

**AGENDA REPORT**

**PROPOSED ACTION: Ordinance:** Public Hearing to Review the Costs of Providing for the Common-Use Transportation System and Other Anticipated Customer Facility Charge Eligible Expenses; 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 Make the Implementing Amendments to Appendix C-4 of the Port of Oakland Administrative Code. **(Aviation)**

**Submitted By:** Craig Simon, Interim Director of Aviation; Danny Wan, Executive Director

**Parties Involved:**

Avis Budget Car Rental, LLC; Parsippany, NJ; Aaron Schwarzkopf, Properties Director, Western U.S. (Avis);  
Enterprise Rent A Car Company of San Francisco, LLC; San Ramon, CA; Robert Hunsinger, Director of Airport Properties and Relations (Enterprise);  
Fox Rent A Car, Inc.; Los Angeles, CA; Paul Hemmert, Vice President, Business Development (Fox);  
The Hertz Corporation; Estero, Florida; Morgan Williams, Properties and Concessions Director (Hertz);  
Gitbin & Associates, Incorporated, D/B/A Go Rentals; Newport Beach, CA; Mike Morris, Vice President (Go Rentals)

**Amount:** Customer Facility Charge collections are anticipated to exceed \$6,504,464 during the period of July 1, 2024, through June 30, 2025.  
  
(Non-Operating Revenues)

**EXECUTIVE SUMMARY:** Rental car companies at San Francisco Bay Oakland International Airport (OAK or Airport) operate a Common-Use Transportation System funded by Customer Facility Charges (CFC). Since December 2021, when the financial impact of the COVID-19 pandemic (Pandemic) depleted CFC reserves, there has been a shortfall in the collection of CFCs based on the current rate of \$10 per on-airport transaction and \$8 per off-airport transaction to fund the Common Use Transportation System and other CFC eligible expenses. This action would amend Appendix C-4 of the Port of Oakland Administrative Code (POAC) to extend the collection of CFCs from rental car companies operating at OAK through June 30, 2035, and establish alternative CFCs 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.

## **BACKGROUND AND ANALYSIS**

State Law allows for the collection of CFCs to be used to finance, design, and construct consolidated airport rental car facilities and to finance, design, construct, and operate common use transportation systems to move passengers between airport terminals and the consolidated rental car facilities. The Port instituted the collection of CFCs in April 2002 and has adopted additional Ordinances since that date to adjust or extend that authority.

The rental car companies authorized to provide airport rental car services at OAK are obligated to form and maintain a consortium to operate a Common-Use Transportation System (Bus System) between the airport Terminal Complex and the consolidated Rental Car Facility. The consortium is responsible for management, operations, and maintenance of the Rental Car Facility and the Bus System under various *Space Use Permits for Non-Exclusive Rental Car Concessions* (SUPs) with the Port. The consortium has and continues to rely upon CFCs to fund the Bus System and eligible capital expenses for the Rental Car Facility directly related to customers' use of the Bus System. Specifically, CFCs are currently used to fund the purchase, management, operations, and maintenance of the Buses.

CFCs are collected by the rental car companies at the time of payment for the rental contract and transferred to the Port the following month. The Port acts as a trustee of the CFCs collected and holds the funds in an interest-bearing account. Following review and approval of invoices for the Bus System expenses the Port reimburses the rental car companies from the CFC account.

### **Impacts of Inadequate CFC Collections**

The financial impacts of the Pandemic depleted the CFC reserves in December 2021, making the existing CFC revenue of \$10 per on-airport transaction and \$8 per off-airport transaction inadequate to fund the Bus System. The rental car companies have been paying out of pocket to make up the month-to-month shortfall in collections necessary to support the Bus System since the Port-held CFC account was depleted. As of June 1, 2024, this estimated CFC Shortfall was in excess of \$2,400,000.

Further, the cost to purchase or lease a replacement fleet of zero-emission (ZE) buses is anticipated to far exceed CFC collections over the next ten years under the existing per-transaction CFC rates. Adequate CFC collections will be required to fund the transition to ZE buses.

