

PORT ORDINANCE NO. 4420

ORDINANCE APPROVING AIRLINE OPERATING AGREEMENT  
WITH IBERIA LINEAS AEREAS DE ESPAÑA, S.A.  
OPERADORA, DOING BUSINESS AS LEVEL, OPERATING AT  
OAKLAND INTERNATIONAL AIRPORT.

**WHEREAS**, the Board of Port Commissioners ("Board") has reviewed and evaluated the Agenda Report Item 6.2, dated May 18, 2017 ("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**, that 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 approves the terms and conditions of the Port's standard form Airline Operating Agreement ("AOA") with Iberia Lineas Aereas de España, S. A. Operadora ("Iberia"), doing business as LEVEL, for a term expiring on September 30, 2021, at the rates set forth in the Port's annual Rates and Charges Ordinance and terms and conditions set forth in the Agenda Report, and upon such standard terms and conditions as specified in the AOA, subject to the Port Attorney's review and approval as to form and legality.

**Section 2.** The Board hereby authorizes the Executive Director to execute the AOA, subject to the Port Attorney's approval as to form and legality.

**Section 3.** The Board hereby approves the future assignment of the AOA from Iberia to LEVEL if and when LEVEL is issued its airline operating certificate, and authorizes the Executive Director to execute an assignment of the AOA from Iberia to LEVEL, subject to the Port Attorney's approval as to form and legality.

**Section 4.** The Board hereby finds and determines that entering into the AOA is categorically exempt from the California Environmental Quality Act ("CEQA") pursuant to CEQA Guidelines Sections 15301, Existing Facilities. CEQA does not apply to 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 or lease, 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 separate written agreement(s) are duly executed on behalf of the Board as authorized by this ordinance, is signed and 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(s).

The Board of Port Commissioners, Oakland, California, May 18, 2017.  
Passed to print for one day by the following vote: Ayes: Commissioners Cluver, Hamlin, Martinez, Story, Yee and President Colbruno - 6.  
Excused: Commissioner Butner - 1. Noes: 0.

John T. Betterton  
Secretary of the Board