

CITY OF ARDMORE
Parks and Recreation Department

Council Letter No. 5383
Meeting Date: April 4, 2022

Mayor and City Commission
City of Ardmore, Oklahoma

Re: Requesting Permission to enter into a Ground Sub Lease with Youth Scoreboards to provide new scoreboards and video boards at Regional Park softball complexes.

Dear Commission Members

Staff is asking for approval of this agreement with Youth Scoreboards to provide eight (8) new scoreboards and video boards to the softball fields at Regional Park. Youth Scoreboards L.L.C. will lease a 20 x 20 piece of land that contains the scoreboards. The City of Ardmore will provide all electrical power required to operate the scoreboards. We will also be responsible for the costs associated with bringing the electrical power to the scoreboards and the cost of electricity to operate the scoreboards. The City of Ardmore agrees to allow Youth Scoreboards L.L.C. the right to all advertising on the boards with the exceptions stated in the contract of items that we will not allow. Youth Scoreboards L.L.C. will provide at the end of each calendar year 20% of the advertising revenue net of all costs for the prior year.

In the current budget year 21-22 we have budgeted \$100,000 to provide scoreboards and electrical construction as needed. However with this agreement there may be cost savings after all electrical items are taken care of.

Staff respectfully request approval to enter into Ground Sub Lease with Youth Scoreboards L.L.C.

Respectfully submitted,



Teresa Ervin
Parks and Recreation Director

Reviewed by: 
City Manager

GROUND SUB-LEASE

THIS GROUND SUB-LEASE (the "Lease") is entered into and made effective as of APRIL 12, 2022 (the "Effective Date"), by and between:

(1) City of Ardmore, Oklahoma ("Lessor"), and

(2) Youth Scoreboards, L.L.C., an Oklahoma limited liability company, its successors, and assigns ("Lessee").

RECITALS:

WHEREAS, Lessor owns real property for the baseball/softball fields it operates in the City of Ardmore, and the state of Oklahoma, (the "**Baseball/Softball Field Sites**").

WHEREAS, Lessee agrees to provide Lessor with a total of Eight (8) baseball/softball scoreboards and video boards owned by Lessee (the "**Scoreboards**") for use at the Baseball/Softball Field Sites. The scoreboards shall be installed and operational within 90 days of the effective date of this lease and any video boards will be installed as soon as practical after their availability.

WHEREAS, Lessor desires to lease to Lessee eight (8) sections of land at the Baseball/Softball Field Sites (one section at each baseball field) with dimensions of approximately 20 feet by 20 feet, more or less, for the placement of the Scoreboards (a depiction of the Baseball/Softball Field Sites marking the ten sections of land to be leased is attached hereto as Exhibit 1) (the "**Leased Premises**"); Lessor finds and determines that this lease and agreement serves a public purpose by providing enhanced recreational facilities for the community.

WHEREAS, Lessee desires to lease the Leased Premises from Lessor.

NOW THEREFORE, in consideration of the foregoing recitals, of mutual promises of Lessor and Lessee, and of other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Lessor and Lessee agree as follows:

ARTICLE 1: Leased Premises; Authority to Lease

1.1 LEASE: Lessor hereby leases to Lessee the Leased Premises located on the Baseball/Softball Field Sites. Lessee takes the Leased Premises "as is" as of the Effective Date.

1.2 AUTHORITY: Lessor shall obtain all consents required by its lenders and the City of _Ardmore, as the case may be, to enter into this Lease.

ARTICLE 2: Term and Termination

2.1 INITIAL TERM: The initial term of this Lease is ten (10) years and shall commence on the Effective Date and expire on APRIL 12, 2032, (the "**Term**").

2.1 (a) Renewal. This agreement may be renewed for an additional term upon the mutual consent of the parties.

2.2 **TERMINATI** Lessee may terminate this Lease upon thirty (30) days' prior written notice to Lessor in the event that Lessee determines, in its sole discretion, that the economics of this Lease no longer benefit the Lessor. Lessor may terminate this lease upon thirty days written notice in the event of any default of Lessee under the terms of this agreement.

2.3 It is understood and agreed that, by virtue of the Article 10, Section 26 of the Oklahoma Constitution, the payment of City's funds in the future will be limited to appropriations and available funds in the then current City fiscal year.

