

**AGENDA
CITY OF MILLER
MONDAY, AUGUST 21, 2023
7:00 P.M.**

The City of Miller is an equal opportunity employer.

**Call to Order
Pledge of Allegiance**

**Approval of Agenda
Approval of Minutes pgs. 1 - 3**

Public Input

Unfinished Business

1. Insurance pgs. 4 - 5
2. Code Enforcement

New Business

1. Airport Grant Pre-App pgs. 6 - 7
2. SD DOT Agreement pgs. 8 - 9
3. Collateral Assignment of Lease – Kroeplin Air, LLC pgs. 10 - 14
4. SD FIT – Official Depository
5. Storm Shelter Engineer/Architect
6. Building Permits
 - Pat Colvin – covered porch

Approval of Bills

Adjourn

Public comments are welcomed during public input, but no action can be taken by the Council on comments received at this meeting. Anyone wishing to have the Council vote on an item should call the Finance Office at 853-2705 by 5:00 p.m. on the Wednesday preceding the next scheduled meeting to be placed on the agenda.

CITY OF MILLER
CITY COUNCIL MEETING
AUGUST 7, 2023

The City of Miller is an equal opportunity employer.

The City Council met in regular session at city hall on Monday, August 7, 2023, at 7:00 p.m.

MEMBERS PRESENT: Mayor Tom McGough, Aldermen: Dale Hargens, Will Jones, Patrick Price, and Mike Wetz and Alderwomen: Susan Hargens and Tammy Lichty.

CALL TO ORDER: Mayor McGough called the meeting to order. Pledge of Allegiance was said by all present.

AGENDA: Motion by Alderwoman Hargens, seconded by Alderman Price to approve the agenda. All members voted aye. Motion carried.

MINUTES: Motion by Alderman Hargens, seconded by Alderman Wetz to approve the minutes for the regular meeting held on July 17, 2023. All members voted aye. Motion carried.

Public Input: Dave Nelson presented the council with photos of a hole next to the storm sewer inlet in the ditch next to his property along East 5th Ave. Ron Hofstiezer, street superintendent, stated that the hole has been fixed. Mayor McGough and Hofstiezer drove around town looking at other inlets. Flat lids have been ordered to allow mowing over the inlets.

Department Head Reports: Ron Hofstiezer, street superintendent, stated that he has spoken to an individual regarding the grass at 2 of his properties. It was supposed to be mowed this weekend, but we had 3" of rain. Wednesday at noon will be the new deadline, at that time the city will mow the property if it is not completed. Neighbors have attempted to remove some of the overgrowth on one of these properties. Mayor McGough asked that all employees and board members report to Hofstiezer any properties in need of maintenance. Alderman Price read from the Municipal Code that it is the responsibility of the police department to notify property owners of lawn nuisance violations. Historically, the police chief has contacted Hofstiezer, and he has contacted property owners with a deadline to bring the property back into compliance before the city does at a minimum of \$200.00. Hofstiezer stated that there has been at least one mosquito verified with West Nile in Hand County. Mayor McGough commented on the FAA & DOT meeting held in Pierre and asked airport manager, Terry Manning, how many planes Miller has at the airport. Manning stated a minimum of 8 aircraft must be registered at the Miller airport to qualify for FAA funding. We would prefer 10 or more. Sheila Coss, finance officer, stated that department heads need to keep a close eye on their 2023 budgets and that any supplementing must be done prior to overspending the budget. 2024 budget worksheets will be handed out in September to be returned by early October after reviewing them with the appropriate committees.

UNFINISHED BUSINESS

2nd Reading of Ordinance #746 Chickens: Motion by Alderman Price, seconded by Alderwoman Lichty to approve the second reading of Ordinance #746 – Chickens. Roll call vote: Alderman Jones – aye, Alderman Price – aye, Alderman Hargens – aye, Alderman Wetz – aye, Alderwoman Lichty – aye, Alderwoman Hargens – aye. Motion carried.

Property & Liability Insurance: Mayor McGough asked the council to review the revised valuations and premiums from ATI/Intact and SDPAA. Any questions need to be addressed prior to the next meeting at which time a final decision will be made. He appreciates all who have gathered information to date.

NEW BUSINESS

SD FIT: Tim Bode, American Bank & Trust, was present to state that he has another option to invest funds. AB&T can provide a 6-month CD at 4.80% or a 12-month CD at 4.45%. Motion by Alderman Price, seconded by Alderman Wetz to have the finance committee determine the best way to invest \$2,000,000 between AB&T CD at 4.80%, SD FIT US Treasury Bonds at 5.31%, and SD FIT money market at 4.91%. All members voted aye. Motion carried.

DANR Grant Agreements: Motion by Alderman Wetz, seconded by Alderwoman Hargens to have Mayor McGough sign the ARPA 2022G-ARP-166 & 2022G-ARP-167 Grants for Phase IV water and sewer projects. All members voted aye. Motion carried.

SPN Street Engineering Agreement: Motion by Alderman Price, seconded by Alderman Wetz to have Mayor McGough sign the SPN Agreement for Northview Drive improvements. All members voted aye. Motion carried.

