MEMORANDUM

TO: Airport Board
FROM: Patrick Dame, C.M., Executive Director
DATE: June 14, 2022
RE: Agreement with Steven Baldwin Associates for Governance Model Review

Attached is an agreement for professional services with Steven Baldwin Associates. The purpose of this agreement is to evaluate the current governance model for the airport and assess the feasibility and benefits of a regional airport authority model.

The method of payment on this agreement is based on hourly and not lump sum due to the complexity of the project. This will allow the Board the ability to discontinue the contract and conclude the project at any time. The total compensation estimated for Phase 1 of the project is not to exceed $193,013.00.

STAFF RECOMMENDATION: Staff recommends approval of the Professional Services Agreement with Steven Baldwin Associates not to exceed $193,013.00.
AGREEMENT BETWEEN THE RAPID CITY REGIONAL AIRPORT BOARD AND STEVEN BALDWIN ASSOCIATES, LLC FOR GOVERNANCE MODEL REVIEW, ASSESSMENT AND TRANSFER

This Agreement is entered into this ___ day of __________, 2022 by and between the Rapid City Regional Airport Board, 4550 Terminal Road, Suite 102, Rapid City, SD 57703, a municipal corporation organized under the laws of the state of South Dakota (“Airport”), and Steven Baldwin Associates, LLC, 150 State Street, Fourth Floor, Albany NY 12207 (“Consultant”).

1. Work. Consultant agrees to diligently perform the work described in the attached letter proposal from Consultant dated May 17, 2022. In exchange, Consultant shall be compensated in an amount not to exceed One Hundred Ninety-three Thousand and Thirteen Dollars and No Cents ($193,013). Consultant will only be paid for work actually performed, and city shall pay Consultant for services rendered or authorized extra work according to the Consultant’s hourly billing rates described in the May 17, 2022 letter proposal. This Agreement along with attached letter proposal dated May 17, 2022 constitutes the entire agreement between City and Consultant and supersedes all prior written or oral communications. In the event any terms of this Agreement conflict with the attached letter proposal, this Agreement shall control.

2. Payment. Payment for the work will be made to the Consultant by check after the completion of the contracted work, receipt of a signed voucher, and approval by the Board. Payment shall be made within 45 days after receipt of the signed voucher. The parties agree that Consultant may bill on a monthly schedule.

3. Additional Work. The parties may agree at any time by written order to make changes within the general scope of this Agreement in the work and services to be performed by Consultant. Any changes which materially increase or reduce the cost of the performance of the Agreement shall be deemed a change in the scope of work for which an adjustment shall be made in the Agreement price, and the Agreement shall be modified in writing accordingly.

4. Termination. This Agreement may be terminated (a) by Airport with or without cause upon seven days’ written notice to Consultant and (b) by Consultant with or without cause upon seven days’ written notice to the Airport. If Airport terminates the agreement without cause, Consultant shall be paid for all services rendered and all reimbursable expenses incurred prior to the date of termination. If termination is due to the failure of Consultant to fulfill its agreement obligations, Airport may take over the work and complete it. In such case, Consultant shall be liable to Airport for any additional cost to the extent directly resulting from Consultant’s action.

5. Independent Contractor. Consultant is an independent entity and not an employee, agent, or partner of City.

6. Hold Harmless. Consultant hereby agrees to hold Airport harmless from any and all claims or liability including attorneys’ fees arising out of the services furnished under this Agreement, and for bodily injury or property damage arising out of services furnished under this Agreement, providing that such claims or liability are the result of a negligent act, error or
omission of Consultant and/or its employees/agents arising out of the services described in the Agreement.

Airport hereby agrees to hold the Consultant harmless from any and all claims or liability including attorneys’ fees arising out of the services furnished under this Agreement, and for bodily injury or property damage arising out of services furnished under this Agreement, providing that such claims or liability are the result of a negligent act, error or omission of Airport and/or its employees/agents arising out of the services described in the Agreement.

