

CITY OF ARDMORE
Office of the City Manager

Council Letter No. 4666
Meeting Date: October 7, 2019

Mayor and City Commission
City of Ardmore, Oklahoma

RE: Ardmore Downtown Executive Airport Ground Lease Agreement at 1541 Executive Airport Drive, also known as Tract 18, between the City of Ardmore and Bulard Air Services, LLC

Dear Commission Members:

This Ground Lease Agreement located at the Downtown Executive Airport at 1541 Executive Airport Drive, also known as Tract 18, is made between the City of Ardmore and Bulard Air Services, LLC. The City of Ardmore is the co-sponsor, along with the State of Oklahoma, ex rel Oklahoma Planning and Resources Board, of the area known as the Ardmore Downtown Executive Airport, which is located in Southern Ardmore and in the northern portion of Lake Murray State Park.

The initial term of this lease shall be for a term commencing on October 7, 2019 and continuing for a period of five years. The rental to be paid by Bulard Air Services, LLC to the City of Ardmore for the leased premises is \$6,875.00 per year.

Staff respectfully recommends the Ground Lease Agreement with the City of Ardmore and Bulard Air Services, LLC.

Respectfully Submitted,



Kevin Boatright
Assistant City Manager

LEASE AGREEMENT

This indenture, made and entered into this ____ day of _____ 2019 by and between the CITY OF ARDMORE, a Municipal Corporation of Carter County, State of Oklahoma, hereinafter called the "CITY", and Bulard Air Services, LLC, a Delaware Limited Liability Company, hereinafter referred to as "TENANT".

WITNESSETH

WHEREAS, the CITY is the co-sponsor and operator of the area known as the Ardmore Downtown Executive Airport, which is located south of the City of Ardmore and in the northern portion of Lake Murray State Park; and

WHEREAS, TENANT is in the business of storing aircraft either owned or not owned by TENANT; and

WHEREAS, the CITY and TENANT have agreed and do by their covenants agree for their mutual benefit and advantage as follows:

1. Leased Premises. For and in consideration of the rentals as hereinafter provided, and the stipulations and conditions hereinafter set out and the mutual advantages moving to the parties hereunder, the CITY does hereby lease to TENANT in "AS IS" condition, the aircraft hangar and surface rights only in and to the lands described as 1541 Executive Airport Drive, also known as TRACT 18 (containing approximately 19,800 square feet) in the Ardmore Downtown Executive Airport Addition No. 1, Carter County, Oklahoma, according to the recorded plat thereof ("the Leased Premises"), for the sole purpose of occupying and operating an aircraft hangar in accordance with airport regulations. TENANT has inspected the Leased Premises and accepts the Leased Premises in "AS IS" condition without warranties of any kind or nature.
2. Lease Term. The term of the Lease shall begin on the date of the execution of this Agreement by the parties, then continuing for a period of five (5) years. Provided however, that the parties agree that the Lease may be terminated by TENANT at any time during the Lease Term by giving thirty (30) days written notice to CITY.
3. Annual Rent. The rental to be paid by TENANT to the CITY for the Leased Premises shall be the sum of Six Thousand Eight Hundred Seventy-Five and 00/100 Dollars (\$6875.00) per year, payable in advance on or before the first day of the rental year.
4. Personal Property Taxes. TENANT shall be liable for all personal property taxes assessed against TENANT'S personal property or TENANT's improvements.
5. Utilities. The CITY agrees to furnish water and sewer to the Leased Premises and TENANT agrees to be responsible for payment of all utilities, including but not expressly limited to, the aforementioned water and sewer.
6. Further Development of Landing Area. The CITY reserves the right to further develop or improve the landing area of the airport as it sees fit, regardless of the desires or views of the said TENANT, and without interference or hindrance.

