AIRPORT PARKING FACILITIES MANAGEMENT AGREEMENT
FOR THE MINOT INTERNATIONAL AIRPORT

This Airport Parking Facilities Management Agreement (hereinafter referred to as “Agreement”) is made and entered into this 17th day of May, by and between the City of Minot (“City”), and LAZ Parking Midwest, LLC (hereinafter referred to as "Operator").

WITNESSETH:

WHEREAS, the City operates the Minot International Airport, Minot, North Dakota, having public parking facilities serving the airport terminal; and

WHEREAS, Operator is an experienced operator and manager of parking facilities for motor vehicles; and

WHEREAS, City and Operator desire to enter into an Agreement whereby Operator will operate and manage parking of motor vehicles at certain parking facilities serving the Minot International Airport pursuant to the terms and conditions herein set forth.

NOW, THEREFORE, in consideration of the mutual covenants and promises hereinafter set forth, it is mutually agreed between the parties hereto as follows:

1. DEFINITIONS: The following terms, as used in this Agreement, shall have the meanings ascribed to them hereunder:

   A. **Agreement** shall mean this Airport Parking Facilities Management Agreement.

   B. **Airport** shall mean the Minot International Airport located in and adjacent to the City of Minot, Ward County, State of North Dakota.

   C. **Airport Terminal** shall mean the main terminal building at the Airport currently existing as of the date of execution of this Agreement.

   D. **City** shall mean the City of Minot, North Dakota.

   E. **Consent of Airport Director** shall mean a written document signed by the Airport Director.

   F. **Airport Director** shall mean the Airport Director of the City or his/her designee.

   G. **Exit Plaza** shall mean an area near identified as the “Exit Plaza” in Exhibit A, which is used as a means of egress from the short term and rental car ready parking lots, excluding the long term lot. The Exit Plaza includes but is not limited to the canopy, automated parking equipment, pay-stations, gate arms, and booth.

   H. **Gross Revenue** (herein after referred to as "Gross Revenues") shall mean all funds collected by the Operator for the parking and storage of motor vehicles whether on an hourly, daily, or weekly basis, less all validations, refunds, discounts, and allowances and less any sales tax, use tax, excise tax, gross receipts tax, parking tax, or any other tax or charge collected by the Operator on behalf of or payable to the tax collector (collectively "Sales Tax"). Operator shall
be responsible for payment directly to the tax collector of any Sales Tax based on Gross Revenue collected by the Operator. Gross revenues do not include annual parking contracts issued directly by the City, employee parking fees, or any concession or parking fees paid by rental car operators for the storage of their vehicles in the Premises.

I. **Improvements** shall mean all items located on or within the Premises or affixed thereto, provided, purchased or used by the City either directly or under a purchase and Reimbursement Agreement with the Operator, including, but not limited to, revenue control equipment and structures, wiring and signs.

J. **Percentage Fee or Fee** shall mean the percentage of the Gross Revenues due the City as defined in this Agreement.

K. **Premises** shall mean the surface parking lots at the Airport more particularly shown on Exhibit A attached hereto and incorporated herein to include:

<table>
<thead>
<tr>
<th>Category</th>
<th>Employee</th>
<th>Long Term</th>
<th>Short Term (Main)</th>
<th>Short Term (Upper)</th>
<th>Total</th>
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</thead>
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<td>0</td>
<td>26</td>
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<td>209</td>
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<td>52</td>
<td>794</td>
<td>283</td>
<td>380</td>
<td>1509</td>
</tr>
</tbody>
</table>

2. **OPERATION OF THE PREMISES:** The Premises together with any equipment and Improvements thereon shall be used by Operator solely as a public parking facility for motor vehicles and any other purpose or purposes incidental thereto as determined by the City, including but not limited to the right to place any personal property or trade fixtures necessary for such purposes on the Premises. In addition to the Premises, Operator shall have the right of ingress into and egress from the Premises by motor vehicles from the Airport Terminal access road during the term of and under the covenants and conditions contained in this Agreement.

Operator shall institute revenue control procedures for the public parking facilities including where necessary (i) procedures to control ingress and egress to the Premises, (ii) procedures for collection of proper fees in accordance with the approved parking rate schedule in effect, (iii) staffing uniformed attendants, trained and disciplined to perform their duties in an efficient and courteous manner, (iv) approved use of technology to process parking customers in lieu of staffed on-site personnel, and (v) procedures for the entering and exiting of rental car vehicles for lease at no charge.

Provided that Operator abides by all the terms and conditions hereof, the City shall not during the term of this Agreement permit the operation of a public parking facility at the Airport by any other party other the Operator.

3. **AGREEMENT TERM:**

   A) **Base Term:** Base Term- Operator will enter into a five (5) year Agreement commencing on August 1, 2021 and terminating on July 30, 2026.

   B) **Option Term**- In addition to the Base Term identified above, one additional three (3) year Option Term will be offered and exercisable upon mutual written agreement. The Parties must agree to exercise the Option Term a minimum of one hundred eighty (180) days prior to expiration of the Base
Term of this Agreement. If the Option Term is not exercised in the timeframe identified, this Agreement will terminate on the Base Term expiration date identified with no further obligation on the part of either party beyond the Base Term.