7. Insurance Requirements. Consultant shall obtain and maintain at its expense the following minimum limits of occurrence-based insurance coverage for the duration of this Agreement.

<table>
<thead>
<tr>
<th><strong>Type of Coverage</strong></th>
<th><strong>Minimum Limits of Coverage</strong></th>
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<tbody>
<tr>
<td>A. Workers’ Compensation Employer’s Liability</td>
<td>Statutory $500,000/$500,000/$500,000</td>
</tr>
<tr>
<td>B. Comprehensive General Liability (Including Contractual Liability and Completed Operations) Bodily Injury and Property Damage</td>
<td>$1,000,000 each occurrence</td>
</tr>
<tr>
<td>General Aggregate</td>
<td>$2,000,000</td>
</tr>
<tr>
<td>C. Commercial Automobile Liability</td>
<td>$1,000,000 combined single limit</td>
</tr>
</tbody>
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Such insurance policies under B. and C. shall name the City of Rapid City as an additional insured with respect to all activities arising out of the performance of the work and/or services under this Agreement. Acceptable Certificates of Insurance and Endorsements confirming the above coverage shall be filed with the City before commencing any work and/or services. Such Certificates shall afford the City thirty (30) days written notice of cancellation or of a material change in coverage. The City’s failure to obtain from the Consultant a Certificate of Insurance conforming to the foregoing requirements shall not be deemed a waiver of any of the foregoing requirements. This paragraph shall in no way limit the provisions of the indemnity section.

8. Governing Law. This Agreement shall be subject to, interpreted and enforced according to the laws of the State of South Dakota, without regard to any conflicts of law provisions. Parties agree to submit to the exclusive venue and jurisdiction of the State of South Dakota, 7th Judicial Circuit, Pennington County.

9. Civil Rights Non-discrimination. During the performance of this Agreement, Consultant for itself, its assignees, and successors in interest, agrees to comply with the following non-discrimination statutes and authorities: Title VI of the Civil Rights Act of 1964 (42 USC § 2000d et seq., 78 stat. 252); 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 USC § 4601); Section 504 of the Rehabilitation Act of 1973 (29 USC § 794 et seq.), as amended, and 49 CFR part 27; the Age Discrimination Act of 1975, as amended (42 USC § 6101 et seq.); the Airport and Airway Improvement Act of 1982 (49 USC § 47123), as amended; the Civil Rights Restoration Act of 1987 (PL 100-209); Titles II and III of the Americans with Disabilities Act of 1990 (42 USC §§ 12131 – 12189) as implemented by U.S. Department of Transportation regulations at 49 CFR parts 37 and 38; Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations; Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency; and Title IX of the Education Amendments of 1972, as amended.

10. Severability. The provisions of this Agreement shall be deemed severable, and the invalidity or unenforceability of any provision shall not affect the validity and enforceability of the other provisions hereof. If any portion of this Agreement is unenforceable for any reason whatsoever, such provision shall be appropriately limited and given effect to the extent that it may be enforceable.

11. Time of Essence. The parties agree that time is of the essence in the performance of this Agreement.

12. Funds Appropriation. If funds are not budgeted or appropriated for any fiscal year for services provided by the terms of this Agreement, this Agreement shall impose no obligation on the City for payment. This agreement is null and void except as to annual payments herein agreed upon for which funds have been budgeted or appropriated, and no right of action or damage shall accrue to the benefit of the Consultant, its successors or assignees, for any further payments. For future phases of this or any project, project components not identified within this contract shall not constitute an obligation by the City until funding for that component has been appropriated. Airport’s signature on this Agreement demonstrates Airport’s appropriation of funds for 2022. In future years, upon request of Consultant, Airport shall provide notice to Consultant of appropriations made for the services provided in this Agreement.

