

RESOLUTION NO. 27873

A RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE A LEASE AGREEMENT WITH DARDENELLE LONG, IN SUBSTANTIALLY THE FORM ATTACHED, FOR THE USE OF THE BARN ON THE BROWN ACRES GOLF COURSE PROPERTY FOR THE KEEPING OF ANIMALS AS CONSISTENT WITH ZONING, WITH A RENTAL RATE OF TWO HUNDRED DOLLARS (\$200.00) PER MONTH.

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BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF CHATTANOOGA, it is hereby authorizing the Mayor to execute a Lease Agreement with Dardenelle Long, in substantially the form attached, for the use of the barn on the Brown Acres golf course property for the keeping of animals as consistent with zoning, with a rental rate of \$200.00 per month.

ADOPTED: May 27, 2014

/mem

## LEASE AGREEMENT

THIS LEASE AGREEMENT is executed as of the \_\_\_\_\_ day of \_\_\_\_\_, 2014, (the "Effective Date"), by and between the City of Chattanooga (hereinafter referred to as "Lessor"), and Dardenelle Long (hereinafter referred to as "Lessee"), to be effective for the term specified herein.

For the acknowledged consideration, Lessor leases to Lessee and Lessee rents from Lessor the following-described premises located in the City of Chattanooga, Hamilton County, Tennessee, to-wit:

A barn on an unplatted tract of land located at 406 Brown Road being part of the property described in Deed Book 3882, Page 489, ROHC. Tax Map No. 1581-G-001 (part).

(the "Leased Premises").

1. TERM: The term of this Lease shall be for a period commencing on April 1, 2014 and ending March 30, 2017. Lessor and/or Lessee may terminate this Lease at any time during its term upon providing sixty (60) days written notice to the other party of the intent to terminate. This agreement shall not renew automatically, but may be renewed for two (2) one-year terms upon mutual agreement of the parties. Lessee acknowledges that she is not entitled to any compensation in the event Lessor exercises its right to terminate this lease, except for the return of any movable furniture, fixtures and equipment purchased or provided by Lessee as allowed by Paragraph 5 herein.
2. RENT: Lessee shall pay to Lessor and Lessor shall accept from Lessee as rental the amount of Two Hundred (\$200.00) Dollars per month on the first day of each full calendar month during the term of this Lease. The first such payment shall include any pro-rated rental for the period from the Effective Date to the first day of the first full calendar month in the term.

As additional rent, Lessee shall keep and maintain the Leased Premises clean and in good repair and shall keep and maintain any improvements thereon clean and in good repair.

3. USE OF PREMISES: Lessee shall use the Leased Premises for no purpose other than the keeping of animals, which must be consistent with the zoning requirements of the property.

4. UTILITIES: Lessee shall pay all utilities, if any, on the Leased Premises during the term of this lease, specifically including electricity, telephone, heating and water.

5. REPAIRS, MAINTENANCE AND IMPROVEMENTS: Lessee accepts the Leased Premises in its present "as is" condition and Lessor shall be under no duty to make structural or cosmetic changes to the premises. Lessee shall keep and maintain the Leased Premises and any improvements thereon in good order and repair. Lessee may make alterations, additions, and improvements on the Leased Premises only upon written approval from Lessor. All such alterations, additions, or improvements made by lessee, except movable furniture, fixtures and equipment put in at the expense of the Lessee, shall inure to the benefit of Lessor and shall belong to Lessor absolutely as soon as made or installed. Lessee may remove at the termination of the Lease any movable furniture, fixtures or equipment purchased or provided by Lessee that may be moved without damage to the permanent structure leased. Lessor shall have the right to make inspections of the Leased Premises at any reasonable time to insure compliance with this Lease.

6. CASUALTY INSURANCE AND DAMAGE: Lessor shall be under no duty to carry any fire or casualty insurance which would cover the property of Lessee within the Leased Premises. If the premises are rendered totally or substantially untenable by fire or other casualty, this lease, at the option of Lessor or Lessee, shall terminate.

