

ORDINANCE NO. 091-015

AN ORDINANCE OF THE TOWN OF ADDISON, DALLAS COUNTY, TEXAS AMENDING CHAPTER 2.1, AIRPORTS AND AVIATION, OF THE CODE OF ORDINANCES, TOWN OF ADDISON, TEXAS, TO PROVIDE FOR AIRCRAFT FUEL DISPENSING PERMIT DEFINITIONS, COMPLIANCE, ISSUANCE AND ADMINISTRATION; TO PROVIDE FOR REPEAL; TO PROVIDE FOR SEVERABILITY; TO PROVIDE A SAVINGS CLAUSE; TO PROVIDE FOR PENALTIES; AND TO PROVIDE AN EFFECTIVE DATE.

BE IT ORDAINED BY THE CITY COUNCIL OF THE TOWN OF ADDISON, TEXAS:

SECTION 1. That Section 2.1-7 of the Code of Ordinances, Town of Addison, Texas, is hereby amended to read as follows:

Sec. 2.1-7. Aircraft fuel dispensing permit -  
Definitions; compliance with permit;  
issuance and administration.

(a) Definitions. As used in this chapter, unless the context otherwise requires:

"Board" means the Addison Airport Board.

"City" or "Town" means the Town of Addison, Texas.

"Finance Director" means the supervisor of the Finance Department or his designee.

"Fire Marshal" means the Fire Chief or other designated person reporting to the Chief of the Fire Department.

"Permit" means the aircraft fuels dispensing permit issued by the City.

"Permittee" means an individual partnership, corporation or other business entity or party conducting aircraft fuels dispensing services on the Addison Airport pursuant to a Permit therefor.

(b) Compliance with terms of permit required. Permittee under a Public Aircraft Fuels Dispensing Permit shall comply with every term and condition of the Permit, a copy of which is attached hereto and incorporated herein by reference as Exhibit "A". Permittees under a Nonpublic Aircraft Fuels Dispensing Permit shall comply with every term and condition of the Permit a copy of which is attached hereto and incorporated herein by reference as Exhibit "B". Failure to so comply shall constitute a violation and, consequently, may call for revocation of said Permit.

(c) Permit Issuance and administration. The Fire Marshal shall conduct all required inspections prior to issuance of the Permit. The Finance Director shall issue the Permit and shall have overall responsibility of administration, enforcement and implementation of this chapter and for coordination of all departments of the City involved in the application of section 2.7-7 through section 2.1-9.

SECTION 2. That all ordinances of the City in conflict with the provisions of this ordinance be, and the same are hereby repealed and all other ordinances of the City not in conflict with the provisions of this ordinance shall remain in full force and effect.

SECTION 3. That should any paragraph, sentence, subdivision, clause, phrase or section of this ordinance be adjudged or be held to be unconstitutional, illegal or invalid, the same shall not affect the validity of this ordinance as a whole or any part or provision thereof other than the part so decided to be invalid, illegal, or unconstitutional.

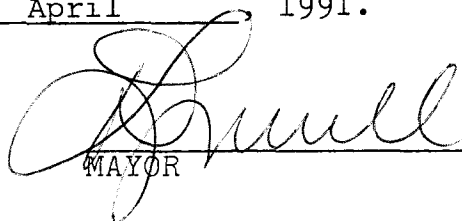
SECTION 4. Any person, firm or corporation violating any of the provisions of this Ordinance, shall upon commission be deemed guilty of a misdemeanor, and shall be subject to a fine not to exceed the sum of Five Hundred and no/100 Dollars (\$500.00)

for each offense, and each day such violation continues shall constitute a separate offense.

SECTION 5. That Chapter 2.1 Airports and Aviation, of the Code of Ordinances, Town of Addison, Texas, shall remain in full force and effect, save and except as amended by this ordinance.

SECTION 6. This ordinance shall take effect and be in force from and after its adoption as provided by law.

DULY PASSED BY THE CITY COUNCIL OF THE TOWN OF ADDISON, TEXAS, this 9th day of April, 1991.

  
MAYOR

ATTEST:

  
CITY SECRETARY

C13-Airport

Published 5-30-91

# EXHIBIT "A"

## ADDISON AIRPORT

### PUBLIC AIRCRAFT FUELS DISPENSING PERMIT

In consideration of a one time fee of \$1,000.00 \_\_\_\_\_  
\_\_\_\_\_ is hereby granted a Nonpublic Aircraft Fuels  
Dispensing Permit from the City of Addison, Texas, subject to  
and upon the terms and conditions hereinafter set forth.

#### I. Purpose

- A) These rules of procedure are established for the purpose of providing guidelines to be followed by parties conducting public Aircraft Fuels Dispensing Service (hereinafter "Concessionaire") on Addison Airport (the "Airport"), which is owned by the City of Addison ("City") and operated by Addison Airport of Texas, Inc. ("Addison") pursuant to an Operating Agreement.
- B) All parties who dispense aircraft fuel on the Airport must hold a Fueling Dispensing Permit issued by the City.

