

## AGENDA REPORT

**Ordinance:** Approval of a Wireless Telecommunications Lease Agreement with Sprint Spectrum LP for approximately 1,200 square feet of Land for a Term of Ten (10) Years. (CRE)

**MEETING DATE:** 1/26/2017

**AMOUNT:** \$68,400 (FY 16-17)  
Revenue

**PARTIES INVOLVED:** Sprint Spectrum LP  
a Delaware Limited Partnership

**SUBMITTED BY:** Pamela Kershaw, Director of Commercial Real Estate

**APPROVED BY:** J. Christopher Lytle, Executive Director

**ACTION TYPE:** Ordinance

### **EXECUTIVE SUMMARY**

The subject Agenda Report is a request to approve a Wireless Telecommunications Lease Agreement with Sprint Spectrum LP ("Sprint") for a ten (10) year term for the premises located at 101 Burma Road. The telecommunications equipment is currently located on the premises but subject to a short term Temporary Rental Agreement. Sprint would like to remain on the premises but subject to a longer term rental agreement with the Port.

### **BACKGROUND**

The Port entered into a Temporary Rental Agreement ("TRA") with Sprint on August 30, 2015 for approximately 1,200 square feet of land located at 101 Burma Road. During the term of the TRA, Sprint requested a longer term agreement with the Port. Sprint uses the property as one of a series of wireless telecommunications sites comprising a portion of Sprint's system for furnishing wireless telephone, radio, and telecommunication services to the public. The property is used by Sprint as an unstaffed telecommunications facility. Sprint equipment installed on site includes a monopole with three (3) antennas which are approximately five (5) feet in height. The equipment located on the property was approved by the Port's Engineering Division when initially installed on the premises.

## **ANALYSIS**

Staff has been discussing the potential terms of a longer term lease for the property with Sprint for several months. The following table summarizes the key business terms proposed, in addition to the other more standard terms and conditions of the Port's form Agreement:

Term Commencement	July 1, 2016
Term Expiration	June 30, 2026 (10 years from Commencement Date)
Security Deposit	\$17,100 (3 x the Monthly Rent)
Rent	\$5,700 per month for the first twelve (12) months of the term.
Rent Adjustments	Four and a half percent (4.5%) annual adjustment in addition to a Fair Market Value Adjustment made on the first day of the sixth (6 <sup>th</sup> ) year, based on an appraisal of the premises.
Maintenance	Tenant is responsible for maintenance of the premises and equipment at its sole cost and expense.
Utilities	Tenant is responsible for all utility costs to serve the property.
Assignment	Port consent required for any assignment or transfer of rights, title, or interest in the Lease Agreement.

The Port engaged an appraiser specializing in cell and radio towers to assess the market rates for its cell towers properties. The appraiser surveyed numerous public and private property owners throughout San Francisco Bay Area and concluded that while there is a wide range of charges for cell towers, the rents charged by the Port of San Francisco and City of Oakland are most representative for Port properties. The proposed rent with Sprint is consistent with the market rents determined by the appraiser for the subject site.

Based on the analysis contained within this agenda report and the referenced site appraisal, staff believes that the proposed Agreement will provide for a continuous income stream from the subject premises until 2026 at a rental rate consistent with fair market value for the premises, and recommends approval of this Lease Agreement.

## **BUDGET & STAFFING**

There is no budget impact as revenue for this lease was included in the adopted FY 2016-17 revenue budget.

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.

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 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 Lease 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 Wireless Telecommunications Lease Agreement with Sprint Spectrum, LP 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 the proposed Wireless Telecommunications Lease Agreement with Sprint Spectrum, LP for the premises located at 101 Burma Road for a ten (10) year term based on the terms and conditions stated within this Agenda Report. This is the recommended option.
2. Approve the proposed Wireless Telecommunications Lease Agreement with Sprint Spectrum, LP for the premises located at 101 Burma Road but subject to alternative terms and conditions, which depending on the nature of those alternative terms and conditions, may not be acceptable to Sprint.
3. Do not approve the proposed Wireless Telecommunications Lease Agreement, which will likely result in a potential vacancy of the premises.

## **RECOMMENDATION**

Staff recommends that the Board approve and authorize the Executive Director to execute a Wireless Telecommunications Lease Agreement with Sprint Spectrum, LP for the premises located at 101 Burma Road, subject to the terms and conditions stated within this Agenda Report, and subject to the approval as to form and legality by the Port Attorney. Furthermore, if this License and Concession Agreement is not fully executed within ninety (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