

CAPITAL LEASE AGREEMENT
Lease No. CBAL1180193-001

LESSOR: BOK Financial Equipment Finance, Inc. 5956 Sherry Lane, Suite 600 Dallas, Texas 75225 ATTN: President – Leasing Phone: (214) 987-8864 Fax: (214) 256-7518	LESSEE: City of Broken Arrow, Oklahoma 1700 West Detroit Broken Arrow, OK 74012 ATTN: Pat Harrison Phone: (918) 259-2400 Fax: _____ TIN: 73-6005109 Lessee's Legal Business Form: Municipality Lessee's State of Formation: OK
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THIS CAPITAL LEASE AGREEMENT (the "Agreement") is dated as of December ____, 2017 and entered into between BOK Financial Equipment Finance, Inc. ("BOKFEF"), and City of Broken Arrow, Oklahoma ("City").

RECITALS

A. BOKFEF desires to lease the Equipment, as hereinafter defined, to City and City desires to lease the Equipment from BOKFEF, subject to the terms and conditions of and for the purposes set forth in this Agreement.

B. This Agreement shall consist of this Capital Lease Agreement, together with all riders, exhibits and schedules attached hereto and one or more Acceptance Certificates

NOW THEREFORE, in consideration of the premises, and other good and valuable consideration, the receipt and sufficiency of which is hereby mutually acknowledged, the parties hereby agree as follows:

ARTICLE I

Section 1.01. In consideration of: (a) the agreement by BOKFEF to lease the Equipment to City; and (b) the agreement by City to lease the Equipment from BOKFEF, the parties hereto do ratify and affirm this Agreement for the remainder of this Fiscal Year (as defined below).

Section 1.02. City represents, covenants and warrants to BOKFEF as follows: (a) City is a state or political subdivision within the meaning of Section 103(c) of the Internal Revenue Code of 1986, as amended, (the "Code") and will do or cause to be done all things necessary to preserve and keep in full force and effect its existence as such; (b) City is authorized under the Constitution and laws of the State of Oklahoma (the "State") to enter into this Agreement and the transactions contemplated hereby and to perform all of its obligations hereunder; (c) the execution and delivery of this Agreement by or on behalf of City has been duly authorized by all necessary action of the governing body of City, City has obtained such other approvals and consents as are necessary to consummate this Agreement, and all requirements have been met and procedures have been followed in order to ensure the enforceability of this Agreement; (d) City has complied with such public bidding requirements as may be applicable to this Agreement and the acquisition of the Equipment hereunder; (e) City shall cause to be executed and delivered to BOKFEF an opinion of counsel, an incumbency certificate and such other documents as counsel for BOKFEF and City agree are reasonably required in order to carry out the intent and purpose of this Agreement, and to establish and protect the rights and remedies created or intended to be created in favor of BOKFEF hereunder; (f) the execution, delivery and performance of this Agreement and transactions contemplated herein will not violate any judgment, order, law or regulation applicable to City or result in any breach of, or constitute a default under, any indenture, mortgage, deed of trust, bond, loan or credit agreement or other instrument to which City is a party or by which it is bound; (g) there are no actions, suits or proceedings pending or, to the knowledge of City, threatened against or affecting City in any court or before any governmental commission, board or authority which, if adversely determined, would have a material adverse effect on the ability of City to perform its obligations hereunder; and (h) the Equipment is, and shall remain during the term of this Agreement (the "Term") personal property.

ARTICLE II

DEFINITIONS; IMPLEMENTATION

Section 2.01. The following terms will have the meanings indicated below unless the context clearly requires otherwise:

"Acceptance Certificate" is the document, substantially in the form attached, which shall be executed and delivered to BOKFEF as evidence of the acceptance of the Equipment by City.

"Amortization Schedule" means the document substantially in the form attached which shall set forth the terms and provisions of City's payment obligation with respect to the Equipment.

"Commencement Date" is the date when the City delivers an executed Acceptance Certificate to BOKFEF or the date when BOKFEF deposits the anticipated acquisition price of the Equipment.

"Equipment" means the personal property consisting of equipment described in Exhibit A and one or more Acceptance Certificates executed by City and delivered to BOKFEF pursuant hereto, together with any and all additions, modifications, attachments, accessions, substitutions, replacements and parts thereof.

Section 2.02. [SECTION INTENTIONALLY DELETED].

Section 2.03. Implementation of Non-Escrow Funded Transactions. Non-escrow funded transactions entered into hereunder shall be implemented by City executing and delivering to BOKFEF, upon acceptance of the Equipment, an Acceptance Certificate and an Amortization Schedule.

ARTICLE III TERM

Section 3.01. Term of Agreement. This Agreement shall be effective upon approval by the City Council of the City and execution hereof by both parties, and shall remain in effect until 12/01/2021 and thereafter, upon mutual ratification, unless earlier terminated pursuant to the provisions of Section 3.02, below.

Section 3.02. Termination of Term. This Agreement will terminate upon the earliest of any of the following events:

(a) the end of the fiscal year of City ("Fiscal Year") during which an Event of Nonappropriation (as defined in Section 5.06 below) occurs;

(b) City's completion of the purchase of BOKFEF's interests in the Equipment under the provisions of Article VIII or X of this Agreement;

(c) a default by City and BOKFEF's election to terminate this Agreement under Article XII; or

(d) the payment by City of all Rental Payments and all other sums required to be paid by City hereunder.