#### II. Buildings

- A. Concessionaire shall construct or lease a building providing a minimum of 2,500 square feet of properly lighted and heated floor space for office, public lounge, rest rooms, food area or restaurant and telephone. Such building shall be properly located to serve the public. All buildings and signs are subject to approval by City.
- B. Adjacent to the building described hereinabove, Concessionaire shall lease or construct an aircraft parking ramp capable of supporting 60,000 lb. gross weight aircraft with a minimum of 40,000 square feet. This aircraft parking ramp must have adequate permanent tie down facilities for aircraft parking space and be properly marked. Concessionaire shall maintain the aircraft ramp in a safe operating condition so as to avoid any potential damage to aircraft.
- C. Concessionaire shall lease or construct a paved auto parking lot adjacent to the above building and aircraft parking ramp. This auto parking lot shall have a minimum of 20,000 square feet.
- D. All fuel sales shall be conducted on Concessionaire's leased premises; provided, however, it shall be permissible to service another airport lessee's aircraft

on such lessee's premises, if requested by such lessee in writing.

### III. Personnel

- A) Sufficient properly trained personnel shall be available to serve the public sixteen hours per day, seven days per week. The Concessionaire shall require attendants to be uniformed, courteous and furnish good, prompt and efficient service at all times and shall provide service in a fair, equal and non-discriminatory basis to all Airport users.
- B) Solicitation of fueling services in a loud, boisterous, offensive or obstructive manner shall not be permitted.
- C) Personnel engaged in dispensing aircraft fuels shall be properly trained in fueling, handling and associated safety procedures and shall in all fueling and plane handling operations conform to all of the best practices for such operations. Observation of practice to the contrary by the City and notification thereof to the Concessionaire will be the cause for re-evaluation of such personnel as qualified to perform the operation. Failure on the part of Concessionaire to correct malpractice of fueling and related safety procedures shall constitute a violation of the Permit.

### IV. Fuel

Concessionaire shall provide at least two grades of aircraft fuel, including 100 Octane and Jet-A Turbo Fuel. Concessionaire shall not fuel aircraft with fuels other than those approved by the aircraft engine manufacturers for the type of aircraft involved. Aviation fuels received, stored and dispensed shall conform to ASTM Standard D910 for AV-Gas and ASTM Standard D-1655 for Turbo fuel. No waivers shall be acceptable unless specifically approved for a short duration by City in writing following a request for a waiver in writing by Concessionaire. City shall be the sole judge of possible waiver of fuel standards in any short term emergency.

Prior to issuance of this Permit, the prospective Concessionaire shall furnish a letter of Product Commitment, Allocation of Product and Certification of Compliance to the Fuel Specifications for the fuels to be dispensed from a supplier acceptable to City. Non periodic samples of fuel as received and fuels as dispensed may be

required of the Concessionaire by City on a reasonable basis as determined by the City and Concessionaire will at no cost to City have basic and or complete specification testing of such samples performed by laboratory testing service and the results of such testing will be transmitted to City in its original form by the testing service or Concessionaire. Such Laboratory Testing Service would preferably not be that of the supplier, however should the supplier's laboratory be almost singularly available such supplier's laboratory may perform the testing provided the sample is submitted "blind" and not singularly identifiable.

V. Fueling Facilities

A) Trucks

- 1.) Concessionaire shall furnish mobile dispensing single product trucks, at least two for each type fuel to be dispensed, each having a minimum capacity of 1,000 gallons for AV Gas and 2,000 gallons for Turbo fuel. In no instance shall any mobile dispensing truck exceed 2,500 gallon shell capacity. Separate filter or filter separator for equipment dispensing pumps, meters, bottom tank loading and grounding services for each type of fuel shall be required. Trucks shall be properly maintained, operated and equipped in accordance with applicable Federal Aviation Administration, Airport and National Fire Protection Association recommendations, requirements and regulations. Aircraft refueler units shall be attended and operated only by persons instructed in methods of proper use and operations and who are qualified to use such refueler units in accordance with safety requirements. Each qualified operator shall be required to carry on his person an Identification Card issued by his employer certifying his qualifications.
- 2.) The Concessionaire shall not allow unlawful use of the equipment if defective and will operate the equipment in a safe, efficient, clean and as designed manner.
- 3.) Prior to the first use of a mobile dispensing truck on Addison Airport, the Concessionaire shall present such truck for inspection and approval by City. City's approval is mandatory to the mobile dispensing trucks use or operation

and such approval shall be by the City Fire Marshall or his designee. Periodically, Concessionaire shall allow mechanical and dispensing system inspection of said trucks by City and shall cease operation of the trucks until any malfunction or discrepancy so noted is corrected to the satisfaction of City. Operation of mobile dispensing trucks with known mechanical or operational deficiencies shall constitute a violation of this Permit and may cause immediate revocation thereof.

Concessionaire shall make his own daily mobile dispensing truck inspection in accordance with the form furnished by City and shall maintain such inspection form for at least one year. These inspection files shall be available to City on request. Failure to make daily inspections of the mobile dispensing trucks or to maintain these inspection form files or make them available to City on request shall constitute a violation of this Permit and may cause immediate revocation thereof.

B) Tank Farm

- 1.) Storage tanks for fuel shall have minimum total capacities of 48,000 gallons. Facilities for the bottom loading of mobile dispensing trucks are required. Fuel storage tanks shall be underground and such installations shall be in the location approved by City in the designated fuel farm areas, which location is shown on Exhibit "A" hereto, and shall comply with applicable Uniform Building Code Standards, Fire Codes and Ordinances of the City of City and Recommendations of the National Fire Protection Association.
- 2.) Fuel storage tanks shall comply with requirements set out by Environmental Protection Agency and the Federal Aviation Administration. Detail plans and specifications for such tank farm installation shall be presented to City for approval 15 days prior to the anticipated date to commence construction of the facility. Facility construction shall not commence prior to approval by City.

