

PORT ORDINANCE NO. 4476

ORDINANCE APPROVING AND AUTHORIZING THE EXECUTIVE DIRECTOR TO EXECUTE AN AMENDMENT OF THE LICENSE AND CONCESSION AGREEMENT FOR THE PREMISES LOCATED AT 8407 EDGEWATER DRIVE, OAKLAND TO ASSIGN THE AGREEMENT FROM J.W.P. LENDERS CORPORATION TO FAST AUTO LOANS, INC. AND TO ADD AN ADMINISTRATIVE FEE FOR FUTURE TRANSFERS.

WHEREAS, the Board of Port Commissioners of the City of Oakland ("Board") has reviewed and evaluated the Agenda Report for Agenda Item 2.3, dated May 24, 2018 (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; and

WHEREAS, Section 706 of the Charter of the City of Oakland ("City") gives to the Board the complete and exclusive power and duty for and on behalf of the City to make provisions for the needs of commerce, shipping, and navigation of the Port and to promote the development, construction, and operation of all waterfront properties, including piers, wharves, sea walls, docks, and other improvements; and

WHEREAS, the proposed action will provide service for members of the public who use the waterfront, and is consistent with the Port's duty to use and manage Port property in trust for the people of the State of California (the "Tidelands Trust"), and the private use of Port property pursuant to the agreements will not interfere with the Tidelands Trust; 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 further finds and determines that the proposed approval is exempt from the requirements of the California Environmental Quality Act ("CEQA") pursuant to CEQA Guidelines Section 15300.4, which exempts the execution of leases or agreements where the premises or licensed activity was previously leased or licensed to the same or another person, and involves negligible or no expansion of use beyond that existing at the time of the lead agency's determination.

Section 3. The Board hereby authorizes the Executive Director or his designee to execute the proposed amendment with **J.W.P. Lenders Corporation, dba RPM Lenders** and **Fast Auto Loans, Inc., dba RPM Lenders** to effectuate the assignment and add an administrative fee of \$1,500 for future transfer requests, as further described in the Agenda Report, subject to approval as to form and legality by the Port Attorney.

Furthermore, if the proposed amendment is not fully executed within thirty (30) days after Board approval, the approval shall be null and void unless extended at the sole and absolute discretion of the Executive Director of his designee.

Section 4. 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 Board. 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.

The Board of Port Commissioners, Oakland, California, May 24, 2018.
Passed to print for one day by the following vote: Ayes: Commissioners Butner, Cluver, Colbruno, Hamlin, Martinez, Yee and President Story - 7. Noes: 0.

Daria Edgerly
Secretary of the Board