C) Holdover- The Operator, at the sole discretion of the City, may be required to Holdover in the event that the succeeding Agreement is not in place at the expiration of the Base Term or the executed Option Term. The Operator shall continue on a month to month basis for a period not to exceed six (6) consecutive calendar months and such continuation shall be under the terms and conditions contained in the Agreement. The City has the right to terminate the Holdover upon thirty (30) calendar days written notice without cause.

4. HOURS OF OPERATION: The parking management program shall be operated by either staffed and/or approved technology based means identified in the Operator’s proposal and attached hereto as Exhibit B to this Agreement. The Exit Plaza shall be available for processing of exiting vehicles one (1) hour prior to the first scheduled departure until thirty (30) minutes following the last arrival or the hours stated above, whatever is required to meet the customer needs. The Airport Director reserves the right to adjust the hours of operation following consultation with Operator based on scheduled airline activity. Notwithstanding the above, the Operator must have qualified staff available at the times identified and after hours with a response time of no more than one (1) hour upon call. The call procedure will be coordinated between the Operator and the Airport Director.

5. PAYMENT OF FEES: Operator hereby agrees to pay the City the greater of the Minimum Annual Guarantee fee (the "MAG") or percentage concession fee (the "Percentage Fee") due the City which may be due hereunder (the greater of the MAG and the Percentage Fee hereinafter referred to as the "Fee"), computed for each year of the Term and the Option Term, if executed. The fees shall be paid monthly based on one twelfth of the MAG amount or the Percentage Fee, whichever is greater.

A. Minimum Annual Guarantee ("MAG") Fee: The MAG for the first year shall be seven hundred fifty thousand dollars ($750,000). For each subsequent year of the Agreement, the MAG will be calculated at eighty five percent (85%) of the previous year’s Percentage Fee to the City. In no event shall the MAG due to the City during the Term and any exercised Option Term(s) be less than the first year’s MAG except for the conditions outlined below.

The enplanement level for the first year shall be one hundred thousand (100,000) enplanements. For each subsequent year of the Agreement, the MAG will be calculated at eighty five percent (85%) of the previous year’s enplanement level. If for any reason, the annual enplanement level falls below 100,000 annual revenue enplanements for the previous rolling four (4) month period, the MAG shall be adjusted pro rata compared to the annual enplanement level to the 100,000 enplanement level until such time as annual enplanement level exceeds 100,000 for the previous four (4) month rolling month period at which time the applicable MAG will be reinstated. Operator will continue to pay the City the specified percentage concession fees as described in paragraph B outlined below during such period.

B. Gross Revenues shall be collected by the Operator for the parking and storage of motor vehicles whether on an hourly, daily, or weekly basis. In addition to the typical operating environment of an airport paid parking facility, the rental car companies have based their "ready" rental cars in a portion of the short-term
lot. When a customer rents a car, the customer goes to the designated spot and must exist through the same exit portal as the pay parking customers. These rental car customers are allowed to exit as validated customers and are not considered in the Gross Revenue calculation.

C. The Percentage Fee shall be computed as a percentage of annual Gross Revenues:

a) 60% of annual Gross Revenues between $0.00 and $200,000
b) 70% of annual Gross Revenues between $200,001 and $400,000
c) 80% of annual Gross Revenues between $400,001 and $600,000
d) 85% of annual Gross Revenues between $600,000 and $1,000,000
e) 90% of annual Gross Revenues above $1,000,000

Operator shall pay to the City monthly the Percentage Fee based on the monthly Gross Revenues at the appropriate rate schedule on the tenth (10th) of the month following service. The first monthly installment shall be due on July 10, 2021 and shall be due on the 10th of the month every month thereafter through the Base Term and the Option Term, if exercised.

6. REPORTS AND RECORDS:

a. Records Retention. Concurrently with each monthly payment Operator shall provide a detailed monthly statement of Gross Revenues derived for the preceding month for operation and management of the Premises, said report to be in a form acceptable to the City. The report should include, at a minimum, transaction data by time period by day, a detailed accounting of the number of validated parking transactions (non-revenue generating) including the name of the customer and the authorized validating agent, total gross revenue by time period by day, the number of uses of the call center for the applicable month. The Operator and the Airport Director will agree to a standard reporting form template that will be used for all submissions. Operator agrees that during the term of this Agreement it will maintain, under and in accordance with accepted accounting practices, a complete and accurate set of books, records, dates of its parking receipts including daily revenue and shift reports, bank deposit slips, tickets, license plate inventory, accounts and cash register tapes showing all Gross Revenues collected by Operator under this Agreement and all taxes and other deductions affecting said Gross Revenue. All such books, records, accounts and tapes shall be kept in conformity with a revenue control system approved by the Airport Director and shall be subject to inspection and audit by the City upon three (3) calendar days' notice. In the event any audit discloses that the amount of Gross Revenues on any statement was understated by two percent (2%) or more of Gross Revenues for any month, the Operator shall pay to the City the cost of its audit and investigation, plus any reconciled amounts due in Fees under this Agreement. Such records shall be maintained at a location agreed upon by the parties within the City. Operator shall retain all such books, records, accounts and tapes for a period of six (6) years after the termination of this Agreement. As an alternative, Operator has the option of turning all records over to the City at the end of the Term.