After completion of the fuel farm and before initial use City shall approve such installa-



tion. After the fuel farm is in operation, Concessionaire shall allow City to make joint inspections of the facility in the manner of the Daily Inspection Record Forms to be furnished by City. Failure to (i) secure facility approval before use, (ii) allow joint inspection or (iii) correct any discrepancy in the condition of the fuel farm or the products stored therein shall constitute a violation of this Permit and may cause revocation thereof.

3.) All construction of improvements on tank farm shall conform with any General Architectural Requirements of the City and shall be undertaken in accordance with local, state and federal codes, ordinances and regulations now or hereafter in force and effect. Concessionaire shall, at its sole cost and expense, obtain all necessary building permits, and all labor and material bonds. Upon completion of construction, title to all such tank farm improvements shall vest in the City.

4.) Concessionaire shall, at its sole cost and expense, maintain fuel farm, all improvements thereon, and all appurtenances thereto, in a presentable condition consistent with good business practice and equal in appearance and character to other similar improvements on said Airport.

Concessionaire shall make daily inspections of his portion of the fuel farm in accordance with the Form furnished by City and shall maintain a file of these inspections for at least one year. Concessionaire shall make records of receipt of fuels in accordance with Forms furnished by City and shall maintain a file of these receipt records for at least one year. Inspection and receipt records are to be made available on reasonable request from City. Failure to (i) inspect on a daily basis, (ii) make receipt records, (iii) maintain files of these records or (iv) make them available to City on request shall constitute a violation of this Permit and may cause revocation thereof.

Concessionaire shall perform whatever reasonable maintenance City deems necessary. If said maintenance is not undertaken by Concessionaire within ten days after receipt of written notice,

Concessionaire shall be in default of this agreement, and operations shall cease until such maintenance and other requirements are undertaken and completed. Continued use of the equipment or facility after such notice shall constitute a violation of this Permit and may cause immediate revocation thereof.

5.) Concessionaire shall, in the event it shall become necessary to make physical changes on its premises, promptly make such changes and installations at its sole expense. Such changes shall be approved by the City.

6.) Concessionaire shall assume and pay for all costs or charges for utility services furnished to Concessionaire during the term of this Permit; provided, however, that Concessionaire shall have the right to connect to any and all storm and sanitary sewers and utility outlets at its own expense; and Concessionaire shall pay for any and all service charges incurred therefor.

7.) Trash, Garbage, Inc.

Concessionaire shall provide a complete and proper arrangement for the adequate handling and disposal, away from the Airport, of all trash, garbage and other refuse generated as a result of the operation of its tank farm. Concessionaire shall provide and use suitable covered metal receptacles for all such garbage, trash and other refuse. Piling of boxes, cartons, barrels or other similar items, in an unsightly or unsafe manner, on or about the demised premises, shall not be permitted.

#### VI. Services

Concessionaire shall be required to serve the public by:

- A) Fueling aircraft
- B) Parking aircraft
- C) Tying down aircraft
- D) Providing APU starting service
- E) Providing Tug service

VII. Aircraft Service Equipment

- A) Auxiliary power unit (for starting)
- B) Aircraft towing tug or tugs

VIII. Hours of Operation

Fueling service shall be made available to the public on a sixteen-hour basis, and Concessionaire shall provide for storage or parking of transient aircraft at least 16 hours per day, seven days per week on Concessionaire's premises.

IX. Insurance and Indemnification

- A) Fire Insurance

Insurance shall be maintained by Concessionaire in accordance with the provisions of Concessionaire's Ground Lease.

- B) Indemnification

The City and Addison shall stand indemnified by Concessionaire as herein provided. Concessionaire is and shall be deemed to be an independent contractor and operator responsible to all parties for its acts or omissions, and City and Addison shall in no way be responsible therefor. Concessionaire covenants and agrees to indemnify, hold harmless and defend City and Addison, their officers, agents, servants, and employees from and against any and all claims for damages or injury to persons or property arising out of or incident to the use of this Permit and Occupancy of the premises by Concessionaire its employees, patrons, contractors or subcontractors; and Concessionaire does hereby assume all liability and responsibility for injuries, claims or suits for damages to persons or property of whatsoever kind or character, whether real or asserted, occurring during the term of this Permit in connection with the use or occupancy of the premises by Concessionaire, its employees, patrons, contractors or subcontractors. Concessionaire shall indemnify City and Addison against any and all mechanics and materialmen's liens or any other types of liens imposed upon the premises demised hereunder arising as a result of Concessionaire's conduct or inactivity.

Concessionaire shall promptly, after the execution of this permit, provide public liability insurance for

personal injuries, including death, growing out of any one accident or other cause in a minimum sum of Five Million and No/100 Dollars (\$5,000,000.00) for one person and Five Million and No/100 Dollars (\$5,000,000.00) for two or more persons; shall provide property damage liability insurance in a minimum sum of Five Million and No/100 Dollars (\$5,000,000.00) for property damage growing out of any one accident or other cause.

