

**AMENDMENT NUMBER ONE  
TO AGREEMENT OF LEASE  
#07-0015-002**

**FEDERAL EXPRESS CORPORATION**

THIS AMENDMENT NUMBER ONE TO LEASE ("Amendment") is made and entered into as of the \_\_\_\_ day of \_\_\_\_\_, 2019, by and between **BOISE CITY, DEPARTMENT OF AVIATION** ("Lessor"), and **FEDERAL EXPRESS CORPORATION** ("Lessee").

RECITALS:

WHEREAS, an Aviation Land Lease Agreement dated September 13, 2011 ("Lease"), by and between Boise City Lessor and Lessee was approved pursuant to Boise City Council Resolution No. 21416 dated September 13, 2011; and

WHEREAS, the Lessor has relocated a portion of the Premises ("Site C") as a result of the Aircraft Rescue and Fire Fighting ("ARFF") building remodel; and

WHEREAS, the parties wish to extend the term of the Lease Agreement; and

WHEREAS, the Lessor desires to update the non-discrimination language to meet the Lessor and Federal Aviation Administration ("FAA") requirements; and

WHEREAS, the parties wish to set the rents for the newly defined Premises.

NOW, THEREFORE, Lessor and Lessee hereby agree to amend the Lease as follows:

A. **ARTICLE I - PREMISES** shall be deleted and replaced with the following:  
Subject to and on the terms, conditions, covenants, agreements and undertakings hereinafter set forth, Lessor does hereby demise and lease to Lessee and Lessee does hereby lease from Lessor the following described real property located in Boise City, Ada County, Idaho:

Approximately 57,747 combined square feet in various locations on the Boise Airport airfield.

The said property is further described on Exhibit "A-1" attached hereto and hereinafter referred to as the "Premises" or "Leased Premises".

B. **ARTICLE II – TERM OF LEASEHOLD** shall be amended to read as follows:

Section 2.01 Term. shall be amended to extend the Term through and until October 31, 2026.

Section 2.02 First Renewal Term. Shall be deleted and replaced with the following:

2.01 Renewal Term. Provided Lessee is not in default at the time Lessee requests an extension, the Lessee may request an extension of the term of this lease for an additional period of five (5) years, terminating on the 31<sup>st</sup> day of October, 2031, by giving written notice of request to so extend not less than one hundred eighty days prior to the end of the Term; provided, however, said extension of lease shall be subject to negotiation and agreement of rental consideration as provided in Article III, and any other terms or conditions.

This renewal clause is specifically subject to such negotiation and agreement between the parties for an extension and shall not be construed as a Lessee "right of renewal." As such, Lessor retains sole discretion in determining whether or not to further extend the lease for the Leased Premises.

2.03 Second Renewal Term. Provided Lessee is not in default at the time Lessee requests an extension, the Lessee may request an extension of the term of this lease for an additional period of five (5) years, terminating on the 31<sup>st</sup> day of October, 2036, by giving written notice of request to so extend not less than one hundred eighty days prior to the end of the Term; provided, however, said extension of lease shall be subject to negotiation and agreement of rental consideration as provided in Article III, and any other terms or conditions.

This renewal clause is specifically subject to such negotiation and agreement between the parties for an extension and shall not be construed as a Lessee "right of renewal." As such, Lessor retains sole discretion in determining whether or not to further extend the lease

for the Leased Premises.

C. **ARTICLE III – RENTAL** shall be deleted and replaced with the following:

3.01 Rent. From November 1, 2016 to August 31, 2017 rent shall be \$2,358.71 per month (the “Base Rent”), from September 1, 2017 to October 31, 2020 Base Rent shall be \$2,170.32 paid to Lessor in on the first day of each calendar month, in advance. Rent for any period less than a full calendar month shall be pro-rated.

3.02 Rent Increases. Beginning November 1, 2020, the Base Rent described herein shall increase annually. The Base Rent shall increase by an amount equal to the change in the Consumer Price Index for the month of July of the previous year multiplied by the then current Base Rent, as more particularly described in Exhibit B.

