

AGENDA
SHAWNEE AIRPORT AUTHORITY
April 2, 2018 AT 6:00 P.M.
COMMISSION CHAMBERS AT CITY HALL
SHAWNEE, OKLAHOMA

CALL TO ORDER

DECLARATION OF A QUORUM

All motions will be made in the affirmative. The fact that a commissioner makes or offers a second to a motion does not mean that the commissioner must vote in favor of passage.

1. Consider approval of Consent Agenda:
 - a. Minutes from the March 19, 2018 regular meeting.
2. Discussion, consideration, and possible action concerning North Airport Property regarding termination of existing lease.
3. New Business

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

Respectfully submitted

Phyllis Loftis, CMC, City Clerk

Shawnee Airport Authority

1.a.

Meeting Date: 04/02/2018

Minutes

Submitted By: Kacie Eck, City Clerk

Department: City Clerk

Information

Title of Item for Agenda

Minutes from the March 19, 2018 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 IN THE COMMISSION CHAMBERS AT CITY HALL, 9TH AND BROADWAY, SHAWNEE, OKLAHOMA, MONDAY, MARCH 19, 2018, DURING THE BOARD OF CITY COMMISSIONERS MEETING AT 6:00 P.M., PURSUANT TO NOTICE DULY POSTED AS PRESCRIBED BY LAW. UPON ROLL CALL, A QUORUM WAS DECLARED WITH THE FOLLOWING MEMBERS IN ATTENDANCE:

PRESENT: Bushong, Gillham, Finley, Rutherford, Salter

ABSENT: Harrod, Shaw

Call to Order

Declaration of a Quorum

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

- a. Minutes from the March 1, 2018 Special Call meeting and March 5, 2018 regular meeting.

A motion was made by Trustee Gillham, seconded by Trustee Rutherford, to approve Consent Agenda Item No. 1(a). Motion carried 5-0.

AYE: Gillham, Rutherford, Salter, Bushong, Finley

NAY: None

AGENDA ITEM NO. 2: New Business (Any matter not known about 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. (7:34 p.m.)

RICHARD FINLEY
CHAIRMAN

ATTEST:

LISA LASYONE, CMC, SECRETARY

Shawnee Airport Authority

2.

Meeting Date: 04/02/2018

North Airport Prop.

Submitted By: Kacie Eck, City Clerk

Department: City Clerk

Information

Title of Item for Agenda

Discussion, consideration, and possible action concerning North Airport Property regarding termination of existing lease.

Fiscal Impact

Attachments

Memo

Lease



Date: March 27, 2018

To: Shawnee Airport Authority

The Honorable Richard Finley, Mayor
Dub Bushong, Commissioner
Ron Gillham, Commissioner
James Harrod, Commissioner
Darren Rutherford, Commissioner
Lesa Shaw, Commissioner
Ben Salter, Commissioner

From: Bonnie A. Wilson, CM Airport Manager

Subject: Termination of Land Lease and Future Use Considerations
North Airport Property

Nature of Request:

The airport staff is seeking approval from the Shawnee Airport Authority to terminate a lease agreement between the Shawnee Regional Airport and Mr. Frank Welch, at the end of the initial term, 31 March 2018, and, deny the opportunity for renewal, based on the Lessee's default.

Staff Analysis and Considerations:

The Shawnee Regional Airport manages the lease on approximately 225 acres of land located on Jonco Road, one-half mile west of Highway 18, in Shawnee, Oklahoma as generally depicted on Exhibit A. This property is currently under lease for the purposes of hay cutting and bailing to Mr. Frank Welch.

Mr. Welch has failed to make payment to the City of Shawnee for over 120 days and, has a current balance due of \$2,916.76 against a \$2,500.00 annual fee. Mr. Welch was notified of the requirement to remedy this situation within ten days, via certified letter dated February 23, 2018. As of this writing Mr. Welch has not made a payment and the account remains in arrears.

Recommendation:

Staff presented the information summarized above to the Shawnee Airport Advisory Board seeking their recommendation on the proposed course of action.

Members of the Advisory Board present for the meeting voted to support the recommendation from staff to terminate the lease at the end of the initial term and decline the option to renew the lease with Mr. Welch.

