



Request for Proposals (“RFP”)
For Fix Based Operator (FBO),
Aviation Fuel Provider (i.e. Fuel Farm)
And Airport Terminal Restaurant

RFP NO. 21-001

EVENT	DATE
Issuance of RFP	Thursday May 13, 2021
1 st Publication Date	Thursday May 13, 2021
2 nd Publication Date	Thursday May 20, 2021
Pre-RFP Meeting/Facility Tour*	Friday June 18, 2021
RFP Question Deadline (5:00 p.m.)	Wednesday June 23, 2021
Question Response Deadline (5:00 PM)	Wednesday June 30, 2021
RFP Due Date and Opening (10:00 AM)	Friday July 9, 2021
Consideration by Airport Advisory Board	Tuesday August 10, 2021
Consideration by City Council	Thursday August 19, 2021

*Pre- RFP Meeting/Facility Tour will be Friday, June 18th from 9:00am-12:00pm (Noon). Additional facility tours are available upon request.

INTENT

The City of Brenham (hereinafter referred to as “City”) is requesting proposals from qualified aviation operators to operate the City’s Terminal Building as the City’s Primary FBO, operate the City owned fuel farm by supplying bulk and branded Jet-A and Avgas aviation fuels for storage and resale and for the operation of a restaurant to be located in the airport terminal building at the Brenham Municipal Airport located in Brenham, Washington County, Texas.

A list of items that must be provided with the response is included below in the scope of work. It is the City's intent to enter into an agreement with one party for the lease and operation of all three facilities. However, the City will entertain proposals that include any combination thereof. The City will enter into an agreement(s) that are the most advantageous to the City, so potential responders are encouraged to be creative with their submittals.

BRENHAM MUNICIPAL AIRPORT BACKGROUND

The Brenham Municipal Airport is located at 3001 Aviation Way - just east of Old Independence Road adjoining Airport Road west of the FM 50/Airport Road intersection. For more technical specification information, see the website at www.cityofbrenham.org/airport.

The Brenham Municipal Airport has a 6003-foot x 75-foot lighted runway with a full-length parallel taxiway and it is equipped with various navigational aids and approaches to accommodate the corporate aviation industry as well as the recreational pilot. The 2018 TxDOT economic Impact Study showed that the Brenham Municipal Airport provided approximately 43 jobs with a total payroll of \$1,709,000 and a total output to the community of \$5,832,000.

Since 1997, 20 corporate hangars have been built at the Airport and plans for construction of 3 additional corporate hangars are proceeding through the development process. Currently there are 37 privately owned aircraft hangars equating to approximately 104,840 square feet of corporate hangar space. Additionally, there are a total of 46 T-hangar units at the Airport ranging from 979 square feet to 1,458 square feet for a total of approximately 52,567 square feet of T-hangar space. All T-hangar units are currently occupied at full capacity and the Airport is home to approximately 65 aircraft based on the field.

The development history of the Brenham Municipal Airport reflects two important factors concerning the evolution of the Airport. First, the growth of the Airport has been steady, with the timing of the major development projects generally occurring in response to the specific aviation needs of the area. Secondly, the City's willingness to participate in the Airport's growth by providing financial support necessary to fund improvement projects. In the last three years the following improvement projects have been completed:

- Runway Bump / Hump repair project (includes complete restriping of the Runway)
- Drainage repair project
- Replacement of the Runway End Identifier Lights (REIL) and the Precision Approach Path Indicator (PAPI) light systems
- Replacement of the primary lighted windcone tower
- Painting of the beacon tower and windcone tower

These projects were funded by utilizing TxDOT / FAA grant funds (with required City matches) such as, Non-primary Entitlement funding, Capital Improvement Project funding, Routine Airport Maintenance Program Grant Funding and CARES Act Grant funding. From 2017 to date, the public sector financial input for various Airport improvement projects as well as routine maintenance exceeds \$1.2 million dollars. Additional improvement projects are planned and funded for the upcoming years, including a formal Airport Master Plan and complete replacement of the Medium Intensity Runway Lights.

RECEIPT AND OPENING OF PROPOSALS

Proposers shall submit **one (1) original and one (1) copy** of the Proposal on the form provided by the City. The original Proposal must be clearly marked “**Proposal for RFP No. 21-001**” and include an original signature, in ink, in order to be accepted. Proposals must be received in the City Secretary’s Office no later than **10:00 a.m. (CST) on Friday, July 9, 2021**. It is the Proposer’s sole responsibility to assure that the Proposal is delivered in a timely fashion. Proposals received after this time will be rejected and returned unopened. There will be no public opening; however, name of the Proposer for each proposal received will be read aloud for public record. **Any proposal received after 10:00 a.m. on July 9, 2021 shall not be considered.**

To the extent allowed by applicable law, and subject to the ruling of any administrative agency or court having jurisdiction, the City intends that trade secrets and confidential information contained in the proposals and clearly identified as “Confidential” in **bolded font** will not be open for public inspection at any time, even after a contract has been awarded and executed, whether or not the proposer wins the contract.

Proposals should be prepared simply, providing straightforward, concise description of the Proposer’s approach and capabilities necessary to satisfy the requirements of the RFP. Technical literature and elaborate promotional materials, if any, must be submitted separately. Emphasis in the proposal should be on completeness, clarity of content and adherence to the presentation structure required by the RFP. Proposers are encouraged to suggest creative and economical means to provide the services requested in the RFP.

Proposals shall be delivered using one of the following methods:

Hand-deliver to:

200 W. Vulcan Street
Suite 203
Brenham, TX 77833

Mail to:

P.O. Box 1059
Brenham, TX 77834-1059
ATTN: City Secretary

Ship to (FedEx, UPS, etc.):

200 W. Vulcan Street
Brenham, TX 77833
ATTN: City Secretary

Due to COVID-19, the City will accept electronic proposals via download into a secure electronic depository. Proposals submitted by e-mail will not be accepted. If a Proposer would like to submit electronically, they must notify the City no later than 5:00 p.m. on Friday, July 2, 2021.

Notifications for electronic submissions must be sent to Kyle Branham, Purchasing and Fleet Supervisor, P. O. Box 1059 (200 W. Vulcan St.), Brenham, Texas 77834, or e-mailed to kbranham@cityofbrenham.org. All e-mails must indicate “RFP No. 21-001 – Electronic Submission Request” in the subject line. It is the sender’s responsibility to verify receipt of email; read receipt is acceptable.

CHANGES, QUESTIONS, AND INQUIRIES

Any and all questions regarding this RFP must be submitted in writing and addressed to Kyle Branham, Purchasing and Fleet Supervisor, P. O. Box 1059 (200 W. Vulcan St.), Brenham, Texas 77834, or e-mailed to kbranham@cityofbrenham.org. All e-mails must indicate "RFP No. 21-001" in the subject line. It is the sender's responsibility to verify receipt of email; read receipt is acceptable. The deadline for submittal of questions regarding this RFP is **5:00 p.m. (CST) on Wednesday, June 23, 2021**.

No person has the authority to verbally alter the terms of this RFP. Any changes to this RFP will be made in the form of an Addendum which will be made available online at www.cityofbrenham.org. It shall be the responsibility of interested bidders to check the website for addenda up to the proposal submission deadline. The complete RFP and all addendums will be posted on the City's website.

GENERAL TERMS

The initial term of said Agreement(s) and renewal options are negotiable.

The City of Brenham reserves the right to make an award without further discussion of the proposals. The selected Proposer will be expected to enter into the appropriate Agreement(s) with the City. The Agreement shall incorporate the City's standard contract terms and conditions, attached hereto as "**Exhibit A**" to this RFP. Types of Agreements include, but are not limited to FBO Agreement, Ground Space Lease Agreement, and Standard Lease Agreement.

PROPOSER INFORMATION

Provide a brief description and history of the Proposer. History should include information such as history of organization, size of organization, number of people in the organization who will be directly engaged in providing the service, past experience with similar services, current or past agreements with other municipalities, and any other information the Proposer feels may assist the City in making a determination.

METHOD OF AWARD

Proposals will be evaluated by the City. The City will consider the completeness of a proposal and how well the proposal meets the needs of the City. This RFP may be awarded either to the lowest responsible Proposer or to the Proposer who will provide goods or services at the best value for the City, in compliance with Texas Local Government Code, Section 252.043.

The City reserves the right to waive any informalities or technical errors, or consider alternate proposals and award as lump sum, individual basis, or any combination that in its judgment will best serve the interests of the CITY.

The City reserves the right to request that any Proposer clarify its proposal or supply any additional material deemed necessary to assist in the evaluation of the proposal.

The City reserves the right to make an award without further discussion of the submittals. Therefore, the proposal should be initially submitted on the most favorable terms the Proposer can offer. The Proposer selected will be expected to enter into an Agreement with the City that includes the City's Standard Terms and Conditions.

SCOPE OF WORK

DEFINITIONS

For the purpose of this Request for Proposals (RFP), the following definitions are provided:

Airport: Brenham Municipal Airport

Aeronautical activity: Any activity or service conducted on Airport property, which involves, makes possible, or is required for the operation of aircraft, or contributes to, or is required for, the safety of such operations. Aeronautical activities include, but are not limited to:

- General and corporate aviation
- Air taxi and charter operation
- Aerial photography
- Pilot training
- Aircraft rental
- Sightseeing
- Aerial surveying
- Crop dusting
- Aircraft sales and service
- Aviation fuel and oil sales (whether or not conducted in conjunction with other included activities)
- Repair and maintenance of aircraft
- Sale of aircraft parts
- Aviation fire suppression
- Aviation advertising
- Aircraft management
- Any other activities that, because of their direct relationship to the operation of aircraft can appropriately be regarded as an aeronautical activity.

The following are non-aeronautical activities:

- Ground transportation (taxis, car rentals, limousines)

- Restaurants
- In-flight food catering
- Barber shops
- Auto parking lots

City: The City of Brenham, Texas and the owner of the Brenham Municipal Airport.

Commercial Operator: Person who provides goods or services at the Airport for compensation. Such activities are deemed “Commercial Operations”. An activity is considered Commercial Operation regardless of whether the business is non-profit, charitable, or tax exempt.

FAA: Federal Aviation Administration.

FAR: Federal Aviation Regulations.

Fixed Based Operator (FBO): A commercial business granted the right by the City to operate on the Airport and provide aircraft fueling and line service along with other aeronautical services such as hangaring, tie-down, parking, aircraft rental, aircraft maintenance and flight instruction.

Fuel Cooperative Organization (CO-OP): A autonomous association of persons united voluntarily to meet their common economic, social and cultural needs and aspirations through a jointly owned enterprise. Cooperatives may include:

- Businesses owned and managed by the people who use their service.
- Multi-stakeholder or hybrid cooperatives that share ownership between different stakeholder groups. Stakeholders might also include non-profits or investors.
- Second- and third-tier cooperatives whose members are other cooperatives.

Fuel Farm: Location where aviation fuel is stored prior to being discharged into aircraft fuel tanks.

Fuel Flowage Fees: Fees levied by the City per gallon of aviation gasoline and jet fuel sold at the Airport. Current fees are \$0.04 per gallon for Avgas and \$0.08 per gallon for JetA fuel.

Proposer: The individual, partnership, or corporation who, as a result of this competitive proposal process, has submitted a proposal for specific goods and/or services. Term may be used interchangeably with “Bidder”.

Request for Proposals (RFP): Solicitation for competitive sealed-bid procurement not based solely on the price.

Specialized Aviation Services Operator (SASO): A person offering one or more specialized aeronautical services at the Airport, including without limitation the following activities:

- Aircraft/Helicopter Sales
- Airframe, Engine and Accessory Maintenance and Repair
- Aircraft Leasing or Rental Services
- Flight Training Services

- Avionics, Instruments or Propeller Repair Services
- Aircraft Charter and Air Taxi Services
- Hangar Leasing Services
- Specialized Commercial Flying Services
- Aerial Applicators
- Mobile Aircraft Washing Services
- Mobile Aircraft Maintenance and Repair Services

SASOs are not authorized to offer aircraft fueling to the general public.

Successful Proposer: Proposer who has been selected by and enters into an agreement with the City to provide fuel services as a result of this solicitation.

BACKGROUND

The Brenham Municipal Airport is owned and operated by the City of Brenham as a division of the Development Services Department. The Brenham City Council (Council) and City Manager provide Airport policy direction, the Assistant City Manager/Public Services and Utilities and the Director of Development Services oversee the day-to-day business operations of the Airport.

The Brenham Municipal Airport is governed by the Brenham Municipal Airport Minimum Standards, attached here to as “**Exhibit B**” as adopted and updated periodically by the City of Brenham City Council.

The City is seeking proposals from qualified proposers for FBO Services using the City’s terminal building as a base of operation, Aviation Fueling Services using the City Owned Fuel Farm and for Restaurant Services in the City owned terminal building. A brief description of each service along with basic requirements are as follows:

FBO Services:

The City owns a Terminal Building that is approximately 4,800 square feet, of which 1,850 is FBO, related including an office, pilot’s lounge, restroom with shower, sleeping room and other aviation related amenities. The FBO shares a common area with the restaurant space that includes a waiting area and public restrooms. Pictures of the Terminal Building are attached as “**Exhibit C**”.

The Terminal Building was leased for approximately 20 years by the former FBO who retired in August of 2020. That FBO also ran the restaurant and operated the City Owned Fuel Farm.

Prospective bidders are required to submit the following in regard to the FBO:

- Customer Service Summary – A customer service summary shall detail specifically how the bidder will provide the highest level of customer service available to the users of the airport. Include any uniqueness of proposed services. Please see attached Airport Minimum Standards document that describes required services for FBOs.
- Proposed Plan of Operation – Each bidder shall include a brief proposed plan of operation including types of services anticipated and associated fees if any.
- List of Previously Managed Companies – Bidder shall provide a list of previously managed aviation related companies.
- Experience – Provide detailed resume information for the operator and staff that will be operating the FBO. Include experience in operating an FBO and / or any experience running an aviation related business. The ideal bidder will have a minimum of three (3) years continuous successful experience operating an FBO or aviation related business.
- Reference – Bidder must provide three (3) professional references. All references will include the contact person, title, company, address, telephone, and email address for each reference.

- Proposal Amount – Each proposal must include a proposed lease amount for the FBO Terminal Space. The City prefers that the lease amount be based on a flat monthly rate and include an increase after a proposed number of years with a fixed annual increase thereafter. However, the City will entertain other options.
- Description of any improvements that the FBO intends to make and the approximate cost of said improvements.
- Any other items that will help the City make a final determination.

The City would prefer to enter into an agreement for a full service FBO. However, we will consider submittals for a SASO in regard to the Terminal Building.

The winning bidder will be required to enter into an FBO or SASO Agreement and a Terminal Lease Agreement with the City and meet all requirements as outlined in the Airport Minimum Standards.

Should a prospective bidder wish to lease the entire Terminal Building, the City would entertain a sub-lease for the Restaurant. If a Proposer wishes to sub-lease the Restaurant space, they should indicate the intent and known terms in their Proposal.

Fuel Farm:

The City owns a Fuel Farm that is located near the terminal building that consists of:

- One (1) 10,000 gallon above-ground storage tank (AST) for a total storage capacity of 10,000 gallons that is used to store Jet-A fuel.
- one (1) 8,000 gallon above-ground storage tank for a total storage capacity of 8,000 gallons that is used to store Avgas (100LL).

The City-Owned Fuel Farm has not been in service since the previous FBO retired in August of 2020. An existing Fuel Farm is located at Brenham Municipal Airport and is operated by an additional FBO who began fuel sales in 2019. Figures represented in the flowage calculations below represent total flowage at the Airport.

The most recent five-year historical usage for total flowage of aviation fuel at the Airport was:

Year	Jet-A Fuel	AVGAS	Total Gallons Sold
2015	105,733	32,006	137,739
2016	114,561	43,397	157,958
2017	141,634	35,558	177,192
2018	105,848	23,795	129,643
2019	157,357	59,943	217,300
2020	128,258	44,471	172,729
2021*	37,239	10,439	47,678

**As of April 30, 2021.*

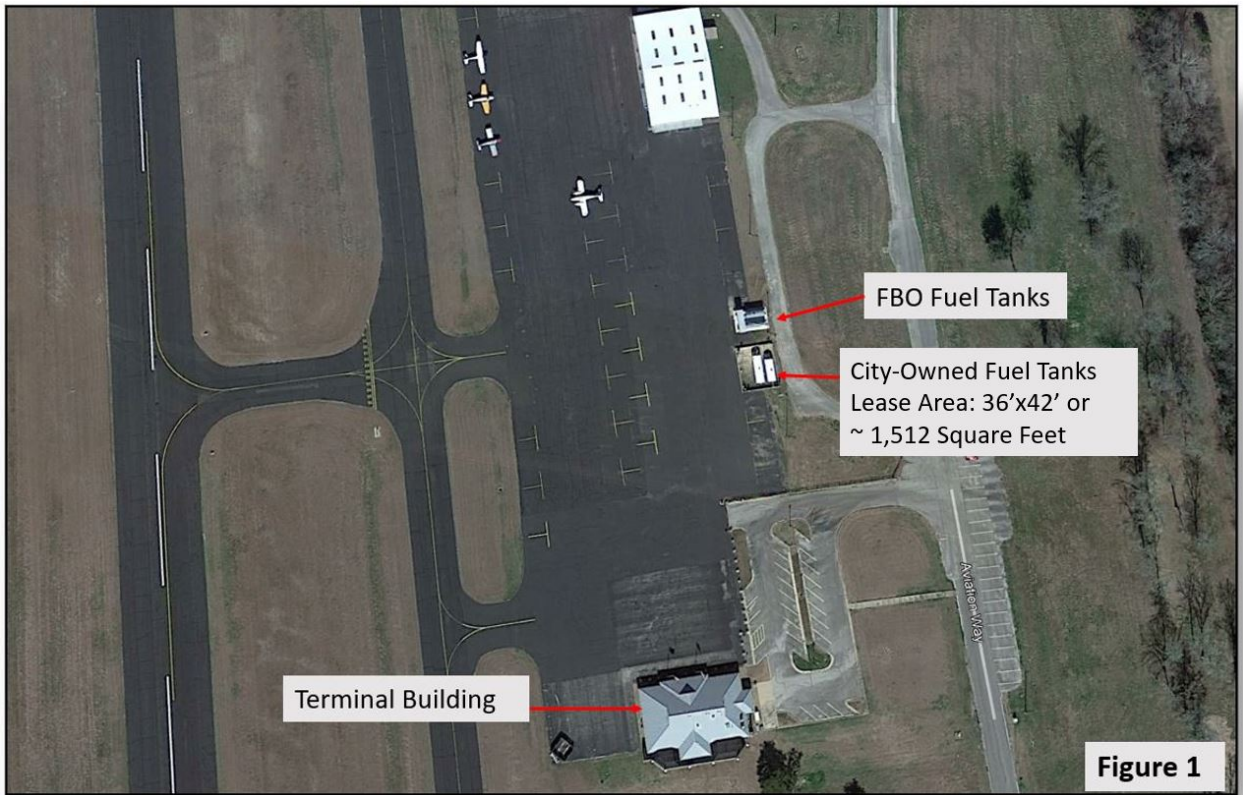


Figure 1 illustrates the locations of the storage tanks and self-service facilities.

Pictures of the City Owned Fuel Farm are attached as **Exhibit “C”**.

Current flowage rates being charged by the City of Brenham are:

- Avgas: \$0.04 per gallon
- Jet-A Fuel: \$0.08 per gallon

It is the City’s intent to lease the Fuel Farm and have a qualified operator bring it up to standard and assume operation.

PROVISIONS AND SPECIFICATIONS

The Proposer shall in its proposal, affirmatively demonstrate or attest to its ability to meet the following minimum qualifications/specifications:

Product Specifications

Winning bidder shall be responsible for any identified repair or improvements required to begin operating fuel tanks in accordance with the standards outlined below:

Jet-A shall conform to ASTM D-1655 specifications, latest revisions.

100LL Avgas shall conform to ASTM D-910 specifications, latest revision, and shall be of the Aviation Gasoline type, 100 Octane, Low Lead (Avgas 100LL) or future FAA-approved replacement.

All fuel storage, fuel handling, refueling vehicles, equipment, and the related training of all personnel engaged in the handling and distribution of aviation fuel shall be in strict conformance to the current version of FAA AC 150/5230-4B, *Aircraft Fuel Storage, Handling, Training, and Dispensing on Airports* throughout the entirety of the contract period. Failure to comply with the provisions of AC 150/5230-4B may be grounds for termination of the contract.

The minimum flowage rates shall be:

- AvGas: \$0.04 per gallon
- Jet-A Fuel: \$0.08 per gallon

Delivery/Supply:

- Proposer shall affirm fuel ordering capability 24 hours a day, 7 days a week. (Applies to FBO option only)
- Proposer shall affirm their ability to provide aviation fuel delivery 24 hours a day, 7 days a week. (Applies to FBO option only)
- Proposer shall affirm their ability to provide delivery within 48 hours of order being placed. (Applies to FBO option only)
- Proposer shall indicate the primary source and location of their fuel supply and describe its contingency plan in case of interrupted fuel delivery from the primary delivery point. A minimum of one (1) alternate supply location and delivery plan shall be identified. (Applies to FBO option only)
- Proposer shall outline its plan for fuel deliveries to the Airport. (All responses apply)
- Proposer shall provide City with copies of the fuel delivery invoice in addition to payment to the City for fuel flowage fees. Fuel flowage fees shall be paid monthly as established in the Ground Space Lease Agreement for Fuel Farm Operation. (All responses apply)
- The Director of Development Services shall be notified by phone (name and phone number will be on purchase order) immediately if any problems or emergencies occur that will affect scheduled fuel delivery. For each occurrence or delay of delivery, Successful Proposer's representative shall submit a memorandum that outlines the problem or emergency in detail and what corrective action has been taken to mitigate the problem and prevent its recurrence. The memorandum shall be submitted within twenty-four (24) hours of the telephone notification of said incident. (All responses apply)

City reserves the right to purchase fuel on the open market should successful Proposer fail to deliver fuel within twenty-four (48) hours of time of order. Successful Proposer shall reimburse the City for any difference in cost between fuels purchased on the open market compared to Proposal price. Further, Successful Proposer shall reimburse all costs associated with fuel delivery under these circumstances.

The Successful Proposer shall perform and document the following tests before shipments are unloaded at the Airport:

- Visual
- Color
- Gauging
- Bottom sediment and water
- Temperature
- API Gravity

Fuel delivery location: Brenham Municipal Airport, 3001 Aviation Way, Brenham, Texas 77833.

Branding/Marketing

Proposer shall identify their fuel branding, if any, and describe the extent and associated benefits of their branding and marketing program.

Proposer shall provide a complete outdoor signage plan proposal for any requested signage. Note that all signage must be approved by the City. All approved signage shall be installed at the beginning of the contract period at no additional cost to the City.

All regulatory-type labeling and placards (i.e. product identification, No Smoking, Flammable, Hazardous Materials ID labels) shall be provided as required at no additional cost to the City.

