



SHERIDAN COUNTY AIRPORT
AIRPORT BUSINESS PARK LEASE AGREEMENT

The County of Sheridan, State of Wyoming ("County"), and Flying Hammer Holdings, LLC, a Wyoming limited liability company ("Lessee") enter into this lease agreement ("Agreement"). In consideration of the mutual covenants contained herein, the parties agree as follows:

I. LEASED PREMISES.

County leases to Lessee, a tract of land situated in the SE1/4NW1/4, Section 3, Township 55 North, Range 84 West, 6th Principal Meridian, Sheridan County, Wyoming; and more particularly described as follows and shown on **Exhibit A**:

Commencing at the northwest corner of said Section 3; thence S43°02'08"E, 2166.26 feet to the POINT OF BEGINNING of the herein described tract; thence N89°20'15" 224.97 feet along the south right of way line of Airfield Lane to a point, said point being the northwest corner of a tract of land described in Book 364 of Deeds, Page 340; thence S02°03'45"E, 281.00 feet along the west line of said tract to the southwest corner of said tract, said point lying on the northeasterly right of way line of West Brundage Lane; thence N40°11'40"W, 364.22 feet along said northeasterly right of way line to the POINT OF BEGINNING of said tract.

Said tract contains 0.725 acres of land more or less.

Basis of Bearings is Wyoming State Plane (East Central Zone)

Physical Address is 772 Airfield Lane.

II. USE OF PREMISES.

Premises shall be used for the purpose of an Office and Shop.

A. LESSEE'S RIGHTS AND OBLIGATIONS.

1. Lessee shall, at its sole expense, maintain and repair the Premises and any improvements existing, installed, altered, or constructed in a reasonable appearance and state of repair with normal wear and tear excepted. In the event Lessee fails to so reasonably maintain or repair the Premises or improvements, County may, after providing written notice to Lessee, enter the Premises and perform the maintenance or repair. Lessee shall pay the costs of any such maintenance or repairs in addition to all other rental fees and other charges.
2. Lessee shall keep the Premises clean, safe, and orderly at all times and shall provide a proper arrangement for the sanitary handling and disposal of all rubbish, grass clippings, and other waste products.
3. Lessee shall maintain all landscaped areas and keep parking lots and access roads on the Premises reasonably clear of snow.

B. COUNTY'S RIGHTS AND OBLIGATIONS.

1. County, its employees, agents, and representatives shall have the right to enter upon the Premises to inspect the Premises at any reasonable hour with reasonable notification. This Agreement does not authorize County to inspect Lessee's records, files, or documents.
2. County reserves a right of flight for the passage of aircraft in the airspace above the surface of the Premises and for the noise and fumes inherent in the operation of aircraft including landing, taking off, and operating aircraft now known or hereafter used for flight or navigation.
3. County shall be responsible for street maintenance and snow removal on Airfield Lane and West Brundage Lane.



