

ASSIGNMENT OF AUTOMOBILE RENTAL CONCESSION AND LEASE

This Assignment of Automobile Rental Concession and Lease ("Assignment") is made between Coastal Bend Rent-A-Car, Inc, DBA Avis Rent A Car, South Texas Auto Rental Services, LLC, DBA Budget Rent A Car ("Assignor"), a corporation, and Avis Budget Car Rental, LLC, a limited liability company ("Assignee").

Recitals

1. An On-Airport Rental Car Concession and Lease Agreement was executed on or about August 13, 2019 between City of Corpus Christi ("City") and Assignor, for a term of five years beginning October 1, 2019 and ending September 30, 2024 (the "Agreement"). Assignor is currently operating at the Corpus Christi International Airport ("Airport"). Under the Agreement, City grants certain nonexclusive operating rights and leases certain premises to Assignor at the Airport.

2. Assignor has initiated a proposed Purchase Agreement with Assignee to sell certain assets including assignment of the Agreement and related operating rights for the Avis and Budget brands at the Airport (the "Transaction").

3. The Assignor now wishes to assign the Agreement to Assignee, and Assignee wishes to assume the Agreement.

Assignment

In consideration of \$10 and other good and sufficient consideration, receipt of which is acknowledged by this Assignment and the agreement of the Assignee set forth below, the Assignor assigns to the Assignee and the Assignee's heirs, assigns, executors, and administrators all right, title, and interest in and to the Agreement, including without limitation the right to operate the Avis brand as non-exclusive car rental concessions at the Airport. A copy of the Agreement is attached to this document as Exhibit A, and incorporated by this reference for all purposes. The Assignee accepts the assignment and agrees to fulfill all the terms and covenants required by the Assignor under the Agreement, from the Effective Date of this Assignment, including making all payments due to or payable on behalf of the City when due and payable. The Effective Date is hereby defined as the Effective Date of the Purchase Agreement and subject to and contingent upon closing the Transaction. Responsibility for the terms and covenants under the Agreement as to periods prior to the Effective Date of this Assignment, including without limitation making all payments due or payable on behalf of City when due and payable, shall remain with Assignor.

Binding on Successors

This Assignment will bind and inure to the benefit of the parties, their heirs, executors, administrators, successors in interest, and assigns.

ASSIGNOR
Coastal Bend Rent-A-Car, Inc. DBA Avis Rent A Car
South Texas Auto Rental Services, LLC., DBA Budget
Rent A Car

By: 

Coastal Bend Rent-A-Car, Inc.
DBA Avis Rent A Car
P.O. Box 4875
Corpus Christi, Texas 78401
Dated: 9-27-19

South Texas Auto Rental Services, LLC
DBA Budget Rent A Car
Dated: 9-27-19

ASSIGNEE
Avis Budget Car Rental, LLC

By: 
Anne D. Morrison

Vice President of Properties and Facilities
6 Sylvan Way
Parsippany, NJ 07054
Dated: 9/22/19

CONSENT OF CITY

The Landlord in the Agreement described in the forgoing Assignment consents to assigning the Lease to Avis Budget Car Rental, LLC, and releases Coastal Bend Rent-A-Car, Inc. DBA Avis Rent A Car and South Texas Auto Rental Services, LLC. from any further liability or obligation under the Lease as of the Effective Date.

Dated _____

CITY OF CORPUS CHRISTI, TEXAS

By _____

EXHIBIT "A"

ON-AIRPORT RENTAL CAR CONCESSION AND LEASE AGREEMENT

COASTAL BEND RENT A CAR, INC. (AVIS) / SOUTH TEXAS AUTO RENTAL SERVICES, LLC (BUDGET)

STATE OF TEXAS

§

COUNTY OF NUECES

§

§

This **ON-AIRPORT RENTAL CAR CONCESSION AND LEASE AGREEMENT** ("**Agreement**") is entered into by and between the City of Corpus Christi, a Texas home-rule municipality ("**CITY**"), acting through its Director of Aviation ("**Director**"), and Coastal Bend Rent-A-Car, Inc., a Texas corporation, (doing business as Avis Rent A Car) and South Texas Auto Rental Services, LLC, a Texas limited liability company (doing business as Budget Rent A Car) operating under the laws of the State of Texas (collectively, the latter two parties being referred to as "**CONCESSIONAIRE**").

WHEREAS, the CITY owns and operates the Corpus Christi International Airport located in Corpus Christi, Nueces County, Texas ("**Airport**");

WHEREAS, rental car services on and at the Airport are essential to the proper accommodation of passengers arriving at and departing from the Airport; and

WHEREAS, the CITY desires to make the services available at the Airport and CONCESSIONAIRE is qualified to furnish and perform the necessary services pursuant to this Agreement.

NOW, THEREFORE, in consideration of the foregoing and the terms, conditions, and covenants stated in this Agreement, the parties agree for themselves, their successors, and authorized assigns, as follows:

ARTICLE I. TERM

The term of this Agreement is five years, effective October 1, 2019, and ending at midnight on September 30, 2024, unless sooner terminated as provided in this Agreement. Any holdover by CONCESSIONAIRE following the expiration of this Agreement may only occur if in accordance with the holdover provisions set out elsewhere in this Agreement.

ARTICLE II. PRIVILEGE OF CONCESSION AND LEASE; NONEXCLUSIVE

- A. CITY hereby awards and grants to CONCESSIONAIRE, and CONCESSIONAIRE hereby accepts, the privileged right and obligation to conduct and operate an on-Airport rental car service at the Airport ("**Concession**") and the lease of land and improvements located on Airport property for the sole purpose of operating the Concession ("**Lease**"), all during the term of this Agreement on a nonexclusive basis for the purpose of arranging rental car and related services for Airport customers where such services are furnished by CONCESSIONAIRE. For the purposes of this Agreement, "customer" means any person, including an entity, that rents a motor vehicle from a car rental company at the Airport regardless of whether the person receives the vehicle on the Airport premises and includes any person receiving complimentary or discounted rentals. For purposes of this Agreement, "car" means any non-chauffeured, self-propelled motor vehicle on four wheels for passenger transportation with a maximum capacity of 15 passengers (including the driver). Self-haul (such as U-Haul™), freight, and cargo trucks, delivery vans and trailers, and motor homes do not qualify as cars under this Agreement, and rentals of such motor vehicles are not permitted at the Airport. "Vehicle" may be used to denote "car" in the Agreement, but any interpretation of the meaning or context of use of the word "vehicle" is limited to the definition of "car" specifically provided herein.
- B. The concession rights and privileges granted and awarded to CONCESSIONAIRE are expressly made subject to all terms, conditions, and covenants of this Agreement. CONCESSIONAIRE specifically acknowledges and understands that City intends to grant rental car concessions to other persons. The award of concession rights and privileges to such other concessionaires shall not constitute a violation of this Agreement nor, in the event of the cessation or termination of such other rental car concessions during the term hereof, shall the award of concession rights and privileges, and the lease of necessary land and improvements, to a substitute or successor concessionaire constitute a violation of this Agreement. Notwithstanding the foregoing and in recognition of the staff time, resources, and expenses incurred by the CITY in undertaking a solicitation and lease of this nature, any rental car concession operator who was an incumbent on or within the six-month period immediately preceding the date of the

CITY'S City Council approval, by ordinance, of the execution of this Agreement and who chose not to participate by submitting a proposal or, if submitted, had the proposal rejected by CITY as incomplete or nonresponsive, will not be afforded an opportunity to locate on-Airport until the expiration of 24 months following the effective date of this Agreement, such opportunity and ability to locate on or after that time period being subject to an award of concession privileges and the grant of a lease by the CITY'S City Council.

- C. As a nonexclusive Concession, CITY has the right to deal and perfect agreements or arrangements with any other person, firm, or company to engage in similar activities; provided, however, that no such other on-Airport rental car concession agreement or arrangement may contain terms, conditions, or covenants more favorable to any other rental car concessionaire than those granted to CONCESSIONAIRE in this Agreement (excluding differences related to the number of allocated terminal counter/office space, terminal parking spaces, the location of the concession area, and the location of service/maintenance facilities, all of which are determined by the minimum annual guarantee provisions under this Agreement), including as to any rents, fees, or guarantees provided for in this Agreement. In the event that any agreement granted by the CITY to any other on-airport rental car concessionaire may be deemed to contain terms, conditions, or covenants more favorable to such other concessionaire than the terms, conditions, and covenants in this Agreement, then, the CITY may, at its sole discretion, amend this Agreement to include terms, conditions, and covenants that are comparable to that of the other on-airport rental car concessionaire.

ARTICLE III. LEASED PREMISES

- A. In accordance with this Agreement, CITY leases to CONCESSIONAIRE sufficient space to conduct its Concession operations within the Airport terminal building located at 1000 International Drive in Corpus Christi and at a separate quick turnaround area ("QTA"), also on Airport property and located at 474 Pinson Drive, in Corpus Christi, both locations as further described in this Agreement and depicted in Exhibits "A" and "B" (which includes terminal counter, office, queuing, and hallway space as well as ready/return parking lot spaces) and Exhibits "C," "D," and "E" (QTA facility area; QTA office and maintenance location, fuelling stations, car wash bays, and support/storage areas; and QTA queuing lanes, employee parking, and temporary storage vehicle parking), all exhibits being attached to this Agreement and the content of each exhibit being incorporated by reference into this Agreement as if set out fully here in its entirety. Collectively, the two separate locations (terminal and QTA), each of which contains common use areas and exclusive use areas for the operation of CONCESSIONAIRE'S Concession, may be referred to in this Agreement as the "Leased Premises".
- B. The Leased Premises, as noted, consists of both common use areas and exclusive use areas. Common use areas are defined to include all land, buildings, walkways, landscaping, and other improvements leased within as well as outside of the Airport terminal building and within the boundaries of the QTA, as applicable, that are not otherwise exclusively leased by CONCESSIONAIRE and are available for shared use by CONCESSIONAIRE as well as by any other rental car concession operator who has executed a similar concession and lease agreement with CITY, as such land and facilities are further delineated in this Agreement and Exhibits A, B, C, D and E, and which areas are subject to modification or adjustment in size or availability for use from time to time by the Director as may be necessary for the efficient operation of the Airport terminal building and the QTA. Ready/return parking lot spaces, as further delineated in this Agreement and the exhibits, are deemed common use areas that are preferentially assigned by the Director and subject to reallocation and reassignment during the term of this Agreement, as such reallocation and reassignment are further described elsewhere in this Agreement. Exclusive use areas are defined to include all allocated counter, office, service/maintenance space, and queuing lane space designated and leased only to CONCESSIONAIRE, as further delineated in this Agreement and the exhibits, and which may be subject, under specified terms and conditions set out elsewhere in this Agreement, to removal from exclusive use and reallocation of the space at one or more times during the term of this Agreement. The Director's decisions in administering this Agreement shall be reasonably applied with due regard to the rights of the parties hereunder.
- C. Terminal Space – Inside. Common use areas and exclusive use areas in the Airport terminal building and adjacent parking lot area are leased to CONCESSIONAIRE as follows:

1. **Allocation of Counter/Office Spaces; Location.** Counter/office spaces will be allocated by the CITY on or about October 1, 2019, based upon the initial minimum annual guarantee ("MAG") amount submitted by CONCESSIONAIRE, in response to the City's request for proposals for award of an on-Airport rental car concession ("RFP"), as measured against the MAG amounts submitted by all rental car concession operators. (A copy of the RFP and CONCESSIONAIRE'S submitted response to the RFP are both incorporated by reference into this Agreement as if set out here in their entireties.) The rental car concession operator who submitted the highest MAG will choose their preferred counter location first; the operator who submitted the second highest MAG will choose their preferred counter location next from the remaining available locations; and selections of the remaining counter locations will continue in the same manner and descending MAG order until all rental car concession operators have selected a location. If CONCESSIONAIRE, immediately prior to the execution of this Agreement, was a current rental car concession operator at the Airport, CONCESSIONAIRE may elect to, upon its turn in order of MAG priority and subject to such space remaining available, retain its existing counter location. The foregoing notwithstanding, consideration may be given by the CITY, in its sole discretion, to determine the location of CONCESSIONAIRE'S counter space to minimize relocation costs and to balance the utilization of the counter spaces. The counter location selected by CONCESSIONAIRE includes the companion adjacent office and customer queuing area. CONCESSIONAIRE'S counter, office, and queuing space are shown in Exhibit A.
 2. **Designation of Counter, Office, Queuing, and Hallway Spaces.** CONCESSIONAIRE'S assigned terminal counter, office, and queuing spaces are deemed exclusive use areas. The hallway space for ingress and egress adjoining CONCESSIONAIRE'S office space (as well as adjoining all other rental car concession operators' office spaces) is deemed a common use area.
 3. **Rent for Counter and Office Spaces.** CONCESSIONAIRE shall pay to CITY, without notice or demand, for the right and privilege of doing business at the Airport via occupancy of counter and office spaces, use of the common hallway, and use of the assigned queuing space (collectively, the "Terminal Counter/Office Space") an annual terminal rental rate per square foot equal to 100% of the applicable annual signatory airline square footage rate, regardless if Concessionaire operates under a single brand or dual brands, multiplied by the total square footage shown in Exhibit A for terminal Terminal Counter/Office Space # 3 occupied by CONCESSIONAIRE, such area totaling approximately 595.39 square feet, to be paid in equal monthly installments. The Terminal Counter/Office Space rent is due on or before the 1st day of each month beginning October 1, 2019. The annual terminal rental rate per square foot is subject to adjustment during the term of this Agreement whenever the terminal rental rate charged to the signatory airlines is increased. Should the signatory airlines' terminal rental rate be increased, CITY shall provide CONCESSIONAIRE with at least 30 days advance written notice of any change in the Terminal Counter/Office Space rental rate; CONCESSIONAIRE shall be obligated to pay the new Terminal Counter/Office Space rental rate on and after the effective date of the change; and the annual amount due (and pro rata monthly amount due) will be modified accordingly.
- D. **Terminal Space – Outside.** Common use areas and exclusive use areas in the Airport terminal's adjacent ready/return parking lot area are leased to CONCESSIONAIRE as follows:
1. **Allocation of Terminal Ready/Return Parking Spaces; Location.** An initial allocation of terminal parking spaces in the adjacent ready/return parking lot will be made by the CITY on or about October 1, 2019, based upon the initial MAG amount submitted by CONCESSIONAIRE, in response to the City's RFP, as a percentage of all MAGs and that percentage multiplied by the total available ready/return spaces. CONCESSIONAIRE will be allocated not less than 10 ready/return spaces. The location of the Ready/Return spaces for each successful Bidder will be determined by the Airport Director or his designee, in the Director's sole discretion. The foregoing notwithstanding, consideration may be given by the Director, in his sole discretion, to determine the location of CONCESSIONAIRE'S parking spaces to minimize relocation costs for the Airport and to balance the utilization of all parking spaces. Collectively, all allocated terminal ready/return parking spaces of CONCESSIONAIRE (including front end spaces) may be referred to as the "Parking Spaces." The initial allocation of Parking Spaces is and will remain effective until the next allocation date or the end of the term of this Agreement if there is not a subsequent allocation date. Exhibit B depicts the terminal ready/return parking lot and its boundaries. Following the initial allocation process, CONCESSIONAIRE will be provided with a separate, supplementary assignment list depicting

CONCESSIONAIRE'S initial allocation of Parking Spaces, such list then being incorporated by reference and forming part of Exhibit B as if such list were set out here in this Agreement.

2. **Designation of Terminal Ready Return Parking Lot and Assigned Parking Spaces.** The ingress and egress areas of the terminal parking lot are deemed common use spaces. The initial allocated, selected, and assigned Parking Spaces of CONCESSIONAIRE are deemed exclusive use areas while assigned to CONCESSIONAIRE.
3. **Rental for Parking Spaces; Sales Tax.** CONCESSIONAIRE shall pay to CITY, without notice or demand, for the right and privilege of doing business at the Airport via occupancy of the Parking Spaces a monthly rental rate of \$25.00 per individual parking space multiplied by the total number of spaces occupied by CONCESSIONAIRE. The Parking Spaces rent is due on or before the 1st day of each month beginning October 1, 2019. The Parking Spaces rental rate is based on the average cost of providing vehicular parking areas for tenants and passengers using the Airport, and such Parking Spaces rental rate is subject to change annually during the term of this Agreement, effective on and after the yearly anniversary date of this Agreement, upon advance written notice to CONCESSIONAIRE; provided, however, that any change in the Parking Spaces monthly rental rate shall not exceed an increase of more than \$2 per individual parking space. CONCESSIONAIRE shall be obligated to pay the new Parking Spaces rental rate beginning on the date shown in the notice; and the subsequent monthly amount due from CONCESSIONAIRE will be modified accordingly. CONCESSIONAIRE shall, in addition to paying rent on the Parking Spaces, also pay any applicable sales tax due for the Parking Spaces allocated to CONCESSIONAIRE.
4. **Reallocation of Parking Spaces.** At the end of the second anniversary of the effective date of this Agreement, the Parking Spaces assigned by initial allocation to CONCESSIONAIRE shall be reallocated in the event that at least one rental car concession operator had a market share percentage point change that would result in an increase or decrease of at least 10 Parking Spaces for that rental car concession operator for the immediately preceding 12-month measurement period of the Agreement. "Market share," for the purposes of this Agreement, means the amount, expressed as a percentage, equal to the quotient of (i) CONCESSIONAIRE'S Gross Revenues (as such term is defined in this Agreement) during the immediately preceding 12-month period divided by (ii) the sum of the Gross Revenues of CONCESSIONAIRE and all other rental car concession operators during such 12-month period. The City shall endeavor to retain the reallocated parking spaces in the same general area as the previously allocated parking spaces, considering the requirement for all rental car concession operators to retain a certain number of front end parking spaces. In the event of a reallocation of terminal ready/return parking spaces, CONCESSIONAIRE shall be provided with an updated list of Parking Spaces, such list then replacing the previous list, being incorporated by reference without need of a formal amendment to this Agreement and forming part of Exhibit B as if such list were originally set out here in this Agreement.
5. **Ready/Return Parking Lot Signage.** In the event CONCESSIONAIRE desires to add a company logo or other identifier on the parking space identification signage for any of CONCESSIONAIRE'S Parking Spaces, CONCESSIONAIRE shall provide the CITY the finished signage faceplate complete with logo/identifier and space number (with the City providing the sign pole), such signage markings being subject to the final approval of the Director, which approval shall not be unreasonably withheld or delayed. The CITY shall be responsible for acquiring and installing all other signage in the terminal ready/return parking lot. A sample numbered parking space sign and its associated sign pole are shown in Exhibit B.

