

**BOARD OF PORT COMMISSIONERS
CITY OF OAKLAND**

6/25/15
Item: 6.2
CT/1hr
CT [initials]

**ORDINANCE AMENDING PORT ORDINANCE NO. 3634, AS
AMENDED, RELATING TO LANDING AND TENANT TERMINAL
SPACE RENTAL FEES AT METROPOLITAN OAKLAND
INTERNATIONAL AIRPORT.**

WHEREAS, the Board of Port Commissioners ("Board") has reviewed and evaluated the Agenda Report Item 6.2, dated June 25, 2015 ("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; now, therefore

BE IT ORDAINED by the Board of Port Commissioners of the City of Oakland as follows:

The charges for use of facilities and the provision of Aviation Fuel at the Metropolitan Oakland International Airport were, established pursuant to Port Ordinance No. 3634 adopted by the Board on April 3, 2001, and are hereby amended, consistent with the Agenda Report, as follows:

Section 1. Section 2 of Port Ordinance No. 3634 is hereby amended to read in full as follows:

"Section 2. Except as provided in Sections 3, 5 and 7 of this ordinance, or by a written agreement between the Port and an Airline Operator, or as may be waived pursuant to a marketing incentive policy authorized by the Port if such waiver is reflected in a written agreement between the Port and an Airline Operator, the following landing fees and operation charges are hereby established for each aircraft using the landing areas, including the helicopter landing areas, at the Airport:

a. (i) For Based Aircraft described in subsection (c) of this Section 2, and having a maximum gross landing weight of less than 12,500 pounds, the rate shall be \$36.70 per landing; provided, however, that effective October 1,

2015 if the operator of such Based Aircraft has not signed and returned the Port's Airline Operating Agreement, the rate shall be \$45.87 per landing until such Agreement has been signed and returned by the operator of such Based Aircraft.

(ii) For other Aircraft having a maximum gross landing weight of less than 12,500 pounds, the rate shall be \$45.87 per landing, except as hereafter set forth in subsection (c) of this Section 2.

b. For Aircraft having a maximum gross landing weight of more than 12,500 pounds, the rate shall be \$3.67 per 1,000 pounds of maximum gross landing weight per Aircraft, except as hereafter set forth in subsection (c) of this Section 2.

c. For aircraft operated by a Based Tenant Operator, a Certificated Airline Operator that is listed in the Official Airline Guide as providing scheduled service to and from the Airport, or an Airline Operator that leases or licenses a minimum of 20,000 square feet of land or ramp area on the South Field on at least a month-to-month basis, or that leases or licenses a minimum of 2,200 square feet of air cargo building space on the South Field on at least a month-to-month basis, the rate shall be \$2.94 per 1,000 pounds of maximum gross landing weight per Aircraft; provided however, that effective October 1, 2015, this subsection (c) shall not apply to any Airline Operator that has not signed and returned to the Port the Port's Airline Operating Agreement."

Section 2. Section 3 of Port Ordinance No. 3634 is hereby amended to read in full as follows:

"Section 3. A landing fee shall not be assessed against any Aircraft which, after taking off from the Airport, and without making a landing at any other airport, returns to land at the Airport because of meteorological conditions, mechanical or operating causes, or any other reason of emergency. The landing fee and operation charge for any other non-Revenue Landing, including but not limited to training and familiarization flights, of Aircraft operated by a Certificated Airline Operator are hereby established at \$1.47 for each 1,000 pounds of maximum gross landing weight per Aircraft landed by Certificated Airline Operators covered by Section 2c hereof and \$1.83 for each 1,000 pounds of maximum gross landing weight per Aircraft landed by Certificated Airline Operators covered by Section 2b hereof."

Section 3. Section 10.1 of Port Ordinance No. 3634 is hereby amended to read in full as follows:

"Section 10.1. Except as otherwise provided by a written agreement between the Port and an Airline Operator, or as may be waived pursuant to a marketing incentive policy authorized by the Port if such waiver is reflected in a written agreement between the Port and an Airline Operator, the following charges for space rental or license of ticketing counters and related office, holding room and baggage area in the Terminal Buildings are hereby established:

a. Ticketing counter space in Buildings M-101, M-102 and M-130, \$22.333 per square foot per month;

b. Office space behind ticketing counters in Buildings M-101, M-102 and M-130 and office space in Buildings M-102, M-103, M-130, M-157, M-158, M-367, and XU70, \$20.100 per square foot per month;

c. Baggage claim area in Buildings M-101 and M-368, \$17.867 per square foot per month; and

d. Baggage make-up area in Buildings M-101, M-102, M-130 and M-363, \$15.633 per square foot per month.

e. Ticket Counter Use - Airline Operators who lease or license any ticketing counter space on a per use basis to provide domestic or international scheduled or nonscheduled service to the Airport shall pay a use fee of \$550.00 per four-hour use. Such leasing or licensing of the ticketing counter space by an Airline Operator shall make such Airline Operator a Based Tenant Operator under this Ordinance.

f. Ticket Counter - Common Use, \$11.167 per square foot per month.

g. Office Space - Common Use, \$10.050 per square foot per month; and

h. Baggage Make-Up - Common Use, \$7.817 per square foot per month

i. Concession office/storage space in Buildings M-101, M-102, M-103, M-130, M-367 and M-368, \$3.908 per square foot per month."

