

ON-AIRPORT LAND LEASE

Between

**UNITED STATES OF AMERICA
DEPARTMENT OF TRANSPORTATION
FEDERAL AVIATION ADMINISTRATION**

And

CITY OF MINOT, NORTH DAKOTA

**Lease No. 697DCM-20-L-00068
(MOT) ATCT
Minot, North Dakota**

SECTION 1 - OPENING

6.1.1 Preamble (JAN 2018)

This Lease is made and entered into by the City of Minot, North Dakota, hereinafter referred to as "Airport" or "Lessor", for itself, its successors and assigns, and the Federal Aviation Administration, hereinafter referred to as the "FAA".

For purposes of this Lease, the terms Contractor and Lessor are interchangeable with each other.

6.1.2 Succeeding Lease (JAN 2015)

This Lease succeeds Lease No. DTFA14-00-L-R3165 and all other previous agreements between the parties for the leased property described in this document.

6.1.3 Witnesseth (JAN 2015)

The parties hereto, for the consideration hereinafter mentioned, covenant and agree as follows:

6.1.4-1 Premises (JAN 2018)

The Lessor hereby leases to the FAA the following described property, hereinafter referred to as the premises:

A tract of land in a portion of the Southwest Quarter of Section 12, Township 155 North, Range 83 West of the 5th Principal Meridian, Ward County, North Dakota, being more particularly described as follows:

Commencing at the southwest corner of said Southwest Quarter of Section 12; thence South 89 degrees 00 minutes 58 seconds East, assumed bearing along the south line of said Southwest Quarter, a distance of 2370.87 feet, thence North 00 degrees 59 minutes 02 seconds East, perpendicular to the south line of said Southwest Quarter, a distance of 126.73 feet to the point of beginning; thence North 20 degrees 22 minutes 49 seconds West, a distance of 219.67 feet; thence North 70 degrees 21 minutes 54 seconds East, a distance of 179.16 feet; thence South 74 degrees 06 minutes 40 seconds East, 15.94 feet; thence South 00 degrees 59 minutes 10 seconds East, a distance of 219.84 feet; thence South 69 degrees 21 minutes 28 seconds West, a distance of 119.00 feet to the point of beginning and there terminating.

Said tract contains 34,236 square feet or 0.79 acres, more or less, as shown on Exhibit "A", attached hereto and made a part hereof.

A. Together with a right-of-way for ingress to and egress from the premises for FAA employees, their agents and assigns; a right-of-way for establishing and maintaining a pole line or pole lines for extending electric power and/or telecommunication lines to the premises; and a right-of-way for subsurface power, communication and/or water lines to the premises; all rights-of-way to be over said lands and adjoining lands of the Lessor, and unless herein described otherwise, shall be reasonably determined by the FAA as the most convenient route.

B. And the right of grading, conditioning, installing drainage facilities, seeding the soil of the premises, and the removal of all obstructions from the premises that may constitute a hindrance to the establishment and maintenance of FAA facilities.

C. And the right to make alterations, attach fixtures, erect additions, structures, or signs, in or upon the premises hereby leased. All alterations and additions are and will remain the property of the Government.

D. The FAA shall have the right to use the existing gravel/paved airport road adjacent to the south side of the described ATCT site as a permanent access route.

SECTION 2 - TERMS

6.2.5 Term (AUG 2002)

To have and to hold, for the term commencing on October 1, 2020 and continuing through September 30, 2040 inclusive, provided that adequate appropriations are available from year to year for the consideration herein.

6.2.6 Consideration - No Cost (JAN 2018) -

The FAA shall pay the Airport no monetary consideration in the form of rental. It is mutually agreed that the rights extended to the FAA herein are in consideration of the obligations assumed

by the FAA in its establishment, operation and maintenance of facilities upon the premises hereby leased.

6.2.7 Cancellation (JAN 2017)

The FAA may terminate this Lease at any time, in whole or in part, if the Real Estate Contracting Officer (RECO) determines that a termination is in the best interest of the FAA. The RECO shall terminate by delivering to the Lessor a written notice specifying the effective date of the termination. The termination notice shall be delivered by certified mail return receipt requested and mailed at least 30 days before the effective termination date.

6.2.14 Holdover (JUL 2017)

If after the expiration of the Lease, the Government shall retain possession of the premises, the Lease shall continue in full force and effect on a month-to-month basis. Payment shall be made in accordance with the Consideration clause of the Lease, in arrears on a prorated basis, at the rate paid during the Lease term. This period shall continue until the Government shall have signed a new lease with the Lessor, acquired the property in fee, or vacated the premises.