Water/Sewer Project: Motion by Alderman Price, seconded by Alderman Hargens to approve **SPN Invoice #31833** for \$5,811.32. All members voted aye. Motion carried.

East 4th Street Project: Motion by Alderman Price, seconded by Alderman Jones to pay **TLC Olson Construction Pay Request 3** for \$293,341.39. All members voted aye. Motion carried. Motion by Alderman Price, seconded by Alderman Jones to approve **TLC Olson Construction Certificate of Substantial Completion**. All members voted aye. Motion carried. Motion by Alderman Hargens, seconded by Alderwoman Lichty to pay **SPN Invoice #31852** for \$6,142.58. All members voted aye. Motion carried.

Building Permits: Motion by Alderwoman Lichty, seconded by Alderman Wetz to approve the following building permits: Tim & Abby Haier – house, Erin & Calvin Kindle – garage, John Gasper – shop/garage, and Sheila Hancock – fence. All members voted aye. Motion carried.

Approval of Bills: Motion by Alderman Price, seconded by Alderwoman Hargens to approve the bills for payment. All members voted aye. Motion carried.

EXECUTIVE SESSION: Motion by Alderman Wetz, seconded by Alderman Price to go into executive session for personnel matters pursuant to SDCL 1-25-2(1) at 8:16 p.m. All members voted aye. Motion carried. Mayor McGough returned the meeting to regular session at 9:48 p.m. Motion by Alderman Wetz, seconded by Alderman Hargens to hire the applicant (Logan Schiltz) at \$30.00/hour on the condition that he gets his CDL within 1 year, and he will receive a \$1.00/hour increase after his 6-month probation. All members voted aye. Motion carried.

Motion by Alderwoman Hargens, seconded by Alderwoman Lichty to adjourn the meeting. There being no further business, the meeting was adjourned at 9:56 p.m. All members voted aye. Motion carried.

Tom McGough, Mayor

Sheila Coss, Finance Officer

LEGAL NOTICE OF RECEIPT

Copy of the official proceedings
was received on: _____
Published once at the
approximate cost of: _____

Bills August 2023 (1)

A-Ox Welding	Supplies	16.65
American Solutions	Supplies	40.48
Anderberg, Shaylee	Reimb.	126.88
Blake, Abigail	Reimb.	251.25
BDS	Garbage	350.00
Bob's Gas	Fuel	2,021.50
Boomsma, Lindsay	Reimb.	100.00
City Utilities	Utilities	9,600.21
Core & Main	Saddles/Corps	622.88
Coss, Sheila	Reimb.	15.00
Cowboy Country Stores	Fuel	1,928.32
DPC	Service	1,220.41
DGR Engineering	Prof Fees	2,281.00
Ditch Witch	Repairs	431.23
Gates, Tyra	Reimb.	111.43
Graham, Qustin	Reimb.	126.88
Hawkins	Chemical	1,163.73
Hughes Electric	Supplies	219.46
ISG	Prof Fees	1,500.00
John Deere Financial	Parts	118.00
Johnson, Noah	Reimb.	126.88
Kessler's	Supplies	35.97
Lyle Signs	Signs	957.38
Manning, Terry	Reimb.	15.00
McLeod's	Supplies	92.23
Milbank WinWater	Meters/Parts	13,504.12
Miller Rexall	Supplies	40.15
MMUA	Prof Fees	5,552.88
Napa	Parts	345.79
Nelson, Dave	Solar Sellback	259.36
Oakley Farm & Ranch	Supplies	110.80
OHED	80% BBB	4,398.92
Postmaster	Fees/Permit	685.00
Pump 'N Pak	Fuel	115.82
Resel, Heather	Reimb.	88.34
Russell, Preslie	Reimb.	98.56
SD Fed Property	Parts/Supplies	241.00
Servall	Service	112.01
Share Corp	Supplies	730.00
SPN	Prof Fees	11,953.90
Stuart C Irby	Supplies	494.85
T & R Electric	Supplies	360.00
TLC Olson Construction	Ph.III Const./E 4th St.	293,341.39
US Bank	Loans	57,484.75
VanDerWerff, Cassi	Reimb.	126.88
Werdel, Jaden	Reimb.	126.88
Accounts Payable Total		<u>\$413,644.17</u>

Payroll Salary plus		7/13/2023, 7/20/2023, 7/27/2023,		
Benefits by Department:		7/31/2023, 08/03/2023		
Department		w/o OT	OT	Total
41101 COUNCIL		2,777.38	0.00	2,777.38
41402 FINANCE OFFICE		6,563.44	0.00	6,563.44
41902 BUILDING		378.39	0.00	378.39
42101 POLICE		25,956.81	2,553.73	28,510.54
43101 STREET		17,672.63	677.13	18,349.76
43201 SEWER		11,409.42	236.37	11,645.79
43305 WATER		11,440.91	322.61	11,763.52
43403 ELECTRIC		20,371.80	294.15	20,665.95
45101 BALLPARK		1,936.26	0.00	1,936.26
45202 PARK		1,585.28	0.00	1,585.28
45103 POOL		19,769.48	1,213.63	20,983.11
		<u>\$119,861.80</u>	<u>\$5,297.62</u>	<u>\$125,159.42</u>

sheila.coss@cityofmiller.com


From: Michael Wetz <Michael.Wetz@titanmachinery.com>
Sent: Friday, August 4, 2023 10:02 AM
To: Sheila Coss
Subject: FW: Updated Property Values
Attachments: City of Miller Spreadsheet Old vs New Values.xlsx

Here is Joe's quote and comparison to what the previous values were to what they are now.