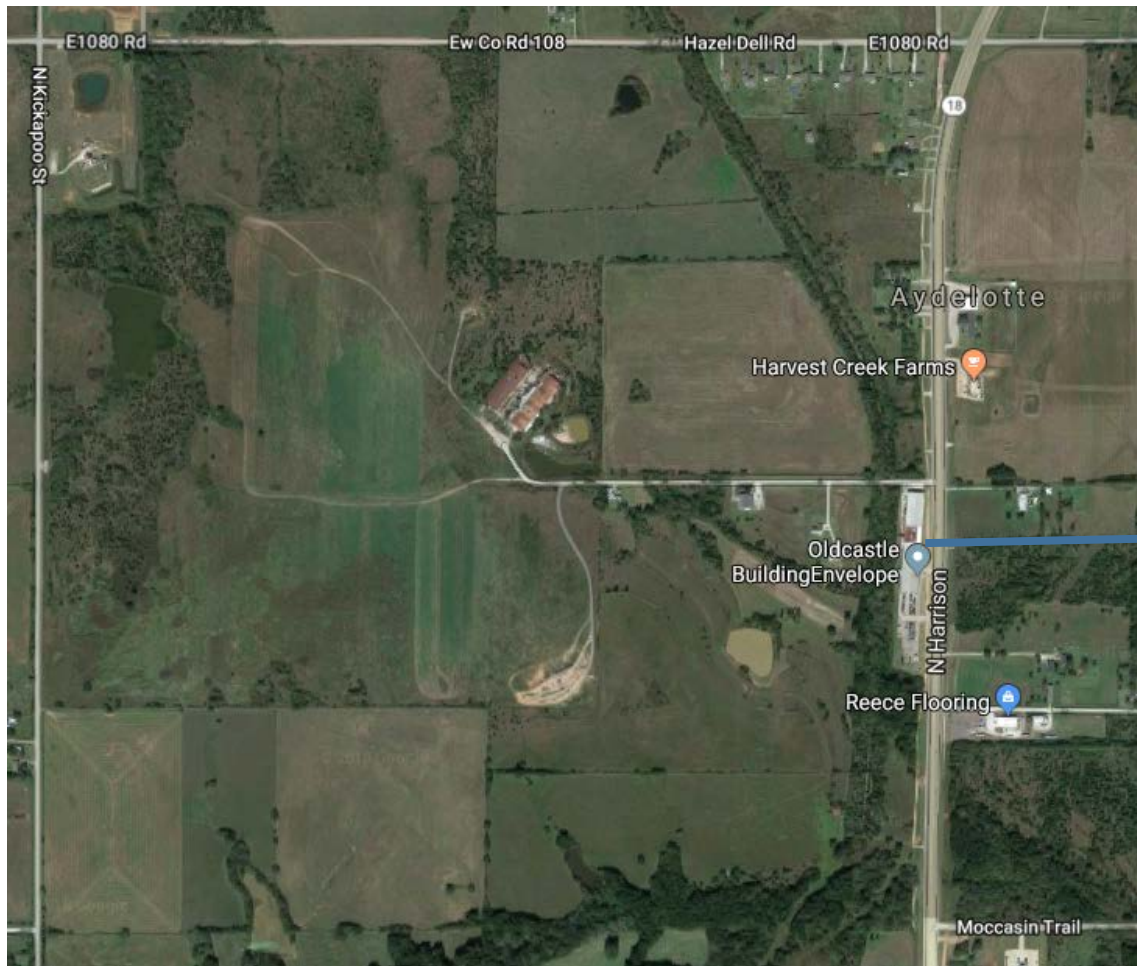
Budget Consideration:

The land has limited commercial value in its present condition, though it currently serves to support both the Shawnee Municipal Authority's requirements for waste management, and the Shawnee Police Department's requirement for a firearms training range.

At the request of the Airport Advisory Board staff will take steps to identify the potential highest and best use of the land prior to proposing any additional action on this matter.

Appendix A

Approximate Boundaries of “North Airport” Property



LEASE AGREEMENT
HAY CUTTING AND BAILING

This Agreement of Lease made and entered into this 1st day of April, 2016 by and between the City of Shawnee (City) Shawnee, Oklahoma, hereinafter referred to as "Lessor," and Frank Welch, hereinafter referred to as "Lessee."

WITNESSETH THAT:

WHEREAS, the City is the owner of the premises known as the North Airport Property (the "Leased Premises").

WHEREAS, the City and Lessee are mutually desirous of entering into a Lease for the use and occupancy of certain areas owned by the City of Shawnee;

NOW, THEREFORE, in consideration of the premises and of the rents, covenants and conditions herein contained, the City does hereby grant to the Lessee the right to use and occupy the area described in Article 2 hereof, during the term hereof, (hereinafter referred to as the "Leased Premises"), for the term and pursuant to the conditions hereinafter set forth.

ARTICLE 1 - TERM

1.1 The term of this lease shall be for a **two (2) year period** commencing on April 1, 2016 and terminating on March 31, 2018. After the initial term, Lessee has the option to renew the lease for two additional years.

ARTICLE 2 - LEASE PREMISES

2.1 The Leased Premises shown on Exhibit A, attached hereto and made a part hereof consist of:

2.1.1 Existing land located on Jonco Road, one-half mile west of Highway 18, Shawnee, Oklahoma, consisting of approximately 225 acres more or less.

ARTICLE 3 - USE OF LEASED PREMISES

3.1 The Lessee shall occupy and use the Leased Premises for the following purposes and for no other purpose whatsoever:

3.1.1 Cutting and bailing hay. Lessee has the right to prep and spray the leased area with chemicals approved by the City Manager.

ARTICLE 4 - RENTAL

4.1 Lessee agrees to pay to the City as rental for use of the premises and the privileges herein granted the sum of **\$2,500 per year**.

4.2 Lessee shall pay rent semi-annually beginning on the 1st day of April, 2016.

4.3 The monthly rent shall be payable at the City Clerk's office or such other locations as may from time to time be directed in writing by the City.