Fuel Farm Proposal Options

OPTION 1 – Fixed Base Operator (FBO) – City Preferred Option

Under this Option, the Proposer would:

- Deliver and test fuel in bulk and serve as an FBO.
- Maintain current and future bulk and self-service fuel storage facilities.
- Provide fuel to and manage Contract FBO services, as outlined in the City’s Fixed Base Operator Agreement attached to this RFP as “**Exhibit D**”.
- Operate the self-service fuel system.

The Proposer shall ensure full-service fueling services are available to all areas of the Airport between the hours of 7 a.m. through 7 p.m. every day, including Saturdays, Sundays and holidays, except Christmas Day.

OPTION 2 – Specialized Aviation Services Operator (SASO)

Under this Option, the Proposer would be allowed to fuel aircraft that they own and/or operate or that are used in the performance of the specified SASO services associated with their primary business.

As outlined in the Brenham Municipal Airport Minimum Standards (“**Exhibit A**” to this RFP), **SASOs are not authorized to offer aircraft fueling to any other parties.**

OPTION 3 – Fuel Co-Operative Organization (CO-OP)

The Proposer shall provide appropriate documentation for the formation of a Co-Op specifically for the purchase of and consumption of fuel by members of the Co-Op only.

The Proposer shall furnish a list of Co-Op members, designate a Co-Op Administrator, and provide terms and conditions of the proposed organization. Membership shall not be fluid, and the Proposer may establish a time frame for which additional members may be added to the Co-Op upon approval of the City of Brenham. Upon notification to the Co-Op Administrator and to the City of Brenham a Co-Op member may be removed at any time.

Members of the Co-Op are required to reside in Washington County or own an aircraft based at the City of Brenham Municipal Airport and provide necessary documentation at the time of the Proposal and upon request by the City of Brenham.

Specific Requirements for All Fuel Farm Options:

Proposer shall receive fuel shipments and complete all documentation related to acceptance of the products, and maintain the records including volume and quality control testing necessary to track the movements of fuel from the fuel storage facility to the end user.

The Successful Proposer shall, at its expense and cost, maintain the City’s existing Fuel Farm facilities, including the replacement and light repair of equipment and components (i.e., under \$1,000, labor and materials) as required for efficient and proper operation. This includes fuel farm building(s), fuel storage tank facilities, pumps, plumbing, the concrete pads and containment structures for the tanks, and for loading/off-loading fuel trucks, etc.

The Successful Proposer shall at its expense and cost, provide all servicing and maintenance for the existing self-service fuel facilities including but not limited to fuel line reels and hoses, grounding equipment, fuel dispensing equipment covers, credit card stations and its equipment, painting of fuel island markings and all signage for the self-service island.

The Proposer shall ensure that all Jet-A and 100LL AvGas self-service fuel storage tanks are replenished, as necessary. At no point shall the Successful Proposer allow fuel levels to drop below 20 percent of each tank’s storage capacity (applies to FBO only).

Proposers are required to provide both Jet-A and 100LL AvGas.

Proposers shall include the proposed lease rate of the lease area, per gallon flowage fee and a proposed flowage annual quantity. Proposals will be evaluated based on proposal options as an FBO, SASO or Co-Op as well as the competitive merit of the proposed lease and flowage rates.

Proposers shall reference the attached example Fuel Farm Lease Agreement attached to this RFP as “**Exhibit E**”.

Airport Restaurant:

The City of Brenham owns a terminal building at the Brenham Municipal Airport. Approximately 1,405 square feet of terminal building is set up for a restaurant with a full kitchen and dining area. Attached to the restaurant is an additional outdoor dining/patio area that is approximately 2,000 square feet. The restaurant also shares common areas with the FBO that consist of a lobby and two public restrooms.

The restaurant space was formerly occupied by the Southern Flyer Diner and the owner also served as the FBO and operated the City Owned Fuel Farm until their retirement in August of 2020. The diner was very successful and popular among pilots and non-pilots alike. There has been a tremendous number of requests from airport users and the general public for the City to bring in another restaurant.

To that end, it is the City’s intent to develop an Airport restaurant that is unique, creative and with local flavor; that offers value to airport users and visitors; and is on par with the best airport concession programs for airports of similar size.

Objectives of the restaurant are to:

- Enhance our Airport user and general public’s experience with high-quality, attractive facilities that create a strong sense of pride and enjoyment and that are appropriate for our Airport.
- Provide strong customer service, value, and excellence.
- Provide for a unique but standard “American” menu. Incorporate national, regional, and local brands as much as possible.
- Promote catering opportunities to Airport tenants as well as off-site customers.
- Provide the services of a restaurant manager, provide an adequate number of courteous, well-trained, uniformed or neatly attired personnel as required to successfully operate and maintain the restaurant. All personnel will be employees of the successful bidder.
- Successful bidder will be required to enter into a lease agreement with the City. Proposers shall reference the attached example Terminal and-or Restaurant Lease Agreement attached to this RFP as “**Exhibit F**”.
- Successful bidder will have the exclusive right and privilege, within its defined areas, to

operate a restaurant at the Brenham Municipal Airport.

Prospective bidders are required to submit the following in regard to the Restaurant:

- Customer Service Summary – A customer service summary shall detail specifically how the bidder will provide the highest level of customer service available to the users of the restaurant. Include any uniqueness of proposed services.
- Proposed Plan of Operation – Each bidder shall include a brief proposed plan of operation including the general menu items, if alcohol sales are planned, and types of service anticipated.
- List of Previously Managed Companies – Bidder shall provide a list of previously managed restaurants and is encouraged to provide copies of inspection by the Health Department.
- Experience – Provide detailed resume information for the operator and staff that will be working/running the Café. Include experience in operating a restaurant, any experience running an airport restaurant, and a list of locations and their size. The ideal bidder will have a minimum of three (3) years continuous successful experience operating a restaurant.
- Reference – Bidder must provide three (3) professional references and one (1) banking reference. All references will include the contact person, title, company, address, telephone, and email address for each reference.
- Proposal Amount – Each proposal must include a proposed lease amount. The lease amount can be based on a flat monthly rate, a percentage of gross monthly revenue or a combination thereof.
- Description of any improvements that the Restauranter intends to make and the approximate cost of said improvements.
- Any other items that will help the City make a final determination.

PROPOSAL EXHIBIT INDEX

- Exhibit A – Terms and Conditions for Bids
- Exhibit B – Airport Minimum Standards
- Exhibit C – Airport Terminal Building and City Fuel Farm Photos
- Exhibit D – Example FBO Agreement
- Exhibit E – Example Fuel Farm Lease Agreement
- Exhibit F – Example Terminal and-or Restaurant Lease Agreement

PROPOSAL SUBMISSION AUTHORIZATION

- An authorized representative must sign bids, with the Proposer's address, telephone and email information provided. Unsigned proposals may not be considered.
- If the proposal is made by an individual, the name, mailing address and signature of the individual must be shown.
- If the proposal is made by a firm or partnership, the name and mailing address of the firm or partnership and the signature of at least one of the general partners must be shown.
- If the proposal is made by a corporation, the name and mailing address of the corporation and the signature and title of the person who signs on behalf of the corporation must be shown.
- The CITY reserves the right to request documentation showing the authority of the individual signing the proposal to execute contracts on behalf of anyone, or any corporation, other than himself/herself. Refusal to provide such information upon request may cause the proposal to be rejected as non-responsive.

The undersigned certifies that the information provided above is a true representation of its company's qualifications and agrees to comply with these assurances following award of the RFP and during the performance of the Lease Agreement, once executed.

Signature: _____

Printed Name: _____

Title: _____

Date: _____

NON-COLLUSION CERTIFICATE

STATE OF _____

COUNTY OF _____

The undersigned, being duly sworn, deposes and says that the person, firm, association, co-partnership or corporation herein named, has not, either directly or indirectly, entered into any agreement, participated in any collusion, or otherwise taken any action in restraint of free competition in the preparation and submission of a bid to the City of Brenham for consideration in the award of a contract on the improvement described as follows:

RFP NO. 21-001 – Airport FBO, Fuel Farm and Restaurant

(Name of Firm)

By: _____
(Authorized Signature)

Title: _____

Sworn to before me this _____ day of _____, 2021.

Notary Public

NOTARY SEAL:

EXHIBIT A

TERMS AND CONDITIONS FOR BIDS

Definitions:

In order to simplify the language throughout this request for bids, the following definitions shall apply:

CITY – OWNER - Same as City of Brenham.

CONTRACT - An agreement between the City and a Vendor to furnish goods or services over a designated period of time during which repeated purchases may be made of the goods or services specified.

VENDOR – The successful Bidder(s) of this bid request.

Instructions:

The following instructions apply to all bids and become a part of terms and conditions of any bid submitted to the City of Brenham Purchasing Department, unless otherwise specified elsewhere in this bid request.

Form:

Bids must be submitted on this form only. **Bidders are required to submit one (1) original and one (1) copy.** All bids submitted must be itemized with prices extended when practical. **BIDDER MUST RETURN THE ENTIRE ORIGINAL BID DOCUMENT WITH BID OR PROPOSAL.**

Bid Return:

Bid must be sealed, and to ensure proper recognition upon its arrival, list the Bid Number, Bid Description and the Bid Opening Date on the outside of your envelope.

Late Bids:

Bids must be received by the Purchasing Department prior to the time indicated on this form. Late bids will not be opened and will be returned to the bidder only upon written request.

Acceptance:

The City of Brenham reserves the right to accept or reject any or all bids, to waive any informalities and technicalities, to accept the offer considered most advantageous **in order to obtain the best value for the City.** Causes for rejection of a bid may include but are not limited to the bidder's current violation of any City ordinance, the bidder's current inability to satisfactorily perform the work or service, or the bidder's previous failure to timely perform its obligation under a contract with the City.

Bidders may be disqualified and rejection of proposals may be recommended for any of (but not limited to) the following causes:

1. Failure to use the proposal form furnished by the Owner;
2. Lack of signature by an authorized representative on the proposal form;
3. Failure to properly complete the proposal;
4. Evidence of collusion among proposers;
5. Omission of uncertified personal or company check as a proposal guarantee (**if Bid Bond required**); or
6. Unauthorized alteration of bid form.

Owner reserves the right to waive any informality or irregularity.

All bidders are hereby notified that the City of Brenham shall consider all factors it believes to be relevant in selecting the offer that provides the best value for the City including, but not limited to the purchase price, the proximity of the bidder as it relates to bidder's ability to perform the contract for the City, the delivery date, the reputation of the bidder and the bidder's goods or services, the quality of the bidder's goods or services, the extent to which the goods or services meet the City's needs, the impact on the ability of the City to comply with laws and rules relating to contracting with historically underutilized business and non-profit organizations employing persons with disabilities, the total long-term cost of the City to acquire the bidder's goods or services, the bidder's past performance under contracts with the City, the bidder's compliance

EXHIBIT A

with City ordinances, and any relevant criteria specifically listed in this request for bid.

The City is committed to obtaining its goods, products and services at the lowest price possible which benefits all citizens of Brenham. Therefore, in order to accomplish this objective/goal, it is not the intention of the City to exclude particular vendors or manufacturers nor to create restrictive situations in its request for bids and proposals. Any manufacturer's name, trade names, brand names, catalog numbers, technical data, etc. used in the specifications are there for the sole purpose of establishing and describing general performance, quality levels, type and dimensions and such references are not intended to be restrictive. Alternate bids on similar or comparable products and/or services of any manufacturer or vendor equal to the products and/or services described in the specifications are invited and will be given careful consideration provided the alternate will accomplish the same task. The City shall be the sole judge on whether the alternate product and/or service is similar to, equal to and in compliance with that specified. The decision of the City shall be final.

Award of Contract:

The contract may be awarded either to the lowest responsible bidder or to the bidder who provides goods or services at the best value for the City. The bid award may be based on, but not necessarily limited to, the following factors:

- a. the purchase price, including payment discount terms;
- b. the reputation of the bidder and of the bidder's goods or services;
- c. the quality of the bidder's goods or services;
- d. the extent to which the goods or services meet the City's needs;
- e. the bidder's past relationship with the City;
- f. the impact on the ability of the City to comply with laws and rules relating to contracting with historically underutilized businesses and nonprofit organizations employing persons with disabilities;
- g. the total long-term cost of the City to acquire the bidder's goods or services; and

- h. any relevant criteria specifically listed in this request for bid.

The City prefers to award the entire contract to a single bidder; although, the City reserves the right to award a primary contract and a secondary contract in an effort to secure a back-up contractor to be used in emergency situations in the event the primary contractor is unable to respond as needed.

Term of Contract:

This Contract shall become effective from date of acceptance and approval by the City of Brenham. It shall remain in force and effect with firm fixed bid prices for a period of one (1) year, beginning on the date of award of contract.

Extension of Contract:

Upon completion of the term of the original contract and mutual agreement of both parties, the contract may be extended for up to two (2) additional one (1) year terms (three (3) years total). The renewal will be under the same terms and conditions as the original contract. In the event a new contract cannot be executed at the anniversary date of the original term or any renewal term, the contract may be renewed month-to-month until a new contract is executed.

Assignment of Contract:

This contract cannot be transferred or assigned to another party without written consent of the City and may be subject to cancellation by the City if such consent is requested.

Contract Termination:

The City may terminate this Contract at any time upon thirty (30) calendar day's written notice. Upon the Vendor's receipt of such notice, the Vendor shall cease work immediately. The Vendor shall be compensated for the services satisfactorily performed prior to the termination date.

If, through any cause, the Vendor fails to fulfill its obligations under this contract, or if the Vendor violates any of the agreements of this Contract, the City has the right to terminate this

EXHIBIT A

Contract by giving the Vendor five (5) calendar days written notice. The Vendor will be compensated for the services satisfactorily performed before termination date. Termination of the contract for cause shall be deemed as sufficient evidence and cause to remove the Vendor's name from the bidder's list for receiving future bids.

No term or provision of this Contract shall be construed to relieve the Vendor of liability to the City for damages sustained by the City because of any breach of contract by the Vendor. The City may withhold payments to the Vendor for the purpose of setoff until the exact amount of damages due the City from the Vendor is determined and paid.

Reimbursements:

There is no expressed or implied obligation for the City to reimburse responding firms for any expenses incurred in preparing bids in response to this Request for Bids and the City will not reimburse responding firms for these expenses, nor will the City of Brenham pay any subsequent costs associated with the provision of any additional information or presentation, or to procure a contract for these services.

Minority Owned Businesses:

Minority business enterprises will be afforded full opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, creed, sex, or national origin in consideration for an award.

Error-Quantity:

Bids must be submitted on units of quantity specified. In the event of errors in extended process, the unit price shall govern. Any suggested quantity to secure better prices is welcomed. When discrepancies occur between words and figures, the words shall govern.

Quantities:

Quantities indicated in the Bid are estimated based upon the best available information. The City reserves the right to increase or decrease the quantities by any amount deemed necessary to

meet its needs without any adjustments in the unit bid prices.

Variations:

Any variation (deviation) from these specifications must be indicated on a separate form and be made part of the bid.

F.O.B. – Damage

Bids will not be considered unless bid F.O.B. delivered to Brenham, Texas. If shipping costs are not included in the unit bid price, bidder must give exact delivery cost, which is to be prepaid or added to the invoice. The City assumes no liability of goods delivered in a damaged or unacceptable condition.

Firm Prices:

Bidders must hold bid prices firm for 90 days after the bid opening date to allow the City sufficient time to award a contract. Once a Contract is awarded, the successful bidder must hold bid prices firm for the duration of the Contract. Sealed competitive bids may not be negotiated, amended or changed after the bid opening date.

Cooperative Agreements:

Successful bidder agrees to extend prices and terms to all governmental entities that have entered into, or will enter into, joint purchasing interlocal cooperation agreements with the City.

Authorized Signature:

Bids must show full firm name and mailing address of bidder and be manually signed by an authorized representative of the bidder. Firm name and authorized signature should appear on each page of bid where spaces are provided. Submission of a signed bid will be interpreted to mean that bidder has hereby agreed to all terms and conditions set forth in all of the sheets which make up this invitation.

Withdrawal-Alteration Of Bids:

Bids cannot be altered after receiving time or opening time. No bid may be withdrawn after

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opening time without acceptable reason in writing and with the approval of the City Council.

Lump Sum Bids:

Lump sum bids will be considered only if unit prices are quoted also. However, the totals of such quoted unit prices and the lump sum bids will not be considered if the price quoted also involves prices of commodities requested on an entirely separate bid request.

All-Or-None Bids:

All-or-none bids will be considered only if bidder quoted prices on all items requested. If a bidder desires the City to consider an all-or-none bid, it must be stated in the bid document. All-or-none bids will not be considered if prices quoted involved prices of items and services requested on an entirely separate bid request.

Payment Of Invoices:

Invoices must be submitted by the successful bidder to the City of Brenham, Finance Department, P.O. Box 1059, Brenham, Texas 77835-1059. All invoices to be paid in full within thirty (30) days after satisfactory delivery and billing, whichever is the latter. The City will not be liable for payment of invoices received more than sixty (60) days after delivery of order, or completion of service.

Cash Discounts:

Bidders may quote additional cash discount terms. If no discount is shown, prices are to be assumed net. Discount period to be started from the date of completion of entire order or date of receipt of invoice, whichever occurs last regardless of date of invoice.

Taxes:

The City of Brenham is exempt from Federal Excise, State Sales and Transportation Taxes. TAX MUST NOT BE INCLUDED IN BID. The City upon request will execute Tax Exemption Certificates. The City of Brenham is statutorily exempt from State and Local Sales tax and a permit number is not required.

Delivery:

Bids must show the number of consecutive calendar days required to deliver the materials, services or equipment under normal conditions. Failure to specify delivery time will be considered reason enough to cause the bid to be disregarded. Delivery time quoted will be given consideration in awarding bids. If delivery is not made within ten (10) days after number of days specified on bid, entire order may be canceled and bidder's name removed from mailing list.

All deliveries are to be made to the Central Warehouse located at 315 West Second Street, unless otherwise specified in the Bid Request or Purchase Order. Deliveries will be accepted only during normal working hours on normal working days. Unless otherwise indicated, items received must be new and in first-class condition. Types of materials normally packaged for protection and convenience in storage shall be in the proper containers.

Liability:

Vendor shall be liable for all damages incurred while in performance of the work to be performed hereunder. Vendor assumes full responsibility for the work to be performed hereunder, and hereby releases, relinquishes, and discharges the City, its officers, agents, and employees, from all claims, demands, and causes of action of every kind and character including the cost of defense thereof, for any injury to, including death of, any person whether that person be a third person, vendor, or an employee of either parties hereto, and any loss of or damage to property, whether the same be that of either of the parties hereto or of third parties, caused by or alleged to be caused by, arising out of or in connection with the issuance of this order to Vendor, whether or not said claims, demands and causes of action in whole or in part are covered by insurance. Certificate of Insurance may be required for but not limited to Commercial General Liability, Commercial Auto Liability, Workers Compensation, and Professional Liability Insurance.

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Material Safety Data Sheets (MSDS):

MSDS's must be provided prior to or with receipt of order, and when revised. Containers must be properly labeled and identified in accordance with the OSHA Hazard Communications Standard. Improperly labeled containers will result in refusal of the shipment and possible change in vendors.

Patents, Franchises, etc.:

The successful bidder agrees to protect the City from any claim involving patent right infringements, copyrights or sales franchises.

No Bids:

If bidder is unable to quote, the bid form should be returned to the purchasing agent before opening time, and reason given for not bidding if bidder desires to bid on future purchases.

Addenda:

In the event of a needed change in the published documents, it is understood that all the foregoing terms and conditions and all performance requirements will apply to any published addendum.

All published addenda shall be signed and included with your response package as acknowledgement of the addendum. Bidders are responsible for obtaining all published addenda from the City of Brenham Purchasing office. The City assumes no responsibility for the Bidders failure to obtain and/or properly submit any addendum. Failure to acknowledge and submit any addendum may be cause for the bid to be rejected. The City's decision to accept or reject any particular bid due to a failure to acknowledge and submit addenda shall be final.

Fiscal Funding:

The City operates and is funded on a fiscal year basis; accordingly, the City reserves the right to terminate, without liability, any contract for which funding is not available. Renewal of a contract will be in accordance with Local Government Code 271.903 concerning non-appropriation of funds for multi-year contracts.

The City reserves the right to rescind the contract at the end of each fiscal year if it is determined that there are insufficient funds to extend the contract. The fiscal year for the City extends from October 1st of each calendar year to September 30th of the following calendar year.

H.B. 1295 Compliance:

The Vendor for the Contract shall comply with the requirements of Section 2252.908 of the Texas Government Code as adopted in 2015 as House Bill 1295. The law requires that a governmental entity may not enter in certain contracts with a business entity unless the business entity submits a Disclosure of Interested Parties to the governmental entity. The law applies only to a contract that either (1) requires an action or vote by the governing body of the entity or agency before the contract may be signed or (2) has a value of at least \$1 million.

Compliance with the law requires that the Vendor utilize the Texas Ethics Commission website to enter the required information on Form 1295 and print a copy of the complete form. The form must be signed, notarized and submitted to the contracting government entity

The City, in the case of contracts formalized by Purchase Order or by other written contract, will notify the Vendor of Award by Council and request the completed Form 1295 within five (5) working days thereafter.

No Boycott of Israel:

By acceptance of this Contract, Vendor hereby certifies that it is not a company identified on the Texas Comptroller's list of companies known to have contacts with, or provide supplies or services to, a foreign organization designated as a Foreign Terrorist Organization by the U.S. Secretary of State. Vendor further certifies and verifies that neither vendor, nor any affiliate, subsidiary, or parent company of Vendor, if any, the "Vendor Companies"), boycotts Israel, and Vendor agrees that Vendor and Vendor Companies will not boycott Israel during the term of this Agreement. For purposes of this Agreement, the term "boycott" shall mean and include terminating business activities or otherwise taking any action that is intended to

EXHIBIT A

penalize, inflict economic hoard on, or limit commercial relations with Israel, or with a person or entity doing business in Israel or in an Israeli-controlled territory.

Engaged in Business with Iran, Sudan, or Foreign Terrorist Organization:

Pursuant to Texas Government Code Chapter 2252, Subchapter F, Vendor affirms that it is not identified on a list created by the Texas Comptroller of Public Accounts as a company known to have contracts with or provide supplies or services to a foreign terrorist organization.

Conflict of Interest:

By doing business or seeking to do business with the City, Vendor acknowledges that they have been notified of the requirements of Chapter 176 of the Texas Local Government Code and that they are solely responsible for compliance.

Applicable Law and Venue

This Contract shall be governed by the laws of the State of Texas. The parties agree that performance and all matters related thereto shall be in Washington County, Texas and venue for any lawsuit, claim or dispute arising out of the contract shall be in Washington County, Texas. Further, neither party will seek to remove such litigation to the federal court system by application of conflicts of laws or any other removal process.

Insurance

1. The Vendor shall procure and maintain at its sole cost and expense for the duration of the Contract insurance coverage for injuries to persons or damages to property that may arise from or in connection with the performance of the work hereunder by the Contractor, its agents, representatives, volunteers, employees or subcontractors. The Contractor's insurance coverage shall be primary insurance with respect to the City, its officials, employees and volunteers. Any insurance or self-insurance maintained by the City, its

officials, employees or volunteers shall be considered in excess of the Contractor's insurance and shall not contribute to it. Further, the Contractor shall include the City as an additional insured under its policy. All coverage for subcontractors shall be subject to all of the requirements stated herein. Certificates of Insurance and endorsements shall be furnished to the City and approved by the City before work commences.