Thanks,

From: Joe Beranek <jberanek@atiinsure.com>
Sent: Wednesday, August 2, 2023 3:32 PM
To: Michael Wetz <Michael.Wetz@titanmachinery.com>
Cc: Faren Stark <fstark@atiinsure.com>
Subject: Updated Property Values

 REGISTERED EMAIL™ | ENCRYPTED TRANSMISSION

You have received an encrypted email from Joe Beranek.
 to reply to this message encrypted.

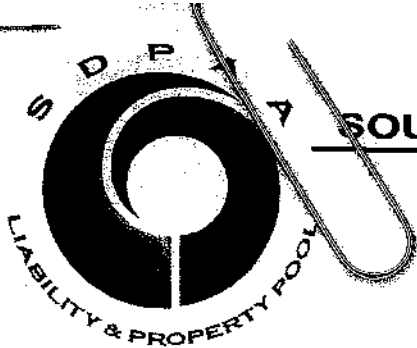
Mike,

Attached is a spreadsheet comparing the old property values to the new property values that we calculated. You will notice there were some significant changes. Keep in mind these are just estimates so if the council feels any of the values need to be adjusted one way or the other, we can certainly do that. A few things to note on this spreadsheet:

1. Substation #2 location (north of the football field) has been removed. I spoke with Dustin, and he said that location has been disconnected, and the materials have been scrapped. If there is anything at that location that still needs property coverage, we can add that back.
2. Removed the shed inside the old batting cage as that has been removed.
3. The new storage shed, new batting cage, and 2 new scoreboards at the ball fields have been added.
4. For the substations, I used the values Dustin sent me that his engineer suggested.
5. The value of the lights at the ball fields has been reduced significantly. I used the values Dustin provided me which were \$10,000 for each light pole on the big field, \$5,000 on the small fields, and \$400 for the new lights he installed this spring. I was a little hesitant to lower any limits, but he would know the values much better than me so that's what we went with. If we need to increase the limit for these, we can do that.
6. The total property values increased over \$3.2 million.

The premium for most recent proposal I provided you all on the claims made policy was \$74,662.57. The updated premium with the attached changes is \$80,186.57. Let me know if you have any questions.

Thanks,



SOUTH DAKOTA PUBLIC ASSURANCE ALLIANCE

MAIN OFFICE
208 Island Drive
Ft. Pierre, SD 57532

PHONE: 605.224.8654 Option 2
TOLL FREE: 800.658.3633 Option 2

Invoice # 29777

Invoice Date: 8/07/2023

Due Date: 9/06/2023

City of Miller
Attn: Sheila Coss, Finance Officer
120 W. 2nd St.
Miller, SD 57362-1316

Please return one copy of invoice with payment.

===== SOUTH DAKOTA PUBLIC ASSURANCE ALLIANCE =====

Current Payment Plan: Annual

Coverage	Effective Date	Amount
General Liability	9/09/2023	\$32,217.85
Auto Liability	9/09/2023	\$4,648.54
Auto Damage	9/09/2023	\$5,173.00
Law Enforcement	9/09/2023	\$2,713.60
Property	9/09/2023	\$32,885.84
Equipment Breakdown	9/09/2023	\$934.08
Coverage Total		\$78,572.91

2023 DISTRIBUTION		\$4,488.84
Renewal Credit	\$652.97	
Loss Control Credit	\$1,958.93	
Loss Ratio Credit	\$1,741.26	
Law Enforcement Credit	\$135.68	
Invoice Total		\$74,084.07

Please make checks payable to:

South Dakota Public Assurance Alliance (SDPAA)
208 Island Dr.
Ft. Pierre, SD 57532

Thank you

"Coverage is not bound until payment is received. We reserve the right to revoke coverage retroactively if payment is not received within 60 days of the due date."



FAA
Dakota-Minnesota Airports District Office

Airport Grant PreApplication Checklist

(COMPLETE ONE CHECKLIST PER GRANT)

Airport Name: Miller Municipal Airport

Date Prepared: 8/3/2023

SAM CAGE code #: 5QEL1

SAM Expiration Date: 02/02/2024

Project Description: Design of Connector Taxiway Reconstruction and Access Road Rehab. Design includes Wetland Delineation within project area.