III. LEASEHOLD IMPROVEMENTS.

A. GENERAL CONDITIONS.

1. Lessee shall, at its sole expense, pay all costs and expenses associated with the construction of any additional building(s) and/or improvements on the Premises.
2. Lessee shall submit to Airport Manager for approval a complete set of plans and specifications of all proposed construction. Plans may or may not need to include the following:
 - Building plan** – showing the type of building construction desired, type of building foundations proposed, type of exterior coverings facade and colors, roof materials etc., exterior building elevations, and floor plan including all dimensions. The building plan shall include an architectural streetscape view of all four sides of the building.
 - Site plan**- a graphic representation of the proposed development showing the boundary of the site, all building locations, landscaped areas, site access, parking, drive and loading areas. The site plan shall be drawn to an appropriate scale (1"=30', 1"= 40', etc.) and shall include the dimension of all lots, and include a complete land development summary which includes gross site area, floor area, landscape area, lot coverage by principal and accessory structures, and number of parking and loading areas proposed.
 - Landscape plan**- concept level landscape plan to include locations and general description (deciduous, conifer, shrub, ground cover, turf, etc.). Any special use areas such as common areas and snow storage should be shown. Names of planting materials, sizes, quantities and a planting and maintenance plans for all proposed plant materials should be provided.
 - Grading and drainage plan**- conceptual plan showing existing and proposed contours with drainage depicted by flow arrows.
 - Utility plan**- horizontal utility layout showing service lines and how they will be routed from mains. Any easements should be shown on this plan.These plans and specifications once approved shall be attached to this Agreement as **Exhibit B**.
3. All submittals for additional construction shall bear the seal of a Professional Engineer or Architect, registered in the State of Wyoming.
4. Lessee shall file FAA Form 7460-1 with the Federal Aviation Administration ("FAA") and obtain approval from the FAA prior to commencing any construction or alteration; Airport Manager shall be copied on all correspondence to FAA.
5. Lessee shall diligently pursue construction of any building(s) / improvements so that they will be completed within six (6) months from the date of commencement. Lessee shall not be responsible if the completion is delayed by virtue of strike, catastrophes, shortage of material, delays occasioned by actions of local, state, or federal agencies, or acts of God, or other causes beyond the control of Lessee.
6. No structural changes may be made by Lessee to any building(s) or improvements constructed without having first secured written approval of County, which approval shall not be unreasonably withheld.
7. All access roads and parking areas on the Premises shall be paved.
8. Lessee shall obtain prior written approval of the Airport Manager to install signs or otherwise alter or construct improvements on the Premises. Such approval shall not be unreasonably withheld. Lessee is responsible for all costs associated with such installation, alteration, and construction.
9. Lessee shall within forty-five days after full development of any building or improvement, provide the Airport Manager with a complete set of *as-built* drawings for the improvements that include at a minimum the plans required in III.A.2 of this Agreement.



10. Lessee shall at the end of the term of this Agreement, convey good and merchantable title to all building(s), fixtures, and leasehold improvements in favor of County.
11. Should the Agreement be terminated prior to the expiration of the term because of Lessee's default, all building(s) and leasehold improvements become the property of County, subject to paragraph 12.
12. Notwithstanding any provision of this Agreement to the contrary Lessee may, to secure financing of the building, assign this Agreement and the rights to all improvements located upon the property, as security to Lessee's building financier.

IV. TERM.

This Agreement is for a term of twenty years, commencing May 1, 2019 and ending April 30, 2039 (the "termination date"), inclusive, unless sooner terminated in accordance with the provisions herein. On the termination date, Lessee shall have the first right of refusal to lease the Premises under new terms and conditions. Lessee shall request a copy of the proposed new terms within six months of the termination date and County shall within six weeks of receipt of the request provide same. Such terms shall be reasonable and more favorable terms shall not be given to a third party for a period of six months if such terms are rejected by Lessee. However, if Lessee materially breached the initial Agreement, and failed to reasonably cure the breach within 30 days of receiving notice of any breach, more than once during the term of this Agreement, then the foregoing six- month restriction is void.

V. RENTAL FEE.

- A. Lessee shall pay to County \$526.35 per month, beginning May 10, 2019. Lessee shall pay this rental fee monthly in advance, on or before the 10th day of each month during the term of this Agreement.
- B. The rental fee shall be increased by the amount of increase in the Wyoming Comparative Cost of Living Index (WCLI) Northeast All Items, for the immediately preceding two-year period. The increase will become effective on May 1 of each two-year period during this Agreement. No increase shall exceed 15% of the rental fee last paid by Lessee.
- C. A delinquency charge of 1.5% per month shall be added to any rental fee that is more than thirty days delinquent.
- D. Lessee shall deliver all fees due County to the Office of the Airport Manager, Sheridan County Airport, 908 W. Brundage Lane, Sheridan, Wyoming 82801.

VI. INSURANCE.

A. LESSEE'S REQUIREMENTS.

1. Lessee shall obtain and maintain continuously in effect at all times during the term of this Agreement, at Lessee's sole expense, comprehensive general liability and property damage insurance of not less than \$1,000,000 per occurrence protecting County against any and all liability from Lessee's use of the Premises or this Agreement. Lessee shall obtain and maintain fire insurance in an amount approved by County, but not in excess of the current value of the improvements. The insurance policy(s) specified above shall name County as an additional insured. Lessee shall furnish a certificate from the insurance carrier(s) showing insurance to be in full force and effect during the term of this Agreement. All policies shall provide for a minimum of ten working days notice to County in the event of cancellation, non-renewal, or material change in the terms.
2. Lessee shall provide and maintain such fire protection equipment as required by its fire insurance underwriters and local fire codes.
3. Lessee bears sole risk of loss to all personal property on the premises.

