MEMORANDUM

TO: Airport Board
FROM: Patrick Dame, C.M., Executive Director
DATE: June 14, 2022
RE: Public Hearing and Lease and Concession Agreement with EagleRider

The Resolution for a Notice of Intent to Enter a Lease was approved by the Board on May 10, 2022. Attached is the Lease and Concession Agreement with EagleRider. The effective date of agreement will be from June 14, 2022, through December 31, 2022. On-site motorcycle rentals will be available for the months of July and August, 2022. The agreement includes an option for renewal for up to two (2) consecutive one (1)-year terms by mutual agreement of the Lessor and Lessee.

A Public Hearing on the agreement needs to be held prior to execution.

STAFF RECOMMENDATION: Staff recommends approval of the Lease and Concession Agreement with EagleRider.
RAPID CITY REGIONAL AIRPORT BOARD
CITY OF RAPID CITY

And

EAGLERIDER

MOTORCYCLE LEASE & CONCESSION AGREEMENT

Approved: May 10, 2022
Effective: May 10, 2022

Rapid City Regional Airport
Rapid City, South Dakota
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EXHIBITS

Exhibit A CFC Rules and Regulations
Exhibit B Operations & Maintenance Responsibilities
Exhibit C Monthly Report Detail
Exhibit D Monthly Report Summary
Exhibit E ACDBE Report
Exhibit F Federally Mandated Clauses
Exhibit G Lessor’s Request for Proposals dated April 1, 2021
Motorcycle Lease & Concession Agreement

This Agreement made and entered into between the City of Rapid City, a municipal corporation by and through the Rapid City Regional Airport Board, hereinafter collectively called Lessor, and EagleRider, hereinafter called Lessee. This Agreement supersedes all prior or contemporaneous negotiations, commitments, agreements (written or oral) and writings between the Lessor and Lessee with respect to the subject matter hereof.

WHEREAS, Lessor owns, operates and maintains the Rapid City Regional Airport (hereinafter “Airport”); and

WHEREAS, the Lessor has the right to lease premises and facilities at the Airport and to grant rights and privileges with respect thereto; and

WHEREAS, pursuant to the Lessor’s Request for Proposals dated April 1, 2021, attached hereto and incorporated herein as Exhibit G, the Lessor has advertised for proposals for the non-exclusive privilege of operating a Motorcycle Concession (as hereinafter defined) at the Airport; and

WHEREAS, Lessor received no responses to the Request for Proposals and has negotiated with the Lessee for the service; and

WHEREAS, the parties now wish to reduce their understanding to writing.

NOW, THEREFORE, for and in consideration of the mutual undertakings of the parties, it is agreed as follows:

ARTICLE 1 – DEFINITIONS

A. “Agreement” means this Motorcycle Lease & Concession Agreement between the Lessor and Lessee, as such agreement may be amended from time to time through the execution of an amendment or addendum.

B. “Agreement Year” means the 12-month period commencing on January 1 and each subsequent 12-month period falling wholly or partly within the Term or any extension options. For purposes of the initial Agreement Year such year shall commence on the Effective Date and end on December 31, 2022.

C. “Airport” means the Rapid City Regional Airport located in Pennington County, South Dakota.

D. “Airport Executive Director” means the Lessor’s Airport Executive Director (AED), or when duly designated, his or her representative or representatives.

E. “Airport Premises” means the entire Airport property including, but not limited to, the general aviation area of the Airport.
F. “Motorcycle Rental Contracts” means the written agreement under which a motorcycle is rented at the Airport to a Customer by an On-Airport Motorcycle Rental Company.

G. “CFC” means Customer Facility Charge.

H. “Concession Fee(s)” means the amount paid by the Lessee for the privilege of operating the Motorcycle Concession pursuant to this Agreement, which will be a percentage of Gross Revenues. If Lessee charges a Concession Fee to its customers, Lessee shall charge the fee in a fair and consistent manner. Lessee shall list and disclose the Concession Fee(s) and shall describe it as a fee and not a tax. The Lessee shall not collect from customers more than the 10% established in this Agreement for the Airport Concession Fee unless modified by the Lessor.

I. “Customer” means any person or entity that rents, leases or obtains a vehicle from or through Lessee on the Airport Premises or at an Off-Airport location where Lessee directs or transports such person or entity from the Airport.

J. “Effective Date” means May 10, 2022.

K. “Gross Revenues” means Lessee will pay Lessor a concession fee equal to ten percent (10%) of all earned Time and Mileage receipts from all customers other than Wholesale Customers (“Retail Customers”) whose rentals originate from the Location, and five percent (5%) of all earned Time and Mileage receipts from customers who reserved the applicable rental or tour through a travel agency or other sales agent of Lessor (“Wholesale Customers”) whose rentals originate from the Location (collectively, the “T&M Concessions”).

L. For purposes of this Agreement, “Time and Mileage” means the charge for the length of time rented, the allowable mileage and any incremental charge for mileage over such allowance, and also including cancellation fees and late fees; provided that, for the avoidance of doubt, the term “Time and Mileage” will not include the following items: over the counter insurance and damage waivers; trip cancellation insurance; surcharges; concessions; apparel and accessory rentals; one-way fees; taxes; Motorcycle Model Guarantee; supplemental liability; prepaid fuel; tolls; violation charges; GPS rental; windshield protection; towing; road side assistance; rally, event and park entrance fees; and tour related charges and expenses unrelated to usage of the motorcycle (i.e., hotels, guides, attractions, excursions, support vans or vehicles and flights). For the avoidance of doubt, the term “one-way fees” means any charges added to cover costs incurred by Lessee as a result of a one-way rental, and not the ordinary charge for the length of time rented, the allowable mileage and any incremental charge for mileage over such allowance for one-way rentals, which will be included in Time and Mileage.

M. “Hazardous Substances” means asbestos and any toxic, dangerous, or hazardous waste, substance, or material under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), as amended, the Resource Conservation and Recovery Act, and so-called Superfund or Superlien law, or any other federal, state,
or local, statute, law, ordinance, code, rule, regulations, order, or decree regulating, relating to, or imposing liability or standards of conduct concerning any hazardous, toxic, or dangerous waste, substance, or material.

N. “Monthly Operating Statement” means the monthly statement by the Lessee generally in the form prescribed by the Lessor from time to time.

O. “Percentage Fee” means 10 percent of the Lessee’s Gross Revenues for retail bookings and 5% for wholesale business.

P. “Premises” means those premises described in Article A, Section 2 as well as all improvements, and buildings, fixtures and other improvements located thereon. Premises shall include the Terminal Office and Counters, and the Rental Motorcycle Return Lot.

Q. “Rate Effective Date” means the date the CFC rate becomes effective.

R. “Rental Motorcycle Concession” means that rental motorcycle business operated by Lessee on the Airport pursuant to the Lessee’s proposal and this Agreement.

S. “Rental Motorcycle Return Lot” means the area designated by the Airport Executive Director as the common use area for rental car ready inventory and returns.

T. “Term” means the term of this Agreement as defined in Article 3, herein.

U. “Transaction Day” means a continuous 24 hour period, or any part thereof, for the calculation of the Customer Facility Charge. However, if the same motorcycle is rented to more than one customer within such continuous 24 hour period, then each such rental shall be calculated as a “Transaction Day,” except that a partial day that is a grace period of no more than 2 hours after the last 24-hour day booked shall not be considered a Transaction Day.

ARTICLE 2 – PREMISES

A. Facilities Leased. Lessor agrees that for the monthly rentals paid as herein provided, Lessee shall receive and be entitled to use in common with others at the Airport all common use space. Other such Premises shall consist of counter space in the Passenger Terminal Building in the Visitor Information Area and 36 automobile/motorcycle spaces in the nearest pay parking lot.

Subject to the terms and provisions of this Agreement, the Lessee accepts the Premises in its “AS IS” condition as existing as of the Effective Date, and agrees that the Lessor has made no representations or warranties regarding the condition of the Premises or its suitability for the Lessee’s proposed use.

B. Use. The Lessee agrees that:
1. It shall use the Passenger Terminal Building counter space only for purposes in connection with and incidental to the business of providing a Rental Motorcycle Concession at the Airport and for no other purpose.

2. It shall use the parking spaces for the purpose of parking “ready motorcycles” or “returning motorcycles” in connection with the Rental Motorcycle Concession and for no other purpose.

C. Public Space. Lessee, its agents, employees, servants, passengers, customers and invitees are authorized to use, in common with the general public, public space in the Passenger Terminal Building and public streets, roads and driveways in the vicinity of the Passenger Terminal Building.

D. Telephone Services. The telephone system in the Passenger Terminal Facility is owned by the Lessor and is provided to the Lessee for use in conducting its business operations. No other telephone system may be installed or operated by the Lessee without the express written consent of the Lessor. Lessee agrees to pay for the usage of telephone system as per the Airport Board’s current rates and charges. Lessor will maintain the Equipment in good working condition and Lessee will be responsible for any damages caused by Lessee. Lessee agrees to contact the Lessor for any changes or issues with service or equipment.

E. Motorcycle Deliveries. Lessee shall conduct motorcycle deliveries and pick-ups in areas of the Airport designated by the Airport Executive Director and at no other locations.

F. Employee Parking. Lessee’s employee shall be provided parking space in an employee parking lot for their privately owned vehicles. The Airport reserves the right to collect a reasonable monthly parking charge and designate where employees park. Employees’ personal vehicles are not permitted to be parked in the ready/return lot.

G. Right of Access, Ingress and Egress. Lessee shall have full, free and unrestricted access and ingress to and egress from the Premises for all purposes contemplated by this Agreement for itself, its employees, agents, business visitors, guests, patrons, invitees or suppliers. Access to security sensitive Airport operations areas will be in strict compliance with any FAA/TSA regulations in effect during the term of this Agreement.

H. Customer Complaints. In the event the Lessee receives, or the Lessor receives and forwards to Lessee, any written complaint concerning the Lessee’s operation of the Rental Car Concession, the Lessee shall promptly respond to such complaint in writing within 30 days of receipt and make a good-faith attempt to explain, resolve or rectify the cause of such complaint. The Lessee shall keep a copy of such complaint and the response for a period of one year from the date of such complaint and shall make the complaint and response available to the Lessor upon request.

I. Motorcycle Sales. The Lessee shall not sell any motorcycles or other automobiles from the Premises or the Airport.
ARTICLE 3 – TERM

A. **Term.** This Agreement shall commence on the Effective Date, and expire on December 31, 2022. Upon the termination of this Agreement, if Lessee does not enter into another agreement with Lessor, Lessee shall remove all of its personal property from the Premises and restore the area to its original condition to the satisfaction of Lessor within 30 days of the date of termination.

B. **Option.** This Agreement can be renewed for up to two (2) consecutive one (1)-year terms by mutual agreement of the Lessor and Lessee.

C. **Expiration, Holding Over.** Upon the termination of this Agreement or the expiration of the Term hereof, Lessee agrees to immediately remove all its personal property and surrender the Premises to Lessor. If Lessee shall fail to remove its personal property as herein provided, Lessor may effect such removal at Lessee’s expense. If Lessee should hold over and remain in possession of the Premises after the expiration of the term provided by this Agreement, such holding over shall be on the same terms and conditions as herein provided but Lessee shall hold over on a month-to-month basis, subject to eviction at any time.

ARTICLE 4 – RENTALS AND FEES

A. **Calculation of Concession Fees.** For the rights and privileges granted to Lessee herein, Lessee agrees to pay to the Lessor monthly the Percentage Fee, and submit the Monthly Operating Statement, on or before the tenth of the subsequent month.

B. **Fuel Rate.** For fuel Lessee purchases from Lessor, Lessee will be charged for fuel on a per gallon basis at Lessor’s cost plus an administrative fee, hereinafter referred to as the Fuel Rate, as reflected in the Lessor’s current Rates and Charges approved by the Airport Board. Lessor will invoice Lessee based on usage report with Fuel Rate charges paid in arrears, and Lessee shall pay by the tenth of the subsequent month.

C. All rates and charges shall be subject to annual adjustment by Lessor. Lessor has the option and the right to implement adjustments prior to the annual adjustment. A 30 day notice of any changes to the rates and charges will be provided to all Rental Motorcycle Concession Lessees.

D. **Customer Facility Charge.** Lessee shall collect a Customer Facility Charge (CFC) in the amount of Three Dollars ($3.00) for each Transaction Day for a maximum of fourteen (14) Transaction Days. Lessee shall pay all CFCs charged to Lessor on a monthly basis. The CFC shall be used for capital improvements including but not limited to major maintenance repairs of the Premises, other capital projects and consulting services relating to rental car operations and/or serving rental car customers. In the event that the Board raises or lowers the CFC during the Term, Lessee agrees to collect the CFC at the new rate without need for any amendment or addendum to this Agreement. Lessor shall provide the Lessee with thirty (30) days written notice prior to any such CFC rate
adjustment. Exhibit A sets forth the rules and regulations regarding the collection of a CFC.

E. Payments. Payments of rents and all other charges as set forth in this Article will be in legal tender and submitted to:

Rapid City Regional Airport  
4550 Terminal Road, Suite 102  
Rapid City, South Dakota 57703-8706

Payment of rents and all other charges shall be delinquent if not paid prior to the tenth day of the month in which they are due. Late or unpaid rents and charges will bear a fee based on the Airport Board current Rates and Charges.

ARTICLE 5 – RECORDS AND AUDITS

A. Monthly Operating Statement. Lessee agrees to provide Lessor with performance data on a Monthly Operating Statement. Such Statement shall include number of transactions, transaction days, and Gross Revenues by category as further described in Exhibits C and D. Such data shall be reported prior to the tenth day of the month following the month being reported.

B. Annual Statement of Gross Revenues. Within 90 days following the end of each Agreement Year without demand by the Lessor and at its own cost and expense, the Lessee shall provide to the Lessor an “Schedule of Gross Revenues and Concession Fees Paid,” as set forth below, accompanied by a certification that such Schedule is true and accurate by the Lessee’s Chief Financial Officer and prepared in accordance with generally accepted accounting standards. Such opinion should state that all receipts derived from the Rental Car Concession provided by the Lessee at the Airport which are required to be included in Gross Revenues, have been so included and to the best knowledge of the individual providing such opinion, the information provided on the “Schedule of Gross Revenues and Concession Fees Paid” is true, accurate and complete.

The “Schedule of Gross Revenues and Concession Fees Paid” shall set forth, both for the months of the applicable Agreement Year and cumulatively for the applicable Agreement Year, the following:

1. Gross Revenues by category;
2. Concession Fee the Lessee actually paid to the Lessor; and
3. Difference, if any, between the Concession Fees due and owing pursuant to Article 4 and the Concession Fees Lessee actually paid to the Lessor.

If the Schedule reflects an underpayment by Lessee of the Concession Fees due and owing under this Agreement, Lessee shall immediately pay to Lessor any additional
payments shown to be payable with the commensurate late payment charges due to Lessor.

C. Inspection of Records. Lessee agrees to maintain accurate books, records, and accounts of all revenues received from Lessee’s business authorized under this Agreement. Lessee further agrees to make such books, records, and accounts available at any time, Monday through Friday, 9:00 AM to 5:00 PM for inspection by Airport Executive Director or his/her designated representative. Lessor shall provide 24 hour notice to Lessee of Lessor’s desire to inspect the records. Further, Lessor shall maintain such books, records and accounts for a period of not less than 36 months from the end of each Agreement Year.

D. Audit. Lessor will, at any time, have the right to cause an audit of the business revenue records of Lessee to be made by a Certified Public Accountant of Lessor’s selection, and if the financial statements previously made to Lessor by Lessee are found to be intentionally understated in any respect or to be understated (either intentionally or unintentionally) by a greater margin of three percent of Lessee’s actual Gross Revenues for the period of review, then Lessee will immediately pay to Lessor the costs of such audit, as well as the additional payments shown to be payable with the commensurate late payment interest charges calculated to Lessor by Lessee. Lessor’s right to cause an audit of the business revenue records of Lessee will be limited to a period not greater than the preceding 36 months. If such audit discloses any willful and intentional inaccuracies, this Agreement, at the sole discretion of the Lessor and as a cumulative remedy, may be thereupon canceled or terminated.

ARTICLE 6 – CONDUCT OF BUSINESS

A. Attending Counter. The motorcycle rental counter located in the Passenger Terminal Building shall be attended by Lessee and open during reasonable hours and during reasonable dates as determined by EagleRider and the Airport Executive Director. Hours of operation will be conspicuously posted by Lessee at the counter for public knowledge of said hours.