E. **Quick Turnaround Area Facility.** Common use areas and exclusive use areas in the Airport QTA facility are leased to CONCESSIONAIRE as follows:

1. **Allocation of QTA Facilities; Location.** The selection and allocation of QTA facility space, to include office/admin and shop/maintenance spaces (referred to as "Area 1") and queuing and parking lanes (referred to as "Area 2") (collectively, the "QTA Space"), will be made by CITY on or about October 1, 2019, as follows: Area 1's selection is based upon the initial MAG amount submitted by CONCESSIONAIRE, in response to the City's RFP, as measured against the MAG amounts submitted by all rental car concession operators; and Area 2's allocation is based on the initial percentage allocation of the terminal ready/return spaces to CONCESSIONAIRE. With regard to the selection of Area 1 space, the rental car concession operator who submitted the highest MAG will choose their preferred Area 1 location first; the operator who submitted the second highest MAG will

choose their preferred location next from the remaining available locations; and selections of the remaining locations will continue in the same manner and descending MAG order until all rental car concession operators have selected a location. If CONCESSIONAIRE, immediately prior to the execution of this Agreement, was a current rental car concession operator at the Airport, CONCESSIONAIRE may elect to, upon its turn in order of MAG priority and subject to such space remaining available, retain its existing Area 1 location. Regarding the allocation of Area 2 space, the portion of Area 2 initially allocated to CONCESSIONAIRE will be determined after the entirety of the Area 2 vehicle area has been allocated to all rental car concessionaires, and Area 2 shall be reallocated proportionally among all rental car concession operators following the second full year of the Agreement pursuant to the terminal ready/return parking space reallocation set out in Article III.D.4. The foregoing notwithstanding, consideration may be given by CITY, in its sole discretion, to determine the location of CONCESSIONAIRE'S QTA Space to minimize relocation costs and to balance the utilization of all QTA locations. Exhibit C depicts the entire QTA facility location and its boundaries. CONCESSIONAIRE'S specific selected and allocated QTA Space at the facility is as shown in Exhibit D.

2. **Designation of QTA Facility Space.** CONCESSIONAIRE'S selected QTA Area 1 location (office/admin and shop/maintenance) is deemed an exclusive use area. The walkways; sidewalks; fueling stations and lanes; the car wash bays; employee parking areas; vehicle queuing and parking lanes (Area 2); and the ingress and egress to the QTA facility are deemed public/common use areas. The queuing lanes, as depicted in Exhibit C, are provided for daily use by CONCESSIONAIRE for parking its vehicles as rentals in the QTA. The parking lanes located on the northeast side of the QTA facility are provided for use by CONCESSIONAIRE solely for the temporary, short term storing of its vehicles for daily use at the QTA.
3. **Rental for QTA Space.** CONCESSIONAIRE shall pay to CITY, without notice or demand, for the right and privilege of doing business at the Airport via occupancy of the QTA Space and use of the facilities an annual rental rate of \$7.35 per square foot for office/admin space, such area being 850 square feet as shown in Exhibit D, for a total annual amount of \$6,247.50, paid in equal monthly installments of \$520.62, with the last month's installment being \$520.68. CONCESSIONAIRE shall pay to CITY an annual rental rate of \$5.65 per square foot for shop/maintenance space, such area being 775 square feet as shown in Exhibit D, for a total annual amount of \$4,378.75, paid in equal monthly installments of \$364.89, with the last month's installment being \$364.96. CONCESSIONAIRE shall pay to the CITY an annual rental rate of \$0.40 per square foot for the CONCESSIONAIRE'S allocated portion of Area 2, such vehicle area being a portion of the queuing lanes and parking lanes shown in Exhibit C. CONCESSIONAIRE shall pay to CITY the pro rata share of Area 2's vehicle area assigned to CONCESSIONAIRE. The QTA Space rent shall be paid by CONCESSIONAIRE on or before the 20th day of each month beginning October 1, 2019, in equal monthly installments, with the last month's installment being the adjusted amount necessary to complete the full annual amount due. The annual QTA Space rent is based on the amounts shown in the Airport's third-party appraisal report. Rental rates for all Airport real properties are adjusted on a five-year cycle and are based on a fair market appraisal conducted by the City. The next appraisal is scheduled to be completed on or about August 23, 2023. The City reserves the right to adjust the rent in accordance with (i) reallocation that occurs pursuant to Article III.D.4, (ii) with the next appraisal report, or (iii) Federal Aviation Administration ("FAA") requirements. For purposes of determining the fair market value by appraisal, the values determined by the appraiser are final. Should the QTA Space rental rate change, CITY shall provide not less than 60 days advance written notice of any change; CONCESSIONAIRE shall be obligated to pay the new annual QTA Space rental rate on and after the effective date of the change; and the annual amount due (and pro rata monthly amount due) will be modified accordingly.

ARTICLE IV. GUARANTEED CONCESSION REVENUES

- A. **Concession Fee.** In exchange for the privilege of conducting and operating a Concession at the Airport, CONCESSIONAIRE shall pay to CITY, without notice or demand, an annual concession fee ("Concession Fee"). The Concession Fee for the first year of the Agreement is defined to be (i) a percentage fee ("Percentage Fee") equal to 11% of CONCESSIONAIRE'S annual Gross Revenues ("Required Percentage") or (ii) the MAG amount proposed and promised by CONCESSIONAIRE pursuant to the City's RFP, whichever is greater. For the second and subsequent years of the Agreement, the Concession Fee is defined to be the Required Percentage or the adjusted MAG amount ("Adjusted MAG"), whichever is greater.

The Adjusted MAG is defined to be an amount equal to 85% of the previous year's total payments of the Concession Fee paid to CITY, but in no case will the Adjusted MAG amount ever be lower than the first year's MAG amount submitted by CONCESSIONAIRE in the RFP and accepted by CITY. The first year's baseline MAG amount to be paid by CONCESSIONAIRE is \$ 227,160.00. Any concession recovery fee or recoupment fee stated on a customer invoice and charged to the customer by CONCESSIONAIRE shall not exceed 12.36% of the total charge to the customer prior to the assessment of the concession recovery fee or recoupment fee.

- B. **Concession Fee Due; Remittance.** On or before the 1st day of each month of this Agreement, CONCESSIONAIRE, without notice or demand, shall pay a monthly installment equal to 1/12th of the annual MAG amount or Adjusted MAG amount, as may be applicable pursuant to paragraph A above. CONCESSIONAIRE, without notice or demand, shall remit to CITY, on or before the 20th day of each month, beginning the second month of this Agreement, the excess, if any, between the monthly installment of the MAG or Adjusted MAG, as applicable, paid for the preceding month and the Required Percentage due for such preceding month. Payment of the Required Percentage amount will be determined and is based upon the Gross Revenues of the CONCESSIONAIRE for the immediately preceding month.
- C. **Monthly Gross Revenues Statement; Due Date; Late Fee.** On or before the 20th day of each month, beginning the second month of this Agreement, CONCESSIONAIRE shall provide CITY with a certified statement detailing CONCESSIONAIRE'S Gross Revenues, CONCESSIONAIRE'S transaction information, and any other data and information for the preceding month as may be required by the CITY, with such statement required to be signed by a responsible manager of CONCESSIONAIRE attesting to the accuracy of the data and information presented ("Gross Revenues Statement"). A blank copy of the required form of the Gross Revenues Statement is attached to this Agreement as Exhibit "F," the content of which is incorporated into this Agreement as if set here in its entirety. If any Gross Revenues Statement is not received on or before the date due, CONCESSIONAIRE shall pay an administrative late fee of 15% of the pro rata Concession Fee due for that month or \$500.00, whichever is greater.
- D. **Gross Revenues – Included.** For the purposes of this Agreement, "Gross Revenues" means the total amount charged to customers by CONCESSIONAIRE whether by cash, credit or otherwise, including any separately stated fees and charges related to CONCESSIONAIRE'S rental car business as authorized by this Agreement, any activities related directly to that business, and any other business operations of CONCESSIONAIRE in the rental car areas or elsewhere at the Airport including, but not limited to, the Airport's terminal, fixed base operators' locations, the QTA, and other Airport property. Gross Revenues applies to all cars supplied by CONCESSIONAIRE to its customers at the Airport without regard to the manner in which or place at which a rental car agreement is entered into and without regard as to whether the car is owned, leased, rented or otherwise held by CONCESSIONAIRE. Revenues which may be derived from sources similar but not identical to those described in this Agreement are required to be included in Gross Revenues. All revenue is included in Gross Revenues unless specifically excluded by this Agreement. For the avoidance of doubt, and not as a limitation on the general applicability of the foregoing definition of Gross Revenues, it is agreed and understood that Gross Revenues expressly includes, but is not limited to:
1. **Time and Mileage.** Fees for the rental or leasing of vehicles pursuant to daily or time charges and/or mileage charges and fees;
 2. **Intentionally left blank.**
 3. **Vehicle Registration Recovery/Recoupment Fees.** Fees charged to customers for CONCESSIONAIRE'S recovery or recoupment of vehicle tax, title, and licensing or registration fees for its fleet vehicles;
 4. **Fuel.** Fees for all fuel options collected from or charged to customers such as, but not limited to, prepayment of fuel, refueling (including charges for fuel and refueling services), and any other charges related to fuel, fuel replacement, and/or servicing and including all monies collected from and/or charged to customers in advance for fuel pursuant to a rental agreement;
 5. **Insurance.** Premiums and any other fees and charges for acceptance of all types of insurance and/or insurance supplements including, but not limited to, personal accident insurance, personal effects

insurance, baggage insurance, liability insurance, medical protections and coverage, and personal effects protection insurance;

6. **Waivers.** Fees and charges for all types of acceptance of insurance waivers or loss or damage waivers of all types such as, but not limited to, loss damage waiver, collision damage waiver, partial waivers, and windshield damage waivers;
 7. **Upgrades, Exchanges, and Special Fees.** Fees and charges for all vehicle upgrades and exchanges and all one-way, inter-city, or special surcharges and similar fees;
 8. **Additional Equipment.** Fees and charges for additional equipment, communications, and technology including, but not limited to, infant car seats, child restraint seats, car racks, radios, phones, navigation, Wi-Fi, satellite services, and sound systems;
 9. **Miscellaneous and Optional Fees/Charges.** Fees and charges for all miscellaneous items and services including, but not limited to, additional drivers, drivers under a certain age, keys, cleaning of vehicles, roadside assistance, towing, and valet services; fees charged for charged for government rentals including any "Government Administrative Rate Supplement (GARS)" or similar fee; and fees charged to customers carbon offset or other environmental programs;
 10. **Contracted Services.** Fees generated from contracted services with other Airport concessionaires, users, and tenants, and any other third parties;
 11. **Concession Recovery/Recoupment Fees.** Fees charged to customers for CONCESSIONAIRE'S recovery or recoupment of the amount of the Concession Fee paid to the City (not to exceed the limitation amount stated elsewhere in this Agreement);
 12. **Operating Costs.** Charges to recover any of CONCESSIONAIRE'S operating costs including, but not limited to, franchise fees and other taxes or surcharges levied on CONCESSIONAIRE'S activities, facilities, equipment, real or personal property, payroll taxes, income taxes, and taxes on frequent flyer miles paid directly to an airline; and
 13. **Other.** Any and all other fees and charges charged to a customer and all receipts, compensation, revenue, or other consideration received or accrued to CONCESSIONAIRE, CONCESSIONAIRE'S franchisor or any other affiliated person or entity for or on account of the CONCESSIONAIRE'S rental car concession, its operations, or its fleet of vehicles, unless specifically excluded in this Agreement.
- E. **Gross Revenues – Excluded.** Unless revenues from CONCESSIONAIRE'S rental car business are expressly and specifically excluded from Gross Revenues under this Agreement ("Allowable Exclusions"), such revenues must be included in Gross Revenues. CONCESSIONAIRE may expressly exclude from Gross Revenues the following Allowable Exclusions, such items being specifically excluded from Gross Revenues in this Agreement as follows:
1. **Customer Facility Charge.** Monies collected by CONCESSIONAIRE from CONCESSIONAIRE'S customers who rent or otherwise enter into a similar arrangement for the use of a car with CONCESSIONAIRE and who incur customer facility charges for each transaction day as mandated by and in accordance with City law ("CFC") for the benefit of CITY and the Airport, as such CFC rate amount may be determined by CITY during the term of this Agreement. For the purposes of this Agreement, "transaction day" means that period a car is rented to a customer for twenty-five (25) or fewer hours for the initial or first transaction day and any portion of one or more additional twenty-four-hour period(s) for each transaction day thereafter. CFCs shall be identified on separate lines on the customer contract, before taxes, and shall be described as the "transaction fee" or "airport facility fee." While the monthly Gross Revenues statement includes a line for reporting of CFCs, such CFCs do not constitute a Gross Revenue of CONCESSIONAIRE.
 2. **Taxes.** Monies collected from CONCESSIONAIRE'S customers for federal, State, City, or other local/municipal taxes levied on the rental transaction or the sale to the customer of ancillary products or services which are required by law to be charged to customers and remitted to a taxing authority. These taxes shall be separately stated (separate line item) and computed on the rental agreements and identified for the customer. It is agreed and understood that neither the CFC, nor the Concession

Fee payable by CONCESSIONAIRE pursuant to this Agreement, nor the Airport Security Fee (below) constitute a tax.

3. **Recovery of Actual Damages/Loss/Conversion.** Monies received by CONCESSIONAIRE as reimbursement or compensation for actual damages to, or loss or conversion of, vehicles rented to customers at the Airport, whether paid by customer, an insurance company, or other third party.
 4. **Local or National Discounts.** Any local or national discounts provided to customers at the time of rental, separately stated on the customer's rental agreement, and discount taken on customer's receipt upon vehicle return; provided, however, that any discount, dividend, rebate, or other reduction in charges applied retroactively (i.e., after completion of the rental transaction at the time of vehicle return), including volume discounts and other corporate business incentive programs of CONCESSIONAIRE (e.g., corporate/commercial discounts or dividends) are not an Allowable Exclusion from Gross Revenues.
 5. **Airport Security Fee.** Monies collected from CONCESSIONAIRE'S customers for the Airport Security Fee, as described previously in this Agreement.
 6. **Tickets/Fines/Tolls and Towing.** Amounts received by CONCESSIONAIRE as payment from customers for red light tickets; parking tickets; other governmental fines and fees associated with such tickets; towing; and impounded vehicles. For clarity, any administrative fees that may be charged by CONCESSIONAIRE to its customers (related to this allowed exclusion from Gross Revenues) are expressly not permitted to be excluded.
- F. **Gross Revenues – Prohibited Reductions.** CONCESSIONAIRE is prohibited from reducing Gross Revenues by any of the following:
1. **Volume Discounts and Rebates.** Corporate or volume discounts or rebates, unless CONCESSIONAIRE can establish for each corporate or volume customer invoice: (a) the amount of the discount or rebate; (b) that the customer has a contractual right to the discount or rebate; and (c) that the amount CONCESSIONAIRE claims as an exclusion from Gross Revenues is attributable to rental car transactions at the Airport by that corporate or volume customer. Furthermore, even if the above criteria can be established for each corporate or volume customer invoice, Gross Revenues may not be reduced by corporate or volume discounts or rebates unless the discount or rebate: (i) is documented for each transaction day of a customer during a given month and (ii) the necessary transaction information and documentation is timely submitted with CONCESSIONAIRE'S monthly Gross Revenues report.
 2. **Credit for Out-of-Pocket Purchases.** Credits or refunds given to CONCESSIONAIRE'S customers or deductions or credits made on rental car agreements or receipts for such things as out-of-pocket purchases of fuel, oil, or emergency services, without limitation, regardless of where such purchase is made or provided, may not be deducted from Gross Revenues.
 3. **Bad Debts.** Any charge that CONCESSIONAIRE customarily incurs or makes for goods and services even though CONCESSIONAIRE fails, or failed, to collect such a charge may not be deducted from Gross Revenues (i.e., no charge-backs of bad debt permitted).
- G. **Overpayment/Underpayment of Concession Fee and Other Amounts.** If the aggregate Concession Fee due for any year of this Agreement exceeds the greater of (i) the MAG applicable to such year or (ii) a Percentage Fee equal to the Required Percentage of its Gross Revenues for such year, the overpayment shall be credited to CONCESSIONAIRE'S account as CITY may determine; provided, however, in no event shall CONCESSIONAIRE take a credit against any subsequent Concession Fee or other payment owed to CITY for any such overpayment without the prior approval of the CITY. CONCESSIONAIRE shall have no right to set-off or off-set any Concession Fee or other payment owed to CITY under this Agreement against any amounts that may be payable by CITY to CONCESSIONAIRE unless such credit is issued by the CITY. If the aggregate Concession Fee payments made for any year of the Agreement is less than the greater of either the (i) MAG or Adjusted MAG, as may be applicable in this Agreement, or (ii) the Required Percentage of CONCESSIONAIRE'S Gross Revenues for such year, CONCESSIONAIRE shall pay the balance due to CITY within 30 days after receipt of an invoice.

- H. If CONCESSIONAIRE terminates the Agreement (either voluntarily or involuntarily) before the completion of the full term, then CONCESSIONAIRE shall be responsible for a full 12 months of the MAG; further, in addition to remaining liable for any Lease payments, the CONCESSIONAIRE must pay another six months of the MAG or until CONCESSIONAIRE'S spot is filled to ensure that the CITY is made whole.