b. Compliance with Public Records Laws. Operator understands that, the City must disclose to the public upon request any records it receives from Operator. Operator further understands that any records obtained or generated by Operator under this Agreement may, under certain circumstances, be open to the public upon request under the North Dakota public records law. At no additional cost to the City, Operator agrees to contact City promptly upon receiving a request for information under the public records law and/or to comply with City's instructions on how to respond to the request.
7. **OPERATOR’S EMPLOYEES:** Operator shall provide competent staff to operate the Premises and supplement the staff with the use of approved technology to perform the services requested under this Agreement as identified in the Operator’s proposal attached hereto as an Exhibit. In order to accomplish the level of service required by City, and in the provision of continuous service of the Premises, Operator shall employ, train, assign, motivate and manage an adequate number of personnel to operate the Premises as may be required and/or adjusted based on the alternative use of technology to meet the requirements of this Agreement. Operator agrees to furnish, at a minimum on a continuous basis, the level of staffing contained in the proposal attached hereto as Exhibit B to this Agreement. The City reserves the right to adjust the level of staffing included in Exhibit B through negotiation with the Airport Director and the Operator and the Consent of the Airport Director.

Employees, whether on-site or through a call center, must be capable of speaking and understanding the English language at a level consistent with the effective and efficient performance of the duties of the position. On-site employees shall be clean and neatly dressed in uniforms provided by Operator at all times in order to reflect the professional levels of service expected by the City. Call center employees, if on camera, must be professionally dressed with a logo of the Operator clearly displayed and the person’s name clearly displayed. On-site employees shall be polite and courteous at all times and shall respond to complaints or problems of customers within forty-eight (48) hours. Call center employees must be empowered to resolve customer complaints immediately. Operator shall be obligated to control the actions of its employees, to dispense with the services of any employee whose conduct the City determines to be detrimental to the best interests of the City.

8. **OBLIGATIONS OF OPERATOR:**

In the performance of its service at the Airport, the Operator will maintain a high degree and standard of professionalism. In particular, the Operator will comply strictly with the following conditions and requirements:

A. Operate and manage the Premises in accordance with the highest standards and practices of the commercial parking industry;

B. Train all employees under the Minot International Airport contract in the proper customer service techniques and the financial management policies and procedures to comply with the contract terms;

C. Conduct its operations in an orderly, and courteous manner, so as not to annoy, disturb, or offend customers, patrons, employees or tenants of the Airport. On-site Employees shall wear clean uniforms as approved by the City at all times when on duty and call center employees must have their name and logo visible;

D. Provide and maintain sufficient materials, supplies, merchandise, and equipment to ensure a timely high standard of parking service and to avoid all disruptions to customers within the reasonable control of the Operator;

E. Provide custodial services and disposal of waste/trash within the Premises, as established in the Agreement to a location determined by the Airport.

F. Pay all taxes assessed against Operator owned furnishings, equipment, earnings, personal property, or stock of merchandise and supplies.
G. Pay for all permits, licenses, or other authorizations required by authority of law in connection with the operation of its business at the Airport.

H. Pay all revenues due the City on a timely basis and in accordance with the terms and conditions of this Agreement.

I. Comply with applicable federal, state, and local laws, regulations, and ordinances, etc., including the Rules and Standards governing the use and operation of the Minot International Airport, as may be amended from time to time.

J. Keep accurate records and books of account on site, or available within twenty-four (24) hours upon notice, in accordance with Generally Accepted Accounting Principles (GAAP Basis) in order to submit monthly reports as established by the Agreement.

K. Provide insurance as required in Section 21.

L. Comply with all appropriate codes, regulations, and ordinances of the City of Minot and the State of North Dakota.

M. Provide bonding for all employees used in the performance of the contract against theft and fraud.

N. Provide a license plate inventory report through the use of the entrance and exit monitoring system equipment.

O. Other maintenance responsibilities as agreed to by the parties.

P. Process all rental car exiting customers as required by the City.

Q. If using a call center or other electronic support, Operator shall be responsible for providing all hardware, software, and installation of the required equipment. In addition, Operator will be responsible for all maintenance and replacement costs and the cost of any upgrades.

R. As part of the submission, the City requested that proposers submit equipment that the proposers recommended to meet the terms and conditions proposed by the Operator in the RFP. The Proposer agrees to procure, coordinate delivery, and coordinate the installation of the equipment included in Exhibit B. Upon completion of the installation and acceptance by the Airport Director, the Operator shall transfer the ownership and control of the equipment to the City and City shall reimburse the Operator for the direct out-of-pocket costs, with no markup for the purchase and installation of the authorized equipment. A revised listing of the equipment purchased will be substituted in Exhibit B. Operator shall submit detailed invoices for all labor and equipment and the City will make payment for all authorized costs within thirty (30) calendar days of receipt. Operator shall obtain prior written approval from City if the purchase and installation of the equipment will exceed the estimated cost of equipment described in Exhibit B.

Operator shall assign any maintenance and software agreements relating to the equipment to the City upon transfer of ownership. Once City takes possession of the system any annual or monthly software or equipment expenses will be become the obligation of the City. The City has the option of paying those expenses directly to FLASH (less operator discount), reimbursing the Operator, or having the operator
deduct it from monthly rental payments. All payments by the City will require Operator to submit invoices as backup.

