

AGENDA REPORT

Resolution: Approval of a Request for Port Consent to Change of Indirect Ownership of an Existing Fiber Optics Cable **(CRE)**

MEETING DATE: 1/26/2017

AMOUNT: N/A

PARTIES INVOLVED: XO Communications Services, LLC
Verizon Communications, Inc.

SUBMITTED BY: Pamela Kershaw, Director of Commercial Real Estate

APPROVED BY: J. Christopher Lytle, Executive Director

ACTION TYPE: Resolution

EXECUTIVE SUMMARY

The subject Agenda Report is a request to authorize the Executive Director to execute a consent letter approving a change in ownership from XO Holdings to Verizon Communications, Inc. ("Verizon") for an existing submerged fiber optics cable. The proposed changes in indirect ownership will not affect XO's Communications Services, LLC ("Lessee") rights or obligations under the existing lease with the Port.

BACKGROUND

The Port leases to XO Communications Services, LLC (formerly Nextlink) approximately 109,711 square feet of tidelands and submerged lands located north of the Oakland-San Francisco Bay Bridge for a fiber optics cable which runs from Oakland to Treasure Island in San Francisco. A map of the property is attached as Exhibit A to this report as reference. The lease allows Lessee to install, operate and maintain fiber optics cable. The Port originally entered into the lease with Lessee's predecessors in interest on April 20, 1999. The current term of the lease is scheduled to end on June 30, 2029.

ANALYSIS

The Lessee is requesting Port consent for the transfer of ownership and control of the parent company, XO Holdings to Verizon Communications, Inc. The entity that leases the property from the Port and the entity that owns and controls the Lessee will remain the same. Both

entities will continue to be wholly owned, without any change in the ownership structure, by the same parent company XO Communications, LLC.

Pursuant to Section 18 of the lease, any change in Lessee's ownership interest, either direct or indirect, requires written consent evidenced thru resolution from the Board of Port Commissioners. The transfer of ownership and control of XO Holdings to Verizon constitutes an indirect transfer under the Section 18 of the lease. Attached for your reference is a current ownership chart (Exhibit B) and a proposed ownership chart (Exhibit C).

Verizon Communications, Inc. is one of the world's leading providers of communications, information and entertainment products and services to consumers, businesses and governmental agencies. Verizon offers voice, data and video services on its wireless and wireline networks. The change in ownership from XO Communications, LLC to Verizon could bring added financial stability at the parent entity level, however the change will not have a direct impact on Lessee's obligations to the Port. Based on the information contained within this Agenda Report and the information submitted to the Port by the Lessee, staff recommends approval of the requested Consent to Change in Indirect Ownership.

BUDGET & STAFFING

The proposed action will have no impact on the budget as terms of the agreement with the Lessee remained unchanged.

The proposed action will have no impact on staffing as the existing property is currently managed by existing CRE Division staff.

MARITIME AVIATION PROJECT LABOR AGREEMENT (MAPLA)

The matters contained in this Agenda Report do not fall within the scope of the Port of Oakland Maritime and Aviation Project Labor Agreement (MAPLA) and the provisions of the MAPLA do not apply.

STRATEGIC PLAN

The action described herein would help the Port achieve the following goals and objectives in the Port's Strategic Plan:

- Goal B: Maintain and Aggressively Grow Core Businesses
 - Goal B: Objective 1: Retain existing customers and tenants.

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 to this matter because tenancies outside of the Aviation and

Maritime areas with entities that do not principally provide aviation or maritime services are excluded from the Living Wage Regulations.

ENVIRONMENTAL

CEQA Determination: The proposed approval of the requested Consent has been determined to be exempt from the requirements of the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines, Article 19, Section 15300.4, which exempts the execution of leases or agreements where the premises or licensed activity was previously leased or licensed to the same or another person, and involving negligible or no expansion of use beyond that previously existing. Approval of the proposed change in ownership from XO Holdings to Verizon Communications, Inc. falls within this class of exemptions. No additional environmental review is required to take the action recommended in this Agenda Report.

GENERAL PLAN

This action does not change the use of any existing facility, make alterations to an existing facility, or create a new facility; therefore, a General Plan conformity determination pursuant to Section 727 of the City of Oakland Charter is not required.

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

The Owner Controlled Insurance Program (OCIP) and Professional Liability Insurance Program (PLIP) do not apply to the matters addressed by this Agenda Report as they are not capital improvement construction or design projects.

OPTIONS

1. Approve and authorize the Executive Director to execute the proposed Consent to Change of Indirect Ownership at the parent entity level as stated within this Agenda Report. This is the recommended option.
2. Do not approve the proposed Consent to Change of Indirect Ownership at the parent entity level, which consent may be withheld by the Port at its sole discretion.

RECOMMENDATION

Staff recommends that the Board authorize the Executive Director to execute the request for Port Consent to the Change of Indirect Ownership at the parent entity level from XO Holdings to Verizon Communications Inc. subject to the approval as to form and legality by the Port Attorney. If this Consent is not fully executed within (90) days after Board approval, the approval shall be null and void, unless extended at the sole and absolute discretion of the Executive Director or his designee.

Attachments: Exhibit A - Site Map for Premises

Exhibit B – Current Ownership Structure for XO Communications Services, LLC

Exhibit C – Proposed Ownership Structure for XO Communications Services,
LLC