

CITY OF ARDMORE
Office of City Manager

Council Letter No. 4912
Meeting Date: September 21, 2020

Mayor and City Commission
City of Ardmore, Oklahoma

RE: Consent of Box Hangar Sublease Agreement between the Ardmore Development Authority and Steve Baggerly, an Individual

Dear Commission Members:

The Box Hangar Sublease Agreement entered into is between the Ardmore Development Authority, a public trust of the City of Ardmore and Steve Baggerly which will allow certain property to be subleased located within the Ardmore Industrial Airpark, which property is encompassed within the Lease by the City of Ardmore, a consenting party to this Agreement to the Ardmore Development Authority of the Ardmore Industrial Airpark. The Box Hangar Sublease Agreement requires approval by the City Commissions.

Staff respectfully recommends approval of the Box Hangar Sublease Agreement between the Ardmore Development Authority and Steve Baggerly.

Respectfully Submitted,



J.D. Spohn
City Manager

**Ardmore Municipal Airport
Box Hangar Sublease Agreement
By and Between
The Ardmore Development Authority and
Steve Baggerly, an Individual**

This Sublease Agreement made and entered into this ___ day of _____, 2020, by and between the Ardmore Development Authority (ADA), a Public Trust of the City of Ardmore and Steve Baggerly, and individual, ("LESSEE"). The City of Ardmore, a municipal corporation ("City"), is a consenting party to this Agreement.

W I T N E S S E T H

The Authority leases the property described herein located in the Ardmore Industrial Airpark from the City. ("Airpark"¹). The Authority desires to sublease the property described herein within the Airpark to the Company for the purpose of storing an airworthy aircraft under the terms and conditions outlined below and subject to the Ardmore Municipal Airport Rules and Regulations included with this Sublease Agreement.

NOW, THEREFORE, in consideration of the mutual promises, covenants, and conditions herein stated and in consideration of the mutual benefits, which will accrue to the parties, the sufficiency of which is acknowledged by the parties, the parties agree 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 ADA does hereby demise and sublease and assign to the LESSEE a box hangar at 606 McDonnell.

2. Term. The term of this Agreement shall be five (5) years and begin on the 1st day of October, 2020, and ends on the 30th day of September, 2025. Provided that LESSEE is not in default at the end of any lease term and the Agreement has not otherwise been terminated, LESSEE shall have the option of renewing the Agreement for one (1) additional 5-year term.

3. Rent. The rental to be paid by LESSEE to the ADA for the leased premises is \$850.00 per month. (This rate does not include the additional charge of utility fees.) The following shall apply:

- a. The LESSEE and ADA acknowledge that the ADA's Board of Trustees may choose to regulate rental rates at any renewal period.

¹ The Airpark is an approximately two thousand one hundred (2,100) acre tract of land more particularly described in the Lease Agreement, effective on the 1st day of October 1983, and on file with the Carter County Clerk and recorded at Book 1080, Page 550, as amended, by and between the Authority and the City. As used herein, the words "Airpark" also includes any other lands adjoining such tract that are hereafter purchased or leased by the Authority and used together as part of the same project.

