



August 30, 2021

Karen Ellis  
Federal Express Corporation  
3620 Hacks Cross Road  
Building B – 3<sup>rd</sup> Floor  
Memphis, TN 38125

Subject: Lease Liability Clarification Letter for the Property located at the Dane County Regional Airport,  
Madison, Wisconsin  
BRRTS #: 07-13-586274, 02-13-584472

Dear Ms. Ellis:

The Wisconsin Department of Natural Resources (DNR) received a request for a lease liability clarification submitted by Federal Express Corporation (FedEx) on June 28, 2021 (the “Request”). The Request was submitted with the appropriate review fee. The purpose of this letter is to provide FedEx clarification as to environmental liabilities associated with the subleasing of real property from Preferred Development Madison, LLC (Preferred Development). Preferred Development is currently leasing the property from Dane County, and the DNR issued a liability clarification letter to Preferred Development on August 21, 2020. The subject property is located at the Dane County Regional Airport in Madison, Wisconsin, and includes vacant land adjacent to the airport cargo ramp and assigned ramp spaces that are described and depicted in Exhibit A of the attached sublease (the “Property”). The DNR completed its review of environmental reports and the sublease agreement as part of the Request.

### **Property Use**

A new air cargo facility is being built on the Property. The facility will be used by Federal Express Corporation under a sublease with Preferred Development. The facility will be a metal structure including areas for a warehouse, office and vehicle maintenance. The facility and adjacent ramp space will be used for air cargo operations.

### **Lease Agreement**

The DNR received the Sublease Agreement, FedEx No. 20-0295-000 (the “Sublease”), between Federal Express Corporation (Tenant) and Preferred Development Madison, LLC (Landlord). The Sublease has several sections redacted and the version submitted with this request is included as Attachment A to this letter. The Sublease was signed and executed on June 16, 2020 and includes exhibits with a legal description and maps. The Sublease indicates that Preferred Development will design and construct the air cargo facility and that Preferred Development will sublease the leased property to FedEx. Section 22 of the Sublease describes the restrictions and responsibilities regarding environmental regulations, environmental cleanup and use of hazardous substances that apply to Dane County, Preferred Development and FedEx.

### **Background and Environmental Summary**

Wis. Stat. § 292.55(1)(d)1 authorizes DNR to issue a letter to a person seeking assistance concerning the liability of a person owning or leasing a property for environmental pollution at a property. Specifically, the DNR reviewed the following documents to make this determination:

- Liability clarification letter request, completed Form 4400-237, signed June 21, 2021.

- Sublease Agreement, FedEx No. 20-0295-000, between Federal Express Corporation (Tenant) and Preferred Development Madison, LLC (Landlord).
- Phase II Environmental Site Assessment dated October 10, 2019 and provided to DNR on August 11, 2020.
- Additional field data from the site submitted to DNR on January 13, 2021.
- DNR's letter to Preferred Development dated January 25, 2021, approving their materials management plan.
- Project summary submitted with the sublease.

The proposed Preferred Development structure will be located within the boundaries of the Dane County Regional Airport on land owned by Dane County. Subsurface data collected from this site and other environmental investigations within the airport boundary indicate that site geology generally consists of 1-2 feet of fill, and below this is intermingled sand, silt and some clay to depths in excess of 50 feet. The water table is generally present between 6-8 feet below ground surface.

Five soil borings were completed into the area to be used by Preferred Development (SB-1 through SB-5). Soil samples were collected from the area to be used by Preferred Development and analyzed for Volatile Organic Compounds (VOCs), polyaromatic hydrocarbons (PAHs), and certain metals. No VOCs were detected in soil samples. PAHs were detected in one soil boring (SB-3) at concentrations below levels in Wis. Admin. Code ch. NR 720. Concentrations of metals in soil samples were below residual contaminant levels or background threshold values.

Groundwater samples were collected from borings SB-1 and SB-2. These samples were analyzed for VOCs, PAHs, metals, PFOA and PFOS. No VOCs or PAHs were detected at concentrations exceeding Wis. Admin. Code ch. NR 140 standards. Several metals were found in boring SB-2 in groundwater at concentrations above Wis. Admin. Code ch. NR 140 standards. The water sample from SB-2 was collected in a temporary well. The temporary well was not developed to clear silt and sediment from the well, and the sample was not field filtered. Metals are known to attach to soil and sediment particles in water. The water sample was described as turbid. The DNR believes the metals results to reflect the turbidity of the water and not represent metals contamination of groundwater.

