



**Request for Proposals  
Airport Car Rental Concessions  
RFP No.: P16-005  
Issue Date: July 15, 2015**

**Purchasing Department  
73 Harlow Street  
Bangor, Maine 04401  
Tel. 207-992-4282**

## **I. Introduction**

Bangor International Airport (BGR) is a full service regional airport located in Bangor, Maine. Located in the northeast, Bangor serves as an uncongested entry point to the United States and as a popular transit point for trans-Atlantic technical stops and aircraft diversions. The Airport is owned and operated by the City of Bangor as an enterprise fund and is supported solely through Airport generated revenue. The Airport is the principle domestic air service provider for a regional market of 700,000 people with non-stop service on four U.S. airlines: Allegiant, American/US Airways, Delta, and United. Resident airlines offer daily non-stop service to four major hubs: Detroit, New York's LaGuardia, Philadelphia and Washington, DC and at least twice weekly non-stop service to Orlando/Sanford and Tampa/St. Petersburg, as well as seasonal daily service to Chicago O'Hare.

The Airport is home to the Maine Air National Guard 101st Air Refueling Wing and the Maine Army Guard 112<sup>th</sup> Medical. The Airport hosts a significant amount of transit military traffic.

The existing airfield is comprised of one active runway that is intended for use by air carriers, general aviation, and military aircraft. Runway 15/33 is 11,440 feet long by 200 feet wide and is equipped with a Category III instrument landing system (ILS).

Airline and airport support facilities include a 24-hour FAA Air Traffic Control Tower, an aircraft rescue and firefighting (ARFF) facility maintained by the Maine Air National Guard and a fuel farm which is operated by the City of Bangor.

The City of Bangor, Maine invites sealed Proposals from qualified Car Rental Concessionaires to operate car rental concessions at Bangor International Airport. Accordingly, the City may enter into up to five (5) agreements for the operation of car rental concessions for a period of five (5) years. The estimated commencement date is November 1, 2015. The City retains the right to execute up to five (5) one-year extensions.

## II. Submission

To be considered, submit completed Proposal Forms, required additional information and any other information the Proposer deems important in an envelope **clearly** marked **“Proposal No.: P16-005: Car Rental Concessions”** by **2:00 PM, Wednesday, August 26, 2015** to City of Bangor, Purchasing Department, 73 Harlow Street, Bangor, Maine 04401.

**Please submit one (1) original and three (3) copies of the proposal.**

Proposals may also be submitted via email by sending to: [bids@bangormaine.gov](mailto:bids@bangormaine.gov). If emailing, please reference **“Proposal No.: P16-005: Car Rental Concessions”** in the subject line. Proposals will be publicly opened on the date and time stated above.

A tabulation of all proposals received will be available after 3:00 PM on the date of opening. Results may be viewed by visiting the City’s website at [www.bangormaine.gov](http://www.bangormaine.gov).

## III. General Information

General information is available on the City’s website at the following web address: [www.bangormaine.gov/bids/proposals](http://www.bangormaine.gov/bids/proposals). By submitting a response to this solicitation, the bidder accepts the responsibility for downloading, reading and bidding by the terms and conditions set forth in the City’s “General Information for Vendors”.

## IV. Questions

Any questions must be directed in writing to [bids@bangormaine.gov](mailto:bids@bangormaine.gov) no later than 4:30 p.m., **Friday, July 31, 2015**.

The City will issue a response to any questions or inquiries submitted in writing by the date above, on or before 4:30 PM, **Wednesday, August 5, 2015**. The response will be in the form of an addendum, which will be available on the City’s website.

## V. Overview

The Bangor International Airport believes that the overall concession program comprises a critical element in the operation of the Airport. This critical role includes reasonable financial return to the Airport, the theme and quality of the facilities and the execution of a sound management plan.

Current On-Site Concessions are as follow:

Food and Beverage Concession	BAFS d/b/a Jerry's Catering, Bangor
Advertising	Clear Channel
News and Gift Concession	Stellar Partners
	Montage Ent. d/b/a The Grasshopper Shop
Locker/Cart Rentals	Smarte Carte
Car Rental Agencies	Alamo, Avis, Budget, Hertz, National

The City of Bangor desires to provide Bangor International Airport passengers with an excellent range of car rental services. The City of Bangor has identified specific goals for the car rental concessionaires at Bangor International Airport to ensure that Airport patrons receive quality services. Concessionaires are encouraged to offer the following:

- High quality vehicles and a high level of customer service.
- Quick and effective responses to changes in customer market trends and passenger needs and preferences.
- Competitive and reasonable rental rates.
- A nationally recognized franchise with the ability to provide a direct national reservation system or reservations through travel agencies.

The concessionaires at Bangor International Airport should focus on bringing the best of the Bangor travel experience to the Airport. Concessionaires are encouraged to offer national incentive programs that will enhance the quality of the car rental services at this Airport.

The Airport requests that Proposers prepare their offers based on the expectation that there will be up to five (5) concessionaire spaces available. Dual-branding or Multiple-branding shall not be permitted under this RFP. However, a proposer may submit more than one proposal for more than one opportunity as long as the proposals contain different brands.

The City reserves the right to implement a Customer Facility Charge (CFC) during the term of the agreement(s). Should a CFC be approved, the City will work with all current car rental concessionaires to identify capital projects which would be funded by this fee.

## **VI. Facilities**

### **Car Rental Counter/Office Space**

There are currently five (5) car rental concession counter/office spaces, each containing approximately 260 square feet (Exhibit A), located opposite the baggage claim area in the domestic terminal building.

The Airport is currently undertaking a terminal renovation project. This renovation project involves an upgrade to the first floor of the domestic terminal and the construction of an in-line checked baggage inspection system. The overall goals of this renovation project are to:

- Improve the terminal building functions for operational efficiency.
- Improve the customer (passenger) experience for increased enplanement growth.
- Improve the terminal support systems, such as the escalator and mechanical and lighting upgrades.
- Plan for future growth and technologies.

Included as part of the terminal renovation project, the Airport will relocate and build new car rental counter/office spaces (Exhibit B). This construction phase, which is estimated to begin October 2015, is expected to be complete by March 2016. Therefore, car rental concessionaires will operate in existing offices until this phase of the construction project is complete. Once complete, the concessionaires will relocate to the new car rental counter/office spaces.

The rental rate for the terminal facilities will be \$37.75 annual per square foot for operating within the new offices. The current rate will remain in effect until companies move to new offices. On each year anniversary of the Lease Commencement Date the rental amount then in effect shall be increased by a percentage equal to the percentage increase in the Consumer Price Index – Urban (CPI-U).

Any wiring and cables installed must be in cable trays or conduit and all electrical and communications wiring and equipment must meet all applicable State and Federal building codes and will be the responsibility of the Concessionaire. The City will provide electrical power and HVAC.

The following is a non-exhaustive list of items that will be at the expense of the Concessionaire:

- Telephone and Wi-Fi connections
- Corporate signage
- Queuing control devices
- Office furnishings

A successful Proposer who is currently at the Airport will not be required to move his/her rental counter location until the new car rental counter/office spaces referenced above are complete. Successful new Proposers will choose from the vacated current location(s). In the event, there is more than one successful new Proposer, the order of

choice shall be determined by the proposed minimum annual guarantee amount (the highest Proposer will have first choice, the next highest shall have second choice, etc.).

Successful Proposers will select their new locations in order based on their proposed minimum annual guarantee (MAG) amount (the highest Proposer will select first, the next highest shall select second, etc.).

### **Automotive Service Facility**

The City will require that all successful Proposers operate an onsite automotive service facility. The choice of location will be determined by the proposed minimum annual guarantee amount (the highest will have first choice, the next highest second choice, etc.). The lease term for the service facilities will be five (5) years. The City retains the right to execute up to five (5) one-year extensions. The City will provide for a thirty (30) day notice for those Car Rental Agencies that may have to relocate facilities based on the minimum annual guarantee amount submitted with this Proposal.

### **Utah Avenue Facilities (Exhibit D)**

Utah Avenue lot 1 (25,970 sq. ft.) facility building is approximately 2,400 square feet and has one car wash bay and one service bay along with office space. The lease shall be for \$23,400 per annum payable in twelve (12) installments, due at the beginning of each month.

Utah Avenue lot 2 (19,500 sq. ft.) facility building is approximately 2,400 square feet and has one car wash bay and one service bay along with office space. The lease shall be for \$23,400 per annum, payable in twelve (12) installments, and due at the beginning of each month.

Utah Avenue lot 3 (26,064 sq. ft.) facility building is approximately 2,400 square feet and has one car wash bay and one service bay along with office space. The lease shall be for \$23,400 per annum, payable in twelve (12) installments, and due at the beginning of each month.

On each year anniversary of the Lease Commencement Date the rental amount then in effect shall be increased by a percentage equal to the percentage increase in the Consumer Price Index – Urban (CPI-U). Utilities, insurance, maintenance and repairs, and the removal of snow and rubbish are the responsibility of the lessee.

A draft copy of the indenture of lease is included as Exhibit F. The final form and execution of the lease is subject to the review and approval of the Bangor City Council.

### **Building 253 Facility (Exhibit E)**

This facility is located in building 253 at 243 Maine Avenue and consists of two (2) bays in the building totaling approximately 1,292 sq. ft. Rent is \$12,597 per annum, payable in twelve (12) installments, due at the beginning of each month.

Another facility is located in building 253 at 243 Maine Avenue and consists of one bay in the building totaling approximately 645 sq ft. Rent is \$6,288.75 per annum, payable in twelve (12) installments, due at the beginning of each month.

Parking is available for up to 20 cars, with parking for an additional 20 cars near the main terminal, at a rate of 50% of the ready return car parking rate. This additional parking will be no further than the parking on Utah Avenue lot 3. The bays are exclusive use, and the rest of the area is common use with the City and other tenants including but not limited to halls, passageways, stairways, entrances, exits, driveways, restrooms and yards.

On each year anniversary of the Lease Commencement Date the rental amount then in effect shall be increased by a percentage equal to the percentage increase in the Consumer Price Index – Urban (CPI-U). Utilities are the responsibility of Bangor International Airport. Insurance, maintenance and repairs, and the removal of snow and rubbish are the responsibility of the lessee.

The indenture of lease will be similar to Exhibit F with the exception of the utilities. The final form and execution of the lease is subject to the review and approval of the Bangor City Council.

### **Construction of New Facility (Exhibit G)**

Proposers have the option of building a maintenance facility, at their cost. Two locations are available. The first is located on Utah Avenue, lot 4, which is approximately 22,170 sq. ft. The ground lease rent would be \$5,850 per annum, payable in twelve (12) installments, due at the beginning of each month. The second location is on the west side of Utah Avenue. It is approximately 22,000 sq. ft. The ground lease rent would be \$5,810 per annum, payable in twelve (12) installments, due at the beginning of each month.

Ground leases would be for a period of five years with two, five year automatic renewals if the company retains a concession at the Airport. If the company loses their concession agreement, there will be a buy-out provision at the unamortized cost of the facility. On each year anniversary of the Lease Commencement Date the rental amount then in effect shall be increased by a percentage equal to the percentage increase in the Consumer Price Index – Urban (CPI-U).

Utilities, insurance, maintenance and repairs, and the removal of snow and rubbish would be the responsibility of the lessee.

### **Ready and Return Car Parking (Exhibit H)**

The City will require that all successful Proposers rent a proportionate share of the total Ready and Return Car parking spaces at a location or locations designated by the City.

There are 86 to 138 parking spaces in the Ready and Return Car Parking area that are allocated, depending upon demand and security requirements. Each successful Proposer will be allocated six (6) spaces that are reasonably convenient to the domestic terminal building. The remaining spaces will be allocated annually by the Airport on a proportionate basis, based on the relationship of the Proposer's gross revenues to the total gross revenues for all on-airport car rental concessionaires during the proceeding lease year. For the first lease year, the allocation of additional spaces will be based on each individual Proposer's percentage of the total gross revenue. (Example: Proposer 1 represents 20% of the total, Proposer 1 will be required to rent 20% of the parking spaces available). The highest Proposer shall have first choice of parking spaces, the next highest second choice, etc. The parking space rental fee will be \$28.00 per month per parking space for the term of the contract. Snow removal would be the responsibility of the lessee.

### **VII. Concessionaire Agreement**

A draft copy of the concession agreement is included as Exhibit C. The final form and execution of the agreement is subject to the review and approval of the Bangor City Council.

#### **Minimum Annual Guarantee Fee (MAG)**

A MAG (guaranteed annual payment) to the Airport is required.

#### **Vehicle Registrations**

Each Proposer will be required to register vehicles in the City of Bangor for each contract year in accordance with their submitted proposal.

### **VIII. Proposal Content**

Proposals are to be presented in a clear and concise manner. Proposers shall ensure that all information required herein be submitted with the proposal. Additional useful information is appreciated and should be included in the proposal, however, the City reserves the right to negotiate any portion of the proposal determined to be unclear or

to inappropriately address the needs of the City of Bangor. All proposals shall remain firm for sixty (60) calendar days after receipt of the proposals.

Firms interested in being considered for this work should submit the following:

- Cover Letter: A one page cover letter, that at a minimum provides contact name, phone number and email address, a statement that the statements contained within the response are true and correct, a statement that the Proposer has not, directly or indirectly, colluded with any other Proposer in any manner and that is signed by an individual with the authority to bind the Proposer.
- Name, Organization and Ownership of Company: The legal name of the company (and/or parent), form of organization and ownership information.
- History of the Company: Note year organized; growth in sales, employees, and locations managed since inception; description of continuity in ownership and/or management.
- Financial Reports: Please provide a complete set of GAAP financial statements, including footnotes, for the last three complete fiscal years. If Proposer is a newly formed entity, please provide the amounts and source of capitalization of the company. If the Proposer is a sole proprietorship, Proposer must submit personal financial statements, not older than ninety (90) days and three (3) most recent personal tax returns.
- Other Locations: Provide information on at least five (5) rental car locations operated in the past five years including; name under which operation was provided, airports where services provided, including whether on or off-airport locations, address, contact person and phone number, size of and number of years at location. In addition, provide gross revenues, rents, and fees paid for each location.
- References: Please provide at least three (3) credit and three (3) professional references, unrelated to the proposer and note the nature and magnitude of the relationship.
- Legal and Performance: Describe any pending or unresolved litigation or judgments that may impact in any way the ability of the Company to enter the proposed Agreements. Indicate whether or not any agreements held by Proposer for the operation of a car rental concession or related services has been cancelled. Indicate whether Proposer has ever been sued by an airport for issues pertaining to fee payments, rental payments and/or performance. Indicate whether Proposer has ever had a bond or

surety cancelled or forfeited. Indicate whether Proposer has ever been declared bankrupt. Identify any objectionable provisions in the proposed Agreements and the basis of such objections.

- Management and Staffing: Provide the following information regarding the proposed management plan and staffing:
  - Start-up schedule
  - Resumes of key personnel
  - Staffing levels, type and extent of training
  - Role of Manager and extent of authority
  - Organizational and functional charts reflecting line of management responsibility.
  - Plans and procedures for administrative support
  - Description of revenue control system to be utilized, including a description of the audit trail.
  
- Services: Please detail the service to be provided. This should include description of services offered to the public, marketing strategy for services offered, method of sales, variety of vehicles offered and any other relevant information related to services.
  
- DBE: Notification of ACDBE Requirements:
  - The City of Bangor for the Bangor International Airport has established an Airport Concession Disadvantaged Business Enterprise (ACDBE) program, **pending FAA final approval**, in accordance with regulations of the U.S. Department of Transportation (DOT), 49 CFR Part 23. A copy of this draft ACDBE program is attached as Exhibit I.
  
  - The Airport's overall car rental goal for the period ending September 30, 2016 is the following: 0.46% of the total gross receipts of car rental operations at the Bangor International Airport. It is important to note that the % goal will change over the duration of the contract as the Airport is required to update the goal every 3-years, or when a qualifying new concession opportunity arises.
  
  - ACDBE participation may be in the form of one or more subleases, joint ventures, partnerships, or other legal arrangement meeting the eligibility standards in 49 CFR Part 23, Subpart F. In the event that the Proposer qualifies as an ACDBE, the goal shall be deemed to have been met.

- ACDBE participation can also be met by including the purchase from ACDBEs of goods and services used in business at the Airport. Proposers will be encouraged to purchase goods and services from ACDBE's.
- Each Proposer will be required to submit information concerning the ACDBE firm(s) that will participate in this concession, including the name and address of each firm, the annual estimated gross receipts to be earned by each named firm, a description of the legal arrangement(s) to be utilized, and the total overall estimated annual gross receipts to be earned by the concession. This includes suppliers, subcontractors, etc.
- If a Proposer is unable to achieve the ACDBE goal stated herein, he/she will be required to provide documentation demonstrating that all necessary and reasonable steps were taken in attempting to do so or that it is not economically feasible to enter into a joint venture, sublease, partnership, or other eligible arrangement with an ACDBE firm. The requirements of this paragraph are not intended to force the Proposer to change its business structure.

**Those Proposers ultimately granted a concession at the Airport will be required to submit annual reports showing their ACDBE participation.**

In general, the overall requirement for each concessionaire is as follows:

1. Put forth a good faith effort to meet the current established goal.
2. Submit reporting annually.
3. Submit documentation of good faith efforts to meet the goal if the goal is not attained.
4. Participation shall be counted, per 49 CFR Part 23, and reporting is to be in accordance with 49 CFR Part 23 and submitted on the proper forms.

- ACDBE Participation/Certification:

- a. Pursuant to the Request for Proposals, identify the ACDBE sublessees, if any, the Proposer intends to utilize to meet the ACDBE participation requirements of the City and provide the following information on each:

ACDBE Sublessee:

- (1) Name of firm
- (2) Principal office address
- (3) Work to be performed

- (4) Percentage of participation in relation to total gross revenue
  - (5) Contact
  - (6) Has firm been certified by the State? Yes ( ) No ( )
  - (7) Provide other information as set forth in Section F of the Instructions.
- b. Pursuant to the City's policies regarding equal employment opportunity and Disadvantaged Business Enterprises, including businesses owned and controlled by women, please attach your firm's affirmative action plan for equal employment opportunity. Also, please attach any plans regarding procurement of goods and services and/or subcontracting activities which involve Disadvantaged Business Enterprises.
- c. Indicate ownership (controlling interest) ethnicity:  
Non-Minority ( ) Hispanic ( ) Black ( )  
American Indian or Alaskan Native ( )  
Asian or Pacific Islander (Oriental) ( )  
Two or more minorities ( ) (Please Specify)

All Proposers are hereby notified that failure to include a plan for DBE participation, in accordance with this Section, may be grounds for declaring such Proposer's proposal incomplete and may be grounds for disqualification from eligibility for award of agreements. Likewise, Concessionaire's failure to carry out its DBE obligation set forth in this Request for Proposals, once an award is made and an Agreement executed, shall constitute a breach of contract that may result in termination of the Concession Agreement, or such other remedy as deemed appropriate by the Authority.

- d. Award of Concession:

Proposers are hereby advised that meeting DBE goals established by the Airport and identified in the Request for Proposals, or making an acceptable Good Faith Effort to meet such goals, are conditions of being awarded agreements. The Airport proposes to award agreements to qualified and responsible Proposers which, in the Airport's sole opinion, submit the best proposals, provided they have met the DBE goals or, if failing to meet the goals, they have made an acceptable good faith effort to meet the established DBE goals. Proposers are advised that the Airport has sole authority to determine if a Proposer has made an acceptable good faith effort toward meeting DBE goals. The Airport reserves the right to reject any or all proposals submitted.

- e. Proposer's Required Submission:

At the time of submitting the proposal under this solicitation, each Proposer must submit the information concerning DBE participation specified in the Proposal Form.

f. Good Faith Effort:

If any Proposer fails to meet the DBE goals established herein, information shall be submitted prior to Award of the agreements to assist the Airport in determining whether or not such Proposer made an acceptable Good Faith Effort to meet such DBE goals. A list of some, but not necessarily all of the kinds of efforts that the Proposer may make, and the Airport may consider in making a determination as to the acceptability of a Proposer's efforts to meet the DBE stated goals, is as follows:

- Whether the Proposer attended any pre-bid meetings that were scheduled by the Airport to inform DBEs of concession opportunities;
- Whether the Proposer advertised in general circulation, trade association and minority-focus media concerning the subcontracting or Joint Venture opportunities;
- Whether the Proposer provided written notice to a reasonable number of specific DBEs that interest in the Concession was being solicited, in sufficient time to allow the DBEs to participate effectively;
- Whether the Proposer followed up initial solicitations of interest by contacting DBEs to determine with certainty whether the DBEs were interested;
- Whether the Proposer selected portions of the concession to be performed by DBEs in order to increase the likelihood of meeting the DBE goals (including, where appropriate, breaking down participation into economically feasible units to facilitate DBE participation);
- Whether the Proposer provided interested DBEs with adequate information about the specifications and requirements of the concession;
- Whether the Proposer negotiated in good faith with interested DBEs, not rejecting DBEs as unqualified without sound reasons based on a thorough investigation of their capabilities;
- Whether the Proposer made efforts to assist interested DBEs in obtaining bonding, lines of credit, or insurance required by the City;
- Whether the Proposer effectively used the services of available minority community organizations; local, state and Federal disadvantaged business assistance officers; and other organizations that provide assistance in the recruitment and placement of DBEs.

**Note:** The nine items set forth above are merely suggested criteria and the Airport may specify that Proposers submit information on certain other actions a Proposer took to secure DBE participation in an effort to meet the goals. Any Proposer may also submit to the Airport other information on efforts it made to meet the goals. The following proposal conditions apply to the concession to be awarded. Submission of a proposal by a Proposer shall constitute full acceptance of these conditions.

- Expected Gross Sales: Please indicate the expected annual gross sales from operations of car rental concession at Bangor International Airport for each of the five (5) contract years.
- Minimum Annual Guaranteed (MAG) Fee: Please provide MAG fee for the first year of the contract period.
- Vehicle Registrations: Please provide the dollar value of vehicles that the Proposer intends to register in the City of Bangor for each of five (5) contract years.
- Other Information: Proposers are encouraged to provide any additional information which demonstrates the experience, operations capability, and interest in providing the services required.