ARTICLE V. CUSTOMER FACILITY CHARGES

- A. **Customer Facility Charge (CFC) Program.** CITY instituted a CFC program in 2010 for the benefit of the Airport and City, such program being enacted pursuant to Ordinance No. 028575, as it may be amended from time to time, which is codified in the Corpus Christi Code of Ordinances. CONCESSIONAIRE, upon execution of this Agreement, understands and agrees that its performance of the Concession granted pursuant to this Agreement is subject to all provisions of Ordinance No. 28575, as amended, and the failure of CONCESSIONAIRE to strictly comply with Ordinance No. 28575, as amended, shall constitute a material breach of CONCESSIONAIRE'S authorization to conduct its Concession and transact business at the Airport and shall also constitute a material breach of the Lease.
- B. **CFC Payment Due.** On or before the 20th day of each month, beginning the second month of this Agreement, CONCESSIONAIRE, without notice or demand, shall remit to CITY the total CFCs collected, or that should have been collected, on all rental car transactions originating at the Airport during the preceding month. As of the effective date of this Agreement, the CFC rate amount is \$3.50 per customer per transaction day.
- C. **CFC Calculation.** In accordance with Ordinance No. 28575, as amended, each April during the term of this Agreement, the Director shall recalculate the CFC to be effective June 5th of the same year. The Director shall consider any written comments of the CONCESSIONAIRE regarding any necessary adjustment of the CFC rate amount, but the Director, with the concurrence of the City's Director of Financial Services, has the sole and final determination of the CFC rate amount. Should the CFC rate amount increase, the Director shall endeavor to provide CONCESSIONAIRE with not less than 30 days advance written notice of any change; CONCESSIONAIRE shall be obligated to charge the new CFC rate amount per customer per transaction day; and the new CFC rate amount will remain in force unless and until subsequently modified.
- D. **CFC Fiduciary Relationship; Segregation.** All CFCs collected by CONCESSIONAIRE are and shall be funds held by CONCESSIONAIRE in trust for the CITY for the benefit of the Airport and recognizing the third-party beneficiary status of any holders of any debt obligations issued by the CITY for the benefit of the Airport. CONCESSIONAIRE and its agents hold only a possessory interest in the CFCs and no equitable interest. CONCESSIONAIRE shall segregate, separately account for, and disclose all CFCs as trust funds in their financial statements and shall maintain adequate records that account for all CFCs charged (or that should have been charged) and collected (or that should have been collected). Failure by CONCESSIONAIRE to segregate the CFCs shall not alter nor eliminate their trust fund nature. The CITY shall have the right to audit the CFC records of CONCESSIONAIRE upon reasonable notice.
- E. **CFC Annual Certified Report.** CONCESSIONAIRE shall provide a detailed annual CFC report by February 1, 2021, for the period beginning October 1, 2019, and ending September 30, 2020, containing all information regarding CFC collections and remittances required in prior annual reports submitted to CITY, or as may be required by CITY. Subsequent annual reports shall be submitted by CONCESSIONAIRE each February 1 of the following calendar year for the same successive CFC collection measurement period from October 1 through September 30. The initial annual report and each subsequent annual report must be in a form acceptable to the Director and CITY. Each annual report must be certified and signed by an officer of CONCESSIONAIRE attesting to the accuracy of the data and information presented in the report.
- F. **Contingent Fee.** If, in any Concession Agreement year, the projected amount collected through CFCs is expected to be insufficient to meet the applicable reserves for QTA debt and expense obligations of the City, CONCESSIONAIRE agrees to pay an additional fee at the times and in the same manner as CFC fees are to be paid as required by the terms of this Agreement, in an amount determined by the City in its sole discretion (after allocating the amount of the additional fee among all concessionaires operating a rental car concession at the Airport based on their pro rata share) that shall be sufficient to provide funds in an amount at least equal to the difference between the projected CFC collections for such year and the amount necessary to meet the applicable debt and expense requirements, which additional fee shall be referred to in this Agreement as the "Contingent Fee."

- G. **Authorized Uses of CFCs.** Pursuant to ordinance adopted by the City (see Chapter 9 of the City Code), CFCs are only authorized to be used by the City for the following City-incurred expenditures: costs associated with the design, acquisition, planning, development, construction, operation, maintenance, repair, equipment, and replacement of facilities and related improvements made use of in or connected to the business of renting cars at the airport. Any or all of the CFCs collected may be pledged to the punctual payment of debt service on obligations (and any other pecuniary obligation) issued by or on behalf of the City for the benefit of the Airport for the cost of the car rental portion of facilities, parking lots, buildings, and other improvements, and to create and maintain reasonable City operating and maintenance reserves as well as capital asset repair and replacement reserves. Eligible costs for the car rental facilities and related improvements include all costs, fees, and expenses associated with the City's design, acquisition, planning, development, construction, equipping, operation and maintenance, capital repair and replacement, and site improvement. Nothing herein shall be construed to make fees, costs, or expenses incurred in tenant improvements for space exclusively used by a car rental company ineligible. "Equipping," for the purposes of this section, is limited to providing necessary equipment within the common use areas and car maintenance bays of the car rental facilities. "Operation and maintenance," for the purposes of this section, does not include fees, costs, or expenses incurred for or associated with consumables, such as paper supplies, oils and lubricants, or other products used in the business of the car rental facilities. Pursuant to the Texas Constitution, CFCs, as revenue of the City, may not be expended for the benefit of any private person or entity without a municipal public purpose and benefit being provided for and accomplished.

ARTICLE VI. OTHER CONCESSION-RELATED FEES AND CHARGES

- A. **Airport Security Fee.** As deemed necessary, the Director, in his/her sole discretion, shall hire security personnel to provide security as required by current and future FAA mandates for the rental car operation areas and related facilities, for which the CONCESSIONAIRE shall charge its customers \$1 per transaction day as an Airport Security Fee. This charge must be added to every car rental agreement. On or before the 20th day of each month of this Agreement, CONCESSIONAIRE, without demand or notice, shall remit the Airport Security Fees due to CITY. The Airport Security Fee rate amount is subject to change annually during the term of this Agreement, effective on and after the yearly anniversary date of this Agreement, upon advance written notice to CONCESSIONAIRE.
- B. **QTA Fueling Facilities; Charges and Deposits.**
1. City agrees to purchase and have delivered to the QTA regular grade unleaded fuel and standard grade vehicle oil to be utilized by CONCESSIONAIRE for use in conducting the required Concession operation. CONCESSIONAIRE agrees to purchase and use only the fuel from the fueling station at the QTA for all vehicles used as rental vehicles at the Airport. Failure to purchase fuel solely from the QTA shall be considered a material default under the terms of this Agreement, unless such fuel is unavailable from CITY or CITY provides prior written consent. CITY shall make a good faith effort to obtain an acceptable grade and quality of fuel and oil at the lowest cost available and have an adequate fuel and oil supply available at all times unless the availability or supply of fuel and oil is disrupted due to reasons beyond the reasonable control of CITY.
 2. CITY shall provide CONCESSIONAIRE fuel keys in a quantity sufficiently reasonable to allow CONCESSIONAIRE to fuel its vehicles without disruption, such quantity as may be determined by the Director in consultation with CONCESSIONAIRE. The fuel keys provided activate both the fuel pumps as well as the entrance and exit gates. CITY'S computerized fuel management system will track fuel dispensed to CONCESSIONAIRE. Any shortages or variations of fuel and oil inventories not directly attributable to the actions of CITY will be charged to CONCESSIONAIRE based on percentage of flowage from the fuel system if the variation or shortage cannot be reconciled.
 3. The cost of oil and of fuel per U.S. gallon charged to CONCESSIONAIRE will be based on CITY'S contract cost per gallon (including all applicable taxes, surcharges, delivery charges, and fees, as well as eligible discounts and volume rebates obtained by CITY) plus \$0.10 per gallon for oil and \$0.07 per gallon for fuel (collectively, the "Fuel Charge"). CITY shall invoice CONCESSIONAIRE monthly for the Fuel Charge at the QTA for any quantity of oil and/or fuel that was dispensed by CONCESSIONAIRE into its Concession vehicle inventory, plus any applicable variation or shortage amount. The invoice will list the total oil and fuel amounts by gallons for the preceding month, applicable taxes and destination charges, the price per gallon, and the Fuel Charge due to CITY, and such invoice will be provided to CONCESSIONAIRE by the 5th day of each month. On or before the

20th day of each month, beginning the second month of this Agreement, CONCESSIONAIRE shall remit payment per the invoice for all oil and fuel dispensed, allocated oil and fuel shortage/variation amounts, and Fuel Charges.

4. Failure by CONCESSIONAIRE to pay one or more Fuel Charge invoices in a timely manner may result in CITY denying access to the fuel system (by deactivating CONCESSIONAIRE'S fuel keys), in addition to all other remedies available to CITY in this Agreement, and such access to the fueling system will remain suspended until all amounts owed to CITY are paid in full.
5. If CONCESSIONAIRE desires to pay any Fuel Charge invoice by credit card, all additional costs incurred by CITY and associated with processing the credit card payment (which are, at the time of execution of this Agreement, approximately 3% of the total amount) will be added to the invoice and must be remitted to CITY in addition to the invoiced payment due.
6. A security deposit in the form of a bond, certified check, cashier's check, or other form of security acceptable to CITY equal to two months' of the average amount of fuel pumped for the previous six months (or, if six months of data is unavailable, the two months of the highest average of available fuel dispensing data for any car rental operator at the QTA) will be required prior to the activation of CONCESSIONAIRE'S fuel key access. If CONCESSIONAIRE does not provide a reasonable estimate for the purpose of establishing the security deposit requirement, the City will set the security deposit amount required at its sole discretion. City shall draw against such security deposit when Concessionaire does not remedy payment after notice and opportunity to cure set forth above in subsection (6). Concessionaire will be required to restore the security deposit balance to the required amount within five (5) working days of written notice of draw down.
7. CONCESSIONAIRE shall use the fueling system and all associated apparatus in accordance with all safety directives and instructions. CONCESSIONAIRE shall immediately notify Airport personnel in writing, as outlined in the Operations Manual (such manual as later described in this Agreement), of any safety or hazardous conditions that may exist with regard to the fueling system, fueling stations, and associated apparatus. CITY, or its contractor, shall provide safety training regarding the fueling facility, systems, and apparatus to CONCESSIONAIRE prior to date of occupancy of the QTA by CONCESSIONAIRE. **CONCESSIONAIRE is fully responsible for and shall hold CITY harmless from CONCESSIONAIRE'S misuse or negligent use or operation of the fueling system and for any damages or injuries incurred as a result of such misuse or negligent use or operation.**
8. City shall perform all required maintenance of CITY'S fueling system at the QTA. City shall also ensure that monthly leak detection is fully operational and in compliance with all applicable federal, State, and local laws, rules, and regulations governing the functional operation of the fueling system.

ARTICLE VII. GENERAL PAYMENT AND TRANSACTION PROVISIONS

- A. **Limitation as to Concession Recovery or Recoupment Fee.** CONCESSIONAIRE shall not notate the Concession Fee payable to CITY as an "Airport Concession Fee" on customer invoices nor use any other explanation that would indicate or suggest to customers that the Airport has imposed a fee on each rental car transaction. Any concession recovery fee or recoupment fee stated on a customer invoice and charged to the customer by CONCESSIONAIRE shall not exceed 12.36% of the total charge to the customer prior to the assessment of the concession recovery fee or recoupment fee.
- B. **Credit Transactions.** CONCESSIONAIRE shall have the right to conduct all or a part of its business on a credit basis; provided, however, that the risk of such operation shall be borne solely by CONCESSIONAIRE, and CONCESSIONAIRE shall pay Concession Fees on all such credit transactions and report all sales, charges, and receipts, both cash and credit, in its monthly Gross Revenues statements to CITY.
- C. **Transaction Data and Information Records.** Upon commencement of this Agreement, CONCESSIONAIRE shall collect and retain transaction data, including the number of rental car transactions, date and time of each rental car transaction, the number of rental car transaction days per customer, and any other data, unit of measure, or information which is required to produce any written reports submitted to City pursuant to this Agreement and as may be reasonably determined by CITY as necessary to quantify daily transaction activities

of CONCESSIONAIRE conducted or engaged in as part of this Agreement. The data and information collected and retained by CONCESSIONAIRE shall be typical data and information utilized by the rental car industry in similar passenger airline and airport programs where a CFC is collected and remitted. The CITY may request this transaction data and information from time to time during the term of this Agreement, and CONCESSIONAIRE shall, upon CITY'S request, provide to CITY or a designated agent of CITY within 30 days of such request a transaction data report for CONCESSIONAIRE'S rental car activity and any other car rental-related transactions conducted during any monthly period(s) requested during the term of this Agreement, as well as any comparative historical transaction data collected during the 2016 and 2017 calendar years, if CONCESSIONAIRE was a former rental car concession operator with the City.

- D. **Diversion Prohibited.** Diversion, through direct or indirect means, of Concession Fee revenue from the inclusion in Gross Revenues is prohibited. Diversion includes, but is not limited to, the occurrence or existence of the following: a shortage of rental cars at the Airport while having rental vehicles available elsewhere in the Corpus Christi metropolitan area; renting such a car to a potential customer that arrived at the Airport and not including the resulting rental car revenue in Gross Revenues; and the taking of a reservation, advertising, or suggesting to a potential customer arriving at the Airport that the customer rent a car at a location other than at the Airport regardless of the reason and not including the revenue resulting from such transaction in Gross Revenues. In addition to all other remedies available by law, CITY may terminate this Agreement upon a determination by the Director that the CONCESSIONAIRE has intentionally diverted Concession Fee revenue from Gross Revenues or failed to include the same in Gross Revenues as described in this Agreement.
- E. **Payable When Due; Interest.** All payments required to be made by CONCESSIONAIRE pursuant to this Agreement (whether related to the Concession, the Lease, or otherwise) shall be made without notice or demand from CITY on or before the date due in legal tender of the United States of America at CITY'S administrative office at the Airport, or at such other place as the CITY'S Director of Financial Services may designate in writing. Any amount payable to CITY which is not, or has not been, paid by CONCESSIONAIRE when due shall bear interest at the rate of 10% per annum or \$500.00, whichever is greater, and accrued interest shall be remitted by CONCESSIONAIRE at the same time such overdue amounts are paid plus any applicable late fees as may be specified in this Agreement. Payments due from CONCESSIONAIRE will be received by CITY only on standard business days Monday through Friday and during standard business hours 8 a.m. to 5 p.m. Payments will not be considered late if the date due falls on a weekend or CITY holiday, provided, payment is received on the next business day. Payment by CONCESSIONAIRE and acceptance by CITY of an overdue payment, a late fee, accrued interest, or any of the foregoing, shall not be construed as a waiver or forfeiture of any other rights or remedies of CITY contained elsewhere in this Agreement or as provided by law. For the purposes of this Agreement, the date payments are received by CITY shall be the U.S. Postal Service cancellation date on the envelope transmitting the payment, or the date such payment is received in the administrative office of the Airport by a CITY employee if the payment is hand delivered.
- F. **Dispute as to Amount Due; Failure to Pay When Due.** In the event of a dispute as to the amount due or to be paid by CONCESSIONAIRE of any rental, fee, or charge under this Agreement, CONCESSIONAIRE shall describe the basis for such dispute in writing and submit it to the CITY along with the required payment amount and any supporting data or information on or before the date due. The CITY shall investigate the basis of the dispute and respond in writing within 30 days. The CITY may accept without prejudice the sum tendered and, if a deficiency is determined, any late fee and/or interest due shall apply only to such deficiency amount. If CONCESSIONAIRE fails to pay any amount due, any surcharge or amount assessed in accordance with this Agreement, or any increase in a rental rate, CFC rate, or other fee or charge pursuant to this Agreement when the fee, charge, or increase is due, the Concession granted under this Agreement may be terminated at the sole discretion of the City; if so terminated, CONCESSIONAIRE shall vacate the Leased Premises following 60 days written notice from the CITY.
- G. **Accrued Fees; Subsequent Fees.** CONCESSIONAIRE shall not be relieved of its obligation to pay all rents, fees, and charges due to the lapse of time, arising from CONCESSIONAIRE'S right of termination, or otherwise, which have accrued during the period in which this Agreement is in effect (including any holdover period) and which are unpaid at the time of expiration or earlier termination of this Agreement or that are accrued and unpaid upon the end of any holdover period in the Leased Premises. CONCESSIONAIRE shall also not be relieved of its obligation to pay all subsequent fees and charges which may be reasonably assessed to CONCESSIONAIRE caused by excessive wear and tear in the Leased Premises; damages caused by CONCESSIONAIRE, its employees, guests, contractors, and subcontractors while occupying the Leased Premises; and any other fees and charges which may be incident to CONCESSIONAIRE'S occupation or use of the Leased Premises.

- H. **Performance Bond.** CONCESSIONAIRE shall post with CITY a performance bond to be maintained for the term of this Agreement for an amount equal to the initial MAG amount. This financial guarantee may be in the form of a surety bond or a cashier's check made payable without recourse to the CITY of Corpus Christi. If CONCESSIONAIRE submits a bond, then the bond must be issued by a surety company acceptable to CITY, having a rating of "A" from AM BEST, MOODY'S, or STANDARD & POOR'S, and authorized to do business in the State of Texas, and the bond must be in a form and content satisfactory to the CITY. It is the responsibility of the CONCESSIONAIRE to ensure that the performance bond does not expire during the term of this Agreement and that a renewal bond is received by the CITY prior to the date of the previous bond's expiration. Expiration of the bond will result in a \$300.00 penalty payable to CITY, with the same penalty amount being assessed by CITY for each successive month or fraction of a month until a new bond is received, and such surety bond expiration event may further result in the termination of this Agreement by CITY.

ARTICLE VIII. FINANCIAL BOOKS AND RECORDS; AUDIT; YEAR END REPORTS

- A. **Financial Books and Records; Audit.** CONCESSIONAIRE shall maintain a true and accurate set of books and records which, among other things, show all sales made and services performed for cash, credit, or otherwise. CITY may audit CONCESSIONAIRE'S books and records at any time by a Certified Public Accountant ("CPA") selected by the CITY. If the CPA'S report discloses an error in CONCESSIONAIRE'S books and records resulting in an underpayment to CITY greater than two percent of the annual Concession Fee due, all expenses of the audit shall be paid by CONCESSIONAIRE together with any sum disclosed by the audit to the CITY. Furthermore, CONCESSIONAIRE shall pay CITY an under-reporting penalty of 50% of the total amount due. In all other cases, CITY shall pay the cost of the audit. The final report of the Certified Public Accountant retained by CITY is conclusive and binding upon both parties.
- B. **Year End CPA Statement and Opinion.** CONCESSIONAIRE shall employ, or contract with, an independent CPA who shall furnish, within 90 days after the close of each contract year of this Agreement, a written certification statement to CITY stating that, in their opinion, the Concession Fee paid by CONCESSIONAIRE to CITY during the preceding contract year was made in accordance with the terms of this Agreement. Such statement shall cover the dates of the immediately prior contract year of this Agreement only, not the CONCESSIONAIRE'S fiscal year. Such statement shall also contain a list of the Gross Revenues by month, as shown on the books and records of CONCESSIONAIRE, and which were used to compute all rents, fees, and charges paid to CITY during the period covered by the statement. If the annual statement reveals, after review and verification by the CITY, that the CONCESSIONAIRE has overpaid its Concession Fee, the amount shall be handled by issuance of a credit memo by CITY'S Department of Aviation against the next pro rata monthly payment due from CONCESSIONAIRE following the statement. Failure on the part of CONCESSIONAIRE to submit this required certified annual statement by the close of business on the latest date due will result in the assessment of a late fee of \$200.00 for any fraction of a calendar month during which the statement is past due, with such late fee being cumulative in nature should such failure to submit continue beyond 30 days.

ARTICLE IX. CONCESSIONAIRE'S GENERAL RIGHTS AND OBLIGATIONS

- A. During the term of this Agreement, CONCESSIONAIRE shall have, and CITY hereby gives and grants to CONCESSIONAIRE, the following additional rights:
1. The right, at CONCESSIONAIRE'S sole expense, to erect and thereafter maintain upon the Leased Premises such tenant improvements as may be required in connection with CONCESSIONAIRE'S operations pursuant to this Agreement and to install such equipment and facilities as CONCESSIONAIRE may deem necessary or desirable; provided, however, that no such improvement shall be constructed, installed, or made by CONCESSIONAIRE without the prior written consent of CITY. Any such improvements cannot impede or interfere with access of, or obstruct the visibility of, other rental car operators at the Airport, and CONCESSIONAIRE covenants and agrees that, prior to the construction, installation, or making of any such improvement, CONCESSIONAIRE shall submit

the general plan, location, design, and character of such proposed improvement to CITY for approval, which approval by CITY shall not be unreasonably withheld or delayed.