9. **OBLIGATIONS OF THE CITY**

City shall, at its sole expense, be responsible for repair, maintenance, and replacement of all blacktop and concrete surfaces, light standards and re-lamping on the Premises; electrical repairs; capital investment; landscaping; software maintenance and upgrades; providing and/or procuring the revenue control equipment as well as repairs to the revenue control equipment not caused by damage, misuse, or destruction; and sewer and drainage, as same pertain to the Premises (unless provided by Operator), unless any of the aforesaid shall be damaged by Operator or its employees or subcontractors, in which event Operator shall be solely responsible.

City shall furnish, at no charge to the Operator, the Exit Plaza and all other parking facilities included in the Premises with:

A. Ordinary heat, electricity, and air conditioning for the Exit Plaza.

B. Ordinary convenience outlets as presently installed and electric current that is not substantially greater than an amount of electric current than might be normally used. Operator accepts the facilities "as is where is".

C. Telephones and radios for use by Operator as required by the City.

D. Internet service to the Exit Plaza.

E. City shall provide and pay for all necessary electricity for the lighting of the remainder of the Premises and roadway system at the Airport.

F. All revenue control software and equipment.

G. City shall be responsible for snow removal from the Premises except that Operator will assist City with removing snow from the entrances and Exit Plaza Islands and the entrance and exit to the long term lot (credit card in/credit card out).

H. All electricity to the Long Term lot and all parking lot lighting.

10. **VEHICLE LICENSE PLATE INVENTORY:** A license plate inventory of all vehicles parked at the Premises overnight shall be provided upon request through use of the revenue control equipment that is installed at the entrance and exit plazas. This information permits a determination of length of stay in the facility to enable a customer to be charged the correct amount of fees in the event of a "lost" ticket. Any vehicle remaining at the Premises more than thirty (30) thirty consecutive calendar days will be brought to the attention of the Airport Director to determine the appropriate action to be taken.

11. **CONSUMABLES AND CREDIT CARD FEES:**

A. Operator shall, at its own expense, furnish all forms, tickets, decals, envelopes, tools, office equipment, furniture, drop safes, materials, and supplies needed for the efficient operation of its business at the Premises.

B. Operator shall be responsible, at its own expense, all credit card fees.
12. **TAXES:** Operator shall be liable for the payment of personal property taxes, if any, and license fees that may be levied or assessed during the Base Term and Option Term, if executed, of this Agreement on account of the transacting of business on the Premises by Operator. If Operator shall fail or neglect to pay any of said taxes or license fees when the same become due, the City may pay the same, together with any penalty thereon, provided, however, that such payment by the City shall not prevent or limit Operator from appealing such tax or fee. If City pays all or any portion of said taxes or license fees together with any penalty thereon, the City shall be entitled to collect the entire amount so paid from Operator, and Operator hereby agrees to pay such entire amount to City upon demand therefor, provided however, such payment does not prevent or limit Operator from appealing such tax of license fee.

13. **ABANDONED VEHICLES:** Operator will comply with any and all governmental laws, regulations and statutes regarding abandoned vehicles. Permanently abandoned vehicles, if any, will be disposed of in accordance with existing laws. The City shall be entitled to all proceeds from the sale of any abandoned vehicle. No abandoned vehicle will be moved without the prior written approval of the Airport Director.

14. **CUSTOMER RELATIONS:**

A. **Customer Feedback Survey.** Operator shall conduct an annual customer parking survey at the Airport. Operator will consult with the Airport Director to develop and conduct the survey. The survey shall be in a form approved in writing by the Airport Director. Operator shall pay for, prepare and tabulate the survey and provide the results of each survey to the City in written form.

B. **Visiting Corporate Personnel.** Operator shall have visiting corporate, regional and field personnel observe, monitor and document performance and standards relating to customer service and provide the findings to the Airport Director a minimum of two (2) times per year on a schedule agreed to by the Airport Director.

C. **Customer Relations Policy.** Operator shall respond to customer inquiries and/or complaints within forty-eight (48) hours of receipt and provide the Airport Director with a copy of said response on a monthly basis on or before the fifteenth of the month following the complaint. For any call center customer services issues, the agents must be empowered to make decisions immediately while interacting with the customer. Any such complaints and responses must be included in the summary of all responses and will be included in the complaint summary provided to the Airport Director.

15. **OPERATOR EMPLOYEE PARKING AND CITY PARKING TICKET VALIDATION:** Operator's employees may park for free during the course of their normal duty shift in the area adjacent to the booth in the Exit Plaza.

Operator and the Airport Director shall arrive at a mutually agreeable method for parking ticket validations for validations authorized by the City. The Operator is strictly prohibited from issuing any validations for paid parking unless it is a customer service issue and is documented in the monthly complaint and response report. The Operator will administer the agreed to program for the validating of the exiting of rental cars, which may be amended by the City from time to time upon prior consultation with the Operator. A reconciliation of all validated tickets must be included in the monthly report so that the total number of transactions is validated between paid parking, validated parking, and authorized rental car exits.
16. **SIGNS**: Operator shall not erect, install, operate, cause or permit to be erected, installed or operated in or upon the Premises or upon the Airport, any sign or similar advertising device without having first obtained the prior written approval of the Airport Director. All costs of installation shall be borne solely by Operator.