2.4. In the event either party should cancel this lease within the initial term then Lessor shall have the option to purchase the score boards, video boards and related equipment at fair market value.

ARTICLE 3: Use of Leased Premises

3.1 PERMITTED USE; DAILY OPERATIONS AND COSTS:

(a) Lessee shall use the Leased Premises solely for the installation and maintenance of the Scoreboards, and for any other use necessary or ancillary to the installation and maintenance of the Scoreboards.

(b) The day-to-day operation of the Scoreboards shall be performed by Lessor, at Lessor's cost, in accordance with manufacturer's instructions, requirements and recommendations. Lessor agrees to provide all electrical power required to operate the Scoreboards and Lessor shall be responsible for the costs associated with bringing the electrical power to the Scoreboards and the cost of electricity to operate the Scoreboards. Lessor shall be responsible for updating the Scoreboards on a real-time basis. Lessor shall safely store all remote control devices for each of the Scoreboards and shall pay any and all costs associated with the loss, damage, and/or replacement of any remote control device.

3.2 **REPAIRS; MAINTENANCE:** Lessor, at Lessor's cost, shall be responsible for the performance of all minor maintenance and repair of the Scoreboards, including all associated costs of such maintenance and repair, Provided the cost does not exceed the sum of \$250.00 in any given calendar year. Lessee shall be responsible for the performance of all other maintenance and repair of the Scoreboards, including the associated costs thereof.

3.3 SUBSTANTIAL REPLACEMENT:

Notwithstanding the provisions of Section 2.1 (b) if the Lessee performs Substantial Replacement on the installations an additional Term of 10 years shall be added to the length of this agreement. Substantial Replacement occurs if the Lessee is required to replace, add or upgrade elements in which the amount would be in excess of 50% of the original installation cost as defined in par. 2.2.

ARTICLE 4: Ground Lease Fee

4.1 **GROUND LEASE FEE:** Lessee shall pay to Lessor an annual fee of ONE DOLLAR per year (\$1.00) (the "**Ground Lease Fee**").

4.2 **PAYMENT OF GROUND LEASE FEE:** The Ground Lease Fee for the entire initial lease term shall be paid upon approval of the contract by the Lessor.

ARTICLE 5: Advertising; Revenue Sharing; Promotion

5.1 **ADVERTISING:** The parties agree that Lessee shall have the exclusive right to sell all advertising space at all the scoreboards and video boards supplied by Lessee. All advertising sales shall be completed by Lessee and pricing for advertising space shall be

determined by Lessee. Lessee shall not sell or display advertising for alcohol, marijuana or tobacco related products. Pre-approved Community related announcements will be aired on the video boards at no charge to the Community.

5.2 REVENUE SHARING: Within ninety (90) days from the end of each calendar year during the Term, Lessee shall deliver to Lessor, an amount equal to 20% of the advertising revenue net of all costs (the "Revenue Share Payment") for the prior year. Net cost includes Scoreboard, Video Board, Freight, Installation, Warranties, Maintenance, Sales, Administrative. Lessee will provide a statement showing gross advertising revenue, all items of cost and net advertising revenue to Lessor with each Revenue Share Payment. Lessee shall have the right to audit the revenue records of lessee under this lease.

5.3 PROMOTIONAL MATERIAL. Lessor shall provide space at each Baseball Field Site for banners and other advertising material promoting Lessee and its role in providing the Scoreboards for Lessor's use. The size and location of the banners and advertising materials shall be subject to approval by the Lessor prior to installation. Such approval shall be timely, not be unreasonably withheld and will not frustrate the intent of this agreement.

ARTICLE 6: Ownership Rights

6.1 OWNERSHIP OF SCOREBOARDS: The Scoreboards on the Leased Premises and all equipment used in connection with installing, operating and maintaining the Scoreboards are owned by Lessee and shall continue to be owned by Lessee throughout the Term of this Lease.

6.2 SURRENDER OF LEASED PREMISES UPON EXPIRATION OF LEASE TERM: Upon the expiration of the Term, Lessee shall surrender the Leased Premises to Lessor and cause the removal of the Scoreboards and all related equipment, and Lessee shall have no right to further occupy the Leased Premises.

ARTICLE 7: Liability of Lessor and Lessee

7.1 Lessor and Lessee shall each be responsible for their own acts and omissions under this agreement and each party shall carry general liability insurance with minimum coverage in the amount of \$1 million, and workers compensation insurance with statutory coverage limits.

