

AN ORDINANCE AUTHORIZING THE EXECUTION OF A LEASE OF A PARCEL OF LAND AT THE MEXICO MEMORIAL AIRPORT WITH ERICH J. BREWER AND DAWN M. BREWER D/B/A BREWER FARMS FOR THE CONSTRUCTION OF A PRIVATELY – OWNED HANGAR

WHEREAS, Erich J. Brewer and Dawn M. Brewer, desire to construct a hangar building on a parcel of land at the Mexico Memorial Airport; and

WHEREAS, the City of Mexico desires to lease a parcel of land to Erich J. Brewer and Dawn M. Brewer d/b/a Brewer Farms to facilitate the construction of the hangar building.

NOW THEREFORE BE IT ORDAINED BY THE COUNCIL OF THE CITY OF MEXICO, MISSOURI AS FOLLOWS:

Section 1. The City Manager of the City of Mexico, Missouri is hereby authorized to execute a lease agreement for a parcel of land at the Mexico Memorial Airport attached as “Exhibit A”.

Section 2. This Ordinance shall be in full force and effect from and after the time of its passage.

PASSED THIS 27TH DAY OF JULY 2015

MAYOR

ATTEST:

CITY CLERK



LEASE

THIS LEASE is made and entered into this ____ day of _____, 2015 by and between the City of Mexico, Missouri, and a municipal corporation, hereinafter called the "Lessor" and Erich J. and Dawn M. Brewer d/b/a Brewer Farms hereinafter called "Lessee.

WITNESSETH:

The Lessor hereby leases to the Lessee the following real estate located in the City of Mexico, Audrain County, Missouri, which is more particularly described as follows:

A tract of land being a part of the Southeast Quarter of the Northeast Quarter of Section 32, Township 51 North, Range 8 West of the Fifth Principle Meridian, in the City of Mexico, County of Audrain, Missouri, being more particularly described as follows:

Commence at a point which is South 1° 39' 37" West, 2701.08 feet and South 88° 20' 23" E, 35.00 feet from the intersection of U.S. Highway 54 and State Route JJ , said intersection being the Northwest corner of the Northeast Quarter of Section 32 according to survey No 4397 of the Audrain County Surveyor's records; thence running North 88° 01' 43" East 1486.59 feet to an iron pin; thence North 65° 19' 21" East 451.78 feet to an iron pin on the southeast corner of a tract owned by Zenith Corporation; thence North 1° 19' 39" East 297.95 feet to the northeast corner of Parcel "C" as shown on a survey for the City of Mexico executed by Boniface Boyer. LS-877, June 3, 1985; thence North 1° 17' 15" East 630.40 feet; thence South 88° 44' 33" East 106.00 feet to the point of beginning:

Thence South 88° 44' 33" East 100.00 feet; thence N 1° 15' 27" East, 97.00 feet; thence North 88° 44' 33" West, 100.00 feet, thence South 1° 15' 27" West 97.00 feet, to the point of beginning , being 9700 square feet. Bearings herein are referenced to Grid North of NAD 83 Missouri Central Zone.

An easement not exceeding 15 feet in width surrounding the above described tract is implied for the construction and maintenance of improvements by the Lessee thereon.

This tract is subject to all existing easements, covenants and rights-of-way.

1. Lessee shall lease the premises for an initial term of twenty (20) years from and after the date of this lease agreement and the Lease Agreement may be renewed for additional five (5) year terms.

2. Lessee shall pay to the Lessor on a monthly basis by the 5th business day of each month at City Hall in the City of Mexico, MO. The sum of one hundred dollars (\$100.00) per month for said lease. It is further understood and agreed by and between the Lessor and the Lessee that time is of essence in this contract and the Lessee shall promptly pay the rental payments. Lessee's failure to make timely rental payments will be grounds to declare a default. It is further understood and agreed that there shall be a mandatory lease rent cost review every 5th year, for the duration of the lease for possible rent adjustment based on inflation factors and airport improvements. The rent may not increase more than 10% for any renewal period.

3. If the Lessee shall violate any of the restrictions or covenants contained in this lease or shall fail to keep any of the covenants after written notice to cease such violation and shall fail to correct the violation within thirty (30) days, the Lessor may, if it so elects terminate said lease and take possession of the real estate and remove the lessee from the premises.