7. Maintenance of Publicly Owned Facilities. The CITY reserves the right but shall not be obligated to TENANT to maintain and keep in repair the landing area of the airport and all publicly owned facilities of the airport together with the right to direct and control all activities of TENANT in this regard.
8. Protection of Aerial Approaches. The CITY reserves the right to take any action it considers necessary or proper to protect the aerial approaches of the airport against obstruction, together with the right to prevent TENANT from erecting, or permitting to be erected, any building or other structure on the airport, which, in the opinion of the CITY, in its sole discretion would limit the usefulness of the airport or constitute a hazard to aircraft.
9. Tenant Improvements. It is expressly understood that TENANT shall not construct any improvements upon the Leased Premises without the prior written consent of the CITY. All improvements constructed by TENANT shall be deemed fixtures upon the Leased Premises and shall become the property of the CITY. Upon termination of the Lease, TENANT shall have no right to remove any improvements. All maintenance, repairs and improvements of such buildings and structures shall be made at the sole cost and responsibility of TENANT.
10. Inspection. Authorized officers, agents, officials, and employees of the United States of America, and authorized officers, officials, agents and employees of the Federal Aviation Agency and agents of the City of Ardmore, Oklahoma, appointed for such purposes by the City Council, shall have the right and authority at all times to go upon said airport property and into buildings and structures thereon, for the purpose of viewing and inspecting the same, and for such other purposes as the CITY shall, in its sole discretion, deem fit and proper so long as said officers, officials, agents and employees do not unreasonably hinder or interfere with the operation by TENANT of said facilities.
11. No Assignment. TENANT shall not assign, sublet or transfer this contract without the prior written consent of the CITY.
12. Surrender of Leased Premises. It is further mutually agreed that at the expiration of this Lease, TENANT shall deliver peaceable possession of the Leased Premises to the CITY in as good condition as at the commencement of the Lease, normal wear and tear excepted.
13. No Commitment of City Funds. Nothing herein contained shall be construed as a commitment of CITY funds beyond those funds appropriated for the current fiscal year and none for future years.
14. Compliance with Laws. The TENANT agrees in its use and occupancy of the Leased Premises to conform to the Code of Ordinances and the Charter of the City of Ardmore as it now exists or as may be hereinafter enacted, and to conform to all applicable State and Federal laws and regulations.
15. National Emergency. During a time of war or national emergency, the CITY shall have the right to lease the landing area, or any part thereof, to the United States Government for military or naval use, and if any such lease is executed, the provisions of this instrument insofar as they are inconsistent with the provision of the lease to the Government shall be suspended.

16. Subordination. The Lease shall be subordinate to the provisions of any existing or future agreement between the CITY and the United States, relative to the operation and maintenance of the airport.
17. Indemnity. TENANT agrees to keep, save, and hold the CITY free from all liability and claims for damages by reason of any injury to any person or persons, including TENANT, or property of any kind whatsoever and to whomsoever belonging, including TENANT, from any cause or causes whatsoever while in or upon the Leased Premises during the term of this Lease or any extension hereof or any occupancy hereunder. TENANT hereby agrees to indemnify and save harmless the CITY from all liability, loss, costs and obligations on account or arising out of any such injuries or losses however occurring, including reasonable costs and attorney fees.
18. No Agency. It is mutually understood and agreed that nothing contained in this Lease Agreement is intended, or shall be construed, as in anywise creating or establishing the relationship or co-partners or joint ventures between the parties hereto or as constituting TENANT as the agent or representative of the CITY for any purpose.
19. Maintenance of Grounds. It is further understood that TENANT during the term of the Lease will maintain the grounds of the Leased Premises in a neat and presentable manner at all times and TENANT will not accumulate anything that is unsightly, which creates a hazard or creates a nuisance including, without being limited to, all types and kinds of refuse, or which causes an inconvenience to adjoining lessees, invitees, permittees, or affects their safety in any way.
20. Maintenance of Buildings and Improvements. CITY will be responsible for repairing any material damage to the roof and exterior structure of the aircraft hangar not caused by the negligence of TENANT, by TENANT's invitees, or by third parties over whom TENANT has the right to exercise control. TENANT shall maintain the buildings, improvements and appurtenances in a clean and sanitary condition. Except for the repair of material damage to the roof and exterior structure of the aircraft hangar, as provided herein, CITY shall not be required to furnish any services or facilities or to make any normal repairs or alterations in or to the Leased Premises throughout the Lease Term. Except as otherwise specifically provided herein, TENANT hereby assumes the full and sole responsibility for the condition, operation, repair and maintenance of the entire Leased Premises. Nothing contained in this Lease shall impose on City the obligation to make any repairs or to expend any monies for the maintenance of the Leased Premises. TENANT will, at TENANT'S expense, maintain the Leased Premises in sound condition and good repair and shall make any and all repairs to the interior of the aircraft hangar TENANT shall indemnify and hold City harmless of and from any claims, damages, or demands upon or arising out of the failure of TENANT to perform this covenant or arising out of any accident, injury or damage to any person or property which shall or may happen in, upon or about the Leased Premises, however caused. Tenant will not commit or allow any waste or damage to be committed on any portion of the Leased Premises. In performing its repair obligations, TENANT shall keep the leased Premises free and clear of any and all mechanics' and materialmen's liens or other similar lienor charges incidental to work done or material supplied in or about the Leased Premises. If TENANT fails to make such repairs promptly, City, at City's option, may make such repairs and TENANT shall pay City as additional rent, within thirty (30) days following receipt of an invoice therefore, City's actual costs incurred in making the repairs. City shall not be called upon in any

event, to make any repairs occasioned by the activities of TENANT, its agents, employees or licensees.