## **VIII. Selection Process and Criteria**

### **Selection Process**

The initial screening of proposals is anticipated to be undertaken by a Review Committee, which may include City Councilors, City staff members and/or members of the public. This initial screening process will determine the overall ranking of the Proposals. Invitations for oral presentations or requests for additional information may be extended to a number of the higher ranking Proposers at the sole discretion of the selection committee. Commitments made by the Proposer at the oral interview, if any, will be considered binding. The City Council will have the final approval of the successful Proposal as recommended by the selection committee. The evaluation and selection process is designed to award agreements to those Proposers who best meet the requirements of this RFP as determined by the City.

### **Selection Criteria**

Proposers must have a minimum of three (3) years continuous working ownership (defined as actively involved in the day-to-day management of business) or executive management experience in a car rental operation, where all of said experience is within the past five (5) years. An individual who holds, or has held, a position of administrative or managerial responsibility in the operation of a car rental business for three (3) consecutive years out of

the past five (5) years would meet the executive management experience requirement. If the Proposer is a new business, previous executive management experience of the identified owner(s) or the new business will be considered in order to meet the experience requirement.

The following evaluation factors and criteria will be considered in awarding contracts for the Car Rental Concessions:

- Experience & Past Performance: Demonstrated ability to provide business services in an airport environment. Past performance at BGR and /or most recent Industry Customer Report Survey.
- Financial Ability: Demonstrated financial ability to operate a high quality car rental concession.
- Capital Investment: Plans for capital investment in maintenance/service facility.
- Proposed General Policy and Affirmative Action Program: Demonstrated ability to manage the concession; relationship between local operation and main headquarters; conformity and established Affirmative Action goals; and management reporting procedures.
- Marketing & Market Area: Scope of national and international marketing and overall presence in the Maine, New England and Eastern Canadian Markets. Also extent of customer support facilities.
- Minimum Annual Guarantee Payment: Level of guarantee annual payment.
- ACDBE Participation: Strength of ACDBE participation or ACDBE prime operator of sublessee.
- Proposed Registration of Vehicles with the City of Bangor: Level of value of registration of vehicles with the City of Bangor.

**The minimum annual guarantee payment and proposed registration of vehicles with the City of Bangor will carry the greatest weight in the selection of the best proposals.** The selection will be based upon the judgment of the City in seeking the best and highest quality services utilizing the stated criteria as a guide only. In selecting the most qualified and responsible Proposers for whom nonexclusive Car Rental concessions will be granted, consideration will be given to the experience and capability each Proposer is able to demonstrate. The City of Bangor is not required to select the proposal with the highest guaranteed annual revenue.

Anticipated timeline for selection process:

<u>Activity</u>	<u>Proposed Date</u>
Issue Request for Proposals	July 15, 2015
Deadline for Questions	July 31, 2015
Response to Questions	August 5, 2015
Proposal deadline	August 26, 2015
Complete evaluation process	September 11, 2015
Recommendation to City Council Committee	September 21, 2015
City Council approval	September 28, 2015
Effective date of term agreement	November 1, 2015

## **IX. Additional Information**

### **Proposer to Inform Self**

Each Proposer shall carefully examine this Request for Proposals, the physical layout of the Domestic Terminal Building, location of the Concession areas and the maintenance/service facilities in order to become fully informed about the conditions and operational activities of the Airport. Each Proposer must judge all conditions and circumstances that may affect the concession operation. Failure on the part of any Proposer to make such examination shall not constitute grounds for declaration of not understanding the conditions with respect to making its proposal.

### **Performance Bond**

The successful Proposers will be required to furnish to the City, and maintain throughout the term of the Agreement, a Performance Bond in an amount equal to one-third (1/3) of the first year's minimum annual guarantee payments, to guarantee performance under the Concession Agreement. The Surety or Sureties must be duly authorized to do business in the State of Maine. The successful Proposers must execute and submit the Performance Bond in order to satisfy this requirement.

### **Exclusivity**

The City of Bangor will not enter into any exclusive car rental contract. The City of Bangor reserves the right to award other car rental contracts, due to the early termination of a lease agreement or other cause deemed reasonable by the City. The City continues to have the right to provide phone board and other such privileges to other off-airport rental car companies.

## On-Airport Car Rental Gross Receipts

2014						
<u>Month</u>	<u>Avis</u>	<u>Budget</u>	<u>Hertz</u>	<u>Alamo</u>	<u>National</u>	<u>Grand Total</u>
January	\$ 108,937.90	\$ 88,498.57	\$ 119,704.74	\$ 41,413.17	\$ 55,624.13	\$ 414,178.51
February	\$ 94,330.07	\$ 70,704.94	\$ 94,462.65	\$ 29,970.23	\$ 49,439.65	\$ 338,907.54
March	\$ 114,088.31	\$ 91,569.92	\$ 117,592.50	\$ 34,052.25	\$ 52,539.08	\$ 409,842.06
April	\$ 116,206.17	\$ 103,235.63	\$ 104,290.84	\$ 40,546.51	\$ 51,313.10	\$ 415,592.25
May	\$ 158,711.86	\$ 167,639.92	\$ 178,482.70	\$ 71,576.34	\$ 76,894.76	\$ 653,305.58
June	\$ 244,832.99	\$ 360,517.64	\$ 331,377.25	\$ 192,816.22	\$ 105,390.23	\$ 1,234,934.33
July	\$ 320,762.97	\$ 617,415.21	\$ 396,241.94	\$ 270,569.98	\$ 142,378.10	\$ 1,747,368.20
August	\$ 430,353.02	\$ 749,982.51	\$ 521,030.33	\$ 296,937.23	\$ 197,859.03	\$ 2,196,162.12
September	\$ 248,411.01	\$ 438,597.17	\$ 433,510.37	\$ 219,705.71	\$ 134,138.68	\$ 1,474,362.94
October	\$ 234,288.48	\$ 346,041.56	\$ 328,058.84	\$ 194,891.01	\$ 144,389.85	\$ 1,247,669.74
November	\$ 122,421.51	\$ 141,920.09	\$ 122,317.74	\$ 65,766.22	\$ 73,705.60	\$ 526,131.16
December	\$ 98,307.05	\$ 106,914.25	\$ 99,678.37	\$ 52,341.68	\$ 64,903.73	\$ 422,145.08
<b>Total</b>	<b>\$ 2,291,651.34</b>	<b>\$ 3,283,037.41</b>	<b>\$ 2,846,748.27</b>	<b>\$ 1,510,586.55</b>	<b>\$ 1,148,575.94</b>	<b>\$ 11,080,599.51</b>

2013						
<u>Month</u>	<u>Avis</u>	<u>Budget</u>	<u>Hertz</u>	<u>Alamo</u>	<u>National</u>	<u>Grand Total</u>
January	\$ 79,870.15	\$ 84,401.40	\$ 106,560.19	\$ 47,511.05	\$ 62,006.66	\$ 380,349.45
February	\$ 91,029.78	\$ 58,267.56	\$ 96,625.97	\$ 47,326.58	\$ 49,319.85	\$ 342,569.74
March	\$ 111,557.86	\$ 71,995.58	\$ 110,881.37	\$ 38,273.96	\$ 61,328.52	\$ 394,037.29
April	\$ 99,963.55	\$ 73,400.60	\$ 120,156.30	\$ 42,163.15	\$ 62,698.01	\$ 398,381.61
May	\$ 150,578.57	\$ 165,843.45	\$ 189,741.58	\$ 68,079.49	\$ 77,124.54	\$ 651,367.63
June	\$ 244,976.67	\$ 319,360.16	\$ 325,080.77	\$ 123,459.03	\$ 95,321.91	\$ 1,108,198.54
July	\$ 305,981.83	\$ 573,409.57	\$ 447,760.83	\$ 251,087.16	\$ 149,755.08	\$ 1,727,994.47
August	\$ 381,845.10	\$ 680,823.89	\$ 506,111.23	\$ 282,091.87	\$ 189,322.02	\$ 2,040,194.11
September	\$ 251,297.98	\$ 393,860.05	\$ 350,937.49	\$ 207,091.29	\$ 144,956.34	\$ 1,348,143.15
October	\$ 213,617.92	\$ 332,103.30	\$ 306,145.05	\$ 140,368.43	\$ 118,838.75	\$ 1,111,073.45
November	\$ 116,697.84	\$ 109,244.88	\$ 138,704.60	\$ 41,655.87	\$ 66,725.78	\$ 473,028.97
December	\$ 108,809.58	\$ 109,538.51	\$ 116,891.58	\$ 44,569.02	\$ 60,337.52	\$ 440,146.21
<b>Total</b>	<b>\$ 2,156,226.83</b>	<b>\$ 2,972,248.95</b>	<b>\$ 2,815,596.96</b>	<b>\$ 1,333,676.90</b>	<b>\$ 1,137,734.98</b>	<b>\$ 10,415,484.62</b>

2012						
<u>Month</u>	<u>Avis</u>	<u>Budget</u>	<u>Hertz</u>	<u>Alamo</u>	<u>National</u>	<u>Grand Total</u>
January	\$ 86,066.97	\$ 74,409.47	\$ 96,879.79	\$ 41,605.13	\$ 39,741.07	\$ 338,702.43
February	\$ 99,154.22	\$ 76,936.13	\$ 109,610.25	\$ 32,307.10	\$ 42,255.10	\$ 360,262.80
March	\$ 104,710.12	\$ 79,321.22	\$ 102,742.56	\$ 29,334.49	\$ 51,890.95	\$ 367,999.34
April	\$ 103,501.14	\$ 87,490.69	\$ 100,738.42	\$ 32,882.22	\$ 46,946.16	\$ 371,558.63
May	\$ 148,886.70	\$ 117,662.05	\$ 173,838.90	\$ 54,537.86	\$ 66,370.54	\$ 561,296.05
June	\$ 199,610.86	\$ 269,341.98	\$ 294,796.50	\$ 116,027.47	\$ 92,674.32	\$ 972,451.13
July	\$ 332,623.18	\$ 496,387.91	\$ 427,307.20	\$ 207,948.75	\$ 143,851.98	\$ 1,608,119.02

August	\$ 411,377.87	\$ 507,623.90	\$ 515,181.19	\$ 261,121.86	\$ 180,620.45	\$ 1,875,925.27
September	\$ 262,536.97	\$ 376,605.02	\$ 441,610.57	\$ 175,573.22	\$ 135,380.37	\$ 1,391,706.15
October	\$ 208,147.45	\$ 279,289.89	\$ 342,784.11	\$ 124,303.44	\$ 122,166.55	\$ 1,076,691.44
November	\$ 111,006.88	\$ 84,391.81	\$ 132,335.09	\$ 57,420.75	\$ 71,894.76	\$ 457,049.29
December	\$ 100,660.36	\$ 85,796.69	\$ 101,816.25	\$ 56,958.26	\$ 62,490.20	\$ 407,721.76
<b>Total</b>	<b>\$ 2,168,282.72</b>	<b>\$ 2,535,256.76</b>	<b>\$ 2,839,640.83</b>	<b>\$ 1,190,020.55</b>	<b>\$ 1,056,282.45</b>	<b>\$ 9,789,483.31</b>

**2011**

<u>Month</u>	<u>Avis</u>	<u>Budget</u>	<u>Hertz</u>	<u>Alamo</u>	<u>National</u>	<u>Grand Total</u>
January	\$ 93,038.29	\$ 76,046.80	\$ 102,058.58	\$ 28,308.52	\$ 38,771.63	\$ 338,223.82
February	\$ 88,016.53	\$ 74,225.08	\$ 89,706.85	\$ 31,044.98	\$ 43,292.63	\$ 326,286.07
March	\$ 105,658.61	\$ 88,188.39	\$ 97,374.30	\$ 30,914.56	\$ 46,424.66	\$ 368,560.52
April	\$ 91,416.57	\$ 86,200.09	\$ 102,709.82	\$ 38,487.57	\$ 43,962.19	\$ 362,776.24
May	\$ 108,072.99	\$ 136,149.04	\$ 138,994.99	\$ 52,717.64	\$ 51,863.76	\$ 487,798.42
June	\$ 138,718.58	\$ 250,162.79	\$ 241,510.75	\$ 94,463.25	\$ 80,063.91	\$ 804,919.28
July	\$ 314,782.95	\$ 437,541.97	\$ 470,164.59	\$ 233,972.31	\$ 159,739.53	\$ 1,616,201.35
August	\$ 355,307.56	\$ 513,985.43	\$ 617,798.44	\$ 253,132.03	\$ 191,683.28	\$ 1,931,906.74
September	\$ 184,857.30	\$ 343,359.93	\$ 392,827.44	\$ 139,168.14	\$ 103,811.30	\$ 1,164,024.11
October	\$ 179,863.37	\$ 281,354.20	\$ 275,845.57	\$ 113,794.19	\$ 110,526.82	\$ 961,384.15
November	\$ 93,226.63	\$ 95,778.91	\$ 125,731.18	\$ 58,677.86	\$ 45,976.48	\$ 419,391.06
December	\$ 78,526.19	\$ 87,693.88	\$ 100,659.35	\$ 47,597.01	\$ 44,179.24	\$ 358,655.67
<b>Total</b>	<b>\$ 1,831,485.57</b>	<b>\$ 2,470,686.51</b>	<b>\$ 2,755,381.86</b>	<b>\$ 1,122,278.06</b>	<b>\$ 960,295.43</b>	<b>\$ 9,140,127.43</b>

**2010**

<u>Month</u>	<u>Avis</u>	<u>Budget</u>	<u>Hertz</u>	<u>Alamo</u>	<u>National</u>	<u>Grand Total</u>
January	\$ 91,991.26	\$ 64,272.97	\$ 75,770.49	\$ 37,721.48	\$ 37,060.25	\$ 306,816.45
February	\$ 85,916.77	\$ 46,778.90	\$ 73,954.24	\$ 30,328.81	\$ 32,675.40	\$ 269,654.12
March	\$ 106,625.00	\$ 61,974.63	\$ 75,953.07	\$ 32,159.35	\$ 36,780.29	\$ 313,492.34
April	\$ 93,508.07	\$ 62,268.56	\$ 91,137.12	\$ 47,922.58	\$ 39,716.91	\$ 334,553.24
May	\$ 114,737.77	\$ 112,650.70	\$ 144,374.15	\$ 58,104.85	\$ 44,407.12	\$ 474,274.59
June	\$ 159,284.64	\$ 206,647.32	\$ 250,340.53	\$ 112,639.29	\$ 75,030.70	\$ 803,942.48
July	\$ 235,743.14	\$ 343,465.87	\$ 399,211.42	\$ 178,882.58	\$ 100,732.34	\$ 1,258,035.35
August	\$ 338,801.29	\$ 381,795.86	\$ 466,366.71	\$ 236,369.56	\$ 120,323.79	\$ 1,543,657.21
September	\$ 179,046.54	\$ 294,091.85	\$ 381,629.48	\$ 150,264.58	\$ 78,771.59	\$ 1,083,804.04
October	\$ 188,367.07	\$ 248,544.94	\$ 328,869.93	\$ 110,535.77	\$ 85,021.10	\$ 961,338.81
November	\$ 115,905.56	\$ 80,314.17	\$ 138,525.34	\$ 37,656.52	\$ 40,994.37	\$ 413,395.96
December	\$ 85,040.33	\$ 89,340.22	\$ 122,159.98	\$ 35,321.40	\$ 35,095.54	\$ 366,957.47
<b>Total</b>	<b>\$ 1,794,967.44</b>	<b>\$ 1,992,145.99</b>	<b>\$ 2,548,292.46</b>	<b>\$ 1,067,906.77</b>	<b>\$ 726,609.40</b>	<b>\$ 8,129,922.06</b>

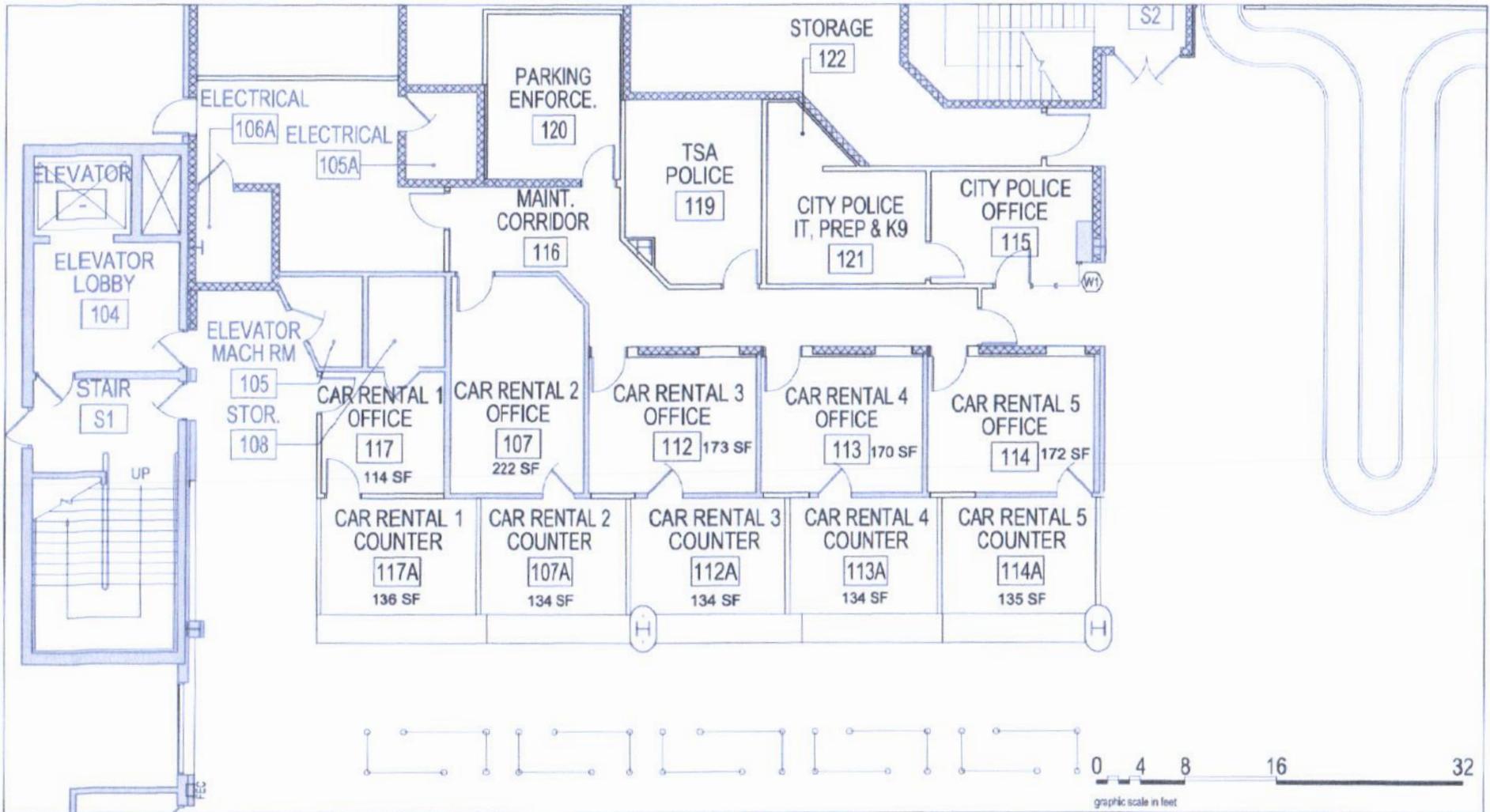
## Off-Airport Rental Gross Receipts – Enterprise

<u>Month</u>	<u>2010</u>	<u>2011</u>	<u>2012</u>	<u>2013</u>	<u>2014</u>
January	\$ 20,035.20	\$ 10,311.87	\$ 17,262.78	\$ 15,594.94	\$ 21,282.29
February	\$ 11,156.40	\$ 9,901.26	\$ 22,726.22	\$ 14,974.69	\$ 24,489.88
March	\$ 9,988.00	\$ 16,823.99	\$ 19,755.59	\$ 25,889.45	\$ 32,415.26
April	\$ 20,107.87	\$ 25,160.72	\$ 29,339.99	\$ 25,453.15	\$ 29,686.42
May	\$ 33,078.00	\$ 40,108.96	\$ 44,220.92	\$ 37,367.92	\$ 45,586.88
June	\$ 60,839.60	\$ 39,332.46	\$ 61,354.60	\$ 58,609.39	\$ 51,332.62
July	\$ 81,469.47	\$ 76,213.60	\$ 97,199.27	\$ 96,774.16	\$ 87,238.84
August	\$ 98,606.27	\$ 120,954.55	\$ 145,512.34	\$ 138,579.27	\$ 113,807.73
September	\$ 65,436.53	\$ 75,771.04	\$ 88,022.30	\$ 101,307.15	\$ 75,149.33
October	\$ 51,606.67	\$ 75,831.35	\$ 71,182.80	\$ 85,312.53	\$ 79,684.62
November	\$ 15,038.40	\$ 28,943.58	\$ 39,420.08	\$ 23,915.65	\$ 25,367.47
December	\$ 13,757.33	\$ 19,732.89	\$ 24,392.69	\$ 25,994.79	\$ 20,693.52
<b>Total</b>	<b>\$ 481,119.74</b>	<b>\$ 539,086.27</b>	<b>\$ 660,389.58</b>	<b>\$ 646,773.09</b>	<b>\$ 606,734.86</b>

## Passenger Statistics

<u>Year</u>	<u>Total Enplaned</u>	<u>Total Deplaned</u>	<u>Total Passengers</u>
2014	245,488	244,509	489,997
2013	244,845	242,930	487,775
2012	230,255	230,013	460,268
2011	216,264	213,204	429,468
2010	194,515	192,284	386,799





Project  
 BANGOR INTERNATIONAL AIRPORT  
 DOMESTIC TERMINAL RENOVATION & EXPANSION



Owner:  
 BANGOR INTERNATIONAL AIRPORT

Drawing Title

FIRST FLOOR PLAN - CAR RENTAL OFFICES  
 Square footage (SF) numbers shown here represent net square footage, as defined by the sum of usable floor space within interior walls of a room.