17. **RATES**: The City shall be solely responsible for establishing all rates, fees, and charges for all revenue associated with the operation of the public parking program. The City will establish a rates, fees, and charges schedule annually that is competitive with nearby airports and other comparable City operated facilities. The Airport Director will provide to the Operator in writing a minimum of thirty (30) calendar days prior to the annual submission of the rate, fee, and charges schedule to the City Council a copy of the proposed submission. The Operator will have ten (10) calendar days to comment on the proposed rate schedule. The Airport Director will take into account the comments submitted by the Operator prior to finalizing the City Council submission package. Rates, fees, and charges will be no less than in existence at the commencement of the Agreement. The Operator shall be responsible for coordinating and installing all signage changes required and any such change. Operator will obtain an estimate for the changes and submit to the Airport Director for review and approval. The changes will be a reimbursable expense by the City. Operator will be responsible for publicly posting all rates on a timely basis at locations designated by the City. The City shall be responsible for updating the Airport website reflecting the then current parking rates.

18. **CAPITAL IMPROVEMENTS**: The City may desire to have capital improvements made to the Premises during the Term of the Agreement. The City may authorize the Operator to source, estimate, and coordinate such improvements on behalf of the City. The Operator shall prepare plans and specifications which meet the City's requirements for the improvements. All work shall be done by competent contractors upon written approval by the Airport Director in the time and manner approved. The City shall reimburse the Operator for all direct costs in procuring such improvements.

19. **INDEMNIFICATION CLAUSE**: Operator shall indemnify, save, hold harmless, and defend the City, their officials, agents, contractors, and employees, successors and assigns, individually or collectively, from and against any claim including a claim for contribution or indemnity, action, loss, damage, injury, liability, and the cost and expense of whatsoever kind or nature (including, but not limited to, reasonable attorneys' fees, disbursements, court costs, and expert fees) based upon injury to persons, including death, or damage to property or any other cause of action arising out of, resulting from, in conjunction with or incident to Operator's operation of its business and/or performance of its obligations under this Agreement or use and/or occupancy of the Premises or of the Airport, and on ten (10) calendar days' written notice from the City, Operator shall appear and defend all claims and lawsuits against the City growing out of any such injury or damage.

Operator shall indemnify, save, hold harmless, and defend the City, their officials, agents, contractors, and employees, successors and assigns, individually or collectively, from and against any claim including a claim for contribution or indemnity, action, loss, damage, injury, liability, and the cost and expense of whatsoever kind or nature (including, but not limited to, reasonable attorneys' fees, disbursements, court costs, and expert fees) and any fines in any way arising from or based upon the violation of any federal, state, or municipal laws, statutes, resolutions, or regulations, including rules or regulations of the City now in effect or hereafter promulgated, by Operator, its agents, employees, or successors and assigns in conjunction with or incident to Operator’s operation of its business and/or performance of its obligations under this Agreement or use and/or occupancy of the Premises or of the Airport, and on ten (10) calendar days' written notice from the City, Operator shall appear and defend all claims and lawsuits against the City growing out of any such injury or damage.

Operator also agrees to reimburse City for all costs, expenses, and attorneys’ fees incurred in establishing and litigating this indemnification coverage provided herein.
The provisions of this Section shall survive the expiration, termination or early cancellation of this Agreement.

20. **ENVIRONMENTAL LIABILITY AND INDEMNIFICATION:** In addition to the general indemnity stated in Section 19, and as part of it, it is specifically agreed between the parties that Operator shall be responsible in all respects for Operator's use of, or Operator's generation of, or release or threatened release of any petroleum based substance or product, or any volatile organic compound, or any substance classified as a pollutant, contaminant, toxic or dangerous substance, solid waste or a "hazardous waste" by either the United States Environmental Protection Agency or the North Dakota Department of Environmental Quality. Operator shall specifically be responsible for the disposition of all such waste or substances and for the environmental response activities and response costs, monitoring, or cleanup of any environmental condition deemed by those agencies, or either of them, to require environmental response, monitoring or cleanup activities of any kind whatsoever which arise out of Operator's use of, or generation of, such substances in its operations at the Airport, and, Operator specifically agrees that the obligations of Section 19 above shall apply specifically to any cost or obligations of the City arising out of such response, disposition and/or clean up. The provisions of this Section shall survive the expiration, termination or early cancellation of this Agreement.

21. **INSURANCE:**

A. **Insurance Requirements.**

Operator shall, at its expense, secure and maintain insurance in full force and effect during the term of this Agreement, from an insurance company licensed to do business in North Dakota, in such amounts as to meet the minimum limits of liability specified below.

1. **Comprehensive General Liability** with limits no less than $1,500,000 combined single limit per occurrence, including but not limited to, bodily injury and property damage, airport premises and products/completed operations liability, contractual liability, and independent contractors' liability. The limit may be satisfied with a combination of primary and excess/umbrella coverage.

