



ADDENDUM NO. 2

January 22, 2021

ITB AP 14-21

**MANAGEMENT AND OPERATION OF A NON-EXCLUSIVE RENTAL CAR
CONCESSION AT THE DESTIN-FT. WALTON BEACH AIRPORT (VPS)**

This addendum provides answers to questions submitted by vendors and provides the requested copies of the CFC Ordinance and the Ready/Return Parking Lot Exhibit.

The opening date for this ITB remains February 17th at 3:00 PM CST.



State of Florida

Okaloosa County Airports

January 21, 2021

Rental Car Agency Partners
Destin-Fort Walton Beach Airport (VPS)

Re: ITB 14-21 Addendum #2

We are moving full speed into a new year and continued recovery! That said, I'm proud to report, VPS is very healthy and in a great position moving out of a challenging 2020. What is most notable is how well we have all worked together during these times. Your local teams have been fantastic and we are all trending upward into what is expected to be a "makeup" banner year!

During the height of the pandemic's effect on our airport, we waived the RAC's Minimum Annual Guarantee requirement, per our agreements, for five months. In the fifth month (July), it's worth noting, six of our seven RAC partners had sales that produced commissions for the month exceeding their MAG requirement. VPS is only one of a few airports in the country to receive additional air service in the middle of the pandemic and most recently, AA announced direct service to PHY starting in March. Again, the growth has been significant and we now mark direct service to 45 cities – with **more** news to follow.

Our construction plans and efforts have not slowed. We are well underway with an expansion of our lobby to the west to add ticket counter space and additional landside restrooms. On the secure side, a complete overhaul of the baggage handling system is in progress. Plans to construct a satellite concourse that will be operational by Spring 2022 are moving quickly forward. Coming very soon are the needed upgrades to the RAC facilities, including new vacuums, fuel pumps and fuel management system and car wash facilities. We received a favorable bid just yesterday within the budget for extensive upgrades and improvements. During the term of your new agreement, we also expect to complete a terminal expansion to the east, which will include additional counter space and two new baggage claim carousels.

You will find the responses to the submitted questions attached. As a reminder, to be considered a responsive bidder in this process, all current RAC business partners will need to have their accounts in good standing with Okaloosa County. If you have any questions about your account status, invoices or billing concerns, please contact my CFO, Allyson Oury (aoury@myokaloosa.com).

The future is bright!

Sincerely,

Tracy Stage, A.A.E.
Airports Director

ADDENDUM 2
January 22, 2021

The following responses are provided as the County position for the questions and requests for clarification received.

1. a. When will County's response to formal questions due on January 12th be issued? We need at least three weeks between the final response/addendum by County and the submittal due date. **Response: The following revised schedule was issued as part of Addendum 1 on December 17, 2020 and posted on the County website:**

**Questions due from Bidder: January 12, 2021 @3:00 P.M.
Answers to questions due by: January 22, 2021 COB
ITB Due Date and Time: February 17, 2021 @ 3:00 P.M.**

Although the County received a combined total of 130 questions on/ near the deadline for questions date, the County will put forth its best efforts to provide responses on or before January 22, 2021.

- b. It is helpful to have a second round of request for clarification regarding County's responses to initial questions asked. Kindly consider allowing a such second round. **Response: Since this is a bid and not a negotiation, the responses to the questions and clarification requests will be the final position of the County so that additional clarifications will not be required. The responses contained in this addendum to requests for changes to the ITB represent the County's response following consideration of the request under an ITB process.**
 - c. Please consider pushing the submittal deadline out to the end of January to allow County adequate time to review and respond to questions submitted by the deadline/s - as well as allow potential bidders adequate time for additional analysis, internal discussion/approvals, preparation and delivery of our bids. **Response: See the amended schedule provided in response to question 1 a. above.**
2. Please allow us to submit our Bids electronically (via email or to a website). With our offices closed due to COVID, we do not have access to various personnel needed to sign originals or physical supplies and equipment. Our proposal will be prepared 'from home' with limited resources. It is exceedingly difficult under the circumstances to prepare original, hard copies of a proposal. We ask that you allow email submissions with scanned signatures and note that this approach is becoming more common generally at other airports. **Response: See the response to question 1 in Addendum 1 dated December 17, 2020 posted on the County website.**
 3. If County will allow email submission of bid response, please allow the Bid bond to be delivered to authority separately of the bid submittal. **Response: Since electronic submissions are not authorized, there will be no need to deliver Bid Bonds separately.**
 4. We understand questions are due by January 12, 2021. Please confirm questions should be directed via email to DeRita Mason at dmason@myokaloosa.com. **Response: Questions must be directed to DeRita Mason as outlined in the ITB.**

Instructions/Part I:

5. C: Will there be a Zoom meeting invite for the public opening of bids? **Response: Yes. The invitation will be sent to those who provided DeRita e-mail contact information.**

6. H.1: Please delete the requirement to submit the entire ITB document. It is 125 pages. May we suggest an acknowledgement form instead that we have received the ITB, similar to the acknowledgement of receipt of Addenda? **Response: See response to question 2 in Addendum 1 dated December 17, 2020 posted on the County website.**

7. J: Please change “Concession Fee” to “Percent Fee” in this section. Annual MAG in subsequent years should be reset at “the greater of 85% of 10% of PY Gross Receipts or the PY MAG”. So this should be written “85% of the Percent Fee, or the MAG” (NOT 85% of the concession fee). **Response: The language below is the excerpt from the provision referenced:**

The MAG for each succeeding fiscal year of the Agreement will be adjusted annually at eighty five percent (85%) of the previous fiscal year’s Concession payments made to the County, or the previous year’s MAG, whichever is greater.

The requested change is not consistent with the language referenced. The language will remain as drafted.

8. J and 7.09 of Agreement: We respectfully request that a MAG is not required until such time as deplanements surpass the number of deplanements from 2019, pre-covid levels. While the airport is recovering at a quicker pace than the rest of the country, this could change at any time over the next two years. Kindly change the requirement to only implement the MAG when and if the deplanements meet and/or exceed the deplanement levels in 2019. **Response: The MAG provision is consistent with the existing Agreement and will remain as drafted.**

9. J: This language is confusing: “If a Bidder is proposing for two brands, the MAG must be for **the total of the two brands.**” Please confirm there is only one MAG required under a co-branded bid (one bid for two brands). **Response: Only one MAG is required regardless of whether one or two brands are being proposed for each counter/office/queue position. The bidder will be responsible for paying the MAG as bid, adjusted annually in accordance with the Agreement, to the County.**

10. Q: Please confirm that Enterprise Leasing Company – South Central, LLC is not in default or arrears. **Response: Current contractual standing for incumbent operators will be addressed separately between the County and the incumbent Concessionaires. Information requests should be directed to Allyson Oury, Airports CFO.**

11. L.1: Please clarify what it means to be a successful bidder under the ITB **within one position of its current market share.** “... Here’s the language: “*In the event that any incumbent operator is a successful Bidder under this ITB within one position of its current market share, it may retain its existing counter and ready return.*” **Response: As an example, since we will only be dealing with incumbents based on the pre-bid participation, if an operator is currently the number 3 market share operator and the MAG submitted elevates that operator to the number 2 market share position, the counter/office/queue areas and ready/return locations will remain in the current locations with only the number of ready/return stalls being reallocated based on the MAGs bid. An alternative would be if the current number 3 market share operator submits a MAG that elevates it to number 1, counter/office/queue positions and ready/return locations would be subject to relocation with the number 1 bidder making the first selection and so on.**

12. L.1: We respectfully disagree with the Grandfathering of the counter positions. Please allow for selection of counters based on MAG, in highest to lowest rank order selection. **Response: With the compressed size of the area where the rental car counters are located, visibility and access are effectively equal for all existing counters; thus, there is not a material competitive advantage/disadvantage associated with any particular counter position. Even though the cost of relocating companies will be paid for with CFCs, The County does not feel it would be a prudent use of funds to move people for the sake of moving them when their physical location does not add materially to their ability to increase sales. Therefore, the allocation of the counters provision will remain as drafted.**
13. L.1: This section states: “The location of the Ready/Return spaces for each successful Bidder not retaining its current position as identified above, will be determined by the Airports Director or designee, at the sole discretion of the Airports Director.” Please correct this. If an incumbent operator submits the highest MAG and wants to choose a different ready return location as opposed to retaining its current location, it should be given the opportunity to select it’s ready return area from any Ready Return areas not retained by incumbent bidders per the ‘one position of its market share’ requirement, in MAG rank order selection process. It should not be subject to the airport’s discretion. Please correct. **Response: Massive relocation of ready/return spaces is a costly disruptive exercise in a situation like VPS where the ready/return stalls are relatively equal in access and each Concessionaire has stalls immediately accessible from the sidewalk leading to the lot. The Airports Director’s discretion needs to be in place as an objective voice to balance the need of the County, the customers, and the interests of individual operators to prevent costly disruptive changes from occurring without a substantive return on investment for all parties. The language will remain as drafted.**
14. L: Please provide the exhibits for Counters/Office, Ready Return, and Service Facilities. They are not included in the ITB nor as attachments to the Concession Agreement/part V. **Response: The counter/office/queue space is included in Addendum 1 dated December 17, 2020 and posted on the County website. The Ready/Return layout is attached. The service facilities are not part of this ITB and are not included.**
15. O: Right to Modify Documents: This section allows modifications to the ITB and the Concession and Lease Agreement up to the date of submittal. Please establish a cutoff point whereby County will issue any changes in a Final Addendum which is issued no less than three weeks prior to bid submittal date. We cannot respond to changes any faster. **Response: The changes to the schedule have been identified in Addendum 1 dated December 17, 2020 and posted on the County website.**
16. X: 2nd paragraph indicates County may negotiate for the modification of any Bid. There should be no modifications of any bidder’s bid, especially with respect to MAGs. The bids are the bids and should stand as submitted. Further, there should be a Most Favored Nations provision in the agreement to ensure all RACs are on an equal and level playing field. **Response: Outlined below is the excerpt from the language referenced:**