ARTICLE 5 - ACCEPTANCE, CARE MAINTENANCE, IMPROVEMENTS AND REPAIR

5.1 Lessee warrants that it has inspected the Leased Premises and accepts possession of the Leased Premises and the improvements thereon "as is" in its present condition, and subject to all limitations imposed upon the use thereof by the rules and regulations by ordinances of the City, and admits its suitability and sufficiency for the uses permitted hereunder. Except as may otherwise be provided for herein, the City shall not be required to maintain nor to make any improvements, repairs or restorations upon or to the Leased Premises or to any of the improvements presently located thereon. City shall never have any obligation to repair, maintain or restore, during the term of this lease, any improvements placed upon the Leased Premises by Lessee, its successors and assigns. **The City shall make no guarantees on the yield or the quality of the hay. Lessee agrees to cut the grass on the leased premises before the grass height reaches 5 feet. Lessee shall remove hay bales within two (2) months of bailing, weather permitting.**

5.2 Lessee shall throughout the term of this Agreement assume the entire responsibility, cost and expense, for all repair and maintenance whatsoever on the Leased Premises and all improvements thereon in a good workmanlike manner, whether such repair or maintenance be ordinary or extraordinary, structural or otherwise. Additionally, Lessee, without limiting the generality hereof, shall:

5.2.1 Keep at all times, in a clean and orderly condition and appearance, the Leased Premises, all improvements thereon and all of the Lessee's fixtures, equipment and personal property which are located on any part of the Leased Premises. Chemicals shall be applied to maximize the crop yield and quality while minimizing the growth and spread of undesirable grasses and weeds.

5.2.2 Repair any damage caused by Lessee to paving or other surface of the Leased Premises caused by Lessee's operations.

5.3 In the event Lessee fails: (a) to clean, repair, replace, rebuild or repaint within a period of thirty (30) days after written notice from the City to do any maintenance or repair work required to be done under the provisions of this

Agreement, other than preventive maintenance, (b) or within a period of ninety (90) days if the said notice specifies that the work to be accomplished by the Lessee involves preventative maintenance only; (c) or to diligently continue to completion any repairs, replacement, rebuilding, painting or repainting as required under the Agreement; then, the City may, at its option, and in addition to any other remedies which may be available to it, enter the premises involved, without such entering causing or constituting a cancellation of this Agreement or any interference with the possession of the Leased Premises, and repair, replace, rebuild or paint all or any part of the Leased Premises or the improvements thereon, and do all things reasonably necessary to accomplish the work required, and the cost and expense thereof shall be payable to the City by Lessee on demand. Provided, however, if in the opinion of the City, the Lessee's failure to perform any such maintenance endangers the safety of the public, the employees or property of the City, and the City so states same in its notice to Lessee, the City may, at its sole option, in addition to all other remedies which may be available to it, elect to perform such maintenance at any time after the giving of such notice, and Lessee agrees to pay to the City the cost and expense of such performance on demand. Furthermore, should the City, its officers, employees or agents undertake any work hereunder, Lessee hereby waives any claim for damages, consequential or otherwise, as a result thereof except for claims for damages arising from the City's sole negligence. The foregoing shall in no way affect or alter the primary obligations of the Lessee as set forth in this Agreement, and shall not impose or be construed to impose upon the City any obligations to maintain the Leased Premises, unless specifically stated otherwise herein.

5.4 If Lessee makes any improvements without City approval, then, upon notice to do so, Lessee shall remove the same or at the option of City, cause the same to be changes to the satisfaction of City. If Lessee fails to comply with such notice within thirty (30) days or to commence to comply and pursue diligently to completion, City may effect the removal or change and Lessee shall pay the cost thereof to the City. Lessee expressly agrees in the making of all improvements that, except with the written consent of City, it will neither give nor grant, nor purport to give or grant any lien upon the Leased Premises or upon any improvements thereupon or which is in the process of construction or repair, nor allow any condition to exist or situation to develop whereby any party would be entitled, as a matter of law, to a lien against said Leased Premises and improvements thereon, and Lessee will discharge any such lien within thirty (30) days after notice of filing thereof. Notice is hereby given by City to all persons that no lien attaches to any such improvements.

5.5 The Lessor reserves the right to sell/lease some or all of the property to another entity for non-agriculture related uses during the term of the lease. Should any such sale/lease occur, the amount of any future lease payments due from Lessee would be reduced proportionately to the amount of land removed from production.

ARTICLE 6 - ADDITIONAL OBLIGATIONS OF LESSEE

6.1 Lessee shall conduct its operations hereunder in an orderly and proper manner.

6.2 Lessee shall control the conduct and demeanor of its officers, agents, employees, invitees and, upon objection from City concerning the conduct, demeanor of any such person, Lessee shall immediately take all lawful steps necessary to remove the cause of the objection.

6.3 Lessee shall comply with all health and safety laws and requirements and any other federal, state or municipal laws, ordinances, rules, regulations and requirements, applicable to the Leased Premises.