The groundwater sample from SB-1 was also tested for PFOA and PFOS. PFOA and PFOS were detected at concentrations of 13 parts per trillion (ppt) and 38 ppt, respectively. Groundwater, surface water and soil samples collected from many areas of the airport by responsible parties have previously detected PFAS compounds, the suspected source being AFFF fire-fighting foam use at the airport. The department is aware that other parties are completing investigations to delineate PFAS contamination in various locations on airport property.

As of the date of this letter, the Property is currently under construction. Soil removed for foundation work has been excavated from the site and placed in the approved area within the boundaries of the Dane County Airport. Groundwater extraction necessary to complete the foundation work has been completed.

### **Determinations**

The DNR reviewed the documents described above and the reports in the DNR files and determined based on proposed use and current environmental conditions that FedEx, as the tenant under the sublease, would not "possess or control," as those terms are used in Wis. Stat. § 292.11(3), any hazardous substance discharges or environmental pollution that are discovered in the future to have been present on the Property prior to signing the sublease, conditioned in compliance with the following standards of performance:

- FedEx must provide any responsible party, their consultants, and DNR personnel with reasonable access to the Property for the purposes of conducting any necessary environmental assessment or remediation activities.
- FedEx or its representatives, agents or contractors, must comply with all applicable state and federal laws that apply if they conduct any excavation, storage, treatment, or disposal of contaminated soils, groundwater, or other materials on the Property.
- FedEx must minimize, to the extent practicable, the placement of any structures in areas of the Property impacted by environmental contamination, or construct buildings in such a manner as to allow remedial work to be conducted.
- FedEx must comply with the requirements of Wis. Stat. ch. 292 and the Wis. Adm. Code chs. NR 700-799 for the discharge of any hazardous substances or environmental pollution that may be caused by FedEx or its contractors.
- FedEx has not and will not have direct or indirect business relationships (other than as Tenant under the sublease for the Lease Property) with the person or persons who caused the discharge of any hazardous substance or environmental pollution on the Property.
- There are no relevant provisions in the Lease that would alter the DNR's analysis.

Under these conditions, the DNR agrees not to hold FedEx in its capacity as a Tenant under the sublease responsible for investigating or remediating any hazardous substances or environmental pollution that are present on, or migrated from or onto, the Property prior to the date of the Lease, unless any of the conditions are not satisfied.

### **Environmental Requirements**

The DNR will continue to work with Preferred Development as they proceed with their construction on the leased property. Generally, Preferred Development must ensure that any storage, treatment or disposal of water, soil, or other solid waste generated as part of the site development is conducted in compliance with applicable standards and rules. Any party conducting excavation work at the Dane County Airport in known or suspected areas of environmental contamination will need to characterize and appropriately manage any soil, water or other solid waste generated. The person generating the contaminated soil would need to either dispose of it at a licensed solid waste facility or receive an exemption under Wis. Admin. Code chs. NR 508 or NR 718 to dispose of it on- or off-site. To ensure compliance with standards and rules and to comply with the conditions in this letter, Preferred Development submitted a materials management plan (MMP) that would address management of soil, water and other materials that may be generated as part of construction activities and has obtained a WPDES permit for water discharges. The MMP was submitted on January 13, 2021 and approved by the DNR on January 25, 2021.

Any determinations made by the DNR in this letter are based specifically on the information made available to the DNR as part of the request and are subject to change if modifications are made to the Lease or if other information arises. Any property located outside of the area identified as the Property for the purpose of issuing this Lease Liability Clarification Letter is not covered by this letter and would require a request be made for a Lease Liability Clarification Letter for the specific revised area. This letter was written specifically for FedEx and is not transferrable to another party.

The Bureau for Remediation and Redevelopment Tracking System (BRRTS) identification number for this activity is included at the top of this letter. The DNR tracks information on all determinations such as this one in a database that is available on the Internet at: <http://dnr.wi.gov/topic/Brownfields/WRRD.html>. See "BRRTS on the

web” to access the database. You are reminded that this determination does not relieve you of obligations to comply with all other applicable federal, state and local laws, regulations, and permits.

