

AGENDA
SHAWNEE AIRPORT AUTHORITY
September 7, 2021 AT 6:00 P.M.
COMMISSION CHAMBERS AT CITY HALL
16 WEST 9TH STREET
SHAWNEE, OKLAHOMA

CALL TO ORDER

DECLARATION OF A QUORUM

1. Consider approval of Consent Agenda:
 - a. Minutes from the August 16, 2021 regular meeting.
 - b. Airport Advisory Board Minutes from the June 16, 2021 regular meeting.
2. Discussion and consideration of a request to transfer, amend, and extend a Non-Aeronautical Commercial Lease Agreement with Brown Derby.
3. Discussion and consideration of the submission of a Land Release Request with the Federal Aviation Administration (FAA) for the purpose of amending the land use classification of Airport property for use by the Oklahoma Military Department.
4. New Business

(Any matter not known or which could not have been reasonably foreseen prior to the posting of the agenda)
5. Adjournment

Respectfully submitted,

Lisa Lasyone, CMC, City Clerk

Shawnee Airport Authority

1. a.

Meeting Date: 09/07/2021

Minutes

Submitted By: Kacie Eck, City Clerk

Department: City Clerk

Information

Title of Item for Agenda

Minutes from the August 16, 2021 regular meeting.

Fiscal Impact

Attachments

Minutes

THE TRUSTEES OF THE SHAWNEE AIRPORT AUTHORITY OF THE CITY OF SHAWNEE, COUNTY OF POTTAWATOMIE, STATE OF OKLAHOMA, MET IN REGULAR SCHEDULED SESSION, MONDAY, AUGUST 16, 2021, DURING THE BOARD OF CITY COMMISSIONER MEETING AT 6:00 P.M., PURSUANT TO NOTICE DULY POSTED AS PRESCRIBED BY LAW AT 4:00 P.M. ON AUGUST 12, 2021. UPON ROLL CALL, A QUORUM WAS DECLARED WITH THE FOLLOWING MEMBERS IN ATTENDANCE:

PRESENT: Matthews, Weaver, Flood, Bolt, Rutherford, Sehorn, Salter

ABSENT: None

Call to Order

Declaration of a Quorum

AGENDA ITEM NO. 1: Consider approval of Consent Agenda:

- a. Minutes from the August 2, 2021 regular meeting.

A motion was made by Trustee Rutherford, seconded by Trustee Sehorn, to approve the Consent Agenda Item No. 1 (a). Motion carried 6-0-1.

AYE: Rutherford, Sehorn, Salter, Weaver, Flood, Bolt

NAY: None

ABSTAIN: Matthews

AGENDA ITEM NO. 2: New Business (Any matter not known, or which could not have been reasonably foreseen prior to the posting of the agenda)

There was no New Business.

AGENDA ITEM NO. 3: Adjournment

There being no further business to be considered, the meeting was adjourned by power of the Chair. (7:35 p.m.)

ED BOLT, CHAIRMAN

ATTEST:

LISA LASYONE, SECRETARY

DRAFT

Shawnee Airport Authority

1. b.

Meeting Date: 09/07/2021

Minutes

Submitted By: Kacie Eck, City Clerk

Department: City Clerk

Information

Title of Item for Agenda

Airport Advisory Board Minutes from the June 16, 2021 regular meeting.

Fiscal Impact

Attachments

Minutes

**MINUTES
AIRPORT ADVISORY BOARD
JUNE 16, 2021
REGULARLY SCHEDULED MEETING
2202 NORTH AIRPORT DR
SHAWNEE, OK**

AIRPORT ADVISORY BOARD MEMBERS PRESENT

Mr. John Klaser, Chairman, Mr. Barry Fogerty, Vice Chairman, Mr. Harmik DerSahakian, Mr. Scott Lee, Mr. Jim Smith, Mr. Randall Rogers, Mr. Blake White

OTHERS PRESENT

Mr. Anthony DerSahakian
Mr. Rob Morris
Ms. Bonnie Wilson, Airport Manager

I. DECLARATION OF A QUORUM

Six members of the Advisory Committee were noted as Present, the Chairman Declared a Quorum.

**II. CONSIDERATION AND APPROVAL OF MINUTES FROM
MARCH 17, 2021, REGULAR MEETING**

A copy of the Minutes was included in the meeting agenda package.

The Chairman called for a Motion to Approve the Minutes as presented.

Mr. DerSahakian offered the Motion; Mr. Rogers provided a Second.

The Chairman called the Question.

Mr. Lee and Mr. Smith Abstained. All remaining Advisory Board members present voted to approve the Motion.

III. CONSIDERATION AND APPROVAL OF MINUTES FROM APRIL 21, 2021, REGULAR MEETING

A copy of the Minutes was included in the meeting agenda package.

The Chairman called for a Motion to Approve the Minutes as presented.

Mr. Smith offered the Motion; Mr. Rogers provided a Second.

The Chairman called the Question.

Mr. Lee Abstained. All remaining Advisory Board members present voted to approve the Motion.

IV. CITIZEN COMMENTS

No Citizen Comments were offered.

V. PRESENTATION OF FISCAL YEAR 2021-2022 BUDGET

Staff provided a draft of the Fiscal Year 2021-2022 operations, maintenance and capital budget and provided a general description of the changes from the prior year. Staff requested the members of the Airport Advisory Board convene to discuss the allocations in detail and assist with prioritizing expenditures for the upcoming year. It was generally agreed that the Budget Committee should review the documentation and inform the full Board of their recommendations.

VI. STAFF REPORT

Staff provided information on - current wholesale and retail fuel prices, fuel sales, and the status of the Fiscal 2021 Budget.

Staff provided an update on the progress of preparing the submission to the Federal Aviation Administration regarding the reclassification of land on the west of the airfield from aeronautical use to non-aeronautical use. Staff confirmed that once the package is in final draft form a more formal presentation will be made to the Airport Advisory Board.

Staff provided an update on the status of the annual lease renewal process and request for documentation.

VII. NEW BUSINESS

No New Business was presented.

VIII. BOARD COMMENTS

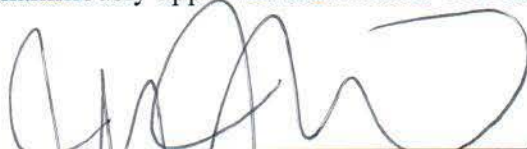
No Comments were offered.

IX. ADJOURNMENT

The Chairman called for a Motion to Adjourn the meeting.

Mr. Rogers made a Motion to Adjourn; Mr. White provided a Second to the Motion.

The Chairman called the Question, and the Members of the Advisory Board present unanimously approved the Motion. The meeting was adjourned.



JOHN KLASER, CHAIRMAN

8/18/2021
DATE

ATTEST:



BONNIE A. WILSON

8/18/2021
DATE

Shawnee Airport Authority

2.

Meeting Date: 09/07/2021

Lease Agreement

Submitted By: Kacie Eck, City Clerk

Department: City Clerk

Information

Title of Item for Agenda

Discussion and consideration of a request to transfer, amend, and extend a Non-Aeronautical Commercial Lease Agreement with Brown Derby.

Fiscal Impact

Attachments

Memo

Assignment and Assumption Agreement

Lease Agreement



Office of the City Manager

Date: September 7, 2021

To: Shawnee Airport Authority

The Honorable Ed Bolt, Mayor
Darren Rutherford, Vice Mayor
Travis Flood, Commissioner
Daniel Matthews, Commissioner
Ben Salter, Commissioner
Mark Sehorn, Commissioner
Bob Weaver, Commissioner

From: S. Eric Benson, Interim City Manager

Subject: Discussion and Consideration of Request to Transfer, Amend and Extend Non-Aeronautical Commercial Lease – Brown Derby

Nature of Request:

Mr. Johnny Kneisel, dba Brown Derby Drive In (Brown Derby) is requesting the opportunity to transfer the lease for the property to a newly formed Limited Liability Company – Brown Derby Drive In, LLC, and extend the term of the lease for five (5) calendar years, with renewal options for an additional twenty (20) calendar years.

Analysis and Considerations:

Brown Derby currently leases twenty-three-thousand-four hundred (23,400) square feet of land at 1830 North Kickapoo, Shawnee, OK 74804. The lease is set to expire on March 31, 2022, until and unless the Brown Derby exercises their option to renew for an additional five (5) calendar years.

1. If the transfer is approved the location will continue to operate as The Brown Derby Drive In.
2. The proposed date of transfer is September 1, 2021.
3. The members of the new Brown Derby Drive In, LLC (Brown Derby, LLC) are Mr. Kneisel, and owners or employees of Boom A Rang Diners, Inc. and Boomarang Diner Franchising, LLC.

4. Brown Derby, LLC proposes to undertake between \$10,000 and \$25,000 of improvements to update existing equipment and facilities.
5. Proposed management and operational personnel include:
 - a. Mr. Ron Degraffenreid – Manager and founding member of Boomarang Diner Franchising, LLC. Mr. Degraffenreid is President of Boom A Rang Diners, Inc. He has over thirty-five (35) years of restaurant management and operations experience to include Food and Beverage Director of the FireLake Grand Casino. Mr. Degraffenreid has been operating the Boom A Rang Diner restaurants since 2005.
 - b. Mr. Steve Degraffenreid - Manager and founding member of Boomarang Diner Franchising, LLC. Mr. Degraffenreid is Vice President of BDI, he has over forty (40) years of restaurant management and operations experience to include Chief Executive Officer of the FireLake Grand Casino. Mr. Degraffenreid has been operating the Boom A Rang Diner restaurants since 2008.
 - c. Mr. Scott Bainbridge – Operations Team Boom-a-rang Diners, serving since 2011. Mr. Bainbridge has over twenty-five (25) years of experience in the restaurant industry in various roles and locations including management of a restaurant group in Tulsa, Oklahoma, Director of Operations for a restaurant technologies company, and Food and Beverage Analyst for FireLake Grand Casino.

Recommendation

After review of the materials provided by staff and receipt of a positive report from the Airport Advisory Board, I am recommending the following actions:

1. Amendments to the current lease extending the term for a total of twenty-five (25) calendar years; and
2. Including an escalation clause, increasing the rental rate on an annual basis, based on the rate of inflation for the prior calendar year, as established by the Consumer Price Index for all goods and services; and
3. Include the option to conduct a Fair Market Value assessment on the property per the current Airport Facilities Lease and Development Policy Statement.

Budget Consideration

The extension will increase rental revenues year over year based on the rate of inflation from the prior calendar year.



ASSIGNMENT AND ASSUMPTION AGREEMENT FOR COMMERCIAL LEASE

THIS AGREEMENT made and entered into to be effective as of September 8th, 2021 by and between **Johnny Kneisel dba Brown Derby Drive-In** (Assignor), and **Brown Derby Drive In, LLC** (Assignee).

Recitals

WHEREAS the parties hereto recognize and accept that Assignor is presently Lessee under a Lease Agreement dated 1 July 2017 (hereinafter referred to as Lease Agreement) with the Shawnee Airport Authority, wherein Lessee leases certain real property situated at 1830 N. Kickapoo, Shawnee, OK consisting of approximately twenty-three-thousand-four-hundred (23,400) square feet or 0.537 acres more or less of improved/unimproved land ; and

WHEREAS, subject to the terms hereof Assignor desires to assign to Assignee all of its right, title, interest, and obligations in and under said Lease Agreement with the Shawnee Airport Authority; and

WHEREAS, Assignor and Assignee hereby acknowledge that pursuant to the provisions of said Lease Agreement, any and all assignments shall not be effected without the prior written approval of the Shawnee Airport Authority; and

WHEREAS, Assignee hereby accepts such assignment of the above described Lease Agreement, and hereby agrees to strictly comply with and assume all the terms, provisions, conditions, and obligations of Assignor/Lessee under said Lease Agreement, effective upon approval of the Shawnee Airport Authority.

NOW, THEREFORE, for and in consideration of mutual covenants herein contained, the parties hereto agree as follows:

1. That Assignor assigns to Assignee, all of its right, title, interest, and obligations in and under that certain Lease Agreement between Assignor/Lessee and the Shawnee Airport Authority, and Assignee hereby agrees to strictly comply with and assume all the terms, provisions, conditions, and obligations as Lessee under said Lease Agreement, accruing from and after the Effective Date.
2. The Shawnee Airport Authority approves the assignment of said Lease Agreement and transfer to the Assignee, to the extent it is consistent with the Lease Agreement and further approves the assumption by Assignee of all right, title, interest, and obligations in and under that certain Lease Agreement subject to the terms hereof.
3. That all recitals hereinabove are contractual in nature, are made a part of this Assignment and Assumption Agreement, and are true and correct.

4. Assignee shall accept the assignment made and any covenants contained in this instrument and assume the duty to perform all of the terms and conditions of the Lease Agreement and this Assignment and Assumption Agreement accruing from and after the Effective Date.
5. This Assignment and Assumption Agreement and the Lease Agreement, contain the entire agreement between the parties, and no statements, promises, or inducements made by any part, or agent of any party hereto, that are not contained in this Assignment and Assumption Agreement or in the Lease Agreement shall be valid or binding; and this assignment may not be enlarged, modified, or altered except in writing, signed by all parties, and endorsed thereon.
6. The Assignor and the Shawnee Airport Authority represent to the other parties hereto that it is not in default under the Lease Agreement, nor does there exist any circumstances which, with the passage of time or the giving of notice, or both, would cause such a default to exist, nor, to the knowledge of such party, is there a default under the Lease Agreement by any other party, nor does there exist any circumstances which, with the passage of time or the giving of notice, or both, would cause such a default to exist.

IN WITNESS WHEREOF, the parties hereto have set their hands and seals as of the day and year first above written

[SIGNATURE PAGES FOLLOW IMMEDIATELY]

ASSIGNOR: Johnny Kneisel dba Brown Derby Drive-In

By: _____

Name: Johnny Kneisel Title: _____

STATE OF OKLAHOMA)
) ss.
COUNTY OF POTTAWATOMIE)

I, Johnny Kneisel, of lawful age being duly sworn, deposes and says: I do hereby certify that I am the _____ of Johnny Kneisel dba Brown Derby Drive-In, and am authorized to execute documents, contracts, and agreements and have the authority under the standing authorities of said organization to bind Johnny Kneisel dba Brown Derby Drive-In to the terms and provisions of said documents, contracts, and agreements.

Subscribed and sworn to before me this ____ day of _____, 2021

My Commission Expires: _____

Notary Public

Commission Number: _____

ASSIGNEE: Brown Derby Drive In, LLC

By: _____

Name: _____

Title: _____

STATE OF OKLAHOMA)
) ss.
COUNTY OF POTTAWATOMIE)

_____, of lawful age being duly sworn, deposes and says: I do hereby certify that I am the _____ of _____ and am authorized to execute documents, contracts, and agreements and have the authority under the standing authorities of said organization to bind _____ to the terms and provisions of said documents, contracts, and agreements.

Subscribed and sworn to before me this ____ day of _____, 2021

My Commission Expires: _____

Notary Public

Commission Number: _____

APPROVED by the Shawnee Airport Authority this 8th day of September 2021, with the expressed condition that no further assignment of the described Agreement, or any subletting of the leased premises, shall be permitted without the prior written permission of the Shawnee Airport Authority.

THE CITY OF SHAWNEE OKLAHOMA
A Municipal Corporation

By:
S. ERIC BENSON
INTERIM CITY MANAGER

ATTEST:

LISA LASYONE, CMC
CITY CLERK



**AMENDMENT TO
COMMERCIAL NON-AERONAUTICAL
LEASE AGREEMENT**

This Amendment to that certain Non-aeronautical Commercial Lease Agreement (Lease Agreement) dated 1 July 2017 by and between the Shawnee Airport Authority (the Airport Authority), on behalf of the City of Shawnee, Oklahoma, hereinafter referred to as "Lessor," and Brown Derby Drive In, LLC, hereinafter referred to as "Lessee."

WITNESSETH THAT:

WHEREAS, the Lessor and Lessee are parties to the Lease Agreement; and

WHEREAS, the Lessor and Lessee mutually desire to amend the Lease Agreement;

NOW, THEREFORE, in consideration of the mutual covenants and conditions in that certain Lease Agreement therein contained, the Lessor does hereby grant to the Lessee the right to use and occupy the area of the Airport described in ARTICLE 2 – LEASE PREMISES therein, (hereinafter referred to as the "Leased Premises"), pursuant to the conditions therein set forth with the following Amendments, effective as of 8 September 2021.

1. ARTICLE 1 TERM of the Lease Agreement is hereby amended and restated as follows:

- 1.1 The initial term of the Lease Agreement shall commence on 8 September 2021, and terminate on 31 August 2026.
- 1.2 After the initial term, the Lessee may renew the lease for an additional, successive four (4), five (5) calendar year terms at the option of the Lessor under the following conditions:
 - 1.2.1 Lessee must be in compliance with the terms and conditions of the Lease as provided herein; and
 - 1.2.2 Lessee must notify Lessor within ninety (90) calendar days of expiration of each renewal term of desire to renew.

2. ARTICLE 4 – RENTAL of the Lease Agreement is hereby amended and restated as follows:

- 4.1 Lessee agrees to pay the Airport Authority as rental for the use of the premises and the privileges herein granted the sum of three-thousand-seven-hundred-ninety-two dollars (\$3,792) per year.
- 4.2 Rent shall be due and payable on the first day of each month and shall be deemed late if not received by the tenth (10th) calendar day of each month.

- 4.2.1 If any monthly rental payment is not paid on or before the tenth day following the first day of each month, a late payment fee in the amount of one- and one-half percent (1.5%) will be applied to any overdue balances for charges assessed by the Shawnee Airport Authority.
- 4.2.2 It is understood and agreed by and between the Lessor and the Lessee that Lessee agrees to maintain a current status on rental of the Leased Premises, should Lessee fail to do so, and the account becomes sixty (60) business days delinquent, then the Lessor shall give the Lessee written notice, by certified mail, that the account must be brought current within ten (10) business days or said Lease may be terminated at the discretion of the Lessor.
- 4.2.2.1 Should a second offense of sixty (60) calendar days delinquency occur within the term of this Lease, immediate termination of this Agreement shall result, and renewal options shall be forfeited.
- 4.2.3 It is specifically understood and agreed by and between the Lessor and the Lessee that the monthly rental for Leased Premises shall be adjusted annually at the commencement of the Shawnee Airport Authority's Fiscal Year based on the national rate of inflation as established by the Consumer Price Index change from the prior calendar year, with current pricing retained as a minimum rental rate regardless of inflation activity.
- 4.2.4 The Lessee hereby agrees to pay such adjusted monthly rental following notice of the adjusted rate from the Lessor.
- 4.3 As an inducement to the Lessor entering into this Amendment to the Agreement with Lessee, the Lessee shall make improvements to the Leased Premises in an amount not less than ten-thousand (\$10,000) dollars prior to the commencement of the first renewal term.

IN WITNESS WHEREOF, the parties hereto have executed this Amendment to the Lease Agreement on the day and year written above.

[SIGNATURE PAGE TO FOLLOW IMMEDIATELY]

LESSEE:

BY: _____

TITLE: _____

Subscribed to before me this ____ day of _____ 2021

Notary Public

My Commission Expires: _____

Commission Number: _____

LESSOR

THE CITY OF SHAWNEE OKLAHOMA
A Municipal Corporation

By: _____
S. ERIC BENSON
INTERIM CITY MANAGER

DATE: _____

ATTEST:

LISA LASYONE, CMC
CITY CLERK

Shawnee Airport Authority

3.

Meeting Date: 09/07/2021

Land Release Request

Submitted By: Kacie Eck, City Clerk

Department: City Clerk

Information

Title of Item for Agenda

Discussion and consideration of the submission of a Land Release Request with the Federal Aviation Administration (FAA) for the purpose of amending the land use classification of Airport property for use by the Oklahoma Military Department.

Fiscal Impact

Attachments

Memo

Application and Exhibit

SAA lease to COS

COS lease to ANG



Office of the City Manager

Date: September 7, 2021

To: Shawnee Airport Authority

The Honorable Ed Bolt, Mayor
Darren Rutherford, Vice Mayor
Travis Flood, Commissioner
Daniel Matthews, Commissioner
Ben Salter, Commissioner
Mark Sehorn, Commissioner
Bob Weaver, Commissioner

From: S. Eric Benson, Interim City Manager

Subject: Discussion and Consideration of the Submission of a Land Release Request to the Federal Aviation Administration (FAA) for the Purpose of Amending the Land Use Classification of Airport Property for Use by the Oklahoma Military Department

Nature of Request:

Authorize the submission of a Land Release Request with the FAA for the purpose of amending the land use classification of a total of ninety (90) acres from aeronautical development to non-aeronautical development, allowing for the construction of a new Oklahoma Army National Guard Readiness Center, and possible future development.

Staff Analysis and Considerations:

The Oklahoma Military Department (OMD) has approached the City of Shawnee (City) with a proposal to develop an armory facility on land situated west of runway 17-35 at the Shawnee Regional Airport. The OMD is currently seeking forty (40) acres of land but has indicated their desire to expand their facility in the future. In recognition of this likelihood the application to reclassify/release the land will be for a total of ninety (90) acres.

The land was provided to the Authority via the terms and conditions of the Surplus Property Act of 1944, administered by the War Assets Administration, and therefore must be reclassified from "aeronautical development" to "non-aeronautical development" to accommodate the proposed Readiness Center.

If reclassified the Authority may lease the land to the City of Shawnee at Fair Market Value (FMV). FMV for a triple net lease of the forty acres was appraised at ten-cents (\$0.10) per square foot, or one-hundred-

seventy-four-thousand-two-hundred-forty dollars (\$174,240) per year. The City of Shawnee may then, in turn, execute a sub-lease with the OMD.

Per the Airport Layout Plan, the Authority has no short- or long-term plans to develop this land for aeronautical use as there is more than sufficient land on the east side of the airport to accommodate that need. In addition, the Airport terminal, mechanical service stations, fuel services, public parking ramp, box hangars, and t-hangars are all situated to the east of Runway 17/35 and Taxiway Alpha; adjacent to approximately fifty (50) acres of land designated for aeronautical development. This area contains sufficient undeveloped property to support planned aeronautical development for the foreseeable future.

Land to the west of Runway 17/35 is currently inaccessible to aircraft. At a minimum, construction of a second parallel taxiway, and a series of connecting taxiways would be required to support any aeronautical development to the west of Runway 17/35. Construction and operation of aircraft support services, such as a second fuel farm and hangar facilities, would also be required to make aeronautical development to the west of the runway economically viable.

