

## CITY OF BOISE

**To:** Mayor and Council

**FROM:** Amy Snyder, Department of Aviation

**RESOLUTION NUMBER:** R-258-10

**DATE:** August 18, 2010

**SUBJECT:** Lease Amendment #1 - Tech Landing, LLC

---

**ACTION REQUIRED:** Approval of Amendment #1 to Tech Landing, LLC Land Lease

**RECOMMENDATION:** Approval of Amendment #1 to Tech Landing, LLC Land Lease

**FISCAL IMPACT/BUDGET IMPLICATIONS:** Annual rent adjustment per schedule:

Year 2 (April 1, 2010): \$17,948.81

Year 3 (April 1, 2011): \$22,397.85

Year 4 (April 1, 2012): \$26,846.90

Year 5 and annually thereafter CPI percentage increase

**BACKGROUND:** Troy Mortensen has been leasing 3.6 +/- acres of land at 3131 Harvard Street continuously since 2001. In the spring of 2009, both parties agreed to enter into a new lease under the name of Tech Landing, LLC (member Troy Moretensen) for a two year term with three one year renewal options. Per the lease agreement the rent was to be adjusted to 10% of the appraised value effective April 1, 2010. The appraised valued the land was \$2.14 per square foot. The current annual rent is \$13,499.76 and the increase at 10% would have made the annual rent payments \$33,588.62. Because of the substantial increase, the Airport agreed to match the rate we recently negotiated for the adjacent leasehold to BCT, Inc. This was a 5 year term with a twelve month cancellation clause and 8% of the appraised value phased in over a three year period. This amendment reflects the negotiated changes to the lease document.

**ATTACHMENTS:**

3 original lease amendments

RESOLUTION NO. \_\_\_\_\_

BY THE COUNCIL:

BISTERFELDT, CLEGG, EBERLE,  
JORDAN, SHEALY AND THOMSON

**A RESOLUTION APPROVING AN AMENDMENT TO A LEASE AGREEMENT BETWEEN BOISE CITY (DEPARTMENT OF AVIATION) AND TECH LANDING, LLC FOR THE LEASE OF CERTAIN PREMISES UPON BOISE AIR TERMINAL (GOWEN FIELD); AUTHORIZING THE MAYOR AND CITY CLERK TO EXECUTE AND ATTEST SAID LEASE AGREEMENT ON BEHALF OF BOISE CITY; AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, a certain Lease Agreement dated April 1, 2009, by and between Boise City (Lessor) and Tech Landing, LLC. was approved pursuant to Resolution No. 20700 dated November 10, 2009; and

**WHEREAS**, the parties wish to adjust the length of the term of the Agreement; and

**WHEREAS**, the parties wish to set forth a new rental rate readjustment method; and

**WHEREAS**, the parties wish to incorporate a twelve (12) month Lease cancellation clause.

**WHEREAS**, the Director of Aviation recommends approval of said Amendment to a Lease Agreement as it is in the best interests of the City to enter into said Agreement.

**NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE CITY OF BOISE CITY, IDAHO:**

**Section 1.** That the Amendment Number One to the Lease Agreement for said premises upon and within the Boise Air Terminal (Gowen Field), a copy of which is attached hereto and made a part hereof by attachment, be, and the same hereby is, approved both as to form and content.

**Section 2.** That the Mayor and City Clerk be, and they hereby are, authorized to respectively execute and attest said Agreement for and on behalf of Boise City.

**Section 3.** That this Resolution shall be in full force and effect immediately upon its adoption and approval.

**ADOPTED** by the Council of the City of Boise, Idaho, this \_\_\_\_\_ day of \_\_\_\_\_, 2010.

**APPROVED** by the Mayor of the City of Boise, Idaho this \_\_\_\_\_ day of \_\_\_\_\_, 2010.

APPROVED:

ATTEST:

\_\_\_\_\_  
MAYOR

\_\_\_\_\_  
CITY CLERK

## AMENDMENT TO AGREEMENT OF LEASE

TECH LANDING, LLC

THIS AMENDMENT TO LEASE is made and entered into as of the \_\_\_\_ day of \_\_\_\_\_, 2010, by and between BOISE CITY, DEPARTMENT OF AVIATION ("Lessor"), and TECH LANDING, LLC ("Lessee").