2. Standard Insurance Policies Required:
 - a) Commercial General Liability Policy
 - b) Automobile Liability Policy
 - c) Workers' Compensation Policy
3. General Requirements Applicable to All Policies:
 - a) General Liability and Automobile Liability insurance shall be written by a carrier with an A: VIII or better rating in accordance with the current Best Key Rating Guide.
 - b) Only Insurance Carriers licensed and admitted to do business in the State of Texas will be accepted.
 - c) Deductibles shall be listed on the Certificate of Insurance and are acceptable only on a per occurrence basis for property damage only.
 - d) "Claims Made" policies will not be accepted.
 - e) The City of Brenham, its officials, employees and volunteers, are to be added as "Additional Insured" to the General Liability policy. The coverage shall contain no special limitations on the scope of protection afforded to the City, its officials, employees or volunteers.
 - f) A Waiver of Subrogation in favor of the City with respect to Workers' Compensation Insurance must be included.
 - g) Each insurance policy shall be endorsed to state that coverage shall not be suspended, voided, canceled, reduced in coverage or in limits except after thirty (30) days prior

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written notice has been given to the City.

- h) Upon request, certified copies of all insurance policies shall be furnished to the City.

4. Commercial General Liability

- a) Minimum Combined Single Limit of \$1,000,000.00 per occurrence for bodily injury and property damage.
- b) No coverage shall be deleted from the standard policy without notification of individual exclusions being attached for review and acceptance.

5. Automobile Liability

- a) Minimum Combined Single limit of \$500,000.00 per occurrence for bodily injury and property damage.

6. Worker's Compensation

- a) Statutory

7. Certificates of Insurance shall be prepared and executed by the insurance company or its authorized agent. And shall contain the following provisions and warranties:

- a) The company is licensed and admitted to do business in the State of Texas.
- b) The insurance policies provided by the insurance company are underwritten on forms that have been provided by the Texas Board of Insurance.
- c) All endorsements and insurance coverage according to requirements and instructions contained herein.
- d) The form of the notice of cancellation, termination, or change in coverage provisions to the City of Brenham.
- e) Original endorsements affecting coverage required by this section shall be furnished with the certificates of insurance.

Workers' Compensation Provisions **(State law requires the following language in contracts on public works projects).**

DEFINITIONS:

Certificate of Coverage (certificate) – A copy of a certificate of insurance, a certificate of authority to self-insure issued by the Texas Workers' Compensation Commission, or a coverage agreement (TWCC-81, TWCC-82, TWCC-83, or TWCC-84), showing statutory workers' compensation insurance coverage for the person's or entity's employees providing services on a project, for the duration of the project.

Duration of the Project – includes the time from the beginning of the work on the project until the contractor's/person's work on the project has been completed and accepted by the City.

Persons providing services on the project ("subcontractor" in 406.096) – includes all persons or entities performing all or part of the services the Contractor has undertaken to perform on the project, regardless of whether that person contracted directly with the Contractor and regardless of whether that person has employees. This includes, without limitations, independent contractors, subcontractors, leasing companies, motor carriers, owner-operators, employees of any such entity, or employees of any entity which furnished persons to provide services on the project. "Services" include, without limitation, providing, hauling, or delivering equipment or materials, or providing labor, transportation, or other services related to a project. "Services" does not include activities unrelated to the project, such as food/beverage vendors, office supply deliveries, and delivery of portable toilets.

The Contractor shall provide coverage, based on proper reporting of classification codes and payroll amounts and filing of any coverage agreements, that meets the statutory requirements of Texas Labor Code, Section 401.011(44) for all employees of the Contractor providing services on the project, for the duration of the project.

EXHIBIT A

The Contractor must provide a certificate of coverage to the City **prior** to being awarded the contract.

If the coverage period shown on the Contractor's current certificate of coverage ends during the duration of the project, the Contractor must, prior to the end of the coverage period, file a new certificate of coverage with the City showing that coverage has been extended.

The Contractor shall obtain from each person providing services on a project, and provide to the City:

- a. a certificate of coverage, prior to that person beginning work on the project, so the City will have on file certificates showing coverage for all persons providing services on the project; and
- b. no later than seven calendar days after receipt by the Contractor, a new certificate of coverage showing extension of coverage, if the coverage period shown on the current certificate of coverage ends during the duration of the project.

The Contractor shall retain all required certificates of coverage for the duration of the project and for one (1) year thereafter.

The Contractor shall notify the City in writing by certified mail or personal delivery, within ten (10) calendar days after the Contractor knew or should have known, of any change that materially affects the provision of coverage of any person providing services on the project.

The Contractor shall post on each project site a notice, in the text, form and manner prescribed by the Texas Workers' Compensation commission, informing all persons providing services on the project that they are required to be covered and stating how a person may verify coverage and report lack of coverage.

The Contractor shall contractually require each person with whom it contracts to provide services on a project, to:

- (a) provide coverage, based on proper reporting of classification codes and payroll amounts and filing of any coverage agreements, that meets the statutory requirements of Texas Labor Code, Section 401.011(44) for all of its employees providing services on the project, for the duration of the project;
- (b) provide to the Contractor, prior to that person beginning work on the project, a certificate of coverage showing that coverage is being provided for all employees of the person providing services on a project, for the duration of the project;
- (c) provide the Contractor, prior to the end of the coverage period, a new certificate of coverage showing extension of coverage, if the coverage period shown on the current certificate of coverage ends during the duration of the project;
- (d) obtain from each person with whom it contracts, and provide to the Contractor:
 1. a certificate of coverage, prior to the person beginning work on the project; and
 2. a new certificate of coverage showing the extension of coverage, prior to the end of the coverage period, if the coverage period shown on the current certificate of coverage ends during the duration of the project.
- (e) retain all required certificates of coverage on file for the duration of the project and for one (1) year thereafter;
- (f) notify the City in writing by certified mail or personal delivery, within ten (10) calendar days after the person knew or should have known, of any change that materially affects the provision of coverage of any person providing services on the project; and
- (g) contractually require each person with whom it contracts, to perform as required by paragraphs (a) – (g), with the certificates of coverage to be provided to the person for whom they are providing services.

EXHIBIT A

By signing the contract, or providing, or causing to be provided a certificate of coverage, the Contractor is representing to the City that all employees of the Contractor who will provide services on the project will be covered by workers' compensation coverage for the duration of the project, that the coverage will be based on proper reporting of classification codes and payroll amounts, and that all coverage agreements will be filed with the appropriate insurance carrier or, in the case of a self-insured, with the Commission's Division of Self-Insurance Regulation. Providing false or misleading information may subject the Contractor to administrative penalties, criminal penalties, civil penalties, or other civil actions.

The Contractor's failure to comply with any of these provisions is a breach of contract by the Contractor that entitles the City to declare the contract void if the contractor does not remedy the breach within ten (10) calendar days after receipt of notice of breach from the City.

EXHIBIT B

RESOLUTION NO. R-20-023

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BRENHAM, TEXAS ADOPTING REVISED AVIATION MINIMUM STANDARDS FOR THE BRENHAM MUNICIPAL AIRPORT

WHEREAS, Aviation Minimum Standards (“Minimum Standards”) are necessary to encourage, promote and ensure:

1. The consistent provision of high-quality aviation products, services, and facilities at the Brenham Municipal Airport (“Airport”);
2. The development of high-quality aviation improvements and amenities at the Airport;
3. Aviation safety and security at the Airport;
4. The economic health of aviation Commercial Operators at the Airport; and
5. The orderly development of Airport property for aviation purposes; and

WHEREAS, the existing Minimum Standards for Fixed Base Operators (“FBO”) were adopted by the City Council in September 2005; and

WHEREAS, the existing Minimum Standards were based on TxDOT’s template for Minimum Standards, which does not clearly define, explain, and/or address certain items; and

WHEREAS, the Airport Advisory Board reviewed the City staff’s final proposed revisions to the Minimum Standards on May 20, 2020 and submitted their final suggested revisions by May 29, 2020; and

WHEREAS, it is in the best interest of the City of Brenham and the Brenham Municipal Airport to adopt the revised Aviation Minimum Standards;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF BRENHAM, TEXAS:

Section 1: That the City Council hereby adopts the revised Aviation Minimum Standards for the Brenham Municipal Airport, attached hereto as Exhibit “A” and incorporated herein for all purposes, and said Minimum Standards shall supersede any existing Minimum Standards.

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Section 2: That this Resolution, and the revised Aviation Minimum Standards attached hereto as Exhibit "A", shall become effective immediately from and after the passage of this Resolution.

RESOLVED on this 2nd day of July 2020.



Milton Y. Tate, Jr.
Milton Y. Tate, Jr.
Mayor

ATTEST:

Jana Bellinger
Jana Bellinger, TRMC, CMC
City Secretary

EXHIBIT B

Exhibit A



BRENHAM MUNICIPAL AIRPORT

MINIMUM STANDARDS

**ADOPTED
JULY 2, 2020**

EXHIBIT B

Minimum Standards

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Section 1 General Standards

Section 2 Conducting Business at the Airport

Section 3 Commercial Operations

Section 4 Insurance

Section 5 Building/Improvement Standards

Section 6 Leasing

Appendix A Business Application

DEFINITIONS

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Accident: A collision or other contact between any part of an aircraft or a vehicle, person, stationary object or other thing which results in property damage, personal injury, or death; or an entry into or emerging from a moving aircraft or vehicle by a person which results in personal injury or death to such person, or some other person, or which results in property damage.

Advisory Board: City appointed board that makes recommendations to the City pertaining to Airport related matters.

Advisory Circular (AC): FAA publications consisting of all non-regulatory material of a policy, guidance, and technical nature. Used as basic source for most Airport design criteria.

Aeronautical Activity: Any activity or service conducted on Airport property, which involves, makes possible, or is required for the operation of aircraft, or contributes to, or is required for, the safety of such operations.

Aeronautical Activities include, but are not limited to:

- General and corporate aviation
- Air taxi and charter operation
- Aerial photography
- Pilot training
- Aircraft rental
- Sightseeing
- Aerial surveying
- Crop dusting
- Aircraft sales and service
- Aviation fuel and oil sales (whether or not conducted in conjunction with other included activities)
- Repair and maintenance of aircraft
- Sale of aircraft parts
- Aviation fire suppression
- Aviation advertising
- Aircraft management
- Any other activities that, because of their direct relationship to the operation of aircraft can appropriately be regarded as an aeronautical activity.

The following are non-aeronautical activities:

- Ground transportation (taxis, car rentals, limousines)
- Restaurants
- In-flight food catering
- Barber shops
- Auto parking lots

Air Traffic: Aircraft in operation anywhere in the air or, when under their own power, on the ground.

EXHIBIT B

Aircraft: Means any device intended to fly in the air.

Aircraft Charter and Air Taxi Services: An Air Charter or Air Taxi Operator engages in the business of providing air transportation (persons or property) to the general public for hire, on an basis under Code of Federal Regulations CFR 14 Part 135 of the Federal Aviation Regulations.

Aircraft Fuel: Means all flammable substances expressly manufactured and blended for the purpose of operating an Aircraft engine.

Aircraft Operator: Person in charge or command of an aircraft. The Aircraft Operator may, or may not be, the owner of the aircraft.

Airport Layout Plan (ALP): An FAA/TxDOT approved set of drawings showing Airport boundaries, physical features and proposed additions to all areas owned or controlled by the sponsor for Airport purposes, the location and nature of existing and proposed Airport facilities and structures, and the location on the Airport of the existing and proposed non-aviation areas and improvements thereon. The drawings also show local airspace, approach areas and obstructions in the approach areas.

Airport Master Plan (AMP): Presents a conception of the ultimate development of a specific Airport. It presents the research and logic from which the plan was evolved and displays the plan in a written report.

Airport Owner: The Airport Owner is the City of Brenham.

Airport Rates and Charges: A schedule of fees approved by the City payable by users and Operators at the Airport.

Airport Tenant: A person who leases or uses property at the Airport solely for the purpose of storing Based Aircraft, and who is not engaged in any Commercial Operation.

Airside: The area of the Airport that is either contained within the Airport perimeter fence or which requires access through a building located on or adjacent to Airport property which requires access to an Airport surface such as runways, taxiways, or aprons.

Airspace: Space in the air above the surface of the earth or a particular portion of such space, usually defined by the boundaries of an area on the surface projected upward.

Air Traffic Pattern: The Air Traffic flow that is prescribed for aircraft landing at, taxiing on, or taking off from the Airport.

Apron: A defined pavement area, intended to accommodate aircraft for purposes of loading or unloading passengers or cargo, servicing and parking.

EXHIBIT B

Avionics, Instruments or Propeller Repair Services: A service that engages in the business of and provides a shop for the repair of aircraft avionics, propellers, instruments, and accessories for general aviation aircraft. This category may include the sale of new or used aircraft avionics, propellers, instruments, and accessories.

AWOS (Automated Weather Observation System): AWOS is a fully configurable airport weather system that provides continuous, real-time information and reports on weather conditions. This information includes barometric pressure, wind speed and wind gusts, temperature and dew point, visibility, sky condition, precipitation, thunderstorms, freezing rain and runway surface conditions.

Based Aircraft: Aircraft which the owner physically locates and domiciles at the Airport intending that it remain for an undetermined period, and which, whenever it is absent from the Airport, the owner intends to return it to the Airport.

Building: Main portion of a structure, all projections or extensions there from, any changes or additions thereto, and shall include garages, outside platforms, docks, carports, canopies, eaves and porches.

Building Area: An area on an Airport to be used, considered, or intended to be used, for Airport buildings or other Airport facilities or rights-of-way, together with all Airport buildings and facilities located thereon.

City: The City of Brenham, Texas and Owner of the Brenham Municipal Airport.

Commercial Operator: Person who provides goods or services at the Airport for compensation. Such activities are deemed "Commercial Operations." An activity is considered Commercial Operation regardless of whether the business is non-profit, charitable, or tax exempt.

FAA: Federal Aviation Administration.

FAR: Federal Aviation Regulations.

Fixed Based Operator (FBO): A commercial business granted the right by the City to operate on the Airport and provide aircraft fueling and line service along with other aeronautical services such as hangaring, tie-down, parking, aircraft rental, aircraft maintenance, and flight instruction.

Flagging and/or Hawking: Any method or means used from any location to attract incoming aircraft for the purposes of selling fuel or providing other services (except the use of fixed signs if approved by the City). "Flagging" and/or "Hawking" is **Prohibited** on the Brenham Municipal Airport.

Flying Club: An entity or organization organized solely for the purpose of providing its members with one or more aircraft for their personal use and enjoyment.

EXHIBIT B

Fuel Flowage Fees: Fees levied by the City per gallon of aviation gasoline and jet fuel sold at the Airport.

Hangar: Fully enclosed structure intended to house aircraft, either for purposes of storage, or while undergoing maintenance and repair. (See Shade Hangar)

Hazardous Material: Hazardous or toxic substance, waste or material which is toxic, explosive, corrosive, flammable, infectious, radioactive, carcinogenic, mutagenic, teratogenic, or otherwise hazardous, and is or becomes regulated by any governmental authority, agency, department, board, agency or instrumentality of the United States, the State of Texas or any political subdivision thereof.

Improvements: All buildings, structures and facilities, including pavement, fencing, signs and landscaping, constructed, installed or placed on, under or above any leased area by or with the concurrence of a lessee.

Landing Area: Any locality, either on land or water, including Airports, heliports and STOL (Short Take-Off and Landing) ports, which is used or intended to be used for the landing and takeoff or surface maneuvering of aircraft, whether or not facilities are provided for the shelter, servicing, or repair of aircraft, or for receiving or discharging of passengers or cargo.

Landside: The general public common use areas of the Airport such as public roadways, parking lots and buildings.

Lease: A written agreement between the City and a person granting permission to use Airport land and/or buildings, and/or authorizing the conduct of specified activities.

Line Service: The general pre-flight or post-flight dispensing of aviation fuel, checking aircraft engine oil, adding aircraft engine oil, windshield cleaning, etc. conducted at an FBO area by line personnel dispensing fuel from a truck designed for such purposes.

MIRL (Medium Intensity Runway Lights): Runway edge lighting is used to outline the edges of [runways](#) during periods of darkness or restricted visibility conditions. These light systems are classified according to the [intensity](#) they are capable of producing. Many MIRL systems have variable intensity controls. At airports where there is not a control tower, Pilot Controlled Lighting, or PCL, is used where pilots can adjust the lighting themselves by keying a microphone button a certain number of times.

Non-Commercial Operators: A person or entity that neither offers nor provides goods or services to the public for compensation.

Operator: Any person conducting Aeronautical Activity at the Airport.

PAPI (Precision Approach Path Indicators): The PAPI system primarily assists by providing visual glide slope guidance in non-precision approaches environment. These systems have an effective visual range of at least 3 miles during the day and up to 20 miles at night. The row of light units is normally installed on the left side of the runway and the glide path indications are two red and two white (2 red ●●●●) when on proper glide path angle of approach. Light combinations

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indicate when slightly high (3 white ●●●), significantly high (4 white ●●●●), slightly low (3 red ●●●) and significantly low (4 red ●●●●). **Person:** An individual; a corporation, firm, partnership, association, organization, agency, and any other group or entity acting as a unit; the state, county, and/or political subdivision of the state, or other governmental entity. Person also includes a trustee, receiver, assignee or similar representative.

Ramp: Paved area suitable for aircraft parking.

REIL (Runway End Identifier Lights): The Runway End Identifier Lights (REIL) system provides rapid and positive identification of the end of the runway. The system consists of two synchronized, unidirectional flashing lights. The lights are positioned on each corner of the runway landing threshold, facing the approach area, and aimed at an angle of 10 to 15 degrees. REIL is effective for identification of a runway surrounded by a preponderance of other lighting; identification of a runway which lacks contrast with surrounding terrain; and identification of a runway during reduced visibility. The REIL provides three intensity settings and has an approximate range of three miles in daylight and twenty miles at night. The REIL can be controlled by the air traffic control tower, remotely by the pilot, by automatically sensing the electrical current through the runway edge lights, or manually from the control cabinet.

Repair Facility: Facility utilized for the repair of aircraft to include airframe, power plant, propellers, radios, instruments and accessories. Such facility will be operated in accordance with pertinent local, state and FAA regulations.

Roadway: Any street or road whether improved or unimproved, within the boundaries of the Airport and set aside or designated for use by vehicles, whether dedicated or not.

Runway: Segments of land at the Airport prepared and marked for use by aircraft in taking-off and landing.

Specialized Aviation Services Operator (SASO): A person offering one of more specialized aeronautical services at the Airport, including without limitation the following activities:

1. Aircraft/Helicopter Sales
2. Airframe, Engine and Accessory Maintenance and Repair
3. Aircraft Leasing or Rental Services
4. Flight Training Services
5. Avionics, Instruments or Propeller Repair Services
6. Aircraft Charter and Air Taxi Services
7. Hangar Leasing Services
8. Specialized Commercial Flying Services
9. Aerial Applicators
10. Mobile Aircraft Washing Services
11. Mobile Aircraft Maintenance and Repair Services

SASOs are not authorized to offer aircraft fueling.

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Specialized Commercial Flying Services: A Specialized Commercial Flying Services Operator engages in air transportation for hire for the purpose of providing the use of aircraft for the following activities:

1. Non-stop sightseeing flights that begin and end at the same Airport.
2. Aerial advertising
3. Aerial photography or survey
4. Power line or pipeline patrol
5. Fire fighting
6. Any other operations specifically excluded from FAR Part 135 of the Federal Aviation Regulations

Sublease: Lease granted by a lessee, only with permission from the City, to another entity for all or part of the leased property.

Taxilane: Portion of the Airport apron area, or any other area, used for access between taxiways and aircraft parking and storage areas.

Taxiway: Defined path established for the taxiing of aircraft from one part of the Airport to another.

Taxiway Safety Area: A cleared, drained, and graded area, symmetrically located about the extended taxiway centerline and adjacent to the end of the taxiway safety area.

Terminal Apron: The paved or surface-treated area adjacent to the terminal building reserved for used by itinerant aircraft, also for aircraft refueling, or the loading or unloading of passengers or cargo, and includes that portion of the parking apron reserved for aircraft owners leasing space from the City for month-to-month parking.

Terminal: Airport Building with both Airside and Landside access for aircraft Operators and passengers. The Terminal provides restrooms, lounge area, and conference area.

Tie-Down: Area within an open-air aircraft parking or storage area where aircraft may be secured to the ground, either by use of fixed tie-down points, or by use of moveable anchors.

Transient Aircraft: Aircraft that is not a Based Aircraft at the Airport.

T-Hangar: An aircraft hangar in which aircraft are parked alternately tail to tail, each in the T-shaped space left by the other row of aircraft or aircraft compartments.

SECTION 1
GENERAL STANDARDS

EXHIBIT B

Section 1 General Standards

The following Minimum Standards for Commercial and Non-Commercial Operators at the Brenham Municipal Airport (“Minimum Standards”) have been adopted by the City of Brenham City Council for the Brenham Municipal Airport (“Airport”). The definitions used in this document are located before Section 1. Defined terms are capitalized. The Minimum Standards regulate conduct of Aeronautical Activities at the Airport and specify certain provisions that will be included in the Airport lease, license, permit or concession agreements, and apply uniformly to all persons operating at the Airport. Any person operating on or from the Airport consents to be bound by these standards. Failure by Airport users to comply with the Minimum Standards could result in loss of use of the Airport.

1. The Airport Owner retains the right and/or obligation to do the following:
 - A. Perform any or all of the functions of an FBO. If so inclined, the Airport Owner may retain a proprietary right to offer any or all FBO services and/or products and allow no FBO to offer the same services or products at the airport.
 - B. Enter into contracts with other FBO's to operate similar or competitive businesses at the Airport without regard to the wishes or desires of existing FBOs. Any new contracts will be written to standards applicable at that time. If a new contract agreement gives an economic advantage to the new FBO, the airport owner may renegotiate its contract with the disadvantaged FBO; however, under no circumstances will the Airport Owner be held liable or required to pay damages for services, equipment or any other obligations which were required by past or current contracts.
 - C. Approve an FBO's placement of buildings, parking areas, or equipment to assure such development is accomplished in an orderly fashion and does not impede the future development or expansion of the Airport as shown on an FAA or Texas Department of Transportation approved Airport Layout Plan or Master Plan.
 - D. Maintain the Airport in a safe and serviceable condition.
 - E. Collect all fees for the use of the Airport; these fees include lease hangar space, office space, T-hangar space, aircraft or auto parking areas, fuel flowage fees, and tie-down fees. The Airport Owner may charge these fees as long as such fees are fair and appropriate and not intended to discriminate for or against any FBO or airport user or type of user.
 - F. Increase or decrease the fee or required services of an FBO at any time the FBO's contract is renegotiated or at any such time as authorized by the lease contract.

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G. Impound any personal property, tools, furniture, aircraft (excluding transient aircraft not owned by the lessee), or equipment located on the leased property and hold or liquidate such until all fees and taxes due the Airport Owner are paid, subject to a court judgment.

H. Reserve the right to take any actions necessary to protect the safety and usability of the Airport and the approach surfaces to all runway ends.