☐ **We do not plan on having a project this fiscal year.**
The FAA is authorized to:
☐ **Carry our entitlements into the next fiscal year.** (If checked, sign below, and return to ADO.)
☐ **Transfer the entitlements. Transfer of Entitlements Form Attached.**

Items Required with PreApplication

No.	Document	Yes	No	N/A	Comments Attached
1.	Project Schedule (NOTE FAA DUE DATES)	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
2.	Standard Form 424, Form 5100-100 (parts II-IV for airport development grants), Form 5100-101 (parts II-IV for planning grants) (Includes project cost breakdown and sketch)	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
3.	Project Narrative and Justification (for Planning or Environmental Projects include Scope of Work)	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
4.	Environmental Documentation (Is the complete environmental documentation matching the potential application project description included?) (Attached or previously submitted to ADO)	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
5.	Construction Safety Phasing Plan/Airspace	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
6.	Exhibit A (SOP available) (attached or previously submitted to ADO)	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
7.	Title Certificate or Long Term Lease Agreement (at the request of ADO)	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Note: If you cannot complete any of the above documents with this submittal, explain in the space provided on page 2 and provide the expected submittal date, but no later than the date specified in the Federal Register.

Tom McGough, Mayor

Sponsor's Designated Official Representative (Official with authority to sign Grant Agreement) (Type or Print)

Date: _____

Sponsor's Designated Official Representative (Signature)

The purpose of this checklist is to identify some of the requirements and considerations associated with requesting Airport Improvement Program (AIP) funds. Airport Sponsors should read and consider each of the items carefully.

Some of the items can be answered by simply checking the "Yes" and "No" boxes while others require providing additional information as part of the airport's request for AIP funds.

6

Project Cost Breakdown

Miller Municipal Airport Miller, SD

Design of Connector Taxiway Reconstruction and Access Road Rehab. Design includes Wetland Delineation within the project area.

Brief Item Description	Construction or Land Cost	Engr./Land Incidental	Admin. Cost	Total Cost	Federal Share	Non- Federal
					90%	10%
Design of Connector Taxiway Reconstruction and Access Road Rehab	--	\$47,000.00	\$3,000.00	\$50,000.00	\$45,000.00	\$5,000.00
Wetland Delineation	--	\$18,000.00	\$2,000.00	\$20,000.00	\$18,000.00	\$2,000.00
Totals	--	\$65,000.00	\$5,000.00	\$70,000.00	\$63,000.00	\$7,000.00

Table below provides the breakdown of the funding sources for the Project.

AIP ENTITLEMENTS	BIL	STATE APPORTIONMENT	DISCRETIONARY	STATE SHARE (5.0%)	SPONSOR SHARE (5.0%)	TOTAL ESTIMATED COST
--	\$63,000	--	--	\$3,500	\$3,500	\$70,000

**STATE OF SOUTH DAKOTA
JOINT POWERS
MAINTENANCE AND FINANCIAL AGREEMENT
BETWEEN
SOUTH DAKOTA DEPARTMENT OF TRANSPORTATION
AND
CITY OF MILLER, SOUTH DAKOTA**

This Agreement is made by and between the State of South Dakota, acting by and through its Department of Transportation, referred to in this Agreement as the "STATE," and the city of Miller, South Dakota, referred to in this Agreement as the "CITY."

THE STATE AND CITY MUTUALLY AGREE TO THE FOLLOWING:

- 1. JOINT POWERS**
This Agreement does not establish a separate legal entity, as contemplated by § SDCL 1-24-5. The cooperative undertaking described in this Agreement will be financed and conducted under the provisions of this Agreement by the CITY and the STATE. Each party has responsibilities under the terms of this Agreement and no joint board or administrator will be used. No real property will be purchased for use for this Agreement.
- 2. TERM**
The term of this Agreement will begin upon the last date of signature and will be perpetual.
- 3. THE PROJECT**
 - A. The STATE and the CITY concur in the proposal for the new construction or improvement of CITY streets identified as Project Number 0009-192 and Project Control Number (PCN) 16N3, referred to in this Agreement as the "PROJECT." The PROJECT is located on 15th Street and East 3rd Avenue, which are CITY streets within the city of Miller.
 - B. The CITY will continue to maintain jurisdiction and maintenance responsibilities of the PROJECT upon completion, including the portion to be repaired or reconstructed under this Agreement.
- 4. FINANCIAL RESPONSIBILITY**
The STATE will be responsible for the actual costs of the PROJECT. The CITY will contribute no funds to the PROJECT.
- 5. CONTRACT PROCUREMENT**
 - A. The STATE will design, advertise, let to contract, award, and be the contracting party for the PROJECT.
 - B. The STATE will obtain the required environmental clearances for the PROJECT, if any.
 - C. The STATE will provide construction engineering including construction supervision and inspection.
- 6. INDEMNIFICATION**
The CITY will indemnify the STATE, its officers, agents, and employees against any and all actions, suits, damages, liability or other proceedings that arise as a result of the CITY'S performance under this Agreement. This section does not require the CITY to be responsible for or defend against claims or damages arising solely from errors or omissions of the STATE, its officers, agents, or employees.

