

AGENDA
SHAWNEE AIRPORT AUTHORITY
October 20, 2014 AT 6:30 P.M.
COMMISSION CHAMBERS AT CITY HALL
SHAWNEE, OKLAHOMA

CALL TO ORDER

DECLARATION OF A QUORUM

1. Consider approval of Consent Agenda:
 - a. Minutes from the October 6, 2014 meeting.
 - b. Minutes from the Airport Advisory Board August 20, 2014 meeting.
2. Consideration of approving an amendment of the 1996 lease between The Shawnee Airport Authority and Vyve Broadband A LLC.
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: 10/20/2014

Minutes 10-6-2014 SAA

Submitted By: Lisa Lasyone, City Clerk

Department: City Clerk

Information

Title of Item for Agenda

Minutes from the October 6, 2014 meeting.

Attachments

MINUTES 10-6-2014 SAA

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, OCTOBER 6, 2014, DURING THE BOARD OF CITY COMMISSIONERS MEETING AT 6:30 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: Vogel, Agee, Harrod, Mainord, Hall, Shaw, Dykstra

ABSENT: None

Call to Order

Declaration of a Quorum

AGENDA ITEM NO. 1: Consider approval of Consent Agenda

a. Minutes from the September 15, 2014 meeting.

A motion was made by Trustee Harrod, seconded by Trustee Hall, to approve the Consent Agenda Item No. 1(a). Motion carried 7-0.

AYE: Harrod, Hall, Shaw, Dykstra, Vogel, Agee, Mainord

NAY: None

AGENDA ITEM NO. 2: Consider a contract with Lochner Aviation for services for FAA AIP Project No. 3-0040-0088-16-2015.

Assistant Airport Director Keenan English addressed this item and explained the equipment upgrades proposed in this FAA grant. Those upgrades were replacement of the rotating beacon, replacement of the Automated Weather Observation System (AWOS) and additional lighting around the main runway apron. The costs associated with these projects are approximately \$300,000.00, of which the City of Shawnee would be required to provide a 10% match. A motion was made by Trustee Harrod, seconded by Trustee Shaw, to approve the contract

with Lochner Aviation for services for FAA AIP Project No. 3-0040-0088-16-2015. Motion carried 7-0.

AYE: Harrod, Shaw, Dykstra, Vogel, Agee, Mainord, Hall

NAY: None

AGENDA ITEM NO. 3:

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. 4:

Adjournment

There being no further business to be considered, the meeting was adjourned by power of the Chair. (7:32 p.m.)

ATTEST:

WES MAINORD
CHAIRMAN

PHYLLIS LOFTIS, CMC, CITY CLERK
SECRETARY

Shawnee Airport Authority

1. b.

Meeting Date: 10/20/2014

8-20-2014 AAB Minutes

Submitted By: Lisa Lasyone, City Clerk

Department: City Clerk

Information

Title of Item for Agenda

Minutes from the Airport Advisory Board August 20, 2014 meeting.

Attachments

8-20-2014 AAB Minutes

MINUTES
AIRPORT ADVISORY BOARD MEETING AUGUST 20, 2014, 5:30 P.M.
TERMINAL BUILDING
2202 AIRPORT DRIVE

ROLL CALL

PRESENT: Terry Toole, Kevin Huddleston, Pete Barger, Harmik Dersahakian, Barry Fogerty, Will Smallwood

ABSENT: Bert Humphreys

OTHERS PRESENT: Keenan English -Assistant Airport Manager, Fred Treiber – Airport Supervisor

DECLARATION OF A QUORUM

ITEM ONE: CONSIDER AND APPROVE CONSENT AGENDA

Motion to approve Consent Agenda – Consent agenda approved unanimously by board.

Meeting minutes from the June, 2014 and August 6, 2014 AAB meeting approved unanimously by board. Mr. English gave staff report.