D. **ARTICLE VIII – GENERAL PROVISIONS** shall be amended as follows:

Section 8.07 Non-Discrimination Covenant shall be deleted and replaced with the following:

8.07 Discrimination Prohibited. In accordance with Boise City Code, Lessee agrees, and it is a condition to the continuance of this Lease, that there will be no discrimination against, or segregation of, any person or group of persons on the basis of race, color, religion, sex, sexual orientation, gender identity/expression, creed, national origin, ancestry, age or disability in the leasing, subleasing, transferring, occupancy, tenure or use of the Premises or any portion thereof.

E. **ARTICLE IX – FAA CIVIL RIGHTS PROVISIONS** shall be added as follows:

**ARTICLE IX – FAA CIVIL RIGHTS PROVISIONS**

9.01 General Civil Rights Provision. Lessee agrees to comply with pertinent statutes, Executive Orders and such rules as are promulgated to ensure that no person shall, on the grounds of race, creed, color, national origin, sex, age, or disability be excluded from participating in any activity conducted with or benefiting from Federal assistance. If Lessee

transfers its obligation to another, the transferee is obligated in the same manner as the Lessee.

This provision obligates the Lessee for the period during which the property is owned, used or possessed by the Lessee and the airport remains obligated to the Federal Aviation Administration. This provision is in addition to that required by Title VI of the Civil Rights Act of 1964.

9.02 Compliance with Nondiscrimination Requirements. As used in this section 9.02, "contractor" shall mean "Lessee."

During the performance of this contract, the contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the "contractor") agrees as follows:

1. **Compliance with Regulations:** The contractor (hereinafter includes consultants) will comply with the Title VI List of Pertinent Nondiscrimination Acts And Authorities, as they may be amended from time to time, which are herein incorporated by reference and made a part of this contract.
2. **Non-discrimination:** The contractor, with regard to the work performed by it during the contract, will not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The contractor will not participate directly or indirectly in the discrimination prohibited by the Nondiscrimination Acts and Authorities, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of 49 CFR part 21.
3. **Solicitations for Subcontracts, Including Procurements of Materials and Equipment:** In all solicitations, either by competitive bidding, or negotiation made by the contractor for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential subcontractor or supplier will be notified by the contractor of the contractor's obligations under this contract and the Nondiscrimination Acts And Authorities on the grounds of race, color, or national origin.

4. Information and Reports: The contractor will provide all information and reports required by the Acts, the Regulations, and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the sponsor or the Federal Aviation Administration to be pertinent to ascertain compliance with such Nondiscrimination Acts and Authorities and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish the information, the contractor will so certify to the sponsor or the Federal Aviation Administration, as appropriate, and will set forth what efforts it has made to obtain the information.
5. Sanctions for Noncompliance: In the event of a contractor's noncompliance with the Non-discrimination provisions of this contract, the sponsor will impose such contract sanctions as it or the Federal Aviation Administration may determine to be appropriate, including, but not limited to:
  - a. Withholding payments to the contractor under the contract until the contractor complies; and/or
  - b. Cancelling, terminating, or suspending a contract, in whole or in part.
6. Incorporation of Provisions: The contractor will include the provisions of paragraphs one through six in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations and directives issued pursuant thereto. The contractor will take action with respect to any subcontract or procurement as the sponsor or the Federal Aviation Administration may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if the contractor becomes involved in, or is threatened with litigation by a subcontractor, or supplier because of such direction, the contractor may request the sponsor to enter into any litigation to protect the interests of the sponsor. In addition, the contractor may request the United States to enter into the litigation to protect the interests of the United States.

9.03 Clauses for Construction/Use/Access to Real Property Acquired Under the

Activity, Facility or Program.

- A. The Lessee for himself/herself, his/her heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree as a covenant running with the land that (1) no person on the ground of race, color, or national origin, will be excluded from participation in, denied the benefits of, or be otherwise 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 ground of race, color, or national origin, will be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination, (3) that the Lessee will use the premises in compliance with all other requirements imposed by or pursuant to the List of discrimination Acts And Authorities.
- B. With respect to leases, in the event of breach of any of the above nondiscrimination covenants, Lessor will have the right to terminate the lease and to enter or re-enter and repossess said land and the facilities thereon and hold the same as if said lease had never been made or issued.