Section 4. Section 10.2 of Port Ordinance No. 3634 is hereby amended to add the following:

"All Airline Operators that are Based Tenant Operators shall pay to the Port for the use of the baggage claim area and the baggage conveyor facilities a fee for passengers deplaning at the Airport from flights from which baggage is handled over and through such area or facilities. Said fee - as specified in **Schedule A** - shall be charged based on the number of passengers onboard Airline Operator's Aircraft regardless of the number of such passengers who actually have their baggage handled over or through such area and facilities."

Section 5. Section 10.10(a) - (f) of Port Ordinance No. 3634 is hereby amended to read in full as follows:

"Section 10.10. All Airline Operators who are preferentially assigned the use of a ticketing unit and associated loading bridge gate in the second level of the Airport's Terminal I (Building M-103) and Terminal II (Buildings M-130 and M-367) shall pay to the Port a second level use fee in the sum of \$54,479.00 per month for each ticketing unit and associated loading bridge gate so assigned. Such assignment shall not include any specific seating areas, but shall include the right for assignee's passengers to use any of the common seating areas in said second level. The Airport Assistant Director of Aviation shall have the right to secondarily assign any such ticketing unit and associated loading bridge gate to another Airline Operator, provided that such secondary assignee's use of said ticketing unit and associated loading bridge gate does not unreasonably interfere with the use of the preferential assignee. The fees for secondary use shall be as follows:

a. Based Tenant Operator with Holdroom

(i) Except as otherwise provided in subsection (ii) below, Based Tenant Operators that are assigned the use of a ticketing unit and associated loading bridge gate and are listed in the Official Airline Guide as providing scheduled service to and from the Airport shall pay the following charge:

Holdroom and Loading Bridge Charge - \$278.20 per enplaning operation.

(ii) Effective October 1, 2015, if an Airline Operator described in subsection (i) above has not signed and returned the Port's Space/Use Permit covering its space in the Terminal Buildings, and does not sign and return such Space/Use Permit within 60 days after its receipt of such Space/Use Permit, then commencing on the 61st day after Airline Operator's receipt of such Space/Use Permit, and ending on the date the Port receives the Space/Use Permit signed by such Airline Operator, the charge to such Airline

Operator under subsection (i) above shall be increased to \$347.75 per enplaning operation.

b. Based Tenant Operator without Holdroom

(i) Except as otherwise provided in subsection (ii) below, Based Tenant Operators who are not assigned the use of a ticketing unit and associated loading bridge gate and are listed in the Official Airline Guide as providing scheduled service to and from the Airport shall pay the following charge:

Holdroom and Loading Bridge Charge - \$2.14 per enplaning passenger.

(ii) Effective October 1, 2015, if an Airline Operator described in subsection (i) above has not signed and returned the Port's Space/Use Permit covering its right to use space in the Terminal Buildings, and does not sign and return such Space/Use Permit within 60 days after its receipt of such Space/Use Permit, then commencing on the 61st day after Airline Operator's receipt of such Space/Use Permit, and ending on the date the Port receives the Space/Use Permit signed by such Airline Operator, the charge to such Airline Operator under subsection (i) above shall be increased to \$2.68 per enplaning passenger.

c. Affiliated Operator

(i) Except as otherwise provided in subsection (ii) below, Airline Operators who are affiliated with a Based Tenant Operator and are listed in the Official Airline Guide as providing scheduled service to and from the Airport shall pay the following charge:

Holdroom and Loading Bridge Charge - \$2.14 per enplaning passenger.

(ii) Effective October 1, 2015, if an Airline Operator described in subsection (i) above has not signed and returned the Port's Space/Use Permit covering its space in the Terminal Buildings, and does not sign and return such Space/Use Permit within 60 days after its receipt of such Space/Use Permit, then commencing on the 61st day after Airline Operator's receipt of such Space/Use Permit, and ending on the date the Port receives the Space/Use Permit signed by such Airline Operator, the charge to such Airline Operator under subsection (i) above shall be increased to \$2.68 per enplaning passenger.

d. Affiliated Operator using Small Aircraft

(i) Except as otherwise provided in subsection (ii) below, Airline Operators who are affiliated with a Based Tenant Operator and are listed in the Official Guide as providing scheduled service to and from the Airport utilizing Aircraft that are too small to be serviced with a loading bridge provided by the Port shall pay the following charge:

Holdroom Charge - \$1.79 per enplaning passenger.