Engineering studies have been conducted to ensure the proposed development will not interfere with aeronautical activities at SNL. Any improvements made upon the area of interest shall be subject to the limitations set forth in the City of Shawnee Code of Ordinances, Chapter 22, Article VII, Division 16, Shawnee Municipal Airport Overlay District, and Chapter 6, Aviation, as amended. Any improvements and/or commercial activity shall also adhere to any and all regulations, codes, and statutes imposed and enforced by the Shawnee Airport Authority, the City of Shawnee, the State of Oklahoma, and the FAA, as applicable.

Recommendation

After review of the materials provided by staff and receipt of a positive report from the Airport Advisory Board, I am recommending the following actions:

1. Filing the application to release and reclassify the land with the FAA; and
2. Executing a lease agreement with the City of Shawnee at FMV with an escalation clause increasing the annual rental rate based on the rate of inflation for the prior calendar year, as established by the Consumer Price Index for all goods and services. (See attached Application and Exhibit Drawings)

Budget Consideration

Historically leased for hay harvesting, the acreage sought for the new development has provided limited economic benefit to the Shawnee Airport Authority. The current lease rate is two-thousand-five-hundred dollars (\$2,500) per year.

The annual increase in funds provided by a lease with the City of Shawnee will allow the Airport Authority to address deferred capital maintenance, purchase capital equipment and provide for future development of aeronautical use facilities.

OKLAHOMA
Office of the City Manager

August 18, 2021

Ms. Katherine Franklin
FAA Program Manager
Arkansas/Oklahoma Airports District Office
FAA/ASW-630C
10101 Hillwood Parkway
Fort Worth, Texas 76177

Re: Land Release Request- Change in the Use of Airport Property; Shawnee Regional Airport

Dear Ms. Franklin:

The Oklahoma Military Department (OMD) has approached the City of Shawnee ("City") with a proposal to develop an armory facility on land situated west of runway 17-35 at the Shawnee Regional Airport.

Historically leased for hay harvesting, the acreage sought has provided limited economic benefit to the Shawnee Airport Authority ("Authority"). Per the Airport Layout Plan, the Authority has no short- or long-term plans to develop this land for aeronautical use as there is more than sufficient land on the east side of the airport to accommodate that need. Reclassification will allow the Authority to lease the land to the City of Shawnee at fair market value significantly increasing annual airport revenue.

The land was provided to the Authority via the terms and conditions of the Surplus Property Act of 1944, administered by the War Assets Administration, and therefore must be reclassified from "aeronautical development" to "non-aeronautical development" to accommodate the proposed development. The enclosed attachments listed below are in support of the Authority's request for a reclassification.

Attachments

- | | |
|--------------------------------------|--|
| 1. National Guard Facility site plan | 6. War Assets Administration Transfer Document |
| 2. Airport Layout Drawing w/mark ups | 7. Land Appraisal |
| 3&4. Land Use Drawing w/mark ups | 8. Land lease between Authority and City |
| 5. Airport Property Map w/mark ups | 9. City sublease to OMD |

Thank you considering the request. If you have any questions or concerns, please do not hesitate to contact the Authority's project representative, Bonnie Wilson, Airport Manager via email at bonnie.wilson@shawneeok.org or telephone at 405-878-1633.

Regards,

S. Eric Benson,
Interim City Manager

Cc: Patrick Barnas, Lochner

Enclosure 1

Written Request to Reclassify Certain Property as Non-Aeronautical Development

1. What is requested?

The Shawnee Airport Authority (“Authority”) is requesting a change in land use for airport property located on the west side of Runway 17/35.

The Shawnee Regional Airport’s (“Airport”) Land Use Drawing (“ALD”) (See Attachment 4) depicts approximately 90 acres of unimproved property designated for “Airport Development”. The Authority is requesting this acreage be reclassified on the Airport Land Use Drawing to non-aeronautical “Commercial Development”.

Reclassification will allow the Authority to lease approximately 40 acres of land to the City of Shawnee (“City”) to in turn sublease the acreage to the Oklahoma Military Department for the construction of a non-aeronautical support facility.

The remaining 50 acres will be used for future non-aeronautical development to include possible future expansion of the OMD facility. All 90 acres of the property will remain under the operation and ownership of the Authority.

2. What agreement(s) with the United States are involved?

An Instrument of Transfer between the City of Shawnee and the United States of America, acting by and through the War Assets Administrator, under the provisions of the Surplus Property Act of 1944, dated January 31st, 1946 (See Attachment 6).

3. Why the release, modification, reformation, or amendment is requested?

The Instrument of Transfer noted above obligates the Authority to comply with the provisions of the Federal Aviation Administration (FAA) Airport Compliance Manual 5190.6B, Chapter 22.4(c) stating a change in the use, operation, or designation of on-airport property is subject to a release from federal obligations. (See Attachment 6)

4. What facts and circumstances justify the request?

The Airport terminal, mechanical service stations, fuel services, public parking ramp, box hangars, and t-hangars are all situated to the east of Runway 17/35 and Taxiway Alpha; adjacent to approximately 50 acres of land designated for aeronautical development. This area contains sufficient undeveloped property to support planned aeronautical development for the foreseeable future.

Land to the west of Runway 17/35 is currently inaccessible to aircraft. At a minimum, construction of a second parallel taxiway, and a series of connecting taxiways would be required to support any aeronautical development to the west of Runway 17/35. Construction and operation of aircraft support services, such as

a second fuel farm and hangar facilities, would also be required to make aeronautical development to the west of the runway economically viable.

Land to the west of the runway is currently leased for growing and harvesting hay at the rate of \$2,500 per year. The land proposed for the construction of the OMD facility will be leased to the City at the rate of \$0.10 per square foot per year, generating \$174,240 the first year of the lease and increasing with market values over the proposed twenty-five years of the first term of the lease. This revenue increase will assist the Authority in achieving economic self-sufficiency as required by FAA Airport Improvement Program Grant Assurance Number 24.

5. What requirements of state or local law or ordinance should be provided for in the language of an FAA-issued document if the request is consented to or granted?

Any improvements made upon the area of interest shall be subject to the limitations set forth in the City of Shawnee Code of Ordinances, Chapter 22, Article VII, Division 16, *Shawnee Municipal Airport Overlay District*, and Chapter 6, Aviation, as amended. Any improvements and/or commercial activity shall adhere to any and all regulations, codes, and statutes imposed and enforced by the Shawnee Airport Authority, the City of Shawnee, the State of Oklahoma, and the FAA, as applicable.

6. What property or facilities are involved?

The Authority is seeking a reclassification of approximately 90 acres of airport property comprised of the western most portion of Tracts 8, 9, and 11, and Tracts 15, 16, 18, and 19 as depicted on the Airport Property Map. (See Attachment 5)

The OMD development project will be cited on portions of Tracts 9 and 11, approximately 40 acres, as depicted on the attached site plan (see Attachment 1) and Airport Property Map. (See Attachment 5)

7. How the property was acquired or obtained by the airport owner.

The City purchased residential properties within Tracts 8, 9, and 11 directly from private owners between the years 1939 to 1961. The City purchased residential properties within Tracts 15, 16, 18, and 19 from private owners between the years 1941 and 1943. No federal funds were used to purchase the properties listed above.

The Airport was leased to the United States between April 1943 and November 1947. Under the provisions of the Surplus Property Act of 1944, the leased property and leasehold improvements were transferred back to the City in January 1946. (See Attachment 6).

8. What is the present condition and what present use is made of any property or facilities involved?

The 90 acres are zoned as light Industrial (I-2). The airport's AWOS is located near the northwest corner of Tract 11 (see Attachment 5).

All 90 acres are currently leased for the purpose of planting and harvesting hay.

All improvements proposed for the OMD project will be within Tracts 8 and 9, inside the current perimeter fence.

Tract 9 contains a small detention pond captured within the U.S. Fish & Wildlife Service's National Wetlands Inventory. While there are no anticipated plans to develop or disturb this area throughout the term of the proposed lease, the lease documents themselves require any proposed improvements to the leased area, comply with Authority rules and regulations, City of Shawnee ordinances, state and federal laws and be approved in writing by the Authority.

Tracts 18 and 19, outside the airport fence, are: a gravel road, power lines, small barn, and horse paddock.

9. What use or disposition will be made of the property or facilities?

The Authority proposes to lease¹ 40 acres of the land to the City and authorize a sublease between the City and the OMD to allow for the construction of a non-aeronautical support facility. The OMD proposes to construct:

- An approximately 52,500 square foot, single-story building.
- Two supporting parking lots measuring approximately 39,000 square feet and 31,000 square feet, respectively, equipped with aviation appropriate lighting systems.
- Entrance and exit driveways.

All improvements will be constructed in compliance with regulations terms and conditions governing airfield geometry, navigational aid object free areas, and outside any environmentally sensitive areas. Restrictions include, but are not limited to building outside of any Part 77 imaginary surfaces; AWOS siting criteria; building restriction lines; object free areas; runway and taxiway safety areas; navigation aid protected areas; as depicted on the Airport Layout Plan, and any environmentally sensitive areas. (Attachment 2)

¹ Triple Net Lease: the tenant is responsible for paying operating expenses for the property. Examples of operating expenses include but are not limited to utilities, insurance, property/facility maintenance and any and all applicable taxes.

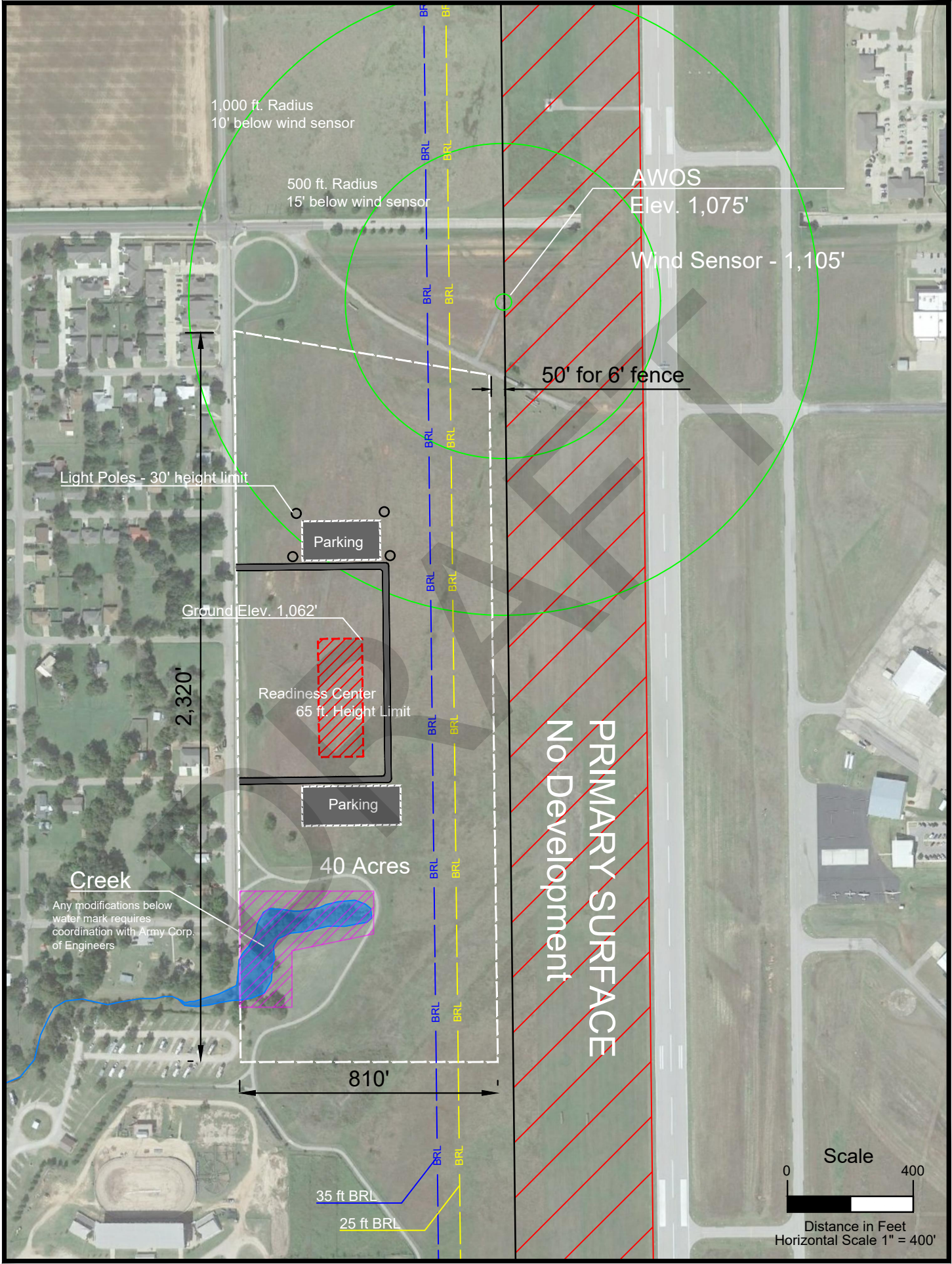
10. What is the appraised fair market value of the property or facilities?

The Authority issued a Request for Proposal to solicit licensed real estate appraisal services to conduct a Fair Market Value Rental Analysis of the 40 acres identified for development by the OMD. The contract for services was awarded to Hinkle & Associates, Inc. of Oklahoma City, Oklahoma. The appraisal was conducted by Eric Hinkle, a Practicing Affiliate of the Appraisal Institute, Oklahoma Certified General Appraiser No. 13097CGA. The suggested Fair Market Rental Rate for a Triple Net Lease Structure¹ is \$0.10 per square foot per year. (See Attachment 7) The City has agreed to pay the Authority FMV for rental of the 40 acres sought for the OMD development. (See Attachments 8 and 9)

11. What proceeds are expected from the use or disposition of the property and what will be done with any net revenues derived?

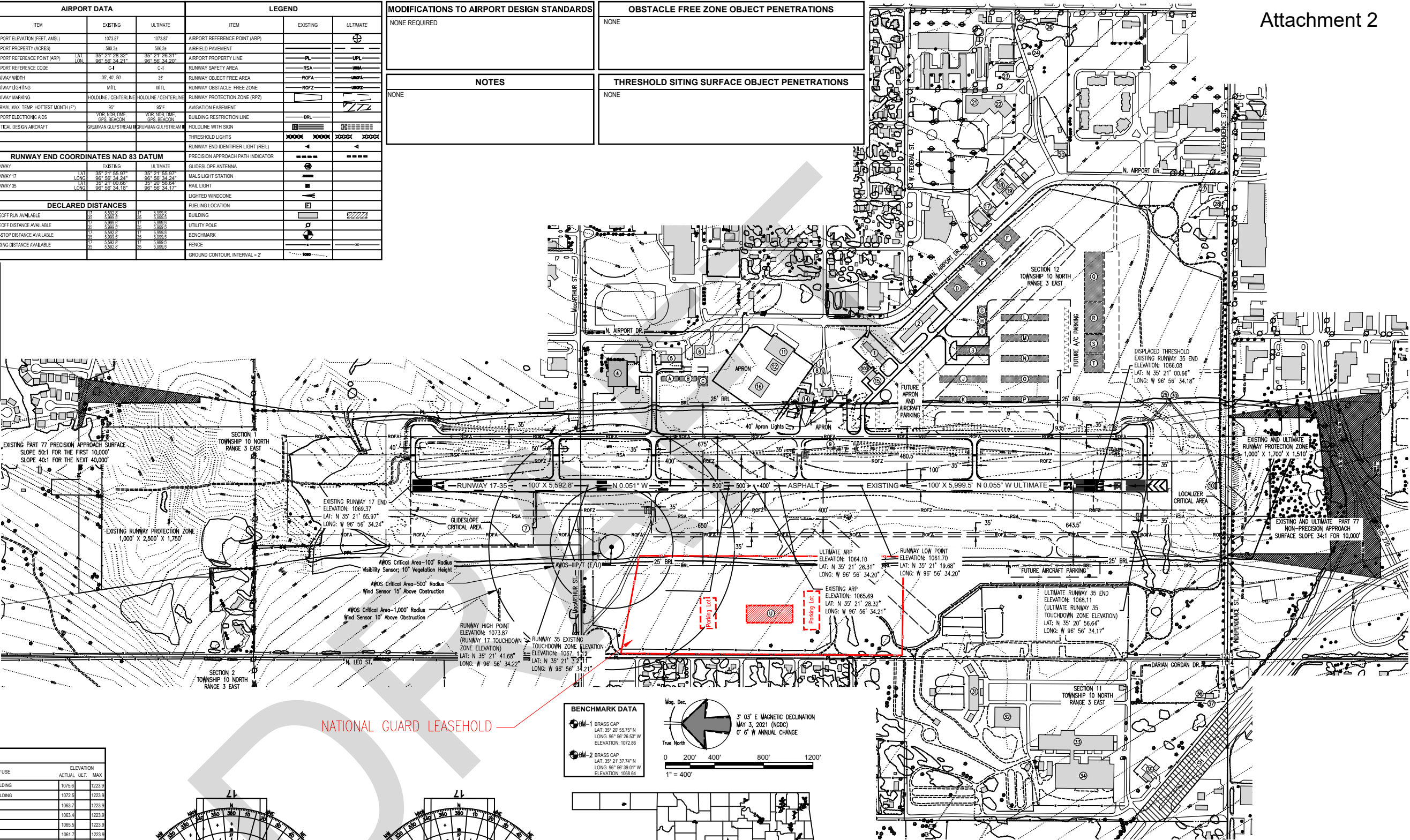
The agreed upon rental rate of \$0.10 per square foot per year equates to an annual increase in rental revenue of \$174,240. Annual rental rate adjustments will be based on the national rate of inflation as established by the Consumer Price Index change from the prior calendar year, with current pricing retained as minimums regardless of inflation activity. The Authority will have the right to assess the fair market value of the leased property every fifth calendar year of the term, and adjust the rental rate to reflect the assessed value. Lease revenues will be expended on capital improvements to facilities and procurement of capital equipment, directly and substantially related to the air transportation of passengers or property.

This revenue will further the City's obligation under FAA Grant Assurance number 24 to make the Shawnee Regional Airport as financially self-sufficient as possible. Left alone, this area is expected to generate approximately \$2,500 per year from hay cutting leases.

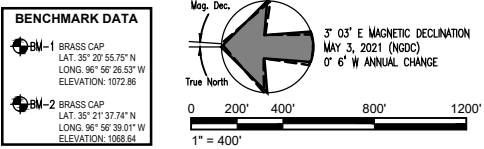
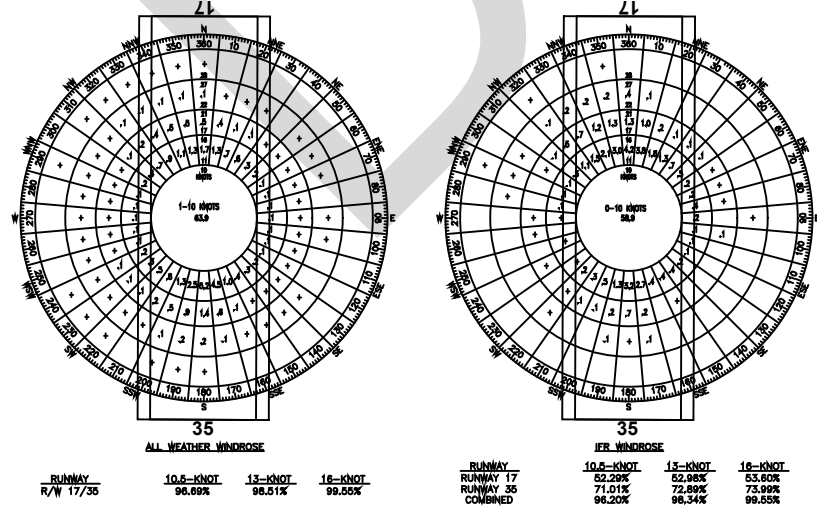


