


#11

## MEMORANDUM



TO: Brian C. Blad, Mayor; Members of the City Council  
FROM: Ian Johnson, Deputy City Attorney  
RE: Airport Lease Agreement with Teton Leasing, LLC  
DATE: June 21, 2021

I have reviewed the above-referenced lease agreement and it meets with my approval for the Mayor's signature once so authorized by the City Council.

If you have any questions, please feel free to contact me.

**JULY 1, 2021**  
**REGULAR CITY COUNCIL MEETING**  
**AIRPORT LEASE AGREEMENT EXECUTIVE SUMMARY**

The airport is seeking approval of a new lease agreement with Teton Leasing, LLC. It is a land lease upon which Teton Leasing (holding company for AvCenter, Inc.) will construct a large aircraft hangar to be subleased to AvCenter. The lease will be for approximately 48,400 square feet of property, with an option for an additional 9,800 square feet. The proposed term is 20 years with two, 15-year renewals and proposed rental rate is \$992.20 per month. AvCenter, Inc. will use the hangar for expansion of its fixed base operator aviation service, to include private and commercial aircraft storage and maintenance, aviation charter operations and construction of a pilot lounge/lobby and office area as well as other activities as may be necessary for AvCenter's, Inc. operations.

RESOLUTION NO. 2021-\_\_\_\_\_

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF POCATELLO, A MUNICIPAL CORPORATION OF IDAHO, APPROVING A LEASE AGREEMENT BETWEEN THE CITY OF POCATELLO (POCATELLO REGIONAL AIRPORT) AND TETON LEASING, LLC, FOR THE LEASE OF CERTAIN PREMISES; DECLARING THE PROPERTY NOT NEEDED FOR CITY PURPOSES; AUTHORIZING THE MAYOR AND CITY CLERK TO EXECUTE AND ATTEST SAID LEASE AGREEMENT ON BEHALF OF THE CITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Pocatello ("City") is the owner of certain lands located in Power County, Idaho, commonly known and designated as the Pocatello Regional Airport, which property is subject to certain covenants and restrictions imposed under the Surplus Property Act of 1944; and

WHEREAS, Teton Leasing, LLC desires to enter into a Lease Agreement with the City for property described in the attached Lease Agreement, for the purpose of subleasing said property to AvCenter, Inc. to expand AvCenter's fixed base operator aviation service; and

WHEREAS, the City Council has determined that leasing the subject property pursuant to the terms of the attached Lease Agreement is appropriate and is in the best interest of the citizens of Pocatello.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE CITY OF POCATELLO AS FOLLOWS:

1. The Lease Agreement attached hereto and made a part hereof is hereby approved both as to form and content.
2. The Mayor and City Clerk are authorized to respectively execute and attest said Agreement for and on behalf of the City of Pocatello.
3. This Resolution shall be in full force and effect immediately upon its adoption and approval.

RESOLVED this 1st day of July, 2021.

CITY OF POCA TELLO, a municipal  
corporation of Idaho

BRIAN C. BLAD, Mayor

ATTEST:

KONNI R. KENDELL, City Clerk

## **LEASE AGREEMENT**

THIS AGREEMENT, made and entered into this \_\_\_\_ day of July, 2021, by and between the CITY OF POCA TELLO, a municipal corporation of Idaho, "Lessor," and TETON LEASING, LLC, an Idaho limited liability company, "Lessee."

WITNESSETH:

WHEREAS, Lessor is the owner of certain lands located in Power County, Idaho, commonly known and designated as the Pocatello Regional Airport, which property is subject to certain covenants and restrictions imposed under the Surplus Property Act of 1944; and

WHEREAS, Lessee is holding company which owns aircraft and other buildings currently being operated by AvCenter, Inc.; and

WHEREAS, AvCenter, Inc. presently leases property from Lessor for the operation of a general fixed base operator aviation service at the Pocatello Regional Airport; and

WHEREAS, Lessee desire to lease additional property adjacent to the ground currently being leased by AvCenter, Inc., which it then intends to sublease to AvCenter, Inc. to construct additional structures for the expansion of its current operations.

NOW THEREFORE, for and in consideration of the mutual covenants hereinafter contained, the Parties agree as follows:

### **I. PREMISES**

Lessor leases to Lessee the real property described on the attached Exhibit "A" and depicted as Parcel 2 on the map attached hereto as Exhibit "B".

Lessee shall have a right of first refusal to lease a 35' X 280' strip of property off the southwest corner of the above described premises labeled "Option Area" on Exhibit B. The terms and conditions for such lease shall be determined upon Lessee's exercise of said right.

