

AGENDA REPORT

Ordinance: Approval of an *Airline Operating Agreement* and its *Annex "A" Space/Use Permit* with Corporate Flight Management, Inc. dba Contour Airlines, with Anticipated Annual Revenues of \$268,000, Operating at Oakland International Airport. **(Aviation)**

MEETING DATE: 9/13/2018

AMOUNT: \$268,000 Annual Revenue

PARTIES INVOLVED: Corporate Flight Management, Inc. dba Contour Airlines
Smyrna, Tennessee
Matt Chaifetz, Chief Executive Officer

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 give first reading to an ordinance to (i) approve the terms and conditions of the Port's standardized *Airline Operating Agreement* and its *Annex "A" Space/Use Permit* with Corporate Flight Management, Inc. doing business as ("dba") Contour Airlines ("Contour"), (ii) authorize the Executive Director to execute the *Airline Operating Agreement* and, (iii) authorize the Director of Aviation to execute the *Annex "A" Space/Use Permit*.

BACKGROUND

Most regularly scheduled passenger and cargo airlines operating at Oakland International Airport (the "Airport" or "OAK") have entered into an *Airline Operating Agreement* (the "AOA"); those airlines occupying exclusive terminal space at the Airport have also entered into an *Annex "A" Space/Use Permit* to the *Airline Operating Agreement* (the "SUP"). All airlines subject to these agreements pay fees to the Airport pursuant to the Port's annual Rates & Charges ordinance. The standard form AOA and the SUP have a term extending through September 30, 2021¹, subject to the right of either party to terminate upon thirty days written notice.

¹ Pursuant to Ordinance No. 4391 adopted by the Board of Port Commissioners (the "Board") on September 22, 2016, the existing AOA (and if applicable, the SUP) with twenty-three airlines was amended, extended and updated to include a fixed expiration date of September 30, 2021. For consistency, all new airline entrants will enter into an AOA with a concurrent September 30, 2021 expiration date.

Contour executed the *AOA* and *SUP*, took occupancy of the office space on April 6, 2018, and began flight operations on April 11, 2018.

ANALYSIS

Founded in 1982, Contour has grown to become one of the largest FAA Part 135 operators in the United States. The company is a diverse airline and aviation services provider that includes scheduled airline service, Part 135/91 aircraft management and charter, three Fixed Base Operations in Tennessee, a FAR Part 143 certified repair facility, and FAR 141 pilot and maintenance training. Contour operates a fleet of 30 aircraft ranging from the Beechcraft King Air family to Bombardier and Embraer regional jets.

Airline Operating Agreement and its Annex “A” Space/Use Permit: Contour and the Port have entered into an *AOA* and its *SUP* with operations as described below:

Operation: Contour has been operating a single route between OAK and Crescent City in far Northwestern California. Effective mid-October, Contour will add service between OAK and Santa Barbara. For these routes, Contour operates

a 30-seat Embraer ERJ-135 featuring leather seating with expanded legroom, complimentary snacks and beverages and free checked baggage.

Facilities: In Terminal 1, Contour is utilizing 60 square feet of common use ticket counters and exclusively occupies a small, 129-square foot office; it is assessed \$51,737 in annual rental charges².

Revenue: With two daily roundtrip flights, it is anticipated that Contour will generate approximately \$268,000 in annual revenue attributable to facilities rent (shown above), plus landing, secondary gate use, baggage fees and other charges². Contour’s passenger and ground handling services are provided by a third-party and is generating additional income for the Port through separate agreements with these third-party airline services providers.

Performance Deposit: \$50,000 for the *AOA* plus \$20,000 attributable to the *SUP* (approximately 3½x average monthly billings).



BUDGET & STAFFING

During the development of the FY2018-19 Operating Budget, this new *AOA* and *SUP* with Contour was not contemplated, so the anticipated revenue of \$236,500 for this air service is incremental new revenue in FY2018-19. There is no staffing impact.

² Based on FY2018-19 Rates & Charges; Ordinance No. 4483.

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 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 was reviewed in accordance with the requirements of the California Environmental Quality Act (CEQA) and the Port CEQA Guidelines. In 1997, the Port proposed an Airport Development Program (ADP) to improve OAK facilities and to relieve existing and projected future congestion to accommodate forecasted passenger and air cargo activity. The Port prepared an Environmental Impact Report (EIR), pursuant to CEQA as part of the project development, approval, entitlement, and operations, for the ADP. The EIR was certified and adopted by the Board on December 16, 1997, through Board Resolution No. 97376. The Board later adopted a supplemental EIR (SEIR) in 1999 (Resolution No. 99623), and a second supplemental EIR in 2003 (Resolution No. 03345).

Contour Airlines would operate out of facilities already constructed as part of the ADP, and no new facilities would be constructed. In terms of passenger operations, the ADP accommodated an activity level forecast of 22.4 million annual passengers (MAP). Airport operations activity for the fiscal year ending June 2018 for air passenger activity was 13.36 MAP. The addition of Contour passengers (21,900 annual passengers) would be within the ADP forecast. The proposed operations for Contour Airlines are consistent with the ADP. No further CEQA review per Section 15162 of the CEQA Guidelines is required.

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)

The Owner Controlled Insurance Program (OCIP) does not apply to the matters addressed by this Agenda Report as they are not capital improvement construction projects.

OPTIONS

Approve entering into an *Airline Operating Agreement* and its *Annex “A” Space/Use Permit* with Corporate Flight Management, Inc. dba Contour Airlines (“Contour”), as outlined above. The Federal Aviation Administration’s Grant Assurances, Section 22, Economic Discrimination, provide in part that “[each airport operator] will make the airport available as an airport for public use on reasonable terms and without unjust discrimination to all types, kinds and classes of aeronautical activities, including commercial aeronautical activities offering services to the public at the airport.” Contour is a FAA-certified air carrier and the proposed air service to be offered can be accommodated at OAK.

Approval of this *Airline Operating Agreement* and its *Annex “A” Space/Use Permit* with Contour is staff’s recommended action.

RECOMMENDATION

It is recommended that the Board adopt an ordinance to:

- Approve the terms and conditions, of an *Airline Operating Agreement* and its *Annex “A” Space/Use Permit* between the Port and Corporate Flight Management, Inc. doing business as Contour Airlines (“Contour”), as outlined above; and,
- Authorize the Executive Director to execute the *Airline Operating Agreement* with Contour; and,
- Authorize the Director of Aviation to execute the *Annex “A” Space/Use Permit* with Contour.

Subject to the Port Attorney’s approval as to form and legality of the proposed *Airline Operating Agreement* and its *Annex “A” Space/Use Permit* between the Port and Corporate Flight Management, Inc. doing business as Contour Airlines.