7. Indemnity. Lessee, as a material part of the consideration to be rendered to Lessor, hereby waives all claims against Lessor for injuries or damage for any cause arising at any time to persons in or about said Leased Premises where said injuries or damage occurs as a result of the use of the Leased Premises by Lessee or from the failure of Lessee to keep the Leased Premises in good condition and repair, as herein provided. Lessee will indemnify Lessor and save it harmless from and against any and all claims, actions, damages, liability and expense in connection with loss of life, personal injury and/or damage to property arising from or out of the occupancy or use by Lessee of the Leased Premises or any part thereof occasioned wholly or in part by any act or omission of Lessee, its agents, contractors or employees to the full extent that Lessee may be liable pursuant to the Tennessee Governmental Tort Liability act at Tennessee Code Annotated, Section 29-20-101, *et seq.* ("TGTLA"). Within the limits of the TGTLA, Lessee agrees to be responsible for any claim occurring on the Leased Premises.

Lessee shall, at Lessee's expense, purchase and maintain the following insurance during the term of this Lease:

- a) Public liability insurance covering injury to one or more persons entering onto the premises with minimum limits of liability not less than One Million dollars (\$1,000,000.00).
- b) Property damage insurance covering property damage incurred on the leased premises with minimum limits of liability not less than One Million dollars (\$1,000,000.00).

All insurance required herein shall be secured from an insurance company or companies which shall have been approved by the Director of General Services (hereinafter the "Director") or the Mayor of the City of Chattanooga and shall name the City of Chattanooga, Tennessee as an

additional insured therein. Lessee shall provide Lessor with copies of said insurance policies or insurance certificates evidencing payment of premiums prior to the signing of this Lease for review by the City Risk Manager. Each insurance policy provided by Lessee shall further contain a clause acceptable to the City Attorney whereby the insurance company will agree to give written notice to the Director or the Mayor of the City of Chattanooga, at least thirty (30) days prior to any cancellation or alteration of said insurance policy. The lapse of any insurance policy required in this paragraph shall constitute a breach of this Lease and shall be grounds for immediate termination of this Lease agreement by Lessor.

8. CAPITAL IMPROVEMENTS: Lessee shall provide written advance notice to the Director of any expenditure on capital improvements and modifications to any structure or property subject to this Lease, and no such expenditures shall be made without the express written consent of the Director. Any and all permanent improvements shall become the property of the Lessor.

9. WAIVER OF RIGHTS: Failure of the Lessor or Lessee to insist upon strict performance of any of the terms, conditions, and covenants herein contained shall not be deemed to be a waiver of any rights or remedies that either party may have, and said failure shall not be deemed a waiver of any subsequent breach in the terms, conditions and covenants herein contained, except as may be expressly waived in writing.

10. DEFAULTS: The occurrence of any of the following acts shall constitute an immediate, material, non-curable default by Lessee:

- A. Abandonment of the Leased Premises; and
- B. Any attempted assignment, transfer, or sublease in violation of Paragraph 12:

C. Failure to pay rent as provided for herein or failure to perform any term, covenant, or condition of this Lease, other than those set forth in subparagraph A above, shall not constitute a default unless such breach is not cured within the time periods set forth below. Lessor shall give written notice to Lessee of such default and if Lessee does not cure any rent default within five (5) days, or other default within twenty (20) days, after the giving of such notice (or, if such default is of such a nature that it cannot be completely cured within such twenty (20) days), if Lessee does not commence such curing within twenty (20) days and thereafter proceed with reasonable diligence and in good faith to cure such defaults, then Lessor may terminate this Lease on not less than three (3) days' written notice to Lessee, and on the date specified in said notice the term of this Lease shall terminate, and Lessee shall then quit and surrender the Leased Premises to Lessor, but Lessor shall remain liable as hereinafter provided. If this Lease shall have been so terminated by Lessor, Lessor may at any time thereafter resume possession of the Leased Premises by any lawful means and remove Lessee or other occupants and their effects.

