

PORT ORDINANCE NO. 4760
ORDINANCE APPROVING THE EXTENSION OF AUTHORITY FOR THE PORT OF OAKLAND TO COLLECT CUSTOMER FACILITY CHARGES AT SAN FRANCISCO BAY OAKLAND INTERNATIONAL AIRPORT THROUGH JUNE 30, 2035; ESTABLISHING AN ALTERNATIVE CUSTOMER FACILITY CHARGE OF \$7.50 PER DAY FOR ON-AIRPORT RENTAL CAR TRANSACTIONS AND \$7.42 PER DAY FOR OFF-AIRPORT RENTAL CAR TRANSACTIONS, NOT TO EXCEED FIVE TOTAL CONTRACT DAYS, EFFECTIVE OCTOBER 1, 2024; AND MAKING THE IMPLEMENTING AMENDMENTS TO APPENDIX C-4 OF THE PORT OF OAKLAND ADMINISTRATIVE CODE.

WHEREAS, on March 5, 2002, the Board of Port Commissioners ("Board") adopted Port Ordinance No. 3685, imposing a Customer Facility Charge ("CFC") on each person who rents an automobile from a customer facility located on the San Francisco Bay Oakland International Airport ("Airport") or within the rental car radius surrounding the Airport;

WHEREAS, pursuant to Port Ordinance No. 3685, as subsequently amended by Port Ordinances and codified in the Port of Oakland Administrative Code ("POAC"), the existing CFC was established at \$10.00 for each contract at an on-airport customer facility, and \$8.00 for each contract at an off-airport customer facility;

WHEREAS, the authority to collect CFCs currently expires on December 31, 2024;

WHEREAS, in December 2021, the financial impacts of the COVID-19 pandemic depleted the CFC reserves leaving the existing CFCs at the \$10 for each contract at an on-airport customer facility and \$8.00 for each contract at an off-airport customer facility inadequate to fund the operations of the common-use transportation system that moves passengers from the terminal complex to the consolidated rental car facility;

WHEREAS, airports are authorized to impose a per-day alternative Customer Facility Charge if they meet the implementation requirements set forth in California Government Code Sections 50474.21 and 50474.3;

WHEREAS, the Port of Oakland ("Port") has engaged the services of Ricondo & Associates, Inc. ("Ricondo") to analyze the current and projected CFC collections under the existing per-transaction rate structure for financial solvency, and to consider whether a conversion to a per-day alternative CFC rate structure would be appropriate to adequately fund the common-use transportation system and other anticipated CFC eligible expenses;

WHEREAS, the report from Ricondo demonstrates that the common-use transportation system and other anticipated CFC eligible expenses can no longer be supported under the current per-transaction rate structure, and that a per-day alternative CFC rate could support the common-use transportation system and other anticipated CFC eligible expenses;

WHEREAS, the Port has determined that it is necessary to pursue the implementation of a per day CFC-rate structure to address the projected shortfall gap between CFC revenues collected and the costs of operating the common-use transportation system and other anticipated CFC eligible expenses;

WHEREAS, the Board has reviewed and evaluated the Agenda Report Item A.1, dated July 11, 2024 ("Agenda Report") and related agenda materials, has received the expert testimony of Port staff, and has provided opportunities for and taken public comment;

WHEREAS, the Port has obtained an independent audit from Macias, Gini & O'Connell, LLP ("MGO") which examines and substantiates the necessity for, and the amount of, the proposed per-day CFC rates;

WHEREAS, the Port has conducted a public noticed hearing to review the costs of providing for the common-use transportation system and other anticipated CFC eligible expenses, as further described in the Agenda Report (collectively, the "Project Costs");

WHEREAS, during the hearing, Port staff established the amount of revenue necessary to finance the Project Costs;

WHEREAS, during the hearing, Port staff presented evidence that (i) the per Contract CFC will not generate sufficient revenue to finance the reasonable Project Costs, and (ii) that the reasonable Project Costs require the additional amount of revenue that would be generated by the proposed per-day CFC rate;

