

PORT ORDINANCE NO. 4425

ORDINANCE APPROVING AMENDMENT NO. 1 TO SPACE/USE PERMIT  
FOR SELF SERVICE LUGGAGE CART CONCESSION WITH SMARTE  
CARTE, INC. AT OAKLAND INTERNATIONAL AIRPORT.

**WHEREAS**, the Board of Port Commissioners of the City of Oakland ("Board") has reviewed and evaluated the Agenda Report for Agenda Item 2.1, dated June 8, 2017 (the "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; now, therefore

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

**Section 1.** 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.

**Section 2.** The Board hereby approves the terms and conditions set forth in the Agenda Report for Amendment No. 1 to Space/Use Permit with **Smarte Carte, Inc.** to extend the term of the current Space/Use Permit for five periods of one year each, potentially through June 30, 2022, under the existing rent terms of greater of the Minimum Annual Guarantee (\$66,693) or 25% of gross revenue.

**Section 3.** The Board hereby approves a deviation from Port Policy No. 509 by authorizing the proposed \$17,000 performance deposit.

**Section 4.** The Board hereby authorizes the Executive Director to execute Amendment No. 1 to Space/Use Permit with **Smarte Carte, Inc.**, subject to approval as to form and legality by the Port Attorney.

**Section 5.** The Board hereby finds and determines that entering into the Amendment with **Smarte Carte, Inc.** is categorically exempt from the requirements of California Environmental Quality Act ("CEQA") pursuant to Section 15301, Existing Facilities. The CEQA provisions do 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(s), 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 Board. Unless and until a separate written contract 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 other contracting party, there shall be no valid or effective contract.

The Board of Port Commissioners, Oakland, California, June 8, 2017, 2017. Passed to print for one day by the following vote: Ayes: Commissioners Butner, Cluver, Hamlin, Martinez, Story, Yee and President Colbruno - 7. Noes: 0.

John T. Betterton

Secretary of the Board