

CONCESSION AGREEMENT

THIS AGREEMENT, made and entered into as of the 1st day of September, 2019, by and between City of Newport, a fixed base operator, located at 135 SE 84th Street, South Beach, Oregon 97330 ("FBO") and The HERTZ CORPORATION, a Delaware corporation located at 8501 Williams Road, Estero, FL 33928 ("HERTZ").

WITNESSETH:

WHEREAS, FBO and HERTZ desire to make available rental service, without drivers (the "Service") to customers of FBO, and;

WHEREAS, HERTZ is ready and able to furnish such Service and desires to furnish and arrange the furnishing thereof at FBO.

NOW, THEREFORE, in consideration of the foregoing and of the mutual promises herein contained, the parties hereby agree as follows:

- 1) **Term:** The term of this Agreement shall be effective as of September 1, 2019, and shall terminate on August 31, 2024. However, either party may terminate this Agreement at any time on thirty (30) days written notice to the other party.
- 2) **Concession Rights of HERTZ:**
 - a) FBO hereby grants to HERTZ, during the term hereof, the right to conduct an automobile rental service at FBO for the convenience of FBO's customers.
 - b) HERTZ is also granted the right to solicit, advertise and promote the Service at the FBO location and, in connection therewith, the following rights:
 - i) To staff this location daily during regular business hours Monday through Saturday, except for designated Holidays.
 - ii) To utilize a mutually agreed upon rental counter/office location, a minimum of five (5) parking stalls, space for vehicle vacuuming, and supply storage.
 - iii) To reasonable common use with others of any and all entrance and exit driveways and means of access and egress at the FBO location as may be necessary to conducting the Service.
 - iv) To prominently place the following HERTZ signage at the FBO location:
 - (a) Hours of operation
 - (b) Corporate logo signage by counter/office
 - (c) Hertz parking stall signs
 - (d) Air side signage

The location of all signage used by HERTZ shall be subject to FBO's prior approval.

- v) To be authorized to install, at HERTZ's expense, telephone lines as needed by HERTZ in order to conduct its car rental business, provided, however, that existing lines are used wherever available and by mutual Agreement.
- vi) To be listed on FBO's Website with respect to HERTZ's hours of operation, locations and telephone numbers.
- c) HERTZ will provide preprinted, computer generated documents and manual rental agreements for after-hours rentals.
- d) FBO will be responsible for the repair and maintenance of utilities that are required by HERTZ in conducting its services.
- e) The location covered by this Agreement will be listed on HERTZ's worldwide reservation system (which transmits to all common travel agency systems).
- f) In the event that FBO shall acquire, own, manage or operate any additional FBO(s) at other locations, FBO shall grant HERTZ the right to establish car rental concession operations at such FBO location. FBO shall promptly notify HERTZ in writing as to the availability of any such location. HERTZ shall have sixty (60) days from the receipt of such notice to notify FBO as to whether HERTZ agrees or declines to establish car rental concession operations at such location. Should HERTZ agree to provide its services at the new location; the terms and conditions of this Agreement shall cover such location or be renegotiated.
- g) FBO shall instruct employees dealing directly with the public (i) to inform FBO customers that HERTZ is an authorized and preferred car rental company of FBO, and (ii) that the FBO may use another rental car company if Hertz is unable to provide the requested vehicle type or the customer specifically requests the FBO use another rental car company.

3) Concession Fee; Payment:

- a) For the rights and privileges herein granted, HERTZ shall pay to the FBO a Concession Fee equal to eighteen (18%) percent of the monthly net time and mileage charges ("Car Rental Revenues") derived by HERTZ from customers at FBO.
- b) HERTZ shall add to each customer car rental contract the eighteen percent (18%) fee as a separate line item charge for monthly net time and mileage charges to recover the concession fee charges. This separate line item shall be designated on the customer rental contract as "Airport Concession Fee Recovery" (ACFR), or other such similar language.

- c) Not later than twenty (20) days after the end of each month, HERTZ shall furnish to FBO a statement of HERTZ's Car Rental Revenues derived from car rentals originating at the FBO location during the previous month, and concurrently with the submission of such statements, shall pay to FBO the appropriate Concession Fee.

4) **Insurance; Indemnification:**

- a) HERTZ shall self-insure during the term hereof, Comprehensive General Liability Insurance coverage and Automobile Liability Insurance with a limit for each occurrence of not less than One Million Dollars (\$1,000,000) Combined Single Limit (CSL), indemnifying FBO against all claims, loss, cost, damage, expense and liability from loss of life or damage or injury to persons.
- b) The coverage required hereunder shall name FBO as the certificate holder and shall contain substantially the following special language: "The Company agrees that thirty (30) days prior written notice shall be afforded in the event of cancellation in coverage with respect to this Agreement." Upon execution of this Agreement, HERTZ shall provide FBO with Certificates of Insurance evidencing the coverage specified herein.
- c) HERTZ shall, during the term of this Agreement, defend against losses, suits, penalties, fines, judgments, costs, including legal costs and expenses and reasonable attorney's fees, allegedly arising directly or indirectly out of HERTZ's operations at the FBO location, the rental of HERTZ's vehicles by FBO employees, or use of the HERTZ vehicles by FBO customers.