13. Dispute Resolution. If there is a disagreement between the Parties relating to the terms of this Agreement that is not resolved in the normal course of business, either Party may give the other Party written notice of such dispute. Within twenty (20) days after delivery of such notice and thereafter as necessary, the Parties’ agents shall meet or confer to exchange relevant information and attempt in good faith to resolve such dispute. If any such dispute cannot be resolved thereby, the Parties shall, before formal legal proceedings are instituted, undertake nonbinding, voluntary, facilitative mediation under the jurisdiction of the United States District Court for the District of South Dakota, before a mediator agreed upon by the Parties, to attempt in good faith to resolve the dispute, and such mediation shall be conducted at a mutually convenient site agreed upon by the Parties. The Parties agree that any dispute failing resolution in accordance with the foregoing provisions shall be brought before any court of competent jurisdiction of the State of South Dakota or, if the dispute includes issues reserved to the exclusive jurisdiction of the federal district courts, before the United States District Court for the District of South Dakota, and the Parties irrevocably agree to submit to the jurisdiction of either such court.
Dated this _____ day of __________, 2022.

STEVEN BALDWIN ASSOCIATES, LLC

By:___________________________

Its:___________________________

Dated this _____ day of __________, 2022.

RAPID CITY REGIONAL AIRPORT BOARD

__________________________________
Rod Pettigrew, President

ATTEST:

__________________________________
Robert Hall, Secretary
May 17, 2022

Mr. Patrick B. Dame, C.M.
Executive Director
Rapid City Regional Airport
4550 Terminal Road, Suite 102
Rapid City, SD. 57703

**RE: Task Order #1: Governance Model Review, Assessment, and Transfer**

Dear Mr. Dame:

Thank you for the opportunity to serve the Rapid City Regional Airport ("Airport" or "RAP") and the City of Rapid City ("City"). Pursuant to our discussions, this Task Order for an Airport governance model review, assessment, and transfer serves as Steven Baldwin Associate’s ("SBA") proposed scope of work to provide stakeholders with professional airport management consulting services, as described below.

Our proposed scope of work for Task Order #1 is as follows:

**Background, Context, and Need**

The Rapid City Regional Airport is located approximately eight miles southeast of the central business district of Rapid City, SD. The Airport—owned by the City and operated by the RAP Board—is situated on a 1,655-acre site and is classified by the Federal Aviation Administration as a Non-hub Primary Commercial Service Airport. The Airport is the main gateway to the Black Hills and the closest commercial Airport to Mount Rushmore. In 2021, RAP had 49,055 aircraft operations and 348,269 passenger enplanements flying to 24 non-stop destinations.

As a significant transportation, infrastructure, and economic asset to the community, stakeholders seek new ways to leverage the Airport for even greater opportunities and to improve economic outcomes in Rapid City and the region, as well as to increase the area as a destination for business and economic opportunity. A critical aspect to helping support this mission for the Airport is reviewing and assessing the current Airport governance structure and weighing whether a regional airport authority may be a better fit to increase operational efficiencies and effectiveness and business/revenue opportunities.

Thus, stakeholders now request a specific Task Order to move forward with the assessment of RAP’s governance model and assess the feasibility and benefits of transferring the model from City-owned and operated (via a City Airport Board) to a regional airport authority model, with consideration for the authority having the power to operate a multi-airport system with greater regional participation.
Project Description & Services

The project entails two general phases as follows:

**Phase 1: Review, Assessment, and Recommendation.** A review of the current governance model of RAP and its efficacy would include a review and assessment of operations, structure, and financial condition. Meetings and interviews with all stakeholders would be held to gather information and input, as well as to educate and raise awareness about an authority governance structure, industry standards, and the benefits and drawbacks of an authority governance model. This phase would also include stakeholder outreach to all of the suggested counties (Pennington, Meade, Lawrence and Custer) and associated regional airports (Spearfish, Sturgis, Custer, Hot Springs and Wall), a legislative review of authority governance models in South Dakota, and an assessment of the benefits and drawbacks of a regional airport authority model in light of RAP’s unique circumstances. At the end of this Phase, a recommendation would be made for the future governance of the Airport. Should the stakeholders decide not to move forward with a change, the project would end at the completion of Phase 1.

