



CITY OF TYLER
Tyler Pounds Regional Airport
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November 17, 2016

Re: Responses to EAN Questions for Bid #17-002

Dear Ms. Duval:

In response to your questions submitted on November 11, 2016 regarding Bid #17-002:

General

1. Does the Airport have any formal written agreements with any off-airport operators? If so, what are the terms of that agreement – i.e. what is the arrangement for pick-up and drop-off of customers; what are the fees that operators pay to the airport? *We have no formal agreements with any off-airport rental car agencies at this time. If one is approved, our Agreement will include terms as listed in the City Ordinance [Chapter 12.Article III. Sec. 12-31 (b.)]*
2. Please confirm that all of the terms and conditions specified in the RFQ and any/all issued addenda and questions/answers will be incorporated and made a part of the Airport Auto Rental Lease. Please add language to the RFQ and to the Lease which states: *“The Request for Quotations, including all issued addenda and questions and answers, are hereby incorporated into and made a part of the Lease.” Only Addenda will be incorporated into the new Lease. Whatever applies to the new Lease from the written Addenda will be incorporated into the new Lease.*
3. In the interest of good green policy and conserving paper, we request only one (1) original be required. If copies are required, we request only one (1) copy. *The RFP will be revised via Addenda to state “only one (1) original will be required”.*

RFQ

4. We request that submittal requirements for existing operators be limited to only the Rental Fee Proposal Form. The City is aware of the experience, qualifications and operations of existing operators and, therefore, bid submittal requirements need only pertain to the financial proposal. Please confirm that current operators need only submit the Rental Fee Proposal Form for their bids. *Current operators do not need to submit references. However, all other requested forms including the financial forms are required.*
5. Section 2, pg 1 – The following re-allocation language that exists in the current agreement is missing – please re-incorporate into this section and also state within the Lease: *“Ready Return spaces will be re-allocated annually based on the previous twelve (12) month market share.” As shown in the RFP #17-002, each Lease has a group/block of 26 parking spaces in the ready return parking lot. There will not be a re-allocation mid Lease term or annually based on market share. The location of each group/block of 26 spaces will be selected by MAG rank order for the duration of the Lease term. However, if there are available group/block(s) of 26 parking spaces, due to less than four (4) awarded bidders, then the remaining group/block(s) of 26 parking spaces will be dispersed according to a bid share.*

6. Section 2, pg 1 – States how R/R parking is allocated. Does not specify how counters are awarded/selected. Please specify that counters will be selected in MAG rank order, highest to lowest. [Yes. Each counter will be allocated according to MAG ranking order.](#)
7. Section 2, pg 1 (final sentence last paragraph) – Here it states the storage parking will be allocated by bid share. However, Art. II. T. 8 pg 14 the Concession Agreement states storage is to be allocated equally among successful bidders. Please confirm if storage is allocated by bid share or equally among the bidders? [The RFP will be amended to state ‘equally among awarded bidders’.](#)
8. Page 2 – The current schedule allows for one round of written questions from potential bidders. As the first round of Q&A often elicits additional questions which we need answered prior to submitting a proposal, we request City allow an additional round of clarification questions. Further, we request City establish a date upon which City will issue the final addendum /City’s answers to all questions at least two weeks prior to the submittal due date. We suggest adjusting the schedule as follows below. This will allow a second round of questions and establishes a date by which City shall answer all written questions. We propose the following revised schedule: [No changes.](#)

November 21, 2016: 1st Round of Questions Due
November 23, 2016: City issues Addenda/Answers to 1st round questions
November 30, 2016: 2nd and Final Round of Question Due
December 7, 2016: City issues Addenda/Answers to 2nd round questions
December 21, 2016: Proposals due
9. Sec. 4, pg 2 - Please change “uniforms” to “appropriate attire”. As you may know, our employees do not wear uniforms but are dressed in professional attire – suits, ties, etc. – that is essentially our “uniform”, as well as appropriate name badges with identifying logos. [To determine our need to submit an Addenda to the new lease, please submit a statement, on letterhead, of your companies dress policy. What the company states as regular uniform will be enforced.](#)
10. Sec. 4, pg 3 – States “single branded rental car concession” whereas Subsection (H) on pg. 6 describes dual branding. Please correct the contradiction. [A majority of existing rental car companies presently have dual brand in one counter space at Tyler Pounds Regional Airport. We will no longer allow dual branding per single counter with the new Lease. We will require a single brand, per single counter with a separate lease as bid per counter space. Those wishing to operate two brands must bid each brand as a separate bid, and must operate as a single brand per counter with a separate lease and rental/fee.](#)
11. Sec. 10.(E), pg 5 – We believe there is an error here. Current Ready Return space rent is \$15/space/month X 26 spaces = \$390/month. The total rent then for all 104 spaces in all four blocks is \$1,560/month. It is not possible that the rent is increasing 400%. It should read that the \$1560 R/R rent is divided among the 4 blocks of spaces – or \$390 per month. [There is no error. The rate per each ready return group/block of 26 spaces per year is \\$18,720.00; which is defined as \\$1,560.00 per group/block per month or \\$60.00 per space/per month.](#)
12. Sec. 10. (F), pg 5 – The fees for the car wash are too expensive – as we have been trying to tell you since the facility was opened. We’d like to see these reduced to actual costs to operate the facility after CFCs – as opposed to what seems to be a profit generator for the airport. We have asked for the annual expenses of the facility to be provided to us since the facility as been opened so that we can see what it truly costs to operate, but we have never been provided that information. We have asked to see the annual CFC reports (collections against spend with itemized detail of expenditures), but have not been provided that information. We respectfully again request that information be provided during this bid process (and annual during the term) and request the fees for use of the facility correlate to the actual cost after CFCs and with no profit margin to the City on this function of our business.