If you have any questions concerning this letter or other related matters, please contact me at (608) 259-6557 or [Jodie.Peotter@wisconsin.gov](mailto:Jodie.Peotter@wisconsin.gov) or Steve Ales at (608) 400-9187 or [stephenm.ales@wisconsin.gov](mailto:stephenm.ales@wisconsin.gov).

Sincerely,

A handwritten signature in blue ink, appearing to read 'Jodie Peotter', with a long horizontal flourish extending to the right.

Jodie Peotter, PG  
Chief, Brownfields, Outreach and Policy Section  
Bureau for Remediation and Redevelopment

Attachment: Lease Agreement

cc: Phillip R. Bower, DNR LS  
William J. Nelson, DNR LS  
Steve Ales, RR/5  
Steve Martin, SCR

**FEDERAL EXPRESS CORPORATION  
ENVIRONMENTAL LIABILITY CLARIFICATION REQUEST  
DANE COUNTY REGIONAL AIRPORT**

**Property Summary**

A new air cargo facility is planned for an approximate 2.8 acre property located at the Dane County Regional Airport (the Property). Preferred Development Madison, LLC (Preferred Development) has an Air Cargo Ground Lease (Lease No. DCRA 2020-03) with Dane County for the Property that was executed on June 26, 2020.

The facility will be used by Federal Express Corporation (FedEx) under a sublease with Preferred Development, which was executed on June 16, 2020 (the Sublease). The Property is described and depicted in Exhibit A of the attached Sublease (Sheet 2, "Exclusive Use Land").

Preferred Development received a Lease Liability Clarification Letter for the Property from the Wisconsin Department of Natural Resources (DNR) on August 21, 2020 (the Lease Liability Clarification Letter). The Property is vacant land adjacent to an existing ramp. FedEx has not used or leased the Property previously.

**Sublease**

A redacted copy of the Sublease is attached and includes the provisions covering the leasehold location, term, allowed uses, and environmental obligations. The Air Cargo Ground Lease was provided to the DNR by Preferred Development and is included as an attachment to the Lease Liability Clarification Letter

**Environmental Information**

Subsurface data collected from the Property and other environmental investigations within the airport boundary indicate that the site geology generally consists of 1'-2' of fill and below this is intermingled sand, silt and some clay to depths in excess of 50 feet. The water table is generally present between 6'-8' below ground surface.

As part of FedEx's 2019 environmental due diligence, five soil borings were advanced on the Property (SB-1 through SB-5). Soil samples were collected and analyzed for Volatile Organic Compounds (VOCs), polyaromatic hydrocarbons (PAHs), and certain metals. No VOCs were detected in soil samples. PAHs were detected in one soil boring (SB-3) at concentrations below levels of concern when evaluated against levels in Wis. Admin. Code ch. NR 720. Concentrations of metals in soil samples were below residual contaminant levels or background threshold values.

Groundwater samples also were collected from borings SB-1 and SB-2. These samples were analyzed for VOCs, PAHs, and metals. No VOCs or PAHs were detected at concentrations exceeding Wis. Admin. Code ch. NR 140 standards. Several metals were detected in groundwater samples from boring SB-2 at concentrations above NR 140 standards. The grab groundwater sample from SB-2 was collected in a temporary well that was not developed to clear silt and sediment from the well, nor was the sample field filtered. The water sample was described as turbid. It is therefore possible that the metals concentrations are elevated due to metals sorbed to suspended solids in turbid groundwater.

The groundwater sample from SB-1 also was tested for Perfluorooctanoic acid (PFOA) and Perfluorooctanesulfonic (PFOS). PFOA and PFOS were detected at concentrations of 13 ppt and 38 ppt, respectively. Groundwater, surface water and soil samples collected from many areas of the airport by responsible parties have been impacted by PFOA and PFOS, the suspected source being AFFF fire-fighting foam use at the airport.

On behalf of Preferred Development, SCS Engineers collected additional soil and groundwater samples during November 2020. Seven direct push soil borings were advanced on the Property (GB-1 through GB-7). Soil samples were collected and analyzed for 18 Per- and polyfluoroalkyl substances (PFAS). PFAS were detected, including PFOA and PFOS, in borings GB-1 through GB-4, which were situated close to the ramp tarmac.