6.4 Lessee shall comply with all written instructions of the City in disposing of its trash and refuse at Lessee's expense, and shall use a system of refuse disposal approved by the City. The manner of handling and disposing of trash, garbage and other refuse and the frequency of removal thereof from the Leased premises shall at all times be subject to the rules, regulations and approval of City.

6.5 Lessee shall not commit, nor permit to be done, anything which may result in the commission of a nuisance, waste or injury on the Leased Premises.

6.6 Lessee shall not do, nor permit to be done, anything which may interfere with the effectiveness or accessibility of the drainage system, sewerage system, fire protection system, sprinkler system, alarm system and fire hydrants and hoses, if any, installed or located on the Leased Premises.

6.7 Lessee shall not do, nor permit to be done, any act or thing upon the Leased Premises which may constitute a hazardous condition so as to increase the risks attendant upon the operations permitted by the Agreement.

6.8 Lessee shall coordinate with the North Wastewater Treatment Plant Supervisor or the Public Works Director before each cutting to make sure the area needing to be cut is available.

ARTICLE 7 - INGRESS AND EGRESS

7.1 The Lessee shall have the right of ingress and egress to and from the Leased Premises by means of roadways, to be used in common with others having rights of passage thereon.

7.2 The Lessee hereby releases and discharges the City, its officers, employees and agents; and all municipalities and other governmental authorities and their

respective successors and assigns, of and from any and all claims, demands, or causes of action which the Lessee may now or at any time hereafter have against any of the foregoing, arising or alleged to arise out of the closing of any street, roadway or other area, provided that a reasonable means of access to the Leased Premises remains available to the Lessee whether within the Leased Premises or outside the Leased Premises unless otherwise mandated by safety considerations or lawful exercise of the police power. The Lessee shall not do or permit anything to be done which will interfere with the free access and passage of others to space adjacent to the Leased Premises or in any streets or roadways near the Leased Premises.

ARTICLE 8 - LIABILITIES AND INDEMNITIES

8.1 City shall not in any way be liable for any cost, liability, damage or injury, including cost of suit and reasonable expenses of legal services, claimed or recovered by any person whomsoever, or occurring on the Leased Premises, or as a result of any operations works, acts or omissions performed on the Leased Premises, by Lessee, its sub lessees or tenants, or their guest or invitees.

8.2 Lessee agrees to indemnify, save and hold harmless, the City, (its officers, agents, servants and employees) of and from any and all costs, liability, damage and expense (including costs of suit and reasonable expenses of legal services) claimed or recovered, justly or unjustly, false, fraudulent or frivolous, by any person, firm or corporation by reason injury to, or death of, any person or persons, and damage to, destruction or loss of use of any and all property, including City personnel and City property, directly or indirectly arising from, or resulting from, any operations, works, acts or omissions of Lessee, its agents, servants, employees, contractors, sub lessees or tenants. Provided, however, that upon the filing with the City by anyone of a claim for damages arising out of incidents for which Lessee herein agrees to indemnify and hold the City harmless, the City shall notify Lessee of such claim and in the event that Lessee does not settle or compromise such claim, then Lessee shall undertake the legal defense of such claim both on behalf of Lessee and behalf of the City. It is specifically agreed, however, that the City at its own cost and expense, may participate in the legal defense of any such claim. Any final judgment rendered against the City for any cause for which Lessee is liable hereunder shall be conclusive against Lessee as to liability and amount upon the expiration of the time for appeal.

8.3 In addition to Lessee's undertaking, as stated in this Article, and as a means of further protecting the City, its officers, agents, servants and employees, Lessee shall at all times during the term of this Agreement obtain and maintain in effect Public Liability Insurance coverage as set forth in Schedule A attached hereto and made a part hereof. In this connection, Lessee agrees to require its contractors doing work on the Leased Premises to carry adequate insurance coverage, and if Lessee so desires, it may accomplish same by an endorsement to Lessee's policies to include such persons or parties as additional named insured.

8.3.1 The City reserves the right to increase the minimum liability insurance set forth in Schedule A when in the City's opinion the risks attendant to Lessee's operations hereunder have increased.

8.4 The Lessee represents that it is the owner of or fully authorized to use any and all services, processes, machines, articles, marks, names or slogans used by it in its operations under or in anywise connected with this Agreement. The Lessee agrees to save and hold the City, its officers, employees, agents and representatives free and harmless of and from any loss, liability, expense, suit or claim for damages in connection with any actual or alleged infringement of any patent, trademark or copyright or arising from any alleged or actual unfair competition or other similar claim arising out of the operations of the Lessee under or in anywise connected with this Agreement.

8.5 The Lessee represents and warrants that no broker has been concerned on its behalf in the negotiation of this Agreement and that there is no such broker who is or may be entitled to be paid a commission in connection therewith. The Lessee shall indemnify and save harmless the City of and from any claim for commission or brokerage made by any such broker when such claim is based in whole or in part upon any act or omission of the Lessee.

ARTICLE 9 - ASSIGNMENT AND SUBLEASE

9.1 Lessee covenants and agrees that it will not sell, convey, transfer, mortgage, pledge or assign this Agreement or any part thereof, or any rights created thereby, without the prior written consent of the City.