B. First Class Operations. Lessee shall operate its motorcycle rental business in a first class manner and shall keep the areas the use of which is granted hereby, in a neat, attractive, orderly, and safe condition at all times, except with respect to maintenance services to be furnished by Lessor as hereinafter provided and more specifically described in Exhibit B.

C. Operating Expense. Except as otherwise specifically provided herein, Lessee shall bear at its own expense all costs of operating and maintaining the Rental Motorcycle Concession. Lessee shall promptly pay all expenses incurred in the operation of its Rental Motorcycle Concession.

D. Utilities. Lessor shall provide heating, ventilation and air conditioning to Lessee’s counter and office space and shall provide electrical and telephone conduit for the Premises located in the Passenger Terminal Building. Prior to installation of any
telecommunications, computers or other communications equipment, Lessee must coordinate with the Airport Executive Director.

E. Taxes. Lessee shall pay all taxes or assessments that may be levied against any personal property of the Lessee situated at the Airport.

F. Motorcycles. Rental motorcycles made available hereunder shall be supplied in sufficient quantity, as determined by the Airport Executive Director, and be maintained at Lessee’s sole expense, in good operating order, free from known mechanical defects, and in clean, neat, and attractive condition, inside and out.

G. Laws and Regulations. Lessee, its employees, agents, and servants shall at all times comply with the laws and regulations of the United States of America, the State of South Dakota, the City of Rapid City and all applicable ordinances, codes, and regulations governing the operation of the Airport.

H. Signs. Lessee shall install only such signs as are approved by the Airport Executive Director

I. Assignment or Subletting. Lessee shall not assign this Agreement, sublet the concession or any part thereof, or sublet Premises occupied hereunder, or any part thereof, without the prior written consent of the Airport Board.

J. Inspection Rights. The Airport Executive Director shall have at all times the full and unrestricted right to enter the Premises for the purpose of inspecting or protecting such areas and of doing any and all things which Lessor is obligated to do as set forth or which may be deemed necessary for the proper general conduct and operation of the Airport in the exercise of police power of the City of Rapid City.

K. General Control of Airport. The Airport Executive Director shall at all times have the right to control all activities of the Lessee, Lessee’s agents, employees, patrons, guests, customers, and vendors relative to their use of the terminal building, parking lots, driveways, roadways, aircraft maneuvering areas, and all other Airport facilities. The Lessee agrees to abide by any and all rules reasonably adopted during the term of this Agreement by the City of Rapid City, Airport Board or the Airport Executive Director in exercise of their duties. It is further understood that Lessor shall have the control to restrict access to the Airport, including banning from Airport of Lessee’s agents, employees, patrons, guests and vendors, for failure to comply with laws, regulations, ordinances, codes, and airport rules to include posted traffic signage the operation of vehicles on Airport property.

L. Counter Space Relocation. Lessor shall have the right to move the counter area space and counter in the event of remodeling or expansion during the Term of this Agreement. Lessor shall at all times furnish reasonably adequate facilities to Lessee, and in the event of relocation, shall provide comparable facilities.
M. **Branding.** Lessee shall be permitted to only operate the following brands during the Term of this Agreement: EagleRider

### ARTICLE 7 – CONSTRUCTION AND MAINTENANCE OF PREMISES

**A. Construction.** Any and all planned improvements, i.e., structural, pavement, signage, landscaping, etc. shall comply with all applicable statutes, codes, rules and regulations. Written specifications from Lessee for such improvements must be submitted to Lessor and receive prior Airport Board approval, as determined by the Airport Executive Director.

**B. Maintenance.** The Lessee shall at all times keep and maintain any structure built by the Lessee in the leased space, parking lot, together with any incidental or other equipment or appliance installed or used by Lessee, in a good, safe and serviceable condition of repair and shall maintain all of the same, and the premises in and about them occupied by Lessee in a safe, clean and neat condition and more specifically described in Exhibit B attached hereto and made a part of this Agreement. No outside storage will be allowed on the Premises. Specifically, Lessee shall provide at its own expense custodial and cleaning services, supplies, and any exclusively used equipment that may be necessary or required in the operation.

**C. Refuse.** Trash and other wastes in the Rental Motorcycle Return Lot shall be properly removed or disposed of by the Lessee, at the Lessee’s sole expense using facilities provided by the Lessor, except where stated otherwise in Exhibit B. This includes the trash cans located on the west end of the terminal near the Rental Car Return Lot. Lessee shall be responsible for hazardous waste disposal in accordance with all applicable laws, rules or regulations at Lessee’s expense.

**D. Right of Repair.** Lessor has the right to enter and inspect the Premises when deemed necessary. If any structure, pavement or improvement falls into a state of disrepair or becomes unsightly, then upon 30 days written notice, Lessor has the right to make repairs, the cost of which shall be paid by the Lessee, which right is cumulative and in addition to other remedies and further, Lessor shall have no obligation to make such repairs, except at its own option.

### ARTICLE 8 – TERMINATION

Lessor may terminate this Agreement and Lessee shall promptly vacate the Premises in accordance with law upon the happening of any one or more of the following events:

1. The filing by Lessee of a voluntary petition in bankruptcy and a subsequent adjudication of bankruptcy, or the taking of jurisdiction by a court of the assets of the Lessee pursuant
to proceedings brought under the provisions of any Federal reorganization act, the appointment of a receiver of Lessee’s assets, or divestiture of Lessee’s rights, powers and privileges under this Agreement by other operations of law;

2. The abandonment or discontinuance by Lessee of the conduct and operation of business at the Airport as authorized by this Agreement;

3. The failure by Lessee to keep, perform and observe all of the covenants and conditions herein contained to be kept, performed and observed by Lessee, including but not limited to, the full and prompt payment of all rents and fees to Lessor, and in this connection it is agreed that since the public convenience and necessity, and the interests and right of the general public are involved in the operation of the Airport and the conduct of Lessee’s automobile rental business, each of the covenants, terms and conditions of this Agreement is of the essence of this Agreement.

In the event of default on the part of the Lessee in any payments herein agreed to be made, or in the event of breach by Lessee of any of its obligations or covenants hereunder, the Lessor shall provide Lessee with a written notice of the breach or default, whereupon Lessee shall have 30 days to cure the claimed breach or default. The fourth breach or default shall forfeit any right for Lessee to cure such breach or default and allow Lessor to immediately terminate this Agreement. If Lessee’s breach relates to the public health and safety of Lessor or its members, agents, officers, employees, and visitors, then Lessor may elect to terminate the Agreement without an opportunity for Lessee to cure the breach or default.

In the event of failure of Lessee to cure any breach or default within 30 days after written notice by the Lessor, then the Lessor may terminate the Agreement and re-enter the Premises. In that event, Lessee agrees to restore quiet and peaceful possession of the Premises to the Lessor or any of its agents. A waiver by the Lessor of any default or breach on the part of the Lessee shall not constitute a waiver of any other or subsequent default hereunder. The remedy stipulated in this paragraph shall be cumulative and in addition to any and all legal remedies that the Lessor may have for default and breach of this Agreement.

ARTICLE 9 – INDEMNITY AND INSURANCE

A. Indemnity. Lessee shall indemnify and hold harmless Lessor, its members, agents, officers and employees, against and from all claims, demands and liability for injuries to persons or damage to property occasioned by or in any way arising out of the action or inaction of Lessee, its agents and employees, and against and from any claim, demand, or liability or other similar claim arising out of Lessee’s operations under this Agreement. Lessee shall give Lessor, and Lessor shall give Lessee, prompt and timely notice of any claims made or service of process in any suit or action concerning any such injuries or damage of which the party giving such notice shall be aware.

Lessee’s aforesaid indemnity and hold harmless agreement shall not be applicable to any liability caused by the willful misconduct of Lessor, its elected and appointed officials, officers, employees or authorized representatives.
B. **Insurance.** Lessee shall, at all times, during the term of the Agreement, keep in force and effect insurance policies as described below, issued by a company or companies authorized to do business in the State of South Dakota and satisfactory to the Airport Executive Director. Such insurance shall be primary. The Certificate of Insurance shall provide for thirty (30) days advance notice of cancellation or non-renewal during the term of the Agreement. Failure to submit to Lessor an insurance certificate, as required, may render this Agreement void at Lessor’s discretion.

a. **General Liability Insurance** – Policy shall provide coverage for Premises and Operations, Products and Completed Operations, Broad Form Property Damage Endorsement, Personal Injury and Blanket contractual coverage. Limit of Liability not less than $1,000,000 Each Occurrence and Aggregate, $2,000,000 Products and Completed Operations Aggregate, and $1,000,000 Personal Injury.

b. **Automobile Liability Insurance** – Comprehensive Automobile Liability or Business Auto Policy Form covering all owned, hired and non-owned private passenger autos and commercial vehicles. Limits of liability – combined single limit for bodily injury and property damage of $1,000,000 Each Occurrence.

c. **Worker’s Compensation Insurance and Employer Liability Insurance** – Statutory worker’s compensation benefits and employers’ liability insurance. Limits of liability – not less than $1,000,000.00 each accident.

Lessor shall not be liable to Lessee or its employees for any injuries to Lessee’s employees arising out of the performance of work under this Agreement. Lessee and its worker’s compensation insurance carrier agree to waive any and all rights of recovery from the Lessor for worker’s compensation claims made by its employees. The Lessee agrees that indemnification and hold harmless provisions within this Agreement extend to any claims brought by or on behalf of any employee of the Lessee. Lessee shall also furnish to the Lessor satisfactory evidence of Workman’s Compensation insurance in effect.

d. **Property Insurance** – Lessee shall carry sufficient All Risk Insurance on both owned and leased equipment at the Airport and en-route to and from the Airport.

The General Liability Insurance and Automobile Liability Insurance coverage shall be written as primary policies, and any other insurance carried by the Lessor shall be excess and not contributory with respect to the insurance required under this Section. The General Liability and Automobile Liability Insurance shall name the “City of Rapid City and the Rapid City Regional Airport Board, individually and collectively, and its representatives, officers, officials, employees, agents and volunteers” as additional insured.

All insurance policies shall expressly waive any right of subrogation or recovery on the part of the insurer against the City of Rapid City or the Lessor, their agents,
employees, and representatives for any recovery received under any insurance or self-insurance coverage carried by the Lessor or the City of Rapid City.

ARTICLE 10 – HAZARDOUS SUBSTANCES – POLLUTION LIABILITY

The Lessee warrants and covenants that during the term of this Agreement it will not produce, handle, store, release, or dispose of hazardous substances on the Premises except as expressly authorized in this Agreement or by prior written permission of the Airport Executive Director. The phrase “expressly authorized in this Agreement” means Lessee’s use of substances such as fuel, oil, lubricants, cleaning solvents or other similar such substances used in the ordinary course of Lessee’s business on the Premises provided such use is in strict compliance with the Agreement and all applicable environmental and safety laws, rules and regulations. Failure of Lessee to abide by the terms of this Article may be restrained by injunction in addition to any other remedies available to Lessor.

Lessee must immediately notify the Lessor of any fuel spills, breaches of any nature of any environmental laws or regulations, disposal or release of hazardous substances in the Premises, any discovery of Hazardous Substances on the Premises, or of any notice by a governmental Airport or private party alleging that a disposal or release of Hazardous Substances on or near the Premises may have occurred. The Lessee will promptly deliver to the Lessor copies of and provide complete access to any and all documents or information in its custody, control or possession regarding Hazardous Substances, including any such documents or information received from, or submitted by the Lessee to the United States Environmental Protection Agency and/or any federal, state, county, or municipal environmental or health agency concerning the Premises or the operations being conducted on the Premises.

To the full extent permitted by applicable law, the Lessee will defend, indemnify, and hold the Lessor harmless from any and all costs, expenses, damages, assessments, remediation, claims, liabilities, fines, judgments, penalties, costs, suits, procedures, violations of environmental laws or regulations, and actions of any kind, including but not limited to attorney’s fees, arising out of or in any way connected with any storage, use, spills, discharges, or releases of Hazardous Substances on the Premises caused by arising from the fault, conduct, act, omission, and/or negligence of the Lessee and/or its employees, agents, contractors, guests and/or invitees.

Notwithstanding the foregoing, such indemnification shall not apply to and Lessee shall not be responsible for any monitoring, clean-up or reclamation if any leaks, spills, discharges, or releases of Hazardous Substances as result of faulty, defective or improperly maintained Lessor-owned equipment for which Lessor is responsible.

This Article shall survive any expiration or termination of the Agreement.

ARTICLE 11 – ACDBE PARTICIPATION
The Lessee understands that it is the policy of the Airport that South Dakota Airport Concession Disadvantaged Business Enterprises (ACDBEs), which are certified by an authorized certifying entity, should have the maximum practical opportunity to participate in the competitive process of supplying services and goods to the Lessee as owners, managers, and concessionaires of concessions at the Airport. Accordingly, for the concession operation at the Airport, the Airport Board establishes annual car rental ACDBE goals. The annual ACDBE goal for FFY 2020-2022 is 1.35 percent per year for the purchase of goods and services.

ADCBE participation is intended to be active purchases of goods and services from SD ACDBE businesses as a percentage of the Concession’s total purchases of goods and services. The Lessee hereby agrees, for the Term of this Agreement, to support the Airport’s ACDBE Concession Program and strive to meet the goal(s), or in the event that the goal(s) is not met, to document adequate good faith efforts of the Lessee to meet the goal(s); that is document all necessary and reasonable steps the Lessee makes to meet the ACDBE goal(s), as required in 49 CFR Parts 23 and 26, including any amendments thereto.

The Lessee’s failure to meet the goal or to provide the Airport Board with sufficient documentation of the Lessee’s adequate good faith efforts to meet the goal will be sufficient cause for the Lessor to terminate this Agreement. Any waiver, inadvertent or otherwise, of this provision by the Lessee shall not be deemed to be a waiver for the remainder of the Term of this Agreement and shall not prohibit the Airport Board from enforcing this Section with regard to subsequent default by the Lessee.

The Lessee must submit to the Lessor on or before January 31 during the Term of this Agreement, a duly certified semi-annual ACDBE progress report, on the form attached hereto as Exhibit E, showing all ACDBE participation in the Rental Motorcycle Concession during the prior six months of operation. If no participation is documented, then evidence of good faith efforts must be reported. The certification must be made by an official of the Lessee who is responsible for the Lessee’s financial records.

**ARTICLE 12 – GENERAL PROVISIONS**

A. **Notices.** Notice to the Lessor and Lessee provided for in this Agreement shall be sufficient if sent by mail, postage prepaid, addressed to:

   **Lessor:**
   - Airport Executive Director
   - Rapid City Regional Airport
   - 4550 Terminal Road, Suite 102
   - Rapid City, South Dakota 57703

   **Lessee:**
   - Karsten Summers, CEO
   - EagleRider
   - 11860 S. La Cienega Blvd.
   - Hawthorne, CA 90250

   Or to such other address as the Lessor and Lessee may designate from time to time in writing.

B. **Strict Performance.** The Lessee represents that the terms and conditions of this Agreement have been carefully reviewed, and that the Lessee is familiar with the same, and agrees faithfully to comply strictly with them.
C. **Successors and Assigns.** All covenants, stipulations and agreements herein contained shall extend to and be binding upon the legal representatives, successors and assigns of the respective parties.

D. **Federal Government Agreements.** This Agreement is subordinate to the provisions of any existing or future agreements between the Airport Board and the United States of America relative to the operation and maintenance of the Airport, the execution of which has been or may be required as a condition precedent to the expenditure of federal funds for the development of the Airport.

Should the Federal Aviation Administration (FAA) determine that any term or provision of this Agreement results in, or could result in, a violation by the Airport of its obligations as an airport sponsor under grant assurances contained or incorporated in any grant agreement, existing or future, to which the Airport is a party (Sponsor’s Assurances), the Lessee and the Airport unconditionally agree to modify, amend, or, if necessary, terminate this Agreement to remedy any such violation, or potential violation, and bring this Agreement into strict compliance with the Airport’s obligations contained in any grant agreement to which the Airport is a party.

E. **Governmental Requirements** – During the Term of this Agreement, Lessee, for itself, its assignees, and successors in interest agrees to comply with the Federally Mandated Contract Clauses attached hereto and incorporated herein as Exhibit F. The Lessee shall indemnify and hold harmless the Airport from any claims and demands of third persons, including the United States of America, resulting from the Lessee’s noncompliance with any of the provisions of this Section E and the Lessee shall reimburse the Airport for any loss or expense incurred by reason of such noncompliance.