ITEM TWO: SUBCOMMITTEE REPORTS

Mr. Barger reported his updates regarding the Airport Advisory Board bi-laws. He presented an report on when and how long each Board member has served.

Mr. Dersahakian talked about the reason the AAB met at Harvest Creek. He suggested that Harvest Creek is a good example of the size and scope of restaurant that the airport could realistically build.

ITEM THREE: DISCUSSION REGARDING AN APPLICATION AND MINIMUMS PACKET FOR FUTURE COMMERCIAL DEVELOPMENT ON AIRPORT PROPERTY.

Mr. English handed out an application sheet for potential commercial service interests, primarily hangar development, for the Board to review and discuss. Mr. Toole suggested that the Board have time to look over the documents and to give their opinions for changes to them at the next scheduled AAB meeting.

ITEM FOUR: UPDATE AND DISCUSSION REGARDING NPE FUNDED PROJECT FOR 2014/2015.

Mr. English proposed signing a contract with Lochner Aviation Services. This contract would allow Lochner to apply for Federal NPE dollars that would go towards capital improvement projects for the 2014/2015 FY and also would allow Lochner Aviation to manage the project. The projects would include installing a new rotating beacon, installing ramp lights from the main ramp in front of the terminal, and replacing the Airport's AWOS. Mr. Dersahakian motioned to use NPE funds to fund said projects. Mr. Fogerty seconded the motion. The Board unanimously voted to approve said projects.

ITEM FIVE: DISCUSSION REGARDING POTENTIAL RESTAURANT LOCATION AND CONSTRUCTION

Mr. English explained that the Airport has received interest from a local real estate agent interested in using airport land for a restaurant. Mr. English explained the real estate agent's ideas and concepts for such a restaurant. It was of the opinion of Mr. Toole as well as the other Board members that a restaurant is something that would be very beneficial to the airport, and that measures to attract such a business should be taken. However, any structure built with Airport/City funds, would need to be built on a smaller scale than what the real estate agent had originally drawn up in order to be feasible.

ITEM SIX: CITIZEN COMMENTS – Albert Brase informed the Board about his background and involvement with ASVAB Education. He explained that he would like to use the airport has a reference point for kids that are interested in aviation.

Robert Winchell attended the board meeting and expressed his interest in the airport. Mr. Winchell is an ex Air Force pilot and has served on the City of Sand Springs Aviation Board in the past.

ITEM SEVEN: NEW BUSINESS

No new business

ITEM EIGHT: BOARD COMMENTS

No Board comments

ITEM NINE: ADJOURNMENT - Board unanimously voted to adjourn meeting at 6:39pm.

Shawnee Airport Authority

2.

Meeting Date: 10/20/2014

Vyve Amendment

Submitted By: Lisa Lasyone, City Clerk

Department: City Clerk

Information

Title of Item for Agenda

Consideration of approving an amendment of the 1996 lease between The Shawnee Airport Authority and Vyve Broadband A LLC.

Attachments

Vyve Memo

Vyve 2014 Amendment

Vyve 2006 Memo

Vyve 2007 Amendent

Mayor
WES MAINORD



The City of Shawnee
Shawnee Regional Airport
2202 Airport Dr.
Shawnee, Oklahoma 74804-1448
(405) 878-1625 Fax (405) 878-1583
www.ShawneeOK.org

Commissioners
LINDA AGEE
GARY VOGEL
JAMES HARROD
KEITH HALL
LESA SHAW
MICHEAL DYKSTRA

Date: October 14, 2014
To: Shawnee Airport Authority
From: Keenan English, Assistant Airport Manager
RE: Vyve Broadband A, LLC lease amendment

Nature of Situation: Vyve Broadband recently bought out Allegiance Cable who has leased surplus airport property since 1996. Currently, Vyve's lease has expired and they are requesting to extend their lease an additional 20 years. Vyve is a cable and internet company that provides services all over Shawnee. They are investing millions of dollars into this property and would like to ensure they have a long enough rental term to make sure they have a return on their investment. Moreover, Vyve also is interested in purchasing the land at some point during their rental term. Therefore, in addition to renewing the lease, the lease needs to be amended to reflect their interest in purchasing the land as well as other amendments to the lease both parties agreed to make. The Shawnee Airport Authority is voting on an Amendment to extend the lease and to make the following changes to the lease:

Staff Analysis, Considerations: The changes made in the lease can be found within the Amendment provided. They include:

1. Changing the rental price from \$500 per month to \$1,000 per month
2. Extending the renewal term for 20 years instead of 15.
3. Changing any reference of "Allegiance Cable" or "Falcon Media" to Vyve Broadband A LLC
4. Clarifying the City's right to terminate the lease. Vyve must be in breach for the City to terminate the lease.
5. Giving Vyve a 90 day notice instead of 10 days to vacate the premises in the event Vyve breaches the lease.
6. Gives Vyve the first right of refusal to purchase the property if the FAA gives the airport permission to sell it.

Recommendation: Airport Staff recommends agreeing to the Amendment. Airport Advisory board recommended agreeing to the Amendment on October 15th. 2014.

Budget Consideration:

This lease would yield \$12,000 per year in revenue. The City has the right to increase the rent every five years.

AMENDMENT TO 1996 SHAWNEE REGIONAL AIRPORT
LEASE AGREEMENT

Vyve Broadband A, LLC

This Amendment is made and entered into this 1st day of May, 2014, to that certain Lease Agreement (Lease) entered into by and between the Shawnee Airport Authority (SAA) and Vyve Broadband A, LLC, having an office at 707 W. Saratoga Street, Shawnee, Oklahoma, hereinafter referred to as "Lessee", dated July 1st, 1996, as amended. The Lessee is exercising their option to renew the lease for an additional 20 years beginning May 1, 2014 and ending April 30, 2034.

WHEREAS, Lessor and Lessee entered into that certain Lease Agreement dated as of July 1, 1996 (the "Lease")

WHEREAS, the Lease provides for an initial term commencing May 1, 1994 and terminating April 30, 2014, which may be renewed for one additional fifteen (15) year term at the option of the Lessee;

WHEREAS, Lessee desires to exercise its option pursuant to Article 1.1 of the Lease to extend the term of the Lease for an additional twenty (20) year term, adjust the rent and make certain other changes thereto.

NOW, THEREFORE, in consideration of the mutual promises and covenants contained herein, the receipt and sufficiency of which are hereby acknowledged, the Lease is hereby amended, effective as of the date hereof, as follows:

1. The term of the Lease is hereby extended for one twenty (20) year term, commencing on the date hereof and terminating April 30, 2034 (the "Extended Term").
2. For the avoidance of doubt, the "Leased Premises" shall mean the property leased pursuant to the Lease located in the County of Pottawatomie, Oklahoma and more particularly described on Exhibit A attached hereto and by this reference made a part of the Amendment.
3. All references in the Lease to "Falcon Cable Media, Inc." and/or "Allegiance Communications, LLC" shall be replaced with "Vyve Broadband A, LLC"
4. Article 1.1 of the Lease shall be amended to delete the following language: "and further provided that this lease or any extension shall be subject to termination by the SAA upon ninety (90) days written notice thereof" and replace it with "and further provided that this Lease shall be subject to the termination provisions set forth in Articles 16 and 17 hereof."