- B. COUNTY'S REQUIREMENTS. County shall not build or permit to be built any structures or other hindrances within a reasonable area immediately adjoining the Premises in order that free and ready access to Lessee's building and other improvements may be had for fire prevention and fire fighting purposes.

VII. GENERAL COVENANTS.

- A. AGREEMENT CONSTRUCTION. This Agreement has been negotiated between the parties and no preference shall be given to any party should the construction of any term of this Agreement be required by a Court.
- B. AMENDMENTS/MODIFICATION. Any changes, modifications, revisions or amendments to this Agreement which are mutually agreed upon by the parties to this Agreement shall be incorporated by written instrument, executed and signed by all parties to this Agreement.
- C. AMERICANS WITH DISABILITIES ACT (ADA). The parties shall not discriminate against a qualified individual with a disability and shall comply with the Americans with Disabilities Act P.L. 101-336, 42 U.S.C. 12101, et seq., and/or any properly promulgated rules and regulations related thereto.
- D. APPLICABLE LAW/VENUE. The construction, interpretation and enforcement of this Agreement shall be governed by the laws of the State of Wyoming. The Courts of the State of Wyoming shall have jurisdiction over this Agreement and the parties, and the venue shall be the Fourth Judicial District, Sheridan County, Wyoming.
- E. ASSIGNMENT/SUBLEASE. Lessee may not transfer, assign or otherwise alienate its interest in the Premises or sublet any part of the Premises without first obtaining County's written consent. County shall not unreasonably withhold, delay, or condition consent to any such assignment or subletting to any responsible corporation, individual or other business entity capable of receiving such assignment. Neither this Agreement nor any interest herein shall pass to any trustee or receiver in bankruptcy or to any other receiver or assignee for the benefit of creditors or in any other way by operation of law.
- F. BEYOND TERM. This Agreement provides a definable benefit to Sheridan County and its citizens and the County desires to enter into this agreement beyond the term of this Board of County Commissioners so that the full benefit to Sheridan County might be realized.
- G. BUILDING PERMITS. Lessee shall obtain all permits required for construction of improvements. Lessee shall, at its sole expense, pay all costs and expenses associated with obtaining said building permits.
- H. COMPLIANCE WITH LAWS. Lessee shall comply with all requirements of local, state or federal building codes and with all applicable municipal, state and federal ordinances, laws, rules, and regulations that are applicable to its use of the Premises during the Term as they are now or as they are enacted insofar as they relate to (i) any improvements or alterations that Lessee constructs within the Premises or that Landlord constructs after the Commencement Date at Lessee's request or (ii) any change occurring during the term of this Agreement in the business operations that Lessee conducts on the Premises.
- I. CONDITION OF PREMISES. Lessee acknowledges that it has physically examined the Premises prior to execution of this Agreement and acknowledges that at the time of the execution of the Agreement the Premises are in satisfactory condition for the intended uses. County had made no representations to Lessee relating to the condition of the Premises except as are specifically provided in this Agreement.
- J. DEFAULT AND TERMINATION.
1. If Lessee defaults in performance of any material term of this Agreement and that default remains for a period of sixty days after written notice of default, County may terminate this Agreement or declare the full amount of rent remaining to be paid hereunder due and, in the former event, may re-enter and repossess all of the Premises, either with or without process of law, and remove Lessee and Lessee's personal property. County may also use any manner allowed by law to regain possession. If County defaults in its performance of any term of this Agreement and that default remains for a period of sixty days after written notice of default, Lessee may specifically enforce the terms of this Agreement.
 2. Upon termination of this Agreement, whether by expiration of the term or through termination, the Lessee shall within thirty days remove all personal



property from the Premises. Any remaining property is deemed abandoned by Lessee and belongs to County.

