

CITY CLERK
CITY OF SUNRISE
18 MAR 14 AM 11:00

SUNRISE, FLORIDA

RESOLUTION NO. 18-25

**A RESOLUTION OF THE CITY OF SUNRISE, FLORIDA, APPROVING
A "MOTORCYCLE LEASE AGREEMENT" FOR SIX (6) 2018 FLHP
ROAD KING POLICE MOTORCYCLES FROM ROSSMEYER DAYTONA
MOTORCYCLES, INC. OF ORMOND BEACH, FLORIDA; AND
PROVIDING AN EFFECTIVE DATE.**

WHEREAS, Rossmeyer Daytona Motorcycles, Inc. has been supplying motorcycles to the City's police department for over ten (10) years and has developed a successful delivery and return process.

NOW THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF SUNRISE, FLORIDA:

Section 1. A "Motorcycle Lease Agreement" ("Lease") for six (6) 2018 FLHP Harley-Davidson Road King two-tone blue and silver Police motorcycles from Rossmeyer Daytona Motorcycles, Inc. of Ormond Beach, Florida, utilizing the same or better pricing offered to other municipalities is hereby approved. A copy of the Lease is attached hereto and made a part of this Resolution as Exhibit "A."

Section 2. Pursuant to Section 5-173(c)(5) of the Code of the City of Sunrise Florida, the City's formal bidding procedures are waived for good cause for the reasons set forth in this Resolution and accompanying Agenda Item Request.

Section 3. The Procurement Manager or designee is hereby authorized to execute the Lease, the Notice and Acknowledgment of Assignment Notice of Collateral Assignment of Lease (copy attached hereto and made a part of this Resolution as Exhibit "B"), issue a Purchase Order or take other action necessary in connection with this Lease.

Section 4. The Procurement Manager or designee is further authorized to execute estoppel letters associated with this Lease.

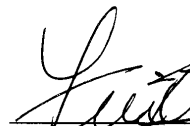
Section 5. Effective Date. This Resolution shall be effective retroactive to February 9, 2018.

PASSED AND ADOPTED THIS 27TH DAY OF FEBRUARY, 2018.



Mayor Michael J. Ryan

Authentication:



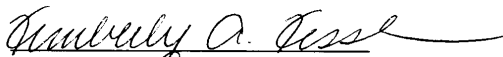
Felicia M. Bravo
City Clerk



MOTION: SOFIELD
SECOND: KERCH

DOUGLAS: YEA
KERCH: YEA
SCUOTTO: ABSENT
SOFIELD: YEA
RYAN: YEA

Approved by the City Attorney
as to Form and Legal Sufficiency



Kimberly A. Kisslan

CITY CLERK
CITY OF SUNRISE

18 MAR 14 PM 12:30

MOTORCYCLE LEASE AGREEMENT

This Motorcycle Lease Agreement (the "Lease") is made this 9th day of February 2018 by and between Rossmeyer Daytona Motorcycles, Inc., 1637 North US Highway 1, Ormond Beach, FL 32174 ("Dealer" or "Lessor") and The City of Sunrise, (the "Department" or "Lessee" or "City"), whose address is 10770 West Oakland Park Blvd., Sunrise, FL 33351 for the lease of police motorcycles (hereinafter referred to as "the vehicles") as described in Exhibit "A" attached hereto, for use by the Department's authorized employees in the performance of police-related or law-enforcement duties. The terms and conditions of the Lease are as follows:

1. **Term:** The term of this Lease shall be twenty-four (24) months commencing on June 1, 2018 and ending on May 31, 2020. Lessee shall have the right to extend the term of this Lease upon mutual written agreement between Lessor and Lessee. In the event Lessee elects to exercise its option to renew the terms of this Lease, then Lessee shall provide Lessor with written notice of its election within ninety days prior to the expiration of this lease.
2. **Payment:** Lessee shall make monthly lease payments to Lessor in the amount of **\$450.00** for each vehicle commencing on June 1, 2018.
3. **Miscellaneous Fees:** Lessee agrees to pay for all fees in connection with the certificate of title, registration, and license fees. Lessor agrees to waive all charges with respect to freight and dealer prep of the vehicles.
4. **Maintenance, Repairs and Operating Expenses:** Lessee agrees to service the vehicles according to the manufacturer's recommendations as outlined in the owner's manual for the vehicles and as requested by the manufacturer in any recall campaign. Lessee's use or repair of the vehicles must not invalidate any warranty.
5. **Use and Subleasing:** Lessee agrees that the vehicles (a) will be operated only by authorized licensed drivers employed by Lessee as law-enforcement officers; (b) will be kept free of all fines, liens and encumbrances; (c) will not be used illegally, improperly, for hire, or contrary to the manufacturer's recommendations; and (d) will not be altered, marked or have equipment installed on them without Lessor's consent.
6. **Insurance:** During the term of the Lease, Lessee shall maintain self-insurance for all physical damage to the vehicles and will remain responsible for all direct physical damage, but shall not be responsible to Lessor for any claims for loss of use, administrative costs or diminished value assertions. The Lessor or Dealer will accept a written certificate of coverage that the Lessee is self-insured for general liability and auto liability under Section §768.28, Florida Statutes. Lessee will provide Lessor with evidence of this self-insurance listing

the vehicles by Lessee's unit number or vehicles' VIN number on a Certificate of Coverage. In the event of a total constructive loss or total destruction of vehicles, Lessee's maximum exposure shall be the actual cash value of the vehicle.

Lessor's or Dealer's insurance shall be primary and apply only for occurrences when the vehicles are in Lessor's care, custody or control, and in such case Lessee's self-insurance shall be provided on an excess and non-contributory basis.

7. Notice of Accidents and Cooperation: To the extent permitted by §768.28, Florida Statutes, Lessee agrees to cooperate with Lessor in the investigation and defense of negligence claims arising from their possession and use of the vehicles. Lessee agrees to provide the Lessor with the motor vehicle crash report number or an incident / investigative report number as a result from any accident, theft or loss involving the vehicles once reasonably available from the investigating agency. Furthermore, Lessee agrees to provide Lessor copies of the motor vehicle crash report or an incident / investigative report from the investigating agency once such reports become public record and/or are reasonably available. In the event the Lessor is named in a summons, complaint, or claim notice along with the Lessee as a result of an accident, Lessee will report such notifications to Lessor within a reasonable amount of time after received by Lessee; including the reporting of theft or vandalism involving the vehicles.

8. Indemnification:

8.1.1 To the extent permitted by §768.28, Florida Statutes, Lessee agrees to indemnify and hold harmless Lessor its officers, agents and employees from negligence claims resulting in losses, liability, damages, injuries, demands, and including reasonable attorneys' fees; arising out of the operation or use of the vehicles while in the care, or control of the Lessee or Lessee's employees while acting in the course and scope of their employment. As respects only to the maintenance or repair not performed by Lessor, Lessee agrees to hold harmless Lessor its officers, agents and employees from negligence claims resulting in losses, liability, damages, injuries, demands, and including reasonable attorneys' fees.

8.1.2 Nothing herein is intended to serve as a waiver of sovereign immunity under §768.28, Florida Statutes by any party to which sovereign immunity may be applicable nor shall anything included herein be construed as consent to be sued by third parties in any matter arising out of this Lease.

8.2 Lessor agrees to indemnify and hold harmless Lessee, its officers, agents and employees from negligence claims resulting in losses, liability, damages, injuries, demands, and expenses, including reasonable attorneys' fees, arising out of the latent defects, maintenance, repair, service, storage,

operation or use of the vehicles while in the care, custody or control of the Lessor.

9. Limitation of Liability: Lessor shall not be liable for any indirect or consequential damages or inconvenience (except for those relating to personal injury) which may result to Lessor from any damages to, or defect in, the vehicles for the time needed to repair or service the vehicles. Monthly lease payments shall continue and not be reduced or delayed during this time. Lessor makes no express warranties covering the vehicles. In particular, Lessor makes no express warranties of merchantability, durability or fitness for particular purpose of use covering the vehicle, and Lessor expressly disclaims any such express warranties.

10. Return of the Vehicles: At the end of the Lease, the Department must return the vehicles to Lessor in good condition, without damage, excessive wear or use and with all the original equipment installed by the manufacturer.

