confirm that the landlord will cooperate in the tenant's efforts with regard to systems that serve more than just the tenant's leased premises.

7. Minimum Energy Performance (Energy and Atmosphere Prerequisite 2)

LEED CI requires that the tenant space comply with minimum energy efficiency guidelines. The landlord's cooperation is needed to satisfy the requirement, as the building's shell and mechanical and electrical systems are key components of the energy efficiency equation.

8. Fundamental Refrigerant Management (Energy and Atmosphere Prerequisite 3)

LEED CI also requires that zero chlorofluorocarbon-based refrigerants are used in HVAC and refrigeration systems. Compliance with this requirement is likely within the landlord's sole control, making the landlord's cooperation essential.

9. Lighting Power (Energy and Atmosphere Credit 1.1)

Up to 5 points are available for reducing the amount of energy needed to power lighting systems. Whether the landlord manages the finish-out, or is merely authorized to approve the tenant's design, confirm that appropriate lighting fixtures can be used.

10. Lighting Controls (Energy and Atmosphere Credit 1.2)

To further reduce energy use, up to 3 points are available for using daylight sensors or occupancy sensors to control lighting systems. Whether the landlord manages the finish-out, or is merely authorized to approve the tenant's design, confirm that appropriate lighting controls can be used.

11. HVAC (Energy and Atmosphere Credit 1.3)

Between 5 and 10 points are available for installing HVAC systems that meet advanced efficiency standards, and using efficient HVAC zoning and control techniques. Because the HVAC system is likely to be within the landlord's control, confirm that the landlord is obligated to adhere to the desired standard. Confirm that appropriate zoning and thermostat equipment can be installed in the leased premises.

12. Enhanced Commissioning (Energy and Atmosphere Credit 2)

5 points are available for conducting long-term verification that the leased space is designed, constructed and calibrated to operate as intended. Because the energy-consuming systems within the leased premises are likely to be within the landlord's control, confirm that the landlord is obligated to cooperate in the effort.

13. Measurement and Verification (Energy and Atmosphere Credit 3)

2 points are available if a submetering system is installed to measure and record energy use within the leased space. An additional 3 points are available if the lease requires that energy costs are paid by the tenant, and not included in base rent. If a tenant leases 75% or more of the total building area, 5 points are available for installing independent metering equipment on various systems like lighting, chillers and boilers. Confirm that the landlord will either install, or permit the tenant to install, appropriate metering devices.

14. Green Power (Energy and Atmosphere Credit 4)

5 points are available for committing to buy a minimum level of renewable energy for a 2-year period. If the landlord selects the building's electricity provider, confirm that the lease obligates the landlord to select a provider that falls within the parameters of this credit.

15. Tenant Space – Long-Term Commitment (Materials and Resources Credit 1.1)

A point will be awarded if the lease has a term of at least 10 years.

16. Building Reuse – Maintain Interior Nonstructural Components (Materials and Resources Credit 1.2)

Up to 2 points are available for tenant finish-outs that maintain a minimum amount of existing non-shell, non-structural components, like walls, flooring and ceiling systems. Whether the landlord manages the finish-out, or is merely authorized to approve the tenant's design, confirm that existing components can be reused.

17. Construction Waste Management (Materials and Resources Credit 2)

Up to 2 points are available for recycling or salvaging nonhazardous construction and demolition debris. If the landlord manages the finish-out, confirm that the landlord will take the steps necessary to earn this credit.

18. Materials Reuse (Materials and Resources Credit 3.1)

Up to 2 points are available for tenant finish-outs that incorporate salvaged materials like beams, posts, flooring, paneling, doors, cabinetry, brick and decorative items. Whether the landlord manages the finish-out, or is merely authorized to approve the tenant's design, confirm that salvaged materials can be installed.

19. Recycled Content (Materials and Resources Credit 4)

Up to 2 points are available for tenant finish-outs that incorporate building products made from recycled materials. Whether the landlord manages the finish-out, or is merely authorized to approve the tenant's design, confirm that recycled materials can be used.

20. Regional Materials (Materials and Resources Credit 5)

Up to 2 points are available for tenant finish-outs that incorporate materials that are extracted and manufactured within a 500 mile radius of the project, thereby supporting the local economy and reducing the environmental impacts resulting from transportation. If the landlord manages the finish-out, confirm that suitable materials will be used.

21. Rapidly Renewable Materials (Materials and Resources Credit 6)

A point is available for tenant finish-outs that incorporate rapidly renewable materials, like bamboo flooring, wool carpets, straw board, cotton batt insulation and linoleum flooring. Whether the landlord manages the finish-out, or is merely authorized to approve the tenant's design, confirm that approved materials can be installed.

