

# **TOWN OF BARNSTABLE BARNSTABLE MUNICIPAL AIRPORT**

## **Request for Proposal for the 2018 Lease of Space in the Airport Terminal to Operate Rental Car Services to Airport Patrons**



February 26, 2018

Due date: April 6, 2018, 2 pm

Last Date to submit Questions: 3/31/18 Noon

Contact: Johanna Boucher, 508-862-4741

All potential bidders are required to be registered on the Town of Barnstable Bid & RFP System at [www.town.barnstable.ma.us](http://www.town.barnstable.ma.us). This document and any addenda thereto are issued electronically only. It is the responsibility of every bidder who receives this bid document and all associated documents to check the Town of Barnstable Bid & RFP System for any addenda or modification to this solicitation, if they intend to respond. The Town of Barnstable accepts no liability to provide accommodation to bidders who submit a response based upon an out of date solicitation document or documents obtained from a source other than the Town. Bidders may not alter (manually or electronically) the bid language or any bid documents. Unauthorized modifications to the body of the bid, specifications, terms or conditions, or which change the intent of this bid are prohibited and may disqualify a response.

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## **SECTION I. INTRODUCTION AND BACKGROUND**

The Chief Procurement Officer for the Town of Barnstable on behalf of Barnstable Airport Commission and the Airport Manager is soliciting responses for the Lease of space in the current terminal for the operation of rental car services to airport passengers. A total of four (4) car rental companies will be offered space in the terminal for a period of thirty six (36) months with one (1) thirty six (36) month option. A thirty-six (36) month contract is being offered with one (1) thirty six (36) month option, to be exercised at the sole discretion of the Owner.

This Request for Proposal is being conducted in accordance with the provisions of Massachusetts General Laws Chapter 30B, Chapter 16 and all lease documents must be strictly awarded in accordance with the requirements of the Request for Proposal regarding Real Property Transactions. If it becomes necessary to revise any part of the RFP or otherwise provide additional information, an addendum will be issued to all prospective proposers who received copies of the original request.

### **A. BACKGROUND**

The Town of Barnstable, located on Cape Cod, was incorporated in 1639. The Town has an annual year-round population of over 45,000 and approximately 150,000 seasonal residents. The Town encompasses an area of 64.1 square miles and consists of seven distinct villages: Barnstable, Centerville, Cotuit, Hyannis, Marstons Mills, Osterville, and West Barnstable. It serves as the County Seat for Barnstable County. The Town of Barnstable is located 65 miles from Boston and 75 miles from Providence.

The Town of Barnstable serves as the commercial center for Cape Cod. It houses the main hospital, regional social service agencies, the superior court, and the regional shopping mall. The Town functions under a Council-Manager form of government, with a charter-supported strong Manager, and thirteen Town Councilors elected by precinct. The Barnstable Town Council is the legislative and policy-making branch of the Town government. The council develops, adopts, and enacts policies and ordinances, which it believes promote and enhance the general welfare of the Town.

The Barnstable Municipal Airport (“Airport”) is owned by the Town of Barnstable and operated by the Barnstable Municipal Airport Commission (“Commission”). The Airport, which originally opened in 1928 as a private airport, has grown to be one of the busiest airports in the Commonwealth. The Airport designed and built a new terminal and access road in 2011 along with a number of airfield improvements.

The Barnstable Municipal Airport serves as a distinct commercial transportation hub for the residents of the Town of Barnstable, Cape Cod, and the Islands of Martha’s Vineyard and Nantucket by meeting the regional demand for air transportation. For some, it provides very affordable and economic travel opportunities from Hyannis to major destinations across the country, and yet for others, the airport provides a much needed mode of travel to and from the Islands of Nantucket and Martha’s Vineyard. This includes travel, tourism, and for a large professional labor force that commute to jobs. From Hyannis, travelers are afforded many flight opportunities, to local and national destinations, including Nantucket and Martha’s Vineyard, Boston, New York City and beyond. The airport is the headquarters for two year-round commuter airlines and for one seasonal transient airline.

- Cape Air/Nantucket Airways is headquartered at the airport. Barnstable Municipal Airport is where Cape Air conducts aircraft fleet maintenance, training of pilots and staff, and dispatch for the nearly 40 cities that they serve.

- Rectrix Shuttle is headquartered at Barnstable Municipal Airport running operations similar to that of Cape Air/Nantucket Airways from the airport. Rectrix Shuttle operates daily flights to/from the island of Nantucket and seasonally to/from Worcester Regional Airport.
- JetBlue operates seasonally at Barnstable Municipal Airport offering flights to/from Hyannis and New York (JFK) from June through September.
- The airport is also home to over 50 private aircraft owners; an avionics and aircraft maintenance facility; high-end corporate and charter operators; general aviation facilities operators providing various services to smaller privately owned single and multi-engine aircraft; two freight forwarders; a number of charter flight operators; and various Cape Cod businesses that house their aircraft fleets.

Car rentals from customers traveling through the airport via the airlines, as well as visitors and pick-up customers is expected at the airport.

## **SECTION II. KEY DATES FOR THIS PROPOSAL**

### **Key dates for this Proposal**

February 26, 2018	RFP available on Town of Barnstable website/CommBuys
March 4, 2018	Advertise in the Cape Cod Times
March 7, 2018	Advertisement in the Central Register
March 18, 2018	Second Advertisement in the Cape Cod Times
March 26, 2018 , Noon	Last day to submit questions to Chief Procurement Officer
April 6, 2018	Proposals Due, 2 pm, Chief Procurement Officer’s Office, 230 South St., Hyannis
Within 30 days	Award to four highest ranked, responsive responsible proposers
July 1, 2018	First day of operation under new lease

## **SECTION III. PROPOSAL INSTRUCTIONS**

### **A. INSTRUCTIONS TO PROPOSERS**

1. Attention of all proposers is directed to Chapter 30B, Chapter 16 of the General Laws of the Commonwealth of Massachusetts and to all other applicable sections of the General Laws as most recently amended which govern the award of this contract.
2. The Airport Commission may cancel this RFP, in whole or in part, or may reject all proposals submitted in response, or may procure only some goods and/or services outlined in this RFP whenever such action is determined to be fiscally advantageous to the Airport Commission or if it is otherwise in the best interest of the Airport Commission.
3. The Airport Commission may request that supplementary information be furnished to assure the Airport Commission that a proposer has the technical competence, the business and

technical organization, and the financial resources adequate to successfully perform the necessary work.

4. No forms are provided by the awarding authority except the Certificate of Non Collusion - Appendix A, the State Taxes Certification Clause - Appendix B, the Price Proposal submission sheet - Appendix C and the Agreement between Vendor and Airport Commission - Appendix D. However, all proposals shall be in ink or typewritten and must be completed according to the instructions contained herein.
5. Questions or clarifications rising from these documents shall be submitted to the Airport Commission in writing. They should be sent to the individual named in section VI, C. They must be submitted in accordance with section II "Key Dates for This Proposal".
6. Each proposer shall acknowledge receipt of any and all addendum issued to the Request for Proposal by so indicating in the Cover Letter/General Response. Failure to do so shall be cause to reject the proposal as being unresponsive.
7. The proposer shall sign the proposal correctly in ink or in the case of an organization, firm, partnership or corporation, a person having the legal authority from said organization to sign the proposal will sign the document.
8. Proposers may correct, modify or withdraw the original proposals on or before the date and time as stated in the "Legal Advertisement"- Appendix E. Corrections or modifications shall be in sealed envelopes, clearly marked to indicate the contents, with the name and address of the vendor. Any late correction or modification to the proposal will not be accepted. A proposer who wishes to withdraw a proposal must make a request in writing.
9. Each proposer shall be presumed to have read and be thoroughly familiar with these documents. Unfamiliarity with these documents shall in no way relieve any proposer from any obligation in respect to his/her proposal.
10. It is understood that the Vendor's Proposals to the Airport Commission to provide said services and products will remain valid for 90 days past the submission deadline.
11. The proposer's attention is directed to the fact that all applicable state laws, municipal ordinances, and the rules and regulations of all authorities having jurisdiction over municipal finance shall apply to the contract throughout, and they shall be deemed to be included in the contract the same as though herein written out in full.
12. It is understood that the proposers have submitted their Proposals in good faith and have not colluded with any other individuals, firms, or corporations in creating the proposals to subvert the market process. See Certificate of Non-Collusion - Appendix A.
13. All costs involved in preparing the Proposal will be borne by the vendor; the Airport Commission will not be liable for any costs associated with the creation of the Proposal. The proposer shall be familiar with all state, local and other laws relating to this type of work and shall obtain all permits required and shall pay all expenses for same.
14. All responses are to include a statement that the Proposal is in accordance with this Request for Proposal and that the proposer has read and understands all sections and provisions herein. Exceptions, if any, are to be clearly stated.
15. Proposals, which are incomplete, conditional or obscure, will be rejected. No award will be made to any proposer who cannot satisfy the awarding authority that he/she has sufficient ability and sufficient capital to enable him/her to meet the requirements of these specifications. The awarding authority's decision or judgment on these matters shall be final, conclusive and binding.

16. Any proposal received after the date and time stated in the “Legal Advertisement” – Appendix E, will be deemed “non-responsive” and shall not be opened. Unopened proposals will be returned to the proposer.
17. The evaluation of the Proposals will be conducted by a team/committee appointed by the Chief Procurement Officer with the direction of the Airport Commission and Airport Manager. The judgment of the evaluators will be based upon the evaluation criteria set forth in this RFP and shall be final.
18. The Proposals will be opened on the date and at the time stated in the “Legal Advertisement” – Appendix E. The name of the person or organization submitting a proposal will be read and recorded. The contents of all proposals will be opened publicly.
19. Any contract resulting from this RFP shall be awarded to the proposers whose Proposals are deemed to be the most Highly Advantageous to the Airport Commission. The Evaluation Committee alone will be the sole judge in determining whether a vendor’s proposal satisfies the requirements of this RFP. The Evaluation Committee will make a recommendation whether or not the Proposal will prove advantageous to the Airport Commission.
20. Response to this Request for Proposal acknowledges the vendor's acceptance of all sections and requirements of this document. The Request for Proposal will be written into the successful vendor's proposal as part of the system contract. **IF THE VENDOR’S PROPOSAL DOES NOT COMPLY WITH THE REQUIREMENTS OF THIS REQUEST FOR PROPOSAL, OR IF AN ITEM IS NOT UNDERSTOOD IN ANYWAY, A COPY OF THAT SECTION OF THE REQUEST FOR PROPOSAL MUST THEN BE INCLUDED IN THE PROPOSAL AND ALL ITS COPIES CLEARLY STATING THE DEVIATION, ADDITIONS, OR OTHER COMMENTS.**

## **B. PRE-RESPONSE CONFERENCE AND SITE VISIT**

Site visits may be arranged by contacting the Assistant Airport Manager at 508-775-2020. Directions to the Town may be obtained by calling the same number. The Airport Manager’s Office is staffed Monday through Friday, 8:00 a.m. to 4:30 p.m.

