

PORT ORDINANCE NO. 4419

ORDINANCE (I) APPROVING AN AMENDMENT TO SPACE USE PERMIT FOR NON-EXCLUSIVE RENTAL CAR CONCESSION WITH AVIS BUDGET CAR RENTAL, LLC, DTG OPERATIONS, INC., ENTERPRISE RENT A CAR COMPANY OF SAN FRANCISCO, FOX RENT A CAR, INC., THE HERTZ CORPORATION AND VANGUARD CAR RENTAL USA HOLDINGS, INC. (II) APPROVING SPACE USE PERMITS FOR NON-EXCLUSIVE RENTAL CAR CONCESSION WITH AVIS BUDGET CAR RENTAL, LLC, ENTERPRISE RENT A CAR COMPANY OF SAN FRANCISCO, FOX RENT A CAR, INC. AND THE HERTZ CORPORATION, AND (III) APPROVING A THIRD SUPPLEMENTAL AGREEMENT TO A LEASE WITH ENTERPRISE RENT A CAR COMPANY OF SAN FRANCISCO, FOR PROPERTY AND OPERATIONS AT OAKLAND INTERNATIONAL AIRPORT.

WHEREAS, the Board of Port Commissioners ("Board") has reviewed and evaluated the Agenda Report Item 6.1, dated May 18, 2017 ("Agenda Report") and related agenda materials, has received the expert testimony of Port of Oakland ("Port") staff, and has provided opportunities for and taken public comment; and

WHEREAS, that 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 related agenda materials 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 hereby approves the terms and conditions of the Amendment to Space Use Permits for Non-Exclusive Rental Car Concession with Avis Budget Car Rental, LLC, DTG Operations, Inc., Enterprise Rent A Car Company of San Francisco, Fox Rent A Car, Inc., The Hertz Corporation and Vanguard Car Rental USA Holdings, Inc., for premises at the Customer Service Building (7600 Earhart Road), extending the term on a month-to-month basis up to December 31, 2017, with rent consisting of (i) 10% of gross receipts, (ii) \$0.32 per square foot for ready/return areas, (iii) \$0.32 per square foot for additional land areas, and (iv) \$1.23 per square foot in the customer service building.

Section 2. The Board hereby approves the terms and conditions of the Space Use Permits for Non-Exclusive Rental Car Concession with Avis Budget Car Rental, LLC, Enterprise Rent A Car Company of San Francisco, Fox Rent A Car, Inc. and The Hertz Corporation, for premises at the Customer Service Building (7600 Earhart Road), for an initial term expiring on June 30, 2022, with mutual options to extend for two additional five year periods through June 30, 2032, at the initial Minimum Annual Guarantees of \$3,612,565 (Avis), \$4,050,022 (Enterprise), \$3,001,000 (Hertz) and \$616,000 (Fox), and land rent, building rent and percentage of gross revenue as described in the Agenda Report.

Section 3. The Board hereby approves the Third Supplemental Agreement with Enterprise Rent A Car Company of San Francisco to provide an option to extend the term of its Lease for its Quick Turnaround Facility for approximately five years to June 30, 2032.

Section 4. The Board hereby authorizes the Executive Director to execute (i) the Amendment to Space Use Permits for Non-Exclusive Rental Car Concession, (ii) the Space Use Permits for Non-Exclusive Rental Car Concession and (iii) Third Supplemental Agreement and such additional documents as may be necessary to effectuate the above approvals, subject to the Port Attorney's approval as to form and legality.

Section 5. The Board hereby finds and determines that the proposed actions are categorically exempt from the California Environmental Quality Act ("CEQA") pursuant to CEQA Guidelines Sections 15301, Existing Facilities. CEQA does not apply to the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities, mechanical equipment or topographical features, involving negligible or no expansion of use beyond that existing at the time of the lead agency's determination.

Section 6. This ordinance is not evidence of and does not create or constitute (a) a contract or lease, entitlement or property interest, or (b) any obligation or liability on the part of the Board or any officer or employee of the Board. Unless and until separate written agreement(s) are duly executed on behalf of the Board as authorized by this ordinance, is signed and 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(s).

The Board of Port Commissioners, Oakland, California, May 18, 2017.
Passed to print for one day by the following vote: Ayes: Commissioners Cluver, Hamlin, Martinez, Story, Yee and President Colbruno - 6.
Excused: Commissioner Butner - 1. Noes: 0.

John T. Betterton
Secretary of the Board