5. Article 4.1 of the Lease shall be deleted in its entirety and replaced with the following language: “During the Extended Term, Lessee agrees to pay the SAA as rental for use of the premises and the privileges herein granted, the sum of \$12,000 per year.”
6. Article 4.2 of the Lease shall be amended to replace “\$250.00” with “\$1,000”
7. Article 16.1 of the Lease shall be amended to replace all references to “ten (10)” with “ninety (90)”
8. Article 23 of the Lease shall be amended to delete the Lessee’s address and replace with:

“To Lessee: Vyve Broadband A, LLC
Four International Drive, Suite 330
Rye Brook, NY 10573
Attn: Marie Censoplano, Senior VP & General Counsel
(914)234-8313
Marie.censoplano@vyvebb.com”

9. Article 26 of the Lease shall be amended to include the following subsection:

“26.13 If at any time during the Extended Term, the SAA is authorized by the FAA to sell the Leased Premises, the SAA hereby agrees to grant Lessee a right of first refusal to purchase the Leased Premises, and in the event Lessee exercises such right and enters into a purchase agreement with the SAA to purchase the Leased Premises, the Lease shall automatically terminate on the effective date of such sale. For the avoidance of doubt, in no event shall the Leased Premises be sold for less than the Fair Market Value of the Leased Premises as of such date, which shall be determined by a credible and licensed Appraiser based on present land values in the same geographical area at the time of sale.

10. All other terms and conditions of the Lease shall remain in full force and effect during the Extended Term, except as amended herein.

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

THE SHAWNEE AIRPORT
AUTHORITY

A MUNICIPAL CORPORATION

SEAL
ATTEST:

BRIAN MCDOUGAL
CITY MANAGER
AIRPORT MANAGER

PHYLLIS LOFTIS, CMC, CITY CLERK

VYVE BROADBAND A, LLC

BY: _____
Name:
Title:

Subscribed and sworn to before me, a Notary Public in and for the State of Oklahoma,
This _____ day of _____, 2014.

My Commission expires _____, 200__.

This document prepared by:

Golenbock Eiseman Assor Bell & Peskoe LLP
437 Madison Avenue
New York, NY 10022

After recording send to:

Allegiance Communications, LLC
200 East Cherokee
McAlester, OK 74501
Att: Bill Haggarty
Ref: OK110/OK0013, Shawnee, Oklahoma

MEMORANDUM OF LEASE

THIS MEMORANDUM OF LEASE (this "Memorandum"), is dated as of the 12 day of September, 2006, by and between City of Shawnee, Oklahoma, ("Lessor") and Allegiance Communications, LLC ("Lessee").

WITNESSETH:

That for and in consideration of the sum of Ten and No/00 Dollars (\$10.00) and other good and valuable considerations and the further consideration of the rents reserved and the covenants and conditions more particularly set forth in that certain Lease dated July 1, 1996 by and between Lessor, as lessor, and Lessee, as successor in interest to Falcon Cable Media, Inc., as lessee, (as assigned, the "Lease"), demising the premises more particularly described on Exhibit A (the "Premises"), Lessor and Lessee do hereby covenant and agree as follows:

1. Premises. Pursuant to the Lease, Lessor demised unto Lessee, or its predecessor in interest, and Lessee, or its predecessor in interest, took from Lessor the Premises described on Exhibit "A" attached hereto and by this reference made a part hereof.

2. Term. The Lease term commenced on May 1, 1994, and, unless earlier terminated pursuant to the terms of the Lease, shall currently expire April 30, 2014. There is One unexercised options to extend the term of the Lease for Fifteen (15) years.

3. Notice of Lease. The sole purpose of this instrument is to give notice of the Lease and all its terms, covenants and conditions to the same extent as if the Lease were fully set forth herein, as set forth in the Lease. The conditions, covenants and agreements contained in this instrument shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, executors, administrators and assigns; provided, however, in the event of a conflict between the provisions hereof and those of the Lease, the covenants and provisions of the Lease shall be controlling. Lessor and Lessee reaffirm all of the terms and conditions of the Lease.

4. Counterparts. This Memorandum may be executed in counterparts and when taken together, the counterparts shall constitute one fully executed original agreement.

5. Effective Date. This Memorandum is effective as of the date of the assignment of the Lease to Lessee.

WITNESS the signature of the Lessor and Lessee as of the day and year first above written.