## **II. TERM**

This lease shall be for a twenty (20) year period, commencing July 1, 2021, and ending June 30, 2041. Lessee may exercise an option to renew the lease term for two additional fifteen (15) year periods. The option to renew may be exercised only if Lessee is not in default of any provision herein.

## **III. PURPOSE**

Lessee shall sublease the premise described herein to AvCenter, Inc. for expansion of its fixed base operator aviation service, which expansion will include construction of an aircraft hangar for private and commercial aircraft storage and maintenance, aviation charter operations and construction of a pilot lounge/lobby and office area as well as other activities as may be necessary for AvCenter's, Inc. operations.

## **IV. RENTAL**

For the first year of the lease term commencing July 1, 2021 and terminating June 30, 2022, Lessee shall pay the monthly rental sum of Nine Hundred Ninety-Two and 20/100 Dollars (\$992.20) per month. For each succeeding year, the annual rental rate will increase in an amount equal to that of the Western Region Consumer Price Index for the previous year. After the first five-year term of this lease, the rental rate will be reassessed based on a current airport appraisal or airport rental rate comparison. For each succeeding rental period the rental payment shall be made on or before June 15th of that year.

Late Charges and Interest: Lessee acknowledges that a late payment of rent from Lessee to Lessor will cause Lessor to incur costs not contemplated by this Lease, the exact amount of such costs being extremely difficult and impracticable to ascertain. Such costs include, without limitation, processing and accounting charges. Therefore, if any installment of rent due from

Lessee is not received when due, Lessee shall pay to Lessor the additional sum of \$150.00 as a late charge. The Parties agree this late charge is not a penalty but represents a fair and reasonable estimate of the costs Lessor will incur by reason of a late payment by Lessee. The acceptance of any late charge shall not constitute a waiver of Lessee's default with respect to the overdue amount, nor prevent Lessor from exercising any of the other rights and remedies available to Lessor. The payment of said late charge shall be required to cure the default occurring by reason of the failure of Lessee to timely pay a rental installment. All amounts not paid by Lessee when due shall bear interest at the rate of eighteen percent (18%) annual percentage rate.

#### **V. EXAMINATION OF PREMISES**

Lessee has inspected the aforescribed premises and accepts the same in "as is" condition. Lessor makes no warranties, express or implied, concerning the property and Lessee in executing this Lease is relying upon its own judgment, information, and inspection of the leased premises. Lessee hereby acknowledges that it is accepting the leased premises from the City subject to any and all physical conditions of the premises. Lessee further affirms that the City, its agents, employees, and/or attorneys have not made nor has Lessee relied upon any representation, warranty, or promise with respect to the leased premises or any other subject matter of this Lease Agreement except as expressly set forth in this Agreement, including without limitation, any warranties or representations expressed or implied as the general plan designation, zoning, value, use tax status or physical conditions of the leased premises or improvements thereon, or any part thereof, including, but not limited to the flood elevations, drainage patterns and soil and subsoil compositions and compaction level, and other conditions at the leased premises, or the existence or non-existence of toxic or hazardous materials on or

under the premises, or as to the accuracy of any boundary survey or other survey or any soils reports or other plans or report therefore.

#### **VI. WASTE**

Lessee covenants that it will not commit or allow others to commit waste on the premises.

#### **VII. MAINTENANCE OF FACILITY**

Lessor shall maintain, operate, and keep in good repair the airport, runways, taxiways, aircraft parking surfaces and fences now existing or hereafter constructed, erected, or initiated thereon. Lessor shall keep the airport free from obstruction for the safe and reasonable use thereof by Lessee.

Lessee shall not alter the leased premises without prior written permission of Lessor. Provided, however, that trade fixtures, operating equipment and other improvements not of a permanent nature may be installed and/or removed by Lessee without approval of Lessor, and all such operating equipment, fixtures and temporary improvements shall be and shall remain the property of Lessee. Lessee shall keep and maintain the leased premises and all improvements of any kind in good and substantial repair and condition, and shall make all necessary repairs and alterations thereto. Lessee shall provide proper containers for trash and garbage, and shall keep the leased premises free and clear of rubbish, debris and litter at all times. All roadways or other paved/asphalt areas within the demised premises shall be maintained by Lessee at Lessee's expense. Lessor shall have the right to enter upon and inspect said premises, but shall attempt to make such inspections at a mutually agreeable time.

Lessee shall be completely responsibility for all maintenance of Lessee's buildings.



## VIII. LESSEE'S BUILDING AND CAPITAL IMPROVEMENTS

Lessor acknowledges that Lessee will be the owner of the building located on the land.