The County will select Bids that in the County’s sole judgment are deemed most advantageous for the public and the County and its determination shall be final. The County reserves the right to reject any or all Bids and to negotiate for the modification of any Bid with its selected Bidders in accordance with noted exceptions identified in the response submitted.

Provision Y of the same section allows bidders the ability to identify potential changes to the sample contract for consideration by the County through the ITB process. If the County accepts any requested changes, it will do so at its sole discretion and the changes would be applicable to all operator’s Agreements. No Agreement will contain provisions different from any other Agreement other than

specific corporate information attributable to each company and the specific MAG amounts and brands as submitted by each bidder. Article 17.19 that exists in the current Agreement will be inserted into the final execution Agreement with regard to the Most Favored Nations clause request.

17. Y: Please delete this section and Part V that allows bidders to make material exceptions to the Rental Car Concession Agreement in its Bid Submittal. All bidders should be required to adhere to the terms/conditions of the concession agreement as disclosed through the ITB and any addenda issued during the ITB process so that all bidders are bidding on the same terms and conditions. **Response:** Bidders cannot make material exceptions; they can only identify exceptions for consideration by the County through the ITB submission process and the Airports Director will have the sole discretion to accept or reject any such requests. In reviewing such requests, the Airports Director will consider the impact on the County and if the requested change would have any adverse effect on other operators and make decisions accordingly.

ITB/Part II- Airport Passenger and Rental Car Information:

18. B: Please include deplanement/enplanement activity history and rental car revenue history for the three years prior to FY2018-19 and FY2019-20. This information is still important in our analysis. **Response:** The additional historical years requested represent years prior to the significant expansion of Allegiant Air service which has been a major driver of increased rental car transactions as well as service expansions from all of the legacy carriers. While it may represent a historical perspective, it does not represent the new level of activity for VPS that should be considered in developing new MAGs for the ITB response. Since all potential bidders will be incumbents, there is institutional knowledge that each bidder can use to provide earlier history.

19. B: Please share the airport's annual forecast for passenger growth over the next upcoming five years. **Response:** Historically, airlines will not lock into schedules for anything more than 6 months. This has been adjusted in the pandemic and has become more of a 2-month schedule commitment. Providing future projections would be nothing more than a guess and the County does not feel it is responsible nor prudent to make such projections based on information that will not be validated by the airlines. Thus, a 5-year forecast will not be provided. It can be represented however, that the County is in continuous contact with all airlines and monitoring their route performance and providing data to support enhanced or additional service. Additionally, VPS has gained three new routes on two separate carriers in the middle of the pandemic bringing the total routes to 44 direct from 5 in the past 4 years. To further support the County's confidence that growth will continue, the County has recently completed an aircraft parking ramp expansion to accommodate up to 5 additional narrow body aircraft; has completed a parking lot expansion to meet documented demand increases; is commencing a ticket counter expansion to accommodate additional airline counter positions and enhanced baggage processing capacity; is in the final stages of negotiations with an airline for the development of a new Concourse C to accommodate the airline's planned growth; is in the early stages of developing additional baggage claim expansion; and is investigating the expansion of the B Concourse to maximize the gate capacity on that concourse. The initiatives would not have been completed or initiated if growth was not anticipated.

Part III/Management and Operation of Non-Exclusive Rental Car Concession
Section I/Description of Rental Car Concession:

20. C: Please confirm that all the terms and conditions specified in the RFP and any/all issued addenda will be incorporated and made a part of the Concession Agreement. Please add language to the ITB and to the Concession Agreement which states: *"The Invitation to Bid, including all issued addenda*

and questions and answers, are hereby incorporated into and made a part of the Concession Agreement.” **Response: Clarification: This is an ITB process and not an RFP.**

Outlined below is the actual language referenced in the question:

The management and operation of the rental car concession will be governed by the sample Agreement included in Part V of this ITB as may be amended due to acceptance of the County of any proposed modifications through the ITB process. In the event of a conflict between the provisions of the Agreement and any other provision of the ITB documents, the provisions of the Agreement shall control. A copy of each successful Proposers proposal will be attached to the final Agreement as an Exhibit.

Section 2.02 Incorporation of Exhibits, states that Exhibit G- Bid Submitted by Operator is incorporated by reference and made part of the Agreement. The ITB itself and addenda are not part of the Exhibit or Agreement; rather, they are supporting documentation for the ITB process to provide information for the concessionaires to prepare their ITB responses which will be an Exhibit to the final Agreement. As stated in 2.2 of the Agreement, in the event of a conflict between the ITB submission Exhibit and the Agreement, the Agreement will be the prevailing document.

21. E.2: option term here is additional 5 years. Option term in the concession agreement (section 5.2) is 3 years. Please confirm the option is for 5 years. **Response: The Option Term referenced in the ITB of one 5-year Option Term is correct. The execution copy of the Agreement will be amended to reflect that in the final draft sent to the successful bidders for execution.**
 22. G: Amount of security required in this section is 100% of the year one MAG. First, this amount is very steep. Typically, security required is four months of the MAG. Please reduce. Second, this conflicts with the language in Section 7.07 of the Concession Agreement which requires even steeper, more egregious amount of security. Kindly correct 7.07 to correlate to the requirement of the amount of MAG only. **Response: The security requirement of one year of the MAG will remain due to the volatility of the industry. The final execution copy of the Agreement will be amended to require one year of MAG only.**
 23. H.1: Please provide the linear feet (length) of each counter. **Response: See Addendum 1 dated December 17, 2020 posted on the County website.**
 24. H.3: The ITB identifies 4 Service Facilities and indicates that each successful Bidder will be offered 1 Maintenance Facility and Service Parking Area. However, there are currently five Service Facilities’ positions today. Please confirm that the 5th Service Facility position will be offered for award to successful bidders in MAG rank order, highest to lowest. **Response: The service facilities are covered under a separate Agreement between the County and the operators. The ITB provides for the allocation of 1 service facility for each successful bidder as indicated. That language will remain as drafted. The County will determine the highest and best use of the unassigned service facility and address that under the Agreement for the service facility.**
- H.3: Please strike the restriction against employee parking in service areas. Operators should be allowed to use their space as they see fit. **Response: Language will be revised to allow for those employees to park at the location so as long as it is their immediate working location. Should employee parking at this location impede the flow of traffic, vehicle processing, or safety, the allowance will be removed. No employee vehicle should be left, stored or kept for any duration longer than their regular scheduled**

