

PORT ORDINANCE NO. 4506

ORDINANCE APPROVING SPACE/USE PERMIT WITH BOINGO WIRELESS, INC. TO PROVIDE WIRELESS FIDELITY COMMUNICATION AND INTERNET SERVICES AT OAKLAND INTERNATIONAL AIRPORT FOR TOTAL PROJECTED RENTAL REVENUE OF \$17,500 IN THE FIRST FULL YEAR OF OPERATIONS (CALENDAR YEAR 2019) FOR A TERM OF FIVE YEARS FROM JANUARY 1, 2019 THROUGH DECEMBER 31, 2023.

WHEREAS, in September 2018, the Aviation Division released a Request for Proposals for Wireless Fidelity Communication and Internet ("Wi-Fi") Services at Oakland International Airport ("RFP"); and

WHEREAS, two proposals were received from two respondents, with one of the proposals failing to meet the minimum qualifications; and

WHEREAS, the remaining proposal (from Boingo Wireless, Inc. ("Boingo")) was reviewed by Port of Oakland ("Port") staff (Aviation Information Technology and Aviation Properties) to ensure that it satisfied all the requirements under the RFP; and

WHEREAS, the Board of Port Commissioners of the City of Oakland ("Board") has reviewed and evaluated the Agenda Report for Agenda Item 6.2, dated November 29, 2018 (the "Agenda Report") and related agenda materials, has received the expert testimony of Port staff, and has provided opportunities for and taken public comment; now, therefore

BE IT ORDAINED by the Board 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 Space/Use Permit with Boingo for a five year term from January 1, 2019, through December 31, 2023, for monthly rent at the greater of \$2,916.67 or 25% revenue share, as described in the Agenda Report.

Section 3. The Board hereby authorizes the Executive Director to execute the Space/Use Permit with Boingo, subject to approval as to form and legality by the Port Attorney.

Section 4. The Board hereby finds and determines that 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, November 29, 2018. Passed to print for one day by the following vote: Ayes: Commissioners Colbruno, Cluver, Lee, Martinez, Story and President Butner - 6 Noes: 0.

Daria Edgerly

Secretary of the Board