WHEREAS, during the hearing, Port staff has also outlined: (i) steps it has taken to limit costs, (ii) other potential alternatives for meeting its revenue needs other than the collection of the fee, and (iii) the extent to which rental companies or other businesses or individuals using the facility or common-use transportation system will pay for the costs associated with these facilities and systems apart from the fee collected from rental customers; and

WHEREAS, in acting upon this matter, the Board has exercised its independent judgment based on substantial evidence in the record and adopts and relies upon the facts, data, analysis, and findings set forth in the Agenda Report and in testimony received; now, therefore

BE IT ORDAINED by the Board of Port Commissioners of the City of Oakland as follows:

Section 1. The Board finds that the proposed action is not subject to the California Environmental Quality Act ("CEQA") because the proposed action does not involve an activity that may cause either a direct physical change in the environment or a reasonably foreseeable indirect physical change in the environment as further defined in Section 21065 of the Public Resources Code.

Section 2. Based on evidence presented during the hearing, the Board hereby finds that (i) the per-transaction CFC will not generate sufficient revenue to finance the reasonable Project Costs, and (ii) that the reasonable Project Costs require the additional amount of revenue that would be generated by the proposed per day rate, including any rate increase, authorized pursuant to California Government Code Section 50474.3.

Section 3. Based on the analysis of the evidence presented at the hearing, facts and findings, the Board determines that the Port has met the conditions of California Government Code Sections 50474.21 and 50474.3 to impose a per-day CFC in the amount of \$7.50 per day for each contract at an on-airport customer facility, and \$7.42 per day for each contract at an off-airport customer facility, not to exceed five total contract days.

Section 4. The Board hereby approves and authorizes the Executive Director or his designee to:

A. Amend Appendix C-4 of the POAC to extend the authority of the Port of Oakland to collect Customer Facility Charges at San Francisco Bay Oakland International Airport through June 30, 2035, not to exceed \$7.50 per day for each contract at an on-airport customer facility and \$7.42 per day for each contract at an off-airport customer facility, not to exceed five contract days, effective October 1, 2024, as set forth in the attachment to this ordinance and as further described in the Agenda Report.

B. Make any additions, modifications, or corrections as necessary to implement the amendment, provided that any such addition, modification, or correction does not materially differ from the terms and conditions set forth herein and in the Agenda Report, subject to approval as to form and legality by the Port Attorney.

Section 5. This Ordinance is not evidence of and does not create or constitute (a) a contract, or the grant of any right, entitlement or property interest, or (b) any obligation or liability on the part of the Board or any officer or employee of the Port. Unless and until a separate written agreement is duly executed on behalf of the Board as authorized by this Ordinance, is signed as approved as to form and legality by the Port Attorney, and is delivered to the other contracting party, there shall be no valid or effective agreement.

Section 6. This Ordinance shall take effect on the date of its final adoption; provided, however, that if a petition protesting the adoption of this Ordinance is timely and duly submitted to the elections official of the City of Oakland in the manner required under California Elections Code § 9237, the effective date of this Ordinance shall be suspended, and all actions authorized by this Ordinance shall be null and void.

The Board of Port Commissioners, Oakland, California, July 11, 2024.
Passed to print for one day by the following vote: Ayes: Commissioners Cluver, Colbruno, Dominguez Walton, Martinez, Myres, and President Leslie - 6. Excused: First Vice-President Lee - 1. Noes: 0.

Daria Edgerly,

Secretary of the Board

**ATTACHMENT
CHANGES TO POAC, APPENDIX C-4 - RENTAL CAR CUSTOMER FACILITY
CHARGE**

A. Rental Car Radius Map



B. Term

Commencement Date : April 1, 2002

Expiration Date : June 30, 2035

C. Customer Facility Charge

On-Airport Customer Facility Charge : (effective October 1, 2024) \$7.50 per day under the Contract, with such charge not to exceed five (5) days per Contract.

Off-Airport Customer Facility Charge : (effective October 1, 2024) \$7.42 per day under the Contract, with such charge not to exceed five (5) days per Contract.