

AGENDA REPORT

Ordinance: Approval of *Amendments to Telecommunications License Agreements* with Wireless Telecommunications Carriers Operating at Oakland International Airport. (Aviation)

MEETING DATE: 5/28/2015

AMOUNT: \$779,000 (FY) Revenue

PARTIES INVOLVED: **New Cingular Wireless PCS, LLC dba AT&T Mobility,**
Atlanta, Georgia – Stan Sigman, President and CEO

TMO CA/NV, LLC dba T-Mobile USA, Inc.
Bellevue, Washington – Tim Hottges, Chairman and John Legere, CEO

GTE Mobilnet of California Limited Partnership dba Verizon Wireless
Basking Ridge, New Jersey – Ivan G. Seidenberg, President and CEO

Sprint Spectrum Realty Company, L.P.
Overland Park, Kansas – Marcelo Claure, CEO and Masayoshi Son, Chairman

SUBMITTED BY: Deborah Ale-Flint, Director of Aviation

APPROVED BY: J. Christopher Lytle, Executive Director

ACTION TYPE: Ordinance

EXECUTIVE SUMMARY

Staff seeks Board adoption of four (4) Ordinances approving the following *Amendments*:

- ✂ *Second Amendment to Telecommunications License Agreement* with TMO CA/NV, LLC dba T-Mobile USA, Inc.;
- ✂ *Second Amendment to Telecommunications License Agreement* with New Cingular Wireless PCS, LLC dba AT&T Mobility;

✧ *Third Amendment to Telecommunications License Agreement* with Sprint Spectrum Realty Company, L.P.; and

✧ *Third Amendment to Telecommunications License Agreement* with GTE Mobilnet of California Limited Partnership dba Verizon Wireless.

Entering into these *Amendments* will provide for the continued operation and delivery of wireless telecommunications services at Oakland International Airport, and will extend the term of all of the existing *Telecommunications License Agreements* through June 30, 2020, resulting in the collection of \$64,933 in monthly rental revenue from these four wireless telecommunications carriers.

Finally, this action will delegate the authority to the Executive Director to execute the *Amendments*, subject to approval of the Port Attorney as to form and legality.

BACKGROUND

Starting more than fifteen years ago, the Port and each of the wireless telecommunications carriers (the “Carriers”) began entering into agreements covering equipment rooms, conduit runs and antennas throughout the Terminal Complex. Most recently, all Carriers entered into the Port’s standard form *Telecommunications License Agreement (TLA)*, which was amended by Board action in spring of 2012 to adjust rates and extend the term for each tenant to June 30, 2015.

Previously, the Board adopted the following ordinances to approve *Amendments to Telecommunications License Agreements (Amendments)* with each Carrier:

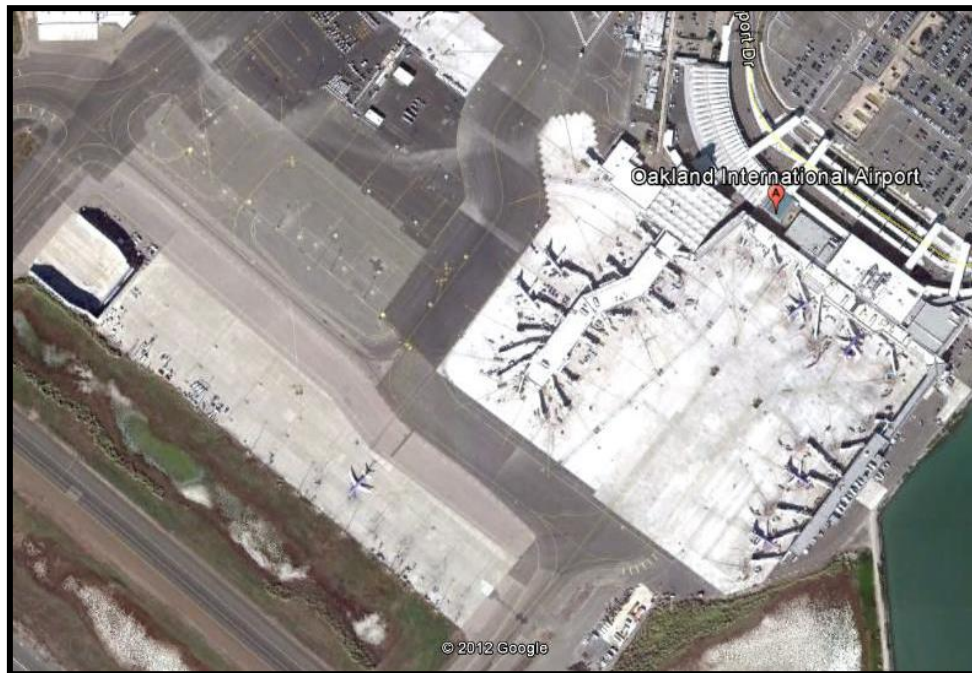
Ord. No.	Adopted Date	Wireless Telecommunications Carrier
4184	April 5, 2012	Sprint Spectrum Realty Company, L.P. (Sprint)
4185	April 5, 2012	TMO CA/NV, LLC doing business as T-Mobile USA, Inc. (T-Mobile)
4186	April 5, 2012	New Cingular Wireless PCS, LLC doing business as AT&T Mobility
4187	April 5, 2012	GTE Mobilnet of California Limited Partnership doing business as Verizon Wireless