2. Payment and Fees

(A) **Service Charge** - An FBO must pay all responsible rentals, fees, or charges in a timely manner. The Airport Owner retains the right to assess a service charge for any late payments due to the Owner.

(B) **Bond** - An FBO must show proof of financial responsibility or be properly bonded with the Airport Owner listed as beneficiary in the event the FBO cannot or will not return the property to an acceptable condition after the term to the lease or if the lease is prematurely terminated.

(C) **Utilities** - An FBO must arrange for water and wastewater, gas, electricity, telephone, and any other utilities it uses on the Airport and pay all responsible charges in a timely manner throughout the term of the lease.

(D) **Taxes** - An FBO will pay all responsible taxes in a timely manner.

(E) **Other Bills** - An FBO will pay all responsible bills in a timely manner.

3. Implementation Official.

The City Manager or his designee shall enforce the Minimum Standards.

4. Airport Open on Nondiscriminatory Basis.

Facilities on the Airport shall be open to all classes of users on fair and not unjustly discriminatory basis. The FAA has exclusive jurisdiction to determine issues of fair treatment and unjust discrimination.

5. Hangar Space.

Except as otherwise provided in this section, no person may offer for hire on the Airport any hangar or shelter for aircraft, related service equipment, or surface vehicle unless such person has leased premises from the City as an FBO or SASO.

6. Compliance with laws and Health, Fire, Construction, and Zoning Codes.

All persons utilizing the Airport shall comply with Federal, State, and local laws, including the requirements of all City health, fire, construction, and zoning codes applicable to the Airport and its operation. All construction at the Airport shall comply with all generally applicable building codes adopted by the City.

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7. Inspections.

To the extent necessary to protect the rights and interests of the City or to assure compliance with the Minimum Standards or a lease, the City Manager or his designee, or any representative of the FAA or state agency having jurisdiction over the Airport, shall have the right to enter and inspect, upon notice, during reasonable hours, structures, premises, facilities, and improvements on the Airport to determine compliance with these Minimum Standards and any applicable lease provisions.

8. Surface Vehicles, Limits on Weight.

No vehicle with dual-wheeled axle loadings of more than 40,000 pounds is allowed on any paved or treated aircraft movement or parking areas.

9. Civil Rights.

Persons using this Airport shall comply with all provisions of applicable civil rights laws and regulations, as said laws and regulations may be amended periodically, including but not limited to the Civil Rights Act of 1964 and Title 49 C.F.R. § 21.1 et seq. implementing Part 21 NONDISCRIMINATION IN FEDERALLY-ASSISTED PROGRAMS OF THE DEPARTMENT OF TRANSPORTATION - EFFECTUATION OF TITLE VI OF THE CIVIL RIGHTS ACT OF 1964 of the Regulations of the U.S. Department of Transportation.

10. Surface Vehicles on Airport.

Except to the extent needed to service or load aircraft or to access hangars, no private or commercial vehicle shall be driven or parked on any area other than designated roads or automobile parking areas.

11. Complaints.

Complaints against any Aircraft Operator, Owner or their employee for violations of these Minimum Standards shall be in writing alleging the infraction, date, persons, and any witnesses thereto and signed by the complainant and filed with the City Manager's office.

12. Use of Land within the Airport.

Property within the Airport may be primarily used only for Aeronautical Activities, but secondary non-aeronautical uses are permitted if:

- (A) the primary Aeronautical Activity is not interfered with;
- (B) it is not in violation of FAA regulations;
- (C) is specifically authorized by the City; and
- (D) if such secondary use will benefit the Airport or provide better for its maintenance or development.

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13. Living Quarters.

No person may establish permanent living quarters on Airport property. The City may grant an exception for "Emergency Response" personnel.

14. Taxiway Access.

If not already provided, each Operator conducting Aeronautical Activities shall provide paved access from its Leased premises to the Airport's Taxiway/Taxilane/Apron or Ramp system. Such access shall meet all applicable FAA standards for the largest Aircraft type anticipated to use the Operator's premises.

15. License, Certificates, and Authorizations.

Each person conducting activities on or from the Airport, whether for compensation or not, must possess all licenses, certificates, and authorizations required by these Minimum Standards and by applicable law for the conduct of such operations.

- (A) Rights under a license, authorization, or contract granted by the City are not exclusive rights.
- (B) The City may terminate a license, permit or agreement after giving written notice of default if the recipient fails to cure its default within sixty (60) days, or such other time as may be specified in the license, permit, or agreement, except that notice and cure provisions for insurance requirements are set forth in Section 4. The City may terminate the lease, license, permit or agreement upon fourteen (14) days' written notice if the Licensee fails to maintain the required insurance.
- (C) No improvements or modifications to Airport property may be made without the prior written consent of the City.
- (D) No lease, license, permit, agreement, or any rights thereunder, shall be assigned without the prior written approval of the City.

16. Solicitation and Conduct

- (A) An FBO will not engage in the solicitation of its fueling or other services on or about the Airport in a loud, offensive, or objectionable manner. In the event of such questionable conduct, the Airport Owner will be the sole judge in determining if said conduct is a violation of the lease agreement and take any and all necessary steps to eliminate the undesirable condition, up to and including the termination of the FBO's lease contract.
- (B) An FBO will conduct business on the Airport in such a manner as to maintain a friendly and cooperative, though competitive, relationship with other operators engaged in similar businesses on the Airport. An FBO will not engage in open public disputes, disagreements, or conflicts which would tend to deteriorate the quality of service of either party involved or which would be incompatible with the best interest of the public of the Airport. The Airport

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Owner has the right to resolve all such disputes, disagreements, or conflicts and the Airport Owner's determination will be binding upon all FBO's operating at the Airport.

17. Rules

An FBO must abide by all laws, rules, regulations, guidelines, terms, and conditions of the airport owner, the Texas Department of Agriculture, the Environmental Protection Agency, the National Fire Protection Association, International Fire Code, the Texas Department of Transportation, the Federal Aviation Administration, and any other applicable agencies in regard to the use and storage of pesticides, or other dangerous chemicals, the storage and dispensing of aircraft fuel, the storage, dispensing, and disposal of engine oil.

SECTION 2

CONDUCTING BUSINESS AT THE AIRPORT

EXHIBIT B

Section 2 Conducting Business at the Airport

1. Conducting Business at the Airport.

All Commercial Operators must obtain a permit, license, lease or other agreement with the City prior to conducting any Commercial Operation at the Airport. The Minimum Standards shall be deemed to be a part of each Commercial Operator's Lease, license, permit or agreement with the City unless any such standards or provisions are expressly waived or amended by the City.

2. Requirements of all Commercial Operators.

Each Commercial Operator shall:

- (A) Have use of adequate space in an existing facility, through lease or other agreement, sufficient to accommodate the proposed operation.
- (B) Maintain insurance as required by the Minimum Standards.
- (C) Pay all applicable established fees and charges when due, including Fuel Flowage Fees. Such fees shall be set by City Council and published in the Airport Rates and Charges. Airport Fuel Flowage Fees may be revised periodically and adjusted as the market dictates.
- (D) Control the conduct and demeanor of its personnel, subtenants, licensees and invitees.
- (E) Shall do nothing that interferes with the effectiveness or accessibility of any public utility system, drainage system, sewer system, fire protection systems, sprinkler system, alarm system or fire hydrant and hoses.
- (F) Provide for proper handling and disposal of all hazardous materials generated by the business. Handling and disposal must meet all federal, state and local guidelines.
- (G) Meet all requirements outlined in the Airport Storm Water Pollution Prevention Program and Spill Prevention Control and Countermeasures Program.
- (H) An Operator may not utilize space or land leased to another without permission from Lessee.

3. Multiple Activities by One Commercial Operator.

Whenever a Commercial Operator conducts multiple activities pursuant to one lease, license, permit or agreement with the City, the Commercial Operator shall comply with the Minimum Standards set forth herein for each separate activity being conducted. If the Minimum Standards for one of the Commercial Operator's activities are inconsistent with those for another of the Commercial Operator's activities, then the Minimum Standards which are most beneficial to the Airport, and/or which are most protective of the public's health, safety and welfare, shall control as determined by the Airport Owner.

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4. Activities not Covered by Minimum Standards.

Any activity for which there are no specific Minimum Standards set forth herein shall be subject to such standards and provisions as are developed by the City on a case-by-case basis and set forth in such Commercial Operator's written lease, license, permit or agreement with or from the City.

5. Waiver or Modification of Standards.

The City may waive or modify any portion of the Minimum Standards for the benefit of any governmental agency performing non-profit public services, emergency response, fire protection or fire-fighting operations.

6. Airport Business Permit Application Process.

To conduct a Commercial Operation at the Airport, a Person shall submit an Airport Business Permit application (Exhibit "A", subject to periodic revisions) and receive approval from the City. The application can be obtained from the Development Services Department of the City of Brenham. In addition to the following requirements, the City may require the applicant to provide additional information when appropriate to ensure compliance with the Minimum Standards. The applicant shall, at minimum, submit the following documentation with the application:

- (A) A detailed description of the scope of the intended operations, including all services to be offered.
- (B) The amount of land, office space, and/or aircraft storage areas required for the operation.
- (C) A detailed description of any improvements or modifications to be constructed or made to Airport property.
- (D) The proposed hours of operation.
- (E) A copy of a current lease/sublease or other agreement with the City or an Airport tenant.
- (H) Individual flight instructors not affiliated with a Commercial Operator, and FAA Designated Examiners, may provide services to pilots who operate their own aircraft without obtaining a license from the City.

The completed application and documentation shall be submitted to:

(Mailing address)
City of Brenham
Development Services Department
P.O. Box 1059
Brenham, Texas 77834-1059

(Physical address)
City of Brenham
Development Services Department
200 W. Vulcan Street
Brenham, Texas 77833

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7. Application Processing.

The City shall review fully completed and submitted applications within sixty (60) days of submission. The City may approve or disapprove an application for a license, permit or agreement to conduct activities at the Airport. The City may approve any such application that meets the criteria stated in the Minimum Standards. Grounds for denial include the following:

- (A) The applicant does not meet the qualifications and standards set forth in the Minimum Standards.
- (B) The activities will require the City to expend funds, or to supply labor or materials as a result of the applicant's activities if either City chooses not to do so, or if it will result in a financial loss to the Airport.
- (C) No appropriate space or land is available to accommodate the proposed activities.
- (D) The proposed activities are not consistent with the Airport Master Plan or Airport Layout Plan.
- (F) The applicant or any of its principals has knowingly made any false or misleading statements in the course of applying for a license, permit or agreement.
- (G) The applicant or any of its principals has a history of violating FAA regulations, or any other applicable laws, ordinances, rules or regulations, or Minimum Standards.
- (H) The applicant has not submitted appropriate documentation supporting the proposed activity as required by Section 2, Conducting Business on the Airport.
- (I) Approval of the application would not be in the best interest of the Airport. Any denial on this ground must be within the discretion afforded to the City under applicable FAA regulations.

SECTION 3
COMMERCIAL OPERATIONS

EXHIBIT B

Section 3 Commercial Operations

1. General

Prior to operation a Fixed-Base Operator (FBO) or Specialized Aviation Services Operation (SASO), an application must be filed, and approval must be granted by the City.

2. Fueling

Only an approved FBO may sell aviation fuel to the public pursuant to an approved fuel license. Private fuel storage facilities are not permitted on the Brenham Municipal Airport, except to the limited extent that an individual Aircraft Operator, desiring to self-fuel only his Aircraft: (1) obtains written permission from the City after demonstrating compliance with AC-150/5190/6; (2) obtains written permission from the City Fire Marshal; and (3) provides written evidence of insurance covering such activity and complying with Section 5.

3. Fixed-Base Operator (FBO)

No person may operate as an FBO unless that person has received and currently holds a valid authorization from the City. In addition to the requirements of Section 2, Paragraph 2, an FBO must meet and maintain the following requirements:

(A) Land and Facility Requirements.

An FBO must have a lease and facility meeting the following requirements:

- (1) Terminal Building: An FBO must have use of a tenant developed Terminal building (non-hangar space) consisting of at least 2,000 square feet with a minimum of at least 1,000 square feet dedicated to customer service and support functions.
- (2) The Terminal Building may be attached to the Hangar Facility.

(B) FBO Services

An FBO must provide the following services:

- (1) Hours of Operations
An FBO must provide Jet A and Avgas for aircraft fueling and line services seven (7) days per week, from 7:00 AM until at least 7:00 PM. An FBO shall also be on-call twenty-four (24) hours per day with after-hours response times of one (1) hour or less. FBO must provide Aircraft line servicing as identified in Section 3. 24-hour contact information must be posted on-site and provided to the City of Brenham Development Services Department.
- (2) Aviation fueling
 - (a) In accordance with local, state and federal requirements, the FBO shall comply with the latest adopted edition of the International Fire Code (IFC) as published by the International Code Council (ICC) and as amended by local ordinance. Additionally, the FBO shall comply with the NFPA 407 Standard for Aircraft Fuel Servicing Latest Edition

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as published by the National Fire Protection Association and is unamended. Lastly, the FBO shall comply with FAA Advisory Circular 150/5230-4B, as amended; all requirements of the Airport Ordinance; and all other applicable laws and regulations related to aircraft fuel handling, dispensing and storage.

- (b) The FBO shall provide dispensing equipment sufficient to serve the needs of the aircraft frequenting the Airport, including the provision of at least one Jet A refueling vehicle and one Avgas refueling vehicle. Jet A refueling vehicles shall have single-point and over-the-wing fueling capabilities and a minimum capacity of 2,000 gallons. Avgas refueling vehicle shall have a minimum capacity of 300 gallons. An FBO shall arrange for back-up refueling vehicles (with the same capabilities and minimum capacities). All equipment must be inspected and approved by the City prior to its use for Airport purposes. The metering devices shall be annually checked, inspected, and certified by appropriate state agencies. The City may inspect such periodically to ensure equipment compliance with all standards.
- (c) The FBO shall require all of its fuel-handling personnel to complete training courses, obtain a fuel handler's certification, and receive periodic refresher training as required by FAA. The Supervisory Training Program must be obtained by completing an FAA authorized Supervisory Fuel Safety training course. All employees who fuel aircraft or otherwise handle fuel must receive at least initial on-the-job training and recurrent instruction every twenty-four (24) consecutive calendar months in fire safety from a trained supervisor. The City Fire Department, the City, TxDOT, and FAA may periodically inspect the FBO's activities and personnel to ensure adherence to safe practices.
- (d) The FBO shall develop a Standard Operating Procedure (SOP) for aviation fueling activities and submit for approval to the City. The SOP shall include a plan of action in case of a fuel spill. Any changes or updates to the SOP must be immediately communicated to the City of Brenham Development Services Department. All fuel trucks/equipment shall meet all applicable local, state and federal codes and be approved for use by the local Fire Marshal and City Manager or his designee and meet the requirements of the latest edition of the National Fire Protection Association Standard, 407 – "Standard for Airport Fuel Servicing, ", published by the National Fire Protection Association. Each mobile fuel vehicle must have a spill kit.
- (e) All mobile fuel trucks must be parked on a paved surface.

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(3) Aircraft line services

- (a) The FBO shall employ and have on duty during required hours of operation at least one properly trained and qualified employee capable of providing aircraft fueling, aircraft parking, and ancillary aircraft services and related customer services and support.
- (b) The FBO shall have and maintain the equipment that is required to safely and efficiently tow the aircraft frequenting the Airport, including a tug and tow bars with rated draw bar rating sufficient for such aircraft.
- (c) The FBO must have capability to remove disabled aircraft from any Airport movement surface or safety areas.
- (d) The FBO shall maintain the tools and necessary supplies for the servicing of aircraft types expected to use the Airport.

(4) Concierge Services

The FBO must have:

- (a) Available a minimum of one (1) courtesy car for customer services and support.
- (b) A telephone for public use.
- (c) A pilot and passenger lounge with restrooms, water and/or coffee or other drinks that may be provided complimentary or for sale.

(C) Subcontracting Services, Subleasing; Restrictions

- (1) The FBO may subcontract aircraft maintenance and repair services and the retail sale of aircraft parts and accessories, provided that such subcontractor meets the Specialized Aviation Services Operator (SASO) requirements of these Minimum Standards as stated therein and in such areas as are approved by the Airport Management. The subcontractor must be based on the Airport.
- (2) The FBO shall not sublease, permit or allow any other person to operate as a SASO within the FBO leased or permitted area, or to conduct any business venture, without the prior written approval of the City.

(D) General Requirements

The FBO is required to perform the following functions or abide by the following rules:

- (1) Make its business open to all forms and classes of Aeronautical Activity.

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- (2) Obtain approval from the City before reducing any services included in the FBO's agreement with the City.
- (3) Furnish all applicable services in a fair, equal, and nondiscriminatory manner to all Airport users.
- (4) Abide by any and all rules, requirements, or mandates placed upon the City by the FAA or the State of Texas, including, the Grant Assurances of FAA grants and the Terms and Conditions of the State of Texas grants.
- (5) Will not allow its personnel to conduct "Flagging or Hawking" of aircraft in an attempt to direct them to their locations.
- (6) The FBO does not have the right to perform any service or business on the Airport unless such service or business is included in the current agreement with the City.

(E) Fees to Include Fuel Flowage Fees

- (1) The FBO shall pay the Airport Fuel Flowage Fees on all fuel, Jet A, Vehicle, Diesel, etc. dispensed on Airport property.

4. Specialized Aviation Services Operator (SASO)

No person may operate as a SASO unless that person has received and currently holds a currently valid written authorization from the City. In addition to the requirements of Conducting Business at the Airport, Section 6, a SASO must meet the following requirements:

(A) General Requirements

A SASO must meet the following general requirements and all requirements in Commercial Operations Sections 5 thru 15 specific to each activity the SASO will conduct:

- (1) The entity must have:
 - (a) A lease with sufficient and appropriate space to conduct the functions of the SASO as it has represented it will perform for a period of a minimum of twelve (12) months for either leased Airport property or Airport property with City-owned facilities on it, said lease having been approved by the City Council.
 - (b) A sublease from an FBO or another SASO with sufficient and appropriate space to conduct those functions as a SASO that the City has approved and shall set out in the written authorization. The sublease shall define the type of business and service to be offered by the sub-lessee SASO.

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The sub-lessee SASO shall meet all of the Minimum Standards established by the City for the categories of services to be furnished by the SASO. The Minimum Standards may be met in combination between lessee and sub-lessee. The sublease agreement shall specifically define those services to be provided by the lessee to the sub-lessee that shall be used to meet the standards.

- (2) A multiple services SASO engages in any two or more of the aeronautical services for which Minimum Standards have been herein provided.
 - (a) The SASO shall comply with the aircraft requirements, including the equipment thereon for each aeronautical service to be performed except that multiple uses can be made of all aircraft owned or under lease by SASO.
 - (b) The SASO shall obtain, as a minimum, insurance coverage, which is equal to the greater requirement for all individual aeronautical services being performed by SASO.
 - (c) The SASO shall have in its employ, and on duty during the appropriate business hours, trained personnel in such numbers as are required to meet the Minimum Standards for each aeronautical service the SASO is performing as herein provided. Multiple responsibilities may be assigned to meet the personnel requirements for each aeronautical service being performed by the SASO.
 - (d) The SASO providing three (3) or more services shall lease a sufficient number of aircraft tie-down spaces or hangar space to meet the needs of the operations proposed.

5. Aircraft Sales

All SASOs conducting Aircraft Sales must meet the following additional requirements:

- A. If dealing in Aircraft, maintain an approved aircraft dealer's certificate from the FAA (if selling more than two (2) aircraft per year).
- B. Ensure that all other fees and taxes applicable to the sale of Aircraft are paid to the appropriate parties.

6. Airframe, Engine and Accessory Maintenance and Repair Services

All SASOs conducting Airframe, Engine and Accessory Maintenance and Repair Services must meet the following additional requirements:

- A. Provide sufficient shop space, equipment, supplies and availability of parts equivalent to that required for approved FAA repairs.

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- B. Employ and have on duty during normal business hours at least one person who is currently certified by the FAA with ratings appropriate to the work being performed and who holds an Airframe and Power Plant rating.
- C. Conduct maintenance and repair operations, or business activities inside hangars or other structures designed for such activities unless the activity needs to be done outside of a hangar. Specific lease agreement and/or fire codes shall determine what hangars and other structures shall be approved for aircraft Maintenance and Repairs.
- D. Hangar space shall be leased for such SASOs operations.
- E. All maintenance and or repair services shall comply with the 2015 Edition of the International Fire Code (IFC) and applicable National Fire Protection Association (NFPA) Standards latest editions to include but not limited to NFPA 409 Standard for Aircraft Hangars, NFPA 410 Standard on Aircraft Maintenance.

7. Aircraft Leasing or Rental Services

All SASOs conducting Aircraft Leasing or Rental Services must meet the following additional requirements:

- A. Maintain all required FAA licenses, if required.

8. Flight Training Services

All SASOs conducting flight training services must:

- A. Have use of appropriate office space and adequate classroom facilities either at the Airport or at such other off-Airport location as needed for proper operations of the flight training services for the amount and type of training involved.

9. Avionics, Instruments or Propeller Repair Services

All SASOs conducting Avionics, Instruments or Propeller Repair Services must:

- A. Hold the appropriate certificates issued by FAA for the types of equipment planned to repair service and/or install.
- B. Employ and have on duty during the appropriate business hours, at least one person who is currently certified by the FAA with ratings appropriate to the services offered.
- C. Conduct operations or business activities only inside hangars or other structures designed for such functions, unless the activity needs to be done outside of a hangar.

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10. Aircraft Charter and Air Taxi Services

All SASOs conducting Aircraft Charter and Air Taxi Services must meet the following additional requirements:

- A. Have current FAR Part 135 Certificates or provisional FAR Part 135 Certificates.
- B. All aircraft shall meet the requirements of their FAA certificate and Operating Specifications Manual.

11. Hangar Leasing Services

All SASOs conducting Hangar Leasing Services must:

- A. Lease sufficient land to accommodate the proposed number of hangars and/or T-Hangars based on the following:
 - 1. Compliance with any applicable FAA Minimum Standards for the storage of Aircraft for Hangars and T-Hangars.
- B. Register with the City the Aircraft based at the Airport stored within the Operator's Hangars or T-Hangars.

12. Specialized Commercial Flying Services

All SASOs conducting Specialized Commercial Flying Services must:

- A. Demonstrate availability of aircraft suitably equipped for the particular type of operation intended to perform.

13. Aerial Applicators

No person may use the Airport for loading, unloading, airframe/hopper/tank wash down, other than engine repair of any aircraft used to apply any insecticide, fungicide, rodenticide, or herbicide unless he first gets written permission from the City. The City shall not grant such a permit unless the applicant follows procedures for and obtains a SASO permit and, in addition, agrees to provide at its own expense a paved work area with adequate provisions to collect all debris, liquids, and other materials from such aircraft and deposit same in a container and dispose of same in a manner approved by the Federal Environmental Protection Agency, Texas Department of Health, Texas Commission of Environmental Quality, Texas Department of Water Resources, Texas Department of Agriculture, and code of ordinances and regulations of City of Brenham and Washington County.