ARTICLE IV ENJOYMENT OF EQUIPMENT

Section 4.01. So long as City is not in default hereunder hereunder and no Event of Nonappropriation (as defined below) has occurred, as to claims of BOKFEF or persons claiming under BOKFEF, BOKFEF hereby covenants that City shall peaceably and quietly have, hold, possess, use, and enjoy the Equipment, without suit, trouble or hindrance from BOKFEF, subject to the terms and provisions hereof. BOKFEF shall have the right at all reasonable times during business hours to enter into and upon the property of City for the purpose of inspecting the Equipment.

ARTICLE V RENTAL PAYMENTS

Section 5.01. Payment of Rental Payments. City shall pay Rental Payments exclusively from legally available funds in lawful money of the United States of America to BOKFEF at the address set forth on the execution page hereof in the amounts and on the dates set forth in the Schedule of Payments.

Section 5.02. Interest and Principal Components. As set forth on the Schedule of Payments, a portion of each Rental Payment is paid as, and represents payment of, interest and the balance is paid as, and represents payment of, principal.

Section 5.03. Rental Payments to be Unconditional. The obligation of City to make payment of the Rental Payments required under this Article V and to perform and observe the other covenants and agreements contained herein shall be absolute and unconditional in all events except as expressly provided under this Agreement. Notwithstanding any dispute between City and BOKFEF, any vendor or the manufacturer of the Equipment (the "Vendor") or any other person, or any defects, breakdowns or malfunctions in the Equipment, City shall pay all Rental Payments when due and shall not withhold any Rental Payments or assert any right of set-off or counterclaim against its obligation to make any payments under this Agreement. City's obligation to make Rental Payments shall not be abated through accident or unforeseen circumstances.

Section 5.04. Appropriations. (a) City, by entering into this Agreement, acknowledges its current intention to make all payments due under this Agreement during its current Fiscal Year on the dates such payments are then due, but does not commit to a legal or other obligation to make other payments due under this Agreement or to incur any liability or debt beyond the revenue and income provided during its then current Fiscal Year. The liability and obligations of City during each Fiscal Year and remedies of BOKFEF will be limited to recovery only of funds appropriated for payments for such Fiscal Year. (b) City agrees (i) that the governing body of City shall, for each ensuing Fiscal Year in which the payments are scheduled to be made, to the extent funds have been appropriated for such Fiscal Year, make all such payments as and when due; and (ii) that if sufficient funds are appropriated and budgeted for the Rental Payments to be made in the next Fiscal Year, then this Agreement will continue during such Fiscal Year.

Section 5.05. Funding Intent. City reasonably believes that sufficient funds can be obtained to make all Rental Payments and other payments during the term of this Agreement. City affirms that funds to pay Rental Payments and other payments under this Agreement are available for City's current Fiscal Year. City and BOKFEF agree that City's obligation to make Rental Payments under this Agreement will be City's current expense and will not be interpreted to be a debt in violation of applicable law or constitutional limitations or requirements. Nothing contained in this Agreement will be interpreted as a pledge of City's general tax revenues, funds or moneys.

Section 5.06. Nonappropriation. If, during a Fiscal Year (the "Current Fiscal Year") the governing body of City fails to specifically include in its proposed budget or related documents, or to appropriate sufficient funds to make the Rental Payments and other amounts due under this Agreement in the next succeeding Fiscal Year with regard to any specific Item of Equipment, then City will immediately (but in no event later than 90 days prior to the end of the Current Fiscal Year) notify BOKFEF or its assignee of such occurrence. In such event, an event of nonappropriation ("Event of Nonappropriation") will be deemed to have occurred, and this Agreement will be terminated as it applies to any and all item or items of Equipment to which such Event of Nonappropriation applies at the end of the Current Fiscal Year, whereupon City will be obligated to pay all amounts then due under this Agreement subject to the provisions herein and Oklahoma law. At the end of the Current Fiscal Year, BOKFEF will have the right to take possession of such item of Equipment and title to such item of Equipment shall vest in BOKFEF, and all rights of City in and to such item of Equipment including rights to possession, shall terminate. Nothing in this Section or elsewhere in this Agreement will be deemed in any way to obligate City or create a debt of City beyond its Current Fiscal Year. If City makes all payments due under this Agreement through the end of the Current Fiscal Year and returns possession of the Equipment as provided in Section 6.06, then City will have no further liability under this Agreement as it relates to the specific item of Equipment as to which such Act of Nonappropriation has occurred and the item of Equipment has been surrendered to BOKFEF.

ARTICLE VI

TITLE TO EQUIPMENT: SECURITY INTEREST

Section 6.01. Title to the Equipment. During the Term of this Agreement, the legal title may be issued in the name of City, but all beneficial title and ownership rights to the Equipment shall rest in BOKFEF, subject to the rights of City under this Agreement, including the rights of enjoyment as set forth in Section 4.01 above. Immediately upon the occurrence of an event of default by City hereunder or the termination of this Agreement under Section 3.02(a) or (c), City will surrender possession of the Equipment to BOKFEF in the manner and condition set forth in Section 6.06 and legal title to the Equipment shall pass to BOKFEF, free and clear of any right, title or interest of City, without any further action by the parties. City covenants and agrees to take such further action as reasonably requested by BOKFEF to transfer such legal title, including execution of assignments of certificates of title.