A. Lessor agrees that Lessor may use the to be constructed building as collateral for any loans necessary to construct said building. However, no further liens, mortgages or encumbrances of any kind shall be attached to the building for the duration of this lease without the prior written consent of the Lessor, which such consent shall not be unreasonably withheld.

B. Lessee shall provide for all maintenance of landscaping around the building. Lessee agrees to pay ad valorem taxes levied by Power County for the building and upon any of the leased premises.

C. Lessor shall have the option to purchase Lessee's building, its appurtenances, improvements and fixtures, at the appraised value at the time of exercising of the option. Said option may be exercised under any of the following circumstances: (1) at the end of the 20 year term of this Agreement, if the 15 year renewal option is not exercised; (2) in the event Lessee desires to relinquish its rights under this Agreement, or any renewal thereof, and to terminate the lease; (3) in the event that Lessee wishes to assign its rights under this Lease Agreement, or any renewal thereof, to another party; or (4) in the event Lessor terminates this Agreement as provided herein; or at the end of the 15 year renewal option period, if the purchase option has been previously declined by Lessor. Lessor agrees that Lessee shall have the right to remove trade fixtures and personal property for a period of thirty days after the exercise of the purchase option and Lessee agrees that it will ensure that no damage is incurred by such removal, or that it will promptly repair any damage to the property or premises which might result from such removal.

D. In the event that Lessor declines to exercise its purchase option, and the Lease Agreement, or any renewal option thereof, is terminated for any reason, Lessee agrees to remove said building, appurtenances, and other improvements within sixty (60) days. Lessee further agrees that any improvements, appurtenances, fixtures, and so forth, including the building itself, not so removed shall become the property of Lessor at the end of said sixty-day period, and Lessee agrees to relinquish all of his right, title, and interest in the same to Lessor.

E. In the event that Lessor declines to exercise its purchase option and Lessee chooses to sell the building to another party, thus terminating this Agreement, Lessee shall have the right for thirty days after such termination to enter onto the leased premises for the purpose of removing trade fixtures and other personal property. Lessee agrees that such removal shall be accomplished without damage to the building or any remaining equipment or appurtenances and that the prospective buyer shall be informed in writing of the items to be removed by Lessee prior to the sale of the building. Lessee further agrees to promptly repair at its own expense any damage, which might occur as a result of such removal.

#### **IX. SUPPLIES**

Lessee shall have the right to select its own suppliers of all items, including, but not limited to, equipment, repair parts, operating supplies, fuel, lubricants and aircraft.

#### **X. CASUALTY TO PREMISES**

In the event that Lessee's building shall be partially damaged or totally destroyed by fire, the premises shall be repaired or replaced with due diligence by Lessee. However, in making such repairs or replacement, Lessee may make changes in the plans and specifications of such building or improvement so long as the value of the building and/or improvements after such repair or replacement remains the same or greater than existed immediately prior to the damage.

Any such change from the original plans and specifications shall be subject to the prior written approval of Lessor.

Lessee's obligation to repair or restore said building or related improvements shall be limited to the amount of the insurance proceeds made available to Lessee. However, Lessee shall carry a standard extended coverage fire insurance policy to replace the building, which may include a ninety percent (90%) co-insurance provision or other similar standard insurance industry provision. In the event said building and related improvements are completely destroyed by fire or other hazards or risks normally covered by endorsement for extended, or are so damaged that the material part of the building will or does remain untenable for more than thirty (30) days, the rent payable for the ground thereunder shall be proportionately paid by Lessee up to the time of said damage or destruction and shall thenceforth cease until such time as the building and related improvements shall be fully restored.

#### **XI. UTILITIES**

Lessee shall promptly pay any charges for water, electricity, telephone, and all other charges for utilities which may be furnished to the leased premises at Lessee's order or with Lessee's consent.

#### **XII. SUBLEASE OR ASSIGNMENT**

Lessee shall be permitted to sublease the premises to AvCenter, Inc. but shall not be allowed to directly or indirectly assign, transfer or encumber any of the rights in or to this Lease or any interest herein, nor any improvements made to the premises, to any other party without the express written consent of Lessor. Lessor may, at its option, review any sublease entered into by Lessee and require the amendment thereof to protect the safety of persons or property and to insure against the liability of the City of Pocatello.

Lessee acknowledges that Lessor has the right to require termination of this Lease and the execution of a new Lease on the part of a prospective sublessee or assignee rather than consenting to any sublease or assignment and Lessee agrees to so inform any interested party.

### **XIII. INDEMNIFICATION**

Lessee agrees that it will at all times maintain Worker's Compensation coverage for the benefit of his employees, and adequate liability and property damage insurance as specified in Article XI covering the activities of Lessee, its agents, servants and employees, on the leased premises.