4. The Lessee shall have the right to erect, maintain and alter a building on said premises providing such building conforms to the Building Code requirements of the City of Mexico, now or hereafter in effect. All plans and exterior color scheme for such building shall be reviewed and approved by the City of Mexico. Title to the building erected by the Lessee shall remain with the Lessee. The dimensions of the building to be erected shall be 67'x70', the building height shall not exceed 26 feet and shall be placed on the tract of land officially marked and approved by the Lessor as described above.

5. The building located on the premises shall be maintained in all respects by the Lessee during the term of this lease. The Lessee shall not make any substantial alteration in the external elevation or architectural design of the building after the same is constructed or modify or remove any of the principal walls or supporting timbers thereof without the consent in writing of the Lessor. The building located on the premises herein leased shall be used solely for the purpose of storage, repair and maintenance of aircraft and other purposes incidental to general aviation. The Lessor shall have the privilege of terminating this lease upon thirty (30) day notice to Lessee that such lease will be terminated unless requested repairs are made or the improper use of building has been corrected.

6. In the event of fire or any other casualty, the owner of such structure so affected shall repair, or replace the building to its original condition. Such action must be accomplished within 120 days of the date the damage occurred. Upon request by the Lessee, the Lessor may grant an extension of time if it appears such extension is warranted.

7. The Lessee shall keep the building and other improvements upon the premises insured against loss or damage by fire and all other perils or hazards for their full insurable value, and a copy of the said policy is to be filed with the Lessor and kept in full force and effect at all times during the term of this lease.

8. It is understood that the Lessee will be responsible for maintaining and constructing any ramp necessary to provide access from the hangar to the airport taxiway, apron and runway. For the aircraft located in the hangar on the real estate which is the subject of this lease, the Lessee shall have the right of ingress and egress onto the adjacent taxiway/apron which provides access to the airport facilities.

9. Lessee shall be responsible for the cost of extension and maintaining all utilities to the hangar. The Lessee shall at a minimum install a 100 amp electrical service into the building.

10. The Lessee shall not allow the premises or any improvements thereon to become subject to any lien, charge or any encumbrance whatsoever; it is being

expressly agreed that the Lessee shall have no authority express or implied; to create any lien, charge, or encumbrance upon the premises or the improvements thereon.

11. The Lessee shall not assign this lease or sublease the building; except with the Lessor's written consent, such consent shall not be unreasonably withheld if the assignee proposed use of the hangar/building is for the purposes set forth in this Lease Agreement..

12. Lessee agrees during the term of this lease, not to interfere with the normal operations of the airport. FAA form 7460-1 must be submitted and approved by FAA showing that the building will not be a hazard for aviation prior to construction commencing.

13. Lessee agrees that said hangar will be used only for the storage maintenance and operation of the Lessee's private aircraft and no services are to be provided to the general public, unless a business license is acquired and appropriate commercial liability insurance is obtained, the amount and type of insurance must be approved by the Lessor. The business must be wholly aviation related. The term "Aviation related" shall be determined in the sole discretion of the City of Mexico, Missouri.

14. It is agreed that the Lessor and its agents and servants at all reasonable times, shall have the right to enter upon the premises leased to view the condition of the premises and the building.

15. It is agreed and understood that the Lessee shall maintain liability insurance covering the entire premises herein leased any buildings thereon in an amount of not less than \$1,000,000.00 for any one accident; \$100,000.00 for any one person; and \$100,000.00 property damage. The City will be named as an additional insured and the insurance will remain in force through the term of the lease. Lessee shall provide the City with an up to date copy of the insurance annually at the time of payment.

16. The Lessee shall indemnify and hold harmless the City and all of its officers, agents, and employees from all suits, or claims of any character brought for or on

account of any injuries received by any person or property resulting from the lease, except to the extent such suit, action or claim is caused by the sole negligence or willful misconduct of the City, its officers, employees or agents.

17. The Lessee agrees to indemnify Lessor against all costs and expenses lawfully and reasonably incurred in or about the premises in the defense of action or proceedings, or in the discharge of the premises for any charge, lien or encumbrance or in obtaining possession after default of the Lessee, or the termination of this lease. If the hangar building is damaged as a result of the negligence or willful misconduct of the City, its officers, employees or agents, the City will be responsible for the repair of the hangar building.

18. The Lessee agrees to remove any building on the premises that the Lessor determines to be a detriment to the premises at the sole expense of the Lessee. Lessor reserves the right (but shall not be obligated to Lessee) to maintain and keep in repair the landing area of the airport and all publicly-owned facilities of the airport, together with the right to direct and control all activities of the Lessee in this regard.