Section 6.02. Identification of BOKFEF's Interest in Equipment. City agrees to provide such identification markings on the Equipment, in form satisfactory to BOKFEF, as BOKFEF deems necessary or appropriate to give notice of BOKFEF's interest in the Equipment and, upon assignment, the interest of any assignee of BOKFEF in the Equipment.

Section 6.03. Personal Property. The Equipment is, and shall at all times remain, personal property.

Section 6.04. Liens. City shall not directly or indirectly create, incur, assume or suffer to exist any mortgage, pledge, lien, charge, security interest, encumbrance or claim on or with respect to the Equipment or any interest therein, except for the lien established pursuant to this Agreement. BOKFEF shall have a right to file any financing statement, obtain notation of its lien upon any certificate of title, or to otherwise claim and perfect a lien and security interest in and to the Equipment as may be provided for under the laws of the State of Oklahoma.

Section 6.05. Lien and Security Interest. To secure payment of all amounts due under this Agreement and to secure the performance and observance by City of all the covenants expressed or implied herein, City hereby grants to BOKFEF a purchase money security interest in and lien upon the Equipment in accordance with the Uniform Commercial Code or other applicable law, said security interest and lien to also cover all of Purchaser's interest (whether ownership or otherwise, and whether presently existing or hereafter acquired) in and to any and all the following: (i) future replacements, betterments, substitutions and additions to any of the Equipment; (ii) rentals, deposits, and other sums as may become due City as lessor under any and all leases, rentals or licenses of any Equipment to any third party, whether written or oral; (iii) purchase contracts or similar agreements (and all rights of Purchaser thereunder) executed by Purchaser and any other individual or entity pursuant to the terms of which such individual or entity has contracted to purchase from City the Equipment or any part thereof; and (iv) proceeds of the Equipment or any of the foregoing, including, without limitation, all condemnation or insurance proceeds arising out of or with respect to the Equipment or any of the foregoing.

Section 6.06. Return of Equipment. In the event of termination of this Agreement, City shall deliver the Equipment to BOKFEF at the point of origin or any other reasonable location designated by BOKFEF at City's sole risk, cost and expense and in the condition required by Section 7.02 hereof.

ARTICLE VII

MAINTENANCE; TAXES; INSURANCE; MODIFICATIONS; LOCATION

Section 7.01. Use of the Equipment. City will not install, use, operate or maintain the Equipment improperly, carelessly, in violation of any applicable law or regulations or in a manner contrary to that contemplated by this Agreement. City shall obtain and maintain all permits and licenses necessary for the installation and operation of the Equipment.

Section 7.02. Maintenance of Equipment by City. City agrees that at all times during the Term, City will, at its own cost and expense, preserve and keep the Equipment in good repair, working order and condition, reasonable wear and tear excepted. City will from time to time make or cause to be made all necessary and proper repairs and replacements in order to meet the foregoing standard. BOKFEF shall have no responsibility in any of these matters or for the making of improvements or additions to the Equipment.

Section 7.03. Taxes, Other Governmental Charges and Utility Charges. The parties to this Agreement contemplate that the Equipment will be used for a governmental purpose of City and, therefore, that the Equipment will be exempt from all taxes presently assessed and levied with respect to personal property. In the event that the use, possession or acquisition of the Equipment is found to be subject to taxation in any form (except for net income taxes of BOKFEF), City agrees to assist BOKFEF in the defense of the Equipment against all taxes and governmental charges of any kind whatsoever that may at any time be assessed or levied against or with respect to the Equipment, together with any interest or penalty thereon; provided that City shall solely determine the extent and manner of such assistance. City agrees to pay all utility and other charges incurred in the operation, maintenance, use, occupancy and upkeep of the Equipment. With respect to any governmental charges that may lawfully be paid in installments over a period of years, City shall be obligated to pay only such installments as are accrued during such time as this Agreement is in effect.

Section 7.04. Insurance. The parties acknowledge that the city is self-insured and that the Equipment shall be managed in the same manner as the City's existing self-insurance program. City shall provide to BOKFEF such information as it may reasonably request from time to time in respect of such self-insurance program.

In the event Lessee shall fail to maintain the self-insurance program required by this Agreement or shall fail to keep the Equipment in good repair or operating condition, BOKFEF may (but shall be under no obligation to) purchase policies of insurance and pay the premiums therefore or may make such repairs or replacements as are necessary and provide for payment thereof; and all amounts so advanced by BOKFEF shall be payable on the next succeeding Rental Payment due date together with interest thereon from the date of advance by BOKFEF at the rate of twelve percent (12%) per annum.

Section 7.05. Location of Equipment. City shall notify BOKFEF of the location at or within which the Equipment is being or is to be regularly located or stored promptly upon acceptance and shall thereafter inform BOKFEF of any change in that location.

Section 7.06. Modifications. Without the prior written consent of BOKFEF, City shall not make any alterations, modifications, or attachments to the Equipment which cannot be removed without materially damaging the functional capabilities or economic value of the Equipment. Upon return of the Equipment, at Lessor's request, Lessee, at its sole cost and expense, will remove all alterations, additions and attachments and repair the Equipment as necessary to return the Equipment to the condition in which it was furnished, ordinary wear and tear excepted.