Issued Via:  
 Date:  
 Rev. no. 1:  
 Drawing No.:

**BANGOR INTERNATIONAL AIRPORT CONCESSION AGREEMENT**

THIS AIRPORT CONCESSION AGREEMENT executed in duplicate the \_\_\_\_ day of \_\_\_\_\_, 2015 by and between:

THE CITY OF BANGOR, a body both politic and corporate duly organized and existing under and by virtue of the laws of the State of Maine and being located in the County of Penobscot, State of Maine (hereinafter sometimes referred to as the “Owner”)

AND

\_\_\_\_\_, a body corporate and organized and existing under and by virtue of laws of the State of \_\_\_\_\_, and having a place of business at the Bangor International Airport, Bangor, Maine (hereinafter sometimes referred to as the “Concessionaire”)

**WITNESSETH:**

WHEREAS, Owner owns and operates an airport, commonly know as Bangor International Airport (hereinafter sometimes referred to as the “Airport”) situated in the City of Bangor, County of Penobscot, State of Maine; and

WHEREAS, Automobile rental services at the Airport are essential for the proper accommodation of passengers arriving at and departing from the Airport; and

WHEREAS, Owner desires to make said services available at the Airport, the Concessionaire is qualified, ready, and able to perform or see to the performance of said services, and to furnish or to see to the furnishing of facilities for use in connection therewith;

NOW, THEREFORE, the parties hereto do mutually agree as follows:

**ARTICLE I: PREMISES**

The Owner, for and in consideration of the rentals to be paid, and the obligations to be performed by the Concessionaire, does hereby assign to the Concessionaire for Concessionaire’s exclusive use, the following premises:

- A. \_\_\_\_\_ square feet more or less of counter and office space located as assigned at the Domestic terminal Building at Bangor International Airport and known as Room Number(s) \_\_\_\_\_ as shown in Exhibit A. (During the period of November 1, 2015 through April 30, 2016, or at the completion of the construction phase.)
- B. \_\_\_\_\_ square feet more or less of counter and office space located as assigned at the Domestic Terminal Building at Bangor International Airport according to a process administered by the Owner for assigning counter and office space between Concessionaire and other automotive rental service businesses based on their minimum

annual guarantee (MAG) amounts (i.e. the business with the highest MAG will select first, the next highest shall select second, etc.). (During the period of March 1, 2016 (or at the completion of the construction phase) – October 31, 2020.)

- C. The Owner will require that all Concessionaires rent a proportionate share of the total Ready and Return Car parking spaces at a location or locations designated by the Owner. There are 86 to 138 parking spaces in the Ready and Return Car Parking area that are allocated, depending upon demand and security requirements. Each Concessionaire will be allocated six (6) spaces that are reasonably convenient to the Domestic Terminal Building. The remaining spaces will be allocated annually on November 1, starting November 1, 2015, by the Airport on a proportionate basis, based on the relationship of the Concessionaire's gross revenues to the total gross revenues for all on-airport car rental concessionaires during the proceeding lease year. For the first lease year, the allocation of additional spaces will be based on each individual Concessionaire's percentage of the aggregate total gross revenue. (Example: Concessionaire 1 represents 20% of the total. Concessionaire 1 will be required to rent 20% of the parking spaces available). The highest grossing Concessionaire shall have first choice of parking spaces, the next highest second choice, etc. The Concessionaire shall designate the assigned parking spaces by signs and/or other means, subject to approval by the Airport Director.

## **ARTICLE II: TERM**

TO HAVE AND TO HOLD the said premises with the appurtenances thereto for a term of five (5) years beginning on the 1<sup>st</sup> day of November 2015 and terminating on the 31<sup>st</sup> day of October 2020. The Owner retains the right to execute up to five (5) one-year extensions.

## **ARTICLE III: USE OF PREMISES**

The Concessionaire shall use, occupy and maintain the premises herein assigned in a businesslike, careful, clean and non-hazardous manner for purposes of providing automobile rental services at the Airport and for the purpose of arranging for such services for the public using the Airport, at destinations where automobile rental services furnished by Concessionaire or by members of the Concessionaire, and for no other purposes whatsoever without the prior expressed written consent of the Airport Director.

## **ARTICLE IV: OPERATIONAL RIGHTS**

The Owner hereby grants to Concessionaire, subject to the terms and conditions contained herein, the right to conduct and operate an automobile rental services from said premises for the purposes aforesaid. Owner shall not grant to any individual, firm or corporation a car rental concession on terms or conditions more favorable than those herein granted Concessionaire.

**ARTICLE V: RENTAL CHARGES**

During the term of this Agreement, the Concessionaire shall pay to the Owner such amounts and charges as set forth hereunder.

A. Concessionaire fee.

1. The Concessionaire shall pay to the Owner as rental for the use of the premises assigned to it hereunder and for the rights and privileges herein granted by Owner, for each contract year (November 1 – October 31) the greater of either a Minimum Annual Guarantee (MAG) fee, or 10 % (percent) of gross revenue.
2. For the first year of the contract (November 1, 2015 – October 31, 2016), the MAG fee shall be \$ \_\_\_\_\_.
3. For the remaining years of the contract (November 1, 2016 – October 31, 2020, the MAG fee shall be the greater of 85% of the actual concessionaire fee for the immediately preceding contract year, or the year one MAG fee.
4. One –twelfth (1/12<sup>th</sup>) of the MAG fee shall be paid monthly in advance on or before the first day of each of the first nine (9) calendar months of the contract period beginning with November. The Concessionaire shall furnish to the Airport Director's office on or before the 25<sup>th</sup> business day of each month a statement of gross revenue for the immediately preceding month. For the last three (3) calendar months of the contract year (August – October), the Concessionaire shall furnish to the Airport Director's office on or before the 25<sup>th</sup> business day of each month a statement of gross revenue for the immediately preceding month and simultaneously shall pay 10% of such gross revenue.
5. Within ninety (90) days after October 31st of each year during the term hereof, Concessionaire shall furnish to Owner a statement of Concessionaire's gross revenue, certified by an appropriate corporate officer of Concessionaire, and shall simultaneously pay to Owner the excess rental, if any, due to owner hereunder for such preceding contract year over and above the rental theretofore paid. If Concessionaire shall have paid to Owner during the preceding contract year an amount in excess of that due under Paragraph A (1) of this Article, Owner shall reimburse Concessionaire for said excess.
6. The term "gross revenues" as herein used shall be construed to mean, for all purposes hereof, the aggregate amount of all net time and mileage after discount charges made, personal accident, insurance premium charged, and services of every kind, name and nature performed for cash or credit regardless of when or whether paid for, in connection with and from the premises herein assigned. It shall not include federal, state or local taxes collected by the Concessionaire from its customers, sums received as insurance compensation for damage to Concessionaire's automobiles or property, or sums received from loss, conversion or abandonment of

Concessionaire’s automobiles, or Customer Facility Charges that may be required by Bangor International Airport to be charged the customer.

- B. In addition to the above, Concessionaire shall register vehicles in the City of Bangor, in a manner proscribed by the Tax Collector of the City of Bangor, with a minimum value as follows:

November 1, 2015 – October 31, 2016	\$ _____
November 1, 2016 – October 31, 2017	\$ _____
November 1, 2017 – October 31, 2018	\$ _____
November 1, 2018 – October 31, 2019	\$ _____
November 1, 2019 – October 31, 2020	\$ _____

- C. For the period of the five (5) year agreement, the Concessionaire shall also pay to the Owner a rental rate for the terminal facilities described in Article I, Paragraph A and B.
  - a. The current rate of \$\_\_\_\_\_ will remain in effect until companies move to new offices. (November 1, 2015 – Date of Move (Estimated March 31, 2016)).
  - b. The rental rate for the terminal facilities will be \$37.75 annual per square foot for operating within the new offices. (Date of Move (Estimated April 1, 2016) – October 31, 2016).
  - c. On each year anniversary of the Lease Commencement Date the rental amount then in effect shall be increased by a percentage equal to the percentage increase in the Consumer Price Index – Urban (CPI-U).
- D. The Concessionaire shall also pay to the Owner a parking space rental fee of \$28.00 per month, per parking space, designated or assigned pursuant to Article I, Paragraph C for the term of the contract.
- E. The Concessionaire shall pay to the Owner all rental charges herein required, without any prior demand therefore, in lawful money of the United States, at the address of the Owner as herein set forth and at such other places as the Owner may designate in writing in accordance with the following:
  - 1. Regarding the rental described in Paragraph A of this Article, payments shall be made as described in Paragraph A.
  - 2. Regarding the rental described in Paragraphs C and D above, payments shall be made monthly in advance on or before the 1<sup>st</sup> day of each month during the term of this Agreement commencing on November 1, 2015.
- F. Upon ten (10) days’ prior written notice to the local concessionaires, the Owner shall have the right to audit Concessionaire’s records. Records of any given calendar year shall be kept at the concessionaire’s Bangor office or home office for no less than 12 months and must be produced to Owner upon request. In the event there is a discrepancy in excess of five (5) percent of gross revenues between Concessionaire’s summary and said audit, the Concessionaire shall bear the cost of such audit.

- G. If implemented by Owner, Concessionaire shall collect and remit to the City a Customer Facility Charge (CFC). The fee thus established for each customer entering into a rental car contract or agreement with Concessionaire will be collected and remitted to the City on a monthly basis.

#### **ARTICLE VI: CONCESSIONAIRE'S RIGHTS**

During the term hereof Concessionaire shall have and Owner hereby gives and grants to Concessionaire the following rights:

- A. The right at Concessionaire's sole expense to erect upon the assigned premises such fixtures, additions and improvements as may be required in connection with Concessionaire's operations hereunder, and to install therein and thereon such equipment and facilities as Concessionaire may deem necessary or desirable; provided, however, that no such fixture, addition or improvement shall be made or installed by Concessionaire without the prior expressed written consent of the Airport Director, and Concessionaire covenants and agrees prior to the installation of or making of any such fixture, addition or improvement, to submit the general plan, location, design and character thereof to the Airport Director for approval.
- B. The right, subject to approval by the Airport Director and at Concessionaire's sole expense to install, and thereafter to operate and maintain, illuminating and non-illuminating signs advertising the Concessionaire's business on the premises assigned to Concessionaire hereunder, and at such other place or places in or about the Airport as may be mutually agreed upon by the parties hereto.
- C. The right upon any termination of this Agreement and within ten (10) days thereafter to remove such items as may have been installed in or about the premises at the Airport by Concessionaire. Any such property not so removed within said ten (10) day period shall become the property of the Owner to be disposed of in such way as it deems fit. In the event the Concessionaire elects to remove said items, the premises shall be returned to as near as possible its condition as of the date of commencement of this Agreement, ordinary wear and tear and acts of God excepted.
- D. The right to the joint use with others of roads and driveways useful in the conduct, operation and maintenance of Concessionaire's concession hereunder.

#### **ARTICLE VII: CONCESSIONAIRE'S OBLIGATIONS**

Concessionaire hereby covenants and agrees:

- A. To furnish good, prompt and efficient service, adequate to meet all reasonable demands for car rental services at the Airport, on a fair and reasonable basis.

- B. The rental automobiles made available hereunder shall be maintained at Concessionaire's sole expense, in good operative order, free from known mechanical defects and in clean, neat and attractive condition, inside and outside.
- C. That the facilities to be provided by Concessionaire hereunder for the purpose of providing automobile rental services shall remain open for such periods during each day and such days during each week as may be necessary to meet reasonable demands for said services. Concessionaire may install as a facility hereunder in the premises assigned to it a direct line telephone to the nearest office for the purpose of supply automobile rental service to the Airport patrons during periods when other automobile rental facilities are closed.
- D. That personnel performing services hereunder shall be neat, clean and courteous and Concessionaire shall not permit its agents, servants or employees so engaged, to conduct business in a large, noisy, boisterous, offensive or objectionable manner, or to solicit business outside the space assigned in any manner whatsoever except through the use of signs constructed and maintained as provided herein.
- E. That it shall abide by and be subject to all reasonable rules and regulations which are now, or may from time to time, be promulgated by the Airport Director concerning management, operation or use of the Airport.
- F. That it will keep or cause to be kept true, accurate and complete records of business conducted hereunder and concessionaire further agrees that Owner shall have the right, through its duly authorized agents or representatives, to examine all pertinent records at any and all reasonable times for the purpose of determining the accuracy thereof and of the reports required to be made by Concessionaire as provided hereunder.
- G. That it will meet all expenses in connection with the use of the assigned premises and the rights and privileges herein granted, including without limitation by reason of enumeration, taxes, permit fees, license fees and assessments lawfully levied or assessed arising out of its operation upon the assigned premises, structures and improvements at any time situated thereon, and it will secure all such permits and licenses as may be applicable. Concessionaire may, at its sole cost and expense, contest any tax levied or assessed fee.
- H. That it will furnish, install, operate and maintain the installation provided hereunder and keep the same as well as the premises made available to it and the furniture, fixtures and equipment installed therein and thereon, all in good order, condition and repair, except that maintenance of the premises described in Article I(C) (excluding snow removal) shall be Owner's responsibility. Upon termination of the Agreement Concessionaire will deliver up the said premises to the Owner in good order, condition and repair, reasonable wear and tear and acts of God excepted.

- I. That it will install and maintain identification signs marking the assigned parking spaces in the “Ready Car” area. Signs shall conform to standards issued by the Airport Director under separate cover.

### **ARTICLE VIII: OWNER’S OBLIGATION**

- A. The Owner hereby covenants and agrees that it shall take appropriate action within its authority to protect the rights and privileges demised and granted to the Concessionaire under this Agreement. The Owner agrees that it will not authorize the transaction of any on-airport car rental business on the Airport premises by non-Concessionaire Owners.
- B. The Owner further covenants and agrees to instruct all of its employees and all concessionaires having contact or dealing in anyway with members of the general public on the Airport (1) to refer all requests for car rental services to that one of the authorized car rental concessionaires for which the customer shall indicate a preference, and (2) to refer requests for car rental services where no preference is indicated only to the car rental concessionaires located in the Terminal Building without favoring one over the other.

### **ARTICLE IX: INDEMNITY**

The Concessionaire shall keep and hold harmless the Owner from and against any and all claims, demands, suits, judgments, costs and expenses asserted by any person or persons, including agents, invitees or employees of the Concessionaire, by reason of death or injury to persons, or loss of or damage to property resulting from Concessionaire’s operations hereunder or as the result of anything done or omitted by Concessionaire hereunder, except to the extent that such claims, demands, suits, judgments, costs and expenses may be attributed to the acts or omissions of the Owner, its agents, employees or invitees.

Concessionaire shall at all times be regarded as an independent contractor and shall not at any time act as agent for Owner.

The Concessionaire hereby expressly agrees that it will defend, indemnify and hold the City of Bangor harmless from any and all claims made or asserted by Concessionaire’s agents, servants or employees arising out of Concessionaire’s activities under this Concession Agreement. For purposes of the foregoing indemnity, Concessionaire hereby expressly waives any and all immunity it may have under Maine’s Workers, Compensation Act in regard to such claims made or asserted by Concessionaire’s agents, servants or employees. The indemnification provided under this Article shall extend to and include any and all costs incurred by the City of Bangor to answer, investigate, defend and settle all such claims, including, but not limited to, the City of Bangor’s costs for attorney fees, expert and other witness fees, the cost of investigators, and payment in full of any and all judgments rendered in favor of any person, including Concessionaire’s agents, servants or employees, against the City of Bangor in regard to claims made or asserted by such persons, agents, servants or employees that are covered by the foregoing indemnity.

## **ARTICLE X: INSURANCE**

- A. The Concessionaire shall obtain and maintain continuously in effect at all times during the term hereof, at Concessionaire's sole expense, general liability insurance protecting Owner against liability by reason of Concessionaire's wrongful conduct incident to the use of the assigned premises and resulting from any accidents occurring on or about the roads, driveways or other public places used by Concessionaire at the Airport in the operation hereunder, caused or arising out of any wrongful act or omission by Concessionaire. Such insurance shall name Owner as an additional insured thereunder. Concessionaire shall also, without cost to Owner, obtain and maintain during the term hereof, automobile liability insurance in accordance with the terms and conditions of this Agreement covering the operation of rental automobiles hereunder. All such general liability and automobile liability insurance shall provide liability limits in accordance with State of Maine statutes for Car Rental Concessionaires or \$400,000.00 combined single limit, whichever is greater. The Concessionaire shall provide to Owner certificates evidencing all such insurance as required.
- B. Owner agrees to notify Concessionaire in writing as soon as practicable of any claim, demand or action arising out of an occurrence covered hereunder of which Owner has knowledge, and to cooperate with Concessionaire in the investigation and defense thereof.
- C. Car rental concessionaires shall have the option to self insure provided such self insurance meets all applicable State of Maine Statutes.

## **ARTICLE XI: OWNER TERMINATION RIGHTS**

Owner shall have the right upon ten (10) day's prior written notice to Concessionaire to cancel this Agreement in its entirety, upon or after the happening of one or more of the following events, if said event or events shall then be continuing:

- A. If Concessionaire shall make a general assignment for the benefit of creditors;
- B. If Concessionaire shall file a voluntary petition for bankruptcy or a petition seeking its reorganization or the readjustment of its indebtedness under the Federal Bankruptcy Law or under any similar State laws;
- C. If an involuntary petition in bankruptcy shall be filed against Concessionaire and Concessionaire is thereunder judged bankrupt;
- D. If Concessionaire shall consent to the appointment of a receiver, trustee, or liquidator of all or substantially all of the property of Concessionaire;
- E. If Concessionaire shall voluntarily abandon and discontinue its automobile rental service at the Airport for a period of ten (10) consecutive days or if Concessionaire shall abandon its premises in the Airport for a period of ten (10) days;

- F. If Concessionaire shall fail to pay the rental charge or any other payment required by this Agreement or shall default in fulfilling any of the other terms, covenants or conditions to be fulfilled by it under this Agreement and such failure shall not be remedied within thirty (30) days following receipt by Concessionaire of written demand from Owner to do so.

In the event of any can cancellation or termination of this Agreement by Owner for any of the reasons specified above, Concessionaire shall have ten (10) days within which to remove all trade fixtures and personal property installed in or upon the assigned premises by Concessionaire.

## **ARTICLE XII: CONCESSIONAIRE TERMINATION RIGHTS**

The Concessionaire shall have the right, upon ten (10) days prior written notice to Owner, to terminate or suspend this Agreement upon the happening of one or more of the following events, if said event or events shall then be continuing:

- A. The issuance by a court of competent jurisdiction of an injunction, order or decree preventing or restraining the use by Concessionaire of all or any substantial part of the demised premises, or preventing or restraining use of the Airport for normal airport purposes, or the use of any part thereof which may be used by Concessionaire and which is necessary for Concessionaire's operations on the Airport, which remains in force for a period of at least ninety (90) days;
- B. If Owner shall default in fulfilling any of the terms, covenants or conditions to be fulfilled by it under this Agreement and shall fail to cure said default within thirty (30) days following receipt of written demand from Concessionaire to do so;
- C. If all or a material part of the Airport or Airport facilities shall be destroyed by fire, explosion or other casualty or acts of God or the public enemy; or
- D. If the United State Government or any of its agencies shall occupy the Airport or any substantial part thereof to such an extent as to interfere materially with Concessionaire's operation, for a period of thirty (30) consecutive days or more.

## **ARTICLE XIII: SUBLETTING, SUBCONTRACTING AND ASSIGNMENT**

It is expressly agreed and understood that any and all obligations of Concessionaire hereunder may be fulfilled or discharged either by Concessionaire, its agents or by a licensed member of the National Franchise System and that any and all privileges of every kind granted to Concessionaire hereunder may extend to and be enjoyed by such licensee so appointed; provided, however, that notwithstanding the method of operation employed by Concessionaire hereunder the Concessionaire shall continue always to remain directly liable to Owner for the performance of all terms and conditions of this Agreement. Except as hereinabove set out, the assigned premises may not be sublet, in whole or in part, and Concessionaire shall not assign this Agreement without prior expressed written consent of

the Owner, nor sublet the premises herein assigned, nor permit any transfer by operation of law of Concessionaire's interest created hereby, other than by merger, consolidation or sale of substantially all of Concessionaire's assets.

The prime contractor agrees to pay each subcontractor under this prime contract for satisfactory performance of its contract no later than ten (10) days from the receipt of each payment the prime contractor receives from the City of Bangor. The prime contractor agrees further to return retainage payments to each subcontractor within ten (10) days after the subcontractor's work is satisfactorily completed. Any delay or postponement of payment from the above referenced time frame may occur only for good cause following written approval of the Bangor International Airport, City of Bangor. This clause applies to both DBE and non-DBE subcontractors.

**ARTICLE XIV: NOTICES**

All notices or demands provided for or which may be given by either party to the other under the terms of this Agreement shall be in writing, signed by the party giving the notice or making the demand, and shall be deemed validly served or delivered upon physical delivery or upon deposit in the United States mail, registered, return receipt requested, postage and registration fees prepaid, or express mail postage and fees prepaid, addressed as follows:

To Owner:

Bangor International Airport  
Airport Director  
287 Godfrey Boulevard  
Bangor International Airport 04401

To Concessionaire:

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

Or to such other addresses as the parties hereto may designate by written notice to the other party delivered in accordance with the provisions of this Article.

**ARTICLE XV: WAIVER**

Any waiver or any breach of covenants herein contained to be kept or performed by Concessionaire of the Owner shall not be deemed or considered as a continuing waiver and shall not operate to file or prevent Concessionaire or Owner from declaring a forfeiture for any succeeding breach either of the same or a different condition or covenant.

**ARTICLE XVI: ANTIDISCRIMINATION**

The parties hereto hereby covenant not to discriminate against any employee or applicant for employment to be employed in the performance of this Agreement, with respect to his or her hire, tenure, terms, conditions or privileges of employment or any matter directly or indirectly related to employment because of his or her race, color, religion, national origin or ancestry, or because of his or her age except where based on a bona fide occupational qualification and to require a similar covenant on the part of any subcontractor employed in the performance of this Agreement.

In addition, the Concessionaire covenants in accordance with Title VI of the Civil Rights Act of 1964 and Part 15 of the Federal Aviation Regulations, that the Concessionaire will not, on the grounds of race, color or national origin, discriminate, or permit discrimination, against any person or group of persons in any manner, and the Concessionaire is granted the right to take such action as the United States may direct to enforce this covenant.