19. Lessor reserves the right further to develop or improve the landing area and all publicly-owned air navigation facilities of the airport as it sees fit, regardless of the desires or views of the Lessee, and without interference or hindrance.

20. Lessor reserves the right to take any action it considers necessary to protect the aerial approaches of the airport against obstruction, together with the right to prevent Lessee from erecting, or permitting to be erected, any building or other structure on the airport which in the opinion of Lessor would limit the usefulness of the airport or constitute a hazard to aircraft.

21. During time of war or national emergency Lessor 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 area or facilities of the Airport. If any such agreement is executed, the provision of the agreement with the Government shall be suspended.

22. It is understood and agreed that the rights granted by this agreement will not be exercised in such a way to interfere with or adversely affect the use, operation, maintenance or development of a federally obligated Airport.

23. All covenants, stipulation and agreements to this lease shall extend to and bind the successors and assigns of the parties respectively by and to whom the same have been made.

24. If at any time the Lessee shall desire to sell the hangar building the Lessee shall acquire an appraisal from a mutual agreeable licensed appraiser. The hangar building shall first be offered to City of Mexico for purchase at a price no greater than its appraised value. If the City shall decline to purchase then the Lessee may sell to any other third party subject to the terms of the Lease Agreement in effect at the time of the sale governing the use of the real estate on which the hangar is located.

25. During the term of this lease, the Lessee shall not store, discharge, spill or release onto, in or under the lease property any hazardous substance in violation of any applicable State, local, or Federal law, rule or regulation governing the storage, release, discharge, presence, clean up and handling of hazardous substances. The Lessee agrees to properly remove or clean up any such discharge or spill of any hazardous substance occurring on the leased property. The term "hazardous substance" shall mean such substances, materials, waste, petroleum products or compounds defined as being a hazardous substance in the Comprehensive Environmental Response, Compensation and Liability Act of 1980 as amended by the Superfund Amendments and Reauthorization Act of 1986, or the Resource Conservation and Recovery Act of 1976 as amended by the Used Oil Recycling Act of 1980, the Solid Waste Disposal amendments of 1980 in the Hazardous Solid Waste Amendments of 1984 or any other applicable environmental law. The Lessee agrees to indemnify and hold the Lessor harmless of any liability, demand, action, claim, loss, cost, penalty, fine, clean up expense or other expense of any kind or character including, but not limited to, reasonable attorney's fees of the Lessor arising out of any breach or violation of the Lessee's Agreement, covenants or representations set forth in this paragraph.

26. This agreement shall be construed within the laws of the State of Missouri. Any notice required to be given hereunder or payments may be given by personal service or by mail addressed to the parties listed as follows:

Lessor: City Manager
City of Mexico
300 North Coal
Mexico, Missouri 65265

Lessee(s): Brewer Farms
Erich J. and Dawn M. Brewer
14261 Cobble Hill Court
Chesterfield, MO 63017

IN WITNESS WHEREOF, the parties have caused this Lease to be executed as of the day and year first above written.

LESSOR:

CITY OF MEXICO, MISSOURI
A Municipal Corporation

BY:

Bruce R. Slagle, City Manager

ATTEST:

Marcy LeCount, City Clerk

(City Seal)

LESSEE(s):

BY: _____
Erich J. Brewer d/b/a Brewer Farms

Dawn M. Brewer d/b/a Brewer Farms

STATE OF MISSOURI)
) SS
COUNTY OF AUDRAIN)

On this _____ day of _____, 2015 before me personally appeared Bruce R. Slagle, to me personally known, who, being by me duly sworn, did say that he is the City Manager of the City of Mexico, Missouri, a municipal corporation and that the seal affixed to the foregoing instrument is the corporation seal of said corporation and that said instrument was signed and sealed in behalf of said corporation by authority of its City Council and said Bruce R. Slagle acknowledged said instrument to be the free act of deed of said corporation.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal at my office in Mexico, Missouri the day and year first above written.

Notary Public

(SEAL) My Commission expires _____

STATE OF MISSOURI)
) SS
COUNTY OF AUDRAIN)

On this _____ day of _____, 2015 before me personally appeared Erich J. and Dawn M. Brewer d/b/a Brewer Farms, to me known to be the person described in and who executed the foregoing instrument, and acknowledged that he executed the same as his free act and deed.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal at my office in the State and County aforesaid, the day and year first above written.

Notary Public

(SEAL) My commission expires: _____.