### **CFC Collections Analysis and Recommendations for Future Collections and Uses**

The Port 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 Bus System and other CFC eligible expenses from October 2024 through June 2035. Their report, attached here as

**Attachment A** (Ricondo Report), demonstrates that the Bus System and Rental Car Facility can no longer be supported under the current per-transaction rate structure. At the current per-transaction rates, the estimated CFC Shortfall for FY 2025 is approximately \$2,000,355. The Ricondo Report further provides a detailed analysis supporting appropriate and reasonable per-day alternative CFC rates for sustainable long-term CFC collections cash-flow.

In accordance with California Government Code (CAGC) Sec. 50474.3 CFC collections at OAK under a per-day alternative CFC is proposed to be used to reimburse the rental car companies and their agents for the Bus System operation and maintenance (O&M) expenses, including all previously paid unreimbursed out-of-pocket expenses, the phased purchase or lease of fifteen ZE buses for the Bus System and related infrastructure for the buses, and certain eligible, necessary, and pre-approved rental car facility capital expenses.

Port Staff recommends the Alternative CFC rates 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 (hereinafter collectively referred to as the “Proposed Alternative CFC”). This fee structure, as forecast in the Ricondo Report, is anticipated to be sufficient to support continued operation of the Bus System, reimburse the rental car companies for the outstanding unreimbursed out-of-pocket CFC-eligible expenses, and provide for all necessary capital expenditures through 2035, including purchase or lease of busses and related infrastructure.

### **Implementation Process of the Proposed Alternative CFC**

In accordance with CAGC 50474.3, the Port is required to perform certain obligations and demonstrate evidence to support adoption of an alternative per-day CFC. Those requirements are:

1. ***Independent Audit.*** The Port must obtain an independent audit to examine and substantiate the necessity for, and the amount of, the proposed alternative CFC, including:
  - Whether the airport’s actual or projected costs are supported and justified;
  - Any steps the airport may take to limit costs;
  - Potential alternatives for meeting the airport’s revenue needs other than the collection of the fee; and
  - Whether and to what extent car rental companies, other businesses, or individuals using the facility or common-use transportation system may pay for the associated costs other than the fee from rental customers.

The Port has obtained an independent auditor's report (Independent Audit) from Macias, Gini & O'Connell, LLP (MGO), a copy of which is attached hereto as **Attachment B**.

**2. *Public Hearing.*** The Airport must obtain the approval of its legislative body by holding a publicly-noticed hearing to review the costs of providing for the Bus System and any other anticipated CFC-eligible expenses in which all of the following occur:

- The airport establishes the amount of revenue necessary to finance the reasonable costs of designing and constructing a consolidated rental vehicle facility and to design, construct, and operate any common-use transportation system, or acquire vehicles for use in that system, based on evidence presented during the hearing;
- The airport finds, based on evidence presented during the hearing, that the \$10 per transaction CFC will not generate sufficient revenue to finance the reasonable costs of designing and constructing a consolidated rental vehicle facility and of designing, constructing, and operating any common-use transportation system, or acquire vehicles for use in that system;
- The airport finds that the reasonable cost of the project requires the additional amount of revenue that would be generated by the proposed daily rate; and
- The airport outlines each of the following:
  - Steps it has taken to limit costs;
  - Other potential alternatives for meeting its revenue needs other than the collection of the fee; and
  - 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.

### **Satisfaction of Proposed Alternative CFC Requirements**

The requirements for the public hearing and implementation of the proposed alternative CFC are addressed herein as follows:

**1. *Establishment of CFC revenue necessary for reasonable project costs:*** As set forth in more detail in the Ricondo Report, OAK established the amount of revenue necessary for the reasonable costs of O&M for the Bus System, the capital expense related to the lease of new ZE buses and the related infrastructure and certain rental car facility capital expenses. Based upon past actual expenses and anticipated future

expenses necessary for operation of the Bus System, the cost to operate in FY25 is estimated to be \$4,715,000 and increase to \$6,336,566 by FY35 (See Table 6 on Page 2-6 of the Ricondo Report). Capital expenses related to the lease of the new ZE buses is anticipated to cost approximately \$244,000 annually for each bus. A minimum of five ZE buses are planned to be operational at OAK by 2027 for the common-use transportation system fleet to operate at OAK, resulting in \$1,220,590 in annual capital expenses starting in FY27 and increasing to \$3,905,889 by FY35. The planned charging infrastructure is estimated to be a total of \$5 million, and the capacity charge is estimated to be a total of \$6.4 million. In addition, a total of \$1 million in capital expenses is estimated for rental car facility improvements. MGO's Independent Audit stated, "In our opinion, the accompanying forecast is presented, in all material respects, in accordance with the guidelines for the presentation of a forecast established by the American Institute of Certified Public Accountants, and the underlying assumptions are suitably supported and provide a reasonable basis for management's forecast."