Further Lessee agrees to comply with the notification and review requirements covered in Part 77 of the Federal Aviation Regulations in the event any future structure or building is planned for the Premises, or in the event of any planned modification or alteration of any present or future building or structure situated on the Premises. (FAA Order 5190.6A – AGL-600)

Lessee, by accepting this Agreement, expressly agrees for itself, its successors and assigns, that it will not erect nor permit the erection of any structure or object on the Premises above a ground level elevation of twenty (20) feet. In the event the aforesaid covenants are breached, the Airport reserves the right to enter upon the Premises and to remove the offending structure or object, all of which shall be at the expense of the Lessee. (FAA Order 5190.6A – AGL-600)

Lessee, by accepting this Agreement, agrees for itself, its successors, and assigns, that it will not make use of the premises in any manner which might interfere with the landing and taking off of aircraft from the Airport or otherwise constitute a hazard. In the event the aforesaid covenant is breached, the Airport reserves the right to enter upon the Premises and cause the abatement of such interference at the expense of the Lessee. (FAA Order 5190.6A – AGL-600)
F. Compliance with Law & Venue – The parties agree that the terms of this Agreement shall be governed by the laws of the State of South Dakota. In the event of any conflict of laws, the law of the State of South Dakota shall be controlling. Any legal action arising out of or relating to this agreement shall be brought only in the Circuit Court of the State of South Dakota, Seventh Judicial Circuit, located in Rapid City, Pennington County, South Dakota.

G. Effect of Invalid Provision – If any term or provision of this Agreement or the application thereof to any person or circumstance shall be to any extent be invalid or unenforceable, the remainder of this Agreement, or the application of such term or provisions to persons or circumstances other than those to which it is invalid or unenforceable, shall not be affected thereby, and each term and provision of this Agreement shall be valid and be enforced to the fullest extent by law.

H. Fair and Equal Competition – In the event that any contract granted by the Lessor to any other rental motorcycle company shall contain any terms and conditions more favorable to such company than the terms and conditions herein described (other than number of allocated parking spaces and the location of concession area, etc.), then this Agreement shall be amended to include such more favorable terms and any offsetting burdens that may be imposed on any such other company. The intent of this provision is to ensure that the Lessor shall give due diligence to ensure Lessee will be able to compete on terms as equal as possible with all other rental car companies and to ensure that no other company shall enjoy any rights or privileges more favorable to such company than those enjoyed by the Lessee herein.

I. Airport’s Rights Reserved - Airport reserves the right (but shall not be obligated to Lessee) to maintain and keep in repair the landing area of the Airport and all Airport-owned facilities of the Airport, together with the right to direct and control all activities of the Lessee in this regard.

Airport reserves the right to further develop or improve the landing area and all Airport-owned air navigation facilities of the Airport as it sees fit, regardless of the desires or views of Lessee, and without interference or hindrance.

Airport reserves the right to take any action it considers necessary to protect the aerial approaches of the Airport against obstruction, together with the right to prevent Lessee from erecting, or permitting to be erected, any building or other structure on the Airport which in the opinion of the Airport would limit the usefulness of the Airport or constitute a hazard to aircraft.

During time of war or national emergency Airport shall have the right to enter into an agreement with the United States Government for military or naval use of part or all of the landing area, the Airport-owned air navigation facilities and/or other areas or facilities of the Airport. If any such agreement is executed, the provisions of this Agreement with the Lessee may be suspended.
It is understood and agreed that the rights granted by this Agreement will not be exercised in such a way as to interfere with or adversely affect the use, operation, maintenance or development of the Airport.

There is hereby reserved to Airport, its successors and assigns, for the use and benefit of the public, a free and unrestricted right of flight for the passage of aircraft in the airspace above the surface of the premises herein. This public right of flight shall include the right to cause in said airspace such noise as may be inherent in the operation of any aircraft, now known or hereafter used for navigation or flight through the air, using said airspace or landing at, taking off from, or operating on or about the Airport.

Dated this _______ day of ______________________, 2022.

RAPID CITY REGIONAL AIRPORT BOARD

ATTEST:

__________________________________________

, President

__________________________________________

, Secretary

Dated this _______ day of ______________________, 2022.

EAGLERIDER

__________________________________________

Karsten Summers, Chief Executive Officer

STATE OF ______________________) ) ss

COUNTY OF ______________________)

On this _______ day of ______________________, 2022, before me, the undersigned officer, personally appeared Karsten Summers, who acknowledged himself/herself to be the CEO of EagleRider, and that he/she as CEO, being authorized to do so, executed the foregoing instrument for the purposes therein contained by signing the name of Karsten Summers by himself/herself as CEO.

In witness whereof, I hereunto set my hand and official seal.

__________________________________________

Notary Public

SEAL

My Commission Expires:  
EXHIBIT A
CFC RULES AND REGULATIONS

Effective as of the Rate Effective Date, the Lessee shall collect a Customer Facility Charge (CFC) in the amount of Three Dollars ($3.00) for each Transaction Day for a maximum of fourteen (14) Transaction Days.

The Lessee shall collect and remit CFC revenues on behalf of the Lessor in the following manner:

a. The CFC rate, if revised, shall only apply to Car Rental Contracts that begin on or after the rate revision date as the case may be and shall not apply in whole or in part to any Car Rental Contracts commencing prior but ending after revision date.

b. The CFC shall be identified on a separate line of each Car Rental Contract entered into on the Airport or elsewhere with car pick-up at the Airport, and described as Customer Facility Charge or CFC with a footnote approved by the Lessor explaining the abbreviation.

c. The Lessee agrees that it will not be entitled to any rights of offset or other reduction in the requirements herein and will remit to the Lessor all CFC revenues collected in accordance with the Agreement regardless of any amounts that may be owed or due to the Lessee by the Lessor.

All Customer Facility Charges collected by any Lessee are and shall be funds held by such Lessee in trust for the Airport for the benefit of the Airport. The Lessee shall have no legal or equitable interest in the Customer Facility Charges they collect and shall segregate separately, account for and disclose, all Customer Facility Charges as trust funds in their financial statements and shall maintain adequate records that account for all Customer Facility Charges charged and collected. Failure by a Lessee to segregate the Customer Facility Charges shall not alter or eliminate their trust fund nature.

All Lessees shall remit all Customer Facility Charge revenues that were collected or should have been collected from its Airport car rental Customers on a monthly basis to the Airport, or, upon the Airport’s direction, to a trustee for any obligations issued by the Airport secured in whole or in part by its Customer Facility Charges. The Customer Facility Charges shall be remitted no later than the 20th day of the month following the month the Customer Facility Charges were collected. In the event a Lessee fails to strictly comply with this subparagraph and such failure persists ten (10) business days after providing Car Rental Company notice of such failure, such noncompliance shall be considered a material breach of the Car Rental Company’s authorization to do business at the Airport.

Upon determination by the Lessor that the revenues being collected from the CFC are less than the amount needed to pay the annual costs of Debt Service and other approved costs, the Lessor may adjust the CFC. The Lessor shall provide written notice to each On-Airport Rental Car Company of any increase and the new Rate Effective Date, which date shall not be less than 60 days after notice is made.

Any Lessee that fails to comply with its obligations pursuant to this Exhibit shall be deemed to be in default pursuant to Article 8 of the Agreement.
EXHIBIT B
OPERATION AND MAINTENANCE RESPONSIBILITIES

BOARD/LESSOR
1. Terminal Office and Counter Use Area
   a. Electrical system source side of meter only
2. Terminal Office and Counter Use Area
   a. HVAC supply & equipment maintenance
   b. Custodial service common use area
      1. Sweep, mop, vacuum daily
      2. Clean windows as needed
      3. Relamp light fixtures as needed
      4. Restroom supplies
   c. Building, equipment, utilities, maintenance & repair fair wear and tear
      1. Floors, doors, windows, walls, ceilings
      2. Furnishings
      3. Bag claim carousel
      4. Signage (excluding Company owned signage and logos)
      5. Electrical systems and equipment
      6. Water & sewer systems
3. Rental Car Ready Return Parking Lot Area
   a. Preventative and remedial maintenance of pavement, landscaping, etc.

TENANT/LESSEE
1. Terminal Office and Counter Use Area
   a. Custodial service
      1. Garbage Collection
### Rapid City Regional Airport Car Rental Monthly Report

#### Detail Information

**Car Rental Company:**

**Month Ending & Year:**

<table>
<thead>
<tr>
<th>Category</th>
<th>Revenue</th>
</tr>
</thead>
<tbody>
<tr>
<td>Time and Mileage</td>
<td></td>
</tr>
<tr>
<td>Personal Accident Insurance (PAI)</td>
<td></td>
</tr>
<tr>
<td>Supplemental Liability Insurance (SLI)</td>
<td></td>
</tr>
<tr>
<td>Roadside</td>
<td></td>
</tr>
<tr>
<td>Government Fees</td>
<td></td>
</tr>
<tr>
<td>Add Driver/Young Renter</td>
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</tr>
<tr>
<td>Child Seat/GPS/Ski Racks</td>
<td></td>
</tr>
<tr>
<td>Intercity Drop Fees</td>
<td></td>
</tr>
<tr>
<td>Adjust (Foreign Commission)</td>
<td></td>
</tr>
<tr>
<td>Other:</td>
<td></td>
</tr>
<tr>
<td>Other:</td>
<td></td>
</tr>
<tr>
<td>Other:</td>
<td></td>
</tr>
<tr>
<td>Total Revenue</td>
<td></td>
</tr>
</tbody>
</table>

**Signature**

**Title**

**Date**
### Rapid City Regional Airport Car Rental Monthly Report

**Summary Information**

**Car Rental Company:** ____________________________

**Month Ending:** ____________________________  **Year:** ________

<table>
<thead>
<tr>
<th>Month</th>
<th>Gross Receipts for Month</th>
<th>Number of Transactions</th>
<th>Transaction Days</th>
<th>Initials</th>
</tr>
</thead>
<tbody>
<tr>
<td>January</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>February</td>
<td></td>
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<td>March</td>
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<td>June</td>
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<td>August</td>
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</tr>
<tr>
<td>December</td>
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<td></td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**Total Current Month Revenue:** ____________________________ (Provide Detail Breakdown)

**11% Airport User Fee:** ____________________________

**Customer Facility Fee (CFC):** ____________________________ @ $3.00 per day ____________________________

# of Days  Total CFC $

**Total Remittance:** ____________________________

CFC + User Fee

---

**Signature**  **Title**  **Date**
EXHIBIT E
ACDBE Reporting Form

Return Form to:
Agency: Toni Broom
Attn: Rapid City Regional Airport
Address: 4550 Terminal Rd., #102
Rapid City, SD 57703
toni.broom@rcgov.org

Rapid City Regional Airport (RAP) has established an Airport Concession Disadvantaged Business Enterprise (ACDBE) program in accordance with regulations of the US Department of Transportation (DOT), 49 CFR Part 23. RAP, and therefore its concessionaires, are required to report the annual utilization of ACDBEs. The information you supply will be reported to the FAA in accordance with 49 CFR Part 23.

<table>
<thead>
<tr>
<th>Reporting Period Year:</th>
<th>Reporting Period:</th>
</tr>
</thead>
</table>

<table>
<thead>
<tr>
<th>Gross Receipts</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Goods &amp; Services Purchased Non ACDBE</td>
<td></td>
</tr>
<tr>
<td>Goods &amp; Services Purchased SD ACDBE</td>
<td></td>
</tr>
<tr>
<td><strong>Total Goods &amp; Services Purchased</strong></td>
<td></td>
</tr>
<tr>
<td><strong>Percentage of Purchases made with SD ACDBE</strong></td>
<td>%</td>
</tr>
</tbody>
</table>

For SD ACDBE purchases, please complete the following information:

<table>
<thead>
<tr>
<th>DBE 1</th>
<th>Type of DBE:</th>
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</thead>
<tbody>
<tr>
<td></td>
<td>Black American</td>
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<tr>
<td></td>
<td>Hispanic American</td>
</tr>
<tr>
<td></td>
<td>Native American</td>
</tr>
<tr>
<td></td>
<td>Asian-Pacific American</td>
</tr>
<tr>
<td></td>
<td>Subcontinent Asian American</td>
</tr>
<tr>
<td></td>
<td>Non-Minority Women</td>
</tr>
<tr>
<td></td>
<td>Small Business</td>
</tr>
</tbody>
</table>

Name of DBE

Address of DBE

Amount Paid to DBE _______ Year Paid to DBE _______

<table>
<thead>
<tr>
<th>DBE 2</th>
<th>Type of DBE:</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
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</tr>
<tr>
<td></td>
<td>Hispanic American</td>
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<tr>
<td></td>
<td>Native American</td>
</tr>
<tr>
<td></td>
<td>Asian-Pacific American</td>
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<tr>
<td></td>
<td>Subcontinent Asian American</td>
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<td></td>
<td>Non-Minority Women</td>
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<tr>
<td></td>
<td>Small Business</td>
</tr>
</tbody>
</table>

Name of DBE

Address of DBE

Amount Paid to DBE _______ Year Paid to DBE _______

<table>
<thead>
<tr>
<th>DBE 3</th>
<th>Type of DBE:</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Black American</td>
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<td>Hispanic American</td>
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<td></td>
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<td>Subcontinent Asian American</td>
</tr>
<tr>
<td></td>
<td>Non-Minority Women</td>
</tr>
<tr>
<td></td>
<td>Small Business</td>
</tr>
</tbody>
</table>

Name of DBE

Address of DBE

Amount Paid to DBE _______ Year Paid to DBE _______

Attach additional sheet if necessary.
CIVIL RIGHTS NON-DISCRIMINATION

1. Operator agrees to comply with pertinent statutes, Executive Orders and such rules as are promulgated to ensure that no person shall on the grounds of race, creed, color, national origin, sex, age, or disability be excluded from participating in any activity conducted with or benefiting from Federal assistance. If Operator transfers its obligation to another, the transferee is obligated in the same manner as Operator. This provision obligates Operator for the period during which the property is used or possessed by Operator and the Airport remains obligated to the FAA. This provision is in addition to that required by Title VI of the Civil Rights Act of 1964.

2. During the performance of this Agreement, Operator for itself, its assignees, and successors in interest, agrees to comply with the following non-discrimination statutes and authorities:

   A. Title VI of the Civil Rights Act of 1964 (42 USC § 2000d et seq., 78 stat. 252) (prohibits discrimination on the basis of race, color, national origin);

   B. 49 CFR part 21 (Non-discrimination in Federally-assisted programs of the Department of Transportation – Effectuation of Title VI of the Civil Rights Act of 1964);

   C. The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 USC § 4601) (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);

   D. Section 504 of the Rehabilitation Act of 1973 (29 USC § 794 et seq.); as amended (prohibits discrimination on the basis of disability); and 49 CFR part 27;

   E. The Age Discrimination Act of 1975, as amended (42 USC § 6101 et seq.) (prohibits discrimination on the basis of age);

   F. Airport and Airway Improvement Act of 1982 (49 USC § 471, Section 47123), as amended (prohibits discrimination based on race, creed, color, national origin, or sex);

   G. The Civil Rights Restoration Act of 1987 (PL 100-209) (broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, the Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms “programs or activities” to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);

   H. Titles II and III of the Americans with Disabilities Act of 1990, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 USC §§ 12131 – 12189) as implemented by U.S. Department of Transportation regulations at 49 CFR parts 37 and 38;
I. The Federal Aviation Administration’s Nondiscrimination statute (49 USC § 47123) prohibits discrimination on the basis of race, color, national origin, and sex;

J. Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures nondiscrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;

K. Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100);

L. Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 USC 1681 et seq).

3. Operator, including personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree, as a covenant running with the land, that (1) no person on the ground of race, color, or national origin, will be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities, (2) that in the construction of any improvements on, over, or under such land, and the furnishing of services thereon, no person on the ground of race, color, or national origin, will be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination, (3) that Operator will use the premises in compliance with all other requirements imposed by or pursuant to the list of nondiscrimination acts and authorities, as enumerated in the preceding subsection. In the event of a breach of any of the above nondiscrimination covenants, the Board will have the right to terminate this Agreement and to enter or re-enter and repossess said land and the facilities thereon, and hold the same as if the Agreement had never been made or issued.

4. During the performance of this Agreement, Operator, for itself, its assignees, and successors in interest, agrees as follows:

A. Nondiscrimination: Operator with regard to the work performed by it during the Agreement, will not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. Operator will not participate directly or indirectly in the discrimination prohibited by the Nondiscrimination Acts and Authorities, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of 49 CFR part 21.
B. Solicitations for Subcontracts, including Procurements of Materials and Equipment: In all solicitations, either by competitive bidding or negotiation made by Operator for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential subcontractor or supplier will be notified by Operator of contractor’s obligations under this Agreement and the Nondiscrimination Acts and Authorities.

