

**RESOLUTION NO. R2022-83**

**A RESOLUTION BY THE CITY COUNCIL OF THE CITY OF BURNET, TEXAS APPROVING A CONTRACT FOR FIXED BASE OPERATION SERVICES WITH CROSBY FLYING SERVICES LLC FOR THE BURNET MUNICIPAL AIRPORT; AUTHORIZING THE CITY MANAGER TO EXECUTE THE CONTRACT; AND TERMINATING THE INTERIM FIXED BASE OPERATION SERVICES CONTRACT.**

**WHEREAS**, at the conclusion of the competitive process Council selected the Crosby Flying Services LLC proposal for Fixed Base Operator Services; and

**WHEREAS**, during negotiations of a longer-term contract, Crosby served as the interim Fixed Base Operator; and

**WHEREAS**, by passage of this resolution City Council approves a longer-term contract with Crosby Flying Services LLC.

**NOW, THEREFORE, BE IT RESOLVED BY CITY COUNCIL OF THE CITY OF BURNET, TEXAS, THAT:**

**Section one. Findings.** The recitals to this Resolution are incorporated herein for all purposes.

**Section two. Approval.** The Fixed Base Operator Master, Hangar Lease and Operators Agreements with Crosby Flying Services LLC attached hereto is hereby approved.

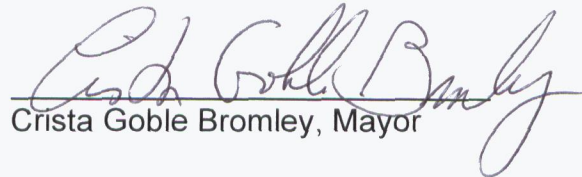
**Section three. Delegation of Authority.** The City Manager is hereby authorized and directed to execute, on behalf of the City, an agreement in substantial form as the attachment hereto and take such further actions and execute such ancillary documents as may reasonably be necessary to facilitate the purpose of this resolution. Further, the City Manager is authorized, without further action by City Council, to terminate the Interim Fixed Base Operator Contract upon the effective date of the Fixed Base Operator Master, Hangar Lease and Operators Agreements.

**Section four. Open Meetings.** It is hereby officially found and determined that the meeting at which this resolution was passed was open to the public and that public notice of the time, place and purpose of said meeting was given as required by the Open Meetings Act,


**Section five. Effective Date.** That this resolution shall take effect immediately upon its passage, and approval as prescribed by law.

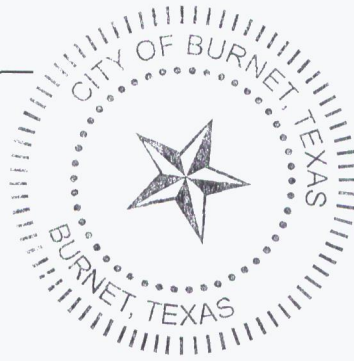
**PASSED AND APPROVED** this the 13<sup>th</sup> day of December 2022.

**CITY OF BURNET, TEXAS**

  
Crista Goble Bromley, Mayor

**ATTEST:**

  
Kelly Dix, City Secretary







*BURNET MUNICIPAL AIRPORT (BMQ)*

**KATE CRADDOCK FIELD**

**FIXED BASED OPERATOR MASTER, HANGAR LEASE, AND  
OPERATOR AGREEMENTS**

A handwritten signature in blue ink, located in the bottom right corner of the page. The signature is stylized and appears to be a name.

**THE STATE OF TEXAS**       §  
  §  
**COUNTY OF BURNET**       §

**KNOW ALL PERSONS BY THESE PRESENTS:**

**FIXED BASE OPERATOR MASTER AGREEMENT CITY OF BURNET, TEXAS**

This **FIXED BASE OPERATOR MASTER AGREEMENT** is entered by and between the **CITY OF BURNET, TEXAS** and **CROSBY FLYING SERVICES LLC**, to be effective as of the 1<sup>st</sup> day of January 2023 (the “Effective Date”).

**Recitals**

**WHEREAS**, City is the owner of land and certain improvements known as the Burnet Municipal Airport, located in the City of Burnet, Burnet County, Texas, which is operated as a public airport; and

**WHEREAS**, the Airport’s long serving FBO retired causing the City to publicly solicit Request for Proposals for a new FBO; and

**WHEREAS**, as a result of the public solicitation process, Crosby was selected to provide FBO services at the Airport; and

**WHEREAS**, the Parties deem it desirable to enter into this written agreement setting forth their respective rights, privileges, obligations, and duties, and defining the rights and privileges granted and the terms, conditions, and consideration on which they are granted.

**NOW THEREFORE** the Parties adopt, approve, and agree to be bound by the following Master Agreement, inclusive of the Component Agreements, which shall govern both Crosby’s role as Fixed Base Operator/Fuel Service provider at the Airport and Crosby’s lease of Airport Property as described herein; and, the Parties further agree that the Master Agreement shall be the master record thereof.

**Article I.  
Included Agreements**

The Fixed Base Operator Hangar Lease Agreement is made part of this Master Agreement in Article IV, herein. The Fixed Base Operator Agreement is made part of this Master Agreement as Article V, herein. Collectively the Fixed Base Operator Hangar Lease and Fixed Base Operator Agreements are referred to as the “*Component Agreements*”. Unless expressly stated otherwise the term Master Agreement shall include the Component Agreements. In the event of conflict between the Master Agreement and the Fixed Base Operator Agreement, the Master Agreement shall prevail. In the event of a conflict between the Fixed Base Operator’s Agreement and the Fixed Base Operator Hangar Lease Agreement, the Fixed Base Operator Agreement shall prevail.

Initials: City:  Crosby: cm2

**Article II.**  
**Definitions**

In this Agreement, unless the context clearly indicates otherwise, terms italicized in quotes (“*italicized in quotes*”) below shall mean as follows:

“*Agreement*” or “*Master Agreement*” shall mean the Master Agreement and the Component Agreements unless expressly stated otherwise.

“*Airport*” shall mean Burnet Municipal Airport.

“*Airport Fuel Farm*” as described in **Exhibit “B”**, shall mean the area designated as the Airport Fueling Facilities/Fuel Farm that was established for bulk aviation fuel storage and related equipment necessary to store and dispense aviation fuel, lubricants, and related petroleum products (collectively “*elements*”).

“*Airport Standards*” shall mean the Airport Standards and Operating Policy for Burnet Municipal Airport/Kate Craddock Field as as may be amended from time to time.

“*City*” shall mean the City of Burnet a Texas home rule home rule municipality.

“*City Manager*” shall mean the City Manager of the City of Burnet.

“*City Council*” shall mean the City’s governing body.

“*Component Agreements*” shall mean the Fixed Base Operator Hangar Lease, and Fixed Base Operator Agreements collectively.

“*Crosby*” shall mean Crosby Flying Services LLC a limited liability company established pursuant to Texas law.

“*FAA*” shall mean the Federal Aviation Administration, as presently constituted as a division of the United States Department of Transportation or its successor agency or agencies.

“*Fee Schedule*” shall mean the schedule of rents and fees made part of this Agreement as **Exhibit “D”**.

“*FBO*” means Fixed Base Operator.

“*FBO Hangar*” shall mean the approximately 7,000 square foot Hangar that contains approximately 1,900 square feet of air-conditioned and lighted administrative office space, that, ten parking spaces and four tie-down spaces shown on **Exhibit “A”**.

“*Fiscal Year*” means the City’s Fiscal Year beginning each October 1 and ending September 30 of the subsequent year.



“*Fixed Base Operator and Fuel Services Agreement*” shall mean that certain agreement made part of this Master Agreement as Article V.

“*Lease Agreement*” or “*Fixed Base Operator Hangar Lease Agreement*” shall mean that certain agreement made part of this Master Agreement as Article IV.

“*Leased Premises*” shall mean the FBO Hangar and the Airport Fuel Farm, as depicted in **Exhibits “A” and “B”**. For the sake of clarity, the Parties agree that the Leased Premises are limited to the FBO Hangar, as described in **Exhibit “A”**, and the Airport Fuel Farm, as described in **Exhibit “B”** and to no other lands, buildings, or other improvements.

“*Minimum Standards*” shall mean the Burnet Municipal Airport Minimum Standards for Commercial Aeronautical Activities adopted by the City and applicable to the Airport and to Crosby’s FBO, as amended from time-to-time.

“*Public Facilities*” or “*Public Areas*” shall mean those areas and facilities of the Airport, which are provided free of charge by the City for the common use of the public.

“*Trade Fixtures*” shall mean that furniture, furnishings, non-load bearing removable partitions, special lighting fixtures, draperies, decorations, appliances, and other personal property furnished, installed, or used by Crosby.

### Article III.

#### General

The general provisions set out under this Article are applicable to each of the Component Agreements and are incorporated therein by reference. Said general provisions are as follows:

- (1) *Additional Instruments/Mutual Assistance.* City and Crosby agree and covenant to cooperate, negotiate in good faith, and to execute such other and further instruments and documents as may be reasonably required to fulfill the public purposes provided for and included within this Agreement.
- (2) *Amendments.* No alteration of or amendment to this Agreement shall be effective unless given in writing and signed by the Party or Parties sought to be charged or bound by the alteration or amendment.
- (3) *Applicable Law and Venue.* This Agreement shall be governed by and construed in accordance with the laws of the State of Texas, and all obligations of the parties created hereunder are performable in Burnet County, Texas. Therefore, venue for any action arising under this Agreement shall lie in a court of competent jurisdiction located in Burnet County, Texas.
- (4) *Assignment and subletting.* Assignment of any of the Component Agreements separately from this Agreement or any of the other Component Agreements is prohibited. The assignment of this Agreement, or sublease of part of the Leased Premises, shall be controlled by this subsection as follows:

- (a) Crosby covenants and agrees that it will not transfer or assign this Agreement, or any rights created thereby or sublet the Leased Premises covered by the Lease Agreement or any part thereof without the prior written consent of the City Council, which may be granted upon the condition that Crosby shall remain liable for the full, faithful, and complete performance of this Agreement. Upon written approval of the City Council, Crosby may sublet the Leased Premises subject to Crosby and Sub-Lessee remaining liable for the full faithful and complete performance of the Lease. Crosby shall provide a copy of this Agreement, and all attachment thereto to any Sub-Lessee.
  - (b) City may terminate this Agreement, if, without the prior written consent of the City Council, Crosby commits any of the acts that follow:
    - (i) assigns, transfers its rights under this Agreement, or sublets the Leased Premises, in violation of this Section; or
    - (ii) allows any services required under this Agreement to be performed by anybody not under the supervision and control of Crosby.
  - (c) Any assignment or transfer of this Agreement or any rights or obligations of any of the Component Agreements (except as otherwise permitted herein) whether it be a voluntary assignment, without the consent of City Council, or an assignment or transfer by operation of law, shall be null and void and shall constitute a default on the part of Crosby.
- (5) *Binding Obligation.* This Agreement shall become a binding obligation on the signatories upon execution by all signatories hereto. City warrants and represents that the individual executing this Agreement on behalf of City has full authority to execute this Agreement and bind City to the same. Crosby warrants and represents that the individual executing this Agreement on its behalf has full authority to execute the agreements and bind it to the same
- (6) *City's Representative.* The City's Representative in regards to the administration and management of this agreement shall be the City Manager who shall act in accordance with City policies and procedures in carrying out his, or her, duties. Unless expressly stated in this Agreement that City Council action is required, all acts or decisions required by the City herein may be undertaken by the City Manager. The City Manager, at his, or her, sole discretion may refer a required action or decision to the City Council. The City Manager may designate an individual to perform all or part of the duties of the City Manager hereunder from time-to-time.
- (7) *Compliance With Laws, Regulations, Ordinances and Rules.* Crosby shall at all times comply with applicable Federal, State and local laws and regulations, Airport

Initials: City:  Crosby: cmr



rules and regulations, all applicable health rules and regulations and other mandates, whether existing or as promulgated from time to time by the Federal, State or any local government, or airport management, including, but not limited to, permitted and restricted activities, security matters, parking, ingress and egress, environmental and storm water regulations and any other operational matters relating to the operation of the Airport. This shall include, but not be limited to, Crosby precluding its employees, agents, customers, or invitees from entering upon any restricted area at the Airport as applicable and as noted in Federal Aviation Regulations. Without limitation to the requirement to comply with Laws, Regulations, Ordinances and Rules, Crosby shall comply with the Airport Standards, including, but not limited to, the Minimum Standards contain therein. However, the Parties acknowledge and agree should there be a conflict between this Master Agreement, or any component hereof, and the Minimum Standards, this Master Agreement, or any component hereof, shall prevail unless this Master Agreement, or any component hereof, expressly states the Minimum Standards shall prevail.

- (8) *Consents and Approvals.* With respect to the approvals required of Crosby, under this Agreement, Crosby shall from time-to-time furnish to the City appropriate certifications setting forth the officers or representatives of Crosby who are authorized to grant such approvals and to bind Crosby thereto. The City Representative may give any consent or approval required of the City, under this Agreement, unless otherwise provided. All consents and approvals required or permitted herein by either Party shall be given in writing.
- (9) *Construction.* The Parties acknowledge that the Parties and their 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 shall not be employed in the interpretation of this Agreement.
- (10) *Counterparts.* This Agreement may be executed in one or more counterparts, each of which shall be deemed an original and all of which shall constitute one and the same document.
- (11) *Default and remedies.* Acts or omissions constituting a default under this Agreement and the remedies available to the non-defaulting party, are prescribed in the respective Component Agreements.
- (12) *Enforcement.* The City Representative may enforce all legal rights and obligations under this Agreement without further authorization; and, may engage legal counsel to represent the City in such enforcement. Crosby shall provide to the City Representative all documents and records that the City Representative reasonably requests to assist in determining Crosby's compliance with this Agreement.
- (13) *Entire Agreement.* This Agreement, including all Component Agreements, constitutes the entire agreement between the Parties. There is no other collateral



oral or written agreement between the Parties that, in any manner, relates to the subject matter of this Agreement, except as provided for in any Exhibits attached hereto or duly approved amendments to this Agreement, as approved by Crosby and by the City Council of the City of Burnet, Texas.

