REVISED
August 23, 2022

THE CITY OF LYNCHBURG
COUNCIL MEETING

CITY COUNCIL AGENDA

City Council Meeting - 7:30 p.m.
Council Chamber | City Hall, 900 Church Street, Lynchburg, VA 24504

IV. Invocation Councilmember Tweedy

V. Recognitions

- Miss Alaysia Oakes - Heritage High School Valedictorian
- Mr. Isaiah Bradner – E.C. Glass Valedictorian
- Heritage High School Girls Track and Field Recognition
- Liberty Christian Academy Baseball Recognition
- Women in Machining Program Graduates

VI. Consent Agenda

A) Consideration of adopting minutes from the March 22, 2022 City Council Meeting**.**

B) Consideration of adopting minutes from the March 24, 2022 City Council Meeting.

VII. Public Hearing

7) Consideration of adopting Ordinance #O-22-___ approving the right-of-way vacation of a portion of Clayton Avenue.

8) Consideration of adopting Resolution #R-22-___ authorizing a rental car concession agreement and lease agreement with The Hertz Corporation and Dollar Rent-a-Car.

VIII. Public Comment

***Public Comment Addendum will be posted separately after the citizen sign-up deadline of Friday at noon preceding the Council meeting.*

IX. General Business

9) Consideration of a closed meeting to discuss a pending petition for temporary injunction and surrounding circumstances, pursuant to Sections §§ 2.2-3711(7) and 2.2-3711(8) of the Code of Virginia, 1950, as amended, and; to discuss the acquisition of specific real estate in the City where open discussion would adversely affect the City's bargaining position, pursuant to Section § 2.2-3711(A)(3) of the Code of Virginia, 1950, as amended.

// A joint meeting of the Council and the School Board of the City of Lynchburg was held on the 22nd day of March, 2022, at 4:00 P.M. at the Lynchburg Regional Business Alliance, MaryJane Dolan, President, presiding. The following Members of Council were present:

Present: MaryJane Dolan, Beau Wright, Jeff Helgeson, J. Randy Nelson, Treney Tweedy, Sterling A. Wilder, Chris Faraldi 7

Absent: 0

The following Members of the School Board were present:

Present: James E. Coleman, Sharon Y. Carter, Robert O. Brennan, Susan D. Morrison, Randy T. Trost, Gary E. Harvey, Kimberly A. Sinha, Atul Gupta, Michael J. Nilles 9

Absent: 0

// In the matter of Introductions, Agenda Item #1, Mayor Dolan gave opening remarks and welcomed City staff and School Board Members. Lynchburg City Manager, Mr. Wynter C. Benda, gave an introduction and asked Ms. Donna Witt, Chief Financial Officer, to provide an overview on the increases from the 2021 budget to the 2022 budget.

Ms. Witt provided a brief summary of the proposed budgets. The City's full budget is $595,000,000 and within this amount is the Lynchburg City School's full budget. The increase of 37% from the 2021 budget includes the City capital of $79,000,000 which includes the City's and the Schools buildings and/or assets. $32,000,000 of this is a part of the City's ARPA funds that has supported the capital fund. $55,000,000 of the City capital is from the City's Water Resources capital funds. Of this, $25,000,000 is ARPA funds and another $25,000,000 is the Virginia Clean Water Revolving Loan Fund. $8,000,000 is in the general fund and goes towards the City's public safety. $28,000,000 is a part of the Lynchburg City Schools component union. Ms. Witt concluded by clarifying to Councilmembers and School Board Members that a part of this 37% increase is going towards Lynchburg City Schools budget.

// In matter of Budget, Agenda Item #2, Dr. James E. Coleman, Chair of the Lynchburg City School Board, made opening remarks and summarized the importance of the resources for Lynchburg City Schools in the comprehensive development of the children of Lynchburg City. Dr. Coleman introduced Dr. Crystal Edwards, Superintendent of Schools.

Dr. Edwards summarized the schools and programs that Lynchburg City Schools offer. She provided statistics on demographics of Lynchburg City Schools as well as the demographics of the City of Lynchburg. Dr. Edwards noted the declining enrollment of Lynchburg City Schools, particularly in students entering Kindergarten. There are studies that have been done as well as studies that are currently underway in trends in declining enrollment. The proposed operating budget requests for Early Childhood Education include funds for additional PreK-3 and 4 teachers, assistants, training, materials, and resources to continue to support trauma-informed practices for early education.

The budget requests for Elementary School include an Elementary Library Assistant, Testing Coordinators, Gifted Education Teacher, English Language Learner Assistant, training, materials, and resources to continue to support balance literacy.

The budget requests for Middle School include funding for a Middle School Math Interventionist, Middle School Reading Specialist, and a School Counselor.

The budget requests for High School include funding for 6 additional seats for the Government School, 20 seats for the CVCC Regional CTE Academy, 10 seats for the University of Lynchburg DE Education, an ISAEP teacher to support the GED program, funding for School Counselors to work additional months of the year as well as funding for the Special Education Chair to work additional months of the year.

The budget requests for all schools and community include Partners in Education Liaison, a Special Education Supervisor, a Restorative Justice/Practices Coordinator, a Network Engineer, a Grants Specialist, and a Social Worker.

The budget requests for faculty and staff include continued tuition assistance, background checks paid by Lynchburg City Schools, recertification fees paid for by Lynchburg City Schools, increased bereavement days from 3 days to 5 days, increased sick day pay out at retirement from 90 days to 110 days, and an increase in pay for substitute teachers, nurses, bus drivers, assistants, secretaries, and custodians.

Dr. Edwards noted that despite level funding and cut funding in past years budgets, the bus driver pay has increased each year, showing as far back as 2018.

Information was given on the average starting salary for a 10-month teacher on Step 5 in the City of Lynchburg as opposed to surrounding counties. This showed the City of Lynchburg being lower than surrounding counties. Average salary information was also given from the state of Virginia and the United States.

Councilmember Nelson asked City Manager, Mr. Wynter C. Benda, what the impacts would be on the City's proposed budget with the addition of the Lynchburg City Schools proposed budget. Mr. Benda stated that the General Wage Increase of 3% to all City employees could not happen, there would be no funds to tackle compression issues within the organization, and staff would be unable to accomplish the recruitment and retention plan in the Fire Department. Councilmember Nelson asked what the sources of revenue would be to fund these items; Mr. Benda replied they would come from the General Fund. Councilmember Nelson asked if there are resource available to fund these items without using the General Fund; Mr. Benda replied that there are none. Councilmember Nelson asked what the average fund balance that has accrued within the LCS budget in the last 4 years. Mr. Benda replied approximately $3,000,000 on average.

Councilmember Helgeson asked if staff had looked at less SOQs to fund raises. Dr. Edwards replied that this was looked at previously with bus drivers but it is not sustainable for all positions because the staff members are overworked. Councilmember Helgeson asked Mr. Benda if he had looked at increased state funding when formulating the budget. Mr. Benda replied there are only so many ways to divide those funds, with emphasis on public safety, infrastructure, economic development.

Councilmember Tweedy asked how much it costs to operate a smaller neighborhood elementary school. Dr. Edwards replied there is a base cost and she will get an exact number.

Councilmember Wilder asked what part COVID has played in the formulation of this budget, specifically how has the poverty rate factored into the challenge of educating students. Dr. Edwards replied that due to COVID there has been a lot of learning loss, specifically in math. Student trauma and quarantine has also impacted students and staff.

Councilmember Faraldi asked what assurance Councilmembers can have that their concerns will be addressed by the School Board. School Board Member Dr. Coleman replied that they will respond to any emails promptly and with as much information as possible. Councilmember Faraldi noted the lack of engagement from the School Board in regards to email. School Board Member Dr. Coleman noted himself and another member of the School Board have met with Councilmember Faraldi to respond to questions.

Mayor Dolan noted that the City Manager did put a callout to get questions asked and answered prior to this meeting.

Vice Mayor Wright asked for clarification that if the City does not provide $966,000 then $1.6 million in SOQ funding will not be allocated to Lynchburg City Schools; Dr. Edwards replied this is correct.
// In the matter of the Facility Studies, Agenda Item #3, Dr. Crystal Edwards, Superintendent of Schools, and Mr. Blair Smith of Dominion 7 Architects, gave a presentation of the LCS Facility Needs Study.
Mr. Blair Smith stated this study looked at seventeen Lynchburg City Schools. Generally speaking, there are too many schools based on demographics. He stated that enrollment is declining and a challenge is the location of the schools in relation to the population. Another problem is there is not enough money or manpower to take care of the buildings and properties of LCS. Lynchburg City Schools owns 331 acres of land with 41 acres of school buildings.

Mr. Smith reviewed the demographics which showed enrollment has been declining since the mid-1960s with the last annexation in 1976. At this time there were 12,000 students. COVID has had an impact on the demographics of all school systems. Mr. Smith showed comparisons of decreasing enrollment to surrounding counties. On average, LCS elementary schools at 75% full. The schools that are most full are the schools in the western part of the city. The least full schools are special functioning schools. LCS must maintain a racial makeup in their schools thus, students from other parts of the city are being sent to further out schools.

Mr. Smith reviewed the facility condition assessment. The average age of LCS schools is 63 years old. Several schools do not have hot water in their classrooms. There must be an emphasis on ventilation in the schools. There are old HVAC systems that are present difficulties in maintenance. Looking at consolidation the logical outcome would be to close a school and expand an existing school. - The Department of Education states that if renovating your school will cost 50% of what it would take to build a new school, the school system should build a new school.

Mr. Smith reviewed the educational programming. Only four elementary schools have the minimum capacity that the Department of Education guidelines have. Bigger classrooms are a need so that classrooms can be flexible. LCS must take note of the scale of classrooms and the students that are utilizing those classrooms. LCS also needs outside areas such as gyms as well as extended learning areas.

Mr. Smith stated that since the year 1871, forty-seven schools have been built, sixteen have been demolished, eleven have had minor additions, four older schools have never had a major renovation, four schools serve as apartments, one school is part of the federal courthouse, one school is a privately-owned business, and two schools are owned by the City and leased. He offered the following potential options:

- Option 1: Focus on operational efficiency. This will entail building new larger elementary schools or renovating and adding onto some schools.
- Option 2: Middle ground: Build at least one additional school
- Option 3: Focus on existing facilities. Renovate or add additions to multiple schools but not build any new schools.

Councilmember Wilder asked if there are less students but too many schools, are there several spaces available in the classrooms. Mr. Smith replied that the issue is that the capacity of a classroom could be twenty-three but only have eighteen students the capacity of schools is considered by core classrooms rather than special education classrooms. Councilmember Wilder asked if they have considered special education or in school suspension classrooms. Mr. Smith replied that redesigning a school will need to have space for special needs classrooms. Dr. Edwards stated that class size reduction funding is accepted but some classrooms but have to be at a certain number to keep these funds. If this is deviated then it will trade the funding in.

School Board Member Dr. Gupta stated he hopes that they will not leave the socially and economically deprived schools behind. Mr. Smith replied they have looked at which schools fall into which Wards/Districts and there is much overlap.

School Board Member Nilles asked what the constraints are in redistricting with federal regulations in regards to the desegregation court order. Mr. Smith stated they have not looked at this yet.

He noted there are a variety of aspects that must be considered when deciding how to move forward with the information presented. The desegregation court order being one of those.

Councilmember Tweedy stated that they have enough information at this point to shoulder the burden of making these decisions, with the input of the community.

School Board Member Trost asked if they can utilize the GIS and create a perimeter system, such as government mandates, within that system to determine where is most efficient for students to attend school based on those regulations. Mr. Smith replied that every student has a number that shows their race, gender, age, school district, and school of attendance. He stated the demographer can help with these recommendations. School Board Member Trost replied that the next step would be to superimpose the demographics and include any federal mandates upon what was given in the study. Mr. Smith stated he was not sure if they are meeting federal mandate standards currently.

Councilmember Helgeson stated that more school aged children have been homeschooled, gone to private school, or to a county school and the demographics need to reflect this. Mr. Smith stated that Crawford GIS uses a separate set of matrices to formulate their projections than does Weldon Cooper. This allows for a second opinion/viewpoint. Councilmember Helgeson stated that they must look at what the demographics are of students using the public-school vs paying for private school.

School Board Member Harvey stated he wants reassurance that the citizens from each district will be involved. He asked how they would be getting feedback from the community. Dr. Edwards stated that several community conversations will be had to discuss topics like consolidation, zoning, closures, etc.

School Board Member Dr. Carter stated all the schools highlighted to potentially close are in Ward 2. She further stated that they must look at the cost and needs of the schools.

Councilmember Helgeson asked which capacity figures were used in this study. Mr. Smith replied the industry standard.

// In matter of the Future of Education Task Force PreK-12 and Beyond (Task Force), Agenda Item #4, Dr. James E. Coleman, School Board Chair, provided Council with an overview of the action the school board has taken regarding the Task Force. On March 15, 2022 a motion was made to relieve the Task

Force on the Future of Education of their duties expressed in their charter, but the motion failed 4-4 with one abstention.

School Board Member Trost stated there is a need for the Task Force. He noted that there are available individuals to develop strategic plans for the school system and based on what was presented in the Dominion 7 study, the Task Force would be of great value at this time.

Councilmember Faraldi stated that if any members are voting to disband the Task Force, then they should no longer serve on the Task Force.

Councilmember Nelson stated the Task Force is comprised of more than three dozen members who possess expertise and qualifications in the topics identified in the Task Force charter. The group is modeled after the Heritage High School Task Force, which produced a high-quality product. He reiterated his support of the Task Force.

Dr. Coleman replied that the School Board and City Council can do their part, with full community input. He spoke of the favorable outcomes that can come from the two working together.

Councilmember Helgeson spoke in favor of the Task Force, commenting on the assistance that they can provide and the asset that it has been to LCS.

// The meeting was recessed at 5:51 p.m.

// City Council reconvened the meeting at 7:00 p.m. in the Council Chamber, City Hall, MaryJane Dolan, President, presiding. The following members were present:

Present: MaryJane Dolan, Beau Wright, Jeff S. Helgeson, J. Randy Nelson, Treney Tweedy, Sterling A. Wilder, Chris Faraldi	7
Absent:	0

// In the matter of the Proposed FY 2023 Operating Budget and FY 2023 – 2027 Capital Improvement Program, a public hearing was held for the benefit of receiving citizen input.

City Manager Mr. Wynter C. Benda provided an overview of the development of the proposed budgets. Citizens were recognized in the order in which they signed up to speak; afterward, the floor was opened for any additional persons who wished to speak who did not sign up.

Mr. Richard Loving, representative of the Lynchburg Police Foundation, stated that effective law enforcement is contingent on support from citizens and businesses. Quality staffing and salaries support recruitment and retention of personnel. He noted his support for the Lynchburg Police Department paid progression plan which he stated will help attract new officers and also retain quality personnel.

Mr. Karl Loos, representative of Lynchburg Education Association, spoke in favor the Lynchburg City Schools proposed budget increases. He stated that Lynchburg City Schools staff must feel supported by the community around them as well as receive adequate compensation or they will move to other divisions.

Ms. Kim Gregory, representative of Bridges to Progress Early Childcare and Education Committee, spoke in favor of continued support of Lynchburg City Schools Early Childhood budget and of the expansion of programming. She stated children must be prepared for school and gave statistics of child readiness for school and access to public preschool.

Mr. Jeffery Wooters, a senior at E.C. Glass High School, stated his gratefulness to Lynchburg City School's staff. He shared the stories of several teachers that have been impactful within LCS. He spoke in favor of increasing the LCS budget as suggested by the School Board.

Mr. Patrick Frankfort, a math teacher at E.C. Glass High School, spoke of the staffing shortage within LCS. He spoke in favor of fully funding the LCS budget to send a message that staff is supported by the City and to potential employees that they will be supported and taken care of.

Mr. Jacob Heidorn, a PE teacher at Heritage Elementary School, voiced the need for a gymnasium and better facilities for the school. He spoke in favor of the LCS proposed budget.

Mr. Andrew Glover spoke in opposition to the budget due to the increase in citizen taxes. He outlined the various ways in which he saw tax increases within the proposed budget.

Ms. Leilani Sanchez, Secretary III at an LCS elementary school, stated her support of the LCS budget increase and expressed her concern for the staff who are underpaid for their services.

Ms. Claire Klein, an English teacher at Linkhorne Middle School, stated that the LCS salary is not a competitive salary and noted the various other districts that have higher pay and more days off than that of LCS. She encouraged Council to value LCS staff to ensure staff retention.

Mr. Phil Stump, representative of Virginia Organizing, spoke in support of the LCS proposed budget. He stated that many teachers have to pay for their own teaching supplies and noted that this is not a sustainable practice. He outlined the consequences of the lack of implementation of the proposed raise. He asked Council to fund the schools full budget request and increase it by an additional two million dollars to increase LCS staff salaries by 10%. He asked Council to fund the Restorative Practices Coordinator.

Mr. Keith Thompson, representative of Lynchburg Little League, noted his support of the Parks and Recreation improvements in the budget such as the safety and security in the municipal parks within the City.

Ms. Kimberly Dyke-Harsley noted her support of the pre-K teachers in the community. She referenced the City's charter stating that the Council has a duty to support and aid the schools. She stated her support of increased pay for teachers and substitute teachers and asked Council to fund a Restorative Practices Coordinator position.

Mr. Jamie Maxwell, representative of the Lynchburg Firefighters Association, stated that in 2020, the fire department worked 19,276 hours of overtime. In 2021, the fire department worked 33,000 hours of overtime. He highlighted the lack of staffing within the department.

Mr. Wendall Walker stated that utilities will be a large part of the increase in the budget. The proposed budget must impose options for tax relief for citizens. He stated citizens are looking to move out of the City. He noted the state is working towards better pay for emergency services and teachers and that the only solution will be the state and city working together.

Ms. Verna Lamb, representative of Friends of Lynchburg Public Library, stated her support of the assistant library manager position in the proposed budget. She noted that the support of the new branch library should be considered but not at the expense of the downtown library.

Ms. Karissa Riley spoke in support of the City's libraries and asked that Council would not forget those who have access to and utilize its services.

// The meeting was recessed at 8:03 p.m.

// City Council reconvened the meeting at 8:10 p.m. The following members were present:

Present: MaryJane Dolan, Beau Wright, Jeff S. Helgeson, J. Randy Nelson, Treney Tweedy, Sterling A. Wilder, Chris Faraldi 7

Absent: 0

Councilmember Wilder gave the Invocation, followed by the Pledge of Allegiance.

// In the matter of Recognitions, Mayor Dolan recognized two members of the Mayor's Youth Council who were in attendance; Miss Timi Oluwaji, Junior at E.C. Glass High School, and Miss Wendi Oluwaji, Freshman at E.C. Glass High School.

Mayor Dolan also proclaimed the month or March as Social Work Month. Mr. Preston Sellers, Director of Human Services, was in attendance to accept the proclamation.

// In the matter of Community Development, Agenda Item #1, a public hearing was held for the consideration of adopting Resolution #R-22-022 approving the allocation of FY 2023 Community Development Block Grant (CDBG) and HOME Program funds and incorporating into the Program Year 2022 Annual Action Plan. The Community Development Advisory Committee (CDAC) met on February 23, 2022 and reviewed the applications that were submitted and the following lists of projects have been recommended for funding by the CDAC:

CDBG PROJECTS RECOMMENDED FOR FUNDING BY CDAC*:

PROJECT	CDAC RECOMMENDATION
City Administration	$137,090.00
Jefferson Park Revitalization Improvements	$240,000.00
Tinbridge Hill Neighborhood Pedestrian Improvements-Phase 2	$125,000.00
Diamond Hill Neighborhood Plan and Improvement Project	$87,602.40
Lynchburg Redevelopment & Housing Authority (LRHA) – Enhance & Preserve (LEAP) Rehabilitation	$100,000.00
LRHA – Rental Rehabilitation Program	$30,000.00
Miriam's House/CVCoC Coordinated Homeless Intake and Access (CHIA)	$65,000.00
Boy Scouts of America – blue Ridge Mountain Council-Scoutreach	$15,440.00
Total – CDBG	$800,132.40

*NOTE: DUE TO THE FACT THAT HUD HAD NOT PROVIDED THE FINAL ENTITLEMENT ALLOCATIONS FOR THE ANNUAL ACTION PLAN FOR FEDERAL FISCAL YEAR (FY) 2022; IT WAS THE RECOMMENDATION OF CDAC THAT ANY INCREASE IN THE ACTUAL FEDERAL FY 2022 CDBG ENTITLEMENT AMOUNT WOULD BE APPLIED TO THE DIAMOND HILL NEIGHBORHOOD PLAN AND IMPROVEMENT PROJECT; AND ANY DECREASE IN THE ACTUAL FEDERAL FY 2022 CDBG ENTITLEMENT AMOUNT WOULD BE APPLIED TO THE DIAMOND HILL NEIGHBORHOOD PLAN AND IMPROVEMENT PROJECT.

HOME PROJECTS RECOMMENDED FOR FUNDING BY CDAC**:

PROJECT	CDAC RECOMMENDATION
City Administration	$33,000.00
Rush Lifetime Homes - Florida Terrace Rental Housing (CHDO)	$200,000.00
Habitat for Humanity - Knott Street Development	$152,865.00
LRHA- HOME for Good	$ 86,840.21
Total – HOME	$472,705.21

**NOTE: DUE TO THE FACT THAT HUD HAD NOT PROVIDED THE FINAL ENTITLEMENT ALLOCATIONS FOR THE ANNUAL ACTION PLAN FOR FEDERAL FISCAL YEAR (FY) 2022; IT WAS THE RECOMMENDATION OF CDAC THAT ANY INCREASE IN THE ACTUAL FEDERAL FY 2022 HOME ENTITLEMENT AMOUNT WOULD BE APPLIED TO THE LRHA HOME FOR GOOD PROJECT; AND ANY DECREASE IN THE ACTUAL FEDERAL FY 2022 HOME ENTITLEMENT AMOUNT WOULD BE DIVIDED EQUALLY TO THE FLORIDA TERRACE RENTAL HOUSING AND KNOTT STREET DEVELOPMENT PROJECTS.

There was no one to speak in favor or opposition, either by phone, email, or in-person, so the public hearing was closed and the matter rested with Council.

As Chair of the CDAC, Vice-Mayor Wright made a motion to approve the resolution, seconded by Councilmember Wilder, Vice-Chair of the CDAC.

As former Chair of the CDAC, Councilmember Nelson thanked Ms. Melva Walker, Grants Manager, for her efforts with this item. He also thanked both the members who serve on the CDAC and the community groups who submit applications for funding for their creative and collaborative efforts to ensure all funds are distributed appropriately.

With no other discussion from Council, the following vote was recorded:

Ayes: Dolan, Wright, Helgeson, Nelson, Tweedy, Wilder, Faraldi 7

Noes: 0

// In matter of the Airport, Agenda Item #2(A), Council received a briefing on a franchise agreement. Freedom Aviation would like to construct a 19,000 square foot aircraft storage hanger and consolidate both existing leases. Mr. Andrew LaGala. Airport Director and the responsible party for negotiating and administrating airport leases, provided Council with a summary of the request. Freedom Aviation has been operating as a fixed base operator (FBO) and tenant at Lynchburg Regional Airport (LYH) since acquiring Falwell Aviation in 2011. In 2014, Freedom Aviation purchased the airport's other FBO, Virginia Aviation, and was subsequently awarded a separate lease by City Council effective October 1, 2015. Since that time, Freedom Aviation has operated under two separate agreements: the original 20-year, six-month Falwell Aviation franchise agreement with an expiration of December 2027 and a revised Virginia Aviation lease set to expire in June 2023. Consequently, in order to consolidate its operations and to accommodate growing demand for its aviation services, Freedom Aviation desires to expand its aeronautical facilities through the construction of a new 19,600 square-foot aircraft hangar at LYH, while combining its current facilities contained in its two existing agreements under one franchise ordinance. This Franchise consists of two terms; Term One is 20-year, six months for certain facilities (shown in the presentation) and Term Two is for 5 years with a 5-year option for the remaining facilities. Based on the terms proposed under the franchise, Virginia law requires advertising for bids and a public hearing before voting on whether to adopt the franchise and grant proposed. The Lynchburg Regional Airport Commission has been briefed throughout the negotiation process and has expressed its support; a formal recommendation to City Council regarding the proposed franchise ordinance is scheduled for its next meeting on April 18, 2022. This will appear before Council for action at its April 26, 2022 meeting.

Councilmember Faraldi asked if both parties were agreeable to the arrangement; Mr. LaGala replied yes, and mentioned that representatives from Freedom Aviation were in attendance in show of support.

Councilmember Helgeson commended Freedom Aviation and Liberty's Aviation School for having so much activity which has caused growth to the Lynchburg airport.