2. ***The forecasted \$10 per transaction CFC are insufficient to cover the project costs:*** OAK finds that the \$10 per-transaction CFC will not generate sufficient revenue to finance the reasonable costs to operate any common-use transportation system or acquire vehicles for use in that system. At the \$10 per-transaction current CFC, it is estimated that the airport would generate approximately \$3,364,645 in FY25, whereas an estimated \$5,365,000 is required, resulting in a \$2,000,355 shortfall in FY25. As shown in Table 7 of the Ricondo Report, the \$10 per transaction CFC collection shortfall would continue to increase through FY35.
3. ***Additional per day CFC revenue is needed to help cover the project costs:*** OAK finds that the reasonable cost of the project requires the additional amount of revenue that would be generated by the proposed alternative per day CFC rate. Based on the information above, additional revenue is necessary to support the Bus System, and certain rental car facility improvements as shown in Table 8 in the Ricondo Report, a \$7.50 per day CFC (up to five days) for on-airport rental car transactions, and a \$7.42 per day CFC (up to five days) for off-airport rental car transactions would provide sufficient revenue to cover the projected project costs.
4. ***Steps the airport has taken to limit project costs:*** In this case, the "project" is the continued operation, maintenance, and allowable capital costs associated with the Bus System and the Rental Car Facility. The Port has implemented strict cost controls for use of CFCs including requiring the Bus Manager to submit for approval by the Port an annual budget estimating the monthly O&M and capital expenses for the Bus System and Rental Car Facility which may be eligible for reimbursement claim using CFCs, Port Staff's review and approval of itemized monthly invoices submitted by the Bus Manager requesting reimbursement for Bus System O&M, and the Port's pre-approval of any Bus System and Rental Car Facility capital expenses proposed by the rental car companies, Bus Operator, or Bus Manager. Cost-saving measures for the Bus operation have been instituted since the Pandemic, which include reduced use during periods of low customer activity. Capital projects eligible for CFC reimbursement are scrutinized by Port Staff before approval to proceed and those

projects are competitively bid out to ensure the costs are minimized. The new alternative per day CFC is anticipated to be sufficient to reimburse the rental car companies for the purchase or lease of a replacement ZE bus fleet. The Port will continue to be involved in the rental car companies' acquisition of the buses and will ensure project costs are minimized and the proposed CFC reimbursement schedule for those capital costs is reasonable and feasible.

5. ***Other potential alternatives for meeting its revenue needs other than the collection of the fee:*** The Port does not own or operate the Bus System at OAK and cannot contribute to the financing or logistical support required for its continued, uninterrupted operation. Measures to recover from the Pandemic have and are continuing to be taken at OAK to increase deplaning passengers and the propensity for passengers to rent cars at OAK.
6. ***The extent to which rental car 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 other than the fee from rental car customers:*** Port Staff cannot identify any other cost-sharing options available to the Port because the Rental Car Facility and Bus System is used only by rental car customers. There is no public parking portion of the Rental Car Facility or other tenants utilizing space at the premises. The Bus System does not drop off or pick up passengers at any locations other than the Rental Car Facility and the Terminal Complex pickup curbs. The SUPs with the rental car companies obligate them to pay all expenses related to the Bus System and the majority of expenses related to the Rental Car Facility in the event of a CFC Shortfall.

## **Analysis Conclusions**

Port Staff conclude that implementing the per-day proposed alternative CFC is necessary to help find a sustainable balance of responsibility between the rental car companies and their customers for the continued operation of the Bus System and Rental Car Facility at OAK, which the rental car companies need to conduct their business and the rental car customers desire for their convenience.

The background, evidence, analysis, and conclusions contained within this Agenda Report demonstrate that:

- The costs of the Bus System and anticipated Rental Car Facility capital expenses are reasonable.
- The current per-contract CFC will not generate sufficient revenues to finance those costs.
- The additional revenues generated by a per-day CFC are needed to help cover those costs.