9.2 Any assignment or transfer of this Agreement, or any rights of Lessee hereunder, without the consent of the City, shall entitle the City at its option to forthwith cancel this Agreement.

9.3 Any assignment of this Agreement approved and ratified by the City shall be on the condition that the assignee accepts and agrees to all of the terms, conditions and provisions of this Agreement, and agrees to accept and discharge all of the covenants and obligations of Lessee hereunder, including but not limited to the payment of all sums due and to become due by Lessee under the terms hereof.

9.4 Subject to all of the terms and provisions hereof, Lessee may not sublet a portion or portions of the Leased Premises to a person, partnership, firm or corporation engaged in a business that is in the opinion of the City compatible with Lessee's authorized business.

ARTICLE 10 - NON-DISCRIMINATION

10.1 The Lessee, for it, its heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree as a covenant running with the land that in the event facilities are constructed, maintained, or otherwise operated on the Leased Premises for a purpose for which a United States Government program or activity is extended, the Lessee shall maintain and operate such facilities and services in compliance with all other requirements imposed pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally-assisted programs of the Department of Transportation-Effectuation of Title VI of the Civil rights Act of 1964, and as said Regulations may be amended.

10.2 In this connection, the City reserves the right to take whatever action it might be entitled by law to take in order to enforce this provision. This provision is to be considered as a covenant on the part of the Lessee, a breach of which, continuing after notice by City to cease and desist, will constitute a material breach of this Agreement and will entitle the City, at its option, to exercise its right of termination as provided for herein, or take any action that it deems necessary to enforce compliance herewith.

10.3 The Lessee shall indemnify and hold harmless City from any claims and demands of third persons including the United States of America resulting from the Lessee's noncompliance with any of the provisions of this Section and the Lessee shall reimburse City for any loss or expense incurred by reason of such noncompliance.

ARTICLE 11 - GOVERNMENTAL REQUIREMENTS

11.1 The Lessee shall procure all licenses, certificates, permits or other authorization from all governmental authorities, if any, having jurisdiction over the Lessee's operations at the Leased Premises which may be necessary for the Lessee's operations thereat.

11.2 The Lessee shall pay all taxes, licenses, certification, permit and examination fees and excise taxes, if any, which may be assessed, levied, exacted or imposed on the Leased Premises or operation hereunder or on the gross receipts or income to Lessee there from, and shall make all applications, reports and returns required in connection therewith.

11.3 Lessee shall have the right, at its cost and expense, to undertake appropriate action to exempt all or any part of the Leased Premises from real estate taxes imposed upon the Leased Premises, or to secure a reduction in real estate taxes as assessed. Any such real estate taxes shall be apportioned as of the dates of commencement and termination of the lease. If any real estate taxes as may be

assessed against the Leased Premises are reduced or eliminated, Lessee shall be entitled to full benefit thereof, including any refund payable to Lessee resulting therefrom.

ARTICLE 12 - RIGHTS OF ENTRY RESERVED

12.1 The City, by its officers, employees, agents, representatives and contractors shall have the right at all reasonable times to enter upon the Leased Premises for any and all purposes, provided, such action by the City, its officers, employees, agents, representatives and contractors does not unreasonably interfere with the Lessee's use, occupancy, or security requirements of the Leased Premises.

12.2 Without limiting the generality of the foregoing, the City, by its officers, employees, agents, representatives, contractors and furnishers of utilities and other services, shall have the right, at its own cost and expense, whether for its own benefit, or for the benefit of others than the Lessee, to maintain existing and future utility, mechanical, electrical and other systems and to enter upon the Leased Premises at all reasonable times to make such repairs, replacements or alterations thereto, as may, in the opinion of the City, be deemed necessary or advisable, and from time to time to construct or install over, in or under the Leased Premises such systems or parts thereof and in connection with such maintenance use the Leased Premises for access to other parts of the Leased Premises otherwise not conveniently accessible, provided, however, that in the exercise of such right of access, repair alteration or new construction, the City, shall not unreasonably interfere with the actual use and occupancy of the Leased Premises by the Lessee. It is specifically understood and agreed that the reservation of the aforesaid right by the City shall not impose or be construed to impose upon the City any obligation to repair, replace or alter any utility service lines now or hereafter located on the Leased Premises for the purpose of providing utility services only to the Leased Premises.

12.3 In the event that any personal property of Lessee shall obstruct the access of the City, its officers, employees, agents or contractors, or the utility company furnishing utility service to any of the existing utility, mechanical, electrical and other systems, and thus shall interfere with the inspection, maintenance or repair of any such system, Lessee shall move such property, as directed by the City or said utility company, in order that access may be had to the system or part thereof for inspection, maintenance or repair. If Lessee shall fail to so move such property after direction from City or said utility company to do so, the City or the utility company may move it, and the Lessee hereby agrees to pay the cost of such moving upon demand, and further Lessee hereby waives any claim for damages as a result therefrom, except for claims for damages arising from the City's sole negligence.