//In matter of Finance, Agenda Item #2(B), Council was briefed on a request for a release of surplus funds. Ms. Donna Witt, Chief Financial Officer, gave an overview of this request. The City received a letter from Robert E. Evans, Esq., dated February 1, 2022 requesting, on behalf of his client, Robert L. Crews, Sr., the release of surplus funds received by the City from the delinquent tax sale of his property at 1119 Wise Street in the City. Mr. Crews was the former owner of that property prior to the sale confirmed May 20, 2019. The property sold for $25,000 and the Lynchburg Circuit Court entered an Order on June 6, 2019 confirming the distribution of the sales price in three checks, $7,702.44 to the City of Lynchburg, $3,300 to James W. Elliott, Special Commissioner, and $13,997.56 to be held by the General Receiver for the City, Leighton Houck, pursuant to § 58.1-3967 of the Virginia Code. Such code section provides a two-year period following the sale for unknown creditors or the former owner to come forward and claim the surplus funds, but Mr. Crews was unaware that he could make a claim for those funds until late 2021.

On September 23, 2021, the Lynchburg Circuit Court entered an Order directing the General Receiver to pay the surplus funds to James W. Elliott, attorney for the City. After deducting his fees from the $13,997.56, Mr. Elliott forwarded the balance of $12,794.18 to the City. § 58.1-3967 of the Virginia Code also provides that following payment of surplus funds to the City and "[u]pon request of the former owner . . . and after a showing of a prior entitlement thereto, the governing body of any county or city which has received such surplus funds may, in its discretion, grant relief, by ordinance, to such former owner . . . and pay over such amount as the governing body may deem appropriate to such former owner . . . and pay over such amount as the governing body may deem appropriate . . . ." As Mr. Crews had outstanding debt to the City in the amount of $1,252.13, he has agreed that the City may deduct that amount from the $12,794.18 leaving the total remaining surplus funds which he is requesting to be $11,542.05. This item will appear before Council for action at its April 12, 2022 meeting.

Councilmember Nelson asked if this was a competitive bid that generated the substantial surplus above the amount that the city was owed; Ms. Witt replied, yes.

//In the matter of Planning, Agenda Item #1(C), Council was briefed on an alley vacation for an unnamed alley. Mr. Kent White, Community Development Director, gave an overview of the request of Mark and Kristen Bushing to vacate an alley between their two properties at 101 and 103 Linden Avenue. The alley vacation is proposed to allow the combination of their properties. The total area of the proposed vacation is approximately thirty-one thousandths (0.031) of an acre. The area to be vacated contains a fence but is otherwise unimproved. The vacation would not impact vehicle or pedestrian access. The Technical Review Committee, and internal working group, reviewed the petition and their comments have been addressed. Based on the zoning of the adjacent lots and property frontage, the value of the property is anticipated to be approximately $440.00 - $816.00. This item will appear before Council for action at its April 12, 2022 meeting.

// The meeting adjourned at 8:39 p.m.

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Clerk of Council

// An additional meeting of the Council of the City of Lynchburg was held on the 24th day of March, 2022, at 4:00 P.M. at the 2nd Floor Training Room, City Hall, MaryJane Dolan, President, presiding. The following Members of Council were present:

Present: MaryJane Dolan, Beau Wright, Jeff Helgeson, J. Randy Nelson, Treney Tweedy, Sterling A. Wilder, Chris Faraldi 7

Absent: 0

// In the matter of Budget, Agenda Item #1, City Manager, Wynter C. Benda, provided an overview of the FY 2023 Proposed Budget Reconciliation.

The proposed budget includes the River Ridge Branch Library, the Downtown Branch Library, as well as the Main Library.

Councilmember Nelson noted the point made by the last speaker at the March 22, 2022 Public Hearing Council meeting in which she stated that the downtown library provides services to those who rely on public transportation. He stated that he does not want the City to adopt policies that would be exclusive or discriminatory. Councilmember Nelson responded that he would like to find the means within the budget to keep all three libraries open.

Mayor Dolan stated that there is not data from before COVID but that the downtown library seemed well-used. Mayor Dolan responded that this should be looked at carefully to ensure that the decision does not prevent any citizens from accessing a library.

Councilmember Helgeson stated that he disagreed; he is in favor of the River Ridge Branch Library for accessibility for citizens on that side of the City, as well as, potentially generating sales for the businesses in the mall. He does not want to make assumptions that citizens relying on public transportation are only in the downtown area. He is in favor of the proposal of keeping only two branches open and commented on the Main Library is near downtown.

Councilmember Wilder stated that several citizens have objected to closing the downtown library. He is in favor of the River Ridge Library as it would be an advantageous deal for the city, citizens, and the mall. He also noted that the downtown library seemed to have a steady flow of patrons and he would like to keep utilizing that space.

Councilmember Tweedy stated she is in support of the River Ridge Library. She noted she too has heard concerns from citizens but that it would be beneficial to explain to the community that malls are a focal point of generation of business and the generation of tax revenue. She asked the City Manager if he was going to be doing any data measuring for keeping or closing the Downtown Branch Library. Mr. Benda responded that there may be a time to measure data response during the construction period. The City could do this with existing resources.

Councilmember Faraldi responded that the two questions being posed by Council are in reference to the utilization of a public space in City Hall and what could be offered in that space. What services are citizens looking for in a downtown location and is the public library fulfilling those needs. Mr. Benda replied that he will gather the data on how the citizens are primarily using the Downtown Library.

Mr. Benda then walked Council through the Lynchburg City Schools Chart of Finances, Past Financial Resources, and answers to previous questions posed by Councilmembers.

Councilmember Helgeson responded that in past years, the schools have requested the same amount but currently there are several hundred less students in the school system.

Mayor Dolan responded that there is not just decline in students but also a change in needs.

Councilmember Nelson stated that in the last four years there has been a number of how much Lynchburg City Schools did not need from their budget. He noted that if this trend continues, they may not need what they're asking for in the 2022 budget.

Councilmember Faraldi asked for action items as follows: with the total school age population in Lynchburg, what are the current enrollment numbers and graduation rates; the 1990 agreement that the funds go back to Lynchburg City Schools needs to be reevaluated.

Councilmember Wilder asked what would it look like for Lynchburg City Schools salaries to be competitive to salaries in other counties. He also asked how much Lynchburg City Schools would need to increase salaries so that they are competitive. There is also an increase in challenging behavior and support services needed for kids in poverty as well as other needs. With these increased needs comes an increase in resources.

Councilmember Tweedy stated that the City is required to and must invest in public education regardless of declining enrollment. She is in favor in investing in Lynchburg City Schools. She also noted that the City has not invested in the infrastructure to educational buildings and facilities.

Councilmember Faraldi stated that special education and vocational education funding is being decreased in the Lynchburg City Schools proposed budget. He stated that he disagrees with the strategies being pursued by Council because Council appoints Schoolboard Members.

Councilmember Helgeson stated that he would like to see the numbers for the Standards of Quality (SOQ) positions. City Manager Benda replied that the data is forthcoming. Councilmember Helgeson responded that he would like to look at the SOQ positions for Lynchburg City Schools vs other localities. He stated that the third largest employer in the city is LCS and that this is concerning with the declining enrollment. There are SOQ funding formulas that identify what needs to be funded. He also noted that the budget includes incentive programs that the City and State matches. He stated that children should be permitted to attend their neighborhood school rather than a school across town as is required per the desegregation court order. Mr. Benda responded that the facilities study will be of assistance.

Councilmember Tweedy stated that there was a need for the desegregation laws. When it was decided to close schools in the past it was done by governing boards. She stated that Council is the current governing board to make the right decisions for the children and community.

Councilmember Helgeson responded that he believes improving education is unanimous. Council’s job is funding and demanding accountability. He noted his approval of the Future of Education Task Force and the benefits it would have in improving the education system.

Councilmember Tweedy responded that the purpose of the Task Force was to get the community to its current point. It was for community engagement and awareness on education needs as well as rezoning and redistricting needs. The Task Force is not need currently because the data and information are at hand. Community engagement is what is currently needed.

Councilmember Nelson responded that a great issue is leading practices in urban education. City Council and the members of the Schoolboard are not in a position to deal with these issues on their own. They need other insights.

Councilmember Tweedy responded that Lynchburg City Schools has brought educators into the city to understand what the best practices in urban education are. She noted there is resistance to change within Lynchburg City Schools.

Councilmember Helgeson stated he would like to discuss the tax rebate from last year's budget and how to compensate the citizens. Mr. Benda replied that there are no tax increases proposed in this budget.

//In matter of Budget, Agenda Item #2, Dr. Reid A. Wodicka, Deputy City Manager, provided an overview on the Water Resources Rate Study and the need to update the City's stormwater, water, and sewer rates. The primary drivers for the rates include: increasing regulatory requirements, the need to invest in our critical infrastructure, adequately compensating employees delivering essential services, and rising operational costs. The most significant factor, primarily in the Sewer fund, is compliance with the financial criteria of the Combined Sewer Overflow (CSO) Consent Order.

The proposed rate updates are as follows: Stormwater will increase from $4.00 to $4.17 per SFU, the Water Volume Rate will increase from $2.68 to $.277 per HCF, and the Sewer Volume Rate will increase from $6.14 to $7.22 per HCF. These increases will cause an average increase per citizen of $.17 per month for Stormwater, $.46 per month for Water, and $5.53 per month for Sewer. The total average increase will be $6.16 per month. In comparison to other localities, monthly rates for the Stormwater Rate is $.95 less than the State median; the Water Rate is $17 less than the State average, and the Sewer Rate is $3 less than the State average.

Of twelve other localities compared, the City of Lynchburg is rated second cheapest for combined water and sewer bills for 5,000 gallons/month. With these rate increases the City of Lynchburg will get an increase capital spending including, pay-as-you-go, it will cover significant chemical and material cost increases, it will cover compliance with increasing State and federal regulations, investment in front-line employees, and will open additional positions critical to daily functions.

In regards to Stormwater, the City of Lynchburg will get $20.5 million in capital spending including $5.9 million in infrastructure renewal and $5.3 million in best management practices renewal and improvements to address federal and State mandates.

In regards to Water, the City of Lynchburg will get $51.9 million in capital spending including $28.7 million in distribution system improvements prioritized based on: fire flow capacity, system integrity, water quality and system redundancy. It will also receive $7.4 million in water facility improvements and $1.0 million associated with compliance with lead & copper rule revisions.

The increase in sewer rate is due to the fact that minimum rates are dictated by CSO Consent Order: the average annual sewer bill must equal or exceed 1.25% of Median Household Income (MHI) and rates must be based on projected MHI. In regards to sewer, the City of Lynchburg will receive $116 million in capital spending including: $10.5 million for Richland Hills Sewer, $31.3 million in Sewer Collection Improvements, $59 million in CSO projects, and $11.7 million in Water Resource Recovery Facility projects. This includes $25 million in ARPA funds for CSO and $7.5 million in ARPA funds for Richland Hills.

Councilmember Faraldi asked what it would take if the City had additional resources to put into the enterprise fund to offset some of these costs. Mr. Tim Mitchell, Director of Water Resources, stated the rate increase is dependent on the consent order. Councilmember Faraldi asked who dictates the consent order and what does that process look like; he asked if there any legislative oversight on this process. Mr. Branham replied that this is a state consent order. Councilmember Faraldi noted that there is no legislative committee of the General Assembly that approves of this tax or fee increase on citizens.

Dr. Wodicka replied there is approximately five years of work left and the suggestion is to finish it so that there are no longer any mandates. Councilmember Faraldi asked if these fees would roll off. Mr. Mitchell stated that is the idea but they will have to prove that what is done works. Councilmember Faraldi stated that if this is adopted, he would like to see the fees be offset. He asked about the color coding of the map shown on the slides. Mr. Mitchell replied that the color coding of the lines is not just in terms of years but also the materials of the pipes and the capacity of them.

Councilmember Helgeson asked if the basin that catches, treats, and releases the sewer will get the City out of the consent order. Mr. Mitchell replied that there are other projects needed to get the flow to the basin. Councilmember Helgeson noted that the combined rate increases are 10.5% and he would not be in agreement with this. Councilmember Helgeson asked if the sewer line runs to Richland Hills, what will citizens have to pay to connect. Dr. Wodicka replied it will be a base rate of approximately

$3,000. Councilmember Helgeson asked what the typical procedure is to get sewer. Mr. Mitchell replied it would be a petition process in which one individual in the neighborhood attempts to get others in the neighborhood to connect. Councilmember Helgeson asked what the cost is once that extension is done. Mr. Mitchell replied the fee is approximately $3,000 if they get 50% of the neighborhood to connect. If they get 80% of the neighborhood to connect that fee will decrease somewhat. Councilmember Helgeson asked that to extend the sewer, the individual won't pay the extension fees just the connection fees. Mr. Mitchell replied they will pay the connection and availability fees. Councilmember Helgeson asked what the availability fees are. Mr. Mitchell replied that they are approximately $3,000. Councilmember Helgeson noted that several years ago this fee was much higher. Mr. Mitchell replied that the cost to extend this service is approximately $25,000-$30,000. When the petition process is done, the individual will only pay approximately 10% of the cost of the extension with these fees. Councilmember Helgeson asked if this covers the connection and availability fees by tapping into the big system. Mr. Mitchell noted that this is only feasible if a property is close to the sewer. Councilmember Helgeson asked if there are people planning on connecting. Mr. Mitchell replied that surveys were sent out and the results were that approximately 50% would be willing to connect. Councilmember Helgeson stated that many people look at emergent needs rather than potential emergencies in the future.

Councilmember Faraldi stated that these neighborhoods often have a cascading effect within a 2-year time period where 30-40 homes have septic tank failures due to the age of the home and septic systems.

Councilmember Nelson noted his issue with the increase in Stormwater Fee. He would like the option of not increasing that particular fee. Mr. Mitchell replied that the Department of Environmental Quality (DEQ) has stated that the City needs to do better at mapping drainage area to every Best Management Practices (BMP) in the city, improve Stormwater Pollution Prevention Plan (SWPPP) for all city facilities, and update Standard Operating Procedures. Some of the cost increase is for consultant assistance to develop these. He also noted that these are all going towards the Municipal Separate Storm Sewer System (MS4) permit. Councilmember Nelson stated that the actual cost in 2021 was $157,662 but the adopted amount for 2021 was approximately $90,000 more than this. In 2019 the actual cost was $180,873. He noted that the proposed budget asks for more than this amount. He asked that in light of this surplus, if they can have level funding for this year so as to not implement the $.17 raise per customer. Dr. Wodicka replied that he can provide more specific detail of what's going into those numbers and the impacts of implementing the fee vs not implementing the fee.

Councilmember Tweedy noted her appreciation of the Homeowners Association's approval of the sewer and stated that this is an opportune time to add sewer.

Councilmember Helgeson stated there is a difference between the city and county comparisons given in the presentation. He noted that starting wage includes an approximately 50% increase rate with benefits such as health insurance, retirement, etc. He noted his support in highlighting the compensation package that comes with being a municipal employee. Mr. Benda stated the utility department has shown that they do not have the proper staff to meet the need of the City. Councilmember Helgeson noted that he is in favor of increasing the salary of these specific employees. Mr. Benda replied that the proposed $14.03 is taking the Lynchburg overall population and tying it to the increase. He noted that many of the individuals getting this increase are those who work to maintain the City buildings. He stated the City must provide competitive salary and wages for other jobs in Lynchburg.

// The meeting adjourned at 6:01 p.m.

____

Clerk of Council

LYNCHBURG CITY COUNCIL
Agenda Item Summary

MEETING DATE: **August 23, 2022**			AGENDA ITEM #: **7**
CONSENT: ACTION: **X**	REGULAR: **X** INFORMATION:	WORK SESSION:	CLOSED SESSION: (Confidential)
ITEM TITLE: Right-of-way Vacation – Portion of Clayton Avenue			

RECOMMENDATION: Approval of the right-of-way vacation of a portion of Clayton Avenue.

SUMMARY: Ed Willman of Accupoint Surveying & Design, LLC, on behalf of Kathryn M. and Christopher T. Zabriskie, is petitioning to vacate a portion of Clayton Avenue located between 4013 and 4101 Peakland Place. The right-of-way vacation is proposed to allow the residents to enclose their backyard and assume ownership of the existing paved driveway. The total area of the proposed vacation is approximately two hundred eighty-eight thousandths (0.288) of an acre.

The area to be vacated contains a sidewalk and a paved driveway that serves the residences at 4013 and 4101 Peakland Place. The petitioner proposes to allow continued pedestrian access by establishing a five (5) foot wide public pedestrian access easement that extends the length of the area to be vacated. With the access easement in place, the vacation would not impact vehicle or pedestrian access.

PRIOR ACTION(S):

July 26, 2022	City Council Business Item Briefing.
May 17, 2022	The Technical Review Committee (TRC) reviewed the petition. Their comments have been addressed.

FISCAL IMPACT: Based on the zoning of the adjacent lots and property frontage, the value of the property is anticipated to be approximately $37,358.50.

CONTACT(S): Eve Mergenthaler, Planner I – 455-3900
Rachel Frischeisen, Acting City Planner – 455-3900

ATTACHMENT(S):
- Ordinance
- Street Vacation Exhibit
- Title Work
- Application
- Adjoining Property Owners

REVIEWED BY: MMB WCB

UNCODIFIED ORDINANCE:

AN ORDINANCE VACATING A PORTION OF CLAYTON AVENUE BETWEEN 4013 AND 4101 PEAKLAND PLACE.

WHEREAS, Ed Willman of Accupoint Surveying & Design, LLC, on behalf of Kathryn M. and Christopher T. Zabriskie, is petitioning to vacate a portion of Clayton Avenue; and

WHEREAS, City Council finds that no public inconvenience will result from vacating the right-of-way; and

WHEREAS, City Council determined that the City has no need for the portion of public right-of-way in question and the City's continued ownership of such public right-of-way is not necessary or required to serve the best interest of the City;

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Lynchburg, on its own motion, and in accordance with the provisions of Section 15.2-2006 of the Code of Virginia, 1950, as amended, and Sections 35-71 through 35-77 of the City Code, 1981, as amended, the following described right-of-way be, and the same hereby is, discontinued and vacated, namely:

PARCEL A: BEGINNING AT A POINT ON THE NORTHEASTERLY RIGHT OF WAY LINE OF BOONSBORO ROAD AND THE CORNER OF CLAYTON AVENUE AND PARCEL ID: 18411001; THENCE N30°15'17"E A DISTANCE OF 209.53' TO A POINT; THENCE S59°51'46"E A DISTANCE OF 30.00' TO A POINT; THENCE S30°15'17"W A DISTANCE OF 208.84' TO A POINT; THENCE N61°03'44"W A DISTANCE OF 30.01' TO A POINT; WHICH IS THE POINT OF BEGINNING, HAVING AN AREA OF 0.144 ACRES, MORE OR LESS.

PARCEL B: BEGINNING AT A POINT ON THE NORTHEASTERLY RIGHT OF WAY LINE OF BOONSBORO ROAD AND THE CORNER OF CLAYTON AVENUE AND PARCEL ID: 06705001; THENCE N61°03'44"W A DISTANCE OF 30.01' TO A POINT; THENCE N30°15'17"E A DISTANCE OF 208.84' TO A POINT; THENCE S59°51'46"E A DISTANCE OF 30.00' TO A POINT; THENCE S30°15'17"W A DISTANCE OF 208.27' TO A POINT; WHICH IS THE POINT OF BEGINNING, HAVING AN AREA OF 0.144 ACRES, MORE OR LESS.

Provided, however, that a continued and permanent easement for public pedestrian access, that will be maintained by the owners of 4013 and 4101 Peakland Place, is established in the following described area:

PUBLIC PEDESTRIAN ACCESS EASEMENT: COMMENCING AT A POINT ALONG THE NORTHEASTERLY RIGHT OF WAY LINE OF BOONSBORO ROAD AND THE CORNER OF CLAYTON AVENUE AND PARCEL ID: 18411001; THENCE S61°03'44"E A DISTANCE OF 27.51' TO THE POINT OF BEGINNING; THENCE N30°15'17"E A DISTANCE OF 208.95' TO A POINT; THENCE S59°51'46"E A DISTANCE OF 5.00' TO A POINT; THENCE S30°15'17"W A DISTANCE OF 208.85' TO A POINT; THENCE N61°03'44"W A DISTANCE OF 5.00' TO A POINT; WHICH IS THE POINT OF BEGINNING.

Provided, however, that any easement to locate, relocate, repair, replace, maintain and perpetually operate all utilities currently located therein or needed by the City in the future is hereby reserved unto the City of Lynchburg and the construction of a permanent structure over any utility line without the prior written approval of the City is prohibited.

BE IT FURTHER ORDAINED that the Clerk of Council is hereby authorized and directed to deliver a duly certified copy of this ordinance to the Clerk of the Circuit Court for the City of Lynchburg so that said certified copy of this ordinance may be recorded as deeds are recorded and indexed in the name of the City of Lynchburg, and the City Manager is hereby authorized to sign any documents that may be needed to complete the vacation of the right-of-way.

Adopted:

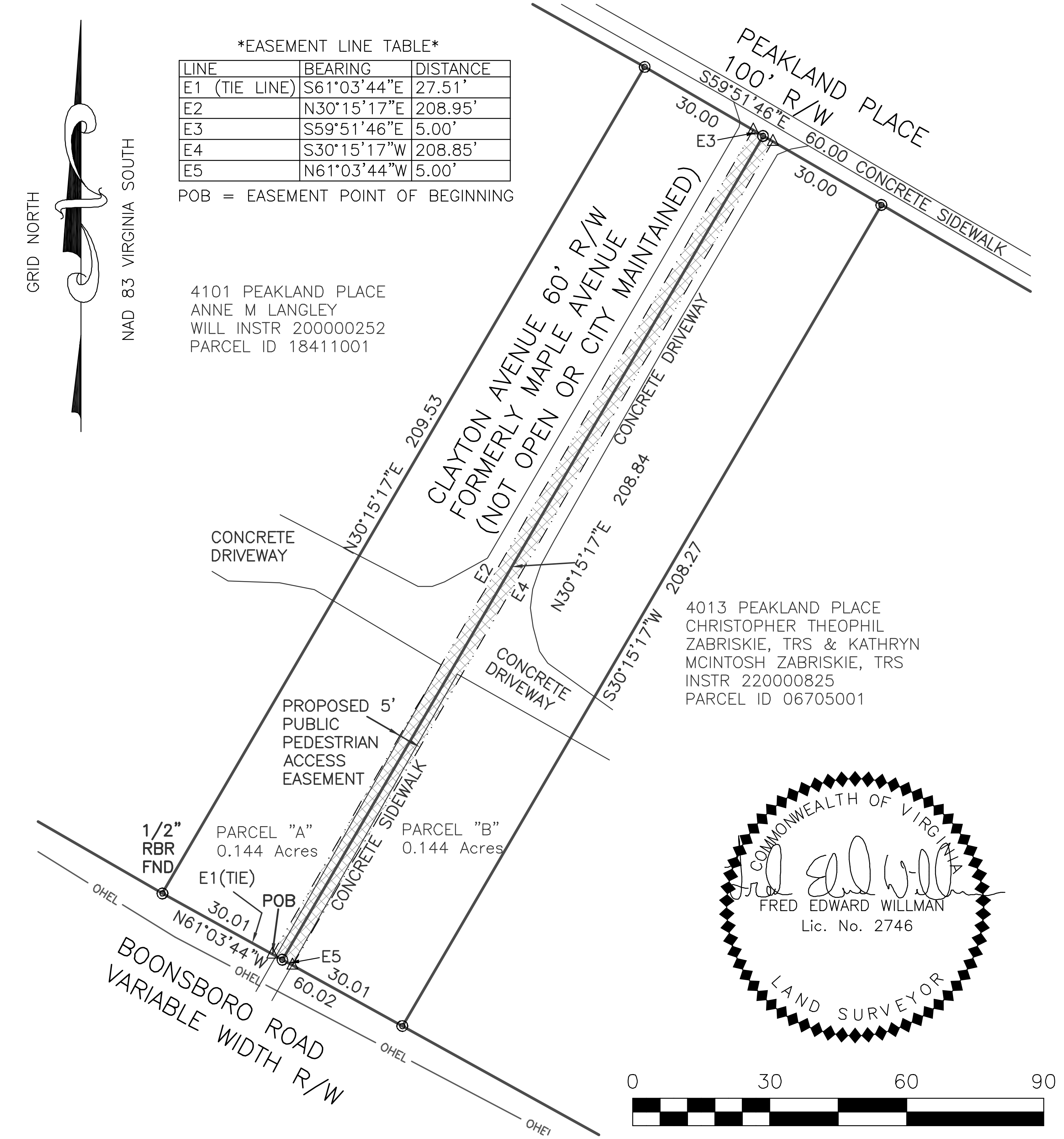
Certified: ________________________________

Clerk of Council

EASEMENT LINE TABLE

LINE	BEARING	DISTANCE
E1 (TIE LINE)	S61°03'44"E	27.51'
E2	N30°15'17"E	208.95'
E3	S59°51'46"E	5.00'
E4	S30°15'17"W	208.85'
E5	N61°03'44"W	5.00'

POB = EASEMENT POINT OF BEGINNING



STREET VACATION
EXHIBIT

SHOWING
CLAYTON AVENUE
FORMERLY MAPLE AVENUE

CITY OF LYNCHBURG, VIRGINIA

ACCUPOINT
SURVEYING & DESIGN
SURVEYORS ♦ ENGINEERS ♦ SOIL EVALUATORS
6200 FORT AVENUE, LYNCHBURG, VA 24502
PH: 434-610-4334 WWW.ACCUPOINTSURVEYING.COM

SCALE:	1" = 30'
ASD JOB #:	2022-208
FILE #:	2022-208.dwg
DATE:	APRIL 14, 2022
REV:	MAY 27, 2022

SHEET 1 OF 1

Barbara B. Gladieux
Accupoint Surveying and Design
6200 Fort Avenue
Lynchburg, VA 24502
bgladieux@accupointtitle.com

City Planning and Community Development
900 Church Street #101
Lynchburg, VA 24504

April 7, 2022

To Whom It May Concern,

Mrs. Kathryn McIntosh Zabriskie hired Accupoint Surveying to mark the property lines of their home at 4013 Peakland Place, Lynchburg, VA 24503. This is Tax Parcel #06705001, acquired by the owners by deed dated January 12, 2022 at Instrument # 220000825. At the time of the line markings of the property' boundaries it came to the attention of the surveyor that an unimproved portion of Clayton Avenue formerly known as Maple Avenue runs between 4013 and 4101 Peakland Place. It is the homeowner's desire to petition the City to vacate this unimproved portion of Clayton Avenue. Through my research, these are my findings to facilitate the vacation of the street.