22. Certified Wood (Materials and Resources Credit 7)

In order to encourage responsible forest management practices, a point is available for tenant finish-outs that incorporate wood-based products that are certified in accordance with the Forest Stewardship Council's criteria. If the landlord manages the finish-out, confirm that suitable materials will be used.

23. Minimum Indoor Air Quality Performance (Indoor Environmental Quality Prerequisite 1)

A LEED CI project must meet minimum indoor air quality standards. Confirm that the landlord will maintain, or modify if necessary, outside air ventilation distribution systems to meet the standards.

24. Environmental Tobacco Smoke Control (Indoor Environmental Quality Prerequisite 2)

A LEED CI project must be located in a building that either (a) prohibits indoor smoking as well as outdoor smoking within 25 feet of building entries, or (b) limits indoor smoking to specially pressurized and ventilated rooms. Confirm that the landlord will maintain and enforce this policy.

25. Outdoor Air Delivery Monitoring (Indoor Environmental Quality Credit 1)

A point is available for installing permanent monitoring systems to ensure that ventilation systems perform according to minimum requirements. Confirm that the

landlord will install, maintain and respond to the information generated by the monitoring system.

26. Increased Ventilation (Indoor Environmental Quality Credit 2)

A point is available for increasing outdoor air ventilation rates by at least 30% above the minimum rates required by Indoor Environmental Quality Prerequisite 1. Confirm that the landlord will install and maintain the ventilation system as needed to earn this credit.

27. Construction Indoor Air Quality – During Construction (Indoor Environmental Quality Credit 3.1)

A point is available for implementing an air quality management plan for the construction and pre-occupancy phases of the leased premises. Whether the landlord or the tenant manages the finish-out, confirm that the landlord will provide the ventilation and air filtration needed to earn this credit.

28. Construction Indoor Air Quality – Before Occupancy (Indoor Environmental Quality Credit 3.2)

A point is available for implementing an air quality management plan after all finishes have been installed and the leased premises have been completely cleaned in preparation for occupancy. Confirm that the landlord will install new filtration media and allow time for the appropriate amount of air flush-out before the tenant is required to take occupancy.

29. Adhesives and Sealants (Indoor Environmental Quality Credit 4.1)

In order to reduce indoor air contaminants, a point is available for using adhesives and sealants with limited amounts of volatile organic compounds. Whether the landlord manages the finish-out, or is merely authorized to approve the tenant's design, confirm that approved products can be used.

30. Paints and Coatings (Indoor Environmental Quality Credit 4.2)

In order to reduce indoor air contaminants, a point is available for using paints and coatings with limited amounts of volatile organic compounds. Whether the landlord manages the finish-out, or is merely authorized to approve the tenant's design, confirm that approved products can be used.

31. Flooring Systems (Indoor Environmental Quality Credit 4.3)

In order to reduce indoor air contaminants, a point is available for using carpet or other flooring systems with limited amounts of volatile organic compounds. Whether the landlord manages the finish-out, or is merely authorized to approve the tenant's design, confirm that approved products can be used.

32. Composite Wood and Agrifiber Products (Indoor Environmental Quality Credit 4.4)

A point is available for using particle board, plywood and other composite wood products that do not contain added urea-formaldehyde resins. Whether the landlord manages the finish-out, or is merely authorized to approve the tenant's design, confirm that approved products can be used.

33. Indoor Chemical Pollutant Source Control (Indoor Environmental Quality Credit 5)

In order to minimize the entry of pollutants into regularly occupied areas, a point is available for installing permanent floor grills or grates to capture dirt from shoes at all exterior entries, and installing separate exhaust systems for rooms used to store chemical contaminants. Confirm that the landlord will install and maintain these systems.

34. Controllability of Systems – Lighting (Indoor Environmental Quality Credit 6.1)

To promote the comfort, well-being and productivity of building occupants, a point is available for providing individual lighting controls for at least 90% of tenant space occupants. Whether the landlord manages the finish-out, or is merely authorized to approve the tenant's design, confirm that suitable lighting systems can be used.

35. Controllability of Systems – Thermal Comfort (Indoor Environmental Quality Credit 6.2)

To further promote the comfort, well-being and productivity of building occupants, a point is available for providing individual ventilation system controls for at least 50% of tenant space occupants. Whether the landlord manages the finish-out, or is merely authorized to approve the tenant's design, confirm that suitable control systems can be used.

36. Thermal Comfort – Design (Indoor Environmental Quality Credit 7.1)

A point is available for designing HVAC systems to meet minimum performance standards for air temperature, radiant temperature, air speed and relative humidity. Confirm that the landlord will make any HVAC system adjustments needed to earn this credit.