**Phase 2: Formation of Authority, Application and Transfer.** Should Phase 1 result in stakeholders agreeing to move to a new governance model, Phase 2 would entail the process of working with the FAA to complete and submit a FAR Part 139 Airport Operating Certificate application for the transfer of sponsorship of the Airport. As a critical part of this phase, work would be performed with stakeholders to create all necessary documents for the transfer of sponsorship, which includes support for legislative changes, if required. Once all documents are approved by stakeholders, SBA would oversee the work to establish and stand up the new governing model, its Board, and bylaws to execute the transfer of sponsorship. Ongoing support for the transition from the current model to the new model would be part of this phase as well.

**Phase 1 Scope of Work/Tasks:**
The primary elements of Phase 1 include, but are not limited to, the following general activities:

1. **Kick-off Meeting:** Upon notice to proceed, a kick-off meeting with stakeholders would be organized. The meeting would include discussions on the overall assignment and the refinement and finalization of the scope and project requirements.

   **Deliverable:** Meeting minutes, finalized scope of work.

2. **Research, Information and Data Collection:** An important aspect of the project will be to gather, collect and assess all necessary data, information and historical knowledge relevant to the task at hand. Organizing the data into specific inventories, including background, financial, and organizational data for review and analysis.

   **Deliverable:** List of information for data collection initiative.

3. **Stakeholder Input:** Meetings and interviews with stakeholders to solicit information and input, and to impart education and awareness on governance structures and the process at hand. Stakeholders include Airport tenants, community members, employees, and other regional partners. It is anticipated that the following regional partners would be involved within the stakeholder outreach: four counties (Pennington, Meade, Lawrence and Custer) and up to five other airports (Spearfish, Sturgis, Custer, Hot Springs and Wall). A variety of methods are utilized
to involve stakeholders, such as hosting meetings open to the public, direct interviews, online targeted surveys, and public hearings.

**Deliverable:** Stakeholder report, including survey results and meeting summaries.

4. **Airport Governance Advisory Committee:** The creation and/or support of an advisory committee composed of stakeholders (or any other oversight bodies) to educate members about the process and to review the advantages and disadvantages of the current governance model in comparison with other available modes, including an airport authority. This advisory committee would meet throughout the duration of Phase 1 and be charged with providing final recommendations to the City on the Airport governance model. Approximately five meetings would be held by the committee to perform this task.

**Meeting 1:** Intro to project, overview of RAP today, intro to airport governance models

**Meeting 2:** Review results from comparative analysis, preliminary legislative findings

**Meeting 3:** Final legislative findings, governance transfer process, initial stakeholder input summary

**Meeting 4:** Final financial findings and recommendations, stakeholder input, recommendations for a governance model

**Meeting 5:** Present final white paper and recommendations, adoption of recommendations by an Airport Governance Advisory Committee

5. **Executive Briefings:** In concert with Airport management, executive briefing(s) would be held to highlight project activities, key findings, and recommendations. The briefing(s) would be geared toward senior Airport management and City officials, or other relevant stakeholders, to help members in the decision of whether to move forward with Phase 2. Meetings would be held at least monthly to support this task.

**Deliverable:** None

6. **Comparative Analysis:** Data provided by the Airport will be augmented with other industry available information. A comparative analysis on comparable airports that have transferred from a local government-run model to an independent authority to analyze the resulting benefits to financial sustainability and business innovation and effectiveness would be conducted. A review of select airports operating under an Authority model will be performed.

**Deliverable:** White paper on comparable airport findings.

7. **Legislative Analysis:** SBA will review legislation within the State of South Dakota as it relates to an authority governance model. If State legislation has to be created or changed to accommodate the transfer to an authority, SBA will provide recommendations accordingly.