RUNWAY DATA				AIRPORT DATA			LEGEND		
ITEM	RUNWAY 17 - 35		ITEM	AIRPORT DATA		LEGEND	ITEM	LEGEND	
	EXISTING	ULTIMATE		EXISTING	ULTIMATE			EXISTING	ULTIMATE
AIRPORT CATEGORY / DESIGN GROUP	C-II	C-II	AIRPORT ELEVATION (FEET, AMSL)	1073.87	1073.87		AIRPORT REFERENCE POINT (ARP)		
RUNWAY WIDTH AND LENGTH	100' x 5,592.8'	100' x 5,999.5'	AIRPORT PROPERTY (ACRES)	580.34	580.34		AIRFIELD PAVEMENT		
SAFETY AREA WIDTH AND LENGTH BEYOND THRESHOLD	500' x 1,000'	500' x 1,000'	AIRPORT REFERENCE POINT (ARP)	LAT: 35° 21' 28.32" N LONG: 96° 56' 34.21" W	35° 21' 28.32" N 96° 56' 34.21" W		AIRPORT PROPERTY LINE		
OBJECT-FREE AREA WIDTH AND LENGTH BEYOND THRESHOLD	800' x 1,000'	800' x 1,000'	AIRPORT REFERENCE POINT (ARP)	C-I	C-I		RUNWAY SAFETY AREA		
OBSTACLE-FREE AREA WIDTH AND LENGTH BEYOND THRESHOLD	400' x 200'	400' x 200'	TAXIWAY WIDTH	35' 40' 50'	35'		RUNWAY OBJECT-FREE AREA		
RUNWAY PROTECTION ZONE (W x L x W)	1,000' x 2,500' x 1,510'	1,000' x 2,500' x 1,510'	TAXIWAY LIGHTING	MTL	MTL		RUNWAY OBSTACLE-FREE ZONE		
APPROACH VISIBILITY MINIMUMS	17: LESS THAN 3/4 MILE 35: 1,000' x 1,700' x 1,510'	17: LESS THAN 3/4 MILE 35: 1,000' x 1,700' x 1,510'	TAXIWAY MARKING	HOLDLINE / CENTERLINE	HOLDLINE / CENTERLINE		RUNWAY PROTECTION ZONE (RPZ)		
PART 77 CATEGORY	17: LESS THAN 3/4 MILE 35: 1,000' x 1,700' x 1,510'	17: LESS THAN 3/4 MILE 35: 1,000' x 1,700' x 1,510'	NORMAL MAX. TEMP. HOTTEST MONTH (°F)	95°	95°		AVIATION EASEMENT		
PART 77 SURFACE SLOPE	35: 50:1 35: 34:1	35: 50:1 35: 34:1	AIRPORT ELECTRONIC AIDS	VOR, NDB, DME, GPS, BEACON	VOR, NDB, DME, GPS, BEACON		BUILDING RESTRICTION LINE		
AERONAUTICAL SURVEY TYPE REQUIRED	VGAS	VGAS	CRITICAL DESIGN AIRCRAFT	CRJ-900, CRJ-900, CRJ-900	CRJ-900, CRJ-900, CRJ-900		HOLDLINE WITH SIGN		
EFFECTIVE GRADIENT (%)	0.215	0.203					THRESHOLD LIGHTS		
WIND COVERAGE (%) 10.5 / 13 KT / 16KT	96.69 / 98.51 / 99.55	96.69 / 98.51 / 99.55					RUNWAY END IDENTIFIER LIGHT (REL)		
PAVEMENT TYPE	ASPHALT	ASPHALT	RUNWAY END COORDINATES NAD 83 DATUM				PRECISION APPROACH PATH INDICATOR		
PAVEMENT STRENGTH - (1,000#)	24S	30S	RUNWAY	EXISTING	ULTIMATE		GLIDESLOPE ANTENNA		
ELECTRONIC AIDS	17: PAPI, REILS 35: PAPI, REILS	17: PAPI, REILS 35: PAPI, REILS	RUNWAY 17	LAT: 35° 21' 55.97" N LONG: 96° 56' 34.24" W	35° 21' 55.97" N 96° 56' 34.24" W		MALS LIGHT STATION		
VISUAL AIDS	17: LOC, G.S., GPS 35: LOC, G.S., GPS	17: LOC, G.S., GPS 35: LOC, G.S., GPS	RUNWAY 35	LAT: 35° 21' 00.85" N LONG: 96° 56' 34.18" W	35° 21' 00.85" N 96° 56' 34.18" W		RAIL LIGHT		
RUNWAY MARKING	PRECISION	PRECISION					LIGHTED WINDCONE		
RUNWAY LIGHTING	MIRL	MIRL	DECLARED DISTANCES				FUELING LOCATION		
RUNWAY TRUE BEARING	N 0.051° W	N 0.055° W	TAKEOFF RUN AVAILABLE	17: 5,592.8'	17: 5,592.8'		BUILDING		
RUNWAY END ELEVATIONS	17: 1069.37 35: 1068.08	17: 1069.37 35: 1068.11	TAKEOFF DISTANCE AVAILABLE	17: 5,592.8'	17: 5,592.8'		UTILITY POLE		
TOUCHDOWN ZONE ELEVATIONS	17: 1073.87 35: 1067.83	17: 1073.87 35: 1068.11	ACC-STOP DISTANCE AVAILABLE	17: 5,592.8'	17: 5,592.8'		BENCHMARK		
MAXIMUM RUNWAY ELEVATION ABOVE MSL	1073.87	1073.87	LANDING DISTANCE AVAILABLE	17: 5,592.8'	17: 5,592.8'		FENCE		
							GROUND CONTOUR, INTERVAL = 2'		

1 REVISIONS	
No.	DATE
1	7/18/16
AWOS Relocation and Apron Light Installation Added as Part of AIP No. 3-40-0088-016-2016. Revision to	
2	8/6/19
Taxilane pavement serving future T-Hangar "N" added as part of AIP No. 3-40-0088-018-2018. Revision to	
3	11/18/20
Runway pavement markings changed as part of AIP No. 3-40-0088-019-2020. Revision to ALD approved on 7/16/13 completed by LBR, Inc.	



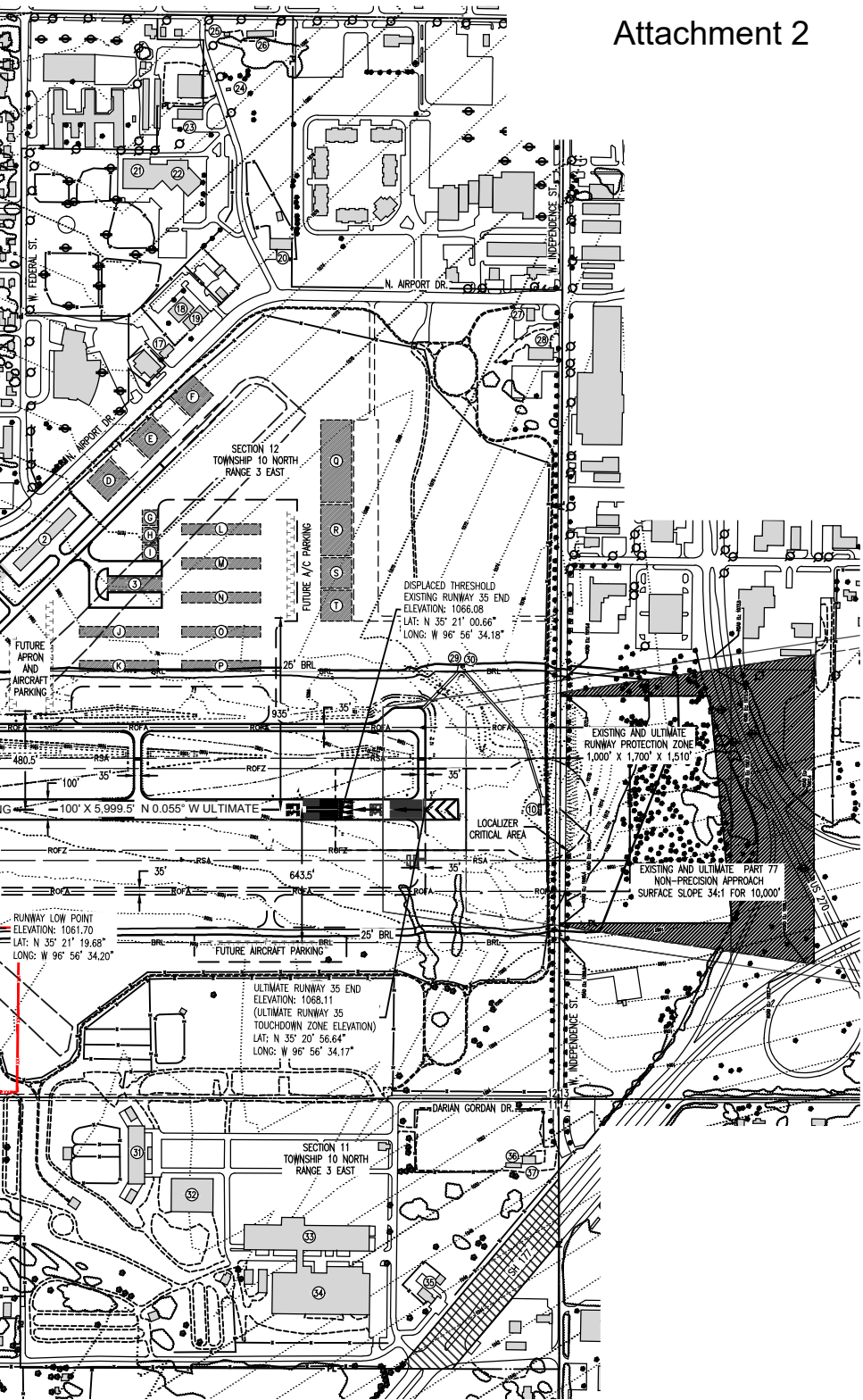
BUILDING DATA			
NO.	DESCRIPTION / USE	ELEVATION	
		ACTUAL	ULT. MAX
1	T-HANGAR	1061.8	1223.9
2	T-HANGAR	1067.6	1223.9
3	FUTURE T-HANGAR	1089.5	1136.0
4	GORDON COOPER TECH. CENTER - AVIATION	1090.2	1117.2
5	AIRPLUTE CORPORATE HANGAR	1102.7	1144.0
6	REACT	1095.1	1147.4
7	GLIDESLOPE ANTENNA	1108.9	1073.0
8	ROTATING BEACON	1111.6	1118.9
9	LIGHTED WINDCONE	1089.3	1082.4
10	LOCALIZER ANTENNA	1079.3	1078.7
11	KISL AERO	1105.0	1145.2
12	AIR FLITE	1098.4	1121.1
13	TERMINAL	1091.0	1093.9
14	FBO / HANGAR	1087.6	1082.9
15	HANGAR / FBO	1061.7	1223.9
16	FBO / HANGAR	1094.8	1096.4
17	ALAND CLUB	1223.9	1223.9
18	DEPARTMENT OF PUBLIC SAFETY	1223.9	1223.9
19	YVVE BROADBAND	1223.9	1223.9
20	YVVE BROADBAND	1223.9	1223.9
21	YMCA	1223.9	1223.9
22	YMCA	1223.9	1223.9
23	AMERICAN LEGION	1223.9	1223.9
24	SNOW CONE STAND	1223.9	1223.9
25	COFFEE SHOP	1223.9	1223.9
26	BROWN DERBY	1223.9	1223.9
27	SHAWNEE PITTSTOP	1223.9	1223.9
28	INCREIBLE INFLATABLES	1223.9	1223.9
29	LOCALIZER POWER AND CONTROL ANTENNA	1102.7	1097.0
30	LOCALIZER POWER AND CONTROL SHELTER	1083.9	1097.0
31	GRANDSTAND	1094.6	1097.0
32	EXPO CENTER BUILDING	1074.2	1223.9



NOTE: This Airport Layout Drawing (ALD) is an update by H.W. Lochner, Inc. completed in May 2021 to reflect the proposed construction of non-aeronautical commercial development west of the runway. Letter "U" in the building data table represents this new construction.

LOCHNER

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P 405.748.6651 | www.hwlochner.com



FAA APPROVAL STAMP

FAA DISCLAIMER
THE PREPARATION OF THIS DOCUMENT MAY HAVE BEEN SUPPORTED, IN PART, THROUGH THE AIRPORT IMPROVEMENT PROGRAM FINANCIAL ASSISTANCE FROM THE FEDERAL AVIATION ADMINISTRATION AS PROVIDED UNDER TITLE 49 U.S.C., SECTION 47104. THE CONTENTS DO NOT NECESSARILY REFLECT THE OFFICIAL VIEWS OR POLICY OF THE FAA. ACCEPTANCE OF THIS REPORT BY THE FAA DOES NOT IN ANY WAY CONSTITUTE A COMMITMENT ON THE PART OF THE UNITED STATES TO PARTICIPATE IN ANY DEVELOPMENT DEPICTED THEREIN NOR DOES IT INDICATE THAT THE PROPOSED DEVELOPMENT IS ENVIRONMENTALLY ACCEPTABLE OR WOULD HAVE JUSTIFICATION IN ACCORDANCE WITH APPROPRIATE PUBLIC LAWS.

DOCUMENT APPROVED FOR SUBMITTAL TO FAA

SHAWNEE AIRPORT AUTHORITY _____ Date _____

AIRPORT LAYOUT PLAN COMPONENT 2

AIRPORT LAYOUT DRAWING

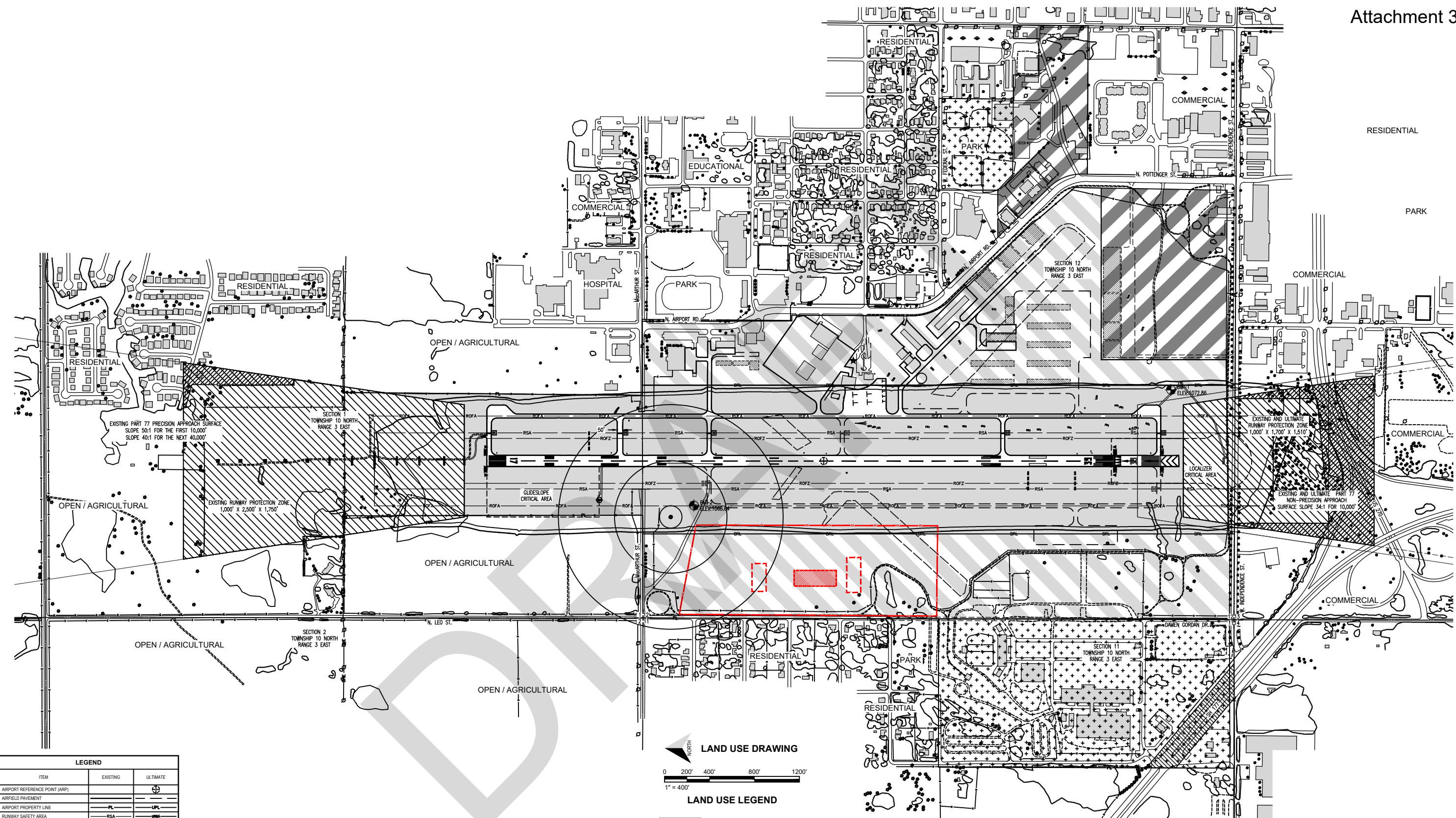
Shawnee, Oklahoma

SCALE: 1" = 400'

DATE: May 2021

PROJECT NO. _____

SHEET 2 OF 7



LEGEND		
ITEM	EXISTING	ULTIMATE
AIRPORT REFERENCE POINT (ARP)		
AIRFIELD PAVEMENT		
AIRPORT PROPERTY LINE	PL	UPL
RUNWAY SAFETY AREA	RSA	URSA
RUNWAY OBJECT FREE AREA	ROFA	UROFA
RUNWAY OBSTACLE FREE ZONE	ROFZ	UROFZ
RUNWAY PROTECTION ZONE (RPZ)		
NAVIGATION EASEMENT		
BUILDING RESTRICTION LINE		
HOLDLINE WITH SIGN		
THRESHOLD LIGHTS		
RUNWAY END IDENTIFIER LIGHT (REIL)		
PRECISION APPROACH PATH INDICATOR		
GLIDESLOPE ANTENNA		
MAIS LIGHT STATION		
RAIL LIGHT		
LIGHTED WINDCONE		
FUELING LOCATION		
BUILDING		
UTILITY POLE		
BENCHMARK		
FENCE		
GROUND CONTOUR, INTERVAL = 2'		

NORTH

0 200' 400' 800' 1200'

1" = 400'

LAND USE DRAWING

LAND USE LEGEND

AIRCRAFT OPERATIONS AREA

AIRPORT DEVELOPMENT

COMMERCIAL DEVELOPMENT

RUNWAY PROTECTION ZONE

NON-AVIATION / PUBLIC USE

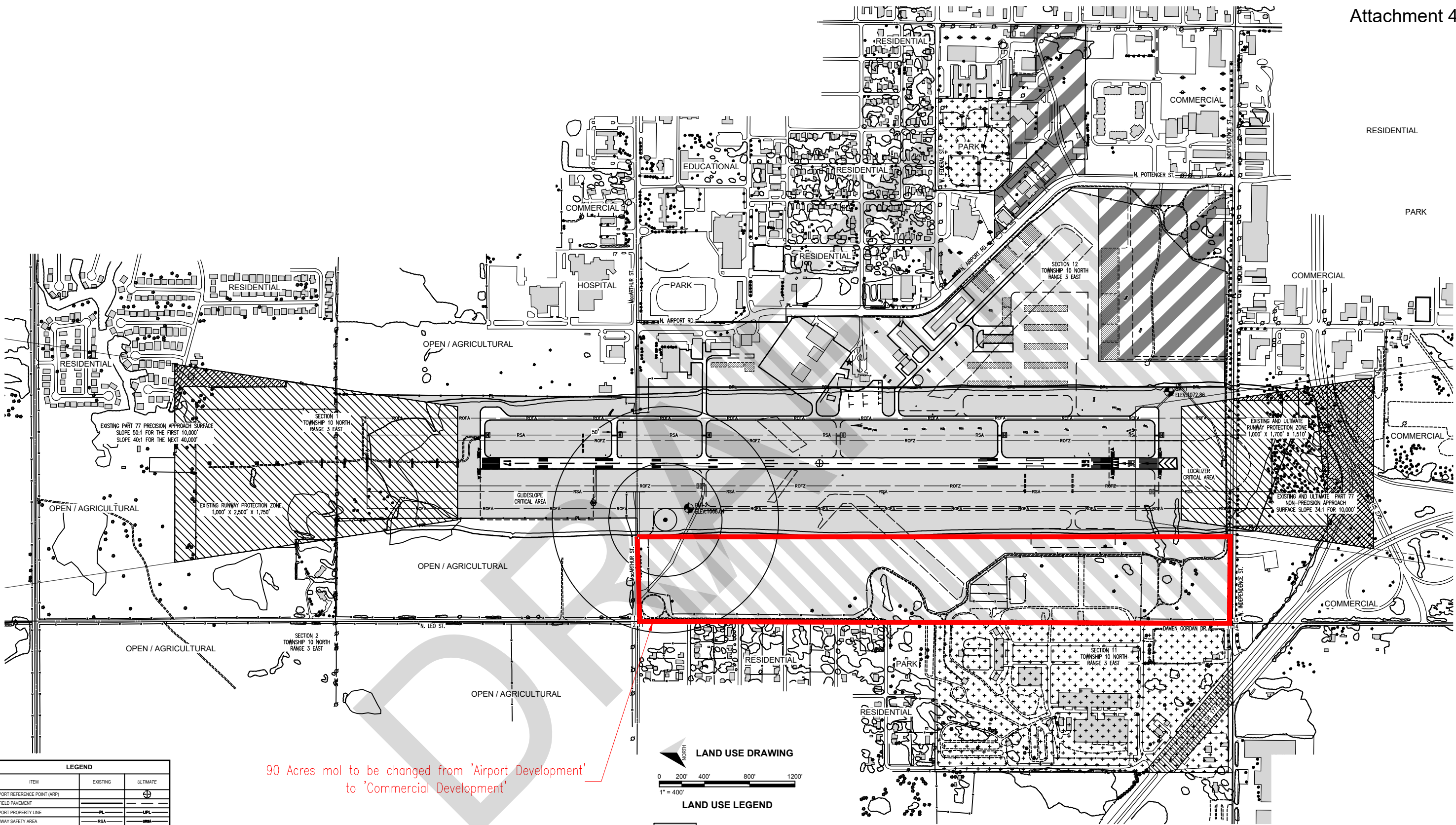
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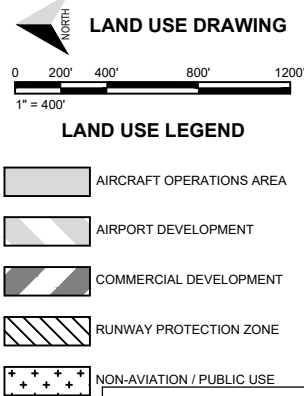
SHAWNEE REGIONAL AIRPORT
Shawnee, Oklahoma

AIRPORT LAND USE DRAWING			
SCALE 1" = 400'	DATE May 2021	PROJECT NO.	SHEET 6 OF 7



90 Acres mol to be changed from 'Airport Development'
to 'Commercial Development'

LEGEND		
ITEM	EXISTING	ULTIMATE
AIRPORT REFERENCE POINT (ARP)		
AIRFIELD PAVEMENT		
AIRPORT PROPERTY LINE	PL	UPL
RUNWAY SAFETY AREA	RSA	URSA
RUNWAY OBJECT FREE AREA	ROFA	UROFA
RUNWAY OBSTACLE FREE ZONE	ROFZ	UROFZ
RUNWAY PROTECTION ZONE (RPZ)		
NAVIGATION EASEMENT		
BUILDING RESTRICTION LINE	BRL	
HOLDLINE WITH SIGN		
THRESHOLD LIGHTS		
RUNWAY END IDENTIFIER LIGHT (REL)		
PRECISION APPROACH PATH INDICATOR		
GLIDESLOPE ANTENNA		
MAIS LIGHT STATION		
RAIL LIGHT		
LIGHTED WINDCONE		
FUELING LOCATION		
BUILDING		
UTILITY POLE		
BENCHMARK		
FENCE		
GROUND CONTOUR, INTERVAL = 2'		