Concessionaire shall maintain said insurance with insurance underwriters authorized to do business in the State of Texas satisfactory to City. Concessionaire shall furnish City with a Certificate from the insurance carrier showing such insurance to be in full force and effect during the term of this permit, or shall deposit with City copies of said policies.

Said policies or certificates shall contain a provision that written notice of cancellation or of any material change in said policy by the insurer shall be delivered to City at least thirty days in advance of the effective date thereof.

X. Fees

A) Fuel Flowage Fee

As consideration for this Permit for securing the right to dispense aircraft fuel, Concessionaire shall pay to City a Flowage Fee in an amount equal to fourteen and one-half cents (\$0.145) for each gallon of aviation fuel received by Concessionaire during the term of this Permit. The City reserves the right to increase or decrease the Flowage Fee as, in its sole discretion, may be necessary. The Concessionaire shall be given 30 days' written notice prior to any change in the Flowage Fee becoming effective. Flowage Fee shall be paid in monthly installments as follows: On or before the tenth day of each calendar month during the term of this Permit beginning March 10, 1991, Concessionaire shall pay to City a sum equal to the product of the applicable Flowage Fee multiplied by the total amount of aviation fuel received on the Addison Airport by Concessionaire during the preceding full or partial calendar month. Concurrent with its payment, Concessionaire shall prepare and deliver to City a statement of amount of fuel received, sold or dispensed during the preceding calendar month, certified to be correct by Concessionaire's authorized

representative. Such statement shall be submitted on the form provided by City.

Concessionaire shall keep at its facilities located at the Airport a permanent accurate set of books and records of all aviation fuel received, sold or dispensed by it on the Airport, including sales slips, order records, records of transactions with suppliers, shipping records, records of fuel inventory, tax reports, bank records and any other records as may be needed to permit an effective audit of aviation fuel received, sold or dispensed by it. All such records shall be retained and preserved for at least 24 months after the end of the calendar year to which they relate and shall be subject to inspection and audit by City and its agent at all reasonable times.

On or before the 60th day after the expiration of each calendar year and the 30th day after the expiration or termination of this Permit, Concessionaire shall deliver to City at its offices a statement sworn to by Concessionaire or Concessionaire's authorized representative and certified to be correct by an independent certified public accountant, showing the amount of aviation fuel received, sold or dispensed during the calendar year next preceding the date on which such statement is due. In the event any provision of this Permit or the enforcement thereof by City, requires accounting of the flowage fee and the payment thereof for a period less than 12 months, such shorter period shall be treated as one year for the purpose of an annual statement, and such statement shall be delivered to City within 30 days after termination of such shorter period.

In the event City is not satisfied with any statement of aviation fuel received, sold or dispenses submitted by Concessionaire, City shall have the right to cause its auditors or auditors of its choosing to audit all books and records, wherever located, pertaining to the aviation fuel received, sold or dispensed in or from the Airport. If the amount of aviation fuel received, sold or dispenses reported in such statement or statements is determined to be understated more than two percent, the expense of such audit shall be borne by Concessionaire. Concessionaire shall promptly pay to City any deficiency, or City shall promptly refund to Concessionaire any overpayment, as the case may be, which is established by such audit.

If Concessionaire fails to prepare and deliver promptly any monthly, annual or other statement

required under this Permit, City may, in addition to exercising any of the remedies provided to City under this Permit, or at law, make an audit of all books and records, including Concessionaire's bank accounts, which in any way pertain to or show the aviation fuel received, sold or dispensed and to prepare the statement or statements which Concessionaire failed to prepare and deliver. Such audit shall be made and such statement or statements shall be prepared by a certified public accountant. The statement or statements so prepared, shall be conclusive on Concessionaire, and Concessionaire shall pay upon demand all expenses of the audit and other services.

B) Annual Fee

In addition to the fee provided for in paragraph A above, Concessionaire shall pay annually to City the sum of \$150.00 to cover the cost of the annual inspection made by Town of Addison Fire Department. Such inspection fee shall be due and payable within ten days upon receipt of a statement from City.

C) Payment

Other remedies for nonpayment of flowage fee notwithstanding, if the monthly flowage fee payment is not received by City on or before the tenth day of the month for which the flowage fee is due, a service charge of five percent (5%) of the past-due amount owed on such date shall become due and payable in addition to the regular flowage fee owed under this Permit. Additionally, if any sums due the City are not paid within ten (10) days after the due date thereof, the amount thus due shall bear interest from the due date at the rate of ten percent (10%) per annum until such amount is fully paid.

XI. Cancellation

A) Cancellation by Concessionaire

This Permit may be cancelled by Concessionaire upon thirty days' written notice to the City, but only after all payments due have been paid.

B) Cancellation by the City

This Permit shall be subject to cancellations by City in the event Concessionaire shall:

1. Be in arrears in the payment of the whole or any part of the amounts agreed upon for a period of ten days after the time such payments become due.
  2. Make a general assignment for the benefit of creditors.
  3. File a voluntary petition in bankruptcy.
  4. Abandon the demised premises.
  5. Discontinue fueling operations.
  6. Fail to replace any improvements which have been destroyed by fire, explosions, etc., within six months from the date of such destruction, or
  7. Default in the performance of any of the covenants and conditions required herein (except rental payments) to be kept and performed by Concessionaire and such default continues for a period of thirty days after receipt of a written notice from City of said default.
  8. Default in the performance of any of the covenants required herein (except rental payments) to be kept and performed by Concessionaire and receipt of notice of such default on three occasions within any eighteen month period.
- C) In any of the aforesaid events, City may take immediate possession of the demised premises and remove Concessionaire's effects, forcibly, if necessary, without being deemed guilty of trespassing. Upon said entry, this Permit shall terminate.

