

778 Burlway (Enterprise) CUP Extension Conditions (09/19/2016)

1. The project shall be built as shown on the plans submitted to the Planning Division and date stamped January 3, 2003, sheets A0.1, A1.0, A1.1, A2.1, and A22.1, site plan, partial site plan, second floor-administration, and building C floor plan, kiosk floor plan and reflected ceiling plan;
2. This approval shall expire seven (7) years following City Council action on October 3, 2016 (expiration on October 3, 2023) at which time all said uses on the site shall cease. Within ten (10) days of the date of approval of this conditional use permit extension, the applicant shall pay the sum of \$1,854,000 to the City of Burlingame as an offset to provide mitigation for the negative impact the continued underutilization of the subject property for long-term airport parking will have on the economic development potential in the City's Bayfront area. During the seven (7) year term of the conditional use permit extension, the applicant shall be required to meet the following milestones and accompanying financial contributions to the City to provide assurance that satisfactory progress is made towards development of the site and in order to reduce future payments to the City for the use's negative economic impact:
 - a. By October 3, 2020, applicant shall identify a qualified developer team for subsequent development of the property following cessation of the automobile rental business. Additionally, a project description for reuse of the property situated at 778 Burlway (project site) shall be submitted to the City that is in full compliance with the land-use policies in the City's General Plan and regulatory requirements of the City's Zoning Ordinance in place as of the stated date (with such changes as may otherwise be requested in accordance with the Zoning Ordinance procedures for variances, conditional use permits or the like). Accompanying this project description shall be a conceptual site plan for the proposed development. Within ten (10) days of completing all items required by this milestone, the applicant shall remit a payment to the City in the amount of \$213,500;
 - b. By October 3, 2021 the applicant (and/or its selected developer) shall submit a complete application seeking approval of all required land use entitlements for development of the site to the Community Development Department – Planning Division, including a traffic impact analysis of the development concept and preliminary site analyses (e.g. Phase I site contamination analysis, geotechnical report, etc.). Additionally, the applicant (and/or its selected developer) shall work with the Planning Division staff to initiate analysis of the proposed development pursuant to the provisions of the California Environmental Quality Act (CEQA) and shall pay the City, in advance, for the City's reasonably anticipated consultant costs related to this analysis, subject to an agreed-upon procedure for future reporting and adjustments for reimbursement of City consultant costs as such work progresses. Within ten (10) days of completing all items required by this milestone, the applicant shall remit a payment to the City in the amount of \$213,500;
 - c. In advance of October 3, 2022 the developer shall work diligently with City staff with the goal of ensuring that all required project entitlements are granted by the City and the CEQA analysis is completed and adopted/certified by said date. In the event the Community Development Director reasonably determines that the entitlement review is delayed for reasons beyond the control of the applicant (including City processing delays or administrative or judicial appeals), the Community Development Director (after consultation with the City Manager and

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City Attorney) shall adjust this compliance date appropriately to account for such delay. Within ten (10) days after all required project entitlements are granted by the City, the applicant shall remit a payment to the City in the amount of \$213,500;