## **C. QUESTIONS AND CLARIFICATIONS**

Questions requiring clarification shall be submitted in writing or faxed to the Chief Procurement Officer prior to the date indicated in Section II, Key Dates, in order to afford adequate time to respond with a correction or additional information prior to the deadline for submission of proposals. See section VI.C for contact information. If necessary, a written addendum will be incorporated into the RFP and will become part of the contract. Those who have received a copy of the RFP will be notified of such changes.

## **D. NOTIFICATION OF AWARD**

All proposers will be notified of the selection decision within 45 days of the date the proposals were submitted unless otherwise notified by the Airport Commission. In no case will the awards be made beyond 90 days unless the vendors agree to extend the period of time in which the proposals are valid.

## **E. LEASE**

This Request for Proposal, as well as the selected vendors’ proposals, and any addenda, will become part of the final Leases. A sample lease the Airport Commission will sign is attached as Appendix D.

The Lease periods will be for the terms as written in the lease documents included in Appendix D.

Each lease shall be subject to **Force Majeure** considerations and in the event that either party hereto shall be prevented from the performance of any act required thereunder by reasons of strikes, lockouts, labor trouble, inability to procure materials, failure of power, fire, winds, Acts of God, riots, insurrections, war or other reason of a like nature not reasonably within the control of the party in performing any obligations shall be excused for the period of the non-performance, and the period for the performance of such obligation shall be extended for an equivalent period for no additional cost to the Municipality. In the event that the extension is not possible, the provider may be required to rebate the Municipality a portion of the fee.

Continued failure to perform for periods aggregating sixty (60) or more days, even for causes beyond the control of the Vendor, shall be deemed to render performance impossible, and the Lease shall thereafter have the right to terminate this agreement in accordance with the provisions of the Lease.

## **F. INSURANCE REQUIREMENTS**

### **1. Indemnification**

The Vendor shall indemnify, defend, and save harmless the TOWN, all of the TOWN officers, agents and employees from and against all suits and claims of liability of every name and nature, including attorney's fees and costs of defending any action or claim, for or on account of any claim, loss, liability or injuries to persons or damage to property of the TOWN or any person, firm, corporation or association arising out of or resulting from any act, omission, or negligence of the Vendor, subcontractors and their agents or employees in the performance of the work covered by this Agreement and/or their failure to comply with terms and conditions of this Agreement . The foregoing provisions shall not be deemed to be released, waived or modified in any respect by reason of any surety or insurance provided by the Vendor under contract with the TOWN.

### **2. General Requirements**

(a) The Vendor shall, before commencing performance of the contract, be responsible for providing and maintaining insurance coverage in force for the life of the contract of the kind and in adequate amounts to secure all of the obligations under the contract and with insurance companies acceptable to the Town of Barnstable. All such insurance carried should not be less than the kinds and amounts designated herein, and the Vendor agrees that the stipulation herein of the kinds and limits of coverage shall in no way limit the liability of the Vendor to any such kinds and amounts of insurance coverage. Under all insurance coverage, required or not required by the Town, the Vendor shall defend, indemnify, and hold harmless the Town of Barnstable, its elected or duly appointed offices, directors and employees against any claim based upon negligent, accidental or intentional acts or omissions of the Vendor, its employees or its agents in providing its services to employees of the municipality or their dependents pursuant to the agreement.

(b) With the exception of Professional Services Liability for architects, designers and engineers, and Worker's Compensation, the Town of Barnstable and its employees must be named as an additional insured and a certificate of insurance will be provided indicating such for each of the insurance policies or surety bonds obtained pursuant to the requirements established by the issuance of the contract. Upon execution of the contract the Vendor will

provide copies of certificates of insurance to the Town of Barnstable, Procurement & Risk Management.

(c) Failure to provide and continue in force such insurance as aforesaid shall be deemed a material breach of this contract, and shall constitute sufficient grounds for immediate termination of the same. All insurance maintained as provided for in the above shall be taken out and maintained at the sole expense of the Vendor. Annually, at time of Vendor's policy renewal, updated insurance certificates shall be sent to the Town of Barnstable, Procurement & Risk Management, 230 South Street, Hyannis, MA 02601.

(d) No cancellations of such insurance, whether by the insurer or by the insured party shall be valid unless written notice thereof is given by the parties proposing cancellation to the other party and to the Town of Barnstable at least thirty (30) days prior to the intended effective date thereof, which date shall be expressed in said notice, and which shall be sent out by registered mail, return receipt requested. These provisions shall apply to the legal representatives, trustees in bankruptcy, receiver, assignee, and/or the successor in interest of the Vendor.

(e) All insurance coverage shall be placed with such company as may be acceptable to the Town of Barnstable and shall constitute a material part of the contract documents.

3. **Comprehensive General Liability Insurance**

The Vendor shall carry Commercial General Liability Insurance with an each occurrence limit of liability no less than One Million Dollars (\$1,000,000.00) and a general aggregate limit of liability no less than Two Million Dollars (\$2,000,000.00); and a Products/Completed Operations (*as may be required*) Aggregate limit no less than Two Million Dollars (\$2,000,000.00) for all injury and damages to or destruction of property during the policy period.

4. **Automobile Liability and Property Damage Insurance**

The Vendor shall carry business Automobile Liability Insurance covering all owned vehicles with a combined single limit no less than One Million Dollars (\$1,000,000.00) to cover all damage caused by contracted employees of the awarded Vendor. Level of insurance must adequately cover the liability exposure of project site and is subject to Town of Barnstable Risk Manager approval.

5. **Workers' Compensation Insurance**

The Vendor shall carry Workers' Compensation Insurance as required by Massachusetts General Law, c. 152, and Section 25, with a minimum limit of Employer's Liability as per Massachusetts General Law requirements.

6. **Excess Liability Insurance (as applicable to each requirement)**

The Vendor shall carry excess liability insurance of not less than One Million Dollars (\$1,000,000.00) covering over general liability, automobile, and worker's compensation insurance.

7. **Other Liability (as may be necessary)**



(a) The Town of Barnstable reserves the right to request proof of other insurance coverage depending upon the job for which the Vendor is hired.

(b)The aforementioned insurance coverages shall remain in full force and effect throughout the period of the contract. Similar insurance coverage shall be provided by or in behalf of any subcontractor to cover their operations with the same minimum limits as required of the Vendor. Vendor's insurance shall be primary insurance to all insurance carried by Owner.

#### **G. SUBCONTRACTING OF SERVICES**

The subcontracting of services under this contract is not allowed without prior written consent from the Airport Manager. All subleasing agreements will be found within the lease documents

#### **H. MINORITY OR WOMAN BUSINESS ENTERPRISE PARTICIPATION**

Minority-Owned Business Enterprises (MBE) or Woman-Owned Business Enterprises (WBE) are strongly encouraged to submit proposals in response to the Request for Proposal (RFP). For the purposes of this RFP, the term MBE or WBE shall mean a vendor who is certified as a minority business enterprise by the State of Massachusetts Supplier Diversity Office (SDO), and who is certified at the time the vendor's proposal is submitted.

All minority owned businesses are encouraged to apply for SDO certification. For further information on SOMWBA qualifications, or access to SDO vendor lists, contact the State Supplier Diversity Office Assistance at (617) 502-8831.

The Town of Barnstable and Airport Commission will require Vendors and subcontractors involved in local municipal or airport projects to abide by the Equal Opportunity Anti-Discrimination Program guidelines below, which form a part of the contract generating from this RFP.

#### **I. EQUAL EMPLOYMENT OPPORTUNITY ANTI-DISCRIMINATION PROGRAM**

During the performance of this contract, the Vendor and all of (his) Sub-Contractors (wherein after collectively referred to as the Vendor), for himself, his assignees, and successors in interest, agree as follows:

- A. The Vendor, in the performance of all work after award and prior to completion of the contract work, will not discriminate on grounds of race, color, religious creed, national origin, age or sex in employment practices, in the selection or retention of subcontractors, or in the procurement of materials and rentals of equipment. Fair Employment Practices Law of the Commonwealth (M.G.L. Chapter 151B)
- B. The Vendor by signing the contract offered by the Airport Commission agrees to abide by the above paragraph to the best of his/her ability.

#### **J. MISCELLANEOUS INFORMATION**

All information acquired by the Vendor from the Municipality/Airport or from others at the expense of the Municipality/Airport in performance of the agreement, shall be and remains the property of the Municipality/Airport. All records, data file, computer records work sheets, deliverable products complete and incomplete, and all other types of information prepared or acquired by the Vendor for delivery to the Airport Commission shall be and remain the property of the Airport Commission.

The Vendors agree that they will use this information only as required in the performance of this agreement and will not, before or after the completion of this agreement, otherwise use said information, nor copy, nor reproduce the same in any form except pursuant to the sole written instructions of the Airport Commission.