Temporary groundwater monitoring wells were installed at five boreholes and sampled for 18 PFAS and select metals (arsenic, barium, cadmium, chromium, lead, and selenium). The combined concentrations of PFOA and PFOS in the groundwater samples ranged from 14.6 nanograms per liter (ng/l) to 246 ng/l. The laboratory analyzed both filtered (dissolved) and unfiltered (total) metals in the groundwater sample from GB-5. The unfiltered metals in the samples were collected from GB-1, GB-7, and GB-7 (duplicate). Barium concentrations ranging from 36.6 to 49.1 ug/l were detected in all five analyses. The estimated chromium concentrations of 3.3 and 6.7 ug were detected in the unfiltered samples from

GB-5 and GB-7. Arsenic was detected at an estimated concentration of 13.5 ug/l in the sample from GB-1 and was not detected in any of the other samples.

**FedEx No: 20-0295-000**

**SUBLEASE AGREEMENT**

**Between**

**PREFERRED DEVELOPMENT MADISON, LLC  
("Landlord")**

**and**

**FEDERAL EXPRESS  
CORPORATION  
("Tenant")**

**Dated June 16, 2020**

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## **EXHIBITS**

- A-1. Description of Land
- A-2. Land Lease
- B. Preliminary Plans and Specifications
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- D. Form of Change Orders
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- F. Form of Estoppel Certificate
- G. Form of Subordination, Non-Disturbance and Attornment Agreement
- H. Form of Memorandum of Lease
- I. Interim Construction Completion Objective
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**SUBLEASE AGREEMENT**

THIS SUBLEASE AGREEMENT (the "**Agreement**") is made this 16<sup>th</sup> day of June 2020 ("**Effective Date**") between **PREFERRED DEVELOPMENT MADISON, LLC**, a Florida limited liability company, licensed to do business in the State of Wisconsin ("**Landlord**") and **FEDERAL EXPRESS CORPORATION**, a Delaware corporation, licensed to do business in the State of Wisconsin ("**Tenant**").

**RECITALS**

Landlord desires to design, construct and sublease to Tenant in accordance with the terms, and subject to the conditions, of this Agreement a facility (the "**Building**") and other improvements (the Building and other improvements are sometimes referred to collectively as the "**Improvements**") on a site within the Dane County Regional Airport ("**MSN**") leased to Landlord by Dane County, a Wisconsin quasi-municipal corporation (the "**Master Landlord**").

Tenant desires to have constructed and to sublease from Landlord the Improvements and Land (as defined below) in accordance with the terms and subject to the conditions contained in this Agreement.

**AGREEMENTS**

FOR AND IN CONSIDERATION of the mutual covenants contained in this Agreement, Landlord and Tenant (sometimes referred to jointly as the "**parties**") agree as follows:

Section 1. Demise of Premises; Land Lease. (a) Subject to the conditions set forth below, Landlord shall design, construct and sublease to Tenant, and Tenant shall sublease from Landlord, the Land and the Improvements to be constructed by Landlord on the site described in **Exhibit A-1** (the "**Land**"). The Land is the real property that Master Landlord leases to Landlord under the terms of a Lease Agreement (the "**Land Lease**") executed contemporaneously with this Agreement. A copy of the Land Lease is attached to this Agreement as **Exhibit A-2**. Tenant's obligations under this Agreement are contingent upon the satisfaction of the condition that Master Landlord executes an agreement in favor of, and in form acceptable to, Tenant whereby (A) Master Landlord consents to the execution of this Agreement; and (B) Master Landlord that, as long as no Event of Default, as defined in **Section 25** below, has occurred and is continuing, Master Landlord may not disturb Tenant's possession of the Premises (as defined below) in accordance with the terms of this Agreement notwithstanding any default on Landlord's part in the performance of the obligations it undertakes under the terms of the Land Lease. If Landlord fails to cause the foregoing condition to be satisfied on or before 180 days from of the Effective Date, this Agreement will terminate and the parties will have no further rights or obligations under its terms.