Whereas, the land was originally acquired and developed by Peakland Corporation from two deeds from Presbyterian Orphans Home and Margaret S. G. Lucado. The Presbyterian Orphan's Home conveyed the property by deed dated July 12, 1910 and recorded in Campbell County at Deed Book 88 Pg 281 and recorded in Bedford County at Deed Book 101, Page 151. The other parcel was conveyed from Margaret S. G. Lucado, dated December 16, 1910 and recorded in Campbell Count at Deed Book 89, Page 283, and recorded in Bedford County at Deed Book 102, Page 163, and "into all of the improvements in and over the drives, streets, avenues and alleys..."

Whereas, Peakland Corporation granted all of the rights in respect to the drives, streets, avenues and alleys to Lynchburg Traction & Light Company by a contract and a deed bearing the date of October 25, 1911 recorded in Campbell County Circuit Court Clerk's Office at Deed Book 96, Page 509, and recorded in the Bedford County Circuit Court Clerk's Office in Deed Book 109, Page 370.

Whereas, by a contract dated November 18, 1924, and recorded in the City of Lynchburg Circuit Court Clerk's Office at Deed Book 144, Page 182, and contract supplemental thereto, and dated October 29, 1925, in Deed Book 144, Page 192, "that as soon as the corporate limits of the City of Lynchburg should be extended as to include any portion of the property Peakland hereinbefore referred to, Peakland would execute and deliver to the City, a deed conveying to the latter with a covenant of Special Warranty of title, all the rights of Peakland in and to so much of the said drives, streets, avenues and alleys theretofore laid out, delineated and shown upon the two said maps designated and entitled "Peakland Plans A and B", referred to as should be embraced within the corporate limits of the City of Lynchburg as the said limits should be extended by such annexation proceedings."

Whereas, by deed dated March 26, 1926, and recorded at Deed Book 145, Page 486 in the City of Lynchburg Circuit Court Clerk's Office, by Special Warranty Deed, Peakland Corporation conveys onto the City of Lynchburg, the rights of the said drives, streets, avenues and alleys laid out, delineated and shown upon the two maps entitled "Peakland Plans A and B" as now lie with in the corporate limits of the said City, after the 1926 annexation of the property from Campbell County to the City of Lynchburg.

Therefore, it is my opinion in this matter to the unimproved portion of Clayton Avenue, is vested in the City of Lynchburg. It is also my opinion when the council vacates the aforesaid property, the property shall pass in fee to the landowners whose property abuts the vacated property, subject to any permanent easement for the purpose of accessing and maintaining public utilities.

Please let me know if there are any questions.

Regards,

Barbara B. Gladieux

Barbara B. Gladieux,
Virginia Certified Title Agent and
Title Examiner

Department of Community Development
City Hall, 900 Church Street
Lynchburg, Virginia 24504
PHONE • (434) 455-3900
FAX • (434) 845-7630

The City of Lynchburg, Virginia

RIGHT-OF-WAY VACATION PACKET

1. PETITIONER: The applicant is the: •Owner ■ •Contract Purchaser: ☐ •Contract Leaseholder: ☐
Name: Christopher & Kathryn
Street: 4013 Parkland City: Lynchb State: Va Zip: 24503
Telephone#: 301 710 2063 E-Mail: Kzabriskie@businesstrainingworks.com
E-Signed: ____________ (Petitioner) Date: 4/18/22

2. OWNER: (if different from petitioner; otherwise leave this section blank)
Name:
Street: City: State: Zip:
Telephone#: Email:
E-Signed: ____________ (Owner) Date:

3. REPRESENTATIVE:
Name: Fred Edward Willman Firm Name: Accupoint Surveying & Design LLC
Street: 6200 Fort Ave City: Lynchb State: Va Zip: 24502
Telephone#: 4346104334 Email: ewillman@accupointsurveying.com

	Application Submittal Requirements - Right-of-Way Vacation
	One (1) original signed right-of-way vacation application, complete with metes and bounds description and any adjoining owner signatures.
	Three (3) copies of a title search or opinion from an attorney or title examiner determining ownership of the right-of-way after it is vacated. A copy of a sample opinion letter is included with the right-of-way vacation application.
	Six (6) copies of a sketch (or plat) showing the right-of-way to be vacated. Do not include other work (e.g. internal lot lines to be vacated) on submitted diagram.
	Photos of notification signs (if applicable)
	A check payable to the City of Lynchburg in the amount set forth in the fee schedule adopted by City Council ($75)
	Electronic copy of all submittals. (Electronic copies may be submitted through eTrakit by contacting Eve Mergenthaler at 434-455-3917, by email at eve.mergenthaler@lynchburgva.gov. Please name the files in the following format: (YY-MM-DD _File name)

This following describes the materials needed and steps involved in a right-of-way (ROW) vacation. This process takes roughly 90-120 days from submittal until the decision to vacate is made.

1. Submit the required materials to the Department of Community Development, located at 900 Church Street (second floor):
   a. One (1) original signed ROW vacation application, complete with metes and bounds description (usually provided by a surveyor) and any adjoining owner signatures.
      i. Be aware that any disagreement by affected adjoining land owners may result in City Council denying the ROW vacation.
   b. Six (6) copies of a sketch (or plat) showing the ROW to be vacated.
   c. Three (3) copies of a title search or opinion from an attorney or title examiner determining ownership of the right-of-way after it is vacated. A copy of a sample opinion letter is included with the right-of-way vacation application
      i. In order for the ROW to be vacated by the City, the ownership of the ROW after it is vacated must first be determined. As a petitioner (or their representative) interested in having the City vacate ROW in order to serve the petitioner's interest, you will be required to provide this information.
      ii. Past laws dictating how ROW was dedicated and annexation history of the ROW need to be taken into consideration during the research process. Here are some, but not all, things to consider when performing the title research:
         1. Was the property in question publicly dedicated?

APPLICATION FOR THE VACATION OF

Clayton Avenue formerly Maple Avenue

Street/Alley/Right-of-way

LOCATED BETWEEN

Boonsboro Road and Peakland Place

The undersigned applicant, Christopher Theophil Zabriskie Trustee of the Christopher Theophil Zabriskie Revocable Trust, and Kathryn Mcintosh Zabriskie Trustee of the Kathryn Mcintosh Zabriskie Revocable Trust, pursuant to the provisions of Section 51.1-364 of the Code of Virginia, 1950, as amended, and Sections 35-71 to 35-77, both inclusive, of the Lynchburg City Code, 1981, as amended, respectfully makes application to the Lynchburg City Council for the vacation of Clayton Avenue described as follows:

- Parcel "A" and Parcel "B" Legal Descriptions are attached

The applicant further requests the Lynchburg City Council to hold a public hearing on this application at its meeting to be held in the Council Chamber, City Hall, 900 Church Street, Lynchburg, Virginia, on June 28, 2022, at 7:30 p.m., or as soon thereafter as the matter may be heard, and at the conclusion of which hearing to consider whether or not to vacate the above described Clayton Avenue.

The City does not guarantee that the adjoining property owners get title to any portions of a public street or alley that is vacated. When vacating public right of way the City is only giving up its interest in the public right of way. State law determines who gets title to the vacated right of way. Anyone who wishes to acquire an interest in the vacated right of way should consult with an attorney or title examiner.

Given under my hand this 14th day of April, 2022.

Kathryn Mcintosh Zabriskie, Trustee

Christopher Theophil Zabriskie, Trustee

4013 Peakland Place
Lynchburg, VA 24503
Address

301-710-2063
Telephone Number

WE, THE ADJOINING PROPERTY OWNER(S), ARE IN AGREEMENT TO THE VACATION OF THE ABOVE DESCRIBED PROPERTY.

Anne M. Langley

Anne M. Langley

4101 ~~4701~~ Peakland Place aml
Address

Adjoining Owners to a portion of Clayton Avenue located between 4013 and 4101 Peakland Place

Parcel ID	Address	Owner
06701018	4004 PEAKLAND PL	PLUNKETT, STEPHEN T & JENNIFER W
06701019	4010 PEAKLAND PL	PRATT, JORDAN L S
06701020	4012 PEAKLAND PL	WADE, JAMES S & ELIZABETH M
06701021	4016 PEAKLAND PL	PRAHINSKI, JOHN R & MONICA M
06705001	4013 PEAKLAND PL	ZABRISKIE, CHRISTOPHER THEOPHIL TRS & KATHRYN MCINTOSH TRS
06705002	4009 PEAKLAND PL	DEVINE, IRENE TRS
06705003	4001 PEAKLAND PL	MCCRARY, MORRIS E III & INGRID
06707002	1503 CLAYTON AVE	SALZMANN, BRIAN D & JODI L
06708001	1500 CLAYTON AVE	MANGRUM, CARL R L & CYNTHIA P
06708002	1501 LINDEN AVE	SIGLER, ALISON M
06708003	1505 LINDEN AVE	LIGHT, ROBERT C JR & EDITH M
06708030	1504 CLAYTON AVE	POATS, JAMES W & VERNA A
18411001	4101 PEAKLAND PL	LANGLEY, ANNE M
18411002	4105 PEAKLAND PL	PETTYJOHN, THOMAS W JR
18411003	4109 PEAKLAND PL	TALLMAN, JOHN E & SHARON A
18411004	4113 PEAKLAND PL	FOSTER, JAMES E & ELIZABETH B
18411016	4108 PEAKLAND PL	EBERT, JULIE BETTS & MARSHALL REID JR
18411017	4104 PEAKLAND PL	WILHELM, PATTERSON ANDREWS WRIGHT & TAYLOR DANIELS
18411018	4102 PEAKLAND PL	PEAKLAND BAPTIST CHURCH TRS
18412001	4105 BOONSBORO RD	BANK OF THE JAMES
18412002	4109 BOONSBORO RD	LTB HOLDING COMPANY LLC

UNCODIFIED ORDINANCE: #O-22-051

AN ORDINANCE VACATING A PORTION OF CLAYTON AVENUE BETWEEN 4013 AND 4101 PEAKLAND PLACE.

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WHEREAS, City Council finds that no public inconvenience will result from vacating the right-of-way; and

WHEREAS, City Council determined that the City has no need for the portion of public right-of-way in question and the City's continued ownership of such public right-of-way is not necessary or required to serve the best interest of the City;

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PARCEL B: BEGINNING AT A POINT ON THE NORTHEASTERLY RIGHT OF WAY LINE OF BOONSBORO ROAD AND THE CORNER OF CLAYTON AVENUE AND PARCEL ID: 06705001; THENCE N61°03'44"W A DISTANCE OF 30.01' TO A POINT; THENCE N30°15'17"E A DISTANCE OF 208.84' TO A POINT; THENCE S59°51'46"E A DISTANCE OF 30.00' TO A POINT; THENCE S30°15'17"W A DISTANCE OF 208.27' TO A POINT; WHICH IS THE POINT OF BEGINNING, HAVING AN AREA OF 0.144 ACRES, MORE OR LESS.

Provided, however, that a continued and permanent easement for public pedestrian access, that will be maintained by the owners of 4013 and 4101 Peakland Place, is established in the following described area:

PUBLIC PEDESTRIAN ACCESS EASEMENT: COMMENCING AT A POINT ALONG THE NORTHEASTERLY RIGHT OF WAY LINE OF BOONSBORO ROAD AND THE CORNER OF CLAYTON AVENUE AND PARCEL ID: 18411001; THENCE S61°03'44"E A DISTANCE OF 27.51' TO THE POINT OF BEGINNING; THENCE N30°15'17"E A DISTANCE OF 208.95' TO A POINT; THENCE S59°51'46"E A DISTANCE OF 5.00' TO A POINT; THENCE S30°15'17"W A DISTANCE OF 208.85' TO A POINT; THENCE N61°03'44"W A DISTANCE OF 5.00' TO A POINT; WHICH IS THE POINT OF BEGINNING.

Provided, however, that any easement to locate, relocate, repair, replace, maintain and perpetually operate all utilities currently located therein or needed by the City in the future is hereby reserved unto the City of Lynchburg and the construction of a permanent structure over any utility line without the prior written approval of the City is prohibited.

BE IT FURTHER ORDAINED that the Clerk of Council is hereby authorized and directed to deliver a duly certified copy of this ordinance to the Clerk of the Circuit Court for the City of Lynchburg so that said certified copy of this ordinance may be recorded as deeds are recorded and indexed in the name of the City of Lynchburg, and the City Manager is hereby authorized to sign any documents that may be needed to complete the vacation of the right-of-way.

Adopted: August 23, 2022

Certified: Alicia L. Finney

Clerk of Council

LYNCHBURG CITY COUNCIL
Agenda Item Summary

MEETING DATE: **August 23, 2022** AGENDA ITEM #: **8**

REGULAR: **X** WORK SESSION: CLOSED SESSION (Confidential):
ACTION **X**: INFORMATION:

ITEM TITLE: Hertz Airport Rental Car Concession Agreement/Lease Agreement

RECOMMENDATION: Adopt a Resolution that would authorize a Rental Car Concession Agreement/Lease Agreement between the City of Lynchburg, The Hertz Corporation and Dollar Rent-a-Car and authorize the City Manager to execute the same.

SUMMARY: In September 2020, The Hertz Corporation elected to discontinue operating from the Lynchburg Regional Airport and ceased all rental car transactions due a bankruptcy filing. The Hertz Corporation previously conducted business at the Lynchburg Regional Airport since 2004. Earlier this year, The Hertz Corporation expressed a renewed interest in operating from the airport once again.

Due to the current airline industry environment and rental car business trends, this agreement will be in effect with a month-to-month term. An addendum to the existing concession agreements with the airport's other three rental car operators – Enterprise, Avis and Budget – will be executed concurrently in order to keep all terms and conditions consistent.

There is a statutory requirement for a public hearing prior to leasing City property.

PRIOR ACTION(S): Business Item Briefing (BIB) held July 26, 2022

FISCAL IMPACT: Terminal rent of approximately $11,000 per year plus 10% of Commissionable Gross Receipts

CONTACT(S): Andrew La Gala, Airport Director; (434) 455-6089

ATTACHMENT(S):
- Resolution
- Lease Agreement w/Exhibits

REVIEWED BY: KLW

RESOLUTION:

A RESOLUTION TO AUTHORIZE THE LEASE OF CITY-OWNED REAL ESTATE, LOCATED AT 350 TERMINAL DRIVE, LYNCHBURG, VIRGINIA 24502, AT THE LYNCHBURG REGIONAL AIRPORT, IN CAMPBELL COUNTY, VIRGINIA; SAID LEASE BEING FOR THE PURPOSES OF ALLOWING THE HERTZ

CORPORATION TO OPERATE A CAR RENTAL BUSINESS AT THE SAID AIRPORT

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF LYNCHBURG:

1. That the following described real estate, including any, if any, improvements thereon, may be let by the City of Lynchburg, a Virginia municipal corporation, for purposes of 1) maintaining counter and office space for employees of The Hertz Corporation (Hertz) and 2) providing car rental parking lot spaces to allow for the operation of a car rental business by Hertz. The real estate to be let is briefly described herein as follows: *Counterspace and office space located in the east wing of the main terminal of the Lynchburg Regional Airport and a total of twenty (20) car rental parking lot spaces located adjacent to the main terminal of the Lynchburg Regional Airport.*

2. That the City Manager is hereby authorized to take any and all actions necessary to effectuate the lease of the previously described real estate. The Rental Car Concession Agreement and Lease connected to this matter, between the City and Hertz, dated September 1, 2022, is hereby approved and incorporated into this Resolution by reference.

3. That any and all documents which may have been signed before the adoption of this Resolution, which are connected to the substance of this Resolution, are hereby ratified.

4. That this Resolution shall become effective upon its adoption.

Adopted:

Certified: ________________________________
Clerk of Council

LYNCHBURG REGIONAL AIRPORT

RENTAL CAR CONCESSION AGREEMENT AND LEASE

BETWEEN

CITY OF LYNCHBURG, VIRGINIA

AND

THE HERTZ CORPORATION

September 1, 2022

LYNCHBURG REGIONAL AIRPORT

RENTAL CAR CONCESSION AGREEMENT AND LEASE

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LYNCHBURG REGIONAL AIRPORT

RENTAL CAR CONCESSION AGREEMENT AND LEASE

This Rental Car Concession Agreement and Lease ("Agreement") is entered into this ____day of ______________________, 2022, by and between the City of Lynchburg ("City"), a municipal corporation of the Commonwealth of Virginia, and The Hertz Corporation ("Operator"), a corporation organized in the state of Delaware, existing and doing business under and by virtue of the laws of the State of Virginia.

WITNESSETH:

WHEREAS, City owns, operates and maintains the Lynchburg Regional Airport ("Airport"); and

WHEREAS, Operator is engaged in the business of providing automobile rental services to passengers and other customers at airports and elsewhere; and

WHEREAS, having automobile rental services at the Airport is necessary and desirable for the proper accommodation of passengers and other customers arriving at and departing from the Airport; and

WHEREAS, City desires to lease certain facilities and grant certain concession rights to Operator in order to make Operator's automobile rental services available at the Airport; and

WHEREAS, Operator is qualified, ready and able to perform said services, and desires to lease certain Airport space and obtain certain rights and privileges with respect thereto to allow it to furnish automobile rental services to Airport passengers and customers; and

WHEREAS, in consideration of leasing of said space and obtaining said rights and privileges from City, Operator is willing to make certain covenants and assume and undertake certain terms, conditions and obligations under this Agreement;

NOW, THEREFORE, in consideration of the mutual covenants, conditions, terms, privileges and obligations set forth herein, City and Operator hereby covenant and agree, for themselves, their successors and assigns, as follows:

ARTICLE 1

DEFINITIONS

Except as otherwise clearly indicated by the context, the words and phrases defined in this section will have the following meanings when used elsewhere in this Agreement.

1.01 "Agreement Year" means each period of twelve (12) consecutive calendar months beginning on January 1 and ending at midnight on December 31 of each calendar year.

1.02 "Airport" means the Lynchburg Regional Airport as it presently exists and as it is hereinafter modified or expanded.

1.03 "Airport Director" means the Airport Director as appointed by City, any successor or successors to the duties of such official, or any other person specifically designated to act on behalf of said Airport Director.

1.04 "Airport Terminal Building", "Terminal Building" or "Terminal" means the passenger terminal building at the Airport as it presently exists and as it is hereinafter modified or expanded.

1.05 "Certified Statement" means the certified statement required by Section 8.05.

1.06 "Commencement Date" means the day and month of the execution of this Agreement.

1.07 "Commissionable Gross Receipts" means all fees, charges and receipts of any and all kinds and descriptions, without deduction for any credit card discount, from or on account of Operator's business or activities originating on, at, from or with respect to the Leased Premises, Operator's rental car concession at the Airport, this Agreement, Operator's vehicle fleet assigned to the Airport, or foreign vehicles temporarily assigned or rented from the Airport, no matter where the reservation therefor, the rental thereof, or the delivery or possession of said vehicle is made, including but not limited to reservations made through other operators or travel agencies or by way of telephone, computer or any other means of communication, including but not limited to amounts collected or due from, for or on behalf of Operator's customers, and revenue and consideration of any and all types and in any and all forms which are collected, accrued, received, receivable, allocated or allocable or which should have been collected, accrued, received, receivable, allocated or allocable by, for or to Operator or any person or entity acting for or on behalf of Operator, including its franchisor or any affiliated person or entity. Commissionable Gross Receipts shall include but are not limited to the following specified items:

1. Base, time and mileage charges and fees for the rental and short-term leasing of vehicles;

2. Premiums and any and all other fees and charges for personal accident insurance, personal effects insurance coverage, baggage insurance, personal effects protection

insurance, liability insurance, liability insurance supplements, and any and all other types and kinds of insurance coverages and policies (regardless of how they be denominated, regardless of the parties covered, and regardless of the risks insured against);

3. Any and all sums for insurance waivers, collision damage waivers, and loss damage waivers, whether cash or credit and whether collected or uncollected;

4. Fuel service charges, prepaid fuel, fuel replacement fees waiver, and any and all other types and kinds of charges for fuel, fuel replacement and fuel service;

5. Inter-city fees and drop charges;

6. Concession Recovery Fees charged to customers;

7. Any and all charges made to customers for any and all equipment and services provided for, on account of or incidental to the rental of vehicles; and

8. All other receipts, compensation, revenue and other consideration received or accrued to Operator or Operator's franchisor or any other affiliated person or entity for or on account of the subject rental car concession, its operations or its fleet vehicles, unless specifically excepted in writing by City.

Commissionable Gross Receipts shall specifically exclude the following: sales taxes which are separately stated on Operator's vehicle rental agreements and vehicle short-term leasing agreements, and which Operator collects and remits separately to governmental taxing authorities, as required by law; compensation received by Operator from customers and insurance carriers in payment of actual damages to, or the destruction or theft of, vehicles and other personal property of Operator (but provided that compensation and payments for the loss of use of vehicles are to be included as part of the Commissionable Gross Receipts); compensation received from any final sale of a vehicle or other personal property of Operator to an unrelated third party (provided that Operator does not regain or retain any title, right, interest or ownership in or to the vehicle or other personal property), sums received for the reimbursement of administration expenses, citations, fees, and tolls issued by law enforcement or other governmental or quasi-governmental authority which have been paid by Operator; and CFC receipts and revenue collected pursuant to Section 7.04 of Article 7 of this Agreement.

Unless specifically excluded by the express terms of this Section 1.07, said receipt, revenue or consideration shall be deemed to be included in Commissionable Gross Receipts under this Agreement.

1.08 "Concession Fee" means the greater of the Minimum Annual Guarantee or the Percentage Fee.

1.09 "Concession Recovery Fee" means the fee described in Section 6.06 of Article 6 of this Agreement.

1.10 "Contract Security" means the contract performance bond provided by Operator pursuant to and in accordance with the terms of Section 7.05 of Article 7 of this Agreement.

1.11 "Counter/Office Space" means that counter and office space depicted on Exhibit A to this Agreement or the space, if any, provided by City in substitution therefor from time to time.

1.12 "CPI" means the change, if any, reported over the most recently reported twelve (12) month period in the Consumer Price Index, All Urban Consumers (CPI) published by the United States Department of Labor, Bureau of Labor Statistics (1982-84 = 100) or its designated replacement Index.

1.13 "Customer Facility Charge" or "CFC" means the charge imposed by City for each rental transaction day on each of Operator's rental car customers as referred to in Section 7.05 of Article 7 of this Agreement.

1.14 "Deplaned Passengers" means all passengers reported to the City deplaning from aircraft in scheduled or charter service at the Airport who do not transfer to another aircraft for departure within four (4) hours said passengers' initial deplanement.

1.15 "Environmental Laws" means every applicable law, resolution, rule, regulation, permit, permit condition, order, and directive regulating, relating to, or imposing liability standards of conduct relating with respect to any Hazardous Materials, or to environmental matters, including, without limitation, those relating to fines, orders, injunctions, penalties, damages, contribution, cost recovery compensation, losses, or injuries resulting from the release or threatened release of any Hazardous Materials, or regulating or relating to the generation, use, storage, transportation, or disposal of any Hazardous Materials.

1.16 "Environmental Permits" means all permits, licenses, approvals, authorizations, consents, and registrations required by any Environmental Laws, whether Federal, state or local, which pertain to the production, use, treatment, generation, transportation, processing, handling, disposal, or storage of any Hazardous Materials.