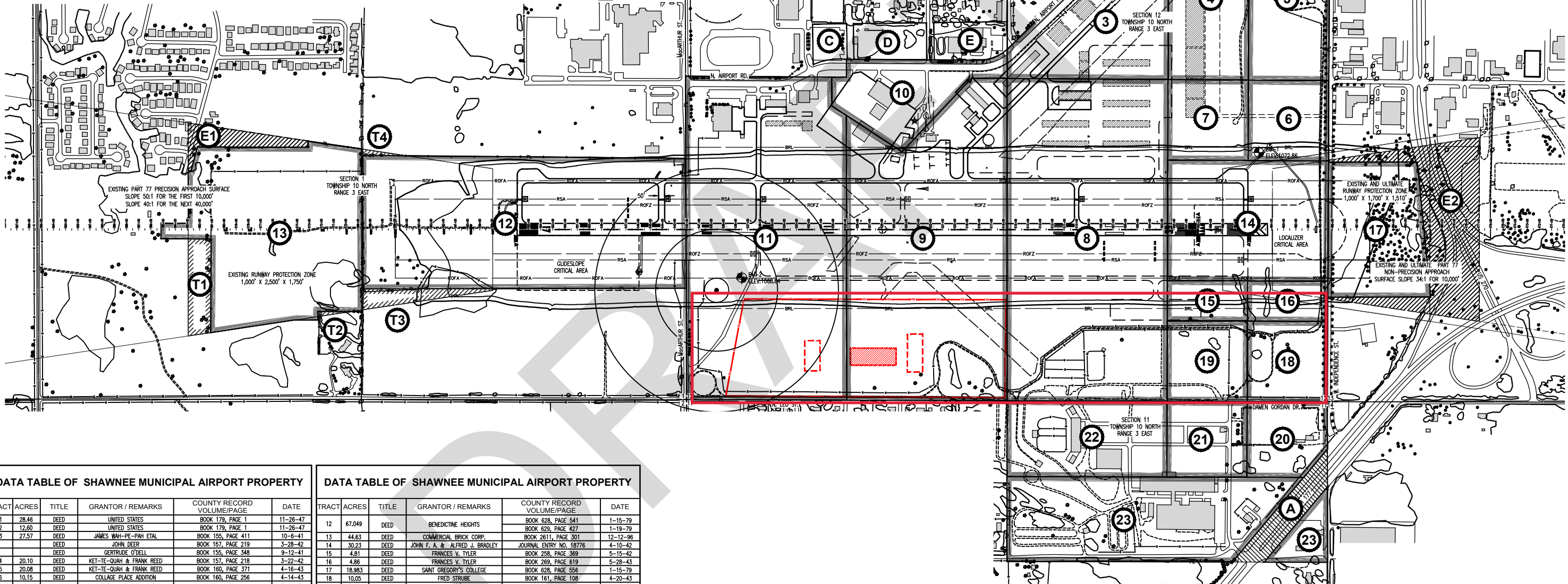
LOCHNER

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SHAWNEE REGIONAL AIRPORT
Shawnee, Oklahoma

AIRPORT LAND USE DRAWING			
SCALE 1" = 400'	DATE May 2021	PROJECT NO.	SHEET 6 OF 7

LEGEND		
ITEM	EXISTING	ULTIMATE
AIRPORT REFERENCE POINT (ARP)		
AIRFIELD PAVEMENT		
AIRPORT PROPERTY LINE	PL	UPL
RUNWAY SAFETY AREA	RSA	URSA
RUNWAY OBJECT FREE AREA	ROFA	UROFA
RUNWAY OBSTACLE FREE ZONE	ROFZ	UROFZ
RUNWAY PROTECTION ZONE (RPZ)		
AVIGATION EASEMENT		
BUILDING RESTRICTION LINE	BRL	
HOLDLINE WITH SIGN		
THRESHOLD LIGHTS		
RUNWAY END IDENTIFIER LIGHT (REL)		
PRECISION APPROACH PATH INDICATOR		
GLIDESLOPE ANTENNA		
MAIS LIGHT STATION		
RAIL LIGHT		
LIGHTED WINDCONE		
FUELING LOCATION		
BUILDING		
UTILITY POLE		
BENCHMARK		
FENCE		
GROUND CONTOUR, INTERVAL = 2'		



DATA TABLE OF SHAWNEE MUNICIPAL AIRPORT PROPERTY					
TRACT	ACRES	TITLE	GRANTOR / REMARKS	COUNTY RECORD VOLUME/PAGE	DATE
1	28.46	DEED	UNITED STATES	BOOK 179, PAGE 1	11-26-47
2	12.60	DEED	UNITED STATES	BOOK 179, PAGE 1	11-26-47
3	27.57	DEED	JAMES MAH-PE-PAH ETAL	BOOK 155, PAGE 411	10-6-41
		DEED	JOHN DEER	BOOK 167, PAGE 219	3-28-42
		DEED	GERTRUDE O'DELL	BOOK 155, PAGE 348	9-12-41
4	20.10	DEED	KET-TE-QUAH & FRANK REED	BOOK 157, PAGE 218	3-22-42
5	20.08	DEED	KET-TE-QUAH & FRANK REED	BOOK 160, PAGE 371	4-16-43
6	10.15	DEED	COLLAGE PLACE ADDITION	BOOK 160, PAGE 256	4-14-43
		DEED	COLLAGE PLACE ADDITION	BOOK 160, PAGE 257	4-20-43
7	10.20	DEED	WILLIAM & VERONICA BLOCHOWAK	JOURNAL ENTRY NO. 18774	7-16-42
8	80.38	DEED	REED'S	BOOK 152, PAGE 637	11-15-40
9	71.95	DEED	ALICE ABRAHAM & WALTER WAKOLE	BOOK 152, PAGE 538	11-15-40
10	8.79	DEED	UNITED STATES	BOOK 179, PAGE 1	11-28-47
11	79.83	DEED	UNIVERSITY GROUNDS	BOOK 146, PAGE 508	2-8-39
		DEED	UNIVERSITY GROUNDS	BOOK 146, PAGE 509	2-8-39
		DEED	UNIVERSITY GROUNDS	BOOK 149, PAGE 223	4-13-39
		DEED	UNIVERSITY GROUNDS	BOOK 149, PAGE 561	9-5-39
		DEED	UNIVERSITY GROUNDS	BOOK 150, PAGE 206	2-6-40
		DEED	UNIVERSITY GROUNDS	BOOK 150, PAGE 204	2-6-40
		DEED	UNIVERSITY GROUNDS	BOOK 150, PAGE 289	3-15-40
		DEED	UNIVERSITY GROUNDS	BOOK 150, PAGE 376	4-19-40
		DEED	UNIVERSITY GROUNDS	BOOK 150, PAGE 542	7-5-40
		DEED	UNIVERSITY GROUNDS	BOOK 150, PAGE 578,579	7-19-40
		DEED	UNIVERSITY GROUNDS	BOOK 151, PAGE 240	2-6-40
		DEED	UNIVERSITY GROUNDS	BOOK 151, PAGE 323	3-8-40
		DEED	UNIVERSITY GROUNDS	BOOK 151, PAGE 341	3-15-40
		DEED	UNIVERSITY GROUNDS	BOOK 151, PAGE 548	6-17-40
		DEED	UNIVERSITY GROUNDS	BOOK 152, PAGE 558	12-2-40
		DEED	UNIVERSITY GROUNDS	BOOK 153, PAGE 120	9-16-40
		DEED	UNIVERSITY GROUNDS	BOOK 154, PAGE 93	6-10-40
		DEED	UNIVERSITY GROUNDS	BOOK 153, PAGE 416	1-11-41
		DEED	UNIVERSITY GROUNDS	BOOK 153, PAGE 423	1-14-41
		DEED	UNIVERSITY GROUNDS	BOOK 156, PAGE 5	1-14-41
		DEED	UNIVERSITY GROUNDS	BOOK 156, PAGE 155	4-1-41
		DEED	UNIVERSITY GROUNDS	BOOK 168, PAGE 490	7-20-45
		DEED	UNIVERSITY GROUNDS	BOOK 206, PAGE 316	9-5-61
		DEED	UNIVERSITY GROUNDS	BOOK 125, PAGE 487	2-29-29

DATA TABLE OF SHAWNEE MUNICIPAL AIRPORT PROPERTY					
TRACT	ACRES	TITLE	GRANTOR / REMARKS	COUNTY RECORD VOLUME/PAGE	DATE
12	67.049	DEED	BENEDICTINE HEIGHTS	BOOK 628, PAGE 541	1-15-79
		DEED	COMMERCIAL BRICK CORP.	BOOK 629, PAGE 427	1-19-79
13	44.63	DEED	JOHN F. A. & ALFRED J. BRADLEY	BOOK 2611, PAGE 301	12-12-96
14	30.23	DEED	FRANCES V. TYLER	JOURNAL ENTRY NO. 18776	4-10-42
15	4.81	DEED	FRANCES V. TYLER	BOOK 258, PAGE 369	5-15-42
16	4.86	DEED	FRANCES V. TYLER	BOOK 269, PAGE 619	5-28-43
17	18.983	DEED	SAINT GREGORY'S COLLEGE	BOOK 628, PAGE 556	1-15-79
18	10.05	DEED	FRED STRUBE	BOOK 161, PAGE 108	4-20-43
19	10.05	DEED	GREEN'S	BOOK 155, PAGE 412	10-6-41
20	10.04	DEED	MAH-TA-PENE & TAH-PAH-HAH	BOOK 160, PAGE 371	7-12-43
21	10.04	DEED	MAH-TA-PENE & TAH-PAH-HAH	BOOK 167, PAGE 419	8-11-42
22	20.19	DEED	MAH-TA-PENE & TAH-PAH-HAH	BOOK 167, PAGE 419	8-11-42
23	39.16	DEED	MAH-TA-PENE & TAH-PAH-HAH	BOOK 160, PAGE 581	12-12-43
DATA TABLE OF FUTURE TRACT ACQUISITION BY THE CITY					
TRACT	ACRES	TITLE	GRANTOR / REMARKS	COUNTY RECORD VOLUME/PAGE	DATE
T1	3.34	DEED			FUTURE
T2	0.13	DEED			FUTURE
T3	2.34	DEED			FUTURE
T4	0.24	DEED			FUTURE
E1	17.74	EASEMENT	FUTURE AVIGATION EASEMENT		FUTURE
E2	3.04	EASEMENT	FUTURE AVIGATION EASEMENT		FUTURE
DATA TABLE OF TRACTS SOLD BY THE CITY					
TRACT	ACRES	TITLE	GRANTOR / REMARKS	COUNTY RECORD VOLUME/PAGE	DATE
A	6.38	EASEMENT	STATE OF OKLAHOMA	BOOK 146, PAGES 496-498	9-29-58
B	8.34	DEED	SHAWNEE PUBLIC SCHOOL DISTRICT		4-17-06
C	1.94	DEED	OKLAHOMA BAPTIST UNIVERSITY		5-30-08
D	4.07	DEED	OKLAHOMA BAPTIST UNIVERSITY		5-30-08
E	3.98	DEED	OKLAHOMA BAPTIST UNIVERSITY		5-30-08
F	0.46	DEED	SHAWNEE LITTLE THEATRE		5-30-08

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AIRPORT PROPERTY MAP

0 200' 400' 800' 1200'
1" = 400'

AIRPORT PROPERTY MAP LEGEND

- EXISTING AIRPORT PROPERTY BOUNDARY
- ULTIMATE AIRPORT PROPERTY BOUNDARY
- EXISTING AIRPORT TRACT BOUNDARY
- ULTIMATE AIRPORT TRACT BOUNDARY

SHAWNEE REGIONAL AIRPORT
Shawnee, Oklahoma

SHAWNEE AIRPORT AUTHORITY
LAND LEASE
AND
OPERATING AGREEMENT

This Land Lease and Operating Agreement ("Agreement") is made and entered into effective as of _____ by and between the Shawnee Airport Authority ("SAA"), a municipal airport authority organized and existing under the laws of the State of Oklahoma (Title 3. Aircraft And Airports §361, and the City of Shawnee, Oklahoma ("COS"), an Oklahoma municipality organized and existing under the laws of the State of Oklahoma (Title 11. Cities And Towns §112101).

RECITALS:

Whereas, the SAA operates the Shawnee Regional Airport ("SNL"), in the City of Shawnee, Pottawattamie County, Oklahoma, and has the power to grant rights and privileges with respect thereto; and

Whereas, the SAA and the COS desire to enter into this Agreement setting forth the rights, duties and obligations of the SAA and the COS; and

In recognition of and reliance on the foregoing recitals, and in consideration of the mutual promises and covenants set forth in this Agreement, and in exchange for other good and valuable consideration, the receipt and sufficiency of all of which are hereby acknowledged, SAA and COS agree as follows.

ARTICLE 1

1. Definitions. The following terms shall have the meanings set forth below wherever used in this Agreement:

- 1.1. "Agreement" means this Land Lease and Operating Agreement entered into by and between the SAA and the COS, including all its terms, conditions, covenants, and obligations and further including all documents incorporated herein by reference.
- 1.2. "Agreement Effective Date" means _____.
- 1.3. "Airport" means Shawnee Regional Airport ("SNL"), a public use aviation facility located in the City of Shawnee, Pottawattamie County, Oklahoma.
- 1.4. "COS" means the City of Shawnee Oklahoma, an Oklahoma municipality.
- 1.5. "DEQ" means the Oklahoma Department of Environmental Quality.
- 1.6. "EPA" means the United States Environmental Protection Agency.
- 1.7. "FAA" means the United States Federal Aviation Administration.
- 1.8. "Initial Term" means the initial term of this Agreement set forth in Section 6.1 of this Agreement.

- 1.9. "Leased Premises" means property located on the Shawnee Regional Airport, for the purpose of this Agreement designated for commercial non-aeronautical use, as more specifically described in Exhibit A.
- 1.10. "Minimum Standards" means the Minimum Standards Minimum Standards and Requirements for Capital Development on Airport Property Commercial Aeronautical Services Commercial Non-Aeronautical Services and Non-Commercial Aeronautical Activities at the Shawnee Regional Airport, adopted by the SAA, as amended, supplemented, or replaced from time-to-time.
- 1.11. "Mortgages" means and includes mortgages, deeds of trust, security agreements, assignments, bond indentures or other similar security instruments of any form or nature involving any type or class of property and modifications, consolidations, extensions, renewals, replacements, and substitutions thereof.
- 1.12. "Notice to Extend" means the written notice the COS is required to deliver to the SAA in order to exercise any option to extend this Agreement, as described more particularly in Section 6.2 of this Agreement.
- 1.13. "SAA" means the Shawnee Airport Authority, a municipal airport authority organized and existing under the laws of the State of Oklahoma and includes such public officials and public instrumentalities as may, by operation of law, succeed to any or all of the rights, powers or duties that lawfully reside in the SAA.
- 1.14. "SNL" means the Shawnee Regional Airport, a public use aviation facility located in the City of Shawnee, Pottawattamie County, Oklahoma.
- 1.15. "TSA" means the United States Transportation Security Administration.
- 1.16. References. The following references shall, unless the context requires otherwise, have the following meanings:
 - 1.16.1. The words "hereof," "herewith," "hereunder," and words of similar meaning shall refer to this Agreement as a whole and not to any particular provision of this Agreement.
 - 1.16.2. Where the context requires, the use of singular numbers or pronouns shall include the plural and vice versa, and the use of pronouns of any gender shall include any other gender.
 - 1.16.3. Application of Other Provisions to Definitions. Each of the foregoing definitions shall be construed in conjunction with and limited by the references hereto in the other provisions of this Agreement.

ARTICLE 2

2. Representations and Warranties of the Shawnee Airport Authority

- 2.1. Existence. Shawnee Airport Authority (“SAA”), a municipal airport authority organized and existing under the laws of the State of Oklahoma.
- 2.2. Power and Authorization. The SAA has full legal right, power and authority under all federal, state, and local laws and has taken all official action necessary to enter into this Agreement and perform the obligations imposed on the SAA by this Agreement.
- 2.3. Restrictions Applicable to Leased Premises. The SAA covenants that this Agreement does not conflict with any restrictions or encumbrances relating to the ownership, alienability or use of the leased property.
- 2.4. Binding Effect. This Agreement has been duly executed and delivered by the SAA and constitutes a valid and binding obligation of the SAA, enforceable against the SAA in accordance with its terms.

ARTICLE 3

3. Representations and Warranties of the City of Shawnee, Oklahoma

- 3.1. Existence. The City of Shawnee, Oklahoma, is an Oklahoma municipality organized and existing under the laws of the State of Oklahoma.
- 3.2. Power and Authorization. The City of Shawnee has full legal right, power, and authority under the laws of the State of Oklahoma and has taken all corporate or official action necessary to enter into this Agreement and perform the obligations imposed on COS by this Agreement and by applicable laws, rules, ordinances, and the SAA’s Minimum Standards.
- 3.3. Binding Effect. This Agreement has been duly executed and delivered by the City of Shawnee and constitutes the valid and binding obligation of City of Shawnee, enforceable against the City of Shawnee in accordance with its terms.

ARTICLE 4

4. The Agreement between the parties consists of this Land Lease and Operating Agreement and the following documents that are incorporated into this Agreement by reference:

4.1. Documents Included as Part of Agreement.

- 4.1.1. Minimum Standards Minimum Standards and Requirements for Capital Development on Airport Property Commercial Aeronautical Services Commercial Non-Aeronautical Services and Non-Commercial Aeronautical Activities at the Shawnee Regional Airport, as currently adopted by the SAA and as may be hereafter amended or superseded; and

- 4.1.2. Airport Facilities Lease and Development Policy Statement, as currently adopted by the SAA and as the same may be hereafter adopted, amended, or superseded; and
 - 4.1.3. Exhibits to this Agreement; and
 - 4.1.4. All amendments, modifications, and supplements to any of the foregoing.
- 4.2. Conflicts in Documents. In the event of any conflict, discrepancy, or inconsistency between or among the provisions of the documents described in Section 4.1, the terms of this document shall control.

ARTICLE 5

5. Leased Premises

- 5.1. Granting Clause. For and in consideration of the rents, payments, terms, conditions, covenants, and obligations of the COS under this Agreement, the SAA hereby demises, leases and rents to the COS, and the COS hereby takes and leases from the SAA, the premises more specifically identified on Exhibit "A" attached hereto and all improvements thereon, to have and to hold for the lease term, as set forth in ARTICLE 6 of this Agreement.
- 5.2. No Right of Purchase. The COS acknowledges that it has no right to purchase or acquire any fee interest in the Leased Premises.
- 5.3. No Conveyance of Mineral Interests. The COS acknowledges that the SAA is not making any conveyance of any mineral interests to the COS under this Agreement, all of which shall be and remain the sole property of the SAA.

ARTICLE 6

6. Term

- 6.1. Initial Term. The Initial Term of this Agreement shall commence on the Agreement Effective Date and shall continue thereafter until midnight on _____ unless sooner terminated or extended as provided in this Agreement.
- 6.2. Option to Extend. The COS shall have the option to extend this Agreement for _____ (__) consecutive periods of _____ (____) calendar years each following expiration of the Initial Term of this Agreement.
- 6.3. To exercise an option and extend the term of the Agreement, at least one (1) calendar year prior to the expiration of the Initial Term or any renewal period hereunder, as applicable, the COS shall deliver to the SAA written notice of its desire to extend this Agreement ("Notice to Extend").

ARTICLE 7

7. Rents, Fees and Charges. In consideration of the rights and privileges granted by the SAA to the COS pursuant to this Agreement, the COS agrees to pay to the SAA the following:

7.1. Rentals. For and during the period from the Agreement Effective Date until _____, the COS shall pay to the SAA annual rentals for the Leased Premises of one-hundred-seventy-four-thousand-two-hundred-forty dollars, (\$174,240), due and payable, in advance, in equal monthly installments of fourteen thousand-five-hundred-twenty (\$14,520) each. The first monthly rental payment is due on the Agreement Effective Date. Thereafter, monthly rental fees shall be due and payable on the first day of each successive month until the end of the Initial Term and any renewal term.

7.1.1. Rent thereafter shall be due and payable on the first day of each month and shall be deemed late if not received by the tenth (10th) calendar day of each month.

7.1.2. If any monthly rental payment is not paid on or before the tenth day following the first day of each month, a late payment fee in the amount of one- and one-half percent (1.5%) will be applied to any overdue balances for charges assessed by the Shawnee Airport Authority.

7.1.3. It is understood and agreed by and between the SAA and the COS that the COS agrees to maintain a current status on rental of the Leased Premises, should the COS fail to do so, and the account becomes sixty (60) business days delinquent, then the SAA shall give the COS written notice, by certified mail, that the account must be brought current within ten (10) business days or said Agreement may be terminated at the discretion of the SAA.

7.1.3.1. Should a second offense of sixty (60) calendar days delinquency occur within the term of this Lease, immediate termination of this Agreement shall result, and renewal options shall be forfeited.

7.2. Adjustments to Rentals, Fees and Charges. It is specifically understood and agreed by and between the Lessor and the Lessee that per the Airport Facilities Lease and Development Policy statement the monthly rental for said Leased Premises shall be adjusted at the commencement of Lessor's Fiscal Year.

7.2.1. Annual adjustments will be based on the national rate of inflation as established by the Consumer Price Index change from the prior calendar year, with current pricing retained as minimums regardless of inflation activity.

7.2.2. The Lessor reserves the right to assess the fair market value of the Leased Premises every fifth calendar year of the term, and adjust the rental rate to reflect the assessed value.

- 7.2.3. The Lessee hereby agrees to pay such adjusted monthly rentals commencing on the first day of the month immediately following notice from the Lessor to the Lessee of the adjusted monthly rental.

ARTICLE 9

8. Leasehold Improvements

- 8.1. Title to Improvements. Title to all improvements on the Leased Premises shall vest in the SAA upon completion of such improvements, free and clear of any liens or encumbrances whatsoever except for liens or encumbrances on the Leased Premises or any improvements thereon made or granted with the prior written consent of the SAA in accordance with Section 15.2.
- 8.2. Responsibility for Leasehold Improvements. The SAA shall have no obligation to make improvements, alterations, additions, or replacements to the Leased Premises. The COS may, without cost to the SAA and at the COS's sole cost and expense, subject to the terms of this Agreement, provide the Leased Premises with any reasonable improvements necessary for access to and egress from the Leased Premises.
- 8.3. Permits, Licenses and Approvals for Improvements. All structural improvements, equipment and interior design and decor constructed or installed by the COS, its agents, or contractors, including all plans and specifications, shall conform to all applicable statutes, ordinances, building codes, rules, and regulations. The COS, at its sole cost and expense, shall obtain all required permits and licenses for any improvements.
- 8.4. SAA Approval of Improvements. All improvements made by the COS shall be in accord with the approved design of such improvements. The COS shall, prior to making any improvements, submit reasonably detailed plans and specifications to the SAA for written approval, and no structural alterations, installations or improvements of any kind may be made by the COS without first obtaining the SAA's written approval. Any changes or alterations to plans and specifications require the approval of the SAA.
- 8.5. Approval by the SAA of any improvements proposed by the COS refers only to conformity with applicable federal, state, and local laws, ordinances, rules, and regulations in effect during the term of this Agreement. The SAA does not review plans and specifications for architectural or engineering design or compliance with applicable laws or codes. The SAA, by approving such plans and specifications, assumes no liability or responsibility for the plans and specifications, or for any defect in any structure or improvement constructed according to the plans and specifications.
- 8.6. Construction Schedule. The COS shall submit to the SAA not later than thirty (30) calendar days after submittal of any plans and specifications for improvements to the Leased Premises, but in any event prior to commencing construction, a schedule depicting the estimated time required to complete the construction or installation of approved improvements and equipment.