The Independent Audit opined that the underlying assumptions used by OAK, as found in the Ricondo Report, in presenting its forecast are suitably supported and provide a reasonable basis for OAK's forecast.

Based upon the evidence presented herein, including the Attachments, Port Staff recommends the Board of Port Commissioners authorize the implementation of a per-day alternative CFC of \$7.50 per day for on-Airport rental car transactions and \$7.42 per day for off-Airport rental car transactions, for a maximum of five days per contract, effective October 1, 2024. Port Staff will conduct an annual review of CFC eligible costs and the CFC rate to substantiate the continued need for the alternative per day CFC at these rates and may propose adjustments up or down in the future based on these reviews.

### **Requested Extension of CFC Collection Authority**

OAK's authority to collect CFCs currently extends through December 31, 2024. Port Staff recommends approval of the proposed extension of OAK's authority to collect CFCs through June 30, 2035. If this extension is not approved, OAK's authority to collect CFCs would expire on December 31, 2024, and, per their SUPs with the Port, the rental car companies would be required to fully fund the Bus System.

### **Revisions to POAC**

Implementing this action will require amending Appendix C-4 of the POAC. A redline depicting such amendments is contained in **Attachment C**.

## **OTHER FINDINGS AND PROVISIONS**

### **ENVIRONMENTAL REVIEW**

The proposed action was analyzed under the California Environmental Quality Act (CEQA) and was found to be:

☐ Categorically exempt under the following CEQA Guidelines Section:

Choose an item.

☒ Not a "Project" under CEQA, as defined in Public Resources Code § 21065.

☐ Other/Notes:

### **BUDGET**

☒ Administrative (No Impact to Operating, Non-Operating, or Capital Budgets); OR

☐ Operating

☒ Non-Operating

☐ Capital

Analysis: Approval of proposed actions may lead to an additional \$2.5 million in restricted CFC revenues; an amount beyond what is assumed in the FY 2025 Budget.

### **STAFFING**

☒ No Anticipated Staffing Impact.

☐ Anticipated Change to Budgeted Headcount.

Reason:

☐ Other Anticipated Staffing Impact (e.g., Temp Help).

Reason:

### **MARITIME AND AVIATION PROJECT LABOR AGREEMENT (MAPLA):**

Applies? No (Not Aviation or Maritime CIP Project) – proposed action is not covered work on Port's Capital Improvement Program in Aviation or Maritime areas above the threshold cost.

☐ Additional Notes:

### **LIVING WAGE** (City Charter § 728):

Applies?

No (No Covered Agreement) – proposed action is not an agreement, contract, lease, or request to provide financial assistance within the meaning of the Living Wage requirements.

☐ Additional Notes:

### **SUSTAINABLE OPPORTUNITIES:**

Applies? Yes.

### **GENERAL PLAN** (City Charter § 727):

Conformity Determination:



<u>Reason:</u> This action supports conversion of the Common-Use Bus System to zero emission bus operations at OAK.	No Project – conformity determination not required because proposed action does not change use of or make alterations to an existing facility, or create a new facility.								
<p><b><u>STRATEGIC PLAN.</u></b> The proposed action would help the Port achieve the following goal(s) and objective(s) in the Port’s Strategic Business Plan:</p> <table border="0"> <tr> <td><input type="checkbox"/> Grow Net Revenues</td> <td><input checked="" type="checkbox"/> Modernize and Maintain Infrastructure</td> </tr> <tr> <td><input checked="" type="checkbox"/> Improve Customer Service</td> <td><input type="checkbox"/> Pursue Employee Excellence</td> </tr> <tr> <td><input type="checkbox"/> Strengthen Safety and Security</td> <td><input type="checkbox"/> Serve Our Community</td> </tr> <tr> <td><input type="checkbox"/> Care for Our Environment</td> <td></td> </tr> </table>		<input type="checkbox"/> Grow Net Revenues	<input checked="" type="checkbox"/> Modernize and Maintain Infrastructure	<input checked="" type="checkbox"/> Improve Customer Service	<input type="checkbox"/> Pursue Employee Excellence	<input type="checkbox"/> Strengthen Safety and Security	<input type="checkbox"/> Serve Our Community	<input type="checkbox"/> Care for Our Environment	
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