25. H.4: This section calls for “Overflow parking, if established, at 50% of ready return rate”. The county has always allowed for some overflow at no charge. Especially now with the impact of the pandemic, we would appreciate that continued good will. If County will not, please at the very least reasonably acknowledge that Ready Return parking is a premium parking and 50% of the Ready Return rent rate for overflow is excessive. Kindly delete the rent altogether or provide a rate commensurate with service site/sq ft or similar. **Response: The unimproved vacant land east of the RAC is not specified as overflow parking, it is for future development. It is a fire safety issue, as the operators very well know, to park vehicles in a grass lot. Further, any overflow parking uses of Airport land that the County is required to charge a fair market value per the FAA Grant Assurances. The County has determined that 50% of the ready/return rate is that value. Operators make a conscious decision where to park surplus inventory based on supply of vehicles, mobilization costs, length of need, and demand. If it is determined by the operator that the overflow cost to park at VPS is too high, that is a decision the operator can make to pay the price or not, or to pay the cost to relocate the fleet to a cheaper parking option. These spaces could be provided as a convenience by the County in order to enhance the operator’s ability to manage inventory locally however, it is also a risk for both the County and the operator. The use of this space is for overflow parking of vehicles and under no circumstances are they to be used for the parking of transport vehicles other than when active loading and unloading is taking place.**
26. I/Hours of Operation: please strike “peak periods will be defined by the Airports Director”. With all due respect, each brand has a different peak based on their business and Operators are the best judge of their own peak. **Response: The Airports Director is in the best position to balance the needs of the customer (VPS traveler) and the tenants. When staff is not available to handle customers in a timely manner, it is the Airport that bears the brunt of the criticism and not the rental car companies. This language will remain as drafted.**
27. K/Badging: Please remove the requirement for badging. This is unnecessary, costly, and very difficult to track. Further information requested (SS# and DL#) is not information we generally hand over. If county will not delete the requirement, kindly removed the disqualification listing as it eliminates ability to staff our operations. Lastly, the associated fee is not included, what is it? What is the replacement fee and process for lost/stolen badges? **Response: The Airport has implemented a uniform policy that all personnel operating on the airport must display identification badges for security purposes, regardless of whether the person requires secured access or not. The individuals will need to apply for the badges so the social security and driver’s license information would be provided by them as part of the application process. If they choose not to provide the information, they will not be issued an ID and will not be authorized to work at the Airport. This policy applies to all tenants. The requirement will remain as drafted. The current fee for the basic ID is \$35. If a badge is lost, the user would need to simply replace the badge and pay the applicable fee again.**

Section II/CFC:

28. Please provide the CFC Ordinance/s. **Response: Copy attached.**

ITB/Part IV Attachments

29. Attachment A, Section F. Please strike any reference to affiliated entities/commonly owned entities and apply this to the bidding entity only. Enterprise Leasing Company – South Central, LLC (“Bidder”) is not only and incumbent operator but is also a stand-alone legal entity that is separate and distinct from any other entity that is commonly-owned. Bidder has separate financial statements and any litigation/arbitration occurring with any other entity has no affect or bearing on Bidder’s financials or ability to perform under the agreement. **Response: In the section referenced, there is no reference to the**

items you identify as being objectionable. This section is merely to understand the legal entity structure of the bidder and is a standard County requirement of all ITB solicitations. The Attachment information requested will remain as drafted.

30. Exhibit E – Please confirm that a bidder does not have to use this specific form for its proforma, but that we can use our own form so long as we include each component that is shown on Exhibit E. **Response: Exhibit E must be completed as presented in the Exhibit in order for the County to have a consistent comparison template for information among bidders.**
31. Attachment H – Please eliminate this form for submission of bids and require this form only of successful bidders after award of agreement. **Response: The form was included to provide the sample form which be required to be submitted for all employees to obtain an ID badge and qualify to work at the Airport. No personnel specific forms need to be submitted in the ITB response; however, bidders should acknowledge that the form included as Attachment H will be submitted for all personnel working at the Airport following award.**
32. Attachment K – Please confirm that this form is not applicable since bidder’s “product” is the rental of vehicles. **Response: The form is not applicable and does not need to be submitted in the ITB response.**
33. Attachment M – Please confirm that “Respondent’s License #” is not applicable since we are an organization submitting a bid, not an individual. **Response: The license number will not be required to be filled in. Successful bidders will need to provide proof that they are licensed to do business in the State of Florida.**

Part V Notation of Requested Modifications

34. Please delete this form. Bidders should not be allowed to make material exceptions to Concession Agreement in its Bid Submittal. All bidders should be required to adhere to the terms/conditions of the concession agreement as disclosed through the ITB and any addenda issued during the ITB process so that all bidders are bidding on the same terms and conditions. **Response: This form is intended to allow bidders to submit changes that they would like to be considered. It is intended to be a potential benefit for the bidders since, technically under an ITB process, there is no ability to negotiate anything. There is no guarantee that the County will agree to the requested changes, but at least this process gives bidders a platform to suggest changes to the sample contract. If changes are considered acceptable, the change would be incorporated into all of the contracts. The final determination will be at the discretion of the Airports Director balancing the needs of the County and the operators.**

Concession Agreement:

35. Please provide all Exhibits to the Agreement. **Response: Counter/office/queue space was included in Addendum 1 dated December 17, 2020 and posted on the County website. The ready/return parking area layout is attached. The remaining Exhibits will be added to the execution copy of the Agreement since they are related to the ITB submission.**
36. Article I/Definitions: Due to the influx of various modes of non-traditional car rental in recent years, it is important to define a “Rental Car Company” in the agreement. Please incorporate the following definition into the agreement: *A “Rental Car Company” is Any business that, directly or indirectly, provides, procures and/or brokers rental vehicles as part of its business and/or conducts, facilitates, and/or manages vehicle rental activities as part of its business. This includes, but is not limited to, traditional rental car businesses, brokers for car rental businesses, rental car delivery companies, peer-to-peer car rental businesses and car sharing businesses.* **Response: This ITB is for the non-exclusive**

rental car operators authorized to operate a rental car concession on the Airport. For that purpose, the proposed definition does not provide any contractual clarification. If the concern is to restrict the off-airport activities or unauthorized activities of other competing entities, that needs to be done separately through an ordinance and off-airport licensing process which is not part of this ITB solicitation.

37. 1.19: please re-insert the following into the second and third to the last lines of this paragraph: **‘net of any published discounts, coupons or credit at the time the rental contract is closed’** such that it reads: ... *types and in any and all forms which are collected, accrued, received, receivable, allocated or allocable or which should have been collected, accrued, received, receivable, allocated or allocable by, for or to Operator or any person or entity acting for or on behalf of Operator, including its franchisor or any affiliated person or entity, **net of any published discounts, coupons or credit at the time the rental contract is closed.** Gross Receipts shall include but are not limited to the following specified items:...* **Response: The language in the execution Agreement will have the requested language added.**
38. 1.19, 3rd to the last paragraph, lines 6 and 7: please strike the language that includes ‘Loss of Use’ from Gross Revenue. This is not Gross Revenue – and in fact isn’t a charge that is made on a customer’s rental contract. Loss of Use is our recovery from a customer for down time on a damaged vehicle – AFTER THEIR RENTAL IS CLOSED OUT. The vehicle is not on rent. There is no open rental contract. This is not Gross Revenue and County should not expect to be paid a percent fee on this. **Response: The language that is in the sample Agreement is the same language that exists in the current Agreement and has not been a point of contention. The language will remain as drafted.**
39. 1.19, 3rd to the last paragraph, line 10: Please re-insert the language that exists in the current agreement – and which was removed in this newest agreement - that allows for exclusion of carbon offset and payments for government fines, tickets, tolls, towing, etc. These are not gross receipts and should not be included, but rather should be excluded. Please re-insert the following: ...; qualified carbon offsets that are fully passed through to a third party to fund environmental initiatives; customer payments directly related to government fines and fees (e.g., parking tickets, towing, etc.); ... such that it reads: *“Gross Receipts shall specifically exclude the following: sales taxes... which are separately stated on Operator’s vehicle rental agreements and vehicle short-term leasing agreements, and which Operator collects and remits separately to governmental taxing authorities, as required by law; compensation received by Operator from customers and insurance carriers in payment of actual damages to, or the destruction or theft of, vehicles and other personal property of Operator (but provided that compensation and payments for the loss of use of vehicles are to be included as part of the Gross Receipts); compensation received from any final sale of a vehicle or other personal property of Operator to an unrelated third party (provided that Operator does not regain or retain any title, right, interest or ownership in or to the vehicle or other personal property); **qualified carbon offsets that are fully passed through to a third party to fund environmental initiatives; customer payments directly related to government fines and fees (e.g., parking tickets, towing, etc.);** and CFC receipts and revenue collected pursuant to Section 7.04 of Article 7 of this Agreement.”* **Response: This definition will be changed to be consistent with the current contract and the language added in the execution copy of the Agreement.**
40. 1.21: The calculation of MAG for subsequent years, after Year 1, is written incorrectly in this section. Correct to reflect same as Section 7.2: “Operator shall pay the greater of the previous year’s Minimum Annual Guarantee payment or eighty five percent (85%) of the Percentage Fee due the County in the previous Agreement Year” - such that it reads: *“Minimum Annual Guarantee” or “MAG” means for the first Agreement Year, the MAG amount bid by Operator. For the second Agreement Year of the Term and each subsequent Agreement Year, the Minimum Annual Guarantee shall be the greater of the previous year’s MAG or the amount which represents eighty-five percent (85%) **of the Percent Fee***

payments due to the County in the Previous Agreement Year. In no event shall the MAG during any Agreement Year be less than the first year's MAG during the Term of this Agreement **Response: The reference to 7.2 for the MAG Annual Adjustments is incorrect. That is included in Section 7.09 of the sample Agreement. The language in the definition in 1.21 will be adjusted to be consistent with the language in Section 7.09.**