## **SECTION IV. PROPOSAL REQUIREMENTS**

### **A. MINIMUM REQUIREMENTS**

The evaluation committee shall recommend to the Airport Commission to reject proposals which do not meet the following certain minimum requirements:

1. Submitted proposers must have a minimum of five (5) years of car rental experience, preferably at Airports.
2. All proposals must be from an established corporation, partnership or firm who normally furnish such services as the principal business for which the corporation or firm is formed. A description of the firm including a list of clients (does not have to be complete list; sample is acceptable) and number of employees is required.
3. All proposals shall be submitted to the Town of Barnstable, Chief Procurement Officer, 230 South Street, Hyannis, MA 02601 as stated in "Legal Advertisement"- Appendix E. Each proposal shall be in SEALED envelopes, clearly marked on the outside of the envelope to indicate the contents, and the name and address of the proposer.
4. All proposals must be received in the Chief Procurement Officer's Office, Attention: Johanna Boucher, before the deadline for receipt of proposals, and must be complete (must include or address all items specified in Section VI -- Proposal Requirements).
5. The vendor must sign both the Certificate of Non Collusion - Appendix A and the State Taxes Certification Clause - Appendix B and include them in the proposal package.
6. An agent of the company who has authority to bind the company to a firm bid price must sign the proposal.
7. All responses are to include a statement that the Proposal is in accordance with this Request for Proposal and that the proposer has read and understands all sections and provisions herein. Exceptions, if any, must be clearly stated.

### **B. STAFFING REQUIREMENTS**

1. The Vendor must include detailed information regarding the staffing to be assigned to the Airport Concession. The Vendor should indicate the levels of the staff and the reporting structure of the team assigned to this location. Categories may include but are not limited to:

Regional Director/Manager  
Local manager/supervisor  
Counter Staff  
Mechanical Staff  
Data Entry Personnel/Clerical

2. The Owner requires that each awarded Vendor have all employees dress professionally and have a dress code clearly identifying their company requirements for dress while on airport grounds. The Dress Code must be stated along with a description of the requirements. The intent is to determine the professional standards each vendor offers in presenting itself to the visitors and customers of the airport. Written descriptions of the dress code for management and workers assigned to the counters should be specifically provided. In addition, a written

policy regarding dress code for the setup, cleaning and prep personnel must be included. It is recognized, by the airport, that the employees assigned to the prep and setup tasks may have a less formal dress code due to the nature of their work and their limited interaction with the public. Every proposal should provide their dress code policy that allows airport personnel to readily identify any rental car agency employee when they are on duty in the terminal, or anywhere on the airport grounds.

3. Each proposal must include a section in their proposal that clearly provides the evaluation committee information regarding the hiring practices and employee management policies. The intent of this section is to better understand the nature of the management and hiring practices of the company, and how the structure of these programs will meet the needs of the airport visitors and customers. Categories may include but are not limited to:

- Responsibilities of employees given counter duties
- Responsibilities of managers or supervisors
- Cash handling policies
- Copy of employee application
- Advancement programs for employees
- Management training programs
- Creative hiring or recruiting practices
- Minority or Disadvantaged business programs

4. The manager or supervisor who will be assigned to the concession proposed for the airport terminal should be clearly identified and must include a resume indicating that individuals experience in providing this kind of work. Where possible, experience with airports should be emphasized. In addition, a resume for the supervising individual should be provided to assist the airport in understanding the professionalism and experience of the individual proposed for the concession.

5. The proposal must include a written assurance that this manager or supervisor will be assigned to the concession for a period of at least 6 months. Not with standing anything in the previous sentence, it is understood that in the normal course of business staff changes such as termination, voluntary job forfeiture and internal promotions, may impact the ability of an individual to commit to the 6-month period. The intent of this section is to have the proposer commit to a staffing program that offers the airport stability and consistency in the daily operations of the concession.

### **C. TECHNICAL SCOPE OF SERVICES**

In this section a number of specific areas of concern are identified. Every proposal should include enough information to address each one of these areas. Each proposer may include additional pertinent information regarding other important aspects of their business. If there is some unique or outstanding aspect of the business offered that will provide the evaluation committee with information that may assist them in making their determination of who should best get the concession leases, please include any documentation you feel is necessary. However, each proposer is strongly cautioned against including information that has little importance on determining the strength of the local concession. Extraneous advertising material, excessive documentation, and unrelated exhibits may count against a proposer in the overall evaluation rating.

#### Age of Fleet of Cars

The age of the fleet of vehicles is an important measure of the service level the airport hopes to offer its visitors and customers. The proposer is expected to provide in their proposal a commitment to

providing late model cars through its concession at the airport if so granted. Vehicles shall be new or no older than two (2) years old.

#### Maintenance statements

The ability of the proposer to maintain its vehicles is an important factor to the overall customer experience of the users of the airport. Therefore the proposer is expected to provide information in its proposal that addresses maintenance, cleaning, and repair of vehicles. The proposal should provide a clear indication where vehicle maintenance, cleaning and repairs will be performed.

#### Written Assurances

The proposer's cover letter should clearly present a strong commitment to providing a first class experience for the visitors and customers of the airport. The airport serves as a professional gateway to the Town of Barnstable and the Cape Cod region, and it is the commitment of the airport, its staff, and any contracted concessionaire to provide an unmatched level of quality service. The commitment of any concessionaire to this goal is expected and appreciated. Any unique or specific ideas, programs or activities the concessionaire may have should be included in the proposals to allow the evaluation committee to better understand the depth and commitment of the proposer.

#### Hours of operation

The Owner expects that proposer adequately staff their operations, if offered a lease, during the hours of airport operation. The minimum hours of operation are now reduced to 7:00 am – 7:00 pm Sunday through Friday and 7:00 am – 5:00 pm on Saturday. The lessee will have the option to remain open for additional hours as business may dictate, but closing no later than 10:00 pm nightly and opening no earlier than 6:00 am daily. It shall be the agency's **sole** responsibility to remain open to accommodate "after hour" customers. In the event that the airport closes, the concessionaire will be allowed to close as well. Any extended period of time when this schedule cannot be maintained, without the expressed written consent of the airport commission, may result in the termination of the lease. The airport wishes to fully serve its customers and expects the concessionaries to fully meet and support this goal.

#### Contract Term

A thirty-six (36) month contract is being offered with one (1) thirty six (36) month option, to be exercised at the sole discretion of the Owner.

### **D. Facilities Description**

The four car rental lease spaces including a counter area, office, and parking spaces are located in the south west end of the airport terminal. More specific information as follows:

#### Counters/Office Area

The counters and office areas are approximately 300 square feet of space. See attached drawing for layout. The order of selection of the location of each successful proposers will be determined by the final ranking of the proposers by the Evaluation Committee. Each counter/office area leased location is allotted only twenty-five (25) parking spaces, regardless of multi-branding.

#### Signage

Signage for the counters will need to be proposed to the airport manager after the award of the leases, and his approval will dictate the size and location of the signs which are not anticipated to change from currently authorized signage. Additional language regarding signs is included in the sample lease provided with this RFP.

Signage in place for the current occupants of the car rental lease areas will need to be removed from their current locations as per the terms of their leases and licensing agreements, in the event that they are not a selected proposer.

### Multi-Branding

Multi-branding may be considered by the Airport Manager and the Airport Commission subject to space availability, acceptable signage shall be included in the minimum 10% concession minimum fee/MAG. The Airport will consider all submitted proposals that incorporate these parameters, but is not obligated to accept any such proposal and is the sole determining authority.

### Parking Spaces

Each selected rental car agency shall be allocated twenty-five vehicle ready parking spaces near the terminal as part of this RFP. If the agency does not desire this specific number of spaces, they may be reassigned to other competing agencies by the Airport at their option. If the Airport is unable to reassign the parking spaces, they shall remain part of the proposer's contracted pricing.

The parking spaces assigned to the tenants will be as delineated in the attached parking assignment exhibit. Final selection of parking space shall be determined as a result of the bidding process as follows: Parking spaces will be as follows: First five (5) spaces shall be selected by the highest successful bidder first, the second bidder, then third bidder then fourth bidder. Then the last 20 spaces for each concession counter lease will be selected in the same order, starting with the highest bidder first, etc.. Additional language regarding signs is included in the sample lease provided with this RFP. Note: Number of parking spaces remains at 25 spaces, even if multi-branding is accepted for a counter location.

## **E. Financial**

The financial aspects of the lease are broken out into several specific components. These include fixed costs (based on sq footage and parking spaces) and a percentage of total car rental revenue with a fixed minimum amount of compensation to the Airport Commission. These costs are more specifically broken out below.

### Fixed Costs

The standard annual price for the counter and office space in the terminal is set at thirty-seven dollars (\$37.00) per square foot respectively for FY2019 (starting July 1, 2018). Commencing year two of lease and thereafter, the per square foot price shall be increased by the Consumer Price Index (CPI), or 2%, whichever is higher. The monthly charge per parking space provided by the airport is sixty dollars (\$60.00) for FY2019 and then subject to an annual CPI index for subsequent years, or 2%, whichever is higher. These costs will be paid monthly to the Airport manager.

### Rate Structure

Each vendor must pay 10% of their Gross Revenue as a concession fee to the airport commission. Proposers are to submit the pricing sheet with their competitive Maximum Annual Guarantee for year 1 of this new lease. The minimum annual guarantee (MAG) that may be submitted is sixty thousand dollars (\$60,000.00). Commencing year 2 and for each contract year thereafter (including options, if exercised), the MAG shall be ninety percent (90%) of the previous year's total Concession Fee paid to the airport, but not lower than the first years' MAG for each concessionaire. The amounts paid and reported for the previous year are shown to indicate the level of vehicle rental business being conducted at the airport.

The airport commission, at the beginning of each year for the term of the lease, will set a minimum amount guaranteed annually to the airport based on the above formula. All proposals, to be considered, must commit, at the very least, to the minimum amount. Those proposers who choose to offer a minimum guaranteed amount higher than the Airport commission set minimum will be ranked higher during the price proposal portion of the evaluation.