7. RESPONSIBILITY FOR MAINTENANCE AND OTHER ACTIVITIES

Upon completion of the PROJECT, the CITY will continue to be responsible for providing timely maintenance of that part of the PROJECT constructed on 15th Street and East 3rd Avenue. The CITY will continue to be responsible for repair of the driving surface upon completion of the PROJECT. The STATE makes no claim of jurisdiction over the PROJECT constructed within the CITY'S limits.

8. EQUAL EMPLOYMENT OPPORTUNITY

In connection with the execution of this Agreement, the CITY will not discriminate against any employee, or applicant for employment, because of race, religion, color, sex, disability, or national origin. Such actions will include but not be limited to, the following: employment, upgrading, demotion, or transfer, recruitment, or advertising, layoff or termination, rates of pay, or other forms of compensation, and selection for training, including apprenticeship. The CITY will provide services in compliance with the Americans with Disabilities Act of 2016, and any amendments.

9. AMENDMENT

This Agreement may not be amended, except in writing, which writing will be expressly identified as a part of this Agreement and must be signed by an authorized representative of each of the parties.

10. TERMINATION

The STATE may terminate this Agreement at any time with or without cause and with or without notice. If the STATE terminates this Agreement for a default by the CITY, the CITY will reimburse the STATE for all STATE funds expended for the PROJECT.

11. FUNDING AVAILABILITY

This Agreement depends upon the continued availability of appropriated funds and expenditure authority from the Legislature for this purpose. If, for any reason, the Legislature fails to appropriate funds or grant expenditure authority, or funds become unavailable by operation of law or federal funds reductions, this Agreement may be immediately terminated by the STATE. Termination for any of these reasons is not a default by the STATE nor does it give rise to a claim against the STATE.

12. EMPLOYEE STATUS

Any officer, employee, or agent engaged in joint action under this Agreement will remain an employee with his or her agency during participation in joint action under this Agreement. Each agency will retain exclusive responsibility for its officers, agents, and employees while these officers, agents, and employees are engaged in joint action under this Agreement, including but not limited to responsibility for regular and overtime wages and salaries, unemployment benefits, workers' compensation coverage, health insurance, or other benefits, and liability coverage and indemnity, except as otherwise specifically provided in this Agreement.

13. SIGNATURE AUTHORITY

The CITY has designated its Mayor as the CITY'S authorized representative and has empowered the Mayor with the authority to sign this Agreement on behalf of the CITY. A copy of the CITY'S Commission or Council minutes or resolution authorizing the execution of this Agreement by the Mayor as the CITY'S authorized representative is attached to this Agreement as **Exhibit A**.

By signature of their representatives below, each party certifies that approval of this Agreement by ordinance, resolution, or other appropriate means has been obtained by that party's governing body or officer pursuant to SDCL § 1-24-3 and § 1-24-6.

City of Miller, South Dakota

State of South Dakota
Department of Transportation

By: _____

By: _____

Printed Name: _____

Printed Name: Joel M. Jundt

Its: Mayor _____

Its: Department Secretary _____

Date: _____

Date: _____

Attest:

Approved as to Form:

By: _____

By: /s/ Dustin W. DeBoer

Printed Name: _____

Printed Name: Dustin W. DeBoer

City Auditor/Clerk

Special Assistant Attorney General

(CITY SEAL)

This document has been prepared by:
South Dakota Governor's Office of Economic Development
c/o BankWest, Inc.
PO Box 998,
Pierre, SD 57501
(605) 945-3709
Attn: Shawn Hofer

COLLATERAL ASSIGNMENT OF LEASE AGREEMENT

August __, 2023

The undersigned, Kroeplin Air, LLC, a South Dakota limited liability company, with its chief executive office address located at 2101 Hanger 19 E 3rd St. Miller, SD 57362 (the "Assignor"), in consideration of financing and credit accommodations afforded and to be afforded to the Assignor by the South Dakota Board of Economic Development, 711 Wells Avenue, Pierre, South Dakota 57501 (herein "BED") ("Creditor") for the benefit of the Creditor, a continuing security interest in all right, title, interest and claim of the Assignor in, to, under or pursuant to the Lease Agreement set forth on Exhibit A attached hereto (as amended or otherwise modified from time to time in accordance with the terms hereof, the "Lease Agreement"), by and between the Assignor and the City of Miller (the "Lessor and/or Landlord"), all claims of the Assignor for breach by any other parties to any Lease Agreement of any covenant, agreement, representation or warranty contained in such Lease Agreement, all right, title and interest of the Assignor in, to, under or pursuant to any and all reserve or escrow accounts, now or hereafter established pursuant to the Lease Agreement, including without limitation the right to receive any proceeds of such accounts, and all proceeds of any and all of the foregoing (all of the foregoing rights, interests, properties and privileges hereby assigned and in which a security interest is hereby granted being hereinafter collectively referred to as the "Collateral").

All capitalized terms used herein without definition shall have the meanings ascribed to them in the Business Loan Agreement, Promissory Note, Mortgage, Agreement to Provide Insurance, and Limited Liability Company Resolution to Borrow, Dated August __, 2023 ("Loan Documents"). The assignments and security interest herein granted and provided for are made and given to secure and shall secure all Secured Obligations as identified in the Loan Documents.