41. *1.21 and Concession Agreement Section 7.09: Please add “**Except in the case of abatement as described in 7.08**” to the beginning of the last sentence such that it reads: “**Except in the case of abatement of the Minimum Annual Guarantee as described in 7.08 herein**, in no case during the term of the Agreement, shall the annual payment to the County during any Agreement Year be less than the Minimum Annual Guarantee for the initial Agreement Year of this Agreement.* **Response: The language proposed is the same as what is in the existing Agreement and that exception is not part of the existing Agreement. What is suggested is a material change to the business terms and conditions and will not be included. Section 7.08 addresses the abatement of the MAG and while the Operators are forgiven the MAG when the level of activity declines to the stated level, the County still receives the full MAG through the use of CFCs, as an offset to the abatement, so the County is made whole for the total MAG requirement. What is suggested would negatively impact the County in that a reduced first year MAG would apply with the language suggested, thus the MAG revenue to the County would be reduced which is unacceptable to the County. The language will remain as drafted.**
42. *3.05.C: Annual Re-allocation of the number of parking spaces is necessary to right-size the available space to the needs of the market. And with the market changes we are seeing at this time, is absolutely necessary. For example, a company serving 50% of the market should theoretically be allocated 50% of the space. Re-allocation should be done annually (not every two years as the ITB contemplates) and should be based on market share from the immediately preceding contract year with no growth trigger. A growth trigger renders this clause useless and is really normally only used where re-allocation is complicated. The Ready Return spaces here are not complicated and very easily re-allocated – as evidenced by the ease of the annual allocations to date. Please correct. We request the language from the current agreement is re-inserted. That language is: “No later than sixty (60) days after the expiration of each Agreement Year under this Agreement, County shall reallocate Ready/Return Spaces within the Ready/Return Parking Areas. The reallocation shall be made to Operator and the other rental car operators based on their respective percentages of total Percentage Fee payments from all Operators for the Agreement Year then concluded, with each of said rental car operators being allocated a minimum of 40 Ready Return spaces within the Ready/Return Area. County may also at its discretion at any time during an agreement year reallocate said Ready/Return spaces within the Ready Return Areas among the rental car operators when any event materially changes the Airport car rental operators’ market shares and said change remains in effect for a period of thirty (30) days or more. Upon any reallocation pursuant to this Section, county shall provide to Operator and the other rental car operators a revised Exhibit B to the Agreement re-designating Operator’s and the other rental car operators’ Ready/Return spaces at least ten (10) days in advance of the change going into effect.”* **Response: The re-allocation logistics are not always good for the customer since they probably involve taking far away spaces from one operator and converting them awkwardly to another, confusing where the customer needs to go, are time consuming to calculate and figure out how a few stalls may be shifted, labor intensive to calculate the market share to make the changes, and have a cost to substitute signage. A 2-year re-allocation cycle was chosen by the County as a reasonable means to balance potential market change associated with the variations in market share compared to the operational and administrative burden associated with re-allocations to more accurately reflect actual trends. Since all companies have a significant number of stalls and there is a large element of leisure travel that does not switch regularly as a result of corporate contracts being renegotiated, in the County’s opinion, a two-year trigger is the proper tool to determine materiality of market share changes. A change of a few**

spaces annually based on small annual market share fluctuations is not material. The language will remain as drafted

43. 4.03: How will any unselected (unleased) space in the Service Area be allocated? We suggest if there is any, that it is offered to the remaining operators by MAG share of the available spaces and in MAG rank order. **Response: See response to question 24.**
44. 4.03-4.04: There are only 20 lined spaces adjacent to service building for all RAC's to share which is not enough capacity. What are the plans to add capacity? **Response: The service facility Agreement is a separate Agreement and not part of this ITB. Any issues related to that Agreement need to occur outside of this ITB.**
45. 5.02: Additional Option term is 3 years. This conflicts with the 5-year additional option term in the ITB instructions. Please confirm 5 years or 3 years. **Response: See response to question 21.**
46. 5.02: Please confirm the MAG in each year of the Option Term, if exercised, will be calculated the same as subsequent years are calculated during the initial term, specifically "the MAG in each year of the Option term will be 85% of Prior Year Percent Fee paid, but never less than the Year One MAG, except in the event of abatement per Section 7.08 herein" **Response: See response to question 7.**
47. 5.03: If the County puts the Operator in a holdover as a result of County not re-bidding or extending the agreement, there should be no 25% surcharge assessed to the Operator. Such a surcharge should only occur if Operator is holding over without County's consent. Please correct the language in this section to reflect such. **Response: The language is the same language that is in the current Agreement. This language is the only leverage the County holds to ensure that operators enter into contracts in the future. In addition, if an operator objects to the Holdover premium, the operator may cancel the lease at the expiration or with 30 days written notice. The language will remain as drafted.**
48. 6.01.b: Please add '**except as a result of an approved substitution as described herein**' such that it reads: "If Operator shall, at any time, cease to operate the concession under the Operator's brand name(s) specified in this Section 6.01(b), **except as a result of an approved substitution of brand/s as described herein**, then this Agreement and Operator's concession privileges at the Airport shall be subject to termination..." **Response: This is covered under Section 14.01 (j):**

Operator shall voluntarily discontinue its rental car business at the Airport for a period of thirty (30) consecutive days or, after exhausting or abandoning any further appeals, Operator shall be prevented for a period of ninety (90) consecutive days by action of any governmental agency, other than County, from conducting its rental car business at the Airport, except with respect to any such governmental action affecting operators generally at the Airport.

49. 6.02: Does County have an agreement with Destin Jeep or any other off-Airport provider? What are the terms for operation under that agreement/permit – i.e. what is the arrangement for pick-up and drop-off of customers; what are the fees required to pay the airport/County? Please share that agreement permit under which off-airport providers operate. **Response: Off-airport agreements are not part of the On-Airport Non-exclusive Concession Agreement ITB. Issues related to off-airport concession Agreements should be addressed outside of this ITB.**
50. 6.04.h: Please adjust the language slightly to allow for some flexibility. We suggest the following which incorporates some of the current language with the majority of the new language: "Operator shall be open for business from the leased Premises from one hour prior to the first departure until thirty minutes after the last arrival. Staffing hours must be extended if there are delays in late arriving

flights. In lieu of staffing the counters one hour prior to the first departure, this requirement may be waived if the Operator has an after-hours drop box readily available and clearly visible at the counter for customers to drop keys upon arrival.” Response: The proposed language deleted the specific reference to the counters and could allow for compliance through having a back-room presence only which is not the customer service level that the Airport is willing to accept. In addition, the language in the sample Agreement is the same language that exists in the current Agreement that the operators have been operating under. The language will remain as drafted.

51. 6.05: “Operator also covenants and agrees that it shall not establish, franchise, license or permit a car rental facility within a five (5) mile radius of the Airport Terminal.” Please remove this restriction against an operator’s right to operate a car rental facility within 5-mile radius of the airport terminal. We cannot be restricted from operating our insurance replacement location within the suggested radius nor from opening a future location within that radius next to a body shop or dealership. We do not disagree with including revenues from airport customers at locations within a radius, but we must be able to preserve our right to operate our insurance replacement business without restriction. Please note, we do not operate or offer shuttles to/from our insurance replacement locations to/from the airport and we are highly motivated in keeping the airport customer rentals AT the airport. Response: The language exists in the current Agreement and will remain as drafted.
52. 6.05: Please re-insert the language “*who has deplaned from the Airport within the past forty-eight (48) hours*” and also include “and who was transported by or at the direction of Operator to a location within five miles of the Airport. This sets reasonable parameters to capture airport renters but eliminates the unreasonable position as written in the ITB that **any customer** who rents a vehicle within five miles of the airport is an airport customer and County should be paid a percent fee on all rentals at these locations. Adding this language allows us to identify an airport customer and charge and remit the appropriate fee for airport customers. It should read as follows: “*Any rental made by Operator or vehicle delivered by Operator, its franchisor, or any other affiliated person or entity, to a customer who has deplaned from the Airport within the past forty-eight (48) hours and who has been transported by Operator or at the direction of Operator to a location within a five (5) mile radius from the airport shall be deemed to be a rental transaction under this Agreement.*” Response: The 48-hour reference will be added in the execution copy of the Agreement.
53. 7.02: Why is there a 25% premium over the Airline Terminal Rates assessed to the rental car counters and queuing? And why the 50% premium for two brands. Does county assess this 25% premium over the Airline terminal rates to all the terminal tenants? What is the point of the Airline Terminal Rate if you are going to charge over and above that? Please remove this unfair premium. Rate should be the same per square foot as charged under the Airlines Terminal Rate – not more. Now more than ever the RACs are sensitive to increased costs and this will likely be the case for some time to come until we can determine what post-COVID looks like. Response: The premiums were introduced in the last solicitation and included in the existing Agreement. The 125% premium over the airline base rate represents the same premium that non-signatory airlines pay to compensate for them not reconciling rates and charges at the end of the year to account for actual costs. That premium is applied to tenants because tenant contracts do not have the reconciliation provision as the Airline Agreement. The 150% premium is established to provide compensation to the Airport for the additional wear and tear on the facilities and the accelerated degradation of the facilities that the County experiences by having multiple brands operating out of counters that were initially designed for one brand. The higher utilization of a dual branded position also provides a cost savings for the operator in lieu of leasing a second position. These are the business terms that are in the current Agreement and the language will remain as drafted.
54. 7.03: Will County consider eliminating the annual percent increase in Ready Return Rent and Service Area Rent during the initial term? Now more than ever the RACs are sensitive to increased costs and

this will likely be the case for some time to come until we can determine what post-COVID looks like. **Response: The Service Area rentals are covered under a separate Agreement and any such discussion would need to be initiated under that Agreement. As far as the ready/return rental rates, these are the rates that the County has determined to represent “fair market” value to comply with FAA Grant Assurances and are consistent with the existing rate structure.**