- (14) *Exhibits and Attachments.* All Exhibits and Attachments referenced in this Agreement are incorporated within this Agreement for all purposes, as if set forth in full in the body of this Agreement. Exhibits and Attachments to this Agreement include the following:

Exhibit "A" - FBO Hangar and Tie-downs.  
Exhibit "B" - Airport Fuel Farm.  
Exhibit "C" - Intentionally deleted.  
Exhibit "D" - Fee Schedule.  
Exhibit "E" - Bill of Sale.  
Exhibit "F" - Assignment and Assumption Agreement.

- (15) *Federal Requirements.*

- (a) Crosby, its successors in interest and assigns, does hereby covenant and agree that:
- (i) No person on the grounds of race, color, national origin, or disability shall be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities.
  - (ii) In the construction of any improvements on, over or under such land and the furnishing of services thereon, no person on the grounds of race, color, national origin or disability shall be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination.
  - (iii) Crosby shall use the premises in compliance with all other requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Sub-title A, Part 21, Non-discrimination in federally assisted programs of the Department of Transportation-Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations may be amended.
- (b) Crosby acknowledges and agrees that the provisions of all FAA, Federal-Aid Airport Program Grant Agreements or TxDOT Aviation Grant Agreements with the City that are applicable to the Airport are by reference made a part hereof to the same extent as though copied herein at length.

- (16) *Force Majeure.* Neither the City nor Crosby shall be deemed in default of this Agreement if either Party is prevented from performing any of its obligations, other

than the payment of rentals, fees and charges, by reasons of strikes, boycotts, labor disputes, embargoes, shortages of energy or material, acts of God, acts of the public enemy, acts of superior governmental authority, weather conditions, floods, pandemics, riots, rebellion, acts of sabotage or any other circumstances for which it is not responsible or which are not within its control; provided, however, that the Party so affected shall use reasonable commercial efforts to avoid or remove such causes of nonperformance, and shall continue performance hereunder with reasonable dispatch whenever such causes are removed. Either Party shall provide the other Party with prompt written notice of any delay or failure to perform that occurs by reason of force majeure.

(17) *Gender.* The gender of the wording throughout this Agreement shall always be interpreted to mean either sex, or where the context requires, the plural of any word shall include the singular.

(18) *Indemnification.*

**CROSBY AGREES TO INDEMNIFY, HOLD HARMLESS AND DEFEND CITY, ITS OFFICERS, AGENTS AND EMPLOYEES, FROM AND AGAINST ALL LIABILITY FOR ANY AND ALL CLAIMS, LIENS, SUITS, DEMANDS, AND/OR ACTIONS FOR DAMAGES, INJURIES TO PERSONS (INCLUDING DEATH), PROPERTY DAMAGE (INCLUDING LOSS OF USE), FINES, AND EXPENSES, INCLUDING COURT COSTS AND ATTORNEYS' FEES AND OTHER REASONABLE COSTS OCCASIONED BY CROSBY'S FIXED BASE OPERATOR OPERATIONS, FUEL SERVICES OPERATIONS, OCCUPANCY OR USE OF THE LEASED PREMISES AND/OR ACTIVITIES CONDUCTED IN CONNECTION WITH OR INCIDENTAL TO THIS AGREEMENT AND ARISING OUT OF OR RESULTING FROM THE INTENTIONAL, KNOWING, RECKLESS OR GROSSLY NEGLIGENT ACTS OR NEGLIGENCE OF CROSBY, ITS OFFICERS, AGENTS OR EMPLOYEES, INCLUDING ALL SUCH CAUSES OF ACTION BASED ON COMMON, CONSTITUTIONAL, OR STATUTORY LAW; OR BASED UPON THE NEGLIGENT ACTS OR OMISSIONS OF CROSBY, IS OFFICERS, AGENTS AND EMPLOYEES.**

**IT IS THE EXPRESSED INTENTION OF THE PARTIES HERETO, BOTH CITY AND CROSBY, THAT THE INDEMNITY PROVIDED FOR IN THIS AGREEMENT IS INDEMNITY BY CROSBY TO INDEMNIFY AND PROTECT THE CITY FROM THE CONSEQUENCES OF THE CITY'S OWN NEGLIGENCE WHILE THE CITY IS PARTICIPATING IN THIS AGREEMENT WHERE THAT NEGLIGENCE IS A CONCURRING CAUSE OF THE INJURY, DEATH, OR DAMAGE. FURTHERMORE, THE INDEMNITY PROVIDED FOR IN THIS AGREEMENT SHALL HAVE NO APPLICATION TO ANY CLAIM, LOSS, DAMAGE OR CAUSE OF ACTION, SUIT, AND LIABILITY WHERE THE INJURY, DEATH, OR**



**DAMAGE RESULTS FROM THE SOLE NEGLIGENCE OF THE CITY, ITS OFFICERS, AGENTS, AND EMPLOYEES, UNMIXED WITH THE FAULT OF ANY PERSON OR ENTITY.**

**THIS INDEMNITY PROVISION DOES NOT WAIVE ANY GOVERNMENTAL IMMUNITY AVAILABLE TO TEXAS UNDER TEXAS LAW NOR DOES IT WAIVE ANY DEFENSES OF THE PARTIES UNDER TEXAS LAW.**

**THE PROVISION OF THIS INDEMNITY ARE SOLELY FOR THE BENEFIT OF THE PARTIES HERETO AND NOT INTENDED TO CREATE OR GRANT ANY RIGHTS, CONTRACTUAL OR OTHERWISE, TO ANY OTHER PERSON OR ENTITY. CROSBY SHALL ADVISE CITY IN WRITING WITHIN 24 HOURS OF ANY CLAIM OR DEMAND AGAINST CROSBY OR CITY KNOWN TO CROSBY RELATED TO OR ARISING OUT OF CROSBY'S FIXED BASE OPERATOR OPERATIONS, FUEL SERVICES OPERATIONS, OCCUPANCY OR USE OF THE LEASED PREMISES AND/OR ACTIVITIES CONDUCTED IN CONNECTION WITH OR INCIDENTAL TO THIS AGREEMENT AND SHALL SEE TO THE INVESTIGATION AND DEFENSE OF SUCH CLAIM OR DEMAND AT CROSBY'S COSTS. CITY SHALL HAVE THE RIGHT, AT ITS OPTION AND AT ITS OWN EXPENSE, TO PARTICIPATE IN SUCH DEFENSE WITHOUT RELIEVING CROSBY OF ANY OF ITS OBLIGATIONS UNDER THIS SECTION.**

**CROSBY RECOGNIZES THE BROAD NATURE OF THIS INDEMNIFICATION AND HOLD HARMLESS CLAUSE, AND VOLUNTARILY MAKES THIS COVENANT AND EXPRESSLY ACKNOWLEDGES THAT IT IS AN EXPRESS CONDITION OF THIS AGREEMENT.**

- (19) *Insurance.* In order to protect itself and City, as well as City's elected and appointed officers, employees and agents under the Indemnity Provisions of this Agreement, Crosby shall at all times during the terms of this Agreement keep in full force and effect insurance policies issued by one or more companies authorized to do business in the State of Texas with liability limits as provided for below:

<u>TYPE</u>	<u>AMOUNT</u>
Comprehensive General Liability	\$5,000,000 combined single limit
Airport Premises Liability Insurance: including hangar keepers, products and completed operations coverage	\$1,000,000 per occurrence
Aircraft Liability Insurance	\$1,000,000 per occurrence

Initials: City:  Crosby: unl



Fire and Extended Coverage Insurance	\$1,000,000 per occurrence
Fueling operations and product liability insurance	\$1,000,000 per occurrence
Third party product liability insurance through fuel supplier	\$50,000,000
Current insurance upon any stored items	Value of the items

The preceding amounts notwithstanding, the City reserves the right to increase the minimum amount required insurance to be effective ninety (90) days after notice is sent to the address provided pursuant to the Notice Section of this Article.

- (a) The procurement of said insurance shall not be construed to be a limitation upon Crosby's liability or as a full performance on its part of the indemnification provisions herein. Crosby's obligations are, notwithstanding said policy of insurance, for the full and total amount of any damage, injury or loss caused by or attributable to its activities related to Crosby's role under this Agreement, or at or upon the Leased Premises.
- (b) Before commencement of activities under this Agreement, Crosby shall furnish to the City, certificates of insurance, plainly and clearly evidencing the required insurance, and thereafter, new certificates prior to the expiration date of any prior certificate. Crosby understands that it is solely responsible to provide this necessary information. If City notifies Crosby, in writing, that a violation of this article has occurred, Crosby will have thirty (30) days to comply. If after thirty (30) days such violation has not been cured, this shall be considered a cause for cancellation of this Agreement, as provided for herein.
- (b) Insurance required by this Agreement shall be written on a "per occurrence basis" and not a "claims made" form by non-assessable insurance company licensed to do business in the State of Texas and currently rated "B+" or better by the A.M. Best Companies. All policies shall be subject to examination and approval by the City Representative for their adequacy as to form, content, form of protection, and providing company.
- (c) Insurance required by this Agreement for the City, as additional insured, shall be primary insurance and not contributing with any other insurance available to the City, including any third-party liability policy. The inclusion of the City as an additional insured is not intended to, nor shall it cause City to be a partner or joint venturer with Crosby.
- (d) Crosby further agrees that with respect to the above-required insurance, the

City shall:

- (i) Be named as additional insured/or an insured, as its interest may appear;
- (ii) Be provided with a waiver of subrogation; and
- (iii) Be provided within thirty (30) days advance notice, in writing, of cancellation or material change.

(e) Said policies of insurance shall be performable in Burnet County, Texas, and shall be construed in accordance with the laws of the State of Texas.

(f) Protection against loss by fire or other casualty to the equipment or property of Crosby shall not be an obligation of the City.

(20) *Immunities/Personal Liability.*

(a) By entering into this Agreement, the Parties do not waive, and shall not be deemed to have waived, any rights, immunities, or defenses either may have, including the defense of parties, and nothing contained herein shall ever be construed as a waiver of sovereign/government or official immunity by the City with such rights being expressly reserved to the fullest extent authorized by law and to the same extent which existed prior to the execution hereof.

(b) No employee of City, nor any councilmember or agent of City, shall be personally responsible for any liability arising under or growing out of this Agreement.

(21) *Legal Fees.* In the event there should be a default under any of the provisions of this Agreement and the City should determine that the services of an attorney are required or the City incurs other expenses for the collection of rent or the enforcement of performance or observance of any obligation or agreement on the part of Crosby, Crosby agrees that it will on demand therefor pay to the City the reasonable, just and necessary fees of such legal and other reasonable incurred expenses.

(22) *No Joint Venture.* Nothing contained in this Agreement is intended by the Parties to create a partnership or joint venture between the Parties and any implication to the contrary is hereby expressly disavowed. It is understood and agreed that this Agreement does not create a joint enterprise, nor does it appoint either Party as an agent of the other for any purpose whatsoever. Except as otherwise specifically provided herein, neither Party shall in any way assume any of the liability of the other for acts of the other or obligations of the other.

(23) *Non-Appropriation.* Notwithstanding anything contained in this Agreement to the contrary, each and every financial obligation of the City pursuant to this Agreement



is subject to appropriations. In the event no funds or insufficient funds are appropriated or budgeted by City for the operation of an airport by the City during the Term of this Agreement, City will immediately notify Crosby of such occurrence and this Agreement shall terminate on the last day of the fiscal period for which appropriations were received without penalty or expense to City of any kind whatsoever. In the event of such termination, Crosby agrees to peaceably surrender possession of the Leased Premises to City or its assignee on the date of such termination.

- (24) *Notices.* Any notice, statement and/or communication required and/or permitted to be delivered hereunder shall be in writing and shall be mailed by first-class mail, postage prepaid, or delivered by hand, by messenger, by facsimile, or by reputable overnight carrier, and shall be deemed delivered when received at the addresses of the Parties set forth below, or at such other address furnished in writing to the other Parties thereto:

City:  
City of Burnet  
Att: City Manager  
P.O. Box 1369  
Burnet, Texas 78611

Crosby:  
Crosby Flying Services  
Att: Coley Means  
P.O. Box 351  
Fort Worth, Texas 76101

- (25) *Ordinance Applicability.* The signatories hereto shall be subject to all ordinances of City, whether now existing or in the future arising provided however no ordinance shall reduce or diminish the contractual obligations contained herein.
- (26) *Right of Flight.* City reserves unto itself, for the use and benefit of the public, a right of flight for the passage of aircraft in the airspace above the surface of the Airport premises, together with the right to cause in said airspace such noise as may be inherent in the operation of aircraft, now known or hereafter used, for navigation of or flight in the said airspace, and for use of said airspace for landing at, taking off from, or operating on the airport.
- (27) *Right of Entry.* City, through its City Representative, shall have the right at any time to request from Crosby the right to be provided entry to the Leased Premises for the purposes and to the extent necessary to protect City's rights and interest and to confirm Crosby's compliance with the terms of this Agreement.
- (28) *Severability.* In the event any provision of this Agreement is illegal, invalid, or unenforceable under the present or future laws, then, and in that event, it is the intention of the Parties hereto that the remainder of this Agreement shall not be affected thereby, and it is also the intention of the Parties to this Agreement that in lieu of each clause or provision that is found to be illegal, invalid, or unenforceable a provision be added to this Agreement which is legal, valid and enforceability and is a similar in terms as possible to the provision found to be illegal, invalid or unenforceable.