All rental due shall be payable to said date of termination. Failure of the City to declare the agreement terminated upon the default of Concessionaire for for any of the reasons set out shall not operate to bar or destroy the right of City to cancel the permit by reason of any subsequent violation of the terms hereof.

- D) In the event of termination or cancellation of this Permit, no application for a new Permit shall be made by Concessionaire or considered by the City for a period of one (1) year following termination or cancellation.

XII. Term of Permit

Unless otherwise cancelled or terminated in accordance with the provisions hereof, this Permit shall remain effective until (i) the termination or expiration (whichever occurs first) of that certain ground lease between the City and Addison as Lessor and \_\_\_\_\_ as Lessee, dated the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, or (ii) fifteen years from the date of execution of this Permit, whichever occurs first, following which termination or expiration this Permit shall be void and of no further force or effect.

XIII. Assignment, Transfer or Subletting

Without the written consent of the City, Concessionaire shall not assign, sublet or transfer this permit nor any privileges herein contained. It is specifically stipulated and agreed that Concessionaire will not enter into any tie-in agreements with other operators or sublet any of the rights herein whereby other operators share in the privileges or the services authorized in this Agreement.

XIV. Suspension of Lease

During the time of war or national emergency, City shall have the right to lease the landing area or any part thereof to the United States Government for military use. If any such lease is executed, any provisions of Concessionaire's agreement which are inconsistent with the provisions of the lease to the Government will be suspended.

XV. Taxes

Concessionaire agrees to pay any taxes or assessments which may be lawfully levied against Concessionaire's occupancy or use of the demised premises or any improvements placed thereon as a result of Concessionaire's occupancy.

XVI. Relocation of Improvements

City reserves the right, on six months' notice, to relocate or replace Concessionaire's tank farm improvements in substantially similar form at another generally comparable location on said Airport at the expense of the City.

XVII. Subordination of Agreement

This Permit shall be subordinate to the provisions of any existing or future agreement between City and the United



States relative to the operation or maintenance of the Airport, the execution of which has or may be required as a condition precedent to the expenditure of Federal funds for the development of the Airport, and this Permit shall be modified or amended at no cost or expense to the City or Addison as required in order to be consistent with any such agreement or agreements. This Permit shall be subject to such additional rules, regulations, ordinances or amendments hereto as may be promulgated by the City from time to time; provided no such changes, additions or amendments shall increase.

XVIII.

This Permit shall become effective upon compliance with all of the terms and conditions contained herein as determined by the City.

Executed this the 9th day of April, 1991.

TOWN OF ADDISON

By: \_\_\_\_\_

\_\_\_\_\_  
CONCESSIONAIRE

C13-PUBLIC-PUBLIC5

# EXHIBIT "B"

## ADDISON AIRPORT

### NONPUBLIC AIRCRAFT FUELS DISPENSING PERMIT

In consideration of a one time fee of \$1,000.00 \_\_\_\_\_  
\_\_\_\_\_ is hereby granted a Nonpublic Aircraft Fuels  
Dispensing Permit from the City of Addison, Texas, subject to  
and upon the terms and conditions hereinafter set forth.

#### I. Purpose

- A) These rules of procedure are established for the purpose of providing guidelines to be followed by parties conducting Nonpublic Aircraft Fuels Dispensing Service (hereinafter "Permittees") on Addison Airport (the "Airport") which is owned by the City of Addison ("City") and operated by Addison Airport of Texas, Inc. ("Addison") pursuant to an Operating Agreement.
- B) All parties who dispense aircraft fuel on the Airport must hold a Fueling Dispensing Permit issued by the City.

#### II. Restriction from Public Aircraft Fuels Dispensing Service

Permittees holding Nonpublic Aircraft Fuels Dispensing Permits shall be restricted from selling aircraft fuels to other airport users, including locally based and transient aircraft. Fueling of any aircraft not owned or leased by Permittee shall constitute a violation of the Fueling Concession Permit and, consequently, may call for immediate revocation of said Permit. Upon request by City, Permittee shall provide evidence of ownership or lease of any aircraft being fueled.

#### III. Personnel

Personnel engaged in dispensing aircraft fuels shall be properly trained in all fueling, handling and associated safety procedures and shall in all fueling and plane handling operations conform to all of the best practices for such operations. Observation of practice to the contrary by City and Notification thereof to the Permittee will be the cause for re-evaluation of such personnel as qualified to perform the operation. Failure on the part of Permittee to correct malpractice of fueling and related safety procedures shall constitute a violation of the Fueling Concession Permit and consequently may call for revocation of said Permit.

#### IV. Fuel

Permittee shall provide aircraft fuel of the types required by those aircraft which Permittee serves and shall not fuel aircraft with fuels other than those approved by the aircraft engine manufacturers for the type and length of operations involved. Aviation fuels received, stored and dispensed shall conform to ASTM Standard D910 for AV-Gas and ASTM Standard D-1655 for Turbo fuel. No waivers shall be acceptable unless specifically approved for a short duration by City in writing following a request for a waiver in writing by Permittee. City shall be the sole judge of possible waiver of fuel standards in any short term emergency.