2. **Business Automobile Liability** with limits no less than $1,500,000 each occurrence including owned and/or leased automobile liability and non-owned and hired automobile liability.

3. **Workers' Compensation Coverage** meeting all statutory requirements. This policy shall provide coverage for all states of operation that apply to the performance of this Agreement.

B. **Additional Requirements for All Insurance.**

1. Any deductible or self-insured retention amount or other similar obligation under the policies shall be the sole responsibility of the Operator.

2. This insurance may be in policy or policies of insurance, primary and excess, including the so-called umbrella or catastrophe form and must be placed with insurers rated "A-" or better by A.M. Best Company, Inc., provided any excess policy follows form for coverage. Less than an "A-" rating must be approved by the City. The policies shall be in form and terms approved by the City.
3. The duty to defend, indemnify, and hold harmless the City under this Agreement shall not be limited by the insurance required in this Agreement.

4. The City and its agencies, officers, and employees (City) shall be endorsed on the comprehensive general liability policy on a primary and noncontributory basis, including any excess policies (to the extent applicable), as additional insured. The City shall have all the benefits, rights and coverages of an additional insured under these policies that shall not be limited to the minimum limits of insurance required by this Agreement or by the contractual indemnity obligations of the Operator.

5. A “Waiver of Subrogation” waiving any right to recovery the insurance company may have against the City.

6. The Operator shall furnish a certificate of insurance to the Airport Director prior to commencement of this Agreement. All endorsements shall be provided as soon as practicable.

7. Failure to provide insurance as required in this Agreement is a material breach of contract entitling the City to terminate this agreement immediately.

8. Operator shall provide at least 30-day notice of any cancellation or material change to the policies or endorsements. Operator shall provide on an ongoing basis, current certificates of insurance during the term of the contract. A renewal certificate will be provided 10 days prior to coverage expiration.

9. All insurance policies required above shall be primary and shall not require contribution from any coverage maintained by the City.

C. **Disclaimer.** City does not represent or guarantee that these types or limits of coverage are adequate to protect the Operator’s interests and liabilities. It shall be the obligation and responsibility of Operator to insure, as it deems prudent, its own personal property, against damage. City does not have insurance coverage for Operator’s property and the City expressly disclaims any and all liability for any and all losses, damage and/or claims to personal possessions of Operator.

D. **City’s Fire Insurance.** Operator covenants that it will not do or permit to be done any act which:

1. Will invalidate or be in conflict with any fire insurance policies covering the Airport or any part thereof, or upon the contents of any building thereof; or

2. Will increase the rate of any fire insurance at the Airport or any part thereof, or upon the contents of any building thereof; or

3. In the opinion of City, will constitute a hazardous condition so as to increase the risks normally intended upon the operations contemplated by this Agreement.
If, by reason of Operator's failing to comply with the provisions of this Section, any fire insurance rate on the Airport or any part thereof, or upon the contents of any building thereof, at any time, shall be higher than it otherwise would be, then Operator shall, upon fifteen (15) calendar days' prior notice, either modify its operations so as to comply with the provisions of this subsection or reimburse the City for that part of all fire insurance premiums paid or payable by the City which shall be charged because of such violation by Operator.

22. NON-DISCRIMINATION: Operator for itself, its successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree: that (a) no person on the grounds of race, color, religious creed, ancestry, age, sex, national origin, handicap or disability shall be excluded from participation in, denied the benefits of, or be otherwise subject to discrimination in the use of the Premises, (b) that in the construction of any improvements on, over, or under the Premises and the furnishing of services thereon, no person on the grounds of race, color, religious creed, ancestry, age, sex, national origin, handicap or disability shall be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination, (c) that Operator shall use the Premises in compliance with all other requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21 Nondiscrimination in Federally assisted programs of the Department of Transportation Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations may be amended.

This agreement is subject to the requirements of the U.S. Department of Transportation's regulations, Title 49 CFR Part 23. The Operator agrees that it will not discriminate against any business owner because of the owner's race, color, national origin, or sex in connection with the award or performance of any concession agreement, management contract or subcontract, purchase or lease agreement or other agreement covered by Title 49 CFR Part 23. The Operator agrees to include the above statements in any subsequent concession agreement or contract covered by Title 49 CFR Part 23, that it enters and cause those businesses to similarly include the statements in further agreements.

Non-compliance with this provision, shall constitute a material breach thereof and in the event of such non-compliance the City shall have the right to terminate this Agreement without liability therefor or at the election of City or the United States either or both said Governments shall have the right to judicially enforce said provision.

23. TEMPORARY SUSPENSION OF OPERATIONS: In the event Operator is prevented from operating the public parking facilities, the City shall have the option to assume operation of the Premises during Operator's period of disability. The City may continue such operation for so long as Operator's disability shall last, and shall receive all revenues therefrom.

24. DEFAULT:

A. Rights Upon Default. If at any time Operator shall be in default, as defined in this Section, with regard to the requirements of this Agreement, it shall be lawful for the City, and the City may at any time thereafter:

1. Immediately, or at any time thereafter without further notice to Operator, re-enter into or upon the Premises under this Agreement or any part thereof and take possession of the same fully and absolutely with or without cancellation of this Agreement and without such re-entry representing a forfeiture of the fees and charges to be paid and of the covenants, terms and conditions to be performed by Operator for the full term of this Agreement, and in the event of such re-entry, the City may collect and retain all parking revenues or the City may contract with
another operator for an equivalent or greater or lesser concession fee and the City to recover properly measured damages.