- 8.7. Construction Requirements. At all times during construction or installation of any improvements, the COS, its agents, servants, employees, and independent contractors shall cooperate with and coordinate activities and work with the SAA and other lessees at or near the Leased Premises.
- 8.8. All construction of improvements shall be conducted at such time and in such manner so as not to interfere with operations at SNL or of other tenants of the SAA.
- 8.9. In furtherance of, in addition to, and not in limitation of ARTICLE 17 of this Agreement, the COS, its agents, servants, employees, contractors, subcontractors and independent contractors shall at all times be responsible for injury or damage to the person or property of any third party resulting from the acts or omissions of COS, its agents, servants, employees, contractors, subcontractors and independent contractors. The COS shall indemnify, defend, and hold SAA harmless to the fullest extent set forth in ARTICLE 17 for any liabilities, losses, claims, costs, damages, injuries, deaths, including without limitation attorneys' fees, etc. arising out of any construction or installation of any improvements on the Leased Premises.
- 8.10. Upon completion of any improvements, a duly authorized officer of the COS must certify to the SAA that (i) the improvements have been constructed in accordance with plans and specifications approved by the SAA and in compliance with all applicable building codes, laws, rules, ordinances and regulations; (ii) no liens except liens granted with the prior written consent of the SAA under Section 15.4 exist on any of the improvements; and (iii) all contractors and subcontractors have been paid all amounts due and owing them. One reproducible final copy of the plans for all improvements, changes or alterations to the Leased Premises shall be signed by the COS and submitted to the SAA within thirty (30) days following completion of construction.
- 8.11. Repairs to Improvements. The COS shall be responsible, at its sole cost and expense, for making repairs for any damage, including normal wear and tear, to the Leased Premises.

ARTICLE 9

9. Operating Rights and Obligations

- 9.1. The SAA hereby grants the COS the privilege of sub-leasing the Leased Premises to the OMD for the purpose of constructing and operating a Readiness Center, and the COS hereby accepts the duty and obligation, of providing a sub-lease for the Leased Premises, and managing all terms and conditions of the sub-lease agreement in accordance with all provisions of the Minimum Standards and duly adopted Policies of the SAA.
- 9.2. Rights of Ingress and Egress. COS shall have the right of ingress to and egress from the Leased Premises over Airport roadways, including common use roadways, subject to any laws, ordinances, rules, or regulations, as now adopted and hereafter amended, of the SAA, the City of Shawnee, the County of Pottawattamie, the State of Oklahoma, the FAA, or any other federal, state, or local governmental authority. Such rights of ingress/egress shall apply to SOC's employees, sublessees, contractors, subcontractors, guests, customers, invitees, suppliers, and other authorized individuals.

- 9.3. Common Use Areas. SOC shall be entitled, in common with others so authorized, to use certain improvements connected with or appurtenant to the Leased Premises, including such landing areas, runways, taxiways, ramp areas, aprons, navigational aids and aircraft parking areas as shall be designated from time to time by the SAA.

ARTICLE 10

10. Obligations of City of Shawnee

- 10.1. Operations and Conditions. The COS shall maintain and operate the Leased Premises in a manner comparable, in the SAA's good faith, reasonable judgment, to similar facilities, and shall keep the Leased Premises in a safe, clean, orderly, and inviting condition at all times.
- 10.2. The COS shall ensure sub-lessee conducts its operations in an orderly and proper manner so as not to annoy, disturb or be offensive to customers, patrons, or other tenants of the SAA.
- 10.3. Compliance with Governing Laws. The SOC shall comply with all applicable federal, state, and local laws, ordinances, rules, and regulations; and, the SOC shall indemnify and hold harmless the SAA, its officers, agents, representatives, and employees, in accordance with ARTICLE 17 of this Agreement, from any act, omission or failure by the SOC to do so.

ARTICLE 11

11. Responsibility for Utilities. Except as otherwise expressly provided in this Agreement, the COS shall be responsible for contracting individually for water, sewer, electricity, telephone, cable, garbage removal and any other required utility services for or in connection with the Leased Premises.
- 11.1. The COS shall be responsible for any installation or repair charges, and shall pay all charges for the services, including late penalties, as they become due for utilities provided to the SOC.

ARTICLE 12

12. Responsibility for Maintenance. The SOC shall operate and use all improvements, fixtures, and equipment on or in the Leased Premises in a reasonable and proper manner. The SOC shall be responsible for maintaining all of the Leased Premises, including all improvements thereon, both interior and exterior, and for making all necessary and proper repairs to the Leased Premises, all at the SOC's sole cost and expense.
- 12.1. Any improvements to the Leased Premises shall be maintained in a clean, orderly, and safe condition suitable for its intended use, and all improvements, fixtures and equipment shall be kept in good repair and condition, making from time to time all necessary and proper renewals, repairs, and replacements thereto. Any repairs performed by the COS or on its behalf shall be performed in a competent manner and materials used for such repairs shall meet the customary standards in the trade or industry for such materials.
- 12.2. All repairs shall be made in conformity with all applicable federal, state, and local laws,

ordinances, rules, and regulations in effect during the term of this Agreement.

- 12.3. The SAA's Right to Construct Improvements at Leased Premises. The SAA shall have the right to construct or install over, in, under or through the Leased Premises new lines, pipes, mains, wires, conduit and equipment; provided, that the repair, alteration, replacement or construction shall not unreasonably interfere with COS's use of the Leased Premises, and that any such construction, installation, repair, alteration or replacement made or performed under this Section 12.4 shall be at the SAA's sole cost and expense.
- 12.4. Waste and Nuisance. COS shall not commit or suffer to exist any waste to or upon the Leased Premises. The COS shall provide and use suitable covered or sealed receptacles for all garbage, trash and other refuse resulting from its operations, and will make suitable arrangements for the sanitary handling and disposal of all garbage, trash, and other refuse.
 - 12.4.1. The piling of boxes, cartons, barrels, or similar items shall not be permitted on or about the Leased Premises.
 - 12.4.2. The COS shall not perform or fail to perform any acts or carry on or permit to exist any practices that may materially injure or damage the Leased Premises, may constitute a public or private nuisance or menace to the owners or occupants of adjacent property or other tenants of the SAA, or may violate the provisions of any insurance on the Leased Premises or which may diminish insurance coverage or render any insurance void.
 - 12.4.3. The SAA shall enforce the obligations of the COS under this Section 12 in good faith and shall not use such obligations to unreasonably interfere with the business operations of the COS.
 - 12.4.4. Failure to Maintain. In the event the COS fails to perform any required maintenance, repairs and/or replacements to the Leased Premises within ten (10) calendar days of written notice to the COS, or in the event of any required maintenance, repairs and/or replacements which cannot be completed within ten (10) days, COS fails to commence and diligently pursue such required maintenance, repairs and/or replacements, the SAA may perform the maintenance, repairs and/or replacements, either with the SAA's own employees or independent contractor engaged by the SAA. In the event the SAA makes any repairs, the COS shall repay the costs and expenses of such maintenance, repairs and/or replacements on receipt of an invoice from the SAA. Advance notice of maintenance, repairs and/or replacements shall not be required in the event of an emergency or to protect against imminent danger to persons or destruction of property.

ARTICLE 13

13. Right To Enter. The SAA shall have the right to enter the Leased Premises to:

- 13.1. Inspect the Leased Premises at reasonable intervals during COS's regular business hours, or at any

time in case of emergency, to determine whether the COS has complied with and is complying with the provisions of this Agreement, provided, however, that the SAA shall not unreasonably interfere with the business and operations of the COS during any inspection, taking into account the reasons for and subject of the inspection; and

- 13.2. Perform any and all obligations of the COS pursuant to this Agreement which the COS has failed after reasonable notice to complete including, without limitation, maintenance, repairs, and replacements to the Leased Premises, and to take any other actions allowed by this Agreement.

ARTICLE 14

14. Compliance with Laws, Permits, Licenses and Taxes

- 14.1. The COS, its officers, agents, employees, suppliers, contractors, licensees, customers, invitees, guests, and any other person whom the COS controls, or has the right to control, or with whom the COS contracts, shall comply with all present and future laws, ordinances, rules and regulations of the United States of America, including without limitation the FAA, the TSA, the State of Oklahoma, the County of Pottawatomie, the City of Shawnee, the SAA, and each of their respective agencies, bureaus, boards, departments or commissioners which may either directly or indirectly affect the COS or the COS's activities and business, or be applicable to the Leased Premises. At the COS's sole cost and expense, the COS shall make any repairs, changes, or modifications in or to the Leased Premises required by any of the foregoing, after first having obtained the SAA's written consent. With the SAA's prior written consent, the COS may, at its own cost and expense, contest in good faith the validity of any such laws, ordinances, rules, or regulations, but the COS shall indemnify and hold the SAA harmless from any cost, expense, or consequence of such contest.
- 14.2. Licenses and Permits. The COS shall maintain in effect and post in a prominent place all necessary and/or required licenses or permits and shall make all licenses and permits available to the SAA for inspection and verification upon request.
- 14.3. Taxes and Assessments. The COS shall promptly pay all expenses in connection with the use of the Leased Premises and the rights and privileges granted under this Agreement, including without limitation, taxes, permit fees and assessments lawfully levied at any time upon the Leased Premises or any personal property therein.

ARTICLE 15

15. Liens

- 15.1. At all times, the SAA shall have a lien on all the COS's improvements to the Leased Premises, goods, machinery, equipment, fixtures, furniture, and other personal property situated on the Leased Premises for all rentals and other sums of money becoming due hereunder from the COS.
- 15.2. No property on which the SAA is granted a lien shall be removed from the Leased Premises without the prior, written consent of the SAA until all arrearages in rent and other sums of money then due to the SAA are paid and all terms, conditions, covenants, and obligations hereunder have been fully complied with and performed by the COS.
- 15.3. The SAA may foreclose the lien granted hereby in any other manner allowed by law. The express contractual lien granted herein shall be in addition to all other liens and remedies provided by law. Any action taken by the SAA in accordance with this contractual lien shall not be construed as a waiver of any statutory lien for rent or any other lien rights accruing to the benefit of the SAA by law.
- 15.4. Prohibition Against Liens. Except as to liens, charges, encumbrances and restrictions (i) in favor of the SAA which are created or exist by reason of this Agreement or applicable law or (ii) which directly and solely arise from the SAA's actions and/or inactions, the COS covenants that it will not create or suffer to be created, in whole or in part, any lien, encumbrance, restrictions or charge upon (iii) the COS's leasehold estate in the Leased Premises, (iv) rent or other monies payable hereunder, or (v) the SAA's interest in the Leased Premises or this Agreement. Provided, however, with the SAA's prior written consent the COS may encumber its leasehold estate in the Leased Premises, or any improvements constructed or placed thereon by the COS to the extent such lien or encumbrance is required by the lender providing funds to the COS for capital improvements for the Leased Premises, or for other uses by the COS in connection with the rights granted under this Agreement. Any foreclosure or transaction in lieu of foreclosure and any subsequent assignment or sale of the COS's interest following foreclosure shall be subject to the prior consent of the SAA as provided in Section 16.1.
- 15.5. The COS shall satisfy or cause to be discharged within thirty (30) calendar days after accrual all claims and demands which, if not satisfied, might by law become a lien. If any lien shall be filed or asserted, the COS shall by contest, payment, deposit, bond, order of court or otherwise, within thirty (30) calendar days after notice is received of the filing or assertion of the lien, cause the same to be discharged of record, or effectively prevent the enforcement or foreclosure thereof.
- 15.6. Nothing in Section 15.5 shall require the COS to satisfy or discharge any lien, encumbrance, charge, claim or demand so long as the validity thereof shall be contested in good faith and by appropriate legal proceedings with adequate reserves established therefor. However, if the SAA provides the COS with an opinion of independent counsel that failure to satisfy or discharge the lien, encumbrance, charge, claim, or demand jeopardizes the interests of the SAA, the COS shall promptly satisfy, discharge or otherwise bond or negate such lien, encumbrance, charge, claim

or demand in such manner that the interests of the SAA, in the opinion of independent counsel, are not jeopardized. In the event the COS fails to cancel, discharge, or provide security sufficient to stay execution of any lien or claim, the SAA shall have the right, but not the obligation, to satisfy or discharge the lien or claim and the COS shall then pay to the SAA any amount paid by the SAA in discharging such claim or lien.

ARTICLE 16

16. Assignment and Subleasing

16.1. Authorized Subletting. The COS is hereby authorized to sublease any portion of the Leased Premises to the OMD for the purpose of constructing and operating a Readiness Center.

16.1.1. The foregoing sublease may be entered into without any advance approval by the SAA, provided that sublessee is required in their respective sublease to comply with all terms, conditions, covenants and obligations of this Agreement and copies of the sublease, any amendments or extensions are delivered to the SAA at least forty-five (45) business days prior to their effective date.

16.2. Prohibitions against Assignment and Subleasing. Except as allowed by Section 16.1.1, the COS shall not assign or transfer this Agreement, in whole or in part, or sublet any portion of the Leased Premises, or permit any portion of the Leased Premises to be occupied or used by anyone other than the OMD, without the prior written consent of the SAA, which consent may be withheld in the sole discretion of the SAA.

16.2.1. In no case may the activities, uses, privileges, and obligations authorized by this Agreement on the Leased Premises, or any portion thereof be assigned or sublet, including those subleases permitted under Section 16.1, for any period or periods during the pendency of a default of any of the terms, covenants, and conditions of this Agreement.

16.3. Primary Liability of the COS. In the event the SAA consents to any assignment or subletting on the part of the COS of any rights or privileges granted in this Agreement, the COS shall continue to be primarily liable for any and all payments due the SAA pursuant to the provisions of this Agreement, and for the faithful performance of all terms, covenants, conditions, and obligations to be performed or observed by the COS under this Agreement.

ARTICLE 17

17. Indemnification and Defense

17.1. The COS shall indemnify, protect, defend and hold harmless the SAA, its officers, agents, representatives and employees from and against any and all liabilities, demands, suits, claims, actions, arbitrations, administrative proceedings, awards, judgments, losses, fines, costs and expenses, including without limitation, attorneys' fees, investigation fees, expert fees and court costs, arising by reason of the injury or death of any person, personal injury, damage to or loss of

any property, economic loss, environmental liability or infringement of patent, trademark or other property rights of third parties, of any nature whatsoever arising in whole or in part out of or incidental or related to (i) the COS's performance or nonperformance, including without limitation, breach of any term, condition, covenant or obligation herein, of this Agreement; (ii) the COS's use or occupancy of the Leased Premises; or (iii) the acts or omissions of the COS or its officers, employees, agents, representatives, contractors, subcontractors, sublessees, suppliers, licensees, customers, invitees and guests or any other person or entity whom the COS controls or has the right to control or who is acting through or on behalf of the COS, regardless of where the injury, death, loss, damage, etc., may occur except to the extent such liability is caused by the SAA's gross negligence or willful misconduct. The COS shall give the SAA immediate notice of any and all damage, injury, loss, etc. The COS's indemnity obligation and liability shall not be limited as to amount or type of damages by the provisions of any workers' compensation act, disability act or other employer liability or employee benefit act, or policy limits of any applicable insurance policies.

17.2. Defense. With respect to any matter to which the COS's defense obligations under this Agreement apply, the COS shall defend the SAA at the COS's sole cost and expense with counsel reasonably acceptable to the SAA.

17.3. Survival of Obligations. Without limiting any other provision of this Agreement, the provisions of this ARTICLE 17 shall survive the expiration or earlier termination of this Agreement.

ARTICLE 18

18. Notice of Occurrences.

18.1. Notice of Occurrences. The COS shall immediately notify SAA of all accidents, injuries, deaths, damage to or destruction of property, potential environmental hazards, and other occurrences of any kind or nature, relating in any way to the COS, the SAA, or SNL, including without limitation, demands, claims or actions, arising from or in any way related to (i) this Agreement, (ii) the performance or nonperformance of any terms, conditions, covenants, privileges, or obligations of this Agreement, or (iii) the actions or inactions of the COS or any person or entity acting by, through or on behalf of the COS. The COS shall give the notice required by this Section regardless of whether any insurance is available to cover the occurrence.

ARTICLE 19

19. Default by the SAA and Remedies of the COS

19.1. Events of Default by the SAA. This Agreement shall be subject to cancellation by the COS in the event one or more of the following conditions of default occur:

19.1.1. The abandonment of SNL as a public use airport by the SAA for a period in excess of thirty (30) consecutive calendar days; or

19.1.2. The issuance by any court of competent jurisdiction of an injunction preventing or restraining the use of SNL for a period in excess of thirty (30) consecutive calendar

days in such a manner as to substantially restrict the COS from utilizing or accessing the Leased Premises, not caused by any act or omission of the COS; or

- 19.1.3. The breach by the SAA of any of the terms, covenants or conditions of this Agreement to be kept, performed and observed by the SAA, and the failure of the SAA to remedy such breach, (subject to the SAA's right to litigate any issue described in Section 19.1.2, which litigation shall stay this time period) for a period of thirty (30) calendar days after receipt of written notice from the COS of the existence of such breach, or if more than thirty (30) calendar days shall be required because of the nature of such breach, if the SAA shall fail within said thirty (30) day period to commence and thereafter diligently proceed to cure such default; or
 - 19.1.4. The SAA fails to abide by all applicable laws, ordinances, rules and regulations of the United States, State of Oklahoma, County of Pottawatomie or City of Shawnee and all agencies thereof; or
 - 19.1.5. The assumption by the United States Government, or any authorized agency thereof, of the operation, control or use of SNL and its facilities in such a manner as to substantially restrict the COS from utilizing or accessing the Leased Premises, if such restriction is continued for a period of thirty (30) consecutive calendar days or more.
 - 19.1.6. Conditional Payment of Rent after Default. In the event of any litigation to determine if a condition of default has occurred, the COS shall pay its rentals, fees and charges into the court having jurisdiction over the litigation, or to the SAA. In no event shall the COS be relieved from the obligation to continue to make payments unless and until a final determination on such litigation is made in that regard in the COS's favor.
- 19.2. The COS's Remedies on the SAA's Default. In the event any condition of default as set forth in Section 19.1 shall occur which entitles the COS to terminate this Agreement, the COS shall have the right, at its election, to terminate this Agreement by giving at least thirty (30) calendar days written notice to the SAA at which time the COS shall then quit and surrender the Leased Premises to the SAA, and this Agreement will cease and terminate, but the COS shall remain liable for all rents and other obligations incurred prior to termination as herein provided, as well as such other obligations as survive the expiration or termination; provided, however, the COS's obligation to pay rent shall cease and abate as of the date from which the COS is no longer able to make any use whatsoever of the Leased Premises if termination is due to a default by the SAA under Section 19.1.1 or Section 19.1.2 hereof.

ARTICLE 20

20. Default by COS and Remedies of the SAA

20.1. Events of Default by the COS. This Agreement shall be subject to cancellation by the SAA should any one or more of the following conditions of default occur:

20.1.1. The COS neglects or fails to pay any installment of rent or other charges provided for in this Agreement and fails to cure the breach within forty-five (45) calendar days of receipt by the COS of a written notice from the SAA with respect to such breach; or

20.1.2. The COS neglects or fails to perform or observe any of the terms, provisions, conditions, covenants, or obligations set forth in this Agreement, other than the payment of rent or other monies, and does not begin to cure such failure within thirty (30) calendar days after written notice of the default if given by the SAA or fails to complete the cure of the default within thirty (30) calendar days of said written notice. If the default is of a nature that it cannot be cured completely within thirty (30) calendar days, the COS shall be considered in default if it fails to commence actions to cure the default within the time allowed or fails thereafter to proceed with reasonable diligence and in good faith to cure the default; or

20.1.3. The COS fails to abide by all applicable laws, ordinances, rules and regulations of the United States, the State of Oklahoma, Pottawatomie County, the City of Shawnee and all agencies, bureaus, and departments of each; or

20.1.4. The COS does or permits to be done anything which creates a lien upon the Leased Premises in violation of this Agreement; or

20.1.5. The COS assigns or sublets all or any part of the Leased Premises, or allows any person or entity to engage in any activities on the Leased Premises, except as in accordance with the terms of this Agreement, and the default is not cured within thirty (30) calendar days after written notice of default from the SAA to the COS.

20.2. The SAA's Remedies on COS's Default. If the COS shall default under or otherwise breach any of the terms of this Agreement, the SAA, may, at its option, without any notice or demand whatsoever, in addition to all other rights and remedies given hereunder or by law or equity, do any one or more of the following at the sole discretion of the SAA:

20.2.1. Enter upon the Leased Premises, without being liable for prosecution or any claim of damages and do whatever the COS is obligated to do under the terms of this Agreement. In such event, within forty-five (45) calendar days of demand by the SAA, the COS shall reimburse the SAA all losses, damages, and expenses, including without limitation attorneys' fees, which the SAA may incur or suffer in thus effecting compliance with the COS's obligations under this Agreement. The COS

further agrees that the SAA shall not be liable for any damages resulting to the COS from such action.

20.3. Continue this Agreement in effect and terminate COS's right to possession of the Leased Premises and recover the following from the COS:

20.3.1.1. All losses, damages, and expenses, including without limitation attorneys' fees, which the SAA may incur or suffer as a result of COS's failure to perform its obligations under this Agreement.

20.3.1.2. In any event, the COS shall remain liable for the timely performance of all terms, conditions, covenants, and obligations of this Agreement. Re-entry by the SAA and exclusion of the COS from possession shall not constitute termination of this Agreement and no action of the SAA except written notice of termination shall operate as a termination of this Agreement.