#### DEFINITION OF GROSS REVENUE:

- A. For purposes of this Agreement, the term Gross Revenue shall mean all revenues received by the Lessee derived from the operation of Lessee's automobile rental business at the Airport, including multi-branding, after discounts and credits shown on the closed Rental Agreement, for the rental of automobiles at the Airport, regardless of where the automobile is delivered or returned.
- B. All revenue for a rental entered into at the Airport shall be included in Gross Revenue, even if the vehicle is exchanged at another location. Gross Revenue shall not be reduced by bank charges, uncollected or uncollectible credit accounts, charges made by collection agencies, bad debt losses, or any commission or other amount paid out or rebated by Lessee to travel agents or others.
- C. Notwithstanding the above, the following shall be **excluded** from Gross Revenue:
  - a) Any Federal, State or municipal sales or other similar taxes or parking surcharge separately stated and collected from customers of Lessee;
  - b) Any amounts received as insurance or otherwise for damage to automobiles or other property of Lessee;
  - c) Amounts received from the disposition of used rental automobiles and other equipment, personal property and trade fixtures of the Lessee;
  - d) Amounts received as a result of loss, conversion or abandonment of a vehicle or keys to a vehicle;
  - e) Charges to a customer for costs for repair, maintenance, and/or extensive cleaning of a vehicle; and other expenses incurred by Lessee and reimbursed by the customer to return a vehicle back to service;
  - f) Sums received from a customer for reimbursement of impound fees, towing fees, tolls, and parking tickets and other governmental fines which are incurred as a result of customers' actions, along with the administrative fee charged for the processing of such payment and recovery;

- g) Corporate discounts or rebates, but only to the extent that Lessee provides auditable proof to the City that the discounts or rebates are specifically attributable to rental agreements with customers at the Airport;
  - h) Vehicle License Fees;
  - i) Customer Facility Fees (CFCs)
  - j) Carbon Offset donations if offered by the company
- D. Each transaction made on installment or credit shall be treated as a transaction for the full price in the month during which such charge or transaction occurs, regardless of when the Lessee receives payment.

### **Financial Stability**

Each Proposer must include information that speaks to the financial stability of the concession unit proposed for the airport in Hyannis. While many concessions have the backing of a national or regional company, the financial stability of the local concession unit is an important part of measuring how well the local provider will meet the goals of the Airport Commission in providing stable services to its customers.

Documents included in the proposal to provide evidence of financial stability could include, but is not limited to concession unit tax returns, financial reports to a national or regional office, certified accounting statements of revenue or expenses.

### **Reporting of gross sales**

The process for reporting gross sales is shown in the sample lease, Appendix D, Article 3(c). The airport will be conducting random audits of financials and reporting's on a periodic basis.

### **F. ADDITIONAL NARRATIVE INFORMATION**

1. Summarize qualities you believe your firm offers that are unique from other Car Rental Companies.
2. Provide a list of at least five (5) references with contact phone numbers. Include, if possible, references from other Hotel/Convention sites or Airports where similar leases to your company are currently in effect. Specifically, include any Massachusetts locations whereby similar work has been done.
3. List the anticipated amount of support services the Airport Commission or Airport Manager would be required to provide.
4. Include written assurances that the Vendor has a complete knowledge and understanding of the Massachusetts General Laws that govern the nature of the work suggested and that all work performed shall reflect those requirements.

### **G. MISCELLANEOUS REQUIREMENTS**

The Airport Commission and the Vendor shall cooperate in maintaining good public relations throughout the period of this RFP process. The Vendor may be asked to conduct a public information program that addresses the scope and objective of the process. This would be negotiated directly with the Airport Manager should the need arise. The Vendor or a representative of the firm given the contract may be required to meet privately or publicly with the Airport Commission to address any concerns or to provide timely updates.

An interview may be conducted with any proposer who is deemed Highly Advantageous or Advantageous during the evaluation of the proposals. These interviews may occur during the Evaluation period indicated in Section II, Key Dates. Each proposer should insure they are available during the interview process, which will be held at the Municipal Airport conference room, Hyannis, Massachusetts. The Airport reserves the right to extend the evaluation period due to any scheduling difficulties.

## **SECTION V. PROPOSAL EVALUATION**

### **A. General Information.**

The RFP evaluation process will include each proposal being reviewed by an evaluation committee appointed by the Chief Procurement Officer at the direction of the Airport Commission Chairman and Airport Manager. Those proposals that meet all minimum requirements as outlined in this RFP, and are determined to be both responsive (those that offer all of the services requested in the RFP and contain all of the required information and forms properly completed) and those that are responsible (those with the capability, integrity, and reliability to perform under the contract) will be further reviewed using the comparative criteria outlined in this section. The committee will use the comparative criterion for each separate rating area, and based upon the criteria, will assign an overall rating to each proposal as permitted under MGL Chapter 30B. Each of the eight criterion contain ratings of:

Not Advantageous  
Advantageous  
Highly Advantageous

In some cases, an unacceptable category is also included on those questions where minimum requirements are present.

**An “Unacceptable” rating in any of the criterions may eliminate the proposal from further consideration.**

### **Award of Leases**

The Town reserves the right to award leases to the responsive and responsible proposals which best meets the Town’s needs, taking into account proposal quality and price The awarding authority’s decision or judgment on these matters shall be final.

Rule for Award: Proposers will be evaluated by the appointed RFP Evaluation Committee based on technical criteria and firms achieving an overall rating of advantageous or highly advantageous will be then be ranked in accordance with their Total Minimum Guaranteed Payment. Four leases will then be awarded to the four proposers with the highest bid prices for the TOTAL MINIMUM GUARANTEED PAYMENT (figure <sup>(m)</sup> on the Price Proposal Submittal Form). Any firm receiving a Not Advantageous rating will not be considered for award. (Note: The selection of the counters location will be made by the total MAG proposed, with the highest selecting first, the second highest second, and so on).

There are four lease locations available. The highest ranked proposer will have first choice of locations, the second ranked proposer will have their choice of the remaining three locations, the third ranked proposer will have their choice of the remaining two locations, and the fourth ranked proposer



will receive the remaining one location. However, if the existing vendors decide amongst themselves not to move, that is acceptable to the Airport.

**B. Minimum Evaluation Criteria --** Minimum Requirements: Vendors must meet the minimum requirements as specified in Section IV - A. *Failure to meet the following minimum evaluation criteria will result in immediate rejection of the proposal.*

**C. Comparative Evaluation Criteria**

1. Experience in providing car rental services. (Documentation is required.)

**Not Advantageous** – The provision of the specified services for less than three years.  
**Advantageous** - The provision of the specified services for more than three (3) years.  
**Highly Advantageous** - The provision of the specified services for more than three (3) years, and specific experience at airports.

2. Response to request for information regarding Staffing Requirements including dress code policy and hiring practices. (Section IV-B).

**Not Advantageous** - The Staffing information provided may meet the Airport's needs, but the plan provided is not clear enough to make a determination.  
**Advantageous** - The Staffing information provided will adequately meet the needs of the Airports.  
**Highly Advantageous** - The Staffing information provided shows the vendors commitment to putting their best staff and resources into this project and a willingness to exceed the needs set forth by the Airport.

3. Response to request for information regarding Staffing Requirements specifically focusing on the information on proposed concession unit supervisor or manager. (Section IV-B).

**Not Advantageous** - The Concession unit supervisor or manager information provided may meet the Airport's needs, but the information provided is not clear enough to make a determination about the individual.  
**Advantageous** - The Concession unit supervisor or manager information provided will adequately meet the needs of the Airports.  
**Highly Advantageous** - The Concession unit supervisor or manager information provided shows the vendors commitment to putting their best staff and resources into this project and a willingness to exceed the needs set forth by the Airport.

4. Hours of operation submission (Section IV-C).

**Not Advantageous** – A time frame that does not meet the Airport's needs.  
**Advantageous** - A time frame that may meet the needs of the Airport, but proposal is too vague in how the time frame will be met  
**Highly Advantageous** – A time frame that adequately responds to the RFP and clearly meets the stated needs for services to be provided at the Airport.

5. Response to age of cars and maintenance program (Section IV - C).

**Unacceptable** - Proposal did not address vehicle age and maintenance program.

**Not Advantageous** - Proposal is vague; Airport is unable to determine if it is consistent with expressed needs.

**Advantageous** - Proposal was adequate, appeared consistent with project intent, and responded to most needs expressed by the Airport.

**Highly Advantageous** - Proposal was very thorough, was clearly consistent with project intent, and responded to all needs expressed by the Airport in all areas.

6. Response to request for documentation demonstrating Financial Stability. (Section IV - E).

**Unacceptable** - Proposal did not include any information regarding financial stability and gave no reason for failure to comply.

**Not Advantageous** – Response included an explanation for the failure to provide financial documentation, but was vague; Town is unable to determine if it is consistent with expressed needs.

**Advantageous** – Information presented was adequate, appeared consistent with intent, and responded to needs expressed by the Airport.

**Highly Advantageous** – Information presented was very thorough, appeared consistent with what was requested and responded to needs expressed by the Airport in all areas.

7. Response to Additional Narrative Information (Section IV - F)

**Unacceptable** - The proposal was not responsive to the Airport’s questions in an acceptable manner.

**Not Advantageous** - Response does not compel reviewer to believe the proposal reflects that provider is able to perform in a manner acceptable to the Airport.

**Advantageous** - Response is informative, meets criteria for responsiveness. Reviewer feels proposal reflects that provider is able to perform in a manner acceptable to the Airport but was not overly impressed by proposals expression of ability.

**Highly Advantageous** - Response is concise, informative, and highly detailed. Proposal reflects that provider is able to perform in a manner acceptable to the Airport. The Committee is completely convinced about the provider’s ability to provide and administer the plan as required by the Airport and documents the quality of the work completed in the past.

8. General impression of proposal

**Not Advantageous** - Response does not compel reviewer to believe the proposal reflects that provider is able to perform in a manner acceptable to the Airport.

**Advantageous** - Response is informative, meets criteria for responsiveness. Reviewer feels proposal reflects that provider is able to perform in a manner acceptable to the Airport but was not overly impressed by proposals expression of ability.

**Highly Advantageous** - Response is concise, informative, and highly detailed. Proposal reflects that provider is able to perform in a manner acceptable to the Airport. The Committee is completely convinced about the provider’s ability to provide and administer the plan as required by the Airport.

## SECTION VI. PROPOSAL SUBMISSION REQUIREMENTS

The proposer shall submit an unbound original and seven (7) copies of the proposal marked “**2018 Airport Rental Car Leases at Barnstable Municipal Airport**”. Proposals must be received per the time frame outlined in the legal advertisement- (appendix E). It is the sole responsibility of the offerer to insure that the proposal arrives on time and at the designated place

Within your Proposal, please supply each of the following items:

- (1) Cover Letter of introduction including name of Agency/Firm, address and telephone number, signed in ink by someone authorized to sign such documents.