ARTICLE VIII
DAMAGE, DESTRUCTION AND CONDEMNATION; USE OF NET PROCEEDS

Section 8.01. Damage, Destruction and Condemnation. If prior to the termination of the Term (a) the Equipment or any portion thereof is destroyed (in whole or in part) or damaged by fire or other casualty or (b) title to, or the temporary use of, the Equipment or any part thereof shall be taken under the exercise of the power of eminent domain by any governmental body (other than City) or by any person, firm or corporation acting under governmental authority, then, provided the Equipment is not deemed a total loss, City and BOKFEF shall cause the Net Proceeds of any insurance claim or condemnation award to be applied to the prompt replacement, repair or restoration of the Equipment. Any balance of the Net Proceeds remaining after such work has been completed shall be paid to BOKFEF for application against the Purchase Price. In the event of total destruction of or damage to the Equipment, BOKFEF and City shall cause the Net Proceeds to be paid to BOKFEF for application against the Purchase Price applicable for the next succeeding Rental Payment due date, as set forth on the Schedule of Payments, plus a pro rata allocation of interest, at the rate utilized to establish the Rental Payments, from the due date of the immediately preceding Rental Payment until the date of the payment. For purposes of Section 7.04 and this Article VIII, the term "Net Proceeds" shall mean the amount remaining from the gross proceeds of any insurance claim or condemnation award after deducting all expenses (including attorney's fees) incurred in the collection of such claim or award.

ARTICLE IX
DISCLAIMER OF WARRANTIES;
VENDOR'S WARRANTIES USE OF THE EQUIPMENT

Section 9.01. Disclaimer of Warranties. BOKFEF, NOT BEING A SELLER OF THE EQUIPMENT (AS SUCH TERM IS USED IN THE UNIFORM COMMERCIAL CODE AS ENACTED IN THE STATE) NOR A SELLER'S AGENT, HEREBY EXPRESSLY DISCLAIMS, AND MAKES NO WARRANTY OR REPRESENTATION, EITHER EXPRESS OR IMPLIED, AS TO THE VALUE, DESIGN, CONDITION, MERCHANTABILITY OR FITNESS FOR PARTICULAR PURPOSE OR FITNESS FOR USE OF THE EQUIPMENT, OR ANY OTHER WARRANTY WITH RESPECT THERETO AND, AS TO BOKFEF, CITY PURCHASES THE EQUIPMENT AS IS. In no event shall BOKFEF be liable for any loss or damage, including incidental, indirect, special or consequential damage, in connection with or arising out of this Agreement or the existence, furnishing, functioning or City's use of the Equipment.

Section 9.02. Vendor's Warranties. BOKFEF hereby irrevocably appoints City its agent and attorney-in-fact during the Term, so long as City shall not be in default hereunder, for the purpose of asserting from time to time whatever claims and rights which BOKFEF may have against the Vendor, including warranty claims with respect to the Equipment, but for no other purpose whatsoever. City's sole remedy for the breach of a warranty shall be against the Vendor of the Equipment, and not against BOKFEF, nor shall such matters have any effect whatsoever on this Agreement, including City's obligation to make timely Rental Payments hereunder. City expressly acknowledges that BOKFEF makes, and has made, no representation or warranties whatsoever as to the existence or availability of such warranties from the Vendor of the Equipment.

ARTICLE X
CONSUMMATION OF PURCHASE

Section 10.01. Consummation of Purchase. At the request of City, BOKFEF's interest in the Equipment will be transferred, conveyed and assigned permanently to City (and BOKFEF shall, at City's cost, release any Lien as noted on any certificate of title) and this Agreement shall terminate:

(a) at the end of the Term, upon payment in full of all Rental Payments due hereunder and all other sums required to be paid hereunder; or

(b) on any date after thirty (30) days' advance notice, upon payment by City, or upon payment by any purchaser authorized and directed by City to acquire the Equipment, of the then applicable Purchase Price as set forth in the Amortization Schedule and all other sums required to be paid hereunder, including any interest which may have accrued since the previous Rental Payment date or the date upon which interest began accruing on the lease, whichever date is later.

Upon the occurrence of either of the above, BOKF shall permanently transfer to City in full all of BOKFEF's remaining right, title and interest in and to the Equipment and to any Vendor's warranties which may be applicable thereto, free and clear of all liens and encumbrances created by or arising through Lessor, with special warranty and warranty of further assurances but without other warranties.

ARTICLE XI

ASSIGNMENT, SUBLEASING, INDEMNIFICATION MORTGAGING AND SELLING

Section 11.01. Assignment by BOKFEF. This Agreement, BOKFEF's interest in the Equipment and right of BOKFEF to receive payments hereunder may be assigned and reassigned in whole or in part to one or more assignees by BOKFEF at any time without the necessity of obtaining the consent of City. However, no assignment or reassignment of any of BOKFEF's right, title or interest in this Agreement or the Equipment shall be effective unless and until City shall have received a notice of assignment. Upon receipt of the notice described above, City agrees to make all payments to the assignee designated in the assignment, and shall, if so requested, acknowledge the assignment in writing, but such acknowledgment shall in no way be deemed necessary to make the assignment effective.

Section 11.02. Assignment and Subleasing by City. City may assign the option to purchase BOKFEF's interest in the Equipment as provided in Section 10.01, above. This Agreement and the interest of City in the Equipment may not otherwise be sold, leased, pledged, assigned or otherwise encumbered by City for any reason without the express prior written consent of BOKFEF.