Each *TLA* allows the Carriers to provide wireless telecommunications services at Oakland International Airport (“OAK”). The initial Monthly License Fee for the amended *TLAs* includes a Base Fee of \$9,000 plus a Per-Antenna Fee of \$50 per month. These fees have been increased annually over the five year term by the higher of CPI or 3%; with the Base Fee now at \$9,800 per month and the Per-Antenna Fee at \$50 per month. Updated market data as shown in the *Analysis* section labeled; *2015 Summary Survey of Telecommunications Carriers at West Coast/Regional Airports* indicates that the upward adjustments of these charges will

allow OAK to maintain comparability in the west coast airport marketplace that have similar relationships with telecommunications-based tenants.

ANALYSIS

The *Amendments* allow the Carriers to continue current operations and service delivery objectives at various locations distributed throughout the Terminal Complex as depicted on the Google Earth map illustration.



**Illustration of Terminal Complex at Oakland International Airport
Equipment and Antennas Installed Throughout the Terminal Complex**

The specific business terms and conditions of the proposed *Amendments* are as follows:

- Operator(s):** TMO CA/NV, LLC dba T-Mobile USA;
New Cingular Wireless PCS, LLC dba AT&T Mobility;
GTE Mobilnet of California L.P. dba Verizon Wireless; and,
Sprint Spectrum Realty Company, L.P.
- Extended Term:** Five (5) years commencing on July 1, 2015, and expiring on
June 30, 2020.
- Use:** Wireless telecommunications services.
- License Fees:** The proposed Monthly License Fee is a combination of a
fixed Base Fee of \$10,000, plus a \$75 Per-Antenna Fee (as
illustrated on License Fee Table).

License Fee Table

	T-Mobile	New Cingular/ AT&T Mobility	Sprint*	Verizon Wireless
Base Fee/mo.	\$10,000	\$10,000	\$20,000	\$10,000
Antenna Fee/mo.	\$75	\$75	\$75	\$75
No. of Antennas	15	39	48	69
GRE Mounting Fee*	N/A	N/A	736.63 l.f. @ \$0.0584/l.f./mo. \$43.00/mo.	N/A
Port-owned conduit/fiber use fee*	N/A	N/A	6,293 l.f. @ \$0.3281/l.f./mo. \$2,065.00/mo.	N/A
TOTALS	\$11,125/mo.	\$12,925/mo.	\$25,708/mo.	\$15,175/mo.

The monthly Base Fee will be subject to annual adjustments in accordance with increases to the Consumer Price Index (CPI) Urban Wage Earners and Clerical Workers, All Items for the San Francisco - Oakland - San Jose Metropolitan Area, or a minimum three percent (3%) increase, whichever is higher. Additional charges that apply only to Sprint, will also be subject to the annual CPI adjustments. The monthly Per-Antenna Fee of \$75 stays unadjusted throughout the Extended Term.

*Sprint licenses twice as much base space for its equipment that causes Sprint to incur two (2) times the Monthly License Fee, versus the other Carriers. In addition, Sprint incurs additional charges (GRE Mounting Fee and Port-owned conduit/fiber use fee) that is specific only to Sprint

Performance

Deposits:

The existing Performance Deposits for each Carrier will increase to respectively different amounts that are at least 3 times the Monthly License Fee to be in effect at the conclusion of the Extended Term. This will enable each Carrier to satisfy their respective Performance Deposit requirement with a single increase, eliminating annual incremental increases that are burdensome to administer.

- **T-Mobile** \$45,000.00
- **New Cingular/AT&T Mobility** \$45,000.00

- **Sprint** \$90,000.00
- **GTE Mobilnet dba Verizon Wireless** \$54,000.00

Premises: Each Carrier has the non-exclusive and non-possessory right to install, operate, and maintain telecommunications equipment in various locations throughout the Terminal Complex.