Lessee further agrees to defend, indemnify, and save Lessor, its agents, employees and public officials, harmless from any and all claims or causes of action of any nature whatsoever arising out of the activities and operations of Lessee, its agents, servants, invitees, officers, and employees, in connection with this Lease, or the use in common with others of the Pocatello Regional Airport.

### **XIV. INSURANCE**

In order to effectuate the foregoing indemnification provisions, Lessee shall maintain insurance coverage as follows:

A. Lessee shall purchase a comprehensive liability insurance policy in the amount of \$1,000,000 combined single limit to indemnify Lessor from any and all public liability claims. Further, such policy shall include coverage for fire legal liability to repair or replace the demised premises. Lessor shall be named as an additional insured or be acknowledged by Lessee's insurance carrier as a covered entity under the terms of said policy. Moreover, the Lessee is required to put its surety on notice, that said surety may not change or cancel the existing

insurance policy with Lessee without first giving Lessor, City of Pocatello, at least thirty (30) days written notice.

B. Lessor does not provide insurance that will cover the Lessee's personal property that may be located on the demised premises. Lessee may purchase personal property insurance in an amount sufficient to insure any and all Lessee's personal property which might be used in Lessee's operation of the business or which might be present on the airport premises. In the event Lessee elects to forego maintaining personal property insurance, and Lessee suffers loss of personal property stored on leased property, Lessor will not be held responsible due to Lessee's lack of personal property insurance.

C. If applicable, Lessee shall purchase Worker's Compensation insurance or the equivalent as required by Idaho Code.

D. An Accord Certificate of Insurance evidencing compliance with the foregoing insurance requirements shall be filed with the Clerk of City of Pocatello prior to or at the time of execution of this Lease Agreement. The above described insurance shall contain contractual coverage sufficiently broad to insure the provisions of Article X "Indemnification." The Lessee's failure to maintain insurance shall be a basis for immediate termination of this lease.

#### **XV. DISCHARGE OF LIENS**

Lessee agrees to pay when due all sums of money that may become due for, or purporting to be for, any labor, services, materials, supplies, utilities, furnishings, machinery, or equipment which have been furnished or ordered with Lessee's consent to be furnished to or for Lessee in, upon or about the premises herein leased, which may be secured by any mechanic's, materialman's or other lien against the premises herein leased or Lessor's interest therein, and will cause each such lien to be fully discharged and released at the time the performance of any

obligation secured by any such lien matures or becomes due. Provided however, Lessee may in good faith contest any mechanic's or other lien filed or established, and in such event may permit the items so contested to remain undischarged and unsatisfied during the period of such contest. In any event, Lessee agrees to defend and indemnify the Lessor for any such claim and/or lien.

#### **XVI. TERMINATION**

On the termination date of this lease Lessee shall forthwith surrender possession of the hangar site along with the remainder of the leased premises, in good condition, reasonable wear and tear excepted. Thereupon the hangar, appurtenances, and improvements constructed or installed thereon under this lease shall be forthwith removed by Lessee. In so doing, Lessee shall ensure that the hangar site is not damaged but is left as it would have been without such removal.

In the event Lessee does not remove the hangar within sixty (60) days of the termination date, unless a written agreement to the contrary has been executed by Lessee and Lessor, Lessee shall forfeit all of its right, title, and interest in and to said hangar, appurtenances, and any remaining fixtures, which shall thereupon become the property of the Lessor as if conveyed by separate instrument without any recompense, payment, or reimbursement of any kind to Lessee.

#### **XVII. STATUTES, ORDINANCES, RULES AND REGULATIONS**

Lessee, for itself, its employees, agents, successors and assigns, expressly agrees to obey all applicable laws and regulations of the United States, including regulations of the State of Idaho, of Power County, and of the City of Pocatello, including the rules and regulations of the Pocatello Regional Airport. Lessee further agrees to conform to the requirements of the Airport Master Plan and those agreements between the United States and the City of Pocatello pertaining to the Pocatello Regional Airport.

## **XVIII. DEFAULT**

A. Failure of Lessee to pay rent or any other charge within ten (10) days after it is due shall constitute default.

B. Failure of Lessee to comply with any term or condition or to fulfill or comply with any obligation of this Lease, other than as specified in subparagraph A above, within thirty days after written notice by Lessor specifying the nature of the default with reasonable particularity, shall constitute default.