1.17 "Hazardous Materials" means friable asbestos or asbestos-containing materials, polychlorinated biphenyls (PCBs), petroleum, or crude oil or any fraction thereof, natural gas, source material, special nuclear material, and byproduct materials regulated under Environmental Laws, pesticides regulated under Environmental Laws, and any hazardous waste, toxic or dangerous substance or related material, including any material defined or treated as a hazardous substance, hazardous waste, toxic substance, or contaminant (or comparable term) under any of the Environmental Laws.

1.18 "Leased Premises" means those premises leased pursuant to Section 3.01 through 3.04 of Article 3.

1.19 "Minimum Annual Guarantee" or "MAG" means for an Agreement Year, with an initial period effective through February 28, 2023 and which shall represent eighty-five percent (85%) of Budget Rent a Car's actual Commissionable Gross Receipts at Lynchburg Regional Airport for the 2022 Agreement Year. Subsequent MAGs shall be based upon eighty-five percent (85%) of each Operator's actual Commissionable Gross Receipts for the preceding Agreement Year and shall be effective March 1 of each year.

1.20 "Percentage Fee" means ten (10) percent of Operator's Commissionable Gross Receipts.

1.21 "Ready/Return Parking Lot" means that vehicle parking lot depicted on Exhibit B to this Agreement or any other parking lot, if any, provided by City in substitution for said lot.

1.22 "Ready/Return Space(s)" means the automobile parking spaces within the Ready/Return Parking Lot or such additional spaces or substitution spaces as are provided by City from time to time under the terms of this Agreement.

1.23 "Rentals" means the rentals described in Section 7.02 of this Agreement.

1.24 "Service Facilities" means those consolidated car rental wash and refueling facilities and rental car automobile storage area depicted on Exhibit C to this Agreement, including any subsequent modifications or improvements thereto made by the City.

ARTICLE 2

INTERPRETATION AND EXHIBITS

The following shall govern the reading and interpretation of this Agreement:

2.01 Interpretation

a. References in the text of this Agreement to articles, sections, paragraphs or exhibits pertain to articles, sections, paragraphs or exhibits of this Agreement unless otherwise specified.

b. The terms "hereby," "herein," "hereof," "hereto," "hereunder" and any similar terms used in this Agreement refer to this Agreement.

c. Words importing persons shall include firms, associations, partnerships, trusts, corporations and other legal entities, including public bodies, as well as natural persons.

d. Any headings preceding the text of the articles and sections of this Agreement, and any table of contents or marginal notes appended to copies hereof, shall be solely for convenience of reference and shall not constitute a part of this Agreement, nor shall they affect its meaning, construction or effect.

e. Words importing the singular shall include the plural and vice versa.

2.02 Incorporation of Exhibits - The following Exhibits are hereby made a part of this Agreement:

Exhibit A	Counter/Office Space
Exhibit B	Ready/Return Parking Lot
Exhibit C	Service Facilities
Exhibit D	Minimum Annual Guarantee Amounts
Exhibit E	Operator's DBE Goals
Exhibit F	Memorandum of Understanding
Exhibit G	City CFC Resolution

ARTICLE 3

PREMISES AND FACILITIES

Subject to all other terms and conditions of this Agreement, City hereby leases to Operator and Operator hereby takes and hires from City the following described Leased Premises at the Airport:

3.01 Counter/Office Space - For Operator's preferential use, the Counter/Office Space depicted on Exhibit A.

3.02 Ready/Return Space - For Operator's preferential use, those Ready/Return Spaces depicted on Exhibit B.

3.03 Service Facilities - For Operator's preferential use, if so assigned by the City, those wash and refueling facilities designated for Operator's use within the Service Facilities area designated on Exhibit C and for Operator's use in common with the other rental car operators that area designated and assigned as a rental car automobile storage area on Exhibit C.

3.04 Reallocation of Ready/Return Spaces - No later than ninety (90) days after the expiration of each Agreement Year under this Agreement, City shall reallocate Ready/Return Spaces within the Ready/Return Parking Lot. The reallocation shall be made to Operator and to the other rental car operators based on their respective percentages of total Concession Fees paid by all rental car operators to the City for the Agreement Year then concluded, with each of said rental car operators being allocated a minimum of ten (10) Ready/Return Spaces. Upon any reallocation pursuant to this Section 3.04, City shall provide to Operator and the other rental car operators a revised Exhibit B to this Agreement redesignating Operator's and the other rental car operators' Ready/Return Spaces.

ARTICLE 4

USE OF PREMISES

Unless otherwise approved by City in writing, Operator may use the Leased Premises under this Agreement for the following purposes and for no other purpose or purposes whatsoever:

4.01 Counter/Office Space - Operator's Counter Space may be used for processing customer rental and return transactions, including the processing of rental agreements. Operator's Office Space may be used for general office and administrative purposes related to the operation of the rental car concession granted by City.

4.02 Ready/Return Space - Operator's Ready/Return Space may be used for the short-term parking of Operator's authorized automobiles awaiting rental and delivery to customers and the short-term parking of said automobiles after their return and prior to their being washed, fueled and again made ready for rental.

4.03 Service Facilities - If City has assigned Operator facilities and space within the Airport's Service Facilities area, the same may be used to wash, refuel, temporarily park and store Operator's authorized automobiles prior to their redelivery to Operator's Ready/Return Space for rental. Operator's rental car automobile storage area within the Service Facilities area may also be used for automobile storage on weekends and during the change of Operator's Airport automobile fleet.

4.04 No Sale of Automobiles - Without in any way limiting the foregoing provisions, it is expressly agreed and understood by Operator that none of the above Leased Premises, or any part thereof, may be used for any purpose other than that authorized herein and that none of the Leased Premises, or any part thereof, may be used at any time to sell or offer for sale any automobile of Operator or any other person.

4.05 Condition of Leased Premises

a. Operator shall be delivered the Leased Premises in an "as is" condition and without representation or warranty by City of the condition of the same. Operator acknowledges and agrees that it has inspected the Leased Premises and agrees to accept delivery of possession as heretofore specified. Operator also acknowledges that if delivery of its Leased Premises is made from that of a departing rental car operator, that the condition of said premises may require improvements by Operator prior to its fit-up, furnishing and installations, and Operator will be responsible for the same at its expense.

b. City may delay delivery of possession of the Leased Premises up to sixty (60) days after the Commencement Date if Operator is succeeding to the rights and Leased Premises of a departing rental car operator.

ARTICLE 5

TERM

5.01 Term - The term of this Agreement shall be month to month until such time that it is terminated by either of the parties hereto.

5.02 Additional Terms - Notwithstanding the provisions contained in Section 5.01 above, this Agreement shall automatically renew for an additional monthly term unless either party gives the other written notice of such party's intention not to renew this Agreement at least 30 days prior to the expiration of each monthly term. The renewal term shall be upon the same terms and conditions as this Agreement.

5.03 Holding Over – Intentionally Omitted.

5.04 Concession Transition - In the event that upon expiration or earlier termination of this Agreement Operator is not awarded a new or successor rental car concession at the Airport, it will fully cooperate with City and any successor operator in the transition of the Leased Premises to said successor operator.

ARTICLE 6

CONCESSION PRIVILEGES AND OBLIGATIONS OF OPERATOR

6.01 Concession Privileges Granted - City grants to Operator the following rights and privileges and Operator assumes all of the following as part of its obligation to operate a high quality, well-managed and efficiently run rental car concession from the Leased Premises and the Airport:

a. The privilege to rent passenger-type automobiles to the public on the Airport; the privilege to offer for sale related loss and collision damage waiver protection, personal injury and accident insurance, supplemental liability, uninsured motorist, and personal effects insurance; and the privilege to offer customer services, including but not limited to, refueling services, baby car seats, cellular/digital phones, and other related rental equipment. All such additional rights shall be approved in writing by City from time to time.

b. Operator's rental car concession shall be operated under the following brand name(s):

for the term of this Agreement. Operator shall not change or operate additional brands at the Leased Premises or from the Airport under this Agreement.

c. Operator shall have ingress and egress to and from the Leased Premises over public roadways and such other roadways as the Airport Director may approve from time to time.

d. The privilege for Operator's employees to use, in common with other employees on the Airport, the employee parking facilities provided by City, at such charges as City may, from time to time, establish for employees using the employee parking facilities. Employees may not park in Operator's assigned space in the Ready/Return Parking Lot or Service Facilities.

e. All rights and privileges not specifically granted to Operator in this Agreement shall be reserved to City.

6.02 Non-Exclusive Privileges - The privileges granted under this Agreement are non-exclusive. By entering into this Agreement, Operator acknowledges that City has entered into similar agreements with other rental car concession operators for similar services from on-Airport locations under similar terms. City reserves the right to enter into agreements with other companies providing rental car services from "on" or "off" Airport locations, if City determines that it is in its best interest to do so.

6.03 Operator's Obligations with Respect to the Use of the Premises

a. In the conduct of its business, Operator covenants and agrees to restrict its activities on the Leased Premises to only those authorized by this Agreement and shall not use or permit the use of the Leased Premises for any other purpose, nor shall it vacate the Leased Premises prior to the termination or expiration of this Agreement unless authorized in writing in advance by City.

b. Operator shall use the Leased Premises solely for the rental of passenger automobiles to Airport customers and the public and for the provision of services and equipment reasonably and directly associated with the rental of said automobiles, as specifically authorized elsewhere in this Agreement. Operator shall use the Leased Premises as fully and efficiently as possible to maximize its rental car business on the Airport.

c. Except for its corporate signs approved in advance by City and except as otherwise authorized by City in writing, Operator shall not display nor shall it permit others to display any signs, brochures, racks, promotional materials or similar items on or about the Leased Premises or elsewhere within the Terminal Building or the Airport.

d. Operator shall not conduct used car sales activities on the Airport. Any business activities other than those expressly granted by this Agreement shall not be conducted on the Airport without the prior written approval of City.

e. Operator shall not conduct any activity not specifically authorized by this Article 6, or any activity which, in the sole judgment of City, conflicts with the rights granted by City to other non-rental car concessionaires or would not relate to an Airport purpose or product or service related to the conduct of the rental car concession granted.

f. The Leased Premises shall not be used for the storage of disabled, damaged, destroyed, or inoperable vehicles. Operator shall promptly remove all damaged, destroyed or inoperable vehicles from the Leased Premises and the Airport.

6.04 Standards of Service

a. Operator shall offer for rental to the public only popular-make passenger automobiles of recent manufacture (not more than three (3) model years old). It is Operator's obligation to maintain all the vehicles offered for rental in good and safe operating order, free from known mechanical defects, and to keep the vehicles in a clean, neat, and attractive condition inside and out. Operator shall at all times maintain a sufficient number of automobiles to meet reasonably foreseeable demands of the traveling public at the Airport.

b. Operator shall accept at least three (3) nationally recognized credit cards for payment of automobile rentals; and provide or have access to a national reservation system for its rental services at the Airport.

c. Operator shall maintain a sufficient number of trained personnel to ensure that Operator's customers will receive prompt and courteous service at all times. All personnel of Operator, while on or about the Leased Premises or elsewhere at the Airport, shall be polite, clean and neat in appearance, and appropriately attired.

d. Operator shall not misrepresent to the public its prices or the terms and provisions of its rental agreements or those of its competitors. Operator shall comply with all applicable rules and regulations of the Federal Trade Commission and all other governmental agencies having jurisdiction over Operator's business operations. Operator shall fully inform each customer, prior to the execution of such customer's rental agreement, of all fees and charges applicable to such customer's rental. If City determines, after notice and opportunity for Operator to comment, that any of Operator's business practices are unlawful, deceptive, or discriminatory, Operator shall immediately cease such practices upon receipt of a written order to do so from City. City will give advance notice to Operator that City considers a certain practice to be unlawful, deceptive or discriminatory and Operator shall have an opportunity to respond to the allegation.

e. Operator shall at all times maintain the Leased Premises and its improvements and other personal property located on the Leased Premises in a safe, clean, orderly, attractive and first-class condition satisfactory to City. Any sign or other item on the Leased Premises which City deems to be offensive to the public shall, upon notice from City, be promptly and permanently removed from the Leased Premises by Operator. Operator shall not permit any nuisance, waste or damage to be committed on the Leased Premises or elsewhere at the Airport.

f. In the event Operator receives (or City receives and forwards to Operator) any written complaint concerning Operator's operation of the concession, Operator shall promptly respond to such complaint in writing (but in no event later than thirty (30) days of its receipt) and make a good-faith attempt to explain, resolve or rectify the cause of such complaint. Without further notice or demand, Operator shall keep a copy of each such complaint and Operator's written response for a period of one year from the date of the complaint and shall make the complaint and the written response available to City upon its request.

g. Operator shall be open for business from the Leased Premises to provide automobile rental services to Airport customers daily during the period from 6 a.m. to midnight, or such hours as may hereafter be approved or designated by the Airport Director.

h. The management, maintenance and operation of the concession shall at all times be under the supervision and direction of an active, qualified, competent and experienced full-time resident manager who shall at all times be subject to the direction and control of Operator. Operator shall assign the manager an office on the Leased Premises and the manager shall be available during regular business hours. Operator shall at all times during the absence of the manager assign or cause to be assigned a qualified subordinate as manager to assume and be directly responsible for carrying out the duties of the manager.

i. Operator shall provide "one-way" automobile rentals for customers, allowing a customer to rent an automobile in Lynchburg and "drop" the automobile at another airport location.

6.05 <u>Non-Diversion of Rental Car Concession Business</u> - Operator covenants, warrants and agrees that it shall not divert, directly or indirectly, any business and/or Commissionable Gross Receipts from Operator's rental car concession at the Airport. Diversion shall include, but not be limited to, the following:

a. The operation, establishment, franchising, or licensing by Operator of a rental car concession facility or business which competes with the rental car concession granted pursuant to this Agreement;

b. The participation by Operator in the operation, establishment, franchising, or licensing of a rental car concession facility or business which competes with the rental car concession granted pursuant to this Agreement;

c. Advertising by Operator that suggests that a customer or potential customer arriving at the Airport should rent a vehicle or take delivery of a vehicle at an off-Airport location; or

d. Operator advising or suggesting to a customer or potential customer arriving at the Airport or pre-arranging a vehicle rental prior to or upon arrival at the Airport that such customer or potential customer rent a vehicle or take delivery of a vehicle at an off-Airport location.

Any rental made or vehicle delivered by Operator, its franchisor, or any other affiliated or associated person or entity, including any franchisee, within a three (3) mile radius of the Airport Terminal Building, from whatever location, shall be presumed to be, and shall be reported as, a rental transaction includable within Commissionable Gross Receipts under this Agreement, unless and until Operator provides to City clear and convincing documentation that the subject rental transaction, and the Commissionable Gross Receipts therefrom, are not so includable under or pursuant to this Agreement.

6.06 Concession Recovery Fee - "Concession Recovery Fee" means any surcharge or any amount that Operator separately states and charges its customers to recover the amount of Operator's Percentage Fee that is payable under this Agreement. Operator acknowledges that its payment to City under this Agreement is for Operator's use of facilities and grant of concession rights at the Airport, and that those payments do not reflect a fee that is imposed by City upon customers renting automobiles from Operator. Operator understands that City does not encourage nor support the practice of transferring Operator's obligation for payment of Operator's Percentage Fee due under this Agreement to its customers. Operator is prohibited from stating or implying, in writing or verbally, that the City or the Airport imposes or approves of any direct charge to its customers, including any surcharge that Operator passes on to its customers to recoup Operator's Percentage Fee. Operator is prohibited from misrepresenting to the public its prices or the terms and provisions of its rental agreement or those of its competitors, either verbally or in writing. If Operator recovers from or charges its customers the Percentage Fee, that charge shall be clearly and separately stated in writing immediately adjacent to Operator's time and mileage charges on the customer's rental agreement and invoice, shall not be described as a tax, and shall be no greater than 11.11% of the Commissionable Gross Receipts resulting from that rental contract. Said Concession Recovery Fee shall also be included within Commissionable Gross Receipts subject to the Percentage Fee under this Agreement.

ARTICLE 7

CONCESSION FEES, RENTALS AND OTHER CHARGES

7.01 Concession Fee - Operator shall pay to City for the privilege of being granted the right to operate a rental car concession at the Airport pursuant to the provisions of Article 6 hereof an annual Concession Fee defined and described in Article 1 hereof, and determined in accordance with the provisions contained in Sections 1.07, 1.08, 1.19, and 1.21 of Article 1 of this Agreement.

7.02 Rentals - For and in consideration of the Leased Premises leased to and occupied by Operator under this Agreement, Operator shall pay City the following sums as annual Rentals:

a. For its Counter/Office Space depicted on Exhibit A, Operator shall pay City an annual rental which is the sum that is the product of the square footage of said space and the annual rental rate. The annual rental rate for the initial Agreement Year under this Agreement is a total rent of $11,359.20 per annum. Monthly counter rent is currently $946.60.

b. For the Ready/Return Space allocated to Operator pursuant to the provisions of Section 3.02 and Section 3.04 of Article 3 hereof, Operator shall pay City an annual Rental which is the amount that is the product of the spaces so allocated to Operator for the Agreement Year and the rental rate for said space. The rental rate for the initial Agreement Year is $36.05 per space per month or $432.60 per space per year.

c. For and in consideration of and as payment for the premises and facilities within the Service Facilities area preferentially and commonly assigned or allocated to Operator, if any, pursuant to the provisions of Section 3.03 of Article 3 hereof and City's costs and expenses related thereto, Operator shall collect and remit to City in accordance with the MOU and the Resolution, as defined and referenced in Section 7.03 hereof, the City's CFC, as currently authorized or hereafter authorized by either the MOU or the Resolution. It is the intention of the parties that the CFC shall completely reimburse the City for all costs of financing, constructing, expanding and improving the Service Facilities (including the reimbursement of City capital funds advanced for the project), all costs of operating, maintaining and repairing said Service Facilities, pay for land rentals on land dedicated to the Service Facilities, and pay and/or provide funds related to financing, constructing and operating the same, including debt service, a debt service reserve, an operation and maintenance reserve, and a renewal and replace reserve as currently required or hereafter required under either the MOU or the Resolution, or both. Notwithstanding that Operator may not be assigned Service Facilities pursuant to Section 3.03 of this Agreement, it shall nonetheless be required to collect and remit to the City the CFC in accordance with the terms and conditions of the MOU and the Resolution as the same is currently in effect or as either or both of the same may be amended from time to time.

7.03 Rental Adjustments - The rental rates for Counter/Office Space and Ready/Return Space for each subsequent Agreement Year shall be the greater of the change in the CPI over the prior Agreement Year or 3.5 percent applied to the prior Agreement Year's applicable rental rates and rental. The rental for the Service Facilities shall be subject to adjustment from time to time, as provided for in that certain Memorandum of Understanding ("MOU") between City and certain car rental industry operators executed in January and effective February 1, 2000, a copy of same being attached hereto as Exhibit F, and as further authorized in the City CFC Resolution ("Resolution") adopted on December 14, 1999, a copy of same being attached hereto as Exhibit G.

7.04 Customer Facility Charge (CFC) - The following provisions have been included in this Agreement to summarize Operator's obligations to collect, safeguard, account for, and remit Customer Facility Charges (CFCs) collected from Operator's customers pursuant to the MOU and City's Resolution authorizing the CFC. In the event of a conflict between the following provisions and the provisions of either the MOU or the Resolution, the provisions of the MOU and ultimately the Resolution shall control.

a. City currently imposes a CFC of $3.00 per rental transaction day on each rental car customer at the Airport. The CFC and the Resolution may be changed or modified by City at any time and from time to time by subsequent changes to the MOU or Resolution of City.

b. Operator shall charge, collect, account for, and remit CFCs required to be collected by the Resolution and the MOU at the times required therein, and such remittance shall be made regardless of whether the CFCs are actually collected. Operator shall not be entitled to any right of offset and shall not otherwise reduce any CFC remittance. Operator shall remit all CFCs regardless of any amounts that may be owed or due to Operator by City.

c. All CFCs collected by Operator shall be trust funds held for the benefit of City. Operator shall have only a temporary possessory interest and not an equitable interest in the CFCs.

d. In the event that Operator was not an incumbent Operator and signatory to the MOU when executed, it hereby covenants and agrees to comply with its terms from and after the effective date hereof and throughout the term of this Agreement.

7.05 Contract Security - In order to secure its performance under this Agreement, Operator shall comply with the following Contract Security requirements:

a. In order to guarantee the timely payment of all Concession Fees, Rentals, CFCs and any other payments due by Operator under this Agreement or otherwise, and to otherwise guarantee Operator's performance under this Agreement, Operator shall provide City, contemporaneously with the execution of this Agreement, Contract Security in the form of a contract performance bond equal twenty-five percent (25%) of Operator's Minimum Annual Guarantee for the first Agreement Year. Said Contract Security shall be updated as to amount for subsequent Agreement Years' MAGs and renewed at least thirty (30) days prior to each Agreement Year if required by its terms. Said Contract Security shall be extended, or a new Contract Security provided, to remain in effect for the twelve (12) months immediately following expiration or termination of this Agreement. Said Contract Security shall be in such form and content and with such surety as is approved by City's legal counsel.

b. If Operator shall fail to make any payment due City when due or shall commit an event of default under this Agreement, City shall have the right to use such Contract Security to pay Rentals, Concession Fees, CFCs and any other amount owed to City by Operator then due and payable or to apply the proceeds thereof to any cost or expense or damages incurred by City as result of Operator's default. In the event that any such Contract Security or portion thereof is utilized, as aforesaid, Operator shall replenish or provide a renewal or replacement Contract Security within ten (10) days of being notified so to do by City. City's rights under this Section 7.05 shall be in addition to all other rights and remedies provided to City under this Agreement.

7.06 Abatement or Adjustment of Minimum Annual Guarantee - If for any month during the term of this Agreement the number of Deplaned Passengers at the Airport is less than sixty-five percent (65%) of the Deplaned Passengers for the same month during the prior year, the Minimum Annual Guarantee payment for said month shall be suspended and Operator shall pay the Percentage Fee as its Concession Fee for said month. In the event that Operator's possession of the Leased Premises and rights to operate under this Agreement commence other than on the Commencement Date or expire or terminate, other than for a termination for Operator's default hereunder, at any time other than at the end of an Agreement Year, the Minimum Annual Guarantee shall be adjusted prorata for the actual number of days Operator was in possession of the Leased Premises during said Agreement Year. In the event that City shall award more than four on-Airport rental car concessions at the Airport during the term of this Agreement, City shall make a reasonable adjustment to Operator's and the other four rental car concession operators' Minimum Annual Guarantee bid amounts for the Agreement Years in which said additional concession or concessions are awarded, and for the subsequent Agreement Years remaining in the term of the Agreement. In the event that Operator is dissatisfied with the adjustment so made by City, Operator's sole remedy shall be to terminate this Agreement upon thirty (30) days advance written notice to City.

7.07 Additional Rent - If City has paid any sum or sums or has incurred any obligation or expense for which Operator has agreed to pay or reimburse City, or if City is required or elects to pay any sum or sums or insure any obligations or expense by reason of the failure, neglect, or refusal of Operator to perform or fulfill any one or more of the conditions, covenants and undertakings contained in this Agreement, Operator agrees to pay such sums or expenses, including all interest, costs, damages, and penalties, and agrees that the same shall be added to the next installment of Rentals due hereunder, and each and every part of the same shall be and become additional Rentals, recoverable by City in the same manner and with like remedies as if originally a part of the Rentals, charges and fees set forth in Section 7.02 hereof.

7.08 Taxes and Assessments - Operator shall pay all taxes, including any possessory interest tax, any applicable payment in lieu of taxes, assessments, and charges of a like nature, if any, which at any time during the term of this Agreement may be levied or become a lien by virtue of any levy, assessment, or charge by the Federal Government, the Commonwealth of Virginia, the City of Lynchburg, or any other municipal corporation or other local government entity having jurisdiction over the Airport, any government successor in authority to the foregoing, or any other tax or assessment levying bodies, in whole or in part, upon or in respect to any of Operator's Leased Premises, Concession Fees, Rentals, and any other amount payable under this Agreement, or upon or in respect to any personal property belonging to Operator situated on the Leased Premises. Payment of such taxes, assessments and charges, when and if levied or assessed, shall be made by Operator directly to the taxing or assessing authority charged with collection thereof. City shall timely forward to Operator any assessment or tax notice received by City and payable by Operator.

7.09 License and Permit Fees - Operator shall also pay all fees associated with any and all licenses, permit, certificates and other authorizations required by any governmental authority in connection with the operations or activities performed by Operator under this Agreement.

7.10 Operator's Rights to Contest - Operator may, at its own expense, contest the amount or validity of any tax or assessment, or the inclusion of the Leased Premises, this Agreement or the Concession Fees, Rentals or any other payment under this Agreement as taxable or assessable property, directly against the taxing or assessing authority and Operator shall not be deemed to be in default under this Agreement for failure to pay any such tax or assessment pending the outcome of any such contest proceedings. City reserves the right to require Operator to provide such security as City's legal counsel determines necessary to assure that the tax and any costs related to the tax contest are promptly discharged upon final determination of said tax contest adverse to Operator.