2. The right, at CONCESSIONAIRE'S sole expense, to install and thereafter operate and maintain upon the Leased Premises illuminating and non-illuminating signs advertising CONCESSIONAIRE'S business on the Leased Premises, provided, however, that no such signage shall be installed by CONCESSIONAIRE without the prior written consent of CITY, which approval by CITY shall not be unreasonably withheld or delayed.
3. The right, at CONCESSIONAIRE'S sole expense, to remove within 10 calendar days following termination of this Agreement any signage and portable fixtures, furniture, and equipment that may have been installed in or upon, or placed at or in, the Leased Premises by CONCESSIONAIRE pursuant to paragraphs (1) and (2) of this article. In the event CONCESSIONAIRE does not remove such items within the time specified, CONCESSIONAIRE agrees that CITY may remove such items at CONCESSIONAIRE'S expense and at no liability to CITY, and CITY may dispose of such signage, fixtures, furniture, and equipment by means of the CITY'S choosing (whether by sale, salvage, donation, or destruction) and without any recourse against the CITY for the value, if any, of the items so removed. Any expenses incurred by CITY as a result of removal are solely the responsibility of CONCESSIONAIRE
4. The right, at CONCESSIONAIRE'S sole expense and in its efforts to comply with the requirements applicable to its rental car customers under the Payment Card Industry Data Security Standard, to use its own private computer network to ensure that its customers' credit card information is not compromised.

B. CONCESSIONAIRE expressly covenants and agrees:

1. To furnish good, prompt, and efficient service to adequately meet all reasonable demands for rental car service at the Airport at a fair and reasonable price.
2. To keep the Leased Premises and other facilities provided to CONCESSIONAIRE in this Agreement open for business for such periods during each day and such days during each week as may be necessary to meet the reasonable demand for CONCESSIONAIRE'S services to the traveling public.
3. To ensure that CONCESSIONAIRE'S employees and personnel performing any work or services pursuant to this Agreement are neat in appearance, clean, and courteous, and shall not permit its employees, representatives, agents, or contractors to conduct business in a loud, noisy, boisterous, offensive, or objectionable manner nor to solicit business in any manner whatsoever outside any space leased, allocated, or assigned to CONCESSIONAIRE.
4. To maintain, at all times and at CONCESSIONAIRE'S sole expense, all rental cars made available pursuant to this Agreement in good operative order, free from known mechanical defects, and in clean, neat, and attractive condition both inside and outside.
5. To provide rental cars not more than three years old from the date of original manufacture when such cars are made available for rental use pursuant to the Concession granted in this Agreement.
6. To require all of CONCESSIONAIRE'S employees and personnel under its direction to park their personal vehicles in parking lots specifically designated as employee parking by the Director.
7. To keep, or cause to be kept, true, accurate, and complete records of business conducted pursuant to this Agreement, and CONCESSIONAIRE further covenants and agrees that CITY shall have the right, through its authorized employees, agents or representatives, to examine all pertinent records relating to Concessionaire's operations and Concession under this Agreement at all reasonable times for the purpose of determining the accuracy thereof and of the reports required to be made by it as set out in this Agreement. Such records for each contract year of this Agreement need not be retained by CONCESSIONAIRE longer than five years following the end of such Agreement year, unless CONCESSIONAIRE is aware, has been made aware, or reasonably believes that any demand, claim, loss, or litigation involving the subject matter may be contemplated or is pending.

8. To pay all expenses, as set out in this Agreement, in connection with the use of the Leased Premises occupied by it and the rights and privileges granted for the Concession including, without limitation, by reason of taxes, permit fees, license fees and assessments lawfully levied or assessed thereon, and that it will secure and maintain in force all such permits and licenses necessary to conduct lawful business operations.
9. To furnish for business use, operate, and maintain the Leased Premises provided pursuant to this Agreement and to keep the same in good order, condition, and repair, and, upon termination or earlier expiration of this Agreement, to deliver up the Leased Premises to CITY in good order, condition, and repair, reasonable wear and tear excepted. CONCESSIONAIRE further expressly agrees to make reasonable efforts, at all times, to cooperate with CITY in keeping the Leased Premises in a clean, maintained, and sanitary condition.
10. To ensure that any signs to be placed on or around the Parking Spaces, Leased Premises, or any other location are first approved in writing by the Director before installation, which approval shall not be unreasonably withheld or delayed, and, after installation, that all such signs are kept in a good, clean, and well-maintained condition.
11. To prohibit the staging of rental cars by its employees and personnel under its direction and will not engage in the staging of rental cars in front of the terminal building for customer pick-up or drop-off and, if any of CONCESSIONAIRE'S cars are left in front of the terminal building and towed away (by a company of the CITY'S choosing), to remit in full all towing, storage, and/or processing charges which may be assessed by or against the CITY.
12. To repair any damages to any interior or exterior portion of the Leased Premises directly caused by CONCESSIONAIRE'S employees, agents, representatives, contractors, subcontractors, invitees, and guests, normal wear and tear excepted, and further, that upon the failure of CONCESSIONAIRE to so repair damage for which it is deemed responsible, to reimburse CITY for all such repairs charged back to CONCESSIONAIRE.
13. To prohibit the parking of and will not engage in the parking of CONCESSIONAIRE'S cars in parking lots on and at the Airport designated for passenger, employee, or visitor parking, regardless if short term, long term, or economy facilities, in the conduct of CONCESSIONAIRE'S Concession or operations, nor use such parking lots for the storage or staging of CONCESSIONAIRE'S cars. If a rental car customer of CONCESSIONAIRE inadvertently leaves a car in a parking lot at the Airport designated for passenger, employee, or visitor parking, or if any other car of CONCESSIONAIRE is left in such a parking lot, CONCESSIONAIRE shall be required to pay all applicable parking fees to remove such cars from the parking lot. In addition to the other remedies available to CITY under this Agreement, CITY may elect to implement a rental car parking surcharge equal to triple the applicable parking lot fee, or such other fee amount solely determined by CITY, acting through its Director, as may be appropriate, to be assessed against CONCESSIONAIRE, any rental car concession operator, or any car rental company operating from an off-Airport location, who repeatedly or excessively have cars located in, or otherwise use, the parking lots on the Airport designated for passenger, employee, or visitor parking. CITY shall provide not less than 10 days written notice to CONCESSIONAIRE, or any rental car concession operator or company, who, in the determination of CITY, repeatedly or excessively uses the parking lots on the Airport that such continued use shall be subject to the rental car parking surcharge, and such CONCESSIONAIRE, rental car concession operator or company shall be obligated to remit the assessed rental car parking surcharge with the following month's Concession Fee payment to the CITY. All applicable parking fees, (including rental car parking surcharges) are subject to the general payment provisions set forth in this Agreement.
14. To ensure that its employees and personnel under its direction only wash vehicles and perform minor, daily vehicle maintenance in the service/maintenance bays at the QTA, such bays being specifically designed to capture grit, oil, and soap for proper handling and disposal and only wash and service those cars designated to be rented in on-Airport rental car transactions for which there is a transaction record. Heavy vehicle maintenance, meaning, (i) any type of body work on a vehicle, (ii) work performed on a vehicle's drivetrain, or (iii) mechanical work of the vehicle's operating systems; (iv) any other type of service work to or on any vehicle beyond permissible minor, daily maintenance of on-Airport rental cars; and (v) any type of vehicle service or maintenance on CONCESSIONAIRE'S employees' or guests' personal motor vehicles are all strictly prohibited.

15. To conduct service and maintenance work on allowable cars at the QTA within the QTA's approved maintenance building area and under appropriate conditions that confine all fluid discharges to the interior of the building area.
16. To handle, store, and dispose of petroleum products, chemicals, fluids, and all other materials including, but not limited to, hazardous materials, which are owned or used by it on or in the vicinity of the Airport in accordance with all applicable federal, State, and CITY statutes, regulations, rules, and ordinances. CONCESSIONAIRE further covenants and agrees to comply with all applicable laws and permits, including the National Pollution Discharge Elimination System Permits, relating to the use, storage, generation, treatment, transportation, or disposal of hazardous or regulated substances. CONCESSIONAIRE must not use, store, treat, or dispose of any hazardous or regulated substances or waste on or near the Airport without first obtaining all required permits and approvals from all authorities having jurisdiction over CONCESSIONAIRE'S operations on or near the Airport. Should such materials be released, discharged, spilled, deposited, or escape in any way through activities of the CONCESSIONAIRE, the CONCESSIONAIRE shall be responsible for the clean-up, containment, and abatement of such waste or substance at CONCESSIONAIRE'S sole cost and expense. Should the CONCESSIONAIRE fail to do so, CITY may take any reasonable and appropriate action in the CONCESSIONAIRE'S stead, and the cost of any such remedial action by CITY shall be billed to and paid by the CONCESSIONAIRE. CONCESSIONAIRE further covenants and agrees that any fines, penalties, or fees levied against CITY related to CONCESSIONAIRE'S action or inaction that directly or indirectly caused the Airport to fail to materially conform to all then applicable environmental laws, rules, regulations, orders, or permits shall be borne and paid by the CONCESSIONAIRE. Furthermore, CONCESSIONAIRE covenants and agrees that it shall verbally notify (a) the Director, (b) the Airport Public Safety Office, and (c) all emergency response centers and environmental or regulatory agencies, as required by law or regulation, of any such release, discharge, deposit, spill, or escape immediately upon occurrence, and to provide the Director with written confirmation of the verbal report within 72 hours. The rights and obligations set forth in this section survive termination of this Agreement.
17. To take all steps necessary to ensure that no waste, substance, or disposable materials are released on the ground or in the storm sewers by its employees, personnel under its direction, or any other person or entity it engages. CONCESSIONAIRE covenants and agrees to cooperate fully with the Airport in promptly responding to, reporting, and remedying, as a result of CONCESSIONAIRE'S operations, any such threat to the environment, including to the drainage systems, soils, ground water, subsurface waters, or atmosphere, in accordance with applicable law or as authorized or approved by any federal, State, or local agency having authority over environmental matters. The rights and obligations set forth in this section survive termination of this Agreement.
18. To dispose of all non-hazardous trash in CONCESSIONAIRE'S own dumpsters and trash cans kept within CONCESSIONAIRE'S Leased Premises.
19. To properly dispose of or recycle all waste oil, used automotive batteries, rags used for degreasing, hazardous materials, if any, and used tires in a timely and expedient manner so as not to accumulate such waste in quantities that would overburden housekeeping and that may trigger compliance with additional environmental, health, and safety rules or regulations and permits. CONCESSIONAIRE further covenants that it will maintain quarterly reports on the quantities of waste oil disposed of or recycled, any hazardous materials disposed of with type and volume specifically identified, and the quantities of used tires disposed of or recycled, the method of disposal/recycling, and the name and location of the site where the disposal/recycling occurred.
20. To develop and implement a recycling program which revitalizes the resources that it uses and protects the environment. Furthermore, CONCESSIONAIRE covenants to develop and implement a training program for its employees and personnel under its control and direction which revitalizes the resources that it uses, protects the environment, and instructs CONCESSIONAIRE'S employees and personnel on proper management of waste.
21. To abide by all applicable federal, State, and local laws, rules, and regulations and any directives issued by the Director pertaining to CONCESSIONAIRE'S use of the QTA'S fueling systems, stations, and lanes and the dispensing, storage, and handling of fuel.

22. To comply with and be subject to all applicable federal, State, and City laws, rules, and regulations pertaining to its Concession, the operation of its business at the Leased Premises, and to ensure that CONCESSIONAIRE and its employees, agents, representatives, contractors, subcontractors, and personnel under its direction at all times comply with all such laws, rules, regulations, and directives promulgated by the Director while at and on the Airport and its facilities, runways, taxiways, and streets that are required or necessary for the safe and efficient management, operation, or use of the Airport.
23. To use the QTA facilities and leased QTA Space, as may be applicable, only for the fueling, vehicle stacking, vehicle temporary short-term storing, washing, cleaning, detailing, and minor maintenance of CONCESSIONAIRE'S vehicle inventory used in connection with its Concession and operations at the Airport and uses incidental and reasonably related thereto. Examples of permissible minor maintenance and servicing include such items as oil changes, tire replacement, minor brake maintenance, windshield repair, and vehicle fluid replacement. Any other maintenance beyond this general description performed at the QTA is not permitted except as expressly authorized in this Agreement or in writing by the Director. The Director, in his/her sole discretion, has the authority to allow maintenance other than what is specifically identified in this Agreement and will take into consideration the impact of any such requests on the CONCESSIONAIRE, other rental car concession operators occupying the QTA, and Airport responsibilities for the QTA involving environmental liability, public perception, and business need. If the Director authorizes maintenance other than what is identified in this Agreement for one CONCESSIONAIRE, the Director will authorize such maintenance in writing to all rental car concession operators occupying the QTA.
24. To use the QTA facilities and leased QTA Space for the purposes provided in this Agreement and not for any other purpose; specifically, the QTA may not be used for (i) heavy vehicle maintenance, (ii) storage of any vehicles used in conjunction with any off-Airport rental car concession, and (iii) storage of out-of-service and/or damaged vehicles for longer than 21 calendar days, and may not be used for sales of new or used vehicles, auctions, liquidation sales, or any other type of sale or exchange transaction. Upon written request, the Director, in his/her sole discretion, may allow an occasional extended storage period for a damaged vehicle when the Director determines that such an extension is necessary due to extenuating circumstances identified by CONCESSIONAIRE. Any such extension of temporary storage expires on the date provided by the Director.
25. To procure and keep in force any governmental licenses, certifications, or permits (other than a Certificate of Occupancy) required or necessary for the proper and lawful conduct of CONCESSIONAIRE'S business at and on the Airport. CONCESSIONAIRE shall procure and maintain such licenses, certifications, and permits at its sole cost and expense and shall submit copies of the same, upon request, for inspection by CITY. CONCESSIONAIRE shall, at all times, comply with the terms and conditions of each such license, certification, or permit.
26. To not use nor permit the Leased Premises or Airport property or facilities, or any part thereof, for any purpose other than as set forth in this Agreement, nor for any use, operation, or activity in violation of any present or future laws, rules, and regulations or which, at any time, are applicable to any public or governmental authority such as CITY. If any compliance reporting by CONCESSIONAIRE is required, CONCESSIONAIRE further covenants and agrees to make all reasonable and necessary efforts to cooperate with CITY in providing any required information.
27. To comply with all security directives of CITY and the Director at all times while anywhere on Airport property and shall coordinate with CITY regarding secured access to the Leased Premises for CONCESSIONAIRE.
28. To pay all other charges, fees, and taxes including, but not limited to, all payroll taxes (including Medicare, FICA, withholding, and unemployment taxes), and all other related taxes according to Internal Revenue Circular E "Employer's Tax Guide," Publication 15, as it may be amended, and give all notices and respond to all communications that are necessary and incident to the due and lawful conduct of business at and occupancy of the Leased Premises by CONCESSIONAIRE. CONCESSIONAIRE must provide proof of payment of any tax within 10 days after the City Manager's written request for the same.

ARTICLE X. CITY'S GENERAL RIGHTS AND OBLIGATIONS

A. CITY reserves the right:

1. To authorize off-Airport rental car agencies to conduct business at the Airport terminal at premium rates solely by direct telephone line and the use of shuttle bus operations to such off-Airport location and to prohibit any such personnel of an off-Airport authorized rental car concession to conduct its business within the terminal building.
2. To enter the Leased Premises during the standard business hours of CONCESSIONAIRE and upon not less than two-hours advance notice via telephone or email to ascertain adherence to and compliance with any of the provisions of this Agreement.
3. To enter the Leased Premises at any time in the event of an emergency.
4. To retain third parties to operate, repair, maintain, or manage any portion of the Leased Premises including, without limitation, the QTA Facilities and the fueling system.
5. To itself, and to grant to others in the future, nonexclusive utility easements (including easements for construction, maintenance, repair, replacement, and reconstruction) over, under, through, across, or on the Leased Premises in locations that will not unreasonably interfere with CONCESSIONAIRE'S use of the same.
6. To re-bid any premises vacated pursuant to the terms of this Agreement (but not the obligation to do so), subject to Article II.C. of this Agreement. In the alternative, CITY may include any vacated premises in the reallocation of parking spaces, counter/office spaces, QTA spaces, or other facilities for the then-current on-Airport rental car concession operators, or may make any other lawful use of such vacated premises at the sole discretion of the CITY.

B. CITY covenants and agrees:

1. To operate the Corpus Christi International Airport as a public airport during the term of this Agreement, subject to the assurances given by CITY to the United States Government.
2. To instruct its employees and all concessionaires and vendors having contact or dealing in any way with members of the public at and on the Airport:
 - a. To refer all requests for the services of a specific rental car concession operator to that concessionaire.
 - b. To refer nonspecific requests for rental car services to the rental car concession area located in the Airport terminal building without favoring one concessionaire over another.
3. To limit use of the Leased Premises to rental car concession operators having an executed on-Airport rental car concession and lease agreement.
4. To not claim, assert, nor have a lien of any kind, whether it be contractual or statutory, on or against CONCESSIONAIRE'S cars for non-payment of any rent, fees, or charges due under this Agreement, nor for any default of CONCESSIONAIRE, nor for any other reason, and CITY hereby waives all such liens as may solely relate to such cars that is available to CITY. CITY recognizes that CONCESSIONAIRE'S cars may have perfected security interests and financing agreements filed against them by lending institutions.
5. To procure and keep in force all necessary licenses, certifications, and permits required to operate the QTA, including the fueling facility and wash bays, and to comply with all applicable laws, rules, and regulations regarding reporting requirements for the QTA, including the fueling facility.
6. To keep and maintain (except where the maintenance required exceeds that associated with normal wear and tear and/or is a result of the negligence of CONCESSIONAIRE, its employees, representatives, agents, contractors, subcontractors, and invitees), and to repair the Leased Property,

including CONCESSIONAIRE'S authorized tenant improvements in its exclusive use areas, with the cost of performing such repair services being included in the annual and monthly rental amounts.

7. To coordinate with CONCESSIONAIRE so that CITY can enforce secured access to the Leased Property and Airport.
- C. The City retains all mineral rights on the Airport property. All other rights of CITY, as a governmental entity, as the landlord, and as a party to this Agreement, that not specified here are reserved to it.