[SIGNATURES APPEAR ON FOLLOWING PAGES]

LESSOR: City of Shawnee, Oklahoma

By: [Signature]

Name: James C. Collard

Title: City Manager of the City of Shawnee

Attested to by the Clerk of the City of Shawnee on 7-13, 2007 at Shawnee, Oklahoma 5/8'06

By: [Signature]

Name: Phyllis Loftis

Title: Clerk of the City of Shawnee, Oklahoma

SEAL

ACKNOWLEDGMENT FOR LESSOR

STATE OF } OKLAHOMA
COUNTY OF } SS
POTTAWATOMIE

I, Rhonda Masquat, Notary Public in and for said County, in the State
aforesaid, DO HEREBY CERTIFY that James C. Collard the
City Manager of the City of Shawnee, personally known to me to be the same person
whose name is subscribed to the foregoing instrument, appeared before me and acknowledged that
(s)he signed and delivered the instrument as her/his own free and voluntary act, for the uses and
purposes therein set forth.

Given under my hand and seal the 13 day of July, 2007

[Signature]
Notary Public

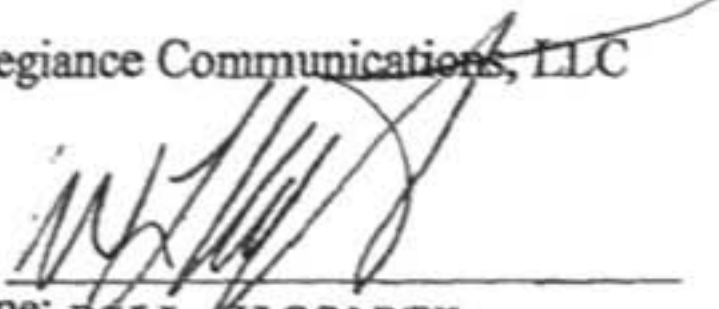
My commission expires:

5-24-2011
Notary #



LESSEE:

Allegiance Communications, LLC

By: 

Name: BILL HAGGARTY

Its: CEO of Allegiance Communications, LLC

ACKNOWLEDGEMENT FOR LESSEE

STATE OF

)

OKLAHOMA

) SS

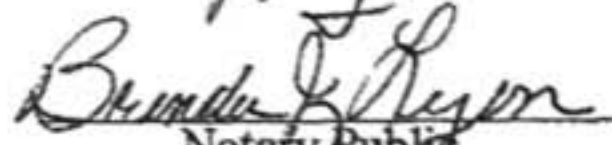
COUNTY OF

)

POTTAWATOMIE

I, Brenda Lyon, Notary Public in and for said County, in the State
aforesaid, DO HEREBY CERTIFY that Bill Haggarty, the CEO of
Allegiance Communications, LLC, a Delaware limited liability company, personally known to
me to be the same person whose name is subscribed to the foregoing instrument as such
Bill Haggarty, appeared before me and acknowledged that (s)he signed and
delivered the said instrument as his/her own free and voluntary act, and as the free and
voluntary act of said corporation, for the uses and purposes therein set forth.

Given under my hand and seal this 17th day of July, 2007.


Notary Public

My Commission Expires:

7/20/2008

EXHIBIT "A"

The original lessor and lessee of the lease were City of Shawnee, Oklahoma and Falcon Cable Media, Inc., respectively. The lease was dated July 1, 1996.

The lessee's interest in the lease was subsequently assigned to Allegiance Communications, LLC pursuant to an assignment dated as of September 18, 2006.

The lease has not been amended, and as assigned is referred to as the "Lease".

The premises leased pursuant to the Lease is located in the County of Pottawatomie, State of Oklahoma, and is located on all or a portion of the following land:

[Legal description attached]

AMMENDMENT TO 1996 SHAWNEE REGIONAL AIRPORT
LEASE AGREEMENT

Falcon Cable Media, a California limited partnership,

This Amendment is made and entered into this 1st day of September, 2006, to that certain Lease Agreement (Lease) entered into by and between the City of Shawnee, Pottawatomie County, Oklahoma ("City") and Falcon Cable Media, a California limited partnership, having an office at 707 W. Saratoga Street, Shawnee, Oklahoma, hereinafter referred to as "Lessee", dated July 1st, 1996.