The Assignor does hereby irrevocably constitute and appoint the Creditor its true and lawful attorney in fact with full power of substitution for it and in its name, place and stead during the continuance of an Event of Default to file any claim or to take any other action or proceeding, either in its own name or in the name of the Assignor, or otherwise, which the Creditor may deem reasonably necessary or appropriate to protect and preserve the right, title and interest of the Creditor in and to the Collateral and the security intended to be afforded thereby, provided that the Creditor agrees, not as a limitation or condition hereon, but as a personal covenant available only

to the Assignor, that it will not exercise any of the aforesaid rights under this paragraph except after the occurrence and during the continuance of an Event of Default; provided that the Creditor shall provide at least two (2) Business Days' prior written notice to the Borrower before exercising any such rights. Any requirement of the Uniform Commercial Code for reasonable notice shall be satisfied if such notice is personally served or mailed (certified mail, return receipt requested) to the Assignor at the addresses set forth above, at least ten (10) Business Days before the time of the sale, disposition or other event or thing giving rise to the requirement for such notice.

The Assignor hereby further covenants that it will, upon the written request of the Creditor, execute and deliver such further instruments and do and perform such other acts and things as may be reasonably necessary or advisable in the reasonable opinion of the Creditor to carry out more effectively the provisions and purposes of this Collateral Assignment of Lease Agreement (this "Assignment").

The Assignor represents and warrants to the Creditor and the Creditor Parties that (i) a true, correct and complete copy of the Lease Agreement is attached hereto as Exhibit A, and such Lease Agreement has not been amended or modified in any respect, except for such amendments or modifications as are embodied in written agreements delivered to the Creditor and (ii) the Lease Agreement, as of the date hereof, is in full force and effect and, as of the date hereof, there are no uncured defaults under the Lease Agreement in any material respect.

This instrument constitutes an assignment of rights only and not an assignment of any of the duties and obligations of the Assignor under the Lease Agreement and by its acceptance hereof the Creditor does not undertake to perform any of such duties and responsibilities. However, the Creditor may in its sole and absolute discretion, after the occurrence and during the continuance of an Event of Default (subject to all applicable notice and cure periods), undertake to perform the Assignor's duties and obligations under the Lease Agreement. This Assignment shall be binding upon the Assignor and upon its successors and assigns and shall inure to the benefit of the Creditor and its successors and assigns (including any subsequent holder of any of the Secured Obligations).

This Assignment may only be amended or modified by an agreement in writing signed by the party against whom enforcement of the amendment or modification is sought.

This Assignment shall be governed by, and construed in accordance with, the Laws of the State of South Dakota.

Any provision of this Assignment, which is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective and severed here from, to the extent of such prohibition or unenforceable provision is removed, without invalidating the remaining portions hereof or thereof or affecting the validity or enforceability of such provision.

This Assignment may be executed in counterparts (and by different parties hereto in different counterparts), each of which shall constitute an original, but all of which when taken together shall constitute a single contract. Delivery of an executed counterpart of a signature page of this Assignment by electronic means shall be effective as delivery of a manually executed counterpart of this Agreement.

[SIGNATURE PAGE FOLLOWS]

Executed and delivered as of the date first above written.

KROEPLIN AIR, LLC

By: _____

Name: _____

Title: _____

Acknowledged and agreed to:

the South Dakota Board of Economic Development, (herein "BED"), as Creditor

By: _____

Name: _____

Title: _____

Acknowledgment

The undersigned Landlord hereby acknowledges and agrees to the following:

(i) that all right, title and interest of the Assignor under the Lease Agreement referred to in the foregoing Collateral Assignment of Lease Agreements (the "Assignment") has been collaterally assigned to the Creditor, for the benefit of the Creditor Parties, and the Landlord hereby consents to such assignment notwithstanding anything set forth in the Lease Agreements to the contrary;

(ii) that the Lease Agreement will not be materially amended, modified or supplemented without the prior written consent of the Creditor, which consent shall not be unreasonably withheld, conditioned or delayed. If Creditor fails to respond in writing to any request for consent within fifteen (15) Business Days after receipt of notice of such request, Creditor will be deemed to have consented to any such amendment, modification or supplement;

(iii) that the undersigned will send a courtesy copy to the Creditor, at the following address: the South Dakota Board of Economic Development, 711 Wells Avenue, Pierre, South Dakota 57501 (herein "BED"), of all notices, including but not limited to notices of default given by the undersigned to the Assignor under the Lease Agreement, except that any failure to provide the Creditor with a courtesy copy of any notice that Landlord provides Assignor under the Lease Agreement will not result in Landlord having any liability to the Creditor, the Creditor Parties or any other person or party;