6.2.16 Lessor's Successors (JUL 2017)

The terms and provisions of this Lease and the conditions herein bind the Lessor and the Lessor's heirs, executors, administrators, successors, and assigns.

SECTION 3 - GENERAL CLAUSES

3.2.5-1-RE Officials Not to Benefit (OCT 1996)

No member of or delegate to Congress, or resident commissioner, shall be admitted to any share or part of this lease, or to any benefit arising from it. However, this clause does not apply to this lease to the extent that this lease is made with a corporation for the corporation's general benefit.

6.3.5 Title to Improvements (APR 2005)

Title to the improvements constructed for use by the FAA during the life of this Lease shall be in the name of the FAA.

6.3.6 Funding Responsibility for FAA Facilities (JAN 2017)

The Airport agrees that any and all Airport requested relocation(s), replacement(s), or modification(s) of any existing or future FAA navigational aid or communication system(s) necessitated by Airport improvements or changes will be at the expense of the Airport. In the event that the Airport requested changes or improvements interferes with the technical and/or operational characteristics of the FAA's facility, the Airport will immediately correct the

interference issues at the Airport's expense. Any FAA requested relocation, replacement, or modifications shall be at the FAA's expense. In the event such relocations, replacements, or modifications are necessary due to causes not attributable to either the Airport or the FAA, funding responsibility shall be determined by mutual agreement between the parties, and memorialized in a Supplemental Lease Agreement.

6.3.18 Non-Restoration (JAN 2018)

It is hereby agreed between the parties that, upon termination of its occupancy (due to termination or expiration of the Lease), including any holdover periods, the FAA shall have no obligation to restore and/or rehabilitate, either wholly or partially, the property that is the subject of this Lease. It is further agreed that the FAA may abandon in place any or all of the structures and equipment installed in or located upon said property by the FAA during its tenure. Such abandoned equipment shall become the property of the Lessor.

6.3.25 Quiet Enjoyment (OCT 1996)

The Lessor warrants that they have good and valid title to the premises, and rights of ingress and egress, and warrants and covenants to defend the FAA's use and enjoyment of said premises against third party claims.

6.3.28-2 Interference with FAA Operations (JAN 2017)

The Airport agrees not to erect or allow to be erected any structure or obstruction of any kind or nature within the Airport's boundaries that the FAA determines may interfere with the proper operation of the facilities installed by the FAA. The FAA and the Airport agree that such action(s) would not be in the best interest of the Airport or the FAA.

6.3.33 Covenant Against Contingent Fees (AUG 2002)

The Lessor warrants that no person or agency has been employed or retained to solicit or obtain this contract upon an agreement or understanding for a contingent fee, except a bona fide employee or agency. For breach or violation of this warranty, the FAA shall have the right to annul this contract without liability or, in its discretion, to deduct from the contract price or consideration, or otherwise recover the full amount of the contingent fee.

6.3.34 Anti-Kickback - Real Property (JAN 2017)

The Anti-Kickback Act of 1986 (41 U.S.C. 51-58) (the Act), prohibits any person from (1) Providing or attempting to provide or offering to provide any kickback; (2) Soliciting, accepting, or attempting to accept any kickback; or (3) Including, directly or indirectly, the amount of any kickback in the contract price charged by a prime Contractor to the United States or in the contract price charged by a subcontractor to a prime Contractor or higher tier subcontractor.

6.3.36 Subordination, Nondisturbance and Attornment (JAN 2017)

A. The FAA agrees, in consideration of the warranties and conditions set forth in this clause, that this Lease is subject and subordinate to any and all recorded mortgages, deeds of trust and other liens now or hereafter existing or imposed upon the premises, and to any renewal, modification or extension thereof. It is the intention of the parties that this provision shall be self-operative and that no further instrument shall be required to effect the present or subsequent subordination of this Lease. Based on a written demand received by the RECO, the FAA will review and, if acceptable, execute such instruments as Lessor may reasonably request to evidence further the subordination of this Lease to any existing or future mortgage, deed of trust or other security interest pertaining to the premises, and to any water, sewer or access easement necessary or desirable to serve the premises or adjoining property owned in whole or in part by Lessor if such easement does not interfere with the full enjoyment of any right granted the FAA under this Lease.