C. Information and Reports: Operator will provide all information and reports required by the Acts, the Regulations, and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the Board or the FAA to be pertinent to ascertain compliance with such Nondiscrimination Acts and Authorities and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish the information, Operator will so certify to the Board or the FAA, as appropriate, and will set forth what efforts it has made to obtain the information.

D. Sanctions for Noncompliance: In the event of Operator’s noncompliance with the non-discrimination provisions in this Agreement, the Board will impose such contract sanctions as it or the FAA may determine to be appropriate, including, but not limited to, cancelling, terminating, or suspending this Agreement, in whole or in part.

E. Incorporation of Provisions: Operator will include the provisions of this subsection in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations, and directives issued pursuant thereto. Operator will take action with respect to any subcontract or procurement as the Board or the FASA may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if Operator becomes involved in, or is threatened with litigation by a subcontractor, or supplier because of such direction, Operator may request the Board to enter into any litigation to protect the interest of the Board. In addition, Operator may request the United States to enter into the litigation to protect the interest of the United States.
RAPID CITY REGIONAL AIRPORT
ADVERTISEMENT FOR REQUEST FOR PROPOSALS (RFP)
FOR
On-Airport Motorcycle Rental Concession Opportunity

Sealed proposals will be accepted until 2:00 PM MT, April 1, 2021, by the Rapid City Regional Airport Board (Board), 4550 Terminal Road, Suite 102, Rapid City, SD 57703, for its On-Airport Motorcycle Rental Concession at the Rapid City Regional Airport in accordance with the conditions stated in the Request for Proposals (RFP) package.

RFP documents may be obtained by accessing the Airport website at https://www.rapairport.com/about-the-airport/doing-business. Proposals may be submitted to the above address and are to be marked: “MOTORCYCLE RENTAL CONCESSION OPPORTUNITY”.

The Board reserves the right to reject any and all proposals, award multiple contracts to more than one Proposer, to waive any minor irregularities in the process, to negotiate with any Proposers, and to accept the Proposal considered in the best interest of the Board.

The Rapid City Regional Airport is an Equal Employment Opportunity (EEO) organization which does not discriminate against any prospective Proposer on the basis of race, religion, color, sex, age, national origin, sexual orientation, or presence of any sensory, mental, or physical disability in the consideration of contract award. Successful Proposer will be required to comply with all EEO, federal, state, and local laws and regulations.

Since the Rapid City Regional Airport is a nonhub primary airport, it is required to have an Airport Concession Disadvantaged Business Enterprise (ACDBE) program in accordance with regulations of the US Department of Transportation 49 CFR Part 26. All ACDBE firms and small businesses qualifying under this solicitation are encouraged to submit proposals. Additional information on the ACDBE program is available upon request.

Publication Dates: March 13, 2021
March 20, 2021
Rapid City Regional Airport  
4550 Terminal Road, Suite 102  
Rapid City, SD 57703

TO: Prospective Motorcycle Concessionaires  
FROM: Toni Broom, Deputy Airport Director for Finance/Administration  
DATE: March 13, 2021  
SUBJECT: Motorcycle Rental Concession Opportunity

Thank you for reviewing this Request for Proposals. We appreciate your interest in providing a Motorcycle Rental Concession for Rapid City Regional Airport.

Please read the information in this packet thoroughly. Proposals may be disqualified because they do not comply with all of the requirements of the Board’s Request for Proposals process. We want your proposal to be evaluated on its merits, and not be deemed non-responsive.

The proposed time schedule as related to this procurement is as follows:

<table>
<thead>
<tr>
<th>Date</th>
<th>Event</th>
</tr>
</thead>
<tbody>
<tr>
<td>March 12, 2021</td>
<td>RFP Posted on Airport’s website</td>
</tr>
<tr>
<td>March 13 &amp; 20, 2021</td>
<td>RFP Advertised</td>
</tr>
<tr>
<td>March 24, 2021</td>
<td>Final Date for Written Questions</td>
</tr>
<tr>
<td>March 25, 2021</td>
<td>Answers to Written Questions Posted on Website</td>
</tr>
<tr>
<td><strong>April 1, 2021</strong></td>
<td><strong>Proposals Due</strong></td>
</tr>
<tr>
<td>Week of April 5th, 2021</td>
<td>Interviews (if needed)</td>
</tr>
<tr>
<td>April 13, 2021</td>
<td>Airport Board Approve Contract Award</td>
</tr>
<tr>
<td>May 11, 2021</td>
<td>Airport Board Public Hearing &amp; Contract Execution</td>
</tr>
<tr>
<td>June 1, 2021</td>
<td>Agreement Commencement Date</td>
</tr>
</tbody>
</table>

Please contact me at toni.broom@rcgov.org if you have any questions regarding this document or the RFP process.

Sincerely,

Toni Broom  
Deputy Airport Director  
for Finance & Administration  
605-394-4195, ext. 8
1. INTRODUCTION & GENERAL INFORMATION

The Rapid City Regional Airport Board (Board) is soliciting Proposals to provide On-Airport Motorcycle Rental Concession opportunities through this public RFP process. This RFP provides the opportunity for all interested and qualified Motorcycle Concessionaires to submit a Proposal to provide On-Airport Motorcycle Rental Concession at the Airport. This document outlines the prerequisites, selection process and documentation necessary to submit a Proposal for the requested services. Please carefully read the entire package before submitting your Proposals. If awarded, the On-Airport Motorcycle Rental Concessions will be conducted in accordance with the terms and conditions of an Agreement, which will be substantially similar in form to Exhibit A of this RFP.

The Board reserves the right to accept or reject any or all Proposals, award multiple contracts to more than one Proposer, to waive any informalities and irregularities in the Proposal submission process, to extend the date for submittal of responses, to request additional information from any or all Proposers, to supplement, amend or otherwise modify the RFP prior to the closing date and time, to cancel this request with or without the substitution of another RFP, to negotiate with any Proposers, to re-solicit or cancel the procurement process, or to accept a Proposal which is considered to be in the best interest of the Board.

Sealed proposals, two (2) originals, and one electronic copy of the proposal on a flash drive together shall be submitted by 2:00 PM, MT, April 1, 2021, and delivered to:

Rapid City Regional Airport
4550 Terminal Road, Suite 102
Rapid City, SD 57703

All Proposals will be time-stamped upon receipt and any Proposals received after the time specified above will be returned unopened. In bold lettering, mark the sealed envelope with the following words: “MOTORCYCLE RENTAL CONCESSION OPPORTUNITY”. Faxed or emailed copies will not be accepted. All responsive Proposals become the property of the Board and must be provided without cost to the Board. Except as otherwise provided for herein, Proposals which are incomplete or which are not in conformance with the law, may be rejected as non-responsive.

Proposals shall not be returned unless a written request to withdraw is received prior to 2:00 PM, MT, on April 1, 2021. Information that is considered by a Proposer to be proprietary is still subject to release as a component of an open records request subject to review by the City Attorney. Proprietary information should be clearly marked as “confidential” or “proprietary” on each page on which the information appears. Proposers should not expect the Board to seek confidentiality protection for any claimed privileged or proprietary information in the written Proposal just because the material is marked “confidential” or “proprietary.” For any essential information that the Proposer reasonably believes can be defended as being exempt from disclosure under the Open Records Act, the information must be capable of being separated or redacted from the Proposal, and should be clearly and specifically marked.
This RFP does not obligate the Board to enter into an Agreement or pay any costs incurred in the preparation of a Proposal pursuant to this RFP or incurred in subsequent negotiations. It is the intention of the Board to negotiate an Agreement with the Proposer it deems most beneficial to the Board.

Any Proposal submitted will be deemed to be valid for a period of up to 90 days following the closing date of the RFP. Timely Proposals received shall be subject to applicable laws and regulations governing public disclosure. Submission of a Proposal indicates acceptance by the Proposer of the conditions contained in this RFP, and the intent to enter an Agreement with the Board.

By submittal of a Proposal pursuant to this RFP, the Proposer certifies that no fee or commission, or any other thing of value, has been paid or agreed to be paid to any employee, agent, representative, official or current Proposer of the Board in order to procure the contract described in this RFP. The Proposer also certifies that the financial information in its proposal has been arrived at independently and without consultation, communication or agreement with the Board, or other Proposers, to restrict competition as to any matter relating to this RFP.

During the Proposals evaluation process, the Board may request additional information or clarification from Proposers.

Equal Employment Opportunity
Rapid City Regional Airport is an Equal Employment Opportunity (EEO) organization, which does not discriminate on the basis of race, religion, color, sex, age, marital status, national origin, sexual orientation, or the presence of any sensory, mental or physical disability in consideration of a contract award. The successful Proposer will be required to comply with all federal, state, and local laws and regulations.

Airport Concession Disadvantaged Business Enterprise (ACDBE) Eligibility
ACDBE firms are encouraged to submit a Proposal. Firms who propose to participate as an ACDBE must meet the experience and economic guidelines as set forth in 49 CFR Part 23 and 26 and should submit their ACDBE Plan and the ACDBE firms that will participate in this program.

Prohibition Against Lobbying
The Proposer shall not lobby, either on an individual or collective basis, the Board (its associated City employees, or outside advisors) or any federal, state, or local elected or public officials or staff regarding this RFP or its written Proposal. Proposers, the Proposer’s acquaintances, friends, family, outside advisors, agents, or other representatives shall not contact the Board (its associated City employees, or outside advisors) or any federal, state, or local elected or public officials or Airport staff to arrange meetings, visits, or presentations to influence the outcome of the selection process. Violation of this provision, by or on behalf of a Proposer, intentionally or unintentionally, will result in disqualification of the Proposer and/or rejection of a written Proposal.
Questions, Inquiries and Contact with Airport Staff
The Board is committed to providing all interested parties with accurate and consistent information in order to ensure that no Proposer obtains an undue competitive advantage. To this end, from the date of this RFP through award of contract, the Board contact is:

Toni Broom, Deputy Airport Director for Finance & Administration
4550 Terminal Road, Suite 102
Rapid City, SD  57703
(605) 394-4195, ext. 8
E-mail: toni.broom@rcgov.org

The Airport’s website (www.rapairport.com) contains additional information which is available to assist Proposers in responding to this RFP.

All questions from Proposers must be submitted in writing, electronically, to toni.broom@rcgov.org by March 24, 2021. It will be the sole responsibility of the Proposers to ensure questions are submitted in a timely manner. Answers to questions, other clarifications and/or addendums will be posted to the Airport’s web site at www.rapairport.com/about-the-airport/doing-business.

It shall be the Proposer’s responsibility to monitor the Addendums that may be issued under and as a part of this RFP. Copies of this RFP, and any Addendum issued, are available for viewing at www.rapairport.com/about-the-airport/doing-business.

Any Addendums so issued are to be considered a part of this RFP document. Therefore, receipt of all Addendums issued during this RFP must be acknowledged on the Addendum Acknowledgement Form (Attachment C) and included with your Proposal.

Airport Environment
It is important for Proposers to note that the Airport environment presents a set of unique challenges which are not typical of an off-airport setting.

1) Facilities must be open three hundred and sixty-five (365) days a year with operating hours and staffing levels reflecting the fluctuation in seasonal and daily passenger traffic.

2) Airport-wide major flight delays are not uncommon. Passenger traffic at the Airport is affected by weather not only here, but in other geographic regions as well.

3) The Airport is a non-smoking facility.

4) Due to recent COVID-19 federal restrictions, all employees working in or on Airport shall wear a mask.

5) Each Proposer’s employee is an ambassador for the Airport and the region. Training is essential and should include knowledge of the terminal areas and services; and knowledge of the community.
6) The Airport is subject to specific federal security requirements and Proposer employees will be required to abide by all current and future security requirements at all times.

7) Requirements for security screening of employees and goods are established by the Transportation Security Administration and may be changed from time to time. Proposer shall be responsible for complying with these requirements and any future requirements.

Facility Review & Requirements
The Airport Administration intends to provide a temporary space for the prospective proposer to operate. At the time of the proposal, prospective proposer shall specify any power, data and other reasonable office needs to the Airport within the bid.

II. REFERENCES, INFORMATION ABOUT THIS RFP AND ON-AIRPORT MOTORCYCLE RENTAL CONCESSION AGREEMENT

This Section is provided for the purpose of directing Proposers’ attention to important specific references and information about this RFP and the Motorcycle Rental Concession Agreement. A specimen MOTORCYCLE RENTAL CONCESSION AGREEMENT (referred to herein as the “Agreement”) is attached hereto as Exhibit A and is made a part of this RFP.

The Board intends to enter into an Agreement beginning June 1, 2021, for a period of up to two years (2) years, expiring May 31, 2023. The Airport Board recognizes the actual concession timeline will be a three (3) to five (5) week period associated with the Sturgis Motorcycle Rally.

Full and complete details of this RFP, the selection process, and the Agreement, as specimen, are set forth with particularity in relevant sections throughout this RFP and the appendices hereto, or as may be amended by Addendum. Proposers shall assume full responsibility to review and evaluate the entirety of this RFP, the appendices hereto and any Addendum which may be issued, and to become fully informed of the detailed instructions and requirements of this RFP and the future Agreement expectations. Proposers shall thoroughly examine and become familiar with this RFP, the Proposal forms, the specimen Agreement, and all related documents comprising this RFP and any written Addendum thereto.

It is the responsibility of each Proposer to investigate and be satisfied as to the facts and conditions prior to submitting a Proposal. The Board makes no representation or warranties and accepts no responsibility for the accuracy or completeness of any information supplied. Proposers are responsible for obtaining their own independent financial, legal, accounting, and technical advice on all proposal matters.

Each Proposer shall judge for itself all conditions and circumstances within this solicitation having relationship to its respective Proposal. Submission of a Proposal shall constitute an acknowledgment that the Proposer has thoroughly examined and is familiar with this RFP and Addendum which may be issued. The failure or neglect of a Proposer to receive or examine any RFP documents or Addendum shall in no way relieve Proposer from any obligation with respect to the Proposal or the obligations that result from submitting a successful Proposal. No claim based upon lack of knowledge or understanding of this RFP or its contents shall be allowed.
The purpose of the Agreement is to grant the non-exclusive right and privilege to the selected Proposer(s) to provide On-Airport Motorcycle Rental Concessions in the Terminal Building at the Rapid City Regional Airport. The provisions and terms of the Agreement may be revised or adjusted by the Board prior to final execution.

**Airport Occupancy Costs**
Concessionaire shall pay Concession Fees a minimum of 11 percent of total Gross Revenues. All fees shall be paid as set forth in the Agreement.

**ACDBE Reporting and Good Faith Efforts**
Concessionaire will be required to provide monthly and annual Gross Revenue reports, along with quarterly ACDBE reports, throughout the term of the Motorcycle Rental Concession Agreement as provided in the Agreement. The ACDBE goal for 2021 and 2022 is 1.35%. The successful Proposer can meet the ACDBE goal through the purchases of goods and services from qualified ACDBEs in the state of South Dakota. Good faith efforts are required to be made. A list of SD certified ACDBEs can be found at the following link: [https://apps.sd.gov/HC65SDEBS/SavedDocuments/DBE/DBEDirectory.pdf](https://apps.sd.gov/HC65SDEBS/SavedDocuments/DBE/DBEDirectory.pdf).

**III. AIRPORT BACKGROUND**

The Rapid City Regional Airport is owned by the City of Rapid City and governed by a semi-autonomous board which operates the Airport on behalf of the City. The Board is comprised of five mayoral appointees who are confirmed by the Rapid City Common Council. The voluntary appointments serve five year terms with a maximum of two consecutive terms. The Board is responsible for the general oversight of the Airport with the ability to sign contracts and authorize expenditures needed to operate the Airport.

During the 2021 Sturgis Rally season, the Airport is anticipating 24 non-stop cities coming to Rapid City. Rapid City Regional Airport is the gateway to Western South Dakota, the Black Hills and Mt. Rushmore. The Airport is home to 27 businesses with an overall economic impact of over $283 million annually to Rapid City and surrounding communities.