7.11 Payments and Terminations - Upon the termination or expiration of this Agreement, all lawful taxes then levied or a lien upon any such property or any taxable interest under this Agreement, including the Leased Premises, this Agreement, or any Concession Fees, Rentals or any other payments hereunder shall be paid in full by Operator forthwith, or as soon as a statement thereof has been issued by the tax collector if termination occurs during the interval between attachment of the lien and issuance of a statement.

ARTICLE 8

PAYMENT OF RENTALS, CONCESSION FEES AND CHARGES

8.01 Manner of Payment - Operator agrees to pay all sums due under this Agreement in lawful money of the United States of America, without invoice, unless invoicing is otherwise required hereunder, without notice or demand, without deduction or setoff, by check, made payable to Lynchburg Regional Airport/City of Lynchburg, which check shall be delivered, postage or other charges prepaid, to:

By U.S. Mail

Airport Director
City of Lynchburg
Lynchburg Regional Airport
350 Terminal Drive, Suite 100
Lynchburg, VA 24502

By Express Mail or Overnight Delivery:	Airport Director City of Lynchburg Lynchburg Regional Airport 350 Terminal Drive, Suite 100 Lynchburg, VA 24502

or at such other place or by such other method as may hereafter be designated in writing by City.

8.02 Payments:

Amounts due shall be payable as follows:

a. Rentals for Counter/Office Space, Ready/Return Space, and one-twelfth (1/12) of the Minimum Annual Guarantee (MAG) shall be paid in twelve equal monthly installments, in advance, not later than the first day of the month for which they are due. Payment of the Operator's MAG shall be based on an initial period effective through February 28, 2023 which shall represent eighty-five percent (85%) of Hertz Corporation actual Commissionable Gross Receipts at Lynchburg Regional Airport for the 2022 Agreement Year, with subsequent MAGS based upon eighty-five percent (85%) of each Operator's individual actual Commissionable Gross Receipts for the preceding Agreement Year and shall be effective March 1 of each year.

b. The amount by which the Percentage Fee for the preceding month exceeds one-twelfth (1/12) of the Minimum Annual Guarantee shall be paid to City by Operator within fifteen (15) days of the end of the month for which they are due.

c. Utility, tax and service charges, if any, and any other charges, payments, reimbursements and fees due under this Agreement and accruing in any month shall be paid by Operator within twenty (20) days of invoicing by City.

d. CFCs collected shall be remitted to City in accordance with the remittance requirements of the MOU and the City Resolution establishing said CFCs and Section 7.04 of Article 7 hereof.

8.03 Late Payments - If Operator shall fail to make payment of any Rentals, Concession Fee, CFC or any other payment due City by the due date thereof, Operator shall pay to City, in addition to all other remedies available to City and all other payments to be made by Operator to City, a late charge equal to the lesser of one and one half percent (1-1/2%) per month or the maximum legal monthly interest charge allowed under Commonwealth of Virginia Law on the overdue amount and the costs of collection and attorney's fees, if any, incurred by City in attempting to obtain payment, plus an administrative fee of two hundred fifty dollars ($250.00).

8.04 City's Right to Set Off - City shall have the right to set off any past due amount(s) owed City by Operator by applying all or a portion of Operator's current payments to such past due amount(s). In the event City exercises its right of set-off, as aforesaid, it shall notify Operator of the set-off, including the amount thereof. Operator shall then promptly make payment to City of such sum as is needed to satisfy current amounts due.

8.05 Financial and Statistical Reports - Operator shall complete and file with the Airport Director no later than the fifteenth (15th) day of each month a Certified Statement, in form and content acceptable to the Airport Director, summarizing Commissionable Gross Receipts, calculating the amount of Concession Fee due, and reporting Operator's rental days and rental transactions for the preceding month. Operator's payment for the additional Concession Fee shall accompany said Certified Statement.

8.06 Annual Audited Statement of Commissionable Gross Receipts - Within ninety (90) days of the end of each Agreement Year during the term of this Agreement or any renewal hereof, Operator shall submit to the Airport Director in form and content acceptable to her or him, a "Schedule of Commissionable Gross Receipts" for the Lynchburg Regional Airport for said Agreement Year, prepared in accordance with generally accepted accounting principles, accompanied either by an opinion of an independent Certified Public Accountant, a certification of Operator's Chief Financial Officer, or a certification by an independent Certified Public Accountant on behalf of Operator. Opinions issued by an independent Certified Public Accountant shall be issued in accordance with the provisions of Statement of Auditing Standards No. 62, Special Reports, as promulgated by the AICPA. Certifications provided either by Operator's Chief Financial Officer or by an independent Certified Public Accountant on behalf of Operator shall be in such form and content as is acceptable to the Airport Director. Said statement shall set forth the calculation of Commissionable Gross Receipts, and the calculation of the Concession Fee for the Agreement Year as defined under this Agreement. If any such statement discloses that additional sums are due City, Operator shall pay to City such additional sums with the submission of said statement to the Airport Director.

City shall have the right to rely on said certified reports in determining Operator's Concession Fees due hereunder. Operator shall have full responsibility for the accuracy of said reports. Late payments and payment deficiencies due to incomplete or inaccurate reports to City shall be subject to the late payment and late penalty charges as set forth in Section 8.03 hereof. In the event that City for good cause is dissatisfied with any certified report provided without opinion of an independent certified public accountant, City shall have the right to require that Operator have said report prepared and opinioned by an independent certified public accountant. The acceptance by City of any Operator payment shall not preclude City from verifying the accuracy of Operator's reports or computations, or from recovering any additional payment actually due from Operator. Interest on any additional amount due shall accrue thereon from the date the payment was originally due, at the rate prescribed and calculated in Section 8.03 hereof.

8.07 Operator's Records

a. Operator shall maintain, either at the Airport or elsewhere within the City of Lynchburg, books, records and accounts for its rental car concession granted under this Agreement, including computerized records, maintained in accordance with generally accepted accounting principles, generally accepted auditing standards, and the requirements of this Agreement recording Commissionable Gross Receipts under this Agreement and providing for the determination and calculation of Concession Fees, Rentals, CFCs and other payments to be made to City by Operator.

b. Said books, records and accounts shall include detailed analyses listing all of Operator's transactions from operations at the Airport in the form of printed, written or electronic media. Operator's rental contract forms shall be sequentially numbered in a series designated for use only with this Agreement. Books and records shall include, but shall not be limited to, all original accounting source documents detailing transactions relevant to this Agreement, including but not limited to, original rental contracts (which must be issued for each rental transaction under this Agreement), operating/financial statements, a complete (cumulative) general ledger, monthly sales journals detailing each rental transaction for the month, reconciliations between the financial records and monthly reports submitted to City, bank statements applicable to the operations of this rental car concession at the Airport, corporate trial balances, corporate contracts with corporate customers, annual audited financial statements and related reports on internal controls (including management representation letters), electronic media documenting accounting records, and other sales-related documents. Said books, records and accounts shall also include documentation of all exclusions from Commissionable Gross Receipts claimed by Operator. For exclusions or adjustments to Commissionable Gross Receipts, Operator's books and records shall include, but are not limited to, all agreements between Operator and corporate or volume customers establishing the customer's contractual rights to discounts and/or rebates, if such reduction is permitted by this Agreement, lists of all individual rental transactions with all corporate or volume customers, all individual rental agreements with all corporate or volume customers, and documentation of said records supporting other reductions to Commissionable Gross Receipts authorized pursuant to Section 1.07 of this Agreement.

c. Operator shall cause to be installed in Operator's operating area, and shall at all times use, such cash registers, invoicing machines, sales slips and other accounting equipment, devices and forms as are reasonably necessary to record properly, accurately and completely all sales at the Airport related to Operator's Commissionable Gross Receipts.

d. In those situations where Operator's records have been generated from computerized data (whether mainframe, minicomputer, or PC-based computer systems), Operator agrees to provide City with extracts of data files in a computer readable format on data disks, E-mail with attached files, or suitable alternative computer data exchange formats as requested by City.

e. Each record and item of information required hereunder shall be maintained for a period of at least five (5) years from the date of creation and for such extended period as City requires in the event that there is an audit or litigation pending.

8.08 Audit of Operator's Books and Records

a. City shall have the right to audit or authorize audits of Operator's book, records and accounts relevant to its operations of the rental car concession at the Airport. If either an annual audit or any other lesser period audit performed by City discloses an under reporting of Commissionable Gross Receipts, Operator shall pay to City any amounts due under this Agreement within fifteen (15) calendar days of written notice by City, plus interest calculated in accordance with Section 8.03 of this Agreement. If an audit conducted by City or at City's direction discloses an under reporting of Commissionable Gross Receipts by two percent (2%) or more for any twelve (12) month period, Operator shall reimburse City for the full cost of the audit, interest calculated in accordance with Section 8.03, any applicable legal fees and expenses and shall pay a penalty of ten percent (10%) of the under reported Concession Fee.

b. Operator shall provide the name and telephone number of Operator's accounting manager who has a thorough knowledge of the accounting system as it pertains to this Agreement and who will assist City with its audit. Operator will also allow interviews of past and present employees who were involved in the financial or operational activities of Operator as part of the audit.

c. Operator agrees to provide appropriate work space to conduct the audit and free access to office and equipment needed to conduct the audit. Operator will also make the requested original books and records available within ten (10) working days from the date of request by City or City's representative and will freely lend its own assistance in conducting the audit. If City has authorized Operator to keep such books and records outside the Airport or outside the City of Lynchburg and the same cannot be provided and made available locally, Operator agrees to reimburse City for expenses incurred in sending representatives to wherever such books and records are maintained. Such expense will include transportation, lodging, food and other out-of-pocket expenses resulting from the necessity to leave the City of Lynchburg.

d. Operator's duty to maintain books and records and City's rights under this Agreement to inspect and audit the books and records of Operator shall survive the expiration or earlier termination of this Agreement.

ARTICLE 9

OPERATOR'S OBLIGATIONS OF MAINTENANCE AND IMPROVEMENTS

9.01 Maintenance, Replacement and Repair - Operator shall, at its own cost and expense, maintain and repair all parts of Operator's improvements, equipment, fixtures and personal property installed or located on or at the Leased Premises, including Operator's computers and communications system, any Operator-installed connections to City-installed utility systems or property, and all other Operator's equipment and property whether or not any of the same is affixed or attached to such Leased Premises. Operator, in conjunction with the other rental car operators, shall provide snow and ice control, general maintenance, and refuse removal for the Ready/Return Parking Lot. Operator, in conjunction with the other rental car operators, shall, where applicable, perform snow and ice control and general and custodial maintenance in the Service Facilities. Operator shall be responsible for custodial maintenance and refuse removal from its Counter/Office Space. Operator shall be responsible for the cost of electrical service to its Service Facilities and shall make payment thereof directly to the utility provider. Operator shall reimburse City for the cost of water and sewerage service to its assigned facilities in the Service Facilities.

9.02 Alterations, Additions and Improvements

a. Except as expressly provided for herein, Operator shall make no alterations, additions or improvements to or installations on its Leased Premises (including, but not limited to, any work which could affect utility or other systems for which City is responsible) without the prior written permission of the Airport Director.

b. Before the commencement of any such work, detailed plans and specifications, including any modifications or amendments thereto requested by City, shall be filed with and approved, in writing, by the Airport Director and all governmental departments and authorities having jurisdiction thereover. All such work shall be done subject to and in accordance with the requirements of applicable law and regulations of all such governmental departments and authorities, and, where required, each affected public utility company.

c. Such work shall be performed in a good and workmanlike manner and in accordance with the plans and specifications approved for the same. At all times during such work, Operator shall have a copy of the approved plans and specifications on the construction site for inspection by City, if the same are herein required. Operator shall promptly commence to redo or replace and diligently pursue same to completion, at its sole cost and expense, prior to or after completion of such work, any work which is not done in accordance with such plans and specifications as approved by the Airport Director.

d. Subject to the provisions of Section 14.09, all alterations, additions or improvements at any time placed upon its Leased Premises by Operator shall be deemed to be and become a part of the realty and the sole and absolute property of City upon completion; and, upon completion, Operator shall provide written documentation of the cost thereof to the Airport Director and shall give to the Airport Director a complete set of as-built drawings thereof in such reproducible format, including electronic format, as the Airport Director may request.

e. Operator shall promptly pay all claims made against City and discharge all liens filed or which exist against the Leased Premises, any other portion of the Airport, or Operator's trade fixtures or trade equipment arising out of or in connection with, whether directly or indirectly, the failure to make payment for work done or materials provided by Operator, its contractors, subcontractors or materialmen. However, Operator shall have the right to contest the amount or validity of any such claim or lien without being in default under this Agreement. In the event that City's legal counsel reasonably determines that security is required to guarantee discharge of said claim or lien in the event that said claim or lien is finally determined against Operator, City shall provide Operator with written notice of such determination. Within ten (10) days of said notice, Operator shall provide such security, in such form and amount as is reasonably satisfactory to City's legal counsel. City shall give timely notice to Operator of all such claims and liens of which it becomes aware.

9.03 Conduct - Operator, its employees, passengers, guests, licensees, invitees and independent contractors shall conduct themselves in an orderly and proper manner so as not to disturb, annoy or offend others at the Airport or to violate any of City's present or future written or published policies, rules or regulations. Upon notification by City of any violation of the provisions of this Section 9.03, Operator shall forthwith take all reasonable measures necessary to terminate the offensive, disorderly or improper conduct.

9.04 Performance by City upon Failure by Operator - If Operator fails to perform any obligation required by Sections 9.01 or 9.02 of this Article 9, City shall give Operator written notice of such failure. If Operator fails to perform such obligation within thirty (30) days of receipt of such notice, or if such obligation cannot with due diligence be performed within such thirty (30) day period, and Operator has failed to immediately commence and diligently pursue performance thereof upon receipt of such notice, City may perform such obligation of Operator, and charge Operator for the cost of City's performance, plus a reasonable administrative charge representing City's fee for managing the same, plus attorneys' fees or costs of legal counsel, if performed by City's legal counsel.

ARTICLE 10

OBLIGATIONS OF CITY

10.01 Operation and Maintenance

a. Except as otherwise provided in this Agreement, City shall operate and maintain the Airport and the Terminal Building and shall keep the Airport, including the Terminal Building and City-installed Terminal Building equipment and fixtures, in good condition and repair. City's obligation with respect to the Terminal Building shall include responsibility for all roof maintenance and all structural maintenance and the maintenance of the heating, ventilating and air conditioning systems, the electrical system, and the plumbing and sewage system up to their point of entry to Operator's Leased Premises or attachment to Operator's equipment, except for those parts of the Leased Premises and those maintenance obligations for which Operator is responsible pursuant to Article 9 hereof. City's maintenance obligation with respect to the Terminal Building shall also include custodial and general maintenance of the public areas of the Terminal Building. City shall provide electrical service, relamping and structural repairs to Operator's Counter/Office Space.

b. City shall provide required structural repairs and maintenance to the Ready/Return Parking Lot, the cost of which to be recovered by City through the CFC. City shall provide electrical service, lighting and relamping to the extent currently provided to the Ready/Return Parking Lot. The City shall provide structural repairs, pavement repairs and relamping of facilities within the Service Facilities, the cost of all of the same to be recovered by City through the CFC.

c. City shall cause electricity, air conditioning, heat, sewerage disposal and water to be supplied to Operator's Leased Premises in the Terminal Building and to such public areas of the Terminal Building presently having such service. City may charge Operator separately for City's costs of any utility requirements and uses resulting from special demands of Operator or for special utilization equipment. City shall not be responsible for disruptions in service due to failure of utility suppliers or other causes beyond City's control. The Service Facilities presently have water, sewerage and electrical service. The cost of all of these services shall be paid for by Operator and the other rental car operators occupying said facilities, as otherwise provided.

ARTICLE 11

RULES AND REGULATIONS; COMPLIANCE WITH LAWS

11.01 Rules and Regulations - Operator shall comply with and shall cause its employees, passengers, guests, invitees, agents and independent contractors to comply with all of City's rules and regulations with respect to the safe, prudent, or orderly conduct, use or operation of the Airport, as such rules and regulations currently exist and as they may be enacted or amended from time to time in the future.

11.02 Observance and Compliance with Laws

a. Operator shall, in connection with its rights and obligations hereunder, observe and comply with all laws, statutes, resolutions, and regulations of all governmental authorities having jurisdiction, and shall pay all taxes and obtain all licenses, permits, certificates and other authorizations required by all applicable federal, state, county and municipal laws, statutes, and resolutions including but not limited to all rules, regulations and directives of the Federal Aviation Administration.

b. Operator agrees to make part of and incorporate into this Agreement by reference or by setting forth at length, at the option of City, any and all statutes, rules and regulations, and assurances and covenants required pursuant thereto, the incorporation of which may now or hereafter be required by the Federal Aviation Administration or any other federal agency or by the Commonwealth of Virginia; provided, however, that nothing herein shall be construed to limit or diminish the right of Operator, at its own cost, risk and expense, to contest the same, by appropriate judicial or administrative proceeding.

ARTICLE 12

DAMAGE OR DESTRUCTION

12.01 Damage - Should Operator's Leased Premises, or any portions thereof, or buildings or structures on which such Leased Premises may be a part, be damaged by fire or other casualty, and if the damage or buildings or structures of which said Leased Premises are a part, is repairable within ninety (90) days from the date of the occurrence, the Leased Premises shall be repaired with due diligence by City and, so long as the damage is not due to the negligence of Operator, the rentals allocable to the particular Leased Premises, or portions of the Leased Premises rendered untenantable, for the period from the occurrence of the damage to the completion of repairs, shall be abated.

12.02 Destruction - Should said Leased Premises or any portions thereof or buildings or structures of which said Leased Premises may be a part, be completely destroyed by fire or other casualty, or should they be damaged to such an extent that the damage cannot be repaired within ninety (90) days after the occurrence, City shall have the option to terminate this Agreement to the extent that it shall apply to the particular Leased Premises so rendered untenantable. In the event that this Section shall become applicable, City shall notify Operator within thirty (30) days after the happening of any such damage whether City has elected to continue the Agreement in effect as to the premises damaged or destroyed or to terminate it. Said notice shall advise Operator of City's estimated schedule for completion of repair and restoration. If repairs are estimated to take more than one hundred eighty (180) days to complete, Operator may terminate this Agreement by providing written notice to City within ten (10) days of receipt of notice from City as aforesaid. If City shall elect to continue this Agreement in effect, it shall commence and prosecute with due diligence any work necessary to restore or repair the premises, and, so long as the damage is not due to the negligence of Operator, the rentals allocable to the particular Leased Premises rendered untenantable, for the period from the occurrence of the damage to the completion of the repairs, shall be abated.

ARTICLE 13

INDEMNIFICATION AND INSURANCE

13.01 General Indemnification - Operator shall assume, protect, defend, reimburse, and indemnify City, and its past, present and future officers, members (including without limitation all members of the Council of the City) and the employees and agents, and each of them, including without limitation the Airport Directors of City, and shall hold each and all of them harmless at all times from and against any and all liabilities (including without limitation statutory liability and liability under workers' compensation laws), losses, fines, damages of whatever nature, causes of action of every kind and character, whether or not meritorious, suits, claims, demands, judgments, awards, settlements, costs, and expenses including without limitation payments of claims or liabilities resulting from any injury or death of any person or any damage to or destruction of any property resulting from, arising out of, incident to, or in connection with Operator's use or occupancy of the Leased Premises or any other area or facility at the Airport or resulting from, arising out of, incident to, or in connection with the conduct of Operator's rental car concession under this Agreement or any of its obligations or covenants under this Agreement, including, but not limited to:

a. The willful misconduct, negligence or tortious act or omission of Operator or any of its agents, employees, invitees, licensees, contractors, or subcontractors;

b. Operator's willful misconduct, negligence, or tortious act or omission in its use or occupancy of the Airport or the Leased Premises or in any of its operations under or pursuant to this Agreement; and

c. The violation by Operator of any provision of this Agreement; except to the extent any such loss, fine, damage, cause of action, suit, claim, demand, judgment, award, settlement, cost, or expense is caused by the gross negligence or willful act or omission of City.

13.02 Additional Indemnifications

a. Without limiting Operator's liability pursuant to Section 13.01 above, Operator shall assume, protect, defend, reimburse, and indemnify City, and its past, present and future officers (including without limitation all members of the Council of the City) and its respective employees and agents, and each of them, including without limitation the Airport Directors of City, and shall hold each and all of them harmless at all times from and against any and all liabilities (including without limitation statutory liability and liability under workers' compensation laws), losses, fines, damages of whatever nature, causes of action of every kind and character, whether or not meritorious, suits, claims, demands, judgments, awards, settlements, costs, and expenses including without limitation payments of claims or liabilities resulting from any injury or death of any person or any damage to or destruction of any property resulting from, arising out of, incident to, or in connection with Operator's use or occupancy of the Leased Premises or any other area or facility at the Airport resulting from, arising out of, in connection with, or incident to the conduct of Operator's rental car concession under this Agreement, or any fuel, fueling facility, product, contaminant spillage, contaminant seepage, contamination, noise pollution, or other injury or damage in relation to health, safety, environmental protection (including without limitation any contamination of Airport property, such as the contamination of soil or storm water by fuel, gas, chemical, or other substance deemed by the Environmental Protection Agency (EPA) to be an environmental contaminant at the time this Agreement is executed or as may be redefined as such by an appropriate regulatory agency while this Agreement is in effect), sanitation, good order, security, fire precaution, traffic control, operation, or maintenance caused by Operator or any of its agents, employees, licensees, contractors, or subcontractors, during the term of this Agreement and including without limitation payments of reasonable attorneys fees and environmental inspection costs, except to the extent the same is caused by the gross negligence or willful act or omission of City.

b. Operator shall assume, protect, defend, reimburse, and indemnify City and its respective past, present and future officers, members (including without limitation all members of the Council of the City) and its employees and agents, and each of them, including without limitation the Airport Directors of City, and shall hold each and all of them harmless at all times from and against any and all liabilities for compensation under any workers' compensation statute arising out of an injury or injuries sustained by any employee of Operator. Operator also covenants that it shall cause its licensees, contractors and subcontractors to maintain in effect at all times workers' compensation insurance as required by law.

c. Without limiting the generality of any other provision hereof, Operator shall reimburse City for any and all reasonable attorneys fees and investigation expenses incurred by City in the defense and handling of said causes of action, suits and claims and in enforcing the provisions of this Agreement, excepting those expenses incurred by City in the defense and handling of said causes of action, suits and claims resulting from the gross negligence or willful act or omission of City.

d. Operator shall assume, protect, defend, reimburse, and indemnify City and assume all liability for, and pay, all taxes and assessments, including but not limited to such taxes and assessments as may from time to time be imposed by City, if so authorized, which by law may be levied or assessed on the Leased Premises and any other premises occupied by Operator pursuant to this Agreement, or which arise out of or are incidental to the conduct of Operator's rental car concession under this Agreement or by reason of Operator's occupancy of its Leased Premises or Operator's Commissionable Gross Receipts, Concession Fee, or Rentals. Operator may, at its own risk, cost and expense, and at no cost to City, and without being deemed to be in default under this Agreement, contest, by appropriate judicial or administrative proceedings, the applicability or the legal or constitutional validity of any such tax or assessment; and City shall, to the extent permitted by law, execute such documents as are necessary to permit Operator to contest or appeal the same. Operator shall be responsible for obtaining bills for all of said taxes and assessments directly from the taxing authorities and shall promptly deliver to the Airport Director copies of receipts of payment of such taxes and assessments. In the event that City receives said bills, it shall promptly mail the same to Operator.

e. Without in any way limiting any other provision on the subject matter contained elsewhere in this Agreement, Operator agrees that all of Operator's obligations of indemnity specified in Sections 13.01 and 13.02 hereof shall survive the expiration or termination of this Agreement.

