

**Ordinance:** Approval of *Amendment No. 2 to Space Use Permit* with Boingo Wireless, Inc. to provide Wireless Internet Access at Oakland International Airport for an Extended Six Month Term Expiring December 31, 2018 and Generating \$62,500 in Rental Revenue for the Term. **(Aviation)**

**MEETING DATE:** 5/24/2018

**AMOUNT:** \$62,500 Minimum Annual Guarantee FY2018/2019

**PARTIES INVOLVED:** **BOINGO WIRELESS, INC.**  
Los Angeles, California – David Hagan, CEO

**SUBMITTED BY:** Bryant L. Francis C.M., Director of Aviation

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

**ACTION TYPE:** Ordinance

### **EXECUTIVE SUMMARY**

This action would adopt an Ordinance to approve *Amendment No. 2 to Space Use Permit* with Boingo Wireless, Inc. to (i) extend the term of the current *Space Use Permit* on a month to month basis from July 1, 2018 through December 31, 2018, and (ii) authorize the Executive Director to execute *Amendment No. 2* and such additional documents necessary to effectuate the approval.

### **BACKGROUND**

Staff seeks Board approval of *Amendment No. 2 to Space Use Permit* (“*Amendment No. 2*”) with Boingo Wireless, Inc. (“Boingo”) to provide wireless fidelity communication services (“Wi-Fi”) at Oakland International Airport (“Airport”). The chronology of the relationship:

- ✦ On April 5, 2012, the Board adopted Ordinance No. 4118 to enter into a *Space Use Permit* (“*Permit*”) with Advanced Wireless Group (“AWG”) to operate and provide Wi-Fi services throughout the Airport. The term of the *Permit* commenced on July 1, 2012 and expired on June 30, 2017.
- ✦ In 2013, AWG sold and transferred over 51% of its company’s shares to Boingo. The *Permit* was transferred from AWG and assigned to Boingo as a part of the sale; the Board approved this assignment.
- ✦ Since 2013, Boingo has served as the provider of Wi-Fi services to customers traveling through the Airport Terminal Complex.

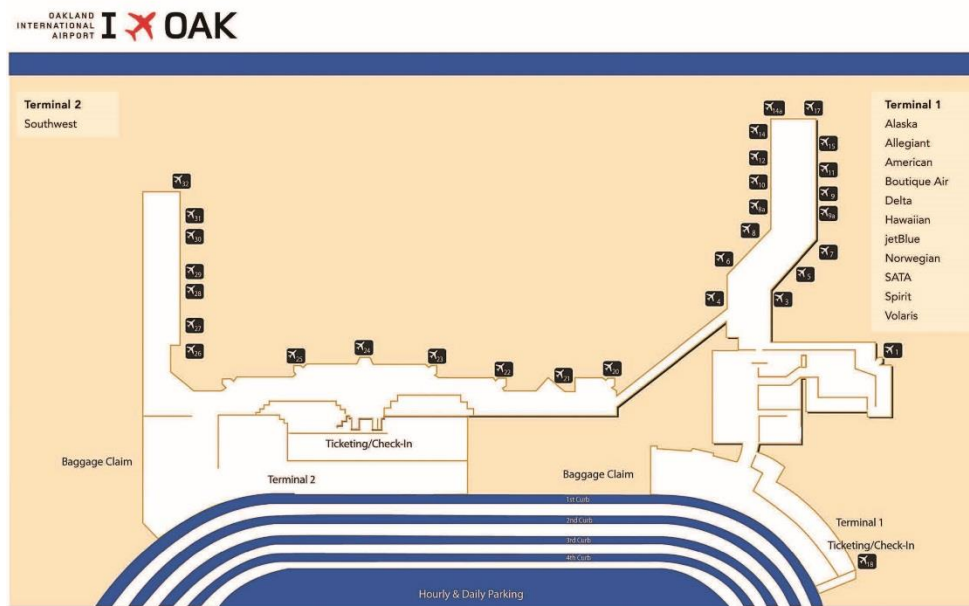
- ✈ On June 22, 2017, the Board adopted Ordinance No. 4427 to amend the *Permit* to extend the Term to expire on June 30, 2018.

