

AGENDA REPORT

Ordinance: Approve and Authorize the Executive Director to Execute an Amendment to an Existing License and Concession Agreement with Herc Rentals Inc. for the Premises Located at 7727 Oakport Street, Oakland to Extend the Term for Five (5) Years with One Additional Option to Extend for an Additional Five (5) Years with a Proposed Starting Monthly Rent of \$32,055.00. **(CRE)**

MEETING DATE: 5/9/2019

AMOUNT: \$32,055.00 per month
Revenue

PARTIES INVOLVED: Herc Rentals Inc., a Delaware Corporation
Lawrence H. Silber, President/CEO

SUBMITTED BY: Pamela Kershaw, Director of Commercial Real Estate

APPROVED BY: J. Christopher Lytle, Executive Director

ACTION TYPE: Ordinance

EXECUTIVE SUMMARY

The subject Agenda Report is a request for Board approval to amend an existing License and Concession Agreement with Herc Rentals ("Herc") to extend their lease term for an additional five (5) years ("Second Extension Term") commencing August 1, 2019 with a starting monthly rent of \$32,055.00 and to provide an additional option to extend ("Third Extension Term") for an additional five (5) years commencing August 1, 2024, at fair market value.

BACKGROUND

In 2015 the Port executed a two (2) year License and Concession Agreement with Hertz Equipment Rental Corporation for the premises located at 7727 Oakport Street consisting of approximately 2.79 acres of land containing two (2) buildings totaling 25,000 square feet of showroom, office and warehouse use and yard area. This License and Concession

agreement provided for one extension term for an additional two years (“First Extension Term”), which will be expiring on July 31, 2019.

In June 2016, Hertz Equipment Rental Corporation changed their name to “Herc Rentals Inc.” but remains Licensee under the existing License and Concession Agreement with the Port, with all rights, interests, liabilities, and obligations as before the name change.

In anticipation of their lease expiration, Herc has requested approval to extend their lease for a Second Extension Term for a period of five (5) years commencing on August 1, 2019, and has requested an option for a Third Extension Term, commencing on August 1, 2024, for a total possible term of ten (10) years. Herc has also requested a one-time rent credit in an amount not to exceed one times’ the current monthly rent for Herc’s repaving of the driveway and yard area.

ANALYSIS

Herc currently pays a monthly rent of \$26,895.75 to the Port. Upon Herc’s request to extend their lease term, Port staff analyzed the supply of light industrial properties within the Oakland Airport Business Park area as well as current leasing trends of comparable properties to arrive at a negotiated monthly rent of \$32,055.00, with three (3%) annual increases upon the commencement of the Second Extension Term. This rental rate exceeds the Target Rental Rates approved by the Port for this building and use type.

In consideration of this extension, the Port would also grant Herc a one-time rent credit not to exceed one month’s monthly rent for the repaving of 7727 Oakport’s driveway and yard area. Such work must be completed within twelve months from the commencement of the Second Extension Term. The key business terms that have been negotiated between staff and Herc are summarized below:

Licensee	Herc Rentals Inc.
Premises	7727 Oakport Street, Oakland
Use	Retail sale and rental of construction equipment and supplies.
Term (Second Extension Term)	Commencing August 1, 2019 and expiring July 31, 2024
Performance Deposit	Equal to three (3) times the Monthly Rent
Option to Extend (Third Extension Term)	Commencing August 1, 2024 and expiring July 31, 2029
Rent	Second Extension Term: \$32,055, increased by 3% annually beginning the second year after the effective date of the amendment. Third Extension Term: FMV but in no event less than

	the previous amount paid during the most recent 12-month period, with 3% annual increases.
Tenant Refurbishment	For repaving of driveway and yard area. Not to exceed one month's rent and to be completed within twelve (12) months from commencement of the Second Extension Term

All other terms and conditions of the existing License and Concession Agreement remain unchanged. Based on the analysis contained within this agenda report, staff believes the requested amendment to this existing License and Concession Agreement will result in the retention of an existing tenant at an appropriate rental rate for the premises, and recommends approval of this amendment.