This agreement is subject to the requirements of the U.S. Department of Transportation's regulations, 49 CFR part 23, subpart F. The Concessionaire agrees that it will not discriminate against any business owner because of the owner's race, color, national origin, or sex in connection with the award or performance of any concession agreement covered by 49 CFR part 23, subpart F.

The contractor or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR part 26 in the award and administration of DOT assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy, as the recipient deems appropriate.

Compliance with American's with Disability Act (ADA): Concessionaire acknowledges that, pursuant to the ADA, programs, services, and other activities provided by Concessionaire, whether directly or through a contractor, must be accessible to the disabled public. Concessionaire shall provide the services specified in this agreement in a manner that complies with the ADA and any and all other applicable Federal, State and Local disability rights regulations. Concessionaire agrees not to discriminate against disabled persons in the provision of services, benefits or activities provided under this agreement and further agree that any violation of this prohibition on the part of the Concessionaire, its employees, agents, or assigns shall constitute material breach of this agreement.

The Concessionaire agrees to include the above statements in any subsequent concession agreements that it enters and cause those businesses to similarly include the statements in future agreements.

**ARTICLE XVII: INFORMATION REGARDING DISADVANTAGED BUSINESS  
ENTERPRISE PARTICIPATION**

Within thirty (30) days following the end of each calendar quarter, Concessionaire shall report to the Airport Concession Disadvantage Business Enterprise Liaison (ACDBEL) the dollar value of goods and services purchased from Disadvantaged Business Enterprises. Reporting shall be in such form as deemed required by the ACBDEL.

**ARTICLE XVIII: AMENDMENT TO CONCESSION AGREEMENT**

This Agreement contains all the terms and conditions between the parties hereto and no alternations, amendment or addition thereto shall be valid unless in writing and signed by both parties hereto.

**ARTICLE XIX: INVALID PROVISION**

It is further expressly understood and agreed by and between the parties hereto that in the event any covenant or provision herein contained is held to be invalid by any court of competent jurisdiction, or otherwise appears to both parties to be invalid, the invalidity of any such covenant, condition, or provision shall in no way affect any other covenant, condition, or provision herein contained.

This Agreement and Lease shall be binding upon the successors and assigns of the parties hereto.

**ARTICLE XX: GOVERNING LAW**

This Agreement shall be governed exclusively by the provisions hereof and by the laws of the State of Maine as the same from time to time may exist. The parties further agree that they consent to the jurisdiction of the Courts of Maine or the federal courts located within Maine and waive any claim of lack of jurisdiction or forum non convenes.

At all times, Concessionaire shall, with respect to its operations at the Airport, comply with all applicable federal, state and local laws, rules, regulations and ordinances, including BGR Rules, City ordinances, and the Airport Certification Manual, as they may be amended from time to time, administrative orders, and environmental permits, including, but not limited to, deicing permits, and including without implied limitation, those relating to: (a) health and safety; (b) fire codes; (c) the environment; and (d) disabled access, including the Americans with Disabilities Act, 42 USC 12101 et seq.

Concessionaire will maintain records for audit purposes for three (3) years, per DOT and FAA regulations.

**ARTICLE XXI: CONSTRUCTION**

The paragraph headings throughout this Agreement are for convenience in reference only and the words contained therein shall in no way be held to explain, modify, amplify or aid in the interpretation, construction or meaning of the provisions of this Agreement.

IN WITNESS WHEREOF, the parties hereto have set their hand the day and year first written above.

**CITY OF BANGOR**

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

\_\_\_\_\_  
Witness

By: \_\_\_\_\_  
Catherine Conlow  
It's: City Manager

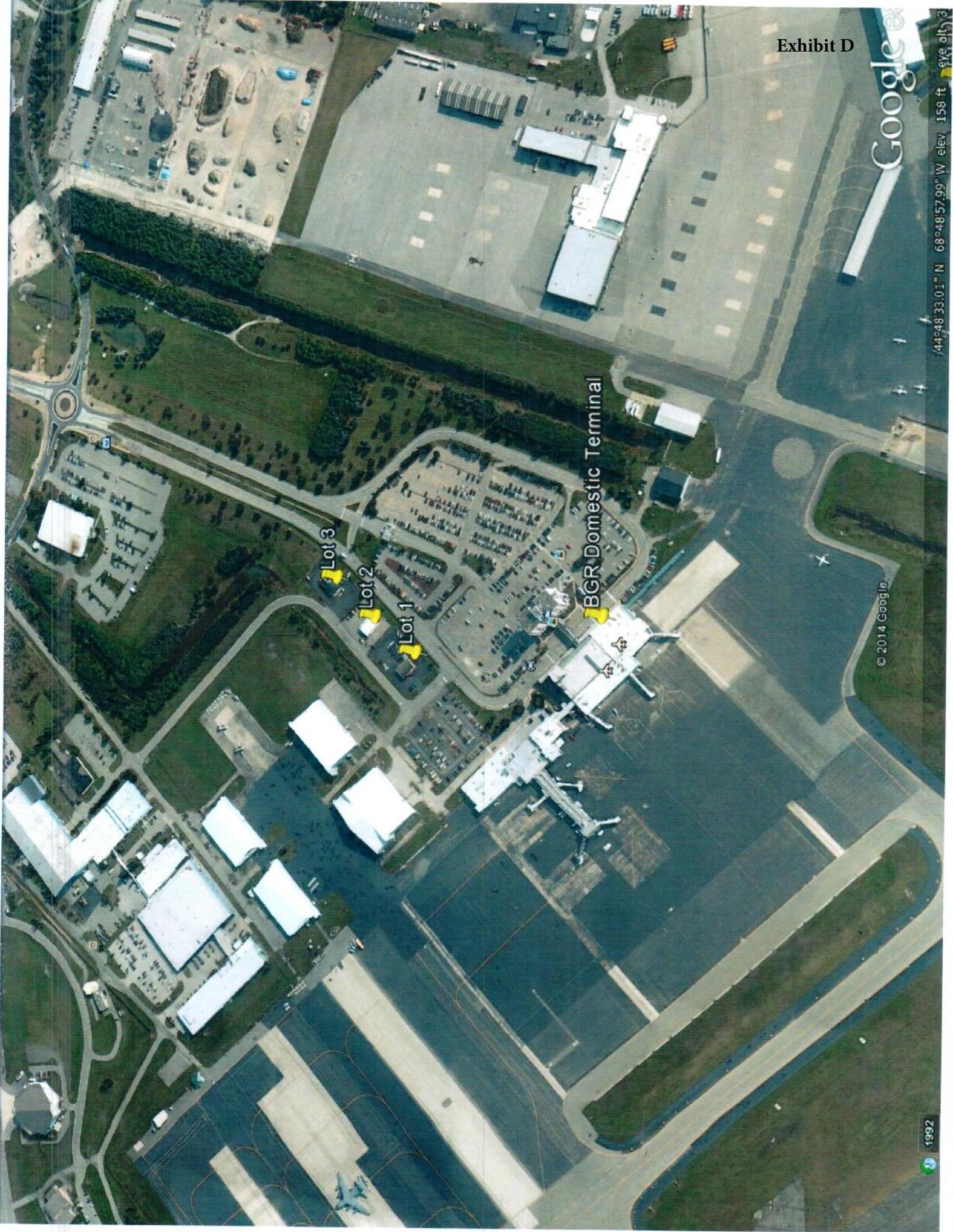
Date: \_\_\_\_\_

\_\_\_\_\_  
Witness

By: \_\_\_\_\_

(name) \_\_\_\_\_

(title) \_\_\_\_\_



BGR Domestic Terminal

Lot 3

Lot 2

Lot 1



BGR Domestic Terminal

BLDG # 253

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**INDENTURE OF LEASE**

THIS INDENTURE OF LEASE executed in duplicate this \_\_\_\_ day of \_\_\_\_\_, 2015, by and between:

CITY OF BANGOR, a body politic and corporate, duly organized and existing under and by virtue of the laws of the State of Maine and having its principal offices at 73 Harlow Street, Bangor, Maine (hereinafter sometimes referred to as "Lessor" or the "City")

AND

\_\_\_\_\_, a corporation duly organized and existing under the laws of the State of \_\_\_\_\_, with principal headquarters located at \_\_\_\_\_ (hereinafter collectively referred to as "Lessee"):

**WITNESSETH:**

WHEREAS, the Lessor is the owner of an Airport, commonly known as "Bangor International Airport", formerly known as Dow Air Force Base and located in the City of Bangor, County of Penobscot, State of Maine (hereinafter sometimes referred to as the "Airport"); and

WHEREAS, the Lessee desires to lease from the Lessor certain facilities at said Airport for operation of car rental maintenance facility as specifically described herein;

NOW, THEREFORE, the parties hereto do mutually agree as follows:

**ARTICLE I: PREMISES**

The Lessor, for and in consideration of the rents to be paid, and the obligations to be performed by Lessee as hereinafter provided, does hereby demise and lease unto the Lessee and Lessee do hereby take and hire, upon and subject to the terms and conditions hereinafter expressed, the following described property, located at the Airport, in its present physical condition, situate in the City of Bangor, viz.:

An automotive service facility located at \_\_\_\_\_ (\_\_\_\_\_ sq. ft), as shown in Exhibit A, that is approximately \_\_\_\_\_ square feet and has one car wash bay and one service bay along with office space.

**ARTICLE II: TERM**

To have and to hold the demised premises as described herein for a period of five (5) years, commencing on November 1, 2015 and terminating on October 31, 2020. Lessor and Lessee may mutually agree to execute up to five (5) one-year extensions. Should the parties hereto agree, in writing, to enter into a new agreement but have not executed a new Agreement and Lease by the aforementioned termination date, then the terms, conditions and obligations of this Agreement and Lease will remain in effect on a year-to-year basis pending execution of a new Agreement and Lease. Should the parties fail to reach an agreement on the terms and

conditions of a new Agreement and Lease, then either may terminate the year-to-year Agreement and Lease upon thirty (30) days notice to the other.

### **ARTICLE III: RENTAL**

- A. The rental to be paid by Lessee to Lessor during the term of this Lease, shall be in accordance with the following schedule:

\$\_\_\_\_\_ per month. Utilities, including electricity, sewer, water and heat will be the responsibility of the Lessee.

On each year anniversary of the Lease Commencement Date the rental amount then in effect shall be increased by a percentage equal to the percentage increase in the Consumer Price Index – Urban (CPI-U).

- B. If additional parking outside the parking area within the premises described in Article I is needed at any time during the term of the lease, Lessee may request additional space from Lessor at a rate of \$28.00 per space per month or fraction thereof. This space will not be in the main customer parking lot, but in some area within close proximity to the leased premises as agreed upon by the Lessor and Lessee.
- C. Rent shall be paid monthly in advance on the first day of each and every month. Lessee shall pay all rentals herein required, without prior demand therefore, in lawful money of the United States, at the address of the Lessor as set forth herein or, at such other reasonable places as the Lessor may designate.
- D. Lessee agrees to pay, when due, any and all taxes and/or assessments, fees or charges of any kind whatsoever, as may be imposed during the term hereof, or any extension of the term of this Lease, by any governmental authority upon the demised premises, including Lessees' leasehold interest therein, any buildings, structures, or improvements thereon, or any personal property located therein. Lessee further agrees that they do hereby waive any and all rights or privileges of exemption from taxation on the demised premises, on Lessees' leasehold interest therein, or on any buildings, structures, or improvements thereon, or on any personal property located therein; provided, however, nothing herein shall in any way prohibit the Lessee from exercising their rights under the law to contest the amounts of such taxes, assessments, charges, or fees.

### **ARTICLE IV: USE, OCCUPANCY AND IMPROVEMENTS OF PREMISES**

- A. Lessee shall use, occupy and maintain the premises herein leased in a reasonably business-like, careful and nonhazardous manner on account of fire for the purposes of operating a Rental Car Maintenance Facility and for no other use whatsoever without the prior expressed written consent of the Airport Director.
- B. Lessee shall not use, occupy or maintain said premises in any manner as to violate any municipal, state, federal law or regulation, and, in particular, regulations of the Federal Aviation Administration relating to the operation of Bangor International Airport as a public airport, and requirements of the Occupational Safety Hazard Act.

- C. Lessee shall make a good faith effort to inform employees and visitors of the rules and regulations of the Bangor International Airport and shall cooperate in every way with the Airport Director to insure that such rules and regulations, particularly those regarding public access to runways, aprons, fire lanes and other areas of the Airport devoted to aeronautical uses, are obeyed. Lessee assumes sole responsibility for any breach of airport security when it is demonstrated that said breach is a result of Lessees' occupancy of the leased area. Lessee is responsible to know and understand the F.A.A. security responsibilities placed upon Lessor under all applicable Department of Homeland Security regulations. Lessee shall comply with provisions that may be required from time to time by the Airport Director to ensure and guarantee that said accesses to the runway and other aeronautical areas of the Airport are not open to the customers, employees, agents or visitors of Lessee.
- D. Lessee shall have the right to make alterations and improvements to the premises as they may choose, subject to the prior written approval of the Airport Director which shall not be unreasonably withheld, and provided that such alterations, additions, and improvements do not weaken the structural integrity of the car rental maintenance facility, not decrease its functional quality or value, and further provided that any such work shall be done entirely at the Lessees' own expense and will include returning disrupted surfaces to a serviceable and attractive condition.
- E. Lessor, through its agents, shall have at all reasonable times the right, upon reasonable notification to the Lessee, to go on and inspect the premises with an authorized representative of the Lessee, and the right of access to utility systems located on the demised premise for the purpose of maintenance, repair, correction, or inspection.
- F. Lessee shall have the right to: (a) fence, secure, grade and surface the demised premises; (b) install such additional outdoor lighting, including flood lighting, as Lessee deem necessary, provided that such outdoor lighting complies with applicable F.A.A. regulations; and (c) erect signs on the leased premises, provided that such signs comply with the City's Sign ordinance, the manual on uniform traffic control devices (MUTCD), and applicable F.A.A. regulations and as further approved by the Airport Director.

#### **ARTICLE V: INSURANCE**

The Lessee during the entire term of this Agreement, or any extension thereof, shall maintain, at its sole expense, insurance of the following types with companies authorized to do business in the State of Maine, and for the protection of the City of Bangor, who shall be named as an additional insured against all claims, losses, costs or expenses arising out of injuries to persons whether or not employed by Lessee or damage to property whether resulting from acts, omissions, negligence or otherwise of the Lessee, its directors, officers, employees and agents and arising from Lessee's use of the premises or any part or portion thereof.

##### Comprehensive Public Liability

Bodily Injury: \$400,000 each occurrence

Property Damage: \$400,000.00 each occurrence

### Worker's Compensation Insurance

Lessee shall maintain comprehensive insurance on any structures, including for fire and property damage, in an amount not less than \$500,000 with the City of Bangor as a named insured on said insurance

Lessor shall not be required to provide insurance coverage and shall have no responsibility for any property owned by the Lessee or third parties which may be located on the demised premises. Lessee shall cause to be furnished to the Lessor evidence in the form of certificates of insurance of the existence and continuance in force of the insurance required hereunder. Lessor shall be notified of any changes or discontinuances of coverage.

The minimum insurance coverage required under this Article shall be deemed to be automatically adjusted whenever the Maine State Legislature shall increase the Lessor's maximum liability for personal injury or property damage claims brought under the Maine Tort Claims Act. In the event of such an increase, the minimum insurance coverage required shall be no less than the Lessor's maximum liability for such claims under the Maine Tort Claims Act.

### **ARTICLE VI: DAMAGE BY FIRE OR OTHER CASUALTY**

Lessor is not required to insure the demised premises against loss by fire and the extended coverage usual in such insurance. In the event of destruction or damage of buildings owned by Lessor on the demised premises, or to any part thereof, and as often as the improvements shall be damaged by fire or other casualty, Lessor shall have the right, but not the obligation to rebuild and repair the building for occupancy. If Lessor elects not to rebuild and repair, it shall so notify Lessee within thirty (30) days or more expeditiously if possible of its decision. In the event the damages are of such extent as to reasonably prevent Lessee from operating within the demised premises, then Lessee shall have the right to terminate this Lease and shall notify Lessor within the aforementioned time period, and Lessee's obligation to pay rent as herein above provided shall terminate upon receipt of such notice by the Lessor and surrender of the premises by the Lessee.

### **ARTICLE VII: NOISE CLAIMS**

The Lessee specifically agree to make no claims in any form for damages or reimbursements to the Lessor or to the United States Government for any reason or cause resulting from noise generated from airport uses.

### **ARTICLE VIII: HAZARDOUS WASTE**

Lessee hereby covenants and agrees that it shall not, during the term of this lease, including any extension of renewal hereof, permanently place, cause to be placed, deposit or discharge any hazardous waste or hazardous material upon the demised premises, or upon any other portion of Lessor's Bangor International Airport, and further expressly agrees that it shall indemnify Lessor from any and all costs, expense or liability, of whatever kind or nature, incurred by the Lessor in detecting, evaluating, removing, treating, disposing of or otherwise responding to any hazardous waste placed or deposited in violation of this paragraph.

Lessee hereby covenants and agrees that it shall not, during the term of this lease, including any extension or renewal hereof, violate any local, state or Federal regulation, ordinance or statute

pertaining to hazardous waste or hazardous material and further expressly agrees that it shall indemnify Lessor from any and all costs, expense or liability, or whatever kind or nature, incurred by the Lessor for any such violation.

Such costs shall be deemed to include, without limitation, Lessor's costs of defending any suit filed by any person, entity, agency, or governmental authority; paying any fines imposed in connection with such suit; paying any judgments or otherwise settling any damage claims; complying with any order by a court of competent jurisdiction directing the Lessor to take remedial action with respect to such waste; and of all associated attorney's fees and costs.

For the purposes of this paragraph, the term "hazardous waste" shall be deemed to include every substance now or hereafter designated as a hazardous waste under any provision of State or Federal law. Lessee's obligations under this paragraph shall be deemed to survive the expiration or termination of this Lease.

### **ARTICLE IX: COVENANT TO HOLD HARMLESS**

- A. General Indemnification and Waiver of Workers' Compensation Immunity: Lessee shall keep and hold harmless the City from and against any and all claims, damages, suits, judgments, costs and expenses asserted by any person or group of persons, including agents, invitees or employees of the City and Lessee, by reason of death or injury to persons, or loss of or damage to property resulting from Lessee' negligence or willful act or omission in their operations hereunder or as the result of any negligent or willful act or omission by Lessee hereunder, except to the extent that such claims, demands, suits, judgments, costs and expenses may be attributed to the negligent or willful acts or omissions of the City, its agents, employees or invitees.

For purposes of the foregoing indemnity, Lessee hereby expressly waives any and all immunity Lessee may have under Maine's Workers' Compensation Act in regard to such claims made or asserted by Lessee' agents, servants or employees. The indemnification provided under this Article shall extend to and include any and all costs incurred by the City to answer, investigate, defend and settle all such claims, including, but not limited to, the City's costs for attorney fees, expert and other witness fees, the cost of investigators, and payment in full of any and all judgments rendered in favor of any person, including Lessee' agents, servants or employees, against the City in regard to claims made or asserted by such persons, agents, servants or employees that are covered by the foregoing indemnity.

- B. Indemnification with Respect to Hazardous Materials: Without limiting the Lessee' General Indemnification provided in Paragraph A above, Lessee hereby represent and warrant that, as to Lessee, hazardous materials as defined in this paragraph, Lessee shall:
1. Immediately forward to Lessor copies of any and all notices, correspondence, warnings, guidelines, or other written materials hereafter received from, or given to, any governmental authority in connection with Lessee hazardous materials and their relationship to the demised premises;
  2. Conduct and complete at their own expense, all investigations, studies, sampling and testing, and all remedial, removal, and other actions necessary to clean up and remove all Lessee hazardous materials in, under, upon, from, or affecting the demised premises, to

the extent required by and in accordance with all applicable federal, state, and local laws, regulations, rules, ordinances, and policies, and in accordance with orders and directives of any federal, state, or local governmental authority.

3. Defend, indemnify, and hold harmless Lessor, its employees, agents, officers and directors, from and against any and all claims, demands, penalties, fines, liabilities, settlements, damages, costs, or expenses (including without limitation, attorney, engineering and consultant fees, investigation, testing and laboratory fees, court costs, and litigation expenses) of whatever kind or nature, known or unknown, contingent or otherwise, arising out of or in any way related to:
  - a. The discovery, presence, disposal, release, or threatened release of Lessee hazardous materials within, under, upon, from or into the demised premises;
  - b. Any personal injury (including wrongful death) or property damage (real or personal) arising out of or related to Lessee hazardous materials, which concern the demised premises;
  - c. Any legal action brought or threatened before any court or agency, settlement reached, or government order relating to Lessee hazardous materials which concern the demised premises; and/or
  - d. Any violation of laws, orders, regulations, requirements, or demands of government authorities now in effect or in effect at any time in the future, which are based upon or in any way related to Lessee hazardous materials which concern the demised premises.

For this purpose, the term "hazardous materials" shall mean every substance now or hereafter designated as a hazardous material or waste under any provision of State or Federal law, including, but not limited to, flammable explosives, radioactive materials, hazardous materials, hazardous waste, hazardous or toxic substances or matter, oil or other petroleum products, asbestos, chemical pollutants or materials in the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended (42 U.S.C. Sec. 9601, *et seq.*), the Hazardous Materials Transportation Act, as amended (49 U.S.C. Sec. 801, *et seq.*), the Resource Conservation and Recovery Act, as amended (42 U.S.C. Sec. 691, *et seq.*), applicable Maine statutes or any similar federal, state or local law, or in the regulations adopted and publications promulgated pursuant thereto, or any other substances or materials constituting a hazard, peril or threat to the health of persons, animals, or plant life and used, placed, stored or disposed of upon the demised premises by Lessee, their contractors, customers, licensees, agents, servants or employees; but the term "Lessee hazardous materials" shall not include any such materials used, placed, stored or disposed of upon the demised premises by the Lessor, its agents, servants or employees, or by a third party other than contractors, customers or licensees of the Lessee.

Lessee shall not be responsible for any hazardous material or hazardous waste left on the premises by any entity other than Lessee prior to Lessee's occupancy.

Lessee, upon occupancy of the premises, shall immediately notify the City of any hazardous material or hazardous waste on the premises.