Boingo is a federally regulated, American company that provides wireless broadband technology and services for large public venues including Wi-Fi, distributed antenna systems (DAS), and mobile internet access for wireless-enabled consumer devices. Boingo is publicly traded on the NASDAQ Composite Index: (NASDAQ:WIFI).

## **ANALYSIS**

Boingo's existing Wi-Fi service at the Airport is currently available via the following options:

- Option 1 consists of an advertising based, limited-duration, and complimentary access and service. This requires viewing a 30-second video ad at regular intervals at a moderate rate of data transmission speed of 5-10 megabits per second ("Mbps").
- Option 2 consists of premium service offering the choice to pay \$7.95 for a 24-hour period for a faster transmission speed of 10-20 Mbps, or, purchase a monthly Boingo subscription at \$9.95 per month for the fastest transmission speed of 20-50 Mbps. No advertising videos are presented for paid subscriptions.
- Option 3 consists of passengers connecting to premium service through one of Boingo's various roaming partners. Subscribers of these services can enter into a Boingo serviced venue for free, and can login with existing credentials, and access the premium tier of Wi-Fi service.



**Illustration of Terminal Complex at Oakland International Airport**

Average daily complimentary Wi-Fi usage at the Airport ranges from 2,000 to 5,000 connections. Paid Wi-Fi usage at the Airport, ranges from 1,400 to 1,900 connections daily. Average duration of Wi-Fi access and usage is approximately 40 minutes for either the complimentary or paid service mode. This is consistent with the timespan for passengers that are departing from, or making flight connections at the Airport. Throughout the 6-year term of the *Permit*, Boingo has invested \$322,000 in infrastructure and equipment updates, upgrades, and replacements to maintain and enhance the Wi-Fi experience at the Airport.

Boingo provides customer support 24 hours a day, 7 days a week, year-round and is trained to answer consumer questions that may arise during the connection experience. In calendar year 2017, there were over 2 million connections at the Airport, generating less than 300 customer contacts with Boingo's Customer Care Team. The low volume of customer contacts indicates an overall satisfaction level with Boingo.

### Considerations

An issue consistently communicated to staff is that passengers and customers at the Airport prefer not to watch an ad, or pay a fee for Wi-Fi internet access, at either a moderate, or premium levels of access and service. The aviation industry business practice and overwhelming preference is for airports to provide free, high-speed Wi-Fi services, acknowledging that this method of delivery would eliminate concession-based revenues, in favor of incurring costs related to providing terminal passengers with Wi-Fi services to be included in the Terminal rental rate calculation.

Across the world, approximately seventy percent (70%) of airports provide unlimited internet access, via Wi-Fi services. These same airports are currently evaluating the needs of their customers to best determine the most effective business model to adopt (free and unlimited, or paid for premium service delivery).

Prior to a clear recommendation to the Board, staff must evaluate two (2) primary options around providing "free Wi-Fi services" at the Airport:

1. Aviation Information Technology staff to upgrade, replace infrastructure, maintain and operate all equipment to ensure delivery of Wi-Fi services throughout the Airport Terminal Complex.
2. Contract with a third-party Wi-Fi service provider that will invest in upgrading, replacing infrastructure, maintaining, and operating all equipment to ensure delivery of Wi-Fi services throughout the Airport Terminal Complex.

Airports are also re-evaluating the primary business models (free Wi-Fi, hybrid Wi-Fi, and paid Wi-Fi) that are the most responsive in delivering Wi-Fi services. Customer needs appear to be expanding with the simultaneous use of multiple devices (business and personal/entertainment purposes). It is important to select the best service delivery method that can address ever changing and growing needs of the Airport's customers, converging technologies, and increasing demands on infrastructure dedicated to Wi-Fi services.

An immediate determination by Aviation staff is that the level of complexity and expertise that is required to provide this amenity is in the Wi-Fi service provider marketplace. During the 2018 calendar year, staff will solicit bids via the Request for Proposals (RFP) process from the Wi-Fi services and telecommunications services provider marketplace to identify the most responsive and competitive third-party provider. Staff had originally intended to have the RFP process completed by June 30, 2018, however, due to staff turnover and vacancies, the Aviation Properties Department's primary focus has been development and release of the concurrently expiring Food & Beverage Concessions Opportunities Request for Proposals, and staff was unable to put out an RFP and select a Wi-Fi provider beginning July 1, 2018. Vacancies in Aviation Properties have now been filled and the manpower exists to properly release and administer an RFP and select a provider by December 31, 2018. While the RFP process is underway, it is recommended that Wi-Fi service delivery at the Airport continue to be provided through Boingo, under the same terms and conditions of the existing *Permit*.