55. 7.04: It is highly unusual to charge tenants additional cost over and above rent and MAG for security services. This service is typically included/covered with our rent and our MAG/Concession fee. Does the County charge all tenants at the airport an additional sum above their rent/MAG/Concession fee for airport security services? If not, this would be a discriminatory practice targeted at the rental companies. Kindly remove. **Response: The charge is an allocation to all tenants to recover the tenant related portion of security related costs. Elimination for a particular tenant group from reimbursing the County for costs incurred would be discriminatory and would be a material alteration from the business terms contained in the current Agreement. The language will remain as drafted.**
56. 7.04: 3% annual increase in Security Charge. Does the airport security contract include a 3% escalator? If not, please remove. This fee is already excessive. As well, please explain what is provided in this service. Finally, we would like to review the accounting/methodology of the amount of security charge that is assessed on the rental car companies. Please provide now and annually during the term. **Response: The escalator is established to account for increased costs rather than establishing increased based on laborious CPI cost calculations. While the increase could vary depending on FAA and DHS mandates which are not predictable, the 3% increase is a means to provide the County reasonable protection for increases and to ease the administrative burden and cost. The security fee as stated is part of the ITB and will remain as drafted.**
57. 7.05: Please provide the CFC Ordinance/s. **Response: See response to question 28.**
58. 7.05.a: If county prefers no signature required by Operator when County changes the CFC rate, please consider notifying Operators of such CFC changes via formal Notice as opposed to an Amendment. Amendments to the Agreement require signature by both parties. **Response: The Ordinance process is a County driven process and is not under control of the Airport. The Airport will follow the approved County process. Any CFC dollar amount change is not considered an amendment since the CFC is an Ordinance and is not a negotiable element of the Agreement.**
59. 7.07: Security in the amount of 100% of the MAG AND, rentals, security fee, and CFCs is unreasonable. Typical security is four months of MAG only. Further, this contradicts the requirement as described in the ITB, Section G which calls for security in the amount of one year of the MAG. Please reduce this requirement to four months of MAG. **Response: See response to question 22.**
60. 7.07.b: Please change ‘calendar’ days to ‘business days’ here and for all instances throughout the Agreement where County has defined ‘days’ as ‘calendar days’. Calendar days vs. business days significantly shortens the period of time for a party to comply. **Response: All references to calendar days were specifically crafted under that premise that the timeframes represented reasonable periods in terms of calendar days that, in the County’s opinion, are sufficient for the respective actions. The respective references will remain as drafted.**
61. 7.08: Please change the trigger for abatement to 85% which is the standard in the industry at this time. Anything more than a 15% decline is well beyond the point of severe impact to operators. **Response: This is a material change from the existing Agreement. The language will remain as drafted.**

62. 7.08: We respectfully disagree with County's use of CFCs to reimburse itself for MAG abatement. Please remove this language. We would request County give MAG abatement without any conditions for reimbursement like every other airport. CFCs should be used for repairs for current facilities or for future facilities. Taking that money from CFCs is hurting County's own asset as the CFC should be used to improve existing or build new rental car facilities. **Response: This is a material change from the existing Agreement and is included in the CFC Ordinance (copy attached). If the Airport is expected to take any financial risk for MAG payments that currently does not exist, the Airport would need to eliminate the MAG abatement provision and change the CFC Ordinance which the County is not willing to consider. The language will remain as drafted.**
63. 7.09: Please add **"Except in the case of abatement as described in 7.08"** to the beginning of the last sentence such that it reads: **"Except in the case of abatement of the Minimum Annual Guarantee as described in 7.08 herein,** in no case during the term of the Agreement, shall the annual payment to the County during any Agreement Year be less than the Minimum Annual Guarantee for the initial Agreement Year of this Agreement. **Response: See response to question 41.**
64. 8.02. b: Please correct the payment date for the percent fee back to the 20th of the month as it currently exists today and such that it correlates to Section 8.05 which calls for it to be paid on the 20th and submitted with the reporting. We don't finish closing out our month until the 10th, with weekends and holidays, this often makes payment by the 15th impossible. The 20th allows us to send the payment with reporting on the same day (reporting due on the 20th). **Response: The Payment date will be adjusted to reflect 20 calendar days after the end of the month and included in the execution copy of the Agreement.**
65. 8.03: Please remove the \$250 penalty in addition to the 1.5% late payment fee. If County will not, please provide a notice and cure period before any \$250 penalty will be assessed. **Response: The provisions for late payments are the same as the existing Agreement. The language will remain as drafted.**
66. 8.06: We request the requirement to retain an independent CPA be eliminated as it is very costly to hire a CPA for this purpose. We request that annual statements be certified by a financial representative of the company. If the County requires, we can provide a certification of the statements from an authorized financial officer of the corporation. **Response: The language is the same as what is included in the existing Agreement. An officer cannot provide the same unbiased opinion as an independent auditor. The County must rely in this independent assessment to determine the appropriateness of the fees. The language will remain as drafted.**
67. 9.01: Remove 'general maintenance' from this section. **Response: Since the operator is using a County facility and the County has to rely on the operator to maintain the facility in a first-class condition, normal wear and tear excepted, the operator is obligated to maintain the value of the asset to include general maintenance. The language is the same as what is in the current Agreement and will remain as drafted.**
68. 9.04: 50% is excessive. Please reduce to commercially reasonable 10%. **Response: This language is in the existing Agreement and will remain as drafted. It should be noted that it only comes into play if the operator fails to perform, thus the risk is controllable by the operator.**
69. 10.01.a: Strike this sentence – *"County shall maintain a centralized refuse removal system and contractor for the Airport and Operator shall pay its pro-rata share of the cost therefor through monthly charges from County."* This should be covered in our rent. Further, this is just a small counter/office with minimal amounts of refuse. Our break room is at the service facility where we maintain our own dumpster. **Response: The Airport provides and pays for all dumpsters that support**

the daily operations at the RAC facilities. If operators maintain dumpster facilities in addition to what is provided by the County, that is at their discretion and cost. This is in the existing Agreement and is a means for the County to recover the costs. Since this is an ITB and not a negotiation, the language will remain as drafted.

70. 13.01: Please preface this section with the following: “Except as to claims of damages or injuries caused by the County, its agents, representatives, employees, invitees, contractors or subcontractors....” Response: All indemnification language is County adopted language applicable to all County contracts. The language will remain as drafted.

71. 14.01.i: Please remove the requirement to have an adequate fleet of vehicles available for rental by customers from the list of causes for termination. We are too operationally restricted by the lack of sufficient production facilities provided to us by County to be held to this requirement. Response: Below is the provision referenced, not just an excerpt:

The failure of Operator to comply with one or more obligations under this Agreement when required (including the requirement to have an adequate fleet of vehicles available for rental by customers and/or maintained, cleaned, and sanitized properly) on three (3) separate occasions during any twelve (12) month consecutive period;

Since the County is entering into an on-airport Agreement with a finite number of companies to meet the Airport customer’s needs, it is fundamental that the operators have adequate resources to meet those needs or travelers will choose to fly to different airports. Not providing the level of customer service contemplated by entering into the rental car Agreement is a failure to perform. Note that the default provision references 3 separate occasions over a 12-month period and is not just a one-time event. The language will remain as drafted.

72. 14.05: Respectfully, terminating the agreement and obligating Operator to continue its obligations, including that for payment for remainder of term is not reasonable. All obligations, including monetary obligations, should terminate as of the termination of the agreement, except those accruing up to the date of termination. We would expect County to mitigate damages. Please modify the language accordingly. Response: This is the language that is in the current Agreement. This is a standard default provision that is consistent with other tenant contracts. The language will remain as drafted.