9.04 Title VI List of Pertinent Nondiscrimination Acts and Authorities. As used in this section 9.04, "contractor" shall mean "Lessee."

During the performance of this contract, the contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the "contractor") agrees to comply with the following non-discrimination statutes and authorities; including but not limited to:

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d *et seq.*, 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin);
- 49 CFR part 21 (Non-discrimination In Federally-Assisted Programs of The Department of Transportation—Effectuation of Title VI of The Civil Rights Act of 1964);
- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. § 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 *et seq.*), as amended, (prohibits discrimination on the basis of disability); and 49 CFR part 27;
- The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 *et seq.*), (prohibits discrimination on the basis of age);

- Airport and Airway Improvement Act of 1982, (49 USC § 471, Section 47123), as amended, (prohibits discrimination based on race, creed, color, national origin, or sex);
- The Civil Rights Restoration Act of 1987, (PL 100-209), (Broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms "programs or activities" to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);
- Titles II and III of the Americans with Disabilities Act of 1990, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§ 12131 – 12189) as implemented by Department of Transportation regulations at 49 CFR parts 37 and 38;
- The Federal Aviation Administration's Non-discrimination statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);
- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures non-discrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;
- Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100);
- Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 U.S.C. 1681 et seq).

D. **Effective Date.** The effective date of this Amendment is November 1, 2019.

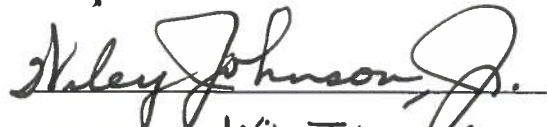
E. **Compliance.** The terms and conditions of the Agreement of Lease dated September 1, 2011 are incorporated herein by reference and shall be obligatory upon both Lessee and Lessor, except as stated in this Amendment.

IN WITNESS WHEREOF, the parties hereto have subscribed their names the day and year first above written.

LESSOR: CITY OF BOISE

LESSEE: FEDERAL EXPRESS CORPORATION

\_\_\_\_\_  
David H. Bieter, Mayor

  
Printed Name: Wiley Johnson Jr.

ATTEST:

Title: Managing Director

\_\_\_\_\_  
Lynda Lowry  
EX-OFFICIO CITY CLERK


**APPROVED  
LEGAL DEPARTMENT**

ced 11/2/2019

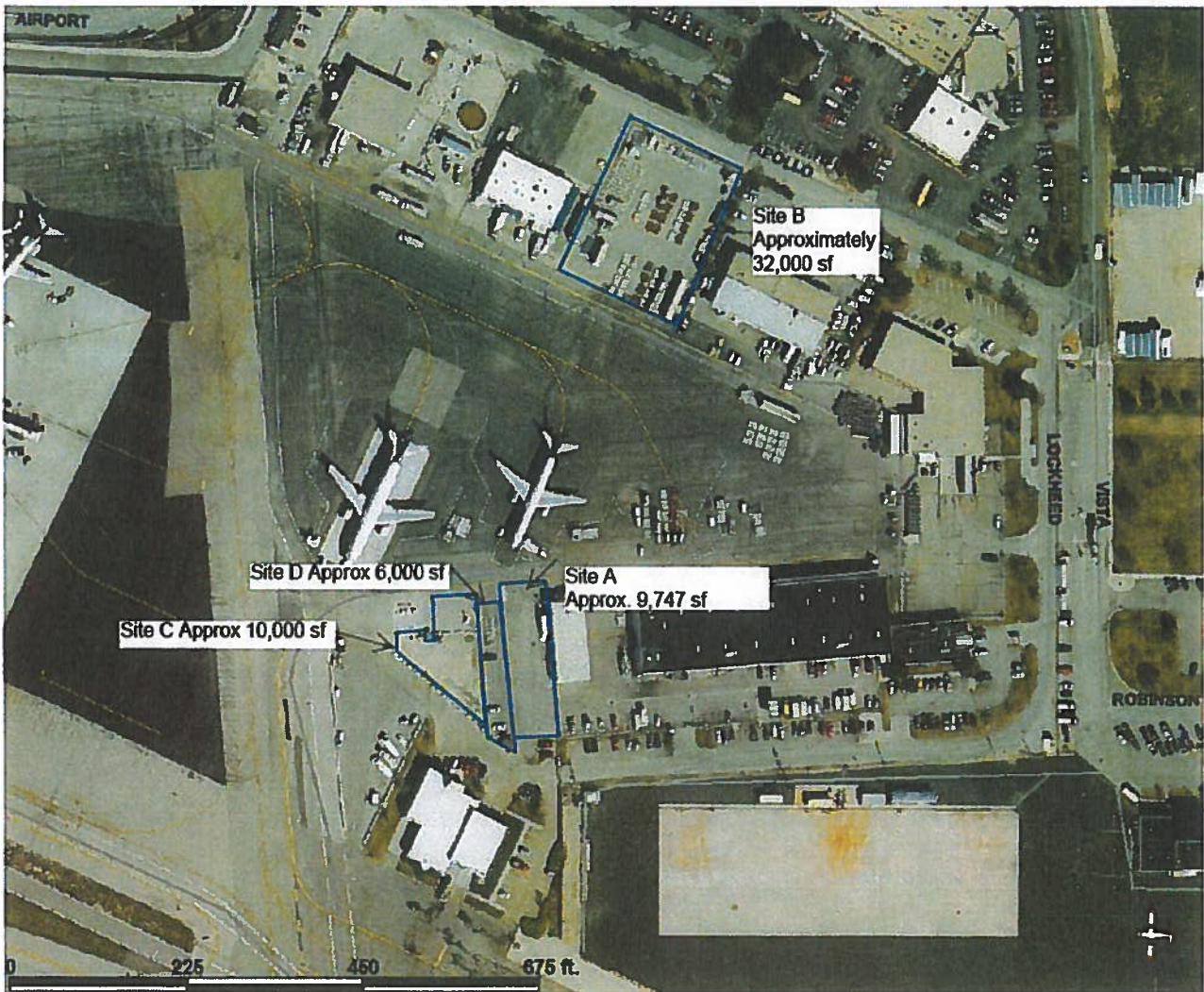


**EXHIBIT A-1**

**Premises**

**Lease 07-0015**

<b>Paved Storage</b>		
Site A	Lockheed	9,747
Site B	Apollo	32,000
Site C	Lockheed	10,000
Site D	Lockheed	6,000
<b>COMBINED</b>		<b>57,747</b>



## EXHIBIT B

### BASE RENT ANNUAL INCREASES

The base rent due and payable herein shall be increased annually as follows:

Within ninety (90) days of November 1 of each year beginning November 1, 2020, Lessor shall provide written notice to Lessee of the new Base Rent which shall be effective for the next year following each Lease anniversary.

The new Base Rent shall be an amount equal to the then current Base Rent multiplied times one (1) plus the percentage increase in the CPI from the previous year.

For example, if the Consumer Price Index from the prior year rose by two and one-half percent (2.5%) and the current Base Rent is \$100.00, then the Base Rent next year shall be \$102.50. ( $\$100 \times [1.00 + 2.5\%] = \$102.5$ )

In no event will the Base Rent be reduced as a result of this calculation. Should CPI be negative in any year, the then current Base Rent shall carry over to the next year.

For purposes of this Exhibit B, the following definitions will apply:

"Consumer Price Index" or CPI - the Revised Consumer Price Index for All Urban Consumers (CPI-U) published by the Bureau of Labor Statistics of the United States Department of Labor for U.S. City Average, All Items (1982-84 = 100) or, if this Index is discontinued, any other renamed national index covering metropolitan areas.

The change in the Consumer Price Index (or other Index) used for calculating the new Base Rent shall be the percentage change from the Index twelve (12) months prior to the month at the time of calculation. The Consumer Price Index (or other Index) used in the calculation shall be the one published for the month of July.