14. Mobile Aircraft Washing Services

Aircraft washing is restricted to designated wash rack areas and/or other areas permitted under an approved Aircraft Washing Plan. All SASOs conducting Mobile Aircraft Washing Services must:

EXHIBIT B

- A. Obtain approval of an Aircraft Washing Plan that contains the following information:
 1. Name of individual/company conducting washing services, contact name and phone number.
 2. A site map of the area in which washing will occur. The site map must contain the following:
 - (a) An outline of the washing location to include location of runoff control structures.
 - (b) Approximate distance (in feet) from washing area to nearest drain(s).
 - (c) Reference to buildings, terminal, roads, etc.
 - (d) North arrow.
- B. A detailed description of washing method/operation, including the following details:
 1. Wash water containment method(s), (ramp scrubber, containment boom, dry, etc.).
 2. Amount of water used per wash and frequency of operation.
 3. Name, amount of chemical(s) used per wash.
 4. If "dry" washing or washing/coating operations are to be conducted provide affirmation that tarps will be used to collect residual material for its proper disposal and protect the ramp (if appropriate).
- C. Safety data sheets (SDS) for all chemicals to be used.
- D. The method of disposal of retrieved wash/wastewater. If water is to be disposed of on Airport property, the following steps must be taken:
 1. Disposal of wash/wastewater must be done through an oil/water interceptor into the sanitary sewer system; and
 2. Approval for the discharge of wash/wastewater on Airport property must be obtained from the City. The approval letter must be included in the final washing plan.

EXHIBIT B

15. Mobile Aircraft Maintenance and Repair Services

All SASOs conducting Mobile Aircraft Maintenance and Repair Services must:

- A. Be currently certified by the FAA with ratings appropriate to the work being performed and who holds an Airframe, Power Plant, or Aircraft Inspector rating.
- B. Conduct all activities inside hangars, when feasible.

SECTION 4
INSURANCE

Section 4 Insurance

1. General Insurance Requirements

Each Aircraft Operator and Commercial Operator shall at all times maintain in effect the following types and minimum amounts of insurance as applicable to the business/operation to be conducted. All insurance shall be in a form and from an insurance company with a Best's financial rating of at least B++. "Claims Made" policies will not be accepted. All policies, except worker's compensation policy, shall name the City and its elected or appointed officials, officers, representatives, managers, agents and employees as "Additional Insureds," and the Operator shall furnish to the City certification of insurances evidencing the required coverage cited herein prior to engaging in any Airport activity. Such certificates shall provide for unequivocal thirty (30) day notice to City of cancellation, or material change of any policy limits or conditions. The City may require that a complete copy of an insurance policy be submitted to the City. Only insurance carriers licensed and admitted to do business in the State of Texas will be accepted. Following notice of failure to provide required insurance, the City may cancel any license, permit, or agreement if the default is not cured within fourteen (14) days from the date of notice.

2. Insurance on all Structures

At all times during the term of the lease of land at the Airport, the lessee, at its own expense, shall maintain insurance in the amount of one hundred percent (100%) of the replacement value on all structures on the leased property at the Airport protecting the lessee and the owner, as their interests may appear, against loss of damage or destruction by fire, accident, hurricane, lightning, windstorm, hail, explosion, vandalism, smoke and other perils.

3. Schedule of Minimum Insurance Requirements

A. Fixed-Based Operator

Commercial general aviation liability policy with coverage for premises, operations, and product liability.	\$1,000,000
Products and Completed Operations Liability	\$1,000,000
Hangar Keeper's Liability	\$1,000,000
Aircraft liability, with coverage for bodily injury and property damage, including passengers.	\$1,000,000

B. Specialized Aviation Services Operator (SASO)

Commercial general aviation liability policy with

EXHIBIT B

coverage for premises, operations and products liability.	\$1,000,000
Aircraft liability, with coverage for bodily injury and property damage, including passengers.	\$1,000,000
C. All Other Operations/Users	
General aviation liability policy with coverage for premises, operations and products liability.	\$1,000,000

5. Special Instructions

- A. Any Aircraft Operator seeking to "self-fuel," as defined in FAA Advisory Circular 150/5190-6 shall have a minimum \$1,000,000 general liability policy that contains an endorsement specifically permitting self-fueling.**
- B. Any Operator using service vehicles on the Airport premises in support of its operations shall maintain additional coverage of Comprehensive Business Automobile Liability with a minimum combined single limit of \$1,000,000 per occurrence for bodily injury and property damage. The coverage shall include all, hired and non-owned automobiles**

6. Additional Insurance Required

In addition to the types and amounts of insurance required by this Article, each Operator shall at all times maintain such other insurance as the City may reasonably determine to be necessary for such Operator's activities.

SECTION 5
BUILDING/IMPROVEMENT STANDARDS

EXHIBIT B

Section 5 Building/Improvement Standards

1. Buildings and Structures

All buildings and structures owned by Operators on the Airport shall comply with State and local laws, codes and regulations. All buildings, structures and improvements must be maintained in a sound structural and mechanical condition throughout the term of use by Operator.

2. Maintenance of the Airport

Each Lessee of land or facilities on the Airport shall keep the leased area/facilities neat (appropriately painted where appropriate), trimmed, clean, free from any type of hazard of life, limb, or property, free from junk and debris. Maintenance of areas not leased shall be the responsibility of the City.

3. Buildings and Structures Standard

No person may construct, remodel, erect, or maintain any structure or shelter, either permanent or temporary, unless specifically authorized by the City. Except as noted hereinafter, in no event shall the City authorize construction, erection, or continued presence of a structure unless it is of permanent metal and/or masonry construction, paved floors, and at a minimum, meet building, fire, and other codes or standards applicable in the City and/or at the Airport. The City may waive this policy if determined that such action is necessary to provide a minimal level of service to Airport users. All asphalt pavement must be constructed to support the maximum weight of the aircraft planned for using the hangar location.

4. Construction Process

Before commencing any improvements or modifications, the Operator must submit detailed construction plans and specifications to the City for approval. Operator must obtain City issued building permit. Operator must comply with all required building inspections.

5. Notice of Proposed Construction or Alteration

Prior to any new construction or alteration of an existing structure a Form 7460-1 should be filed electronically for the permanent building envelope at <https://oceaaa.faa.gov>. In addition, a Form 7460-1 should also be filed for the temporary construction equipment envelope. The FAA will determine if there are any obstructions to air navigation or navigational facilities and the necessary measures that must take place prior to, or during, construction or alteration.

SECTION 6
LEASING

EXHIBIT B

Section 6 Leasing

1. Conflicts in Lease

Should any portion of these Standards conflict with the conditions of any lease agreement executed by the City, the conditions in the executed lease agreement will control over these Standards for the remainder of the lease term or renewal thereof.

2. Exclusive Rights

No person may be granted in fact or by written instrument any exclusive right in violation of the FAA Grant Assurances applicable to the Airport. Determination of the existence of a prohibited exclusive right lies within the exclusive jurisdiction of the FAA. If FAA determines any provision of a written instrument or a practice in fact constitutes a grant of a prohibitive exclusive right, such provision or grant shall be deemed void.

3. Ground Lease Applications

A request shall be made to the City, who will provide the applicant with instructions on the information that is needed to proceed with the request. The following shall be required for all applications to lease:

- A. Concept plan including preliminary sketches of construction and infrastructure build out.
- B. Timeline to complete project.
- C. Intended aeronautical use of project.

The City will review the request for compliance with Airport Layout Plan, Airport Master Plan, Airport Ordinance, Airport Rules and Regulations, and Minimum Standards. City may at this time request changes to the proposed lease if above listed compliance is not met.

After receipt of a completed request for a lease, the City and potential lessee will present the lease proposal at the next scheduled Advisory Board meeting. The Advisory Board may defer the proposed lease to a future Advisory Board meeting if additional information or changes to the proposal are required.

All lease proposals will be forwarded to the City Council meeting with a recommendation from the Advisory Board.

4. Fees Due from Operators at/on Airport

The following shall be due and payable to the City on or before the 10th business day of each calendar month for charges incurred during the calendar month next proceeding, as follows:

EXHIBIT B

- A. Sums due under any leases of land or land with improvements.
- B. Sums due under any agreement granting operating rights at or from the Airport.

5. Terminal Apron Leasing

No two (2) or more related persons/entities (legally, by third degree of consanguinity or affinity, or otherwise) may be granted a lease or any portion thereof on the Terminal Apron or on all or substantially all the land contiguous thereto. Aircraft Operators may lease tie-down spots.

6. Lease Cancellation/Reduction in Scope

Land leased on the Airport must be promptly, effectively, and reasonably fully utilized. Any person leasing vacant land on the Airport must commence construction of minimum facilities, as described in the lease with the City, no later than one (1) year from the date of the lease agreement, provided however, that the City may grant such extensions as the City may deem necessary. The facilities shall be completed no later than one (1) year after construction commences.

Total Cancellation: If any lessee fails to promptly and effectively utilize any of the leased premises, City may lease the tract to another qualified person in accordance with procedures set out elsewhere herein.

Partial Cancellation: If a lessee after such two (2) year period (and any extension that may be granted by the City) is using only part of the area leased to him, the City may, or on receiving from an otherwise qualified person a bona fide firm offer to lease the unused portion, unilaterally reduce the lease to the area being actually used, provided, however, that in no event (except where lease is totally cancelled) will a FBO's or a SASO's lease be reduced below the minimum required acreage for such Operators.

7. Lease Charges/Escalation Clauses/Terms

All unimproved Airport property shall be leased at an amount per square foot, per year as set by the City. The term of each lease for use of unimproved Airport property shall be set by City, not to exceed thirty (30) years.

8. Removal and Repair of Unairworthy Aircraft and Inoperable Vehicles

- A. All aircraft, located anywhere on the Airport, must be either: (1) airworthy; or (2) undergoing necessary repairs or maintenance, by an FAA approved license holder. The City may send a written request for proof of airworthiness to the registered owner of an aircraft at the address on file with the FAA Registration Branch. An Aircraft Owner receiving such request must within twenty (20) days: (1) provide proof of airworthiness; or (2) move the aircraft to an approved repair facility and submit to the City a letter from such facility stating that repairs necessary to render the Aircraft airworthy are being undertaken and the estimated date of airworthiness.

EXHIBIT B

- B. If an Aircraft Owner fails to respond appropriately within thirty (30) days to an airworthiness enquiry letter then the City may assess additional rent in the amount of (fifty dollars) \$50 per day for each day beyond thirty (30) days that the Aircraft remains at the Airport.
- C. If an Aircraft remains in an outdoor parking space for more than sixty (60) days beyond expiration of the thirty (30) day response, the City may move such Aircraft to other hangared or outdoor parking area as it deems appropriate. Rent after such sixty (60) day period shall be assessed at (one hundred dollars) \$100 per day.

APPENDIX A
BUSINESS APPLICATION

EXHIBIT B

**BRENHAM MUNICIPAL AIRPORT AERONAUTICAL
BUSINESS APPLICATION and PERMIT**

(Required to conduct commercial aeronautical activity on the Airport)

Business or activity to be conducted (Check all that apply):

- | | |
|--|--|
| <input type="checkbox"/> Fixed-Based Operator | <input type="checkbox"/> Aircraft Charter and Air Taxi Services |
| <input type="checkbox"/> Aircraft Sales | <input type="checkbox"/> Hangar Leasing Services |
| <input type="checkbox"/> Airframe, Engine and
Accessory Maintenance
Services | <input type="checkbox"/> Specialized Commercial Flying
Services |
| <input type="checkbox"/> Aircraft Leasing or Rental
Services | <input type="checkbox"/> Aerial Applicators |
| <input type="checkbox"/> Flight Training Services | <input type="checkbox"/> Mobile Aircraft Washing Services |
| <input type="checkbox"/> Avionics, Instruments or
Propeller Repair Services | <input type="checkbox"/> Mobile Aircraft Maintenance and
Services |
| <input type="checkbox"/> Other | |

These activities are limited to the Airport by ordinance. Please refer to the Airport Minimum Standards for further information on each type of business.

Applicant: _____

Authorized Representative: _____

Title: _____

Business Address: _____

City, State, Zip: _____

Billing Address: _____

City, State, Zip: _____

Phone: Work: _____ Cell: _____

Fax: _____ Emergency: _____

The Applicant hereby request the above business or activity from the City for the privilege of conducting Commercial Aeronautical Activities on the Airport.

EXHIBIT B

Each FBO application must include a Business Plan and Financial Package. The Business Plan must include information on how the applicant plans to provide required services. The Financial Package must include a list of individuals/parties with a material interest in the business as well as demonstrate the capital necessary to support the required operations of the business desiring to operate as an FBO on the Airport.

The undersigned representative certifies they are authorized to sign for the business and acknowledges receipt of a copy of this permit.

Authorized Representative's Signature

Date

City Approval:

Authorized Signature

Date

Please return application and/or documentation to:

(Mailing address)

City of Brenham
Development Services Department
P.O. Box 1059
Brenham, Texas 77834-1059

(Physical address)

City of Brenham
Development Services Department
200 W. Vulcan Street
Brenham, Texas 77833

EXHIBIT C

BREHAM MUNICIPAL AIRPORT TERMINAL BUILDING PHOTOS



EXHIBIT C



EXHIBIT C



EXHIBIT C



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CITY-OWNED FUEL FARM



EXHIBIT C



EXHIBIT C



**CITY OF BRENHAM
FIXED BASE OPERATOR AGREEMENT**

STATE OF TEXAS }
 }
COUNTY OF WASHINGTON }

This Fixed Base Operator Agreement, hereinafter referred to as "Agreement," is entered into this _____ day of _____, 2021 between the City of Brenham, a Texas home-rule municipal corporation, hereinafter referred to as "City" and as the owner of the Brenham Municipal Airport, hereinafter referred to as "Airport" and _____, a Texas limited liability company, hereinafter referred to as "FBO," and both City and FBO covenant and agree as follows:

WHEREAS, City deems it advantageous to itself and to its operation of the Brenham Municipal Airport to grant unto FBO certain privileges, rights, uses and interests, as herein set out; and

WHEREAS, City and FBO are committed to improving the Brenham Municipal Airport and promoting economic development at the Brenham Municipal Airport, in the City of Brenham, and in the Washington County area; and

WHEREAS, City and FBO desire to enter into a contractual agreement allowing the FBO to operate as a fixed base operator ("FBO") at the Brenham Municipal Airport;

NOW THEREFORE, in consideration of the terms and conditions listed herein, City and FBO agree as follows:

1. TERM

The initial term of this Agreement shall be for a period of __ (__) years, commencing on the ____ day of _____, 2021 and expiring on the __ day of _____, 20___. Unless otherwise terminated as provided herein, this Agreement shall automatically renew for __ (__) subsequent __ (__) year renewal term unless either party sends the other party written notice of its intention to not renew this Agreement. Said written notice of intent to not renew this Agreement shall be sent at least sixty (60) days prior to the expiration of the initial term of this Agreement.

2. PREMISES

The City and FBO agree the lease premises include the Brenham Municipal Airport Terminal Building located at 3001 Aviation Way and further depicted on attached Exhibit "A" and herein after referred to as the "Property".

Any additions or improvements to the Property may not be made unless the City expressly approves the additions or improvements in writing. Any additions or improvements shall be made solely at the expense of FBO and, unless the City expressly agrees otherwise in writing, and such additions and improvements to existing structures or facilities shall be subject to all terms and conditions of this instrument. All improvements to the Property must be made in compliance with the Airport Master Plan and Airport Layout Plan applicable to the Brenham Municipal Airport. In making improvements to the Property, FBO shall be responsible for preparing, obtaining approval of (if needed), implementing and complying with any Stormwater Pollution Prevention Plan requirements made applicable by federal, state or local laws or regulations.

EXHIBIT D

FBO shall timely pay the City all fees and charges as set forth in other provisions of this Agreement.

For the term of the Agreement, FBO will be responsible for payment of all costs and charges for any utilities servicing the Property. FBO shall assume and pay for all costs or charges associated with any utility facilities or services that are provided to or extended to the Property after the date of execution of this Agreement.

FBO agrees that except as may be otherwise provided in other agreements entered into between FBO and City, it will not engage in nor permit the engagement by any persons on the Property in any business other than that which is expressly authorized herein.

3. GENERAL PRIVILEGES, USES AND RIGHTS

City grants to FBO the following general privileges, uses and rights, in common with others, all of which shall be subject to the terms, conditions and covenants set forth and all of which shall be nonexclusive on the Airport. Notwithstanding anything herein contained that may be or appears to be contrary, it is expressly understood and agreed that the rights granted under this Agreement are non-exclusive and the City herein reserves the right to grant similar privileges to another operator or other operators on other parts of the Airport, and nothing contained herein is to be construed as granting to the FBO an exclusive right as defined in Section 308 (a) of the Federal Aviation Act of 1958, or any successor law, as may be amended, or any other applicable regulation.

(A) The use in common with the public generally of all public airport facilities and improvements that are now or may afterwards be connected with or appurtenant to the airport, except as herein provided, to be used by FBO for commercial or noncommercial aviation activities and fixed base operations, and all activities in connection with or, incidental to the business or operation, as herein defined, so long as any use of the public airport facilities by FBO does not interfere with other operations at the airport.

For the purpose of this Agreement, “public airport facilities” shall include all necessary landing area appurtenances, including, but not limited to, approach areas, runways, taxiways, public ramp and aprons, public automobile parking areas, public roadways, public sidewalks, navigational and navigational aids, lighting facilities, public terminal facilities or other public facilities appurtenant to the airport.

(B) The right of ingress to and egress from the premises over and across public roadways serving the airport for FBO, its agents, employees, servants, patrons, invitees, suppliers of service and furnishers of material.

(C) The rights above shall be subject to the City’s ordinances, rules and regulations as now or may afterwards have application at the Airport.

4. SPECIFIC PRIVILEGES, USES AND RIGHTS

(A) In addition to the general privileges, uses and rights above described and without limiting the generality of them, City grants to FBO the right to engage in commercial aviation activities and fixed base operations, as defined below, subject to the conditions and covenants set out herein.

EXHIBIT D

Further, FBO shall comply with the “Minimum Standards” as approved and adopted by the City Council on July 2, 2020. FBO covenants and agrees to observe and comply with all provisions in the City’s Minimum Standards, as may be amended from time to time, and with all rules and regulations of City which may hereinafter be promulgated from time to time governing safe conduct on and operations at the Airport and the safe use of its facilities.

“Commercial aviation activities and fixed base Operations” are defined as those activities which involve the sale of aviation services for profit to the general public and other entities. The aviation services shall include: fuel sales; aircraft maintenance and restoration; aircraft sales and brokerage, and aircraft rentals; airframe, engine and accessory maintenance and repair services; sales of aircraft parts, supplies and accessories; flight instruction; pilot supply sales; automobile rentals; and other services as approved by the City Manager in writing.

(B) FBO shall have the right to build or construct any new aircraft storage or repair facilities or any other type buildings or structures normally found on public use airports, at FBO's expense, subject to the express written approval of the City, provided that the location of such facilities is in agreement with the Airport Master Plan and Airport Layout Plan for the Brenham Municipal Airport, and is approved by the City through execution of a separate ground lease with FBO if said buildings or structures are not to be located on the Property.

5. CONDITIONS OF GRANTING RIGHTS CONTAINED HEREIN

The granting of the rights contained herein is conditioned upon the following covenants:

(A) That the right to use the public airport facilities as well as all of FBO’s rights shall be exercised subject to and in accordance with the laws of the United States of America, the State of Texas, and the City of Brenham; the rules and regulations promulgated by their authority with reference to aviation and air navigation; and all applicable rules and regulations and ordinances of City now in force or afterwards ordained or promulgated.

(B) That FBO will not, on the grounds of religion, race, color, national origin, disability, or gender discriminate or permit discrimination against any person or group of persons in any manner prohibited by state or federal law or regulation.

(C) City reserves the right to enter upon the Property at any reasonable time for the purpose of making any inspection it may deem expedient to the proper enforcement of any of the covenants or conditions of this Agreement.

(D) City 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 FBO from erecting, or permitting to be erected, any building or other structure on the Airport which, in the opinion of the City, would limit the usefulness of the Airport or constitute a hazard to aircraft.

(E) During any period when the Airport shall be closed by any lawful authority restricting the use of the Airport in such a manner as to interfere with the use of the same by FBO for its business operations, the period of such closure shall be added to the term of this Agreement, at FBO’s option, so as to extend and postpone the expiration thereof. There shall be no obligation on the City to furnish an auxiliary field in case free use of the Airport is curtailed to the FBO.

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(F) City reserves the right to further develop or improve the Airport as it sees fit, regardless of the desires or views of FBO, and without interference or hindrance.

(G) All unpaid monies due to the City hereunder shall bear interest of one and one-half percent per month if same is not paid and received by City when due. FBO shall pay and discharge all costs, expenses, including attorney's fees, incurred or expended by City in collection of said delinquent amounts due.

(H) City reserves the right to review all rental rates, fuel charges, tie down fees and charges for other services to determine whether the fees are unjustly discriminatory, excessive, or unreasonable and/or if the rates, charges and fees are comparable to rates, charges and fees for like facilities or services at other airports. FBO agrees to submit a schedule of its rates, charges and fees to the City for review sixty (60) days prior to their implementation, except that fuel charges shall not be subject to the 60-day review period. Fuel charges will be expeditiously reviewed and approved/disapproved by the City each time an increase is proposed. Additionally, FBO agrees to provide the City with a quarterly fuel comparison report which provides fuel prices for at least three (3) additional area public airports and evidence fuel prices charged by FBO at the Brenham Municipal Airport are reasonable and not unjustly discriminatory. City shall provide a response concerning approval/disapproval regarding all other non-fuel fee schedules within forty-five (45) days from date of City's receipt of the proposed fee schedule.

6. OPERATION AS A PUBLIC AIRPORT

City covenants and agrees that during the term of this Agreement it will operate and maintain the Airport and its public airport facilities, as defined above, as a public airport consistent with and pursuant to the assurances given by City to the United States Government through applicable federal and state laws and regulations.

7. CONDITIONS OF PREMISES

Upon execution of this Agreement, City shall assume no further responsibility or liability as to the condition of all the premises allowed to be used and occupied by FBO.

8. OBLIGATIONS OF FBO

(A) FBO shall furnish from its leased Property first class, full service operations serving the needs of the users of the Airport and shall, at all times, conduct its business and activities in a safe and professional manner consistent with all Federal Aviation Administration (FAA) standards and applicable laws and regulations. FBO shall conduct business on the Airport in such a manner as to maintain a friendly and cooperative, though competitive, relationship with airport operators engaged in similar business, airport patrons, and the City of Brenham. FBO will not engage in open public disputes, disagreements, or conflicts, in-person or online, which would tend to deteriorate the quality of service of either party involved, or which would be incompatible with the best interest of the public or the Airport, or would slander, defame or reflect negatively on the City of Brenham in any way. FBO shall select and appoint a manager for its operation at the Airport. Such manager shall be highly qualified and experienced, and be vested with full power and authority to act in the name of the FBO with respect to the method, manner, and conduct of the services to be performed hereunder. Such manager shall be available at the Airport during regular business hours. During the manager's absence, a duly authorized and qualified subordinate shall be in charge of the FBO and on Premises at the Airport. FBO shall provide, at its sole expense, a sufficient number of, and properly trained, employees who are pleasant, neat, clean, and courteous in order to effectively and

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efficiently provide the commercial aeronautical activities as herein authorized. Employees are to wear appropriate uniforms and badges to indicate the fact and nature of their employment. FBO shall control the conduct, demeanor, and appearance of its employees and representatives. Such employees shall be trained and possess technical qualifications and hold certificates of qualifications, as may be required for such employee to carry out assigned duties. All aircraft Fuel Handling personnel are to be trained in the safe and proper handling, dispensing, and storage of Aircraft Fuel. Acceptable training shall be an FAA approved safety training course in accordance with FAA Advisory Circular 150/5230-4B (and any related addenda and/or errata sheets issued by the FAA) and the National Air Transportation Association (NATA) "Safety First" Program or equivalent training program acceptable to the City. All training records and qualifications shall be provided to the City upon request in accordance with 14 CFR Part 139.321.