- b. A late fee of ten percent of the payment amount (10%) may be assessed for any rent not received within 15 days of the due date.
 - c. An additional fee may be incurred if any check is returned for insufficient funds.
 - d. Rent will be paid monthly. If paid monthly annually, rent is due within Thirty (30) days of execution of this Lease.
 - e. If rent is delinquent by thirty (30) days or more, LESSEE will be in default and the ADA, in its sole discretion, may terminate this Lease Agreement immediately as provided for below.
4. Use of Leased Premises. The Leased Premises is leased for the purpose of housing aircraft in accordance with airport regulations and City Codes. LESSEE understands that the property and/or materials stored on the Leased Premises must be appropriate for airport activities and that if the property and/or materials stored thereon are found to be hazardous, threatening, annoying, or dangerous to others or otherwise inappropriate, in addition to other remedies, the ADA shall have the right to require removal of such property and/or materials. LESSEE shall not use the Leased Premises for any unlawful purpose or for any purpose that may constitute a nuisance.
5. Right of Ingress and Egress. LESSEE shall have the right of ingress to and egress from the Leased Premises, provided access is not otherwise reasonably restricted by the ADA. LESSEE understands that the Airpark may be closed on a temporary basis and/or that airport use restrictions may be imposed from time to time for reasons including, but not limited to, hazardous conditions, special events, safety, security, noise and environmental issues. Additionally, LESSEE shall comply with any safety and security planning efforts adopted by the ADA & CITY OF ARDMORE.
6. Memorandum of Lease and Certificates. LESSEE may, at its option and expense, record this Lease or a memorandum or short form thereof in the office of the Carter County Clerk. If LESSEE desires to do so, ADA agrees to take the necessary actions to execute such memorandum or short form. Further, the Parties agree to execute and deliver to each other, within ten (10) days after a request from the other party, a certificate stating (i) whether this Lease is in full force and effect; (ii) whether this Lease has been modified or amended in any respect and providing copies of any modifications or amendments, if any; (iii) whether there are existing defaults and specifying the nature of the such defaults, if any; and (iv) such other matters as may be reasonably requested by the other party.
7. Personal Property Taxes. LESSEE shall be liable for all personal property taxes assessed against LESSEE'S personal property or LESSEE'S improvements.
8. Environmental Matters.
- a. *Definitions.* For the purposes of this Lease Agreement, "Hazardous Substances" shall mean pollutants, contaminants, toxic wastes or any other substances, the removal of which is required or the use of which is regulated, restricted, prohibited or penalized by any Environmental Law. "Environmental Law" means any federal, state, or local law or regulation relating to pollution or the protection of the environment. "Release"

means the dispersal, release, storage, treatment, generation, disposal, or escape of any Hazardous Substances.

- b. *ADA Representations.* ADA has no knowledge of the existence of, or the release in, on, or under the Leased Premises and ADA has had no notice from any federal, state, county or other authority as to the existence of or Release of any Hazardous Substances at the Leased Premises or the violation of any Environmental Law related to the Leased Premises.

9. Conditions and Maintenance:

- a. LESSEE shall keep the Leased Premises free of debris, parts, inoperable vehicles and any other nuisances or hazards always.
- b. LESSEE shall be responsible for the cleanup of hazardous materials or other spills from LESSEE's vehicles or containers. LESSEE shall dispose of used oil and other hazardous materials in approved receptacles only.
- c. LESSEE shall be responsible for and agrees to remedy any damage to the Leased Premises arising out of LESSEE's use of the Leased Premises.

10. Utilities. If utilities have already been extended to the Leased Premises, the ADA agrees to furnish water and sewer and electrical service to the Leased Premises and LESSEE agrees to be responsible for payment of all utilities, including but not expressly limited to, the aforementioned water, sewer and electrical service. If utilities have not been extended to the Leased Premises, LESSEE agrees to pay any costs necessary to extend such utilities.

11. Airport Operations. The ADA reserves the right to further develop or improve the airpark as it sees fit, regardless of the desires or views of the said LESSEE, and without interference or hindrance. The ADA reserves the right but shall not be obligated to LESSEE 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 LESSEE in this regard. The ADA reserves the right to take any action it considers necessary to protect the aerial approaches of the airport against obstruction, together with the right to prevent LESSEE from erecting, or permitting to be erected, any building or other structure on the airport, which, in the opinion of the ADA, would limit the usefulness of the airport or constitute a hazard to aircraft.

12. Improvements. LESSEE may make improvements to the Leased Premises at LESSEE's expense. If LESSEE makes additional improvements, the following shall apply:

- a. With the prior written approval of the Airpark Manager, LESSEE may construct improvements, such as restrooms, on the Leased Premises.
- b. LESSEE must obtain necessary permits and/or permission before beginning any construction, including, but not limited to, any permits or permission required by the

ADA, City of Ardmore, the Federal Aviation Administration, and the Oklahoma Aeronautics Commission.

- c. Any improvements constructed on the Leased Premises must conform to the City of Ardmore building codes.
- d. ADA & CITY may require removal of improvements upon termination of this Lease.
- e. Unless there is a written agreement to the contrary that specifically references this Lease Agreement, the LESSEE will have the right to remove any improvement LESSEE placed upon the Leased Premises. LESSEE shall be responsible for any damage caused by such removal. In the event that such improvement is not removed prior to the termination of this Lease Agreement, such improvement shall become the property of the CITY immediately without further notice.