Section 11.03. Covenants. City agrees, to the extent permitted by applicable law, and in a manner to be determined solely by City, to assist BOKFEF in the defense by BOKFEF from and against any and all liabilities, obligations, losses, claims and damages whatsoever, regardless of cause thereof, and expenses in connection therewith, including, without limitation, counsel fees and expenses, penalties and interest, arising out of or as the result of the Equipment, including the ordering, acquisition, manufacture, use, operation, condition, purchase, delivery, rejection, storage or return of any item of the Equipment or any accident in connection with the operation, use, condition, possession, storage or return of any item of the Equipment resulting in damage to property or injury or death to any person, unless the loss shall have been caused by the acts or omissions of BOKFEF, its officers, employees or agents.

ARTICLE XII

EVENTS OF DEFAULT AND REMEDIES

Section 12.01. Events of Default Defined. The following shall be "events of default" under this Agreement and the terms "event of default" and "default" shall mean, whenever they are used in this Agreement, any one or more of the following events:

(a) Failure by City to pay any Rental Payment or other payment required to be paid hereunder at the time and manner specified herein; or

(b) Failure by City to observe and perform any other covenant, condition or agreement on its part to be observed or performed hereunder for a period of thirty (30) days after written notice to City by BOKFEF specifying such failure and requesting that it be remedied, unless BOKFEF shall agree in writing to an extension of such time prior to its expiration; or

(c) Any certificate, statement, representation, warranty or audit contained herein or heretofore or hereafter furnished with respect hereto by or on behalf of City proving to have been false in any material respect at the time as of which the facts therein set forth were stated or certified, or having omitted any substantial contingent or unliquidated liability or claim against City; or

(d) Commencement by City of a case or proceeding under the Federal bankruptcy laws or filing by City of any petition or answer seeking reorganization, arrangement, composition, readjustment, liquidation, moratorium or similar relief under any existing or future bankruptcy, insolvency or other similar laws.

Section 12.02. Remedies on Default. Whenever any event of default referred to in Section 12.01 hereof shall have happened and be continuing, BOKFEF shall have the right, at its sole option without any further demand or notice, to take one or any combination of the following remedial steps:

(a) Terminate this Agreement, retake possession of the Equipment and sell, lease or sublease it, or any item thereof for the account of BOKFEF, holding City liable for all payments and charges due up to the effective date of such termination.

(b) Require City to deliver the Equipment to BOKFEF at the point of origin or any other reasonable location designated by BOKFEF at City's sole risk, cost and expense and in the condition required by Section 7.02 hereof; or

(c) Take whatever other action at law or in equity that may appear necessary or desirable to collect the payments then due and thereafter to become due, or to enforce performance and observance of any obligation, agreement or covenant of City under this Agreement.

In addition, City will remain liable for all legal fees and other costs and expenses, including court costs, incurred by BOKFEF with respect to the enforcement of any of the remedies listed above or any other remedy available to BOKFEF.

Section 12.03. No Remedy Exclusive. No remedy herein conferred upon or reserved to BOKFEF is intended to be exclusive and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Agreement now or hereafter existing at law or in equity. No delay or omission to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver thereof, but any such right and power may be exercised from time to time and as often as may be deemed expedient.

ARTICLE XIII TAX PROVISIONS

Section 13.01. [SECTION INTENTIONALLY DELETED].

ARTICLE XIV MISCELLANEOUS

Section 14.01. Miscellaneous. The following miscellaneous provisions are an integral part of this Agreement:

(a) Notices. All notices, certificates or other communications hereunder shall be sufficiently given and shall be deemed given when delivered or mailed by registered mail, postage prepaid, to the parties at the addresses set forth on the signature page hereof;

(b) Binding Effect. This Agreement shall inure to the benefit of, and shall be binding upon, BOKFEF and City and their respective successors and assigns;

(c) Severability/Survival. In the event any provision of this Agreement shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof. The obligations of City under Sections 7.03 and 11.03 which accrue during the term shall survive termination of this Agreement;

(d) Amendments, Changes and Modifications. This Agreement may be amended only by written agreement of BOKFEF and City;

(e) Execution in Counterparts. This Agreement may be simultaneously executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument;

(f) Applicable Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Oklahoma;

(g) Captions. The captions or headings in this Agreement are for convenience only and in no way define, limit or describe the scope or intent of any provisions or sections of this Agreement;

(h) Waiver. No covenant or condition of this Agreement can be waived except by the written consent of BOKFEF. Any failure of BOKFEF to require strict performance by City or any waiver by BOKFEF of any term,

covenant or agreement herein shall not be construed as a waiver of any other breach of the same or any other term, covenant or agreement herein;

(i) Entire Agreement. This Agreement, together with the documents attached hereto and other agreements referred to herein, constitutes the entire agreement between the parties;

(j) Time. Time is of the essence of this Agreement.