The proposed *Amendment No. 2* will extend the existing *Permit*, on a month to month basis, under the same terms and conditions, from July 1, 2018 through December 31, 2018. Monthly rents will continue at \$10,416.67, or \$125,000 annually. When the RFP process is completed, staff will present a recommendation for the Board to review and take further action.

### Term Sheet

The Summary of Terms is highlighted below. All Terms of the *Permit* remain unchanged except for the extension of the Term.

	Current Permit	Proposed Amendment
<b>Premises:</b>	Core room: 15 sf; various antennae	Core room: 15 sf; various antennae
<b>Term:</b>	6 years	6 months
<b>Commencement Date:</b>	7/1/2012	7/1/2018
<b>Expiration Date:</b>	6/30/2018	12/31/2018
<b>Monthly Rent:</b>	\$10,416.67	\$10,416.67
<b>Rent Adjustments:</b>	85% of 40% of prior year's receipts; OR an annual MAG of \$125,000	85% of 40% of prior year's receipts; OR an annual MAG of \$125,000
<b>Security Deposit:</b>	\$50,000.00	\$50,000.00
<b>Maintenance:</b>	Permittee is responsible for all maintenance of Premises	Permittee is responsible for all maintenance of Premises

## **BUDGET & STAFFING**

Approval of the *Amendment No. 2* will generate approximately \$62,500.00 in rental revenue through the first half of FY2018-19 and will be incorporated into the proposed FY 2018-19 Aviation Revenue Budget. There is no staffing impact.

## **MARITIME AVIATION PROJECT LABOR AGREEMENT (MAPLA)**

The matters included 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 Business Plan (2018-2022).

<https://www.portofoakland.com/wp-content/uploads/Port-of-Oakland-Strategic-Plan.pdf>

- Goal: Grow Net Revenues
- Goal: Improve Customer Service

## **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 agreement as the tenant does not employ 21 or more employees working on Port-related work. However, the tenant will be required to certify that should living wage obligations become applicable, the tenant shall comply with the Living Wage Regulations.

## **SUSTAINABILITY**

The tenant has not proposed any development for the leased area. If the tenant decides to develop the site in the future, the tenant must comply with the 2000 Sustainability Policy and complete the Sustainability Opportunities Assessment Form.

## **ENVIRONMENTAL**

This action has been determined to be categorically exempt from requirements of the California Environmental Quality Act (CEQA) Guidelines pursuant to Section 15301, Existing Facilities, which exempts the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities, mechanical equipment or topographical features, involving negligible or no expansion of use beyond that existing at the time of the lead agency's determination. No changes to the premises or use are proposed.

## **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)**

This action is not subject to the Port's Owner Controlled Insurance Program (OCIP) as it is not a capital improvement construction project.

## **OPTIONS**

1. Approve the terms and conditions of *Amendment No. 2 to Space Use Permit* with Boingo Wireless, Inc. that provides an extension of the *Space Use Permit* through December 31, 2018, and authorizes the Executive Director to execute *Amendment No. 2* and such additional documents necessary to effectuate the approval of *Amendment No. 2*. This is the staff recommendation; or
2. Approve *Amendment No. 2 to Space Use Permit* with Boingo Wireless, Inc., but subject to different terms and conditions than those described in this Agenda Report; or
3. Do not approve *Amendment No. 2 to Space Use Permit* with Boingo Wireless, Inc., jeopardizing the continuation of Wi-Fi services at the Airport commencing July 1, 2018.

## **RECOMMENDATION**

Adopt an ordinance approving *Amendment No. 2 to Space Use Permit* with Boingo Wireless, Inc. to extend the term of the *Permit* on a month to month basis from July 1, 2018 through December 31, 2018; and authorize the Executive Director to execute *Amendment No. 2*, and such additional documents as may be necessary to effectuate the extension of the *Permit*, subject to the Port Attorney's approval as to form and legality.