### **ARTICLE X: NONDISCRIMINATION**

- A. Lessee in the use and occupancy of the leased premises shall not knowingly and willfully discriminate or permit discrimination against any person or group of person in any manner prohibited by law.
- B. The Lessee, for themselves, their personal representatives, successors in interest, and assigns, as a part of the consideration hereof, do hereby covenant and agree as a covenant running with the land that (1) no person on the grounds of race, color, national origin, or any other manner prohibited by law 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 and the furnishings of service thereon, no person on the grounds of race, color, national origin, or any other manner prohibited by law shall be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination, (3) that the Lessee shall use the premises in compliance with all other requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally-Assisted Programs of the Department of Transportation-Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations may be amended.
- C. The contractor or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR part 26 in the award and administration of DOT assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy, as the recipient deems appropriate.
- D. In the event of a known breach of any of the above nondiscrimination covenants, Lessor shall have the right to terminate this 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.
- E. Compliance with Americans with Disabilities Act (ADA): Lessee acknowledges that, pursuant to the ADA, programs, services, and other activities provided by Lessee, whether directly or through a contractor, must be accessible to the disabled public. Lessee shall provide the services specified in this agreement in a manner that complies with the ADA and any and all other applicable Federal, State and Local disability rights regulations. Lessee agrees not to discriminate against disabled persons in the provision of services, benefits or activities provided under this agreement and further agree that any violation of this prohibition on the part of the Lessee, its employees, agents, or assigns shall constitute material breach of this agreement.

**ARTICLE XI: COVENANTS OF QUIET ENJOYMENT**

The Lessee, subject to the terms and provisions of this Lease on payment of the rent, and observing, keeping and performing, all the terms and provisions of this Lease on its part to be observed, kept and performed, shall lawfully, peaceably and quietly have, hold, occupy and enjoy the demised premises during the term hereof without hindrance or rejection by the Lessor or any other persons.

**ARTICLE XII: LIENS**

The Lessor and the Lessee agree that each will promptly discharge (either by payment or by filing of the necessary bond or otherwise) any mechanics', material men's, or other liens against the demised premises, which liens may arise out of any payment due for labor, services, materials, supplies or equipment which may have been furnished to or for the Lessor or the Lessee, respectively.

**ARTICLE XIII: MAINTENANCE AND REPAIRS**

- A. Lessee shall, at their sole expense, throughout the term hereof or any extension, keep and maintain the demised premises including all interior portions of the building located within the demised premises, building fixtures, equipment, operating systems, shop area, roof, doors and fascias, to the extent only that these are used by and/or under direct functional control of Lessee, windows, passageways, interior paint surfaces, parking areas, grounds and landscaping assigned to the demised premises, in good order and repair, and in tenantable condition, damage by accidental fire and casualty and reasonable wear and tear, as provided for in this Lease, excepted. Lessee shall provide for removal of snow and rubbish from the premises.
- B. The phrase "reasonable wear and tear" used in Paragraph (A) of this Article as an exception to the obligations of the Lessee shall not be construed to relieve Lessee of the responsibility for providing repairs of a routine and regular nature which may from time to time be necessary, nor to provide maintenance to the demised premises of a nature and degree ordinarily sufficient to prevent damage, breakdown, failures, malfunctions or disrepair; nor shall any exception or special provision of this Lease be construed to mean that Lessor would be required to carry out maintenance and repairs to the building.

**ARTICLE XIV: UTILITIES**

Lessee shall pay the cost of all utilities furnished and consumed on the demised premises, including electricity, gas, heat, water, and sewer and stormwater fees.

**ARTICLE XV: AUTHORITY TO ENTER INTO AGREEMENT**

- A. The Lessor hereby represents and warrants that it has taken all necessary, procedural, and legal steps as required under all State, local and Federal laws and regulations whatsoever for the purpose of authorizing the execution of this Lease, and that execution of this Agreement by the City Manager renders this Lease the valid and binding act and deed on the part of the City of Bangor and is and will remain duly enforceable in all of its terms and conditions against the Lessor during the term and all extensions thereof.

- B. Lessee hereby represents and warrants that Lessee has taken all necessary, procedural and legal steps as required under all State, local, and Federal laws and regulations, and all necessary corporate action to authorize the execution of this Lease as the binding legal act and deed of the Lessee and this Lease is and will remain fully enforceable in all of its terms and conditions against the Lessee.

**ARTICLE XVI: EMINENT DOMAIN**

- A. If the demised premises, or such portion thereof as to render the balance (when reconstructed) unsuitable for the purposes of Lessee, shall be taken by condemnation or right of eminent domain, Lessee upon written notice to the Lessor shall be entitled to terminate this Lease, provided that such notice is given within sixty (60) days after the date of such taking.
- B. Should any part of the demised premises be so taken or condemned and should this Lease not be terminated in accordance with the foregoing provisions, Lessor covenants and agrees promptly after such taking or condemnation to restore the building of which the demised premises are a part to as nearly its like condition prior to such taking as shall be practical. Out of any award for any taking of the demised premises, Lessee shall be entitled to receive compensation for their leasehold interest and improvements. In the event of such taking of the premises, the rent or a fair and just portion thereof according to the nature and extent of the damage sustained shall be abated.

**ARTICLE XVII: UNITED STATES RIGHTS**

It is understood and agreed that title to the leased premises is in the City of Bangor, provided, however, that the leased premises are a part of Bangor International Airport and this Lease is specifically made subject to any rights the United States of America or any agency thereof may have under any regulation, law, deed, or other existing agreement in or to the leased premises and may exercise any such right or rights in or to said premises and should the United States of America or any agency thereof exercise any such right or rights in or to said premises, the exercise of such right or rights shall not be considered to result in a breach by the City of any covenant or agreement hereunder. In the event that the United States of America or any agency thereof exercises any such right or rights in or to said premises, and the exercise of such right or rights makes impractical in Lessee' sole discretion Lessee' intended use of said premises, then Lessee shall have the right, at their option, to terminate this Lease without further obligation to the Lessor except for such obligations as shall have been incurred and accrued prior to the exercise of said option.

**ARTICLE XVIII: TERMINATION**

- A. It is covenanted and agreed that:
  - 1. If the Lessee shall neglect or fail to pay the rent or other charges payable hereunder and such default shall continue uncured for a period of ten (10) business days after receipt of written notice thereof by Lessee; or
  - 2. If the Lessee shall neglect or fail to perform or observe any of the other covenants, terms or conditions on its part to be performed and observed and such default shall continue for thirty (30) days after receipt of the written notice thereof by the Lessee and Lessee shall not have commenced and diligently pursued the remedy of said default; or

3. If the estate hereby created shall be taken on execution or by other process of law; or
4. If any of the Lessee shall be declared bankrupt or insolvent according to law; or
5. If any assignment shall be made of the property of any of the Lessee for the benefit of creditors; or
6. If a receiver, guardian, conservator, or trustee in bankruptcy or other similar officer shall be appointed to take charge of all or any substantial part of any of the Lessee' property by a Court of competent jurisdiction; or
7. If a petition shall be filed for a reorganization of any of the Lessee under provisions of the Bankruptcy Act now or hereafter enacted, and such proceeding is not dismissed within one hundred twenty (120) days after it was commenced; or
8. If any of the Lessee shall file a petition for such reorganization or for arrangements under any provision of the Bankruptcy Act now or hereafter enacted and providing a plan for a debtor to settle, satisfy or extend the time for the payment of debts,

then, in any of the said cases (notwithstanding any license or any breach or covenant or waiver of the benefit hereof or consent in a former instance); the Lessor lawfully may, immediately or at any time thereafter, and without demand or notice, enter into and upon the said premises or any part thereof, in the name of the whole and repossess the same as of the Lessor's former estate, and expel the Lessee and those claiming through or under them and remove their effects (forcibly if necessary) without being deemed guilty of any manner of trespass, and without prejudice to any remedies which might otherwise be used for arrears of rent or preceding breach of covenant, and upon entry as aforesaid, this Lease shall terminate, and the Lessee covenant and agree to pay and shall be liable for the days originally fixed herein for the payment thereof, amounts equal to the several installments of rents and other charges reserved as they would, under the terms of this Lease, become due if this Lease had not been terminated or if the Lessor had not entered or re-entered as aforesaid, less any amounts received as rent from any successor tenant.

#### **ARTICLE XIX: REMOVAL OF PROPERTY**

Upon the termination of or expiration of this Lease, the personal property of Lessee, including machinery, equipment, fixtures, located on the demised premises shall remain the property of the Lessee, and the Lessee shall have the right to remove the same from the demised premises within thirty (30) days from the date of termination of said Lease. Any such property not so removed within said thirty (30) days shall become the property of the Lessor to be disposed of in such way as it may deem fit. In the event Lessee elect to remove said personal property, the premises herein leased shall be returned to as near as possible its condition as at the commencement of this Lease, ordinary wear and tear and damage by accidental fire or other casualty excepted.

**ARTICLE XX: NOTICES**

Notices to the Lessor provided for in this Lease shall be sufficient if sent by registered or certified mail, return receipt requested, postage prepaid to:

To Lessor:

Bangor International Airport  
Airport Director  
287 Godfrey Boulevard  
Bangor International Airport 04401

To Lessee:

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

Or to such other addresses as the parties hereto may designate by written notice to the other party delivered in accordance with the provisions of this Article.

**ARTICLE XXI: ASSIGNMENT, SALE, SUBLETTING AND SUBCONTRACTING**

The Lessee shall not at any time assign, sell, convey or transfer this Lease or any interest therein, or sublease or sublet or rent the premises, or any part thereof, without the prior written consent of the Lessor. In the event of an approved sublease, all provisions of this Lease shall extend to, bind and inure to the benefit of not only the Lessor and Lessee but also their successors and assigns.

Lessee shall have the right to assign this Lease to any corporation with which it may have become merged, consolidated, or otherwise associated, or to any corporation or holding company having the controlling interest in the Lessee, or to any corporation which may be a subsidiary of the Lessee. In no event, however, shall the Lessee named herein be relieved from any obligations under this Lease by virtue of any such assignment or subletting.

The Lessee agrees to pay each subcontractor under this prime contract for satisfactory performance of its contract no later than ten (10) days from the receipt of each payment the prime contractor receives from the City of Bangor. The Lessee agrees further to return retainage payments to each subcontractor within ten (10) days after the subcontractor's work is satisfactorily completed. Any delay or postponement of payment from the above referenced time frame may occur only for good cause following written approval of the Bangor International Airport, City of Bangor. This clause applies to both DBE and non-DBE subcontractors.

**ARTICLE XXII: WAIVER**

Failure on the part of either party to complain of any action or non-action on the part of the other party no matter how long the same may continue shall never be deemed to be a waiver of any of such party's rights hereunder. Furthermore, it is covenanted and agreed that no waiver at any time of any of the provisions hereof by either party shall be construed as a waiver of any of the other provisions hereof and that a waiver at any time of any of the provisions hereof shall not be construed at any subsequent time a waiver of the same provisions.

The approval of either party to or for any action by the other requiring that party's consent or approval, shall not be deemed to waive or render unnecessary the party's consent or approval to or of any subsequent similar act by the other party.

**ARTICLE XXIII: INVALIDITY OF PARTICULAR PROVISIONS**

If any term or provision of this Lease is held to be invalid or unenforceable, the remainder of this Lease shall not be affected thereby and each other term and provision of this Lease shall be valid and be enforceable to the fullest extent permitted by law.

**ARTICLE XXIV: CONSTRUCTION**

The headings appearing in this Lease are intended for convenience and reference only, and are not to be considered in construing this Lease.

**ARTICLE XXV: NO PARTNERSHIP OR JOINT VENTURE CREATED**

Nothing contained herein shall be deemed or construed by the parties hereto, nor by any third party, as creating a relationship of principal and agent or of partnership or of joint venture between the parties hereto, it being understood and agreed that neither the method of computation of rent nor any provision contained herein or any acts of the parties hereto shall be deemed to create any relationship between the parties hereto other than the relationship of landlord and tenant.

**ARTICLE XXVI: GOVERNING LAW**

This Lease shall be governed exclusively by the provisions hereof and by the laws of the State of Maine in effect as of the date of the execution of this Lease by the Lessor.

**ARTICLE XXVII: MEMORANDUM OF LEASE**

The parties agree not to record this lease; however, upon request of either, the other shall prepare and execute a Memorandum of Lease in a form suitable for recording at the Penobscot Maine Registry of Deeds, as evidence of Lessee's interest in the premises demised herein.

**ARTICLE XXVIII: AMENDMENT TO LEASE**

This Lease contains all the terms and conditions between the parties hereto and no alteration, amendment, or addition thereto shall be valid unless in writing and signed by the party against whom enforcement may be sought.

IN WITNESS WHEREOF, the parties hereto have set their hands and seals the day and year first written above.

**CITY OF BANGOR**

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

\_\_\_\_\_  
Witness

By: \_\_\_\_\_  
Catherine Conlow  
City Manager

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

\_\_\_\_\_  
Witness

By: \_\_\_\_\_  
(name) \_\_\_\_\_  
(title) \_\_\_\_\_

1992

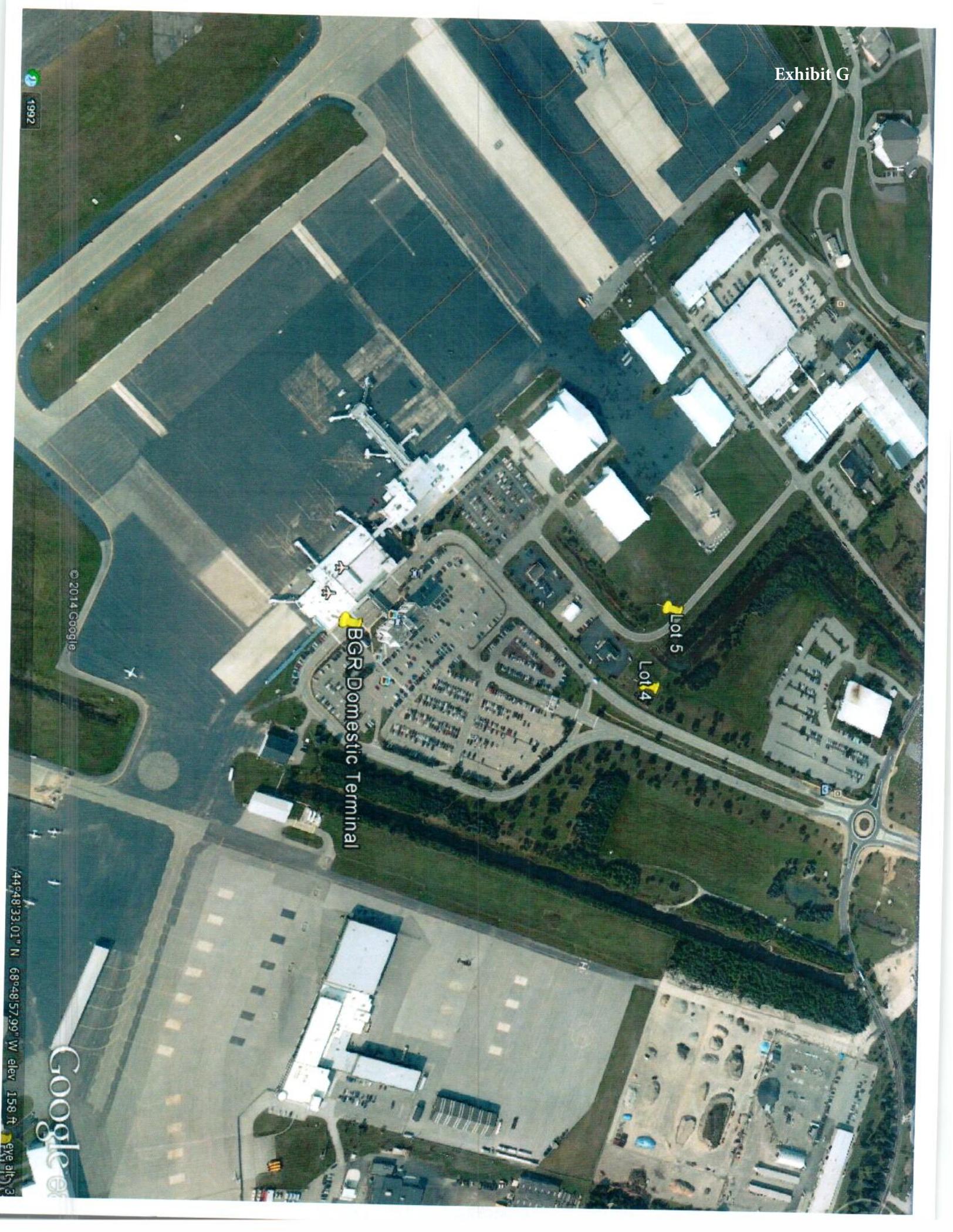
© 2014 Google

BGR Domestic Terminal

Lot 5  
Lot 4

44°48'33.01" N 68°48'57.99" W elev 158 ft eye alt 3

Google



1391

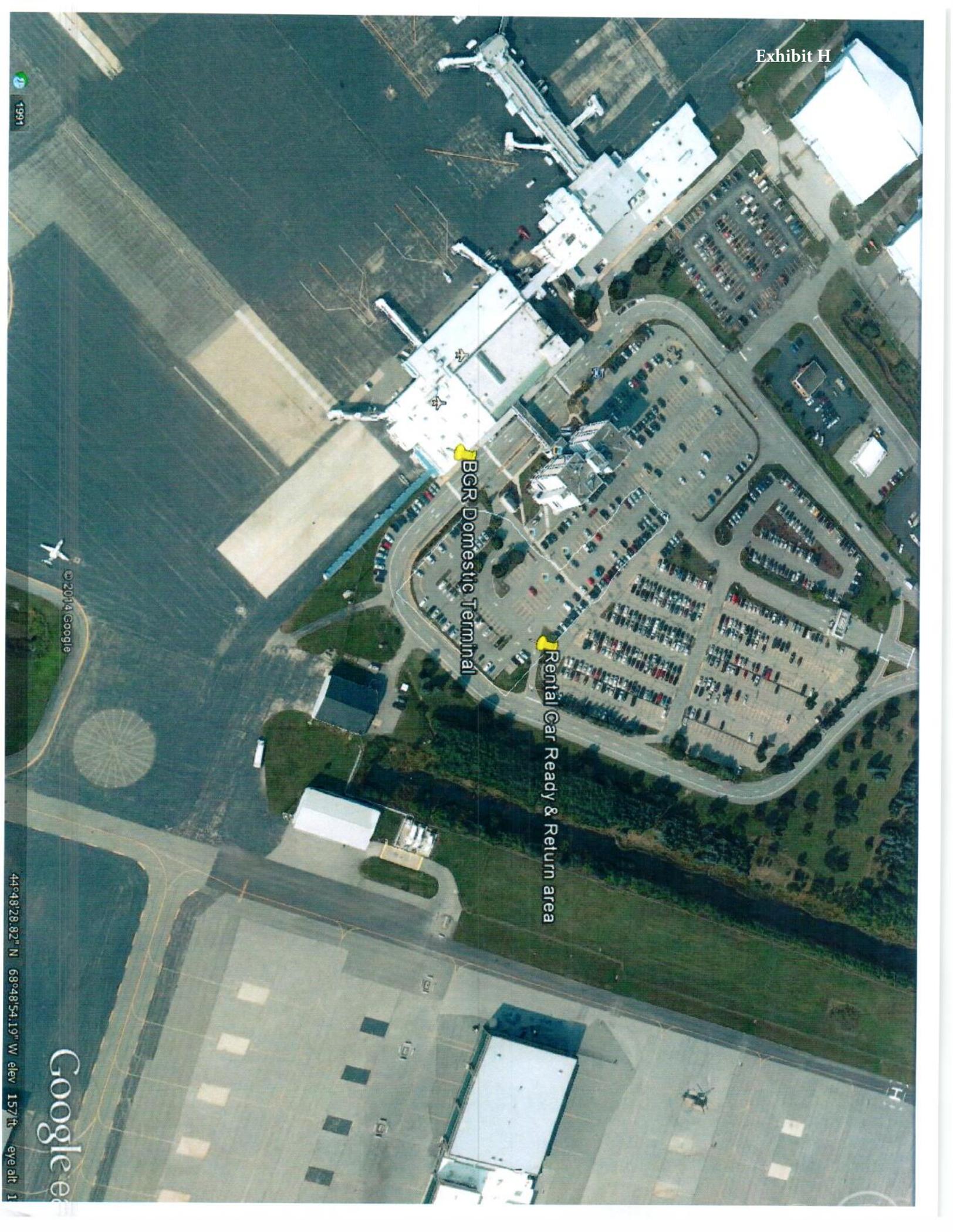
BGR Domestic Terminal

Rental Car Ready & Return area

© 2014 Google

44°48'28.82" N 68°48'54.19" W elev 157ft eye alt 1

Google



City of Bangor

# Airport Concession Disadvantaged Business Enterprise Program

for

Bangor International Airport  
*Bangor, Maine*

Updated: April 2015

Prepared by

**JACOBS**<sup>TM</sup>

Two Executive Park Drive, Suite 205  
Bedford, NH 03110

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**Attachments:**

- 1- ACDBE Overall Goals for Car Rentals, Calculation, Consultation, Breakout of Race-Neutral & Race-Conscious Participation
- 2- ACDBE Overall Goals for Concessions Other Than Car Rentals, Calculation, Consultation, Breakout of Race-Neutral & Race-Conscious Participation
- 3- Regulations: 49 CFR Part 23
- 4- Organizational chart
- 5- Maine DOT DBE Directory
- 6- UCP Agreement between the City of Bangor and the State of Maine
- 7- Revision Log
- 8- Forms 1 & 2 for Demonstration of good faith efforts
- 9- Annual Reporting Information

**US Department of Transportation Federal Aviation Administration**

Airport Concession Disadvantaged Business Enterprise Program - 49 CFR Part 23  
City of Bangor for Bangor International Airport

**I. Objectives and Policy Statement (29 CFR Part 23.1)**

The Bangor International Airport (hereafter “the Airport”) has established an Airport Concession Disadvantaged Business Enterprise (ACDBE) program in accordance with regulations of the U.S. Department of Transportation (DOT), 49 CFR Part 23. The Airport has received Federal financial assistance from the US Department of Transportation, and as a condition of receiving this assistance, the Airport has signed an assurance that it will comply with 49 CFR Part 23.