**IV. PASSENGER STATISTICS AND AIRLINE INFORMATION**

Annual passenger traffic statistics include both enplaning and deplaning passengers:

<table>
<thead>
<tr>
<th>Calendar Year</th>
<th>Enplaned Passengers</th>
<th>Deplaned Passengers</th>
<th>Total Passengers</th>
</tr>
</thead>
<tbody>
<tr>
<td>2019</td>
<td>351,096</td>
<td>354,333</td>
<td>705,429</td>
</tr>
<tr>
<td>2018</td>
<td>310,810</td>
<td>315,108</td>
<td>625,918</td>
</tr>
<tr>
<td>2017</td>
<td>295,215</td>
<td>300,721</td>
<td>595,936</td>
</tr>
<tr>
<td>2016</td>
<td>279,558</td>
<td>281,544</td>
<td>561,102</td>
</tr>
<tr>
<td>2015</td>
<td>270,608</td>
<td>275,894</td>
<td>546,502</td>
</tr>
<tr>
<td>2014</td>
<td>270,100</td>
<td>272,152</td>
<td>542,252</td>
</tr>
<tr>
<td>2013</td>
<td>263,246</td>
<td>272,412</td>
<td>535,658</td>
</tr>
</tbody>
</table>
The Airport is currently served by the following airlines and their partners. Current and seasonal departures are listed below. Note that these are subject to change.

<table>
<thead>
<tr>
<th>AIRLINE</th>
<th>DESTINATIONS</th>
<th>DAILY DEPARTURES</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>LAS VEGAS</td>
<td>Las Vegas &amp; Mesa 2-4x Weekly (Yearly)</td>
</tr>
<tr>
<td></td>
<td>PHOENIX-MESA</td>
<td></td>
</tr>
<tr>
<td></td>
<td>FORT MYERS/PUNTA GORDA</td>
<td>Fort Myers / Punta Gorda and Los Angeles 2x per week June – August.</td>
</tr>
<tr>
<td></td>
<td>LOS ANGELES</td>
<td>Remainder 1x per week during 2021</td>
</tr>
<tr>
<td></td>
<td>GRAND RAPIDS</td>
<td>Sturgis Rally Saturday Only</td>
</tr>
<tr>
<td></td>
<td>NASHVILLE</td>
<td></td>
</tr>
<tr>
<td></td>
<td>KNOXVILLE</td>
<td></td>
</tr>
<tr>
<td></td>
<td>INDIANAPOLIS</td>
<td></td>
</tr>
<tr>
<td></td>
<td>PITTSBURGH</td>
<td></td>
</tr>
<tr>
<td></td>
<td>APPLETON/GREEN BAY</td>
<td></td>
</tr>
<tr>
<td></td>
<td>PEORIA</td>
<td></td>
</tr>
<tr>
<td></td>
<td>CHARLOTTE</td>
<td>1x Daily; (Summer/Shoulder)</td>
</tr>
<tr>
<td></td>
<td>CHICAGO</td>
<td>2x Daily; (Summer/Shoulder)</td>
</tr>
<tr>
<td></td>
<td>DALLAS/FT. WORTH</td>
<td>1-3X Daily; (Yearly)</td>
</tr>
<tr>
<td></td>
<td>NEW YORK (LAGUARDIA)</td>
<td>1x Saturday; (Summer)</td>
</tr>
<tr>
<td></td>
<td>MINNEAPOLIS</td>
<td>3-6X Daily; (Yearly)</td>
</tr>
<tr>
<td></td>
<td>SALT LAKE CITY</td>
<td>2X Daily; (Yearly)</td>
</tr>
<tr>
<td></td>
<td>DENVER</td>
<td>3-6X Daily; (Yearly)</td>
</tr>
<tr>
<td></td>
<td>CHICAGO</td>
<td>1-2X Daily; (Summer/Shoulder)</td>
</tr>
<tr>
<td></td>
<td>HOUSTON</td>
<td>1X Weekly; Saturday (Summer)</td>
</tr>
<tr>
<td></td>
<td>NEWARK</td>
<td>2X Weekly; Sat-Sun (Summer)</td>
</tr>
<tr>
<td></td>
<td>LOS ANGELES</td>
<td>2X Weekly; Sat-Sun (Summer)</td>
</tr>
</tbody>
</table>

V. EXISTING ON-AIRPORT MOTORCYCLE RENTAL CONCESSIONS

Currently there is no On-Airport Motorcycle Rental Concession.

VI. GOALS OF THE MOTORCYCLE RENTAL PROGRAM

The Airport’s objective is to enter into Concession Agreement with an experienced and financially sound single- or multi-brand motorcycle rental company to provide motorcycle rental service concessions at the Airport that will help the Airport meet the following goals:

- High level of customer service by providing on-Airport concessions;
- On-Airport motorcycle rental opportunities; and
- Maximize revenue to the Airport.
VII. SCOPE OF SERVICES

The Concessionaire will operate an On-Airport Motorcycle Rental Concession in accordance with the specimen Agreement attached hereto as Exhibit A.

VIII. MINIMUM QUALIFICATIONS

In order to be considered responsive to this RFP, Proposers must meet the qualifications specified in this Section; these qualifications are considered to be minimum qualifications. At the Board’s sole discretion, satisfaction of these minimum Proposer qualifications is subject to investigation and validation. While these minimum Proposer qualifications are subject to investigation and validation to determine responsiveness to this RFP, qualifications submitted will not be evaluated on the basis of or for the purpose of relative rating, ranking, or selection. All Proposer qualifications must be documented on the Proposer Certification Form which is attached hereto as Attachment B. The minimum Proposer qualifications are:

1) Submit a complete Proposal;
2) Possess five (5) or more years of continuous experience within the last seven (7) years in the ownership, management, or operation of a motorcycle rental concession;
3) Be financially capable of performing the Agreement in the sole determination of the Board;
4) Provide proof of authorization to conduct business in the State of South Dakota; and
5) Provide proof of possessing all applicable licenses, certificates, permits or other authorizations required by all governmental authorities having jurisdiction over Proposer’s proposed operation.

If a joint venture, partnership or limited liability company (LLC) submits a Proposal, the entity holding a controlling interest in the joint venture, partnership, or LLC, (for example, majority voting rights in company decisions), must meet the Minimum Qualifications in order to be considered for award of the Agreement. If no single entity holds a controlling interest, then each entity in a group of entities comprising a controlling interest must meet all of the Minimum Qualifications for the joint venture, partnership, or LLC to be considered for award of the Agreement.

Proposers submitting a Proposal to operate a licensed or franchised facility or facilities must independently meet all requirements of the RFP and may not rely on the qualifications of the licensor/franchisor. Additionally, Proposers who are proposing to operate a licensed/franchised facility must provide a letter from the licensor(s)/franchisor(s) granting the rights to operate the license(s)/franchise(s) at the Airport, or stating that the terms of the license/franchise agreement(s) have been agreed upon pending award of the concession space. Upon award of concession, any Proposer proposing a licensed or franchised facility must provide the Board with an executed copy of the license or franchise agreement.

ALL PROPOSAL’S SHALL INCLUDE THE FOLLOWING:

A. All forms included in this RFP, or presented online, completed entirely and accurately.
B. Acknowledge all Addendums in the form specified by the Board which may be issued as a part of this solicitation.

C. The Proposal documents must be submitted as directed from the forms attached hereto including any revised or additional Proposal forms which may be issued by Addendum. However, supplemental/supporting documentation may be attached to the provided forms.

D. This is your opportunity to clearly define your experience and that of any other members of your team, your financial offer, and the other elements requested below. Please take the time to carefully read and understand the Proposal requirements. Format, organization and content are all important so that the Selection Committee can conduct an accurate and complete review of the Proposal.

IX. INSURANCE

The Proposer shall agree that it will, at all times during the term of the Agreement, keep in force and effect insurance policies required by the Agreement as noted below, issued by a company or companies authorized to do business in the State of South Dakota and satisfactory to the Airport. Such insurance shall be primary.

Prior to execution of the written Agreement, the Proposer shall furnish the Airport with a Certificate of Insurance and upon request, certified copies of the required insurance policies. The Certificate shall provide for thirty (30) days advance notice of cancellation or non-renewal during the term of the Agreement.

General Liability Insurance – Policy shall provide coverage for Premises and Operations, Products and Completed Operations, Broad Form Property Damage Endorsement, Personal Injury and Blanket contractual coverage. Limit of liability not less than $1,000,000.00 Each Occurrence and Aggregate, $2,000,000.00 Products and Completed Operations aggregate, and $1,000,000.00 Personal Injury.

Automobile Liability Insurance – Comprehensive Automobile Liability or Business Auto Policy Form covering all owned, hired and non-owned private passenger autos and commercial vehicles. Limits of liability-combined single limit for bodily injury and property damage of $1,000,000.00 each occurrence.

The General Liability Insurance and Automobile Liability Insurance coverage shall be written as primary policies, and any other insurance carried by Airport shall be excess and not contributory with respect to the insurance required under this Section. The General Liability Insurance and Automobile Liability Insurance shall name the “City of Rapid City and the Rapid City Regional Airport Board, individually and collectively, and its representatives, officers, officials, employees, agents and volunteers” as additional insured.
Worker’s Compensation Insurance and Employer Liability Insurance – Statutory worker’s compensation benefits and employers’ liability insurance in the amount of and form required under South Dakota law.

Property Insurance-Proposer shall carry sufficient All Risk Insurance on both owned and leased equipment at site of work and en route to and from site to fully protect it.

X. FINANCIAL SECURITY

Proposer is expected to have the financial ability to move forward with the work, however, Proposer’s financials will not be required as part of the Proposal. Upon inspection of the Proposals, Airport reserves the right to request any and all financial material it deems relevant in assessing the validity of the Proposal. Such materials may include, without limitation, an official bank statement, copies of account records certified by a CPA or a letter of credit. As part of the Proposal, list any contracts where Proposer was terminated including an explanation why and a list of any past bankruptcies must be included.

XI. SUBMITTAL REQUIREMENTS

The following information shall be submitted in the Proposal, in the specific order outlined below. It is the Proposer’s responsibility to incorporate all pertinent information to effectively present a Proposal that best communicates the Proposer’s financial offer, qualifications and concession program plans.

1) Executive Summary
   The executive summary will list important features of the Proposal and must include a statement demonstrating and certifying that the Proposer meets or exceeds the Minimum Qualifications of this RFP. Clearly communicate why you believe your organization would be the best operator for the On-Airport Motorcycle Rental concession program in the Airport. The Executive Summary should also provide a proposed calendar and timeline for operation of the concession, along with any power, data, or other reasonable office needs.

2) Designated Company Point of Contact for this Solicitation (Attachment A)

3) Proposer Certification Form (Attachment B)

4) Addendum Acknowledgement Form (Attachment C)

5) ACDBE Commitment Acknowledgement Form (Attachment D)

6) Brand(s)
   Proposer shall submit the information in sufficient detail to clearly define the proposed brand(s) that it will operate at the Airport. Airport will permit single or dual-branding responses only. A selected Proposer shall be prohibited from operating at the Airport under a brand other than the brand or dual-brands that it designates in its Proposal.
7) **Financial Offer**
The Proposer’s Percent of Gross Revenue shall be shown on Attachment E.

8) **Experience of the Proposer**
Describe the Proposer’s specific experience with the ownership, management or operation of a motorcycle rental concession operations. Proposer’s experience description must include (1) a representative list of its motorcycle rental concession locations and (2) the period of time it has owned, managed or operated each such location. Provide a valid and current reference contact familiar with the Proposer’s performance for each representative location. As required in Section IX above, please provide a list of contracts where Proposer was terminated including an explanation why and a list of any past bankruptcies.

9) **Describe ownership of the Proposer including franchise or other information.**

XII. EVALUATION OF PROPOSALS

A Selection Committee will evaluate Proposals and make a recommendation to the Board as to which Proposer offers the best overall Proposal in its judgment. The Selection Committee and Board reserve the right to request additional information from Proposers to clarify the meaning of any portion of the written Proposal. Finalists may be required to be interviewed by and make presentations to the Selection Committee. Questions and interviews are at the sole discretion and option of the committee and may not be afforded to any or all Proposer(s).

After the Proposals are reviewed and finalist interviews/presentations completed (if necessary), the Selection Committee will make their selection recommendation to the Airport Board of Directors. After the recommendation is made, the Airport Board will determine which Proposals, if any, will be accepted. The Airport Board reserves the right to accept or reject any committee recommendation.

Following the acceptance of a proposal, the selected Proposer and the Airport Board must reach a contractual agreement prior to the start of any work for which the City of Rapid City or the Rapid City Regional Airport would be obligated.

**PROPOSAL ATTACHMENTS AND RFP EXHIBITS:**

**Attachments to the Proposal to the Proposal (to be returned with Proposal)**
Attachment A……………………….Designated Company Point of Contact for this Solicitation
Attachment B……………………….Proposer Certification Form
Attachment C……………………….Acknowledgement of Addendum
Attachment D……………………….Commitment Acknowledgement for ACDBE
Attachment E……………………….Financial Consideration

**RFP Exhibits – For Information Only (Not to be returned with Proposal)**
Exhibit A……………………….Specimen On-Airport Motorcycle Concession Agreement
ATTACHMENT A

To be returned with Proposal

Proposer Name: ________________________________

DESIGNATED COMPANY POINT OF CONTACT FOR THIS SOLICITATION

The person or persons listed below should include those designated by the Proposer as being the authorized company point(s) of contact. The person or persons listed below should be qualified and authorized to provide, or arrange to be provided, any additional information which may be requested, or answer any questions regarding the Proposal submittals.

Name______________________________________________________________
Title_______________________________________________________________
Company___________________________________________________________
Phone Number(s)_____________________________________________________
Mailing/Parcel Delivery
Address

Email Address_____________________________________________________________
ATTACHMENT B

To be returned with Proposal

Proposer Name: _______________________________________

PROPOSER CERTIFICATION FORM

The Proposer hereby acknowledges that it has received, examined and is familiar with the Request for Proposals and attached specimen Agreement, documents, forms and addendum.

The Proposer hereby certifies that the Proposer meets or exceeds the Minimum Qualifications of this RFP.

The person signing this document hereby certifies that he or she has the full authority to bind the company to all terms and conditions and is duly authorized and designated to execute this Proposal and other documents required pursuant to this solicitation.

Proposer Entity: _______________________________________

By: ____________________________________________

Title: ___________________________________________

Name: (Typed or printed) _______________________________________

(Attach additional sheets if needed)

Dated: _______________________________
ATTACHMENT C

To be returned with Proposal

Proposer Name:___________________________________

ACKNOWLEDGMENT OF ADDENDA

This form shall be completed and included in the proposal.

Failure to acknowledge receipt of all addenda, if any, may cause the proposal to be considered non-responsive.

The undersigned acknowledges receipt of the following Addenda to the documents:

Addendum No. ________, Dated__________________________
Addendum No. ________, Dated__________________________
Addendum No. ________, Dated__________________________
Addendum No. ________, Dated__________________________
Addendum No. ________, Dated__________________________
Addendum No. ________, Dated__________________________

Authorized Signature:____________________________________________________________

Printed Name & Title:____________________________________________________________

Date Signed:___________________________________________________________________

EXHIBIT G

AP061422-05
ATTACHMENT D

To be returned with Proposal

Proposer Name:___________________________________

COMMITMENT ACKNOWLEDGEMENT FOR ACDBE

Proposers wishing to receive consideration for ACDBE participation shall include in this section the name and address of each ACDBE participant, the participant’s proposed level and method of participation in performance of the Concession Lease, and the dollar amount of estimated purchases of goods and services for each ACDBE participant. The selected Proposer shall agree to perform Good Faith Effort to assist the Airport in reaching its goals.

Proposer is a SDDOT Certified ACDBE: _______ YES _______NO

Please provide the following:
1) Names and address of SD certified ACDBE firms and suppliers that will participate in the concession.
2) A description of the work that each SD Certified ACDBE will perform.
3) The dollar amount of the participation of each SD Certified ACDBE firm participating.

In order to be considered, the ACDBE must be certified in the State of South Dakota. A current list can be found at: http://www.sddot.com/business/contractors/docs/DBEDirectory.pdf.

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<tr>
<th>Name &amp; Address of SD Certified ACDBE Firm</th>
<th>Description of Work or Goods &amp; Services to be Purchased</th>
<th>Dollar Amount of Participation</th>
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Financial Consideration

PROPOSAL OF PERCENT OF GROSS REVENUE (PGR)

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RAPID CITY REGIONAL AIRPORT BOARD  
CITY OF RAPID CITY  

And  

_________________________  

MOTORCYCLE LEASE &  
CONCESSION AGREEMENT  

Approved:  
Effective:  

Rapid City Regional Airport  
Rapid City, South Dakota
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Exhibit H  Lessee’s Proposal
Motorcycle Lease & Concession Agreement

This Agreement is made and entered into between the City of Rapid City, a municipal corporation by and through the Rapid City Regional Airport Board, hereinafter collectively called Lessor, and ____________________________hereinafter called Lessee. This agreement supersedes all prior or contemporaneous negotiations, commitments, agreements (written or oral) and writings between the Lessor and Lessee with respect to the subject matter hereof.