12.4 At any reasonable time, and from time to time during the ordinary business hours, the City, by its officers, agents and employees, whether or not accompanied by a prospective lessee, occupier or user of the Leased Premises, shall have the right to

enter thereon for the purpose of exhibiting and viewing all parts of the same, subject to Lessee's reasonable security requirements.

12.5 Exercise of any or all of the foregoing rights, by the City, or others under right of the City, shall not be, nor be construed to be, an eviction of Lessee, nor be made the grounds for any abatement of rental nor any claim or demand for damages, consequential or otherwise.

ARTICLE 13 - ADDITIONAL RENTS AND CHARGES

13.1 Except as provided in Section 5.3 (b), in the event Lessee fails within thirty (30) days after receipt of written notice from City to perform or commence to perform any obligation required herein to be performed by Lessee, City may enter the Leased Premises (without such entering causing or constituting a cancellation of this Agreement or an interference with the possession of such Leased Premises by Lessee) and do all things reasonably necessary to perform such obligation, charging to Lessee the cost and expense thereof, and Lessee agrees to pay to the City upon demand such charge in addition to other amounts payable by Lessee hereunder. Provided, however, that if Lessee's failure to perform any such obligation endangers the safety of the public or employees or property of the City and City so states in its notice to Lessee, the City may perform such obligation of Lessee at any time after the giving of such notice, and charge to the Lessee the reasonable cost and expense thereof which Lessee shall pay upon demand.

13.2 If the City elects to pay any sum or sums or incur any obligation or expense by reason of the failure, neglect or refusal of Lessee to perform or fulfill any one or more of the conditions, covenants or agreements contained in this Agreement, or as the result of any act or omission of Lessee contrary to said conditions, covenants or agreements, Lessee hereby agrees to pay the sum or sums so paid or expense so incurred by the City as a result of such failure neglect or refusal of Lessee, including interest, not to exceed ten percent (10%) per annum, together with all costs, damages and penalties. In such event, the total of such amounts may be added to any installment of rent thereafter due hereunder, and each and every part of the same shall be and become additional rent recoverable by the City in the same manner and with like remedies as if it were originally a part of the rent provided for in this Agreement.

ARTICLE 14 - DEFAULT

14.1 In the event Lessee breaches any term or provision of this Lease, including the obligation to pay rent as and when due, the City shall have the right to terminate this lease upon giving Lessee ten (10) days notice to cure such default (except as otherwise provided in Section 5.3 above). If Lessee shall not have cured its default within said ten (10) day period to the satisfaction of the City, then the City may

declare this Lease and Lessee's right of occupancy to be terminated, and Lessee shall at once quit the Premises, taking only such personality or fixtures as the City may authorize to be removed. The foregoing rights and remedies given to City are and shall be deemed to be cumulative and shall be deemed to be given to City in addition to any other and further rights granted to City herein or by law. The failure by the City at any time to exercise any right or remedy hereby given to it shall not be deemed to operate as a waiver by it of its right to exercise such rights or remedies at any other or future time.

ARTICLE 15 - TERMINATION BY LESSEE

15.1 In addition to any other right of cancellation herein given to Lessee, or any other rights to which it may be entitled by law, equity or otherwise, as long as Lessee is not in default in payment to City of any amounts due City under this Agreement, Lessee may cancel this Agreement and thereby terminate all of its rights and unaccrued obligations hereunder, by giving City thirty (30) days' advance written notice upon or after the happening of the following events:

15.1.1 issuance by a court of competent jurisdiction of an injunction which in any way substantially prevents or restrains the use of the Leased Premises, or any part thereof necessary to Lessee's business operations on the Leased Premises, and which injunction remains in force for a period of at least thirty (30) days after the party against whom the injunction has been issued has exhausted or abandoned all appeals or one hundred twenty (120) days whichever is shorter, if such injunction is not necessitated by or issued as a result of an act or omission of Lessee; or

ARTICLE 16 - SURRENDER AND RIGHT OF RE-ENTRY

16.1 Upon the cancellation or termination of this Agreement pursuant to any terms hereof, Lessee agrees peaceably to surrender up the Leased Premises to the City in the same condition as they are at the time of the commencement of the term hereof, and as they may hereafter be repaired and improved by Lessee; save and except, (a) such normal wear and tear thereof as could not have been prevented by ordinary and usual repairs and maintenance, (b) obsolescence in spite of repair, and (c) damage to or destruction of the leasehold improvements for which insurance proceeds are received by the City. Upon such cancellation or termination, the City may re-enter and repossess the Leased Premises together with all improvements and additions thereto, or pursue any remedy permitted by law for the enforcement of any of the provisions of this Agreement, at City's election. Furthermore, upon such cancellation or termination, and for a reasonable time thereafter (not exceeding thirty (30) days after such cancellation or termination, and for which period Lessee will pay to the City current lease rentals), or during the term of this Agreement, if Lessee is not in default in rentals or any other charges or obligations due the City, Lessee shall have

the right to remove its personal property, fixtures and trade equipment which it may have on the Leased Premises, provided the removal thereof does not impair, limit or destroy the utility of said Leased Premises or building for the purpose for which they were constructed or improved, and provided, further, that Lessee repairs all damages that might be occasioned by such removal, and restores the building and site to the condition above required.

