

**BOARD OF PORT COMMISSIONERS
CITY OF OAKLAND**

PORT ORDINANCE NO. 4620

ORDINANCE APPROVING AMENDMENT NO. 3 TO CONDUIT USE
AGREEMENT WITH LEVEL 3 TELECOM OF CALIFORNIA, L.P.,
FOR A TERM OF THREE YEARS WITH TWO ADDITIONAL ONE-
YEAR EXTENSION OPTIONS, TO COMMENCE ON DECEMBER 1,
2021, FOR OPERATIONS AT OAKLAND INTERNATIONAL
AIRPORT WITH ANTICIPATED TOTAL REVENUES OF \$16,236
IN FISCAL YEAR 2022.

WHEREAS, the Board of Port Commissioners of the City of Oakland ("Board") has reviewed and evaluated the Agenda Report Item No. 2.1, dated October 14, 2021 (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. The Board hereby finds and determines this action is 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 existing or former use. No changes to the premises or use are proposed.

Section 2. 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 3. The Board hereby approves the terms and conditions set forth in the Agenda Report for Amendment No. 3 ("Amendment No. 3") to the Conduit Use Agreement ("Agreement") with Level 3 Telecom of California, L.P. ("Level 3"), to extend the term of the current Agreement from December 1, 2021, to November 30, 2024, with two consecutive one-year options to further extend the term to as late as November 30, 2026, with anticipated total Fiscal Year 2022 revenue to the Port in the amount of \$16,236, as described in the Agenda Report.

Section 4. The Board hereby authorizes the Executive Director to execute Amendment No. 3 to the Agreement and any other necessary

agreements with Level 3 to effect the transaction, and to make such additions, modifications, or corrections as necessary to implement the Amendment No. 3 or to correct errors, subject to the limitations set forth herein and provided that any such addition, modification, or correction does not materially differ from the terms and conditions set forth herein and in the Agenda Report, subject to approval as to form and legality by the Port Attorney.

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 Port. 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.

Section 6. This Ordinance shall take effect on the date of its final adoption; provided, however, that if a petition protesting the adoption of this Ordinance is timely and duly submitted to the elections official of the City of Oakland in the manner required under California Elections Code § 9237, the effective date of this Ordinance shall be suspended, and all actions authorized by this Ordinance shall be null and void.

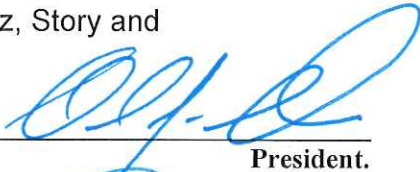
The Board of Port Commissioners, Oakland, California, October 14, 2021. Passed to print for one day by the following vote: Ayes: Commissioners Butner, Lee, Martinez, Story and President Leslie - 5. Noes: 0. Excused: Commissioner Colbruno and President Cluver - 2

Daria Edgerly


Secretary of the Board

Adopted at a Regular Meeting held October 28, 2021
by the following vote:

Ayes: Commissioners Butner, Colbruno, Lee, Leslie, Martinez, Story and
President Cluver - 7
Noes: 0



President.

Attest: 

Secretary.

Approved as to form and legality:



Port Attorney

**BOARD OF PORT COMMISSIONERS
CITY OF OAKLAND**

PORT ORDINANCE NO. 4621

ORDINANCE APPROVING AND AUTHORIZING THE EXECUTIVE DIRECTOR TO EXECUTE A FOURTH AMENDMENT TO LEASE WITH GSC LOGISTICS, INC. FOR PREMISES LOCATED ON THE 5TH FLOOR OF 530 WATER STREET, OAKLAND, TO EXTEND THE TERM THROUGH JUNE 30, 2025, EXPAND THE PREMISES AT THE SAME LOCATION BY AN ADDITIONAL APPROXIMATELY 5,560 SQUARE FEET, AND TERMINATE THE TEMPORARY RENTAL AGREEMENT FOR THIS EXPANSION PREMISES.

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 October 14, 2021, ("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; and

WHEREAS, Section 706 of the City of Oakland ("City") Charter gives to the Board the complete and exclusive power and duty for and on behalf of the City to make provisions for the needs of commerce, shipping, and navigation of the Port and to promote the development, construction, and operation of all waterfront properties, including piers, wharves, sea walls, docks, and other improvements; and

WHEREAS, the proposed action will provide service for members of the public who use the waterfront, and is consistent with the Port's duty to use and manage Port property in trust for the people of the State of California (the "Tidelands Trust"), and the private use of Port property pursuant to the requested approval will not interfere with the Tidelands Trust; and

WHEREAS, 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; now, therefore

BE IT ORDAINED by the Board of Port Commissioners of the City of Oakland as follows:

Section 1. The Board hereby finds and determines that the proposed approval is exempt from the requirements of the California Environmental Quality Act ("CEQA") pursuant to CEQA Guidelines Section 15301, 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.

Section 2. The Board further finds and determines as follows:

A. GSC Logistics, Inc. ("GSC") currently leases approximately 11,264 square feet of office space for a portion of the 5th Floor of 530 Water Street, Oakland (the "Initial Premises") under a Lease with the Port dated February 7, 2006, as such Lease had been amended (the Lease, as amended, referred to as the "Lease"); and

B. GSC and the Port are also parties to a Temporary Rental Agreement dated June 1, 2021 ("Temporary Rental Agreement"), under which GSC leases approximately 5,560 square feet of additional office space on the 5th Floor of 530 Water Street, Oakland (the "Expansion Premises"); and

C. Port staff have negotiated and recommend entering into a Fourth Amendment to Lease to, among other things, add the Expansion Premises and extend the term of the Lease through June 30, 2025.

Section 3. The Board hereby approves and authorizes the Executive Director or his designee to:

A. Execute the proposed Fourth Amendment to Lease ("Agreement") with **GSC Logistics, Inc.** and to terminate the Temporary Rental Agreement, as further described in the Agenda Report, subject to approval as to form and legality by the Port Attorney. Furthermore, if the proposed Agreement is not fully executed within thirty (30) days after the effective date of the Board's approval, the approval shall be null and void unless extended at the sole and absolute discretion of the Executive Director or his designee.

B. Make any additions, modifications, or corrections as necessary to implement the Agreement, provided that any such addition, modification, or correction does not materially differ from the terms and conditions set forth herein and in the Agenda Report, subject to approval as to form and legality by the Port Attorney.

Section 4. This Ordinance is not evidence of and does not create or constitute (a) a contract, 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 Port. Unless and until a separate written agreement 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 the other contracting party, there shall be no valid or effective agreement.

Section 5. This Ordinance shall take effect on the date of its final adoption; provided, however, that if a petition protesting the adoption of this Ordinance is timely and duly submitted to the elections official of the City of Oakland in the manner required under California Elections Code § 9237, the effective date of this Ordinance shall be suspended, and all actions authorized by this Ordinance shall be null and void.

The Board of Port Commissioners, Oakland, California, October 14, 2021. Passed to print for one day by the following vote: Ayes: Commissioners Butner, Lee, Martinez, Story and President Leslie - 5. Noes: 0. Excused: Commissioner Colbruno and President Cluver - 2


Daria Edgerly


Secretary of the Board

Adopted at a Regular Meeting held October 28, 2021
by the following vote:

Ayes: Commissioners Butner, Colbruno, Lee, Leslie, Martinez, Story and
President Cluver - 7
Noes: 0

Attest:



President.


Secretary.

Approved as to form and legality:



Port Attorney