20.3.2. In any event in which the COS's right to possession of the Leased Premises is terminated, the COS shall immediately surrender the Leased Premises to the SAA.

20.4. Cumulative Rights and Remedies. All rights and remedies of the SAA under this Agreement or otherwise existing at law are cumulative, and the exercise of one or more rights or remedies shall not be taken to exclude or waive the right to exercise any other. All rights and remedies may be exercised and enforced concurrently, whenever, and as often as deemed advisable, in the SAA's sole discretion. The rights given to the SAA pursuant to this Agreement are in addition to any rights that may be given to the SAA by any statute or otherwise.

20.5. Pursuit of any of the foregoing remedies shall not preclude pursuit of any other remedies herein provided or any other relief allowed by law, nor shall pursuit of any remedy herein constitute a forfeiture or waiver of any rent or other monies due to the SAA hereunder or any other damages accruing to the SAA by reason of the violation of any of the terms, conditions, covenants, and obligations of this Agreement. Forbearance by the SAA to enforce one or more of the remedies provided by this Agreement or allowed by law upon an event of default shall not constitute, nor be deemed or construed to constitute, a waiver with respect to that default, any continuation thereof or any subsequent default.

ARTICLE 21

21. Expiration or Termination

21.1. Surrender of Possession. Upon the expiration or earlier termination of this Agreement, the COS shall immediately surrender the Leased Premises to the SAA free and clear of all claims, liens, security interests and other encumbrances.

- 21.2. Holding Over Not an Extension: Any holding over by the COS after the expiration or termination of this Agreement without the written consent of the SAA, shall not be deemed to operate as an extension or renewal of this Agreement, but shall only create a tenancy from month-to-month which may be terminated by the SAA at any time.
- 21.3. Agreement Applicable to Holding over Period. During any period in which the COS holds over the leased premises, irrespective of whether SAA consents to such holding over, COS shall continue to be bound by, and agrees to comply with, all terms, conditions, covenants, and obligations of this Agreement, including without limitation, all payment obligations.

ARTICLE 22

22. Safety and Security

- 22.1. Compliance with Safety Requirements. The COS shall observe all safety requirements of the SAA relating to SNL, as in effect from time to time, including, without limitation, any regulations of the FAA relating to safety at SNL and shall take such steps and actions as may be necessary or directed by the SAA to ensure that all officers, employees, representatives, contractors, invitees, and guests of the COS observe such requirements.
- 22.2. Compliance with Security Program. The COS shall observe all security regulations relating to SNL including, without limitation, any regulations of the TSA relating to security at SNL, if any, and shall take such steps and actions as may be necessary or directed by the SAA to ensure that all officers, employees, representatives, invitees, and guests of the COS observe such requirements.
- 22.3. Fines. If the SAA incurs any fines or penalties or any cost or expense under any safety or security program or plan pertaining to the SAA or SNL as a result of any act or omission of the COS, COS shall pay or reimburse to the SAA, as the case may be, all such fines, penalties, costs, and expenses. COS shall further rectify any such safety or security deficiency as may be determined by the SAA.

ARTICLE 23

23. Subordination and Estoppel Certificates

- 23.1. Subordination to Agreements with the United States Government. This Agreement is subject and subordinate to the provisions of any agreement heretofore or hereafter made between the SAA and the United States Government relative to the operation or maintenance of SNL, the execution of which has been or will be required as a condition precedent to the transfer of federal rights or property to the SAA for airport purposes, or the expenditure of federal funds for the improvement or development of SNL.
- 23.2. During time of war or national emergency, the SAA shall have the right to enter into an agreement with the United States Government for military or naval use of part or all of the landing area, the publicly owned air navigation facilities and/or other areas or facilities of SNL. If any such agreement is executed, the provisions of this Agreement, insofar as they are inconsistent with the provisions of the agreement with the United States Government, shall be suspended, without any liability on the part of the SAA to the COS therefor.

- 23.3. Other Subordination. The COS hereby subordinates this Agreement and any liens related thereto to the lien(s) of any present or future Mortgage(s) granted by the SAA, irrespective of the time of execution or creation or time of recording, subject to the agreement by the holder of any such Mortgage that the holder agrees to be bound by the terms of this Agreement and that, so long as the COS is not in default hereunder, COS's rights under this Agreement shall not be disturbed upon foreclosure or otherwise. If requested by the holder of any Mortgage granted by the SAA, COS agrees that it will recognize the holder as its lessor under the terms of this Agreement if the holder succeeds to the interest of the SAA. Upon the request of the SAA, the COS shall execute, acknowledge, and deliver all instruments necessary to give effect to or notice of such subordination or attornment.
- 23.4. Estoppel Certificate. Upon request from (i) the SAA and (ii) any prospective or current lender(s) or holder(s) of any Mortgage(s) as described in Section 23.3 above, the COS shall execute, acknowledge, and deliver to the SAA, and such person(s) making such a request an estoppel certificate or statement in writing certifying to all or any part of the following information or other requested data, to the extent such facts are true and ascertainable:
- 23.4.1. This Agreement constitutes the entire agreement between the SAA and the COS with respect to the Leased Premises and is unmodified and in full force and effect; if there have been modifications, the modifications are in full force and effect as modified and specifically identify the modifications; and
 - 23.4.2. The amounts of rent and other charges under this Agreement and the dates to which rents, and other charges have been paid, and the amount of security, if any, deposited with the SAA; and
 - 23.4.3. All conditions precedent to the effectiveness of this Agreement have been fulfilled, or specifically state any exceptions; and
 - 23.4.4. The COS has accepted possession of the Leased Premises, the lease term has commenced, the COS is occupying or sub-leasing the Leased Premises and there are no defaults or offsets which the COS has against enforcement of this Agreement by the SAA, or specifically identify any exceptions to the foregoing; and
 - 23.4.5. The Agreement Effective Date and expiration date of this Agreement.

ARTICLE 24

24. Attorney's Fees - Obligation. In the event any legal action is taken to enforce the terms of this Agreement, the prevailing party shall be entitled to recover from the non-prevailing party all fees and expenses reasonably incurred by the prevailing party as a result of the action, including without limitation, investigative fees, expert fees, court reporter fees, court costs and actual attorneys' fees.

ARTICLE 25

25. Environmental Protection

- 25.1. Compliance. The COS agrees to comply with all rules, regulations, administrative orders, ordinances, and statutes, as now exist or may hereafter be adopted, of the SAA, the City of Shawnee, County of Pottawatomie, State of Oklahoma, and the United States, and any agencies, bureaus, departments, or commissions thereof, with respect to protection of the environment. Without limiting the foregoing, it is an express condition of this Agreement that the COS, and all other persons and entities acting through, under control of, or on behalf of the COS, shall comply with all rules and regulations of the FAA, EPA, Oklahoma DEQ and any other authority of competent jurisdiction regarding, without limitation, the leased premises, SNL, and the COS's use of the Leased Premises, and the reporting and clean-up of any spills, emissions, discharges, leaks or releases causing contamination of the environment.
- 25.2. Indemnification. In furtherance of, in addition to, and not in limitation of ARTICLE 17 and ARTICLE 18 of this Agreement, the COS agrees to indemnify, defend and hold the SAA harmless from and against environmental liability, including without limitation, any and all liability, including fines, suits, claims, losses, costs, damages, liens, expenses and causes of action of every kind resulting from pollution, emissions, leaks, discharge, release, escapes or spills resulting from the activities or omissions of the COS and its officers, employees, agents, representatives, contractors, subcontractors, sublessees, suppliers, licensees, customers, invitees and guests or any other person or entity whom the COS controls or has the right to control or who is acting through or on behalf of the COS, in connection with or related to the COS's activities, the Leased Premises, SNL, or this Agreement, including without limitation the cost of any required clean-up or environmental remediation. This obligation on the part of the COS shall survive the expiration or earlier termination of this Agreement.

ARTICLE 26

26. NONDISCRIMINATION

- 26.1. Obligation. The COS covenants that it will undertake an affirmative action program as required by 14 CFR Part 152, Subpart E, to ensure that no person shall on the grounds of race, creed, color, national origin, or sex be excluded from participating in any employment activities covered in 14 CFR Part 152, Subpart E. The COS further covenants that no person shall be excluded on the foregoing grounds from participating in or receiving the services or benefits of any program or activity covered by this subpart. The COS covenants that it will require that its suborganizations provide assurances to the COS that they similarly will undertake affirmative action programs and that they will require assurances from their suborganizations as required by 14 CFR Part 152, Subpart E, to the same effect. The COS, for itself, its successors in interest, sublessees and assigns, as a part of the consideration hereof, does hereby covenant and agree that in the event facilities are constructed, maintained or otherwise operated on the premises leased under this Agreement, for a purpose for which a United States Department of Transportation program or activity is extended or for another purpose involving the provision of similar services or benefits, the COS shall maintain and operate such facilities and services in compliance with all other requirements imposed pursuant to 49 CFR Part 21, Nondiscrimination in Federally Assisted Programs of the Department of Transportation, and as said regulations may be amended. In furtherance hereof,

the COS, for itself, its successors in interest, sublessees and assigns, as a part of the consideration hereof, does hereby covenant and agree that: (1) no person on the grounds of race, creed, color, national origin or sex shall be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities; (2) in the construction of any improvements on, over or under such leased premises and the furnishing of services thereon and in connection therewith, no person on the grounds of race, creed, color, national origin or sex shall be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination; and (3) the COS shall use such leased premises in compliance with all other requirements imposed by or pursuant to 49 CFR Part 21, Nondiscrimination in Federally Assisted Programs of the Department of Transportation, and as said regulations may be amended.

ARTICLE 27

27. Non-Exclusive Rights. Nothing in this Agreement shall be construed as entitling the COS to any exclusive right to conduct any aeronautical activity at SNL.

27.1. The SAA reserves the right, at its sole discretion, to grant to others the right and privilege to conduct activities or furnish services of the type described in this Agreement at SNL.

27.2. Nothing in this Agreement shall be construed as granting to the COS any right or privilege which would operate to prevent any person, firm, or entity operating aircraft at SNL.

ARTICLE 28

28. General Provisions.

28.1. Federal Aviation Act, Section 308. Nothing contained in this Agreement shall be deemed to grant the COS any exclusive right or privilege within the meaning of Section 308 of the Federal Aviation Act or any successor provision thereto for the conduct of any activity on SNL, except that, subject to the terms and provisions hereof, the COS shall have the right to use and occupy the Leased Property under the provisions of this Agreement.

28.2. Right of Flight. The SAA reserves the right of flight for passage of aircraft above the surface of the Leased Premises. The COS acknowledges and agrees that the grant and demise of this Agreement are subject to this reserved right of flight, which shall include the right to cause such noise as may be inherent in the operation of aircraft now known or hereafter used for navigation of and flight in the air. Further, the COS understands and agrees that the SAA reserves the right to use such air space for landing at, taking off from, and operating aircraft on and over SNL and that the grant and demise hereof are subject to such reserved right. Furthermore, the SAA reserves the right to take any action the SAA considers necessary to protect the aerial approaches of SNL against obstruction or interference, which right includes without limitation the power to prevent the COS from erecting, or permitting to be erected, any building or other structure on or adjacent to SNL which, in the sole opinion of the SAA, would limit the usefulness of SNL or constitute a hazard to aircraft.

- 28.3. Nonwaiver of Rights. The failure of the SAA or the COS to declare any default or breach of any term, condition, covenant or obligation of this Agreement immediately upon the occurrence of the default or breach, or the SAA's or COS's delay in taking any action in response to any default or breach, shall not act as a waiver of the default or breach, nor any continuing or subsequent default or breach, and the SAA or the COS, as the case may be, shall have the right to declare any default or breach at any time and take any action allowed by this Agreement and/or law.
- 28.4. Notices. Any notice or other communication herein required or permitted to be given shall be in writing and may be personally served, or sent by overnight courier or United States mail and shall be deemed to have been given when delivered in person or one (1) business day after delivery to the office of such overnight courier service or three (3) business days after depositing the notice in the United States mail with postage prepaid and properly addressed to the other party at the following respective addresses:

To: Lessor

Chairman
Shawnee Airport Authority
c/o Office of the City Manager
City of Shawnee
16 West 9th Street
Shawnee, Oklahoma 74801

To: Lessee

Office of the City Manager
City of Shawnee
16 West 9th Street
Shawnee, Oklahoma 74801

- 28.5. Either party to this Agreement may change its aforementioned address by serving the other party with ten (10) calendar days advance written notice.
- 28.6. Exercise of Rights/Giving Notice. All rights, powers, privileges, and duties of the SAA or the COS under this Agreement, including, without limitation, the giving of any notices required or permitted under this Agreement, may be exercised, performed, or given by the SAA's and COS's respective agents or attorneys.
- 28.7. Headings/Captions. The headings and captions in this Agreement are inserted only as a matter of convenience; are for reference purposes only; in no way expand, define, limit, or describe the scope or intent of any provisions of this Agreement; and shall not be construed to affect in any manner the terms and provisions hereof or the interpretation or construction thereof.
- 28.8. Severability. The invalidity, unlawfulness or unenforceability of any term, clause, provision, sentence, or paragraph of this Agreement shall not invalidate, render unenforceable or adversely

affect the remaining terms, clauses, provisions, sentences, or paragraphs of this Agreement, which shall be enforced to the fullest extent allowed by law and, to this extent, are hereby deemed severable.

- 28.9. Waiver of Claims. No officer, Commissioner, agent, representative or employee of the SAA shall be charged personally or held contractually liable under any term or provision of this Agreement or because of any breach thereof or because of his/her execution or attempted execution of this Agreement.
- 28.10. The COS hereby waives any claim against the SAA and its officers, Commissioners, agents, representatives, or employees for loss of anticipated profits caused by any suit or proceedings directly or indirectly attacking the validity of this Agreement, or any part thereof, or by any judgment or award in any suit or proceeding declaring this Agreement null, void or voidable, or delaying the same or any part thereof, from being carried out.
- 28.11. Right to Develop Airport. The SAA reserves the right to further develop or improve SNL, and all landing areas and taxiways at SNL as it may see fit, regardless of the desires, opinions, or views of the COS and without interference or hindrance, and the COS shall not exercise any rights granted by this Agreement in such a manner as would interfere with or adversely affect the use, operation, maintenance, or development of SNL.
- 28.12. Incorporation of Exhibits. All exhibits, attachments and annexed or other instruments referred to in this Agreement are intended to be and hereby are specifically made a part of this Agreement.
- 28.13. Incorporation of Required Provisions. The parties incorporate and agree to incorporate into this Agreement by this reference all provisions lawfully required now or in the future to be contained in this Agreement by any governmental body or agency.
- 28.14. Successors and Assigns Bound. This Agreement shall be binding upon and inure to the benefit of the successors, assigns (subject to approval of the SAA as required herein), heirs, administrators, and legal representatives of the parties hereto.
- 28.15. Right to Amend. In the event the FAA or its successors require modifications or changes in this Agreement as a condition precedent to the granting of funds for the improvement of SNL, or otherwise, COS shall make such amendments, modifications, revisions, supplements or deletions to any of the terms, conditions or requirements of this Agreement as may be required, without any consent thereto by the COS, and any expenses resulting from such amendments, modifications, revisions, supplements or deletions shall be borne solely by the COS; provided, however, the COS shall in no event be liable for any attorney's fees or accountants fees incurred by the SAA in amending, modifying or changing the terms of this Agreement. Except for the foregoing, or as otherwise allowed in this Agreement, all other amendments, modifications, revisions, supplements, or deletions to this Agreement shall be in writing and signed by both parties hereto provided, the SAA shall allow the COS to participate in any presentations to or discussions or negotiations with FAA or its successors concerning any such required amendments, modifications, revisions, supplements, or deletions to or from this Agreement.

- 28.16. Time of Essence. The parties hereby acknowledge and agree that time is of the essence of this Agreement.
- 28.17. Gender. Words of any gender used in this Agreement shall be held and construed to include any other gender, and words in the singular number shall be held to include the plural, unless the context otherwise requires.
- 28.18. Force Majeure. Neither the SAA nor the COS shall be deemed in violation of this Agreement if it is prevented from performing any of the obligations hereunder by reason of strikes, boycotts, labor disputes, embargoes, shortages of material, acts of God, acts of the public enemy, acts of superior governmental authority, weather conditions, riots, rebellions, sabotage, or any other circumstances for which it is not responsible, and which are not within its control.
- 28.19. Governing Law and Jurisdiction. This Agreement and the rights and obligations of the SAA and COS under this Agreement shall be construed in accordance with and governed by the laws of the State of Oklahoma, without regard to the principles of conflicts of law. Any legal action or proceeding with respect to this Agreement shall be brought only in the state or federal courts of competent jurisdiction in Pottawatomie County, Oklahoma. By execution and delivery of this Agreement, the COS hereby irrevocably accepts for itself and in respect of its property, generally and unconditionally, the jurisdiction of the above courts. The COS hereby irrevocably waives any objection that it may now or hereafter have to the laying of venue of any actions or proceedings arising out of or in connection with this Agreement brought in the above referenced courts. The COS hereby further irrevocably waives and agrees not to plead or claim in any such court that any such action or proceeding in any such court has been brought in an inconvenient forum.
- 28.20. Merger Clause. The parties hereto understand and agree that this instrument contains the entire agreement between the parties. The parties further understand and agree that the other party and its agents have made no representations or promises with respect to this Agreement or the making or entry into this Agreement, except as expressly set forth herein, and that no claim or cause for termination shall be asserted by either party against the other, and such party shall not be liable by reason of the making of any representations or promises not expressly stated in this Agreement, any other written or oral agreement with the other party being expressly waived. All prior proposals, negotiations, and representations, whether oral or written, are hereby superseded, and merged into this Agreement.
- 28.21. Reading of Agreement. The parties hereto acknowledge that they have thoroughly read this Agreement, including all exhibits or attachments hereto and all instruments referenced herein, and fully and completely understand all rights and obligations herein.
- 28.22. This Agreement constitutes the entire agreement between the SAA and the COS with respect to the Leased Premises.

IN WITNESS WHEREOF, the SAA and COS have executed this Land Lease and Operating Agreement effective as of the day and year first written above.

CITY OF SHAWNEE OKLAHOMA
LAND LEASE
AND
OPERATING AGREEMENT

This Land Lease and Operating Agreement ("Agreement") is made and entered into effective as of _____ by and between the City of Shawnee, Oklahoma ("COS"), an Oklahoma municipality organized and existing under the laws of the State of Oklahoma (Title 11. Cities And Towns §112101) and the Oklahoma Military Department ("OMD") a _____.

RECITALS:

Whereas, the COS retains a leasehold interest in certain real property owned by the Shawnee Airport Authority (the "Authority"), on behalf of the City of Shawnee, Oklahoma, located within the City of Shawnee, Pottawatomie County, Oklahoma; and

Whereas, the OMD desires to lease from the COS that certain real property for the purpose of constructing and operating a Readiness Center, on Shawnee Regional Airport ("the Airport") property; and

Whereas, the COS and the OMD desire to enter into this Agreement setting forth the rights, duties and obligations of the COS and the OMD; and

In recognition of and reliance on the foregoing recitals, and in consideration of the mutual promises and covenants set forth in this Agreement, and in exchange for other good and valuable consideration, the receipt and sufficiency of all of which are hereby acknowledged, COS and OMD agree as follows.

ARTICLE 1

1. Definitions. The following terms shall have the meanings set forth below wherever used in this Agreement:

- 1.1. "Agreement" means this Land Lease and Operating Agreement entered into by and between the COS and the OMD, including all its terms, conditions, covenants, and obligations and further including all documents incorporated herein by reference.
- 1.2. "Agreement Effective Date" means _____.
- 1.3. "Airport" means Shawnee Regional Airport ("SNL"), a public use aviation facility located in the City of Shawnee, Pottawattamie County, Oklahoma.
- 1.4. "COS" means the City of Shawnee Oklahoma, an Oklahoma municipality.
- 1.5. "DEQ" means the Oklahoma Department of Environmental Quality.
- 1.6. "EPA" means the United States Environmental Protection Agency.

- 1.7. "FAA" means the United States Federal Aviation Administration.
- 1.8. "Initial Term" means the initial term of this Agreement set forth in Section 6.1 of this Agreement.
- 1.9. "Leased Premises" means property located on the Shawnee Regional Airport, for the purpose of this Agreement designated for commercial non-aeronautical use, as more specifically described in Exhibit A.
- 1.10. "Minimum Standards" means the Minimum Standards Minimum Standards and Requirements for Capital Development on Airport Property Commercial Aeronautical Services Commercial Non-Aeronautical Services and Non-Commercial Aeronautical Activities at the Shawnee Regional Airport, adopted by the SAA, as amended, supplemented, or replaced from time-to-time.
- 1.11. "Mortgages" means and includes mortgages, deeds of trust, security agreements, assignments, bond indentures or other similar security instruments of any form or nature involving any type or class of property and modifications, consolidations, extensions, renewals, replacements, and substitutions thereof.
- 1.12. "Notice to Extend" means the written notice the COS is required to deliver to the SAA in order to exercise any option to extend this Agreement, as described more particularly in Section 6.2 of this Agreement.
- 1.13. "Oklahoma Military Department ("OMD") means is an agency of the state of Oklahoma that serves as the administrative agency for all matters concerning the Oklahoma National Guard.
- 1.14. "SAA" means the Shawnee Airport Authority, a municipal airport authority organized and existing under the laws of the State of Oklahoma and includes such public officials and public instrumentalities as may, by operation of law, succeed to any or all of the rights, powers or duties that lawfully reside in the SAA.
- 1.15. "SNL" means the Shawnee Regional Airport, a public use aviation facility located in the City of Shawnee, Pottawattamie County, Oklahoma.
- 1.16. "TSA" means the United States Transportation Security Administration.
- 1.17. References. The following references shall, unless the context requires otherwise, have the following meanings:
- 1.17.1. The words "hereof," "herewith," "hereunder," and words of similar meaning shall refer to this Agreement as a whole and not to any particular provision of this Agreement.
- 1.17.2. Where the context requires, the use of singular numbers or pronouns shall include the plural and vice versa, and the use of pronouns of any gender shall include any other gender.

- 1.17.3. Application of Other Provisions to Definitions. Each of the foregoing definitions shall be construed in conjunction with and limited by the references hereto in the other provisions of this Agreement.