ARTICLE 17 - SURVIVAL OF THE OBLIGATIONS OF THE LESSEE

17.1 In the event that the Agreement shall have been terminated in accordance with a notice of termination as provided in Article 15 hereof, all the obligations of the Lessee under this Agreement shall survive such termination, re-entry, regaining or resumption of possession and shall remain in full force and effect for the full term of this Agreement, and the amount or amounts of damages or deficiency shall become due and payable to City to the same extent, at the same time or times, and in the same manner as if no termination, re-entry, regaining or resumption of possession had taken place. City may maintain separate actions each month to recover the damage or deficiency then due or at its option and at any time may sue to recover the full deficiency less the proper discount, for the entire unexpired term of the Agreement.

17.2 The amount of damages for the period of time subsequent to termination (or re-entry, regaining or resumption of possession) on account of the Lessee's rental obligations shall be the sum of the following:

17.2.1 The amount of the total of all installments thereof payable prior to the effective date of termination except that the credit to be allowed for the installment payable on the first (1st) day of the month in which the termination is effective shall be prorated for the part of the month the Agreement remains in effect on the basis of the total days in the month;

17.2.2 An amount equal to all expenses incurred by City in connection with regaining possession, restoring the Leased Premises, acquiring a new lease for the Leased Premises, legal expenses (including but not limited to attorney's fees), putting the Leased Premises in order, maintenance and brokerage fees.

ARTICLE 18 - USE SUBSEQUENT TO CANCELLATION OR TERMINATION

18.1 The City, upon termination or cancellation pursuant to Article 15 hereof, may occupy the Leased Premises or may enter into an agreement with another lessee and shall have the right to permit any person, firm or corporation to enter upon the Leased Premises and use the same. Such use may be of part only of the Leased Premises or of the entire Leased Premises, together with other premises, and for a period of time

the same as or different from the balance of the term hereunder remaining, and on terms and conditions the same as or different from those set forth in this Agreement.

18.2 City shall also, upon said termination or cancellation, or upon re-entry, regaining or resumption of possession, have the right to repair and to make structural or other changes in the Leased Premises, including changes which alter its character and the suitability thereof for the purposes of the Lessee under this Agreement, without affecting, altering or diminishing the obligations of the Lessee hereunder, provided, that any structural changes shall not be at Lessee's expense.

18.3 In the event either of use by others or of any actual use and occupancy by City, there shall be credited to the account of the Lessee against its survived obligations hereunder any net amount remaining after deducting from the amount actually received from any lessee, licensee, permittee or other occupier in connection with the use of the said Leased Premises or portion thereof during the balance of the term of use and occupancy as the same if originally stated in this Agreement, or from the market value of the occupancy of such portion of the Leased Premises as City may itself during such period actually use and occupy, all expenses, costs and disbursements incurred or paid by City in connection therewith. No such use and occupancy shall be or be construed to be an acceptance of a surrender of the Leased Premises, nor shall such use and occupancy constitute a waiver of any rights of City hereunder. City will use its best efforts to minimize damages to Lessee under this Article.

ARTICLE 19 - LIMITATION OF RIGHTS AND PRIVILEGES GRANTED

19.1 Except the exclusive right of Lessee to possession of the Leased Premises, no exclusive rights on the Leased Premises are granted by this Agreement and no greater rights or privileges with respect to the use of the Leased Premises or any part thereof are granted or intended to be granted to the Lessee by this Agreement, or by any provision thereof, than the rights and privileges expressly and specifically granted hereby.

ARTICLE 20 - NOTICES

20.1 All notices, consents and approvals required or desired to be given by the parties hereto shall be sent in writing, and shall be deemed sufficiently given when same is deposited in the United States Mail, sufficient postage prepaid, registered or certified mail, return receipt requested, addressed to the recipient at the address set forth below:

To City:

City Manager
P.O. Box 1448
Shawnee, Oklahoma 74802-1448

AND

To Lessee: Frank Welch
11700 NW 118th St.
Yukon, OK 73099

20.2 Such addresses shall be subject to change from time to time to such other addresses as may have been specified in written notice given by the intended recipient to sender.

ARTICLE 21 - HOLDING OVER

21.1 No holding over by Lessee after the termination of this lease shall operate to extend or renew this lease for any further term whatsoever; but Lessee will by such holding over become the tenant at will of City and after written notice by City to vacate such premises, continued occupancy thereof by Lessee shall constitute Lessee a trespasser.

21.2 Any holding over by Lessee beyond the thirty (30) day period permitted for removal of fixtures without the written consent of the City shall make the Lessee liable to the City for damages equal to double the rentals provided for herein and which were in effect at the termination of the lease.

21.3 All insurance coverage that Lessee is required under the provisions hereof to maintain in effect shall continue in effect for so long as Lessee, or any of Lessee's sub lessees or tenants occupy the Leased Premises or any part thereof.

ARTICLE 22 - INVALID PROVISIONS

22.1 The invalidity of any provisions, articles, paragraphs, portions, or clauses of this Agreement shall have no effect upon the validity of any other part or portion hereof, so long as the remainder shall constitute an enforceable Agreement.