### RECITALS:

WHEREAS, a certain Lease Agreement dated April 1, 2009, by and between Boise City (Lessor) and Tech Landing, LLC. was approved pursuant to Resolution No. 20700 dated November 10, 2009; and

WHEREAS, the parties wish to adjust the length of the term of the Agreement; and  
WHEREAS, the parties wish to set forth a new rental rate readjustment method; and  
WHEREAS, the parties wish to incorporate a twelve (12) month Lease cancellation clause.

NOW, THEREFORE, Lessor and Lessee hereby agree as follows:

1. 2.01 Term shall be amended to read as follows:

This Lease shall be for a term of five (5) years commencing on the first day of April, 2009 and shall be subject to cancellation per section 7.02 herein. At the expiration of this lease, this agreement will continue on a month to month basis and may be canceled upon thirty days notice by either party. Nothing herein shall be construed as authorizing or allowing holding over of the Leased Premises.

2. 2.02 Renewal Terms shall be stricken and shall no longer apply

3. 3.01 Ground Rental shall be amended to read as follows:

For the purpose of computing the rental payments, Lessor and Lessee agree that the Leased Premises comprise approximately 3.6 acres (156,816 square feet). The annual rental for the Leased Premises will, during the first four years be:

Year 1 (April 1, 2009): \$13,499.76  
Year 2 (April 1, 2010): \$17,948.81  
Year 3 (April 1, 2011): \$22,397.85  
Year 4 (April 1, 2012): \$26,846.90

4. 3.03 Readjustment of Ground Rental first paragraph and section "a" shall be amended to read as follows:

For the purpose of computing adjustments to rental payments, Lessor and Lessee agree that the Base Year Consumer Price Index is 213.240 (April 2009) and the Base Rent is \$26,846.90. The annual rental payable under this lease agreement shall be adjusted as follows, with each adjustment effective as of the appropriate anniversary date, regardless of the date the actual adjustment is made:

- a. Within ninety (90) days prior to or after each annual Lease anniversary, beginning with April 1, 2013, the annual rent will be adjusted to:

An amount equal to the base rent times the percentage increase in the Consumer Price Index from the base year to the anniversary year plus base rent.

For example, if the percentage increase in the Consumer Price Index from the base year to the anniversary year is five percent (5%) and the base rent is \$100.00, then the adjusted rental shall be 105% of the base rent or \$105.00.  
(\$100 X 5%) + \$100.00 = \$105

Section "b" shall be stricken and shall no longer apply

5. 7.02 Cancellation – the following two sentences shall be added to the first paragraph of this section:

This Lease Agreement may be cancelled by either party on or after April 1, 2010 for any reason with twelve (12) months written notice. During this twelve month period, Lessee shall remove the improvements pursuant to Section 8.02 herein.

6. Effective Date: The effective date of this lease amendment is April 1, 2010.

7. Except as amended herein, each and every provision of the Lease Agreement shall remain in full force and effect.

IN WITNESS WHEREOF, the parties have executed this Amendment to Lease as of the day and year first above written.

TECH LANDING, LLC

By *R. Troy Mortensen*  
R. Troy Mortensen, Member

BOISE CITY

By \_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk

STATE OF IDAHO            )  
                                      )  
County of Ada            )    SS.

On this Aug day of 9th, 2010, before me, a Notary Public in and for said State, personally appeared R. Troy Mortensen known to me to be the Member of Tech Landing, LLC that executed the said instrument, and acknowledged to me that such Company 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.

*Tiffany Chandler*  
Notary Public for Idaho  
Residing at \_\_\_\_\_  
My Commission Expires \_\_\_\_\_