WHEREAS, Lessor owns, operates and maintains the Rapid City Regional Airport hereinafter Airport; and

WHEREAS, the Lessor has the right to lease premises and facilities at the Airport and to grant rights and privileges with respect thereto; and

WHEREAS, pursuant to the Lessor’s Request for Proposals dated March 13, 2021, attached hereto and incorporated herein as Exhibit G, the Lessor has advertised for proposals for the non-exclusive privilege of operating an On-Airport Motorcycle Rental Concession (as hereinafter defined) at the Airport; and

WHEREAS, Lessee is one of the successful respondents and desires to operate an On-Airport Motorcycle Rental Concession at the Airport in accordance with the terms and conditions set forth herein and in the Proposal attached and incorporated herein as Exhibit H; and

NOW, THEREFORE, for and in consideration of the premises and mutual undertakings of the parties, it is agreed as follows:

ARTICLE 1 – DEFINITIONS

A. “Agreement” means this Motorcycle Lease & Concession Agreement between the Lessor and Lessee, as such agreement may be amended from time to time through the execution of an addendum.

B. “Agreement Year” means the 12-month period commencing on June 1 and each subsequent 12-month period falling wholly or partly within the Term or any extension options. For purposes of the initial Agreement Year, such year shall commence on the Effective Date and end on May 31, 2023.

C. “Airport” means the Rapid City Regional Airport located in Pennington County, South Dakota.

D. “Airport Executive Director” means the Lessor’s Airport Executive Director (AED), or when duly designated, his or her representative or representatives.

E. “Airport Premises” means the entire Airport property including, but not limited to, the general aviation area of the Airport.
F. “Motorcycle Rental Contracts” means the written agreement under which a Motorcycle is rented at the Airport to a Customer by an On-Airport Motorcycle Rental Company.

G. “CFC” means Customer Facility Charge.

H. “Concession Fee(s)” means the amount paid by the Lessee for the privilege of operating the On-Airport Motorcycle Rental Concession pursuant to this Agreement, which will be a percentage of Gross Revenues. In addition, Concession Fee(s), a pass through fee to the customer, will be disclosed and listed as a fee not as a tax. Concession fee must be charged to all customers, and also charged in a fair and consistent manner. The Lessee will not collect more than the ___% established in this Agreement for the Airport Concession Fee unless modified by the Lessor.

I. “Customer” means any person or entity that rents, leases or obtains a motorcycle from or through Lessee on the Airport Premises or at an Off-Airport location in Rapid City where Lessee directed or transported such person or entity from the Airport.

J. “Effective Date” means June 1, 2021.

K. “Gross Revenues” means all revenues paid or due to the Lessee whether by cash or credit arising out of or in connection with its On-Airport Motorcycle Rental Concession operations at the Airport, including, without limitation: (a) all time and mileage revenues and all revenues from the sale of personal accident insurance, or any insurance of a similar nature; and (b) all other revenues paid or due to the Lessee arising out of or in connection with its operations at the Airport including charges to customer for the privilege of renting a Motorcycle at the Airport and returning it to a location other than the Airport. Gross Revenues shall not include: (i) amounts of any Federal, State or municipal taxes separately stated and collected from customers of Lessee; (ii) amounts for credits, refunds, or adjustments to customers for transactions within the same month of the transaction and prior to the submission of payment to Lessor; (iii) sums received by reason of the Lessee’s disposal of personal property; (iv) sums received by the Lessee from its customers for traffic tickets, parking tickets, highway tolls, towing charges, impound fees, and other similar governmental fines and charges actually paid by Lessee on behalf of such customers; (v) sums received by Lessee for pass-through charges collected by the Lessee from its customers with respect to damage repair, parts replacement, and extraordinary cleaning of motorcycles, and towing and transporting of damaged motorcycles, rented by such customer, and replacement of keys for such motorcycles; (viii) all Concession Fees; and (ix) all sums received by the Lessee for damage to Lessee’s motorcycles or Lessee’s property or premises, or from loss, conversion or abandonment of motorcycles (without mark-up or additional fees. The retroactive adjustment by the Lessee of Gross Revenues designated as volume discounts or rebates, corporate discounts or rebates, or any other designation of any nature, or for any purpose, is prohibited. No deductions shall be allowed from Gross Revenues for a payment of franchise taxes or taxes levied on concession activities, facilities, equipment, or real or personal property of Lessee.
L. “Hazardous Substances” means asbestos and any toxic, dangerous, or hazardous waste, substance, or material under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), as amended, the Resource Conservation and Recovery Act, and so-called Superfund or Superlien law, or any other federal, state, or local, statute, law, ordinance, code, rule, regulations, order, or decree regulating, relating to, or imposing liability or standards of conduct concerning any hazardous, toxic, or dangerous waste, substance, or material.

M. “Monthly Operating Statement” means the monthly statement by the Lessee generally in the form prescribed by the Lessor from time to time.

N. “Overflow Lot” means the area designated from time to time by the AED for the storage of excess motorcycle inventory.

O. “Percentage Fee” means 11 percent of the Lessee’s Gross Revenues.

P. “Premises” means those premises described in Article A, Section 2 as well as all improvements, and buildings, fixtures and other improvements located thereon. Premises shall include the Terminal Counter and the Motorcycle Rental Return Lot.


R. “On-Airport Motorcycle Rental Concession” means that motorcycle rental business operated by Lessee on the Airport pursuant to the Lessee’s Proposal and this Agreement.

S. “Motorcycle Rental Return Lot” means the area designated by the Airport Executive Director as the common use area for motorcycle rental ready inventory and returns.

T. “Term” means the term of this Agreement as defined in Article 3, herein.

U. “Transaction Day” means a continuous 24 hour period, or any part thereof, for the calculation of the Customer Facility Charge. However, if the same motorcycle is rented to more than one customer within such continuous 24 hour period, then each such rental shall be calculated as a “Transaction Day,” except that a partial day that is a grace period of no more than 2 hours after the last 24-hour day booked shall not be considered a Transaction Day.

ARTICLE 2 – PREMISES

A. Facilities Leased. Lessor agrees that for the monthly rentals paid as herein provided, Lessee shall receive and be entitled to use in common with others at the Airport all common use space. Other such Premises shall consist of counter space in the Passenger Terminal Building in the Visitor Information Area and 36 automobile/motorcycle spaces in the nearest pay parking lot.
Subject to the terms and provisions of this Agreement, the Lessee accepts the Premises in its “AS IS” condition as existing as of the Effective Date, and agrees that the Lessor has made no representations or warranties regarding the condition of the Premises or its suitability for the Lessee’s proposed use.

B. Use. The Lessee agrees that:

1. The Passenger Terminal Building counter space shall be used only for purposes in connection with and incidental to the business of providing an On-Airport Motorcycle Rental Concession at the Airport and for no other purpose;

2. The ready and return spaces shall be used for the purpose of parking “ready motorcycles” or “returning motorcycles” and storing surplus motorcycles in connection with the On-Airport Motorcycle Rental Concession and for no other purpose; and

C. Public Space. Lessee, its agents, employees, servants, passengers, customers and invitees are authorized to use, in common with the general public, public space in the Passenger Terminal Building and public streets, roads and driveways in the vicinity of the Passenger Terminal Building.

D. Telephone Services. The telephone system in the Passenger Terminal Facility is owned by the Lessor and is provided to the Lessee for use in conducting its business operations. No other telephone system may be installed or operated by the Lessee without the express written consent of the Lessor. Lessee agrees to pay for the usage of telephone system as per the Airport Board’s current rates and charges. Lessor will maintain the Equipment in good working condition and Lessee will be responsible for any damages caused by Lessee. Lessee agrees to contact the Lessor for any changes or issues with service or equipment.

E. Overflow. Additional overflow and ready and return parking spaces, if needed, shall be made available by Lessor through its Airport Executive Director.

F. Motorcycle Deliveries. Motorcycle deliveries and pick-ups shall take place in areas of the Airport designated by the Airport Executive Director and at no other locations.

G. Employee Parking. Lessee’s employees shall be provided parking space in an employee parking lot for their privately owned vehicles. The Airport reserves the right to collect a reasonable monthly parking charge and designate where employees park. Employees’ personal vehicles are not permitted to be parked in the ready/return lot or the overflow lot.

H. Right of Access, Ingress and Egress. Lessee shall have full, free and unrestricted access and ingress to and egress from the Premises for all purposes contemplated by this Agreement for itself, its employees, agents, business visitors, guests, patrons, invitees or suppliers. Access to security sensitive Airport operations areas will be in strict compliance with any FAA/TSA regulations in effect during the term of this Agreement.
I. **Customer Complaints.** In the event the Lessee receives or the Lessor receives and forwards to Lessee any written complaint concerning the Lessee’s operation of the On-Airport Motorcycle Rental Concession, the Lessee shall promptly respond to such complaint in writing within 30 days of receipt and make a good-faith attempt to explain, resolve or rectify the cause of such complaint. The Lessee shall keep a copy of such complaint and the response for a period of one year from the date of such complaint and shall make the complaint and response available to the Lessor upon request.

J. **Motorcycle Sales.** The Lessee shall not sell any automobiles or motorcycles from the Premises or the Airport.

**ARTICLE 3 – TERM**

A. **Term.** This Agreement shall commence on the Effective Date, and expire on May 31, 2023. Upon the termination of this Agreement, if there is no successful rebid, Lessee shall remove all of its personal property from the Premises and restore the area to its original condition to the satisfaction of Lessor within 30 days of the date of termination.

B. **Expiration, Holding Over.** Upon the termination of this Agreement or the expiration of the Term hereof, Lessee agrees to immediately remove all its personal property and surrender the Premises to Lessor. If Lessee shall fail to remove its personal property as herein provided, Lessor may effect such removal at Lessee’s expense. If Lessee should hold over and remain in possession of the Premises after the expiration of the term provided by this Agreement, such holding over shall be on the same terms and conditions as herein provided but Lessee shall hold on a month-to-month basis, subject to eviction at any time.

**ARTICLE 4 – RENTALS AND FEES**

A. **Calculation of Concession Fees.** The Lessee agrees to pay to the Lessor monthly for the rights and privileges granted to it herein, for each Agreement Year, the Percentage Fee.

B. **Fuel Rate.** Lessee will be charged for fuel on a per gallon basis at Lessor’s cost plus an administrative fee, hereinafter referred to as the Fuel Rate, as reflected in the Lessor’s current Rates and Charges approved by the Airport Board. Lessor will invoice Lessee based on usage report with Fuel Rate charges paid in arrears by the 10th of each month.

C. **Overflow Lot Rate.** Lessee will be charged for the use of the Overflow Lot at the rate established by the current Rates and Charges approved by the Airport Board. Lessee shall pay the Overflow Lot Rate monthly by the 1st of the month. Lessor shall have no obligation to invoice Lessee for the Overflow Lot Rate. The Lessor does not currently charge an Overflow Lot Rate and will consult with the Lessee prior to the imposition of such a rate.
D. All rates and charges shall be subject to annual adjustment by the Lessor. Lessor has the option and the right to implement adjustments prior to the annual adjustment. A 30 day notice of any changes to the rates and charges will be provided to all On-Airport Motorcycle Rental Concession Lessees.

E. Customer Facility Charge. Lessee shall collect a Customer Facility Charge (CFC) in the amount of Three Dollars ($3.00) for each Transaction Day for a maximum of fourteen (14) Transaction Days. The CFC shall be used for capital improvements including but not limited to major maintenance repairs of the Premises, other capital projects and consulting services relating to motorcycle and automobile rental operations and/or serving motorcycle and automobile rental customers. In the event that the Board raises or lowers the CFC during the Term, Lessee agrees to collect the CFC at the new rate without need for any amendment or addendum to this Agreement. Lessor shall provide the Lessee with thirty (30) days written notice prior to any such CFC rate adjustment.

F. Payments. Payments of rents and all other charges as set forth in this Article will be in legal tender and submitted to:

Rapid City Regional Airport
4550 Terminal Road, Suite 102
Rapid City, South Dakota 57703-8706

Payment of rents and all other charges shall be delinquent if not paid prior to the tenth day of the month in which they are due. Late or unpaid rents and charges will bear a fee based on the Airport Board current Rates and Charges.

ARTICLE 5 – RECORDS AND AUDITS

A. Monthly Data Request. Lessee agrees to provide Lessor with performance data on a monthly basis. Such data shall include number of transactions, transaction days, and Gross Revenues by category as further described in Exhibits C and D. Such data shall be reported prior to the tenth day of the month following the month being reported.

B. Annual Statement of Gross Revenues. Within 90 days following the end of each Agreement Year without demand by the Lessor and at its own cost and expense, the Lessee shall provide to the Lessor an “Audited Schedule of Gross Revenues and Concession Fees Paid,” as set forth below, accompanied by a certification that such Schedule is true and accurate by the Lessee’s Chief Financial Officer. Upon written request by the Lessor, the Lessee will provide certification of such Schedule by an independent auditor expressing an unqualified opinion on such schedule as of the end of that Agreement Year, prepared in accordance with generally accepted auditing standards and certified by an independent certified public and who is not an employee of the Lessee. Such opinion should state that all receipts derived from the On-Airport Motorcycle Rental Concession provided by the Lessee at the Airport which are required to be included in Gross Revenues, have been so included and to the best knowledge of
the individual providing such opinion, the information provided on the “Audited Schedule of Gross Revenues and Concession Fees Paid” is true, accurate and complete.

The “Audited Schedule of Gross Revenues and Concession Fees Paid” shall set forth, both for the month of the applicable Agreement Year and cumulatively for the applicable Agreement Year, the following:

1. Gross Revenues by category;
2. Concession Fee the Lessee actually paid to the Lessor; and
3. Difference, if any, between the Concession Fees due and owing pursuant to Article 4 and the Concession Fees Lessee actually paid to the Lessor.

C. Inspection of Records. Lessee agrees to maintain accurate books, records, and accounts of all revenues received from Lessee’s business authorized under this Agreement. Lessee further agrees to make such books, records, and accounts available at any time, Monday through Friday, 9:00 AM to 5:00 PM for inspection by Airport Executive Director or his/her designated representative. Lessor shall provide 24 hour notice to Lessee of Lessor’s desire to inspect the records. Further, Lessor shall maintain such books, records and accounts for a period of not less than 36 months from the end of each Agreement Year.

D. Audit. Lessor will, at any time, have the right to cause an audit of the business revenue records of Lessee to be made by a Certified Public Accountant of Lessor’s selection, and if the financial statements previously made to Lessor by Lessee are found to be intentionally understated in any respect or to be understated (either intentionally or unintentionally) by a greater margin of three percent of Lessee’s actual Gross Revenues for the period of review, then Lessee will immediately pay to Lessor the costs of such audit, as well as the additional payments shown to be payable with the commensurate late payment interest charges calculated to Lessor by Lessee. Lessor’s right to cause an audit of the business revenue records of Lessee will be limited to a period not greater than the preceding 36 months. If such audit discloses any willful and intentional inaccuracies, this Agreement, at the sole discretion of the Lessor and as a cumulative remedy, may be thereupon canceled or terminated.

ARTICLE 6 – CONDUCT OF BUSINESS

A. Attending Counter. The motorcycle rental counter located in the Passenger Terminal Building shall be attended by Lessee and open during reasonable hours as determined by the Airport Executive Director. Hours of operation will be conspicuously posted by Lessee at the counter for public knowledge of said hours.

B. First Class Operations. Lessee shall operate its motorcycle rental business in a first class manner and shall keep the areas the use of which is granted hereby, in a neat, attractive, orderly, and safe condition at all times, except with respect to maintenance services to be furnished by Lessor as hereinafter provided and more specifically described in Exhibit B.
C. **Operating Expense.** Except as otherwise specifically provided herein, Lessee shall bear at its own expense all costs of operating and maintaining the On-Airport Motorcycle Rental Concession. Lessee shall promptly pay all expenses incurred in the operation of its On-Airport Motorcycle Rental Concession.