It is the policy of the Airport to ensure that ACDBEs, as defined in Part 23, have an equal opportunity to participate in Airport Concession contracts. It is also our policy:

1. *To ensure nondiscrimination in the award and administration of Airport Concession contracts;*
2. *To create a level playing field on which ACDBEs can compete fairly for Airport Concession contracts;*
3. *To ensure that the ACDBE Program is narrowly tailored in accordance with applicable law;*
4. *To ensure that only firms that fully meet 49 CFR Part 23 eligibility standards are permitted to participate as ACDBEs;*
5. *To help remove barriers to the participation of ACDBEs in Airport Concession contracts, and*
6. *To provide appropriate flexibility to our Airport in establishing and providing opportunities for ACDBEs.*

**Timothy Reynolds, Accounting Manager, 287 Godfrey Blvd, Bangor ME 04401; (207) 992-4600**, has been designated as the ACDBE Liaison Officer (ACDBELO). Implementation of the ACDBE program is accorded the same priority as compliance with all other legal obligations incurred by the Airport in its financial assistance agreements with the Federal Aviation Administration.

The Airport has disseminated this policy statement to The City of Bangor and all the components of its organization. The Airport has distributed this statement to the ACDBE and non-ACDBE business communities that may perform work on Concessions contracts in the following manner:

1. *This Policy statement will be included in all requests for proposals and agreements for airport concessions.*
2. *Copies of this Policy statement are/will be posted to the City’s and Airport’s websites.*
3. *This statement was transmitted to the organizations consulted during the development of the ACDBE goal.*

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

\_\_\_\_\_  
**Anthony P. Caruso, Jr., C.M**  
**Airport Director**

## II. Subpart A - General Requirements

### A. Objectives (23.1)

The objectives are found in the policy statement on the first page of this program.

### B. Definition of Terms (23.3)

The Airport will use terms used in this program that have the meaning defined in Section 23.3 and Part 26 Section 26.5 where applicable.

### C. Applicability (23.5)

The Airport is the recipient of Federal airport funds authorized by 49 U.S.C. 47107, et seq. and is therefore subject to part 23.

### D. Program Reviews (23.7)

At the discretion of the Secretary, the Department will initiate a review of the ACDBE program to determine what, if any, modifications should be made to this part.

### E. Nondiscrimination and assurance requirements (23.9)

The Airport will never exclude any person from participation in, deny any person the benefits of, or otherwise discriminate against anyone in connection with the award and performance of any contract covered by 49 CFR Part 23 on the basis of race, color, sex, or national origin.

In administering its DBE program, the Airport will not, directly or through contractual or other arrangements, use criteria or methods of administration that have the effect of defeating or substantially impairing accomplishment of the objectives of the ACDBE program with respect to individuals of a particular race, color, sex, or national origin.

The Airport will also include the following assurances, per 49 CFR Part 23.9, in all concession agreements and management contracts it executes with any firm after April 21, 2005:

(1) “This agreement is subject to the requirements of the U.S. Department of Transportation's regulations, 49 CFR Part 23. The concessionaire or contractor agrees that it will not discriminate against any business owner because of the owner's race, color, national origin, or sex in connection with the award or performance of any concession agreement, management contract, or subcontract, purchase or lease agreement, or other agreement covered by 49 CFR Part 23.

(2) “The concessionaire or contractor agrees to include the above statements in any subsequent concession agreement or contract covered by 49 CFR part 23, that it enters and cause those businesses to similarly include the statements in further agreements.”

### F. Compliance and Enforcement (23.11)

The Airport will comply with and is subject to the provisions of 49 CFR Part 26 §§ 26.101, 26.105, 26.107 and 2 CFR parts 180 and 1200.

The Airport will comply with this part or be subject to formal enforcement action under §26.105 or appropriate program sanctions, such as the suspension or termination of Federal funds, or refusal to approve projects, grants or contracts until deficiencies are remedied. Program sanctions may include actions consistent with 49 U.S.C. §§ 47106(d), 47111(d), and 47122.

2 C.F.R. Part 180, Government-wide Debarment and Suspension (Non-procurement), effective November 15, 2006, adopted and supplemented by DOT at 2 C.F.R. Part 1200, effective June 2, 2008, provides Office of Management and Budget (OMB) guidance for Federal agencies on the government-wide debarment and suspension system for non-procurement transactions, programs and activities. 2 C.F.R. Part 1200 adopts the OMB guidance in subparts A through I of 2 CFR part 180, as supplemented by part 1200, as the Department of Transportation policies and procedures for non-procurement suspension and debarment.

The Airport's compliance with all requirements of this part is enforced through the procedures of Title 49 of the United States Code, including 49 U.S.C. 47106(d), 47111(d), and 47122, and regulations implementing them.

Compliance reviews: The FAA may review the Airport's compliance with this part at any time, including but not limited to, reviews of paperwork, on-site reviews, and review of the Airport's monitoring and enforcement mechanism, as appropriate. The FAA Office of Civil Rights may initiate a compliance review based on complaints received.

Any person who knows of a violation of this part by the Airport may file a complaint under 14 CFR Part 16 with the Federal Aviation Administration Office of Chief Counsel.

The following enforcement actions apply to firms participating in the Airport's ACDBE program:

1. For a firm that does not meet the eligibility criteria of subpart C of this part and that attempts to participate as an ACDBE on the basis of false, fraudulent, or deceitful statements or representations or under circumstances indicating a serious lack of business integrity or honesty, the Department of Transportation (DOT) or the Federal Aviation Administration (FAA) may initiate suspension or debarment proceedings against the firm under 2 CFR parts 180 and 1200.
2. For a firm that, in order to meet ACDBE goals or other DBE program requirements, uses or attempts to use, on the basis of false, fraudulent or deceitful statements or representations or under circumstances indicating a serious lack of business integrity or honesty, another firm that does not meet the eligibility criteria of subpart C of this part, DOT or FAA may initiate suspension or debarment proceedings against the firm under 2 CFR parts 180 and 1200.
3. In a suspension or debarment proceeding brought under paragraph (a) or (b) of this section, the FAA may consider the fact that a purported ACDBE has been certified. However, such certification does not preclude DOT from determining that the

- purported ACDBE, or another firm that has used or attempted to use it to meet ACDBE goals, should be suspended or debarred.
4. DOT may take enforcement action under 49 CFR Part 31, Program Fraud and Civil Remedies, against any participant in the ACDBE program whose conduct is subject to such action under 49 CFR Part 31.
  5. DOT may refer to the Department of Justice, for prosecution under 18 U.S.C. §§ 1001 or other applicable provisions of law, any person who makes a false or fraudulent statement in connection with participation of an ACDBE in the Airport's ACDBE program or otherwise violates applicable Federal statutes.

### III. Subpart B - ACDBE Programs

#### A. Applicability (23.21)

The Bangor International Airport is a non-hub primary airport. As a condition of eligibility for FAA financial assistance, the Airport is required to submit this ACDBE program and overall goals to the FAA according to section 23.45.

Until this program is submitted and approved, the Airport will continue to implement the concessions DBE program that was previously in effect, except with respect to any provision that is contrary to 49 CFR Part 23.

When the Airport makes significant changes to its ACDBE program, we will provide the amended program to the FAA for approval prior to implementing the changes.

#### B. Administrative Provisions (23.23)

**Policy Statement:** The Airport is committed to operating its ACDBE program in a nondiscriminatory manner. The Airport's Policy Statement is elaborated on the first page of this program.

**ACDBE Liaison Officer (ACDBELO):** The Airport has designated Timothy Reynolds, Accounting Manager, 287 Godfrey Boulevard, Bangor ME 04401; [treynolds@flybangor.com](mailto:treynolds@flybangor.com); (207) 992-4600 as our ACDBELO. In this capacity, the ACDBELO is responsible for implementing all aspects of the ACDBE program and ensuring that the Airport complies with all provisions of 49 CFR Part 23. The ACDBELO has direct, independent access to the Airport Director concerning ACDBE program matters. The ACDBELO, with the assistance of the airport staff, will administer the ACDBE program. An organizational chart displaying the ACDBELO's position in the organization is found in Attachment 4 to this program. The Airport Director, Anthony P. Caruso Jr., is designated as the alternate ACDBELO and will support Mr. Reynolds as needed.

The ACDBELO is responsible for developing, implementing and monitoring the ACDBE program, in coordination with other appropriate officials. The ACDBELO has access to the Airport's administrative staff to assist in the administration of the program. The ACDBELO carries out the following responsibilities:

- a. Gathers and reports statistical data and other information as required by DOT/FAA.
- b. Ensures non-discrimination assurances are included in all new proposals and new concession agreements and management contracts (ref. Section 23.9, 23.45).
- c. Monitors compliance and exercises enforcement measures (ref. Section 23.11 and 23.29).
- d. Submits the next 3-year update (ref. Section 23.21 and 23.41).
- e. Submits interim updates when significant changes occur to the ACDBE program (ref. Section 23.21).
- f. Executes measures to ensure nondiscrimination participation of ACDBEs (ref. Section 23.25).
- g. Retains ACDBE information and conducts annual reporting. (ref. Section 23.27).
- h. Conducts stake holder consultation in goal setting (ref. Section 23.43).
- i. Monitors goal attainment and sets concession-specific goals (ref. Section 23.45).
- j. Obtains documentation of good faith efforts (ref. Section 23.45).
- k. Counts and calculates concession and rental car participation (ref. Section 23.53 and 23.55).
- l. Assesses potential for ACDBE participation when material amendments (renewals, extensions) to existing contracts are made (ref. Section 23.71).
- m. Prohibits long term (greater than 5 year) exclusive agreements without prior FAA approval (ref. Section 23.75).
- n. Collects and catalogs concessionaire receipts on an annual basis.
- o. Refers potential ACDBEs to the Maine DOT for certification.
- p. Directs interested parties to the Maine DOT Directory for certified DBEs.

### C. Directory (23.23)

The Airport utilizes the Maine Uniform Certification Program (UCP) directory identifying all firms eligible to participate as DBEs and ACDBEs. The Directory lists the firm's name, address, phone number, date of the most recent certification and the type of work the firm has been certified to perform as an ACDBE. This list is available at <http://www.maine.gov/mdot/civilrights/dbe.htm>.

The agreement between the Maine Department of Transportation and the City of Bangor is included as Attachment 6 of this plan.

### D. Ensuring Nondiscriminatory Participation of ACDBEs (23.25)

The Airport will take the following measures to ensure nondiscriminatory participation of ACDBEs in concession, and other covered activities (23.25(a)):

- Identify opportunities for ACDBEs on concession agreements and sub agreements.
- Encourage non-ACDBE concessionaires to consider subcontracting opportunities with ACDBEs.
- Aid non-ACDBE concessionaires in locating ACDBEs for subcontracting opportunities.
- In all concession agreements entered into with the Airport, the agreement signed by the concessionaire will include statements that ensure to the Airport that: *The concessionaire or contractor agrees that it will not discriminate against any business owner because of the owner's race, color, national origin, or sex in connection with the award or performance of any*

*concession agreement, management contract, or subcontract, purchase or lease agreement, or other agreement covered by 49 CFR Part 23.*

1. The Airport will require businesses subject to ACDBE goals at the Airport (except car rental companies) to make good faith efforts to explore all available options to meet goals, to the maximum extent practicable, through direct ownership arrangements with ACDBEs. (23.25(f))
2. The Airport will seek ACDBE participation in all types of concession activities, rather than concentrating participation in one category or a few categories to the exclusion of others (23.25(c)).
3. The Airport's overall goal methodology, as well as a description of the race-neutral measures it will take to meet the goals, are described in Section 23.25 and Attachments 1 & 2 of this plan. The goals are set consistent with the requirements of Subpart D (23.25(b), (d)).
4. If the Airport projects that race-neutral measures, standing alone, are not sufficient to meet an overall goal, it will use race-conscious measures as described in Section 23.25 (e) (1-2) and Attachment 1 and 2 of this plan. (23.25(e)(1-2)).
5. The Airport will not use set-asides or quotas as a means of obtaining ACDBE participation (23.25 (g)).

#### **E. Reporting requirements (23.27)**

1. Reporting  
The Airport will submit to the FAA Regional Civil Rights Office, an annual ACDBE participation report on the form in Appendix A of Part 23 on or about March 1st each year. The reporting period shall cover the previous fiscal year. (Oct. 1 – Sept. 30)
2. Information to be Retained  
The Airport will require concessionaires to maintain records and documents of award and performance of ACDBEs on contracts for three years following the performance of the contract. These records will be made available for inspection upon request by any authorized representative of the Authority or the USDOT.

#### **F. Compliance and Enforcement Procedures (23.29)**

The Airport will take the following monitoring and enforcement mechanisms to ensure compliance with 49 CFR Part 23:

1. In the event that a concessionaire does not comply with the Airport's ACBDE Policy and Plan set forth in an agreement, nor establish a good faith effort to meet contract goals, the Airport will impose such contract sanctions as the Airport, the FAA or both may determine to be appropriate.

2. If at any time the Airport has reason to believe that the concessionaire is in default of this policy and plan, the Airport may, in addition to pursuing any other available legal remedy, terminate, suspend or cancel the agreement in whole or in part; and/or suspend or debar the concessionaire from eligibility to contract with the Airport in the future.
3. The Airport will bring to the attention of the Department of Transportation any false, fraudulent, or dishonest conduct in connection with the program, so that DOT can take the steps (e.g., referral to the Department of Justice for criminal prosecution, referral to the DOT Inspector General, action under suspension and debarment or Program Fraud and Civil Penalties rules) provided in 26.107.
4. The Airport will consider similar action under its own legal authorities, including responsibility determinations in future contracts. (26.37) Concession contracts are entered into in accordance with the City of Bangor's Procurement Policy, <http://www.bangormaine.gov/filestorage/422/424/1261/1263/ProcurementPolicyAmended.pdf> Article 6 of the City's Policy contains the available procedures and authority regarding Debarment and Suspension.
5. The Airport will also implement a monitoring and enforcement mechanism to ensure that work committed to ACDBEs at contract award is actually performed by the ACDBEs. This mechanism will provide for a running tally of actual ACDBE attainments (e.g., payment actually made to ACDBE firms), including a means of comparing these attainments to commitments. This will be accomplished by:
  - a. *Requiring annual ACDBE participation reports.* Each concessionaire will be required by contract to submit gross receipts report to the Airport through the ACDBELO. The ACDBELO will verify that the ACDBEs utilized are certified as DBEs pursuant to Section 23.23. The gross receipts from each concessionaire will be entered into corresponding spreadsheets which will be used to track ACDBE participation and progress towards meeting the Airport's established goal. In the event that a concessionaire does not achieve the goal DBE participation, the concessionaire will be required by contract to submit documentation of a good faith effort. The good faith effort documentation will be reviewed by the ACDEBLO for conformance with SUBPART D of this plan. Reporting forms and reporting information are included in Attachment #9 of this plan.
6. In the reports of ACDBE participation to FAA, the Airport will show both commitments and attainments, as required by the DOT reporting form. (ref. 23.27)

#### **IV. SUBPART C - Certification and Eligibility**

##### **A. Certification Standards and Procedures (23.31)(a)**

The Airport will use the procedures and standards of Part 26, except as provided in 23.31, for certification of ACDBEs to participate in the ACDBE program.

The Airport is a member of the Unified Certification Program (UCP) administered by the State of Maine. The UCP will meet all requirements of this section and will make certification decisions on behalf of the Airport.

**B. Review of Eligibility (23.31)(c)**

The Airport will consider the Maine DOT UCP annual reviews as sufficient review of eligibility of DBEs. Also, prior to entering into a new contract, extension, or option with a currently certified ACDBE, the ACDBELO will review their eligibility at that time through the Maine DOT UCP. To review the eligibility, the ACDBELO will consult the Maine DOT DBE Directory or other state UCP as appropriate. Eligibility requirements are specified in Sections 23.33, 23.35 and 23.37 of this plan.

**C. Size Standards (23.33)**

The Airport adopts the business size standards described in Part 23 §23.33 for small businesses eligible to be certified as ACDBEs. The Airport will direct the state UCP to the eligibility size criteria of this section. The firm will be treated as a small business eligible to be certified as an ACDBE if its gross receipts, averaged over the firm's previous three fiscal years, do not exceed \$56.42 million for non-car rental ACDBEs and \$75.23 million for car rental ACDBEs. The size standard for banks and other financial institutions is \$1 billion in assets; for pay telephone companies the standard is 1,500 employees; and for ACDBE automobile dealers the standard is 350 employees.

**D. Personal Net Worth (23.35)**

The personal net worth standard used in determining the eligibility of ACDBEs to participate in the Airport's ACDBE program is \$1.32 million. Personal Net Worth as defined in Part 23 §23.3 is as follows:

*“Personal net worth” means the net value of the assets of an individual remaining after total liabilities are deducted. An individual’s personal net worth does not include the following: (1) the individual’s ownership interest in an ACDBE firm or a firm that is applying for ACDBE certification; (2) the individual’s equity in his or her primary place of residence; and (3) other assets that the individual can document are necessary to obtain financing or a franchise agreement for the initiation or expansion of his or her ACDBE firm (or have in fact been encumbered to support existing financing for the individual’s ACDBE business), to a maximum of \$3 million. An individual’s personal net worth includes only his or her own share of assets held jointly or as community property with the individual’s spouse.*

Any person who has a personal net worth exceeding this amount is not a socially and economically disadvantaged individual, even if a member of a group otherwise presumed to be disadvantaged. (See 23.3 - Personal Net Worth definition and 23.35)

**E. DBE firms Certified Under 49 CFR Part 26 (23.37)**

The Airport presumes that a firm certified as a DBE under Part 26 is eligible to participate as an ACDBE (23.37(a)). By meeting the size, disadvantage (including personal net worth), ownership and control standards of Part 26, the firm will have also met the eligibility standards for Part 23.

The Airport will ensure that the disadvantaged owners of a DBE certified under Part 26 are able to control the firm with respect to its activity in the concessions program.

**F. Removal of a Concessionaire Based on Eligibility (23.39)(e)**

In instances when the eligibility of a concessionaire is removed after the concessionaire has entered into a concession agreement because the firm exceeded the size standard or the owner has exceeded the personal net worth standard, and the firm in all other respects remains an eligible DBE, we may continue to count the concessionaire’s participation toward ACDBE goals during the remainder of the current concession agreement. We will not count the concessionaire’s participation toward ACDBE goals beyond the termination date for the concession agreement in effect at the time of the decertification.

**V. SUBPART D - Goals, Good Faith Efforts, and Counting**

**A. Goals Requirements (23.41)**

The Airport will establish two separate overall ACDBE goals: one for car rentals and another for concessions other than car rentals. The overall goals will cover a three-year period and the Airport will review the goals annually to make sure the goal continues to fit the Airport’s circumstances. The Airport will report any significant overall goal adjustments to the FAA (23.41(a),(c)).

If the average annual concession revenues for car rentals over the preceding three years do not exceed \$200,000, the Airport need not submit an overall goal for car rentals. Likewise, if the average annual concession revenues for concessions other than car rentals over the preceding three years do not exceed \$200,000, the Airport need not submit an overall goal for concessions other than car rentals. The Airport understands that “revenue” means total revenue generated by concessions, not the fees received by the Airport from concessionaires (23.41(d)).

The Airport’s overall goals provide for participation by all certified ACDBEs and will not be subdivided into group-specific goals.

**B. Consultation and Public Participation (23.43)**

Before establishing the overall goal, the Airport consulted with current concessionaires to obtain information concerning the availability of disadvantaged and non-disadvantaged businesses. The Airport also reviewed the Maine DOT DBE Directory for DBEs that could perform concession work or offer support to non-DBE concessionaires in an attempt to increase overall participation of ACDBEs.

**C. Requirements for Overall Goal Submission to the FAA (23.45)**

The Airport is a *non-hub primary* airport. As a condition of eligibility for FAA financial assistance, the Airport is required to submit its overall goals according to the following schedule:

Non-hub Primary Airport	Due Date	Period Covered
normal scheduled submission	October 1, 2013	2014/2015/2016
update	April 2015	May ’15-Sept. ’16
normal scheduled submission	October 1, 2016	2017/2018/2019

normal scheduled submission	October 1, 2019	2020/2021/2022
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If a new concession opportunity arises at a time that falls between the normal submission dates above and the estimated average of annual gross revenues are anticipated to be \$200,000 or greater, the Airport will submit an appropriate adjustment to the overall goal to FAA for approval 90-days before executing the new concession agreement.

The Airport will establish overall goals in accordance with the Two-Step process as specified in Section 23.51. After determining the total gross receipts for the concession activity, the first step is to determine the relative availability of ACDBEs in the market area, or the “base figure”. The second step is to examine all relevant evidence reasonably available in the Airport’s jurisdiction to determine if an adjustment to the Step 1 “base figure” is necessary so that the goal reflects as accurately as possible the ACDBE participation the Airport would expect in the absence of discrimination. Evidence may include, but is not limited to, past participation by ACDBEs; a disparity study; evidence from related fields that affect ACDBE opportunities to form, grow, and compete (such as statistical disparities in ability to get required financing, bonding, insurance; or data on employment, self-employment, education, training and union apprenticeship).

A description of the methodology to calculate the overall goal for car rentals, the goal calculations, and the data used can be found in Attachment 1 to this program.

A description of the methodology to calculate the overall goal for concessions other than car rentals, the goal calculations, and the data used on can be found in Attachment 2 to this program.

1. Projection of Estimated Race-Neutral & Race-Conscious Participation (23.45(f), 23.25(d-e))

The breakout of estimated race-neutral and race-conscious participation can be found with the goal methodology in Attachments 1 and 2 to this program. This section of the program will be reviewed annually when the goal calculation is reviewed under 23.41(c).

2. Concession-Specific Goals (23.25 (c)(e)(1)(iv))

The Airport will use concession-specific goals to meet any portion of the overall goals that the Airport does not project being able to meet using race-neutral means. Concession-specific goals are established so that, over the period to which the overall goals apply, they will cumulatively result in meeting any portion of the overall goal that is not projected to be met through the use of race-neutral means.