Section 5. Initial Term. (a) The term of this Agreement (the "**Initial Term**") will begin on the date (the "**Commencement Date**") on which Landlord substantially completes the construction of the Improvements, secures the Certificate of Occupancy, and tenders possession of the Improvements. The Initial Term will end at 11:59 p.m. (Central Time) on the earlier of (i) the day prior to the twentieth anniversary of the Commencement Date, if the Commencement Date occurs on the first day of a calendar month, or (ii) the day prior to the twentieth (20<sup>th</sup>) anniversary of the first day of the first full calendar month following the calendar month in which the Commencement Date occurs, if the Commencement Date does not occur on the first day of a calendar month, whichever is applicable, applicable, or (ii) the date on which a termination of the Land Lease occurs for any reason other than Tenant's failure

to perform any obligation it undertakes under the terms of this Agreement or to observe any condition or restriction set forth in this Agreement. If Tenant exercises the remedy set forth in **Section 2(u)**, the Commencement Date will be the date on which Tenant substantially completes the construction of the Improvements and secures the Certificate of Occupancy. Tenant has the right to renew the term of this Agreement, as set forth in **Section 7** below, and the Initial Term and any Renewal Term with respect to which Tenant exercises that option in accordance with **Section 7** are collectively called the "Term" in this Agreement.

Section 9. Use. (a) Tenant, and its subsidiaries and affiliates, may use the Premises solely for the uses permitted in the Land Lease. To wit: (a) commercial transportation of lawful express cargo, freight, documents, mail and merchandise by aircraft, including the receiving, storing, preparing, packing, crating, delivering and transporting by air of such cargo, freight, documents, mail and merchandise; (

Section 22. Compliance with Environmental Laws. (a) During the construction of the Improvements and throughout the Term, Landlord shall fully and punctually comply with all present and future Legal Requirements that are applicable to the Premises and that relate to the quality or protection of the environment or the use, storage, handling and disposal of Hazardous Material (as defined below), including, without limitation, the National Environmental Policy Act of 1969, as amended, 42 U.S.C. § 4321 et seq., the Comprehensive Environmental Response Compensation and Liability Act, 42 U.S.C § 9601 et seq., the Hazardous Materials Transportation Act, 49 U.S.C. §1801 et seq., the Toxic Substances Control Act, 15 U.S.C. §2601 et seq., the Resource Conservation and Recovery Act, 42 U.S.C. §6901 et seq., the Federal Water Pollution Control Act, as amended by the Clean Water Act of 1977, 33 U.S.C. §1251 et seq., and the Clean Air Act, 42 U.S.C. §7401 et seq., and all regulations promulgated on the authority of the foregoing (the “**Environmental Laws**”), except to the extent that the Master Landlord has responsibility for that compliance under the terms of the Land Lease or Tenant has responsibility for that compliance under the terms of this Agreement. In that regard, Landlord must secure all permits and approvals required by virtue of applicable Environmental Laws in order for Landlord to lawfully construct the Improvements and must fulfill all conditions imposed by such permits and approvals including, without limitation, any such conditions that survive substantial completion of those Improvements; provided, however, the foregoing shall not apply to any air operating permits that are required after the Improvements have been substantially completed. The term "Hazardous Material" means any substance:

- (i) the presence of which requires or may later require notification, investigation or remediation under any Environmental Law; or
- (ii) that is or becomes defined as a "hazardous waste", "hazardous material", "hazardous substance", "pollutant" or “contaminant” under any Environmental Law, including, without limitation, the Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. §9601 et seq.), the Resource Conservation and Recovery Act (42 U.S.C. §6901 et seq.) and the associated regulations; or
- (iii) that is toxic, explosive, corrosive, flammable, infectious, radioactive, carcinogenic, mutagenic or otherwise hazardous and is or becomes regulated by any governmental authority, agency, department, commission, board, agency or instrumentality of the United States, any state of the United States, or any political subdivision within any state; or
- (iv) the presence of which on the Premises causes or threatens to cause a nuisance on the Premises or to adjacent properties or

poses or threatens to pose a hazard to the Premises or to the health or safety of persons on or about the Premises; or

- (v) that contains gasoline, diesel fuel or other petroleum hydrocarbons or volatile organic compounds; or
- (vi) that contains polychlorinated biphenyls (PCBs), asbestos or urea formaldehyde foam insulation; or
- (vii) that contains or emits radioactive particles, waves or material, including, without limitation, radon gas.

Landlord must also fully and punctually observe all requirements set forth in the Land Lease pertaining to Hazardous Materials that Landlord or any of its employees, agents, contractors or invitees (other than Tenant or Tenant's employees, agents, contractors or invitees) brings on to the Premises in connection with the construction of the Improvements or its other activities on the Premises.