(k) Usury. Notwithstanding anything contained in this Agreement to the contrary, in no event shall interest contracted for, charged or received hereunder, plus any other charges in connection herewith that constitute interest on this Agreement under applicable law, result in a net effective interest rate in excess of that allowable under applicable law. The amounts of such interest or other charges previously paid to BOKFEF in excess of the amounts permitted by the preceding sentence shall be applied by BOKFEF to reduce the principal of the indebtedness incurred by Purchaser pursuant to this Agreement, or, at the option of BOKFEF, be refunded. To the extent permitted by applicable law then in effect, determination of the maximum net effective interest rate shall at all times be made by amortizing, prorating, allocating and spreading in equal parts during the period of the full stated term of this Agreement and such indebtedness, all interest at any time contracted for, charged or received from Purchaser hereof in connection with the indebtedness evidenced hereby, so that the actual rate of interest on such indebtedness is uniform throughout the term hereof. Interest on the unpaid amounts under this Agreement shall be computed as simple interest.

IN WITNESS WHEREOF, BOKFEF has executed this Agreement in its corporate name by its duly authorized officer, and City has caused this Agreement to be executed in its corporate name with its corporate seal hereunto affixed and attested by its duly authorized officers. All of the above occurred as of the date first above written.

BOKFEF:
BOK Financial Equipment Finance, Inc.

By: _____

Name: _____

Title: _____

CITY:
City of Broken Arrow, Oklahoma

By: _____

Name: _____

Title: _____

ATTEST:

By: _____

Name: _____

Title: _____

EXHIBIT A

DESCRIPTION OF EQUIPMENT

SEE ATTACHED EXHIBIT A

EQUIPMENT LOCATION

SEE ATTACHED EXHIBIT A

AMORTIZATION SCHEDULE

City: City of Broken Arrow, Oklahoma
 Name of OKFEF: BOK Financial Equipment Finance, Inc.
 Principal Amount: \$730,000.00
 Interest Rate: 3.30%
 Payments: Annually in Arrears
 Payment Amount: \$197,800.59
 Interest Start Date: December 1, 2017

Date	Payment	Interest	Principal	Ending Balance
12/1/2017	\$ 0.00	\$ 0.00	\$(730,000.00)	\$730,000.00
12/1/2018	\$197,800.59	\$24,090.00	\$ 173,710.59	\$556,289.41
12/1/2019	\$197,800.59	\$18,357.55	\$ 179,443.04	\$376,846.36
12/1/2020	\$197,800.59	\$12,435.93	\$ 185,364.66	\$191,481.70
12/1/2021	\$197,800.59	\$ 6,318.90	\$ 191,481.70	\$ 0.00
Total	\$791,202.38	\$61,202.38	\$ (0.00)	

BOKFEF'S ACCEPTANCE:
 BOK Financial Equipment Finance, Inc.

CITY'S ACCEPTANCE:
 City of Broken Arrow, Oklahoma

By: _____
 Name: _____
 Title: _____
 Date: _____

By: _____
 Name: _____
 Title: _____
 Date: _____

SCHEDULE OF PAYMENTS

Pertaining to that certain Capital Lease Agreement dated December ____, 2017 (the "Agreement") in the amount of \$730,000.00, between BOK Financial Equipment Finance, Inc. ("BOKFEF") and City of Broken Arrow, Oklahoma ("City"). All terms not defined herein have their meanings described in the Agreement.

A. RENTAL PAYMENTS, TERM, TRANSPORTATION AND DELIVERY COSTS. The Rental Payments required under the Agreement for the Equipment described in the attached Description of Equipment shall be as set forth in the Amortization Schedule attached hereto. A portion of each Rental Payment is paid as and represents payment of interest as set forth in such Amortization Schedule. City agrees to and shall pay all transportation and/or delivery costs, if any.

B. LAST ACCEPTANCE DATE. The Equipment subject to the Agreement must be accepted by the City within eighteen (18) months from the date hereof.

C. LATE PAYMENTS. There will be a charge of the greater of one percent (1%) per month or the highest legal rate allowed by governing law on the amount of any Rental Payment which remains unpaid for five (5) days after the date due.

D. BUDGETARY PERIOD. City's budgetary period is from July 1st to June 30th.

E. APPROPRIATION. City confirms that sufficient funds have been appropriated to make all Rental Payments due during its current fiscal year and expects and anticipates that sufficient funds will be appropriated and encumbered to make all Rental Payments due in subsequent years.

F. [SECTION INTENTIONALLY DELETED].

THE TERMS GOVERNING THIS SCHEDULE OF PAYMENTS ARE CONTAINED IN THE AGREEMENT REFERENCED ABOVE AND APPLY WITH THE SAME FORCE AND EFFECT AS IF SET FORTH HEREIN.

BOKFEF:
BOK Financial Equipment Finance, Inc.

CITY:
City of Broken Arrow, Oklahoma

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

Date: _____

Date: _____

ACCEPTANCE CERTIFICATE

NO. ____

THIS ACCEPTANCE CERTIFICATE is issued pursuant to that certain Capital Lease Agreement dated December ____, 2017 (the "Agreement") between BOK Financial Equipment Finance, Inc. ("BOKFEF") and City of Broken Arrow, Oklahoma ("City"). All terms not defined herein shall have their meanings described in the Agreement.

1. The undersigned, as City under the Agreement, acknowledges delivery, installation and receipt in good condition and hereby accepts, all of the Equipment described on the attached Description of Equipment dated December ____, 2017.

2. City confirms that it will make all Rental Payments required by and in accordance with Article V of the Agreement, and that sufficient funds have been appropriated to make such payments for its current fiscal year. City expects and anticipates that sufficient funds will be available to make all Rental Payments due in subsequent fiscal years.