13. Indemnification and Hold Harmless:

- a. LESSEE agrees to indemnify, defend, and hold ADA harmless from and against any and all injury, loss, damage, liability claims, costs or expenses, including reasonable attorney's fees and court costs, arising directly or indirectly out of the use, maintenance, or repair of the Leased Premises or LESSEE's breach of any provision of this Lease Agreement, except in those situations arising out of the ADA's negligence or intentional act. LESSEE hereby agrees to indemnify and save harmless the ADA 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. Further, LESSEE does hereby agree to indemnify, defend, and hold the ADA harmless from and against all claims, liabilities, losses, damages, actions, suits and all costs and expenses which may be made against LESSEE for any Release of any Hazardous Substances on, in, or under the Leased Premises by LESSEE as a result of LESSEE's actions on the Leased Premises, or the violation of any Environmental Law, at any time during LESSEE's occupancy of the Leased Premises.
- b. ADA agrees to release and hold harmless LESSEE from all claims, actions, demands, damages, liabilities or expenses which may be made against ADA arising out of the sole negligence or intentional act of ADA, its agents or employees, or ADA's breach of this Lease. Further, ADA shall and does hereby release LESSEE from all claims, liabilities, losses, damages, actions, suits, and costs and expenses therewith, arising from the existence of or any Release of Hazardous Substances on, in, or under the Leased Premises or for any violation of Environmental Law that occurred at any time prior to the LESSEE's occupancy of the Leased Premises.
- c. ADA and LESSEE each waives any claim it might have against the other for any damage to or theft, destruction, loss, or loss of use of any property, to the extent the same is insured against under any insurance policy that covers the Leased Premises, the building thereon, ADA's or LESSEE's fixtures, personal property, leasehold

improvements, or business, or is required to be insured against under the terms hereof, except when the intentional act or the negligence of the other party caused such loss.

- d. It is expressly understood that there shall be no liability whatsoever of the ADA for any buildings erected by LESSEE and that such buildings and improvements shall be at the sole cost and responsibility of LESSEE. All maintenance, repairs and improvements of such buildings shall be at the sole cost and responsibility of LESSEE.
- e. LESSEE does hereby assume sole responsibility for any liability, of whatever nature, incurred to any third parties, that arises out of the LESSEE's use of the Leased Premises.
- f. The provisions of this Paragraph 13 are intended to survive the expiration or termination of this Lease Agreement.

14. Inspections and Entry Upon Leased Premises Authorized. Authorized officers, agents, officials, and employees of the United States of America, and authorized officers, officials, agents and employees of the Federal Aviation Administration, the Oklahoma Aeronautics Commission, and agents of the ADA or City of Ardmore, Oklahoma, appointed for such purposes by the City Commission, 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 ADA 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 LESSEE of said Leased Premises.

15. Insurance Limits. LESSEE, at the sole expense of LESSEE, shall keep in force during the term of this Lease, insurance, issued by an insurance company authorized to do business in the State of Oklahoma and in form acceptable to the ADA, for the protection of ADA against all liabilities, judgments, costs, damages and expenses which may accrue against, be charged to, or recovered from ADA, 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 not less than:

- a. One Hundred Twenty-five Thousand Dollars (\$125,000.00) with respect to any one person, and One Million Dollars (\$1,000,000.00) with respect to any one accident or disaster
- b. Two Hundred Fifty Thousand Dollars (\$250,000.00) with respect to property damage with an aggregate limit of One Million Dollars (\$1,000,000.00)

16. Additional Insurance Information. In addition, LESSEE shall furnish the ADA with a complete list of all such insurance policies and LESSEE shall pay all the premiums necessary to those purposes immediately as they become due. The following shall also apply:

- a. All insurance policies shall, in addition to protecting the LESSEE, protect the ADA and all its officials and members of Board of Commissioners authorizing this Lease Agreement; and,
- b. the LESSEE agrees to furnish the ADA certificates of such insurance; and name the ADA and City of Ardmore as additional insureds under the required policies, and
- c. 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 thirty (30) days prior written notice to ADA; and,
- d. LESSEE'S failure to effectuate any and all such insurance and renewal policies of insurance required 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 ADA, shall constitute a default by LESSEE under the terms of this Lease, and ADA, in its sole discretion, may terminate this Lease Agreement immediately as provided herein.
- e. LESSEE shall be liable for insuring LESSEE'S property located upon the Leased Premises.