Prior to issuance of this Permit, the prospective Permittee shall furnish a letter of Product Commitment, Allocation of Product and Certification of Compliance to the Fuel Specifications for the fuels to be dispensed from a supplier acceptable to City. Non periodic samples of fuel as received and fuels as dispensed may be required of the Permittee by City on a reasonable basis as determined by the City and Permittee will at no cost to City have basic and or complete specification testing of such samples performed by laboratory testing service and the results of such testing will be transmitted to airport in its original form by the testing service or Permittee. Such Laboratory Testing Service would preferably not be that of the supplier, however should the supplier's laboratory be almost singularly available such supplier's laboratory may perform the testing provided the sample is submitted "blind" and not singularly identifiable.

V. Fueling Facilities

A) Trucks

- 1.) Permittee shall furnish mobile dispensing single product trucks, at least one for each type fuel to be dispensed, each having a minimum capacity of 1,000 gallons for AV Gas and 2,000 gallons for Turbo fuel. In no instance shall any mobile dispensing truck exceed 2,500 gallon shell capacity. Separate filter or filter separator for equipment dispensing pumps, meters, bottom tank loading and grounding services for each type of fuel shall be required. Trucks shall be properly maintained, operated and equipped in accordance with applicable Federal Aviation Administration, Airport and National Fire Protection Association recommendations, requirements and regulations. Aircraft refueler units shall be attended and operated only by persons

instructed in methods of proper use and operations and who are qualified to use such refueler units in accordance with safety requirements. Each qualified operator shall be required to carry on his person an Identification Card issued by his employer certifying his qualifications.

- 2.) The Permittee shall not allow unlawful use of the equipment if defective and will operate the equipment in a safe, efficient, clean and as designed manner.
- 3.) Prior to the first use of a mobile dispensing truck on City Airport, the Permittee shall present such truck for inspection and approval by City. City's approval is mandatory to the mobile dispensing trucks use or operation and such approval shall be by the City Fire Marshall or his designee. Periodically, Permittee shall allow mechanical and dispensing system inspection of said trucks by City and shall cease operation of the trucks until any malfunction or discrepancy so noted is corrected to the satisfaction of City. Operation of mobile dispensing trucks with known mechanical or operational deficiencies shall constitute a violation of this Permit and may cause immediate revocation thereof.

Permittee shall make his own daily mobile dispensing truck inspection in accordance with the form furnished by City and shall maintain such inspection form for at least one year. These inspection files shall be available to City on request. Failure to make daily inspections of the mobile dispensing trucks or to maintain these inspection form files or make them available to City on request shall constitute a violation of this Permit and may cause immediate revocation thereof.

B) Tank Farm

- 1.) For each grade of fuel, there must be installed a minimum of two (2) 12,000 gallon tanks. Facilities for the bottom loading of mobile dispensing trucks are required. Fuel storage tanks shall be underground and such installations shall be in the location approved by City in the designated fuel farm areas, which loca-

tion is shown on Exhibit "A" hereto, and shall comply with applicable Uniform Building Code Standards, Fire Codes and Ordinances of the City of City and Recommendations of the National Fire Protection Association.

- 2.) Fuel storage tanks shall comply with requirements set out by Environmental Protection Agency and the Federal Aviation Administration. Detail plans and specifications for such tank farm installation shall be presented to City for approval 15 days prior to the anticipated date to commence construction of the facility. Facility construction shall not commence prior to approval by City.

After completion of the fuel farm and before initial use City shall approve such installation. After the fuel farm is in operation, Permittee shall allow City to make joint inspections of the facility in the manner of the Daily Inspection Record Forms to be furnished by City. Failure to (i) secure facility approval before use, (ii) allow joint inspection or (iii) correct any discrepancy in the condition of the fuel farm or the products stored therein shall constitute a violation of this Permit.

- 3.) All construction of improvements on tank farm shall conform with any General Architectural Requirements of the City and shall be undertaken in accordance with local, state and federal codes, ordinances and regulations now or hereafter in force and effect. Permittee shall, at its sole cost and expense, obtain all necessary building permits, and all labor and material bonds. Upon completion of construction, title to all such tank farm improvements shall vest in the City.
- 4.) Permittee shall, at its sole cost and expense, maintain fuel farm, all improvements thereon, and all appurtenances thereto, in a presentable condition consistent with good business practice and equal in appearance and character to other similar improvements on said Airport.

Permittee shall make daily inspections of his portion of the fuel farm in accordance with the Form furnished by City and shall maintain a file of these inspections for at least one year.

Permittee shall make records of receipt of fuels in accordance with Forms furnished by City and shall maintain a file of these receipt records for at least one year. Inspection and receipt records are to be made available on reasonable request from City. Failure to (i) inspect on a daily basis, (ii) make receipt records, (iii) maintain files of these records or (iv) make them available to City on request shall constitute a violation of this Permit and may cause revocation thereof.

Permittee shall perform whatever reasonable maintenance City deems necessary. If said maintenance is not undertaken by Permittee within ten days after receipt of written notice, Permittee shall be in default of this agreement, and operations shall cease until such maintenance and other requirements are undertaken and completed. Continued use of the equipment or facility after such notice shall constitute a violation of this Permit and may cause immediate revocation thereof.