- (29) *Superior Right of Federal and Municipal Government.* Rights, and privileges provided to Crosby under this Agreement shall be subject to the following:
- (a) **Times of war.** During time of war or national emergency, the City shall have the right to lease the landing area or any part thereof the Leased Premises to the United States Government for military use and if any such lease is executed, the provisions of this Agreement insofar as they are inconsistent with the provisions of the lease to the Government, shall be suspended but such suspension shall not extend the Term of this Agreement, without written approval by the City.
  - (b) **National Emergency.** This Agreement is subject to the right of the United States of America to have exclusive or non-exclusive use, control and possession without charge, of the Airport or any portion thereof, during periods of national emergency; and further, subject to the right of the FAA, and United States Government under such rights, including the right to take a portion of the Airport for air traffic control activities, weather reporting activities or communication activities related to air traffic control.
  - (c) **Agreements with Federal or State governments.** This Agreement shall be subject to and subordinate to the provision of any existing or future Agreements between City and the United States of America, the State of Texas, or any of their agencies, relative to the operation or maintenance of the Airport, the execution of which has been or may be required as a condition precedent to the expenditure of Federal or State funds for the development of the Airport, and to any terms and conditions imposed upon City by any other governmental entity.
  - (d) **Temporary closure.** The City shall have superior right to temporarily use and close the Airport for purposes deemed in the public interest by the City. When possible, the City shall provide notice of dates and times the Airport will be closed to use. The City reserves the right to close the Airport for emergencies, as determined by the City without notice. And, finally, the City reserves the right to permanently close the Airport.
- (30) *Survival.* Crosby's indemnification obligation hereunder, shall survive the termination of this Agreement and shall remain in full force and effect with respect to any and all claims, liabilities, expenses, losses, costs, fines and damages (including reasonable attorneys' fees) and causes of action of every kind and character set forth in the Section of this Article entitled "Indemnification" for a period of four years from the date this Agreement terminates or such longer period as the City may be entitled under the Texas "Discovery Rule".
- (31) *Term.*

- (e) **Term.** This Agreement shall be effective on the “Effective Date,” and shall continue, unless sooner terminated or reduced in accordance with this Agreement, for thirty-six (36) months from the Effective Date.
- (f) **Renewal.** This Agreement may be renewed by the mutual consent of the Parties. To renew this Agreement Crosby shall provide the City Representative with written notice of intent no later than the twelfth month before the expiration of the current Term. If City is amenable the Parties shall negotiate the length of the renewal period, fixed based operator/fuel service operations terms, rental rate and related terms and conditions and memorialize same in writing as an amendment to this Agreement and the Component Agreements.
- (g) **Termination.** In addition to any other rights to terminate held by City and set forth in this Agreement, the termination of this Agreement shall cause termination of Crosby’s Fixed Base Operators and Fuel Services, and occupancy of the Leased Premises.

(32) *Transfer of Personal Property and Assignment of Aviation Refueling Agreement.*

- (a) **Transfer.** Personal property that is transferred from City to Crosby in association with Crosby’s occupancy of the Lease Premises and provision of FBO services is stated in the Bill of Sale made part of this Agreement as **Exhibit “E”**.
- (b) **Assignment.** Assignment of all rights and obligations derived from that certain the Avfuel Corporation Aviation Refueler Lease Agreement Assignment from City to Crosby is stated in the Assignment and Assumption Agreement made part of this Agreement as **Exhibit “F”**.

*(The remainder of this page intentionally blank and component agreements follow.)*



**Article IV.**

**Fixed Base Operator Hangar Lease Agreement**

**Division One. Representations.**

**Section 1.01: Representations by City.** City makes the following representations as the basis for its undertakings in this Lease Agreement:

- (a) City, as the owner of the Airport, has the power and authority to lease the Leased Premises to Crosby pursuant to the terms and conditions contained herein and to enter into the transactions contemplated herein and to carry out its obligations hereunder, and by proper action of the City Council, City has been authorized to execute and deliver this Lease Agreement;
- (b) City has good title for the real property of the Leased Premises;
- (c) City, and to the extent applicable hereunder, the City Representative, shall each, as to any discretionary authority granted hereunder, act in conformity with good business practices and, if resulting therefrom, a reasonable interpretation of those laws, rules and regulations applicable to the Airport and the Fixed Base Operator's operations of Crosby; and
- (d) All representations relating to City contained in the recitals to this Agreement are true and correct.

**Section 2.02: Representations by Crosby.** Crosby makes the following representations as the basis for its undertakings in this Agreement:

- (a) Crosby has the power to enter into this Agreement without violating the terms of any other agreement to which it may be a party; and Crosby warrants and represents that the individual executing this Agreement on its behalf has full authority to execute this Agreement and bind it to the same.
- (b) Crosby will cause the Leased Premises to be occupied and possessed for the purposes set forth herein and will operate or cause to be operated the Leased Premises in accordance with the terms and provisions of this Agreement.
- (c) Crosby has inspected the Leased Premises and has determined said Leased Premises to be suitable for Crosby's intended purposes.
- (d) All representations relating to Crosby contained in the recitals to this Agreement are true and correct.



**Division two. Lease and Term.**

**Section 2.01: Demise of Leased Premises.** Subject to the terms and conditions of this Agreement, the City hereby leases, lets and demises exclusively unto Crosby and Crosby hereby leases and rents from the City the Leased Premises as defined herein.

**Section 2.02: Term.**

- (a) *Term and Renewal.* Shall be subject to the provisions of Article II of the Master Agreement entitled "*Term*".
- (b) *Termination.* In addition to any other rights to terminate held by City, as provided in Article II of the Master Agreement, this Agreement will terminate automatically upon the termination of the Master Agreement or any of the Component Agreement. Any rent that has been prepaid will be refunded to Crosby provided Crosby is in good standing and the Leased Premises passes final inspection upon vacation of the premises.

**Section 2.03: Condition of Premises.** Crosby has full and exclusive responsibility for ascertaining the suitability of the Leased Premises for Crosby's intended use. By taking possession of the Leased Premises, Crosby acknowledges and agrees that: (a) it has had an opportunity to inspect the Leased Premises; (b) it accepts the premises "AS IS" and "WITH ALL FAULTS;" and (c) except as provided in this Agreement, City does not make and Crosby does not rely upon any representation or warranty of any kind, expressed or implied, with respect to the condition of the Leased Premises (including habitability or fitness for particular purpose of the Leased Premises). TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, CITY HEREBY DISCLAIMS, AND CROSBY WAIVES THE BENEFIT OF, ANY AND ALL IMPLIED WARRANTIES, INCLUDING IMPLIED WARRANTIES OF HABITABILITY AND FITNESS OR SUITABILITY FOR A PARTICULAR PURPOSE. FURTHER, CITY ASSUMES NO RESPONSIBILITY OR LIABILITY FOR HARM, INJURY, OR ANY DAMAGING EVENTS WHICH ARE DIRECTLY OR INDIRECTLY ATTRIBUTABLE TO PREMISE DEFECTS, WHICH MAY NOW EXIST, OR WHICH MAY HEREAFTER ARISE UPON THE LEASED PREMISES, RESPONSIBILITY FOR ANY AND ALL SUCH DEFECTS BEING EXPRESSLY ASSUMED BY CROSBY. FURTHER CROSBY UNDERSTANDS AND AGREES THAT THIS INDEMNITY PROVISION SHALL APPLY TO ANY AND ALL CLAIMS, SUITS, DEMANDS, AND/OR ACTIONS BASED UPON OR ARISING FROM ANY SUCH PREMISE DEFECTS OR CONDITIONS, INCLUDING BUT NOT LIMITED TO, ANY SUCH CLAIM ASSERTED BY OR ON BEHALF OF CROSBY OR ANY OF ITS MEMBERS, AGENTS, AND EMPLOYEES.

**Division three. Rental, fees, and charges.**

**Section 3.01: Rentals.**

- (a) *Rental.* Upon the execution of this Agreement, Crosby agrees and binds itself to

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pay rent for the Leased Premises the rent shown on the Fee Schedule, and as additional consideration for the right of use and possession of the Fuel Farm is the payment of flow fee charges as shown on the Fee Schedule as well as Crosby's assumption of all risks related to its operations of the Airport Fuel Farm.

- (b) *Escalation of Rent.* Rent shall be escalated annually as provided in the Fee Schedule.
- (c) *Commencement of Rental.* The obligation for Crosby to pay the aforementioned rental amount to City shall commence on the Effective Date of this Agreement.
- (d) *Time of Payment.* As stated in the Fee Schedule.
- (e) *Place of Payment.* All payments required of Crosby by this Agreement shall be mailed to the address as specified in the section of Article III entitled "Notice". Remittance is to be made in the form of a check made payable to the City of Burnet.
- (f) *Unpaid Rent, Fees and Charges.* As stated in the Fee Schedule.

**Section 3.02: Use Charges.** The standards and regulations enacted by the governmental agency responsible for the operation of the Airport, now or in the future, may provide for use charges to be paid by those using, occupying, or conducting operations at the Airport. Such charges may be based upon square footage, receipts, or other reasonable basis, to be established by such standards and regulations, and consistently applied. Crosby agrees to pay such charges as same are due and owing under any such standards or regulations now or hereafter in effect. Any such use charges shall be lawful, reasonable, and nondiscriminatory.

**Section 3.03: Other Charges:**

- (a) *General Fees.* Crosby understands and acknowledges that other fees, including, but not limited to, fuel flowage fees and parking fees, which pertain to commercial activities rather than the lease of property, if and when applicable, may be assessed in accordance with airport rates and charges schedules that are not part of this Agreement.
- (b) *Fines, Penalties.* Crosby shall be responsible for any fines or penalties, which may be assessed by the FAA or any other government authority against the City, to the extent any such fine or penalty is directly attributable to Crosby, its invitees, licensees or sublessees' activities on the premises.
- (c) *Environmental Penalties.* Crosby shall reimburse the City for any fines or penalties assessed against the City by the Texas Commission on Environmental Quality or the U.S. Environmental Protection Agency to the extent any such fine or penalty is directly attributable to Crosby's non-compliance with any rule, regulation, statute



or order of those agencies; provided, however, Crosby shall not be responsible for any such fines or penalties due to any condition: (i) which existed prior to its original occupancy of the Leased Premises under previous leases, to the extent such existing condition is not aggravated by Crosby, or (ii) caused by parties other than Crosby or sublessees.

**Division four. Use of Leased Premises.**

**Section 4.01: Permitted and Prohibited Uses.** During the Term of this Agreement and subject to Crosby's performance of its obligations hereunder, Crosby shall have the right to use the Leased Premises only for conducting the following activities upon the Leased Premises:

- (a) *Permitted Uses.* Permitted uses on the Leased Premises are limited to those uses authorized in the Fixed Base Operators Agreement as stated in Article V.
- (b) *Prohibited Uses.* During the Term of this Agreement, Crosby shall not conduct any business on the Leased Premises that is not expressly provided for herein. No portion of the Leased Premises shall be used in any manner that is in violation of the Minimum Standards or any other applicable governmental laws, regulations, orders, licenses, permits, or other requirements. Specifically, Crosby shall not conduct the following on the Leased Premises:
  - (i) Commercial activities and other revenue producing activities not directly related to the permitted uses provided for herein.
  - (ii) Use of any portion of the Leased Premises for residential purposes.
  - (iii) Maintenance of non-aviation related vehicles or equipment.
  - (iv) Parking or storage of personal property such as boats, motor homes, recreational vehicles, and other non-aeronautical items.
  - (v) Any other use not allowed, either expressly or by implication, by Section 5.01 (a).

**Section 4.02: Right of Quiet Enjoyment.** Subject to the other terms and conditions hereof, Crosby shall be entitled to and shall have possession and quiet enjoyment of the Leased Premises.

**Section 4.03: Right of Ingress and Egress.** Subject to the rules and regulations of City and the federal government governing operation and use of the Airport and its facilities and the activities thereon (including, but not limited to, the provisions regarding security at the Airport), Crosby shall have the right to use such facilities of the Airport as are provided for common use by the public.

Subject to any restrictions otherwise stated in the Master Agreement, the privileges of ingress and egress with respect to the Airport are hereby granted for Crosby, its agents, employees, invitees, and suppliers of services and furnishers of materials, contractors, and sub-contractors to the public areas of the Airport and to those areas and facilities designated herein for exclusive use by Crosby.

The ingress and egress provided for above shall not be used, enjoyed, or extended to any person



or vehicle engaging in any activity or performing any act or furnishing any service for or on behalf of Crosby that Crosby is not authorized to engage in or perform under the provisions of this Agreement unless expressly authorized in writing by the City Representative.

**Section 4.04: Right to Make Improvements.** Crosby may make improvements to the existing buildings subject to the limitations of this Section 4.04. The scope of this authorization is limited improvements, alterations and/or modifications to buildings in existence on the premises as of the date of Execution of this Agreement; and, Crosby shall have no right to expand the footprint of an existing building or construct a new building or structure on the premises. The scope of this authorization is additionally limited to only those improvements, alterations and/or modifications approved by City, at its sole discretion; and Crosby shall not initiate such work until the City Representative provides written approval of the plans and specifications for such proposed construction. Provided the required approval is given, the proposed work may commence in a manner that is in compliance with the provisions of the City's Building Code and Fire Code, applicable TXDOT and FAA requirements, and this Agreement. Crosby shall undertake all work at its own cost, including City and other regulatory agencies permitting costs. At all times during the construction or installation thereof, the City Representative may inspect same in order to ensure that all construction work, workmanship, materials and installations involved therein or incidental thereto are performed with strict compliance with the approved plans and specifications. Such additions, modifications and improvements so made by Crosby on the Leased Premises shall be and become a part of the Leased Premises.