73. 14.09: We do not own the majority of our fleet and as such we cannot enter into an agreement that allows such liens. Please re-insert the following language at the end of the last sentence in the first paragraph that exists in the current agreement but has been deleted, which language excludes Operator’s vehicles from County’s right to assert a lien against Operator’s property. That language is as follows: “*County’s right to assert any lien against Operator’s property shall not extend to Operator’s fleet vehicles if and to the extent that Operator’s vehicle related financing agreements prohibit such action.*” Response: The language is the same as exists in the current Agreement and will remain as drafted.

And at the beginning of the first sentence in the second paragraph, please re-insert ‘*Except for Operator’s fleet of vehicles.*’ Response: The requested insertion to match the existing Agreement will be added in the final execution copy of the Agreement.

74. Section 17: Please re-insert the Most Favorable Nations language removed from the agreement. We request language as follows: “*In the event that any contract granted by the County to any other Rental Car Company shall contain any terms and conditions more favorable to such company than the terms*

and conditions herein described (other than the number of allocated parking spaces and the location of the concession area, etc.), then this Agreement shall be amended to include such more favorable terms and any offsetting burdens that may be imposed on any such other company. The intent of this provision is to ensure that the County shall give due diligence to ensure all rental car companies will be able to compete on terms as equal as possible with all other rental car companies, and to ensure that no individual rental car company or companies shall enjoy any rights or privileges more favorable to any such individual company or companies than those enjoyed by the all rental car companies.”
Response: The language contained in Section 17.19 of the current Agreement will be added to the execution copy of the Agreement.

75. In recent years, there have been several companies that have been interested in providing car sharing services on-airport, whether they are actual car sharing companies or a branded service that rental car companies offer. These car sharing companies/services have membership fees. If County intends to allow car sharing anywhere on airport property (whether offering limited parking spaces on-airport, curbside pick-up, etc.), please confirm that the County is collecting a portion of these membership fees along with the off-airport revenue percentage fee. **Response: Off-Airport Concession Agreements are not included in this ITB. Off-Airport Concession Agreements are a separate matter and should be addressed independent of this ITB process.**
76. Please provide the “sign in sheet” documenting all attendees present at the mandatory pre-bid meeting. **Response: See Addendum 1 dated December 17, 2020 and published on the County website.**
77. Please grandfather the counters. If you don’t grandfather the counters please explain to me what will happen if the number 3 market share holder has the highest bid and the number 1 market share holder has the second highest bid- who will pick first and why?? **Response: Under the scenario outlined, the highest bidder would have first choice (2 position change); the second highest, second choice; the third highest, third choice; and the lowest bidder takes the remaining counter/office/queue space.**
78. Please waive/ delete the following for current on airport operators---Attachment A III H references , IV Experience and operations information- A, B, D,E,H(this is proprietary information). **Response: Since all the potential bidders are incumbents, the County will waive the requirement to provide references included in Attachment A Section III, item H. With regard to Attachment A Section IV, item A- The County will waive the requirement to provide; item B- the County will waive the requirement to provide; item D- the County will waive the requirement to provide; item E- the County will waive the requirement to provide; item H- the requirement to provide will remain.**
79. We appreciate the additional week given before bid submittals are due, but we would like to request additional time given the current business environment. An additional two weeks would be ideal. **Response: In order to meet the meeting cycle for the County process, the due date identified in Addendum 1 dated December 17, 2020 posted on the County website, the due date of February 7, 2021 will remain. The County will issue the responses to requests for information and/or questions prior to the January 22, 2021 date in order to provide additional time for the bidders to prepare their responses.**
80. Allocation of space – our preference is to grandfather counters and ready car areas. **Response: See response to question 12 with regard to grandfathering of counters/office/queue space. Allocation of Ready/Return spaces will remain as outlined in the ITB.**
81. Given COVID-related mailing delays, please consider allowing submission via email to a dedicated email address. **Response: See response to question 2.**
82. Please provide Exhibit E (pro forma) in Excel form. **Response: Excel version will be available to awarded vendors upon request.**

83. Please provide a draft Service Facility Agreement for our review. **Response: The service facility is not part of this ITB. All of the incumbent operators have a copy of the respective Agreements.**
84. Please allow at least 30 days after receipt of notice of award to execute and return the agreement, and to provide Agreement Security. **Response: Since the County is providing a sample Agreement for review and comment as part of the ITB process, the execution Agreement should be simple to finalize and once approved by the Board of County Commissioners, the contract cannot be changed. The extension would not allow the Airport staff to meet the current schedule for completion. The response time included in the ITB will remain as drafted.**
85. With regard to the post-award Security Deposit, there is a conflict in language. Section III, Management & Operation, pgs. 3-4) states the amount is 100% of annual MAG for that year. Section 7.07 of the draft Agreement states the amount is 100% of annual MAG, Rentals, Security Charges and CFCs estimated to be remitted to County. Most airports require some percentage of MAG rather than 100%. Please revise to make this a set amount, perhaps 75% of first fiscal year MAG bid. **Response: See response to question 22.**
86. With regard to Attachment A, IV. Experience and Operations Information. Item B – please revise to listing five (5) comparable airports at which we have operated. **Response: See response to question 78.**
87. With regard to Attachment A, IV. Experience and Operations Information. Item D, number 14 – this asks for same information as Item B above. **Response: See response to question 78.**
88. With regard to Attachment H – please allow employee information to be provided post-award, with the signed Agreement. Also, for privacy reasons we do not provide social security numbers of our employees to third parties. **Response: See response to question 31.**
89. Also absent a change in the employees, this should be waived for an incumbent. In lieu of application, perhaps incumbent can certify that the employees remain the same. **Response: See response to question 31. Each employee will need to provide the requested information to the County in order to receive the required ID badge.**
90. Attachment K – given this is a concession for a rental car service, this form seems inapplicable. **Response: See response to question 32.**
91. Security deposit – see item #7 above. **Response: See response to question 22.**
92. 1.01: Agreement Year should start the same time as the Commencement Date. **Response: The County is extending the Base Term of the Agreement to exceed the five (5) years in order to synch to Agreement with the County fiscal year. The Commencement Date will allow the contract to commence under a Percentage Fee of Gross Revenues for the period from the Commencement date until the Agreement Year date when the MAG is implemented which eliminates the MAG requirement during the transition period.**
93. 1.06 and 1.09 are duplicates. **Response: Article 1.09 Will be eliminated in the final execution copy of the Agreement.**
94. 1.19 – Gross Revenue

- a. (4)- while the inclusion of fuel replacement is concessionable per the current agreement, we kindly ask that it be excluded. **Response: The current Agreement includes this as Gross Revenue definition and will remain as drafted.**
 - b. Please re-insert that the following be excluded- Qualified carbon offsets. **Response: See response to question 39.**
 - c. Customer payments directly related to government fines and fees (reimbursement of tolls, tickets, towing or fines) **Response: See response to question 39.**
95. 1.21- MAG: this definition does not consider the possibility of an abatement (as set provided for in Section 7.08 Of the Agreement). **Response: This is the definition and not the subject matter section that addresses the details associated with the contractual terms of the MAG.**
96. 1.21 – MAG: Please revise definition to reflect the language set forth in Section 7.09. **Response: The definition serves the purpose of a definition and will remain as drafted.**
97. Section 5.02- Option Term- ITB instructions indicate an option term of 5 years but this section states 3 years. Please confirm. **Response; See response to question 21.**
98. County should not have the right in its sole discretion to reject the notice to extend the agreement. **Response: The Agreement needs to work for both the operators and the County. As is the case with operators being able to not exercise the Option Term of the conditions in the industry and or VPS change, the County shall have the same ability to not extend the Option Term of the industry has changed and the existing contract terms are no longer in the best interests of the County. The language will remain as drafted.**
99. One-year notice requirement is too far in advance. As we have recently experienced, a lot can change over the course of a few months, kindly consider shortening the notice period. **Response: With the time required to draft an ITB, internally review it, advertise, allow for the responses to be developed, evaluate and make a recommendation to the BOCC, obtain approval, and execute contracts, the County feels a year is the appropriate amount of time. The language will remain as drafted.**
100. Section 5.03- Holdover- In lieu of a tenancy at sufferance, please allow for a month to month tenancy terminable by either party upon at least 30 days prior written notice. **Response: The recommended change will be incorporated into the final execution Agreement.**
101. In addition, please remove the 25% “surcharge.” **Response: See response to question 47.**
102. Section 6.01(b): please modify termination right to reflect that County can only terminate if Operator fails to operate the concession under either of the brand names specified in 6.01 (b) or an approved substitute brand, then... **Response: General Termination and Default rights for the County are covered in Article 14 and are broader than not offering the specified brand. The reference in 6.01 (b) are for not offering the specified brand in addition to the termination rights contained in Article 14.**
103. It needs to be clear that County cannot terminate if Operator stops operating one (1) of its two (2) brands, so long as Operator continues to pay the required MAG. **Response: The provision below states that.**
- b. Operator’s rental car concession shall be operated under the following brand name(s): _____, for the Term of this Agreement and the payment of the MAG shall be required throughout the Term for and dual branded Bids regardless of whether the second brand is maintained. Operator cannot change or operate additional brands at the Leased Premises or from the Airport during the term of this Agreement. Operator may substitute a brand that is*

under the control of the Operator during the Term of the Agreement provided the Operator provides written notice to the Airports Director with the corresponding documentation that the Operator has a controlling interest in the substitute brand and identifies the brand being replaced and the Airports Director provides written approval prior to any such substitution. If Operator shall, at any time, cease to operate the concession under the Operator's brand name(s) specified in this Section 6.01(b), then this Agreement and Operator's concession privileges at the Airport shall be subject to termination upon thirty (30) calendar days advance written notice to Operator from the County.