ARTICLE XI. ACCEPTANCE OF PREMISES DISCLAIMER: CONDITION OF PROPERTY

- A. **CONCESSIONAIRE ACKNOWLEDGES THAT IT IS LEASING THE PREMISES "AS IS" WITH ALL FAULTS INCLUDING, BUT NOT LIMITED TO, ANY AND ALL POLLUTANTS, ASBESTOS, UNDERGROUND STORAGE TANKS, AND ANY OTHER HAZARDOUS MATERIALS AS MAY EXIST ON THE PREMISES AND THAT NEITHER CITY NOR ANY EMPLOYEE OR AGENT OF CITY HAS MADE ANY REPRESENTATIONS OR WARRANTIES AS TO THE CONDITION OF SUCH PREMISES. CONCESSIONAIRE ACKNOWLEDGES AND AGREES THAT CONCESSIONAIRE HAS BEEN PROVIDED, TO ITS SATISFACTION, THE OPPORTUNITY TO INSPECT THE PREMISES FOR ANY DEFECTS AS TO THE SUITABILITY OF SUCH PROPERTY FOR THE PURPOSE TO WHICH CONCESSIONAIRE INTENDS TO PUT THE PREMISES AND IS RELYING ON ITS OWN INSPECTION. THIS AGREEMENT IS SUBJECT TO ALL COVENANTS, EASEMENTS, RESERVATIONS, RESTRICTIONS, AND OTHER MATTERS OF RECORD AND NOT OF RECORD APPLICABLE TO THE PREMISES.**
- B. Except as may be expressly provided elsewhere in this Agreement, the taking of possession of the Leased Premises by CONCESSIONAIRE shall, in and of itself, constitute acknowledgment that CITY shall not be obligated to make any tenant improvements or modifications thereto. CONCESSIONAIRE shall not be liable for any pre-existing conditions, latent defects, or damage not caused by CONCESSIONAIRE. CONCESSIONAIRE shall have no liability arising out of or in any way relating to the existence of any hazardous materials placed on, in, or under the Leased Premises by any person or entity other than CONCESSIONAIRE or any person or entity acting for, by or through CONCESSIONAIRE or with CONCESSIONAIRE'S permission or acquiescence.

ARTICLE XII. UTILITIES

- A. CITY shall provide heat, air conditioning, and electricity in the Airport terminal building, with payment for these services being included in the monthly rental amount for the Terminal Counter/Office Space. CITY shall provide heat, air conditioning, electricity, water, wastewater, and gas in the QTA, with payment for these services being included in the monthly rental amount of the QTA Space.
- B. All other utilities at the Leased Premises (not specified above) including, but not limited to, telephone, cable, data services, and internet (including any necessary permits) are the sole cost and responsibility of CONCESSIONAIRE. CONCESSIONAIRE shall pay all charges on or before the due date for any utilities and services it separately contracts for and obtains. Installation of any equipment to provide extraordinary heat or air conditioning is the sole responsibility of CONCESSIONAIRE and is subject to the prior written approval of the Director. Any utilities or services (including any associated systems and apparatus) contracted for or installed by CONCESSIONAIRE cannot adversely affect any other rental car concession operator, Airport tenant, Airport operations of any nature, or CITY.
- C. In cases where CITY furnishes and/or delivers natural gas, electricity, water, or wastewater to the Leased Premises, the CITY does not guarantee the continuity or sufficiency of such supply, but CITY will make reasonable efforts within CITY'S control to ensure such delivery. CITY is not liable for interruptions or shortages or insufficiency of supply or any loss or damage of any kind or character occasioned thereby if the same is caused by accident, act of God, fire, strikes, riots, war, inability to secure a sufficient supply from the utility company furnishing CITY, or any other cause. Whenever CITY shall find it necessary for the purpose

of making repairs or improvements to any utility supply system it maintains, following consultation with CONCESSIONAIRE, CITY shall have the right to suspend temporarily the delivery of natural gas, electricity, water, or wastewater. However, CITY agrees to make reasonable efforts to cause minimal disruption when possible.

ARTICLE XIII. OPERATIONS MANUAL

A printed compilation of rules and instructions will be developed by the Director, with input from the CONCESSIONAIRE and all other rental car concession operators, if any, occupying the Leased Premises, with such compilation defining and discussing the required daily operating procedures and processes necessary for conducting successful and efficient operations at the QTA including, but not limited to, the care, keeping and use of shared common areas; security and safety procedures; and dispute resolution processes ("Operations Manual"). The Operations Manual is subject to written amendment by the Director throughout the term of this Agreement. A copy of the Operations Manual will be developed and provided to CONCESSIONAIRE within 60 days of the execution of this Agreement, and the most current master version of the document will be kept on file in the Director's office.

ARTICLE XIV. MAINTENANCE OF CONCESSIONAIRE'S LEASED PREMISES

- A. A matrix detailing the maintenance responsibilities of both parties required by this Agreement is as set out in Exhibit "G," which exhibit is attached and incorporated into this Agreement as if its content were set out here in its entirety.
- B. CONCESSIONAIRE has inspected the Leased Premises prior to the execution of this Agreement and is satisfied with the physical condition of the Leased Premises, and its taking possession thereof is agreed to be conclusive evidence of its receipt of the Leased Premises in good order and repair.
- C. CONCESSIONAIRE agrees to faithfully and fully maintain the Leased Premises as required by and detailed in Exhibit G in good order and repair throughout the entire term of this Agreement. CONCESSIONAIRE further agrees that, upon the expiration or earlier termination of this Agreement for any reason, CONCESSIONAIRE shall, except as may otherwise be provided in this Agreement, restore the Leased Premises to the same condition as when received, reasonable and ordinary wear and tear excepted. If the Leased Premises shall not be faithfully and fully maintained by CONCESSIONAIRE in accordance with Exhibit G, CITY may enter the Leased Premises, without such entering causing or constituting a termination of this Agreement or any interference with the possession of the Leased Premises by the CONCESSIONAIRE, and do all things necessary to restore the Leased Premises to the condition required by this Agreement, charging the cost and expense to CONCESSIONAIRE. CONCESSIONAIRE shall pay to CITY all such costs and expenses so charged in addition to the rentals, fees, and charges due and provided in this Agreement.
- D. CONCESSIONAIRE shall not permit the accumulation of rubbish, trash, debris, or other litter in and upon the premises and shall, at its own expense, provide for the disposal of such items. CONCESSIONAIRE shall provide and use suitable receptacles for all garbage, trash, and other refuse on or in connection with the premises. Piling of boxes, cartons, barrels, or other similar items in an unsafe manner in or about the premises, or other areas of the Airport, is forbidden.

ARTICLE XV. RELOCATION DUTIES AND COSTS

- A. **Relocation Duties.** As the development of the Airport's Terminal Master Plan is ongoing, existing or additional rental car facilities may temporarily or permanently be located or relocated in another part of the Airport. In the event the rental car facilities at the Airport, or any part thereof, including CONCESSIONAIRE'S Leased Premises or any part thereof, are required to be relocated during the term of this Agreement (either on an interim or permanent basis), CONCESSIONAIRE agrees, in conjunction with CITY and other rental car concession operators, to develop a transition plan to be used in making the transition from the current rental car facilities, including CONCESSIONAIRE'S Leased Premises, to one or more new areas. CITY shall use reasonable efforts to require that any transition plan for relocation not unduly and materially impact the competitive position of CONCESSIONAIRE and other rental car concession operators. Additionally, CITY may require that such transition plan provide assurances that any individual rental car concession operator not be permitted to engage in any activity or place any structures or signage on an interim or permanent basis (in conjunction with such relocation) that unreasonably impedes CONCESSIONAIRE'S business operations at the Airport. City shall have the final decision regarding placement and removal of signs and structures.

CITY shall provide advance written notice to CONCESSIONAIRE regarding the date of relocation and identify whether all or part of CONCESSIONAIRE'S Leased Premises is subject to the relocation. CONCESSIONAIRE shall be required to confirm its concurrence of such relocation in writing within 60 days following receipt of CITY'S notice. In the event CONCESSIONAIRE does not agree to the required relocation or does not provide CITY written confirmation as specified in this section, this Agreement shall terminate, and CONCESSIONAIRE shall vacate the Leased Premises within 10 days.

- B. **Relocation Costs.** In the event rental car facilities at the Airport or any part thereof, including CONCESSIONAIRE'S Leased Premises or any part thereof, are required to be relocated during the term of this Agreement (either on an interim or permanent basis), CITY shall pay all costs associated with providing replacement facilities that are, to the extent reasonably possible under the circumstances, reasonably comparable to the existing premises subject to the relocation. CONCESSIONAIRE shall be responsible for all moving expenses including, but not limited to, installation of furniture, fixtures, and equipment; transfer and reconnection of CONCESSIONAIRE-provided utilities (such as Internet, cable, etc.); and other relocation costs not associated with the physical construction of the replacement facilities. If it is necessary to relocate CONCESSIONAIRE'S Leased Premises, or any part thereof, during the last six months of the term of this Agreement, City agrees to be responsible to pay all reasonable costs (excluding CONCESSIONAIRE'S employee costs) associated with such relocation, subject to sufficient appropriations being available for such costs.

ARTICLE XVI. UNTENANTABLE PREMISES

- A. If the Leased Premises (either at the terminal or QTA) are partially damaged by fire or other casualty, but not rendered untenable, CITY shall repair the premises at its own cost and expense, subject to the limitations of paragraph E of this article, provided however, that, if the damage is caused by the negligent or intentional act or omission of CONCESSIONAIRE, its employees, agents, representatives, invitees, or authorized sublessee, CONCESSIONAIRE shall be responsible for reimbursing CITY for the cost and expenses incurred in such repair.
- B. If the damage is so extensive as to render the premises untenable but capable of being repaired within 60 days, the same shall be repaired by CITY at its own cost and expense, subject to the limitations of paragraph E; and the rents, fees, and charges payable by CONCESSIONAIRE shall be proportionately paid up to the time of such damage and cease until such time as the assigned premises shall be restored and again made tenable; provided, however, that if said damage is caused by the negligent or intentional act or omission of CONCESSIONAIRE, its employees, agents, representatives, invitees, or authorized sublessee, the Concession Fees and other rents, fees, and charges due will not abate and CONCESSIONAIRE shall be responsible for reimbursing CITY for the costs and expenses incurred in such repair.
- C. In the event the premises are completely destroyed by fire or other casualty or are so damaged that they will remain untenable for more than 60 days, the CITY shall be under no obligation to repair, replace, or reconstruct the premises, and Concession Fees and other rents, fees, and charges shall be paid up to the time of such damage and destruction and thereafter cease until the premises shall be fully restored. If within 12 months after the time of the damage or destruction the premises have not been repaired or reconstructed for CONCESSIONAIRE'S use, or other reasonable facilities provided, CONCESSIONAIRE may give CITY written notice of its intention to cancel this Agreement in its entirety as of the date of such damage or destruction.
- D. Notwithstanding paragraph C above, if the premises are completely destroyed as a result of the negligent or intentional acts or omissions of CONCESSIONAIRE, its employees, agents, representatives, invitees, or sublessee, Concession Fees and other rents, fees, and charges payable under this Agreement shall not abate and CITY may, in its sole discretion, require CONCESSIONAIRE to reconstruct the premises and pay all costs therefore; or CITY may, in its sole discretion, reconstruct the premises and CONCESSIONAIRE shall be responsible for reimbursing CITY for the costs and expenses incurred in such reconstruction.
- E. It is understood that, in the application of the foregoing paragraphs A, B, and C, CITY'S obligations are limited to repair or reconstruction of the premises, where applicable, to the same extent and of equivalent quality as obtained at the commencement of this Agreement, subject to sufficient budgetary appropriations. In no event is CITY responsible for repair or replacement of CONCESSIONAIRE'S self-installed improvements, furniture, furnishings, equipment, or expendables.

- F. Should CONCESSIONAIRE'S improvements, furniture, furnishings, equipment, or expendables, or any part of them, be destroyed or damaged, they shall in all instances be repaired or replaced by CONCESSIONAIRE whether or not said damage or destruction is covered by insurance and provided that this Agreement has not been canceled in accordance with the terms of the Agreement. Redecoration and replacement of damaged or destroyed furniture, furnishings, equipment, and expendables is the responsibility of CONCESSIONAIRE, and any such redecoration, refurbishing, and re-equipping shall be of equal quality to such items originally installed, furnished, and used at the time of execution of this Agreement. If CONCESSIONAIRE fails to repair or replace such damaged or destroyed improvements subject to a schedule approved by CITY, or fails to redecorate or replace damaged or destroyed furniture, fixtures, furnishings, equipment, and expendables, and provided this Agreement has not been canceled, CITY may make such repairs or replacements and recover from CONCESSIONAIRE the cost and expense of such repair or replacement.

ARTICLE XVII. AFFILIATES; SUBLETTING AND ASSIGNMENT

- A. It is expressly agreed and understood that all obligations of CONCESSIONAIRE and all privileges of every kind granted to CONCESSIONAIRE in this Agreement may extend to, and be enjoyed by, any duly authorized subsidiary, affiliate, or other legally related entity of CONCESSIONAIRE, provided, however, that, notwithstanding the manner and method of operation employed by CONCESSIONAIRE in this Agreement, CONCESSIONAIRE shall continue at all times to remain directly liable to CITY for the performance of all terms, conditions, and covenants of this Agreement.
- B. Except as set out in this Agreement, CONCESSIONAIRE'S right to occupy the Leased Premises set out in this Agreement may not be sublet, in whole or part, without the prior written approval of CITY, and CONCESSIONAIRE may not assign this Agreement nor permit any transfer by operation of law or otherwise of CONCESSIONAIRE'S interest created by or held pursuant to this Agreement without the prior written consent of CITY'S City Council. CITY may not withhold its approval unreasonably.
- C. Any obligations of CONCESSIONAIRE required by this Agreement may be delegated to any CITY-approved sublessee by the terms of the sublease agreement between the parties, provided, however, that any such delegation shall not relieve CONCESSIONAIRE of its liability, responsibilities, and obligations under this Agreement unless so released in writing by CITY'S City Council.

ARTICLE XVIII. HOLDING OVER; IMPROVEMENTS REVERT; REDELIVERY

- A. It is agreed and understood by CONCESSIONAIRE that any holding over or failure to vacate the Leased Premises by CONCESSIONAIRE after the expiration of the term of this Agreement may only be permitted with the consent of the CITY, acting through the Director, and does not constitute nor shall be deemed to be a renewal or extension of this Agreement as it pertains to the Leased Premises (and the Concession being conducted), but shall operate solely as a tenancy at sufferance from month-to-month, such holdover period not to exceed 12 months. Any holdover tenancy is upon all the same terms, conditions, and covenants in effect immediately prior to the commencement of the holdover period; rentals shall be paid to CITY by CONCESSIONAIRE for the Leased Premises at a rate of 100% of the then-current rents, fees and charges in effect as of the end of the primary term of this Agreement. (The calculation and basis of the Concession Fee during any holdover period will remain as stated in this Agreement, with the MAG amount for each holdover month represented as 1/12th of the Adjusted MAG from the fifth year of the Agreement, as established in Article V.) Any holdover by CONCESSIONAIRE without the express consent of the CITY, shall result in the assessment to CONCESSIONAIRE of a rate for rents, fees, and charges of 110% (including in the calculation of the Concession Fee).
- B. The CITY may decide, but is not obligated to allow, CONCESSIONAIRE to holdover on the Leased Premises following the expiration of the term of this Agreement. In making its decision whether to allow such a holdover, the CITY may consider any circumstances impacting services and the Airport including, without limitation:
1. the benefits and costs to the CITY of permitting such a holdover;
 2. the conditions under which a delay in placing the concession services out to bid may result in less or greater revenue to the CITY;

3. the potential loss of revenue that may result from any gap in the provision of rental car concession services for the traveling public at the Airport;
 4. any proposed, planned, or ongoing capital improvements, renovations, or repairs of the Airport property, terminal building, parking areas, QTA, or rental car locations and any effect such improvements, renovations, or repairs may have on the concession services;
 5. any potential disruption or adverse impact the holdover may have on the overall concession program at the Airport; and
 6. the effect resulting from a denial of the opportunity to possibly add new rental car concession operators during any holdover.
- C. After consideration of the factors outlined in section B above, the CITY shall notify the CONCESSIONAIRE in writing of the CITY's offer or lack of an offer of a holdover tenancy. Within 30 days of the date of the CITY's offer, the CONCESSIONAIRE shall notify the CITY in writing as to the CONCESSIONAIRE'S acceptance or rejection of a holdover tenancy. In the event a holdover tenancy is accepted by CONCESSIONAIRE, the CITY agrees not to enter into any new on-airport rental car concession agreement or arrangement during CONCESSIONAIRE'S holdover tenancy. Should the CONCESSIONAIRE fail to notify the CITY in writing within the 30-day period following CITY'S offer, if any, of a holdover tenancy, the CONCESSIONAIRE shall be deemed to have rejected the CITY's offer of a holdover tenancy and vacate the Leased Premises on or before the expiration date of the term of this Agreement.
- D. During any holdover period, CONCESSIONAIRE shall remain liable to CITY for all loss, damage, or injury whether such loss, damage, or injury may be contemplated or not at the time this Agreement is executed. It is expressly agreed by CONCESSIONAIRE that acceptance of the rentals by CITY during any holdover period, in the event CONCESSIONAIRE fails or refuses to surrender possession of the Leased Premises, shall not operate to give CONCESSIONAIRE any right to remain in possession beyond the period for which such amount has been paid nor shall it constitute a waiver by CITY of its right to demand immediate possession following a required notice to terminate the holdover tenancy.
- E. Unless modified in writing and as deemed necessary by the CITY, CONCESSIONAIRE shall remain obligated during any holdover period to:
1. furnish a sufficient Concession bond and maintain adequate insurance coverage;
 2. provide defense, indemnity, and liability protection to the CITY; and
 3. provide security and environmental protections.
- F. Any holding over beyond the expiration of the term of this Agreement may be terminated by either party upon 30 days prior written notice to the other party.
- G. Regardless of whether there is an approved holdover tenancy, except for the right of CONCESSIONAIRE to remove trade fixtures, furnishings, and personal property at the expiration or earlier termination of this Agreement, ownership of all improvements placed or constructed on the Leased Premises by CONCESSIONAIRE revert to CITY upon the expiration or earlier termination of this Agreement.
- H. Regardless of whether there is an approved holdover tenancy, upon the expiration or earlier termination of this Agreement, CONCESSIONAIRE shall deliver the Leased Premises to CITY peaceably, quietly, and in as good condition as the same now are or may be hereafter improved by CONCESSIONAIRE or CITY, normal use and wear excepted.

ARTICLE XIX. SUBORDINATION & RIGHT OF RECAPTURE

- A. This Agreement is subordinate to the provisions of any existing or future agreement between CITY and the United States of America and/or the State of Texas regarding operation or maintenance of the Airport, the execution of which has been or may be required as a condition precedent to the expenditure of federal or State funds for the development of the Airport. Should the effect of such agreement with the United States be to take any of the property under lease, or substantially alter or destroy the commercial value of the leasehold

interest granted herein, CITY shall not be held liable therefore, but, in such event, CONCESSIONAIRE may cancel this Agreement as provided for elsewhere in this Agreement. Notwithstanding the foregoing, CITY agrees that, in the event it becomes aware of any such proposed or pending agreement or taking, CITY shall utilize its best efforts to give the maximum possible notice thereof to CONCESSIONAIRE. Any portion of the Leased Premises recaptured from CONCESSIONAIRE under this provision shall result in a proportionate abatement of rent as of the date the recapture is effectuated.