B. No such subordination, to either existing or future mortgages, deeds of trust or other lien or security instrument shall operate to affect adversely any right of the FAA under this Lease so long as the FAA is not in default under this Lease. Lessor will include in any future mortgage, deed of trust or other security instrument to which this Lease becomes subordinate, or in a separate non-disturbance agreement, a provision to the foregoing effect. Lessor warrants that the holders of all notes or other obligations secured by existing mortgages, deeds of trust or other security instruments have consented to the provisions of this clause, and agrees to provide true copies of all such consents to the RECO promptly upon demand.

C. In the event of any sale of the premises or any portion thereof by foreclosure of the lien of any such mortgage, deed of trust or other security instrument, or the giving of a deed in lieu of foreclosure, the FAA will be deemed to have attorned to any purchaser, purchasers, transferee or transferees of the premises or any portion thereof and its or their successors and assigns, and any such purchasers and transferees will be deemed to have assumed all obligations of the Lessor under this Lease, so as to establish direct privity of estate and contract between FAA and such purchasers or transferees, with the same force, effect and relative priority in time and right as if the lease had initially been entered into between such purchasers or transferees and the FAA; provided, further, that the RECO and such purchasers or transferees shall, with reasonable promptness following any such sale or deed delivery in lieu of foreclosure, execute all such revisions to this Lease, or other writings, as shall be necessary to document the foregoing relationship.

D. None of the foregoing provisions may be deemed or construed to imply a waiver of the FAA's rights as a sovereign.

6.3.37 Notification of Change in Ownership or Control of Land (JAN 2018)

If the Owner sells or otherwise conveys to another party or parties any interest in the aforesaid land, rights of way thereto, and any areas affecting the premises, the FAA shall be notified in writing, of any such transfer or conveyance within 30 calendar days after completion of the change in property rights. Concurrent with the written notification, the Lessor or Lessor's heirs, representatives, assignees, or trustees shall provide the FAA copies of the associated legal document(s) (acceptable to local authorities) for transferring and/or conveying the property rights.

6.3.39 Integrated Agreement (OCT 1996)

This Lease, upon execution, contains the entire agreement of the parties, and no prior written or oral agreement, express or implied shall be admissible to contradict the provisions of this Lease.

3.9.1-1 Contract Disputes (January 2020)

(a) All contract disputes arising under or related to this contract shall be resolved through the Federal Aviation Administration (FAA) dispute resolution system at the Office of Dispute Resolution for Acquisition (ODRA) and shall be governed by the procedures set forth in 14 C.F.R. Parts 14 and 17, which are hereby incorporated by reference. Judicial review, where available, will be in accordance with 49 U.S.C. 46110 and shall apply only to final agency decisions. A contractor may seek review of a final FAA decision only after its administrative remedies have been exhausted.

(b) The filing of a contract dispute with the ODRA may be accomplished by mail, overnight delivery, hand delivery, or by facsimile, or if permitted by Order of the ODRA, by electronic filing. A contract dispute is considered to be filed on the date it is received by the ODRA during normal business hours. The ODRA's normal business hours are from 8:30am to 5:00 pm Eastern Time.

(c) Contract disputes are to be in writing and shall contain:

(1) The contractor's name, address, telephone and fax numbers and the name, address, telephone and fax numbers of the contractor's legal representative(s) (if any) for the contract dispute;

(2) The contract number and the name of the Contracting Officer;

(3) A detailed chronological statement of the facts and of the legal grounds for the contractor's positions regarding each element or count of the contract dispute (i.e., broken down by individual claim item), citing to relevant contract provisions and documents and attaching copies of those provisions and documents;

(4) All information establishing that the contract dispute was timely filed;

(5) A request for a specific remedy, and if a monetary remedy is requested, a sum certain must be specified and pertinent cost information and documentation (e.g., invoices and cancelled checks) attached, broken down by individual claim item and summarized; and

(6) The signature of a duly authorized representative of the initiating party.

(d) Contract disputes shall be filed at the following address:

(1) For filing by hand delivery, courier or other form of in-person delivery:

Office of Dispute Resolution for Acquisition
Federal Aviation Administration
600 Independence Avenue SW., Room 2W100
Washington, DC 20591; or

For filing by U.S. Mail:

Office of Dispute Resolution for Acquisition
Federal Aviation Administration
800 Independence Avenue SW
Washington, DC 20591
[Attention: AGC-70, Wilbur Wright Bldg. Room 2W100]; or

Telephone: (202) 267-3290
Facsimile: (202) 267-3720
Alternate Facsimile: (202) 267-1293; or

(2) Other address as specified in 14 CFR Part 17.