2. The City may at its election terminate this Agreement upon written notice in the manner hereinafter provided and re-enter upon the Premises, and the Operator covenants in case of such termination to indemnify the City against all loss of fees, and charges which the City has suffered or paid by reason of such termination, during the remainder of the term of this Agreement.

3. The City shall further have all other rights and remedies at law or in equity including injunctive relief, or summary proceedings for unlawful detainer, and any or all legal remedies, actions and proceedings shall be deemed cumulative.

B. Default Defined. "Default" shall be defined when any of the following circumstances exist:

1. If the Operator has failed to pay fees, charges, or taxes when due hereunder and such failure to pay shall continue for ten (10) calendar days after written notice to Operator in the manner hereinafter provided.

2. Failure to provide and/or maintain the insurance coverages required herein.

3. If the Operator fails in the observance or performance of any of the other terms, covenants and conditions of this Agreement and such failure shall continue for thirty (30) calendar days after the City has given Operator written notice, or the Operator shall have failed to commence the corrective action of such failure within thirty (30) calendar days after such notice and to diligently prosecute the same where the same cannot be completed within thirty (30) calendar days.

4. If a petition to reorganize the Operator or for its arrangement of its unsecured debts shall be filed.

5. If the Operator shall be adjudicated bankrupt.

6. If a receiver or trustee of the Operator's property shall be appointed by any court.

7. If the Operator shall make a general assignment for the benefit of creditors.

8. If all of the interest of the Operator in its property shall be taken by garnishment, attachment, execution or other process of law.

9. If controlling interest of the Operator under this Agreement shall, without the approval required in Section 28 be transferred or assigned.

10. If any lien shall be filed against the Premises because of an action or omission of Operator and shall not be discharged or contested by
25. **CANCELLATION OF AGREEMENT:**

A. **Cancellation by Operator.** This Agreement shall be subject to cancellation by Operator if one or more of the following events should occur:

1. The permanent abandonment of the Airport for scheduled air service.

2. If, by reason of any action of any governmental authority, Operator is unable to conduct its business for a period of in excess of ninety (90) consecutive days in substantially the same manner or substantially to the same extent as prior to such action.

3. Issuance by any court of competent jurisdiction of an injunction, order or decree in any way preventing or restraining the use of the Premises which injunction, order or decree remains in force of such injunction for a period of at least ninety (90) calendar days.

B. **Cancellation without Cause.** This Agreement may be terminated without cause by the City upon 180 calendar days' written notice to Operator.

26. **SURRENDER OF PREMISES:** Upon the termination of this Agreement, Operator's authority to use the Premises, rights, facilities, equipment and Improvements herein granted shall cease and Operator shall, upon expiration or termination, promptly and in good condition, normal wear and tear excepted, surrender the same to the City. In the event that Operator has in any way changed, altered or modified the Premises, Operator covenants to return the same to the condition they were in at the time of the occupancy under this Agreement, normal wear and tear excepted, or, in the alternative, to pay the City for the cost of returning them to said condition. Upon termination, any improvements which have become part of the realty shall become the property of the City, and the same shall be immediately returned to the ownership and control of the City. Any improvements not part of the realty shall be removed therefrom within ten (10) calendar days after the termination of this Agreement or the same shall be deemed to have been abandoned to the City and the right of the Operator to possession thereof shall cease.

27. **NOTICES:** Any notices or communications required to be given to or by or served upon the respective parties hereto may be so given or served by mailing the same, properly addressed and stamped, to such party or parties by United States registered mail, certified mail or by reputable overnight courier service. Until new addresses shall be given, the addresses of the respective parties for the purpose of such notices or communications or for any other purposes shall be:

As to City:

City Clerk  
City of Minot  
515 2nd Ave. SW  
Minot, ND 68702

As to Operator:

LAZ Parking Midwest, LLC  
15 S. 9th Street, Suite 255  
Minneapolis, MN 55402
28. **ASSIGNMENT:** Except for the subcontracting of work as set forth in Section 18, Operator shall not assign or transfer this Agreement, in whole or in part, in any manner, nor any interest therein, nor permit the foregoing Agreement to become transferred by operation of law or otherwise, nor do or suffer any acts to be done whereby the same may be or become assigned in whole or in part, unless the written consent of the City shall first be obtained in each and every case of subletting, assignment or transfer. It is expressly agreed by the parties that a change in ownership of the controlling share of stock in Operator if any, shall be deemed to be an assignment hereunder. It is expressly agreed by the Operator that in the event permission be granted by the City as herein provided, the sub-lessee or assignee shall be required to assume and agree to perform the covenants of this Agreement and that notwithstanding any such subletting or assignment, the Operator shall be and remain liable for the payments of all rents and other payments due hereunder and the performance of all covenants and conditions for the full term of this Agreement.

29. **SUCCESSORS AND ASSIGNS:** This Agreement shall be binding upon and inure to the benefit of the parties hereto, their respective successors and assigns.