17. Surrendering Possession. It is further mutually agreed that at the expiration, default or other termination of this Lease Agreement, LESSEE's rights to use the Lease Premises shall cease and LESSEE shall immediately cease operations, vacate the Leased Premises, and deliver peaceable possession of the premises to the ADA in as good condition as at the commencement of the lease, normal wear and tear excepted. If LESSEE occupies the Leased Premises beyond the expiration or other termination date, LESSEE shall be considered as holding over, and shall remain liable for payment of rent and for complying with all the terms of this Lease Agreement. Should LESSEE remain beyond the expiration, default or other termination of this Lease Agreement, ADA retains the right to take any lawful action to regain possession of the Leased Premises.

18. Casualty or Condemnation. If any or all the Leased Premises shall be damaged by fire, earthquake, flood, or other casualty, or acquired by the right of condemnation or eminent domain for any public or quasi-public use or purpose, or be sold to a condemning authority under threat of condemnation, then, at the option of LESSEE, the Term of this Lease shall cease and terminate as of the date of such fire, earthquake, flood, or other casualty, or as of the date of title vesting pursuant to such condemnation or eminent domain proceeding (or sale), and all rental shall be paid up to that date.

19. Termination without Default. Should the ADA or the LESSEE desire to terminate this Lease for any reason or no reason at all, termination shall be effective by providing written notice to the other party of the intent to terminate and the date of termination. Such written notice must allow for a minimum of Ninety (90) days of notice.

20. Default.

- a. *Generally.* Under this Lease Agreement, default generally occurs when either party fails to keep, observe, or perform any term or provision of this Lease Agreement to be kept, observed, or performed by it, and such conduct continues for a period of sixty (60) days after written notice thereof by the other party.
- b. *Specific Examples of Events of Default.* Default shall also occur should LESSEE be adjudicated as bankrupt, or insolvent, or take the benefit of any federal reorganization, or compositions proceed, or make a general assignment, or take the benefit of any insolvency law; or
 - i. If LESSEE'S leasehold interest be sold under an execution or process of law; or
 - ii. If the Leased Premises shall be abandoned or deserted; or
 - iii. LESSEE shall fail to pay any payment required to be paid to ADA under this Lease, as and when the same shall become due, and such default is not cured within ten (10) business days after written notice of default, provided ADA shall not be required to provide such notice more than once in a calendar year; or,
 - iv. If ADA fails to maintain its property abutting the Leased Premises and/or to ensure a safe, clear, and consistent path for aircraft and vehicle ingress and egress.
- c. *Events of Immediate Default.* The failure of LESSEE to pay rent within thirty (30) days of the due date, the failure to obtain insurance, failure to provide proof of insurance, failure to properly dispose of and/or store hazardous materials, or the failure to obtain ADA permission prior to assigning this Lease Agreement, shall constitute immediate default and the ADA shall not have to allow sixty (60) days, or any period of time, for LESSEE to cure such default.

21. Remedies on Default:

- a. *Notice of Default.* Upon default, other than the events described in "Events of Immediate Default" above, and in addition to any other remedies available to it on account of such event or default, either party may provide the other party with notice that it intends to terminate this Lease Agreement, in writing, which identifies the conduct, act, or condition constituting default, if the default is not cured within the following sixty (60) days, or another length of time that is specifically identified herein for a particular situation.
- b. *Termination.* If ADA or LESSEE fails to cure the conduct, act, or condition constituting default within sixty (60) days or another length of time that is

specifically identified herein for a particular situation, the other party may immediately terminate this Lease Agreement.

- c. *Remedies Not Exclusive.* No right or remedy herein conferred upon or reserved to either of the parties is intended to be exclusive of any other right or remedy, and each and every right and remedy shall be cumulative to any other right or remedy given hereunder or now or hereafter legally existing upon default.
- d. *No Waiver.* The failure of either party to insist upon the strict observance or performance of any of the provisions of this Lease Agreement or to exercise any right or remedy provided in this Lease Agreement shall not impair any such right or remedy nor be construed as a waiver or relinquishment thereof with respect to subsequent defaults. Every right and remedy given by this Lease Agreement to the parties may be exercised from time to time and as often as may be deemed expedient by the parties.
- e. *Costs and Attorney's Fees.* If either party hereto brings an action because of any event of default, each party hereto agrees to pay its own costs and attorney's fees incurred in connection with such action.