(e) A contract dispute against the FAA shall be filed with the ODRA within two (2) years of the accrual of the contract claim involved. A contract dispute by the FAA against a contractor (excluding contract disputes alleging warranty issues, fraud or latent defects) likewise shall be filed within two (2) years after the accrual of the contract claim. If an underlying contract entered into prior to the effective date of this part provides for time limitations for filing of contract disputes with the ODRA which differ from the aforesaid two (2) year period, the limitation periods in the contract shall control over the limitation period of this section. In no event will either party be permitted to file with the ODRA a contract dispute seeking an equitable adjustment or other damages after the contractor has accepted final contract payment, with the exception of FAA claims related to warranty issues, gross mistakes amounting to fraud or latent defects. FAA claims against the contractor based on warranty issues must be filed within the time specified under applicable contract warranty provisions. Any FAA claims against the contractor based on gross mistakes amounting to fraud or latent defects shall be filed with the ODRA within two (2) years of the date on which the FAA knew or should have known of the presence of the fraud or latent defect.

(f) A party shall serve a copy of the contract dispute upon the other party, by means reasonably calculated to be received on the same day as the filing is to be received by the ODRA.

(g) After filing the contract dispute, the contractor should seek informal resolution with the Contracting Officer.

(h) The FAA requires continued performance with respect to contract disputes arising under this contract, in accordance with the provisions of the contract, pending a final FAA decision.

(i) The FAA will pay interest on the amount found due and unpaid from (1) the date the Contracting Officer receives the contract dispute, or (2) the date payment otherwise would be due, if that date is later, until the date of payment. Simple interest on contract disputes shall be paid at the rate fixed by the Secretary of the Treasury that is applicable on the date the Contracting Officer receives the contract dispute and then at the rate applicable for each 6-month period as fixed by the Treasury Secretary until payment is made. Interest will not accrue for more than one year.

(j) Additional information and guidance about the ODRA dispute resolution process for contract disputes can be found on the ODRA Website at <http://www.faa.gov>.

SECTION 7 - SERVICES, UTILITIES, AND MAINTENANCE CLAUSES

6.7.7 Utility Lines and Consumption (JAN 2017)

The Airport agrees to maintain the necessary water and sanitary sewer, steam and high temperature lines to the facility and to install necessary meters to the Government's lines without cost to the Government. The Government shall pay for all of its utility consumption at no more than prevailing rates charged the general public for such similar utility services. The Government has the right to install and maintain water and sewer lines across airport property to the existing mains and the rights to connect in the existing mains.

SECTION 8 - ENVIRONMENTAL OCCUPATIONAL SAFETY AND HEALTH CLAUSES

6.8.1 Hazardous Substance Contamination (JUL 2017)

The FAA agrees to remediate, at its sole cost, all hazardous substance contamination on the FAA facility premises that is found to have occurred as a direct result of the installation, operation, relocation and/or maintenance of the FAA's facilities covered by this Lease. The Airport agrees to remediate or have remediated at its sole cost, any and all other hazardous substance contamination found on the FAA facility premises. The Airport also agrees to save and hold the U.S. FAA harmless for any and all costs, liabilities and/or claims by third parties that arise out of

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hazardous contamination found on the FAA facility premises that are not directly attributable to the installation, operation and/or maintenance of the facilities.

SECTION 10 - CLOSING

6.10.1 Notices (JUL 2017)

All notices/correspondence shall be in writing, referencing to the Lease number, and be addressed as follows:

TO THE LESSOR:
City of Minot, North Dakota
c/o Minot International Airport
305 Airport Road, Suite 216
Minot, ND 58703

TO THE GOVERNMENT
Federal Aviation Administration
Real Estate Branch, AAQ-920
10101 Hillwood Parkway
Fort Worth, TX 76177

6.10.3 Signature Block (JUL 2017)

This Lease shall become effective when it is fully executed by all parties.

In witness whereof, the parties hereto have signed their names.

CITY OF MINOT, NORTH DAKOTA

UNITED STATES OF AMERICA
DEPARTMENT OF TRANSPORTATION
FEDERAL AVIATION ADMINISTRATION

By: _____
Print Name:
Title: _____

By: _____
Teresa Emmons
Real Estate Contracting Officer

Date: _____

Date: _____

PUBLIC AUTHORIZATION CERTIFICATE

On this _____ day of _____, 2020, I _____
certify that I am the _____ of the City of Minot named in the
attached agreement; that _____ who signed said agreement on
behalf of the City of Minot is _____ of said the City of
Minot; that said agreement was duly signed for and on behalf of the City of Minot by
authority of its governing body, and is within the scope of its powers.

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Signed _____