ARTICLE 23 - MISCELLANEOUS PROVISIONS

Remedies to be Nonexclusive.

23.1 All remedies provided in this Agreement shall be deemed cumulative and additional and not in lieu of, or exclusive of, each other, or of any other remedy available to the City, or Lessee, at law or in equity, and the exercise of any remedy, or the existence herein of other remedies or indemnities shall not prevent the exercise of any other remedy.

Non-Waiver of Rights.

23.2 The failure by either party to exercise any right, or rights accruing to it by virtue of the breach of any covenant, condition or agreement herein by the other party shall not operate as a waiver of the exercise of such right or rights in the event of any subsequent breach by such other party, nor shall other party be relieved thereby from its obligations under the terms hereof.

Force Majeure.

23.3 Neither party shall be deemed in violation of this Agreement if it is prevented from performing any of its obligations hereunder by reason of labor disputes, acts of God, acts of the public enemy, acts of superior governmental authority or other circumstances for which it is not responsible or which is not in its control provided, however, that this section shall not excuse Lessee from paying the rentals herein specified.

Non-Liability of Individuals.

23.4 No director, officer, agent or employee of either party hereto shall be charged personally or held contractually liable by or to the other party under any term or provision of this Agreement or of an supplement, modification or amendment to this Agreement because of any breach thereof, or because of his or their execution or attempted execution of the same.

Quiet Enjoyment.

23.5 The City covenants that as long as Lessee is not in default of any provision of this Agreement, Lessee shall and may peaceably and quietly have, hold and enjoy the Leased Premises exclusively to it during the term hereof unless sooner canceled as provided in this Agreement.

General Provisions.

23.6 Lessee shall not use, or permit the use of, the Leased Premises, or any part thereof, for any purpose or use other than those authorized by this Agreement.

23.7 This Agreement shall be performable and enforceable in Shawnee, Oklahoma and shall be construed in accordance with the laws of the State of Oklahoma.

23.8 This Agreement is made for the sole and exclusive benefit of the City and Lessee, their successors and assigns, and is not made for the benefit of any third party.

23.9 In the event of any ambiguity in any of the terms of this Agreement, it shall not be construed for or against any party hereto on the basis that such party did or did not author the same.

23.10 All covenants, stipulations and agreements in this Agreement shall extend to and bind each party hereto, its legal representatives, successors and assigns.

23.11 The titles of the several articles of this Agreement are inserted herein for convenience only, and are not intended and shall not be construed to affect in any manner the terms and provisions hereof, or the interpretation or construction thereof.

23.12 Nothing herein contained shall create or be construed to creating a co-partnership between the City and the Lessee or to constitute the Lessee an agent of the City. The City and the Lessee each expressly disclaim the existence of such a relationship between them.

ARTICLE 24 - SUBORDINATION CLAUSES

24.1 This Agreement is subject and subordinate to the following:

24.1.1 City reserves the right to develop and improve the Leased Premises as it sees fit, regardless of the desires or view of Lessee, and without interference or hindrance by or on behalf of Lessee, provided, Lessee is not deprived of the use of or access to the Leased Premises.

ARTICLE 25 - ENTIRE AGREEMENT

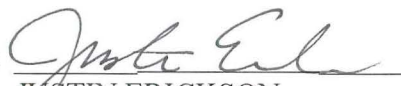
25.1 The Agreement consists of Articles 1 to 25, inclusive, and Schedule A.

25.2 It constitutes the entire Agreement of the parties hereto and may not be changed, modified, discharged or extended except by written instrument duly executed by the City and the Lessee. The parties agree that no representations or warranties shall be binding upon the City or the Lessee unless expressed in writing in this Agreement of Lease.

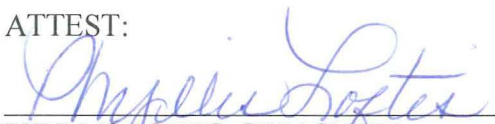
IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the day and year written above.

LESSOR:
THE CITY OF SHAWNEE
OKLAHOMA
A Municipal Corporation



By: 
JUSTIN ERICKSON
CITY MANAGER

ATTEST:


PHYLLIS LOFTIS, CITY CLERK

LESSEE:
FRANK WELCH





SCHEDULE "A"

INSURANCE COVERAGE

The Lessee, at Lessee's expense, shall obtain and maintain in continuous effect during the term of this Lease Agreement, insurance policies issued by an insurance carrier licensed to do business in the State of Oklahoma, providing for:

1. Comprehensive General Liability
 - a. Combined single limit bodily injury and property damage - \$1,000,000
2. Fire coverage

The Lessee shall provide the City with a Certificate of Insurance indicating proof of the foregoing coverage. Such certificate shall provide that the carrier issuing the certificate shall notify the City within ten (10) days in advance of any cancellation or significant change in the terms or coverage of such insurance policies.

The failure of the Lessee to obtain and maintain such insurance coverage shall not relieve the Lessee from any liability arising from this Lease Agreement nor shall any such liability be limited to the liability insurance coverage provided for herein.