

PORT ORDINANCE NO. 4517

ORDINANCE APPROVING A SECOND AMENDMENT TO SPACE USE PERMIT 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 TO (I) AMEND THE MINIMUM ANNUAL GUARANTEE FOR YEAR 1, (II) WAIVE THE YEAR 1 ANNUAL REPORT DEADLINE, (III) ISSUE A RENT CREDIT FOR EXPANSION SPACE FOR THE MONTHS OF NOVEMBER AND DECEMBER OF 2017, AND (IV) EXTEND THE DUE DATE FOR ALL REIMBURSEMENT REQUESTS FROM CUSTOMER FACILITY CHARGES.

**WHEREAS**, at its meeting on May 18, 2017, the Board of Port Commissioners ("Board") approved a Space Use Permit for Non-Exclusive Rental Car Concession and an Amendment to Space Use Permit for Non-Exclusive Rental Car Concession (as amended, the "SUP") with Avis Budget Car Rental, LLC; Enterprise Rent A Car Company of San Francisco; Fox Rent A Car, Inc.; and The Hertz Corporation; and

**WHEREAS**, the Board has reviewed and evaluated the Agenda Report Item 6.3, dated April 25, 2019 ("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 Second Amendment to 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 (collectively, the "Permittees"), for premises at the Customer Service Building (7600 Earhart Road), (i) adjusting the Minimum Annual Guarantees for the Permittees for Year 1 of the SUP as set forth in the Agenda Report, (ii) waiving the Year 1 Annual Report deadline, (iii) issuing rent credits for the months of November and December 2017 for the Expansion Space, and (iv) approving an extension of the due date from June 30, 2018, to December 31, 2019, for requests for reimbursements from Customer Facility Charges in connection with the Permittee's capital improvements.

**Section 2.** The Board hereby authorizes the Executive Director to execute the Second Amendment to Space Use Permits for Non-Exclusive Rental Car Concession and such additional documents as may be necessary to effectuate the proposed transactions, subject to the Port Attorney's approval as to form and legality.

**Section 3.** The Board hereby finds and determines that the proposed actions are categorically exempt from the California Environmental Quality Act ("CEQA") pursuant to CEQA Guidelines. The general rule in Section 15061(b)(3) of the CEQA Guidelines states that CEQA applies only to activities that have a potential for causing a significant effect on the environment and it can be seen with certainty that there is no possibility that the modifications to the SUPs will result in a physical change in the environment. Therefore, this action is not subject to CEQA and no further environmental review is required.

**Section 4.** 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, April 25, 2019. Passed to print for one day by the following vote: Ayes: Commissioners Cluver, Colbruno, Leslie, and President Butner - 4. Excused: Commissioners Lee, Martinez and Story - 1. Noes: 0.

Daria Edgerly

Secretary of the Board