(ii) Effective October 1, 2015, if an Airline Operator described in subsection (i) above has not signed and returned the Port's Space/Use Permit covering its right to use space in the Terminal Buildings, and does not sign and return such Space/Use Permit within 60 days after its receipt of such Space/Use Permit, then commencing on the 61st day after Airline Operator's receipt of such Space/Use Permit, and ending on the date the Port receives the Space/Use Permit signed by such Airline Operator, the charge to such Airline Operator under subsection (i) above shall be increased to \$2.24 per enplaning passenger.

e. Non-Based, Non-Tenant Operator Airline Operators who are not a Based Tenant Operator and are not listed in the Official Airline Guide as providing scheduled service to and from the Airport shall pay the following charge:

Terminal Use Fee	\$3.89	per enplaning passenger
Holdroom & Loading Bridge Charge	\$2.68	per enplaning passenger
Security Fee	\$40.00	per enplaning operation
Baggage Claim Area	\$1.78	per deplaning passenger

f. Non-Terminal Operator - Airline Operators who do not use the Terminal Buildings and are not subject to the Airplane Operator Security requirements of 14 CFR 108 for domestic operators or 14 CFR 129 for foreign air carriers and foreign operators of U.S. registered Aircraft shall not be assessed a secondary use charge.

In the event a preferential assignee is unable to use the ticketing unit and loading bridge gate preferentially assigned to it by reason of the gate being temporarily inoperable, and if in such event said preferential assignee is required to use another ticketing unit and loading bridge gate in said second level of Building M-103, Building M-130 and Building M-367, said preferential assignee shall not be assessed an additional secondary use fee for such use.

For the purpose of this Section 10.10, a preferential assignment shall give the assignee the right to a preferential nonexclusive use of a certain ticketing unit and associated loading bridge gate in the said second level of the Airport Terminal I (M-103) and Terminal II (M-130 and M-367) on a month-to-month basis, together with the right to utilize for its passengers using said unit and gate, the common seating areas in said second level. For the purposes of this Section 10.10, a secondary assignment shall give the assignee the right to secondary use of a certain ticketing unit and loading bridge gate in said second level for a period specified, such right being subordinate to the prior rights of the preferential assignee, together with the right to utilize for its passengers using said unit and gate, the common seating areas in said second level. Except as hereinabove specifically provided, secondary assignments of said second level ticketing units and loading bridge gates shall not make the Airline Operator receiving such secondary assignments a Based Tenant Operator."

Section 6. Section 10.13 of Port Ordinance No. 3634 is hereby amended to read in full as follows:

"Section 10.13. A concession fee of ten percent (10%) of Gross Revenue, subject to a minimum monthly fee of (i) \$250 for those operating on South Field, and (ii) \$500 for in-flight caterers and those operating on North Field, is hereby established for all Airline Services Providers. For any Airline Services Provider that occupies space, such Airline Services Provider shall also pay the applicable charge for such space as set forth in this Ordinance or as set forth in a separate agreement between the Port and the Airline Services Provider, in addition to the fee set forth in this Section 10.13. An **"Airline Services Provider"** shall mean any third-party company, entity or person operating at the Airport (in either South Field or North Field) that provides services to passenger and cargo airlines, corporate and private aircraft owners, and/or any other entity operating at the Airport, including, but not limited to, passenger and cargo handling, in-flight catering services, aircraft washing, airline tenant space janitorial services, aircraft maintenance and repair, passenger, catering and cargo security, and specialized equipment maintenance and repair. Notwithstanding the foregoing, Airline Services Provider shall not include any third-party company, entity or person that provides services to Airport concessionaires who operate food/beverage, retail, news/gifts and/or duty free concessions at the Airport. In addition, Airline Services Provider shall not include any contractors who provide construction services to Airport concessionaires, airlines or other Port tenants (**"Airport Tenant**

Construction Contractor"). An Airport Tenant Construction Contractor that enters into an agreement with the Port shall pay an annual administration fee of \$500.00. "**Gross Revenue**" shall have the meaning set forth in the applicable agreement between the Port and the Airline Services Provider. Gross Revenue and Gross Receipts have the same meaning."

Section 7. The Board of Port Commissioners hereby finds and determines that this Ordinance is exempt pursuant to California Environmental Quality Act Guidelines Section 15273(a).

Section 8. Sections 1-6 of this Ordinance shall be retroactively effective July 1, 2015 for airlines belonging to the Airline Affairs Committee and effective October 1, 2015, for non-based airlines, ground handlers and other terminal tenants.

Section 9. 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.

Schedule A

BAGGAGE CONVEYOR FACILITIES		
Terminal 1 (Shared by all Terminal 1 Airlines, allocated by passengers deplaning in Terminal 1)	\$366,017.00	Monthly Allocation
Terminal 2 (Shared by all Terminal 2 Airlines, allocated by passengers deplaning in Terminal 2)	\$278,041.00	Monthly Allocation

DRAFT

President.

Attest _____

Secretary.

Approved as to form and legality:

Port Attorney