- d. By October 3, 2023 (or if the CEQA analysis or entitlements are appealed judicially, one year after the date that the project entitlements obtained under item 2c above become final and unappealable), the applicant shall submit a completed building permit application to the Community Development Department – Building Division. Within ten (10) days of completing all items required by this milestone, the applicant shall remit payment to the City in the amount of \$213,500;
 - e. In the event that the applicant fails to meet any of the milestones stated in items 2a through 2d above, applicant shall remit \$713,500 on October 3 of each year in which the milestones set forth in this paragraph have not been met. Should applicant come into compliance with the milestones, the required mitigation payment shall be reduced from the date of compliance forward with no pro-rating for prior periods of non-compliance.
 - f. In the event that applicant fails to make any of the required payments under Section 2.a through 2.e when due and such failure continues for more than thirty (30) days after written notice from City to applicant, the City may terminate the applicant's rights hereunder, upon which all obligations and rights of the parties hereunder shall cease.
 - g. Applicant may terminate this CUP and the rights and uses authorized hereunder by written notice to the City, which notice shall specify the effective date of termination. Upon such termination, all future rights and obligations of applicant under this CUP shall cease, including, without limitation, the authorized uses hereunder and the obligation for future payments.
3. The car rental, maintenance and storage facility may be open for business from 6:00 a.m. to 10:30 p.m., seven days a week, and that there shall be no more an 50 employees and 25 customers on-site at any one time;
 4. There shall be a maximum of 600 cars stored on the site at any one time, this number shall include cars that are on-site for maintenance and there shall be a maximum of 2 car carriers on-site to deliver vehicles at any one time;
 5. No trucks delivering or picking up cars at this site shall arrive or depart between 7:00 a.m. and 9:00 a.m. or 4:00 p.m. and 6:00 p.m. daily, and all such deliveries shall be made on-site with no impact on the public street or right-of-way;
 6. The required number of handicap stalls for employees and/or customers shall be provided and designated at 778 Burlway Road as per the California Building Code, 2001 edition, and all employees shall be required to park in the 78 space employee parking lot in the southwestern portion of the site, employee parking shall be designated and employee cars shall have sticker identifying them as belonging to employees on-site;
 7. All employee parking shall be provided 24 hours a day, seven days a week at the south end of the site;

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8. The car rental operation at this site shall pay to the City of Burlingame \$36,500 per year; the annual payment shall be payable in advance no later than April 30 of each year during which this permit is in effect. When one percent (1%) of the total gross rental for any vehicles for lease or rental originating from this site, whether those agreements are signed in Burlingame or adjacent jurisdictions exceeds \$36,500 during any calendar year, the applicant shall then pay one percent of the total gross rentals to the City of Burlingame on a quarterly basis for the duration of the permit; this amount shall be due and payable no later than 30 days after the end of each calendar-year quarter. For purposes of this condition, agreements for rental from San Francisco International Airport car rental facility shall not be included in calculating the 1% payment to the City. In addition to making the payments required by this condition (either annual/flat amount or quarterly), the car rental operation shall file quarterly statements with the City of Burlingame Finance Department documenting the number of vehicle rental agreements signed at the site per month during the quarter on such forms as may be required by the City, and shall include a breakdown of the monthly vehicle rentals from the 778 Burlway Road site. In addition, the City of Burlingame shall accrue any sales tax revenue from rental contracts written in the City of Burlingame. Whether paying a fixed fee or 1% of the gross rental rates, the car rental operation on this site shall keep and preserve, for a period of three years, all records as may be necessary to determine the rentals from which the one percent (1%) payment calculation may be derived. Such records shall be available for delivery to the City for review with fifteen (15) days after request therefore;
9. No cars shall be loaded, unloaded or stored on any public street, in any public right-of-way, or in any public access area;
10. There shall be no intensification or changes of use of the subject property, except to substitute a permitted use under applicable zoning, as the allowed use under these provisions is non-conforming.
11. The fire lane from the east end of the site to Burlway Road shall be provided and maintained, unobstructed, on a permanent basis as required by the Fire and Public Works Department of the City of Burlingame;
12. The property owner shall be responsible for the maintenance of the public access trail and improvements adjacent to the subject property for the life of the project and shall be liable for any damage caused to the public for failure to maintain these facilities to a safe standard, and further that the property owner shall seek Bay Conservation and Development Commission approval for redesigning the narrowest existing section of the trail and replacing and expanding the pavement in this area;
13. The property owner shall install and maintain on a regular basis as prescribed by the city's NPDES inspector, petroleum filter pillows in all parking lot catch basins throughout the site, that all water used for washing cars on site shall be recycled by a method approved by the City Engineer, and that failure to install these systems within 90 days of approval of this use permit amendment or failure to maintain the effectiveness of these systems on an on-going basis shall cause this conditional use permit to be review by the Planning Commission; and
14. Any improvements for the use shall meet all California Building and Fire Code, 2010 edition as amended by the City of Burlingame.

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15. At all times during the operation of the facility and, in particular, after cessation of the use, the property shall be maintained in a clean and orderly manner consistent with all applicable provisions of the Burlingame Municipal Code.