The Airport will establish concession-specific goals only on those concessions that have direct ownership arrangements (except car rentals), sublease, or subcontracting possibilities. The Airport will require businesses subject to ACDBE goals at the Airport (except car rental companies) to make good faith efforts to explore all available options to meet goals, to the maximum extent practicable, through direct ownership arrangements with DBEs (23.25 (f)). Car rental firms are not required to change their corporate structure to provide for direct ownership arrangements. In the case of a car

rental goal, where it appears that all or most of the goal is likely to be met through the purchases by car rental companies of vehicles or other goods or services from ACDBEs, one permissible alternative is to structure the goal entirely in terms of purchases of goods and services.

The Airport need not establish a concession-specific goal on every such concession, and the size of concession-specific goals will be adapted to the circumstances of each such concession (e.g., type and location of concession, availability of ACDBEs.)

3. Good Faith Efforts on Concession-Specific Goals (23.25(e)(1)(iii), (iv))

To be eligible to be awarded a concession that has a concession-specific goal, bidders/offerors must make good faith efforts to meet the goal. A bidder/offeror may do so either by obtaining enough ACDBE participation to meet the goal or by documenting that it made sufficient good faith efforts to do so (23.25(e)(1)(iv)). Examples of good faith efforts are found in Appendix A to 49 CFR Part 26. The procedures applicable to 49 CFR Sections 26.51 and 26.53, regarding contract goals apply to the Airport's concession-specific goals.

a. Demonstration of Good Faith Efforts (26.53(a) & (c))

**Timothy Reynolds, Accounting Manager, 287 Godfrey Blvd, Bangor ME 04401; [treynolds@flybangor.com](mailto:treynolds@flybangor.com) ; (207) 992-4600** is responsible for determining whether a concessionaire who has not met the concession-specific goal has documented sufficient good faith efforts to be regarded as responsive.<sup>1</sup>

The ACDBELO will ensure that all information is complete and accurate and adequately documents the bidder/offeror's good faith efforts before the Airport commits to the concession agreement with the bidder/offeror.

b. Information to be Submitted (26.53(b))

The Airport treats bidder/offeror's compliance with good faith effort requirements as a matter of responsibility.

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<sup>1</sup> A bidder/offeror must, in order to be responsive, make good faith efforts to meet the goal. The bidder can meet this requirement in either of two ways. First, the bidder can meet the goal, documenting commitments for participation by DBE firms sufficient for this purpose. Second, even if it doesn't meet the goal, the bidder can document adequate good faith efforts. This means that the bidder must show that it took all necessary and reasonable steps to achieve a DBE goal or other requirement of this part which, by their scope, intensity, and appropriateness to the objective, could reasonably be expected to obtain sufficient DBE participation, even if they were not fully successful.

Each solicitation for which a concession-specific goal has been established will require the concessionaires to submit the following information:

1. The names and addresses of ACDBE firms or ACDBE suppliers of goods and services that will participate in the concession;
2. A description of the work that each ACDBE will perform;
3. The dollar amount of the participation of each ACDBE firm/supplier participating;
4. Written and signed documentation of commitment to use a ACDBE whose participation it submits to meet a contract goal;
5. Written and signed confirmation from the ACDBE that it is participating in the concession as provided in the prime concessionaire's commitment; and
6. If the contract goal is not met, evidence of good faith efforts (Refer to Appendix A of Part 26).

Forms for collecting and submitting this information can be found in Attachment 8 of this plan.

c. Administrative Reconsideration (26.53(d))

Within ten days of being informed by the Airport that it is not responsible because it has not documented sufficient good faith efforts, a concessionaire may request administrative reconsideration. Concessionaire should make this request in writing to the following reconsideration official: **Norman S. Heitmann, City Solicitor, City Hall, 73 Harlow St., Bangor, ME (207) 992-4276**. The reconsideration official will not have played any role in the original determination that the concessionaire did not document sufficient good faith efforts.

As part of this reconsideration, the concessionaire will have the opportunity to provide written documentation or argument concerning the issue of whether it met the goal or made adequate good faith efforts to do so. The concessionaire will have the opportunity to meet in person with our reconsideration official to discuss the issue of whether it met the goal or made adequate good faith efforts to do. The Airport will send the concessionaire a written decision on reconsideration, explaining the basis for finding that the concessionaire did or did not meet the goal or make adequate good faith efforts to do so. The result of the reconsideration process may not be appealed administratively to the Department of Transportation.

d. Good Faith Efforts When an ACDBE is Replaced on a Concession (26.53(f))

The Airport will require a concessionaire to make good faith efforts to replace an ACDBE that is terminated or has otherwise failed to complete its concession agreement, lease, or subcontract with another certified ACDBE, to the extent needed to meet the concession-specific goal. We will require the concessionaire to notify the ACDBELO immediately of the ACDBE's inability or unwillingness to perform and provide reasonable documentation.

In this situation, the concessionaire is required to obtain prior approval of the substitute ACDBE and to provide copies of new or amended subcontracts, or documentation of good faith efforts. If the concessionaire fails to comply, the Airport may issue a termination for default proceeding.

e. Sample Proposal/Bid Specification:

*The requirements of 49 CFR Part 23, regulations of the U.S. Department of Transportation, applies to this concession. It is the policy of the City of Bangor-Bangor International Airport to practice nondiscrimination based on race, color, sex, or national origin in the award or performance of this contract. All firms qualifying under this solicitation are encouraged to submit bids/proposals. Award of this concession will be conditioned upon satisfying the requirements of this proposal/bid specification. These requirements apply to all concessions firms and suppliers, including those who qualify as an ACDBE. An ACDBE concession specific goal of (**insert % here**) percent of (annual gross receipts; value of leases and/or purchases of goods and services) has been established for this concession. The concession firm shall make good faith efforts, as defined in Appendix A, 49 CFR Part 26 (Attachment 8), to meet the concession specific goal for ACDBE participation in the performance of this concession.*

*The concession firm will be required to submit the following information: (1) the names and addresses of ACDBE firms and suppliers that will participate in the concession, (2) A description of the work that each ACDBE will perform; (3) The dollar amount of the participation of each ACDBE firm participating; (4) Written and signed documentation of commitment to use a ACDBE whose participation it submits to meet a contract goal; (5) Written and signed confirmation from the ACDBE that it is participating in the concession as provided in the prime concessionaire's commitment; and (6) If the contract goal is not met, evidence of good faith efforts.*

**D. Counting ACDBE Participation for Car Rentals (23.53)**

The Airport will count ACDBE participation for car rentals in accordance with 49 CFR 23.53.

The car rental companies will count the following:

- 1) purchases or leases of vehicles from certified ACDBE vendors. If the car rental company elects to use purchases and leases of vehicles, the car rental company must also submit to the Airport documentation of good faith efforts to ACDBE participation from other ACDBE providers of goods and service;
- 2) if elected, count ACDBE participation through direct ownership and
- 3) for other goods and services, count participation toward ACDBE goals as provided in part 26 §26.55 and §23.55 of this part. In the event of a conflict, §23.55 controls.

Special rules that apply to counting participation include the following:

- 1) count the entire amount of repairs made by an ACDBE vendor, provided the fees are not excessive, are reasonable and are customary;
- 2) count the entire fee charged by an ACDBE to manage a car rental concession, provided the fees are not excessive, are reasonable and are customary;
- 3) do not count the fee paid to an ACDBE dealership or service station for warranty related work.

**E. Counting ACDBE Participation for Non-Car Rentals (23.55)**

The Airport will count ACDBE participation for non-car rentals in accordance with 49 CFR 23.55.

The non-car rental concessionaires will count the following:

- 1) ACDBE participation that results from a commercially useful function as defined in §26.55(c); except that the requirements of §26.55(c)(3) do not apply to concessions.
- 2) the total dollar value of gross receipts an ACDBE earns under a concession or sub-concession agreement;
- 3) the dollar value of a management contract or subcontract performed by an ACDBE;
- 4) in a joint venture, count the portion of the gross receipts equal to the distinct, clearly defined portion of work performed by the ACDBE;
- 5) the fees or commissions charged by the ACDBE for services;
- 6) 100% of the cost of goods obtained from an ACDBE manufacturer; and
- 7) 100% of the cost of goods purchased or leased from an ACDBE regular dealer.

If the ACDBE is neither a manufacturer nor a regular dealer, count the entire amount of fees, commissions and transportation costs charged in the procurement of the goods and delivery of the goods, provided the costs are reasonable, not excessive and customary. Do not count any portion of the costs of the goods.

Do not count the following:

- 1) the subcontract value a non-ACDBE enters into with an ACDBE;
- 2) cost of goods and services from firms not certified as ACDBE's;
- 3) gross receipts from a firm after its ACDBE eligibility has been removed; and
- 4) costs incurred in connection with renovation, repair or construction of a concession facility (i.e. "build-out")

**F. Quotas and Set-Asides (23.61)**

The Airport does not use quotas or set-asides in any way in the administration of this ACDBE program.

**VI. Subpart E – Other Provisions**

**A. Existing Concession Agreements (23.71)**

The Airport will assess potential for ACDBE participation when an extension or option to renew an existing agreement is exercised, or when a material amendment is made. The Airport will use any means authorized by Part 23 to obtain a modified amount of ACDBE participation in the renewed or amended agreement.

**B. Privately-Owned or Leased Terminal Buildings (23.73)**

The Airport does not have any privately-owned or leased terminal buildings.

**C. Long-term Exclusive Agreements (23.75)**

The Airport will not enter into future long-term exclusive agreements for concessions without prior approval of the FAA Regional Civil Rights Office. The Airport understands that a "long-term" agreement is one having a term of longer than five years. The Airport

understands that an “exclusive” agreement is one in which an entire category of a particular business opportunity is limited to a single business entity. If special, local circumstances exist that make it important to enter into a long-term and exclusive agreement, the Airport will submit detailed information to the FAA Regional Civil Rights Office for review and approval.

**D. State and Local Law (23.77)**

In the event that the Airport discovers that a state or local law differs from part 23, the Airport will take steps to comply with part 23 and the actions required in 23.77.

**E. Local Geographic Preferences (23.79)**

The Airport will not use local geographic preferences in administering its ACDBE program. (i.e., any requirement that gives an ACDBE located in the Bangor Area an advantage over ACDBEs from other places in obtaining business as, or with, a concession at the Airport.)

**VII. Attachments**

- 1- ACDBE Overall Goals for Car Rentals, Calculation, Consultation, Breakout of Race-Neutral & Race-Conscious Participation
- 2- ACDBE Overall Goals for Concessions Other Than Car Rentals, Calculation, Consultation, Breakout of Race-Neutral & Race-Conscious Participation
- 3- Regulations: 49 CFR Part 23
- 4- Organizational Chart
- 5- Maine DOT DBE Directory
- 6- UCP Agreement between the City of Bangor and the State of Maine
- 7- Revision Log
- 8- Forms 1 & 2 for Demonstration of good faith efforts
- 9- Annual Reporting Information

# **ATTACHMENT #1:**

## **FY 2014-2016 AIRPORT CONCESSION ACDBE OVERALL GOALS FOR CAR RENTALS CALCULATION, CONSULTATION, BREAKOUT OF ESTIMATED RACE-NEUTRAL & RACE- CONSCIOUS PARTICIPATION**

Section 23.51: Overall Goal Calculation for Car Rentals

**Rental Car Goal**

The overall goal for car rentals during the period beginning October 1, 2013 and ending September 30, 2016 is 0.46% of the total goods and services of the car rental operations at the Bangor International Airport. The Airport anticipates most of the goal is likely to be met through the purchases by car rental companies of goods or services from ACDBEs.

**Annual Sales**

The Average Car Rental revenue at the Airport from the past three-year period is as follows:

**Table 1: Average Annual Gross Sales for FFY 2011-2013**

<b>Existing Concession Rental Car</b>	<b>FFY 2011-2013 Average Annual Gross Sales</b>
Alamo	\$1,200,965.29
Avis	\$2,035,394.25
Budget/Cendant	\$2,615,177.29
Enterprise	\$598,142.75
Hertz Rent A Car	\$2,812,811.22
National	\$1,023,173.94
<b>TOTAL</b>	<b>\$10,285,664.74</b>

Based on the available historical information, as provided in the Table 1 above, the average annual gross receipts during the FFY 2011-2013 goal period for car rental concessions at the Airport was approximately \$10.3 million per year. We do not anticipate any major changes that would alter rental car concession revenues over the next goal period. Therefore, for FFY 2014-2016 we anticipate the average car rental revenue of approximately \$10.3 million per year. If a new rental car opportunity arises prior to the end of this goal period and the estimated average of annual gross revenues are anticipated to be \$200,000 or greater, the Airport will submit an appropriate adjustment to the overall goal. This will be submitted to the FAA for approval at least 90 days before executing the new concession agreement (23.45(i)).

**Methodology Used to Calculate Overall Goal**

The Airport contacted each of the current rental car concessionaires and requested a summary of past and anticipated future DBE participation. The feedback received was that most past and anticipated future participation at the Airport has/will come from the purchase of goods and services. As such, the goal calculation has been structured to reflect this.

Market Area:

Market area is defined by the geographical area in which the substantial majority of firms seeking to do concession-related business with the Airport are located and the geographical area in which the firms that receive the substantial majority of the concession-related revenues are located. (23.51(b)(3)). The companies provided in Table 1 are national firms. However, historically, when DBE participation is achieved at the Airport it is performed by “local” firms. Therefore, instead of using a national market area, the market area is based upon the geographical area where the companies typically purchase their goods and services for the Airport. This area consists of the following counties: Androscoggin ME, Cumberland ME, Hancock ME, Kennebec ME, Penobscot ME, Somerset ME, and Waldo ME.

Using the Census Bureau’s County Business Pattern (CBP) database, the number of all ready, willing and able businesses in the market area that provide goods and services related to the rental car type businesses was determined. The Maine DOT D/WBE Directory of Businesses was then used to determine the number of ACDBE firms that provide related goods and services (i.e. towing, insurance, janitorial services, repair, and petroleum products) in the market area. This information is provided in Table 2.

**Table 2: Rental Car Related Businesses - Relative Availability of DBEs in Market Area Compared to All Firms**

<b>County</b>	<b>Total # of Car Rental Related Companies in Market Area.<sup>1</sup></b>	<b># of Car Rental Related DBE Companies in Market Area<sup>2</sup></b>
Androscoggin, ME	98	1
Cumberland, ME	274	2
Hancock ME	46	0
Kennebec ME	88	0
Penobscot ME	108	0
Somerset ME	24	0
Waldo ME	18	0
<b>TOTAL</b>	<b>656</b>	<b>3</b>

<sup>1</sup> Source: US Census Bureau Data, 2012 County Business Patterns

NAICS Codes:

488410 – Motor Vehicle Towing

524210 – Insurance

561720 – Janitorial Services

811121 – Automotive Body, Paint, and Interior Repair

424720 – Petroleum and Petroleum Products Merchant Wholesalers (except Bulk Stations and Terminals)

<http://censtats.census.gov/cbpnaic/cbpnaic.shtml>

<sup>2</sup> Source: Maine DOT Disadvantaged Business Enterprise Weekly DBE Vendor List, April 3, 2015

<http://www.maine.gov/mdot/civilrights/dbe.htm>

**Base Figure Calculation Step 1 - 23.51(c):**

The base figure for the relative availability of DBEs offering car rental related goods and services was determined. The base figure was calculated using the data presented in Table 2 as follows:

$$\text{Base figure} = \frac{\text{Ready, willing, and able car rental goods and service DBE's in the market area}}{\text{All ready, willing and able car rental goods and service companies in the market area}}$$

$$\text{Base Figure} = 3 / 656 = 0.46\%$$

Neither an Active Participants List (23.51(c)(2)) nor a disparity study (23.51(c)(3)) are available for use in the base goal calculation.

**Base Figure Adjustment Step 2 - 23.51(d):**

After calculating a base figure of the relative availability of DBEs, relevant evidence reasonably available to determine what adjustment, if any, is needed to the base figure in order to arrive at the overall goal was examined.

An adjustment to the base goal may be made based upon the current capacity of DBEs to perform work in the rental car program by measuring the volume of work DBEs have performed in the recent years. (23.51(d)(1)(i)). The past four years of data (2011-2014) from the Airport rental car program was reviewed. An average of \$9,700 per year of goods and services was performed by certified DBE firms located in, or in the vicinity of the market area. This data confirms that there are ACDBE firms ready, willing, and able to provide goods and services. The Airport will continue to monitor the past participation of ACDBEs in the program. If the data is reasonably obtainable, the Airport will calculate the % ACDBE participation by dividing the estimated dollar value of purchases from ACDBEs by the total estimated dollar value of all purchases made by car rental companies. If this calculation indicates additional participation in excess of the base goal is possible, the Airport may elect to adjust and increase the overall goal.

An adjustment to the base goal may also be made based on a disparity study (23.51(d)(1)(ii)). There are no disparity studies conducted within the Airport's jurisdiction that relate to rental car activities. The Airport will continue to contact state and local agencies to determine when a disparity study becomes available. The Airport does not have any evidence of disparities affecting the ability of DBEs to grow, form and compete.

Given the above information, the Airport has determined not to adjust the base goal. The goal figure of 0.46% is believed to accurately reflect ACDBE participation for providing goods and services under rental car concessions during the three year period for the market area.

**Goals, Good Faith Efforts and Counting – Car Rentals (23.49)**

Goods and Services:

The Airport strives to meet the percentage goal by including the purchase from ACDBEs of goods and services used in the rental car businesses at the Airport. This is the alternative method provided in 23.51(c)(5)(ii). The dollar value from purchases of goods and services from ACDBEs may be added to the numerator, and the dollar value from purchases of goods and services from all firms (ACDBEs and non-ACDBEs) may be added to the denominator (23.51(c)(5)(ii)). The base for the goal does not include the total gross receipts of car rental operations at the Airport (23.49) because the Airport has elected the alternative method noted above.

Management Contract or Subcontract:

The Airport will count the purchases of goods and services. Management contracts and subcontracts will not be counted for rental car activities.

**Breakout of Estimated Race-Neutral & Race Conscious Participation**  
**Section 23.45(f) and 23.51(d)(5)**

The Airport will strive to meet the maximum feasible portion of its overall goal by using race-neutral means of facilitating DBE participation. The Airport uses the following race-neutral measures to increase DBE participation:

1. Identify opportunities for DBE's on concession agreements and sub agreements and notify concessionaires of potential participation opportunities.
2. Encourage non-DBE concessionaires to consider subcontracting opportunities with DBEs.
3. Aid non-DBE concessionaires in locating DBEs for subcontracting opportunities. (Reference list of potential DBE firms capable of performing "goods and services" included in Attachment 5 to this plan)
4. Providing information concerning the availability of DBE firms to competitors to assist them in obtaining DBE participation; (Reference Attachment 5 to this plan)

It is estimated that, in meeting the overall goal of 0.45%, the Airport will obtain 0.0% from race-neutral participation. Historically, there has been no ACDBE participation on concession leases that did not have ACDBE goal requirements.

It is anticipated that race-neutral measures alone will not be sufficient to meet the overall goal. Therefore, the Airport will use the following race-conscious measures to meet the overall goal:

1. The Airport will establish concession-specific goals for particular concession opportunities (23.25(e)(1)).
2. Negotiations with potential concessionaires to include ACDBE participation in operation of the concession (23.25(e)(2)).

In order to ensure that the ACDBE program will be narrowly tailored to overcome the effects of discrimination, when concession specific goals are used, the Airport will adjust the estimated breakout of race-neutral and race-conscious participation as needed to reflect actual ACDBE

participation (see 26.51(f)). The Airport will track and report race-neutral and race conscious participation separately.

For reporting purposes, race-neutral ACDBE participation includes, but is not necessarily limited to, the following: ACDBE participation through a prime contract that an ACDBE obtains through customary competitive procurement procedures; ACDBE participation through a subcontract on a prime contract that does not carry ACDBE goal; ACDBE participation on a prime contract exceeding a concession specific goal; and ACDBE participation through a subcontract from a prime contractor that did not consider a firm's ACDBE status in making the award.

The Airport will maintain data separately on ACDBE achievements in those contracts with and without concession specific goals.

# **ATTACHMENT #2:**

## **FY 2014-2016 AIRPORT CONCESSION ACDBE GOAL METHODOLOGY OVERALL GOAL CALCULATION FOR CONCESSIONS OTHER THAN CAR RENTALS, CONSULTATION, BREAKOUT OF ESTIMATED RACE-NEUTRAL & RACE-CONSCIOUS PARTICIPATION**

## Section 23.51: Overall Goal Calculation for Concessions Other Than Car Rentals

**Concessions Goal**

The Airport's overall goal for concessions other than car rental during the period beginning October 1, 2013 and ending September 30, 2016 is the following: 0.24% of the total gross receipts for concessions at Bangor International Airport.

The following are not included in the total gross receipts for concessions: (a) the gross receipts of car rental operations, (b) the dollar amount of a management contract or subcontract with a non-ACDBE, (c) the gross receipts of business activities to which a management contract or subcontract with a non-ACDBE pertains, and (d) any portion of a firm's estimated gross receipts that will not be generated from concessions.

**Annual Sales**

Concessions revenue at the Airport from the past three-year period is as follows:

**Table 1: Average Annual Gross Sales for FY 2011-2013**

<b>Existing Concession Type</b>	<b>Location of Operating Company</b>	<b>Most Applicable NAICS Code</b>	<b>FY 2011-2013 Average Annual Gross Sales</b>
Four Points Sheraton	White Plains, NY	72111 Hotels (except Casino Hotels) and Motels	\$3,754,976.67
Montage DBA Grasshopper Shop	Bangor, ME	453220 Gift, Novelty, and Souvenir Stores	\$285,939.72
Interspace	Allentown, PA	541810 Advertising Agencies	\$71,874.87
BAFS	Bangor, ME	722310 Food Service Contractors	\$1,304,634.65
Maine Aviation Historical Society	Bangor, ME	712110 Museums	\$1,403.65
Smarte Carte	St. Paul, MN	5322 Consumer Goods Rental	\$17,824.08
Stellar Partners DBA Bangor News & Gift	Tampa, FL	45121 News Dealers and Newsstands	\$730,692.37
Republic Parking Systems	Chattanooga, TN	812930 Parking Lots and Garages	\$1,623,153.81
<b>TOTAL</b>			<b>\$7,790,499.82</b>

Based on the available historical information, as provided in the Table 1 above, the average concession opportunities anticipated during this goal period (FY 2014-2016) for non-car rental concessions at the Airport is approximately \$7.8 million per year. If a new concession opportunity arises prior to the end of this goal period and the estimated average of annual gross revenues are anticipated to be \$200,000 or greater, the Airport will submit an appropriate adjustment to the overall goal. This will be submitted to the FAA for approval at least 90 days before executing the new concession agreement. (23.45(i)).

