

PORT ORDINANCE NO. 4475

ORDINANCE APPROVING AMENDMENT NO. 2 TO SPACE/USE PERMIT WITH BOINGO WIRELESS, INC. TO EXTEND THE TERM BY SIX MONTHS EXPIRING DECEMBER 31, 2018 TO PROVIDE WIRELESS INTERNET ACCESS AT OAKLAND INTERNATIONAL AIRPORT.

WHEREAS, on April 5, 2012, the Board of Port Commissioners of the City of Oakland ("Board") adopted Ordinance No. 4118 approving a Space/Use Permit ("SUP") with Advanced Wireless Group ("AWG") to operate and provide Wi-Fi services throughout Oakland International Airport; and

WHEREAS, in 2013, AWG sold and transferred over 51% of its company's shares to Boingo Wireless, Inc. ("Boingo"), and transferred the SUP to Boingo as part of the sale; and

WHEREAS, on June 22, 2017, the Board adopted Ordinance No. 4427 to extend the term of the SUP from June 30, 2017 to June 30, 2018; and

WHEREAS, the Board has reviewed and evaluated the Agenda Report for Agenda Item 2.1, dated May 24, 2018 (the "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:

Section 1. 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.

Section 2. The Board hereby approves the terms and conditions set forth in the Agenda Report for the Amendment No. 2 to Space/Use Permit with Boingo to extend the term of the current Space/Use Permit on a month-to-month basis from July 1, 2018 through December 31, 2018 under the same terms and conditions, including monthly rent at \$10,416.67, as described in the Agenda Report.

Section 3. The Board hereby authorizes the Executive Director to execute Amendment No. 2 to Space/Use Permit with Boingo and such additional documents as may be necessary to effectuate the extension of the Space/Use Permit, subject to approval as to form and legality by the Port Attorney.

Section 4. The Board hereby finds and determines that amending the Space/Use Permit with Boingo is categorically exempt from 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.

Section 5. This ordinance is not evidence of and does not create or constitute (a) a contract(s), or the grant of any right, entitlement or property interest, or (b) any obligation or liability on the part of the Board or any officer or employee of the Board. Unless and until a separate written contract is duly executed on behalf of the Board as authorized by this ordinance, is signed as approved as to form and legality by the Port Attorney, and is delivered to other contracting party, there shall be no valid or effective contract.

The Board of Port Commissioners, Oakland, California, May 24, 2018.
Passed to print for one day by the following vote: Ayes: Commissioners Butner, Cluver, Colbruno, Hamlin, Martinez, Yee and President Story - 7. Noes: 0.

Daria Edgerly
Secretary of the Board