7.2 PAYMENT BY LESSOR: If Lessor is required to pay any sum that is Lessee's responsibility or liability, Lessee shall reimburse Lessor for the payment and for reasonable expenses caused thereby. If Lessee is required to pay any sum that is Lessor's responsibility or liability, Lessor shall reimburse Lessee for the payment and for reasonable expenses caused thereby.

7.3 INSURANCE: Lessor has and will continue to provide general liability and property insurance on the Leased Premises. Lessee shall provide property insurance on the Scoreboards and general liability insurance as provided in Section 7.1 Such liability policy shall name Lessor as an additional insured. Such general liability policy shall have a combined single limit of not less than \$1,000,000.00. Lessee shall provide Lessor with copies of all policies and renewals of policies.

7.4 PROPERTY TAX: Lessee shall be responsible for all ad valorem taxes and special taxes or assessments that are attributable to the property of lessee on the Leased Premises during the Term. City is not subject to Ad valorem taxes.

ARTICLE 8: General Provisions

8.1 NOTICE: Any notices required or permitted to be given hereunder shall be deemed to have been duly given if in writing and (i) delivered personally; (ii) sent by United States first class mail, postpaid, addressed; (iii) delivered by facsimile with confirmation receipt; or (iv) by email with a return email from recipient confirming receipt (automatic "read receipt" is not sufficient to confirm receipt by email delivery) to the following

Addresses:
To Lessor:
City of Ardmore

PO Box 249
Ardmore OK 73402

Email: kboatright@ardmorecity.org

To Lessee

Youth Scoreboards, L.L.C.
c/o Mike Henry
3655 S. Lewis Avenue
Tulsa, Oklahoma 74105
Email: mikehenry1212@gmail.com

8.2 ASSIGNMENT: Neither party shall assign, sublease, sell, or otherwise convey any of their rights under this lease without the prior written consent of the other party, which consent shall not be unreasonable withheld except such consent of Lessor is not required where the agreement is assigned or subleased by Lessee to a third party that succeeds to all or substantially all the assets, property and business of Lessee. Lessee agrees to notify Lessor in writing at least 30 days prior to any assignment or sublease.

8.3 SEVERABILITY: In case any one or more of the provisions or parts of a provision contained in this Lease is, for any reason, held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision or part of a provision of this Lease.

8.4 WAIVER: The waiver by Lessor at any given time of any term or condition of this Lease, or the failure of Lessor to take action with respect to any breach of any the term or condition, shall not be deemed to be a waiver of the term or condition with regard to any subsequent breach of the term or condition, or of any other term or condition of the Lease.

8.7 HEADINGS: The headings appearing in this Lease are for convenience only. and are not a part of this Lease and do not in any way limit or amplify the terms or conditions of this Lease.

8.8 ENTIRE AGREEMENT: This Lease sets forth the entire agreement between Lessor and Lessee with respect to the leasing of the Leased Premises. It is binding upon and inures to the benefit of these parties and, in accordance with the provisions of this Lease, their respective successors in interest. This Lease may be altered or amended only by written notice executed by Lessor and Lessee or their legal representatives or, in accordance with the provisions of this Lease.

8.9 GOVERNING LAW; JURISDICTION: This Lease shall be construed in accordance with and governed for all purposes by the laws of Oklahoma, except for any conflict of law rule that would cause the law of another jurisdiction to apply. Any dispute arising hereunder shall be referred to and heard in a court located in-Carter County, Oklahoma.

8.10 MEMORANDUM OF LEASE: The parties agree to execute a Memorandum

of Lease. The Memorandum of Lease shall not set forth the rent or other charges payable by Lessee under this Lease and shall expressly state that it is executed pursuant to the provisions contained in this Lease, and is not intended to vary the terms and conditions of this Lease.

8.11 Successors. This Agreement will inure to the benefit of and be binding upon the parties hereto and their respective heirs, legal representatives, successors and assigns.

IN WITNESS WHEREOF, the parties have executed this Lease as of the Effective Date.

LESSOR: City of Ardmore

BY:

PRINT NAME: _____ Mayor

Mayor

LESSEE:

YOUTH SCOREBOARDS, L.L.C., an Oklahoma
limited liability company

BY:



MIKE HENRY, MANAGER