13.03 Insurance Requirements - Operator shall, at its own cost and expense, procure and maintain in effect the following minimum insurance coverages at all times during the term of this Agreement, and, prior to or contemporaneously with the execution of this Agreement, shall deliver to the Airport Director certificates of insurance for such coverages, issued by a company or companies eligible to do business in the Commonwealth of Virginia of recognized financial responsibility, evidenced by a minimum A.M. Best rating A+, Class X or higher, and reasonably satisfactory to City:

a. **Workers' Compensation and Employer's Liability Insurance** for all employees engaged in operations under this Agreement. The limits of coverage shall be not less than:

1.	Workers' Compensation -	Commonwealth of Virginia Statutory
2.	Employers' Liability -	\$1,000,000 - Limit Each Accident \$1,000,000 - Limit Disease Aggregate \$1,000,000 - Limit Disease Each Employee

b. **Comprehensive General Liability Insurance** coverage which shall include, but not be limited to, Premises and Operations, Personal Injury, Contractual for this Agreement, Independent Contractors, Broad Form Property Damage, Products, and Completed Operations (which shall not exclude (XCU) Explosion, Collapse or

Underground Property Damage). Coverage shall be applicable to, among other matters, the operation of all mobile and ground equipment at the Airport. The Completed Operations Coverage shall in addition be maintained for a period of not less than three (3) years following final operations of Operator under this Agreement. Limits of coverage shall be not less than the following:

Bodily and Personal Injury and Property Damage Liability	$2,000,000 Combined Single Limit Each Occurrence

c. **Pollution and Environmental Contamination Insurance** coverage covering both sudden and accidental and non-sudden and non-accidental pollution and environmental contamination. Limits of coverage shall be not less than the following:

Bodily and Personal Injury and Property Damage Liability	$2,000,000 Combined Single Limit Each Occurrence

d. **Property Insurance** covering Operator's improvements, fixtures and personal property, including Operator's motor vehicles, on the Leased Premises shall be provided insuring against all risk of physical loss. The amount of physical damage insurance for all perils, save flood and earthquake, shall be not less than the replacement cost of the property insured. The perils of flood and earthquake shall be insured for not less than the replacement cost of the property insured unless otherwise agreed to in writing by the Airport Director. The physical damage policies shall be endorsed to include the interests of the City and Operator as their interests may appear, and all proceeds from said policies shall be paid to the parties as their interests may appear. Operator's contents in the buildings and on the Leased Premises shall be insured against physical loss for the replacement cost of the property insured.

e. Each certificate of insurance required and provided hereunder shall be in the form and content acceptable to the City and shall be personally and manually signed by the authorized representative of the insurance company shown on the certificate, and shall provide that the coverages referred to therein shall not be terminated, modified or not renewed until City has received thirty (30) days advance written notice thereof. In the event an insurance carrier should terminate, modify or not renew any of the above insurance coverages, Operator shall immediately contract with another insurance carrier to provide the requisite coverage and shall immediately deliver to the Airport Director a replacement certificate. Each certificate and policy shall name City, and its respective past, present and future officers, members (including without limitation, all members of the Council of the City) and its employees and agents, and each of them, including without limitation the Airport Directors of City, as additional insureds under the policies and additionally to the extent of Operator's indemnity obligation under this Agreement. Each of the aforementioned certificates shall provide that the policies shall be primary to any other policies of insurance or self-insurance maintained by City. Operator shall deliver to the Airport Director, thirty (30) days before the date of the renewal of any policy of insurance required hereunder, a renewal certificate meeting the requirements herein specified. In addition, upon the reasonable request by City, Operator shall provide a certified, true and exact copy of any insurance policy required hereunder. Operator authorizes City and its insurance consultant to confirm with Operator's insurance agents, brokers and insurance companies all information furnished City as to its compliance with its insurance requirements, including without limitation any impairment to the aggregate limit of any policy. If any insurance policy provided under this Agreement contains an aggregate limit, it shall contain a provision or endorsement providing that the insurance coverage and limits provided under this Agreement shall not be subject to said aggregate limit for this Airport location or for this Agreement.

f. The acceptance by, or delivery to, City of any certificate of insurance evidencing the insurance coverages and limits required in this Agreement does not constitute approval or acceptance by City that the insurance requirements in this Agreement have been met.

g. No operations shall commence or continue by Operator at the Airport unless and until the required certificates of insurance are in effect and received by City.

h. The insurance coverages and limits required of Operator under this Agreement are designed to meet the minimum requirements of City. They are not designed as a recommended insurance program for Operator. Operator retains the responsibility for assessing its total liability and physical risk exposures and for managing these exposures.

i. If at any time City requests a written statement from any insurance company as to any impairment to the Aggregate Limit, prompt authorization and delivery of all requested information shall be given to City.

j. Neither party hereto shall be liable to the other party or to the insurer of the other party claiming by way of subrogation, with respect to any loss or damage under any policy of property insurance to the extent that such other party shall be reimbursed or has the right to be reimbursed out of its insurance coverage carried for such protection with respect to such loss or damage. The provisions of this paragraph shall apply only to the extent permitted by provisions of the insurance policy in question.

k. Failure by Operator to take out or maintain, or the taking out or maintenance of any insurance required hereunder, shall not relieve Operator from any liability under this Agreement, nor shall the insurance requirements hereof be construed to conflict with or otherwise limit any contractual obligations (including but not limited to those of indemnification) of Operator contained in this Agreement.

l. Operator shall not do or permit to be done anything, either by act or failure to act, which shall cause cancellation of any policy of insurance for its Leased Premises or any other part of the Airport. Further, if Operator shall do or permit to be done anything, either by act or failure to act, that shall cause an increase in the premiums for insurance for such Leased Premises or the Airport, Operator shall pay the amount of such increase, pursuant to invoices, whether from City or otherwise.

m. City shall have the right at the conclusion of each Agreement Year hereunder, upon the written recommendation of its insurance consultant, to modify or alter insurance coverages and limits required hereunder after consultation with Operator and the other rental car operators and upon thirty (30) days advance written notice to Operator. Upon being given notice by City of said modifications and alterations, Operator shall promptly comply with said revised insurance requirements.

ARTICLE 14

TERMINATION AND DEFAULT UNDER AGREEMENT

14.01 Termination by City - Except as otherwise provided for in this Agreement, the following provisions shall control termination of this Agreement by City. If any one or more of the following shall occur, then upon the occurrence of any such event of default or at any time thereafter during the continuance thereof, City may, at its option, immediately and without prior notice of default, terminate the lettings, licenses and other interests and rights of Operator hereunder by sending written notice of termination by registered or certified mail to Operator at its address set forth in Section 17.06, which notice shall be deemed given and effective ten (10) days after mailing:

a. Operator becomes insolvent (as such term is defined or used under Section 101 of the Federal Bankruptcy Code, 11 U.S.C. 101 et seq. (the "Code"), or any successor statute thereto); or fails to pay its debts generally as they mature; or takes the benefit of any present or future federal or state insolvency statute; or makes a general assignment for the benefit of creditors; or files a voluntary petition in bankruptcy or a petition or answer seeking an arrangement of its indebtedness under the Code or under any other law or statute of the United States or any State thereof; or consents to the appointment of a receiver, trustee, custodian, liquidator, or other similar official, of all or substantially all of its property;

b. An order for relief is entered for or against Operator under the Code; or by order or decree of a court, Operator is adjudged a debtor or bankrupt; or an order is made approving a petition filed by any of its creditors or by any of its stockholders, seeking its reorganization or the readjustment of its indebtedness under the Code or under any other law or statute of the United States or any State thereof; and such order or decree is not stayed or vacated within thirty (30) days of its issuance;

c. A petition under the Code or an action under any federal or state insolvency law or statute is filed against Operator and is not dismissed or stayed within thirty (30) days after the filing thereof;

d. By or pursuant to or under authority of any legislative act, resolution or rule, or any order or decree of any court or governmental board, agency or officer, a receiver, trustee, custodian, liquidator, or other similar official takes possession or control of all or substantially all of the property of Operator, and such possession or control continues in effect for a period of thirty (30) days;

e. Operator becomes a corporation or other entity in dissolution;

f. Any letting, license or other interest or right of Operator hereunder is transferred to, passed to, or devolved upon, by operation of law or otherwise, any other person, firm, corporation or other entity, by, in connection with, or as a result of any bankruptcy, insolvency, trusteeship, liquidation, or other proceeding or occurrence described in Paragraphs (a) through (e) of this Section 14.01;

g. Operator fails to maintain in effect the Contract Security required by Section 7.05 or the insurance required by Section 13.03 of this Agreement;

h. Operator fails on three separate occasions during any twelve consecutive month period to make any Concession Fee, Rental, CFC, or other payment to City when due;

i. Operator fails to comply with one or more of its obligations under this Agreement (including without limitation the obligation to have an adequate fleet of vehicles available for rental by customers) on three (3) separate occasions during any twelve-month consecutive month period; or

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

14.02 Merged Corporation - If Operator becomes a merged corporation in a merger or a constituent corporation in a consolidation which is prohibited pursuant to Section 15.01 and Section 15.05 of this Agreement, or either of them, City may, at its option, terminate the lettings, licenses and other interests and rights of Operator hereunder upon ten (10) days prior written notice of termination sent by registered or certified mail to Operator at its address set forth in Section 17.06, which notice shall be deemed given and effective ten (10) days after mailing.

14.03 Default for Non-Payment - If Operator fails to duly and punctually pay any Rental, Concession Fee or CFC required to be paid hereunder or fails to make payment when due of any other sum required to be paid to City pursuant to this Agreement, then City may, if such default is not cured within ten (10) days after receipt of written notice thereof with respect to such non-payment of said Concession Fee, Rental or CFC or thirty (30) days with respect to the non-payment of any other sum, at its option, terminate the lettings, licenses and other interests and rights of Operator hereunder, by sending written notice of termination by registered or certified mail to Operator at its address set forth in Section 17.06, which notice shall be deemed given and effective when mailed.

14.04 Additional Events of Default - If any one or more of the following occurs, then upon the occurrence of any such event or at any time thereafter during the continuance thereof, City may, at its option, terminate the lettings, licenses, and other interests and rights of Operator hereunder by sending written notice of termination by registered or certified mail to Operator at its address set forth in Section 17.06, which notice shall be deemed given and effective when mailed:

a. A lien is filed against the Leased Premises or any portion thereof because of any act or omission of Operator, and is not discharged within thirty (30) days after receipt of notice or other knowledge thereof by Operator, unless Operator shall within the aforesaid thirty (30) days furnish to City security in such form as City's legal counsel shall prescribe to protect the interests of City; or

b. Operator fails to keep, perform or observe any term, condition, provision, warranty, or covenant of this Agreement for a period of thirty (30) days after written notice specifying such failure is given to Operator by City; provided, however, that any such failure which can be remedied, but which cannot with due diligence be remedied within such thirty (30) day period, shall not give rise to City's right to terminate this Agreement if corrective action is instituted by Operator within such period and diligently pursued until the failure is remedied.

14.05 City Rights Upon Default - Notwithstanding any other provision in this Agreement, upon any default by Operator to make any payment under this Agreement or upon any failure by Operator to comply with any other term, condition, provision, warranty, or covenant hereof and upon Operator's failure in each case to cure such default or failure within any applicable grace period granted hereunder, City may:

a. Terminate this Agreement without discharging any of Operator's obligations hereunder and exclude Operator from its Leased Premises and the Airport;

b. Without terminating this Agreement, exclude Operator from its Leased Premises and the Airport and use its best efforts to lease such Leased Premises to another car rental operator, holding Operator liable for all of Operator's Concession Fees, Rentals, CFCs, and other payments due hereunder up to the effective date of such leasing and for the excess, if any, of Operator's Concession Fees, Rentals, CFCs, and other amounts payable by Operator under this Agreement for the remainder of the term of this Agreement over the Concession Fees, Rentals, CFCs, and other amounts which are paid during such remainder by such new operator; and

c. From time to time, take whatever action at law or in equity appears necessary or desirable to collect Operator's Concession Fees, Rentals, CFCs, and any other amounts payable by Operator hereunder then due and thereafter to become due, and enforce the performance and observance of any term, condition, provision, warranty, or covenant of Operator under this Agreement.

It is understood and agreed that the rights and remedies set forth in this Section 14.05 shall be in addition to all other rights and remedies which are or may be available to City at law or in equity.

14.06 City Rights Cumulative - All of the rights and remedies hereinbefore given to City shall be cumulative and concurrent. No termination of this Agreement or the taking or recovering of the Leased Premises shall deprive City of any of City's rights or remedies or actions against Operator for Concession Fees, Rentals, CFCs, or other payments due hereunder or any other amounts due, for damages, or for the breach of any covenant herein contained, nor shall the bringing of any action for Concession Fees, Rentals, CFCs, or any other payments due hereunder, nor the resort to any other right or remedy for the recovery of Concession Fees, Rentals, CFCs, or any other amounts due, be construed as a waiver of the right to obtain possession of the Leased Premises.

14.07 Operator's Rights Upon City Default - Operator's sole remedy for any City breach, default or violation of or under this Agreement shall be an action in contract for damages or an action seeking specific performance by City.

14.08 Removal of Operator's Property - The personal property placed or installed at or on the Airport by Operator, including, but not limited to, trade fixtures and trade equipment, shall remain the property of Operator and must be removed on or before the expiration of the term or the expiration of any extension or renewal hereof and at Operator's sole risk and expense. Any damage to the Leased Premises or the Airport or any portion thereof resulting from such removal shall forthwith be paid for by Operator. In the event of termination of this Agreement, Operator shall have thirty (30) days after such termination during which to remove such property. However, City shall have the right to assert such lien or liens against said property as City may by law be permitted. So long as any such property remains in the Leased Premises or on the Airport, Operator's obligation to pay Operator's Concession Fees and Rentals and other sums due City shall continue.

If Operator's property is not removed as herein provided, City may, at its option, after written notice to Operator and at Operator's sole risk and expense, remove such property to a warehouse for deposit, or retain the same in City's possession, and after the expiration of thirty (30) days, sell the same. The proceeds thereof shall be applied first to the expenses of such removal, deposit and sale, second to any sum owed by Operator to City, and any balance remaining shall be paid to Operator.

14.09 No Waiver by City - A failure by City to take any action with respect to any breach, default or violation by Operator of any of the terms, conditions, provisions, warranties, or covenants of this Agreement shall not in any respect limit, prejudice, diminish, or constitute a waiver of any right or remedy of City to act with respect to any prior, contemporaneous, or subsequent breach, default or violation or with respect to any continuation or repetition of the original breach, default or violation. The acceptance by City of payment for any period or periods after a breach, default or violation of any of the terms, conditions, provisions, warranties, or covenants of this Agreement shall not constitute a waiver or diminution of, nor create any limitation upon, any right of City to terminate this Agreement for any subsequent breach, default or violation or for any continuation or repetition of the original breach, default or violation.

14.10 Agreement to Pay Attorneys Fees and Expenses - When an event of default by Operator has occurred and City retains attorneys (or uses the services of City's legal counsel) or incurs other costs and expenses for the collection of Concession Fees, Rentals, CFCs, or other payments due hereunder, or for the enforcement, performance or observance of any term, condition, provision, warranty, or covenant of this Agreement by or on the part of Operator, and if City is successful in obtaining a judgment against Operator or a settlement with Operator, Operator shall pay to City the fees and expenses of such attorneys and such other costs and expenses incurred by City in taking such action.

ARTICLE 15

ASSIGNMENT, SUBLEASE AND TRANSFERS

15.01 Prohibition Against Assignment and Sublease - Operator covenants that it shall not assign, sublet, transfer, convey, sell, mortgage, pledge or encumber the Leased Premises or any part thereof, this Agreement or any part thereof, or any rights of Operator hereunder or allow the use of such Leased Premises or any rights hereunder, in whole or in part, without the prior written consent of City. Consent by City to any type of transfer described in this Section 15.01 or elsewhere in this Agreement shall not in any way be construed to relieve Operator from obtaining further authorization from City for any subsequent transfer of any nature whatsoever.

15.02 Operator's Survival Obligations - Notwithstanding any assignment, sublet or any other transfer of the Leased Premises under this Agreement, or any rights hereunder, Operator shall remain fully liable for the payment of all of its Concession Fees, Rentals and CFCs and other payments due City under this Agreement and fully responsible for the performance of all of its other obligations hereunder, unless and to the extent that City provides a specific written release to Operator in its written consent provided pursuant to Section 15.03 hereof.

15.03 Request for Assignment/Sublease - Any and all requests by Operator seeking authorization under Section 15.01 shall be made in writing by certified mail to the Airport Director at City's address set forth in Section 17.06 of this Agreement.

15.04 Unauthorized Assignment or Sublease - If any transfer of Operator's interest hereunder shall occur, whether or not prohibited by Section 15.01 or Section 15.05, City may collect Concession Fees, Rentals, CFCs and any other payments due City under this Agreement from any purported assignee, sublessee or transferee of Operator, and in such event shall apply the net amount collected to Concession Fees, Rentals, CFCs and any other payments payable by Operator hereunder this Agreement without such action by City releasing Operator from this Agreement or any of its obligations hereunder. If any transfer prohibited by Section 15.01 or Section 15.05 shall occur without authorization of City and City collects Concession Fees, Rentals, CFCs and any other payments due City under this Agreement from any purported assignee, sublessee or transferee of Operator and applies the net amount collected in the manner described in the preceding sentence, such actions by City shall not be deemed to be a waiver of the covenant contained in Section 15.01 or Section 15.05 or constitute acceptance of such assignee, sublessee or transferee by City or release Operator from this Agreement or any of its obligations hereunder.

15.05 Change of Control - Any other provision of this Article 15 or any other provision of this Agreement notwithstanding, any transfer in or of control of Operator's entity structure, whether by action of Operator or by operation of law, shall likewise require approval and consent of City pursuant to Section 15.01 hereof. Without limiting the generality of the foregoing, for purposes of this Agreement, the transfer of forty percent (40%) or more of Operator's stock (if a corporation) during any 12-month period shall constitute a transfer in and of control. Any transfer in or of control not so approved and consented to shall be a violation of the covenants of Section 15.01, which shall thereby enable City to exercise any and all rights of City under Section 15.04. With respect to this Section 15.05, City's approval and consent shall not be unreasonably withheld.

ARTICLE 16

GOVERNMENT INCLUSION AND GOVERNMENTAL COVENANTS

16.01 Provisions Relating to Issuance of Bonds - Operator shall comply with the following provisions related to the issuance of bonds by City:

a. This Agreement and all rights granted to Operator hereunder are expressly subordinated and subject to any lien, covenants (including the rate covenants), and provisions of the pledge, transfer, hypothecation, or assignment made or hereafter made by City in any trust indenture or any resolution under which bonds are issued for the Airport, including any amendments and supplements thereto. City and Operator agree that to the extent granted or required by any trust indenture or law, the holders of the bonds or their designated representatives shall have the right to exercise any and all rights of City hereunder.

b. Operator understands that City has issued and subsequently may be the issuer of bonds during the term of this Agreement, the proceeds of which have been utilized for Airport improvements. With respect to bonds that have been issued or may be issued in the future, the interest on which is intended to be excludable from gross income from the holders of such bonds for Federal income tax purposes under the Internal Revenue Code of 1986, Operator agrees that it will not act, or fail to act (and will immediately cease and desist from any action, or failure to act) with respect to the use of the Leased Premises, if the act or failure to act may cause City to be in noncompliance with the provisions of the Internal Revenue Code of 1986 as they may be amended, supplemented, or replaced, or the regulations or rulings issued thereunder, nor will Operator take, or persist in, any action or omission which may cause the interest on the tax-exempt bonds either (1) not to be excludable from the gross income of the holders thereof for Federal income tax purposes; or (2) to become subject to the alternative minimum tax (AMT) for Federal income tax purposes if such bonds were not originally subject to said tax.

c. Operator agrees that in connection with any issuance of bonds by City, upon reasonable advance written request, Operator will deliver to City a statement in writing certifying:

1. that this Agreement is unmodified and in full force and effect (or if there have been modifications, a description of such modifications and that the Agreement as modified is in full force and effect);

2. that City is not in default under any provision of this Agreement, or, if in default, the nature thereof in detail; and

3. such further matters as may be reasonably requested by City, it being intended that any such statement may be relied upon by the parties involved in such issuance of bonds.

d. Operator agrees that upon the request of City, Operator will provide to City such information with respect to Operator as City deems reasonably necessary in order for City to comply with the requirements of Rule 15c2-12, as amended (the "Rule"), under the Securities Exchange Act of 1934, as amended (the "Act"). Operator agrees that, if at any time while bonds remain outstanding, Operator is no longer complying with the reporting requirements under the Act and if Operator is an "obligated person" as defined in the Rule, Operator will provide to City such information with respect to Operator as is necessary in order to comply with the Rule.

16.02 City Right to Improve Airport

a. City has, has had and shall continue to have the absolute right to develop, expand, improve and renovate the Airport, including but not limited to, the Airfield Area, the Terminal Building and other Airport facilities, including Airport facilities which comprise the Leased Premises, regardless of the desires or views of Operator and without interference or hindrance from Operator and without any liability to Operator; and City may continue to so develop, expand, improve and renovate the Airport, including but not limited to, the Airfield Area, Terminal Building and other Airport facilities, including Airport facilities which comprise the Leased Premises, throughout the term of this Agreement.

b. Upon reasonable notice, during Operator's normal business hours, City shall have the right to enter Operator's Leased Premises to perform any of City's obligations hereunder, exercise any of its rights hereunder or in the exercise of its governmental functions, or in the event of any alteration, improvement or construction on, adjacent to or in the vicinity of Operator's Leased Premises, for purposes related thereto. Notwithstanding the foregoing, in an emergency, City shall have the absolute right to enter Operator's Leased Premises to perform or exercise any of the aforementioned obligations or rights.

c. In addition to those rights reserved by City in Section 16.02 (a) and (b) above, City reserves the right from time to time as may be reasonably necessary to close, relocate, reconstruct, change, alter or modify Operator's Leased Premises for purposes of maintaining or constructing improvements, modifications or expansions to the Airport, provided that:

1. At least sixty (60) days prior written notice of any such action is given by City to Operator.

2. Reasonably convenient and equivalent alternative premises and adequate means of ingress and egress thereto shall be made available to Operator. Such alternative premises shall be subject to Operator's reasonable approval.

3. Operator shall continue to pay Rentals with respect to its Leased Premises during any such temporary relocation (adjusted for any decrease in square footage); provided, however, that City shall reimburse Operator for the reasonable costs associated with any necessary relocation.

16.03 Reservation of Air Navigation Rights - City reserves unto itself, its successors and assigns, for the use and benefit of the public, a right of flight for the passage of aircraft in the airspace above the surface of the Airport, including but not limited to Operator's Leased Premises, for navigation or flight in said airspace for landing on, taking off from, or operating at the Airport.

16.04 Nondiscrimination - To the extent that the following provisions are applicable to Operator's Leased Premises or activities at the Airport and the inclusion of such provisions is required by law, grant agreement or contract, Operator agrees to observe and comply with said provisions:

a. Operator agrees that in the operation of its rental car concession at the Airport, it shall not discriminate against any person by reason of sex, race, color, religion, national origin, disability or handicap in the use of any of the facilities provided for the public at the Airport.

b. Operator, for itself, its successors in interest and assigns, as a part of the consideration herefor, does hereby covenant and agree, as a covenant running with the land, that in the event facilities are constructed, maintained or otherwise operated on the property described in this Agreement for a purpose for which a Department of Transportation program or activity is extended or for another purpose involving the provision of similar services or benefits, Operator shall maintain and operate such facilities and services in compliance with all other requirements imposed pursuant to Title 49, Code of Federal Regulations, Department of Transportation Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations may be amended.

In the event of the breach of any of the above nondiscrimination covenants, City shall have the right to terminate this Agreement and to reenter and repossess the Leased Premises and the facilities thereon, and hold the same as if said Agreement had never been made or issued. Unless precluded by the provisions of the above assurance or regulation, City shall follow the notice and termination provisions contained in Article 14 of this Agreement.

c. Operator, for itself, its successors in interest and assigns, as a part of the consideration herefor, does hereby covenant and agree, as a covenant running with the land, that:

1. No person on the grounds of sex, race, color, religion, national origin or handicap shall be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities;

2. In the construction of any improvements on, over, or under such land and the furnishings of services thereon, no person on the grounds of sex, race, color, religion, national origin or handicap shall be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination;

3. Operator (whether a grantee, licensee, lessee, permittee, etc.) shall use the Leased 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.

In the event of the breach of any of the above nondiscrimination covenants, City shall have the right to terminate this Agreement and to reenter and repossess the Leased Premises and the facilities thereon, and hold the same as if said Agreement had never been made or issued. Unless precluded by the provisions of the above assurance or regulation, City shall follow the notice and termination provisions contained in Section 14 of this Agreement.

d. Operator assures City that it shall undertake an affirmative action program if required by Title 14, Code of Federal Regulations, Part 152, Subpart E, to ensure that no person shall, on the grounds of sex, race, color, religion, national origin, or handicap, be excluded from participating in any employment activities covered in Title 14, Code of Federal Regulations, Part 152, Subpart E. Operator assures that no person shall be excluded on these grounds from participating in or receiving the services of any program or activity covered by said Subpart E. Operator assures that it will require that its covered suborganizations to provide assurances to Operator that they similarly shall undertake an affirmative action program and that they shall require assurances from their suborganizations, if and as required by Title 14, Code of Federal Regulations, Subpart E, to the same effect. Operator assures that it shall furnish to the United States government or City, if and as required by law, any and all documents, reports, and records, including, but not limited to, an affirmative action plan, Form EEO-1, the submission of which are required by Title 14, Code of Federal Regulations, Part 152, Subpart E.