BUDGET & STAFFING

There is no budget impact for the current fiscal year. Future years' revenues will be budgeted accordingly. The proposed action will have no impact on staffing as the existing property is currently managed by existing CRE Division staff.

MARITIME AVIATION PROJECT LABOR AGREEMENT (MAPLA)

The matters contained in this Agenda Report do not fall within the scope of the Port of Oakland Maritime and Aviation Project Labor Agreement (MAPLA) and the provisions of the MAPLA do not apply.

STRATEGIC PLAN

The action described herein would help the Port achieve the following goals and objectives in the Port's Strategic Business Plan (2018-2022).

- Goal B: Maintain and Aggressively Grow Core Businesses
 - Goal B: Object 1: Retain existing customers and tenants.
- Goal D: Improve the Port's Financial Position
 - Goal D: Objective 1: Improve cash position and debt service coverage ratio (DSCR).

LIVING WAGE

Living Wage requirements, in accordance with the Port's Rules and Regulations for the Implementation and Enforcement of the Port of Oakland Living Wage Requirements ("Living Wage Regulations"), do not apply to this agreement as the tenant does not employ 21 or more employees working on Port-related work. However, the tenant will be required to certify that should living wage obligations become applicable, the tenant shall comply with the Living Wage Regulations.

SUSTAINABILITY

The tenant has not proposed any development for the leased area. If the tenant decides to develop the site in the future, the tenant must comply with the 2000 Sustainability Policy and complete the Sustainability Opportunities Assessment Form.

ENVIRONMENTAL

CEQA Determination: The proposed action to extend an Existing License and Concession Agreement was reviewed in accordance with the requirements of the California Environmental Quality Act (CEQA) and the Port CEQA Guidelines. Per its CEQA Guidelines, Port Ordinance No. 2581, Modification (9), the Port has added Subsection (p) to CEQA Guidelines Section 15301. This subsection states that the Port has determined that renewals, extensions or amendments to leases or to license and concession agreements, or the execution of leases or license and concession agreements, where the premises or licensed activity was previously leased or licensed to the same or another person and involving negligible or no expansion of use beyond that previously existing, are categorically exempt from CEQA. Therefore, this action is not subject to CEQA and no environmental review is required.

Compliance: As part of its business operations, Herc may handle hazardous materials and waste at the site. Herc will comply with applicable local, state and federal environmental regulations, including the Port's Environmental Ordinance No. 4345 and Storm Water Ordinance no. 4311, as referenced in the existing License and Concession Agreement.

GENERAL PLAN

This action does not change the use of any existing facility, make alterations to an existing facility, or create a new facility; therefore, a General Plan conformity determination pursuant to Section 727 of the City of Oakland Charter is not required.

OWNER-CONTROLLED INSURANCE PROGRAM (OCIP)

The Owner Controlled Insurance Program (OCIP) does not apply to the matters addressed by this Agenda Report as they are not capital improvement construction projects.

OPTIONS

1. Approve the proposed amendment to the existing License and Concession Agreement with Herc Rentals Inc. to extend their lease at 7727 Oakport Street for an additional five (5) years commencing August 1, 2019 (Second Extension Term) and provide one (1) option for an additional five (5) year extension commencing August 1, 2024 (Third Extension Term) subject to the terms described in this Agenda Report. This is the recommended option.
2. Do not approve the proposed amendment to the existing License and Concession Agreement with Herc Rentals Inc. for the premises located at 7727 Oakport Street, which will result in a vacancy of the premises for some period beginning in August 2019.

3. Direct staff to negotiate alternative terms for the proposed amendment to an existing License and Concession Agreement with Herc Rentals Inc., which depending on the nature of the alternative terms, may prove to be unacceptable to the tenant.

RECOMMENDATIONS

Staff recommends that the Board approve and authorize the Executive Director to execute an amendment to an existing License and Concession Agreement with Herc Rentals Inc. to extend their term for an additional five (5) years commencing August 1, 2019 (Second Extension Term) and to provide one (1) option for an additional five (5) year for a Third Extension Term, as further described in this Agenda Report.

Attachment: Site Map

Attachment – Site Map

Herc Rentals Inc.
7727 Oakport Street, Oakland
Amendment to License and Concession Agreement
To Extend Term