- 5.) Permittee shall, in the event it shall become necessary to make physical changes on its premises, promptly make such changes and installations at its sole expense. Such changes shall be approved by the City.
- 6.) Permittee shall assume and pay for all costs or charges for utility services furnished to Permittee during the term of this Permit; provided, however, that Permittee shall have the right to connect to any and all storm and sanitary sewers and utility outlets at its own expense; and Permittee shall pay for any and all service charges incurred therefor.
- 7.) Trash, Garbage, Inc.

Permittee shall provide a complete and proper arrangement for the adequate handling and disposal, away from the Airport, of all trash, garbage and other refuse generated as a result of the operation of its tank farm. Permittee shall provide and use suitable covered metal receptacles for all such garbage, trash and other refuse. Piling of boxes, cartons, barrels or other similar items, in an unsightly or unsafe manner, on or about the demised premises, shall not be permitted.

VI. Insurance and Indemnification

A) Fire Insurance

Insurance shall be maintained by Permittee in accordance with the provisions of Permittee's Ground Lease.

B) Indemnification

The City and Addison shall stand indemnified by Permittee as herein provided. Permittee is and shall be deemed to be an independent contractor and operator responsible to all parties for its acts or omissions, and City and Addison shall in no way be responsible therefor. Permittee covenants and agrees to indemnify, hold harmless and defend City and Addison, their officers, agents, servants, and employees from and against any and all claims for damages or injury to persons or property arising out of or incident to the use of this Permit and Occupancy of the premises by Permittee its employees, patrons, contractors or subcontractors; and Permittee does hereby assume all liability and responsibility for injuries, claims or suits for damages to persons or property of whatsoever kind or character, whether real or asserted, occurring during the term of this Permit in connection with the use or occupancy of the premises by Permittee, its employees, patrons, contractors or subcontractors. Permittee shall indemnify City and Addison against any and all mechanics and materialmen's liens or any other types of liens imposed upon the premises demised hereunder arising as a result of Permittee's conduct or inactivity.

Permittee shall promptly, after the execution of this permit, provide public liability insurance for personal injuries, including death, growing out of any one accident or other cause in a minimum sum of Five Million and No/100 Dollars (\$5,000,000.00) for one person and Five Million and No/100 Dollars (\$5,000,000.00) for two or more persons; shall provide property damage liability insurance in a minimum sum of Five Million and No/100 Dollars (\$5,000,000.00) for property damage growing out of any one accident or other cause.

Permittee shall maintain said insurance with insurance underwriters authorized to do business in the State of Texas satisfactory to City. Permittee shall furnish City with a Certificate from the insurance carrier showing such insurance to be in full force and effect

during the term of this permit, or shall deposit with City copies of said policies.

Said policies or certificates shall contain a provision that written notice of cancellation or of any material change in said policy by the insurer shall be delivered to City at least thirty days in advance of the effective date thereof.

## VII. Fees

### A) Fuel Flowage Fee

As consideration for this Permit for securing the right to dispense aircraft fuel, Permittee shall pay to City a Flowage Fee in an amount equal to fourteen and one-half cents (\$0.145) for each gallon of aviation fuel received by Permittee during the term of this Permit. The City reserves the right to increase or decrease the Flowage Fee as, in its sole discretion, may be necessary. The Permittee shall be given 30 days' written notice prior to any change in the Flowage Fee becoming effective. Flowage Fee shall be paid in monthly installments as follows: On or before the tenth day of each calendar month during the term of this Permit beginning March 10, 1991, Permittee shall pay to City a sum equal to the product of the applicable Flowage Fee multiplied by the total amount of aviation fuel received, sold or dispensed on the Addison Airport by Permittee during the preceding full or partial calendar month. Concurrent with its payment, Permittee shall prepare and deliver to City a statement of amount of fuel received, sold or dispensed during the preceding calendar month, certified to be correct by Permittee authorized representative. Such statement shall be submitted on the form provided by City.

Permittee shall keep at its facilities located at the Airport a permanent accurate set of books and records of aviation fuel received, sold or dispensed by it on the Airport, including sales slips, order records, records of transactions with suppliers, shipping records, records of fuel inventory, tax reports, bank records and any other records as may be needed to permit an effective audit of aviation fuel received, sold or dispenses by it. All such records shall be retained and preserved for at least 24 months after the end of the calendar year to which they relate and shall be subject to inspection and audit by City and its agent at all reasonable times.



On or before the 60th day after the expiration of each calendar year and the 30th day after the expiration or termination of this Permit, Permittee shall deliver to City at its offices a statement sworn to by Permittee or Permittee's authorized representative and certified to be correct by an independent certified public accountant, showing the amount of aviation fuel received, sold or dispensed during the calendar year next preceding the date on which such statement is due. In the event any provision of this Permit or the enforcement thereof by City, requires accounting of the flowage fee and the payment thereof for a period less than 12 months, such shorter period shall be treated as one year for the purpose of an annual statement, and such statement shall be delivered to City within 30 days after termination of such shorter period.