A new sentence will be added to the end of this Article in the execution copy of the Agreement to read as follows: If an Operator has designated two brands in the ITB response and reduces to one brand during the Term of this Agreement, the counter/office/queue rental rate will be adjusted accordingly provided the Operator continues to pay the full MAG amount required, as may be adjusted in accordance with this Agreement.

104. Section 6.03(a): the last two lines "... nor shall it vacate the Leased Premises prior to the termination or expiration of this Agreement..." is a bit broad. Generally, the occupant of a premises should vacate prior to the effective date of a termination or the expiration date to avoid a holdover situation. **Response: The context for this statement is that since there are limited premises to be used for car rental operations, the County wants to ensure that the premises are bring used for just that. The County is requiring the operator to use the premises for the intended use so that the customers can be served.**
105. Section 6.05: Please re-insert the following statement/provision- *to a customer who has deplaned from the Airport within the past 48 hours*- otherwise the statement is too broad. **Response: See response to question 52.**
106. Section 7.07- Agreement Security- the requirement set forth in this section is excessive. The norm is 2-4 months of the MAG. In addition, this provision is double what was required under the current agreement. **Response: See response to question 22.**
107. Section 7.08- CFCs should not be used for anything other than rental car related facilities, improvements, O&M, etc. As such, please strike the last sentence of this provision. **Response: The use of CFCs to offset MAG revenue to the County in the event of an abatement of the MAG was a fundamental requirement to the County agreeing to a MAG abatement provision in the current Agreement. This provision is also included in the CFC Ordinance and the County is not willing to change the provision. The language will remain as drafted.**
108. Section 7.09 MAG Adjustment- please add exception for the possibility of the abatement set forth in Section 7.08. **Response: See response to question 107.**
109. Section 7.10 – this section number is duplicated. **Response: The numbering sequence will be corrected in the final execution Agreement.**
110. Section 8.02(b) – please revise to reflect that payment shall be made within 20 days, as currently written in the current agreement. **Response: See response to question 64.**
111. Section 8.03- late payment- \$250 admin fee for each unpaid amount is excessive. Kindly strike or reduce to a one-time payment of \$100 to be paid if Operator fails to cure within the applicable time period. **Response: See response to question 65.**

112. Section 8.06- what happens if the overpayment is less than 11%? Operator should still receive a refund no matter the %. **Response: Below is the full provision:**

At the time of submission of said statement, County shall also recalculate Operator's Concession Fee for the Agreement Year. If Operator has paid more than the greater of eleven percent (11%) of Gross Receipts and the Minimum Annual Guarantee for the Agreement Year, the excess amount shall be refunded to Operator by County.

Since MAG's are paid in equal monthly amounts which could result in an annual overpayment when the annual Percentage Fee of Gross Revenues is calculated and compared to the set MAG paid, if an over payment has occurred, a settlement payment to the operator would be made.

113. Section 8.07(e)- 5 years is too long. Please revise to reflect 3 years per the current agreement. **Response: The language will be changed to reflect the three (3) years as is in the current Agreement and included in the final execution copy of the Agreement.**

114. Section 8.08(a)- while this section is generally the same as the prior agreement, a 2% error margin is a low threshold to assert such hefty penalties. Please increase the percentage. **Response: The language is in the current Agreement and is effectively requiring the operators to report accurately. The two percent (2%) threshold is a reasonable standard and the language will remain as drafted.**

115. Section 9.04- 50% overhead is excessive, especially when such charge does not include admin fee, legal fees etc., please strike. **Response: The fifty percent (50%) threshold is in the current Agreement and is intentionally high to provide an incentive for the operator to meet their performance requirements. Since the action would only incur if the operator failed to perform and was given written notice to correct and continued to fail, the premium is a reasonable reimbursement for the County for the direct and indirect expenses of enforcing the corrective action. The language will remain as drafted.**

116. Section 12.02- 10 days to respond is not enough time. Please reinsert the 30 days included in the current agreement. **Response: The execution Agreement will be modified to reflect the 30-day period as is in the current Agreement.**

117. Section 13.02- we request the right to self-insure. As such, please add the following: Notwithstanding anything to the contrary contained herein, Operator shall have the right to self-insure, in whole or in part, all coverages that Operator is required to maintain as set forth herein. **Response: A qualified self-insured program is allowed if the organization has satisfied state filing requirements, met the minimum financial and size criteria, and received approval to self-insure workers compensation or automobile liability.**

118. Section 14.1 – termination/default- while this section is generally the same as the current agreement, we have the following comments:

- a. First paragraph- this clause is very clear. County should only have the right to terminate upon the occurrence of an Event of Default, and only during the continuance of such Event of Default. **Response: Language will remain as drafted.**
- b. In addition, Operator should receive notice of default before County can terminate. **Response: The majority of the elements causing default are straightforward and would not be altered by a notice requirement. The only operationally related defaults are items h, i, and j that either have multiple occurrences which the operator would be aware of or abandonment which the operator would initiate. The language will remain as drafted.**

- c. Finally, notice should be effective 10 days after Operator has received it. (although 10 days is not long enough, especially if County refuses to provide prior notice of default).
Response: The language is the same as in the current contract and will remain as drafted.
119. Section 14.05(a)- Operator's obligations should cease as of the effective date of the termination notice. **Response: If the Agreement is terminated for default, it is standard practice that the operator be bound by the contractual obligations since the operator would be the party defaulting. If not, this would turn into a cancellation for convenience clause and the County would not be made whole for the contractual obligations of the defaulting party. The language will remain as drafted.**
120. Section 14.05(c)- Operator should not be subject to reoccurring court or legal fees. Please strike Section C. **Response: This section addresses the County's rights and is not about fees. It is consistent with the existing Agreement and will remain as drafted.**
121. Section 14.07- we kindly request mutual rights as set forth in 14.05(d). **Response: The language is the same as what exists in the current Agreement and will remain as drafted.**
122. Section 14.09- please strike language granting county a right to assert a lien against Operator's property. **Response: This is a very standard provision and is a protection right the County has. This is the same provision as is in the existing Agreement and the language will remain as drafted.**
123. Article 14 & 15- please delete any term making the sale or merger of Operator without the County's consent a default. A public company, as a practical matter, cannot provide notice nor have time to obtain the prior consent of an airport authority. Please delete or revise to provide for post-notice only, or an exception for concessionaires that are themselves, or owned or controlled by, companies whose shares are traded on a public stock exchange. **Response: Section 15.01 states that consent of transfer cannot be unreasonable withheld. Section 15.05 identifies the level of transfer to meet or exceed forty percent (40%) for a transaction to be considered a transfer. The language is consistent with the current Agreement and will remain as drafted.**
124. Section 16.11(h)- County should be responsible and indemnify Operator against any pre-existing pollution, contamination, condition or damage. **Response: This is standard environmental language adopted by the County to be included in all contracts. The language will remain as drafted.**
125. Part I/Instructions: Y and Part V: During the pre-bid meeting, County stated that if County approved an exception in a bidder's Bid Submittal per Part V, that County would only make that exception if all successful bidders agreed to the exception. And if all successful bidders do not agree, County will not allow the exception. Please confirm County will only allow an exception if all successful bidders agree to it. **Response: See response to question 17.**
126. During the pre-bid meeting, County stated it is unable to forecast passenger growth over the next few years. Will County kindly provide the passenger growth percentage County is using in its current year budget and also in formulation of the next year budget? **See response to question 19.**
127. Why is there a premium on the counter rent for dual brands? There is no additional counter space given – the brands are simply sharing the same space. The County is not 'out' any revenue in this space share as the concessionaire is paying the percent fee on the revenue from both brands. There should be no extra rent for the same space. Please eliminate this premium for dual branded bids. **Response: See response to question 53.**

128. During the pre-bid meeting, it was discussed there would be improvement made to the rental car counters. Please provide more detail on what those improvements will be and timeline for improvements. **Response: The County is on the early stages of the design of an expanded baggage claim area that may include an expansion of the rental car counter/office/queue spaces. Neither the design nor a schedule have been developed. The County will advise as the process proceeds.**

129. During the pre-bid meeting, County referenced impending improvements to the service areas. As we understand, this is new equipment (to replace current). Is there any intended expansion of the service area to meet the demands of the growth in the market? And, what is the timeline for that? **Response: The service areas are not part of this ITB. Any discussions on the service facilities needs to be conducted separately.**

ARTICLE III. - RENTAL CAR CONTRACTS AT THE OKALOOSA REGIONAL AIRPORT

Footnotes:

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Editor's note— Ord. No. 10-16, §§ 1—6, adopted November 16, 2010, in effect repealed the former Art. III, §§ 3-101—3-105, and enacted a new Art. III as set out herein. The former Art. III pertained to similar subject matter and derived from Ord. No. 04-64, adopted October 19, 2004 and Ord. No. 07-21, adopted May 1, 2007.