30. **SUBORDINATION:** This Agreement shall be subordinate to the provisions of any existing or future Agreement between the Operator and the United States of America or the State of North Dakota relative to the operation or maintenance of the Airport, the execution of which has been or may be required as a condition precedent to the expenditure of Federal or State funds for the development of the Airport, or to any security requirements of State or Federal Government, including temporary security procedures or instructions.

31. **MINIMUM STANDARDS:** The City has adopted Minimum Standards, as may be amended from time to time, with respect to the use of the Airport, terminal building and related facilities, which Operator agrees to observe and obey.

32. **NONWAIVER:** Any waiver of any breach of covenants herein contained to be kept and performed by Operator shall not be deemed or considered as a continuing waiver and shall not operate to bar or prevent the City from declaring a forfeiture for any succeeding breach, either of the same condition or covenant or otherwise.

33. **NONWAIVER OF LIABILITY:** Nothing in this Agreement constitutes a waiver by the City of any statutory or common law defenses, immunities, or limits on liability. The liability of the City and the City shall be governed by the provisions of the North Dakota law.

34. **AMENDMENT:** Any of the terms of this Agreement may be changed upon the mutual consent of the City and the Operator, but to be valid any such changes must be in writing, dated, and must be executed with the same formalities as this Agreement.

35. **SEVERABILITY:** If any term of this Agreement is declared to be illegal or unenforceable by a Court having competent jurisdiction, the validity of the remaining terms is unaffected and, if possible, the rights and obligations of the parties are to be construed and enforced as if this Agreement did not contain that term.
36. **HEADINGS:** The article and section headings contained herein are for convenience in reference and are not intended to define or limit the scope of any provision of this Lease Agreement.

37. **GOVERNING LAW:** This Agreement shall be governed by and in accordance with the laws of the State of North Dakota, and all claims, disputes and other matters in question between the parties arising out of or relating to this Agreement shall be venued in state or federal courts located in North Dakota.

38. **FORCE MAJEURE:** Neither the City nor the Operator shall be deemed in violation of this Agreement by reason of failure to perform any of its obligations hereunder, if such failure is due to airline strikes, boycotts, embargoes, airport construction, acts of God, acts of governmental authority, weather conditions, riots, rebellion, terrorism, sabotage, or any other material circumstances not within its control. In such event, Operator may, with the prior written consent of the Airport Director, diminish the scope of its operations commensurate with the existing demand for parking services.

39. **PERFORMANCE GUARANTEE:** Operator shall post with the City prior to the commencement date of this Agreement a performance guarantee to be maintained for the duration of the Base Term of the Option Term, if executed, in the amount of the two hundred and fifty thousand dollars ($250,000). The performance guarantee may be in the form of a bond, letter of credit from Operator's banking institution, or a cashier's check payable without recourse to the City. If the Operator submits a bond, then that bond shall be issued by a surety company acceptable to the City. During the Term of the Agreement, if there are any claims on the performance guarantee, the Operator must replenish the amount to the full value within five (5) calendar days upon receipt of written notice by the City.

40. **AIRPORT CONCESSION DISADVANTAGED BUSINESS ENTERPRISE ("ACDBE") COMPLIANCE**

A. The City has established an Airport Concession Disadvantaged Business Enterprise (ACDBE) program in accordance with the regulations of the U.S. Department of Transportation (DOT), 49 CFR Part 23. The Operator is required to participate in the City's ACDBE program.

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

C. The Operator agrees to include the statement set forth in paragraph B in any subsequent concession agreement or contract covered by Title 49 CFR Part 23, that it enters and cause those businesses to similarly include the statements in further agreements.

D. The City has available several remedies to enforce the ACDBE requirements contained in its contracts, including, but not limited to, the following:

   1. Breach of contract action, pursuant to the terms of this contract;
   2. Breach of contract action, pursuant to applicable State Statutes
E. The federal government has available several enforcement mechanisms that it may apply to firms participating in the ACDBE problem, including, but not limited to, the following:

1. Suspension or debarment proceedings pursuant to 49 CFR part 23;
2. Enforcement action pursuant to 49 CFR part 31; and
3. Prosecution pursuant to 18 USC 1001.

F. The City will comply with all regulations set forth in 49 CFR Part 23 and will monitor operations at the Airport for compliance with the ACDBE program.

G. The City will submit to the Federal Aviation Administration's, Regional Civil Rights Office, an annual ACDBE participation report showing the commitments and attainments. The City will take measures to ensure nondiscriminatory participation of ACDBEs in concession, and other covered activities.

41. ENTIRE AGREEMENT: This written Agreement, including Exhibits A—the Premises and Exhibit B—The RFP Response, is the entire agreement between the Parties. Any and all prior or contemporaneous statements and understandings not contained herein shall be of no further force and effect.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement by their authorized officers or representatives on the day and year first above written.

CITY OF MINOT

By: ____________________________
Shaun Sipma
Its: Mayor

By: ____________________________
Its Secretary

Date: ____________________________

LAZ PARKING MIDWEST, LLC

By: ____________________________
Chris J. Howley, VP

By: ____________________________
Rick Iverson, VP AIRPORTS

Date: 5/13/21
EXHIBIT B
COPY OF RFP SUBMISSION