(B) FBO shall be continually open for business and provide services for twelve (12) hours a day, seven days a week, except as when necessitated by unforeseen business or emergency conditions. The FBO Operator shall be allowed to vary the hours of operation to adjust for winter, summer, and holidays while still providing within a reasonable period of time (not greater than one hour) staffing on a call-back basis to address after-hour requests for service from customers. FBO shall notify City in writing 72 hours in advance of varied operating hours. When open for business FBO shall provide aircraft line service including but not limited to the sale and into-plane delivery of recognized brands of aviation fuels and other petroleum products. FBO shall provide and maintain an adequate supply at all times of av-gas and Jet-A fuel for sale to airport users.

(C) FBO shall procure and keep in force during the term of the Agreement all necessary licenses and permits as are required by law for all the operations conducted by FBO on Property.

(D) FBO shall, at its sole cost and expense, maintain all the buildings, structures on the Property in compliance with this Agreement, and the improvements and appurtenances in a presentable condition consistent with good business practice in a safe, neat, and good physical condition. FBO shall promptly repair all damages to the premises and the improvements thereon. FBO shall be responsible for all structural maintenance and repair of buildings and structures on the leased Property. FBO shall further be responsible for general maintenance of the buildings, structures, and Property, which shall include without limitation duties such as cleaning floors, cleaning windows, painting interior/exterior of hangar and other improvements, replacement of electric light bulbs and similar maintenance activities.

(E) FBO shall provide at least one (1) clean courtesy car in excellent condition with air conditioning.

(F) FBO shall: 1) Procure any necessary license or permit to operate the UNICOM radio system; 2) Operate and maintain the UNICOM radio system at the Airport during the effective period of this Agreement; and 3) Be responsible for issuing any NOTAMs related to the Brenham Municipal Airport. The City will determine the UNICOM operating frequency and location of the UNICOM equipment in consultation with the FBO.

(G) FBO agrees that any commercial aviation operations on the premises shall be conducted in a legal, proper, efficient and courteous manner. FBO agrees to promote aviation activity on the airport. FBO agrees to maintain, operate and provide a pilots' lounge and public restrooms on the Property.

(H) FBO further agrees: 1) that all service shall be furnished on a reasonable, and not unjustly discriminatory, basis to all users thereof; and 2) to charge reasonable, and not unjustly

EXHIBIT D

discriminatory, prices for each unit or service, provided that the FBO shall be allowed to make reasonable and nondiscriminatory discounts, rebates, or other similar types of price reductions to volume purchasers.

(I) FBO shall provide a complete and proper arrangement for the adequate sanitary handling and disposal away from the Airport of all trash, garbage, and other refuse caused as a result of the operation of its business. FBO shall provide and use suitable covered receptacles for all such garbage, trash and other refuse. Piling of boxes, cartons, barrels or other similar items in an unsightly or unsafe, manner on or about the premises shall not be permitted. FBO shall also provide and maintain in proper condition readily accessible fire extinguishers in a number and of a type required in accordance with applicable fire codes.

(J) FBO shall not maintain upon the outside of any improvements or elsewhere on the Property any billboards, however, FBO may maintain on the outside of buildings its name and advertising on signs, the size, location and design of which shall be subject to the prior written approval of the City Manager or his designee.

(K) Nothing here shall be deemed to relieve FBO and its patrons, invitees, and others from such field use charges, including fuel flowage fees, as are levied generally by City directly or indirectly at the Airport.

(L) FBO shall comply with any and all applicable Environmental Laws and Permits (whether obtained by FBO or the City) related to FBO's occupancy and use of the Airport. Without limiting the generality of the foregoing, FBO shall comply with the requirements as set forth below:

1. Duty to Notify. In the event of any release or discharge, or threatened release or discharge of Hazardous Materials at, on, under, or about the Airport, or any portion thereof, that is caused by FBO, its agents, invitees, servants or employees, and which is required by applicable Environmental Laws, Environmental Permits, or Airport rules and regulations to be reported by FBO, whether as a result of negligent conduct or otherwise, or in the event any written claim, demand, complaint or action is made or taken against FBO that pertains to FBO's release, failure to comply with any Environmental Laws or Environmental Permits at the Airport, FBO shall notify the City immediately upon such release and follow up within 24 hours of all known facts pertinent to such release or discharge, or threatened release or discharge, claim, demand, complaint, action, or notice, and shall provide the City with copies of any and all such claims, demands, complaints, notices, or actions so made. If FBO is required, by any Environmental Laws, Environmental Permits, or governmental agency, to file any written notice or report of a release or discharge, or threatened release or discharge at, on, under or about the Airport, or any part thereof, FBO shall simultaneously provide a copy of such notice or report to the City.

2. Remediation. FBO shall undertake all necessary steps required under applicable Environmental Laws and Environmental Permits, or as directed by a governmental agency, to remedy and remove any Hazardous Material or environmental condition or damage to the extent caused by, or resulting from, the activities, conduct or presence of FBO, its agents, invitees, servants or employees, whether resulting from negligent conduct or otherwise ("Remediation Work"). Such Remediation Work shall be performed at FBO's expense.

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Except in the event of an emergency, such Remediation Work shall be performed after FBO submits to the City a written plan for completing such Remediation Work and receives the prior written approval from the City, which approval shall not be unreasonably withheld or delayed. Specific cleanup levels for any Remediation Work by FBO shall be designed to return the property to conditions suitable for redevelopment by the City and meet and satisfy the requirements of all applicable Environmental Laws and Environmental Permits, as determined by the governmental agency responsible for enforcing Environmental Laws or Environmental Permits. Neither an ongoing Remediation Work, including any testing or monitoring, shall either unreasonably or materially impair or interfere with the use of the Airport as an airport. The City shall have the right to conduct a reasonable review and inspect all such Remediation Work at any time using consultants and representatives of its choice. FBO's obligations hereunder shall survive the expiration or early termination of this Agreement.

3. Definitions. For purposes of this Section, the following words and phrases shall have the following meaning:

i. "Environmental Laws" means all applicable federal, state, and local statutes, ordinances, regulations, rules, laws, permits, permit conditions, and orders relating to the generation, use, storage, transportation, or disposal of Hazardous Materials.

ii. "Environmental Permits" means any and all permits, licenses, approvals, authorizations, consents, or registrations required by Environmental Laws, whether federal, state or local, which pertain to the production, use, treatment, generation, transportation, processing, handling, disposal, or storage of Hazardous Materials.

iii. "Hazardous Materials" means friable asbestos or asbestos-containing materials, polychlorinated biphenyls (PCBs), petroleum, or crude oil or any fraction thereof, natural gas, source material, special nuclear material, and byproduct materials regulated under Environmental Laws, pesticides regulated under Environmental Laws, and any hazardous waste, toxic, or dangerous substance or related material, including any material defined or treated as a hazardous substance, hazardous waste, toxic substance, or contaminant (or comparable term) under any of the Environmental Laws

(M) FBO shall have available the equipment necessary to safely and efficiently move aircraft frequenting the airport.

(N) FBO shall not use or allow property under its control or that of the Airport to be used for any illegal or unauthorized purpose and shall notify the City of any suspected illegal activity at the Airport. FBO, its officers, directors, employees, agents, and contractors shall comply with the following, the same may be amended from time to time: (i) all applicable federal, state, and local laws and ordinances, including directives of the FAA and TSA applicable to FBO's presence and operations at the Airport; and (ii) the Airport Rules and Regulations. Notwithstanding anything to the contrary, references in this Agreement to a law or regulation shall be deemed to be a reference to: (i) such law or regulation as it may be amended from time to time, and (ii) all ordinances, rules, executive orders, policies, and instructions pertaining, and lawfully promulgated pursuant, to such law or regulation as they now exist or may be amended from time to time.

(O) FBO shall, at its own expense and at all times during their term of this Agreement, pay all lawful taxes and assessments levied against the Property as well as all taxes and assessments levied against the personal property used by FBO in its operation on the Property. None of the terms, covenants or conditions of this Agreement shall be construed as a release of waiver on the part of City, of the right to assess, levy or collect any license, personal, intangible, or other tax which shall be lawfully imposed on the business or property of FBO

EXHIBIT D

- (P) FBO shall use the Property only for uses and purposes hereinbefore described.
- (Q) FBO shall permit City free access to the Property at all reasonable times for the purposes of examining the same and seeing that all of the obligations of FBO hereunder are being met and performed, and to permit City to enter any building or structure on the Premises at any time in the event of an emergency (the determination of an emergency being at the sole discretion of City).
- (R) FBO shall be solely responsible for securing all federal, state, county or municipal approvals of an environmental or other nature required for any construction or alteration of leasehold improvements on the Property, or for any of FBO's operations thereon; provided that City will join in the execution of any such permits or other applications if so required by applicable law.
- (S) While engaged in selling fuel at the Airport, FBO agrees to provide, maintain and operate a Jet-A Fuel and an av-gas truck or trailer system of adequate size and in good condition for safe and efficient operation. FBO must use the aircraft fueling systems in a careful and proper manner. FBO agrees that the aircraft fueling systems will be operated and used in accordance with any applicable vendor's or manufacturer's manuals or instructions, by competent and fully qualified personnel only. FBO shall not permit the aircraft fueling systems to be operated or used in violation of any applicable federal, state, or local statute, law, ordinance, rule, or regulation relating to the possession, use, or maintenance of the aircraft fueling systems.

FBO shall keep accurate and detailed records of all fuel sales. FBO shall keep all records necessary for government reporting and for calculating flowage fees due to the City. FBO is liable for and shall pay, on or before their due dates, all sales taxes, use taxes, personal property taxes, and any other taxes or governmental charges imposed on the aircraft fueling systems or in connection with the use or operation of the aircraft fueling systems.

FBO will pay City a fuel flowage fee of \$0.04 (4 cents) per gallon for av-gas, and \$0.08 (8 cents) per gallon for Jet-A fuel, for all gallons of fuel delivered to and accepted by FBO at the Airport. The City reserves the right to adjust the fuel flowage fee(s) at any time during the term of this Agreement by modifying the Airport Minimum Standards; however, the fuel flowage fee(s) may not be increased by more than 25% during the term of this Agreement, nor shall fuel flowage fees charged to FBO be higher than any fuel flowage fees charged to any other FBO at the Airport.

FBO agrees to provide the City with a monthly report of fuel purchased during the month by the tenth (10th) day of the following month. Fuel flowage fees are to be paid by the FBO not later than the tenth (10th) day of the month. Monthly fuel flowage fees are to be based on all gallons of fuel delivered to and accepted by FBO. Payment shall be mailed to the City of Brenham, P.O. Box 1059, Attn: Development Services Department, Brenham, Texas 77834-1059, or hand-delivered.

9. OBLIGATIONS OF CITY

- (A) City hereby designates its City Manager or his designee as its official representative, with the full power to represent City in all dealings with FBO in connection with this Agreement.

EXHIBIT D

- (B) City covenants and agrees to permit FBO, its businesses, business invitees and other Airport users access to landing areas, runways, taxiways, terminal areas, automobile and aircraft parking areas, aprons, ramps, and the use of navigational aids, and the general use of all public airport facilities and improvements of a public nature which are now, or may hereafter be connected with or pertinent to the Airport.
- (C) City covenants and agrees to operate Brenham Municipal Airport as a public airport and to provide FBO and airport users with the normal and customary services pertinent thereto.
- (D) City covenants and agrees to a monthly meeting with the FBO to discuss any identified issues regarding airport safety or operations and any future airport needs including, but not limited to possible improvements or other development at the Brenham Municipal Airport.

10. INSURANCE AND INDEMNIFICATION

- (A) Insurance shall be procured from a company authorized to do business in the state of Texas and satisfactory to City, and FBO shall provide evidence satisfactory to City that such coverage has been procured and is being maintained at all times during the term of this Agreement.

The proceeds of any such insurance paid on account of any of the perils as required to be insured as stated herein shall be used to defray the cost of repairing, restoring or reconstructing the improvements, as necessary, in the opinion of City.

Property insurance policies required by this paragraph shall contain waiver of subrogation endorsements and shall contain a provision that no change, cancellation or renewal of such insurance shall take effect until at least thirty (30) days after notice in writing has been delivered to City.

- (B) FBO is and shall be deemed to be an independent contractor and operator responsible to all parties for its respective acts or omissions, and City shall in no way be responsible. **FBO COVENANTS AND AGREES TO INDEMNIFY AND DEFEND, AT ITS EXPENSE, CITY, ITS OFFICERS, AGENTS, SERVANTS OR EMPLOYEES FROM AND AGAINST ANY AND ALL CLAIMS OR SUITS FOR DAMAGES OR INJURY, INCLUDING DEATH, TO ANY AND ALL PERSONS OR PROPERTY, OF ANY CHARACTER, ARISING OUT OF OR INCIDENT TO THE USE, OCCUPANCY, OR MAINTENANCE OF THE PREMISES BY FBO, ITS OFFICERS, AGENTS, EMPLOYEES, PATRONS, CONTRACTORS, SUBCONTRACTORS, LICENSES OR INVITEES. FBO ASSUMES ALL LIABILITY AND RESPONSIBILITY OF CITY, ITS OFFICERS, AGENTS, SERVANTS, AND EMPLOYEES FOR ANY AND ALL CLAIMS OR SUITS FOR DAMAGES OR INJURIES, INCLUDING DEATH, TO ANY AND ALL PERSONS OR PROPERTY, OF WHATSOEVER KIND OR CHARACTER, WHETHER REAL OR ASSERTED, IN CONNECTION WITH THE USE, OCCUPANCY OR MAINTENANCE OF THE PREMISES BY FBO, ITS OFFICERS, AGENTS, EMPLOYEES, PATRONS, CONTRACTORS, SUBCONTRACTORS, LICENSEES OR INVITEES, DESTRUCTION TO CITY'S PROPERTY ARISING OUT OF THE ACTS OR OMISSIONS OF FBO, ITS OFFICERS, AGENTS, EMPLOYEES, CONTRACTORS, SUBCONTRACTORS, LICENSEES, INVITEES, OR PATRONS. FBO SHALL INDEMNIFY CITY AGAINST ANY AND ALL MECHANIC'S AND MATERIAL MEN'S LIENS OR ANY OTHER TYPE OF CLAIMS OR LIENS IMPOSED UPON THE DEMISED PREMISES ARISING AS A RESULT OF FBO'S CONDUCT OR INACTIVITY.**

EXHIBIT D

(C) FBO shall secure public liability and hangar keeper's liability insurance, in which City shall be named an additional insured. Such policies of insurance shall protect City and FBO against any and all liability for death, injury, loss or damage against which FBO has elsewhere in this agreement undertaken to save and hold the City, and its authorized agents, officers, representatives and employees harmless from and against any and all penalties, liability and annoyance of loss resulting from claims or court action of any nature and arising directly or indirectly out of the acts of FBO, its agents, servants, guests, employees, business visitors or others under this agreement or by result of any act or omission or such persons. Such policies shall be placed with a company authorized to do business in the State of Texas and shall have not less than the following limits:

1. \$1,000,000 Comprehensive General Liability
2. Medical Expense Limit (Any one Person) \$5,000
3. Personal & Advertising Injury Aggregate Limit \$1,000,000
4. Products/Completed Operations Aggregate Limit \$1,000,000
5. Pollution Liability -- \$1,000,000 per loss
6. Hangar Keeper's Liability -- \$1,000,000 (any one aircraft)/\$2,000,000 (any one occurrence)

FBO shall provide the above referenced coverage and also procure and maintain Worker's Compensation insurance, including employer's liability, in the amounts required by the State of Texas.

The amounts of said insurance shall not be deemed a limitation of FBO's agreement to save and hold City harmless, and if FBO becomes liable for an amount in excess of the insurance FBO will save and hold the City harmless as the holder thereof. FBO shall furnish to the City certificates of insurance for the insurance coverage required herein.

FBO shall maintain the insurance with an insurance company authorized to do business in the State of Texas and approved by City. FBO shall furnish City with a certificate from the insurance carrier showing the insurance to be in full force during the entire term of this Agreement or shall deposit with the City copies of the policies.

The policies or certificates shall contain a provision that written notice of cancellation or of any material change in the policy by the insurer shall be delivered to City thirty (30) days in advance of the effective date of the cancellation or change.

11. ASSIGNMENT OR SALE

The FBO may assign, sell, or transfer this Agreement or any right hereunder to any person, corporation, association, or any other entity with the written consent of the City. Any assignment, sale, or transfer not consented to in writing by the City shall be null and void, and shall be grounds, at the option of the City, for the City to immediately terminate this Agreement.

12. DEFAULT AND TERMINATION

(A) This Agreement may be terminated at any time by the City if FBO fails to abide by the terms and conditions expressed herein and any exhibits hereto, including but not limited to the Airport Minimum Standards adopted July 2, 2020, as may be amended from time to time. This Agreement may also be terminated at any time by mutual agreement and consent of both parties in writing. Should the FBO be declared bankrupt, incompetent, or ceases operations, this Agreement shall immediately terminate and shall not be considered as part of the FBO's estate and shall not

EXHIBIT D

become an asset of any appointed or assigned guardian, trustee, or receiver. In the event FBO fails to make timely payments of all taxes or fees, fails to provide proof of required insurance, uses the Airport property or permits the Airport property to be used for any illegal or unauthorized purpose, files bankruptcy, abandons or leaves the property vacant or unoccupied for thirty (30) consecutive days, or violates any of the terms and conditions of this Agreement, the City has the right to terminate this Agreement and retake possession of any Airport property used, occupied, or under the control of the FBO.

(B) If either party defaults in the performance of any obligation or covenant in this Agreement, the non-defaulting party may enforce the performance of this Agreement in any manner provided by law. This Agreement may be terminated at the non-defaulting party's discretion if such default continues for a period of sixty (60) days after written notification of such default and of the intention of the non-defaulting party to declare this Agreement terminated, provided, however, if the default is not reasonably capable of being fully cured within sixty (60) days, the defaulting party shall be allowed the needed additional time to cure the default if: (i) the defaulting party begins the cure within the sixty (60) day period; and (ii) diligently pursues the cure thereafter until it is fully cured. If the defaulting party has not substantially cured the default within the time period referenced above, this Agreement may be terminated by the non-defaulting party, and the non-defaulting party may pursue any other remedies available in law or equity.

(C) In the event of a breach by the FBO of any of the provisions of this Agreement in any manner that, in the sole opinion of the City, presents a danger to the City's equipment, property, or surrounding property, the City shall have the right to terminate this Agreement immediately.

(D) Upon the termination of this Agreement by expiration of a term not renewed, mutual agreement, or any other reason for termination, the FBO shall peaceably vacate the premises and any other property entrusted to the FBO shall be returned to the City in the same condition as it was when issued, normal wear excluded. Should FBO be in default of any monies owed to the City, the City may take possession of any personal property seized, subject to the disposition of a court of competent jurisdiction. The FBO shall be liable for any and all expenses incurred by the City in such action.

13. SUSPENSION OF AGREEMENT

(A) During the time of war or national emergency, City shall have the right to lease the landing area or any part of the airport to the United States government for military use. If any such lease is executed, any provisions of this Agreement which are inconsistent with the provisions of the lease to the government shall be suspended. Nothing contained in this Agreement shall prevent FBO from pursuing any rights which FBO may have for reimbursement from the United States government for the taking of any right conferred under this Agreement or for any loss or damage caused to FBO by the United States government.

14. MISCELLANEOUS

(A) This Agreement embraces the entire Fixed Base Operator Agreement between the parties hereto and no statement, remark, representation, agreement, or understanding, either oral or written, not contained herein shall be recognized or enforced, except that this Agreement may be modified by written addendum hereto attached and signed by all of the parties. The parties expressly agree and acknowledge that they have not been induced to enter into this Agreement by any representation or statements, oral or written, not expressly contained or expressly incorporated by reference in this Agreement.

EXHIBIT D

(B) For the purposes of this Agreement, the singular number shall include the plural and the masculine shall include the feminine and vice-versa, whenever the context so admits or requires.

(C) The captions and headings are inserted solely for the convenience of reference and are not part of or intended to govern, limit, or aid in the construction of any provision hereof.

(D) The parties to this Agreement hereby acknowledge and agree that they are the principals to the Agreement and have the power, right and authority to enter into this Agreement and are not acting as an agent for the benefit of any third party.

(E) This Agreement shall be governed by the laws of the State of Texas and construed thereunder, and exclusive venue of any action brought under this Agreement shall be in Washington County, Texas.

(F) If any section, paragraph, sentence, or phrase entered in this Agreement is held to be illegal, invalid, or unenforceable by a court of competent jurisdiction, such illegality, invalidity, or unenforceability shall not affect the remainder of this Agreement which can be given effect without the illegal, invalid, or unenforceable section, paragraph, sentence or phrase and to this end, the provisions of this Agreement are declared to be severable.

(G) All notices regarding this Agreement must be sent to each party at the following address:

City:

City of Brenham
Att: City Manager
P.O. Box 1059
Brenham, Texas 77834-1059

FBO:

Any written notice under this Agreement shall become effective as of the date of mailing by registered or certified mail and shall be deemed sufficiently given if sent to the addressee at the address stated in this Agreement or such other address as may hereafter be specified by notice in writing.

(H) The waiver by either party of a breach of this Agreement shall not constitute a continuing waiver of such breach or of a subsequent breach of the same or a different provision, unless so stipulated by the party not in breach of this Agreement. The payment or acceptance of fees, compensation or charges for any period after breach shall not be deemed a waiver of any right or acceptance of defective performance.

(I) Each party shall operate under this Agreement as an independent contractor, and not as an agent, representative or employee of the other. Subject to the terms of this Agreement, each party shall have the right to control the details of its performance hereunder.

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(J) This Agreement supersedes any and all other agreements, either oral or in writing, between the parties hereto with respects to the subject matter hereof and contains all of the covenants and agreements between the parties with respect to said matter. Each party to this Agreement acknowledges that no representations, inducements, promises, or agreements, oral or otherwise, have been made by any party or anyone acting on behalf of any parties which are not embodied herein and that no other agreements, statement, or promise not contained in this Agreement shall be valid or binding.

No modification concerning this instrument shall be of any force or effect, excepting a subsequent amendment in writing signed by the parties. No official, representative, agent or employee of the City, has any authority to modify this Agreement except pursuant to express written authority to do so granted by the City Council of the City of Brenham, Texas.