C. The following shall constitute default by insolvency: 1) Insolvency of Lessee; 2) An assignment by Lessee for the benefit of creditors; 3) The filing by Lessee of a voluntary Petition in Bankruptcy; 4) An adjudication that Lessee is bankrupt or the appointment of a receiver of the properties of Lessee; 5) The filing of an involuntary Petition of Bankruptcy and failure of the Lessee to secure dismissal of the Petition within thirty (30) days after filing; and 6) Attachment of or the levying of execution on the leasehold interest and failure of the Lessee to secure discharge of the attachment or release of the levy or execution within ten (10) days.

## **XIX. REMEDIES IN DEFAULT**

In the event of default, the Lessor, at its option, may terminate this Lease. In the event of a Termination on Default, Lessor shall be entitled to recover the reasonable costs of reentry and re-letting, including, without limitation, the costs of any cleanup, refurbishing, removal of Lessee's property and fixtures or any other expense occasioned by Lessee's failure to quit the premises upon termination and to leave them in the required condition, and any attorney fees, court costs, broker commissions and advertising costs, along with the loss of reasonable rental value from the date of default until a new tenant has been, or with the exercise of reasonable efforts could have been, secured. The remedies afforded the Lessor in this section shall not be

exclusive but shall be cumulative, and in addition to all remedies now or hereafter allowed by law or elsewhere provided in this Lease Agreement.

## **XX. ENVIRONMENTAL MATTERS**

Lessee hereby indemnifies, agrees to defend and shall hold Lessor harmless from and against all liability, loss, claim, damage or expense, including but not limited to reasonable attorneys' and experts' fees, clean-up or other remediation costs and fees and government fines, arising out of or in connection with the existence of any toxic or hazardous materials, pollutants, contaminants or hazardous wastes introduced to the leased premises by Lessee or its agents or from sources within Lessee's reasonable control in violation of any Environmental Law, as defined hereinafter, from and after the commencement date of this lease and through and until the date on which Lessee vacates the leased premises. Lessor hereby indemnifies, agrees to defend and shall hold Lessee harmless from and against all liability, loss, claim, damage or expense, including, but not limited to, reasonable attorneys' and experts' fees, clean-up or other remediation costs and fees, and governmental fines, arising out of or in connection with the existence of any toxic or hazardous materials, pollutants, contaminants or hazardous wastes existing on the leased premises in violation of any Environmental Law, as defined hereinafter, as of the commencement date of this lease, or which come onto the leased premises during the term of this lease from sources outside of Lessee's reasonable control including, without limitation, any expense associated with the removal of any underground storage tanks at the leased premises and any costs of remediation associated therewith. As used herein, 'Environmental Law' means any one or more of all federal, state and local environmental protection, occupational, health, safety and similar laws, ordinances, restrictions, licenses and regulations, including, without limitation the Federal Water Pollution Control Act (33 U.S.C. Sec. 1251 *et seq.*), Safe Drinking



Water Act (42 U.S.C. Sec. 300f *et seq.*), Toxic Substance Control Act (15 U.S.C. Sec. 2601 *et seq.*), Clean Air Act (42 U.S.C. Sec. 7401 *et seq.*), Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. Sec. 9601 *et seq.*), Hazardous Materials Transportation Act (49 U.S.C. Sec. 1801 *et seq.*), and other similar federal, state or local laws, statutes, ordinances, orders, decrees, rules and/or regulations, regulating, relating to or imposing liability or standards of conduct concerning any hazardous, toxic or dangerous waste, substance or material as now or at any time hereafter be applicable.

## **XXI. HAZARDOUS MATERIALS**

"Hazardous Material" means any use or activity involving any substance which would cause (1) the leased premises to become a hazardous waste treatment, storage or disposal facility within the meaning of, or otherwise bring the leased premises within the ambit of, the Resource Conservation and Recovery Act of 1976, or any similar federal or state law or local ordinance or any other environmental law, (2) a release or threatened release of hazardous waste from the leased premises within the ambit of, the Comprehensive Environmental response, Compensation and Liability Act of 1980, or any similar federal or state law or ordinance or any other environmental law, or (3) the discharge of pollutants or effluent into the air or any emissions, which would require a permit under the Federal Water Pollution Control Act, or the Clean Air Act, or any similar federal or state law or local ordinance or other environmental law, including but not limited to the Comprehensive Environmental Response, Compensation and Liability Act, any so-called "Superfund" or "Superlien" law, or any other federal, state or local statute, law ordinance, code, rule, regulation, order or decree, now or hereafter in force, regulating, relating to or imposing liability or standards on conduct concerning any hazardous material.