Methodology and Rationale for Establishing the Proposed Monthly License Fee (Base Fee plus Per-Antenna Fee): Charges – and methodologies for calculating those charges – assessed by airports to cell phone companies vary widely, with little logic or consistency. Some airports with minimal passenger traffic consider cell phone service an amenity and try to get the most cell phone companies in their airports at whatever minimal revenue can be generated. Conversely, the cell phone companies prefer to minimize their expenses, but generally pay more at the airports with higher passenger counts.

Airport Properties periodically surveys airports throughout our region (local contacts and through Western Regional Airport Property Managers (WRAPm)) to stay abreast of the dynamic business practices of other airport operators affecting the telecommunications industry. The below table summarizes the charges and revenues at four western area airports with similarities and differences compared to OAK:

2015 Summary Survey of Telecommunications Carriers at West Coast/Regional Airports

	San Jose - SJC (9.4 MAP - 2014)	Phoenix - PHX (31.4 MAP - 2014)	San Fran. – SFO (47.2 MAP - 2014)	Sacramento - SAC (8.7 MAP - 2014)	Oakland - OAK (10.3 MAP - 2014)
Base Fee	\$1,200/mo.	\$50,000/year per carrier	\$39,500/mo. per carrier	\$1.00/s.f. for enclosed space	\$9,800/mo. (average)
Per Antenna Charge	\$4,000 per antenna avg. - 16 installed antennas	\$2,500 per antenna/yr. (avg. – 15/carrier at PHX)	N/A	\$750 per antenna (first 5 antennas) + \$50/antenna over 5 in count	\$600 per antenna/year (all antennas for all carriers)
Premium/ Privilege Charge	\$7,750 per carrier	N/A	N/A	\$6,000 – tech. fee \$350 – priv. fee	N/A
Number of carriers	3	4	4	4	4
Est. monthly totals	\$8,950/mo. per carrier	\$4,200/mo. per carrier	\$39,500/mo. per carrier	\$10,500/mo. per carrier	\$9,800/mo. per carrier + \$50/mo. per antenna
Est. annual Totals	\$322,200/year* SUBJECT TO CHANGE – SJC planning to contract out management of all telecom agmts	\$350,000/year (increases annually by 3%)	\$1.9 million/year (increases annually by \$25,000 per year)	\$504,000/year	\$693,000/year

Based on research and knowledge of “what the market will bear”, it is suggested that the monthly base fee be increased to \$10,000 (from \approx \$9,800) and the monthly per-antenna fee be increased to \$75 (from \$50). The monthly base fee would increase annually based on the higher of changes in the CPI, or, a minimum increase of 3% per annum.

It is also recommended that the per-antenna fee be fixed at \$75 each for the entire five-year Extended Term. Increasing the per-antenna fee each year by a CPI, or, a minimum 3% yields a change of just a little more than \$1 per antenna, per year. This small increase is an accounting burden for the tenants and time intensive for Port staff while providing very little additional marginal revenue to the Port.

BUDGET & STAFFING

Approval of the *Amendments* will generate \$779,000 in budgeted rental revenues commencing in FY2015/2016. Approval of the *Amendments* with all four Carriers will generate approximately \$3.9 million dollars over the Extended Term, which does not include annual CPI adjustments for the applicable charges for each Carrier.

There will be no staffing impact as a result of the requested action.

MARITIME AVIATION PROJECT LABOR AGREEMENT (MAPLA)

The action to approve these *Amendments* does not fall within the scope of the Port of Oakland Maritime and Project Labor Agreement (MAPLA) and the provisions of the MAPLA do not apply to this action. However, if in the future, construction work under these *Telecommunications License Agreements* exceeds the thresholds required for coverage under the MAPLA, the provisions of MAPLA will apply when Port Permits are requested for the construction work.

STRATEGIC PLAN

Goal A: Create Sustainable Economic Growth for the Port and Beyond

- Goal A: Objective 1: Maximize the use of existing assets.
- Goal A: Objective 2: Affirm Port identity as a public enterprise.

Goal B: Maintain and Aggressively Grow Core Businesses

- Goal B: Objective 1: Retain existing customers and tenants.
- Goal B: Objective 5: Enhance customer services (i.e., market intelligence, technical knowledge, strategic advice and problem solving).

Goal D: Improve the Port's Financial Position

- Goal D: Objective 1: Improve cash position and debt service coverage ratio (DSCR).

LIVING WAGE

Living Wage requirements, in accordance with the Port's Rules and Regulations for the Implementation and Enforcement of the Port of Oakland Living Wage Requirements (the "Living Wage Regulations"), do not apply as each carrier does not employ 21 or more employees working on Port-related work. However, the service providers will be required to certify that should Living Wage obligations become applicable, the carriers shall comply with the Living Wage Regulations. In addition, future construction work under these *Telecommunications License Agreements*, prevailing wage requirements will apply.