(K) If any action is brought to enforce, construe or determine the validity of any term or provision of this Agreement (whether at the trial court level or any appeal therefrom), the prevailing party shall be entitled to reasonable attorney’s fees and costs of the action.

(L) The parties acknowledge that each party and, if it so chooses, its counsel, have reviewed and revised this Agreement and that the normal rule of construction to the effect that any ambiguities are to be resolved against the drafting party must not be employed in the interpretation of this Agreement or any amendments or exhibits hereto.

(M) Each party agrees that both parties shall have the right to audit the financial and business records of the other party that relate to the subject matter of this Agreement (“Records”) at any time during the term of this Agreement, and for three (3) years thereafter, in order to determine compliance with this Agreement. Throughout the term of this Agreement and for three (3) years thereafter, each party shall make all Records available to the other party as it relates to the subject matter of this Agreement.

EXECUTED this the _____ day of _____, 2021.

CITY OF BRENHAM

FBO - FIXED BASE OPERATOR

Hon. Milton Y. Tate, Jr., Mayor
City of Brenham, Texas

FBO: _____, LLC
By:
Title:

ATTEST:

ATTEST:

Jeana Bellinger, TRMC, CMC, City Secretary
City of Brenham, Texas

By:
Title:

EXHIBIT D

EXHIBIT E

FUEL FARM LEASE AGREEMENT

**THE STATE OF TEXAS
COUNTY OF WASHINGTON**

This Ground Space Lease Agreement for Fuel Farm Operation (hereinafter referred to as "Lease") is made and entered into this ___ day of _____, 2021 by and between City of Brenham, a Texas home-rule municipal corporation (hereinafter referred to as "Lessor") and as the owner of the Brenham Municipal Airport, and _____, a Texas limited liability company (hereinafter referred to as "Lessee").

WITNESSETH:

WHEREAS, Lessor is the owner of the Brenham Municipal Airport (hereinafter referred to as "Airport"); and

WHEREAS, Lessee is a Fixed Base Operator ("FBO") at the Airport; and

WHEREAS, Lessee desires to lease a _____ acre tract of land from Lessor for the operation of a fuel farm; and

WHEREAS, Lessor desires to lease the _____ acre tract of land to Lessee for the fuel farm;

NOW THEREFORE, in consideration of the terms and conditions listed herein to be kept and performed by Lessee, Lessor does lease unto said Lessee the following described property situated in Washington County, Texas, to have and to hold all and singular the said premises and improvements thereon, together with the rights, privileges and appurtenances thereunto belonging to said Lessee, subject to compliance with the following terms and conditions:

ARTICLE I – PREMISES AND PRIVILEGES

A. DESCRIPTION OF PREMISES.

Lessor hereby leases to Lessee a _____ acre tract of land located at the Airport, said tract being more fully described on Exhibit "A" which is attached hereto and incorporated herein for all purposes (hereinafter referred to as "Premises").

Lessee accepts the Premises in its present condition subject to and including all defects and Lessee will, without expense to Lessor, repair and maintain any and all buildings, improvements and installations thereon and remove, or cause to be removed, any debris, buildings, improvements to the extent required for Lessee's use thereof in accordance with this Lease.

EXHIBIT E

B. TERM AND RENT.

The term of this Lease shall begin upon the effective date of this Lease and terminate on _____ (“Initial Term”). Unless otherwise terminated as provided herein, this Lease shall automatically renew for ____ subsequent ____ year renewal terms unless either party sends the other party written notice of its intention to not renew this Lease. At the expiration of the second _____ year renewal term, this Lease shall renew annually for one (1) year terms unless either party sends the other party written notice of its intention to not renew this Lease. Any written notice of intent to not renew this Lease shall be sent at least sixty (60) days prior to the expiration of the then current term of this Lease.

The rental rate for the first year shall be _____ per square foot per year for the _____ square feet and shall be paid upon the execution of this Lease by Lessee. Subsequent rental payments are payable annually on the anniversary hereof. Any rental payment not paid by the tenth of the month in which it is due is subject to a late fee of five (\$5.00) dollars. The Lessee acknowledges and agrees that the Lessor reserves the right to adjust the Lease rental rate in an amount not to exceed an increase of two cents (\$0.02) per square foot in a five (5) year period.

C. ACCESS.

Upon executing this Lease and paying the first year’s rental payment hereunder and performing the requirements of this Lease, Lessee shall have the right of access to and from the Premises over such roadway(s), as may be designed for that purpose and the right of access to and from the landing area for airplanes over taxiways and aircraft parking ramps as provided by Lessor at its sole discretion. Said roadway(s), aircraft parking ramps and taxiways shall be used jointly with other airport tenants and Lessee shall not interfere with the rights and privileges of other persons or firms using said facilities and shall be subject to such weight and type use restrictions as Lessor deems appropriate.

D. OBJECTS AND PURPOSES OF LEASE.

Lessee is hereby granted the right and privilege to use the Premises for the repair, maintenance, use and operation of a Fuel Farm. In this Lease “Fuel Farm” shall mean fuel storage facilities for aviation gasoline (“avgas” and “Jet-A”), such as fuel storage tanks, and all other components of the fuel delivery system that are owned or operated by Lessee.

Lessee shall not use the Premises for any purposes other than those authorized herein, without the prior written consent of Lessor.

It is understood and agreed that nothing herein shall be construed to grant or authorize the granting of an exclusive right within the meaning of Section 308(a) of the Federal Aviation Act of 1958, [49 USCA Chapter 471 or successor statute].

EXHIBIT E

E. LESSOR'S RESERVED RIGHTS.

1. Development. Lessor, at its sole discretion, reserves the right to further develop or improve the aircraft operating area of the Airport as it sees fit and to take action it considers necessary to protect the aerial approaches of the Airport against obstructions, 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 the Lessor, would limit the usefulness of the Airport or constitute a hazard to aircraft.
2. Oil, Gas, Mineral Interests. It is understood and agreed that this Lease is made subject and subordinate to the terms of any oil, gas, and other mineral interest; leases; or right-of-way easements of any nature that may have been executed heretofore.

Lessor agrees that (1) if it should, as a mineral owner under the premises, develop all or part of the Airport for oil, gas or other mineral purposes, no well will be drilled or other operations conducted on the Premises, and (2) in the event it should hereafter execute an oil, gas or other mineral lease in favor of a third party covering the Airport area, or a portion thereof, it will cause such lease to contain a provision that the lessee therein will not conduct any of its drilling or other operations on the land covered by this Lease, or in a manner which would unreasonably interfere with Lessee's use and enjoyment of the Premises.

3. Other Contracts. Lessee hereby acknowledges that Lessor is bound by the terms and conditions of any and all Federal Aviation Administration, Texas Department of Transportation, and other grant agreements, grant assurances and regulations regarding the Airport, and terms of any grant, loan, regulation, or agreement under Section 22.055 of the Texas Transportation Code, as amended or superseded, whether now existing or made in the future. Lessee agrees not to take any action or omit to take any action in relation to the Fuel Farm and this Lease that would cause Lessor to be in violation of such terms, conditions, agreements, assurances, regulations, grant or loan.
4. Other Laws. Lessee hereby acknowledges that there are in effect federal, state, county, and municipal laws, rules, regulations, standards, and policies (together, "laws") and that the same may hereafter be modified or amended and additional laws may hereafter be enacted or go into effect, relating to or affecting the Fuel Farm or this Lease. Lessee shall not cause, or permit or allow anyone to cause, any violation of any applicable laws. Further, Lessee shall have no claim against Lessor by reason of any changes Lessor may make in the Fuel Farm or this Lease required by any applicable laws or any charges imposed upon Lessee, Lessee's customers or other invitees of Lessee as a result of changes in applicable laws.

EXHIBIT E

5. Other Leases. Nothing herein contained shall limit Lessor with respect to the granting of leases to other aviation tenants under other terms as herein set forth or to granting of leases for non-commercial aviation or non-aviation purposes at terms different from those set forth herein.
6. Entry. Lessor shall have the right to enter upon the Premises for the purpose of a) confirming the performance by Lessee of all obligations under this Lease; b) doing any other act which the Lessor may be obligated or have the right to perform under this Lease; or c) inspecting and copying the books and records of Lessee related to Lessee's performance of its obligations under this Lease.

F. DEFAULT.

Any of the following events constitutes default:

1. An act of the Lessee which is in variation with the site plan and is not corrected after thirty (30) days' notice by Lessor to Lessee of said default, or
2. The nonperformance by Lessee of any other covenant or condition of this lease which is not cured within thirty (30) days after written notice thereof from Lessor, or
3. The Lessee's Fixed Base Operator Agreement with the City of Brenham is terminated or expires, or
4. The subjection of any of Lessee's property to any levy, seizure, assignment, application, or sale for or by any creditor or governmental agency.

J. LESSOR'S RIGHTS UPON DEFAULT.

On the occurrence of any of the events defined as constituting "default", Lessor may without notice to or demand on Lessee terminate this Lease and take possession of the Premises and lease the same or any portion thereof, for such period and such rental, and to such persons, as Lessor shall elect.

K. MORTGAGE OF LEASEHOLD INTEREST.

Lessee shall have the right, subject to written approval from the City Manager of the City of Brenham, to place a first mortgage lien upon its leasehold. Any approved lender shall notify Lessor of all action taken by it in the event payments on such loans shall become delinquent.

ARTICLE II – OBLIGATIONS OF LESSEE

A. NET LEASE: MAINTENANCE AND OPERATION.

EXHIBIT E

The use and occupancy of the leased Premises by Lessee will be without cost or expense to Lessor. During the term of this Lease, Lessee, at Lessee's sole expense, shall maintain, repair and replace all equipment at the Fuel Farm, including, but not limited to fuel storage tanks and all fuel loading and unloading equipment, such as hoses, couplings, swivels and such other devices related to the fuel storage tanks.

Lessee shall maintain the Premises at all times in a safe, neat and attractive condition and shall not permit the accumulation of any trash or debris on the Premises. Lessee shall repair all damages to said Premises caused by its employees, patrons, or its operation thereon; shall maintain and repair all buildings, pavements, equipment and improvements; and shall repaint the improvements as necessary. Lessee shall pay all taxes against the property and indemnify Lessor from any tax lien.

Lessor reserves the right to make periodic inspection of the Premises and improvements and equipment thereon.

Lessor, in its reasonable discretion, shall be the sole judge of the quality of maintenance that shall apply to the Premises. Upon written notice by Lessor to Lessee, Lessee shall be required to perform whatever reasonable maintenance Lessor deems necessary. If said maintenance is not undertaken by Lessee within ten (10) days after receipt of written notice, Lessor shall have the right to enter upon the leased premises and perform the necessary maintenance, the cost of which shall be borne by Lessee.

B. ALTERATIONS TO AND CONDITIONS OF PREMISES.

Lessee agrees not to construct, install, remove and/or materially modify any improvements on the Premises without prior written approval of the Lessor subject to the conditions considered by Lessor to be necessary.

Lessee shall not remove or demolish, in whole or in part, any improvements upon the Premises without the prior written consent of Lessor, which may, at its discretion, condition such consent upon the obligation of Lessee to replace the same by an improvement specified in such consent.

C. TRASH, GARBAGE, LANDSCAPING.

Lessee shall provide a complete and proper arrangement of the adequate sanitary handling and disposal, away from the Airport, of all trash, garbage, and other refuse caused as a result of the operation of the Fuel Farm. Lessee shall provide and use approved receptacles for all such garbage, trash and other refuse. Piling of boxes, cartons, barrels or other similar items in an unattractive or unsafe manner, on or about the Premises, is prohibited.

Lessee is specifically responsible for mowing, if applicable, and to ensure that weed or grass growth is never allowed in excess of that allowed by Lessor's weed ordinance requirements,

EXHIBIT E

and removal of weeds from around fences and improvements for the area within ten (10) feet of the Premises shown on the attached Exhibit "A". Lessee is encouraged to provide additional landscaping beyond the minimum required by Lessor to assist in enhancing Airport appearance.

D. SIGNS.

Lessee may not install identifying signs on the Premises except with the written permission of Lessor.

E. UTILITIES.

Lessee shall assume and pay for all costs or charges for utility services furnished to Lessee during the term hereof; provided, however, that Lessee shall have the right to connect to any and all storm and sanitary sewers and water and utility outlets at its own cost and expense; and Lessee shall pay for any and all service charges incurred therefor.

F. FIELD USE CHARGES.

Nothing herein shall be deemed to relieve Lessee and its tenants, sublessees, patrons, invitees, and others from field landing fees, nor its guests from fuel flowage fees, as are levied by Lessor or the Fixed Base Operator.

G. PAYMENTS DUE.

Lessee agrees that no payments owed by Lessee of any nature whatsoever to Lessor, including payment in advance for service charges, such as garbage collection, or any other sums of any character whatsoever, shall become delinquent or in arrears.

H. COMPLIANCE WITH RULES.

Lessee will comply with any and all federal or state laws, rules and regulations, and all regulations made by the City of Brenham and approved by the City Council of the City of Brenham.

I. NONDISCRIMINATION/FEDERALLY REQUIRED ASSURANCES.

Lessee, for itself, its personal representatives, successors in interest, and assigns, as part of the consideration hereof, does hereby agree that "as a covenant running with the land" (1) no person on the grounds of race, color, sex, creed, national origin, or handicapped status shall be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities, or in the construction of any improvements on, or under such land, or the furnishing of services thereof, and (2) that Lessee shall use the premises in compliance with and conduct its operations in accordance with all other requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle

EXHIBIT E

A, Office of the Secretary, Part 21, Nondiscrimination in Federally-Assisted Programs of the Department of Transportation, Effectuation of Title VI of the Civil Rights Act of 1964, or Section 504 of the Rehabilitation of 1973 (23 USC 794) and 49 CFR Part 27 and as said regulations may be amended, and that Lessee will comply with such enforcement procedures as the United States might demand that Lessor take.

J. FAA AND OTHER APPROVAL OF USE.

Lessee agrees to secure approval from the Federal Aviation Administration concerning the height and location of all buildings or improvements or modifications thereof which may be constructed or installed on the Premises and to satisfy any applicable environment or other requirements of federal, state, and local authorities as to noise, smoke, fumes emissions, storm water, or other hazards or potential hazards or other offensive uses, if any, which may occur as a result of Lessee's operations on the Premises.

K. NON-INTERFERENCE WITH OPERATION OF AIRPORT/EASEMENTS.

1. Lessee, by accepting this Lease, expressly agrees for itself, its successors and assigns that it will not make use of the Premises in any manner which might interfere with the landing and taking off of aircraft at Airport or otherwise constitute a hazard. If Lessee violates this, Lessor reserves the right to enter upon the Premises and remove the interference at the expense of the Lessee.
2. Lessor shall maintain and keep in good repair the landing area of the Airport, and shall have the right to direct and control all activities of the Lessee in this regard.
3. Lessor shall retain an easement over, above and on the Premises in relation to aircraft noise and the utilization of the air space for the purposes of the operation of said Airport.

L. FUEL STORAGE.

Fuel delivered, stored, or dispensed by Lessee shall fully comply with the quality specifications outlined in ASTM (American Society for Testing and Materials) D1910 (avgas). Ensuring the quality of fuel is the sole responsibility of Lessee.

M. LESSEE AUTHORITY.

The officer of the Lessee who executes this Lease represents and promises that he is duly authorized by corporate resolution or other appropriate authorization to execute the same on behalf of Lessee.

N. INDEMNIFICATION.

EXHIBIT E

1. Lessee agrees to defend, indemnify, and hold harmless the Lessor from and against and reimburse the Lessor for any and all actual or alleged claims, damages, expenses, costs, fees (including, but not limited to reasonable attorneys' fees), fines, environmental costs and/or penalties (collectively "Costs") which may be imposed upon, claimed against or incurred by the Lessor and which, in whole or in part, directly or indirectly, arise from or are in any way connected with any of the following , except to the extent resulting from the gross negligence or willful misconduct of the Lessor or Lessor's employees, agents, or contractors: (a) any act, omission or negligence of Lessee or Lessee's partners, officers, directors, agents, employees, invitees or contractors; (b) any use, occupation, management or control of the Premises by Lessee, whether or not due to Lessee's own act or omission and whether or not occurring on the Premises; (c) any condition created in or about the Premises by Lessee or any of its agents, including any accident, injury or damage occurring on or about the Premises after the effective date of this Lease; (d) any breach, violation or nonperformance of any of Lessee's obligations under this Lease; (e) any damage caused by Lessee on or to the Premises. For purposes of this section, Lessee shall to be deemed to include Lessee and Lessee's employees, agents, invitees and contractors.
2. Notwithstanding any provisions of this Agreement, Lessee agrees to defend, indemnify and hold harmless the Lessor and its directors, agents and employees from and against any and all damages, fines, penalties, judgments, losses, liabilities, costs and reasonable expenses (including without limitation, reasonable attorneys' fees and expenses), claims, actions, suits and other proceedings (collectively "Liabilities"), which result from, are related to, or arise out of the existence or discovery of any Hazardous Substance on, under, from, through, about or within the Premises.

O. INSURANCE.

Lessee shall secure the below referenced insurance coverage, in which Lessor shall be named an additional insured. Such policies of insurance shall protect Lessor and Lessee against any and all liability for death, injury, loss or damage against which Lessee has elsewhere in this Lease undertaken to save and hold the Lessor, and its authorized agents, officers, representatives and employees harmless from and against any and all penalties, liability and annoyance of loss resulting from claims or court action of any nature and arising directly or indirectly out of the acts of Lessee, its agents, servants, guests, employees, business visitors or others under this Lease or by result of any act or omission of such persons. Such policies shall be placed with a company authorized to do business in the State of Texas and shall have not less than the following limits:

1. \$1,000,000 Comprehensive General Liability
2. Medical Expense Limit (Any one Person) \$5,000
3. Personal & Advertising Injury Aggregate Limit \$1,000,000

EXHIBIT E

4. Products/Completed Operations Aggregate Limit \$1,000,000
5. Pollution Liability -- \$1,000,000 per loss

Lessee shall provide the above referenced coverage and, if applicable, also procure and maintain Worker's Compensation insurance, including employer's liability, in the amounts required by the State of Texas.

The amounts of said insurance shall not be deemed a limitation of Lessee's agreement to save and hold Lessor harmless, and if Lessee becomes liable for an amount in excess of the insurance Lessee will save and hold Lessor harmless as the holder thereof. Lessee shall furnish to the Lessor certificates of insurance for the insurance coverage required herein.

Lessee shall maintain the insurance with an insurance company authorized to do business in the State of Texas and approved by Lessor. Lessee shall furnish Lessor with a certificate from the insurance carrier showing the insurance to be in full force during the entire term of this Agreement or shall deposit with the Lessor copies of the policies.

The policies or certificates shall contain a provision that written notice of cancellation or of any material change in the policy by the insurer shall be delivered to Lessor thirty (30) days in advance of the effective date of the cancellation or change.

ARTICLE III – OTHER CONDITIONS

1. Lessee agrees to pay all public utility charges that may be assessed, including charges for gas, electric, water and any other utility charge.
2. Any holding over by Lessee or his successors, at the expiration or termination of this Lease, in whatever manner its termination may be brought about, shall not operate as a renewal of this lease, but during the period of such holding over Lessee shall be a tenant at the will of Lessor.
3. The Lessor requires that Lessee and users of Lessee's Premises shall agree to be bound by all of the regular rules and regulations as may be set out by the FAA as to pilots and their conduct and that they agree to abide by any and all local rules that may be approved by the City Council of the City of Brenham, Texas, for pilots at the City of Brenham Municipal Airport and as may be adopted by the Airport Advisory Committee of the City of Brenham. Lessee shall agree that in the event it is found not to have abided by the rules or does not correct a situation required to be corrected by the City of Brenham, then and in that event it may lose its privilege to operate the Fuel Farm that is located on the Premises being leased from the City of Brenham.

EXHIBIT E

4. This Lease is governed by the laws of the State of Texas and performable in Washington County, Texas. Venue shall lie exclusively in Washington County, Texas.
5. If any provision herein is held to be invalid in a court of law, the invalidity of such provision shall in no way affect the validity of any other provision.
6. Any notice required herein shall be effective upon mailing to the address described herein by depositing said notice in the mail, certified mail – return receipt requested to the addresses below.

APPROVED this the ____ day of _____, 2021.

CITY OF BRENHAM:

Milton Y. Tate, Jr., Mayor
City of Brenham
P. O. Box 1059
Brenham, TX 77834-1059

ATTEST:

Jeana Bellinger, City Secretary, TRMC, CMC

____ **Entity** _____ :

Name, Title
Entity Name
Address

EXHIBIT E

Exhibit A – Fuel Farm Lease Area



EXHIBIT E

Exhibit B – Airport Fuel Tanks Adjacent to Ramp



EXHIBIT F

AIRPORT TERMINAL BUILDING
LEASE AGREEMENT

By and Between
The City of Brenham and _____

WHEREAS, the City of Brenham, Texas owns the real property and improvements thereon (commonly referred to as the restaurant and airport terminal building) (“Premises”) located at 3001 Aviation Way in Brenham, Washington County, Texas; and

WHEREAS, _____ desires to lease from the City of Brenham the Premises for the purpose of operating a public restaurant and as a Fixed Based Operator as defined in the Minimum Standards of the Brenham Municipal Airport;

This Lease Agreement, hereinafter also referred to as “this lease,” is made and entered into by and between _____, a Texas _____ company (hereinafter referred to as “Lessee”) and the City of Brenham, a Texas home-rule municipal corporation, as Lessor (hereinafter also referred to as “City”).

WITNESSETH:

I.

City, in consideration of the covenants and agreements to be performed by Lessee and upon terms and conditions hereinafter stated, does hereby lease Lessee the Premises located at 3001 Aviation Way, Brenham, Texas, said Premises further depicted in Exhibit “A” attached hereto and incorporated herein for all purposes. The term of this lease shall be for a period of ten (10) years (“Term”), commencing upon the ___ day of _____, 20__ and ending on the ___ day of _____, 20__, provided, however, that City and Lessee shall have the right to terminate this lease as provide elsewhere herein.

II.

For and in consideration of this lease, upon execution hereof by all parties, Lessee shall pay, as rent, _____ and No/100 Dollars (\$_____) annually to City during the first year of the term (“Annual Rent”). Annual Rent shall automatically increase at each anniversary of the lease execution at a rate of _____ Dollars (\$_____) or _____ Dollars (\$_____) per month. Said Annual Rent shall be paid in equal monthly payments on or before the 5th day of each month.

EXHIBIT F

Lessee hereby accepts the Premises in its "as is" condition. THERE ARE NO IMPLIED WARRANTIES OF MERCHANTABILITY, OF FITNESS FOR A PARTICULAR PURPOSE, OR OF ANY OTHER KIND ARISING OUT OF THIS LEASE, AND THERE ARE NO WARRANTIES THAT EXTEND BEYOND THOSE EXPRESSLY STATED IN THIS LEASE. Further, Lessee shall be responsible for any and all improvements to or retrofitting of the Premises as may be required by law for compliance with the Americans with Disabilities Act or similar state or federal law, and any regulations promulgated thereunder.

It is also agreed by Lessee that violation of any covenant herein contained shall constitute forfeiture of Lessee's right to occupy the Premises, and City shall be entitled to immediate possession thereof without the necessity of legal proceedings.