3. All covenants of this Agreement that should, by their nature, survive the termination of this Agreement shall so survive.
 4. Lessee agrees that at the expiration or termination of the Agreement, it will cease to utilize the Premises for the purpose herein stated. Should Lessee hold over the use after thirty days after the expiration of the Agreement, such holding over will be as a user at sufferance for which use it shall pay rental fees at double the amount herein provided and in addition be liable for any and all damages, costs and expenses resulting from such use including all costs of collection and reasonable attorney fees.
- K. ENTIRE AGREEMENT. This eight-page document and all Exhibits constitute the entire agreement between the parties and supersedes all prior agreements between the parties covering the subject matter hereof.
- L. FORCE MAJEURE. Neither party shall be liable for failure to perform under this Agreement if such failure to perform arises out of causes beyond the control and without the fault or negligence of the nonperforming party. Such causes may include, but are not limited to acts of the public enemy, fires, floods, epidemics, quarantine restrictions, freight embargoes, and unusually severe weather. This provision shall become effective only if the party failing to perform immediately notifies the other party of the extent and nature of the problem, limits delay in performance to that required by the event, and takes all reasonable steps to minimize delays. However, this shall not apply to failure by Lessee to pay rental fees or other charges due pursuant to this Agreement.
- M. GOVERNMENTAL IMMUNITY. Nothing in this Agreement shall in any way be deemed a waiver of any of the requirements or immunities provided by the Wyoming Governmental Claims Act.
- N. HEADINGS. The headings used in this Agreement are intended for convenience of reference only and do not define or limit the scope or meaning of any provision of this Agreement.
- O. HIPPA. If under the Health Insurance Portability and Accountability Act, LESSEE / CONTRACTOR is a "business associate", LESSEE / CONTRACTOR shall appropriately safeguard any protected health information.
- P. INDEMNIFICATION.
1. Lessee shall indemnify, defend, and save County, its agents, officers, representatives and employees, harmless from and against all penalties, liability or loss, including costs and attorney fees resulting from claims or court action, whether civil, criminal or in equity, arising directly or indirectly out of acts or omissions of Lessee or its agents or employees or through any injury or casualty occurring on the Premises as a result thereof unless due to the negligence or willful misconduct by County, its agents, officers, representatives or employees was the proximate cause.
 2. County shall indemnify, defend, and save Lessee, its agents, officers, representatives, employees and guests, harmless from and against all penalties, liability or loss, including costs and attorney fees resulting from claims or court action, whether civil, criminal or in equity, arising directly or indirectly out of acts or omissions of County or its agents or employees or through any injury or casualty occurring on the Premises as a result thereof unless due to the negligence or willful misconduct by Lessee, its agents, officers, representatives or employees was the proximate cause.
- Q. INDEPENDENT CONTRACTOR. Lessee is an independent contractor and not an employee or agent of County. The selection, retention, assignment, direction, and payment of Lessee's employees shall be the sole responsibility of Lessee, and County shall not attempt to exercise any control over the daily performance of duties by Lessee's employees.



R. NON-DISCRIMINATION.

1. Lessee shall use the Premises in compliance with all other requirements imposed by 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.
2. In all use and operation of the Premises, Lessee shall not discriminate or permit discrimination against any person or class of persons by reason of disability, age, sex, race, creed, color, national origin, ancestry, or religion in any manner prohibited by any federal or state laws, rules or regulations existing now, or any amendments thereto.
3. County reserves the right to take such action as the United States Government may direct to enforce nondiscrimination. Noncompliance with this subsection shall constitute a material breach of this Agreement.

S. NO THIRD PARTY BENEFICIARY INTENDED. This Agreement is for the benefit of the parties hereto and is not intended for the benefit of any third party.

T. NOTICE. Any notice given by one party to the other in conjunction with this Agreement shall be in writing and shall be sent by certified mail, return receipt requested, with postage and certification fees prepaid or by FedEx Express overnight:

If to County, addressed to: Office of the Airport Manager
Sheridan County Airport
908 W. Brundage Lane
Sheridan, WY 82801

If to Lessee, addressed to: Flying Hammer Holdings, LLC.
772 Airfield Lane
Sheridan, WY 82801

U. NONWAIVER. Any waiver by County of any breach of any covenant herein to be kept and performed by Lessee shall not be deemed as a continuing waiver and shall not operate to prevent County from declaring a forfeiture for any succeeding breach, either of the same or other covenant.