(b) Landlord shall defend, indemnify and hold Tenant and their respective directors, officers, agents, employees and contractors harmless from and against all suits, actions, legal or administrative proceedings, demands, claims, liability, fines, penalties, loss, injuries, damages, expenses and costs, including, without limitation, interest and reasonable attorneys' and paralegals' fees for attorneys of the indemnitee's choice, and costs of defense (direct and on appeal), settlement or judgment, (i) that may be incurred or suffered by, or claimed or assessed against, any of the indemnitees under any Environmental Law for, with respect to, or as a direct or indirect result of, the presence on, within or beneath the Premises or in the stormwater retention areas, if any, into which the Premises drain (the "**Stormwater Retention Areas**") of, or the transportation, handling, management, storage, spill, escape, seepage, leakage, spillage, discharge, emission or release to or from the Premises or the Stormwater Retention Areas of, any Hazardous Material that is present or brought on the Premises, (ii) that is in any way connected with any death or injury to any person, any destruction or damage to any property, or any potential or actual impacts, contamination of or adverse effects in the environment, and (iii) with respect to which Master Landlord has no responsibility under the terms of the Land Lease and neither Tenant nor any of its agents, employees, contractors or other invitees (individually called a "Tenant Party" and collectively called the "Tenant Parties") has responsibility under the terms of this Agreement.

(c) Tenant, its agents, employees, contractors or other invitees (individually called a "**Tenant Party**" and collectively called the "**Tenant Parties**") shall fully and punctually comply, with all present and future Environmental Laws, except to the extent that Master Landlord has responsibility for that compliance under the terms of the Land Lease or that Landlord has responsibility for that compliance under the terms of this Agreement. In that regard, Tenant must secure all permits and approvals required by virtue of applicable Environmental Laws in order for Tenant to lawfully use the Premises. Tenant must also fully and punctually observe all requirements set forth in the Land Lease pertaining to Hazardous Material that Tenant or any of its employees, agents, contractors or invitees brings on to the Premises in connection with the

conduct of its activities on the Premises. Tenant may not release or discharge, and will not permit any Tenant Party to release or discharge, air emissions, waste, effluent, Hazardous Material or contaminants from the Premises in such a manner that the release or discharge will unlawfully pollute or contaminate air, ground (including sub-surface strata), or water (including ground water) or become a public nuisance. Any treatment, testing or control of releases or discharges, including monitoring or mitigation measures, required as a result of Tenant's operations will be solely Tenant's responsibility.

(d) Tenant shall defend, indemnify and hold Landlord, Master Landlord, Landlord's mortgagee and their respective members, constituent partners, directors, officers, agents, employees and contractors (the "**Indemnified Parties**") harmless from and against all suits, actions, legal or administrative proceedings, demands, claims, liability, fines, penalties, loss, injuries, damages, expenses and costs, including, without limitation, interest and reasonable attorneys' and paralegals' fees for attorneys of the indemnitee's choice, and costs of defense (direct and on appeal), settlement or judgment, (i) that may be incurred or suffered by, or claimed or assessed against, any of the Indemnified Parties under any Environmental Law for, with respect to, or as a direct or indirect result of the presence on, within or beneath the Premises or the Stormwater Retention Areas of, or the transportation, handling, management, storage, spill, escape, seepage, leakage, spillage, discharge, emission or release to or from the Premises or the Stormwater Retention Areas of, any Hazardous Material that is brought on the Premises during the Term in connection with Tenant's or any Tenant Party's use of the Premises and that does not fall within the scope of Landlord's indemnity set forth in **Section 22(b)**, and (ii) that is in any way connected with any death or injury to any person, any destruction or damage to any property, or any potential or actual impacts, contamination of or adverse effects in the environment. In making the covenant set forth in **Section 22(c)** and the indemnity set forth in this **Section 22(d)**, Tenant does not undertake any obligation (i) to remediate, or any liability for the cost of remediating, the Premises to a level of contamination lower than that which exists as of the Effective Date or to a level of contamination lower than that which the governmental authorities having jurisdiction over the environmental condition require in order to discontinue enforcement actions, or to the Indemnified Parties that utilized the Lease Premises prior to the Effective Date. The parties, however, do not intend the foregoing to limit Master Landlord's or Landlord's right to seek contribution or cost-sharing under any applicable Environmental Law for costs that any of them may incur in connection with inspections, investigations, studies, design, construction, remediation, or operations or maintenance of remedial activities at, on or near the Premises from parties responsible for any contamination occurring at, on, or near the Premises.