The pricing portion must include:

- (1) Appendix C must be signed and completely filled out. Additional financial plans detailing costs for services can be attached. A total listing of services to be rendered must be included. Price proposal shall contain an itemized list of all expenses, charges, and costs.

## **B. CONTACT INFORMATION**

Clarification and interpretations of this Request for Proposal must be requested in writing. Responses will be furnished likewise. The last day to submit written responses is in accordance with Section II, Key Dates. After that day no requests or questions will be accepted. Please contact the Town of Barnstable for clarification of this Request for Proposal, direct all inquiries regarding the plan to:

Johanna F. Boucher  
Chief Procurement Officer / Contract Compliance Officer  
Town of Barnstable  
Procurement & Risk Management  
230 South Street  
Hyannis, MA 02601  
Phone. (508) 862-4741 Fax: (508) 862-4717  
Business Hours: 8:00 a.m. - 4:00 p.m.  
Monday through Friday  
Johanna.boucher@town.barnstable.ma.us

**TOWN OF BARNSTABLE**

**CERTIFICATE OF NON COLLUSION**

The undersigned certifies under penalties of perjury that this bid or proposal has been made and submitted in good faith and without collusion or fraud with any other person. As used in this certification the word "person" shall mean any natural person, business, partnership, corporation, union, committee, club or other organization, entity, or group of individuals.

FIRM \_\_\_\_\_

SIGNATURE \_\_\_\_\_

ADDRESS \_\_\_\_\_

NAME (print) \_\_\_\_\_

\_\_\_\_\_

TITLE \_\_\_\_\_

TELEPHONE \_\_\_\_\_

DATE \_\_\_\_\_

TOWN OF BARNSTABLE

STATE TAXES CERTIFICATION CLAUSE

I certify under the penalties of perjury that I, to my best knowledge and belief, have filed all state tax returns and paid all state taxes under law.

\_\_\_\_\_ by: \_\_\_\_\_  
\* Signature of individual or Corporate Officer  
Corporate Name (Mandatory) (Mandatory, if applicable)

\_\_\_\_\_  
\*\*Social Security # or Federal Identification #

\* Approval of a contract or other agreement will not be granted unless this certification clause is signed by the applicant.

\*\* Your Social Security Number will be furnished to the Massachusetts Department of Revenue to determine whether you have met tax filing or tax payment obligations. Providers who fail to correct their non-filing or delinquency will not have a contract or other agreement issued, renewed, or extended. This request is made under the authority of Mass. G.L. 62C s. 49.A.



four highest bid prices for the TOTAL MINIMUM GUARANTEED PAYMENT (figure (e) above). Any firm receiving a Not Advantageous rating will not be considered for award.

There are four lease locations available. The highest ranked proposer will have first choice of locations, the second ranked proposer will have their choice of the remaining three locations, the third ranked proposer will have their choice of the remaining two locations, and the fourth ranked proposer will receive the remaining one location. Upon completion of the new terminal, this same selection process above will be followed for the new four locations based on the rankings from this proposal.

The undersigned agrees to abide by the terms and conditions of this pricing sheet and fully understands the obligations they are making to the Airport Commission by signing this form.

If less than four (4) proposals are accepted, the Airport will reissue the RFP to procure a Vendor for the empty counter as stated herein.

If as a result of the new RFP, any Terms and Conditions changed, the same Terms and Conditions will be incorporated into the existing lease of the current Vendors.

Company \_\_\_\_\_  
Authorized Signature \_\_\_\_\_  
Name and Title \_\_\_\_\_  
Telephone Number \_\_\_\_\_  
Facsimile Number \_\_\_\_\_  
Email \_\_\_\_\_  
Date \_\_\_\_\_

## LEASE AGREEMENT

THIS AGREEMENT OF LEASE, made and entered into by and between the TOWN OF BARNSTABLE, acting through its AIRPORT COMMISSION, hereinafter called the LESSOR, and \_\_\_\_\_, having its usual place of business at the Barnstable Municipal Airport hereinafter called the LESSEE:

### WITNESSETH:

WHEREAS, the Lessor owns and operates an airport known as the BARNSTABLE MUNICIPAL AIRPORT, located in the Town and County of Barnstable, Commonwealth of Massachusetts, hereinafter called the AIRPORT; and WHEREAS, the Lessee is desirous of leasing certain premises in and around the Administration Building at the Airport, and WHEREAS, the Lessor is willing to lease such premises to the Lessee; NOW, THEREFORE, for and in consideration of the premises and the mutual covenants and agreements herein contained and other valuable consideration, the receipt of which is hereby acknowledged, Lessor does grant, demise and lease to Lessee and Lessee takes, hires and rents from the Lessor the premises hereinafter provided, all subject to the terms, conditions and covenants herein contained.

### ARTICLE ONE

(A) TERM: The term of this lease shall be for a period of thirty-six (36) months, commencing on July 1, 2018 through June 30, 2021, with one (1) additional and separate thirty-six (36) month option to extend this lease, to be exercised at the sole discretion of the Lessor. The Airport will provide a minimum 120 days written notice of option to be exercised and the LESSEE shall have 30 days of that notice to confirm acceptance of that option offer.

### ARTICLE TWO

#### DESCRIPTION OF LEASED PREMISES:

EXHIBIT A: PREMISES/COUNTER SPACE: A certain portion of the Terminal Building of the Airport as shown on a sketch plan entitled "Barnstable Municipal Airport, EXHIBIT "A" showing office and counter space location No. \_\_\_ for tenant, containing 300 square feet, more or less.

ADDITIONAL AREA - PARKING SPACES: A certain portion of the Airport Terminal parking area consisting of 25 parking spaces appropriately assigned for parking of rental cars.

### ARTICLE THREE

(A) TERMINAL RENT: For exclusive use of the area as defined for tenant on EXHIBIT A, the rate of Thirty-seven dollars (\$37.00) per square foot for counter and office space for an annual rental of eleven thousand and one hundred (\$11,100) annually, or nine hundred and twenty-five (\$925.00) per month for year one (starting July 1, 2018). Commencing year two of lease and thereafter, the per square foot price shall be increased by the Consumer Price Index (CPI), or 2%, whichever is higher. These costs will be paid monthly to the Airport manager. (INSERT PRICE SCHEDULE)

(B) PARKING SPACES Lessee agrees to pay Lessor for rental of rental car parking spaces the sum of SIXTY Dollars (\$60.00) for FY2019 (starting on July 1, 2018) for each space for each month for 25 spaces, for a total of ONE THOUSAND FIVE HUNDRED Dollars (\$1,500) monthly for year one and then subject to an annual CPI index for subsequent years, or 2%, whichever is higher. (INSERT PRICE SCHEDULE)



METHOD OF PAYMENT: Lessee agrees to make payments for terminal rentals and parking spaces in advance on the first of each month.

(C) CONCESSION PAYMENTS: For the concession rights granted hereunder, the Lessee shall pay TEN Percent (10%) of the Lessee's gross rental revenues. Gross rental revenues shall be defined as Net Time and Mileage but shall not include Insurance.

METHOD OF PAYMENT: Lessee agrees to payment of gross percent as defined above on the fifteenth (15th) day of each month directly following the previous month of collection. Each payment will be accompanied by a statement showing gross revenues for the month as defined above.

MINIMUM GUARANTEE: The Lessee agrees to make a minimum concession payment of SIXTY THOUSAND dollars (\$60,000) for year 1 per year. (INSERT PRICING SCHEDULE) For year two, the MAG will be reset for each concessionaire based on 90% of their 10% Gross Receipts for the previous year, but no less than the year 1 proposed MAG for that concessionaire. Year 3 will be 90% of the 10% of year two gross receipts, but not less than Year 1 MAG, and so on. At each lease anniversary, if the total commission due for that period is less than the minimum guarantee, the lessee will pay the difference between total payments for the period and the minimum guarantee. This additional payment will be made with the commission payment for the last month of the period.

LATE CHARGES: A monthly charge of 1 1/2% per month will be charged for any balance outstanding for more than thirty (30) days.

(D) RECORDS AND AUDIT: Lessee shall maintain in its Barnstable Municipal Airport Office or corporate office, records upon which payments are required to Lessor in this lease or under separate letters of agreement. Lessor, upon written notice, shall have the right, during ordinary business hours, and at Lessee's place of business at the Barnstable Airport or its corporate office, to inspect records for purposes of audit and confirmation.

#### ARTICLE FOUR

NET LEASE: It is the intent of both the Lessee and the Lessor that the lease shall be a net lease with the Lessor to receive all rents computed herein without offset or deduction of any kind.

#### ARTICLE FIVE

The Lessee shall not assign or sublet the whole or any part of the leased premises. Any attempted assignment by Lessee without prior approval shall be void and shall, at the option of the Lessor, terminate this lease. Neither this lease nor the leasehold estate of Lessee nor any interest of Lessee hereunder in the leased premises shall be subject to involuntary assignment, transfer or sale or to assignment, transfer or sale by operation of law in any manner whatsoever, and any such attempted involuntary assignment, transfer, or sale shall be void and of no effect and shall, at the option of the Lessor, terminate this lease.

#### ARTICLE SIX

##### USE OF THE PREMISES:

(A) GENERAL USES: Use of the demised premises shall, at all times, be conducted in an orderly manner and at no time shall Lessee's use of the premises be such that it will become a nuisance or interfere with the orderly operation of the Airport or its tenants.

(B) SPECIFIC USES OF PREMISES: The premises described herein shall be used by Lessee for the operation of its car rental business and the Airport hereby grants to Lessee, subject to the terms and conditions contained herein, the right to conduct and operate an automobile rental concession at the Airport provided Lessor covenants and agrees not to enter into or make arrangements with any other

individuals, firm or corporation for engaging in similar activity at the Airport on terms any more favorable than those contained in this lease for so long as the lease remains in effect and the Lessee is not in default hereunder.