ENVIRONMENTAL

California Environmental Quality Act (CEQA) Guidelines Section (15738 (2) states that "Project" means the whole of an action that has a potential for resulting in either direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment. The general rule in section 15061(b) (3) of the Guidelines additionally states that CEQA applies only to activities that have the potential for causing a significant effect on the environment. Because it can be seen with certainty that there is no possibility that the *Amendments* at OAK may have a significant effect on the environment, the "Project" under CEQA, and is not subject to CEQA under the General Rule Exclusion. No further review of this action under CEQA is required.

GENERAL PLAN

Pursuant to Section 727 of the City of Oakland Charter, the *Amendments* have been determined to conform to the policies for the transportation designation of the Oakland General Plan.

OWNER-CONTROLLED INSURANCE PROGRAM (OCIP)/ PROFESSIONAL LIABILITY INSURANCE PROGRAM (PLIP)

This action is not subject to the Port's Owner Controlled Insurance Program (OCIP) or Professional Liability Program (PLIP) as it is not a capital improvement construction project or design project supporting such construction.

OPTIONS

1. Approve (i) the *Second Amendment to Telecommunications License Agreement* with T TMO CA/NV, LLC dba -Mobile USA, Inc., (ii) the *Second Amendment to Telecommunications License Agreement* with New Cingular Wireless PCS, LLC dba AT&T Mobility, (iii) the *Third Amendment to Telecommunications License Agreement* with Sprint Spectrum Realty Company, L.P. dba Sprint, and (iv) the *Third Amendment to Telecommunications License Agreement* with GTE Mobilnet of California Limited Partnership dba Verizon Wireless, all at certain specified Base Fees, Per Antenna Fees and applicable GRE Mounting Fees and Conduit Use Fees for an Extended Term of five (5) years, commencing July 1, 2015 and expiring on June 30, 2020 (collectively, the

Amendments). The *Amendments* will ensure the continued delivery of wireless telecommunications services at Oakland International Airport. This is the recommended action.

2. Do not approve the *Amendments* with T-Mobile USA, Inc., AT&T Mobility, Sprint, or with Verizon Wireless, as described above, thereby jeopardizing the continuation of telecommunications and data services to customers and tenants at Oakland International Airport, but recommend different terms and conditions; or,

3. Reject the *Amendments* with T-Mobile USA, Inc., AT&T Mobility, Sprint, and Verizon Wireless as described above, and allow the existing *Telecommunications License Agreement* to expire, forcing the Carriers to vacate Oakland International Airport; thereby reducing the existing capacity for telecommunications and data services for its customers and tenants.

RECOMMENDATION

Adopt an ordinance approving the terms and conditions set forth in this Agenda Report and authorizing the Executive Director to approve and execute the proposed *Second Amendment to Telecommunications License Agreement* with TMO CA/NV, LLC dba T-Mobile USA, Inc. commencing July 1, 2015 through June 30, 2020, for a Base Fee of \$10,000 per month and a Per Antenna Fee of \$75 per month, subject to certain increases, and subject to the Port Attorney's review and approval as to form and legality.

Adopt an ordinance approving the terms and conditions set forth in this Agenda Report and authorizing the Executive Director to approve and execute the proposed *Second Amendment to Telecommunications License Agreement* with New Cingular Wireless PCS, LLC dba AT&T Mobility commencing July 1, 2015 through June 30, 2020, for a Base Fee of \$10,000 per month and a Per Antenna Fee of \$75 per month, subject to certain increases, and subject to the Port Attorney's review and approval as to form and legality.

Adopt an ordinance approving the terms and conditions set forth in this Agenda Report and authorizing the Executive Director to execute the proposed *Third Amendment to Telecommunications License Agreement* with Sprint Spectrum Realty Company, L.P. dba Sprint commencing July 1, 2015 through June 30, 2020, for a Base Fee of \$20,000 per month and a Per Antenna Fee of \$75 per month, a Mounting Fee of \$43 per month, and a Conduit Use Fee of \$2,065 per month, subject to certain increases, and subject to the Port Attorney's review and approval as to form and legality.

Adopt an ordinance approving the terms and conditions set forth in this Agenda Report and authorizing the Executive Director to execute the proposed *Third Amendment to Telecommunications License Agreement* with GTE Mobilnet of California Limited Partnership dba Verizon Wireless commencing July 1, 2015 through June 30, 2020, for a Base Fee of \$10,000 per month and a Per Antenna Fee of \$75 per month, subject to certain increases, and subject to the Port Attorney's review and approval as to form and legality.