(iv) that the undersigned will not terminate any Lease Agreement on account of a default thereunder unless the Assignor shall have failed to cure such default as required by such Lease Agreement and any grace periods shall have expired and the Creditor shall have failed after written notice to take such action or to make such payments necessary or appropriate to cure any such default by the Assignor within the greater of (a) fifteen (15) days from receipt of notice of such default or (b) the Assignor's applicable cure period; *provided, however*, that if such default is non-monetary and is not curable by the Creditor within such time, the Creditor shall have such additional time as may be reasonably necessary to commence promptly and proceed with due diligence to cure such non-monetary default, including such time as it may take for the Creditor to obtain possession of the premises which is the subject of the Lease Agreement and promptly cure such non-monetary default;

(v) that to secure all Secured Obligations, Assignor has granted to the Creditor, for its own benefit and the variable benefit of Creditor Parties, a security interest in and lien upon certain assets of Assignor as more fully described in the Loan Documents, and until such time as the obligations of the Assignor to the Creditor, are indefeasibly paid in full and the Assignor's commitments under the Loan Documents have terminated, the undersigned waives any interest in the Personal Property Collateral and agrees not to distraint or levy upon any Personal Property Collateral or to assert any landlord lien, right

Exhibit A

COMMERCIAL LOADING FACILITY LEASE AGREEMENT

THIS AGREEMENT, made this 11 day of May, 2023 by and between the City of Miller, South Dakota, a municipal corporation, (herein after referred to as City) and Kroepplin Air, LLC, (herein after referred to as Owner).

WITNESSETH, whereas the City owns the Miller Municipal Airport situated east of Miller, in Hand County, South Dakota, and whereas the Owner herein desires to maintain an aircraft at said airport and for that purpose desires to lease the following described land on which Owner's loading facility is located on and sufficient land to maintain said loading facility, and therefore, in order to authorize the leasing of ground for the loading facility, the parties do in mutual consideration of the premises herein contained agree as follows:

That the City in consideration of the rents and covenants hereinafter mentioned, leases and rents to the Owner the following described premises, situated at the Miller Municipal Airport, in Hand County, South Dakota:

Hangar Area No. 17 with a dimension of 40' x 63' consisting of 2,520 square feet, and with a dimension of 60' x 100' consisting of 6,000 square feet; and with a 12,000 gallon 12' diameter, double walled Jet Fuel Tank sitting on a 3' galvanized ring with rock for accumulated moisture protection. The Jet Fuel Tank is located 50' northwest of the northwest corner of the building and 10' northwest of the northwest corner of the concrete pad.

The term of this lease shall be from April 1, 2023, to March 31, 2032, and shall be renewable by the Lessee for a one (1) year period. The rent shall be renegotiated by the parties from time to time (but in no event more often than once per year) to account for inflation and improvements at the airport, it being the intention to keep rents in line with those charged elsewhere in South Dakota, at commercial aviation facilities where similar services are provided. The premises above described shall be used and occupied by Owner for the sole purpose of carrying out the business of a fixed base operator, which shall include all necessary things in connection therewith including flight instruction, charter service, and the storage and service of airplanes and repair, maintenance and upkeep thereof, and may include spray service. The area shall not be used for any other purposes than those herein stated.

The Owner agrees with the City to pay as loading facility rent for the premises the sum of Fifteen Cents (.15 cents) per square foot per annum and to pay as rent for the premises not occupied by a loading facility the sum of Fifteen Cents (.15 cents) per square foot per annum until termination hereof. The annual rental is payable April 1st of each year in advance.

Under no circumstances shall the terms and specifications be altered in any respect without the express written permission of the City, and the Owner may not alter or remodel the

of distraint or other claim against the Personal Property Collateral for any reason; provided, that there are no uncured defaults under the Lease Agreements of Assignor. Assignor shall notify Landlord in writing within fifteen (15) days after the date the Loan Documents are terminated;

(vi) that, prior to a termination of the Lease Agreement, the Creditor or its representatives or invitees may enter upon the premises which is the subject of such Lease Agreement upon reasonable advance notice to the undersigned, to inspect or remove any or all of the Personal Property Collateral during normal business hours. Creditor shall indemnify and hold the Landlord harmless from and against all loss, cost, expense, claims, and/or liability, including from and against damage to persons or property, arising directly from such entry and removal of any and all Personal Property Collateral. This indemnification obligation shall not be extinguished by any termination of either the Lease Agreement or the Credit Agreement.

All capitalized terms used herein without definition shall have the meanings ascribed to them in the Assignment and Loan Documents.

Dated: August __, 2023.

LANDLORD:

City of Miller

By: _____

Name: _____

Title: _____

hangar at a later time without the written permission of the City.

The loading facility shall remain the property of the Owner and all obligations to insure said property shall be that of the Owner, but under no circumstances may the Owner ever remove the building from the land on which it is constructed without the express written permission of the City. This lease shall be assignable by the Owner with written permission of the City so as to give effect to the sale by the Owner of the loading facility, but it is understood that the hangar shall remain on the plot on which it was constructed and cannot in any event be removed by an assignee without the written permission of the City. Such permission will not unreasonably be withheld.

The Owner shall be obligated to keep the loading facility and all the land situated within the loading facility plot being leased herein in a clear and orderly condition and in a good state of repair. This shall also require Owner to mow his loading facility area in an appropriate and timely manner. Any breach of this provision shall allow the City to cancel this agreement as hereinafter provided.