37. Thermal Comfort – Verification (Indoor Environmental Quality Credit 7.2)

A point is available for installing permanent monitoring systems to measure thermal comfort, as well as conducting regular occupant surveys to determine overall satisfaction with thermal performance. The landlord should be prepared to take corrective action if either the monitoring systems or the occupant surveys indicate that the HVAC system's performance is not satisfactory.

38. Daylight (Indoor Environmental Quality Credit 8.1)

Up to 2 points are available for increasing the amount of daylight illuminance in regularly occupied spaces. Whether the landlord manages the finish-out, or is merely authorized to approve the tenant's design, confirm that appropriate design strategies can be used.

39. Views for Seated Spaces (Indoor Environmental Quality Credit 8.2)

A point is available for designing the leased premises to provide direct outdoor views for occupants in 90% of all regularly occupied areas. Whether the landlord manages the finish-out, or is merely authorized to approve the tenant's design, confirm that appropriate design strategies can be used.

APPENDIX 1

Summary of Credits for LEED 2009 Green Building Rating System for Existing Buildings: Operations & Maintenance

Sustainable Sites		**26 Points**
Credit 1	LEED Certified Design and Construction	4
Credit 2	Building Exterior and Hardscape Management Plan	1
Credit 3	Integrated Pest Management, Erosion Control, and Landscape Management Plan	1
Credit 4	Alternative Commuting Transportation	3-15
Credit 5	Site Disturbance – Protect or Restore Open Habitat	1
Credit 6	Stormwater Quantity Control	1
Credit 7.1	Heat Island Reduction – Nonroof	1
Credit 7.2	Heat Island Reduction – Roof	1
Credit 8	Light Pollution Reduction	1
Water Efficiency		**14 Points**
Prerequisite 1	Minimum Indoor Plumbing Fixture and Fitting Efficiency	Required
Credit 1	Water Performance Measurement	1-2
Credit 2	Additional Indoor Plumbing Fixture and Fitting Efficiency	1-5
Credit 3	Water Efficiency Landscaping	1-5
Credit 4	Cooling Tower Water Management	1-2
Energy and Atmosphere		**35 Points**
Prerequisite 1	Energy Efficiency Best Management Practices – Planning, Documentation, and Opportunity Assessment	Required
Prerequisite 2	Minimum Energy Efficiency Performance	Required
Prerequisite 3	Fundamental Refrigerant Management	Required
Credit 1	Optimize Energy Efficiency Performance	1-18
Credit 2.1	Existing Building Commissioning – Investigation and Analysis	2
Credit 2.2	Existing Building Commissioning – Implementation	2
Credit 2.3	Existing Building Commissioning – Ongoing Commissioning	2
Credit 3.1	Performance Measurement – Building Automation System	1
Credit 3.2	Performance Measurement – System Level Metering	1-2
Credit 4	On-site and Off-site Renewable Energy	1-6
Credit 5	Enhanced Refrigerant Management	1
Credit 6	Emissions Reduction Reporting	1
Materials and Resources		**10 Points**
Prerequisite 1	Sustainable Purchasing Policy	Required
Prerequisite 2	Solid Waste Management Policy	Required
Credit 1	Sustainable Purchasing – Ongoing Consumables	1
Credit 2	Sustainable Purchasing – Durable Goods	1-2
Credit 3	Sustainable Purchasing – Facility and Additions	1
Credit 4	Sustainable Purchasing – Reduced Mercury in Lamps	1
Credit 5	Sustainable Purchasing – Food	1
Credit 6	Solid Waste Management – Waste Stream Audit	1

Credit 7	Solid Waste Management – Ongoing Consumables	1
Credit 8	Solid Waste Management – Durable Goods	1
Credit 9	Solid Waste Management – Facility Alterations and Additions	1
Indoor Environmental Quality		**15 Points**
Prerequisite 1	Minimum Indoor Air Quality Performance	Required
Prerequisite 2	Environmental Tobacco Smoke (ETS) Control	Required
Prerequisite 3	Green Cleaning Policy	Required
Credit 1.1	Indoor Air Quality Best Management Practices – Indoor Air Quality Management Program	1
Credit 1.2	Indoor Air Quality Best Management Practices – Outdoor Air Delivery Monitoring	1
Credit 1.3	Indoor Air Quality Best Management Practices – Increased Ventilation	1
Credit 1.4	Indoor Air Quality Best Management Practices – Reduce Particulates in Air Distribution	1
Credit 1.5	Indoor Air Quality Best Management Practices – Indoor Air Quality Management for Facility Alterations and Additions	1
Credit 2.1	Occupancy Comfort – Occupant Survey	1
Credit 2.2	Controllability of Systems – Lighting	1
Credit 2.3	Occupancy Comfort – Thermal Comfort Monitoring	1
Credit 2.4	Daylight and Views	1
Credit 3.1	Green Cleaning – High Performance Cleaning Program	1
Credit 3.2	Green Cleaning – Custodian Effectiveness Assessment	1
Credit 3.3	Green Cleaning – Purchase of Sustainable Cleaning Products and Materials	1
Credit 3.4	Green Cleaning – Sustainable Cleaning Equipment	1
Credit 3.5	Green Cleaning – Indoor Chemical and Pollutant Source Control	1
Credit 3.6	Green Cleaning – Indoor Integrated Pest Management	1
Innovation in Operations		**6 Points**
Credit 1	Innovation in Operations	1-4
Credit 2	LEED Accredited Professional	1
Credit 3	Documenting Sustainable Building Cost Impacts	1
Regional Priority		**4 Points**
Credit 1	Regional Priority	1-4