In the event City is not satisfied with any statement of aviation fuel received, sold or dispensed submitted by Permittee, City shall have the right to cause its auditors or auditors of its choosing to audit all books and records, wherever located, pertaining to the aviation fuel received, sold or dispensed in or from the Airport. If the amount of aviation fuel received, sold or dispensed reported in such statement or statements is determined to be understated more than two percent, the expense of such audit shall be borne by Permittee. Permittee shall promptly pay to City any deficiency, or City shall promptly refund to Permittee any overpayment, as the case may be, which is established by such audit.

If Permittee fails to prepare and deliver promptly any monthly, annual or other statement required under this Permit, City may, in addition to exercising any of the remedies provided to City under this Permit, or at law, make an audit of all books and records, including Permittee bank accounts, which in any way pertain to or show the aviation fuel received, sold or dispensed and to prepare the statement or statements which Permittee failed to prepare and deliver. Such audit shall be made and such statement or statements shall be prepared by a certified public accountant. The statement or statements so prepared, shall be conclusive on Permittee, and Permittee shall pay upon demand all expenses of the audit and other services.

B) Annual Fee

In addition to the fee provided for in paragraph A above, Permittee shall pay annually to City

the sum of \$150.00 to cover the cost of the annual inspection made by Town of Addison Fire Department. Such inspection fee shall be due and payable within ten days upon receipt of a statement from City.

C) Payment

Other remedies for nonpayment of flowage fee notwithstanding, if the monthly flowage fee payment is not received by City on or before the tenth day of the month for which the flowage fee is due, a service charge of five percent (5%) of the past-due amount owed on such date shall become due and payable in addition to the regular flowage fee owed under this Permit. Additionally, if any sums due the City are not paid within ten (10) days after the due date thereof, the amount thus due shall bear interest from the due date at the rate of ten percent (10%) per annum until such amount is fully paid.

VIII. Cancellation

A) Cancellation by Permittee

This Permit may be cancelled by Permittee upon thirty days' written notice to the City, but only after all payments due have been paid.

B) Cancellation by the City

This Permit shall be subject to cancellations by City in the event Permittee shall:

1. Be in arrears in the payment of the whole or any part of the amounts agreed upon for a period of ten days after the time such payments become due.
2. Make a general assignment for the benefit of creditors.
3. File a voluntary petition in bankruptcy.
4. Abandon the demised premises.
5. Discontinue fueling operations.
6. Fail to replace any improvements which have been destroyed by fire, explosions, etc., within six months from the date of such destruction, or

7. Default in the performance of any of the covenants and conditions required herein (except rental payments) to be kept and performed by Permittee, and such default continues for a period of thirty days after receipt of a written notice from City of said default.
8. Default in the performance of any of the covenants required herein (except rental payments) to be kept and performed by Permittee and receipt of notice of such default on three occasions within any eighteen month period.

In any of the aforesaid events, City may take immediate possession of the demised premises and remove Permittee's effects, forcibly, if necessary, without being deemed guilty of trespassing. Upon said entry, this Permit shall terminate.

All rental due shall be payable to said date of termination. Failure of the City to declare the agreement terminated upon the default of Permittee for any of the reasons set out shall not operate to bar or destroy the right of City to cancel the permit by reason of any subsequent violation of the terms hereof.

IX. Term of Permit

Unless otherwise cancelled or terminated in accordance with the provisions hereof, this Permit shall remain effective until (i) the termination or expiration (whichever occurs first) of that certain ground lease between the City and Addison as Lessor and \_\_\_\_\_ as Lessee, dated the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, or (ii) fifteen years from the date of execution of this Permit, whichever occurs first, following which termination or expiration this Permit shall be void and of no further force or effect.

X. Assignment, Transfer or Subletting

Without the written consent of the City, Permittee shall not assign, sublet or transfer this permit nor any privileges herein contained. It is specifically stipulated and agreed that Permittee will not enter into any tie-in agreements with other operators or sublet any of the rights herein whereby other operators share in the privileges or the services authorized in this Agreement.

XI. Suspension of Lease

During the time of war or national emergency, City shall have the right to lease the landing area or any part thereof to the United States Government for military use. If any such lease is executed, any provisions of Permittee's agreement which are inconsistent with the provisions of the lease to the Government will be suspended.

XII. Taxes

Permittee agrees to pay any taxes or assessments which may be lawfully levied against Permittee's occupancy or use of the demised premises or any improvements placed thereon as a result of Permittee's occupancy.

XIII. Relocation of Improvements

City reserves the right, on six months' notice, to relocate or replace Permittee's tank farm improvements in substantially similar form at another generally comparable location on said Airport at the expense of the City.

XIV. Subordination of Agreement

This Permit shall be subordinate to the provisions of any existing or future agreement between City and the United States relative to the operation or maintenance of the Airport, the execution of which has or may be required as a condition precedent to the expenditure of Federal funds for the development of the Airport, and this Permit shall be modified or amended at no cost or expense to the City or Addison as required in order to be consistent with any such agreement or agreements. This Permit shall be subject to such additional rules, regulations, ordinances or amendments hereto as may be promulgated by the City from time to time; provided no such changes, additions or amendments shall increase.

XV. This Permit shall become effective upon compliance with all of the terms and conditions contained herein as determined by the City.

Executed this the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

TOWN OF ADDISON

By: \_\_\_\_\_

\_\_\_\_\_  
PERMITTEE

C13-NONP-NONP5