22. Force Majeure. For the purposes of this Lease Agreement, an event of Force Majeure is an act of God, fire, earthquake, hurricane, flood, terrorist act or threat, storm, washout, wind, lightning, landslide, explosion, epidemic, inability to obtain materials or supplies, accident to machinery or equipment, or any cause of occurrence outside the reasonable control of the party claiming an inability to perform and which by the exercise of due diligence could not be reasonably prevented or overcome.

Neither party shall be liable or responsible to the other party for any delay, loss, damage, failure or inability to perform under this Lease Agreement due to an Event of Force Majeure, provided that the party claiming failure or inability to perform provides written notice to the other party with ten (10) days of the date on which such party gains actual knowledge of such Event of Force Majeure.

In the event of damage or destruction of the Leased Premises or a material portion of the Leased Premises by reason of fire, storm, or other casualty loss that renders the Leased Premises uninhabitable, the TENANT shall use reasonable efforts to make necessary repairs. If, notwithstanding such efforts, such damage or destruction is expected to render the Leased Premises or a material portion thereof uninhabitable for a period estimated to be at least One Hundred Eighty (180) days or more, either party may terminate this Lease Agreement immediately.

23. Compliance with Laws. LESSEE shall conduct its activities under the terms of this Lease Agreement in such a manner that it does not violate federal, state, or local laws or regulations applicable to the conduct of its activities under the terms of this Lease Agreement. A copy of the "Ardmore Municipal Airport Rules and Regulations" will be provided to LESSEE and an acknowledgement of receipt must be signed and returned to the Airport Manager. LESSEE shall

also obey and observe all rules and regulations promulgated and enforced by CITY or any other entity having jurisdiction over the conduct of the operations of the Ardmore Municipal Airport, including, but not limited to, the Federal Aviation Administration.

24. Wartime and National Emergency. LESSEE understands that during time of declared war or other local, state or national emergency, as declared by the local, state or federal government, ADA shall have the right to lease the Leased Premises, or any part thereof, to the United States Government or the State of Oklahoma for military, homeland, or emergency management use, and if such lease is executed, the provisions of this lease, insofar as they are inconsistent with provisions of a government lease, shall be suspended without obligation of the ADA to the LESSEE by reason of the suspension.

25. Subordinate Lease. This Lease Agreement shall be subordinate to the provisions of any existing or future agreements with the federal or state government or any Public Trust or Authority with the City of Ardmore as a beneficiary, relative to the operation or maintenance of the Ardmore Municipal Airport, the execution of which has been or may be required as a condition precedent to the expenditure of federal or state funds for the development of the airport property.

26. Sublease and Assignment. The Leased Premises may not be subleased or assigned by the LESSEE without the prior written consent of the ADA & CITY. Any sublease or assignment that is executed without ADA & CITY's consent is void.

27. Bankruptcy or Insolvency. It is agreed between the parties hereto that if LESSEE 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 LESSEE'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 LESSEE shall fail to perform any of the covenants or conditions of this Lease on LESSEE'S part to be performed, then and in any such events this Lease and the terms of the Lease, at ADA'S option, shall expire and end, after ADA shall give LESSEE written notice of such act, condition, or default, and LESSEE hereby agrees immediately then to quit and surrender said premises to the ADA; but this shall not impair or effect the ADA'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 LESSEE 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 LESSEE'S last known mailing address.

28. Binding Effect. This Lease Agreement binds the parties and any successors and assigns of the parties.

29. Severability. If any one or more of the sections, sentences, clauses, or parts of this Lease Agreement be held invalid for any reason, the invalidity of such section, sentence, clause, or part shall not affect nor prejudice the applicability and validity of any other provision of this Lease Agreement.

30. Counterparts. This Lease Agreement may be executed in any number of counterparts, and when each party has signed and delivered to the other at least one such counterpart, each counterpart shall be deemed an original, and when taken together with other signed counterparts, shall constitute one agreement; provided, however, this Lease Agreement shall not be binding upon the parties hereto until signed by all of the parties.

