

**CITY OF EL PASO, TEXAS
AGENDA ITEM
DEPARTMENT HEAD'S SUMMARY FORM**

DEPARTMENT: Aviation

AGENDA DATE: May 13, 2014

CONTACT PERSON NAME AND PHONE NUMBER: Monica Lombrafia, 780-4724

DISTRICT(S) AFFECTED: All Districts

SUBJECT:

APPROVE a resolution / ordinance / lease to do what? OR AUTHORIZE the City Manager to do what? Be descriptive of what we want Council to approve. Include \$ amount if applicable.

This item is a Resolution to authorize the City Manager to sign a Lessor's Approval of Assignment of a Maintenance Facility and Land Lease for Auto Rental Concession by and among the City of El Paso ("Lessor"), Simply Wheelz, LLC dba Advantage Rent A Car ("Assignor") and Advantage Opco, LLC ("Assignee") for the following described property:

A portion of Lot 4, Block 1-C, El Paso International Airport Tracts, City of El Paso, El Paso County, Texas, municipally known and numbered as 6535 De Havilland Drive, El Paso, Texas.

BACKGROUND / DISCUSSION:

Discussion of the what, why, where, when, and how to enable Council to have reasonably complete description of the contemplated action. This should include attachment of bid tabulation, or ordinance or resolution if appropriate. What are the benefits to the City of this action? What are the citizen concerns?

Simply Wheelz, LLC dba Advantage Rent A Car filed for bankruptcy protection under Chapter 11 on November 5, 2013. As part of the court-approved reorganization, the court has approved for Simply Wheelz, LLC to sell the Advantage Rent A Car brand assets to Advantage Opco, LLC.

Advantage Rent A Car is operated by The Hertz Corporation under a license agreement with Advantage OpCo, LLC. As part of this dual brand operation, Advantage will need to maintain a service facility adjacent to the Airport where they will wash, vacuum, fuel, and service their fleet. The Department of Aviation is requesting the approval of the assignment of the lease for the service facility to allow them to occupy the property, operate its administrative and rental vehicle service functions of the airport rental car concession during the time it takes to complete the construction of the consolidated rental car agency complex (ConRAC).

The Lease terms, conditions and rental rates will remain the same. The rental rates are as follows:

- Building & site improvements: 3,400 square feet x \$9.13 per square foot/annum = \$31,042.00 per year or \$2,586.83 per month; and,
- Land: 64,695 square feet x \$0.54 per square foot/year = \$34,935.30 per year or \$ 2,911.28 per month.

PRIOR COUNCIL ACTION:

Has the Council previously considered this item or a closely related one?

- 12/10/2013 – Second Amendment to the Maintenance Facility and Land Lease for Auto Rental Concession to allow for the Lessee to extend the term of the agreement through December 31, 2015.
- 6/28/2011 – First Amendment to the Maintenance Facility and Land Lease for Auto Rental Concession to allow for the Lessee to extend the term of the agreement through August 31, 2014.
- 10/25/2011 - Award of Vehicle Rental Concession Agreement under Solicitation 2011-239R to The Hertz Corporation dba Hertz and Advantage Rent A Car, effective December 1, 2011.

AMOUNT AND SOURCE OF FUNDING:

How will this item be funded? Has the item been budgeted? If so, identify funding source by account numbers and description of account. Does it require a budget transfer?

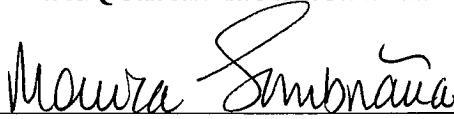
N/A – This is a revenue-generating item

BOARD / COMMISSION ACTION:

Enter appropriate comments or N/A

*****REQUIRED AUTHORIZATION*****

DEPARTMENT HEAD:



Monica Lombraña, A.A.E.
Director of Aviation

(If Department Head Summary Form is initiated by Purchasing, client department should sign also)

Information copy to appropriate Deputy City Manager

RESOLUTION

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF EL PASO:

That the City Manager be authorized to sign a Lessor's Approval of Assignment of a Maintenance Facility and Land Lease for Auto Rental Concession by and among the City of El Paso ("Lessor"), Simply Wheelz LLC dba Advantage Rent A Car ("Assignor") and Advantage Opco, LLC, ("Assignee") for the following described property:

A portion of Lot 4, Block 1-C, El Paso International Airport Tracts, City of El Paso, El Paso County, Texas, municipally known and numbered as 6535 De Havilland Drive, El Paso, Texas.

ADOPTED this the ____ day of _____ 2014.

CITY OF EL PASO

Oscar Leaser
Mayor

ATTEST:

Richarda Duffy Momsen
City Clerk

APPROVED AS TO FORM:

Theresa Cullen
Deputy City Attorney

APPROVED AS TO CONTENT:

Monica Lombraña
Monica Lombraña, A.A.E.
Director of Aviation

STATE OF TEXAS §
 §
COUNTY OF EL PASO §

LESSOR'S APPROVAL OF ASSIGNMENT

WHEREAS, effective February 9, 2010, the City of El Paso ("Lessor") entered into a Maintenance Facility and Land Lease for Auto Rental Concession ("Lease") with Simply Wheelz LLC dba Advantage Rent A Car ("Lessee") for the property described as a portion of Lot 4, Block 1-C, El Paso International Airport Tracts, City of El Paso, El Paso County, Texas, municipally known and numbered as 6535 De Havilland Drive, El Paso, Texas (the "Premises");