**Methodology Used to Calculate Overall Goal**

Market Area:

Market area is defined by the geographical area in which the substantial majority of firms seeking to do concession-related business with the Airport are located and the geographical area in which the firms that receive the substantial majority of the concession-related revenues are located. (23.51(b)(3)). Based on the available historical information, as provided in Table 1 above, three out of the eight companies are based in Maine. Additionally, when DBE participation is achieved on Airport-related work, it typically comes from “local” businesses. Therefore, the State of Maine has been selected to be the market area.

Using the Census Bureau’s County Business Pattern (CBP) database, the number of all ready, willing and able businesses in the Maine market that perform work related to the concession type businesses currently and in the anticipated future at the Airport was determined. This information is provided in Table 2.

**Table 2: US Census Bureau Data – Maine Data**

Concession Type Businesses	NAICS Code	Number of Establishments in ME <sup>1</sup>
Hotels (except Casino Hotels) and Motels	72111	472
Gift, Novelty, and Souvenir Stores	453220	234
Advertising Agencies	541810	50
Food Service Contractors	722310	98
Museums	712110	72
Consumer Goods Rental	5322	124
News Dealers and Newsstands	45121	50
Parking Lots and Garages	812930	158
<b>TOTAL</b>		<b>1,258</b>

<sup>1</sup>Derived from US Census Bureau data, 2012 County Business Patterns Data (NAICS)  
<http://censtats.census.gov/cbpnaic/cbpnaic.shtml>

Based on the Maine market area, the MaineDOT DBE directory was used to determine DBEs that could provide services to the concession type businesses listed in Table 2. This information is provided in Table 3.

**Table 3: Maine DOT DBE Directory – Maine Data**

Service Provided	Number of DBE's in ME <sup>1</sup>
Hotels (except Casino Hotels) and Motels	0
Gift, Novelty, and Souvenir Stores	1
Advertising Agencies	1
Food Service Contractors	0
Museums	0
Consumer Goods Rental	0
News Dealers and Newsstands	1
Parking Lots and Garages	0
<b>TOTAL</b>	<b>3</b>

<sup>1</sup> Derived from *Maine DOT Disadvantaged Business Enterprise Weekly DBE Vendor List, April 3, 2015*  
<http://www.maine.gov/mdot/civilrights/dbe.htm>

**Base Figure Calculation Step 1 - 23.51(c)(1):**

The base figure for the relative availability of ACDBEs other than car rentals was determined. The base figure was calculated using the data presented in Tables 2 and 3 as follows:

$$\text{Base figure} = \frac{\text{Ready, willing, and able non-car rental ACDBEs in the market area (Table 3)}}{\text{All ready, willing and able non-car rental concession firms in the market area (Table 2)}}$$

Base Figure for non-car rental concessions =  $3/1,258 = 0.24\%$

Neither an Active Participants List (23.51(c)(2)) nor a disparity study (23.51(c)(3)) are available for use in the base goal calculation.

**Base Figure Adjustment Step 2 - 23.51(d):**

After calculating a base figure of the relative availability of ACDBEs, relevant evidence reasonably available to determine what adjustment, if any, is needed to the base figure in order to arrive at the overall goal was examined.

An adjustment to the base goal may be made based upon the current capacity of ACDBEs to perform work in the concessions program by measuring the volume of work ACDBEs have performed in the recent years. (23.51(d)(1)(i)). The past four years of data (2011-2014) from the Airport concessions program was reviewed. The data indicates no (0%) ACDBE participation. The Airport will continue to monitor the past participation of ACDBEs in the program. If the data indicates additional participation in excess of the base goal is possible, the Airport may elect to adjust and increase the overall goal.

An adjustment to the base goal may also be made based on a disparity study (23.51(d)(1)(ii)). There are no disparity studies conducted within the Airport’s jurisdiction that relate to concessions. The Airport will continue to contact state and local agencies to determine when a disparity study becomes available. The Airport does not have any evidence of disparities affecting the ability of DBEs to grow, form and compete.

Given the above information, the Airport has determined not to adjust the base goal. The goal figure of 0.24% is believed to accurately reflect ACDBE other than car rental concession participation that can be achieved during the three year period for the market area. Therefore, the goal for Concessions Other Than Car Rentals is 0.24%.

**Goals, Good Faith Efforts and Counting – Other than Car Rentals (23.47)**

Goods and Services:

The Airport strives to meet the percentage goal by including the purchase from ACDBEs of goods and services used in businesses conducted at the Airport. The Airport, and the businesses at the Airport, shall make good faith efforts to explore all available options to achieve, to the maximum extent practicable, compliance with the goal through direct-ownership arrangements, including joint ventures and franchises. The dollar value from purchases of goods and services from ACDBEs may be added to the numerator, and the dollar value from total gross receipts of concessions (ACDBEs and non-ACDBEs) may be added to the denominator (23.47(a)).

Management Contract or Subcontract:

The Airport strives to meet the percentage goal by including any business operated through a management contract or subcontract with an ACDBE. The Airport, and the businesses at the Airport, will add the dollar amount of a management contract or subcontract with an ACDBE to the total participation by ACDBEs in Airport concessions (both the numerator AND the denominator) and to the base from which the Airport's percentage goal is calculated. However, the dollar amount of a management contract or subcontract with a non-ACDBE and the gross revenue of business activities to which the management contract or subcontract pertains will not be added to this base in either the numerator or denominator. While this appears to go against the normal rules and rationale for goal-setting, it is understood that this method is nevertheless required by Section 23.47(c).

**Breakout of Estimated Race-Neutral & Race Conscious Participation**  
**Sections 23.45(f) and 23.51(d)(5)**

The Airport will strive to meet the maximum feasible portion of its overall goal by using race-neutral means of facilitating ACDBE participation. The Airport uses the following race-neutral measures to increase ACDBE participation.

1. Identify opportunities for ACDBE's on concession agreements and sub agreements and notify concessionaires of potential participation opportunities.
2. Encourage non-ACDBE concessionaires to consider subcontracting opportunities with ACDBE's.
3. Aid non-ACDBE concessionaires in locating ACDBE's for subcontracting opportunities. (Reference list of potential DBE firms capable of performing "goods and services" included in Attachment 5 to this plan)
4. Providing information concerning the availability of ACDBE firms to competitors to assist them in obtaining ACDBE participation; (Reference Attachment 5 to this plan)

It is estimated that, in meeting our overall goal of 0.24%, the Airport will obtain 0.0% from race-neutral participation. In the last three years, there has been no ACDBE participation on concession leases that did not have ACDBE goal requirements.

It is anticipated that race-neutral measures alone will not be sufficient to meet the overall goal. Therefore, the Airport will use the following race-conscious measures to meet the overall goal:

1. The Airport will establish concession-specific goals for particular concession opportunities (23.25(e)(1)).
2. Negotiations with potential concessionaires to include ACDBE participation in operation of the concession (23.25(e)(2)).

In order to ensure that the ACDBE program will be narrowly tailored to overcome the effects of discrimination, when concession-specific goals are used, the Airport will adjust the estimated breakout of race-neutral and race-conscious participation as needed to reflect actual ACDBE participation (see 26.51(f)). The Airport will track and report race-neutral and race conscious participation separately.

For reporting purposes, race-neutral ACDBE participation includes, but is not necessarily limited to, the following: ACDBE participation through a prime contract that an ACDBE obtains through customary competitive procurement procedures; ACDBE participation through a subcontract on a prime contract that does not carry ACDBE goal; ACDBE participation on a prime contract exceeding a concession specific goal; and ACDBE participation through a subcontract from a prime contractor that did not consider a firm's ACDBE status in making the award.

The Airport will maintain data separately on ACDBE achievements in those contracts with and without concession specific goals.

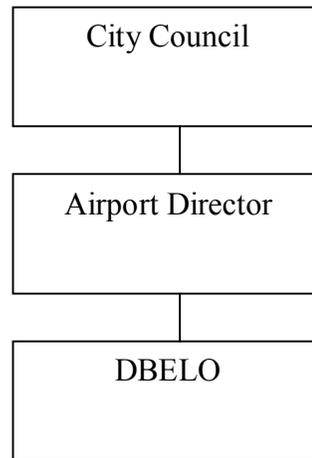
# **ATTACHMENT #3:**

## **COPY OF FEDERAL REGULATIONS 49 CFR PART 23**

[http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?c=ecfr&tpl=/ecfrbrowse/Title49/49cfr23\\_main\\_02.tpl](http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?c=ecfr&tpl=/ecfrbrowse/Title49/49cfr23_main_02.tpl)

# ATTACHMENT #4:

## ORGANIZATIONAL CHART



# ATTACHMENT #5:

## MAINE DOT DBE DIRECTORY

<http://www.maine.gov/mdot/civilrights/dbe.htm>

Sample List of DBE's who may perform goods and services needed by Concessions:

488410	R. Stewart Heavy Hauling and Towing	MBE	So. Portland ME 04106	207-767- 4411	www.rstewartheavyhauling.com
561720	American Green Building Services Inc. – Maint. and Janitorial	DBE	Dedham MA 02026	781-461- 2500	www.agbservicesinc.com
561720	Bestway Services, Inc. – Janitorial, Light Maint., and supplies	DBE	Nashville TN 37217	615-271- 2177	www.bestwayservices.com
561720	Down east Logistics, LLC – Janitorial and grounds keeping	WBE	Scarborough ME 04074	207-730- 0472	www.downeastlogistics.com
561720	Rose's Commercial Cleaning, LLC	WBE	Lewiston ME 04241	207-786- 4052	www.rosescommercialcleaning.com
561720	Workplace Essentials, Inc. – Janitorial and supplies	WBE	Billerica MA 01821	888-537- 4747	www.WEservice.biz
453220 & 45121	Stellar Partners, Inc. – Gift, Novelty & Souvenir	WBE	Tampa FL 33634	813-396- 3693	www.stellarairportstores.com
541810	Morris Communicati ons, Inc. – Advertising & Marketing	WBE	Kennebunkp ort ME 04046	207-329- 6502	www.morriscomm.net

# ATTACHMENT #6:

## UCP AGREEMENT BETWEEN THE CITY OF BANGOR AND THE STATE OF MAINE



ANGUS S. KING, JR.  
GOVERNOR

STATE OF MAINE  
DEPARTMENT OF TRANSPORTATION  
16 STATE HOUSE STATION  
AUGUSTA, MAINE  
04333-0016

JOHN G. MELROSE  
COMMISSIONER

April 17, 2002

US Department of Transportation  
Office of the General Counsel  
Uniform Certification Program  
Attention: Robert Ashby C-50  
Room 10428  
400 Seventh Street, SW  
Washington, DC 20590

Mr. Ashby:

Please find enclosed copies of the various UCP Agreements entered between Maine Department of Transportation and FTA, FAA, FRA (via Northern New England Passenger Rail Authority, the Metropolitan/County or Regional Planning Organizations, Cities or Municipalities with jurisdictional authority for aviation facilities, and the Maine Department of Environmental Protection.

These agreements serve to formalize informal relationships with these agencies and the Maine Department of Transportation regarding the certification of Disadvantaged Business Enterprises. As you may know, the Maine Department of Transportation is the only certifying entity in Maine, and as such these agreements while required by 49 CFR Part 26 § 81 simply reaffirm many years of professional relationships with these entities.

We have chosen to enter into separate agreements with each grantee and they are provided as an enclosure to this letter.

Inquiries may be directed to me at 207-624-3066.

Sincerely,

Penny Bourde, Manager  
Small Business Programs

Encs  
Cc: Maine Division FHWA



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04/10/2002 14:50 FAX 2079454446

CITY OF BANGOR

001

AGREEMENT

Between the

MAINE DEPARTMENT OF TRANSPORTATION  
OFFICE OF HUMAN RESOURCES

And

City of Bangor, Maine

This Agreement is made this 10<sup>th</sup> day of April, 2002, by and between the State of Maine, through its Department of Transportation (MDOT), with an address of 16 State House Station, Augusta, Maine, and the City of Bangor, with an address of 173 Harlow Street Bangor, Maine.

I. AGREEMENT

MDOT and the named party hereby agrees as follows:

1. The named party agrees that as a recipient of USDOT financial assistance it will cooperate fully with the Maine Department of Transportation in the certification of Disadvantaged Business Enterprises.
2. The named party agrees it shall utilize the MDOT Disadvantaged Business Enterprise Certification program.
3. The named party agrees to refer potential applicants for DBE Certification to MDOT.
4. The named party agrees to honor the decisions made by MDOT with respect to certification decisions made in accordance with 49 CFR Parts 23 and 26 Subpart E Certification Procedures.
5. MDOT will accept, review, and make determinations about DBE Certification for those entities referred to it by the named party.

II TERMS

This Agreement remains in place indefinitely.

SEEN AND AGREED TO BY:

MAINE DEPARTMENT OF TRANSPORTATION

Penny Plourde

By: Penny Plourde Manager, Small Business Programs

David W. Pellegrina Purchasing Agent  
By: David W. Pellegrina Title

# ATTACHMENT #7:

## REVISION LOG

Significant changes were made to the Airport's ACDBE plan in April 2015. They include but are not limited to the following:

1. Updated plan prior to new Car rental request for proposals.
2. Added Table of Contents.
3. Updated ACDBE participation goal for car rentals. Attachment 1.
4. Updated ACDBE participation goal for concessions other than car rentals. Attachment 2
5. Updated Airport Director. New signed policy by current Airport Director inserted.
6. Updated designated ACDBELO and alternate ACDBELO.
7. Updated web links as required.
8. Added organizational chart. Attachment #4
9. Added documentation of UCP agreement with the State of Maine. Attachment #6
10. Added Revisions Log. Attachment #7
11. General – Reviewed and updated plan as needed to comply with current 49 CFR Part 23.
12. Added applicable forms. Attachment #8 & #9

# ATTACHMENT #8:

## FORMS 1 & 2 FOR DEMONSTRATION OF GOOD FAITH EFFORTS

*Forms 1 and 2 to be provided as part of the solicitation documents.*

### FORM 1: AIRPORT CONCESSION DISADVANTAGED BUSINESS ENTERPRISE (ACDBE) UTILIZATION

The undersigned bidder/offeror has satisfied the requirements of the bid/proposal specification in the following manner (please check the appropriate space):

\_\_\_\_\_ The bidder/offeror is committed to a minimum of \_\_\_\_\_ % ACDBE utilization on this contract.

\_\_\_\_\_ The bidder/offeror (if unable to meet the ACDBE goal of \_\_\_\_\_%) is committed to a minimum of \_\_\_\_\_% ACDBE utilization on this contract and submitted documentation demonstrating good faith efforts.

Name of bidder/offeror's firm: \_\_\_\_\_

State Registration No. \_\_\_\_\_

By \_\_\_\_\_ Title \_\_\_\_\_  
(Signature)

**FORM 2: LETTER OF INTENT**

Name of bidder/offeror’s firm: \_\_\_\_\_

Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Name of ACDBE firm: \_\_\_\_\_

Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Telephone: \_\_\_\_\_

Description of work to be performed by ACDBE firm:

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The bidder/offeror is committed to utilizing the above-named ACDBE firm for the work described above. The estimated dollar value of this work is \$ \_\_\_\_\_.

**Affirmation**

The above-named ACDBE firm affirms that it will perform the portion of the contract for the estimated dollar value as stated above.

By \_\_\_\_\_  
(Signature) (Title)

**If the bidder/offeror does not receive award of the prime contract, any and all representations in this Letter of Intent and Affirmation shall be null and void.**

(Submit this page for each ACDBE subcontractor.)

# **ATTACHMENT #9:**

## **ANNUAL REPORTING INFORMATION**

EACH CONCESSIONAIRE SHALL COMPLETE THE APPLICABLE SECTIONS OF THE FOLLOWING FORMS AND SUBMIT THE INFORMATION TO THE ACDBELO ANNUALLY BY DECEMBER 31ST.

THE ACDBELO WILL COMPILE THE INFORMATION AND SUBMIT ONE UNIFORM REPORT TO THE FAA BY MARCH 1ST.

**REPORT OF CERTIFIED ACDBE FORM  
(CONCESSIONAIRES/SUBCONCESSIONAIRES/  
SUPPLIERS/MANAGEMENT CONTRACTORS - COUNTED TOWARD GOALS)**

Name of Airport \_\_\_\_\_

Airport Sponsor \_\_\_\_\_

City/State/Zip \_\_\_\_\_

Preparer \_\_\_\_\_

Telephone Number \_\_\_\_\_

Date \_\_\_\_\_

List below each ACDBE that participated in a concession during the preceding fiscal year and which are included in your submission of the Uniform Report of ACDBE Participation. If no ACDBE firm participated, write "NONE" below.

Name of ACDBE Firm \_\_\_\_\_

Address \_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_

Type of concession/subconcession/supplier, etc., business \_\_\_\_\_

Date Agreement (i.e., lease, sublease) Began \_\_\_\_\_ Date Agreement (i.e., lease, sublease) Expires \_\_\_\_\_

Options to Renew \_\_\_\_\_ How Many \_\_\_\_\_ Length of time \_\_\_\_\_

Dates that material amendments have been or will be made to agreement, if known \_\_\_\_\_

Estimated gross receipts for this reporting period: \_\_\_\_\_

The disadvantaged individual having the largest ownership interest is:

\_\_\_\_\_ Black \_\_\_\_\_ Hispanic \_\_\_\_\_ Native American \_\_\_\_\_ Asian-Indian American

\_\_\_\_\_ Asian-Pacific American \_\_\_\_\_ Non-Minority Woman \_\_\_\_\_ Other Disadvantaged

(Use additional sheets as needed)



## Instructions for Uniform Report of ACDBE Participation

1. Insert name of airport receiving FAA financial assistance and AIP number.
2. Provide the name and contact information (phone, fax, e-mail) for the person FAA should contact with questions about the report.
- 3a. Provide the annual reporting period to which the report pertains (*e.g.* October 2005 – September 2006).
- 3b. Provide the date on which the report is submitted to FAA.
4. This block and blocks 5 and 6 concern *non-car rental* goals and participation only. In this block, provide the overall non-car rental percentage goal and the race-conscious (RC) and race-neutral (RN) components of it. The RC and RN percentages should add up to the overall percentage goal.
5. For purposes of this block and blocks 6, 8, and 9, the participation categories listed at the left of the block are the following: 1) “Prime Concessions” are concessions that have a direct relationship with the airport (*e.g.* a company who has a lease agreement directly with the airport to operate a concession), 2) A “subconcession” is a firm that has a sublease or other agreement with a prime concessionaire, rather than with the airport itself, to operate a concession at the airport, 3) A “management contract” is an agreement between the airport and a firm to manage a portion of the airport’s facilities or operations (*e.g.*, manager the parking facilities), and 4) “Goods/services” refers to those goods and services purchased by the airport itself or by concessionaires and management contractors from certified DBEs. **If reporting joint ventures with more than one agreement, count the joint venture for each agreement that they are covered by, *e.g.* a single joint venture might have 3 different agreements, they should be counted 3 times.**

Block 5 concerns *all* non-car rental concession activity covered by 49 CFR part 23 during the reporting period, both new or continuing.

In Column A, enter the total concession gross revenues for concessionaires (prime and sub) and purchases of goods and services (ACDBE and non-ACDBE combined) at the airport. In Column B, enter the number of lease agreements, contracts, etc. in effect or taking place during the reporting period in each participation category for all concessionaires and purchases of goods and services (ACDBE and non-ACDBE combined).

Because, by statute, non-ACDBE management contracts do not count as part of the base for ACDBE goals, the cells for total management contract participation (A & B) and ACDBE participation as a percentage of total management contracting dollars (G) are not intended to be filled in Blocks 5 & 6.

In Column C, enter the total gross revenues in each participation category (ACDBEs) only.

In D, enter the number of lease agreements, contracts, etc., in effect or entered into during the reporting period in each participation category for all concessionaires and purchases of goods and services (ACDBEs only).

Column E and F are subsets of Column C: break out the total gross revenues listed in Column C into the portions that are attributable to race-conscious and race-neutral measures, respectively. Column G is a percentage calculation. It answers the question, what percentage of the numbers in Column A is represented by the corresponding numbers in Column C?

6. The numbers in this Block concern only *new* non-car rental concession opportunities that arose during the current reporting period. In other words, the information requested in Block 6 is a subset of that requested in Block 5. Otherwise, this Block is filled out in the same way as Block 5.
7. Blocks 7-9 concern car rental goals and participation. In Block 7, provide the overall car rental percentage goal and the race-conscious (RC) and race-neutral (RN) components of it. The RC and RN percentage should add up to the overall percentage goal.
8. Block 8 is parallel to Block 5, except that it is for car rentals. The instructions for filing it out are the same as for Block 5.
9. Block 9 is parallel to Block 6, except that it is for car rentals. The information requested in Block 9 is a subset of that requested in Block 8. The instructions for filling it out are the same as for Block 6.
10. Block 10 instructs recipients to bring forward the cumulative ACDBE participation figures from Blocks 5 and 8, breaking down these figures by race and gender categories. **NOTE: Please report both numbers and dollars.** Participation by non-minority women-owned firms should be listed in the “non-minority women” column. Participation by firms owned by minority women should be listed in the appropriate minority group column. The “other” column should be used to reflect participation by individuals who are not a member of a presumptively disadvantaged group who have been found disadvantaged on a case-by-case basis.
11. This block instructs recipients to **fill out the information on the Report of Certified ACDBE Form (Concessionaires/Subconcessionaires/Suppliers/Management Contractors - Counted Towards the Goal** or attach another document containing the same basic information for each ACDBE firm participating in its program during the reporting period. If the firm’s participation numbers are reflected in Blocks 5-6 and/or 8-9, the requested information about that firm should be attached in response to this item.