16.05 Accessibility of Physically Handicapped - To the extent the requirements of Section 504 of the Rehabilitation Act of 1973, 49 CFR Part 27, and Titles II and III of the Americans with Disabilities Act of 1990 apply to the Leased Premises and Operator's facilities thereon or the operation and/or construction or acquisition of any improvement, equipment or facilities by Operator on the Leased Premises or the Airport or any part thereof, such improvement and equipment shall be provided and improvement and facilities shall be designed, constructed, and operated, so that the improvement, equipment or facility is accessible to and usable by handicapped persons. To assure such design, construction and use, Operator will design and construct the improvement, equipment or facility in accordance with the Uniform Federal Accessibility Standards ("UFAS") and/or the American National Standards Institute "Standard Specifications for Making Buildings and Facilities Accessible to, and Usable by, the Physically Handicapped" (ANSL A 117.1 1961 [R-1971]), as applicable, which standards are incorporated herein and made a part of this Agreement.

16.06 Disadvantaged Business Enterprise Program - In the event that Operator is not certified by City as a Disadvantaged Business Enterprise, Operator shall, to the extent possible, use or obtain the services, goods and products, including its vehicle fleet, from Disadvantaged Business Enterprises (DBEs) as defined in 40 CFR Part 23, Section 23.89, and as certified by City, in the conduct of its business and operations at the Airport; in order to enable it to achieve the DBE goal included within its bid to City. Operator agrees that for each year during this Agreement, Operator will make a good faith effort to purchase services, goods and products from DBEs in an aggregate which will equal or exceed Operator's goal for each Agreement Year under this Agreement as set forth on Exhibit E attached hereto. In order to ensure compliance with the foregoing DBE requirement, Operator agrees to the following:

a. Within ninety (90) days after award of this Agreement by City, and by January 1 of each succeeding Agreement Year of the term, Operator will furnish to City's DBE Officer at the Airport the program it will be utilizing during the next twelve-month period to achieve its DBE goal, including the names of the DBEs it plans to utilize so that they may apply for certification procedures. Only those firms which have been certified by City at DBEs may be counted toward the DBE goal. If a DBE must be replaced for any reason, Operator agrees that it will be replaced with another DBE or, if not replaced with a DBE, Operator shall demonstrate to City it made a good faith effort to do so.

b. Within ninety (90) days after the end of each Agreement Year during the term hereof, Operator will furnish City with a report certified by an officer of Operator's corporation, showing Operator's total Commissionable Gross Receipts at the Airport for said Agreement Year and Operator's total purchase of services, goods and products for business at the Airport during that twelve (12) month period, and the percentage of such purchases made from DBEs, and the exact amount paid to each DBE, by name.

c. Should the report show that Operator did not meet its goal, then Operator shall also furnish with the report a detailed description as to why it was not met, along with documentation of its good faith efforts.

d. If Operator fails to meet the established goal for any Agreement Year and fails to demonstrate good faith efforts to meet the goal, then Operator shall be in default under this Agreement.

16.07 Passenger Facility Charge Regulation - To the extent that the provisions of 14 CFR Part 158 (the "Passenger Facility Charge Regulation") or any assurance issued pursuant thereto is or becomes applicable to the Leased Premises or Operator's activities under this Agreement, Operator agrees to comply with the requirements of said Passenger Facility Charge Regulation and any applicable assurance issued pursuant thereto.

16.08 Prohibition Against Exclusive Rights - It is hereby specifically understood and agreed that nothing herein contained shall be construed to grant or authorize the granting of an exclusive right to provide rental car services to the public, and City reserves the right to grant to others the privileges and right of conducting any or all activities related to the operations of a rental car concession.

16.09 Government Inclusion - Operator covenants and agrees that this Agreement shall be subordinated to the provisions of any existing or future agreement between City and the United States Government, relative to the operation and maintenance of the Airport, the execution of which has been or will be required as a condition precedent to the granting of federal funds for the development of the Airport or the continued operation or certification of the Airport.

16.10 Compliance with Environmental Laws - Operator covenants, represents, and warrants that in conducting any activity or business on the Leased Premises or at the Airport, or in conducting any operation or performing any work pursuant to this Agreement, Operator shall comply with all applicable Environmental Laws. Operator further covenants, represents and warrants that:

a. Operator shall obtain and maintain all Environmental Permits required for it to conduct its activities and business on the Leased Premises and at the Airport.

b. At City's request, Operator shall make available to City for inspection and copying, upon reasonable notice and at reasonable times, any and all documents and materials which Operator prepared or had prepared with respect to or pursuant to any Environmental Law or Environmental Permit, or which Operator submitted or had submitted to any governmental agency, which documents or materials relate to environmental issues, Environmental Laws or Environmental Permits, pertain to the Airport or the Leased Premises, and would be discoverable in litigation.

c. City and its representatives shall have access to the Leased Premises upon prior notice to Operator to inspect the same in order to determine if Operator is using the Leased Premises in accordance with all Environmental Laws and Environmental Permits. Operator agrees to fully cooperate with any such inspections, provided that such inspections shall not unreasonably interfere with Operator's operations. Upon receipt of written notification of noncompliance or upon assertion of a claim by a third party, and at the request of City, Operator shall conduct such testing and analysis as City deems reasonable to ascertain whether Operator is using the Leased Premises in compliance with all Environmental Laws and Environmental Permits. Any such tests shall be conducted by qualified independent experts chosen by Operator, but who shall be subject to City's approval, which shall not be unreasonably withheld. Operator shall provide to City copies of all reports prepared by such experts within a reasonable time after Operator receives each such report.

d. If Operator fails to comply with any Environmental Law or Environmental Permit or if Operator fails to commence immediate corrective action or required remediation, City may, in addition to the rights and remedies described elsewhere in this Agreement and any other rights and remedies otherwise available to City, enter the Leased Premises and take all reasonable and necessary actions, at Operator's expense, to ensure such compliance with the Environmental Law or Environmental Permit.

e. In the event of any release or threatened release of Hazardous Materials caused by Operator or any of its agents, employees, invitees, licensees, contractors, or subcontractors, and which is required by an applicable Environmental Law or City Rule or Regulation to be reported by Operator, whether as a result of negligent conduct or otherwise, at, on, under or about the Leased Premises or the Airport, or in the event any claim, demand, complaint, or action is made or taken against Operator that pertains to the environment at the Leased Premises or the Airport, or if Operator receives any notice pertaining to Operator's failure or alleged failure to comply with any Environmental Law or Environmental Permit, Operator shall promptly notify City of all known facts pertinent to such release, threatened release, claim, demand, complaint, action, or notice, and shall provide City with a copy of each such claim, demand, complaint, notice, and action. If Operator is required by any Environmental Law, Environmental Permit, or governmental agency to file any notice or report of a release or threatened release of Hazardous Materials at, on, under or about the Leased Premises or the Airport, Operator shall simultaneously provide a copy of such notice or report to City.

f. Operator shall undertake all necessary steps to remedy and remove any environmental pollution, contamination, condition, or damage to the extent caused by or resulting from the activities, conduct or presence of Operator or any of its agents, employees, invitees, licensees, contractors, or subcontractors on the Leased Premises or at the Airport, whether resulting from negligent conduct or otherwise, as determined by the appropriate governmental agency to be necessary to reasonably protect the public health or safety to the extent required by applicable law, or to bring the Leased Premises or the Airport into compliance with all Environmental Laws and Environmental Permits. Such work shall be performed at Operator's expense. Except in the event of an emergency, such work shall be after Operator submits to City a written plan for completing such work and receives the prior approval of City, which shall not be unreasonably withheld. City shall have the right to review and inspect all such work at any time using consultants and representatives of its choice. The actual cost of such review and inspection shall be paid by Operator. Specific cleanup levels for any environmental remediation work Operator performs shall be designed to meet and satisfy the requirements of all applicable Environmental Laws and Environmental Permits. Operator warrants that all work performed pursuant to this Agreement shall be performed in accordance with all Environmental Laws and Environmental Permits, specifically including without limiting the generality of the foregoing any applicable National Emission Standards for Hazardous Air Pollutants (NESHAP), 40 C.F.R. 61.145.

g. Notwithstanding the obligations imposed on Operator in Paragraph (f) of this Section of the Agreement, City and other Federal, state, and local agencies having jurisdiction shall at all times have the right, should Operator fail to respond to a notification, after a specified cure period, if any, or immediately if necessary to mediate further contamination, to take any and all actions as they may individually or collectively deem appropriate to cease, contain, investigate, remediate, and otherwise respond to a condition which results from, causes, or threatens to cause environmental pollution, contamination, or damage at, under or about the Leased Premises or the Airport. Operator agrees to cooperate with any and all such actions.

h. City shall not be responsible to Operator or any of its agents, employees, invitees, licensees, contractors, or subcontractors for any environmental condition in existence on the Leased Premises or at the Airport, which condition may interfere with Operator's business or other operations or activities, or which might otherwise cause damage to Operator through loss of business, destruction of property, or injury to Operator, its owners, directors, officers, agents, employees, customers, clients, vendees, invitees, concessionaires, or licensees, except to the extent that any such condition is directly caused by City or its employees.

16.11 Operator's Environmental Indemnity - With respect to Environmental Laws and Environment Permits, Operator agrees as follows:

a. Without in any way limiting Operator's obligations under Article 13 hereof, Operator shall assume the risk of, be responsible for, protect, defend, indemnify and hold harmless City and its respective past, present and future officers (including without limitation all members of the Council of the City) and its employees and agents, and each of them, including without limitation the Airport Directors of City, and shall hold each and all of them harmless at all times from and against any and all losses, claims, liabilities, damages, costs, and expenses, including reasonable attorneys fees, which may be incurred in connection with any actual, threatened, or potential environmental pollution, contamination, condition, or damage to the extent caused by or resulting from any activity, conduct, or presence of Operator or any of Operator's directors, officers, agents, contractors, subcontractors, or employees at the Airport or from Operator's failure to comply with any Environmental Law or Environmental Permit.

b. All rights and remedies of City as provided in this Agreement with regard to environmental pollution, contamination, damage, or any actual or threatened violations of any Environmental Law or Environmental Permit shall be deemed cumulative in nature; and City's right to indemnification as provided under this Section shall survive the termination of this Agreement.

16.12 Stormwater - Operator shall comply with the following provisions with respect to stormwater management at or from the Airport:

a. Notwithstanding any other provisions or terms of this Agreement, Operator acknowledges that certain properties within the Airport, or on City-owned land, are subject to stormwater rules and regulations. Operator agrees to observe and abide by such stormwater rules and regulations as may be applicable to the Airport property and uses thereof.

b. City and Operator will cooperate to insure compliance with any stormwater discharge permit terms and conditions, as well as to insure safety and to minimize cost of compliance. Operator acknowledges further that it may be necessary to undertake such actions to minimize the exposure of stormwater to "significant materials" generated, stored, handled, or otherwise used by Operator, as such term may be defined by applicable stormwater rules and regulations, by implementing and maintaining appropriate and relevant "best management practices" as that term may be defined in applicable stormwater rules and regulations.

c. City will invite Operator to participate in discussions with the Commonwealth of Virginia EPA regarding discharge permit requirements and shall provide Operator with written notice of any stormwater discharge permit requirements applicable to Operator and with which Operator will be obligated to comply from time to time, including certification of non-stormwater discharges; collection of stormwater samples; preparation of stormwater pollution prevention or similar plans; implementation of best management practices; and maintenance of necessary records. Such written notice shall include applicable deadlines. Operator agrees to undertake, at its expense, unless otherwise agreed to in writing between City and Operator, those stormwater permit requirements for which it is reasonably responsible and for which it has received written notice from City and which are applicable exclusively to Operator, and Operator agrees that it will hold harmless and indemnify City for any violations or non-compliance by Operator with any such permit requirements for which it has undertaken.

ARTICLE 17

GENERAL PROVISIONS

17.01 Quiet Enjoyment - To the extent of its legal authority to provide the same, City covenants that, if Operator shall perform all obligations and make all payments as provided herein, Operator shall peaceably have and enjoy the Leased Premises and all the rights, licenses, privileges, appurtenances, and facilities granted herein; provided, however, that the foregoing covenants shall be binding on City only so long as it is the operator of the Airport and has the authority to make this covenant.

17.02 Surrender - Operator covenants and agrees to yield and deliver peaceably to City possession of the Leased Premises on the date of the cessation of the letting hereunder, whether such cessation be by termination, expiration or otherwise, promptly and in as good condition as at the commencement of the letting, or, if improved, in as good condition as of the completion date of the last improvement made to the Leased Premises, excepting reasonable wear and tear.

17.03 Force Majeure

a. Neither party hereto shall be liable to the other for any failure, delay, or interruption in performing its obligations hereunder to the extent due to acts, events or conditions beyond its control, including, but not limited to, acts of God, acts of a public enemy, war, blockade, insurrection, strikes, boycotts, picketing, slow-downs, work stoppages or other labor actions affecting the rights or obligations of City or Operator hereunder, their respective contractors or subcontractors, except to the extent that such failure, delay or interruption directly or indirectly results from failure on the part of City or Operator to use reasonable care to prevent, or make reasonable efforts to cure, such failure, delay or interruption; provided, however, that, except as herein specifically provided, nothing in this section is intended or shall be construed to abate, postpone or in any respect diminish Operator's obligations to make payments of Concession Fees, Rentals, CFCs and any other payments when due to City pursuant to this Agreement.

b. City shall be under no obligation to supply any service if and to the extent and during any period that the supplying of any such service or the use of any component necessary therefor shall be prohibited or rationed by any law, resolution, rule, regulation, requirement, order or directive of any federal, state, county or municipal government having jurisdiction. City shall also have the right to manage and employ procedures to effectuate energy conservation measures at the Airport and Operator shall fully cooperate with City in these efforts.

17.04 No Co-Partnership or Agency - It is understood and agreed that nothing herein contained, including but not limited to City receiving Percentage Fee payments from Operator, is intended or shall be construed to in any respect create or establish the relationship of co-partners between the parties hereto, or as constituting either party as the general representative or agent of the other party for any purpose whatsoever.

17.05 No Personal Liability - No past, present or future officer, member, official, director, agent or employee of either party or the City (including any member of the Council of the City) shall be charged personally or held contractually liable by or to the other party under any term or provision of this Agreement or because of any breach thereof or because of its or their execution, approval, or attempted execution of this Agreement.

17.06 Notices - Except as otherwise expressly provided in this Agreement, all notices, consents, approvals and other communications provided for under this Agreement shall be in writing and shall be mailed by certified mail, return receipt requested, or by receipted overnight delivery, to City and Operator at the following addresses:

by U.S. Mail

CITY
Airport Director
City of Lynchburg
Lynchburg Regional Airport
350 Terminal Drive, Suite 100
Lynchburg, VA 24502

OPERATOR
The Hertz Corporation
Attn: Real Estate Department
8501 Williams Road
Estero, FL 33928

by Overnight Delivery

CITY
Airport Director
City of Lynchburg
Lynchburg Regional Airport
350 Terminal Drive, Suite 100
Lynchburg, VA 24502

OPERATOR
The Hertz Corporation
Attn: Real Estate Department

8501 Williams Road
Estero, FL 33928

or to such other person or address as either City or Operator may from time to time designate by notice to the other in accordance with this Section.

17.07 Entire Agreement - This Agreement, including the attached exhibits, embodies the entire agreement between City and Operator relating to the subject matter hereof, supersedes all prior agreements and understandings, written or oral, express or implied, between City and Operator relating thereto, including the Invitation to Bid and Operator's bid upon which this Agreement was awarded. This Agreement, including the attached exhibits and endorsements, may not be changed, modified, discharged or extended except by written amendment duly executed by the parties.

17.08 No Third Party Beneficiaries - Each of the parties hereto has entered into this Agreement solely for its own benefit, and it is their intent that no third party shall have a right to claim damages or bring any suit, action or other proceeding by or against either of the parties hereto because of any breach hereof, excepting solely the City of Lynchburg so long as it is the owner of Airport property or a person to whom this Agreement is sublet, transferred or assigned as herein provided. Except as otherwise provided in Paragraph (j) of Section 13.03 of Article 13 hereof, the foregoing provision shall not apply to insurance subrogation rights vested or arising in third parties resulting from insurance policies related to this Agreement.

17.09 Construction of Agreement - Regardless of which party hereto is responsible for the preparation and drafting of this Agreement, it shall not be construed more strictly against either party.

17.10 Severability - If any of the terms, conditions, provisions, warranties or covenants of this Agreement, or any portions thereof, shall contravene or be invalid under the laws or regulations of the Commonwealth of Virginia or the United States of America, or any of their respective agencies, departments or subdivisions, such contravention or invalidity shall not invalidate the whole Agreement, but this Agreement shall be construed as if not containing the particular term, condition, provision, warranty or covenant or portion thereof held to be in contravention or invalid, and the rights and obligations of the parties shall be construed accordingly.

17.11 Sealed Agreement - The parties hereto acknowledge, represent, state and warrant that they have signed and executed this Agreement under seal, that they have adopted their respective seals as affixed to this Agreement, and that they are executing this Agreement with the intent that it shall be a sealed instrument.

17.12 Survival of Warranties - All warranties and covenants set forth in this Agreement shall survive the execution, performance and termination of this Agreement.

17.13 Applicable Law - This Agreement is made and entered into in the City of Lynchburg, Virginia, and Virginia law shall govern and apply to this Agreement. In the event of a dispute or disputes between the parties hereto, and in the event litigation is instituted, such litigation shall be commenced only in a federal United States District Court for the Western District of Virginia sitting in the City of Lynchburg or a state court in the City of Lynchburg.

17.14 Operator is Independent Contractor - It is expressly understood and agreed by and between the parties hereto that Operator is and shall remain an independent contractor responsible to all parties for all of its acts or omissions and City shall be in no way responsible for Operator's acts or omissions.

17.15 Successor and Assigns Bound by Covenant - Subject to the limitations on Operator's rights under Section 15.01 and Section 15.05 of this Agreement, all covenants, stipulations and agreements in this Agreement shall extend to and bind legal representatives, successors and assigns including successors-in-interest by merger and consolidation of the respective parties hereto.

17.16 Time of Essence - For purposes of performance and interpretation of compliance under this Agreement, it is agreed by the parties that time is of the essence under this Agreement.

17.17 Consents and Approvals - If any consent, approval, determination, judgment or concurrence is required of City or the Airport Director hereunder, it is agreed that such consent, approval, determination, judgment or concurrence may be withheld, granted or made at the sole discretion of City or said Airport Director.

IN WITNESS WHEREOF, this Agreement is duly executed by the parties hereto as of the day and year first above written, intending themselves to be legally bound hereby.

Attested By: **CITY OF LYNCHBURG**

By: ______________________________

Wynter C. Benda

Title City Manager

Seal:

Attested By: THE HERTZ CORPORATION

By: ______________________________

Stephen A. Blum

Senior Vice President

Title Real Estate & Facilities

Seal:

EXHIBIT A
Counter/Office Space

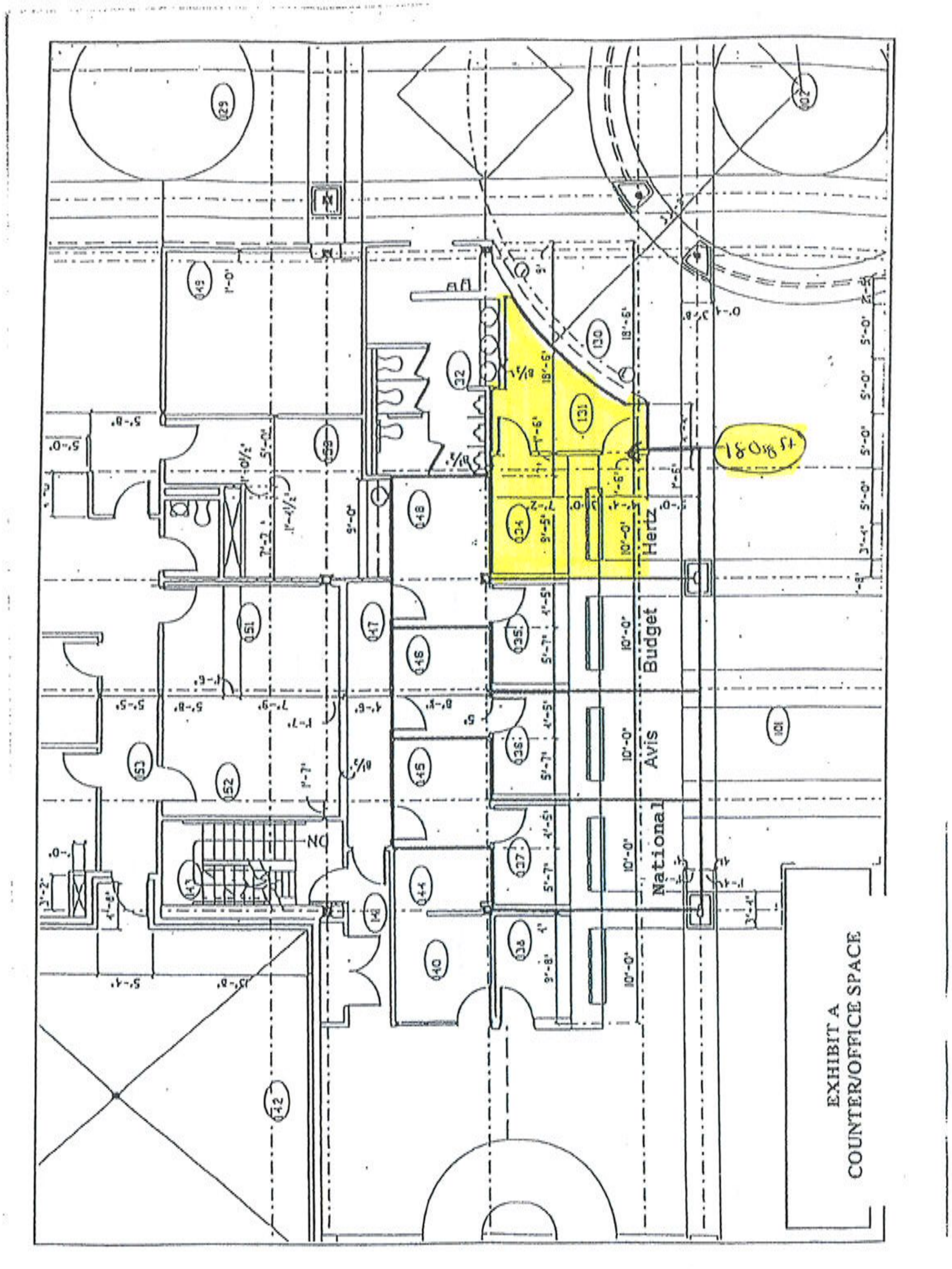

EXHIBIT B
Ready/Return Parking Lot

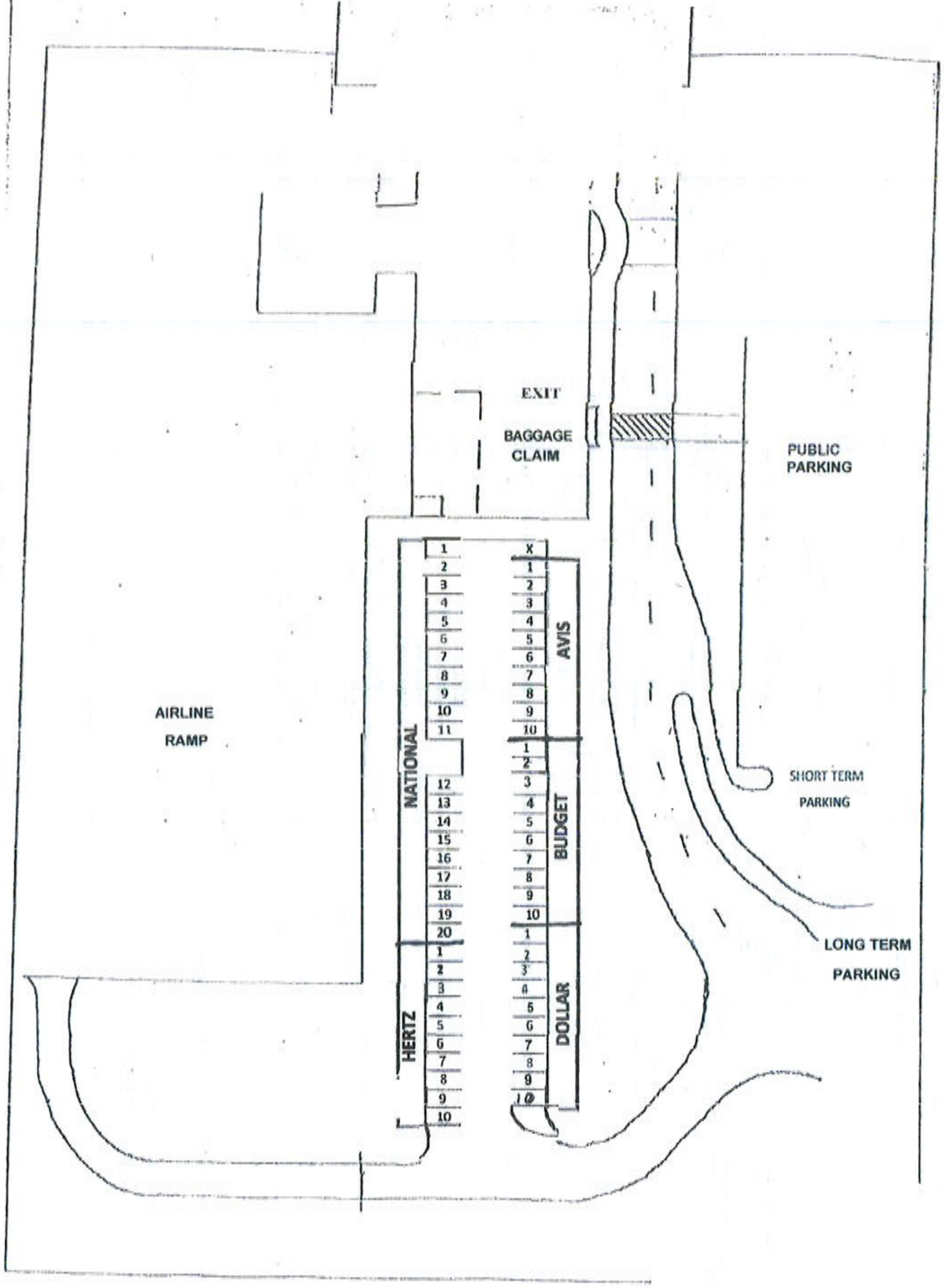

EXHIBIT C
Service Facilities

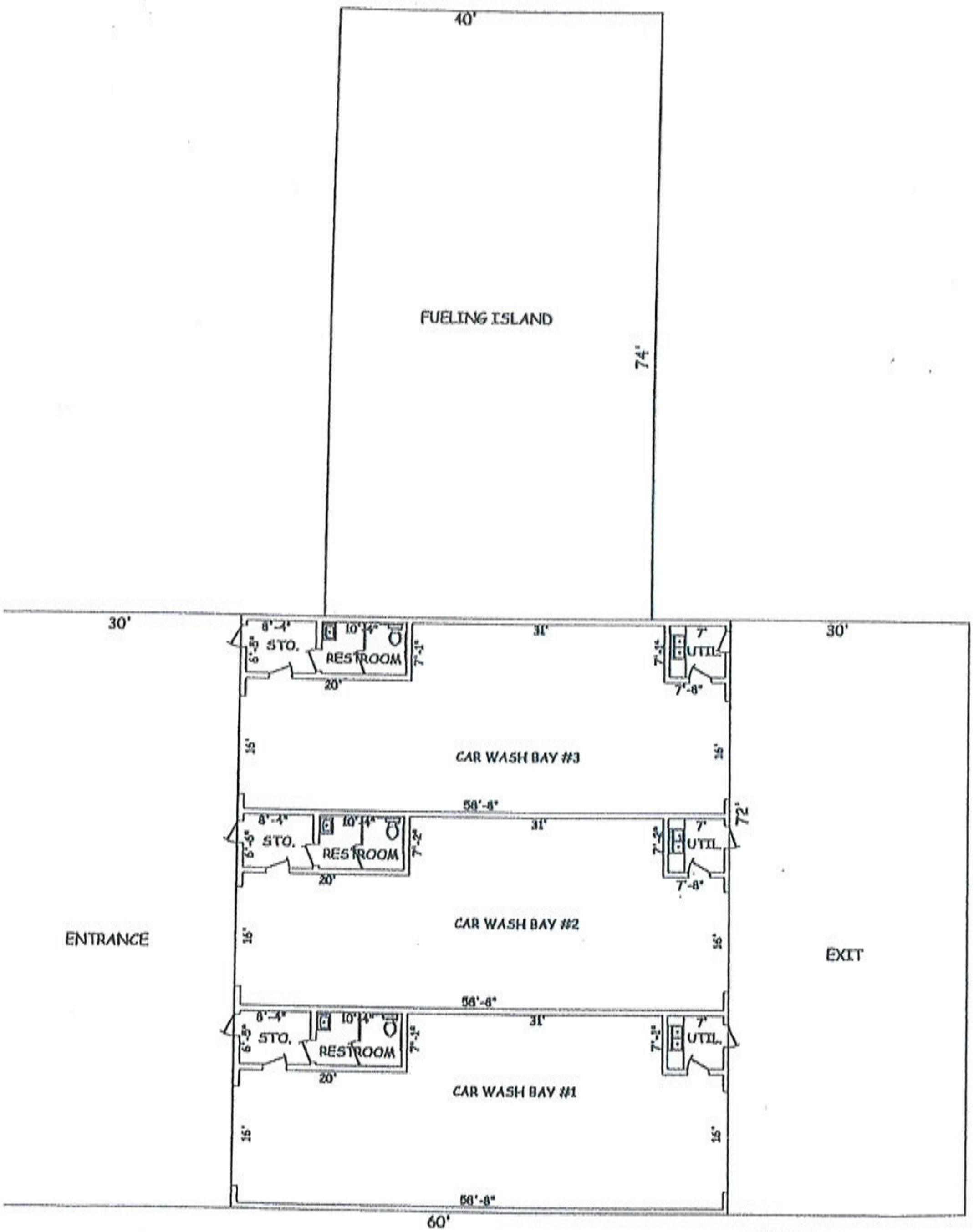

EXHIBIT C
SERVICE FACILITIES

EXHIBIT D

MINIMUM ANNUAL GUARANTEE AMOUNTS
RENTAL CAR CONCESSION AGREEMENT AND LEASE
LYNCHBURG REGIONAL AIRPORT

Hertz Corporation

The following establishes the Minimum Annual Guarantee Amounts for each Agreement Year under the foregoing Rental Car Concession Agreement and Lease:

Initial Agreement Period (through 2/28/23)	$6,745 per month
Subsequent Agreement Years	All subsequent Agreement Year MAGs to be determined annually based on 85% of the Operator's prior year's actual Commissionable Gross Receipts and effective March 1 of each year.

EXHIBIT E

OPERATOR'S DBE GOALS
RENTAL CAR CONCESSION AGREEMENT AND LEASE
LYNCHBURG REGIONAL AIRPORT

Hertz Corporation

The following are Operator's proposed DBE goals, expressed as a percentage of Commissionable Gross Receipts for each Agreement Year under the foregoing Rental Car Concession Agreement and Lease.

Agreement Year 1	10%
Subsequent Agreement Years	10%

EXHIBIT F
Memorandum of Understanding/Rental Car Service Facility

MEMORANDUM OF UNDERSTANDING

DEVELOPMENT AND FINANCING OF RENTAL CAR SERVICE FACILITY

LYNCHBURG REGIONAL AIRPORT

THIS MEMORANDUM OF UNDERSTANDING ("MOU") sets forth the intent, agreement and understanding of the City of Lynchburg ("City") as owner and operator of Lynchburg Regional Airport ("Airport") and The Hertz Corporation, Avis Rent A Car System, Inc., Budget Rent-A-Car Corporation (the "Rental Car Companies") having facilities on-Airport under various agreements with the City. By signing this MOU, the parties agree to recommend to their respective City Council and Senior Management, execution of leases for the rental of service facilities to be constructed by the City pursuant to the terms, covenants, and conditions, including financing, as outlined herein. The parties hereto agree to use their best efforts in the design, development, financing, and construction of future rental car service facilities.

I. THE FACILITIES

A. THE RENTAL CAR SERVICE AREA

The Rental Car Companies currently occupy parking facilities on two separate lots. The City intends to develop a third lot located more or less as shown on the attached Exhibit "A". The lot will include a central area for fueling, washing and servicing vehicles and will be designed and constructed by the City.

B. THE SERVICE AND FUELING FACILITIES

On the designated site, the City will be responsible for paving an automobile parking lot, fencing the lot, and installing security lighting and drainage. The site will be developed so that it closely reflects the needs of each Rental Car Company taking such things into consideration as market share, fleet and personnel requirements. A fuel storage tank will be located in a general area as a common shared tank based upon mutual agreement of the parties on final design. Washing and servicing facilities will be located in one building and will be designed to accommodate each Rental Car Company. Each Rental Car Company will be provided the opportunity to work with the City's Engineer for the location and design of each facility.

II. CONSTRUCTION

The City will construct the rental car service facilities pursuant to construction agreements awarded through competitive bidding. Construction documents will be prepared as a result of consultation with the Rental Car Companies on the design and development of the service facilities working with the City engineer. The parties understand and agree that the City will determine the environmental condition of the soil for contamination and building purposes. The City Engineer and the airport's consulting engineering firm have been utilized to work with the Rental Car Companies to accomplish that portion of the work necessary to determine a layout of the area. The parties will schedule regular work sessions to design and develop the service facilities based on each rental company's requirements.

III. PROJECT COST AND FINANCING

The City has obtained approval from its City Council to finance the project from a Customer Facility Charge (CFC) at a construction cost not to exceed $1,000,000 (One Million Dollars). In consideration of the City's efforts to improve the existing facilities, Rental Car Companies shall pass through the CFC effective February 1, 2000 to pay the amortization of City bond proceeds to be assigned for said project. The CFC will be imposed on every rental agreement entered into at the Airport in a fixed and uniform amount. The initial CFC will be at the rate of two dollars ($2.00) per rental day. The CFC will be adjusted from time to time to insure that the debt service is serviced, ground rent is paid, and an amount is available for the projected maintenance of the facilities with a $10,000 reserve and a reserve account in an amount equal to 3 months of the debt service. The initial funding of the service accounts will be established from bond proceeds.

The City will now direct its engineer to design and have constructed the new fueling facilities, by type and on site, as previously agreed upon in the layout portion of the design phase. Proceeds from the initial collection of a Customer Facility Charge will be used to pay for the installation of such facilities.

IV. DATE OF BENEFICIAL OCCUPANCY

Prior to the Date of Beneficial Occupancy ("DBO") the City will tender to each of the three rental car companies and invite other potentially interested rental car companies to submit proposals for a Concession Agreement for the right to operate a rental car business on the Airport. The City will award the location of exclusive service facilities based upon the order of the Minimum Annual Guarantee ("MAG") proffered by each of the rental car companies pursuant to the terms of a Request For Proposal ("RFP") to be issued by the City. The Rental Car Companies shall have no equitable or ownership interest in the Contract Fees (CFC) collected by them but shall have only a possessory interest. The CFC proceeds shall be remitted to the City monthly with the Concession Fee payment. The Leases for service facilities shall be identical in all respects, except for specific sites for the storage, washing and the fueling positions, as awarded each rental car company pursuant to the RFP.

A. TERM

The initial term of the Leases shall be for five (5) years, based on the date that bids are due, and thereafter shall be established by the provisions of the RFP, as each may be issued from time to time. The City, however, shall obligate itself to continue to make available the service facilities for rental car purposes for so long as the area shall not be required for Airport expansion.

B. RENTALS AND FEES

The rental for construction of the Service and Fueling Facility will be paid through the CFC during the ten (10) to twelve (12) years that the bond proceeds are being amortized. Once the loan has been paid off, rent shall apply on the service facilities based upon fair market value. The ground rent for the first five years of the agreement shall be determined through an appraisal based on fair market value on a per square foot per year basis.

Notwithstanding the foregoing, the City may charge a fee for the maintenance and operation of the common roads within the service facilities. The maintenance and operation fee will be included in the Customer Facility Charge and shall be subject to annual adjustment as may be necessary to meet these costs.

The CFC proceeds shall be used only for the purposes set forth herein and for no other purpose. Components of the CFC shall include the debt service for that portion of City bond proceeds used to finance the project, ground rent and maintenance and operation expenses for the rental car facilities. The CFC shall not be used for any other purpose.

Each of the Rental Car Companies shall collect a CFC effective February 1, 2000 at the initial rate of two dollars ($2.00) per rental day from each of its customers renting vehicles at the Airport. CFC shall be imposed by the City upon the customers of, and collected and remitted to the City by, each rental car company in a fixed and uniform amount and remitted to the City monthly by the 20th day of each succeeding month.

This MOU is not binding on the City or the rental car companies but does set forth the understanding and intent of the undersigned regarding the construction, financing, leasing and payment for the rental car service facilities contemplated herein; provided, that this MOU shall constitute an amendment to each existing agreement between the City and the undersigned rental car companies for the purpose of implementing the CFC. The undersigned agree to abide by the provisions of this MOU and to use their best efforts to obtain all approvals and other actions of their respective principals necessary to effectuate their intent.

The parties hereto agree that this agreement may be executed in counterparts, each of which shall be an original, but all of which, together, shall constitute one and the same agreement.

RENTAL CAR COMPANIES

The Hertz Corporation

SIGNED Jan/21/2000
Dated

Budget Rent-A-Car Corporation

SIGNED
Dated

Avis Rent-A-Car System, Inc.

SIGNED
Dated

Jw120899c:\
Shared\memorandumofunderstanding.doc

CITY OF LYNCHBURG
CITY MANAGER:

SIGNED
City Manager Dated 1/28/00

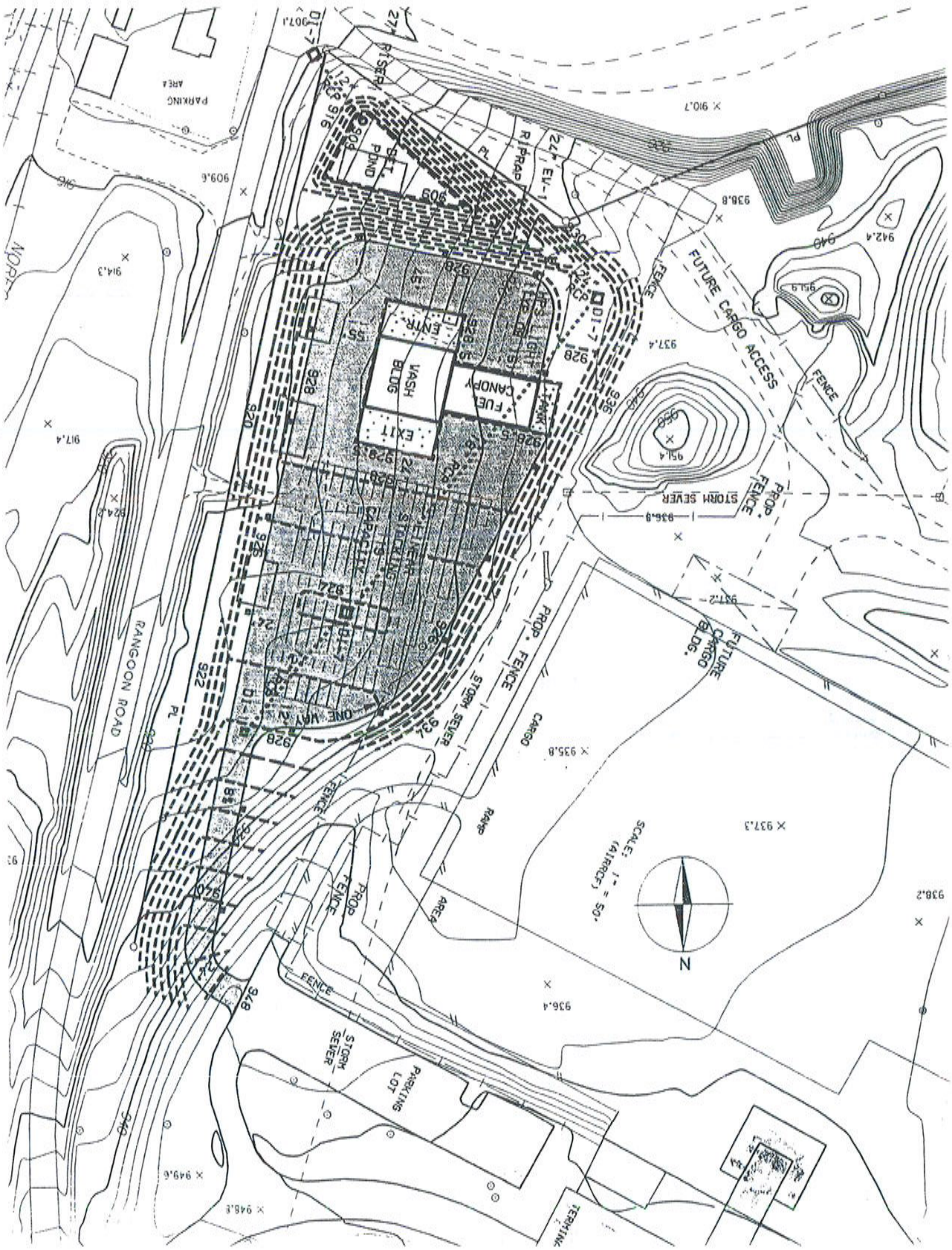
RANGOON ROAD
FUTURE CARGO ACCESS
FUTURE CARGO BLDG.
WASH BLDG
FUEL CANOPY
TANK
ENTR
EXIT
DET. POND
STORM SEWER
PROP. FENCE
FENCE
CARGO
RAMP
AREA
PARKING LOT
PARKING AREA
SCALE: 1" = 50' (AIRRCF)
N

EXHIBIT G
City CFC Resolution

LYNCHBURG CITY COUNCIL REPORT

Meeting Date: December 14, 1999 Council Report #
Strategic Leadership Team Contact: Lee Cobb (847-1732) Report Writer: Mark F. Courtney (582-1155)

Subject: Imposition of a Car Rental Customer Facility Charge (CFC) to Fund Construction of a Rental Car Service Facility at Lynchburg Regional Airport

Purpose of Action:

- To authorize the City Manager to execute the necessary documents to collect a car rental Customer Facility Charge to be used to construct a rental car service facility at Lynchburg Regional Airport

Requested Action: Authorization of Car Rental Customer Facility Charge

Funding:	Source	One-time	Totals
	Federal		
	State		
	Local*		
	Totals		

*Funding:

Prior Action:	June 28, 1999	Lynchburg Regional Airport Commission approval of motion recommending that Lynchburg City Council approve imposition of car rental CFC
	December 7, 1999	Finance and Planning Committee review

Attachments:

R-99-257 BE IT RESOLVED That the City Manager is authorized to execute the necessary documents to impose and/or collect a rental car Customer Facility Charge (CFC) at Lynchburg Regional Airport; and

BE IT FURTHER RESOLVED That a CFC at Lynchburg Regional Airport be established at a level to support construction of a rental car service facility at Lynchburg Regional Airport at a cost not-to-exceed $1,000,000; and

BE IT FURTHER RESOLVED That in addition to construction costs, the CFC at Lynchburg Regional Airport shall be structured so as to generate sufficient revenue to fund a facility maintenance contingency fund and the payment of fair market ground rent.

Adopted: December 14, 1999

Certified: Patricia W. Kost
Clerk of Council

EXHIBIT G
CITY CFC RESOLUTION

Other Information:

The use of a Customer Facility Charge (CFC) is a relatively new method of financing the construction of vari rental car facilities at commercial service airports in the United States. Patterned after the federal Passenger Facility Charge program which allows airports to directly fund certain airport capital projects through the imposition of a fee on commercial airline passengers, this program is structured as a surcharge on rental car customer transactions. The CFC is typically established at a level of $1 to $3 per rental day and is collected a: separate charge on each rental agreement. Currently, numerous airports have imposed such fees, including Reagan National Airport, Myrtle Beach, Charleston, West Virginia, among others.

Airport staff have met with properties representatives from all three rental car companies which operate at Lynchburg Regional Airport, and all have agreed to proceed with a CFC program to provide funding for the proposed facility. The actual service facility will be comprised of a fueling island, car wash and cleaning complex to accommodate each of our three car rental tenants. The facility will be located east of the air carrier terminal and adjacent to the existing car rental ready lot near baggage claim and will require approximately 3.8 acres. Preliminary design work has progressed in cooperation with the engineering department at Hertz Car Rental and City Economic Development engineering staff and has resulted in an estimated construction cost of $890,000. For purposes of this report, however, a total of $1 million was used as a conservative estimate of to costs.

Financing for the project is proposed to be provided from bond proceeds from past and future City bond issues. At present, the airport bond proceeds fund from the 1999 City bond issue contains a total of approximately $500,000 available to be assigned to this project. The balance is expected to be obtained from a combination of current and past bond balances, and next year's City bond issue.

On June 28, 1999, the Lynchburg Regional Airport Commission passed a motion recommending to City Council that the airport establish a CFC in an amount to be determined sufficient to support project costs not-to-exceed $ million.

The actual CFC to be charged at Lynchburg Regional Airport will be determined based upon actual facility construction and related costs, fair market ground rent and a maintenance contingency, divided by the historical number of car rental days generated by the rental car agencies at the airport. It is anticipated that the CFC will be calculated over an amortized period of approximately 10 to 15 years. The amortization period will be finalized based upon the projected useful life of the facility and its equipment, with a goal of keeping the actual CFC in the range of $2 per rental car day. In order to estimate what the CFC at Lynchburg Regional Airport will be, all three of the rental car agencies at Lynchburg Regional Airport have provided actual rental car days for the year ending July 1999. Using these figures, an estimated CFC has been calculated based on a 12-year amortization schedule as shown below:

Total Annual Rental Days	Annual Debt Service	CFC Amount	Total Annual Rev.
69,169	$117,096	$2.00	$138,338

In order to maintain sufficient revenues to meet requirements, the CFC will be adjusted annually based upon changes in the total number of rental days. Airport staff will advise City Council of the final cost of the Rental Car Service Facility and the initial CFC rate.

An important factor which makes this project particularly appealing is that it will generate revenues in excess of the debt service necessary to construct. What's more, it is also a project which can be structured so that the collection of the CFC can actually be started prior to construction, thanks to the rental car companies' agreement to enter into a Memorandum of Understanding authorizing such collection.

RESOLUTION: #R-22-052

A RESOLUTION TO AUTHORIZE THE LEASE OF CITY-OWNED REAL ESTATE, LOCATED AT 350 TERMINAL DRIVE, LYNCHBURG, VIRGINIA 24502, AT THE LYNCHBURG REGIONAL AIRPORT, IN CAMPBELL COUNTY, VIRGINIA; SAID LEASE BEING FOR THE PURPOSES OF ALLOWING THE HERTZ CORPORATION TO OPERATE A CAR RENTAL BUSINESS AT THE SAID AIRPORT

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF LYNCHBURG:

1. That the following described real estate, including any, if any, improvements thereon, may be let by the City of Lynchburg, a Virginia municipal corporation, for purposes of 1) maintaining counter and office space for employees of The Hertz Corporation (Hertz) and 2) providing car rental parking lot spaces to allow for the operation of a car rental business by Hertz. The real estate to be let is briefly described herein as follows: *Counterspace and office space located in the east wing of the main terminal of the Lynchburg Regional Airport and a total of twenty (20) car rental parking lot spaces located adjacent to the main terminal of the Lynchburg Regional Airport.*

2. That the City Manager is hereby authorized to take any and all actions necessary to effectuate the lease of the previously described real estate. The Rental Car Concession Agreement and Lease connected to this matter, between the City and Hertz, dated September 1, 2022, is hereby approved and incorporated into this Resolution by reference.

3. That any and all documents which may have been signed before the adoption of this Resolution, which are connected to the substance of this Resolution, are hereby ratified.

4. That this Resolution shall become effective upon its adoption.

Adopted: August 23, 2022

Certified: Alicia L. Finney

Clerk of Council

August 23, 2022

THE CITY OF LYNCHBURG

PUBLIC COMMENT

CITY COUNCIL AGENDA ADDENDUM | PUBLIC COMMENT

City Council Meeting - 7:30 P.M.
Council Chamber, City Hall, 900 Church Street

A) Hear from a group representative regarding a matter. (Terrick Moyer, Lighthouse Community Health Services)

RULES OF PROCEDURE

// An individual may speak for up to 3 minutes; please state clearly your name and locality of residence.

// A group spokesperson may speak for up to 5 minutes; please state clearly your name and the group you will be representing.

Citizens often express conflicting and diverse positions regarding specific issues under consideration. To encourage citizen participation and to avoid intimidation to persons who may express sometimes unpopular opinions, **applause, cheers, or jeers from the audience are not permitted**. When appearing before City Council, citizens may not engage in behavior that intimidates or insults others, engage in disruptive behavior, use profanity or vulgar language, promote private business ventures or campaign for public office.

Finney, Alicia

From: ONE ACCORD <oneaccordnetwork@gmail.com>
Sent: Friday, August 5, 2022 11:02 AM
To: Finney, Alicia
Subject: August 23

Follow Up Flag: Follow up
Flag Status: Completed

CAUTION: External Sender

Alicia,

The Lighthouse Beloved Community would like to be on the docket to talk about converting some of the Housing Choice Vouchers into Home Ownership Vouchers for the City of Lynchburg. Thanks.

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Terrick Moyer
Director of Operations | Lighthouse Community Health Services

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Web www.LighthouseCommunityHealth.Services
Address 1310 Church St. Ste A, Lynchburg VA 24504
866.400.6428 - Virginia Peer Warm Line (Listening, Support & Information)
833.4PEERVA - Alive RVA Warm Line (Addiction recovery support)

An Affiliate of Mental Health America