## ARTICLE SEVEN

### IMPROVEMENTS BY LESSEE:

(A) Lessee has inspected the demised premises and accepts them in the condition said premises are in on the date of execution of this lease, or the date of actual occupancy of the demised premises, whichever is earlier. Lessee agrees to maintain at Lessee's sole expense, the demised premises in as good condition as they are in on the date of execution of this lease or the date of occupancy of the demised premises, whichever is earlier, normal wear and tear, fire, the elements or acts of war excepted;

(B) Lessee shall make no improvements or alterations to the demised premises without the prior written approval of the Lessor. If such prior written approval is not obtained, or is obtained and not complied with, the Lessor may enter the demised premises, remove the improvements or alterations, and bill the Lessee for all costs incurred in so doing. Any amount due the Lessor under this ARTICLE SEVEN shall constitute additional rent;

(C) Lessee shall, at its own expense, obtain all licenses and permits required by reason of any maintenance, repairs, construction or use of the Airport as herein provided.

## ARTICLE EIGHT

ATTORNEYS FEES: Lessee will pay Lessor reasonable Attorneys fees in the event Lessor utilizes an attorney to collect any rents due hereunder and secures a judgment in connection with the collection of said rent, or to protect the interest of the Town in the event Lessee is adjudged a bankrupt, or legal process is levied upon the goods, furniture, effects or personal property of Lessee upon the leased premises, or upon the interest of Lessee in this lease or in said premises, or in the event Lessee violates any of the terms, conditions or covenants on its part herein contained in the event Lessee fails promptly to correct the violation of any term, condition or covenants after receipt of notice of violation thereof.

## ARTICLE NINE

### REPAIRS AND MAINTENANCE:

(A) REPAIR OF DAMAGE: Lessee shall repair any damage caused to real or personal property of the Lessor, wherever situated on the Airport, by the careless or negligent acts or omissions of its officers, agents, or employees, while acting in the regular course of the Lessee's business, or shall at the option of the Lessor, reimburse Lessor for the cost of repairs and or replacement thereto, accomplished by the Lessor.

(B) LIGHTING: Lessee shall at its sole expense, repair or replace as may be required, all incandescent bulbs or florescent tubes or other lighting devices located within the demised premises.

(C) JANITOR AND CLEANING SERVICES: Lessee shall, at its own expense, provide janitorial and cleaning services for the demised premises and keep the same, including the interior side of all windows or glass therein, in a clean, neat and attractive condition at all times, and shall repaint and redecorate when necessary, subject to the approvals required under ARTICLE SEVEN.

(D) REFUSE DISPOSAL: Lessee agrees to dispose of all refuse including shipping cartons, in the receptacle provided by the Lessor and that no refuse will be allowed to accumulate so as to constitute a fire or health hazard within the demised premises.

(E) HAZARDOUS WASTE: Hazardous waste disposal shall be handled in accordance with local State and Federal environmental policies and procedures and Lessee shall be solely responsible for payment of any fines or assessments levied against the Lessor as a result of improper actions on the part of Lessee or his employees, vendors and/or subtenants. Lessee further agrees that in the event a hazardous waste problem occurs on its leased premises as a result of its actions or the actions of other users on its leased area, Lessee shall be responsible for all violations and penalties resulting from its actions, or the action of employees or customers, contractors or subcontractors and shall be responsible for any and all assessments or fines which may be assessed for the removal of such hazardous waste or assessed as damages or fines for those actions or violations. Notwithstanding the foregoing, Lessee shall not be liable for pre-existing hazardous materials or waste located at, on, under, or upon the leased premises upon the effective date hereof unless determined to have been a result of the lessors actions or other subtenant users on its lease area during previous agreement term.

(F) PARKING SPACES: Lessee shall be responsible for policing all contracted parking spaces and keeping such spaces free of debris, weeds, and upkeep. Lessee shall also be responsible for snow removal or ice accumulation to prevent danger to pedestrians or vehicles. In addition, commercial trucks shall not be parked in said contracted parking spaces. A commercial truck shall be classified as any vehicle displaying commercial logos, magnetic signage, or commercial license tags.

## ARTICLE TEN

### UTILITIES:

(A) ELECTRICITY: Existing connections for electricity shall be available for use by Lessee in the demised premises. However, Lessor reserves the right to impose a utility surcharge in the event that market rates and or utility usage in the facility becomes excessive based on historic usage.

(B) HEAT: Heat and air conditioning for the demised premises shall be available to Lessee, sufficient to maintain the building at a reasonable temperature.

(C) TELEPHONE SERVICE: Lessee must acquire, at its sole expense, appropriate telephone instruments through any approved telephone service. In the event the Lessee requires additional telephone units, the same shall be procured and installed by the approved telephone service at the Lessee's sole expense, including any expense involved in location or relocation of any such units.

(D) EXISTING UTILITIES: Lessor in no way covenants that the existing utilities to the demised premises are adequate for the Lessee's Operation. If such existing utilities to the demised premises are inadequate, the Lessee must, at Lessee's sole expense make arrangements with the appropriate public utility company/independent Vendor, to correct the situation. Such arrangements will be subject to the Lessor's prior written approval.

(E) Lessor shall not be responsible for providing utilities under this lease for any period during which Lessee is in default of any of the provisions of this lease.

## ARTICLE ELEVEN

SIGNS: Lessee may install on its demised premises, signs for the purpose of identification or information. The size, type, design, style and location of such signs shall be subject to the Lessor's prior written approval. If such prior written approval is not obtained, or if obtained, not complied with, then the Lessor may enter the leased premises, remove such sign, restore the premises to its former condition, and bill Lessee for all costs incurred in so doing. Any amounts due Lessor under this article shall constitute additional rent.

## ARTICLE TWELVE

VENDING MACHINES: Lessee shall not install or operate, or cause to be operated or installed, at any time, automatic vending machines or other coin-operated devices of any nature on the demised premises.

## ARTICLE THIRTEEN

### **Insurance Requirement**

#### **1. Indemnification**

The /Consultant/Vendor shall indemnify, defend, and save harmless the TOWN, all of the TOWN officers, agents and employees from and against all suits and claims of liability of every name and nature, including attorney's fees and costs of defending any action or claim, for or on account of any claim, loss, liability or injuries to persons or damage to property of the TOWN or any person, firm, corporation or association arising out of or resulting from any act, omission, or negligence of the /Consultant/Vendor, subcontractors and their agents or employees in the performance of the work covered by this Agreement and/or their failure to comply with terms and conditions of this Agreement. The foregoing provisions shall not be deemed to be released, waived or modified in any respect by reason of any surety or insurance provided by the Vendor/Consultant/Vendor under contract with the TOWN.

#### **2. General Requirements**

(a) The Vendor shall, before commencing performance of the contract, be responsible for providing and maintaining insurance coverage in force for the life of the contract of the kind and in adequate amounts to secure all of the obligations under the contract and with insurance companies acceptable to the Town of Barnstable. All such insurance carried should not be less than the kinds and amounts designated herein, and the Vendor agrees that the stipulation herein of the kinds and limits of coverage shall in no way limit the liability of the Vendor to any such kinds and amounts of insurance coverage. Under all insurance coverage, required or not required by the Town, the Vendor shall defend, indemnify, and hold harmless the Town of Barnstable, its elected or duly appointed offices, directors and employees against any claim based upon negligent, accidental or intentional acts or omissions of the Vendor, its employees or its agents in providing its services to employees of the municipality or their dependants pursuant to the agreement.

(b) With the exception of Professional Services Liability for architects, designers and engineers, and Worker's Compensation, the Town of Barnstable and its employees must be named as an additional insured and a certificate of insurance will be provided indicating such for each of the insurance policies or surety bonds obtained pursuant to the requirements established by the issuance of the contract. Upon execution of the contract the Vendor will provide copies of certificates of insurance to the Town of Barnstable, Procurement & Risk Management.

(c) Failure to provide and continue in force such insurance as aforesaid shall be deemed a material breach of this contract, and shall constitute sufficient grounds for immediate termination of the same. All insurance maintained as provided for in the above shall be taken out and maintained at the sole expense of the Vendor. Annually, at time of Vendors's policy renewal, updated insurance certificates shall be sent to the Town of Barnstable, Procurement & Risk Management, 230 South Street, Hyannis, MA 02601.

(d) No cancellations of such insurance, whether by the insurer or by the insured party shall be valid unless written notice thereof is given by the parties proposing cancellation to the other party and to the Town of Barnstable at least thirty (30) days prior to the intended effective date thereof, which date shall be expressed in said notice, and which shall be sent out by registered mail, return receipt requested. These provisions shall apply to the legal representatives, trustees in bankruptcy, receiver, assignee, and/or the successor in interest of the Vendor.

(e) All insurance coverage shall be placed with such company as may be acceptable to the Town of Barnstable and shall constitute a material part of the contract documents.

3. **Comprehensive General Liability Insurance**

The Vendor shall carry Commercial General Liability Insurance with an each occurrence limit of liability no less than One Million Dollars (\$1,000,000.00) and a general aggregate limit of liability no less than Two Million Dollars (\$2,000,000.00); and a Products/Completed Operations (*as may be required*) Aggregate limit no less than Two Million Dollars (\$2,000,000.00) for all injury and damages to or destruction of property during the policy period.

4. **Automobile Liability and Property Damage Insurance**

The Vendor shall carry business Automobile Liability Insurance covering all owned vehicles with a combined single limit no less than One Million Dollars (\$1,000,000.00) to cover all damage caused by contracted employees of the awarded Vendor. Level of insurance must adequately cover the liability exposure of project site and is subject to Town of Barnstable Risk Manager approval.

5. **Workers' Compensation Insurance**

The Vendor shall carry Workers' Compensation Insurance as required by Massachusetts General Law, c. 152, and Section 25, with a minimum limit of Employer's Liability as per Massachusetts General Law requirements.

6. **Excess Liability Insurance (as applicable to each requirement)**

The Vendor shall carry excess liability insurance of not less than One Million Dollars (\$1,000,000.00) covering over general liability, automobile, and worker's compensation insurance.

7. **Other Liability (as may be necessary)**

(a) The Town of Barnstable reserves the right to request proof of other insurance coverage depending upon the job for which the Vendor is hired.

(b) The aforementioned insurance coverages shall remain in full force and effect throughout the period of the contract. Similar insurance coverage shall be provided by or in behalf of any subcontractor to cover their operations with the same minimum limits as required of the Vendor. Vendor's insurance shall be primary insurance to all insurance carried by Owner.