5) **Relationship of Parties:** Nothing herein contained shall be construed as constituting a partnership, joint venture, agency or other relationship between HERTZ and FBO. This Agreement creates a concession relationship only. No franchises, license or other similar rights are granted to FBO to use the HERTZ name or otherwise benefit therefrom and FBO hereby expressly disclaims any license or right thereof or in connection therewith. Likewise, use by HERTZ of the name FBO, except as related to the Service, is subject to the prior written approval of FBO. The parties intend that no statute or regulation providing for protection of franchises and/or licenses shall be applicable and FBO expressly waives any and all rights under such statute or regulation.

6) **Assignment:** Neither party shall assign any of its rights or obligations hereunder without first obtaining the prior written consent of the other party.

7) **Termination:** This Agreement shall terminate in the event that either party shall file a voluntary petition of bankruptcy, be adjudicated as bankrupt or make an assignment for the benefit of creditors. If either party shall default in the performance of any material covenant or agreement required to perform under the provisions of this Agreement, and shall fail to remedy such default or to take prompt action to remedy such default within a period of ten (10) days for monetary defaults or thirty (30) days for non-monetary defaults after receipt from the other party of notice to remedy the same, then upon an additional ten (10) days prior written notice, the other party shall have the right, at its option, to terminate this Agreement.

8) **Right of HERTZ to Remove Property:** At the expiration or the earlier termination of the Agreement at FBO, HERTZ shall be entitled, for a reasonable time after its expiration or earlier termination, to remove all fixtures, improvements, installations and any other tangible items placed by HERTZ at FBO, provided that HERTZ shall repair any damage resulting from such removal and return the premises to its original condition.

9) **Miscellaneous:**

a) Any notice or other communication to FBO shall be in writing, and addressed to:

City of Newport
135 SE 84th Street
South Beach, OR 97366
Attn: Lance Vanderbeck
Airport Director

And any notice or communication to HERTZ shall be in writing and addressed to:

The Hertz Corporation
8501 Williams Road
Estero, FL 33928
Attention: Real Estate Department

or to such other respective address as either party may designate in accordance with the provision hereof and shall be delivered personally or deposited in the United States mail, registered or certified, return receipt requested, with proper postage and fees prepaid, or through a nationally-known overnight delivery service.

- b) **Entire Agreement:** This document constitutes the entire Agreement between the parties with regard to the subject matter hereof and shall not be amended or changed in any manner, except by an amendment in writing, signed on behalf of the parties hereto by an authorized officer of each.
- c) **Waiver:** The failure of either party hereto in any one or more instances to insist upon the performance of any of the terms, covenants or conditions of this Agreement, to exercise any right or privileges in this Agreement conferred or the waiver of any breach of any of the terms, covenants or conditions, rights or privileges but the same shall continue and remain in full force and effect as if no such forbearance or waiver occurred.
- d) **Governing Law:** This Agreement is made in the state of Oregon and shall be governed by and construed in accordance with the laws of the state of Oregon without regard to the conflicts of law principles.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed as of the day and year first above written by their duly authorized officers,

THE HERTZ CORPORATION:

By: 

Name: Stephen A. Blum

Title: Senior Vice President, Real Estate and Facilities

CITY OF NEWPORT:

By: 

Name: Spencer R. Nebel

Title: Newport City Manager

APPROVED AS TO FORM:

See email dated 8-7-19
City Attorney

The Hertz Corporation
8501 Williams Road
Estero, FL 33928

Stephen A. Blum
Senior Vice President,
Real Estate and Facilities

September 3, 2019

Send via Federal Express

City of Newport
139 SW 84th Street
Newport, Oregon 97366
Attn: Spencer Nebel, City Manager

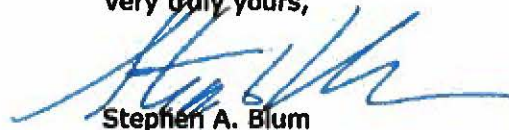
RE: Termination Notice for Agency Agreement for location known as Newport Airport,
located at South Beach, Oregon

Dear Mr. Nebel:

Reference is made to that Agency Agreement dated September 6, 2016 by and between City of Newport ("Agent") and The Hertz Corporation ("Hertz"). The parties intend to enter into a Concession Agreement effective September 1, 2019, and therefore this Agency Agreement shall terminate end of day August 31, 2019. The balance due of \$4,024.73 shall be paid within thirty (30) days of termination.

Please countersign this letter where indicated below to confirm your agreement with the foregoing. Should you have any questions, please contact Connie Gurich at (310) 568-3459 or cgurich@hertz.com. Thank you.

Very truly yours,

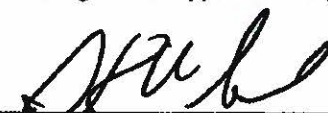


Stephen A. Blum

cc: Connie Gurich
Joseph Otte
Julie Adams

CITY OF NEWPORT

Acknowledged and Approved this 3rd day of September, 2019.

By: 
Spencer Nebel



Hertz