3. The Equipment is self-insured by the City.

4. No event of default, as such term is defined in the Agreement, and no event which with the giving of notice of lapse of time, or both, would become an event of default, has occurred and is continuing on the date hereof.

5. City hereby authorizes and directs BOKFEF to fund the acquisition of the Equipment by paying the Vendor(s) the invoice price(s) as set forth on the attached Description of Equipment, and certifies that upon such payment, BOKFEF will have fully and satisfactorily performed all of its covenants and obligations under the Agreement with respect to the Equipment.

6. The Equipment is personal property and will not become either real property, fixtures or inventory.

CITY:
City of Broken Arrow, Oklahoma

By: _____

Name: _____

Title: _____

Date: _____

ATTEST:

By: _____

Name: _____

Title: _____

NO ARBITRAGE CERTIFICATE

THIS CERTIFICATE is issued in connection with the Capital Lease Agreement dated as of December ____, 2017 between BOK Financial Equipment Finance, Inc. ("BOKFEF") and City of Broken Arrow, Oklahoma ("City"). All terms not defined herein shall have their meanings described in the Agreement.

1. In General.

1.1 This Certificate is executed for the purpose of establishing the reasonable expectations of City as to future events regarding the financing of certain equipment by City as described in the Capital Lease Agreement dated as of December ____, 2017, between BOKFEF and City and all related documents executed pursuant thereto (the "Financing Documents").

1.2. The individual executing this Certificate on behalf of City is an officer of City delegated with the responsibility of reviewing and executing the Financing Documents.

1.3. To the best of the undersigned's knowledge, information and belief, the expectations contained in this Certificate are reasonable.

1.4. City has not been notified of any listing or proposed listing of it by the Internal Revenue Service as an issuer whose certifications as to arbitrage may not be relied upon.

2. Purpose of the Financing Documents. The Financing Documents are being entered into for the purpose of providing certain funds for financing the cost of acquiring, equipping and installing certain equipment which is essential to the governmental functions of City (the "Equipment") which Equipment is or is to be more specifically described in one or more Certificates of Acceptance executed pursuant to the Capital Lease Agreement. Such funds shall not be used directly or indirectly to replace funds used by City to acquire investments which produce a yield materially higher than the yield to BOKFEF under the Financing Documents.

3. Sources and Disbursement of Funds. The total purchase price for the Equipment is expected to be \$730,000.00, of which \$730,000.00 will be used to make purchase price payments to the vendor(s) or manufacturer(s) of the Equipment, and the remainder provided by City. Such funds are expected to be needed and fully expended for payment of the costs of acquiring, equipping and installing the Equipment.

4. Temporary Period.

4.1. The Equipment will be delivered at various times through June 30, 2018. It is anticipated that all Equipment will be delivered and accepted, and all funds provided by BOKFEF expended, prior to June 30, 2018.

4.2. The total purchase price of the Equipment is not required to be paid to the vendor(s) or manufacturer(s) thereof until the Equipment has been accepted by City.

5. Escrow Account. The Financing Documents provide that the \$730,000.00 is anticipated to be used for acquisition of the Equipment Further, it is anticipated that these monies shall be invested until payments to the vendor(s) or manufacturer(s) of the Equipment are due. City will ensure that such investment will not result in City's obligations under the Financing Documents being treated as an "arbitrage bond" or a "federally guaranteed bond" within the meaning of Section 145(a) or Section 149(B) of the Internal Revenue Code of 1986, as amended, respectively. Any monies which are earned from the investment of these funds shall be labeled as interest earned. All such monies will be disbursed on or promptly after the date that City accepts the Equipment.

CITY:
City of Broken Arrow, Oklahoma

By: _____

Name: _____

Title: _____

Date: _____

(FORM OF LESSEE'S COUNSEL OPINION)
(To be typed on Counsel's Letterhead)

BOK Financial Equipment Finance, Inc.
5956 Sherry Lane, Suite 600
Dallas, TX 75225

Gentlemen:

As counsel for City of Broken Arrow, Oklahoma ("City"), I have examined a duly executed original of the Capital Lease Agreement dated as of December ____, 2017 (the "Agreement") between City and BOK Financial Equipment Finance, Inc. ("BOKFEF"), and the proceedings taken by City to authorize and execute the Agreement. Based upon such examination of law and fact as we have deemed necessary or appropriate for such purposes of the opinions set forth below, we are of the opinion that:

1. City is a body politic, legally existing under the laws of the State of Oklahoma ("State").
2. The Agreement and the Proceedings has been duly adopted, authorized, executed and delivered by City, and do not require the seal of City to be effective, valid, legal or binding.
3. The governing body of City has complied with all applicable open meeting and notice laws and requirements with respect to the meeting at which the Proceedings were adopted and the City's execution of the Agreement was authorized.
4. The Agreement is a legal, valid and binding obligation of City, enforceable in accordance with its terms except as limited by the state and federal laws affecting remedies and by bankruptcy, reorganization or other laws of general application affecting the enforcement of creditor rights.
5. Either there are no usury laws of the State applicable to the Agreement, or the Agreement is in accordance with and does not violate all such usury laws as may be applicable.
6. The Rental Payments to be made under the agreement are tax exempt.
7. The acquisition of the Equipment complies with all such procurement and public bidding laws as may be applicable.
8. There are no legal or governmental proceeding or litigation pending or, to the best of my knowledge, threatened or contemplated (or any basis therefore) wherein an unfavorable decision, ruling or finding might adversely affect City's ability to perform its obligations under the Agreement.
9. The adoption, execution and/or delivery of the Agreement and the Proceedings, and the compliance by City with their provisions, will not conflict with or constitute a breach of or default under any court decree or order or any agreement, indenture, lease or other instrument or any existing law or administrative regulation, decree or order to which City is subject or by which City is or may be bound.