D. In the event of any breach of any of the terms or provisions of this Lease, Lessor shall, in addition to all other recourse, have the right to immediately terminate this Lease, to enter and obtain possession of the Leased Premises, and to remove and exclude any and all persons from the premises, and remove and exclude all property of the Lessee therefrom. If it should become necessary for the Lessor to employ an attorney to assist any right or enforce any obligation under this Lease, or any of them, Lessor shall be entitled to recover, in addition to all other costs and expenses, the reasonable costs and charges of such attorney.

11. TERMINATION AND HOLDING OVER. Upon termination of this Lease at the expiration of the term hereof or any extension thereof, Lessee shall surrender the Leased Premises to Lessor in as good condition as received, ordinary wear and tear and damage by fire

or other casualty excepted. Lessee covenants to Lessor that it shall vacate the Leased Premises on or before thirty-one (31) days following the expiration of the term hereof or any extension thereof including removal of all animals and personal property.

12. ASSIGNMENT. Lessee shall not assign or transfer this Lease or any interest herein nor sublease the Leased Premises or any part thereof to anyone without the prior written approval of Lessor. Further, neither this Lease nor any interest herein shall be subject to transfer by attachment, execution, proceedings in insolvency or bankruptcy, or receivership unless a receivership is sought by Lessor. Any such assignment or use without such consent shall be voidable at the option of Lessor, who may, on such breach, immediately re-enter and take possession of the Leased Premises.

13. LAWS AND ORDINANCES. Lessee covenants to comply with all state, county, and city laws and ordinances, including those regarding nuisances insofar as the Leased Premises are concerned, and that the Lessee will not by any act of its agents or officers render the Lessor liable therefor. Further, Lessee covenants to comply with all federal, county, and city laws and ordinances in regard to discrimination due to handicap, age, race, color, religion, sex, national origin, or any other classification protected by said laws.

14. NOTICES. All notices and other communications given hereunder by the parties shall be in writing and shall be delivered personally or by mail, postage prepaid, and the date of any notice by certified mail shall be deemed the date of certification thereof delivered by or addressed to the parties as follows:

**Lessor:** City of Chattanooga, Tennessee  
ATTN: General Services Division  
101 E. 11<sup>th</sup> Street  
Chattanooga, TN 37402

**With a copy to:** City Attorney  
100 E. 11<sup>th</sup> Street, Suite 200  
Chattanooga, TN 37402

**Lessee:** Dardenelle Long  
405 Osborne Drive  
Chattanooga, TN 37421-3932

15. MISCELLANEOUS PROVISIONS.

15.1 Applicable Law. This Lease shall be construed and interpreted pursuant to the laws of the State of Tennessee. Should there be any provision thereof to be invalid, illegal, or unenforceable by a court of competent jurisdiction, the legality, validity, and enforcement of the remaining provisions shall not be affected, but shall continue in full force and effect. Any disputes between the parties and/or default by Lessee may only be submitted to a court of competent jurisdiction in Hamilton County, Tennessee, and the prevailing party shall be entitled to recover all costs, expenses, and legal fees in defending such legal action.

15.2 Entire Agreement. This Lease represents and constitutes the entire understanding between the parties and supersedes all other agreements and communications between the parties, whether oral or written, concerning the subject matter herein. Any amendment to this Lease must be in writing and adopted by lawful resolution of the respective governing bodies to be bound thereby.

15.3 Binding Effect. The terms and conditions of this Lease shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.

15.4 Headings. Section headings are for convenience of reference only and shall not limit or otherwise affect the meanings of this Lease.

16. ENTIRE AGREEMENT: This Lease Agreement contains all of the agreements between the parties herein and may not be modified in any manner unless by agreement in writing signed by the parties hereto or their respective successors in interest.

EXECUTED the day and month above stated.

LESSOR:

LESSEE:

\_\_\_\_\_  
ANDY BERKE, Mayor  
City of Chattanooga, Tennessee

\_\_\_\_\_  
DARDENELLE LONG