V. REQUIREMENTS OF THE UNITED STATES.

1. The parties hereto acknowledge that this Agreement is subject to the lawful emergency demands of one or more governmental agencies of the United States of America. Lessee shall comply with all lawful demands of the United States, including a lawful demand to deliver possession of all of the Premises as promptly as possible. In the event of any loss of use of the Premises by Lessee, Lessee shall retain its independent rights and claims for damages and compensation against the government agency responsible therefore, or, at its election, it may share on an equitable basis in any award which may be made for the taking of all the Airport property of which the Premises is a part. In the event such taking by one or more governmental agencies at any time shall constitute less than a termination of all the rights to be enjoyed by Lessee hereunder, then during such time of suspension Lessee shall be excused from paying rent and the term of this Agreement shall be extended on the same terms expressed herein for a time equivalent to such suspension.
2. County reserves the right to further develop or improve the landing area of the Airport as it deems fit, regardless of the desires or views of Lessee, and without interference. Lessee understands that this Agreement is subordinate to provisions and requirements of any existing and future agreements between the County and the United States relative to the development, operation or maintenance of the Airport.
3. Lessee shall comply with the notification and review requirements covered in part 77 of the Federal Aviation Regulations for the Premises, and on any alterations of the structure.

4. Nothing herein contained shall be construed to grant or authorize the granting of an exclusive right within the meaning of Section 308 of the Federal Aviation Act.
 5. Lessee shall observe faithfully all rules and regulations affecting use of the Airport, whether established by the Airport Manager, by Sheridan County, by the State of Wyoming or the United States, or agencies thereof, including, but not limited to rules affecting the operation of motor vehicles upon, to, and from the Airport, provided that such rules shall apply to all users of the Airport and shall not be made specific to Lessee alone.
- W. **SEVERABILITY.** If a provision of this Agreement shall be finally declared void or illegal by any court or administrative agency having jurisdiction, the remaining provisions shall continue in effect as nearly as possible in accordance with the original intent of the parties.
- X. **TAXES.** Lessee shall pay such *ad valorem* taxes as may be levied upon all improvements by the County of Sheridan during the term of this Agreement. It is the understanding that any improvements placed on the Premises shall be considered property of Lessee for the purpose of assessing taxes.
- Y. **UTILITIES.** Lessee shall, at its sole expense, pay all costs and expenses required to extend any utility lines from their current location to the Lessee's improvements and to bury all utilities and be responsible for the payment of all utilities service hookups, including plant investment and tap fees payable to the City of Sheridan for water and sewer hookups on the Premises and promptly pay for all utilities including, but not limited to trash removal, water, gas, sewer, electric, cable, fiber optics and telephone.

By signing below the parties agree to the above-terms. Additionally, any person signing certifies that he or she has been properly authorized to enter into this Agreement by his or her respective party.

SHERIDAN COUNTY AIRPORT

BY:

John W. Stopka 4-17-19
Airport Manager

BOARD OF COUNTY COMMISSIONERS

Sheridan County, Wyoming

BY:

Tom Ringley 4/16/19
Chairman

ATTEST:

Eda Schunk Thompson 4/16/19
County Clerk

Approved as to Form:

Clinton D. Beaver 4-16-19
Deputy County Attorney

STATE OF WYOMING

)

) ss.

COUNTY OF SHERIDAN

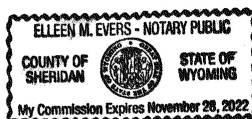
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On this 16th day of April, 20 19, before me personally appeared, Tom Ringley being first duly sworn, did say that she/he is the Chairman of the Board of County Commissioners, Sheridan County, Wyoming and that this instrument was signed and sealed on behalf of the said County by authority of said Board and she/he acknowledged said instrument to be the free act and deed of said Board.

WITNESS my hand and official seal.