This opinion is for the sole benefit of, and may be relied upon only by, you and any permitted assignee or subassignee of BOKFEF, under the Agreement.

Sincerely,

Beth Anne Childs
City Attorney

CERTIFICATE OF RESOLUTION

I, Beth Anne Childs, do hereby certify that I am the duly appointed City Attorney of the City of Broken Arrow, Oklahoma, a political subdivision duly organized and existing under the laws of the State of Oklahoma (the "City"), and that the foregoing resolution has been presented to and duly adopted by the governing body at a meeting duly held and convened in accordance with applicable law on December ____, 2017.

I further certify that attached hereto is a true and complete certified copy of the public notice and agenda posted at the City Council Office, at least seventy-two (72) hours prior to the meeting wherein said resolution was adopted, excluding Saturdays, Sundays and legal holidays.

IN WITNESS WHEREOF, I have duly executed this Certificate and affixed the seal hereto this ____ day of December, 2017.

CITY:
City of Broken Arrow, Oklahoma

By: _____
Beth Anne Childs, City Attorney

Date: _____

CERTIFICATE OF APPROPRIATION

I, Thomas Cook, Jr., the duly appointed and acting Finance Director of the City of Broken Arrow, Oklahoma ("City") hereby certify that all rental payments due by City under that certain Capital Lease Agreement between City and BOK Financial Equipment Finance, Inc., as BOKFEF, for the fiscal year ending June 30, 2018 are within such fiscal year's budget for City and within an available, unexhausted and unencumbered appropriation for City.

IN WITNESS WHEREOF, I have set my hand this _____ day of December, 2017

CITY:
City of Broken Arrow, Oklahoma

By: _____
Thomas Cook, Jr., Acting Finance Director

INCUMBENCY CERTIFICATE

[Note to City Attorney: We need this certificate for Thomas Cook to authenticate his certificate of appropriation and we need it as to the incumbency of the commissioners that execute the resolution attached to your certificate of resolution. Or something to similar effect from an appropriate party confirming those items to BOKFEF.]

I, _____, do hereby certify that I am the duly elected or appointed and acting _____ (Title) of City of Broken Arrow, Oklahoma, a political subdivision or agency duly organized and existing under the laws of the State of Oklahoma, that I have custody of the records of such entity, and that as of the date hereof, the individuals named below are the duly elected or appointed officers of such entity holding the offices set forth opposite their respective names. I further certify that (i) the signatures set opposite their respective names are their true and authentic signatures and (ii) such officers have the authority on behalf of such entity to enter into that certain Equipment Lease/Purchase Agreement between such entity and BOK Financial Equipment Finance, Inc.

<u>NAME</u>	<u>TITLE</u>	<u>SIGNATURE</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____

IN WITNESS WHEREOF, I have duly executed this certificate and affixed the seal of such entity hereto this ____ day of _____, 20__.

LESSEE:
City of Broken Arrow, Oklahoma

By: _____
Name: _____
Title: _____

PAY PROCEEDS

To: BOK Financial Equipment Finance, Inc.
5956 Sherry Lane, Suite 600
Dallas, TX 75225

Lessee No.: CBAL1180193-001

RE: Equipment leased under Capital Lease Agreement dated as of December ____, 2017 (the "**Lease**") between the undersigned and BOK Financial Equipment Finance, Inc. ("**BOKFEF**")

Gentlemen:

You are hereby irrevocably authorized and directed to pay the proceeds of the lease to:

VENDOR(S):

Wire transfer to:
Bank:
ABA#:
City & State:
Amount:
Account Name:
Account Number:

**TO BE COMPLETED AT TIME OF FUNDING.
THIS IS A DRAFT VERSION OF THE DOCUMENT
AND CANNOT BE COMPLETED WITHOUT ADDITIONAL INFORMATION.**

CITY:

Wire transfer to:
Bank:
ABA#:
City & State:
Amount:
Account Name:
Account Number:

FUNDING TOTAL:

Sincerely,

City of Broken Arrow, Oklahoma
("City")

By: _____

Name: _____

Title: _____

Dated: _____

SHOULD BE ON CITY'S LETTERHEAD

December ____, 2017

BOK Financial Equipment Finance, Inc.
5956 Sherry Lane, Suite 600
Dallas, TX 75225
Attn: Lease Coordinator

Re: Capital Lease Agreement No. CBAL1180193-001 dated December ____, 2017 between City of Broken Arrow, Oklahoma ("City") and BOK Financial Equipment Finance, Inc. ("BOKFEF") (the "Lease")

To Whom It May Concern:

Per the request of BOK Financial Equipment Finance, Inc.'s Tax Department, this letter is being sent to formally state that City of Broken Arrow, Oklahoma is a tax exempt entity, it has the authority to issue a tax-exempt obligation, and the current Lease referenced above is tax-exempt under that authority. If you have any questions, please do not hesitate to contact me.

Sincerely,

City of Broken Arrow, Oklahoma

By: _____

Name: _____

Title: _____