ARTICLE 2

2. Representations and Warranties of the City of Shawnee, Oklahoma

- 2.1. Existence. The City of Shawnee, Oklahoma, is an Oklahoma municipality organized and existing under the laws of the State of Oklahoma.
- 2.2. Power and Authorization. The City of Shawnee has full legal right, power, and authority under the laws of the State of Oklahoma and has taken all corporate or official action necessary to enter into this Agreement and perform the obligations imposed on COS by this Agreement and by applicable laws, rules, ordinances, and SAA's Minimum Standards.
- 2.3. Binding Effect. This Agreement has been duly executed and delivered by the City of Shawnee and constitutes the valid and binding obligation of City of Shawnee, enforceable against the City of Shawnee in accordance with its terms.

ARTICLE 3

3. Representations and Warranties of the Oklahoma Military Department

- 3.1. Existence. The OMD is an agency of the state of Oklahoma that serves as the administrative agency for all matters concerning the Oklahoma National Guard.
- 3.2. Power and Authorization. The OMD has full legal right, power, and authority under the laws of the State of Oklahoma and has taken all corporate or official action necessary to enter into this Agreement and perform the obligations imposed on OMD by this Agreement and by applicable laws, rules, ordinances, and the SAA's Minimum Standards.
- 3.3. Binding Effect. This Agreement has been duly executed and delivered by the OMD and constitutes the valid and binding obligation of OMD, enforceable against the OMD in accordance with its terms.

ARTICLE 4

4. The Agreement between the parties consists of this Land Lease and Operating Agreement and the following documents that are incorporated into this Agreement by reference:

4.1. Documents Included as Part of Agreement.

- 4.1.1. Minimum Standards Minimum Standards and Requirements for Capital Development on Airport Property Commercial Aeronautical Services Commercial

Non-Aeronautical Services and Non-Commercial Aeronautical Activities at the Shawnee Regional Airport, as currently adopted by the SAA and as may be hereafter amended or superseded; and

4.1.2. Airport Facilities Lease and Development Policy Statement, as currently adopted by the SAA and as the same may be hereafter adopted, amended, or superseded; and

4.1.3. Exhibits to this Agreement; and

4.1.4. All amendments, modifications, and supplements to any of the foregoing.

4.2. Conflicts in Documents. In the event of any conflict, discrepancy, or inconsistency between or among the provisions of the documents described in Section 4.1, the terms of this document shall control.

ARTICLE 5

5. Leased Premises

5.1. Granting Clause. For and in consideration of the rents, payments, terms, conditions, covenants, and obligations of the OMD under this Agreement, the COS hereby demises, leases and rents to the OMD, and the OMD hereby takes and leases from the COS, the premises more specifically identified on Exhibit "A" attached hereto and all improvements thereon, to have and to hold for the lease term, as set forth in ARTICLE 6 of this Agreement.

5.2. No Right of Purchase. The OMD acknowledges that it has no right to purchase or acquire any fee interest in the Leased Premises.

5.3. No Conveyance of Mineral Interests. The OMD acknowledges that the COS is not making any conveyance of any mineral interests to the OMD under this Agreement, all of which shall be and remain the sole property of the SAA.

ARTICLE 6

6. Term

6.1. Initial Term. The Initial Term of this Agreement shall commence on the Agreement Effective Date and shall continue thereafter until midnight on _____ unless sooner terminated or extended as provided in this Agreement.

6.2. Option to Extend. The OMD shall have the option to extend this Agreement for _____ (____) consecutive periods of _____ (____) calendar years each following expiration of the Initial Term of this Agreement.

6.3. To exercise an option and extend the term of the Agreement, at least one (1) calendar year prior to the expiration of the Initial Term or any renewal period hereunder, as applicable, the OMD shall deliver to the COS written notice of its desire to extend this Agreement ("Notice to Extend").

ARTICLE 7

7. Rents, Fees and Charges. In consideration of the rights and privileges granted by the SAA to the COS pursuant to this Agreement, the COS agrees to pay to the SAA the following:

- 7.1. Rentals. For and during the period from the Agreement Effective Date until _____, the OMD shall pay to the COS annual rentals for the Leased Premises of one dollar (\$1.00), due and payable prior to the Agreement Effective date. Thereafter, the rental fees shall be due and payable on the first day business day following successive anniversaries until the end of the Initial Term and any renewal term.

ARTICLE 9

8. Leasehold Improvements

- 8.1. Title to Improvements. Title to all improvements on the Leased Premises shall vest in the SAA upon completion of such improvements, free and clear of any liens or encumbrances whatsoever except for liens or encumbrances on the Leased Premises or any improvements thereon made or granted with the prior written consent of the SAA in accordance with Section 15.2.
- 8.2. Responsibility for Leasehold Improvements. Neither the SAA or the COS shall have any obligation to make improvements, alterations, additions, or replacements to the Leased Premises. The OMD may, without cost to the SAA or the COS and at the OMD's sole cost and expense, subject to the terms of this Agreement, provide the Leased Premises with any reasonable improvements necessary for access to and egress from the Leased Premises.
- 8.3. Permits, Licenses and Approvals for Improvements. All structural improvements, equipment and interior design and decor constructed or installed by the OMD, its agents, or contractors, including all plans and specifications, shall conform to all applicable statutes, ordinances, building codes, rules, and regulations. The OMD, at its sole cost and expense, shall obtain all required permits and licenses for any improvements.
- 8.4. COS Approval of Improvements. All improvements made by the OMD shall be in accord with the approved design of such improvements. The OMD shall, prior to making any improvements, submit reasonably detailed plans and specifications to the COS for written approval, and no structural alterations, installations or improvements of any kind may be made by the OMD without first obtaining the COS's written approval. Any changes or alterations to plans and specifications require the approval of the COS.
- 8.5. Approval by the COS of any improvements proposed by the OMD refers only to conformity with applicable federal, state, and local laws, ordinances, rules, and regulations in effect during the term of this Agreement. The COS, by approving such plans and specifications, assumes no liability or responsibility for the plans and specifications, or for any defect in any structure or improvement constructed according to the plans and specifications.

- 8.6. Construction Schedule. The OMD shall submit to the COS not later than sixty (60) calendar days after submittal of any plans and specifications for improvements to the Leased Premises, but in any event prior to commencing construction, a schedule depicting the estimated time required to complete the construction or installation of approved improvements and equipment.
- 8.7. Construction Requirements. At all times during construction or installation of any improvements, the OMD, its agents, servants, employees, and independent contractors shall cooperate with and coordinate activities and work with the COS, the SAA, and other lessees at or near the Leased Premises.
- 8.8. All construction of improvements shall be conducted at such time and in such manner so as not to interfere with operations at SNL or of other tenants of the COS and the SAA.
- 8.9. In furtherance of, in addition to, and not in limitation of ARTICLE 17 of this Agreement, the OMD, its agents, servants, employees, contractors, subcontractors and independent contractors shall at all times be responsible for injury or damage to the person or property of any third party resulting from the acts or omissions of OMD, its agents, servants, employees, contractors, subcontractors and independent contractors. The OMD shall indemnify, defend, and hold the COS, and the SAA harmless to the fullest extent set forth in ARTICLE 17 for any liabilities, losses, claims, costs, damages, injuries, deaths, including without limitation attorneys' fees, etc. arising out of any construction or installation of any improvements on the Leased Premises.
- 8.10. Upon completion of any improvements, a duly authorized officer of the OMD must certify to the COS that (i) the improvements have been constructed in accordance with plans and specifications approved by the SAA and in compliance with all applicable building codes, laws, rules, ordinances and regulations; (ii) no liens except liens granted with the prior written consent of the SAA under Section 15.4 exist on any of the improvements; and (iii) all contractors and subcontractors have been paid all amounts due and owing them. One reproducible final copy of the plans for all improvements, changes or alterations to the Leased Premises shall be signed by the OMD and submitted to the COS within thirty (30) days following completion of construction.
- 8.11. Repairs to Improvements. The OMD shall be responsible, at its sole cost and expense, for making repairs for any damage, including normal wear and tear, to the Leased Premises.

ARTICLE 9

9. Operating Rights and Obligations.

- 9.1. The COS hereby grants the OMD the privilege of leasing the Leased Premises for the purpose of constructing and operating a Readiness Center, and the OMD hereby accepts the duty and obligation, to comply with all terms and conditions of the lease agreement in accordance with all provisions of the Minimum Standards and duly adopted Policies of the SAA.
- 9.2. Rights of Ingress and Egress. OMD shall have the right of ingress to and egress from the Leased Premises over Airport roadways, including common use roadways, subject to any laws,

ordinances, rules, or regulations, as now adopted and hereafter amended, of the SAA, the City of Shawnee, the County of Pottawattamie, the State of Oklahoma, the FAA, or any other federal, state, or local governmental authority. Such rights of ingress/egress shall apply to OMD's employees, sublessees, contractors, subcontractors, guests, customers, invitees, suppliers, and other authorized individuals.

- 9.3. Common Use Areas. OMD shall be entitled, in common with others so authorized, to use certain improvements connected with or appurtenant to the Leased Premises, including such landing areas, runways, taxiways, ramp areas, aprons, navigational aids and aircraft parking areas as shall be designated from time to time by the SAA.

ARTICLE 10

10. Obligations of Oklahoma Military Department

- 10.1. Operations and Conditions. The OMD shall maintain and operate the Leased Premises in a manner comparable, in the COS's good faith, reasonable judgment, to similar facilities, and shall keep the Leased Premises in a safe, clean, orderly, and inviting condition at all times.
- 10.2. The OMD shall conduct its operations in an orderly and proper manner so as not to annoy, disturb or be offensive to customers, patrons, or other tenants of the SAA.
- 10.3. Compliance with Governing Laws. The OMD shall comply with all applicable federal, state, and local laws, ordinances, rules, and regulations; and, the OMD shall indemnify and hold harmless the COS, the SAA, their officers, agents, representatives, and employees, in accordance with ARTICLE 17 of this Agreement, from any act, omission or failure by the OMD to do so.

ARTICLE 11

11. Responsibility for Utilities. Except as otherwise expressly provided in this Agreement, the OMD shall be responsible for contracting individually for water, sewer, electricity, telephone, cable, garbage removal and any other required utility services for or in connection with the Leased Premises.

- 11.1. The OMD shall be responsible for any installation or repair charges, and shall pay all charges for the services, including late penalties, as they become due for utilities provided to the OMD.

ARTICLE 12

12. Responsibility for Maintenance. The OMD shall operate and use all improvements, fixtures, and equipment on or in the Leased Premises in a reasonable and proper manner. The OMD shall be responsible for maintaining all of the Leased Premises, including all improvements thereon, both interior and exterior, and for making all necessary and proper repairs to the Leased Premises, all at the OMD's sole cost and expense.
- 12.1. Any improvements to the Leased Premises shall be maintained in a clean, orderly, and safe condition suitable for its intended use, and all improvements, fixtures and equipment shall be kept in good repair and condition, making from time to time all necessary and proper renewals, repairs, and replacements thereto. Any repairs performed by the OMD or on its behalf shall be performed in a competent manner and materials used for such repairs shall meet the customary standards in the trade or industry for such materials.
- 12.2. All repairs shall be made in conformity with all applicable federal, state, and local laws, ordinances, rules, and regulations in effect during the term of this Agreement.
- 12.3. The COS's Right to Construct Improvements at Leased Premises. The COS shall have the right to construct or install over, in, under or through the Leased Premises new lines, pipes, mains, wires, conduit and equipment; provided, that the repair, alteration, replacement or construction shall not unreasonably interfere with OMD's use of the Leased Premises, and that any such construction, installation, repair, alteration or replacement made or performed under this Section 12.4 shall be at the COS's sole cost and expense.
- 12.4. Waste and Nuisance. OMD shall not commit or suffer to exist any waste to or upon the Leased Premises. The OMD shall provide and use suitable covered or sealed receptacles for all garbage, trash and other refuse resulting from its operations, and will make suitable arrangements for the sanitary handling and disposal of all garbage, trash, and other refuse.
- 12.4.1. The piling of boxes, cartons, barrels, or similar items shall not be permitted on or about the Leased Premises.
- 12.4.2. The OMD shall not perform or fail to perform any acts or carry on or permit to exist any practices that may materially injure or damage the Leased Premises, may constitute a public or private nuisance or menace to the owners or occupants of adjacent property or other tenants of the SAA, or may violate the provisions of any insurance on the Leased Premises or which may diminish insurance coverage or render any insurance void.
- 12.4.3. The COS shall enforce the obligations of the OMD under this Section 12 in good faith and shall not use such obligations to unreasonably interfere with the business operations of the OMD.
- 12.4.4. Failure to Maintain. In the event the OMD fails to perform any required maintenance, repairs and/or replacements to the Leased Premises within ten (10)

calendar days of written notice to the OMD, or in the event of any required maintenance, repairs and/or replacements which cannot be completed within ten (10) days, the OMD fails to commence and diligently pursue such required maintenance, repairs and/or replacements, the COS may perform the maintenance, repairs and/or replacements, either with the COS's own employees or by independent contractor engaged by the COS. In the event the COS makes any repairs, the OMD shall repay the costs and expenses of such maintenance, repairs and/or replacements on receipt of an invoice from the COS. Advance notice of maintenance, repairs and/or replacements shall not be required in the event of an emergency or to protect against imminent danger to persons or destruction of property.

ARTICLE 13

13. Right To Enter. The COS shall have the right to enter the Leased Premises to:

- 13.1. Inspect the Leased Premises at reasonable intervals during OMD's regular business hours, or at any time in case of emergency, to determine whether the OMD has complied with and is complying with the provisions of this Agreement, provided, however, that the COS shall not unreasonably interfere with the business and operations of the OMD during any inspection, taking into account the reasons for and subject of the inspection; and
- 13.2. Perform any and all obligations of the OMD pursuant to this Agreement which the OMD has failed after reasonable notice to complete including, without limitation, maintenance, repairs, and replacements to the Leased Premises, and to take any other actions allowed by this Agreement.

ARTICLE 14

14. Compliance with Laws, Permits, Licenses and Taxes

- 14.1. The OMD, its officers, agents, employees, suppliers, contractors, licensees, customers, invitees, guests, and any other person whom OMD controls, or has the right to control, or with whom OMD contracts, shall comply with all present and future laws, ordinances, rules and regulations of the United States of America, including without limitation the FAA, the TSA, the State of Oklahoma, the County of Pottawatomie, the City of Shawnee, the SAA, and each of their respective agencies, bureaus, boards, departments or commissioners which may either directly or indirectly affect the OMD or the OMD's activities and business, or be applicable to the Leased Premises. At the OMD's sole cost and expense, OMD shall make any repairs, changes, or modifications in or to the Leased Premises required by any of the foregoing, after first having obtained the COS's written consent. With the COS's prior written consent, OMD may, at its own cost and expense, contest in good faith the validity of any such laws, ordinances, rules, or regulations, but the OMD shall indemnify and hold the COS harmless from any cost, expense, or consequence of such contest.
- 14.2. Licenses and Permits. The OMD shall maintain in effect and post in a prominent place all necessary and/or required licenses or permits and shall make all licenses and permits available to the COS for inspection and verification upon request.

- 14.3. Taxes and Assessments. The OMD shall promptly pay all expenses in connection with the use of the Leased Premises and the rights and privileges granted under this Agreement, including without limitation, taxes, permit fees and assessments lawfully levied at any time upon the Leased Premises or any personal property therein.

ARTICLE 15

15. Liens

- 15.1. At all times, the COS shall have a lien on all OMD's improvements to the Leased Premises, goods, machinery, equipment, fixtures, furniture, and other personal property situated on the Leased Premises for all rentals and other sums of money becoming due hereunder from the COS.
- 15.2. No property on which the COS is granted a lien shall be removed from the Leased Premises without the prior, written consent of the COS until all arrearages in rent and other sums of money then due to the COS are paid and all terms, conditions, covenants, and obligations hereunder have been fully complied with and performed by the OMD.
- 15.3. The COS may foreclose the lien granted hereby in any other manner allowed by law. The express contractual lien granted herein shall be in addition to all other liens and remedies provided by law. Any action taken by the COS in accordance with this contractual lien shall not be construed as a waiver of any statutory lien for rent or any other lien rights accruing to the benefit of the COS by law.
- 15.4. Prohibition Against Liens. Except as to liens, charges, encumbrances and restrictions (i) in favor of the COS which are created or exist by reason of this Agreement or applicable law or (ii) which directly and solely arise from the COS's actions and/or inactions, the OMD covenants that it will not create or suffer to be created, in whole or in part, any lien, encumbrance, restrictions or charge upon (iii) OMD's leasehold estate in the Leased Premises, (iv) rent or other monies payable hereunder, or (v) OMD's interest in the Leased Premises or this Agreement. Provided, however, with the COS's prior written consent the OMD may encumber its leasehold estate in the Leased Premises, or any improvements constructed or placed thereon by the OMD to the extent such lien or encumbrance is required by the lender providing funds to the OMD for capital improvements for the Leased Premises, or for other uses by the OMD in connection with the rights granted under this Agreement. Any foreclosure or transaction in lieu of foreclosure and any subsequent assignment or sale of the OMD's interest following foreclosure shall be subject to the prior consent of the SAA as provided in Section 16.1.
- 15.5. The OMD shall satisfy or cause to be discharged within thirty (30) calendar days after accrual all claims and demands which, if not satisfied, might by law become a lien. If any lien shall be filed or asserted, the OMD shall by contest, payment, deposit, bond, order of court or otherwise, within thirty (30) calendar days after notice is received of the filing or assertion of the lien, cause the same to be discharged of record, or effectively prevent the enforcement or foreclosure thereof.

- 15.6. Nothing in Section 15.5 shall require the OMD to satisfy or discharge any lien, encumbrance, charge, claim or demand so long as the validity thereof shall be contested in good faith and by appropriate legal proceedings with adequate reserves established therefor. However, if the COS provides the OMD with an opinion of independent counsel that failure to satisfy or discharge the lien, encumbrance, charge, claim, or demand jeopardizes the interests of the COS, the OMD shall promptly satisfy, discharge or otherwise bond or negate such lien, encumbrance, charge, claim or demand in such manner that the interests of the COS, in the opinion of independent counsel, are not jeopardized. In the event the OMD fails to cancel, discharge, or provide security sufficient to stay execution of any lien or claim, the COS shall have the right, but not the obligation, to satisfy or discharge the lien or claim and the OMD shall then pay to the COS any amount paid by the COS in discharging such claim or lien.

ARTICLE 16

16. Assignment and Subleasing

- 16.1. Prohibitions against Assignment and Subleasing. The OMD shall not assign or transfer this Agreement, in whole or in part, or sublet any portion of the Leased Premises, or permit any portion of the Leased Premises to be occupied or used by anyone other than the OMD.

ARTICLE 17

17. Indemnification and Defense

- 17.1. The OMD shall indemnify, protect, defend and hold harmless the COS, its officers, agents, representatives and employees from and against any and all liabilities, demands, suits, claims, actions, arbitrations, administrative proceedings, awards, judgments, losses, fines, costs and expenses, including without limitation, attorneys' fees, investigation fees, expert fees and court costs, arising by reason of the injury or death of any person, personal injury, damage to or loss of any property, economic loss, environmental liability or infringement of patent, trademark or other property rights of third parties, of any nature whatsoever arising in whole or in part out of or incidental or related to (i) the OMD's performance or nonperformance, including without limitation, breach of any term, condition, covenant or obligation herein, of this Agreement; (ii) the OMD's use or occupancy of the Leased Premises; or (iii) the acts or omissions of the OMD or its officers, employees, agents, representatives, contractors, subcontractors, sublessees, suppliers, licensees, customers, invitees and guests or any other person or entity whom the OMD controls or has the right to control or who is acting through or on behalf of the OMD, regardless of where the injury, death, loss, damage, etc., may occur except to the extent such liability is caused by the COS's gross negligence or willful misconduct. The OMD shall give the COS immediate notice of any and all damage, injury, loss, etc. The OMD's indemnity obligation and liability shall not be limited as to amount or type of damages by the provisions of any workers' compensation act, disability act or other employer liability or employee benefit act, or policy limits of any applicable insurance policies.
- 17.2. Defense. With respect to any matter to which the OMD's defense obligations under this Agreement apply, the OMD shall defend the COS at the OMD's sole cost and expense with

counsel reasonably acceptable to the COS.

- 17.3. Survival of Obligations. Without limiting any other provision of this Agreement, the provisions of this ARTICLE 17 shall survive the expiration or earlier termination of this Agreement.

ARTICLE 18

18. Notice of Occurrences.

- 18.1. Notice of Occurrences. The OMD shall immediately notify COS of all accidents, injuries, deaths, damage to or destruction of property, potential environmental hazards, and other occurrences of any kind or nature, relating in any way to the OMD, the COS, the SAA, or SNL, including without limitation, demands, claims or actions, arising from or in any way related to (i) this Agreement, (ii) the performance or nonperformance of any terms, conditions, covenants, privileges, or obligations of this Agreement, or (iii) the actions or inactions of the OMD or any person or entity acting by, through or on behalf of the OMD. The OMD shall give the notice required by this Section regardless of whether any insurance is available to cover the occurrence.