21. Default. It is agreed between the parties hereto that if TENANT shall be adjudicated as bankrupt, or insolvent, or take the benefit of any federal reorganization, or composition proceeding, or make a general assignment, or take the benefit of any insolvency law, or if TENANT'S leasehold interest under this Lease shall be sold under an execution or process of law, or if a trustee in bankruptcy, or a receiver be appointed or elected, or had (whether under federal or state law), or if said premises shall be abandoned or deserted, or if TENANT shall fail to perform any of the covenants or conditions of this Lease on TENANT'S part to be performed, then and in any such events this Lease and the terms of the Lease, at CITY'S option, shall expire and end, after CITY shall give TENANT written notice of such act, condition, or default, and TENANT hereby agrees immediately then to quit and surrender said premises to the CITY; but this shall not impair or effect the CITY'S right to maintain summary proceedings for the recovery of the possession of the demised premises in all cases provided by law; provided, that the notice shall specify that the TENANT shall have a thirty (30) day period upon receipt of the notice within which to correct any and all defaults. The notice will be in writing and mailed to TENANT'S last known mailing address.

22. Insurance. TENANT, at the sole expense of TENANT, shall keep in force during the term of this Lease, an insurance policy issued by a responsible insurance company licensed to sell insurance in the State of Oklahoma and in form acceptable to the CITY for the protection of CITY against all liabilities, judgments, costs, damages and expenses which may accrue against, be charged to, or recovered from CITY, by reason of damages to the property of, injury to, or death of any persons on account of any manner of things which may occur on the leased premises during the terms of this Lease, or any extensions thereof, in a policy or policies in the amount of **\$125,000.00** with respect to any one person, and **\$1,000,000.00** with respect to any one accident or disaster, and **\$50,000.00** with respect to property damage, and to furnish the CITY with a complete list of all such insurance policies, TENANT to pay all the premiums necessary to those purposes immediately as they become due, and to deliver to the CITY the receipts therefore; which insurance or policies shall, in addition to protecting the TENANT, protect the CITY and all of its officials and members of Board of Commissioners authorizing this contract and the TENANT agrees to furnish the CITY certificates of such insurance. All such insurance certificates shall contain a provision that the respective insurers will not cancel such insurance coverage required under this Lease without first giving ten (10) days prior written notice to CITY. TENANT'S failure to effectuate any and all such insurance and renewal policies of insurance required as aforesaid and to pay the premiums and renewal premiums on all such policies of insurance as they become due and payable, and to deliver all such certificates of insurance and renewals thereof of duplicate originals to the CITY within the time hereinabove limited, shall constitute a material default by TENANT under the terms of this Lease. CITY shall nevertheless have the right, without being obligated to do so, to effect such insurance and to pay the premium therefore, and all such premiums paid by CITY shall be repaid to CITY on demand as additional rent, and TENANT'S failure to repay the same as aforesaid shall constitute a default of this Lease. The parties agree that CITY will be responsible for the property insurance covering the aircraft hangar. TENANT shall be liable for insuring TENANT's personal property located in the aircraft hangar or on the Leased Premises.

23. Warranty of Capacity to Execute Agreement. TENANT represents and warrants that the representative executing this Lease has full capacity, power and authority to enter into this Agreement and to bind the TENANT; that any and all necessary consents or approvals have been obtained; and, that no other consent, approval or action is required.
24. No Waiver. The waiver by CITY of, or the failure of CITY to take action with respect to any breach of any term, covenant or condition herein contained will not be deemed to be waiver of such term covenant or condition herein contained. The subsequent acceptance of rent hereunder by CITY shall not be deemed to be a waiver of any preceding breach by TENANT of any term, covenant or condition of this Lease, other than the failure of TENANT to pay the particular rental so accepted, regardless of CITY'S knowledge to such preceding breach at the time of acceptance of such rent.
25. Time of Essence. Time is of the essence of this Lease, and of each and every covenant, term condition and provision hereof.
26. Binding Effect. This AGREEMENT shall be and hereby is mutually binding upon and shall inure to the benefit of the parties hereto, their permitted assigns, successors, or legal representatives, and represents the complete understanding of the parties whether oral, written, expressed, or implied.

WITNESS our respective hands and official seals affixed hereto this _____ day of _____, 2019.

"CITY"

CITY OF ARDMORE, OKLAHOMA
A Municipal Corporation,

By: _____
John Moore, Mayor

(SEAL)
ATTEST:

Sandy Doughty, City Clerk

"TENANT"

BULARD AIR SERVICES, LLC, a Delaware
Limited Liability Company

By: _____
Ronald A. Bulard