**Deliverable:** White paper on the legislative needs and recommendations.
8. **Financial Assessment**: Incorporating the findings of the previous tasks, SBA will perform a financial assessment that will include a recommendation for the most effective and financially sustainable governance model, including possible measures to reduce and/or retire any current operating deficit (if required).

   **Deliverable**: White paper on the financial analysis results and a financial plan to transition governance.

9. **Draft and Final Analysis Report**: In conjunction with the airport governance advisory committee and the results of the group findings and consensus, a high-level, policy-orientated report presenting the results of the review and analysis would be developed. The report will be presented as a “draft” and then finalized after input is received from stakeholders. Based on the policy findings, the owner/stakeholders can then review the recommendations for next steps for acceptance and/or implementation.

   **Deliverable(s)**: Draft and Final Report, Presentation of recommendations.

**Phase 2 Scope of Work/Tasks**:
The primary elements of Phase 2 include, but are not limited to, the following general activities:

1. **New Enabling Legislation Support**: Should new legislation be required to form an Airport Authority for RAP, SBA would provide support for the development of the legislation. The findings of Phase 1 and additional example legislative documentation would be shared with a legislative team made up of airport/City counsel, outside counsel, lobbyists, and regional politicians to help support the creation and passage of new legislation. SBA would assist in coordination between the parties of the legislative team and management of the task.

   **Deliverable**: Supporting materials for the development of new legislation.

2. **Establish a Transition Committee**: Standing up a Transition Committee, which may include or expand the membership of the airport advisory committee, to provide coordination and guidance during the transfer process.

   **Deliverable(s)**: Meeting minutes of Transition Committee

3. **Transition Consultation Process**: Consult with stakeholders, including the owner/stakeholders, the Airport Executive Director, Airport personnel, and other identified stakeholders, including representatives of the City, Counties, and business/community members. Provide expert policy and program advice and research regarding the makeup of the proposed governing Board and similar policy matters related to the Airport’s efficient and effective management and operation. Provide research and other transitional services for the Airport and new governing body as may be requested throughout the assignment.

4. **Standing-Up New Governing Body**: The creation of the new governing body and defining criteria for Board membership, including inaugural and follow-up meeting support throughout the transfer process and post FAA approval.
5. **FAA Application Development**: Development of necessary governing documents including articles of incorporation, property use, and/or transfer agreements, services agreements, FAA assignment and assumption agreements, Board bylaws and other governing policies, and preparation of the draft and final FAA application for sponsorship transfer, including a Federal Aviation Regulation (FAR) Part 139 Airport Operating Certificate application.

   **Deliverable(s):** Draft governing documentation,
   Report of the airport consultant,
   Draft and final Part 139 application.

6. **FAA Consultation**: Coordination and negotiation with the FAA, including potential requested revisions to the application.

   **Deliverable(s):** Meeting minutes and associated materials.

7. **Closing Activities**: Coordinate formal closing activities parallel to FAA’s issuance of an Operating Certificate to the new governing body.

8. **Ongoing Support As Needed**: Assist with the preparation of housekeeping items and provide meeting support to the governing body during its inaugural year and transition period, at the discretion of the Airport Executive Director. Provide additional research and other transitional services for the Airport and new governing body as may be needed or requested throughout the assignment and during the inaugural transition year of the new governing body.

**Project Team**

The proposed **Principal in Charge** for this assignment is **Mr. Steven Baldwin**. Mr. Baldwin is President/CEO of the firm and has provided airport consulting services to more than 100 airports throughout North America.

Mr. Baldwin is supported by **Mr. Spencer Gillette** who will serve as the **Project Manager**. Mr. Gillette is a Senior Project Manager with the firm and has aided in the governance transfer of the Gerald R. Ford International Airport (Grand Rapids, MI), Ashville Regional Airport (Ashville, NC), and the Cherry Capital Airport (Traverse City, MI) as well as additional governance review and analysis projects.