**Section 4.05: Improvements.**

- (a) All improvements hereafter constructed or placed on the Leased Premises and all alterations, modifications thereof and improvements therein, shall not be deemed Trade Fixtures, but shall become part of the Leased Premises with title vesting to City at the expiration or earlier termination of this Agreement subject, however, to Crosby's obligation to operate, repair, maintain and replace and right of possession, use and occupancy during the Term of this Agreement in accordance with the terms and conditions hereof.
- (b) Construction contract or contracts shall require that the Contractor furnish a performance bond (contracts exceeding \$100,000.00) and a payment bond (contracts exceeding \$25,000.00). The bonds must be executed by a corporate surety company authorized to do business in the state of Texas and City must approve such bonds before any work is commenced. The contract(s) shall contain a provision where Contractor agrees to indemnify, hold harmless and defend City, its officers, agents and employees, from and against liability for any claims, liens, suits, demands, and/or actions for damages, injuries to persons (including death), property damage and expenses arising out of the Contractor's work and activities conducted in connection with said contract. Crosby shall provide original signed copies of payment and performance bonds and construction contract(s) prior to actual construction.
- (c) Crosby shall require the construction contractor(s) to carry insurance in the same

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amounts required of contractors doing business with City; and, City shall be an additional insured on each of the policies. Moreover, the City Representative shall receive at least thirty (30) days' notice of cancellation of any of the contractor's insurance policies.

**Section 4.06: Rights to Remove Certain Property.** Crosby shall be entitled during the Term of this Lease to remove from the Leased Premises any furnishings, equipment, Trade Fixtures and other personal property installed or placed on the Leased Premises by Crosby which are being replaced or which are not required in the operation of its business or in order to comply with any provision of this Agreement and which can be removed without structural damage to the Leased Premises and which, by law, have not become a part of the realty subject, however, to any valid lien the City may have for unpaid rentals or amounts payable by Crosby to the City and provided that Crosby shall have repaired all damage resulting from such removal to the reasonable satisfaction of City.

**Section 4.07: Compliance Standards.** All Parties hereto agree to comply with any and all applicable laws, rules, and regulations, including the Airport Standards and Minimum Standards adopted by the City, and those of the FAA, Texas Commission on Environmental Quality, United States Environmental Protection Administration, and TxDOT. During the Term of this Agreement, Crosby shall not permit the Leased Premises to be used for any unlawful or improper purpose.

**Division five. Obligations of Crosby.**

**Section 5.01: Maintenance of Leased Premises at Crosby's Expense.**

- (a) Crosby agrees that it will, at its sole expense, to maintain in a first-class condition and in a good state of repair, normal wear and tear excepted, at all times, the Leased Premises and make all necessary repairs to or replacements of the Improvements and otherwise maintain the entire Leased Premises in good condition and repair. The City shall be the sole judge of the quality and sufficiency of Crosby's maintenance and repairs. For purposes of this Agreement Crosby's responsibility to maintain the entire Leased Premises shall include, but shall not be limited to, the duty to each and every of the following:
  - (i) Keep at all times in a clean and orderly condition and appearance the Leased Premises, and all of Crosby's fixtures, equipment and personal property which are located on any part of the Leased Premises which is open to or visible by the general public.
  - (ii) Maintain and keep in good repair (and make any necessary replacements of) all plumbing, electrical, heating, ventilating, air conditioning, and other equipment located upon or serving all or any part of the Leased Premises.
  - (iii) Maintain and keep in good repair (and make any necessary replacements of) the interior and exterior of the Leased Premises, including all walls,



ceilings, roofs, building doors, siding, gutters and downspouts, exterior portions (including any parking and ramp surfaces) and all other structural elements of the Leased Premises,

- (iv) Provide and maintain heat in the Leased Premises reasonably sufficient to protect the Leased Premises against freezing.
- (v) Pay for all heat, lights, electricity, and other utilities required or used in or about the Leased Premises.
- (vi) Provide and maintain all obstruction lights and similar devices, fire protection and safety equipment and all other equipment required by laws rule, order, ordinance, resolution, or regulation of any competent authority, including the City and City Representative.
- (iii) Observe all regulations and requirements of insurance on the Leased Premises concerning the use and condition thereof for the purpose of reducing fire hazards and insurance rates on the Airport.
- (iv) Repair any damage caused by Crosby to paving or other surfaces of the Leased Premises caused by any oil, gasoline, grease, lubricants or other flammable liquids and substances having a corrosive or detrimental effect thereon.
- (v) Be responsible for the maintenance and repair of all utility service lines placed on the Leased Premises and used by Crosby exclusively, including but not limited to, water lines, gas lines, electrical power and telephone conduits and lines, sanitary sewers and storm sewers.
- (vi) Cause all vehicles and equipment operated by Crosby on the Airport to be kept and maintained in a safe condition and in good repair in accordance with the uniform standards applicable to all Airport tenants, as established from time to time by the City Representative.
- (vii) Maintaining and keeping the Airport Fuel Farm, and all its elements in good repair as further addressed herein.
- (viii) Return the Leased Premises at the expiration or termination of this lease in good and broom clean condition and repair, reasonable wear and tear excepted.
- (ix) **Crosby further agrees that it shall at all times take reasonable precautions on behalf of, and be solely responsible for, the safety of its officers, agents, employees, customers, visitors, and other persons, as well as their property, while in or on the Leased Premises. It is expressly understood and agreed that the City shall not be liable or**

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**responsible for the negligence of Crosby, its agents, servants, employees, customers, and visitors.**

- (b) If either: (i) Crosby does not make the repairs it is obligated to make to the Leased Premises as required under this Section within twenty (20) days after receipt of written notice from City, or (ii) City, in its discretion, determines that emergency repairs to the Leased Premises are necessary, then in either such event, City may itself make such repairs without liability to Crosby for any loss or damage that may occur to Crosby's merchandise, fixtures or equipment or to Crosby's business by reason thereof; and upon completion of such repairs Crosby shall pay as additional rent hereunder, the costs incurred by City in making such repairs within fifteen (15) days after demand for payment.
- (c) Without diminishing Crosby's maintenance and repair obligations under this section, the Parties agree that should grant funding (such as TxDOT Ramp Grants), or other funds, become available to City for the maintenance of the Leased Premises, City, may, but shall not be obligated to, use such funding to perform maintenance on the Leased Premises.

**Section 5.02: Airport Fuel Farm.** Crosby's obligation of maintenance and repair extends to the maintenance and repair of the Airport Fuel Farm and each element thereof. Crosby's duties prescribed in Section 5.01(a) and City's rights prescribed in Section 5.01(b) and (c) apply equally to this Section. **The purpose in addressing the Airport Fuel Farm's maintenance and repair requirements separately in this Section is to acknowledge the Parties agreement and understanding that during the Term of Agreement, Crosby shall assume all risks associated with the operation of the Airport Fuel Farm, including, and not limited to any risk of exposure to liability to third parties for property damage and/or injury, including death resulting from the distribution of fuel from the Airport Fuel Farm. In that regard, Crosby acknowledges that all fuel left by City in the reservoirs of the Airport Fuel Farm on the Effective Date of this Agreement, shall be the sole responsibility of Crosby.**

**Section 5.03: Crosby's Activities.** Crosby shall conduct its FBO activities on the Leased Premises in an orderly and proper manner so as not to unreasonably annoy, disturb, endanger or be offensive to others at the Airport. Additionally, Crosby covenants and agrees it shall:

- (a) Install, operate, maintain, repair, and store all equipment necessary for the conduct of the FBO's business subject to the approval of the City.
- (b) Provide daily maintenance and oversight of the Airport Fuel Farm, including, but not limited to: (i) daily and periodic inspections and maintenance of the facility in accordance with the original equipment manufacturer's recommendations; (ii) record keeping and operations of the facilities in accordance with the Texas Commission on Environmental Quality's rules and regulations, Federal Aviation Administration's rules and regulations, as well as local ordinances.
- (c) Use, with others so authorized, any common areas or equipment on the airport

including, but no limited to, the runways, taxiways, public aircraft and auto parking aprons, roadways, and navigational aids.

- (d) Upon termination of this Agreement, return any leased property to the City in the same condition as it was at the start of this Agreement, normal wear excluded. Any improvements or additions made to real property during the Term of the lease will become property of the City at the termination of this Agreement.
- (e) Not prevent any person, company, or employee of a company from servicing, maintaining, or fueling their own aircraft that might be parked or hangared at the airport.
- (f) Make its business open to all forms and classes of aeronautical use.
- (g) Submit to and abide by periodic safety inspections by the City, the FAA and/or the Texas Department of Transportation.
- (h) Maintain the Leased Premises and the interior and exterior of any leased or constructed buildings to an acceptable standard.
- (i) Monitor and communicate all known maintenance needs to the City on the runway, taxiway, ramp and any associated lighting/navigation aids owned by the City; parking lots and perimeter roads; on-site stormwater facilities
- (j) Remove and properly dispose of any trash from the leased property.
- (k) Notify and gain approval of the City of any intended reduction of services which are included in the FBO's lease agreement.
- (l) Furnish all applicable services in a fair, equal, and nondiscriminatory manner to all airport users.
- (m) Abide by any and all rules, grant assurances, requirements, or mandates placed upon the City by the FAA or State of Texas.
- (n) Take all reasonable measures to ensure Crosby's activities or Crosby's installation, maintenance and operation of machinery, antennas or any other equipment does not produce interference with: (i) the operation of the Airport by the City, the Federal Aviation Administration, or other users; or (ii) the air navigational, communication or flight equipment on the Airport, or on aircraft using the Airport; (iii) or with ground transportation communication.
- (o) Exercise reasonable control over the conduct, demeanor and appearance of its officers, members, agents, employees, invitees and of those doing business on the Airport, as applicable.



- (p) Not do, nor permit to be done, anything which may interfere with the effectiveness or accessibility of the drainage system, sewage system, fire protection system, sprinkler system, alarm system and fire hydrants and hoses, if any, installed or located on the Leased Premises.
- (q) Prevent the presence, use, generation, release, discharge, storage, disposal, or transportation of any hazardous materials on, under, in, above, to or from the Leased Premises other than in strict compliance with all applicable federal, state and local laws, regulations, ordinances and orders. For purposes of this paragraph, "Hazardous Materials" shall refer to any substances, materials and wastes that are or become regulated as hazardous or toxic substances under any applicable federal, state, and local laws, regulations, ordinances, and orders.

**Further, Crosby shall defend, indemnify, and hold harmless the City and its officers, agents, and employees from and against any loss, cost, expense, claim, or liability arising out of any investigation, monitoring, clean-up, containment, removal, storage or restoration work required by or incurred by the City or any other entity or person in a reasonable belief that such work is required by any applicable federal, state or local law.**

Notwithstanding the above, Crosby shall bear no responsibility for any hazardous materials that exist on or under the Leased Premises prior to Crosby's original tenancy on the premises which precede this Lease.

**Section 5.04. Taxes, Charges, Utilities, Liens.**

- (a) Crosby shall pay all taxes that may be levied, assessed, or charged upon Crosby's leasehold estate or Crosby's leasehold improvements and personal property present in the Leased Premises by the State of Texas or any of its political subdivisions or municipal corporations and shall obtain and pay for all licenses and permits required by law.
- (b) Crosby shall pay for all water, heat, electricity, air conditioning, sewer charges and other utilities furnished to the Leased Premises, if applicable.
- (c) Crosby shall neither cause or permit any laborers, mechanics, builders, carpenters, materialmen, contractors or other liens or encumbrances (including judgment and tax liens) against the Leased Premises provided, however, that Crosby may, at its own expense, in good faith contest the validity of any alleged or asserted lien and may permit any contested lien to remain unsatisfied and undischarged during the period of such contest and only appeal therefrom unless by such action any part of the Leased Premises may be subject to loss or forfeiture, in any of which events such lien shall be promptly satisfied and released in full.

**Section 5.05: Restoration of Airport Property.** In the event it shall be necessary for Crosby to disturb any paved area or any other property on the Leased Premises or at any other place on the

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Airport by excavation or otherwise for the purpose of construction, making repairs, replacements or alterations to the Leased Premises, Crosby shall obtain from City all required permits and shall restore all such properties and paved areas excavated or otherwise disturbed to a condition at least as good as that in which they were prior to such work.

**Section 5.06: Surrender and Holding Over.**

- (a) Upon the expiration or termination of this Agreement pursuant to any terms hereof, Crosby shall surrender the Leased Premises to the City in a good state of repair and preservation, excepting ordinary wear and tear. All equipment, Trade Fixtures and other personal property installed or placed by Crosby on the Leased Premises which have not been removed by Crosby prior to the expiration or termination of this Agreement shall be deemed to be abandoned by Crosby and title thereto shall vest in the City provided, however, Crosby shall not abandon any of its property on the Leased Premises without the written consent of the City Representative. All Leased Premises damaged by or as a result of the removal of Crosby's property shall be restored at Crosby's expense to the same or better condition than existed prior to such damage.
- (b) Any holding over of the Leased Premises or any part thereof by Crosby after the expiration or termination of this Agreement shall be on a month-to-month basis. Crosby's monthly rental obligation during such period of holding over shall be calculated to equal two (2) times the monthly rental in the last month of the Term.