Lessee expressly assumes the risk and responsibility for any hazardous material during the term of this Lease Agreement, hereafter located on the leased premises, and hold harmless the City, its officers, employees, representatives, agents, and successors from and against any and all judgments, claims expenses, causes of action, damages, liability (including reasonable attorneys' fees and costs) (1) including all foreseeable and unforeseeable consequential damages, directly or indirectly arising out of the use, generation, storage, or disposal of hazardous materials on the leased premises, and (2) including, without limitation, the cost of any required or necessary repair, cleanup or detoxification and the preparation of any closure or other required plans, to the full extent that such action is attributable, directly or indirectly, to the presence or use, generation, storage, release, threatened release, or disposal of hazardous materials by any person on the leased premises.

## **XXII. SIGNS**

Lessee shall have the right to install or cause to be installed appropriate signs on the leased premises to advertise the nature of its business. The cost of such installations and operations shall be borne by Lessee. Lessee shall not erect, install, operate or cause, nor permit to be erected, install, or operated upon the premises herein any sign or other advertising device without first having obtained Lessor's written consent thereto as to size, construction, location, general appearance, and adherence to Pocatello Municipal Code.

## **XXIII. MISCELLANEOUS**

A. **TAXES AND FEES.** In the event the State of Idaho, Power County, or any State or local agency imposes a property tax or any substitute therefore on the demised premises, and/or the leasehold, Lessee shall pay the tax promptly when due.

B. NON-DISCRIMINATION. Lessee, for himself, his personal representatives, successors in interest, and assigns, as part of the consideration hereof, does hereby covenant and agree, as a covenant running with the land, that (1) no person on the grounds of race, color, sex, age, sexual orientation, gender identity, or national origin shall be excluded from participation in, be denied benefits of, or otherwise be subjected to discrimination in the use of said facilities, (2) that in the construction of any improvements on, over, or under such land and the furnishing of services thereon, no person on the grounds of race, color, sex, age, sexual orientation, gender identity, or national origin shall be excluded from participation in, be denied benefits of, or otherwise be subjected to discrimination, (3) that Lessee shall use the premises in compliance with all other requirements imposed or pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally-Assisted programs of the Department of Transportation-Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations may be amended.

In the event of breach of any of the nondiscrimination covenants contained herein, Lessor shall have the right to terminate the lease, and to reenter and repossess said land and facilities thereon, and hold the same as if said lease had never been made or issued; provided, however, that Lessee allegedly in breach shall have the right to contest said alleged breach under applicable Federal Aviation Administration procedures, and any sanctions under or termination of the lease shall be withheld pending completion of such procedures.

C. SUBORDINATION. This Lease shall be subordinate to the provisions of any existing or future agreement between the Lessor and the United States relative to the operation and maintenance of the airport, the execution of which has been or may be required as a condition precedent to the expenditure of Federal funds for the development of the Airport. In

the event there is a conflict between the terms of this Lease Agreement and Federal Grant Assurances, the Grant Assurances will take precedence and govern.

D. NO WAIVER. The failure by the City to require strict performance of any condition of this Lease Agreement shall not affect the City's right to subsequently enforce the same, nor shall a waiver of any term or condition be construed to be a waiver of any succeeding term or condition of this clause. To be effective, any waiver by the City must be in writing.

E. SECTION CAPTIONS. The captions appearing under the section number designations of this Lease are for convenience only and are not a part of this Lease and do not in any way limit or amplify the terms and provisions of the Lease.

F. CONSTRUCTION. This Agreement shall be construed pursuant to the laws of the State of Idaho. The parties agree that no construction of this Agreement shall be made in a Court of competent jurisdiction against the interests of any party to the Agreement on the basis that the party had primary responsibility for drafting the Agreement.

G. JURISDICTION AND VENUE. Any action or proceeding to enforce the provisions of this Lease Agreement shall be maintained in the Sixth District Court, County of Bannock, State of Idaho.

H. ENTIRE AGREEMENT. This instrument constitutes the sole and only agreement between Lessor and Lessee respecting the demised premises, the leasing of said premises to Lessee, or the lease term herein provided and correctly sets forth the obligations of Lessor and Lessee to each other as of its date. No prior promises, representations, or agreements, written or oral, shall amend, change or add to any of the expressed provisions herein contained. This agreement can only be modified or amended in writing upon the mutual agreement of the parties hereto.

I. THIRD-PARTY GOVERNMENTAL AGENCIES. Lessee acknowledges and agrees to immediately provide Lessor with a copy of any written correspondence or verbal and/or written demands provided to Lessee regarding the leased demise by any third-party governmental agency including, but not an exhaustive list, any county, local taxing district or any Tribal authority. Moreover, Lessee shall not enter into any written agreement with any third-party governmental agency regarding the Leased Premises or Lessee's operations thereon without first obtaining Lessor's written consent to do so.