At all times during the term of this lease and any extended renewal term thereof, the Owner shall be obligated to carry liability insurance for at least \$2,000,000.00 for any personal injury or property damage for which the Owner might become liable due to the possession, building, operating and maintenance of the loading facility. Proof of compliance with this provision shall be filed at all times during the term of this lease or any extension thereof with the City Finance Officer of the City of Miller by the Owner, filing a certificate of insurance certifying that said insurance is in full force and effect.

The Owner shall hold the City harmless from any and all liability arising out of the Owner's possession, building, and maintenance and operation of the loading facility and of any of Owner's aircraft.

The Owner shall comply with all rules, regulations and ordinances of the City regarding the operation of its municipal airport, specifically the City of Miller Municipal Airport Operations Manual (1998 Edition), not in conflict herewith, and with all rules and regulations of the South Dakota Aeronautics and the Federal Aviation Administration. Furthermore, Owner shall require written permission from the City in order to erect, construct, or after any advertising signs, buildings, tanks, or pumps and if requested by the City, shall be removed upon expiration of this lease of extension thereof.

If it shall be in the public interest as determined by a court of competent jurisdiction, the City shall have the power to condemn this lease even though it is a party thereto. In the event of such condemnation, Owner shall be entitled to only such damages as shall reasonably compensate him for any building or improvements placed by him upon the leased premises, it being the intention of the parties herein that future or anticipated profits that might accrue to Owner under this Lease shall not be submitted to the Court nor considered by the Court in any award of damages.

The Owner shall provide his own water, sewer, electricity, and telephone service at his own expense. The City shall provide gate entrance to and or access to Aggrega Cooperative for the purpose of vendor/fuel delivery, employee entry and customer access. Furthermore, any Owner who is a commercial Owner shall be required to submit fuel tax reports monthly to the City's Finance Officer.

The Owner does further agree that he shall not use the leased premises in any way that would constitute an operation hazardous to the operation of aircraft, including but not limited to the production of smoke, glaring lights, electronic interference, etc.

This Lease Agreement and all of its terms shall be subordinate to any conditions or requirements heretofore placed upon the City in the operation of its Municipal Airport by the conveyance of ownership thereof from the United States of America and by any existing or future United States of America grant agreements involving funds in connection with the development and maintenance of said Airport.

The Owner shall pay or reimburse the City for any fines imposed against the City for violations of FAA regulations done or caused by the Owner or permitted by the Owner to occur.

It is further agreed between the parties as follows: That should the Owner fail to make the payments as herein specified, or to pay any of the rent aforesaid when due, or fail to fulfill any of the covenants herein contained, then and in that case it shall be lawful for the City to re-enter and take possession of the above rented premises and hold and enjoy the same without such re-entering working a forfeiture of the rents to be paid, and the covenants to be performed by Owner for the full term of this Lease.

The parties agree that upon termination of this Lease Agreement the Owner may remove any buildings. Owner may own or may have constructed on the leased premises, said removal to be completed within sixty (60) days after said termination.

IN WITNESS WHEREOF, the parties have hereunto set their hands on this 11 day of May 2023.


Kroepin Air LLC

CITY OF MILLER



Kroepin Air LLC, Owner

V. Thomas McGough, Mayor



Witness

Sheila Foss, Finance Officer

FIRST AMENDMENT TO THE COMMERCIAL
LOADING FACILITY LEASE AGREEMENT

This FIRST AMENDMENT is made and entered into between the City of Miller, South Dakota, a municipal corporation ("City") and Kroepflin Air, LLC, ("Owner").

WHEREAS, the City and Owner entered into a Commercial Loading Facility Lease Agreement ("Agreement") on May 11, 2023; and

WHEREAS the description of the premises situated at the Miller Municipal Airport in land County, South Dakota sufficiently described the leased premises but failed to include a legal description of the premises; and

WHEREAS the City and Owner mutually agree to restate the legal description in the Agreement.

NOW THEREFORE IT IS MUTUALLY AGREED AS FOLLOWS:

1. That the description of the lease premises be amended to read:

Hangar Area No. 17 with a dimension of 40' x 63' consisting of 2,520 square feet; and with a dimension of 60' x 100' consisting of 6,000 square feet; and with a 12,000 gallon 12" diameter, double walled Jet Fuel Tank sitting on a 3' galvanized ring with rock for accumulated moisture protection. The Jet Fuel Tank is located 50' northwest of the northwest corner of the building and 10' northwest of the northwest corner of the concrete pad.

All located in Hangar Area 17 of the Miller Airport, Miller Airport Outlot and Miller Airport Outlot 2, located in the W1/2 Section 12, Township 112 North, Range 68, West of the 5th P.M., Except Lot H1

IN WITNESS WHEREOF, the parties signify their agreement on this ____ day of August, 2023.

Kroepflin Air LLC

City of Miller

Kroepflin Air LLC, Owner

V. Thomas McGough, Mayor

Shelia Coss, Finance Officer