D. **Utilities.** Lessor shall provide heating, ventilation and air conditioning to Lessee’s counter and office space, and shall provide electrical and telephone conduit and an electrical meter for the Premises located in the Passenger Terminal Building. Prior to installation of any telecommunications, computers or other communications equipment, Lessee must coordinate with the Airport Executive Director.

E. **Taxes.** Lessee shall pay all taxes or assessments that may be levied against any personal property of the Lessee situated at the Airport.

F. **Motorcycle.** Rental motorcycles made available hereunder shall be supplied in sufficient quantity, as determined by the Airport Executive Director, and be maintained at Lessee’s sole expense, in good operating order, free from known mechanical defects, and in clean, neat, and attractive condition, inside and out.

G. **Laws and Regulations.** Lessee, its employees, agents, and servants shall at all times comply with the laws and regulations of the United States of America, the State of South Dakota, the City of Rapid City and all applicable ordinances, codes, and regulations governing the operation of the Airport.

H. **Signs.** Lessee shall install only such signs as are approved by the Airport Executive Director, and in accordance with standard specifications adopted in ordinance form or regulation by the City of Rapid City, it being expressly understood that no signs will be permitted advertising, referring to, or indicating rental rates or charges.

I. **Assignment or Subletting.** Lessee shall not assign this Agreement, sublet the concession or any part thereof, or sublet Premises occupied hereunder, or any part thereof, without the prior written consent of the Airport Board.

J. **Inspection Rights.** The Airport Executive Director shall have at all times the full and unrestricted right to enter the Premises for the purpose of inspecting or protecting such areas and of doing any and all things which Lessor is obligated to do as set forth or which may be deemed necessary for the proper general conduct and operation of the Airport in the exercise of police power of the City of Rapid City.

K. **General Control of Airport.** The Airport Executive Director shall at all times have the right to control all activities of the Lessee, Lessee’s agents, employees, patrons, guests and vendors relative to their use of the terminal building, parking lots, driveways, roadways, aircraft maneuvering areas, and all other Airport facilities. The Lessee agrees to abide by any and all rules reasonably adopted during the term of this Agreement by the City of Rapid City, Airport Board or the Airport Executive Director in exercise of their duties. It is further understood that Lessor shall have the control to restrict access to including banning from Airport of Lessee’s agents, employees, patrons, guests and
vendors for failure to comply with laws, regulations, ordinances, codes, and airport rules to include posted traffic signage the operation of vehicles on Airport property.

L. **Counter Space Relocation.** Lessor shall have the right to move the counter area space and counter in the event of remodeling or expansion during the Term of this Agreement. Lessor shall at all times furnish reasonably adequate facilities to Lessee, and in the event of relocation, shall provide comparable facilities.

M. **Branding.** Lessee shall be permitted to only operate the following brands during the Term of this Agreement: ________(Name of Company)____.

If Lessee is dual-branding, Lessee must keep accurate, separate reporting for each of the brands offered. Such reporting will be consistent with the requirements of this Agreement.

N. Any changes to the Premises as a result of the RFP process will be paid for by the successful respondent who selects new Premises.

**ARTICLE 7 – CONSTRUCTION AND MAINTENANCE OF PREMISES**

A. **Construction.** Any and all planned improvements, i.e., structural, pavement, signage, landscaping, etc. shall comply with all applicable statutes, codes, rules and regulations. Written specifications from Lessee for such improvements must be submitted to Lessor and receive prior Airport Board approval.

B. **Maintenance.** The Lessee shall at all times keep and maintain any structure built by the Lessee in the leased counter space together with any incidental or other equipment or appliance installed or used by Lessee, in a good, safe and serviceable condition of repair and shall maintain all of the same, and the premises in and about them occupied by Lessee in a safe, clean and neat condition and more specifically described in Exhibit B attached hereto and made a part of this Agreement. No outside storage will be allowed on the Premises. Specifically, Lessee shall provide at its own expense custodial and cleaning services, supplies, and any exclusively used equipment that may be necessary or required in the operation.

C. **Refuse.** Trash and other wastes in the Motorcycle Rental Return Lot shall be properly removed or disposed of by the Lessee, at the Lessee’s sole expense using facilities provided by the Lessor, except where stated otherwise in Exhibit B. Lessee shall be responsible for hazardous waste disposal in accordance with all applicable laws, rules or regulations at Lessee’s expense.

D. **Right of Repair.** Lessor has the right to enter and inspect the Premises when deemed necessary. If any structure, pavement or improvement falls into a state of disrepair or becomes unsightly, then upon 30 days written notice, Lessor has the right to make
repairs, the cost of which shall be paid by the Lessee, which right is cumulative and in addition to other remedies and further, Lessor shall have no obligation to make such repairs, except at its own option.

**ARTICLE 8 – TERMINATION**

Lessor may terminate this Agreement and Lessee shall promptly vacate the Premises in accordance with law upon the happening of any one or more of the following events:

1. The filing by Lessee of a voluntary petition in bankruptcy and a subsequent adjudication of bankruptcy, or the taking of jurisdiction by a court of the assets of the Lessee pursuant to proceedings brought under the provisions of any Federal reorganization act, the appointment of a receiver of Lessee’s assets, or divestiture of Lessee’s rights, powers and privileges under this Agreement by other operations of law;

2. The abandonment or discontinuance by Lessee of the conduct and operation of business at the Airport as authorized by this Agreement;

3. The failure by Lessee to keep, perform and observe all of the covenants and conditions herein contained to be kept, performed and observed by Lessee, including but not limited to, the full and prompt payment of all rents and fees to Lessor, and in this connection it is agreed that since the public convenience and necessity, and the interests and right of the general public are involved in the operation of the Airport and the conduct of Lessee’s motorcycle rental business, each of the covenants, terms and conditions of this Agreement is of the essence of this Agreement.

In the event of default on the part of the Lessee in any payments herein agreed to be made, or in the event of breach by Lessee of any of its obligations or covenants hereunder, the Lessor shall provide Lessee with a written notice of the breach or default, whereupon Lessee shall have 30 days to cure the claimed breach or default. The fourth breach or default shall forfeit any right for Lessee to cure such breach or default and allow Lessor to immediately terminate this Agreement.

In the event of failure of Lessee to cure any breach or default within 30 days after written notice by the Lessor, then the Lessor may terminate the Agreement and re-enter the Premises. In that event, Lessee agrees to restore quiet and peaceful possession of the Premises to the Lessor or any of its agents. A waiver by the Lessor of any default or breach on the part of the Lessee shall not constitute a waiver of any other or subsequent default hereunder. The remedy stipulated in this paragraph shall be cumulative and in addition to any and all legal remedies that the Lessor may have for default and breach of this Agreement.

**ARTICLE 9 – INDEMNITY AND INSURANCE**

A. **Indemnity.** Lessee shall indemnify and hold harmless Lessor, its members, agents, officers and employees, against and from all claims, demands and liability for injuries to persons or damage to property occasioned by or in any way arising out of the negligence
of Lessee, its agents and employees, and against and from any claim, demand, or liability or other similar claim arising out of Lessee’s operations under this Agreement. Lessee shall give Lessor, and Lessor shall give Lessee, prompt and timely notice of any claims made or service of process in any suit or action concerning any such injuries or damage of which the party giving such notice shall be aware.

Lessee’s aforesaid indemnity and hold harmless agreement shall not be applicable to any liability caused by the willful misconduct of Lessor, its elected and appointed officials, officers, employees or authorized representatives.

B. Insurance. Lessee shall, at all times, during the term of the Agreement, keep in force and effect insurance policies as described below, issued by a company or companies authorized to do business in the State of South Dakota and satisfactory to the Airport Executive Director. Such insurance shall be primary. The Certificate of Insurance shall provide for thirty (30) days advance notice of cancellation or non-renewal during the term of the Agreement. Failure to submit an insurance certificate, as required, can make this Agreement void at the Lessor’s discretion.

a. General Liability Insurance – Policy shall provide coverage for Premises and Operations, Products and Completed Operations, Broad Form Property Damage Endorsement, Personal Injury and Blanket contractual coverage. Limit of Liability not less than $1,000,000 Each Occurrence and Aggregate, $2,000,000 Products and Completed Operations Aggregate, and $1,000,000 Personal Injury.

b. Automobile Liability Insurance – Comprehensive Automobile Liability or Business Auto Policy Form covering all owned, hired and non-owned private passenger autos and commercial vehicles. Limits of liability – combined single limit for bodily injury and property damage of $1,000,000 Each Occurrence.

c. Worker’s Compensation Insurance and Employer Liability Insurance – Statutory worker’s compensation benefits and employers’ liability insurance in the amount and form required under South Dakota law but in any case, with a limit of liability not less than $1,000,000.00 each accident.

Lessor shall not be liable to Lessee or its employees for any injuries to Lessee’s employees arising out of the performance of work under this Agreement. Lessee and its worker’s compensation insurance carrier agree to waive any and all rights of recovery from the Lessor for worker’s compensation claims made by its employees. The Lessee agrees that indemnification and hold harmless provisions within this Agreement extend to any claims brought by or on behalf of any employee of the Lessee. Lessee shall also furnish to the Lessor satisfactory evidence of Workman’s Compensation insurance in effect.

d. Property Insurance – Lessee shall carry sufficient All Risk Insurance on both owned and leased equipment at the Airport and en route to and from the Airport to fully protect it.
The General Liability Insurance and Automobile Liability Insurance coverage shall be written as primary policies, and any other insurance carried by the Lessor shall be excess and not contributory with respect to the insurance required under this Section. The General Liability and Automobile Liability Insurance shall name the “City of Rapid City and the Rapid City Regional Airport Board, individually and collectively, and its representatives, officers, officials, employees, agents and volunteers” as additional insured.

All insurance policies shall expressly waive any right of subrogation or recovery on the part of the insurer against the City of Rapid City or the Lessor, their agents, employees, and representatives for any recovery received under any insurance or self-insurance coverage carried by the Lessor or the City of Rapid City.

ARTICLE 10 – HAZARDOUS SUBSTANCES – POLLUTION LIABILITY

The Lessee warrants and covenants that during the term of this Agreement it will not produce, handle, store, release, or dispose of hazardous substances on the Premises except as expressly authorized in this Agreement or by prior written permission of the Airport Executive Director. The phrase “expressly authorized in this Agreement” means Lessee’s use of substances such as fuel, oil, lubricants, cleaning solvents or other similar such substances used in the ordinary course of Lessee’s business on the Premises provided such use is in strict compliance with the Agreement and all applicable environmental and safety laws, rules and regulations. Failure of Lessee to abide by the terms of this Article may be restrained by injunction in addition to any other remedies available to Lessor.

Lessee must immediately notify the Lessor of any fuel spills, breaches of any nature of any environmental laws or regulations, disposal or release of hazardous substances in the Premises, or of any notice by a governmental Airport or private party alleging that a disposal or release of Hazardous Substances on or near the Premises may have occurred. The Lessee will promptly deliver to the Lessor copies of and provide complete access to any and all documents or information in its custody, control or possession regarding Hazardous Substances, including any such documents or information received from, or submitted by the Lessee to the United States Environmental Protection Agency and/or any federal, state, county, or municipal environmental or health agency concerning the Premises or the operations being conducted on the Premises.

To the full extent permitted by applicable law, the Lessee will defend, indemnify, and hold the Lessor harmless from any and all costs, expenses, damages, assessments, remediation, claims, liabilities, fines, judgments, penalties, costs, suits, procedures, violations of environmental laws or regulations, and actions of any kind, including but not limited to attorney’s fees, arising out of or in any way connected with any storage, use, spills, discharges, or releases of Hazardous Substances on the Premises caused by arising from the fault, conduct, act, omission, and/or negligence of the Lessee and/or its employees, agents, contractors, guests and/or invitees.
Notwithstanding the foregoing, such indemnification shall not apply to and Lessee shall not be responsible for any monitoring, clean-up or reclamation if any leaks, spills, discharges, or releases of Hazardous Substances as result of faulty, defective or improperly maintained Lessor-owned equipment for which Lessor is responsible.

This Article shall survive any expiration or termination of the Agreement.

ARTICLE 11 – ACDBE PARTICIPATION

The Lessee understands that it is the policy of the Airport that South Dakota Airport Concession Disadvantaged Business Enterprises (ACDBEs), which are certified by an authorized certifying entity, should have the maximum practical opportunity to participate in the competitive process of supplying services and goods to the Lessee as owners, managers, and concessionaires of concessions at the Airport. Accordingly, for the concession operation at the Airport, the Airport Board establishes annual non-car rental ACDBE goals. The annual ACDBE goal for FFY 2020-2022 is 1.35 percent per year.

ADCBE participation is intended to be active purchases of goods and services from SD ACDBE businesses as a percentage of the Concession’s total purchases of goods and services. The Lessee hereby agrees, for the Term of this Agreement, to support the Airport’s ACDBE Concession Program and strive to meet the goal(s), or in the event that the goal(s) is not met, to document adequate good faith efforts of the Lessee to meet the goal(s); that is document all necessary and reasonable steps the Lessee makes to meet the ACDBE goal(s), as required in 49 CFR Parts 23 and 26, including any amendments thereto.

The Lessee’s failure to meet the goal or to provide the Airport Board with sufficient documentation of the Lessee’s adequate good faith efforts to meet the goal will be sufficient cause for the Lessor to terminate this Agreement. Any waiver, inadvertent or otherwise, of this provision by the Lessee shall not be deemed to be a waiver for the remainder of the Term of this Agreement and shall not prohibit the Airport Board from enforcing this Section with regard to subsequent default by the Lessee.

The Lessee must submit to the Lessor, on or before January 31 during the Term of this Agreement, a duly certified ACDBE progress report, on the form attached hereto as Exhibit E, showing all ACDBE participation in the On-Airport Motorcycle Rental Concession during the term of this Agreement. If no participation is documented, then evidence of “good faith efforts” must be reported. The certification must be made by an official of the Lessee who is responsible for the Lessee’s financial records.

ARTICLE 12 – GENERAL PROVISIONS

A. Notices. Notice to the Lessor and Lessee provided for in this Agreement shall be sufficient if sent by mail, postage prepaid, addressed to:

Lessor:

Lessee:

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Airport Executive Director
Rapid City Regional Airport
4550 Terminal Road, Suite 102
Rapid City, South Dakota 57703

Or to such other address as the Lessor and Lessee may designate from time to time in writing.

B. **Strict Performance.** The Lessee represents that the terms and conditions of this Agreement have been carefully reviewed, and that the Lessee is familiar with the same, and agrees faithfully to comply strictly with them.

C. **Successors and Assigns.** All covenants, stipulations and agreements herein contained shall extend to and be binding upon the legal representatives, successors and assigns of the respective parties.

D. **Federal Government Agreements.** This Agreement is subordinate to the provisions of any existing or future agreements between the Airport Board and the United States of America relative to the operation and maintenance of the Airport, the execution of which has been or may be required as a condition precedent to the expenditure of federal funds for the development of the Airport.

Should the Federal Aviation Administration (FAA) determine that any term or provision of this Agreement results in, or could result in, a violation by the Airport of its obligations as an airport sponsor under grant assurances contained or incorporated in any grant agreement, existing or future, to which the Airport is a party (Sponsor’s Assurances), the Lessee and the Airport unconditionally agree to modify, amend, or, if necessary, terminate this Agreement to remedy any such violation, or potential violation, and bring this Agreement into strict compliance with the Airport’s obligations contained in any grant agreement to which the Airport is a party.

E. **Governmental Requirements –** During the Term of this Agreement, Lessee, for itself, its assignees, and successors in interest agrees to comply with the Federally Mandated Contract Clauses attached hereto and incorporated herein as Exhibit F. The Lessee shall indemnify and hold harmless the Airport from any claims and demands of third persons, including the United States of America, resulting from the Lessee’s noncompliance with any of the provisions of this Section E and the Lessee shall reimburse the Airport for any loss or expense incurred by reason of such noncompliance.

Further Lessee agrees to comply with the notification and review requirements covered in Part 77 of the Federal Aviation Regulations in the event any future structure or building is planned for the premises, or in the event of any planned modification or alteration of any present or future building or structure situated on the premises. (FAA Order 5190.6A – AGL-600)
Lessee, by accepting this Agreement, expressly agrees for itself, its successors and assigns, that it will not erect nor permit the erection of any structure or object on the premises above a ground level elevation of twenty (20) feet. In the event the aforesaid covenants are breached, the Airport reserves the right to enter upon the premises and to remove the offending structure or object, all of which shall be at the expense of the Lessee. (FAA Order 5190.6A – AGL-600)

Lessee, by accepting this Agreement, agrees for itself, its successors, and assigns, that it will not make use of the premises in any manner which might interfere with the landing and taking off of aircraft from the Airport or otherwise constitute a hazard. In the event the aforesaid covenant is breached, the Airport reserves the right to enter upon the premises and cause the abatement of such interference at the expense of the Lessee. (FAA Order 5190.6A – AGL-600)

F. Compliance with Law & Venue – The parties agree that the terms of this Agreement shall be governed by the laws of the State of South Dakota. In the event of any conflict of laws, the law of the State of South Dakota shall be controlling. Any legal action arising out of or relating to this agreement shall be brought only in the Circuit Court of the State of South Dakota, Seventh Judicial Circuit, located in Rapid City, Pennington County, South Dakota.