ARTICLE FOURTEEN

**INDEMNITY:** The Lessee agrees to hold the Lessor and the Town of Barnstable free and harmless from any liens, judgments or encumbrances created or suffered by the Lessee, and from any and all liability, penalties, losses, damages, costs and expenses, causes of action, claims or judgments by reason of or on account of injury to or death of any person or property of any nature occasioned by any acts or omissions of the Lessee or of its employees, agents or servants, sub-tenants or Vendors, and arising out of the occupation or use of the leased premises, and also against all legal costs and charges, including counsel fees, reasonably incurred in and about such matters, and the defense of any action arising out of the same, or in discharging said premises or any part thereof from any and all liens that may be placed thereon for charges incurred by Lessee.

ARTICLE FIFTEEN

STANDARDS OF OPERATION:

(A) CONDUCT: Lessee agrees to conduct its operations hereunder in compliance with the applicable regulations of the Federal Aviation Administration, the laws of the Commonwealth of Massachusetts and the bylaws of the Town of Barnstable. Lessee shall procure and pay for all licenses, certificates and permits necessary for the conduct of its operations hereunder and shall pay all charges assessed under State, Local and Federal statutes and ordinances insofar as they are applicable.

(B) RULES & REGULATION: Lessee agrees to observe and obey all reasonable rules and regulation promulgated from time to time by Lessor governing the safe conduct and efficient operation of the Airport and its facilities, except that Lessor agrees that any rules and regulations so promulgated shall not be inconsistent with any legally authorized rule or regulation of the Federal Aviation Administration and the Massachusetts Aeronautics Commission.

#### ARTICLE SIXTEEN

QUIET ENJOYMENT: Lessor covenants that it has lawful authority to execute this lease and that upon payment of the rentals and charges herein provided and the performance of the covenants and agreements on the part of the Lessee to be performed hereunder, Lessee shall peacefully have and enjoy the demised premises and the rights, privileges and facilities granted by this lease.

#### ARTICLE SEVENTEEN

ACCESS TO PREMISES BY LESSOR: During the term of this lease, Lessor or its authorized representatives shall have the right to come onto the demised premises at any and all reasonable times for any of the following reasons or purposes:

- (A) for the inspection of the demised premises;
- (B) for the repair and/or maintenance or areas adjacent or surrounding the demised area without any obligation to do so;
- (C) for the installation, maintenance and repair of any utility lines without the obligation to do so; and,
- (D) in the event of any emergency, Lessor may, at Lessee's sole expense, take such action on the demised premises as may be required for the protection of persons and/or property or otherwise to execute the terms and conditions of this lease.

#### ARTICLE EIGHTEEN

##### TERMINATION BY LESSOR:

(A) If the Lessee shall fail to perform, keep and observe any of the terms, covenants or conditions herein contained on the part of the Lessee to be performed, kept or observed other than the payment of rent, the Lessor may give the Lessee notice in writing to correct such condition or cure such default and if any such condition or default shall continue for sixty (60) days after the receipt of such notice by the Lessee, and if within such period of time the Lessee has not prosecuted with diligence the correction of such condition or default, the Lessor may subject to the provisions of Clause "B" below, terminate this lease upon ten (10) days notice in the same prior manner and to the same effect as if it were the expiration of the original term. If the Lessee fails to pay any installment of rent when due, the Lessor may so terminate this lease ten (10) days rather than thirty (30) days after notice of such default. Any termination by reason of this Article shall not affect or impair the right of the Lessor to recover damages occasioned by such default.

(B) No default in the performance of the terms, covenants or conditions of this lease on the part of the Lessee or Lessor, other than in the payment of any installment of rent by the Lessee to the Lessor, shall be deemed to continue if and so long as the Lessor or the Lessee, as the case may be, shall be delayed in or prevented from remedying the same by: (1) strikes or other labor disputes; (2) acts of God or the public enemy;(3) any order, directive or other interference by municipal, state, federal or other government official

or agency; or (4) any other cause reasonably beyond the control of the Lessor or the Lessee, as the case may be; but if and when the occurrence or condition which delayed or prevented the remedying of such default shall be removed, it shall be the obligation of the Lessor or the Lessee, as the case may be, without further delay to commence the correction of such default or to continue the correction thereof.

#### ARTICLE NINETEEN

TERMINATION BY THE LESSEE: The Lessee shall have the right to terminate this lease at any time after ninety (90) days written notice upon the Lessor's breach of any of the terms, covenants or conditions contained in this lease and the failure of the Lessor to remedy such breach for a period of ninety (90) days after receipt of written notice of the existence of such breach.

#### ARTICLE TWENTY

YIELDING UP OF PREMISES: Upon the expiration of this lease, unless renewed, the Lessee shall yield up and deliver the demised premises vacant and unencumbered, clean and neat, and in a least as good a condition as the Lessee is required to keep and maintain the same by virtue of the provisions contained in this Article and ARTICLE NINE entitled "Repairs and Maintenance".

#### ARTICLE TWENTY-ONE

PERSONAL PROPERTY: Any personal property placed or installed by the Lessee in the demised premises shall remain the property of the Lessee and must be removed on or before the expiration of the term herein granted. In the event of expiration of the term or other termination, Lessee shall have ten (10) days, exclusive of Saturdays, Sundays, or Holidays, after such termination, in which to remove its property.

If the Lessee shall fail to remove its property upon the expiration or termination hereof, Lessor may, at its option, after expiration of the period of grace granted by the preceding paragraph hereof, at Lessee's risk and expense, remove such property to a public warehouse for storage, or retain the same in its own possession, and after the expiration of thirty (30) days therefrom, sell the same at public auction, the proceeds of which shall be applied first to the expense of sale, and second, to any sums owed by the Lessee to the Lessor, and any balance remaining shall be paid to the Lessee, or Lessor may take such other action as may be reasonably necessary or desirable.

#### ARTICLE TWENTY-TWO

##### NON-DISCRIMINATION AND NON EXCLUSIVE RIGHTS:

(A) Lessee agrees that in the exercise of the rights and privileges herein granted for the furnishing of services to the public, that it will: (1) Furnish said service on a fair, equal, and not unjustly discriminatory basis to all users thereof; and (2) charge fair, reasonable and not unjustly discriminatory prices for each unit or service; provided that the Lessee may be allowed to make reasonable and non-discriminatory discount, rebates or other similar types of price reductions to volume purchasers.

(B) It is specifically understood and agreed that nothing herein contained shall be construed as granting or authorizing the granting of an exclusive right within the meaning of Section 308 of the Federal Aviation Act of 1958.

(C) The Lessee, for itself, its personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree, as a covenant running with the land, that (1) no person on the grounds of race, color, or national origin, shall be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities; (2) that in the construction of any improvements on, over or under such land, the furnishing of services thereon, no person on the ground of race, color, or national origin shall be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination; and (3) that the Lessee shall use the premises in compliance with

all other requirements imposed by or pursuant to Title 49, Code of Federal Regulation, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Non-discrimination in Federally assisted programs of the Department of Transportation-Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulation may be amended.

That in the event of breach of any of the above nondiscrimination covenants, Lessor shall have the right to terminate the lease and to re-enter and repossess said land and the facilities thereon and hold the same as if said lease had never been made or issued.

(D) The Lessee assures that it will undertake an affirmative action program as required by 14 CFR Part 152, Subpart E. The Lessee assures that no person shall be excluded on these grounds from participating in or receiving the services or benefits of any program or activity covered by this subpart. The Lessee assures that it will require that its covered sub organizations provide assurances to the Lessee that they similarly will undertake affirmative action programs and that they will require assurances from their sub organizations, as required by 14 CFR 152, Subpart E, to the same effect.

#### ARTICLE TWENTY-THREE

NATIONAL EMERGENCY: During time of war or national emergency, the Lessor shall have the right to enter into any agreement with the United States Government for military or naval use of part or all of the Airport and the air navigation facilities. If any such agreement is made, the provisions as contained herein, insofar as they are inconsistent with the provisions of said Agreement between the Lessor and the United States Government, shall be suspended.

In the event of any national emergency, wherein there is a curtailment of the use of motor vehicles or passenger aircraft by the general public, or a limitation of the supply of fuel available for general use, which curtailment or limitation has a demonstrable impact upon the gross revenues of the Lessee, then and in that event the minimum guaranteed annual fee shall not be required to be paid by the Lessee during the period of time. Lessee shall continue to pay ten percent (10%) of "net time and mileage as hereinabove defined.

#### ARTICLE TWENTY-FOUR

##### COMBUSTIBLE LIQUIDS, COMPOUNDS AND HAZARDOUS WASTE REMOVAL:

No fuel or combustible liquids or compounds shall be stored in the leased premises provided that nothing herein shall be deemed to diminish the requirement set forth in Lessor's rules and regulations be reasonable. In the event such material is required in the daily business functions of Lessee, Lessee shall assume full responsibilities for any problems arising from use or misuse of said products and shall be responsible for any environmental violations, which occur as a result of Lessee's actions. In the event Lessee is notified of hazardous waste removal requirements, Lessee shall be held financially responsible for all costs associated with such removal. Lessor shall have the rights to order such removal of hazardous waste at Lessee's expense. Lessee shall follow the Barnstable Municipal Airport's "Spill Prevention Control and Countermeasures Plan" and shall flow this information to all employees at the Barnstable Airport site.