**Section 5.07: Acknowledgments.** Notwithstanding any other provisions or terms of this Agreement to the contrary, including Crosby's right to quiet enjoyment, Crosby and City acknowledge the following:

- (a) The Airport is subject to federal storm water regulations, 40 C.F.R. Part 122, for "vehicle maintenance shops" (including vehicle rehabilitation, mechanical repairs, painting, fueling and lubrication), equipment cleaning operations and/or deicing operations that occur at the Airport, as defined in these regulations, and state law concerning the prohibition against water pollution, as provided for in Tex. Water Code Ann. 26.121, as amended. Crosby further acknowledges that it is familiar with these storm water regulations, that it conducts or operates "vehicle maintenance" (including vehicle rehabilitation, mechanical repairs, painting, fueling and lubrication), equipment cleaning operations and/or deicing activities as defined in the federal storm water regulations; and that it is aware that there are significant penalties for submitting false information, including fines and imprisonment for knowing violations; and
- (b) Close cooperation is necessary to ensure compliance with any storm water discharge permit terms and conditions, as well as to ensure safety and to minimize costs. Crosby acknowledges that, as discussed more fully below, it may be required to undertake to minimize the exposure of storm water (and snow melt) to Significant Materials generated, stored, handled or otherwise used by Crosby, as



defined in the federal storm water regulations, by implementing and maintaining "Best Management Practices;" and

- (c) The Airport's storm water discharge permit, and any subsequent renewals, is incorporated by reference into this Agreement for all purposes as if transcribed word for word herein.

**Section 5.08: Permit Compliance.**

- (a) City will provide Crosby with written notice of the requirements contained in the Airport's storm water discharge permit which Crosby will be obligated to perform from time-to-time, including, but not limited to: certification of non-storm water discharges; collection of storm water samples; preparation of storm water pollution prevention or similar plans; implementation of "good housekeeping" measures of Best Management Practices; and maintenance of necessary records. Such written notice shall include applicable deadlines. Crosby, within seven (7) days of receipt of such written notice, shall notify City in writing if it disputes any of the storm water discharge permit requirements it is being directed to undertake. If Crosby does not provide such timely notice, it is deemed to assent to undertake steps necessary to comply with such requirements.
- (b) Crosby agrees to undertake, at its sole expense, unless otherwise agreed to in writing between City and Crosby, those storm water discharge permit requirements for which it has received written notice from the City. Crosby warrants that it shall meet any and all deadlines that may be imposed on or agreed to by City and Crosby.
- (c) City agrees to provide Crosby, at its request, with any non-privileged information collected and submitted to any governmental authorities pursuant to applicable storm water regulations.
- (d) Crosby agrees that the terms and conditions of the Airport's storm water discharge permit may change from time-to-time and hereby appoints the City as its agent to negotiate with the appropriate Governmental Authorities any such permit modifications.
- (e) City will give Crosby written notice of any breach by Crosby of the Airport's storm water discharge permit or the provisions of this Section. Such a breach is material, and, if of a continuing nature, City may terminate the Lease pursuant to the terms of this Agreement, if the breach is not promptly cured by Crosby. Crosby agrees to cure any such breach requiring time to comply within ten (10) days' of receipt of written notice by the City of such breach. For circumstances requiring immediate action for safety purposes, Crosby agrees to immediately comply upon verbal or written notice.
- (f) Crosby agrees to participate in any Airport-organized task force or other work group established to coordinate storm water activities at the Airport.

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**Division six. Rights and Obligations of City.**

**Section 6.01: City's Rights of Entry to Leased Premises.** The City shall have the right to enter upon the Leased Premises as stated in the provisions of Article II of the Master Agreement entitled "Right of Entry". Without limitation to the foregoing, the City, by its officers, employees, agents, representatives, contractors and furnisher of utilities and other services, shall have the right, at its own cost and expense, whether for its own benefit or for the benefit of others than Crosby at the Airport, to maintain existing and future utility, mechanical, electrical or other systems and to enter upon the Leased Premises at all reasonable times to make such repairs, replacements or alterations thereto as may, in the opinion of the City, be deemed necessary or advisable and from time-to-time, to construct or install over, in or under the Leased Premises, such systems or parts thereof and in connection with such maintenance, use the Leased Premises for access to other parts of the Airport otherwise not conveniently accessible provided, however, that in the exercise of such right of access, repair, alteration or new construction, the City shall not unreasonably interfere with the actual use and occupancy of the Leased Premises by Crosby and shall return the Leased Premises to their prior condition without expense to Crosby.

It is specifically understood and agreed that the reservation of the aforesaid right by the City shall not impose, or be construed to impose, upon the City any obligation to repair, replace or alter any utility service lines now or hereafter located on the Leased Premises.

**Section 6.02: Operation, Maintenance and Expansion of Airport by the City.**

- (a) The City agrees to operate, maintain, and keep in good repair the areas and facilities at the Airport for the public and Crosby in accordance with the practices of a reasonably prudent airport operator. The City agrees to use reasonable efforts to keep the Airport free from obstructions and to do all things reasonably necessary for the safe, convenient and proper use of the Airport by those who are authorized to use the same. The City agrees to maintain and operate the Airport in accordance with all applicable standards, rules, and regulations.
- (b) The City may expand and improve the Airport as it, in its sole judgment, may deem necessary to provide required facilities in the interest of the public and the City.
- (c) The City shall have the right, but not the obligation, to maintain and keep in repair the landing area of the Airport and all publicly owned facilities of the Airport, together with the right to direct and control all activities of Crosby in this regard.

**Division seven. Liability, Indemnification, Insurance and Condemnation.**

**Section 7.01: Liability.** The City shall not be liable for its failure to perform any of the obligations under this Agreement or for any delay in the performance thereof, nor shall any delay or failure be deemed a default by the City when such failure or delay is the result of any cause beyond its reasonable control or jurisdiction. In any such case, a promptly written notice will be given by the City to Crosby of the existence of such cause and of readiness to resume performance

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upon the removal or termination thereof provided, however, that in every instance where the operation of the Airport and its facilities shall be wholly or partially suspended because of fires, storms, riots or acts of God, the City will proceed with due diligence and insofar as it has funds available to do so, to repair and restore the Airport and its facilities to such conditions as will permit its use and enjoyment as a commercial airport.

**Section 7.02: Insurance of the Leased Premises.** In addition to the general insurance requirements stated in the Master Agreement, insurance requirements specific to the Leased Premises are as follows:

- (a) *Improvements.* Any improvements upon the Leased Premises shall be insured at all times during the Term of this Agreement by Crosby under a "Fire and Extended Coverage" policy issued by a insurance company meeting the requirement of Section 8.03. All such insurance policies on the Leased Premises shall name as insured thereunder the City and Crosby.
- (b) *Reconstruct/Repair.* In the event the Leased Premises or a substantial part thereof is damaged or destroyed by an insured casualty, Crosby shall, at its sole cost, reconstruct or repair the improvements and the insurance proceeds shall be applied to the reconstruction or repair of the improvement, Crosby shall pay any deficiency between the cost of reconstructing or repairing the improvements to its state prior to such loss and the proceeds. The facilities shall be reconstructed or repaired, either in accordance with the original plans and specifications or in accordance with the new or modified plans and specifications jointly approved by the City and Crosby. Before any repair or reconstruction under this paragraph, Crosby shall submit plans and specifications to the City for approval and shall be in accordance with requirements of Article V, Section 5.04.

**Section 7.03: Condemnation/Substantial or Partial Taking.**

- (a) If the Premises cannot be used for the purposes contemplated by this Agreement because of condemnation or purchase in lieu of condemnation, this Agreement will terminate.
- (b) If there is a condemnation or purchase in lieu of condemnation and this Agreement is not terminated, the City will, at the City's expense, restore the Premises, and the Rent payable during the unexpired portion of the Term will be adjusted as may be fair and reasonable.
- (c) Crosby will have no claim to the condemnation award or proceeds in lieu of condemnation.

**Division eight. Events of Default and Remedies.**

**Section 8.01: Default by Crosby.** Events of default by Crosby shall include any of the following:

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- (a) Crosby's failure to pay any rent within ten (10) days of the date it receives written notice from the City that such rent is past due;
- (b) Crosby's failure to observe and perform any covenant, condition or agreement on its part to be performed other than as referred to in sub-section (a) for a period of ten (10) days after receipt of written notice from the City specifying such failure and requesting that it be remedied;
- (c) Crosby's Abandonment or desertion of the Leased Premises for any period of time exceeding thirty (30) consecutive calendar days;
- (d) The filing of any lien against the Leased Premises or Crosby's interest therein in violation of this Agreement that shall remain unreleased for a period of sixty (60) days from the date of such filing unless, within said period, Crosby makes a good faith contest of the validity of such lien and while appropriately bonding the City's interest against the effect of the lien;
- (e) A receiver is appointed without Lessee's application or consent, in any action or proceeding by or against Lessee and such action or proceeding is not stayed or discharged within sixty (60) days after its commencement, or Lessee is involuntarily made a party to any insolvency proceeding conducted pursuant to the laws of any state or of a political subdivision of any state and such proceeding is not stayed or discharged within sixty (60) days after its commencement, or Lessee involuntarily becomes a debtor in any case commenced under the provisions of the United States Bankruptcy Code, as amended and such case is not stayed or discharged within sixty (60) days after its commencement; or
- (e) The dissolution or liquidation of Lessee or the filing by Lessee of a voluntary petition in bankruptcy or failure by the Lessee promptly to remove any execution, garnishment or attachment of such consequence as will impair its ability to carry on its operations at the Leased Premises.

**Section 8.02: Remedies on Default.** Whenever any event of default referred to in Section 9.01 hereof shall have happened, the City may take any one or more of the following remedial steps as against Crosby:

- (a) The City may re-enter and take possession of the Leased Premises of Crosby without terminating this Agreement and sub-lease the interest of Crosby to any party or operate the same on behalf of Crosby. In either case, holding Crosby liable for the difference, if any, between the rents and other amounts payable by Crosby hereunder and the rents and other amounts payable by such sub-leasing. In retaking possession, the City shall have the right to remove and store anything on the premises.
- (b) After thirty (30) days' written notice to Crosby, the City may terminate this Agreement, exclude Crosby from possession of the Leased Premises and shall use



its best effort to lease Crosby's interest therein to another party for the account of City holding Crosby liable for all rents and other amounts due under this Agreement and not paid by such other party.

- (c) The City may take whatever other action at law or in equity as may appear necessary or desirable to collect the rent then due and thereafter to become due from Crosby or to enforce performance and observance of any obligation, agreement or covenant of Crosby under this Agreement.
- (d) If the City and Crosby disagree with respect to Crosby's obligations to pay money under this Agreement, Crosby may pay the amount under protest and such payment shall not prejudice Crosby's right to recover the disputed amount if it is determined that such payment was not due.

**Section 8.03: Non-Exclusive Remedy.** No remedy herein conferred upon or reserved to the City is intended to be exclusive of any other available remedy or remedies but each and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Agreement.

**Division nine. Assignment and Subdivision.**

**Section 9.01,** In addition to the requirements of the section found in Article II of the Master Agreement entitled "*Assignment and subletting*", if the Leased Premises are occupied by anybody other than Crosby, as provided in the Master Agreement the City may terminate this Agreement. Alternatively, the City may collect rent from any assigns, sub-lessee or anyone who claims a right to the Fixed Base Lease Agreement or who occupies the Leased Premises and the City shall apply the net amount collected to the rental herein reserved but no such collection shall be deemed a waiver by the City of any of the covenants contained in the Agreement, or any component thereof, nor an acceptance by the City of any such assignee or sub-lessee.

**Division ten. Brokers.**

**Section 11.01: Brokerage.** Crosby represents and warrants that no brokers have been concerned on their behalf in the negotiation of this Agreement and that there are no such brokers who are or may be entitled to be paid commissions in connection herewith. Crosby shall hereby indemnify and save harmless the City of and from any claim for commission or brokerage made by any such brokers when such claims are based in whole or in part upon any acts or omissions by Crosby.

*(The remainder of this page intentionally blank and the Fixed Base Operators Agreement follows.)*

**Article V.**  
**Fixed Base Operator and Fuel Sales Agreement**

**Division one. Use of Airport.**

**Section. 1.01 Leased Premises.** City and Crosby understands and agrees that “Crosby’s Operations” as described in division four herein are to be conducted from the Leased Premises.

**Section 1.02 Public Areas.** Crosby shall be entitled, in common with others so authorized, to the use of all facilities and improvements of a public nature which now are or may hereafter be constructed on or appurtenant to the Airport, including the use of landing areas, runways, taxi ways, navigational aids and aircraft parking areas as designated by City. Crosby’s permitted use of any of these areas shall be at the discretion of City and subject to change to facilitate the general development and operations, or both, of the Airport and to comply with FAA or other regulatory agency directives.

**Section 1.03 Reservation of Rights.** City reserves the right to take any action it considers necessary to protect the airspace and approaches of the Airport against obstruction, together with the right to prevent Crosby from erecting, or permitting to be erected or located, any light fixture, building, object or structure on the Leased Premises described in Section 1.01, the Public Area described in Section 1.02 or adjacent to the Airport which, in the opinion of City, would limit the usefulness of the Airport or constitute a hazard to aircraft

**Division two. Term.**

**Section. 2.01 Term and Renewal.** Shall be subject to the provisions of Article II of the Master Agreement entitled “*Term*”.

**Division three. Payments.**

**Section 3.01 Payments by Crosby to City.** In addition to the Rental fees and charges stated in Division four of the Lease Agreement Crosby agrees to make payment to City of all fees stated in Fee Schedule.

**Section 3.02 Method of Payment.**

- (a) *Time of Payment.* The payments specified in Sections 3.01 (a) and (b) shall be paid to City as provided in the Fee Schedule.
- (b) *Failure to Pay Charges.* In the event Crosby fails to make timely payment of any fee or payment due and payable in accordance with the terms of this Agreement Crosby agrees to pay Late Fees as provided in the Fee Schedule. Notwithstanding the foregoing, City shall be permitted to terminate this Agreement for default in the payment of any of the any fee or payment due and payable to City in accordance with the terms of this Agreement, or from enforcing any other provisions contained herein or implied by law.

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- (e) *Independent Covenant.* Crosby shall not, for any reason, withhold or reduce Crosby's required payments provided in this Agreement, it being expressly understood and agreed by the parties that the payments described herein are a covenant by Crosby that is independent from the other covenants of the parties hereunder.