#### XXIV. NOTICES

All notices under this Lease Agreement shall be deemed to be properly served if sent by certified mail to the last address previously furnished by the parties hereto. Until hereafter changed by written notice, said addresses shall be as follows:

LESSOR:                      City of Pocatello  
   Attn: Airport Manager  
   PO Box 4169  
   Pocatello, ID 83205

LESSEE:                      Teton Leasing, LLC  
   1483 Flightline  
   Pocatello, ID 83204

Notice shall be complete upon receipt, unless the recipient ignores or refuses to sign for the certified letter, in which event notice shall be deemed to have been completed on the first attempted delivery by the United State Post Office.

#### XXV. ATTORNEYS FEES UPON BREACH

In the event it becomes necessary for either party to enforce the terms of this agreement, the prevailing party shall be awarded by a sum, which will reasonably compensate it for the attorney's fees and costs incurred by such party to enforce the terms of this agreement. In the

event attorney fees are awarded by a Court of law, the parties agree that a reasonable rate for attorney fees is \$150.00 per hour.

IN WITNESS WHEREOF, the parties hereto have executed this lease by and through their authorized representatives the date and year first-above written.

CITY OF POCATELLO

\_\_\_\_\_  
BRIAN C. BLAD, Mayor

ATTEST:

\_\_\_\_\_  
KONNI R. KENDELL, City Clerk

TETON LEASING, LLC

\_\_\_\_\_  
MELVIN WAGONER, Member

STATE OF IDAHO            )  
                                      :ss  
County of Bannock        )

On this \_\_\_ day of July, 2021, before me, the undersigned, a Notary Public in and for the State, personally appeared Brian C. Blad and Konni R. Kendell, known to me to be the Mayor and City Clerk, respectively, of the City of Pocatello, a municipal corporation of Idaho, who executed the foregoing instrument on behalf of said municipal corporation, and acknowledged to me that said corporation executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

(SEAL)

\_\_\_\_\_  
NOTARY PUBLIC FOR IDAHO  
Residing in: \_\_\_\_\_  
Commission Expires \_\_\_\_\_

STATE OF IDAHO                    )  
  :SS  
County of Bannock                )

On this \_\_\_\_\_ day of July, 2021, before me, the undersigned, a Notary Public in and for the State, personally appeared Melvin Wagoner, known to me to be a Member and authorized agent of Teton Leasing, LLC, an Idaho limited company, whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for and on behalf of said limited liability company.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

(SEAL)

\_\_\_\_\_  
NOTARY PUBLIC FOR IDAHO  
Residing in: \_\_\_\_\_  
Commission Expires \_\_\_\_\_

EXHIBIT A

A 48,400 sq. ft. square shaped parcel of land located at the Pocatello Regional Airport, located in Section 10, Township 6 South, Range 33 East, Boise Meridian, Power County, Idaho more particularly described as follows:

Commencing at the Northeast corner of Section 10, Township 6 South, Range 33 East, Boise Meridian being marked by a 3/4" iron rod and described in corner perpetuation and filing record, instrument 208592, of the records of Power County;

Thence South 00°08'13" West, along the east line of section 10 (Basis of Bearing per the Central Meridian of the East Zone of the Idaho State Plane Coordinate System) a distance of 3973.26 feet, to a point on said section line, which bears North 00°08'13" East a distance of 1318.73 feet from the Southeast corner of section 10, marked by a 2 1/2" aluminum cap affixed to a 7/8" dia. rod, and described in corner perpetuation and filing record, instrument 174630, of the records of Power County;

Thence North 89°51'46" West, leaving said east line, a distance of 2139.14 feet, to a point which is South 44°44'43" East a distance of 1320.00 feet, from the centerline of runway 3 / 21, and South 45°15'17" West along said centerline a distance of 3314.95 feet, from the intersection of runways 3/21 and 7/25,

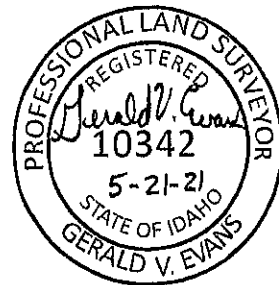
**The True Point of Beginning;**

Thence South 45°15'17" West, parallel with the centerline of runway 3/21, a distance of 220.00 feet;

Thence North 44°44'43" West, a distance of 220.00 feet to a point which is 1100.00 feet from the centerline of runway 3/21;

Thence North 45°15'17" East, parallel with said centerline, a distance of 220.00 feet;

Thence South 44°44'43" East, a distance of 220.00 feet, to **The True Point of Beginning.**