ARTICLE 19

19. Default by the COS and Remedies of the OMD

- 19.1. Events of Default by the COS. This Agreement shall be subject to cancellation by the OMD in the event one or more of the following conditions of default occur:
- 19.1.1. The abandonment of SNL as a public use airport by the SAA for a period in excess of thirty (30) consecutive calendar days; or
 - 19.1.2. The issuance by any court of competent jurisdiction of an injunction preventing or restraining the use of SNL for a period in excess of thirty (30) consecutive calendar days in such a manner as to substantially restrict the OMD from utilizing or accessing the Leased Premises, not caused by any act or omission of the OMD; or
 - 19.1.3. The breach by the COS of any of the terms, covenants or conditions of this Agreement to be kept, performed and observed by the COS, and the failure of the COS to remedy such breach, (subject to the COS's right to litigate any issue described in Section 19.1.2, which litigation shall stay this time period) for a period of thirty (30) calendar days after receipt of written notice from the OMD of the existence of such breach, or if more than thirty (30) calendar days shall be required because of the nature of such breach, if the COS shall fail within said thirty (30) day period to commence and thereafter diligently proceed to cure such default; or
 - 19.1.4. The COS fails to abide by all applicable laws, ordinances, rules and regulations of the United States, State of Oklahoma, County of Pottawatomie or City of Shawnee and all agencies thereof; or

- 19.1.5. The assumption by the United States Government, or any authorized agency thereof, of the operation, control or use of SNL and its facilities in such a manner as to substantially restrict the OMD from utilizing or accessing the Leased Premises, if such restriction is continued for a period of thirty (30) consecutive calendar days or more.
- 19.1.6. Conditional Payment of Rent after Default. In the event of any litigation to determine if a condition of default has occurred, the OMD shall pay its rentals, fees and charges into the court having jurisdiction over the litigation, or to the COS. In no event shall the OMD be relieved from the obligation to continue to make payments unless and until a final determination on such litigation is made in that regard in the OMD's favor.
- 19.2. The OMD 's Remedies on the COS's Default. In the event any condition of default as set forth in Section 19.1 shall occur which entitles the OMD to terminate this Agreement, the OMD shall have the right, at its election, to terminate this Agreement by giving at least thirty (30) calendar days written notice to the COS at which time the OMD shall then quit and surrender the Leased Premises to the COS, and this Agreement will cease and terminate, but the OMD shall remain liable for all rents and other obligations incurred prior to termination as herein provided, as well as such other obligations as survive the expiration or termination; provided, however, the OMD 's obligation to pay rent shall cease and abate as of the date from which the OMD is no longer able to make any use whatsoever of the Leased Premises if termination is due to a default by the COS under Section 19.1.1 or Section 19.1.2 hereof.

ARTICLE 20

20. Default by OMD and Remedies of the COS

- 20.1. Events of Default by the OMD. This Agreement shall be subject to cancellation by the COS should any one or more of the following conditions of default occur:
- 20.1.1. The OMD neglects or fails to pay any installment of rent or other charges provided for in this Agreement and fails to cure the breach within forty-five (45) calendar days of receipt by the OMD of a written notice from the COS with respect to such breach; or
- 20.1.2. The OMD neglects or fails to perform or observe any of the terms, provisions, conditions, covenants, or obligations set forth in this Agreement, other than the payment of rent or other monies, and does not begin to cure such failure within thirty (30) calendar days after written notice of the default if given by the COS or fails to complete the cure of the default within thirty (30) calendar days of said written notice. If the default is of a nature that it cannot be cured completely within thirty (30) calendar days, the OMD shall be considered in default if it fails to commence actions to cure the default within the time allowed or fails thereafter to proceed with reasonable diligence and in good faith to cure the default; or

- 20.1.3. The OMD fails to abide by all applicable laws, ordinances, rules and regulations of the United States, the State of Oklahoma, Pottawatomie County, the City of Shawnee and all agencies, bureaus, and departments of each; or
 - 20.1.4. The OMD does or permits to be done anything which creates a lien upon the Leased Premises in violation of this Agreement; or
 - 20.1.5. The OMD assigns or sublets all or any part of the Leased Premises, or allows any person or entity to engage in any activities on the Leased Premises, except as in accordance with the terms of this Agreement, and the default is not cured within thirty (30) calendar days after written notice of default from the COS to the OMD.
- 20.2. The COS's Remedies on OMD 's Default. If the OMD shall default under or otherwise breach any of the terms of this Agreement, the COS, may, at its option, without any notice or demand whatsoever, in addition to all other rights and remedies given hereunder or by law or equity, do any one or more of the following at the sole discretion of the COS:
- 20.2.1. Enter upon the Leased Premises, without being liable for prosecution or any claim of damages and do whatever the OMD is obligated to do under the terms of this Agreement. In such event, within forty-five (45) calendar days of demand by the COS, the OMD shall reimburse the COS all losses, damages, and expenses, including without limitation attorneys' fees, which the COS may incur or suffer in thus effecting compliance with the OMD 's obligations under this Agreement. The OMD further agrees that the COS shall not be liable for any damages resulting to the OMD from such action.
- 20.3. Continue this Agreement in effect and terminate OMD's right to possession of the Leased Premises and recover the following from the OMD:
- 20.3.1.1. All losses, damages, and expenses, including without limitation attorneys' fees, which the COS may incur or suffer as a result of OMD 's failure to perform its obligations under this Agreement.
 - 20.3.1.2. In any event, the OMD shall remain liable for the timely performance of all terms, conditions, covenants, and obligations of this Agreement. Re-entry by the COS and exclusion of the OMD from possession shall not constitute termination of this Agreement and no action of the COS except written notice of termination shall operate as a termination of this Agreement.
 - 20.3.2. In any event in which the OMD 's right to possession of the Leased Premises is terminated, the OMD shall immediately surrender the Leased Premises to the COS.
- 20.4. Cumulative Rights and Remedies. All rights and remedies of the COS under this Agreement or otherwise existing at law are cumulative, and the exercise of one or more rights or remedies shall

not be taken to exclude or waive the right to exercise any other. All rights and remedies may be exercised and enforced concurrently, whenever, and as often as deemed advisable, in the COS's sole discretion. The rights given to the COS pursuant to this Agreement are in addition to any rights that may be given to the COS by any statute or otherwise.

- 20.5. Pursuit of any of the foregoing remedies shall not preclude pursuit of any other remedies herein provided or any other relief allowed by law, nor shall pursuit of any remedy herein constitute a forfeiture or waiver of any rent or other monies due to the COS hereunder or any other damages accruing to the COS by reason of the violation of any of the terms, conditions, covenants, and obligations of this Agreement. Forbearance by the COS to enforce one or more of the remedies provided by this Agreement or allowed by law upon an event of default shall not constitute, nor be deemed or construed to constitute, a waiver with respect to that default, any continuation thereof or any subsequent default.

ARTICLE 21

21. Expiration or Termination

- 21.1. Surrender of Possession. Upon the expiration or earlier termination of this Agreement, the OMD shall immediately surrender the Leased Premises to the COS free and clear of all claims, liens, security interests and other encumbrances.
- 21.2. Holding Over Not an Extension: Any holding over by the OMD after the expiration or termination of this Agreement without the written consent of the COS, shall not be deemed to operate as an extension or renewal of this Agreement, but shall only create a tenancy from month-to-month which may be terminated by the COS at any time.
- 21.3. Agreement Applicable to Holding over Period. During any period in which the OMD holds over the leased premises, irrespective of whether COS consents to such holding over, OMD shall continue to be bound by, and agrees to comply with, all terms, conditions, covenants, and obligations of this Agreement, including without limitation, all payment obligations.

ARTICLE 22

22. Safety and Security

- 22.1. Compliance with Safety Requirements. The OMD shall observe all safety requirements of the SAA relating to SNL, as in effect from time to time, including, without limitation, any regulations of the FAA relating to safety at SNL and shall take such steps and actions as may be necessary or directed by the SAA to ensure that all officers, employees, representatives, contractors, invitees, and guests of the OMD observe such requirements.
- 22.2. Compliance with Security Program. The OMD shall observe all security regulations relating to SNL including, without limitation, any regulations of the TSA relating to security at SNL, if any, and shall take such steps and actions as may be necessary or directed by the SAA to ensure that all officers, employees, representatives, invitees, and guests of the OMD observe such requirements.

- 22.3. Fines. If the SAA incurs any fines or penalties or any cost or expense under any safety or security program or plan pertaining to the SAA or SNL as a result of any act or omission of the OMD, the OMD shall pay or reimburse to the SAA, as the case may be, all such fines, penalties, costs, and expenses. OMD shall further rectify any such safety or security deficiency as may be determined by the SAA.

ARTICLE 23

23. Subordination and Estoppel Certificates

- 23.1. Subordination to Agreements with the United States Government. This Agreement is subject and subordinate to the provisions of any agreement heretofore or hereafter made between the SAA and the United States Government relative to the operation or maintenance of SNL, the execution of which has been or will be required as a condition precedent to the transfer of federal rights or property to the SAA for airport purposes, or the expenditure of federal funds for the improvement or development of SNL.
- 23.2. During time of war or national emergency, the SAA shall have the right to enter into an agreement with the United States Government for military or naval use of part or all of the landing area, the publicly-owned air navigation facilities and/or other areas or facilities of SNL. If any such agreement is executed, the provisions of this Agreement, insofar as they are inconsistent with the provisions of the agreement with the United States Government, shall be suspended, without any liability on the part of the COS or SAA to the OMD therefor.
- 23.3. Other Subordination. The OMD hereby subordinates this Agreement and any liens related thereto to the lien(s) of any present or future Mortgage(s) granted by the COS, irrespective of the time of execution or creation or time of recording, subject to the agreement by the holder of any such Mortgage that the holder agrees to be bound by the terms of this Agreement and that, so long as the OMD is not in default hereunder, OMD's rights under this Agreement shall not be disturbed upon foreclosure or otherwise. If requested by the holder of any Mortgage granted by the COS, OMD agrees that it will recognize the holder as its lessor under the terms of this Agreement if the holder succeeds to the interest of the COS. Upon the request of the COS, the OMD shall execute, acknowledge, and deliver all instruments necessary to give effect to or notice of such subordination or attornment.
- 23.4. Estoppel Certificate. Upon request from (i) the COS and (ii) any prospective or current lender(s) or holder(s) of any Mortgage(s) as described in Section 23.3 above, the OMD shall execute, acknowledge, and deliver to the COS, and such person(s) making such a request an estoppel certificate or statement in writing certifying to all or any part of the following information or other requested data, to the extent such facts are true and ascertainable:
- 23.4.1. This Agreement constitutes the entire agreement between the COS and the OMD with respect to the Leased Premises and is unmodified and in full force and effect; if there have been modifications, the modifications are in full force and effect as modified and specifically identify the modifications; and

- 23.4.2. The amounts of rent and other charges under this Agreement and the dates to which rents, and other charges have been paid, and the amount of security, if any, deposited with the COS; and
- 23.4.3. All conditions precedent to the effectiveness of this Agreement have been fulfilled, or specifically state any exceptions; and
- 23.4.4. The OMD has accepted possession of the Leased Premises, the lease term has commenced, the OMD is occupying the Leased Premises and there are no defaults or offsets which the OMD has against enforcement of this Agreement by the COS, or specifically identify any exceptions to the foregoing; and
- 23.4.5. The Agreement Effective Date and expiration date of this Agreement.

ARTICLE 24

- 24. Attorney's Fees - Obligation. In the event any legal action is taken to enforce the terms of this Agreement, the prevailing party shall be entitled to recover from the non-prevailing party all fees and expenses reasonably incurred by the prevailing party as a result of the action, including without limitation, investigative fees, expert fees, court reporter fees, court costs and actual attorneys' fees.

ARTICLE 25

25. Environmental Protection

- 25.1. Compliance. The OMD agrees to comply with all rules, regulations, administrative orders, ordinances, and statutes, as now exist or may hereafter be adopted, of the SAA, the City of Shawnee, County of Pottawatomie, State of Oklahoma, and the United States, and any agencies, bureaus, departments, or commissions thereof, with respect to protection of the environment. Without limiting the foregoing, it is an express condition of this Agreement that the OMD, and all other persons and entities acting through, under control of, or on behalf of the OMD, shall comply with all rules and regulations of the FAA, EPA, Oklahoma DEQ and any other authority of competent jurisdiction regarding, without limitation, the leased premises, SNL, and the OMD's use of the Leased Premises, and the reporting and clean-up of any spills, emissions, discharges, leaks or releases causing contamination of the environment.
- 25.2. Indemnification. In furtherance of, in addition to, and not in limitation of ARTICLE 17 and ARTICLE 18 of this Agreement, the OMD agrees to indemnify, defend and hold the COS and the SAA harmless from and against environmental liability, including without limitation, any and all liability, including fines, suits, claims, losses, costs, damages, liens, expenses and causes of action of every kind resulting from pollution, emissions, leaks, discharge, release, escapes or spills resulting from the activities or omissions of the OMD and its officers, employees, agents, representatives, contractors, subcontractors, sublessees, suppliers, licensees, customers, invitees and guests or any other person or entity whom the OMD controls or has the right to control or who is acting through or on behalf of the OMD, in connection with or related to the OMD's activities, the Leased Premises, SNL or this Agreement, including without limitation the cost of

any required clean-up or environmental remediation. This obligation on the part of the OMD shall survive the expiration or earlier termination of this Agreement.

ARTICLE 26

26. NONDISCRIMINATION

26.1. Obligation. The OMD covenants that it will undertake an affirmative action program as required by 14 CFR Part 152, Subpart E, to ensure that no person shall on the grounds of race, creed, color, national origin, or sex be excluded from participating in any employment activities covered in 14 CFR Part 152, Subpart E. The OMD further covenants that no person shall be excluded on the foregoing grounds from participating in or receiving the services or benefits of any program or activity covered by this subpart. The OMD covenants that it will require that its suborganizations provide assurances to the OMD that they similarly will undertake affirmative action programs and that they will require assurances from their suborganizations as required by 14 CFR Part 152, Subpart E, to the same effect. The OMD, for itself, its successors in interest, sublessees and assigns, as a part of the consideration hereof, does hereby covenant and agree that in the event facilities are constructed, maintained or otherwise operated on the premises leased under this Agreement, for a purpose for which a United States Department of Transportation program or activity is extended or for another purpose involving the provision of similar services or benefits, the OMD shall maintain and operate such facilities and services in compliance with all other requirements imposed pursuant to 49 CFR Part 21, Nondiscrimination in Federally Assisted Programs of the Department of Transportation, and as said regulations may be amended. In furtherance hereof, the OMD, for itself, its successors in interest, sublessees and assigns, as a part of the consideration hereof, does hereby covenant and agree that: (1) no person on the grounds of race, creed, color, national origin or sex shall be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities; (2) in the construction of any improvements on, over or under such leased premises and the furnishing of services thereon and in connection therewith, no person on the grounds of race, creed, color, national origin or sex shall be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination; and (3) the OMD shall use such leased premises in compliance with all other requirements imposed by or pursuant to 49 CFR Part 21, Nondiscrimination in Federally Assisted Programs of the Department of Transportation, and as said regulations may be amended.

ARTICLE 27

27. Non-Exclusive Rights. Nothing in this Agreement shall be construed as entitling the OMD to any exclusive right to conduct any aeronautical activity at SNL.

27.1. The COS reserves the right, at its sole discretion, to grant to others the right and privilege to conduct activities or furnish services of the type described in this Agreement at SNL.

27.2. Nothing in this Agreement shall be construed as granting to the OMD any right or privilege which would operate to prevent any person, firm, or entity operating aircraft at SNL.

ARTICLE 28

28. General Provisions.

- 28.1. Federal Aviation Act, Section 308. Nothing contained in this Agreement shall be deemed to grant the OMD any exclusive right or privilege within the meaning of Section 308 of the Federal Aviation Act or any successor provision thereto for the conduct of any activity on SNL, except that, subject to the terms and provisions hereof, the OMD shall have the right to use and occupy the Leased Property under the provisions of this Agreement.
- 28.2. Right of Flight. The COS reserves the right of flight for passage of aircraft above the surface of the Leased Premises. The OMD acknowledges and agrees that the grant and demise of this Agreement are subject to this reserved right of flight, which shall include the right to cause such noise as may be inherent in the operation of aircraft now known or hereafter used for navigation of and flight in the air. Further, the OMD understands and agrees that the COS reserves the right to use such air space for landing at, taking off from, and operating aircraft on and over SNL and that the grant and demise hereof are subject to such reserved right. Furthermore, the SAA reserves the right to take any action the SAA considers necessary to protect the aerial approaches of SNL against obstruction or interference, which right includes without limitation the power to prevent the OMD from erecting, or permitting to be erected, any building or other structure on or adjacent to SNL which, in the sole opinion of the SAA, would limit the usefulness of SNL or constitute a hazard to aircraft.
- 28.3. Nonwaiver of Rights. The failure of the CAS or the OMD to declare any default or breach of any term, condition, covenant or obligation of this Agreement immediately upon the occurrence of the default or breach, or the COS's or OMD's delay in taking any action in response to any default or breach, shall not act as a waiver of the default or breach, nor any continuing or subsequent default or breach, and the COS or the OMD, as the case may be, shall have the right to declare any default or breach at any time and take any action allowed by this Agreement and/or law.
- 28.4. Notices. Any notice or other communication herein required or permitted to be given shall be in writing and may be personally served, or sent by overnight courier or United States mail and shall be deemed to have been given when delivered in person or one (1) business day after delivery to the office of such overnight courier service or three (3) business days after depositing the notice in the United States mail with postage prepaid and properly addressed to the other party at the following respective addresses:

To: Lessor

Office of the City Manager
City of Shawnee
16 West 9th Street
Shawnee, Oklahoma 74801

To: Lessee

OMD

- 28.5. Either party to this Agreement may change its aforementioned address by serving the other party with ten (10) calendar days advance written notice.
- 28.6. Exercise of Rights/Giving Notice. All rights, powers, privileges, and duties of the COS or the OMD under this Agreement, including, without limitation, the giving of any notices required or permitted under this Agreement, may be exercised, performed, or given by the COS's and OMD's respective agents or attorneys.
- 28.7. Headings/Captions. The headings and captions in this Agreement are inserted only as a matter of convenience; are for reference purposes only; in no way expand, define, limit, or describe the scope or intent of any provisions of this Agreement; and shall not be construed to affect in any manner the terms and provisions hereof or the interpretation or construction thereof.
- 28.8. Severability. The invalidity, unlawfulness or unenforceability of any term, clause, provision, sentence, or paragraph of this Agreement shall not invalidate, render unenforceable or adversely affect the remaining terms, clauses, provisions, sentences, or paragraphs of this Agreement, which shall be enforced to the fullest extent allowed by law and, to this extent, are hereby deemed severable.
- 28.9. Waiver of Claims. No officer, Commissioner, agent, representative or employee of the COS shall be charged personally or held contractually liable under any term or provision of this Agreement or because of any breach thereof or because of his/her execution or attempted execution of this Agreement.
- 28.10. The OMD hereby waives any claim against the COS and its officers, Commissioners, agents, representatives, or employees for loss of anticipated profits caused by any suit or proceedings directly or indirectly attacking the validity of this Agreement, or any part thereof, or by any judgment or award in any suit or proceeding declaring this Agreement null, void or voidable, or delaying the same or any part thereof, from being carried out.
- 28.11. Right to Develop Airport. The COS reserves the right to further develop or improve SNL, and all landing areas and taxiways at SNL as it may see fit, regardless of the desires, opinions, or views of the OMD and without interference or hindrance, and the OMD shall not exercise any rights granted by this Agreement in such a manner as would interfere with or adversely affect the use, operation, maintenance or development of SNL.

- 28.12. Incorporation of Exhibits. All exhibits, attachments and annexed or other instruments referred to in this Agreement are intended to be and hereby are specifically made a part of this Agreement.
- 28.13. Incorporation of Required Provisions. The parties incorporate and agree to incorporate into this Agreement by this reference all provisions lawfully required now or in the future to be contained in this Agreement by any governmental body or agency.
- 28.14. Successors and Assigns Bound. This Agreement shall be binding upon and inure to the benefit of the successors, assigns (subject to approval of the COS as required herein), heirs, administrators, and legal representatives of the parties hereto.
- 28.15. Right to Amend. In the event the FAA or its successors require modifications or changes in this Agreement as a condition precedent to the granting of funds for the improvement of SNL, or otherwise, OMD shall make such amendments, modifications, revisions, supplements or deletions to any of the terms, conditions or requirements of this Agreement as may be required, without any consent thereto by the OMD, and any expenses resulting from such amendments, modifications, revisions, supplements or deletions shall be borne solely by the OMD; provided, however, the OMD shall in no event be liable for any attorney's fees or accountants fees incurred by the COS in amending, modifying or changing the terms of this Agreement. Except for the foregoing, or as otherwise allowed in this Agreement, all other amendments, modifications, revisions, supplements, or deletions to this Agreement shall be in writing and signed by both parties hereto provided, the COS shall allow the OMD to participate in any presentations to or discussions or negotiations with FAA or its successors concerning any such required amendments, modifications, revisions, supplements, or deletions to or from this Agreement.
- 28.16. Time of Essence. The parties hereby acknowledge and agree that time is of the essence of this Agreement.
- 28.17. Gender. Words of any gender used in this Agreement shall be held and construed to include any other gender, and words in the singular number shall be held to include the plural, unless the context otherwise requires.
- 28.18. Force Majeure. Neither the COS nor the OMD shall be deemed in violation of this Agreement if it is prevented from performing any of the obligations hereunder by reason of strikes, boycotts, labor disputes, embargoes, shortages of material, acts of God, acts of the public enemy, acts of superior governmental authority, weather conditions, riots, rebellions, sabotage, or any other circumstances for which it is not responsible, and which are not within its control.
- 28.19. Governing Law and Jurisdiction. This Agreement and the rights and obligations of the COS and OMD under this Agreement shall be construed in accordance with and governed by the laws of the State of Oklahoma, without regard to the principles of conflicts of law. Any legal action or proceeding with respect to this Agreement shall be brought only in the state or federal courts of competent jurisdiction in Pottawatomie County, Oklahoma. By execution and delivery of this Agreement, the OMD hereby irrevocably accepts for itself and in respect of its property, generally and unconditionally, the jurisdiction of the above courts. The OMD hereby irrevocably waives any objection that it may now or hereafter have to the laying of venue of any actions or

proceedings arising out of or in connection with this Agreement brought in the above referenced courts. The OMD hereby further irrevocably waives and agrees not to plead or claim in any such court that any such action or proceeding in any such court has been brought in an inconvenient forum.

- 28.20. Merger Clause. The parties hereto understand and agree that this instrument contains the entire agreement between the parties. The parties further understand and agree that the other party and its agents have made no representations or promises with respect to this Agreement or the making or entry into this Agreement, except as expressly set forth herein, and that no claim or cause for termination shall be asserted by either party against the other, and such party shall not be liable by reason of the making of any representations or promises not expressly stated in this Agreement, any other written or oral agreement with the other party being expressly waived. All prior proposals, negotiations, and representations, whether oral or written, are hereby superseded, and merged into this Agreement.
- 28.21. Reading of Agreement. The parties hereto acknowledge that they have thoroughly read this Agreement, including all exhibits or attachments hereto and all instruments referenced herein, and fully and completely understand all rights and obligations herein.
- 28.22. This Agreement constitutes the entire agreement between the COS and the OMD with respect to the Leased Premises.

IN WITNESS WHEREOF, the COS and OMD have executed this Land Lease and Operating Agreement effective as of the day and year first written above.