This request has been addressed on several occasions. History: Prior to the wash bay being designed and constructed, a number of planning meetings were held with the Rental Car (RAC) operators. These meetings included discussion of the fees. After lengthy discussions, the airport stated that the fees must be \$3.00 per single wash (as they are today) or the RAC wash facility would not be built on airport properties. The wash fees are very reasonable and are the same or lower than area facilities for public use. It was clearly stated that the airport must run as a business and the lease and usage fees would be a revenue source for the airport. The airport stated that if these fees are not acceptable to the RAC operators, then other revenue generating activities could have been placed on this tract of land. Those facilities could have included hangar facilities, or possibly a privately owned/operated fuel facility with wash bay. It was clearly opposed by the rental car operators that a privately owned/operated fuel facility with wash bay be present. The three dollar minimum grants up to twelve minutes wash bay operation for **one vehicle** and unlimited vacuum use for that vehicle. The fees and definitions were agreed by all the agencies well before the construction of the facility. Once the agreement was confirmed the rates were presented to the City Council in public meetings with no opposition. These fees were adopted by the Airport Advisory Board and City Council. The airport would not have recommended building the facility if an agreed fee could not have been achieved.

One month after operations began in the facility, the airport then began to receive opposition from the RAC operators. This was after the agreements, bids, public hearings and construction of the facility. We again researched similar facilities and found that our rates are very reasonable and competitive. We have also shared your opposition to the fees with our Airport Advisory Board. They oppose lowering the fees and stated they do not want to consider it for a vote.

This facility is for the exclusive use of the airport RAC operators. The fees will remain the same. However RAC operators are not mandated to use our wash facility and may drive off-site for car washing services. As for annual reports we are not contractually obligated to supply reports to the rental car operators.

13. Sec. 10 (G) – We respectfully request a reporting of the annual CFC collections and expenditures. **Yes. We will provide a summary report.**
14. Sec. 10.(H), pg 6 - We respectfully request dual branding is allowed. Please correct this section to allow for both brands under a dual branded bid to operate from ONE counter, and under only ONE bid, one MAG and one contract. We see no reason to change the dual branding provisions as were stated in Subsection G (pg 5) of the 2013 RFQ. If a company dual brands but operates from 2 separate premises and has 2 separate MAGs, then that is not dual branding. Consider that you currently have 6 brands operating at the airport. If the existing companies wish to continue to have their current brands represented at the airport, then under your “new” dual branding provisions of separate premises, you would need SIX (6) counters. If only single branding is allowed, then at least two brands will no longer be present at the airport, which is not in the best interest of our mutual customers who expect to have their current choice of brand(s). **No changes. Single brand per single counter with a separate lease.**
15. Sec. 10.(I), pg 6 – Please confirm that EAN Holdings, LLC d/b/a Enterprise and National have no outstanding obligations to the City of Tyler. **No outstanding obligations exist for EAN Holdings, LLC as of this date for Tyler Pounds Regional Airport.**
16. Bid Forms – There is no LLC form. Will you be providing an LLC form or are LLCs to complete the Corporation form, as applicable? **The Corporation form will be sufficient.**
17. Rental Fee Proposal Form – Same as #11 above. Correct \$1560/month to \$390/month on the first page. **No change. Refer to answer for question # 11.**

18. Rental Fee Proposal Form – Confirm that if a company will dual brand, both brand names go on the line on the 2nd page of this form. We will require a single brand per single counter per Lease. The RFP states Rental Car Brand. Not multiple brands. See our explanations above. We will no longer allow dual branding per single counter with the new Lease. We will require a single brand, per single counter with a separate lease as bid per counter space. Those wishing to operate two brands must bid each brand as a separate bid, and must operate as a single brand per counter with a separate lease and rental/fee