G. Effect of Invalid Provision – If any term or provision of this Agreement or the application thereof to any person or circumstance shall be to any extent be invalid or unenforceable, the remainder of this Agreement, or the application of such term or provisions to persons or circumstances other than those to which it is invalid or unenforceable, shall not be affected thereby, and each term and provision of this Agreement shall be valid and be enforced to the fullest extent by law.

H. Most Favored Nations – In the event that any contract granted by the Lessor to any other motorcycle rental company shall contain any terms and conditions more favorable to such company than the terms and conditions herein described (other than number of allocated parking spaces and the location of concession area, etc.), then this Agreement shall be amended to include such more favorable terms and any offsetting burdens that may be imposed on any such other company. The intent of this provision is to ensure that the Lessor shall give due diligence to ensure Lessee will be able to compete on terms as equal as possible with all other motorcycle rental companies and to ensure that no other company shall enjoy any rights or privileges more favorable to such company than those enjoyed by the Lessee herein.

I. Airport’s Rights Reserved - Airport reserves the right (but shall not be obligated to Lessee) to maintain and keep in repair the landing area of the Airport and all Airport-owned facilities of the Airport, together with the right to direct and control all activities of the Lessee in this regard.

Airport reserves the right to further develop or improve the landing area and all Airport-owned air navigation facilities of the Airport as it sees fit, regardless of the desires or views of Lessee, and without interference or hindrance.
Airport reserves the right to take any action it considers necessary to protect the aerial approaches of the Airport against obstruction, together with the right to prevent Lessee from erecting, or permitting to be erected, any building or other structure on the Airport which in the opinion of the Airport would limit the usefulness of the Airport or constitute a hazard to aircraft.

During time of war or national emergency Airport shall have the right to enter into an agreement with the United States Government for military or naval use of part or all of the landing area, the Airport-owned air navigation facilities and/or other areas or facilities of the Airport. If any such agreement is executed, the provisions of this Agreement with the Lessee may be suspended.

It is understood and agreed that the rights granted by this Agreement will not be exercised in such a way as to interfere with or adversely affect the use, operation, maintenance or development of the Airport.

There is hereby reserved to Airport, its successors and assigns, for the use and benefit of the public, a free and unrestricted right of flight for the passage of aircraft in the airspace above the surface of the premises herein. This public right of flight shall include the right to cause in said airspace such noise as may be inherent in the operation of any aircraft, now known or hereafter used for navigation or flight through the air, using said airspace or landing at, taking off from, or operating on or about the Airport.

Dated this _______ day of ______________________, 2021.

ACKNOWLEDGEMENT PAGE TO FOLLOW
ACKNOWLEDGEMENT PAGE

RAPID CITY REGIONAL AIRPORT BOARD

ATTEST:

Darren Haar, President

____________________________
Shawn Gab, Secretary

____________________________
Name, Title

On this ________ day of _________________, 2021, before me, the undersigned officer, personally appeared ___________ who acknowledged himself to be the _____________ of ________________, and that he as __________________, being authorized to do so, executed the foregoing instrument for the purposes therein contained by signing the name of __________________ by himself as ____________________.

In witness whereof, I hereunto set my hand and official seal.

____________________________________
Notary Public

My Commission Expires:
EXHIBIT A
CFC RULES AND REGULATIONS

Effective as of the Rate Effective Date, the Lessee shall collect a Customer Facility Charge (CFC) in the amount of Three Dollars ($3.00) for each Transaction Day for a maximum of fourteen (14) Transaction Days.

The Lessee shall collect and remit CFC revenues on behalf of the Lessor in the following manner:

a. The CFC rate, if revised, shall only apply to Motorcycle Rental Contracts that begin on or after the rate revision date as the case may be and shall not apply in whole or in part to any Motorcycle Rental Contracts commencing prior but ending after revision date.

b. The CFC shall be identified on a separate line of each Motorcycle Rental Contract entered into on the Airport or elsewhere with motorcycle pick-up at the Airport, and described as Customer Facility Charge or CFC with a footnote approved by the Lessor explaining the abbreviation.

c. The Lessee agrees that it will not be entitled to any rights of offset or other reduction in the requirements herein and will remit to the Lessor all CFC revenues collected in accordance with the Agreement regardless of any amounts that may be owed or due to the Lessee by the Lessor.

All Customer Facility Charges collected by any Lessee are and shall be funds held by such Lessee in trust for the Airport for the benefit of the Airport. The Lessee shall have no legal or equitable interest in the Customer Facility Charges they collect and shall segregate separately, account for and disclose, all Customer Facility Charges as trust funds in their financial statements and shall maintain adequate records that account for all Customer Facility Charges charged and collected. Failure by a Lessee to segregate the Customer Facility Charges shall not alter or eliminate their trust fund nature.

All Lessees shall remit all Customer Facility Charge revenues that were collected or should have been collected from its Airport motorcycle rental Customers on a monthly basis to the Airport, or, upon the Airport’s direction, to a trustee for any obligations issued by the Airport secured in whole or in part by its Customer Facility Charges. The Customer Facility Charges shall be remitted no later than the 20th day of the month following the month the Customer Facility Charges were collected. In the event a Lessee fails to strictly comply with this subparagraph and such failure persists ten (10) business days after providing Motorcycle Rental Company notice of such failure, such noncompliance shall be considered a material breach of the Motorcycle Rental Company’s authorization to do business at the Airport.

Upon determination by the Lessor that the revenues being collected from the CFC are less than the amount needed to pay the annual costs of CFC supported Debt Service and other approved costs, the Lessor may adjust the CFC. The Lessor shall provide written notice to each On-Airport Rental Car Company of any increase and the new Rate Effective Date, which date shall not be less than 60 days after notice is made.

Any Lessee that fails to comply with its obligations pursuant to this Exhibit shall be deemed to be in default pursuant to Article 8 of the Agreement.
EXHIBIT B
OPERATION AND MAINTENANCE RESPONSIBILITIES

BOARD/LESSEE
1. Terminal Premises Motorcycle Rental Counter Area
   a. Electrical system source side of meter only
2. Terminal Premises Common Use Area
   a. HVAC supply & equipment maintenance
   b. Custodial service common use area
      1. Sweep, mop, vacuum daily
      2. Empty trash receptacles daily
      3. Clean windows as needed
      4. Relamp light fixtures as needed
      5. Restroom supplies
   c. Building, equipment, utilities, maintenance & repair fair wear and tear
      1. Floors, doors, windows, walls, ceilings
      2. Furnishings
      3. Bag claim carousel
      4. Signage (excluding Company owned signage and logos)
      5. Electrical systems and equipment
      6. Water & sewer systems
3. Motorcycle Ready Return Parking Lot Area
   a. Preventative and remedial maintenance of pavement, landscaping, etc., together with other motorcycle (if applicable) rental concessionaires based on joint use by number of stall/space allocated to each rental motorcycle concession.
   b. Striping and number painting
   c. Upkeep, maintenance and repair of lot lighting

TENANT/LESSEE
1. Terminal Premises Exclusive Use Area
   a. Custodial service
      1. Relamping of fixtures
      2. Garbage Collection
   b. Building, equipment, utilities, maintenance & repair
      1. Floors, walls, doors, windows, ceilings (including painting, etc.)
      2. Electrical system & equipment user side of meter
2. Terminal Premises Common Use Area
   a. Floors, doors, windows, walls, ceilings, furnishings, etc., damage caused by Tenant/Lessee
3. Motorcycle Ready Return Parking Lot Area
   a. Signage (must be board approved and consistent between all companies)
## Rapid City Regional Airport Motorcycle Rental Monthly Report

### Rental Company: ________________________________

### Month Ending & Year: ____________________________

<table>
<thead>
<tr>
<th>Category</th>
<th>Revenue</th>
</tr>
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<tbody>
<tr>
<td>Time and Mileage</td>
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<tr>
<td>Personal Accident Insurance (PAI)</td>
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<tr>
<td>Supplemental Liability Insurance (SLI)</td>
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<tr>
<td>Roadside</td>
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<td>Government Fees</td>
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<tr>
<td>Add Driver/Young Renter</td>
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<tr>
<td>Child Seat/GPS/Ski Racks</td>
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<tr>
<td>Intercity Drop Fees</td>
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<tr>
<td>Adjust (Foreign Commission)</td>
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<td>Other:</td>
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<td>Other:</td>
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<tr>
<td>Other:</td>
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<tr>
<td><strong>Total Revenue</strong></td>
<td></td>
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</tbody>
</table>

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**Signature**  
Title  
Date
## Rapid City Regional Airport Motorcycle Rental Monthly Report

### Summary Information

| Rental Company: |  
|---|---
| Month Ending: |  
| Year: |  

<table>
<thead>
<tr>
<th>Month</th>
<th>Gross Receipts for Month</th>
<th>Number of Transactions</th>
<th>Transaction Days</th>
<th>Initials</th>
</tr>
</thead>
<tbody>
<tr>
<td>January</td>
<td></td>
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<td>February</td>
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<td>December</td>
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<tr>
<td><strong>Total</strong></td>
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</tbody>
</table>

Total Current Month Revenue: __________________________ (Provide Detail Breakdown)

11% Airport User Fee:* __________________________

Customer Facility Fee (CFC): __________________________ @ $3.00 per day __________________________

Total Remittance: __________________________

---

CFC + User Fee

---

Signature | Title | Date
ACDBE Reporting Form

Agency: 
Attn: 
Address: 
Email:

Rapid City Regional Airport (RAP) has established an Airport Concession Disadvantaged Business Enterprise (ACDBE) program in accordance with regulations of the US Department of Transportation (DOT), 49 CFR Part 23. RAP, and therefore its concessionaires, are required to report the annual utilization of ACDBEs. The information you supply will be reported to the FAA in accordance with 49 CFR Part 23.

Reporting Period Year: ___________ Reporting Period: ________________

Gross Receipts
Goods & Services Purchased Non ACDBE
Goods & Services Purchased SD ACDBE
Total Goods & Services Purchased
Percentage of Purchases made with SD ACDBE

For SD ACDBE purchases, please complete the following information:

**DBE 1**

Name of DBE
Address of DBE
Type of DBE:
- Black American
- Hispanic American
- Native American
- Asian-Pacific American
- Subcontinent Asian American
- Non-Minority Women
- Small Business
Amount Paid to DBE ___________ Year Paid to DBE

**DBE 2**

Name of DBE
Address of DBE
Type of DBE:
- Black American
- Hispanic American
- Native American
- Asian-Pacific American
- Subcontinent Asian American
- Non-Minority Women
- Small Business
Amount Paid to DBE ___________ Year Paid to DBE

**DBE 3**

Name of DBE
Address of DBE
Type of DBE:
- Black American
- Hispanic American
- Native American
- Asian-Pacific American
- Subcontinent Asian American
- Non-Minority Women
- Small Business
Amount Paid to DBE ___________ Year Paid to DBE

Attach additional sheet if necessary.
CIVIL RIGHTS PROVISION
Lessee agrees to comply with pertinent statutes, Executive Orders and such rules as are promulgated to ensure that no person shall, on the grounds of race, creed, color, national origin, sex, age, or disability be excluded from participating in any activity conducted with or benefitting from Federal assistance.

This provision binds the Lessee and subtier suppliers from the bid solicitation period through the completion of the contract. This provision is in addition to that required of Title VI of the Civil Rights Act of 1964.

COMPLIANCE WITH NONDISCRIMINATION REQUIREMENTS
During the performance of this contract, the Lessee, for itself, its assignees, and successors in interest agrees as follows:

1. **Compliance with Regulations:** The Lessee (hereinafter includes consultants) will comply with the Title VI List of Pertinent Nondiscrimination Acts And Authorities, as they may be amended from time to time, which are herein incorporated by reference and made a part of this contract.

2. **Non-discrimination:** The Lessee, with regard to the work performed by it during the contract, will not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The Lessee will not participate directly or indirectly in the discrimination prohibited by the Nondiscrimination Acts and Authorities, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of 49 CFR part 21.

3. **Solicitations for Subcontracts, Including Procurements of Materials and Equipment:** In all solicitations, either by competitive bidding, or negotiation made by the Lessee for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential subcontractor or supplier will be notified by the Lessee of the Lessee’s obligations under this contract and the Nondiscrimination Acts And Authorities on the grounds of race, color, or national origin.

4. **Information and Reports:** The Lessee will provide all information and reports required by the Acts, the Regulations, and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the sponsor or the Federal Aviation Administration to be pertinent to ascertain compliance with such Nondiscrimination Acts And Authorities and instructions. Where any information required of a Lessee is in the exclusive possession of another who fails or refuses to furnish the information, the Lessee will so certify to the sponsor or the Federal Aviation Administration, as appropriate, and will set forth what efforts it has made to obtain the information.

5. **Sanctions for Noncompliance:** In the event of a Lessee’s noncompliance with the Non-discrimination provisions of this contract, the Airport will impose such contract sanctions
as it or the Federal Aviation Administration may determine to be appropriate, including, but not limited to:

a. Withholding payments to the contractor under the contract until the contractor complies; and/or
b. Cancelling, terminating, or suspending a contract, in whole or in part.

6. **Incorporation of Provisions:** The Lessee will include the provisions of paragraphs one through six in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations and directives issued pursuant thereto. The Lessee will take action with respect to any subcontract or procurement as the Airport or the Federal Aviation Administration may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if the Lessee becomes involved in, or is threatened with litigation by a subcontractor, or supplier because of such direction, the Lessee may request the Airport to enter into any litigation to protect the interests of the Airport. In addition, the Lessee may request the United States to enter into the litigation to protect the interests of the United States.

**FEDERAL FAIR LABOR STANDARDS ACT**
All contracts and subcontracts that result from this solicitation incorporate by reference the provisions of 29 CFR part 201, the Federal Fair Labor Standards Act (FLSA), with the same force and effect as if given in full text. The FLSA sets minimum wage, overtime pay, recordkeeping, and child labor standards for full and part time workers.

The Lessee has full responsibility to monitor compliance to the referenced statute or regulation. The Lessee must address any claims or disputes that arise from this requirement directly with the U.S. Department of Labor – Wage and Hour Division.

**OCCUPATIONAL SAFETY AND HEALTH ACT OF 1970**
All contracts and subcontracts that result from this solicitation incorporate by reference the requirements of 29 CFR Part 1910 with the same force and effect as if given in full text. Lessee must provide a work environment that is free from recognized hazards that may cause death or serious physical harm to the employee. The Lessee retains full responsibility to monitor its compliance and their subcontractor’s compliance with the applicable requirements of the Occupational Safety and Health Act of 1970 (20 CFR Part 1910). Lessee must address any claims or disputes that pertain to a referenced requirement directly with the U.S. Department of Labor – Occupational Safety and Health Administration.

**TITLE V LIST OF PERTINENT NONDISCRIMINATION ACTS & AUTHORITIES**
During the performance of this contract, the contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the “contractor”) agrees to comply with the following non-discrimination statutes and authorities; including but not limited to:

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d *et seq.*, 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin);
49 CFR part 21 (Non-discrimination In Federally-Assisted Programs of The Department of Transportation—Effectuation of Title VI of The Civil Rights Act of 1964);

The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. § 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);


The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 et seq.), (prohibits discrimination on the basis of age);

Airport and Airway Improvement Act of 1982, (49 USC § 471, Section 47123), as amended, (prohibits discrimination based on race, creed, color, national origin, or sex);

The Civil Rights Restoration Act of 1987, (PL 100-209), (Broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms “programs or activities” to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);

Titles II and III of the Americans with Disabilities Act of 1990, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§ 12131 – 12189) as implemented by Department of Transportation regulations at 49 CFR parts 37 and 38;

The Federal Aviation Administration’s Non-discrimination statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);

Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures non-discrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;

Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100);

Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 U.S.C. 1681 et seq).

Undertake an affirmative action program as required by 14 CFR Part 152, Subpart E.