- B. CITY has the right to recapture all or any portion of the Leased Premises to the extent that it is necessary to do so for the Airport's development, improvement, or maintenance of the runways and taxiways; for protection or enhancement of flight operations; or for other development in compliance with any current or future Airport Master Plan and Airport Layout Plan. In the event of any such recapture, CITY and CONCESSIONAIRE shall execute a writing reflecting a corresponding adjustment to the affected areas, Base Rent, and any other fees and charges applicable solely to the affected Leased Premises.

ARTICLE XX. NONDISCRIMINATION; AFFIRMATIVE ACTION

- A. **Nondiscrimination - General.** CONCESSIONAIRE for itself, and as a requirement for any sublessee, their personal representatives, successors in interest, and assigns, as a part of the consideration hereof covenants that: (1) no person on the grounds of race, creed, color, religion, sex, age, national origin, handicap, or political belief or affiliation will be excluded from participation in, denied the benefits of or otherwise be subjected to discrimination in the use of the Leased Premises; (2) in the construction of any improvements on, over, or under the Leased Premises and the furnishing of services thereon, no person on the grounds of race, color, religion, sex, age, national origin, handicap, or political belief or affiliation will be excluded from participation in, denied the benefits of, or otherwise be subject to discrimination; (3) CONCESSIONAIRE will cause to the best of its ability the Leased Premises and improvements to be in compliance with all other requirements imposed by or pursuant to 14 CFR Part 152, Subpart E Non Discrimination in Aid Program and Title VI of the Civil Rights Act of 1964 and 49 CFR, Subtitle A, Part 21, Nondiscrimination in Federally Assisted Programs of the Department of Transportation, and as said Title and Regulations may be amended, and with other applicable state or federal laws or regulations, as amended.
- B. **Nondiscrimination - Business Owner.** This Agreement is subject to the requirements of the U.S. Department of Transportation's regulations, 49 CFR Part 23. The concessionaire or contractor (CONCESSIONAIRE) agrees that it will not discriminate against any business owner because of the owner's race, color, national origin, or sex in connection with the award or performance of any concession agreement, management contract, or subcontract, purchase or lease agreement, or other agreement covered by 49 CFR Part 23. The concessionaire or contractor (CONCESSIONAIRE) agrees to include the above statements in any subsequent concession agreement or contract covered by 49 CFR Part 23 that it enters and causes those businesses to similarly include the statements in further agreements .
- C. **Remedy for Breach.** If CONCESSIONAIRE is found by a final verdict of a court of competent jurisdiction to have deliberately breached a non-discrimination covenant, or to have permitted any sublessee to deliberately breach a non-discrimination covenant, CITY may immediately enforce the remedies directed by the court's decision, which may include CITY'S right to reenter the Leased Premises, retake possession thereof, and terminate this Agreement. This provision is not effective until the procedures of Title 49, Code of Federal Regulations, Part 21 are completed, including exercise of any rights to appeal.
- D. **Affirmative Action.** CONCESSIONAIRE will undertake any affirmative action program if required by 14 CFR Part 152, Subpart E, to ensure that CONCESSIONAIRE will not exclude any person from participating in any employment activity covered by 14 CFR Part 152, Subpart E, on the grounds of race, creed, color, national origin, sex, age, or disability. CONCESSIONAIRE will not exclude any person on these grounds from participation in or the receipt of the service or benefit of any program or activity covered by the subpart. CONCESSIONAIRE further understands that it will require its covered sub-organizations, if any, to provide assurances to CITY that they will also undertake any required affirmative action programs, if required, and require assurances from their sub-organizations, if required pursuant to 14 CFR Part 152, Subpart E. CONCESSIONAIRE, at no expense to CITY, shall comply with any applicable requirements of the Americans with Disabilities (ADA), as it may be amended, with respect to the Leased Premises and its improvements .

ARTICLE XXI. COMPLIANCE WITH FEDERAL LAWS, RULES, REGULATIONS, AND ORDERS

A. In addition to other provisions of federal law included in this document, the following provisions set out in this article specifically apply to this Agreement as required by federal law, and CONCESSIONAIRE covenants to comply in all manner and at all times during the pendency of this Agreement with the provisions of this article. Any reference to "Contractor" or "Lessee" included in this article also means and includes CONCESSIONAIRE. Any reference to "Contract" or "Lease" included in this article also means and includes this Agreement. Any reference to "Sponsor" means and includes the City of Corpus Christi.

B. **Title VI List of Pertinent Nondiscrimination Acts and 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 USC § 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 USC § 4601) (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- 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;
- The Age Discrimination Act of 1975, as amended (42 USC § 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 USC §§ 12131 – 12189) as implemented by U.S. Department of Transportation regulations at 49 CFR parts 37 and 38;
- The Federal Aviation Administration's Nondiscrimination statute (49 USC § 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 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;
- 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); and

- 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).

- B. **General Civil Rights Provisions.** The CONCESSIONAIRE 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 the CONCESSIONAIRE transfers its obligation to another, the transferee is obligated in the same manner as the CONCESSIONAIRE. This provision obligates the CONCESSIONAIRE for the period during which the property is owned, used or possessed by the CONCESSIONAIRE and the airport remains obligated to the Federal Aviation Administration. This provision is in addition to that required by Title VI of the Civil Rights Act of 1964.
- C. **Title VI Solicitation Notice.** The City of Corpus Christi, in accordance with the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252, 42 USC §§ 2000d to 2000d-4) and the Regulations, hereby notifies all bidders or offerors that it will affirmatively ensure that any contract entered into pursuant to this advertisement, airport concession disadvantaged business enterprises will be afforded full and fair opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, or national origin in consideration for an award.
- D. **Compliance with Nondiscrimination Requirements.** During the performance of this contract, the Contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the "Contractor"), agrees as follows:
1. **Compliance with Regulations:** The Contractor (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. **Nondiscrimination:** The Contractor, 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 Contractor 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 Contractor 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 Contractor of the contractor'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 Contractor 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 contractor is in the exclusive possession of another who fails or refuses to furnish the information, the Contractor 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 Contractor's noncompliance with the non-discrimination provisions of this contract, the sponsor 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 Contractor 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 Contractor will take action with respect to any subcontract or procurement as the sponsor or the Federal Aviation Administration may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if the Contractor

becomes involved in, or is threatened with litigation by a subcontractor, or supplier because of such direction, the Contractor may request the sponsor to enter into any litigation to protect the interests of the sponsor. In addition, the Contractor may request the United States to enter into the litigation to protect the interests of the United States.

E. Clauses for Transfer of Real Property Acquired or Improved under the Airport Improvement Program.

The following clauses will be included in leases entered into by the City of Corpus Christi pursuant to the provisions of the Airport Improvement Program grant assurances:

1. The CONCESSIONAIRE/Lessee for himself/herself, his/her heirs, 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: In the event facilities are constructed, maintained, or otherwise operated on the property described in this lease and concession license for a purpose for which a Federal Aviation Administration activity, facility, or program is extended or for another purpose involving the provision of similar services or benefits, the CONCESSIONAIRE/Lessee will maintain and operate such facilities and services in compliance with all requirements imposed by the Nondiscrimination Acts and Regulations listed in the Pertinent List of Nondiscrimination Authorities (as may be amended) such that no person on the grounds 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. With respect to licenses, leases, permits, etc., in the event of breach of any of the above Nondiscrimination covenants, City of Corpus Christi will have the right to terminate the lease and license, and to enter, re-enter, and repossess said lands and facilities thereon, and hold the same as if the lease and license had never been made or issued.
3. With respect to a deed, in the event of breach of any of the above Nondiscrimination covenants, the City of Corpus Christi will have the right to enter or re-enter the lands and facilities thereon, and the above described lands and facilities will thereupon revert to and vest in and become the absolute property of the City of Corpus Christi and its assigns.

F. Clauses for Construction/Use/Access to Real Property Acquired under the Activity, Facility or Program.

The following clauses will be included in deeds, licenses, permits, or similar instruments/agreements entered into by City of Corpus Christi pursuant to the provisions of the Airport Improvement Program grant assurances:

1. The CONCESSIONAIRE/Lessee for himself/herself, his/her heirs, 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 (a) 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, (b) 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, (c) that the CONCESSIONAIRE/Lessee will use the premises in compliance with all other requirements imposed by or pursuant to the List of Discrimination Acts and Authorities.
2. With respect to leases, in the event of breach of any of the above nondiscrimination covenants, City of Corpus Christi will have the right to terminate the Agreement and to enter or re-enter and repossess said land and the facilities thereon, and hold the same as if said Agreement had never been made or issued.
3. With respect to deeds, in the event of breach of any of the above nondiscrimination covenants, City of Corpus Christi will there upon revert to and vest in and become the absolute property of City of Corpus Christi and its assigns.

G. Airport Concession Disadvantaged Business Enterprise (ACDBE).

This Agreement, along with the Concession and Lease established pursuant to it, is a revenue-producing contract awarded to CONCESSIONAIRE and will result in the provision of goods and services to passengers, patrons, and tenants at the Airport. Federal law and regulations impose ACDBE goals upon the performance of this Agreement by CONCESSIONAIRE, and the City encourages CONCESSIONAIRE voluntarily to strive to include significant involvement with ACDBE business enterprises in operations under this Agreement. The Director will provide the CONCESSIONAIRE with information on the Airport's established ACDBE program, goals, and participation parameters pursuant to 49 CFR Part 23.53.

ARTICLE XXII. INSURANCE

CONCESSIONAIRE, at its sole expense, shall obtain and maintain in effect at all times during the term of this Agreement insurance coverage protecting CITY against liability by reason of CONCESSIONAIRE'S use of the Leased Premises and facilities occupied by it or resulting from any accidents or incidents occurring on or about the roads, driveways, or other places used by CONCESSIONAIRE at the Airport in conducting its Concession operations pursuant to this Agreement. All such insurance types and coverages required by this Agreement are as set out in Exhibit "H," which exhibit is attached and incorporated into this Agreement as if its content were set out here in its entirety.

ARTICLE XXIII. INDEMNIFICATION

- A. **CONCESSIONAIRE SHALL INDEMNIFY, HOLD HARMLESS, AND DEFEND THE CITY OF CORPUS CHRISTI AND ITS OFFICERS, EMPLOYEES, REPRESENTATIVES, AND AGENTS (COLLECTIVELY, "INDEMNITEES") FROM AND AGAINST ANY AND ALL LIABILITY, LOSS, CLAIMS, DEMANDS, LIENS, JUDGMENTS, FINES, PENALTIES, AWARDS, LAWSUITS, CAUSES OF ACTION, AND EXPENSES OF ANY NATURE WHATSOEVER INCLUDING, BUT NOT LIMITED TO, STRICT LIABILITY CLAIMS AND ALL EXPENSES OF LITIGATION (INCLUDING MEDIATION AND ARBITRATION), COURT COSTS, REASONABLE ATTORNEYS' FEES, AND EXPERT WITNESS FEES, ON ACCOUNT OF PERSONAL INJURIES (INCLUDING WORKERS' COMPENSATION AND DEATH CLAIMS), PROPERTY LOSS OR DAMAGE, OR ANY OTHER KIND OF DAMAGES, WHICH ARISE OR ARE CLAIMED TO ARISE OUT OF OR IN CONNECTION WITH THIS AGREEMENT OR THE PERFORMANCE OF THIS AGREEMENT, REGARDLESS OF WHETHER THE INJURIES, DEATH, OR DAMAGES ARE CAUSED OR ARE CLAIMED TO BE CAUSED BY THE CONCURRENT OR CONTRIBUTORY NEGLIGENCE OF INDEMNITEES, BUT NOT IF BY THE SOLE NEGLIGENCE OF INDEMNITEES UNMIXED WITH THE FAULT OF ANY OTHER PERSON OR PARTY. CONCESSIONAIRE MUST, AT ITS OWN EXPENSE, INVESTIGATE ALL CLAIMS AND DEMANDS, ATTEND TO THEIR SETTLEMENT OR OTHER DISPOSITION, DEFEND ALL ACTIONS BASED THEREON WITH COUNSEL SATISFACTORY TO THE CITY ATTORNEY, AND PAY ALL CHARGES OF ATTORNEYS AND ALL OTHER COSTS AND EXPENSES OF ANY KIND ARISING FROM OR OUT OF ANY OF SAID LIABILITY, LOSS, CLAIMS, DEMANDS, SUITS, CAUSES OF ACTION, OR DAMAGES. THE INDEMNIFICATION OBLIGATIONS OF CONCESSIONAIRE UNDER THIS SECTION SURVIVE THE EXPIRATION OR EARLIER TERMINATION OF THIS AGREEMENT.**
- B. **Notice of Claim or Action.** Notwithstanding the above indemnifications, CONCESSIONAIRE must give the Director and CITY'S Risk Manager written notice of any accident or other matter covered under this article and forward to the Director and Risk Manager copies of every notice, demand, claim, summons, or other process communication received within 10 days of CONCESSIONAIRE'S receipt of same.

ARTICLE XXIV. CONCESSIONAIRE'S TERMINATION RIGHTS

Without limiting any other rights and remedies to which CONCESSIONAIRE may be entitled by common law, statutory law, or as elsewhere provided in this Agreement, this Agreement may be terminated by CONCESSIONAIRE upon 30 days prior written notice upon the occurrence of any of the following events:

1. The City's permanent abandonment of the Airport;
2. The lawful assumption by the U. S. Government, or any authorized agency thereof, of the operation, control, or use of the Airport, or of any substantial part or parts thereof, which substantially restricts

- the CONCESSIONAIRE from operating at the Leased Premises for a minimum of 180 calendar days;
3. The issuance by any court of competent jurisdiction of an injunction that prevents or restrains the use of the Airport or the Leased Premises that continues for at least 180 days; or
 4. The default by CITY in the performance of any covenant or obligation to be performed by CITY and such failure to remedy the default continues for a period in excess of 60 days after receipt from CONCESSIONAIRE of written notice to remedy the same.

ARTICLE XXV. CITY'S TERMINATION RIGHTS

- A. CITY shall have the right, upon 10 days prior written notice to CONCESSIONAIRE, to cancel this Agreement in its entirety upon or after the happening of one or more of the following events:
1. If CONCESSIONAIRE makes a general assignment for the benefit of its creditors;
 2. If CONCESSIONAIRE files a voluntary petition in bankruptcy seeking liquidation, reorganization, or the adjustment of its indebtedness under federal bankruptcy laws and fails to make payments when due to CITY;
 3. If any involuntary petition in bankruptcy is filed against CONCESSIONAIRE and CONCESSIONAIRE fails to make payments when due to CITY;
 4. If CONCESSIONAIRE consents to the appointment of a receiver, trustee, or liquidator of all or substantially all of its personal property, real property, or assets;
 5. If CONCESSIONAIRE voluntarily abandons and discontinues its Concession or rental car services at the Airport for a period of 60 consecutive days, or CONCESSIONAIRE abandons its Leased Premises in the Terminal, QTA facility, or at the Airport for a period of 60 consecutive days;
 6. If CONCESSIONAIRE fails to pay, when due, the Concession Fees, rental charges, or any other fees, charges, or payments of money required under this Agreement, or fails to perform any indemnity or other act which it is obligated to perform under this Agreement, and which is not cured within 10 days of written notice;
 7. If CONCESSIONAIRE defaults in fulfilling any of the other terms, conditions, or covenants required by it in this Agreement and shall fail to remedy the default within 30 days of written notice or demand; or
 8. If CONCESSIONAIRE allows any lien to be filed directly or indirectly against the CITY's real property or allows a final judgment to be filed against CITY pertaining to this Agreement.
- B. In the event of any cancellation or termination of this Agreement by CITY for any of the reasons specified above, or any other reason as may be set out elsewhere in this Agreement, CONCESSIONAIRE shall have 10 days within which to remove all trade fixtures and personal property installed in or upon the Leased Premises by CONCESSIONAIRE. If the trade fixtures or personal property are not removed within the 10-day period following such termination or cancellation, CITY shall have the right to remove all trade fixtures and personal property at CONCESSIONAIRE'S expense and at no liability to CITY.

ARTICLE XXVI. NOTICE OF TERMINATION

If an event a material default occurs, and after due written notice identifying the default the defaulting party has failed to cure or failed to commence to cure, the complaining party may at any time after the expiration of any such cure period terminate this Agreement by providing written notice of termination to the defaulting party. Unless a different or longer period is provided elsewhere in this Agreement or the notice (any such different or longer period controlling), this Agreement will be terminated on the date specified in the notice but not sooner than 10 business days after the postmark date of the notice.

ARTICLE XXVII. NOTICES - GENERAL

- A. Unless otherwise specified, all notices and other communications required or permitted to be given pursuant to this Agreement must be in writing and are deemed properly given if: (1) sent by certified mail, with return receipt requested and sent by (2)(a) facsimile transmission, with proof of transmission or (2)(b) via any nationally recognized overnight courier service, with proof of mailing or (2)(c) by personal delivery, when delivered to the administrative office of the Airport, and (3) addressed as follows:

When to CITY:

Corpus Christi International Airport
Attn: Director of Aviation
1000 International Drive
Corpus Christi, TX 78406
Phone: (361) 289-0171
Fax: (361) 826-4551

When to CONCESSIONAIRE:

Coastal Bend Rent A Car, Inc. and South Texas Auto
Rental Services, LLC
Attn: Victoria M. Anderson 226 S. Tancahua
Corpus Christi, TX 78401
Phone: (361) 883-5108 ext 230
Fax: (361) 882-9241

- B. All notice periods begin on the third day after the date the notice is placed in the U.S. certified mail. The date of the certified mailing takes precedence and controls over the date of any other form of notice.
- C. Daily communications of an informal nature may be conducted by the parties by telephone or email. Either party may, following a phone discussion with the other party, reduce any terms or arrangements to a formal written notice and, if reduced to writing, such written communication (following a phone discussion) must be mailed and sent to the other party as set out in paragraph A above. Except for an email pursuant to Article X(A)(2), informal email communications shall not constitute written notice pursuant to this Agreement.

ARTICLE XXVIII. SUBORDINATION TO U.S./FAA REQUIREMENTS; REQUIRED RIGHT TO AMEND

- A. This Agreement is subordinate to the provisions of any existing or future agreement between CITY, acting through the Airport and its Director, and the United States of America relating to the operation or maintenance of the Airport, where the execution of said agreement(s) is required as a condition to the expenditure of federal funds for the development of the Airport. If the effect of said agreement(s) with the United States, either under this paragraph or paragraph B below, is to remove any or all of the Leased Premises from the control of Airport or to substantially destroy the value of the Leased Premises, then this Agreement shall terminate immediately without any further obligation on part of CITY to CONCESSIONAIRE.
- B. If the Federal Aviation Administration ("FAA"), or its successor agency, requires modifications or amendments to this Agreement as a condition precedent to the granting of federal funds to CITY for Airport improvements, CONCESSIONAIRE agrees to consent to the modifications or amendments to this Agreement as may be reasonably required, provided however, CONCESSIONAIRE will not be required to pay any increased rents/fees/charges, change the use of the Leased Premises, or accept a relocation or reduction in size of the Leased Premises until CONCESSIONAIRE and CITY have fully executed an amendment to this Agreement that is mutually satisfactory to both parties regarding any terms or conditions of this Agreement affected by said actions of the FAA.