Sec. 3-101. - Definitions.

Except as otherwise clearly indicated by the context, the word and phrases set forth in this section shall have the following meanings when used in this article:

Covered rental car operator means a rental car operator that files for bankruptcy protection or has an involuntary bankruptcy proceeding initiated against it after enactment of this article or a rental car operator that has been non-compliant with the CFC remittance requirements of section 3-103 of this article for a period of more than 90 days. A rental car operator ceases to be a covered rental car operator when it emerges from bankruptcy protection, or for a rental car operator that has been non-compliant with the CFC remittance requirements of section 3-103 of this article, as aforesaid, after said operator has been in compliance with the CFC remittance requirements of section 3-103 and section 3-105 for a period of 180 consecutive days.

Customer means any person, firm, corporation, or other entity who or which rents and/or takes possession of a passenger motor vehicle at, through, or from the airport or an airport facility under or pursuant to a rental car contract.

Customer facility charge or *CFC* means a charge of \$3.75 per rental car transaction day.

Rental car contract means the document or documents (whether written, electronic, or otherwise) under or pursuant to which any rental car operator rents, arranges for the rental of, and/or delivers possession of a passenger motor vehicle to a customer.

Rental car operator or *operator* means any person, firm, corporation, or other entity operating a rental car concession at the airport or any other person, firm, corporation, or other entity authorized by the county to rent and/or arrange for the rental of a passenger motor vehicle to any driver, passenger, or other person, firm, corporation, or other entity at, through, or from the airport or an airport facility.

Rental car transaction day means each 24-hour period, or fraction thereof, within a rental period under or pursuant to a rental car contract.

(Ord. No. 10-16, § 1, 11-16-10)

Sec. 3-102. - Imposition of customer facility charge.

Each rental car operator shall charge and collect from each of its customers, including but not limited to those receiving complimentary and/or discounted rentals of passenger motor vehicles, the customer facility charge specified in section 3-101 above. Said charge shall be identified on a separate line on each rental car contract before, and conspicuously separate from, any state and local taxes, and shall be described only as the "airport customer facility charge" or "airport CFC."

(Ord. No. 10-16, § 2, 11-16-10)

Sec. 3-103. - Collection and remittance.

- (a) All customer facility charges collected by a rental car operator and/or its agents are, and shall be, funds held in trust by or for said rental car operator for the benefit of the county. Said customer facility charges shall be the county's property, and said rental car operator and its agents shall have only a possessory interest in the customer facility charges and shall not have any legal or equitable interest therein.
- (b) The customer facility charges collected by each rental car operator and/or its agents shall be promptly deposited to an interest-bearing account of a federal deposit insurance corporation insured bank or financial institution and the same shall be due and payable as set forth herein to the county in the currency of the United States of America. The CFC revenue ("CFCs plus interest on CFCs deposits") in such account on the last calendar day of each month shall be remitted to the county by check on a bank insured by the Federal Deposit Insurance Corporation and at the office of the airports director or, if said rental car operator is so notified by the county, shall be remitted by electronic transfer to the county's authorized depository financial institution. Such remittance shall be made no later than the 15th calendar day following the end of said month.
- (c) The account to which each rental car operator deposits the customer facility charges shall not be subject to any lien, pledge or hypothecation as a result of any credit or security instrument entered into by said rental car operator. Each rental car operator shall segregate, separately account for, and disclose all customer facility charges as trust funds in their financial statements; provided, however, that the failure to do so shall not alter or eliminate their status as trust funds.

- (d) Each rental car operator shall maintain such accounting records and accounting controls over the collection, deposit, safekeeping, and remittance of said customer facility charges as are required by the terms of its agreements with the county, as then in effect, or if not so specified therein, as specified by the airports director pursuant to sections 3-105 and 3-106 of this article, and all of said records and controls shall be subject to inspection and audit at all times by the county and its representatives as provided for by the agreements and/or section 3-106 of this article. Unless otherwise established pursuant to section 3-106 of this article, the inspection and audit provisions contained in the agreements shall apply to each rental car operator's obligations with respect to customer facility charges under this article.
- (e) Each rental car operator shall be obligated to remit to the county all customer facility charges imposed on its customers pursuant to this article, whether or not they are actually collected from its customers. Any amount not remitted by a rental car operator to the county when due under this article shall bear interest at the highest legal rate allowed under Florida law, and the costs of collection and attorneys fees, if any, incurred by the county in obtaining or attempting to obtain payment, plus an administrative fee of \$250.00 per each late or incorrect remittance, shall forthwith be paid by such rental car operator to the county.

(Ord. No. 10-16, § 3, 11-16-10)

Sec. 3-104. - Application of customer facility charge revenue.

Revenue from the customer facility charges remitted to the county pursuant to section 3-103 above shall be deposited, utilized, and applied from time to time by the county in the priorities as follows:

- (1) Utilized to pay debt service and to fund any other costs of financing related to any rental car facility improvement made by the county for the benefit of the rental car operators or their customers, including but not limited to the costs of bond issuance, bond coverage and fund deposits, whether said requirements are specified in a trust indenture, bond ordinance or agreement by and between the county and the rental car operators related to said facility or facility improvements.
- (2)

Utilized to fund or reimburse the county for the costs (including but not limited to imputed interest on funds expended) of any rental car facility or facility improvements made by the county for the benefit of the rental car operators or their customers from county funds other than bonds.

- (3) Deposited to the county's customer facility charge fund to be used by the county to pay or reimburse the county for any capital or operating expenses incurred by the county, which would benefit any rental car operator or its customers or which would expand or improve ground transportation-related facilities at the airport, including but not limited to the financing and construction of additional rental car or other ground transportation-related facilities at the airport, or the payment, reimbursement or abatement of any rental car operator rental or other payment due the county or for operating expenses incurred by the county on behalf of the rental car operators or for any other purpose, expenditure or reimbursement as may be authorized by any agreement between the county and the rental car operators, but only to the extent that CFCs are available and allocated by the County for said purpose or purposes after payment and allocation of amounts provided for in subsections (1) and (2) above.

(Ord. No. 10-16, § 4, 11-16-10)

Sec. 3-105. - Dedicated CFC account requirement.

In the event that a rental car operator shall become a covered rental car operator and so long as it remains a covered rental car operator, it shall in addition to complying with the collection and remittance requirements contained in section 3-103 hereof, comply with the following additional special CFC deposit and remittance requirements:

- (1) All customer facility charges collected by a covered rental car operator or its agents shall be accounted for daily, segregated from the operator's gross receipts, and deposited daily to the bank account established pursuant to section 3-105(2) below.
- (2) So long as a rental car operator is a covered rental car operator, the operator shall establish and maintain a separate bank account, meeting all the requirements of sections 3-103(a) through 3-103(c) of this article, and designate the account as the "Okaloosa County CFC Account." The account shall be used solely for the deposit of CFCs collected by the operator pursuant to this article. The covered rental car

operator shall deposit to the account all the customer facility charge receipts received, accounted for, and segregated daily from the rental car operator's gross receipts pursuant to section 3-105(1) above.

- (3) If so directed and whenever directed by the county, the covered rental car operator shall instruct the bank holding the above CFC account to wire transfer the CFC funds held in the above account to the county's account at the county's authorized depository bank, as instructed by the county.

(Ord. No. 10-16, § 5, 11-16-10)

Sec. 3-106. - Implementation.

The airports director is hereby empowered to enforce this article on behalf of the county and to design and require the use of such forms, and to establish such procedures and rules, as he may from time to time deem necessary or appropriate for the administration of this article, including but not limited to procedures and rules governing the rental car operators' collection, deposit, safe-keeping, record keeping, and remittance of the CFC and the county's rights of inspection and audit with respect to each operator's obligation under this article and its agreements.

(Ord. No. 10-16, § 6, 11-16-10)