**Division four. Operations.**

**Section 4.01 Services.** In accordance with the Minimum Standards for Fixed Base Operators Crosby agrees to provide, and City hereby grants Crosby, the right to engage in and, as specified below, shall furnish all aeronautical activities and services that follow:

- (a) Crosby shall provide the aeronautical activities and services that follows:
  - (1) Tie Down space for transient aircraft;
  - (2) Aircraft fueling (100LL & Jet A) and oil dispensing. Jet A and 100LL must be available via fuel truck;
  - (3) Aircraft ramp services (towing, parking guidance, etc.);
  - (4) Monitoring and communicating maintenance needs on the airfield;
  - (5) Monitoring and communicating maintenance needs (interior and exterior) of airfield buildings owned by the City;
  - (6) Operation of the fuel farm for the storage, handling, and delivery of aviation fuel products;
  - (7) Emergency service to disabled general aviation aircraft (i.e. towing/transporting disabled aircraft);
  - (8) Maintenance, repair and service of aircraft, with inspection authority; and
  - (9) Provide air-conditioned space for Flight planning/waiting lounge with restroom facilities and publicly available internet service.

In its performance of the above-mentioned aeronautical activities and services Crosby shall employ the appropriate number of properly trained and/or certified personnel to provide satisfactory FBO service and meet fuel supplier's minimum training requirements to qualify BMQ for supplier's excess liability coverage. Moreover, Crosby shall maintain on-call staff available after normal operating hours to provide said aeronautical activities and services. If, at any time during the Term of this Agreement, Crosby is unable to provide the above-mentioned aeronautical activities and services, in the manner prescribed herein, Crosby shall immediately provide written notice to the City, explaining the circumstances, including Crosby's plan to remedy the deficiency. If Crosby fails to remedy the deficiency within a period of three (3) continuous months following the provision of such notice to the City, Crosby shall be considered to be in default of the terms and conditions of this Agreement.

- (b) Crosby, in addition to the services listed in subsection (a) immediately above, shall provide at least two of the services listed in subsection (c) immediately below.

- (c) Crosby may provide the aeronautical activities and services that follows:
  - (1) Flight Training.
  - (2) Aircraft Rental.
  - (3) Air Taxi/Charter.
  - (4) Aircraft Sales.
  - (5) Avionics Repair.
  - (6) Specialized maintenance (upholstery, etc.).
  - (7) Snack bar.
  - (8) Miscellaneous retail (pilot supplies, promotional clothing, etc.).
  - (9) Other aeronautical activities and services as authorized in the Minimum Standards.

**Section 4.02 Hours/Days of Operation.** Crosby agrees to provide FBO services seven days a week (from 8am to 6pm), 365 days per year, with the exception the FBO may close (or reduce hours of operation) to observe New Year's Day, Thanksgiving Day and Christmas Day holidays. Any additional closures must be approved by the City. Hours of operation and observed holidays shall not be changed without the written consent of the City, except during any period when the Airport is closed by any lawful authority restricting the use in such a manner as to interfere with use by Crosby in its business operations.

**Section 4.03 Operating Standards.** The Minimum Standards shall constitute the minimum operating standards to be met by Crosby in order to conduct any aeronautical activity or endeavor at the Airport. Crosby agrees that all aeronautical activities authorized under this Agreement and engaged in by Crosby shall be performed in accordance with the said Minimum Standards, including such amendments thereto as may be adopted by City from time to time. In addition to the Minimum Standards Crosby shall comply with the following:

- (a) *Standard Requirements for All Services.* In providing any of the required services or activities specified herein, Crosby shall operate for the use and benefit of the public, and shall meet or exceed the following standards:
  - (1) Crosby shall furnish service on a fair, reasonable and not unjustly discriminatory basis to all users of the Airport. Crosby shall furnish good, prompt and efficient service adequate to meet all reasonable demands for the services at the Airport.
  - (2) Crosby shall charge fair, reasonable, and nondiscriminatory prices for each unit of sale or service; provided, however, that Crosby may be allowed to make reasonable and nondiscriminatory discounts, rebates or other similar types of price reductions to volume purchasers or based aircraft.
- (b) *Manager.* Crosby shall select and appoint a full-time manager for its operations at the Airport.
  - (1) The manager shall be qualified in experience and vested with full power

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and authority to act in the name of Crosby with respect to the method, manner and conduct of the operation of the fixed base operation services to be provided by Crosby. The manager shall be available at the Airport during regular business hours. In the manager's absence, a duly authorized and experienced subordinate shall be in charge and available at the airport.

- (c) *Supervision.* Crosby shall control the conduct, demeanor and appearance of its employees, agents, vendors and contractors, who shall be trained by Crosby and shall possess such technical qualifications and hold such certificates or qualifications, or both, as may be required in carrying out assigned duties. It shall be Crosby's responsibility to maintain close supervision over its employees and contractors to assure a high standard of service to Crosby's customers.
- (d) *Compliance.* Crosby shall comply with all Federal, State, and local laws, as well as any standards set forth in any adopted Airport Master Plan or standards and regulations which may apply to the conduct of Crosby's business, and as may be amended from time to time, including rules and regulations promulgated by City. Crosby shall keep in effect and post in a prominent place all necessary and/or required licenses, certificates and permits.
- (e) *Vendors* It is expressly understood and agreed that, in providing the services required under this Agreement, Crosby shall have the right to choose, at its sole discretion, its vendors and suppliers.
- (f) *Signs.* Crosby shall have the right, at its expense, to place in or on the Leased Premises described in Section 1(a) one or more signs identifying Crosby. Such signs shall conform to City's Sign Ordinance, and shall be of a size, shape and design and at one or more locations approved by City. City's approval shall not be unreasonably withheld. Additionally, Crosby may install two sign panels (one of each side of the sign) on the main Airport sign located along Hwy 281 South. The City shall waive the rental fee for the said signage. At the termination of this Agreement, Crosby shall remove, at its expense, all lettering, signs and placards erected on the Airport.
- (g) *Non-exclusivity.* It is not the intent of this Agreement to grant Crosby the exclusive right to provide any or all of the services described herein at any time during the Term of this Agreement. Nothing herein shall preclude City from granting to others certain rights and privileges at the Airport which are similar in part or in whole to those granted to Crosby. However, City does covenant and agree that it shall enforce, without discrimination or partiality, all Minimum Standards or requirements for all aeronautical endeavors and activities conducted at the Airport, and will not allow the conduct of any commercial aeronautical endeavor or activity at the Airport by any person or firm except under an Agreement approved by City.
- (h) *Third parties.* Crosby shall not contract out to a third party the performance of any of the aeronautical activities or services required under the Agreement or engage in

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any business or activity at the Airport other than those specifically authorized under this Agreement, unless otherwise approved, in writing, by City.

- (i) *Forms.* Crosby shall submit to City the prescribed State gasoline forms showing deliveries to Crosby and sales by Crosby. Such form shall be submitted by the date prescribed in the Fee Schedule as the Time of Payment and Report Submissions. City may require Crosby to submit for examination any other forms evidencing fuel transactions between Crosby and any third party.

#### **Division five. Property Standards.**

**Section 5.01 Maintenance and Repair.** Crosby agrees to maintain in a first-class condition and in a good state of repair, normal wear and tear excepted, at all times, the Leased Premises as required by Division six of the Lease Agreement. In addition, Crosby shall be responsible for patrolling the grounds runway, taxiways, and apron surfaces within the Airport, in the vicinity of the Airport Fuel Farm and remove any solid waste therefrom. This shall include the general responsibility for keeping all operational areas around any hangars and terminal buildings and Airport Fuel Farm in a clean and orderly condition at all times. Crosby shall be responsible for mowing the Leased Premises and any grass areas immediately adjacent to the Leased Premises.

**Section 5.02. Custodial Responsibilities.** The cleaning and custodial maintenance of the lands described in Section 5.01, above (and, in the absence of any other Agreements by City with other fixed base operators, all other public portions of the Airport), including common hallways, public restrooms, ramp areas, parking lots, and runways, except as specified in Section 5.03, below. If applicable, Crosby shall be responsible for all snow and ice removal within ten (10) feet of terminal building and hangar doors, the Airport Fuel Farm area and all parking lots and pedestrian walkways.

**Section 5.03. Open Area Maintenance.** City shall be responsible for maintenance of the portion of the Airport outside the limits of the Leased Premises described in Section 5.01, above. Crosby understands that City's primary maintenance action for the open areas shall be annual controlled burning and/or mowing of the area. City shall notify Crosby prior to any scheduled maintenance of the open area.

**Section 5.04. Personal Property.** Any personal property of Crosby or others placed at the Leased Premises shall be at the sole risk of Crosby or the owner's thereof, and City shall not be liable for any loss or damage thereto, irrespective of the cause of such loss or damage. Crosby hereby releases City, for itself and any of its insurers, and waives all rights of subrogation or recovery for such damage, destruction, or loss.

#### **Division six. Rights of the Parties under this Fixed Base Operator Agreement.**

**Section 6.01 Rights Reserved to City.** The rights and privileges granted to Crosby under this Agreement are subject to the following reservations and conditions:

- (a) *Adverse Use.* City expressly reserves the right to prevent any use of the property



which would interfere with or adversely affect the operation and maintenance of the Airport, or otherwise constitute an airport hazard.

- (b) *Improvements.* City reserves the right to further develop or improve the Airport and all publicly owned air navigation facilities of the Airport as it sees fit, regardless of the views or desires of Crosby, and without interference or hindrance. City may approve the Crosby'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.
- (c) *Tie-downs.* City shall have the right to add tie-down locations for aircraft. Upon request by the City, Crosby shall act as agent for City in collecting tie-down fees.
- (d) *Ramps.* Ramp space shall be used on a non-exclusive basis by Crosby, and Crosby agrees to manage and operate ramp space as City's agent.
- (e) *Utilities.* City shall have the right, without cost to Crosby, to install and maintain in, on or across the Leased Premises described in Section 1(a) sewer, water, gas, electric, steam and telephone lines and streets or other installations necessary to the operations of the Airport, or to service other users of the Airport; provided, however, that City shall carry out all such work and locate any above-ground structures in a manner so as not to unreasonably interfere with Crosby's activities.
- (f) *Fixed Base Operator Services.* City retains a proprietary right to offer any or all Fixed Base Operator services and/or products and allow no Fixed Base Operator to offer the same services or products at the airport. City may enter into contracts with other Fixed Base Operator's to operate similar or competitive businesses at the airport without regard to the wishes or desires of existing Fixed Base Operator's.

**Section 6.02 Crosby's Rights.** Crosby shall have the following rights:

- (a) In common with others so authorized, to use common areas of the Airport, including runways, taxi ways, aprons, roadways, flood lights, landing lights, signals and other conveniences for the take-off, flying and landing of aircraft.
- (b) In common with others, the non-exclusive use of the Airport parking areas, appurtenances and improvements thereon, but this shall not restrict the right of City to charge visitors a fee for the use of such areas.
- (c) To install, operate, maintain, repair and store, subject to approval of City, in the interests of safety and convenience of all concerned, all equipment necessary for the conduct of Crosby's business.
- (d) To have access to and from the Leased Premises described in Section 1(a), limited to streets, driveways or sidewalks designed for such purposes by City, and which

right shall extend to Crosby's employees, passengers, guests, invitees and patrons.

- (e) To sell gasoline, oil and other lubricants in and on the premises, to maintain and operate full aircraft servicing facilities, sell aircraft, engines, accessories and parts (and to provide storage space for aircraft), a repair shop for the repairing and servicing of aircraft engines, instruments, propellers and accessories in connection with Crosby's business. The right to conduct these activities shall apply to aircraft owned by other persons as well as aircraft belonging to Crosby.
- (f) To give flying instructions, to provide pilots for operating aircraft owned by others, and to carry passengers and freight for hire, subject to all appropriate laws of the Federal and State governments, the City ordinances, and the requirements of the FAA and the Texas Department of Transportation or any other duly authorized governmental agency.
- (g) Operation of the City's Airport Fuel Farm as set forth herein.

**Section 6.03 Non-Exclusive Rights.** Crosby shall have the right and privilege of engaging in and conducting the businesses previously described on the Airport premises under the terms and conditions set forth in this Agreement; provided, however, that this Agreement shall not be construed in any manner to grant Crosby or those claiming under Crosby the exclusive right to the use of the airport premises and facilities of the Airport other than those premises under Crosby's exclusive control.

**Section 6.04 Rights of Other Aircraft Owners or Operators.** It is clearly understood by Crosby that no right or privilege has been granted which would operate to prevent any person, firm, or corporation operating aircraft on the Airport from performing any services on its own aircraft with its own employees (including, but not limited to, maintenance and repair) that it may choose to perform.

**Division seven. Financial Disclosure.**

**Section 7.01. Financial Capability.** Crosby shall furnish such evidence as may be reasonably requested by City to show that Crosby is financially capable of providing the services set forth in this Fixed Base Operations Agreement.

**Section 7.02. Books and Records.** Crosby shall keep, for a period of at least seven years following the end of each calendar year during the Term of this Agreement, all books of account and records of fuel delivery receipts, fuel flowage receipts, accounts receivable, and gross fuel receipts prepared in accordance with Generally Accepted Accounting Principles. All of Crosby's books and records in relation to this Agreement shall be open for inspection by authorized representatives of City upon request and at reasonable times during business hours, and such information shall be held in strict confidentiality against unauthorized disclosure.

**Section 7.03 Annual Statement.** Within one hundred twenty (120) days after the end of each Fiscal Year, Crosby shall furnish to City a statement of fuel sales and gross fuel receipts generated

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during the preceding Fiscal Year, certified by an officer of Crosby as to its correctness.