ARTICLE XXIX. BUDGETARY APPROPRIATIONS

By execution of this Agreement, CONCESSIONAIRE acknowledges that the continuation of any contract after the close of any fiscal year of CITY, which fiscal year ends on September 30 annually, is subject to budget approval and sufficient appropriations by the CITY'S City Council for such contract item (to include any financial commitment therein) as an expenditure in the next fiscal budget. CITY does not represent nor warrant to CONCESSIONAIRE that a budget item providing for this Agreement in any future fiscal budget will be adopted, as that determination is within the sole discretion of the City Council at the time of adoption of each fiscal budget.

ARTICLE XXX. FORCE MAJEURE

- A. Neither CITY nor CONCESSIONAIRE will be deemed to be in breach of this Agreement if either is prevented from performing any of its obligations under this Agreement by reason of force majeure. "Force Majeure" for

the purposes of this Agreement means any significant delay or failure due to strikes, lockouts, labor disputes, acts of God (to include severe inclement weather and sustained periods of rain), fire or other casualty, acts of the public enemy, terrorist acts, civil commotion, riots or interference by civil or military authorities, and other causes beyond the reasonable control of the party obligated to perform and claiming the force majeure. The occurrence of the delay or failure to perform due to one of the foregoing events extends the period of performance until these exigencies have been removed.

- B. To assert the occurrence of a force majeure event, the party claiming it shall inform the other party in writing, with sufficient proof of the force majeure event, within three business days. Failure to provide the written notice within the period stated shall expressly constitute a waiver of this right as a defense.

ARTICLE XXXI. NO THIRD-PARTY BENEFIT

No provision of this Agreement creates a third-party claim against CITY or CONCESSIONAIRE beyond that which may legally exist in the absence of any such provision. This Agreement is not intended to give or confer any benefits, rights, privileges, claims, actions, or remedies to any person, including the public, as a third-party beneficiary, under any laws or otherwise.

ARTICLE XXXII. SURVIVAL OF LIABILITIES AND OBLIGATIONS

Termination or expiration of this Agreement for any reason does not release either party from any liabilities or obligations under this Agreement that: (i) the parties have expressly agreed survive any such termination or expiration; (ii) remain to be performed; or (iii) by their nature would be intended to be applicable following the termination or expiration of this Agreement.

ARTICLE XXXIII. WAIVER

No delay of or omission in the exercise of any right, power, or remedy accruing to either party as a result of any breach or default by the other party under this Agreement shall impair any such right, power, or remedy, nor shall it be construed as a waiver of or acquiescence in any such breach or default, or of or in any similar breach or default occurring later. No waiver of any single breach or default shall be deemed a waiver of any other breach or default occurring before or after that waiver.

ARTICLE XXXIV. AMENDMENT

This Agreement may not be amended except by a written instrument executed by each party to this Agreement acting through a person authorized to sign agreements on behalf of such party (which, in the case of CITY, shall be the Director or City Manager, unless the provision first requires express approval by the City Council pursuant to this Agreement, the City Charter, or the City's Code of Ordinances). Unless expressly provided otherwise in this Agreement, the Director shall exercise authority to issue any notices or other written communications required or permitted on behalf of CITY.

ARTICLE XXXV. GOVERNING LAW

This Agreement, and any disputes arising under it, shall be governed by and construed in accordance with the laws of the State of Texas without giving effect to any choice or conflict of law provision or rule (whether of the State of Texas or any other jurisdiction) that would cause the application of the laws of any jurisdiction other than the State of Texas, and venue shall be in Nueces County, Texas, where this Agreement was entered into, executed by the parties, and where performance of this Agreement shall take place.

ARTICLE XXXVI. ORDER OF PRECEDENCE

In the interpretation of this Agreement, or in the event of a dispute as to the meaning of any term, phrase, or language used in this Agreement, the following order of precedence controls: this Agreement excluding the exhibits; next, the exhibits; next, any executed amendments to this Agreement, along with their attachments, if any; next, the City's

issued RFP; next, any addendums issued to the RFP; next, the CONCESSIONAIRE'S submitted proposal in response to the RFP; and last, any submitted responses of the CONCESSIONAIRE to any City-issued addendums to the RFP. Any ambiguities between the documents that cannot be resolved by review of the documents in the order of precedence stated shall not be construed against the drafter and shall, as most reasonably possible, be resolved by the parties.

ARTICLE XXXVII. ENTIRE AGREEMENT

This Agreement is the final, complete, and exclusive statement of the understanding and agreement between the parties with relation to the subject matter of this Agreement. There are no oral representations, understandings or agreements covering the same subject matter as this Agreement. This Agreement supersedes and cannot be varied, contradicted, or supplemented by evidence of any prior or contemporaneous discussions, correspondence, or oral or written agreements or arrangements of any kind.

ARTICLE XXXVIII. JOINT AND SEVERAL LIABILITY

Coastal Bend Rent-A-Car, Inc., and South Texas Auto Rental Services, LLC, are co-tenants and co-concessionaires pursuant to this Agreement. As such, City may elect to recover from either Coastal Bend Rent-A-Car or South Texas Auto Rental Services the full amount of any collective liability of the CONCESSIONAIRE under this Agreement for personal injuries, property damage, or any act or omission pertaining to any concession/lease obligations, duties, or responsibilities that may arise or occur and which may be attributable, directly or indirectly, to this Agreement between all parties, and City may bring a separate action against either party or both parties with respect to any such liabilities.

IN WITNESS HEREOF, and with the intent to be legally bound, this Agreement is executed by the parties in triplicate in one or more counterparts, each counterpart of which shall be deemed an original and all of which together constitute but one and the same instrument.

ATTEST:

CITY OF CORPUS CHRISTI

Rebecca Huerta

[Signature]

Rebecca Huerta

For Peter Zanoni

City Secretary

City Manager

Date: 9/26/19

Date: 9/25/19

Approved as to legal form: 9/17/19

Elizabeth Hundley
Assistant City Attorney
for Miles Risley, City Attorney

Ord. 131330 AUTHORIZED
ST COUNCIL 09-24-2019
[Signature]
SECRETARY

CONCESSIONAIRE (AVIS)

CONCESSIONAIRE (BUDGET)

Signature: [Signature]

Signature: [Signature]

Printed Name: Victoria M Anderson

Printed Name: Victoria M. Anderson

Title: President

Title: Manager

Date: 8/13/19

Date: 8/13/19

ATTACHED AND INCORPORATED EXHIBITS:

Exhibit A – Terminal Counters/Offices

Exhibit B – Terminal Ready/Return Parking Lot

Exhibit C – Quick Turnaround Facility (QTA)

Exhibit D – QTA Office/Maintenance Areas

Exhibit E – QTA Fuel/Wash Bay/Support Areas

Exhibit F – Monthly Gross Revenues Statement

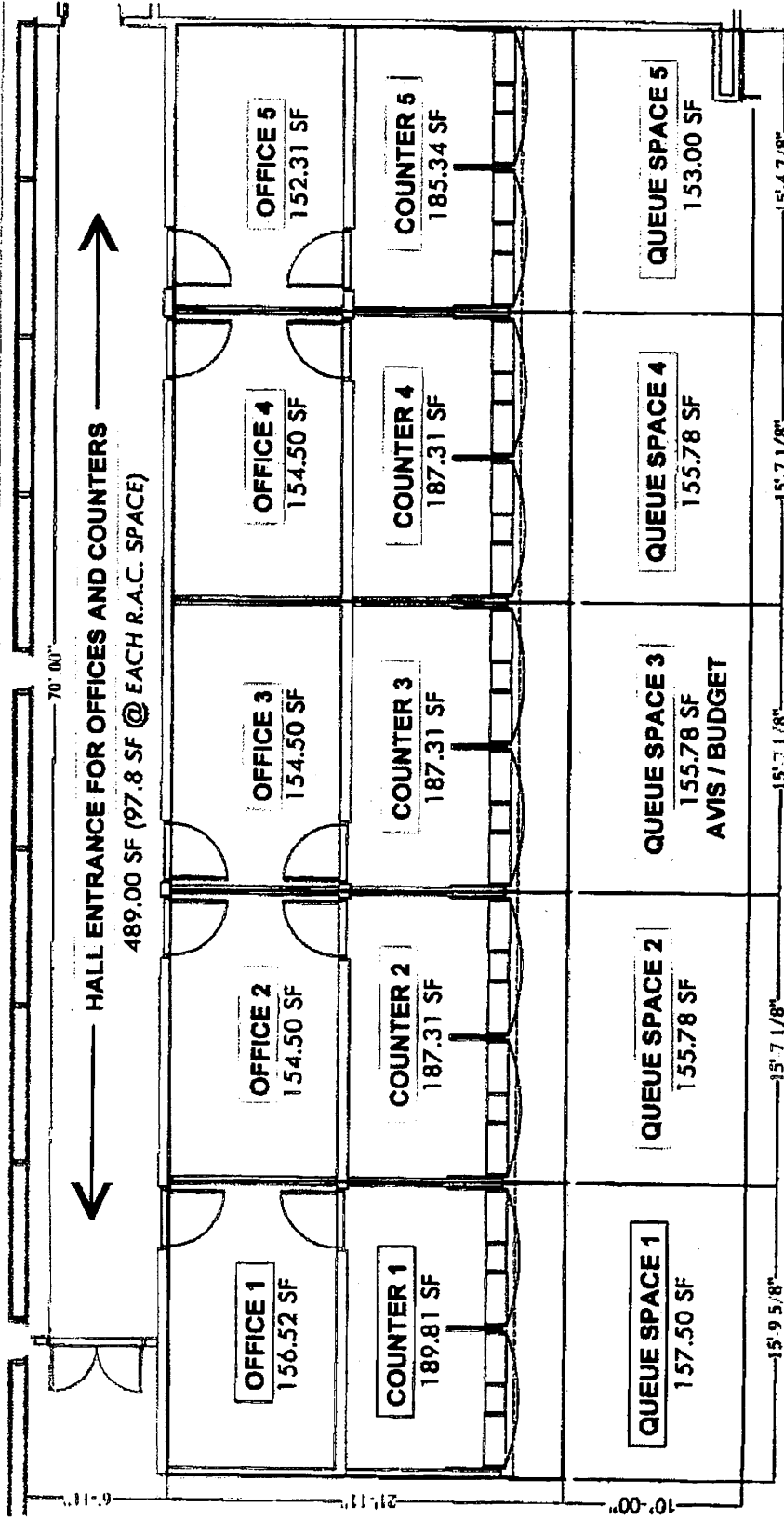
Exhibit G – Maintenance Matrix

Exhibit H – Insurance Requirements

INCORPORATED BUT UNATTACHED EXHIBITS: (Available upon request)

CITY'S REQUEST FOR PROPOSAL

CONCESSIONAIRE'S PROPOSAL



The SITE

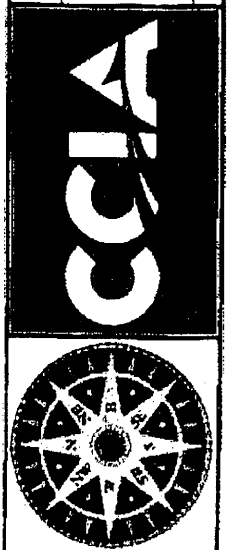
Terminal KEY PLAN

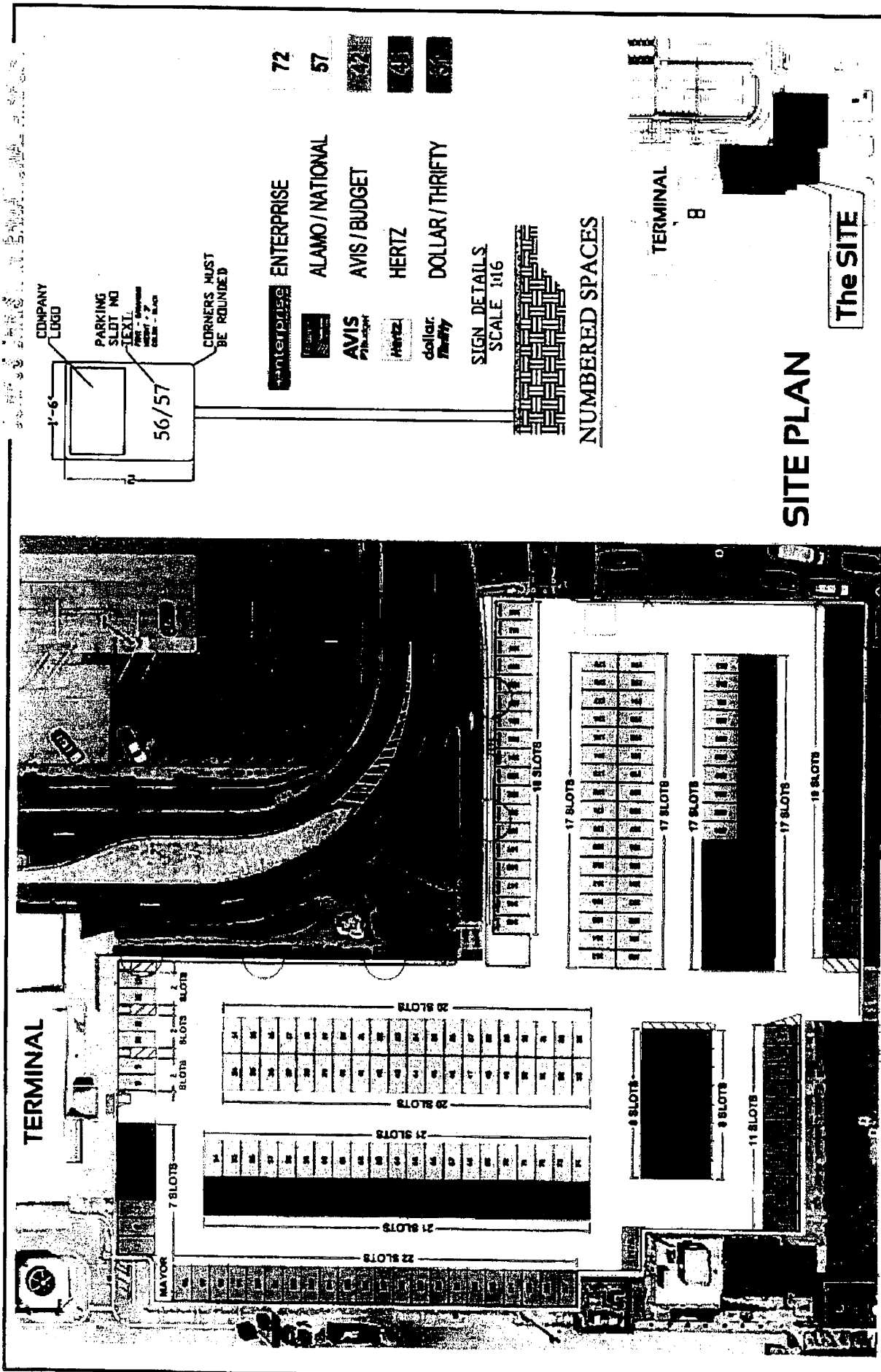
1	Office/Counter/Queue Space/Hallway	601.63 SF
2	Office/Counter/Queue Space/Hallway	595.39 SF
3	Office/Counter/Queue Space/Hallway	595.39 SF
4	Office/Counter/Queue Space/Hallway	595.39 SF
5	Office/Counter/Queue Space/Hallway	588.45 SF

NOTE: ALL MEASUREMENTS TO DETERMINE THE AREA OF EXCLUSIVE SPACE LEASED SHALL BE FROM THE INTERIOR OF THE EXTERIOR WALLS AND FROM THE CENTERLINE TO CENTERLINE OF EACH INTERIOR WALL OR IN THE ABSENCE OF INTERIOR WALLS, THE POINT OF SAID CENTERLINE WOULD BE LOCATED IF SUCH INTERIOR WALL EXISTED.