City and City's agents and representatives shall have the right to enter upon and inspect the Premises at any reasonable time and after reasonable notice during Lessee's normal business hours, for the purpose of ascertaining compliance with the terms of this lease and/or the condition of the Premises. Lessee, upon request of the City, shall make available to City all records and bookkeeping records related to the income, expenses and operation of the restaurant and airport terminal building operated on the Premises during the term of this lease.

III.

Lessee shall be responsible for obtaining any necessary utility services and agrees to assume all charges in connection therewith.

Lessee shall be responsible for the installation, maintenance and expense of its own telephone service and security system.

Lessee shall not permit any mechanic's lien to be placed upon the Land, Building or Premises, caused by or resulting from work performed, materials furnished, or obligations incurred by or at the request of Lessee, and in the case of such filing of such lien, Lessee agrees to promptly pay the same or otherwise cause the immediate release of the same.

Lessee shall be responsible for all payment of taxes levied or assessed against the Premises and/or personal property located thereon, during the Term.

IV.

Lessee shall, at its own cost and expense and subject to City approval, make all improvements desired to use Premises as a restaurant and airport terminal building. Lessee shall maintain within the terminal building public access to the following uses within the terminal building, FBO office, restrooms, pilots lounge, sleeping room and restaurant. The aforementioned uses, may be remodeled or reconfigured

EXHIBIT F

from the current configuration (Exhibit "A") at the Lessee's own cost and expense and subject to City approval. Lessee agrees to post a performance bond with the City in an amount equal to one hundred and ten percent (110%) of the estimated construction costs for all proposed improvements.

Lessee shall, at its own cost and expense, keep and maintain all interior parts of the Premises in good clean condition, promptly making all necessary repairs and replacements, including but not limited to, interior walls, finish work, floor covering, fixtures, pest extermination and regular removal of trash and debris. At Lessor's expense, maintenance shall be performed in a normal and routine manner as required to keep the interior plumbing, electrical, heating and air conditioning equipment serving the leased Premises in good operating condition during the term of this lease and any renewal term. Lessee shall notify Lessor in writing within twenty-four (24) hours of any identified maintenance concerns in need of repair or further evaluation. Lessee shall not be responsible for structural maintenance or repairs to exterior portions of the Building and Premises, including, but not limited to, plumbing service, electrical service, and heating and air conditioning equipment located to the exterior of the structure. Lessor will not be responsible for any repairs or maintenance of the Premises not associated with normal wear and tear of building nor will Lessor be responsible for maintenance of items added to the exterior of the building by the Lessee, such as, but not limited to signage and decorative attachments.

Lessee shall not make structural leasehold improvements to the Premises without the review and written approval of the City Manager, or his designee, which consent shall not be unreasonably withheld or delayed. All such leasehold improvements to be made by Lessee shall be in accordance with the City of Brenham adopted Building and Fire Codes, related Ordinances and in accordance with the plans approved by the Development Services Department of the City of Brenham.

Lessee shall maintain the Premises, including, but not limited to, the public parking areas, public ramp space, and areas adjacent to fueling areas and fuel service road in a cleaned and orderly manner, including but not limited to the maintenance of grass and vegetation. The aforementioned areas are further depicted in Exhibit "B" attached hereto and incorporated herein for all purposes. All lawn areas shall be mowed as near as possible to any building, tree, wall, fence, and or any other structure or appurtenance. Remaining high grass (as defined in Brenham Code of Ordinances, Chapter 12 – Health and Sanitation) and weeds shall be cut by any applicable means to ensure favorable appearance.

Lessee shall be responsible for the cleanliness of the terminal building public restrooms and for restroom supplies for such restroom. Public restrooms located on the Premises in the terminal building may be available to airport patrons after hours via a keyless door lock with an aviation related code.

V.

EXHIBIT F

Lessee agrees to open and operate a restaurant on the Premises no later than ____ () days from the commencement of the __ year Term as shown in Section I above. The restaurant shall be open and serve patrons no fewer than ____ () days each week for a minimum of ____ () hours per day. Lessee shall have the option to sell beer and wine in the restaurant area provided that the Lessee, at Lessee's expense, obtain all appropriate permit(s) from the Texas Alcoholic Beverage Commission and comply with all applicable local and state laws and regulations.

Lessee covenants and agrees that Lessee shall not transfer or assign this lease or sublease any portion of the Premises without City's prior written consent. Any attempt to transfer or assign or sublease this lease or sublease any portion of the Premises without the City's written consent shall be null and void and may cause this agreement to be terminated.

The Lessee/FBO or any other entity shall not impose or asses any additional fees, higher fuel prices or the requirement to buy fuel on those flying in to dine at the restaurant. In no way shall the Lessee discriminate or make it more difficult for persons to patronize the restaurant or enjoy the restaurant experience. Lessee or restaurant operator (whichever is applicable) shall allow patrons of the restaurant to use the terminal deck located on the Premises for dining purposes.

VI.

Upon termination of this lease by City or Lessee, City and Lessee agree that Lessee may at Lessee's sole expense, remove its trade fixtures, including equipment, provided that such removal shall not impair the structural integrity of the Premises; such determination shall be made by the City Manager, or his designee, and same shall be binding on the parties hereto: and Lessee shall repair any damages caused by such removal to the satisfaction of the City Manager, or his designee.

VII.

Lessee shall, at Lessee's expense, obtain all governmental licenses and permits necessary for the permitted uses of the Premises and shall comply with all governmental laws, ordinances and regulations applicable to the use of the Premises; also promptly comply with all governmental orders and directives for the correction, prevention and abatement of violations, nuisances and hazardous conditions in or upon, or connected with the Premises.

Lessee will comply with all laws, rules and regulations now existing or hereafter established by the United States of America, the State of Texas, the City of Brenham, and their respective agencies, including the Federal Aviation Administration, and the Texas Department of Transportation, Aviation Division (TxDOT Aviation). Lessee acknowledges receipt of a copy of the current Airport Minimum Standards of the Airport. The Airport Minimum Standards are incorporated by reference as if written verbatim herein, and Lessee agrees to comply fully at all times with the Airport Minimum Standards. Lessor shall have

EXHIBIT F

the right to amend, modify and alter the Airport Minimum Standards from time to time in a reasonable manner for the purpose of assuring the safety, welfare and convenience of Lessor, Lessee and all other Lessees and customers of the Airport.

Lessor and Lessee recognize and agree this Lease shall be subject to: such regulations and approvals as required by the FAA and TxDOT Aviation and in particular those FAA regulations which provide that the property subject to this Lease shall be used for Airport purposes and in such a manner so as not to materially and adversely affect the development and improvement, operation or maintenance of the Airport; and to the requirements of national emergency. Lessee agrees to cooperate and assist Lessor in complying with such regulations and conditions of approval. All runways and Airport facilities shall be open to the general traveling public for the landing and operation of aircraft therefrom without hindrance or interference on the part of Lessee.

VIII.

AS A CONDITION HEREOF, LESSEE AGREES TO INDEMNIFY AND DEFEND CITY AGAINST ANY AND ALL CLAIMS FOR INJURIES, DAMAGES, COSTS AND EXPENSE, TO PERSONS OR PROPERTY THAT MAY ARISE OUT OF, OR BE OCCASIONED BY THE USE, OCCUPANCY OR MAINTENANCE OF THE PREMISES BY LESSEE, OR FROM ANY NEGLIGENT OR WILLFUL ACT OR OMISSION OF ANY REPRESENTATIVE, AGENT, INVITEE AND /OR EMPLOYEE OF LESSEE. LESSEE HEREBY AGREES TO DEFEND ANY AND ALL SUITS, CLAIMS, OR CAUSES OF ACTION BROUGHT AGAINST CITY ON ACCOUNT OF SAME, AND DISCHARGE ANY JUDGMENT OR JUDGMENTS THAT MAY BE RENDERED AGAINST CITY IN CONNECTION THEREWITH.

IX.

The Lessee shall procure and maintain at its sole cost and expense for the duration of this lease insurance against claims for injuries to persons or damages to property that may arise from or in connection with the use and occupancy of the Premises by the Lessee, and the Lessee's agents, representatives, volunteers, employees or subcontractors. The Lessee's insurance coverage shall be primary insurance with respect to the City, its officials, employees and volunteers. Any insurance or self-insurance maintained by the City, its officials, employees or volunteers shall be considered in excess of the Lessee's insurance and shall not contribute to it. Further, the Lessee shall include the City as an additional insured under its insurance policy. All coverage for subcontractors shall be subject to all of the requirements stated herein. Certificates of Insurance and endorsements shall be furnished to the City and approved by the City before occupancy of the Premises by the Lessee.

Standard Insurance Policies Required:

EXHIBIT F

- (a) Commercial General Liability Policy
- (b) Automobile Liability Policy
- (c) Workers' Compensation Policy

General Requirements Applicable to All Policies:

(a) General Liability and Automobile Liability insurance shall be written by a carrier with a A:VIII or better rating in accordance with the current Best Key Rating Guide.

(b) Only Insurance Carriers licensed and admitted to do business in the State of Texas will be accepted.

(c) Deductibles shall be listed on the Certificate of Insurance and are acceptable only on a per occurrence basis for property damage only.

(d) "Claims Made" policies will not be accepted.

(e) The City of Brenham, its officials, employees and volunteers, are to be added as "Additional Insured" to the General Liability policy. The coverage shall contain no special limitations on the scope of protection afforded to the City, its officials, employees or volunteers.

(f) A Waiver of Subrogation in favor of the City with respect to Workers' Compensation Insurance must be included.

(g) Each insurance policy shall be endorsed to state that coverage shall not be suspended, voided, canceled, reduced in coverage or in limits except after thirty (30) days prior written notice by certified mail, return receipt requested, has been given to the City of Brenham.

(h) Upon request, certified copies of all insurance policies shall be furnished to the City of Brenham.

Commercial General liability

(a) Minimum Combined Single Limit of \$1,000,000.00 per occurrence for bodily injury and property damage.

(b) No coverage shall be deleted from the standard policy without notification of individual exclusions being attached for review and acceptance.

5. Automobile Liability

EXHIBIT F

(a) Minimum Combined Single limit of \$500,000.00 per occurrence for bodily injury and property damage.

6. Worker's Compensation

(a) Employer's Liability limits of \$100,000.00 for each accident is required.

7. Certificates of Insurance shall be prepared and executed by the insurance company or its authorized agent, and shall contain the following provisions and warranties:

(a) The company is licensed and admitted to do business in the State of Texas.

(b) The insurance policies provided by the insurance company are underwritten on forms that have been provided by the Texas State Board of Insurance.

(c) All endorsements and insurance coverage according to requirements and instructions contained herein.

(d) The form of the notice of cancellation, termination, or change in coverage provisions to the City of Brenham.

(e) Original endorsements affecting coverage required by this section shall be furnished with the certificates of insurance.

X.

In the event the Premises are substantially or totally damaged or destroyed or rendered partially unfit for occupancy by natural disaster, or fire or water damage or other casualty, either party may elect to terminate this Lease.

XI.

City may, by written notice to Lessee, immediately terminate this lease, notwithstanding the provisions of Article XII herein, if Lessee fails to operate a restaurant in the Building in accordance with the provisions of Article V herein. Furthermore, lessee shall show substantial progress in the opening of a restaurant within ___ () days from the commencement of the ___ year Term as shown in Section 1. Substantial completion shall be defined as plan review submittal, building permit issuance or food permit issuance through the Development Services Department.

XII.

EXHIBIT F

If either party defaults in the performance of any obligation or covenant herein, the non-defaulting party may enforce the performance of this lease in any manner provided by law. This lease may be terminated at the non-defaulting party's discretion if such default continues for a period of thirty (30) days after written notification of such default and of the intention of the non-defaulting party to declare this lease terminated, provided, however, if the default is not capable of being fully cured within thirty (30) days, the defaulting party shall be allowed the needed additional time to cure the default if (i) the defaulting party begins the cure within the thirty (30) days period, (ii) diligently pursues the cure thereafter until it is fully cured, and has been given advance written approval to proceed by the non-defaulting party. Such notice shall be sent by the non-defaulting party to the party in default. If Lessee, as the defaulting party, has not substantially cured the default within the time period referenced above, this lease shall terminate. Thereafter, City, if the non-defaulting party, or its agents, shall have the right, without further notice or demand, to enter the Premises and remove all persons and property there from without being deemed guilty of trespass and without waiving any other remedies for arrears of rent or breach of covenant. City or its agents may resume possession of the Premises and relet the same for the remainder of the Term, and/or exercise any other remedy available to the City by law or equity.

XIII.

CITY AND ITS AGENTS SHALL NOT BE LIABLE TO LESSEE OR TO LESSEE'S EMPLOYEES, PATRONS, VISITORS, INVITEES OR ANY OTHER PERSONS FOR ANY INJURY TO ANY SUCH PERSONS OR ANY DAMAGE TO PERSONAL PROPERTY OCCURRING ON THE PREMISES CAUSED BY THE NEGLIGENCE OR MISCONDUCT OF LESSEE AND/OR ITS EMPLOYEES, AGENTS OR VOLUNTEERS.

XIV

Subject to prior written approval of the City Manager or his designee, Lessee shall have the right to erect signs on the Premises, provided that Lessee bears the expense of all signs it places on the Premises and the sign(s) conform to the ordinances and regulations of the City of Brenham Code of Ordinances.

XV.

Force Majeure. Neither party hereto shall be liable to the other for any failure, delay, or interruption in performing its obligations hereunder due to acts, events or conditions beyond its control, including acts of God, weather conditions, shortages of energy or materials, embargoes, riots, rebellions, sabotage, acts of a public enemy, war, terrorism, insurrection, strikes, boycotts, picketing, slow-downs, work stoppages or other labor actions affecting the rights or obligations of the parties hereunder, their respective contractors or subcontractors, except to the extent that

EXHIBIT F

such failure, delay or interruption directly or indirectly results from failure on the part of either party to use reasonable care to prevent, or make reasonable efforts to cure, such failure, delay or interruption. The party seeking to avail itself of any of the foregoing excuses must promptly, but no later than five (5) business days after the date of failure, delay or interruption in performance, notify the other party of the reasons for the failure or delay in connection with the performance hereunder and shall exert its best efforts to avoid further failure, delay or interruption.

XVI.

Any waiver by City or Lessee of any default or breach of any term, covenant, condition, agreement, provision or stipulation herein contained shall not constitute a waiver of any subsequent default or breach of the same or any other term, covenant, condition, agreement, provision or stipulation hereof.

XVII.

This lease agreement constitutes the full and final expression of the agreement between City and Lessee, through the entire Term and it may not be amended except by written instrument signed by both parties.

XVIII.

All notices required under this lease shall be written notices. Any notice or document required or permitted to be delivered herein shall be deemed to be delivered, whether actually received or not, when deposited in the United States mail, postage prepaid, registered or certified mail, return receipt requested, addressed to the parties hereto at the addresses set out below, or at such other addresses as they may specify by notice delivered in accordance herewith:

	City of Brenham

XIV.

This lease is expressly made subject to the ordinances of the City of Brenham, and all applicable state and federal laws. Should any legal action be instituted in connection with this lease, legal venue for all purposes shall lie exclusively in Washington County, Texas.

IN TESTIMONY WHEEOF, the parties have hereunto set their hands this the ____ day of _____, 20__.

EXHIBIT F

LESSEE:

CITY OF BRENHAM

By: _____
President

By: _____
Hon. Milton Tate, Mayor

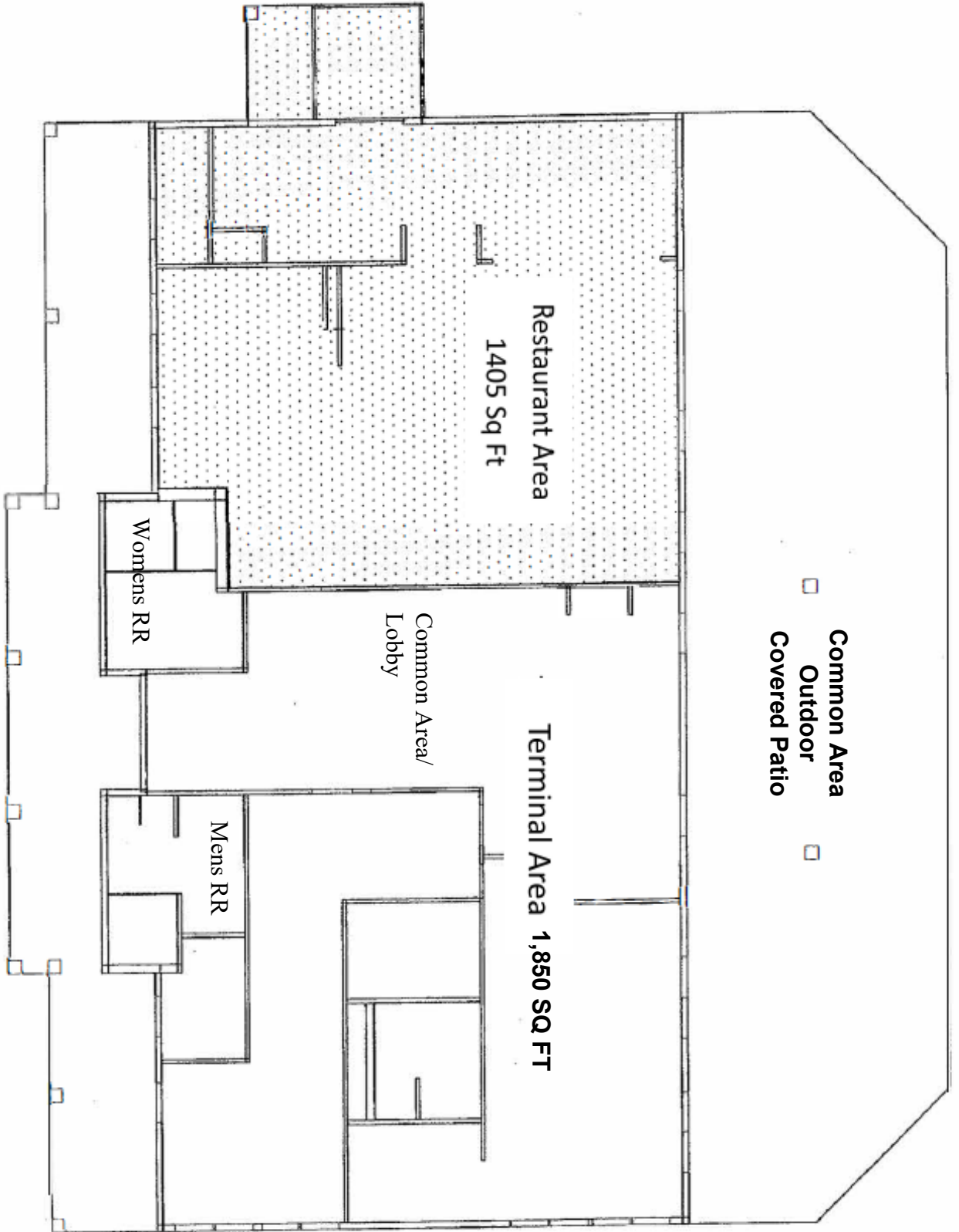
ATTEST:

By: _____

By: _____
City Secretary

EXHIBIT F

**Exhibit "A":
Existing Terminal Building Layout**



The FBO/Terminal Area shares a common area/lobby and mens and womens public restrooms.

EXHIBIT F

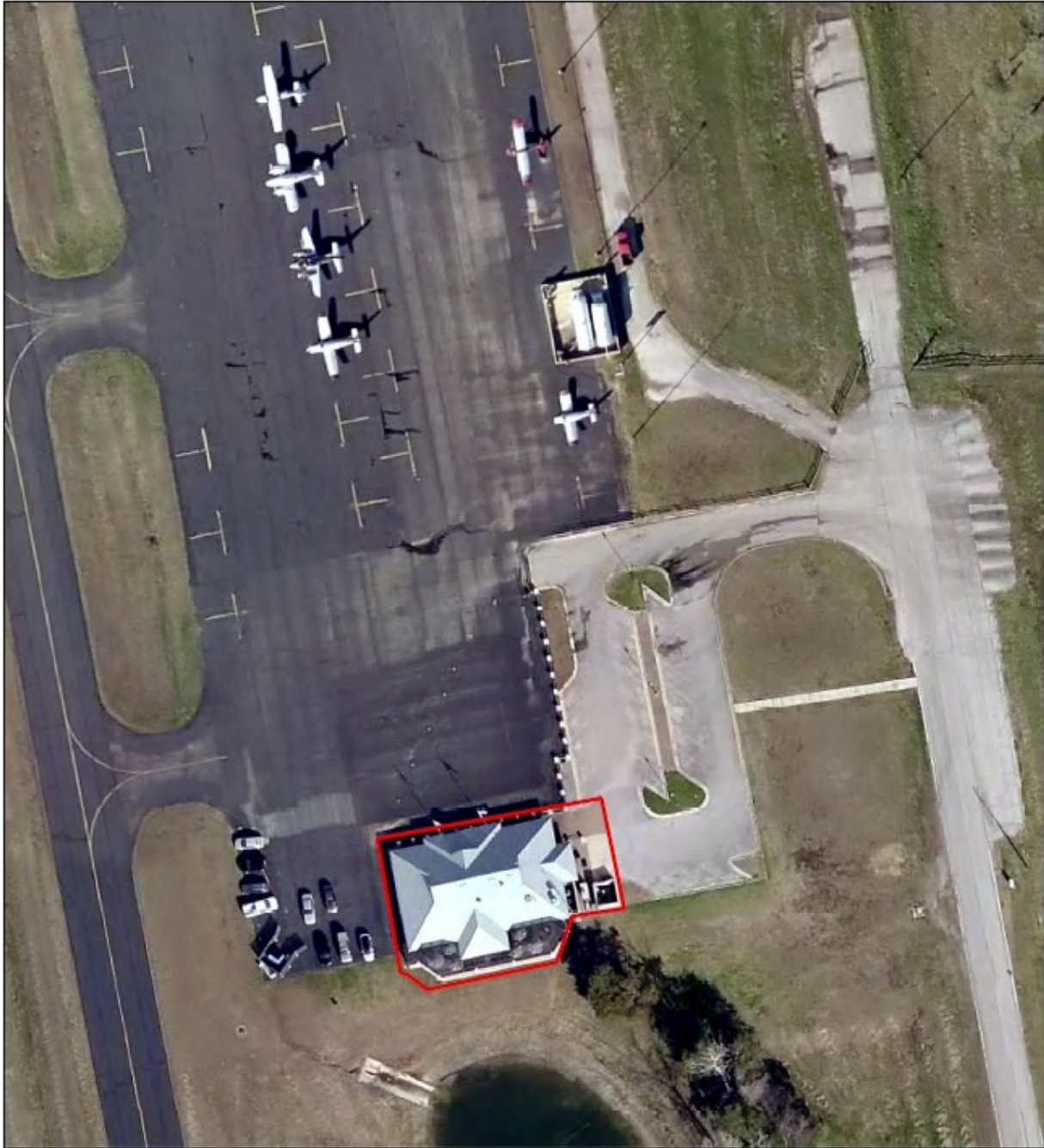



Exhibit "B"

Brenham Municipal Airport

 **Area to be maintained by Lessee**

1 inch = 72 feet