(e) Further, if the correction of any environmental condition not attributable to Tenant's or any Tenant Party's use and occupancy of the Premises partially or totally impairs Tenant's use of the Premises, Tenant's obligation to pay Base Rent will abate during the period the corrective activity takes place in proportion to the diminished utility of the Premises in the conduct of Tenant's business.

(f) The indemnities of Landlord and Tenant contained in this **Section 22** will not extend to loss of business, lost rentals, diminution in property value, or incidental, indirect or consequential damages.



(g) The provisions of this **Section 22** will survive the expiration of the Term or the earlier termination of this Agreement.

(h) Notwithstanding anything in the contrary herein, Tenant shall have no obligations, responsibilities, or liabilities with respect to Pre-existing Contamination on the Premises. For the purposes of this Agreement, "Pre-existing Contamination" shall be defined as any hazardous materials or substances present on, at, or under the Premises that were: (i) introduced prior to the Commencement Date; or (ii) on the Premises whether brought or not brought to the Premises by Landlord or Master Landlord.

The parties have signed this Agreement on the date first above written.

**PREFERRED DEVELOPMENT MADISON, LLC,**  
a Florida limited liability company

By: Thomas R. Speno 6/16/20  
Title: Manager

("Landlord")

**FEDERAL EXPRESS CORPORATION,**  
a Delaware corporation

By: Donna W. Cook  
Title: Donna W. Cook  
("Tenant Properties & Facilities")

Approved by Legal: MCM 6/5/2020  
#1412474v2mcm

APPROVED  
ACCOUNTING DEPARTMENT  
Patricia Speno 6/5/2020

Exhibit A-1

to that certain

Agreement

Between

Preferred Development Madison, LLC  
("Landlord")

and

Federal Express Corporation  
("Tenant")

Dated \_\_\_\_\_, 2020

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DESCRIPTION OF THE LAND

**EXHIBIT "A"**  
**LEASED PREMISES**



**Madison Regional Office**  
161 Horizon Drive, Suite 101  
Verona, WI 53593  
608.848.5060

**EXHIBIT A**  
**1 OF 3**

**EXCLUSIVE USE LAND**  
Legal Description

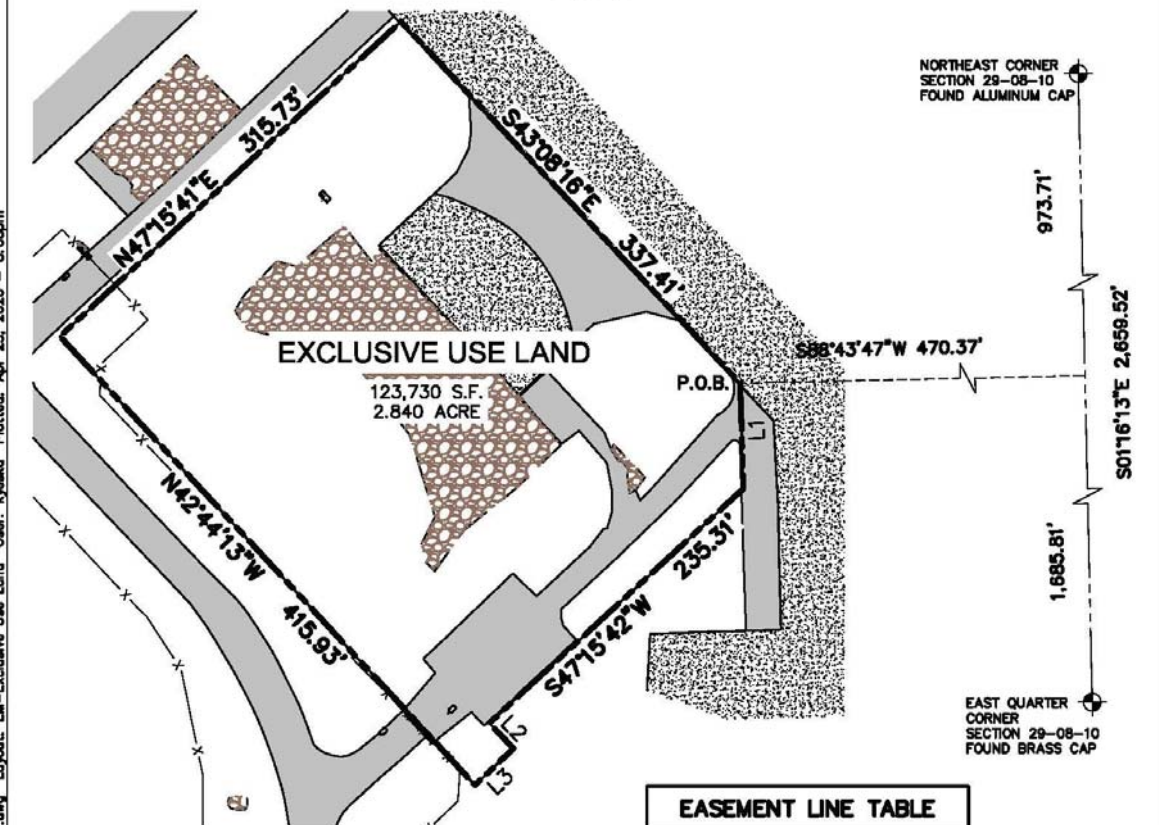
Part of the Northeast Quarter of the Northeast Quarter of Section 29, Township 08 North, Range 10 East, City of Madison, Dane County, Wisconsin, more particularly described as follows:

Commencing at the Northeast Corner of Section 29, aforesaid; thence South 01 degree 16 minutes 13 seconds East along the East line of the Northeast Quarter of Section 29, aforesaid, 973.71 feet; thence South 88 degrees 43 minutes 47 seconds West, 470.37 feet to the Point of Beginning; thence South 01 degree 44 minutes 51 seconds East, 71.66 feet; thence South 47 degrees 15 minutes 42 seconds West, 235.31 feet; thence South 43 degrees 47 minutes 30 seconds East, 23.78 feet; thence South 46 degrees 12 minutes 31 seconds West, 36.23 feet; thence North 42 degrees 44 minutes 13 second West, 415.93 feet; thence North 47 degrees 15 minutes 41 seconds East, 315.73 feet; thence South 43 degrees 08 minutes 16 seconds East, 337.41 feet to the Point of Beginning.

Said lease area contains 123,730 square feet or 2.840 acres.

# EXHIBIT A

2 OF 3



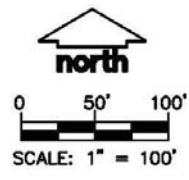
EASEMENT LINE TABLE		
LINE	BEARING	DISTANCE
L1	S01°44'51"E	71.66'
L2	S43°47'30"E	23.78'
L3	S46°12'31"W	36.23'

### LEGEND

- GOVERNMENT CORNER
- LEASE BOUNDARY
- SECTION LINE
- EDGE OF PAVEMENT
- EDGE OF GRAVEL
- FENCE LINE
- BITUMINOUS PAVEMENT
- CONCRETE PAVEMENT
- GRAVEL

### NOTES

1. FIELD WORK PERFORMED ON DECEMBER 17, 2019.
2. BEARINGS FOR THIS SURVEY AND MAP ARE REFERENCED TO THE WISCONSIN COUNTY COORDINATE SYSTEM, DANE COUNTY. THE EAST LINE OF THE NORTHEAST QUARTER OF SECTION 29-08-10, RECORDED AS S01°16'13"W.



File: I:\2019\199100\DWG\Survey\Survey Sheets\199100 Exhibit - Exclusive Use Land.dwg Layout: EM-Exclusive Use Land User: kysika Plotted: Apr 23, 2020 - 8:08pm

<p><b>JSD Professional Services, Inc.</b>  <small>• Registered • Surveyors • Wisconsin</small>  <b>MADISON REGIONAL OFFICE</b>          161 HORIZON DRIVE, SUITE 101          VERONA, WISCONSIN 53599          P. 608.548.9080</p>	<b>PROJECT:</b> FedEx AIRPORT FACILITY WAREHOUSE/ DISTRIBUTION CENTER CITY OF MADISON, WI	<b>SHEET TITLE:</b> PREFERRED DEVELOPMENT MADISON, LLC. LEASE BOUNDARY EXHIBIT	<b>JSD PROJECT NUMBER:</b> 19-9100	<b>SHEET NUMBER:</b>  2	
			<b>DRAWN BY:</b> BCK	<b>CHECKED BY:</b> CJO	
			<b>DATE:</b> 20 FEBRUARY 2020		