WHEREAS, Lessee exercised an option to extend the Lease through June 30, 2011;

WHEREAS, on June 28, 2011, a First Amendment to the Lease was approved to allow for an option to extend the Lease through August 31, 2014;

WHEREAS, effective December 10, 2013, a Second Amendment to the Lease was approved to allow Lessee an option to extend the Lease through December 31, 2015, and

WHEREAS, Lessee has requested the Lessor's approval and consent to an assignment of the Lease to Advantage Opco, LLC, ("Assignee")

NOW THEREFORE, in consideration of the mutual covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. **CONSENT TO ASSIGNMENT.** Lessor hereby approves and consents to the assignment of the Lease from Lessee as Assignor to Assignee, on the condition that Assignee assumes and becomes liable to pay any and all sums owing or becoming due to Lessor under terms of the Lease from and after the effective date of the assignment of the Lease to Assignee, and upon the further condition that Assignee agrees to accept and abide by all the terms, covenants, and conditions of the Lease.
2. **PROOF OF INSURANCE AND INDEMNIFICATION.** Assignee has provided a certificate of insurance to evidence compliance with the insurance requirements of the Lease and expressly agrees to be bound by the indemnification provisions contained in the Lease.
3. **GUARANTOR.** Assignee shall, as of the effective date of the assignment, enjoy all rights and privileges and be responsible for satisfying all such obligations the same as if the Lease had originally been executed between Lessor and Assignee. Provided, however, Assignee shall tender to Lessor an irrevocable letter of credit, or other surety acceptable to the Director of Aviation ("Security Deposit") in an amount equal to three

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SimplyWheelz to Advantage Opco/6535 DeHavilland

(3) months of Rental to guarantee the faithful performance of Assignee as Lessee of its obligations under this Lease and the payment of all Rental due thereunder. Assignee shall be obligated to maintain such Security Deposit in effect until the earlier of (i) expiration of eighteen (18) consecutive months from the Effective Date of this Lessor's approval of Assignment or (ii) the expiration of the Lease. Within twenty (20) days after expiration of such and if no Event of Default by Assignee has occurred, Lessor will return the Security Deposit to Assignee.

4. **RATIFICATION OF LEASE.** Except as expressly modified herein, no provision of this consent alters or modifies any of the terms and conditions of the Lease; all other terms and conditions of the Lease shall remain in full force and effect.
5. **ADDRESS FOR NOTICE.** Notices to Assignee shall be sufficient if sent by certified mail, postage prepaid, addressed to:

ASSIGNOR: Simply Wheelz LLC dba Advantage Rent A Car
1052 Highland Colony Pkwy., Ste. 204
Ridgeland, MS 29157

ASSIGNEE: Advantage Opco, LLC
7652 Narcossee Road
Orlando, FL 32822

6. **AUTHORIZED REPRESENTATIVE.** The persons signing this Lessor's Approval of Assignment on behalf of the Assignee and Assignor represent and warrant that they have the authority legally to bind the Assignee and Assignor, respectively, to the provisions of this Lessor's Approval of Assignment.
7. **NON-WAIVER.** This Lessor's Approval of Assignment hereby given by Lessor shall not end the need for Lessor's consent for any future assignments.
8. **EFFECTIVE DATE.** The Effective Date of this Lessor's Approval of Assignment will be _____, 2014.

[SIGNATURES BEGIN ON THE FOLLOWING PAGE]

ADOPTED this ____ day of _____, 2014

LESSOR: CITY OF EL PASO

Joyce A. Wilson
City Manager

APPROVED AS TO FORM:

Theresa Cullen

Theresa Cullen
Deputy City Attorney

APPROVED AS TO CONTENT:

Monica Lombraña

Monica Lombraña, A.A.E.
Director of Aviation

LESSOR'S ACKNOWLEDGEMENT

THE STATE OF TEXAS)
)
COUNTY OF EL PASO)

This instrument was acknowledged before me on this ____ day of _____, 2014,
by **Joyce A. Wilson as City Manager of the City of El Paso, Texas.** (Lessor)

My Commission Expires:

Notary Public, State of Texas

[SIGNATURES CONTINUE ON THE FOLLOWING PAGE]

ASSIGNOR: Simply Wheelz LLC dba
Advantage Rent A Car

Tom McDonnell

Printed Name: Tom McDONNELL

Title: CEO

ASSIGNOR'S ACKNOWLEDGEMENT

THE STATE OF MS)

COUNTY OF Hinds)

This instrument was acknowledged before me on this 18 day of April, 2014,
by Tom McDonnell as CEO of Simply Wheelz LLC dba Advantage
Rent A Car (Assignor).

My Commission Expires _____



Gale Nelson
Notary Public, State of MS

[SIGNATURES CONTINUE ON THE FOLLOWING PAGE]

ASSIGNEE: Advantage Opco, LLC

By: [Signature]

Printed Name: Gabriel de Alba

Title: President + Secretary of Advantage Medical, Inc.
sole member of Advantage Opco LLC

ASSIGNEE'S ACKNOWLEDGEMENT

THE STATE OF Ontario)

COUNTY OF Canada)

This instrument was acknowledged before me on this 22 day of April,
2014, by Gabriel de Alba, as President & Secretary on behalf of said limited liability company.
(Assignee) of Advantage Medical, Inc.
sole member

My Commission Expires:
N/A

Ronald Fichter [Signature]
Notary Public, State of Ontario