Whereas, Article 1, Section 1.1 sets forth the term of this lease a fifteen (15) year period commencing on the 1st day of May, 1994, and ending on April 30, 2014, and may be renewed for one fifteen (15) year period commencing upon the expiration of the original term hereof, at the option of the City given at least ninety (90) days prior to the expiration of the original term, provided that any such renewal is in accordance with the then established fee and rental policies of the City, and further provided that this lease or any extension shall be subject to termination by the City upon ninety (90) days written notice thereof.

NOW, THEREFORE, in consideration of the mutual promises and covenants contained herein, the parties agree that Article 1, Section 1.1 shall be amended as follows:

Whereas, Article 1, Section 1.1 sets forth the term of this lease a fifteen (15) year period commencing on the 1st day of May, 1994, and ending on April 30, 2009, and may be renewed for one fifteen (15) year period commencing upon the expiration of the original term hereof, at the option of the City given at least ninety (90) days prior to the expiration of the original term, provided that any such renewal is in accordance with the then established fee and rental policies of the City, and further provided that this lease or any extension shall be subject to termination by the City upon ninety (90) days written notice thereof.

Whereas, Article 4, Section 4.1, sets forth terms wherein Lessee agrees to pay the City as rental for the use of the premises and the privileges herein granted, the sum of \$3000.00 per year.

NOW, THEREFORE, in consideration of the mutual promises and covenants contained herein, the parties agree that Article 4, Section 4.1 of the Lease shall be amended as follows:

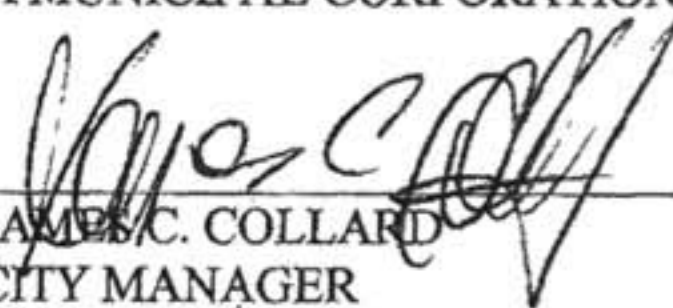
4.1 Lessee agrees to pay the City as rental for the use of the premises and the privileges herein granted the sum of \$6000.00 per year.

This amendment also corrects Lessee title from Falcon Cable Media, Inc. to Falcon Cable Media, a California limited partnership.

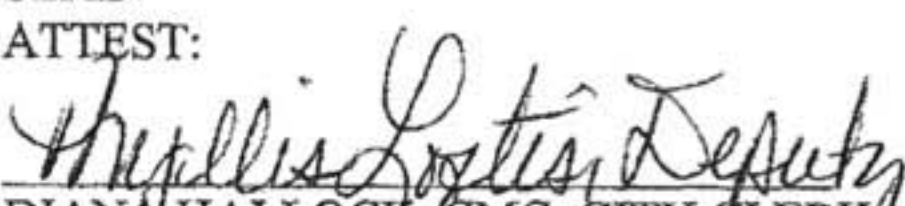
All other terms of the 1996 Lease not modified by this Amendment shall remain in full force and effect during the extended term of said lease.

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

THE CITY OF SHAWNEE
A MUNICIPAL CORPORATION


JAMES C. COLLARD
CITY MANAGER
AIRPORT MANAGER

SEAL
ATTEST:


DIANA HALLOCK, CMC, CITY CLERK

FALCON CABLE MEDIA
A CALIFORNIA LIMITED
PARTNERSHIP

BY: 

Subscribed and sworn to before me, a Notary Public in and for the State of Oklahoma,
This 13th day of July, 2007.

My Commission expires 5-24, 2011