**Section 7.04 City Audit.** City reserves the right to audit said statements and Crosby's books and records, including examination of the general ledger and all other supporting material, at any reasonable time during business hours, for the purpose of verifying the reported fuel sales and gross fuel receipts. If an audit establishes that Crosby has underestimated or overstated fuel sales or gross fuel receipts by five percent (5%) or more, the entire expense of said audit shall be borne by Crosby. Any additional payment due from Crosby shall be paid forthwith to City, with interest thereon at the rate of one and one-half percent (1.5%) per month from the date such amount originally became payable to City. Any overpayment by Crosby shall be refunded by City.

**Section 7.05 Disputes.** In the event that any dispute may arise as to fuel sales or gross fuel receipts, the amount claimed due by City shall be paid forthwith and the dispute shall be submitted to a certified public accountant, agreeable to both parties, who shall determine the rights of the parties hereunder in conformity with Generally Accepted Accounting Principles. The fees due to said accountant for such services shall be paid by the unsuccessful party or, in the event the determination is partially in favor of each party, the accountant's fee shall be prorated between the parties in accordance with the percentage of the discrepancy attributable to each party.

**Division eight. Environmental warranties.**

**Section 8.01 Environmental Regulations.** Crosby hereby expressly warrants, guarantees and represents to City that:

- (a) Crosby shall, acting in good faith and to the best of its ability, familiarize itself with all Federal, State, regional and local governmental laws, ordinances, regulations, orders and rules, without limitation, which govern or which in any way apply to the direct or indirect results and impacts to the environment and natural resources due to, or in any way resulting from, the conduct of Crosby of its operations. Crosby agrees to keep informed of and comply with future changes in environmental laws, regulations and ordinances.
- (b) With respect to its operations and activities, Crosby shall assume and accept full responsibility and liability for compliance with all applicable Federal, State and local laws, regulations and ordinances protecting the environment and natural resources and all rules and regulations promulgated or adopted in accordance with these rules from time to time.
- (c) Prior to commencement of any operations under this Agreement, Crosby shall secure any and all permits and properly make all necessary notifications as may be required by and to all governmental agencies having jurisdiction over any portion of the subject matter hereof.
- (d) Crosby, as well as its employees, agents, contractors and all persons working for or on behalf of Crosby, shall be fully and properly trained in the handling and storage of all hazardous and toxic waste materials and other pollutants and contaminants

involved in its operations.

- (e) Crosby shall supply City with satisfactory evidence of all such required permits and notifications.
- (f) Crosby shall cooperate with any investigation, audit or inquiry by City or any governmental agency regarding possible violation of any environmental law or regulation. If City conducts an investigation, audit or inquiry, and the results of such action show that Crosby is in compliance with applicable Federal, State and local laws, regulations, ordinances, rulings, orders and standards, the cost of such investigation, audit, or inquiry shall be reimbursed to Crosby.
- (g) If Crosby is deemed to be a generator of hazardous waste, as defined by Federal or State law, Crosby shall obtain an EPA identification number and the appropriate generator permit and shall comply with all Federal, State and local requirements imposed upon a generator of hazardous waste, including, but not limited to, insuring that the appropriate transportation and disposal of such materials are conducted in full compliance with the law.
- (h) Crosby shall provide an accurate inventory list (including quantities) of any hazardous, toxic or other contaminated or polluted material in its possession, whether stored, disposed of or recycled, available at all times for inspection by City inspectors or Fire Department officials having jurisdiction for implementation of proper storage, handling or disposal procedures.
- (i) Any notice of violation or similar enforcement action or notice of noncompliance received by Crosby shall be provided to City within 24 hours of receipt by Crosby or its agent.

**Section 8.02 Storage Tanks.** Crosby shall comply with all Federal, State, and local regulations concerning the installation, operation, maintenance, and inspection of both above ground and underground storage tanks, including financial responsibility requirements.

#### **Division Nine. Airport Fuel Farm Operations.**

**Section 9.01. Crosby's obligations.** As part of the aircraft fueling operations, Crosby covenants it shall perform the following:

- (a) provide daily maintenance and oversight of the Airport Fuel Farm facility, including, but not limited to: 1) daily and periodic inspections and maintenance of the facility in accordance with the Original Equipment Manufacturer's recommendations; 2) record keeping and operations of the facilities in accordance with the Texas Commission on Environmental Quality's rules and regulations, Federal Aviation Administration's rules and regulations, as well as local ordinances,
- (b) maintain a current "Aircraft Fuel Delivery Certificate" issued by the TCEQ



- (c) maintain a current "Aircraft Fuels Sales Permit" issued by the State Comptroller's Office,
- (d) notify the owner of equipment malfunctions and coordinating repairs as approved by the City Representative,
- (e) notify the owner of equipment malfunctions and coordinating repairs as approved by the City Representative,
- (f) respond as quickly as possible to any emergency issues related to the Airport Fuel Farm and timely notifications to the appropriate local and state authorities,
- (g) provide training to all personnel in the care of the Airport Fuel Farm, as well as, the safe conduct of fueling operations
- (h) interface with and assisting customers while performing fueling services or in the self-service use of the fuel system, as well as, timely troubleshooting various issues with the credit card system, etc.
- (i) maintain fuel prices that are competitive with other similarly situated airport in Central Texas, by periodically surveying fuel prices of such airports including but not limited to the Georgetown and Horseshoe Bay airports.
- (j) compensate the City by remitting a "fuel flowage fee" to the City as prescribed in the Fee Schedule.
- (k) prepare and submit all required regulatory filings regarding the Airport Fuel Farm with the approval of the City Representative
- (l) provide information as requested by the Owner for various reports and its annual insurance application, etc.

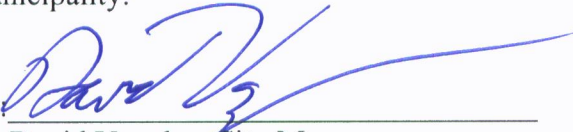
**9.02 Crosby's Assumption of risk.** Crosby acknowledges and agrees that during the Term of this Agreement, it shall have control of the supervision, operation, maintenance and repair of the Airport Fuel Farm maintenance. Therefore, **TO THE FULL EXTENT PERMITTED BY LAW, CROSBY ASSUMES ALL RISK FOR LOSS, DAMAGES, INJURY, OR DEATH RESULTING DIRECTLY OR INDIRECTLY TO THE FUEL FARM AND SHALL INDEMNIFY THE CITY AGAINST ANY CLAIMS WHATSOEVER RELATED TO THE FUEL FARM AS PROVIDED IN ARTICLE THREE SECTION (19) OF THE MASTER AGREEMENT.**

*(The remainder of the page intentionally blank and signature page to follow.)*

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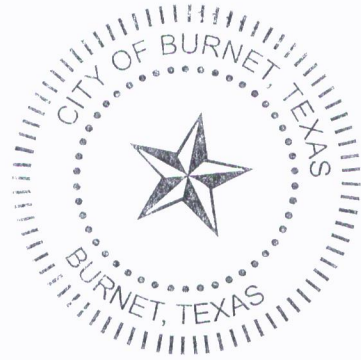
**IN WITNESS WHEREOF**, each of the parties has caused this instrument to be executed in its name and behalf by its duly authorized representative as of the date shown opposite their respective signatures below.

**CITY OF BURNET**, a Texas home rule municipality.


By:  Date: 12/14/22  
David Vaughn, City Manager

Attest:

  
Kelly Dix, City Secretary



**CROSBY FLYING SERVICES LLC**, a limited liability company form in the State of Texas.

By:  Date: December 9, 2022  
Coley Means, Manager

Initials: City:  Crosby: cmr

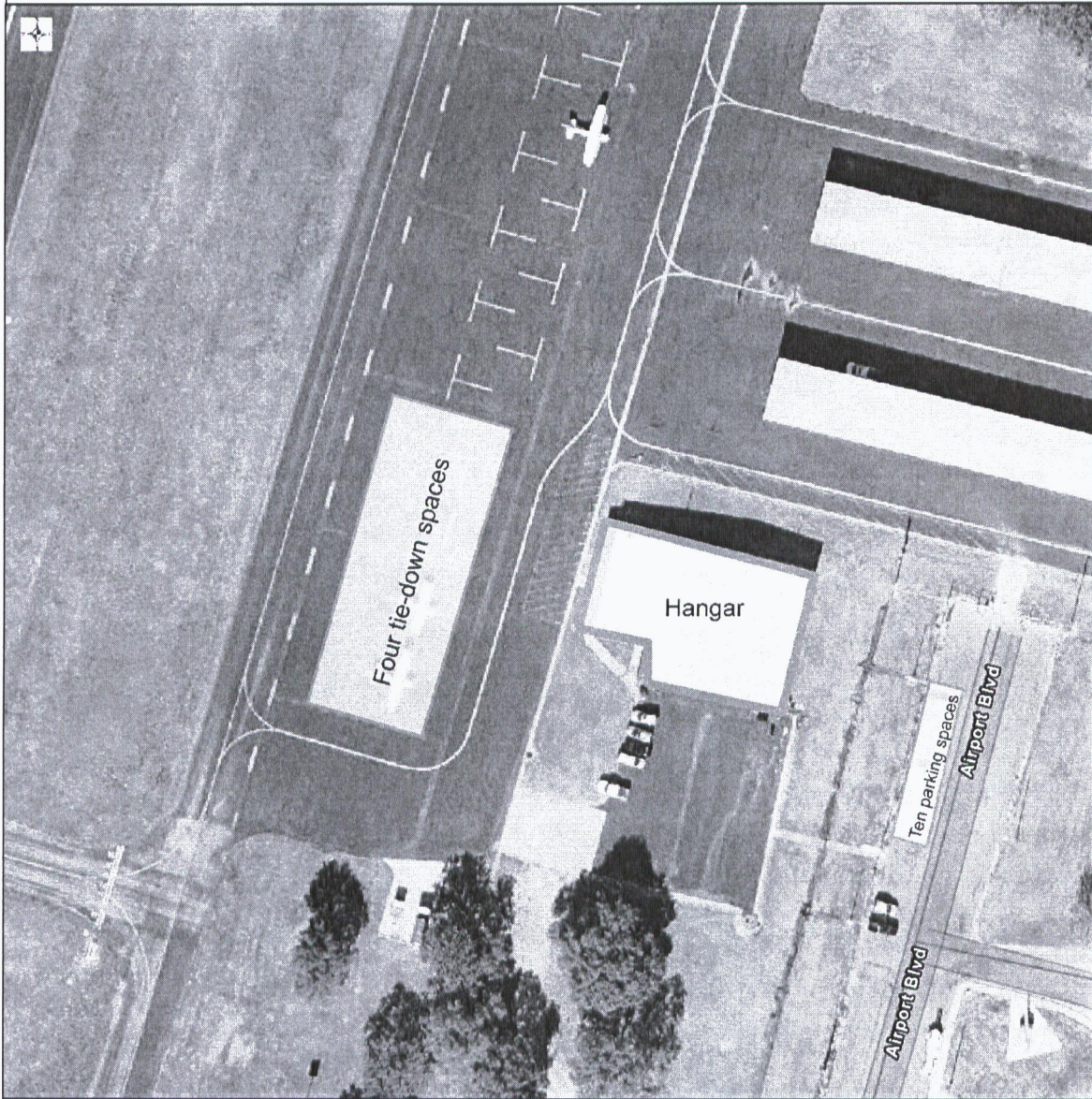


**Exhibit "A"**

**FBO HANGAR AND TIE-DOWNS**

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Exhibit "A"

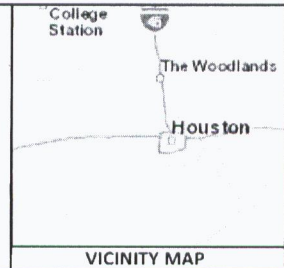


1 inch equals 94 feet

Disclaimer: This product is offered for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of property, governmental and/or political boundaries or related facilities to said boundary. No express warranties are made by Quiddity Engineering, LLC concerning the accuracy, completeness, reliability, or usability of the information included within this exhibit.