Others within the firm may also be called upon as needed. **NOTE: Bios are attached for Mr. Baldwin and Mr. Gillette; additional team bios are available on our website at [www.BaldwinLLC.com](http://www.BaldwinLLC.com).**
Fee

**Estimate**: Our estimate for the labor services outlined in this proposal, is $193,013. While we believe this estimate to be accurate based on current knowledge and scope of the project, final billing will be based on actual labor and expenses incurred.

Fee estimate break down:

- Phase 1 Review and Assessment: $126,888
- Phase 2 Application and Transfer: $66,125

The Airport will be invoiced for the actual labor and expenses incurred for the completion of the tasks outlined within this scope of work. **Due to the complexity of this project, including legislative review and potential legislative changes, actual labor and expenses may be higher or lower than the above estimate.**

**NOTE**: We have provided an estimated fee because our experience has shown that similar governance transfer projects are multi-layered and complex—and unique to each airport’s individual circumstance—and it is difficult to forecast the specific amount of time needed to complete for a particular situation.

Schedule

SBA will make a concerted effort to advance the work as quickly and efficiently as possible. The projected schedule for the assignment, including certification from the FAA, is estimated to be approximately 12 to 18 months from the notice to proceed. As noted above, governance transfer projects are multi-layered and complex, and it is not possible to precisely forecast the specific amount of time needed to complete one for a specific situation, especially as many tasks involve the coordination and response from the FAA, which is outside of our control. In general, the phased activities typically require the following timeframes:

- **Phase 1**: 6-9 months from notice to proceed
- **Phase 2**: 6-9 months from stakeholder consensus to proceed

**General Business Terms for the Firm**

Unless otherwise stated, below are the general terms of business of our firm.

**Labor Rates**

SBA’s established hourly billing rates for 2021 – 2022 are as follows:

<table>
<thead>
<tr>
<th>Professional Services Category</th>
<th>Fee</th>
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</thead>
<tbody>
<tr>
<td>Principal</td>
<td>$375/hr.</td>
</tr>
<tr>
<td>Vice President</td>
<td>$150/hr. to $325/hr.</td>
</tr>
<tr>
<td>Senior Associate</td>
<td>$145/hr. to $225/hr.</td>
</tr>
<tr>
<td>Associate I, II, Project Manager</td>
<td>$100/hr. to $185/hr.</td>
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</tbody>
</table>
Our hourly rates are fully burdened. Time on projects is billed at ¼ hour increments. SBA’s billing rates are usually adjusted to reflect cost of living and labor costs on or about July 1 of each year. We are proud to offer highly competitive industry rates to our clients.

**On-Site Meetings**

Participation in meetings that require travel shall be billed on a time and expense basis. However, all on-site meetings shall include a minimum four (4) hours labor charge for each SBA participant, for each day on-site meetings occur.

**Expenses**

SBA will bill the Airport for all reasonable expenses incurred while performing services on the Airport’s behalf. Automobile mileage shall be billed at the most recent Privately-Owned Vehicle mileage reimbursement rate as established by the U.S. General Services Administration. All other expenses shall be supported by receipts and submitted to the Airport for reimbursement without mark-up.

**Invoicing**

Clients are invoiced on a monthly basis. Our general terms for payment are net 10 days. Reasonable exceptions are made to accommodate accounts payable cycles. Invoices shall include a brief description of activities performed by SBA on behalf of the client during the invoice period, which may be presented in either line item or written summary format.

I hope these terms meet your satisfaction. Upon your review and acceptance of this proposal, please indicate your notice to proceed by signing one copy and returning it to our attention via email to sgillette@baldwinllc.com or via mail to:

Steven Baldwin Associates, 150 State Street, Fourth Floor, Albany, NY 12207

Should you have any questions concerning the proposal, please feel free to contact me.

Again, thank you for the opportunity to be of service.

Sincerely,

**STEVEN BALDWIN ASSOCIATES, LLC**

Steven T. Baldwin
President/CEO
Duly Authorized & Approved By: _________________________________ Date: ____________

Print Name: ________________________________________________

Title: _______________________________________________________

cc: S. Gillette, SBA