C OF C 125-174

Ordinance No. 107-2023

By Council Members McCormack and Griffin (by departmental request)

AN EMERGENCY ORDINANCE

To supplement the Codified Ordinances of Cleveland, Ohio, 1976, by enacting new Section 139.17 relating to customer facility charge for on-airport car rental companies.

WHEREAS, this ordinance constitutes an emergency measure providing for the usual daily operation of a municipal department; now, therefore,

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF CLEVELAND:

Section 1. That the Codified Ordinances of Cleveland, Ohio, 1976, are supplemented by enacting new Section 139.17 to read as follows:

Section 139.17 Customer Facility Charge for On-Airport Car Rental Customers

(a) For purposes of this section, the following definitions shall apply:

(1) "Airport" shall mean Cleveland Hopkins International Airport.

(2) "Customer Facility Charge" or "CFC" shall mean the charge imposed by the City upon a rental car customer arriving at the Airport and renting a vehicle, which will be collected and remitted by the RACs.

(3) "Indenture" shall mean the Amended and Restated Trust Indenture (Seventeenth Supplemental Trust Indenture dated as of November 1, 2011) by and between the City and The Bank of New York Mellon Trust Company, N.A., as trustee, as the same may be amended, modified or supplemented by any amendments or modifications thereof and supplements thereto entered into in accordance with the provisions thereof.

(4) "Rental Car Company" or "RAC" shall mean any rental car company or business that enters into an agreement or is otherwise authorized to operate a rental car concession at and from Cleveland Hopkins International Airport.

(5) "Rental Car Facility" or "Rental Car Facilities" shall mean the consolidated rental car facility and all related equipment and facilities to be located on Airport property from which all RACs would operate and all rental car customers would pick up and return their cars.

(6) "Special Facility" or "Special Facilities" shall mean any hangar, maintenance buildings, or any other facility, improvement, or structure to be acquired or constructed on the Airport System, the cost of construction, acquisition, maintenance and operation of which are financed by Special Revenue Bonds and user charges.

(7) "Special Revenue Bond" or "Special Facility Bonds" shall mean revenue bonds or other obligations of the City which may be authorized and issued for the purpose of acquiring, constructing or improving a Special Facility to be leased to, or contracted for operation by, any person or entity, including the City, with the income therefrom to be used for the payment of sums adequate to pay all principal, interest, redemption premiums, if any, and reserves, if any, as required in the legislation authorizing such Special Revenue Bonds and all operating expenses incurred in the operation of the Special Facility. Special Revenue Bonds are not issued under or secured by the Indenture.

(8) "Transaction Day" shall mean a 24-hour period or fraction thereof for which a rental car customer is provided the use of a rental vehicle for compensation or otherwise, and regardless of the duration or length of the rental term.

(b) All persons entering into a rental car transaction with Rental Car Company, which originates at Cleveland Hopkins International Airport, shall be charged a Customer Facility Charge per each Transaction Day. The amount of the CFC shall be set by the Board of Control of the City and may be amended from time to time by the Board of Control. The

Director of Port Control shall provide not less than 30 days' notice to each Rental Car Company of the adjusted changes to the CFC approved by the Board of Control for the costs and expenses of financing, planning, designing, constructing, equipping, operating and maintaining the Rental Car Facilities and related infrastructure; provided, however, the CFC shall not, without further legislative action, exceed the costs to finance, plan, design, construct, equip, operate and maintain the Rental Car Facilities, related facilities, and purposes that the Director deems appropriate to support and operate the Rental Car Facilities.

(c) Each Rental Car Company shall:

(1) Impose and collect the CFC authorized by the City;

(2) Hold such CFCs collected in trust for the benefit of the City, and that the City, or a trustee on its behalf, shall have complete possessory and ownership rights to such CFCs;

(3) Remit the CFCs collected to the City, without offset, in the manner described in an agreement with the RAC, or as the City may otherwise direct; and

(4) Comply with all City rules or requirements, as established by the Director of Port Control from time to time or included within the agreement with the Rental Car Company, regarding the collection and remittance of CFCs.

(d) In addition to all other remedies available to the City, any Rental Car Company who fails to collect and/or timely remit the CFC may be barred from using Cleveland Hopkins International Airport or its facilities for conduct of any commercial activity whatsoever.

(e) *Use.* Proceeds of the Customer Facility Charge shall be deposited by the Airport into a segregated account for the collection of the CFCs and separate from Airport Revenues, to be used solely for:

(1) The planning, development, financing, construction and operation of the Rental Car Facility, Rental Car Facility improvements and repairs, and related infrastructure, which are or will be deemed as a Special Facility or Special Facilities by the Airport.

(2) Rental Car Facility operations and maintenance expenses.

(f) *Pledge*. The Airport may pledge Customer Facility Charge revenues for any of the following:

(1) To support the payment of Special Revenue Bonds or Special Facility Bonds issued by the City to finance any use authorized under division (e) of this section.

(2) The creation and maintenance of reasonable reserves and for the payment of debt service associated with any Special Revenue Bonds or Special Facility Bonds issued for any use authorized under division (e) of this section.

Capitalized terms used herein and not otherwise defined herein have the meaning given to such terms as in the Indenture.

Section 2. That this ordinance is declared to be an emergency measure and, provided it receives the affirmative vote of two-thirds of all the members elected to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor; otherwise it shall take effect and be in force from and after the earliest period allowed by law.

DDR:nl
1-23-2023
FOR: Interim Director Kramer

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READ FIRST TIME on JANUARY 23, 2023 **REPORTS**
and referred to DIRECTORS of Port Control, Finance, Law;
COMMITTEES on Transportation and Mobility,
Finance Diversity Equity and Inclusion

CITY CLERK

READ SECOND TIME

CITY CLERK

READ THIRD TIME

PRESIDENT

CITY CLERK

APPROVED

MAYOR

Recorded Vol. **110** Page_____

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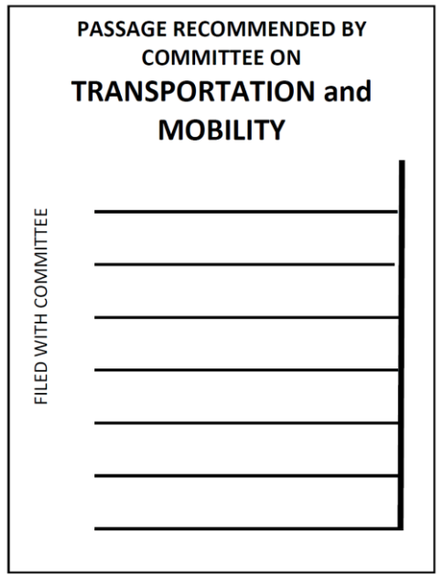
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