#### ARTICLE TWENTY-FIVE

##### BOOK OF ACCOUNT AND AUDITING:

Lessee shall keep true and complete records and accounts of all elements of Gross Revenue (Revenues). All rental contract forms used by Lessee in its operation at the Airport shall be re-numbered or consecutively numbered and if not consecutively numbered, all numbers must be accounted for and Lessee shall maintain records and controls insuring that the rental contracts accurately reflect all Gross Revenue of Lessee from its operations at the Airport. Annually, within ninety (90) days after the end of each Lease Year, Lessee shall furnish a true and accurate statement for the preceding lease Year of all such gross Receipt during such preceding year (showing authorized deductions or exclusion made in computing the amount of such Gross receipts which statement shall be certified to be correct by an authorized representative of the lessee. Lessee agrees to give the Commission access, upon ten (10) calendar days prior written notice, and during reasonable hours, for inspection of Lessee's books and records, and Lessee



aggress that it will keep and preserve for at least three (3) years all rental contracts, on hard copy of electronic media, and other evidence of Gross Revenue for such period. The Commission or its representative shall have the right, upon ten (10) calendars days prior written notice, at any time and from time to time to audit all of the records of Lessee relating to business transacted at the Airport including, but not limited to, Gross Revenue, and Lessee, upon request, shall make all such information available for such examination at the leased premises. If delay or additional costs are incurred in connection with such audit, which are caused by the Lessee, Lessee shall be responsible for such additional costs. If Lessee so desires, the Commission or its representative may conduct the audit at a location, other than the Airport, at the Lessee's expense, including but not limited to, reasonable travel expenses, travel time, and other related expenses. If as a result of an audit, it is established that Lessee has understated Gross Revenue, or business transacted for any year by three percent (3%) or more (after the deductions and exclusions provided for herein), the entire expense of said audit shall be borne by Lessee. Any additional Percentage Fees due as a result of such audit shall forthwith be paid by the Lessee with interest thereon at the rate of twelve percent (12%) per annum or the then maximum lawful rate of interest per annum, whichever is less, from the end of the month in which the discrepancy occurred.

## ARTICLE TWENTY- SIX

### DIVERSION OF REVENUE:

The intentional diversion, through direct or indirect means, of rental car revenues from the inclusion in Gross Revenue (Revenues), is prohibited. A shortage of rental cars at the Airport while having rental cars available elsewhere in the Hyannis Area and renting such cars to a potential customer that arrived at the Airport and not including the resulting rental car revenue in the Gross Receipted defined under the Lease shall constitute such an intentional diversion. The taking of a reservation advising or suggesting to a potential customer arriving at the Airport that the customer rent a car at a location other than the Airport regardless of the reason and not including the rental car revenue resulting from such transaction in Gross Revenue shall constitute an intentional diversion. In addition to all other remedies available by law, the Commission shall have the right to immediately terminate this Lease upon a determination by the Commission that the Lessee has intentionally diverted revenues as described herein.

## ARTICLE TWENTY-SEVEN

### DEFINITION OF GROSS REVENUE:

- A. For purposes of this Agreement, the term Gross Revenue shall mean all revenues received by the Lessee derived from the operation of Lessee's automobile rental business at the Airport, including multi-branding, after discounts and credits shown on the closed Rental Agreement, for the rental of automobiles at the Airport, regardless of where the automobile is delivered or returned.
- B. All revenue for a rental entered into at the Airport shall be included in Gross Revenue, even if the vehicle is exchanged at another location. Gross Revenue shall not be reduced by bank charges, uncollected or uncollectible credit accounts, charges made by collection agencies, bad debt losses, or any commission or other amount paid out or rebated by Lessee to travel agents or others.
- C. Notwithstanding the above, the following shall be **excluded** from Gross Revenue:
  - a) Any Federal, State or municipal sales or other similar taxes or parking surcharge separately stated and collected from customers of Lessee;
  - b) Any amounts received as insurance or otherwise for damage to automobiles or other property of Lessee;
  - c) Amounts received from the disposition of used rental automobiles and other equipment, personal property and trade fixtures of the Lessee;

- d) Amounts received as a result of loss, conversion or abandonment of a vehicle or keys to a vehicle;
  - e) Charges to a customer for costs for repair, maintenance, and/or extensive cleaning of a vehicle; and other expenses incurred by Lessee and reimbursed by the customer to return a vehicle back to service;
  - f) Sums received from a customer for reimbursement of impound fees, towing fees, tolls, and parking tickets and other governmental fines which are incurred as a result of customers' actions, along with the administrative fee charged for the processing of such payment and recovery;
  - g) Corporate discounts or rebates, but only to the extent that Lessee provides auditable proof to the City that the discounts or rebates are specifically attributable to rental agreements with customers at the Airport;
  - h) Vehicle License Fees;
  - i) Customer Facility Fees (CFCs)
  - j) Carbon Offset donations if offered by the company
- D. Each transaction made on installment or credit shall be treated as a transaction for the full price in the month during which such charge or transaction occurs, regardless of when the Lessee receives payment.

ARTICLE TWENTY-EIGHT

FORCE MAJEURE:

Each lease shall be subject to **Force Majeure** considerations and in the event that either party hereto shall be prevented from the performance of any act required thereunder by reasons of strikes, lockouts, labor trouble, inability to procure materials, failure of power, fire, winds, Acts of God, riots, insurrections, war or other reason of a like nature not reasonably within the control of the party in performing any obligations shall be excused for the period of the non-performance, and the period for the performance of such obligation shall be extended for an equivalent period for no additional cost to the Municipality. In the event that the extension is not possible, the provider may be required to rebate the Municipality a portion of the fee.

Continued failure to perform for periods aggregating sixty (60) or more days, even for causes beyond the control of the Vendor, shall be deemed to render performance impossible, and the Lease shall thereafter have the right to terminate this agreement in accordance with the provisions of the Lease.

ARTICLE TWENTY-NINE

MISCELLANEOUS:

(A) Any and all notices, covenants, approvals or demands required or permitted to be given to either party hereto shall be sufficient if sent by registered or certified mail, postage prepaid, to the Lessor addressed to:

Barnstable Municipal Airport Commission  
 Barnstable Municipal Airport  
 480 Barnstable Rd. 2<sup>nd</sup> Floor  
 Hyannis, Massachusetts 02601

and to the Lessee addressed to:

or to such other address as either party may specify to the other by notice given as provided herein.

(B) If any provisions of the lease shall be any extent be held invalid or unenforceable, the remainder of this lease shall not be deemed affected thereby.

(C) Lessee shall not, during the term of this lease, hire or employ on either a full-time or part-time basis, without the prior written approval of the Lessor, any employees of the Lessor regardless of whether such employee of the Lessor be full-time or part-time employees.

(D) Signs: Lessee agrees that it will not place or cause to be placed, any signs, poster, hand-outs, of any nature, inside or outside of the demised premises, other than described in ARTICLE ELEVEN, Supra, without written approval of the Lessor.

(E) Construction and Development: Lessee recognizes that from time to time during the term of this lease it will be necessary for Lessor to initiate and carry forward extensive programs of construction, expansion, maintenance and repair in order that the airport and its facilities may be suitable for the volume and character of air traffic and flight activity which will require accommodation, and that such construction, expansion, maintenance and repair may temporarily inconvenience or temporarily interrupt the Lessee in its operations at the airport. Lessee agrees that no liability shall attach to Lessor, its officers, agents, and employees by reason of such temporary inconvenience or temporary interruption; and for and in consideration of these premises, Lessee waives any right to claim damage or other consideration therefore except for reasonable and proportionate rental abatement in case of such periods of impaired use of these premises leased hereunder.

(F) During the term of this agreement, the Lessor may have to relocate terminal lessees to a mutually acceptable location, as the public need requires, at the discretion and sole cost and expense of the Barnstable Municipal Airport Commission. Lessor will give Lessee a minimum of ninety (90) days advance notice. Any relocation would be done to minimize the disruption and provide similar facilities to the lessee.

IN WITNESS WHEREOF, the parties to these presents have executed this lease in the year and day first above mentioned.

By

\_\_\_\_\_  
VENDOR

\_\_\_\_\_  
AIRPORT COMMISSION CHAIRMAN

## **Appendix E**

### **LEGAL ADVERTISEMENT FOR RFP**

The Chief Procurement Officer for the Town of Barnstable on behalf of Barnstable Airport Commission and the Airport Manager is soliciting responses for the lease of space in the current terminal for the operation of rental car services to airport passengers. A total of four (4) firms will be awarded space in the terminal for a period of thirty-six (36) months with one thirty-six (36)-month option.

This solicitation is being made under the provisions of Chapter 30B M.G.L., Chapter 16. Proposals are due on 4/6/18 at 2:00 p.m. in the Office of the Chief Procurement Officer, Town of Barnstable, 230 South Street, Hyannis, MA 02601. Contracts will be awarded within 30 days. Specifications and required forms are available on the Town of Barnstable website, Bid & RFP System at [www.townofbarnstable.us](http://www.townofbarnstable.us). Proposals will be opened and read in the Purchasing Office at this time. All proposals must be received in a sealed envelope properly marked prior to the proposal opening.

The Chief Procurement Officer reserves the right to reject any or all proposals when it deems it to be in the best interest of the Town.

Disclosure of Beneficial Interests in Real Property Transaction

This form contains a disclosure of the names and addresses of all persons with a direct or indirect beneficial interest in the real estate transaction described below. This form must be filed with the Massachusetts Divisions of capitol Planning and Operations, as required by M.G.L. c. 7, sec 40 J, prior to the conveyance of or execution of a lease for the real property described below. Attach additional sheets if necessary.

1. Public agency involved in this transaction: \_\_\_\_\_  
(Name of jurisdiction)

2. Complete legal description of the property:

3. Type of transaction:  Sale  Lease or rental for \_\_\_\_\_ (term):

4. Lessor(s): \_\_\_\_\_

Lessee(s): \_\_\_\_\_

5. Names and addresses of all persons who have or will have a direct or indirect beneficial interest in the real property described above. *Note: If a corporation has or will have a direct or indirect beneficial interest in the real property, the names of all stockholders must also be listed except that, if the stock of the corporation is listed for sale to the general public, the name of any person holding less than ten percent of the outstanding voting shares need not be disclosed.*

Name

Address

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

(Continued on next page)

5. Continued

None of the persons listed in this section is an official elected to public office in the Commonwealth of Massachusetts except as noted below:

Name

Title or position

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6. This section must be signed by the individual(s) or organization(s) entering into this real property transaction with the public agency named in item 1. If this form is signed on behalf of a corporation, it must be signed by a duly authorized officer of that corporation.

The undersigned acknowledges that any changes or additions to item 4 of this form during the term of any lease or rental will require filing a new disclosure with the Division of Capital Planning and Operations within 30 days following the change or addition.

The undersigned swears under the pains and penalties of perjury that this form is complete and accurate in all respects.

Signature: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**Exhibit Cover sheet**

The following exhibits are included with this Request for Proposals

- A. CV-6 Terminal Parking lot area for rental car parking.
- B. A111 Terminal layout depicting where 4 rental car counter/office areas are located.
- C. A921 Car Rental Counter Drawing