Eileen M. Evers
Notary Public

My Commission Expires 11-28-2022





698

- LEGEND**
- FOUND 1-1/2" ALUMINUM CAP PER LS 2615
 - FOUND ALUMINUM CAP PER L.S. 102
 - NOTHING FOUND/NOTHING SET

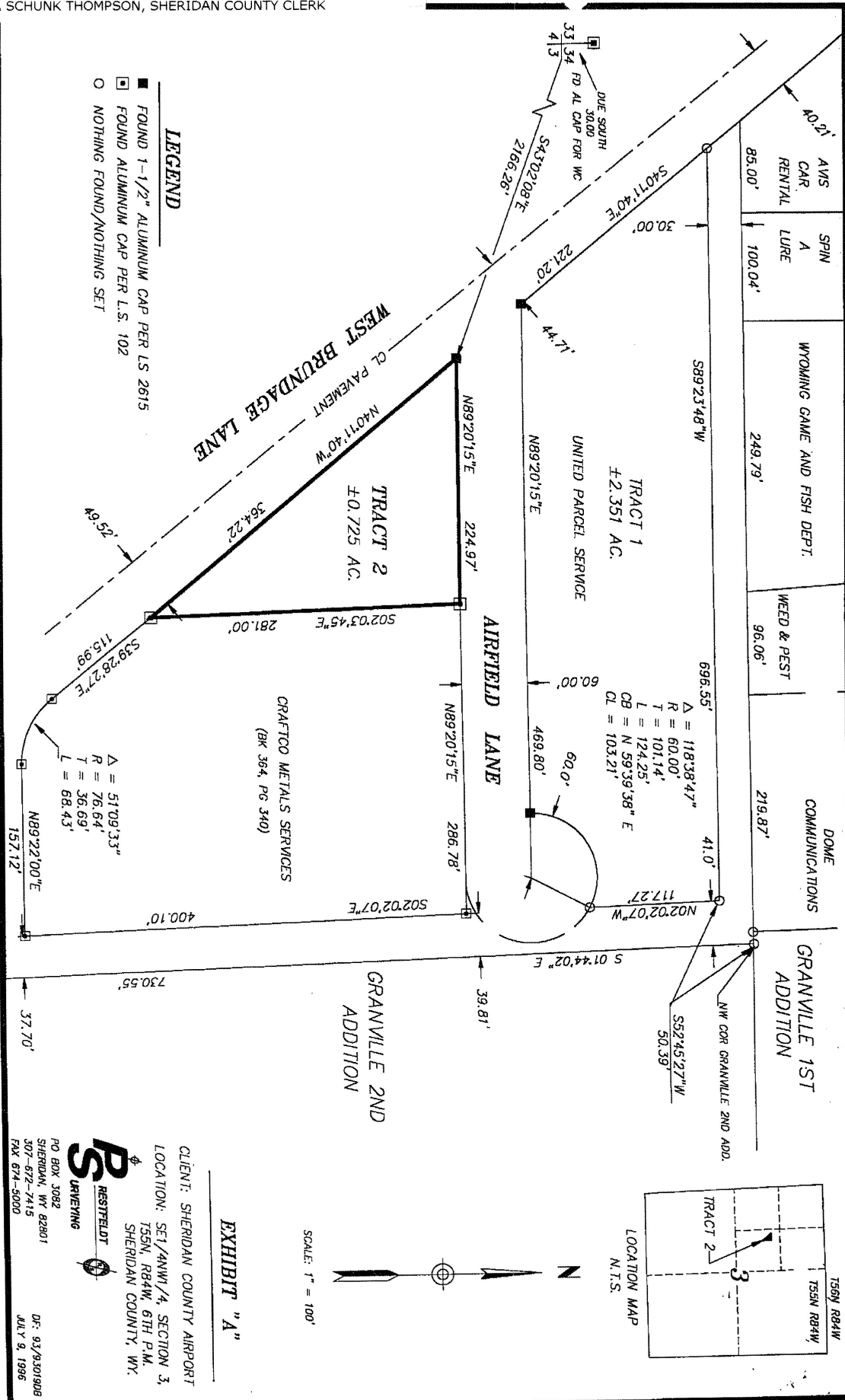


EXHIBIT "A"

CLIENT: SHERIDAN COUNTY AIRPORT
LOCATION: SE1/4NW1/4, SECTION 3,
T55N, R84W, 6TH P.M.,
SHERIDAN COUNTY, WY.



PO BOX 1082
SHERIDAN, WY 82801
307-672-7415
FAX 674-9000

DR: 9/3/201908
JULY 9, 1996