100 base points; 6 Innovation in Operations points; 4 Regional Priority points

Certified	40-49 points
Silver	50-59 points
Gold	60-79 points
Platinum	80 points and above

APPENDIX 2

Summary of Credits for LEED 2009 Green Building Rating System for Commercial Interiors

Sustainable Sites		**21 Points**
Credit 1	Site Selection	1-5
Credit 2	Development Density and Community Connectivity	6
Credit 3.1	Alternative Transportation – Public Transportation Access	6
Credit 3.2	Alternative Transportation – Bicycle Storage and Changing Rooms	2
Credit 3.3	Alternative Transportation – Parking Availability	2
Water Efficiency		**11 Points**
Prerequisite 1	Water Use Reduction	Required
Credit 1	Water Use Reduction	6-11
Energy and Atmosphere		**37 Points**
Prerequisite 1	Fundamental Commissioning of Building Energy Systems	Required
Prerequisite 2	Minimum Energy Performance	Required
Prerequisite 3	Fundamental Refrigerant Management	Required
Credit 1.1	Optimize Energy Performance – Lighting Power	1-5
Credit 1.2	Optimize Energy Performance – Lighting Controls	1-3
Credit 1.3	Optimize Energy Performance – HVAC	5-10
Credit 1.4	Optimize Energy Performance – Equipment and Appliances	1-4
Credit 2	Enhanced Commissioning	5
Credit 3	Measurement and Verification	2-5
Credit 4	Green Power	5
Materials and Resources		**14 Points**
Prerequisite 1	Storage and Collection of Recyclables	Required
Credit 1.1	Tenant Space – Long-Term Commitment	1
Credit 1.2	Building Reuse – Maintaining Interior Nonstructural Components	1-2
Credit 2	Construction Waste Management	1-2
Credit 3.1	Materials Reuse	1-2
Credit 3.2	Materials Reuse – Furniture and Furnishings	1
Credit 4	Recycle Content	1-2
Credit 5	Regional Materials	1-2
Credit 6	Rapidly Renewable Materials	1
Credit 7	Certified Wood	1
Indoor Environmental Quality		**17 Points**
Prerequisite 1	Minimum Indoor Air Quality Performance	Required
Prerequisite 2	Environmental Tobacco Smoke (ETS) Control	Required
Credit 1	Outdoor Air Delivery Monitoring	1
Credit 2	Increased Ventilation	1
Credit 3.1	Construction Indoor Air Quality Management Plan – During Construction	1
Credit 3.2	Construction Indoor Air Quality Management Plan – Before Occupancy	1

Credit 4.1	Low-Emitting Materials – Adhesives and Sealants	1
Credit 4.2	Low-Emitting Materials – Paints and Coatings	1
Credit 4.3	Low-Emitting Materials – Flooring Systems	1
Credit 4.4	Low-Emitting Materials – Composite Wood and Agrifiber Products	1
Credit 4.5	Low-Emitting Materials – Systems Furniture and Seating	1
Credit 5	Indoor Chemical and Pollutant Source Control	1
Credit 6.1	Controllability of Systems – Lighting	1
Credit 6.2	Controllability of Systems – Thermal Comfort	1
Credit 7.1	Thermal Comfort – Design	1
Credit 7.2	Thermal Comfort – Verification	1
Credit 8.1	Daylight and Views – Daylight	1-2
Credit 8.2	Daylight and Views – Views for Seated Spaces	1
Innovation in Design		**6 Points**
Credit 1	Innovation in Design	1-5
Credit 2	LEED Accredited Professional	1
Regional Priority		**4 Points**
Credit 1	Regional Priority	1-4

100 base points; 6 Innovation in Design points; 4 Regional Priority points

Certified	40-49 points
Silver	50-59 points
Gold	60-79 points
Platinum	80 points and above

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