31. Third Party Beneficiaries. Nothing in this Lease Agreement, expressed or implied, is intended to confer upon any person other than the parties hereto and their respective assigns, any rights, or remedies under or by reason of this Lease Agreement, except as provided expressly herein.

32. 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 LESSEE as the agent or representative of the ADA for any purpose.

33. Notices. Whenever notice is required to be given in writing, such notice shall be hand-delivered or mailed by certified mail, return receipt requested, and directed to the respective parties at the following addresses:

ARDMORE DEVELOPMENT AUTHORITY:

Attn: President
Ardmore Development Authority
410 W. Main
Ardmore, OK. 73401

CITY:

Attn: Airport Manager
City of Ardmore
23 South Washington
Ardmore, OK 73401

LESSEE:

Steve Baggerly

Ardmore, OK. 73402

or at such other address as a party shall specify by like notice to the other party hereto. Notices shall be effective on the date of delivery.

34. Governmental Tort Claims Act. By entering into this Sublease Agreement, ADA and its "employees," as defined by the Governmental Tort Claims Act, 51 Okla. Stat. § 151 *et seq.*, do

not waive sovereign immunity, any defenses, or any limitations of liability as may be provided for by law. No provision of this Lease Agreement modifies and/or waives any provision of the Local Government Tort Claims Act.

35. Non-Discrimination. The parties covenant (1) that no person shall be excluded from participation in, denied the benefit of, or otherwise subjected to discrimination under the terms of this Lease Agreement on the ground of race, color, age, sex, handicap, or national origin; and (2) that, in carrying out the terms and conditions of this Lease Agreement, no person shall be subjected to discrimination on the grounds of race, color, age, sex, handicap, or national origin. In the event of breach of any of the non-discrimination covenants, the ADA shall have the right to terminate this Lease Agreement and to re-enter and re-possess said Leased Premises and hold the same as if said Lease Agreement had never issued. In the event ADA terminates this Lease subject to this provision, LESSEE shall immediately cease operations, but shall be authorized up to ninety (90) days to remove property and structures.

36. Interpretation of Law. This Lease Agreement shall be deemed to have been made in the State of Oklahoma and shall be construed and interpreted in accordance with the laws of the State of Oklahoma.

37. Venue. Any action or proceeding seeking to enforce any provision of, or based on any right arising out of, this Lease Agreement may be brought against any of the parties in the courts of the State of Oklahoma, County of Carter, or, if it has or can acquire jurisdiction, in the United States District Court for the Eastern District of Oklahoma, and each of the parties consents to the jurisdiction of such courts (and of the appropriate appellate courts) in any such action or proceeding and waives any objection to venue laid therein.

38. Lease Construction. Captions and other headings contained in this Lease Agreement are for reference and identification purposes only and do not alter, modify, amend, limit, or restrict the contractual obligations of the parties.

39. Bargaining. The ADA and the LESSEE have had the opportunity to seek independent legal counsel before entering into this Lease Agreement. The language of this Lease Agreement shall be construed simply, according to its fair meaning, and not strictly for or against either party.

40. Integration, Amendments, and Interpretation. This Lease Agreement constitutes the entire agreement between the parties and may not be amended, altered, modified, or changed in any way except in writing signed by all parties to this Lease Agreement and which specifically references this Lease Agreement. There are no other agreements, representations, or warranties, whether oral or written, regarding the subject matter of this Lease Agreement. No course of dealings involving the parties hereto and no usage of trade shall be relevant or admissible to interpret, supplement, explain or in any way vary any of the terms expressly set forth in this Lease Agreement. Any amendment to this Lease Agreement shall be attached to this Lease Agreement and all the terms in this Lease not addressed in the amendment shall remain in full force and effect.

41. Time of the Essence. Time is of the essence of this Lease, and of each and every covenant, term condition and provision hereof.

IN WITNESS WHEREOF, the parties hereto have caused this Lease Agreement to be executed on the day and year written below.

Date: _____

Ardmore Development Authority,
an Oklahoma Public Trust

By: _____
Nancy Sjulín, Chairman

ATTEST:

Secretary
Date: _____

“LESSEE”

By: _____

Name: _____

Title: _____

CONSENTED TO BY:

Date: _____

The City of Ardmore, Oklahoma,
An Oklahoma Municipal Corporation

By: _____
Douglas Pfau, Mayor

ATTEST:

Lori Linney, City Clerk