- Lessor will not be responsible for accident or training damage
- Tank, fenders, and saddlebags will be free of dents
- Tires shall have minimum of 4/32 tread depth
- Chrome edges of floor boards shall not be completely worn down
- Clutch and brake levers shall not be bent
- Windshields shall be free of scratches and distortion
- Service must be up to date as per factory recommendations
- Police markings installed by the Department shall be removed by Department if required

11. Governing Law: This Lease shall be governed by the laws of the State of Florida. Should the parties be involved in legal action against each other arising under, or connected to this Lease, each party will be responsible for their own attorneys' fees and costs. The venue for any litigation will be Broward County, Florida. Both parties hereby agree to waive a jury trial and will proceed to a trial by judge if necessary.

12. Public Entity Crimes: As provided in Sections 287.132 and 287.133, Florida Statutes, by entering into this Lease or performing any work in furtherance hereof, the Lessor certifies that it, its affiliates, suppliers, subcontractors and consultants who will perform hereunder, have not been placed on the convicted vendor list maintained by the State of Florida Department of Management Services within the 36 months immediately preceding the date hereof. This notice is required by Section 287.133(3)(a), Florida Statutes.

13. Discriminatory Vendor List: Pursuant to Section 287.134, Florida Statutes, an entity or affiliate who has been placed on the discriminatory vendor list may not submit a bid, proposal, or reply on a contract to provide any goods or

services to a public entity; may not submit a bid, proposal, or reply on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids, proposals, or replies on leases of real property to a public entity; may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity; and may not transact business with any public entity. By execution of this Lease, Lessor represents that it has not been placed on the discriminatory vendor list as provided in Section 287.134, Florida Statutes.

14. Conflict of Interest: The Lessor represents that it presently has no interest and shall acquire no interest, either direct or indirect, which would conflict in any manner with the performance or services required hereunder, as provided for in Section 112.311, Florida Statutes. The Lessor further represents that no person having any interest shall be employed for said performance.

15. Public Records Law: The Lessor shall comply with all applicable requirements contained in the Florida Public Records Law (Chapter 119, Florida Statutes), including but not limited to any applicable provisions in Section 119.0701, Florida Statutes. To the extent that the Lessor and this Lease are subject to the requirements in Section 119.0701, Florida Statutes, the Lessor shall: (a) keep and maintain public records required by the City to perform the services provided hereunder; (b) upon request from the City's custodian of public records, provide the City with a copy of the requested records or allow public records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes, or as otherwise provided by law; (c) ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed, except as authorized by law for the duration of the term of this Lease and following completion of this Lease if the Lessor does not transfer the records to the City; and (d) upon completion of the Lease, transfer, at no cost, to the City all public records in the possession of the Lessor or keep and maintain public records required by the City to perform the service. If the Lessor transfers all public records to the City upon completion of the Lease, the Lessor shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the Lessor keeps and maintains public records upon completion of the Lease, the Lessor shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the City, upon request from the City's custodian of public records, in a format that is compatible with the information technology systems of the City. If the Lessor fails to comply with the requirements in this Section 15, the City may enforce these provisions in accordance with the terms of this Lease. If the Lessor fails to provide the public records to the City within a reasonable time, it may be subject to penalties under Section 119.10, Florida Statutes. Lessor shall be permitted to comply with all provisions of this section and this Agreement by

providing .pdf copies of scanned documents as long as they are scanned at 300dpi.

IF THE LESSOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE LESSOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS LEASE, THE LESSOR SHOULD CONTACT THE CITY'S CUSTODIAN OF PUBLIC RECORDS: THE CITY CLERK, FELICIA M. BRAVO, BY TELEPHONE (954/746-3333), E-MAIL (CITYCLERK@SUNRISEFL.GOV), OR MAIL (CITY OF SUNRISE, OFFICE OF THE CITY CLERK, 10770 WEST OAKLAND PARK BOULEVARD, SUNRISE, FLORIDA 33351).

