

PORT ORDINANCE NO. 4661

ORDINANCE APPROVING AND AUTHORIZING THE EXECUTIVE DIRECTOR TO EXECUTE A THIRD AMENDMENT TO LEASE WITH DHL EXPRESS (USA), INC. TO EXTEND THE TERM FOR FIVE YEARS TO DECEMBER 31, 2027 AT ANNUAL CONSIDERATION OF \$563,995 FOR PREMISES AT NORTH FIELD AT OAKLAND INTERNATIONAL AIRPORT.

WHEREAS, the Port of Oakland ("Port") entered into a Lease dated January 1, 2008 (as amended, the "Lease") with DHL Express (USA), Inc. ("DHL"); and

WHEREAS, the Lease will expire on December 31, 2022; and

WHEREAS, the Board of Port Commissioners of the City of Oakland ("Board") has reviewed and evaluated the Agenda Report for Agenda Item 2.2, dated September 15, 2022 (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 of Port Commissioners of the City of Oakland as follows:

Section 1. The Board hereby finds and determines that the proposed action is categorically exempt from the California Environmental Quality Act ("CEQA") under Section 15301 of the CEQA Guidelines because the proposed action consists of activities that involve negligible or no expansion of an existing use.

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 the Third Amendment to Lease with DHL to extend the term five years to December 31, 2027, for annual consideration of \$563,995, and on the terms and conditions described in the Agenda Report.

Section 4. The Board hereby authorizes the Executive Director to execute the Third Amendment to Lease with DHL, subject to approval as to form and legality by the Port Attorney, and to make such additions, modifications, or corrections as necessary to implement the Third Amendment to Lease 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 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.

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, September, 15 2022. Passed to print for one day by the following vote: Ayes: Commissioners Butner, Cluver, Colbruno, Lee, Martinez, and President Leslie - 6. Recused: Commissioner Story - 1.

Daria Edgerly

Secretary of the Board