# EXHIBIT B

CENTERLINE RUNWAY 7/25

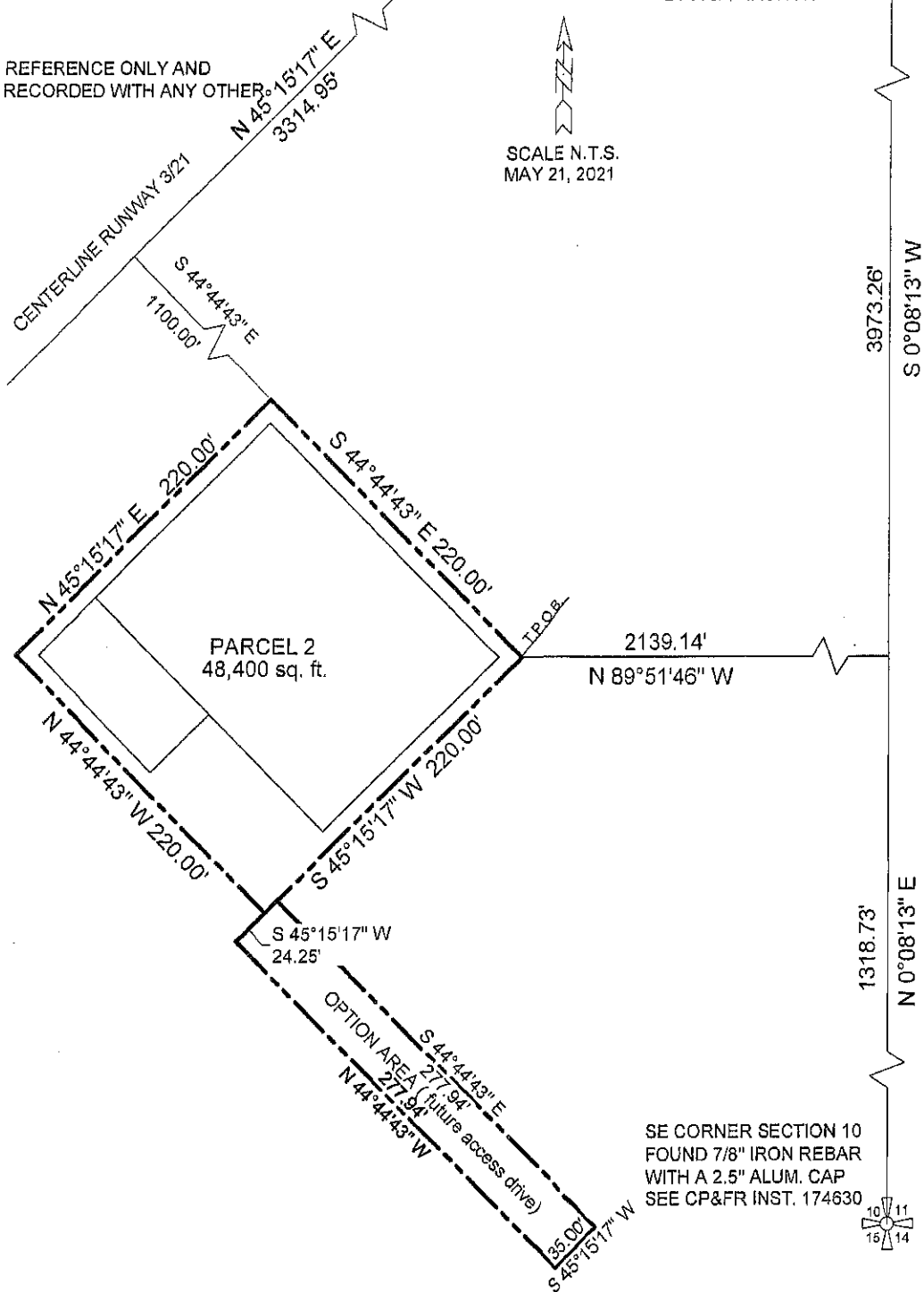
CENTERLINE INTERSECTION  
RUNWAY 3/21 AND 7/25

NORTHEAST CORNER  
SECTION 10 MARKED  
BY A 3/4" IRON ROD

**NOTE:**

THIS MAP IS FOR REFERENCE ONLY AND  
SHOULD NOT BE RECORDED WITH ANY OTHER  
DOCUMENT

SCALE N.T.S.  
MAY 21, 2021



**TETON LEASING**  
**POCATELLO REGIONAL AIRPORT**  
 LOCATED IN  
 SECTION 10, TOWNSHIP 6 SOUTH, RANGE 33 BM  
 POWER COUNTY, IDAHO