Prepared by: CDB
Approved by: CARL GROSS
Date: 07-15-2019
Scale: NOT TO SCALE

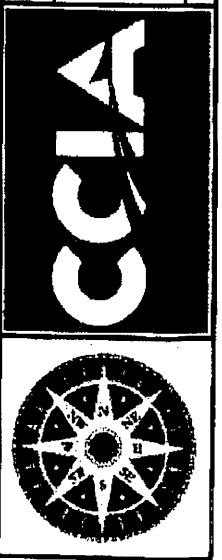
CORPUS CHRISTI INTERNATIONAL AIRPORT
EXHIBIT A
RENT-A-CAR TERMINAL COUNTERS



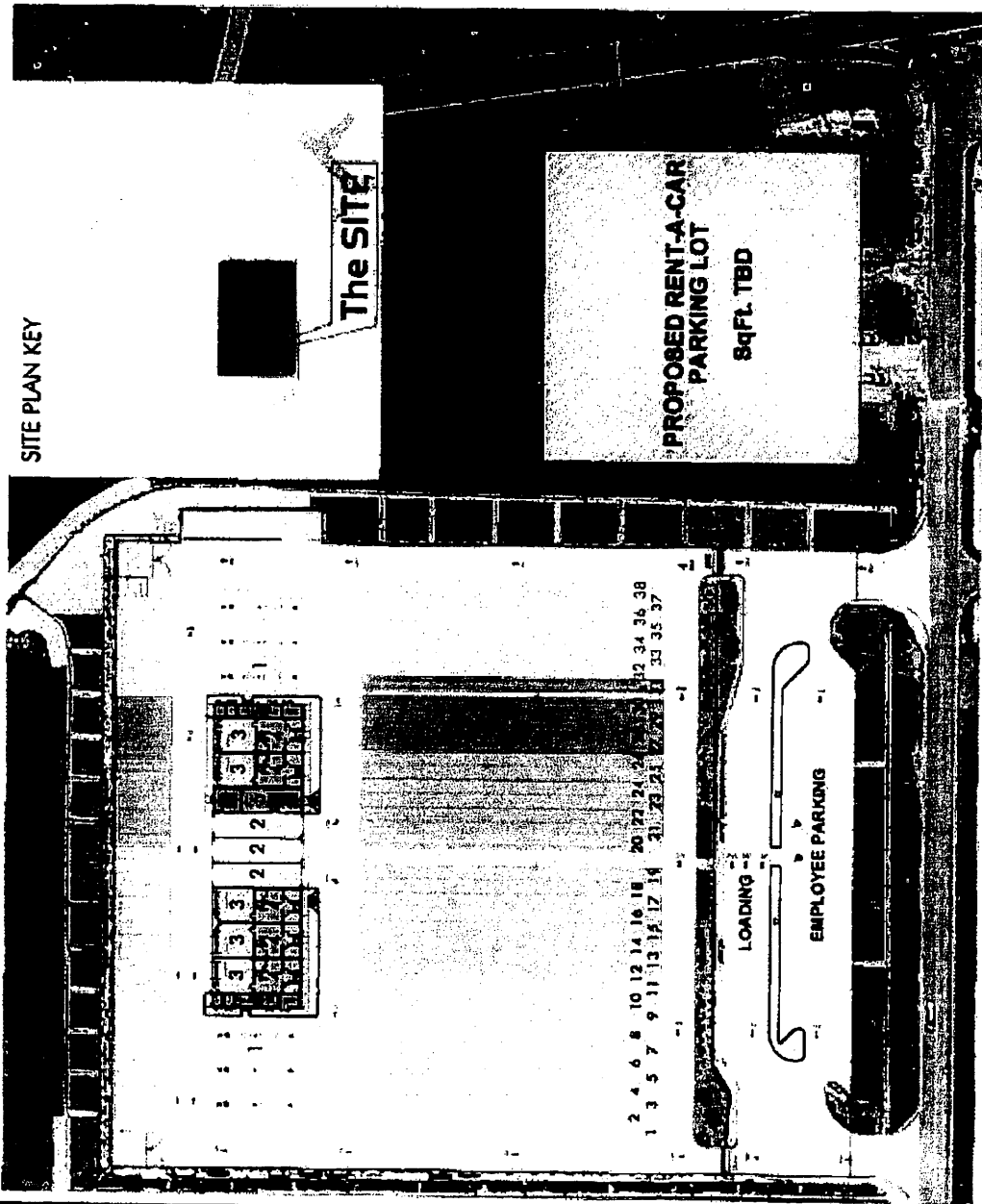


Prepared by: CDB
 Approved by: CARL GROSS
 Date: 07-25-2019
 Scale: NOT TO SCALE

CORPUS CHRISTI INTERNATIONAL AIRPORT
EXHIBIT B
 TERMINAL RENT-A-CAR PARKING LOT
 RAC LEASE Exhibit B



File Name



SITE PLAN KEY

LEGEND

QTA Site: 5.58 Acres
242,956 SF

- 502 Total Parking Capacity
- 43 Total Employee Parking
- 3 Loading Area Parking Lanes

BUILDING	Fuel Positions	Car Wash Bay	Maintenance Bay	Administrative	Support/Storage	Common	TOTAL AREA
1	12 Common						10,725 SF
2		3 Common					3,510 SF
3			5 (1 each)				4,060 SF
4				5 (1 each)			4,060 SF
TOTAL							27,825 SF

LANE #	Parking	Front Parking Lanes	Rear Parking Lanes	TOTAL AREA
1-38		80,954.25 SF		80,954.25 SF
1-41			15,200.00 SF	15,200.00 SF

LANE #	Company	Market Share	No. of Parking Front	No. of Parking Back	Employee
1-11	Enterprise	29.29%	121	24	13
12-20	Alamo/National	22.58%	99	18	10
21-26	Avis/Budget	16.51%	66	14	7
27-31	Dollar/Thrifty	12.36%	55	10	5
32-38	Hertz	19.26%	77	16	8

SITE PLAN



CORPUS CHRISTI INTERNATIONAL AIRPORT

EXHIBIT C

QUICK TURNAROUND AREA (QTA) Consolidated Rental Car

File Name:

QTA LEASE Exhibit C

Prepared by:

CDB

Approved by:

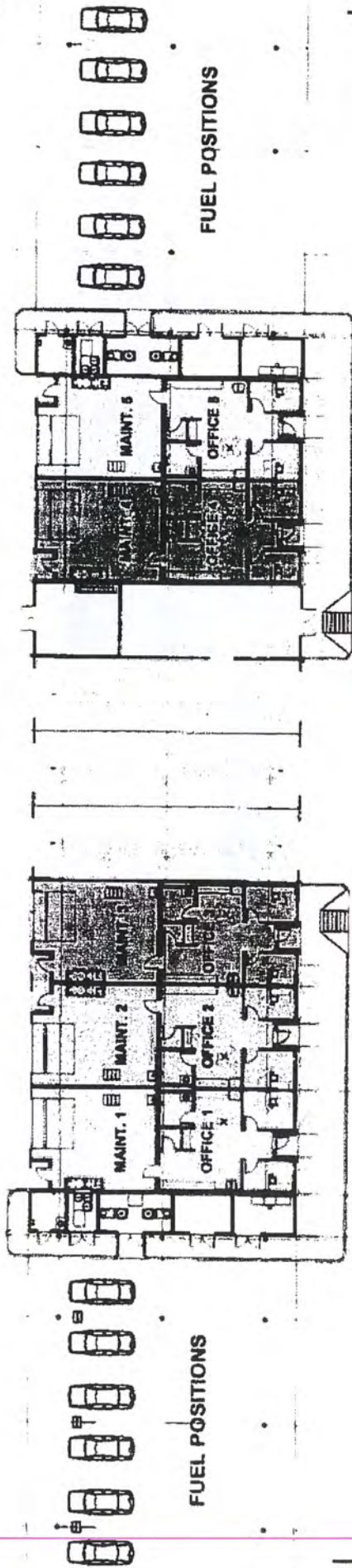
FRED SEGUNDO

Date:

07-15-2019

Scale:

NOT TO SCALE



FLOOR PLAN BUILDING

BUILDING	ADMIN.	MAINT.
1	Enterprise Office/Maint.	850 SF
2	Alamo/National Office/Maint.	850 SF
3	Avis/Budget Office/Maint.	850 SF
4	Dollar/Thrifty Office/Maint.	850 SF
5	Hertz Office/Maint.	850 SF



CORPUS CHRISTI INTERNATIONAL AIRPORT

EXHIBIT D

QUICK TURNAROUND AREA (QTA) Consolidated Rental Car

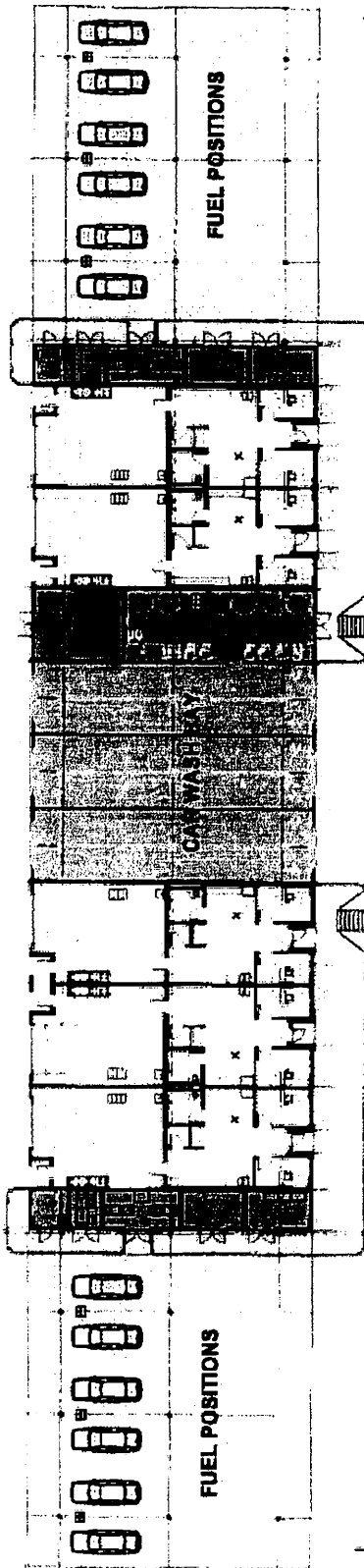
File Name

QTA LEASE Exhibit D

Prepared by CDB
 Approved by FRED SEGUNDO
 Date 08-05-2019
 Scale NOT TO SCALE


Exhibit E

QTA Fuel/ Wash Bay/Support Areas



FLOOR PLAN

BUILDING	Fuel Positions	Car Wash Bay	Support/Storage	TOTAL AREA
□	12 Common	3 Common	Common	10,725 SF
■				3,510 SF
■				2,470 SF

	CORPUS CHRISTI INTERNATIONAL AIRPORT	Prepared by CDB
EXHIBIT E		Approved by: FRED SEGUNDO
QUICK TURNAROUND AREA (QTA)		Date 08-07-2018
R.A.C. LEASE EXHIBIT E		Scale NOT TO SCALE
File Name:		



**RENTAL CAR MONTHLY REVENUE REPORT
CITY OF CORPUS CHRISTI - AVIATION DEPARTMENT
1000 INTERNATIONAL BLVD. - ADMINISTRATION OFFICE
ATTENTION: ACCOUNTS RECEIVABLE, CORPUS CHRISTI, TX 78406**

Exhibit F

COMPANY: _____ LOCATION: _____

Business Period: _____ (ie., mm/yyyy)

Gross Revenues:

Time & Mileage Charges & Fees	_____
Recoupment of Airport Concession Fees	_____
Vehicle TTL/ Registration Recoupment Fees	_____
All Fuel Charges & Services (Prepay, Refuel, Service Charges, etc.)	_____
All Insurance Sales	_____
All Damage Waiver Charges (LDW, CDW, PDW, etc.)	_____
Other Vehicle Charges (One Way or inter-city Fees, Exchanges, Upgrades, etc.)	_____
Additional Equipment, Communication & Technology (car seats, racks, radios, phones, navigation, Wi-Fi, satellite, etc.)	_____
Misc & Other Optional Charges (Add'l Drivers, Cleaning, Towing, Frequent Flyer, GARS, Carbon Offset, etc.)	_____
Contracted Services with Other Airport Concessionaires, Users or Third Parties	_____
Customer Facility Charges (CFC's)	_____
Airport Security Fees	_____
Taxes on rental transactions, required by taxing authority	_____
Receipts/Compensation for Actual Damages/Loss	_____
Operating Costs Recovered	_____
All Other Fees, Charges, Receipts, Revenue, Compensation not included above	_____
Total Gross Revenues:	\$ _____ (1)

Allowable Exclusions:

Customer Facility Charges (CFCs)	_____
Airport Security Fees	_____
Tickets/Fines/Towing	_____
Taxes on rental transactions, required by taxing authority	_____
Receipts/Compensation for Actual Damages allowed/Loss	_____
Customer Discounts at time of rental	_____
Total Allowable Exclusions:	\$ _____ (2)

Gross Revenues After Allowable Exclusions [Line (1) less Line (2)] \$ _____ (3)

Concession fee: [Line (3) x 11%, or .11] \$ _____ (4)

Monthly Minimum Annual Guarantee: _____

Has this month's MAG been paid prior to the submission of this report? Y/N _____

Less: Applicable Minimum Payment (monthly MAG payment) if paid prior to report: \$ _____ (5)
 Adjustments: Applicable credits, etc. (Explain below in Comments) \$ _____ (6)

Comments:

Concession Fee due City with Report: [Line (4) less lines (5), (6)] \$ _____

Additional Information (Required)

Total CFCs Collected for the month:	_____
Total Security Fees for the month:	_____
Total Rental Transactions for month:	_____
Total Rental Transaction Days for month:	_____

The undersigned hereby certifies that this report is a true, accurate and complete statement of Company's Gross Revenues and Allowable Exclusions in accordance with the terms on the Airport Rental Car Concession and Lease Agreement as amended, for the month reported.

Prepared by (print): _____	Manager Name (print): _____
Prepared by Signature: _____	Manager Signature _____
Title: _____	Title: _____
Date Signed _____	Date Signed _____

****Please attach transaction information via Excel or .CSV format with this report to CCIA staff****

Exhibit G
DESIGNATION OF RESPONSIBILITIES FOR OPERATION AND MAINTENANCE

	RAC PREFERENTIAL USE SPACE			RAC COMMON USE		
	Administrative Office	Maintenance Bay	Fuel Position	Car Wash Bay	Support and Storage	
1. Air Conditioning						
a. Maintenance	C	N/A	N/A	N/A	C	
b. Operation	C	N/A	N/A	N/A	C	
c. Distribution	C	N/A	N/A	N/A	C	
2. Heating						
a. Maintenance	C	C	N/A	C	C	
b. Operation	C	C	N/A	C	C	
c. Distribution	C	C	N/A	C	C	
3. Lighting						
a. Bulb & Tube Replacement	C	C	C	C	C	
b. Maintenance	C	C	C	C	C	
4. Electrical Maintenance	C	C	C	C	C	
5. Water						
a. Distribution	C	C	C	C	N/A	
b. Fixtures	C	C	C	C	N/A	
6. Sewage						
a. Distribution	N/A	C	C	C	C	
b. Fixtures	N/A	C	C	C	C	
7. Maintenance						
a. Other than Structure	R	R	C	C	C	
b. Structure	C	C	C	C	C	
c. Exterior	C	C	C	C	C	
8. Custodial Service						
a. Restroom	C	N/A	C	C	C	
b. Office/Kitchen	R	N/A	N/A	N/A	N/A	
c. Work Area	N/A	R	R	R	R	
9. Window Cleaning						
a. Exterior	C	C	N/A	N/A	N/A	
b. Interior	C	R	N/A	N/A	N/A	

NOTES: R - RAC, C - CITY, N/A - NOT APPLICABLE.

NEW CONSTRUCTION AND DAMAGE REPAIR ARE NOT SUBJECT TO THIS MATRIX AND SHALL BE GUIDED BY THE LEASE DOCUMENT.

EXHIBIT H

INSURANCE REQUIREMENTS

I. CONCESSIONAIRE'S LIABILITY INSURANCE

- A. Concessionaire must not commence work under this contract until all insurance required has been obtained and such insurance has been approved by the City. Concessionaire must not allow any subcontractor, to commence work until all similar insurance required of any subcontractor has been obtained.
- B. Concessionaire must furnish to the City's Risk Manager and Contract Administrator one (1) copy of Certificates of Insurance with applicable policy endorsements showing the following minimum coverage by an insurance company(s) acceptable to the City's Risk Manager. The City must be listed as an additional insured on the General liability and Auto Liability policies by endorsement, where their interest may appear for liabilities arising in whole or in part by the conduct of the Concessionaire, for the General Liability. Additionally, a waiver of subrogation endorsement is required on GL, AL and WC if applicable. Endorsements must be provided with Certificate of Insurance. Project name and/or number must be listed in Description Box of Certificate of Insurance.

TYPE OF INSURANCE	MINIMUM INSURANCE COVERAGE
10-day advance written notice of cancellation, non-renewal, material change or termination required on all certificates and policies.	Bodily Injury and Property Damage Per occurrence - aggregate
COMMERCIAL GENERAL LIABILITY including: 1. Commercial Broad Form 2. Premises - Operations 3. Products/ Completed Operations 4. Contractual Liability 5. Independent Contractors 6. Personal Injury- Advertising Injury	\$1,000,000 Per Occurrence \$1,000,000 Aggregate
AUTO LIABILITY (including) 1. Owned 2. Hired and Non-Owned 3. Rented/Leased	\$1,000,000 Combined Single Limit
WORKERS COMPENSATION (All States Endorsement if Company is not domiciled in Texas) Employers Liability	Statutory and complies with Part II of this Exhibit. \$500,000/\$500,000/\$500,000
POLLUTION LIABILITY	\$1,000,000 Per Occurrence
CRIME/EMPLOYEE DISHONESTY	\$1,000,000 Per Occurrence

PROPERTY INSURANCE	Contractor, at their own expense, shall be responsible for insuring all owned, leased or rented personal property.
--------------------	--

- C. In the event of accidents of any kind related to this contract, Concessionaire must furnish the Risk Manager with copies of all reports of any accidents within 10 days of the accident.

II. ADDITIONAL REQUIREMENTS

- A. Applicable for paid employees, Concessionaire must obtain workers' compensation coverage through a licensed insurance company. The coverage must be written on a policy and endorsements approved by the Texas Department of Insurance. The workers' compensation coverage provided must be in statutory amounts according to the Texas Department of Insurance, Division of Workers' Compensation. An All States Endorsement shall be required if Concessionaire is not domiciled in the State of Texas.
- B. Concessionaire shall obtain and maintain in full force and effect for the duration of this Contract, and any extension hereof, at Concessionaire's sole expense, insurance coverage written on an occurrence basis by companies authorized and admitted to do business in the State of Texas and with an A.M. Best's rating of no less than A- VII.
- C. Concessionaire shall be required to submit renewal certificates of insurance throughout the term of this contract and any extensions within 10 days of the policy expiration dates. All notices under this Exhibit shall be given to City at the following address:

City of Corpus Christi
Attn: Risk Manager
P.O. Box 9277
Corpus Christi, TX 78469-9277

- D. **Concessionaire agrees that, with respect to the above required insurance, all insurance policies are to contain or be endorsed to contain the following required provisions:**
- List the City and its officers, officials, employees, and volunteers, as additional insured's by endorsement where their interest may appear for liabilities related to the operations and activities arising in whole or in part by the Concessionaire, with the exception of the workers' compensation and crime policies.
 - Provide for an endorsement that the "other insurance" clause shall not apply to the City of Corpus Christi where the City is an additional insured shown on the policy;
 - Workers' compensation and employers' liability policies will provide a waiver of subrogation in favor of the City; and
 - Provide ten (10) calendar days advance written notice directly to City of any, cancellation, non-renewal, material change or termination in coverage and not less than ten (10) calendar days advance written notice for nonpayment of premium.

- E. Prior to any cancellation, non-renewal, material change or termination of coverage, Concessionaire shall provide a replacement Certificate of Insurance and applicable endorsements to City. City shall have the option to suspend Concessionaire's performance should there be a lapse in coverage at any time during this contract. Failure to provide and to maintain the required insurance shall constitute a material breach of this contract.
- F. In addition to any other remedies the City may have upon Concessionaire's failure to provide and maintain any insurance or policy endorsements to the extent and within the time herein required, the City shall have the right to order Concessionaire to stop work hereunder, and/or withhold any payment(s) which become due to Concessionaire hereunder until Concessionaire demonstrates compliance with the requirements hereof.
- G. Nothing herein contained shall be construed as limiting in any way the extent to which Concessionaire may be held responsible for payments of damages to persons or property resulting from Concessionaire's or its subcontractor's performance of the work covered under this contract.
- H. It is agreed that Concessionaire's insurance shall be deemed primary and non-contributory with respect to any insurance or self-insurance carried by the City of Corpus Christi for liability arising out of operations under this contract.
- I. It is understood and agreed that the insurance required is in addition to and separate from any other obligation contained in this contract.

2018 Insurance Requirements
Legal Dept. – Aviation
Rental Car Concession and Lease Agreement
07/20/2018 sw Risk Management
Revised 07/24/2018; 05/01/2019