Lease

19. Article 1.A(a).2, pg 4 – As per our earlier comment in #5 above, the following language is missing – please re-incorporate into this section of the Lease: “*Spaces will be re-allocated annually based on the previous twelve (12) month market share.*” Refer to answer for question #5.
20. Article 1.C, pg 4 – “. . . under one brand name, per lease agreement” – Please clarify city’s intent on branding since the RFQ references dual-branding and since the existing operators today are all dual-branded. Section 10, (H) states that if dual branding is desired that the proposer submit a bid for a separate counter for each brand, utilizing separate ready and return areas for each brand. If a Proposer bids dual brands, its rental fees, minimum annual guarantee and gross receipts/gross revenue as identified in the sample agreement shall include separate figures of each brand. No Change
21. Article 1.D.4 pg 5 – Please incorporate the Most Favored Nations language that is currently present in our existing Lease under Article I, d.4 Other Leases which reads: “*Nothing herein shall limit City with respect to granting of leases to other aviation tenants under more restrictive terms as herein set forth or to granting of leases to non-commercial aviation or non-aviation purposes at terms different from those set forth herein. City agrees not to enter into any agreement with any other similar Lessee with respect to the airport containing more favorable terms than this Lease or to grant to any other car rental operator rights, privileges, or concessions with respect to the Airport unless the same terms are made available to Lessee.*” No change.
22. Article 1.F, pg 6 – These provisions are confusing since the counters/premises are already constructed and operational. Other than possibly refreshing existing finishes, we have no plans to significantly invest in improvements or construct new premises. Please clarify. While EAN has no intentions to invest in improvements or construct new premises, other proposers may wish to do so. No change.
23. Article 1.G.last sentence/last paragraph – please insert the word ‘permanent’ in this sentence such that it reads “*... upon expiration or termination of this Lease, Lessee shall have no further right or interest in the permanent improvements, except as provided herein.*” An addendum will be made to insert the word ‘permanent’ improvements.
24. Article II.O, pg 12: - We request the requirement to retain an independent CPA be eliminated as it would be very costly to hire a CPA for this purpose. We request that annual statements be certified by a financial representative of the company. If the Airport/City requires, we can provide a certification of the statements from an authorized financial officer of the corporation. We will require an independent CPA outside of the company.. No change.
25. Article II.Q – Strike “uniformed”. Refer to answer for question #9.
26. Article II.T.2 – Please list that City is responsible for all maintenance and repair of the structure of the wash facility – walls, roof. This will be amended into the Lease. However, the City will not make repairs as referred to in Article II. T.3.

27. Article III, pg 14 - Please delete the word “about” in the first sentence. Will City consider a longer term? Perhaps maintain the three year term, but include two (2) additional two-year extension options? If this is accepted, we suggest that City establish a reset of the MAG during the extension periods using the current industry methodology for re-set of MAG which is 85% of PY Concession Fee paid in the most immediate prior year of the term. [No changes.](#)
28. MAG during City-imposed Holdover: We respectfully request that if the City holds the operator over at City’s request, then the MAG is abated during that hold-over term and Operator pays 10% of Gross Revenues (but no MAG) during that hold-over period. [No changes.](#)
29. Article IV.A, pg 14 – Please change this wording so it is clear that the \$1560 rent is not per company. It seems this is the amount of rent for ALL R/R spaces split among the RACs (as it is today under existing agreement), and successful bidders are allocated only a portion of the lot and therefore a portion of that cost. Same change is necessary in the Rate for Storage parking at the Wash Facility which should be \$15/space – not \$60/space. [Refer to answer for question #11.](#)
30. Article IV.A, pg 14 – “. . . *under one single brand name*” – same question/comment as #20 above. [No change. Refer to answer for question #20.](#)
31. Article IV.B, pg 15-16 – Please specifically exclude the following items from Gross Revenues:
- Under Exclusions B.5. – “any amounts collected above....shall be included”. This should exclude an overhead fee. We have personnel costs associated with administering the payment of tickets, fines, fees and tolls, and for collecting the reimbursement. This is not revenue but our cost to be made whole. The language is also strangely worded and should be restated. These costs are not a “pass through” – they are a reimbursement or a payment due to customer activity. We suggest #5 be deleted entirely and replaced with: “*Any amounts received as payment and administration of red light tickets, parking tickets, other governmental fines and fees, tolls, towing and impounded vehicles.*”
 - B.9. Fuel – If a customer returns a vehicle without gas, we charge the customer for our cost to fill the tank. This is not revenue.
 - Carbon offset - This fee is optional for our customers, and is to allow them to make their rental carbon neutral. 100% of all fees collected are passed through to a 3rd party to fund environmental initiatives.
- [No change. Refer to IV.B. Exclusions B.5](#)
32. Article IV.C, pg 16 – Please include language specifying what the CFCs can be used for: “*Use of CFC funds collected from car rental customers will be limited exclusively to costs and expenses associated with the design, planning, construction, renovation, repair, and operating and maintenance costs of existing and future rental car facilities and for no other, non-rental car facility related purpose.*” [No change. CFC language is listed in the City Ordinance. \[Chapter 12.Article III. Sec. 12-31 \(j.\)\]](#)
33. Article IV.C, pg 16 – Further, the CFC “contract day” should be defined: “*Contract Day shall mean a twenty-four (24) hour period or fraction thereof for which a rental car customer is provided the use of a rental car for compensation regardless of the duration or length of the rental term. However, if the same rental car is rented to more than one customer within such continuous twenty four (24) hour period, then each such rental shall be calculated as a “Transaction Day,” except that a partial day that is a grace period of no more than 2 (two) hours after the last 24-hour day booked shall not be considered a Transaction Day.*” [No change. CFC language is listed in the City Ordinance. \[Chapter 12.Article III. Sec. 12-31 \(j.\)\]](#)
34. Article IV, pg 16 of the existing Lease includes an annual “true up” reconciliation of the concession fees but the proposed new Lease does not include this language. Please incorporate this language into the new proposed Lease. Language from existing Agreement is as follows:

If the aggregate concession fee payments made for any contract year shall exceed the greater of (1) the minimum annual guaranteed concession fee applicable to such year, or (2) the appropriate applied percentage rate of said Gross Revenue during such contract year, the overpayment shall be credited to Lessee's account and applied at City's election to one or more of the next succeeding monthly payments during the next contract year, except the last year in which case an appropriate refund shall be paid to Lessee, unless Lessee continues operations at the Airport, in which case the monthly adjustment will apply. Any balance due the City in accordance with the annual guaranteed concession fee shall be paid within sixty (60) days following the end of the contract year.

Accepted and will be included in the addendum

35. Article IV, last para., pg 16 of the existing Lease includes abatement of MAGs if deplanements decline. This language is missing from the proposed new Lease. This abatement provision should be included in the new proposed Lease. Here is the language from existing Agreement:

As of the effective date of this Lease, if for any reason the number of passengers deplaning on scheduled airline flights at the Airport should decline below 75% of the number of such deplaning passengers for the same sixty-day period of the immediately preceding year, then starting from the end of such sixty-day period, the minimum monthly guarantee amount as set forth in this Lease shall be abated during which such decline continues and if the Lessee's revenues are otherwise below such minimum monthly guarantee during such decline.

Denied. No Change

36. Article V.C, pg 18 – We request mutual indemnification that mirrors the language in this section in the Lease. Please incorporate the following: *“City agrees to indemnify, hold harmless and defend Lessee, its officers, agents and employees, from and against all liability for any and all claims, liens, suits, demands, and/or actions for damages, injuries to persons (including death), property damage (including loss of use), and expenses, including court costs and attorney's fees and other reasonable costs occasioned by City's activities at the Airport and arising out of or resulting from the intentional acts or negligence of City, City's officers, agents or employees, including all such causes of action based on common, constitutional, or statutory law, or based upon the negligent or intentional acts or omissions of City, City's officers, agents, employees, or visitors.”*

Will be considered after review from City of Tyler Legal Department

37. Article VI.A, pg 19 – Abatement referenced in the 2nd and 3rd paragraphs should also apply to the MAGs. Please include language abating the MAGs for these occurrences. *The following, or similar of, will be included in the addendum. “Only during the act of relocation and up to the return of operation”.*
38. Article VI.B.1, pg 19 – This should be a 30 day cure period, as is standard in leases of this nature. If not rectified within 30 days of notice from City, then City would have remedies. Please incorporate. *This will be corrected to 10 days notice by addendum. This is what is defined in our present lease.*
39. Article VI.B.3, pg 19 – Please insert the words “of Lessee's” in the 1st line: “Failure to replace any **of Lessee's** improvements . . .” *Agreed. An amendment will be added to the new Lease to reflect this added language.*
40. Article VI.B, last para. on pg 19 – The first paragraph gives 14 days to rectify; this paragraph gives 10. Please change both references to 30 days. *This will be corrected to 10 days' notice by addendum. This is what is defined in our present lease.*
41. Article VI.D, pg 20 – As is stated in Article II.C on page 8, please include language in the last paragraph of this section stating *“reasonable wear and tear excepted.”* *Accepted and will be included in the addendum to add to the Lease to reflect “reasonable wear and tear accepted”.*