16. Entirety of Lease: The City and the Lessor agree that this Lease sets forth the entire agreement between the parties, and that there are no promises or understandings other than those stated herein. None of the provisions, terms and conditions contained in this Lease may be added to, modified, superseded or otherwise altered, except by written instrument executed by the parties hereto with the same formality as this Lessor.

17. Discriminatory Vendor List: Pursuant to Section 287.134, Florida Statutes, an entity or affiliate who has been placed on the discriminatory vendor list may not submit a bid, proposal, or reply on a contract to provide any goods or services to a public entity; may not submit a bid, proposal, or reply on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids, proposals, or replies on leases of real property to a public entity; may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity; and may not transact business with any public entity. By execution of this Lease, Lessor represents that it has not been placed on the discriminatory vendor list as provided in Section 287.134, Florida Statutes.

**ROSSMEYER DAYTONA
MOTORCYCLES, INC.**

CITY OF SUNRISE

By: Shelly Rossmeier Pepe
Shelly Rossmeier Pepe
Vice President

By: Ann Potter
Signature
Title: Procurement Manager
Ann Potter
Print Name

EXHIBIT "A"

February 9, 2018

Lessee's Name: City of Sunrise

Model Year: 2018

Model Description: FLHP Road King two-tone blue and silver

Number of Units: 6

Vehicle Identification Numbers:

- 1.
- 2.
- 3.
- 4.
- 5.
- 6.

NOTICE AND ACKNOWLEDGMENT OF ASSIGNMENT
NOTICE OF COLLATERAL ASSIGNMENT OF LEASE

TO: City of Sunrise
10770 W. OAKLAND PK. Blvd.
SUNRISE FL 33351

Re: Motor Vehicle Lease Agreement between Rossmeyer Daytona Motorcycles, Inc.
(the "Lessor"), as lessor, and you, as lessee (the "Lease")

You are hereby notified that the above-referenced Lease and the right to receive all rent or other payments to be made by you thereunder has been collaterally assigned to and is subject to a security interest in favor of SunTrust Bank ("SunTrust") pursuant to the terms and conditions contained in a Loan and Security Agreement dated February 15, 2016 between Lessor and SunTrust (the "Loan Agreement"). A description of the Lease and the motor vehicle(s) leased thereunder is attached as Exhibit "A" hereto. Upon receipt by you of a notice from SunTrust of default under the Loan Agreement, you are hereby authorized and directed to thereafter make all further payments of rent or other amounts due under the Lease to SunTrust, in the manner and at the place as specified in such notice, until notified otherwise by SunTrust. Until receipt of such notice, you shall continue to make all payments under the Lease as provided in the Lease or instructed by the Lessor. SunTrust shall have the right at any time during the term of the Lease to proceed to exercise any rights which may be available to the lessor thereunder; provided, however, SunTrust is not a substitute lessor and shall not be obligated to do so. At any time upon request from SunTrust, you are hereby authorized and directed to provide an estoppel letter to SunTrust, in such form as may be requested by SunTrust, verifying the status of the Lease and the rent payments thereunder.

**ROSSMEYER DAYTONA MOTORCYCLES,
INC., a Florida corporation**

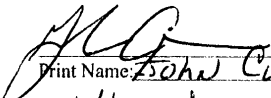
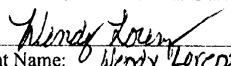
By: Shelly Rossmeyer Pape
Name: Shelly Rossmeyer Pape
Title: Vice President

ACKNOWLEDGMENT BY LESSEE

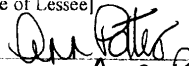
The undersigned, being the lessee under the Lease, does hereby acknowledge receipt of the foregoing Notice of Collateral Assignment of Lease and does hereby agree to comply with the provisions thereof, including, but not limited to, making all rent payments to SunTrust upon receipt of a notice to do so from SunTrust and to provide, upon request therefor, an estoppel letter to SunTrust verifying the status of the Lease (any defaults by either party) and the rent payments due thereunder. The undersigned further agrees to notify SunTrust if Lessor is in default of any of its obligations under the Lease.

Dated: February 28, 2018.

Witnesses:


Print Name: John Curran

Print Name: Wendy Lorenzo

City of Sunrise
[Name of Lessee]

By: 
Name: Ann Potter
Title: Procurement Manager