LEGEND



Date: 12/2/2022

Initials: City Crosby: cm2

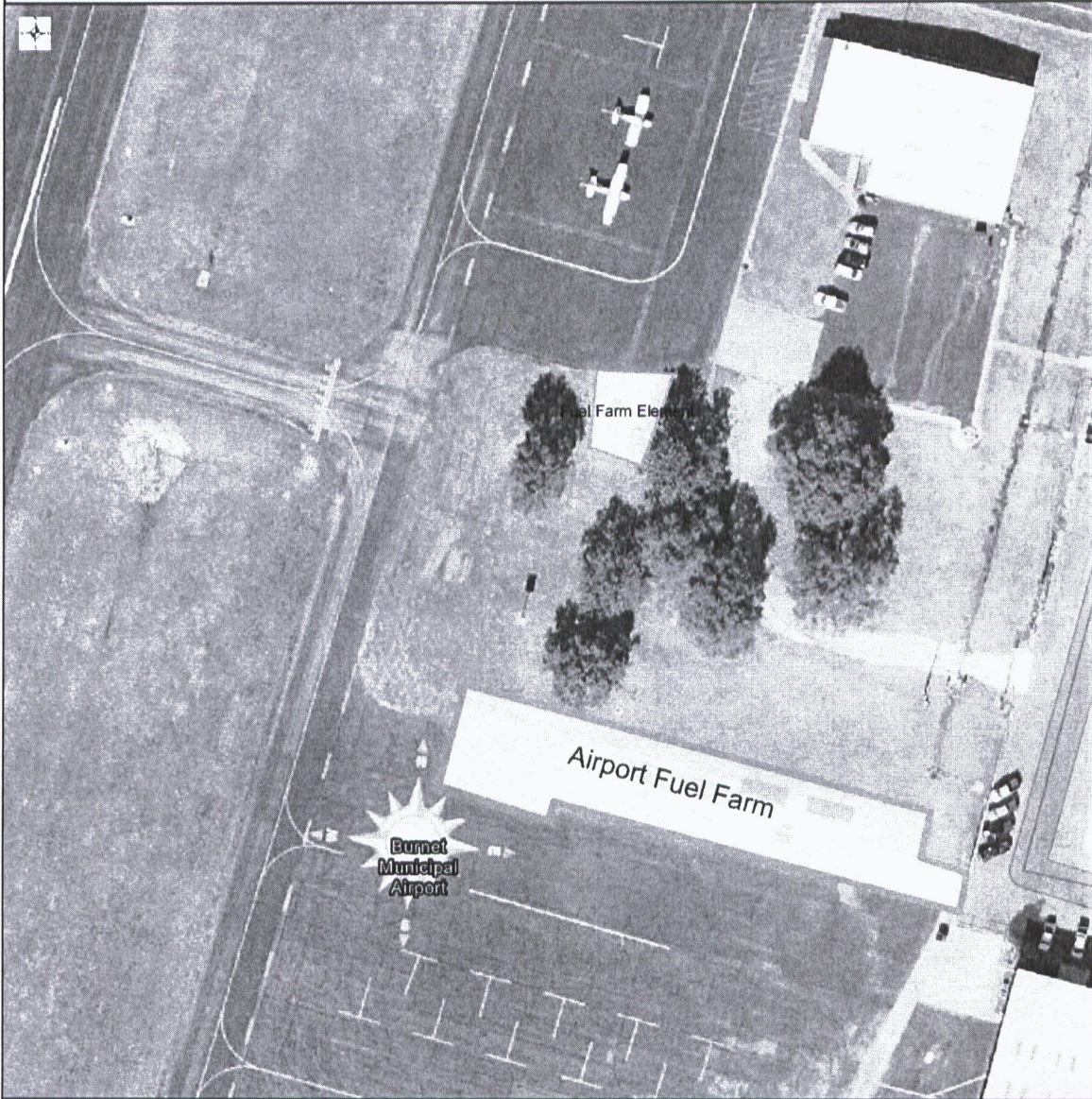


**Exhibit "B"**

AIRPORT FUEL FARM

Initials: City:  Crosby: 

**Exhibit "B"**



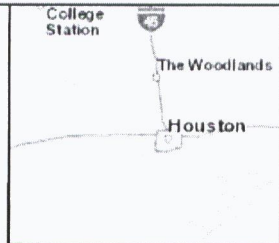
1 inch equals 94 feet

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Texas Board of Professional Engineers Reg. No. F-23290

**LEGEND**



**VICINITY MAP**

Date: 12/2/2022

Initials: City:  Crosby: 



**Exhibit "C"**

INTENTIONALLY DELETED

Initials: City:  Crosby: ccm

**Exhibit "D"**  
**FEE SCHEDULE**

Initials: City:  Crosby: CCM



Exhibit "D"  
Fee Schedule

This exhibit states the rents and fees Crosby shall pay City to rent Airport Property and to provide FBO services. Such rents and fees are as follows:

**(1) Rents**

Facility	Rent Amount	Frequency of payment
Leased Premises	\$2,084.00	monthly

Rent escalation: Beginning on the first twelve (12) month anniversary of The Commencement Date of the Lease and on each succeeding anniversary date hereafter for the term of the Lease and any renewals or extensions thereof, the rental rate for the Leased Premises shall increase 4% per annum over the rate charged for the immediately preceding twelve (12) months.

**(2) Fees**

Activity	Fee	Basis
AV Gas flowage fee	07 cents	Per gallon
Jet Fuel flowage fee	20 cents	Per gallon

**(3) Time of Payment and Report Submissions.** All rental amount as stated in Section (1) shall be paid monthly in advance on the first day of each month without demand in a sum equal to the monthly rental amount due hereunder. The rental amount is due on the first of the month and late on the tenth of the month. All fees as stated in Section (2) above shall be paid by Crosby on or before the tenth (10th) day following the end of each month during the Term of this Agreement. Payment of all flowage fees shall include a report of Crosby's fuel sales and gross fuel receipts during the preceding month. The form of monthly report for submission with payment of all flowage fees is attached hereto as Schedule 2.

**(4) Late Fee Charges.**

- (a) Late Fees. In the event Crosby fails to make timely payment of rent, fees, or payment, that is due and payable in accordance with the terms of the Agreement within ten (10) days after such payment shall become due and payable, such unpaid monies shall bear interest at the rate stated in sub-section (4)(c) below.
- (b) Interest Rate. Interest at the rate of one and one-half percent (1 1/2%) per month or a fraction thereof on the unpaid balance of rents or fees shall accrue against the delinquent payment from the date due until the date payment is received by City.

Initials: City:  Crosby: cmz

**Exhibit "E"**  
**BILL OF SALE**

Initials: City  Crosby: ccm2



**BILL OF SALE**

This Bill of Sale and Assignment is by and between the Parties listed below:

Seller: City of Burnet, Texas

Seller' Address: City of Burnet  
% City Manager  
P.O. Box 1369  
Burnet, Texas 78611

Buyer: Crosby Flying Services LLC

Buyer's Address: Crosby Flying Services LLC  
% Coley Means  
P.O. Box 351  
Fort Worth, Texas 76101

I. Property sold. For good and valuable consideration in the sum of the United States Dollar amounts described herein (the "Purchase Price"), the receipt and sufficiency of which is hereby acknowledged, Seller sells to Buyer all title, right and interest to the Motor Vehicles, Personal Property, and Aviation fuel as more particularly described herein.

**Motor Vehicle One.** For Consideration in the amount of \$18,441.00 USD, Seller hereby transfers to Buyer, all rights of Seller in the following motor vehicle:

Make: Dodge  
Model: Grand Caravan Passenger GT Minivan 4D  
Year: 2018  
Body Type: Van

Vehicle Identification Number (VIN): 2C4RDGEGXJR189709

Odometer Reading shall be recorded at time of transfer of title.

**Motor Vehicle Two.** For Consideration in the amount of \$9,000.00 USD, Seller hereby transfers to Buyer, all rights of Seller in the following motor vehicle:

Make: Kawasaki  
Model: EFI Gas Platform  
Year: 2020  
Body Type: Golf Cart

Vehicle Identification Number (VIN): EZGBWACAKL3466123

Hour Meter Reading: shall be recorded at time of transfer of title.

Initials: City:  Crosby: cm2

**Motor Vehicle Three.** For Consideration in the amount of \$9,000.00 USD, Seller hereby transfers to Buyer, all rights of Seller in the following motor vehicle:

Make: Kawasaki  
 Model: EFI Gas Platform  
 Year: 2020  
 Body Type: Golf Cart

Vehicle Identification Number (VIN): EZGBWACAJL3466138

Hour Meter Reading: shall be recorded at time of transfer of title.

**Personal Property:**

Asset Id	Description	Acquisition Date	Purchase Price
1632	SANTE FE-POWER RECLINER	12/3/2019	\$243
1634	SANTE FE-POWER RECLINER	12/3/2019	243
1638	SPARROW ROUND STOOL	12/3/2019	44
1635	X-SQUARED END TABLE	12/3/2019	60
1640	SPARROW ROUND STOOL	12/3/2019	46
1636	X-SQUARED SOFA TABLE	12/3/2019	78
1629	SANTE FE POWER RECLINING LOVESEAT	12/3/2019	376
1630	SANTE FE POWER RECLINING LOVESEAT	12/3/2019	376
1641	SPARROW-ROUND CRANK TABLE	12/3/2019	126
1633	SANTE FE-POWER RECLINER	12/3/2019	243
1639	SPARROW ROUND STOOL	12/3/2019	46
1631	SANTE FE-POWER RECLINER	12/3/2019	243
1637	LADDER BOOKCASE	12/3/2019	60
1845	ALBERTH AVIATION-LAVATORY CART	6/1/2021	2985
	Total Personal Property Purchase Price		\$5,169.00

Initials:  City: \_\_\_\_\_ Crosby: ccmz



**Aviation Fuel.** Seller sells to Buyer AvGas and Jet Fuel remaining in the storage tanks of Burnet Airport Fuel Farm Storage that is leased by Buyer from Seller. In accepting title, possession and use of the AvGas and Jet Fuel, Buyer acknowledges and agrees Buyer has completed all testing necessary for Buyer to determine said AvGas and Jet Fuel is fit for use for its intended purposes. The purchase price for the AvGas and Jet Fuel, is as follows:

Type of Fuel	Number of Gallons	Price per Gallon	Total Price
AvGas	As determined at time of transfer of assets.	Equal to City costs for last fuel purchase.	As determined at time of transfer of assets.
Jet Fuel	As determined at time of transfer of assets.	Equal to City costs for last fuel purchase.	As determined at time of transfer of assets.

**Total Purchase Price.** The total purchase price equals the sum of purchase prices for motor vehicles one, two and three, the personal property, the AvGas and Jet Fuel. The sum for the purchase of motor vehicles one, two and three and the personal property being \$41,610.00 and the sum for the purchase of the AvGas and Jet Fuel to be determined at the time of transfer of assets.

**II. General Provisions.** The provisions that apply to this Bill of Sale and Assignment are as follows:

**Odometer Disclosure Statement.** Seller shall certify the actual milage of Motor Vehicle One at the time of transfer of the assets.

**'As Is' Condition.** The Buyer acknowledges that the Motor Vehicles, Personal Property, and Aviation Fuel is sold "as is." The Seller expressly disclaims any implied warranty as to fitness for a particular purpose and any implied warranty as to merchantability. The Seller expressly disclaims any expressed or other implied warranties.

**Working Order.** Any warranty as to the condition or working order of the Motor Vehicles is expressly disclaimed by the Seller.

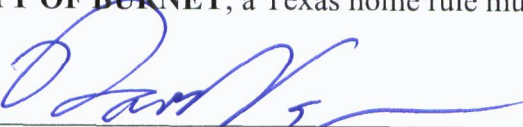
**Liabilities.** The Seller does not assume, nor does the Seller authorize any other person on the behalf of the Seller to assume, any liability in connection with the sale or delivery of the Motor Vehicles Personal Property, or Aviation Fuel.

**Inspection.** The Buyer accepts the Motor Vehicles, Personal Property, and Aviation Fuel in its existing condition given that the Buyer has either inspected the Motor Vehicles, Personal Property, and Aviation Fuel or was given the opportunity to inspect the Motor Vehicles Personal Property, and Aviation Fuel but chose to not inspect it.

**Governing Law.** This Bill of Sale shall be construed in accordance with and governed by the laws of the State of Texas.

Bill of Sale

SIGNED, SEALED, AND DELIVERED THIS 14 day of DECEMBER 2022  
CITY OF BURNET, a Texas home rule municipality.

By:   
David Vaughn, City Manager

Receipt of original copy is hereby acknowledged on behalf of Crosby Flying Services

By:   
Coley Means, Manager

Initials: City:  Crosby: ccm2



**Exhibit "F"**

**ASSIGNMENT AND ASSUMPTION AGREEMENT**

Initials: City:  Crosby: cm2

**ASSIGNMENT AND ASSUMPTION AGREEMENT**

THIS ASSIGNMENT AND ASSUMPTION AGREEMENT, dated as of as of October 6, 2022 (the "Effective Date"), confirms the assignment and delegation by CITY OF BURNET (the "Assignor") and the acceptance and assumption by CROSBY FLYING SERVICE, LLC (the "Assignee") of all rights and obligations of the Assignor under the Avfuel Corporation Aviation Refueler Lease Agreement for unit 1083 with a reference date October 9, 2014, and the Refueler Lease Agreement for unit 3122 with a reference date of March 15, 2016 and dated effective January 1, 2023 (the "Agreements") in accordance with the following:

1. As of the Effective Date, (a) the Assignor assigns and delegates to the Assignee all rights and obligations of the Assignor under the Agreements and (b) the Assignee accepts that assignment and delegation and assumes and agrees to pay and perform when and as due all of the Assignor's obligations under the Agreements.
2. The Assignor agrees to pay and perform when and as due all obligations under the Agreements that are accrued prior to the Effective Date. The Assignee agrees to pay and perform when and as due all obligations under the Agreements that are accrued from and after the Effective Date. Each party agrees to indemnify and to hold the other party harmless from any loss, liability damage or expense (including, without limitation, attorney fees and related costs) incurred by the indemnified party as a result of a breach by the indemnifying party of its commitment in this Section.


IN WITNESS WHEREOF, the Assignor and the Assignee have signed this Assignment And Assumption Agreement as of the Effective Date.

Assignor:

Assignee:

CITY OF BURNET

CROSBY FLYING SERVICES, LLC

By:   
David Vaughn, City Manager

By:   
Coley Means, Manager

**CONSENT TO ASSIGNMENT AND DELEGATION**

AVFUEL CORPORATION ("Avfuel"), as the party to the above referenced Agreements with the Assignor, hereby acknowledges and consents to the assignment and delegation by the Assignor of all of its rights and obligations under the Agreements to the "Assignee as of the Effective Date subject to the following: (1) this acknowledgement and consent shall not release the Assignor from any obligation for the payment or performance of any obligations that are accrued under the Agreements prior to the Effective Date; (2) this acknowledgement and consent is expressly limited to the present assignment and delegation by the Assignor to the Assignee and any further assignment and delegation of all or any of the rights and obligations of the Assignor or Assignee under the Agreements shall not be permitted unless with a further written consent of Avfuel; and (3) the transaction closes and both the Assignor and Assignee sign this document.

Initials: City:  Crosby: cm2



Assignment and Assumption Agreement

IN WITNESS WHEREOF, Avfuel has signed this Consent as of the Effective Date.

AVFUEL CORPORATION

By: William B. Light  
William B Light  
Vice President, Administration

Initials: City:  Crosby: cm2